

BEFORE THE HEARING COMMISSIONERS

IN THE MATTER OF The Resource Management Act 1991

AND Plan Change 10 of the Wairarapa Combined
District Plan: Update of Table 3, Appendix 1.4 –
Schedule of Notable Trees

STATEMENT OF EVIDENCE OF

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on behalf of

Greytown Tree Advisory Group

Dated: 13 November 2019

TABLE OF CONTENTS

EXECUTIVE SUMMARY	3
ABBREVIATIONS USED	5
1 INTRODUCTION	5
1.1 Qualifications and Experience	5
1.2 Code of Conduct for Expert Witnesses.....	5
1.3 Scope of Evidence	5
1.4 Relevant Statutory Framework	6
1.5 How my evidence is organised	7
2 EVIDENCE	7
2.1 STEM criteria and the use of a multi-threshold framework.....	7
Recommendation.....	9
2.2 The Section 32 Evaluation Report	10
2.2.1 Establishing the Status Quo	12
2.2.2 The reasonably practicable options identified by Council are incomplete	14
2.2.3 Efficiency and Effectiveness Assessments	15
2.2.4 Landowner Consent STEM Threshold.....	16
2.2.5 The rules framework for notable trees on Appendix 1.4	18
2.2.6 Implications of Formalisation of the Thresholds	19
2.3 Relief Sought	20
3 REFERENCES	20

EXECUTIVE SUMMARY

Plan Change 10 (PC10) seeks to ensure that the list of notable trees in Appendix 1.4 of the Wairarapa Combined District Plan (WCDP) is “up to date and relevant” (Kaha Consulting, 2018). The method by which South Wairarapa District Council (SWDC) has chosen to assess whether trees are worthy of inclusion in Appendix 1.4 includes the introduction of four new Standard Tree Evaluation Methodology (STEM) thresholds and a landowner consent STEM point threshold.

The technical evidence from Mr Partridge, who is the consultant arborist providing expert evidence on behalf of Greytown Tree Advisory Group (GTAG), is that SWDC’s preferred threshold framework in PC10 is a departure from the threshold used to determine the operative Appendix 1.4 and adversely affects the number of trees able to be recruited for protection through inclusion in Appendix 1.4.

The introduction of these new thresholds to determine which trees are included in Appendix 1.4 has not been properly justified by SWDC, and the potential implications on SWDC’s ability to implement the relevant WCDP policies 10.3.2(a) and (b) and achieve objective HH1 has not been assessed in the s32 or s42A reports accompanying PC10.

I consider that the effect of PC10 will potentially undermine SWDC’s ability to:

- successfully implement Policies 10.3.2 (a) and (b);
- achieve the related objective HH1; and
- successfully address the relevant resource management issue identified in 10.2(6).

The s32 evaluation is not consistent with the requirements of s32 of the Act or best practice for s32 evaluation and reporting. Specifically, the s32 evaluation does not:

- Clearly define the problem PC10 is designed to address;
- Accurately or comprehensively describe the current situation (or baseline or status quo);
- Properly assess the effectiveness of the current suite of provisions (including the existing method) to achieve the objective and address the resource management issue;
- Properly assess the effectiveness of the proposed multi STEM threshold methodology and linked STEM thresholds;
- Identify the district plan objective – HH1 - to which the proposed Plan Change relates;
- Provide a clear and comprehensive assessment as to whether PC10 will help achieve the WCDP objective HH1;

- Sufficiently examine the Council's preferred approach to amend the STEM score thresholds for its appropriateness in achieving the purpose of the RMA; and
- Clearly identify or assess all of the benefits and costs, and risks of the revised method on the community, the economy and the environment.

I consider that SWDC fails to present a comprehensive picture in its s32 documentation of the problem they were seeking to solve through the plan change. Documenting this information, much of it quantifiable, would have provided SWDC with a robust foundation against which to assess its options in a comprehensive that would be useful to stakeholders.

Consequently, it is difficult for stakeholders and decision-makers to properly understand the effects of the proposed multi threshold STEM methodology when compared to the status quo, or to form an informed view as to whether PC10 is the most effective and efficient way of protecting important trees in the community.

In light of the failings of the s32 evaluation and the technical evidence available to me, I consider the precautionary approach would be for PC10 to enable a review of Appendix 1.4 against the same STEM methodology and score threshold as that utilised under the Operative Plan.

