

URBAN TREES BILL

EXPLANATORY NOTE

THIS Bill amends the Resource Management Act 1991 and other enactments. The intent is to give greater recognition to the importance of trees within urban areas.

Clause 1 relates to the Short Title. The Act will come into force on the date upon which it receives the Royal assent.

PART I

AMENDMENTS TO PRINCIPAL ACT

Clause 2 amends section 2 of the principal Act by inserting definitions for “tree” and “tree cover”, and a definition for “urban area”.

Clause 3 amends section 6 of the principal Act by adding a new matter of national importance, namely the protection, maintenance, and conservation of the tree cover in any urban area.

Clause 4 inserts a new section 76A in the principal Act directing territorial authorities to include rules in the district plan to make suitable provision, as far as practicable, to protect the existing tree cover in every urban area. The power does not limit the existing discretion to include policies and rules protecting trees, which may extend to rural areas.

Clause 5 amends section 108 of the principal Act which prescribes the type of conditions which may be imposed on a resource consent, to refer in particular to tree protection conditions.

Clause 6 amends section 219 of the principal Act which details information to be included upon an application for a subdivision consent (which includes cross lease developments). Details of existing trees will be required.

Clause 7 amends section 339 of the principal Act concerning the penalty options available to a court upon a conviction under the Act. The court may suspend an existing resource consent or prohibit a fresh application for a limited period. This option appears in the Historic Places Act 1993.

PART II

AMENDMENTS TO OTHER ACTS

Clause 8 amends section 129c of the Property Law Act 1952 which enables a land owner or occupier to apply to the District Court for an order removing or trimming trees on other land on the grounds of safety, danger to property, undue obstruction of a view, or undue interference with the reasonable enjoyment of land for residential purposes. The amendments direct the applicant to serve and join the territorial authority as a party, and direct the Court to take into consideration the purposes of the Resource Management Act 1991 and the rules in the district plan relating to tree protection. The relationship between an order under section 129c and the Resource Management Act 1991 is clarified.

Clause 9 amends section 44A of the Local Government Official Information and Meetings Act 1987 dealing with the content of a land information memorandum. Details of tree protection rules should be included.

Clause 10 amends section 30 of the Building Act 1991 relating to details to be supplied to a territorial authority in respect of a request for a project information memorandum. Details of tree proposals are required.

Clause 11 amends section 31 of the Building Act 1991 to enable the territorial authority to include in the project information memorandum details of rules affecting the protection of trees on the land.

Clause 12 amends section 34 of the Building Act 1991 to require a building consent to refer to any rules applying to the protection of trees on the land.

Christine Fletcher

URBAN TREES

ANALYSIS

Title 1. Short Title	PART II AMENDMENTS TO OTHER ACTS <i>Amendment to Property Law Act 1952</i> 8. District Court may order removal or trimming of trees, or removal or alteration of structures injuriously affecting neighbour's land <i>Amendment to Local Government Official Information and Meetings Act 1987</i> 9. Land information memorandum <i>Amendments to Building Act 1991</i> 10. Applications for project information memoranda 11. Issuing project information memoranda 12. Processing building consents
PART I AMENDMENTS TO PRINCIPAL ACT 2. Interpretation 3. Matters of national importance 4. Rules about urban tree cover 5. Conditions of resource consents 6. Information to accompany applications for subdivision consents 7. Penalties	

A BILL INTITULED

An Act to give greater recognition to the importance of trees within urban areas

BE IT ENACTED by the Parliament of New Zealand as follows:

- 5 **1. Short Title**—This Act may be cited as the Urban Trees Act 1996, and shall be read together with and deemed part of the Resource Management Act 1991 (hereinafter referred to as the principal Act).

PART I

10 AMENDMENTS TO PRINCIPAL ACT

2. Interpretation—(1) Section 2 of the principal Act is hereby amended by inserting, after the definition of “Treaty of Waitangi (Te Tiriti o Waitangi)”, the following definitions:

- 15 “Tree’ includes any shrub or plant, and the roots of any tree:

“‘Tree cover’ means any area in which a tree or trees make a significant contribution to the visible landscape.”

(2) Section 2 of the principal Act is hereby amended by inserting, after the definition of “unit plan”, the following definition:

“‘Urban area’ means any area within a district, but does not include any area comprising land in which farming or another rural activity is the principal permitted activity.”

3. Matters of national importance—Section 6 of the principal Act is hereby amended by adding the following paragraph:

“(f) The protection, maintenance, and conservation of the tree cover in any urban area.”

