

APPENDIX 2 - s32AA evaluation of recommended changes to resolve gaps and errors in the drafting of rules and address Item 74

Table 31 continued¹ – Options evaluation for significant and other trees			
Option 5 (Option 2², plus clearer exemption for non-QM trees)	Option 6A (Option 5, plus further tree setback for intensification adjoining Riccarton Bush, with RD status)	Option 6B (Option 5, plus further tree setback for intensification adjoining Riccarton Bush, with D status)	Option 6C (Option 6A plus limited notification not precluded for Riccarton Bush tree setback)
<p>Option description This option is the same as Option 2, except the non-qualifying matter (QM) tree exemptions are consolidated into a new permitted activity (P13³) for pruning, felling of, gardening and works within the tree protection zone radius of, significant trees in Appendix 9.4.7.1 where the tree is a non-QM⁴ tree and these activities are associated with:</p> <ul style="list-style-type: none"> - Residential development within the Medium Density Residential Zone and High Density Residential Zone 	<p>Option description This option is the same as Option 5, except in addition it includes a requirement⁵ for a greater setback of 15m from the Riccarton Bush predator proof fence where development goes beyond the permitted number of units (i.e. four or more units are proposed) or building height. Where this setback is not achieved a restricted discretionary activity would apply and would rely on the existing assessment matters in Rule 9.4.6 a. - o.</p>	<p>Option description This option is the same as Option 6A, except regarding the requirement for a greater setback of 15m from the Riccarton Bush predator proof fence where development goes beyond the permitted number of units (i.e. four or more units are proposed) or building height - where this setback is not achieved a fully discretionary activity would apply.</p>	<p>Option description This option is the same as Option 6A, except in addition the limited notification preclusion is removed under proposed Rule 9.4.4.1.3 RD6 b.</p>

¹ Refer to Table 31 from page 195 of the [Part 2 Qualifying Matters s32 report](#) for the four other options.

² Option 2 is to apply MDRS in residential zones, and Policy 3 of the NPS-UD in commercial zones, with a qualifying matter for Significant and other Trees. This option retains the current number of trees in the schedule, and classifies trees as qualifying matters from this schedule based on their heritage status (meeting qualifying matter requirements under s771(a)), or classifying trees as other matters (under 771(j)). Trees that do not meet the criteria are retained in the schedule but not afforded qualifying matter status. Therefore this approach does not add or remove any trees from the schedule.

³ Refer to Rule 9.4.4.1.1 P13 in Appendix 3 to the summary statement.

⁴ Non-QM trees include scheduled trees that are outside medium and high density residential zones and commercial centres, were not able to be re-assessed under PC14, and scheduled trees that were re-assessed and no longer meet the CTEM assessment criteria. These trees remain in the schedule however are not afforded protection from MDRS and Policy 3 intensification as they cannot be justified as qualifying matters.

⁵ Refer to Rule 9.4.4.1.1 P11 and Rule 9.4.4.1.3 RD6 b. in Appendix 3 to the summary statement.

<p>which complies with the Built Form Standards.</p> <ul style="list-style-type: none"> - Commercial development within the Central City Zone, Central City Mixed Use Zone, Central City Mixed Use (South Frame) Zone, Mixed Use Zone, Town Centre Zone, Local Centre Zone, Neighbourhood Centre Zone which complies with the building height rules. <p>It updates the other relevant rules to refer to this exemption.</p> <p>This option also reinstates the 10m setback from the Riccarton Bush predator proof fence to P12 (this was missed off previously in the s42A report).</p>			
<p>Efficiency – This option ensures that MDRS and Policy 3 development enablement is not hindered by resource consent requirements for works to and around scheduled trees which do not meet the threshold to be QM trees⁶.</p>	<p>Efficiency – This option provides additional protection to Riccarton Bush ‘Significant Trees Area’ (which follows the predator-proof fence surrounding the forest remnant) through requiring a 15m separation from intensified development,</p>	<p>Efficiency – This option, while affording greater protection to the Riccarton Bush ‘Significant Trees Area’, would not be as efficient in providing a discretionary activity status compared to a restricted</p>	<p>Efficiency – This option is not considered efficient in that the costs would outweigh the benefits.</p> <p>Benefits – This option would allow for limited notification under s95 of the Act where development within</p>

⁶Non-QM trees include scheduled trees that were not able to be re-assessed under PC14, and scheduled trees that were re-assessed and no longer meet the CTEM assessment criteria. These trees remain in the schedule however are not afforded protection from MDRS and Policy 3 intensification as they cannot be justified as qualifying