I seek the following relief:

- That the multi-threshold framework be replaced by a single STEM score threshold and all trees proposed or nominated for Appendix 1.4 be assessed for inclusion on that basis ; and
- The landowner consent threshold of 230 STEM points be removed or replaced in consultation with relevant stakeholders and interested parties including Greytown Tree Advisory Group (GTAG).

ABBREVIATIONS USED

The primary abbreviations I have used in my evidence are:

GGTAG	Greytown Tree Advisory Group
PC10	Plan Change 10
RMA	Resource Management Act 1991
STEM	Standard Tree Evaluation Methodology
WCDP	Wairarapa Combined District Plan

1 INTRODUCTION

1.1 Qualifications and Experience

1. My full name is Lucy Elizabeth Cooper. I have a Masters in Town and Country Planning from the University of the West of England in the United Kingdom (UK). I am also a qualified RMA decision-maker under the 'Making Good Decisions' programme. I am a Principal Analyst with Planalytics and I am based in Greytown.
2. I have over 15 years' experience in resource management and planning, gained in the UK and, since 2007, New Zealand. I have experience in policy and plan research and development and natural resource management. I have developed planning policy, prepared s42A reports and presented at hearing in respect of number of topics including network utilities, land transportation, rural land use issues, and water quality and quantity.
3. I am married to Mr Jez Partridge, who is Co-Convenor of Greytown Tree Advisory Group (GTAG) (alongside Ms Katie Abbott), and who was the chief author of GTAG's submission and further submission. Mr Partridge has also prepared technical evidence in relation to GTAG's submission and will be presenting at the Hearing.

1.2 Code of Conduct for Expert Witnesses

4. I have read the Code of Conduct for Expert Witnesses (Section 7 of the Environment Court Consolidated Practice Note 2014) and I agree to comply with this Code of Conduct. This evidence is within my area of expertise, except where I state I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

1.3 Scope of Evidence

5. I have been asked by GTAG to prepare evidence in relation to the submissions and further submissions made by GTAG on PC10, a SWDC-led plan change of the Wairarapa

Combined District Plan entitled "Update of Table 3, Appendix 1.4 – Schedule of notable trees" (PC10). Specifically, my evidence is restricted to a consideration of the following matters raised in GTAG's submission:

- The planning implications of the revised thresholds preferred by SWDC in PC10 to review Appendix 1.4;
- The planning implications of the proposed 230 STEM score threshold related to landowner consent; and
- The adequacy and rigour of the s32 evaluation report.

6. In preparing this evidence, I have read the following documents:

- Proposed changes to Volumes 1 and 2 of the Wairarapa Combined District Plan (WCDP);
- Summary of Notable Trees Evaluations, by Paper Street Tree Company dated 3 July 2018;
- STEM Explanatory Notes, by Paper Street Tree Company dated 3 July 2018;
- Section 32 evaluation of PC10 prepared by Kaha Consulting;
- GTAG's original submission and further submissions;
- Statement of Evidence of Mr Jez Partridge; and
- Master excel spreadsheet of trees assessed by Paper Street Tree Company and analysed in additional excel sheets by Mr Partridge.

1.4 Relevant Statutory Framework

7. In respect of my evidence, I consider the following statutory framework to be most relevant:

- Section 5 of the RMA;
- Section 6(b), (c) and (f) of the RMA;
- Section 31 of the RMA;
- Section 32 of the RMA;
- S32AA of the RMA;
- S32A of the RMA;

- Section 74 of the RMA;
- Section 75 of the RMA, particularly s75(2)(b);
- The relevant resource management issues, objectives, policies, rules and methods of the Wairarapa Combined District Plan.

8. For the sake of brevity, I will not repeat these provisions in detail here, and will instead refer to them in the body of my evidence where necessary.

1.5 How my evidence is organised

9. I have adopted the same sub-headings as Mr Brown in his s42A, where they relate to the GTAG submission. Under each main heading I have organised my evidence under a range of sub-headings. The relief I seek in respect of the GTAG submission is included in the final section 2.3. The final section of my evidence provides a list of references.

2 EVIDENCE

2.1 STEM criteria and the use of a multi-threshold framework

10. GTAG's submission is that:

- The effect of PC10 is to raise the STEM score threshold from 100 to 140 points for general trees;
- As a consequence, a number of trees have been removed from Appendix 1.4;
- The new general tree threshold makes it more difficult to recruit new trees to Appendix 1.4 for protection;
- The new multi-threshold framework is complicated and confusing, leads to unintended outcomes, and the new thresholds have no beneficial effects as compared to the current 100 point STEM threshold;
- The new multi-threshold framework is not supported by provisions in the District Plan; and
- The 230 point landowner consent threshold has not been justified or the costs and benefits compared against alternate thresholds or the status quo.