4. Rules about urban tree cover—The principal Act is hereby amended by inserting, after section 76, the following section:

“76A. (1) A territorial authority shall include in the district plan rules making suitable provision for the protection, maintenance, and conservation, so far as practicable, of the existing tree cover, whether of indigenous or exotic trees, in every urban area.

“(2) A territorial authority may include, for the purposes of subsection (1), rules which provide—

“(a) For the general protection of mature trees, denoted by size, species, location, or intrinsic worth:

“(b) That any destruction, removal, damage, or other work or interference on a tree or its roots (other than minor pruning or emergency work to protect health and safety) shall require a resource consent:

“(c) That the rules apply to trees on private and public land, including roads and reserves.

“(3) Nothing in this section limits the duties and powers under this Act enabling a territorial authority or regional council to make provision in a plan or policy statement for the protection, maintenance, and conservation of trees in all parts of the district or region (including the coastal marine area), or of any person to make a requirement in respect of a tree under Part VIII.”

5. Conditions of resource consents—(1) Section 108 (1) of the principal Act is hereby amended by adding the following paragraph:

5 “(h) In respect of any resource consent relating to the clearance of a building site, conditions as appropriate to preserve significant trees, including a bond or covenant obligation in respect of performance.”

10 (2) Section 108 (2) of the principal Act is hereby amended by omitting the expression “(g)”, and substituting the expression “(h)”.

6. Information to accompany applications for subdivision consents—Section 219 of the principal Act is hereby amended by adding the following paragraph:

15 “(f) The location and nature of any existing trees, and any proposals for removal or relocation of the trees and the planting of new trees.”

7. Penalties—Section 339 of the principal Act is hereby amended by inserting, after subsection (5), the following subsection:

20 “(5A) Where a person is convicted of an offence against section 338 relating to the destruction, removal or damage to a tree, the Court may, in addition to any other penalty imposed or order made, make an order—

25 “(a) Suspending for such period not exceeding 3 years as the Court thinks fit the exercise of any rights under a resource consent granted to that person or any other person in respect of that land; or

30 “(b) Prohibiting the making of any application for a resource consent, for any such period, in respect of the land by that person or any other person; or

“ (c) Both.”

Cf. 1993, No. 38, s. 105 (1).

PART II

35 AMENDMENTS TO OTHER ACTS

Amendment to Property Law Act 1952

8. District Court may order removal or trimming of trees, or removal or alteration of structures injuriously affecting neighbour’s land—(1) Section 129c of the Property Law Act 1952 is hereby amended by inserting, after subsection 40 (4), the following subsection:

“(4A) Every application shall be served on the relevant territorial authority which shall be joined as a party to the application (except where the territorial authority is the applicant).”

(2) Section 129c (6) of the Property Law Act 1952 is hereby amended by inserting, after paragraph (a), the following paragraph: 5

“(aa) The provisions of Part II of the Resource Management Act 1991 and the policies and rules in the district plan or proposed district plan relating to the protection, maintenance, and conservation of trees:” 10

(3) Section 129c of the Property Law Act 1952 is hereby further amended by adding, after subsection (14), the following subsection: 15

“(15) Subject to the proviso in subsection (5) of this section, an order made under this section shall take effect notwithstanding anything in the Resource Management Act 1991.”

Amendment to Local Government Official Information and Meetings Act 1987 20

9. Land information memorandum—Section 44A of the Local Government Official Information and Meetings Act 1987 is hereby amended by inserting, after paragraph (f) of subsection (2), the following paragraph: 25

“(fa) Information concerning any rules in the district plan or a proposed district plan relating to the protection, maintenance, and conservation of trees on the land:”

Amendments to Building Act 1991 30

10. Applications for project information memoranda—Section 30 (3) (b) of the Building Act 1991 is hereby amended by inserting, after subparagraph (vi), the following subparagraph: 35

“(vii) Proposals for removal or relocation of existing trees, and the planting of new trees; and”

11. Issuing project information memoranda—Section 31 (2) of the Building Act 1991 is hereby amended by inserting, after paragraph (d), the following paragraph: 40

“(e) Details of any rules in the district plan or a proposed district plan relating to the protection, maintenance, and conservation of trees on the land.”

12. Processing building consents—Section 34 of the Building Act 1991 is hereby amended by inserting, after subsection (5), the following subsection:

5 “(5A) Notwithstanding subsection (4), a building consent shall include a reference to any rules in the district plan or a proposed district plan relating to the protection, maintenance, and conservation of trees on the land.”