<p>Benefits – The benefits are the same as that for Option 2, except this option is clearest for Plan users in terms of the distinction between QM trees and non-QM trees. It provides permitted enablement for residential and commercial intensification under MDRS and Policy 3 where in contention with a non-QM tree.</p> <p>Costs – The costs are the same as that for Option 2, except the updated provisions are clearer around the exemption for permitted residential and commercial intensification. The exemption as notified did not specifically include commercial building heights and so technically the updated version would have less costs to commercial intensification where a non-QM tree is present.</p> <p>Effectiveness – The proposed amendments are included in Appendix 3 to the summary statement. The notified and s42A</p>	<p>recognising the potential impacts could be greater from intensified development.</p> <p>Benefits – Mr Andrew Benson’s evidence⁷ recommends that the setback should be at least 15m, which is the maximum tree protection zone radius within the current best practice documents from Australia (AS4970:2009) and the United Kingdom (BS5837:2012). He considers a 15m setback will provide greater assurances that larger trees on the perimeter of the forest will receive adequate protection from the impacts of development. The restricted discretionary status would still be enabling of development where it can be demonstrated that the trees will be appropriately protected. The existing assessment matters will be relied on which are broad enough to also consider intensification.</p> <p>Costs – This option will potentially impact development capacity in requiring a further 5m setback for</p>	<p>discretionary status, making it potentially unnecessarily onerous.</p> <p>Benefits – Compared to Option 6A the discretionary status would potentially be more of a deterrent to works within the 15m setback and therefore possibly providing better protection for the Riccarton Bush trees.</p> <p>Costs – The discretionary status provides less certainty over whether consent would be granted and what would be considered in terms of effects. It is more onerous than needed given that the potential effects on the Riccarton Bush trees are generally understood. This option would have the most impact on development capacity, other than Option 3.</p> <p>Effectiveness – Whilst this option would afford greater protection to Riccarton Bush trees from greater development, the discretionary status would not well align with</p>	<p>15m of the Riccarton Bush predator proof fence goes beyond the permitted enablement in terms of density and height, providing for potential further assessment of impacts on the protected trees.</p> <p>Costs – This option would require an s95 assessment under resource consent applications for Rule 9.4.4.1.3 RD6, potentially adding to the costs and time. The existing assessment matters focus on the effects on the protected trees rather than persons. Furthermore, the effects on the Significant Trees Area are generally well understood, and do not necessitate limited notification.</p> <p>Effectiveness – It is noted that the Act (77D) does not allow for a district plan rule to require limited notification. To enable potential for notification to the Riccarton Bush Trust the limited notification preclusion could be removed from Rule 9.4.4.1.3 RD6. Whilst it would possibly enable further scrutiny of</p>
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matters. Note the proposed non-QM tree exemption is not relevant/applicable to scheduled trees that are outside PC14 zones (such as rural zones, and industrial zones etc.).

⁷ Refer to paragraph 105 in [14-Andrew-Benson-Statement-of-evidence-final.PDF \(ihp.govt.nz\)](#)

<p>versions of the rules provided exemptions for permitted residential development within medium and high density zones for works associated with non-QM trees. However, the wording meant it would only apply correctly within the permitted and controlled activity statuses. For the restricted discretionary and discretionary activities the exemption would also apply to QM trees which was not the intention. In addition, it did not allow for Policy 3 commercial intensification enablement exemptions to non-QM trees. The changes to the rules allows for all exemptions to non-QM trees to be captured in a single location, proposed P13. New P13 is referenced in the relevant associated rules such as RD5. The changes make the rules more reader friendly and are clearer to interpret. The references to QM trees in the rules have been removed given that they are clearly included in the schedule. The changes align with the s32 Option 2 (original preferred option) and reflect that non-QM trees do not have their protection justified as a QM. The non-QM trees must remain in the schedule</p>	<p>greater intensification adjoining Riccarton Bush from the predator proof fence on top of the 10m existing setback. Given the limited number of properties adjoining Riccarton Bush the impact is not considered significant. There would be costs associated with applying for resource consent, receiving technical input and implementing any mitigation measures.</p> <p>Effectiveness – The greater setback requirement for intensification (beyond that permitted) adjoining Riccarton Bush is considered appropriate as it recognises there could be potential ecological effects on the protected trees from greater development. Furthermore this requirement would allow the QM to stand on its own legs, whereas previously it was reliant on the Riccarton Bush Interface and the Air Noise Contour to restrict development in terms of height and density in proximity to Riccarton Bush.</p> <p>Risk of acting/not acting – There is sufficient evidence to understand the issue and its effects, with the likely result of no action being taken</p>	<p>Strategic Objective 3.3.2 - Clarity of language and efficiency.</p> <p>Risk of acting/not acting – There is sufficient evidence to understand the issue and its effects, with the likely result of no action being taken being the loss of urban trees on private land within Christchurch.</p>	<p>works near the protected trees, it would add costs to the consent process, requiring a s95 assessment and potential notification and associated costs and time. The existing assessment matters in Rule 9.4.6 a. – o are considered comprehensive. Enabling the ability for limited notification is not considered necessary and would not align with Strategic Objective 3.3.2 - Clarity of language and efficiency.</p> <p>Risk of acting/not acting – There is sufficient evidence to understand the issue and its effects, with the likely result of no action being taken being the loss of urban trees on private land within Christchurch.</p>
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<p>however and their protection comes into play where the exemptions in P13 are not met.</p> <p>This option is considered to well align with the key objectives and policies in Chapter 9.4.</p> <p>Risk of acting/not acting – There is sufficient evidence to understand the issue and its effects, with the likely result of no action being taken being the loss of urban trees on private land within Christchurch.</p>	<p>being the loss of urban trees on private land within Christchurch.</p>		
<p>Recommendation: Option 6A is recommended as it is the most appropriate way to achieve the objectives of the District Plan and higher order direction.</p>			