11. GTAG seeks the following relief:

SWDC removes all references to the four STEM threshold scores from the proposed Plan Change documents, and instead adopts one STEM threshold for inclusion of Notable Trees.

GTAG suggests that the previous STEM threshold of 100 points would be most reasonable and appropriate to use, but is willing to assist and work with SWDC in reviewing this if such a review can be justified. (GTAG Original Submission, 2019), and

All references to landowners being able to prevent trees being listed on their property and associated STEM threshold should be removed from the proposed plan change. Tree owners would still have the ability to make their arguments against tree protection which SWDC would consider on a case by case basis through the available RMA processes if listed as Notable. (GTAG Original Submission, 2019),

12. Mr Brown recommends the relief sought by GTAG’s be rejected for the following reasons:

Given the endorsement from the NZ Notable Trees Trust of the innovative, multi-threshold methodology carried out by Council SQEP, the author holds the view this is an advancement of the 1996 STEM methodology.

The author confirms to the best of his knowledge at the time of writing there exists no current threshold of notability documented by the district plan itself, or via proxy from a previous SQEP Arborist recommendation provided to Council. (Section 42A report, 2019)

13. Plan Change 10 proposes amendments to the WCDP Appendix 1.4 that lists notable trees. SWDC has used STEM assessments as a basis to recommend whether trees should be included in Appendix 1.4 or not. Mr Hill, who carried out the STEM assessments, has recommended a range of thresholds to determine whether a tree should be included in Appendix 1.4. These are as follows:

Table 1: STEM Threshold Scores recommended by Mr Richard Hill to be used to identify notable trees

Tree Type/Value	Recommended STEM Threshold Score
National Interest	110
Historic	120
Landscape	130
General	140

14. The evidence from Mr Partridge is that using STEM assessments and a STEM derived threshold is common practice by Councils to clearly identify trees worthy of protection under district plans (Partridge, 2019).
15. Contrary to Mr Brown’s assessment of the use of previous thresholds, Mr Partridge and other GTAG members have been able to demonstrate, from looking at SWDC records of

STEM scores for trees on the current Notable Tree Register, that the previous review of Appendix 1.4 carried out by SWDC in 2005 applied an effective STEM threshold score of 99 points to generate Appendix 1.4. This analysis is provided in Mr Partridge's technical evidence.

16. Mr Partridge's evidence is that the impact of the new thresholds is to essentially raise the threshold score for the default general trees category threshold from 99 points to 140 points. Mr Partridge considers this to be an increase in the threshold that will have the effect of:
 - removing existing General trees from the Notable Tree Register; and
 - preventing proposed trees from being placed on the Notable Tree Register; and
 - making it more difficult to add trees to the Notable Tree Register as part of future updates.
17. Mr Brown's view is that SWDC's preferred thresholds framework is technically sound is disputed in Mr Partridge's evidence.
18. Having considered Mr Partridge's evidence and the PC10 documents, I consider the planning implications of the revised thresholds approach have not been identified or assessed to the degree or with the clarity necessary to provide stakeholders with certainty necessary to engage effectively in the plan change process.
19. Furthermore, failure to assess the STEM threshold recommendations through a planning lens has impaired SWDC's ability to assess whether its preferred approach will lead to successfully implementation of the relevant district plan policies 10.3.2(a) and (b) and achieve Objective HH1. I explore this in more detail later in this evidence.

Recommendation

20. For these reasons, and the reasons set out in the following sections of this evidence, I agree with GTAG's submission and recommend that the multi-threshold framework for notable trees be replaced by a single threshold, ideally the status quo 99/100 point threshold; or determine a different single STEM threshold that can be demonstrated to achieve Objective HH1, ideally in conjunction with stakeholders and interested parties including GTAG.

2.2 The Section 32 Evaluation Report

21. In its submission, GTAG raised a number of concerns with the s32 evaluation report. These are summarised as follows:
- The Cost Benefit Analysis set out in the s32 report of the options related to PC10 are inadequate and fail to adequately address or explain a range of relevant issues including:
 - landowner consent to protect trees;
 - why the previous 100 point threshold was not retained the introduction of new thresholds and categories and their effects;
 - a lack of comparison and testing of the various thresholds and their effects; and
 - inadequate explanation as to how the changes proposed support the implementation of the relevant DP policies and achievement of the associated objectives.
 - The s32 report does not acknowledge that the STEM scoring method developed by Paper Street Tree Company's assessment differs from the original 1996 model, or describes or evaluates the effects of the changes on the assessment of trees and their inclusion or exclusion on the register.
 - The assessment of the costs and benefits of the effects of implementing the proposed methods is not sufficiently comprehensive to give the community a good understanding of the implications of the proposal.
22. The primary relief sought by GTAG in respect of this issue is that:
- the multi-threshold framework is replaced with a single threshold and the landowner consent threshold is removed.
23. GTAG's alternative relief is that:
- The Section 32 Report be updated and added to with particular reference to adding in additional justification for changing and raising the current STEM threshold, the introduction and effect of new STEM thresholds and categories; and
 - SWDC ensure the Plan Methods, Policies and Objectives adequately support the changes to the original STEM methodology, and changes to STEM assessment process and landowner's consent issues.

24. In his s42A report, Mr Brown recommends the Commissioner rejects the relief sought by GTAG on the following grounds:

Council SQEP's documentation as endorsed by the NZ Notable Tree Trust compliments the s32 analysis and the s32 report must be read along with the dozens of STEM assessments and reporting around them. In addition, the extensive non-RMA notification and comments obtained from the community as well as the RMA notification and submissions obtained from landowners also compliment the s32. Further, the extensive rebuilding of Table 3 4 (without changing the format of the table) also provides further background to the level of detail and care taken to mean Table 3 is fit for purpose. The author acknowledges some weaknesses may exist, however these are far outweighed and mitigated by the level of detail and rigour by complimentary work and documentation.

25. Section 32A of the RMA provides for submitters to challenge to a proposed objective, policy, rule or other method on the grounds that:

- an evaluation report has not been prepared or considered
- a further evaluation has not been undertaken
- sections 32 or 32AA have not been complied with.

26. Best practice guidance on s32 evaluation states:

A person hearing a submission or an appeal may take into account the s32 evaluation. However, the RMA does not require the local authority / decision-maker to revisit and amend its original s32 evaluation report if an appeal is wholly or partly successful. It is the proposal itself that is amended. (Ministry for the Environment, 2017)

27. I acknowledge GTAG's preferred relief of revisiting the SWDC's s32 may be inconsistent with the limitations imposed on challenges to the RMA by s32A. Therefore, the purpose of my analysis of the SWDC's s32 report that follows is to demonstrate that the SWDC's justification for its preferred course of action in PC10 has not been undertaken in accordance with s32 and is not sound; and that a planning argument therefore exists to revise the proposal in PC10 to review of Appendix 1.4 against the STEM methodology and score threshold utilised under the Operative Plan.

28. There is very little analysis in the s42A report of the matters raised by GTAG in its original submission regarding the completeness and robustness of the s32 report, or rebuttal of the problems identified with the multi-threshold approach. Mr Brown acknowledges that

'weaknesses exist' with the s32 but unfortunately has not taken the opportunity to identify or address those weaknesses in his report. Having considered the documents, I believe the s32 evaluation report is incomplete. In particular, the SWDC has failed to:

- clearly describe the status quo against which an assessment of alternative could be undertaken;
- provide an assessment of the performance of the status quo against the Plan's objectives and policies;
- identify an appropriate range of 'reasonably practicable' options available to SWDC to update Appendix 1.4;
- provide sufficient information to enable stakeholders to properly appreciate the effects of introduction of variable thresholds, including the landowner consent threshold.

29. Consequently, I consider that SWDC 's s32 evaluation is inconsistent with the requirements of s32 of the RMA. These matters are explored in more detail in the following sections.

2.2.1 Establishing the Status Quo

30. The description of the purpose of PC10 in the s32 evaluation report infers that the problem PC10 is designed to address is that the list of trees in Appendix 1.4 is not up to date:

The sole purpose of the change is to ensure that Appendix 1.4 which identifies trees that are worthy of protection is up to date and relevant. (Kaha Consultancy Ltd, 2018)

31. However, as indicated in GTAG's submission and discussed by Mr Partridge in his technical evidence, the threshold framework devised by Mr Hill for scoring trees for inclusion on the Appendix has reduced the number of trees able to be recruited onto the notable tree list, particularly trees with 'general' values. Mr Partridge calculates that 14 proposed trees and 11 trees listed in the operative Appendix 1.4 do not meet the proposed 140 point STEM score threshold. An additional three trees in the landscape category also do not meet the proposed required threshold of 130 STEM score points. This would suggest that SWDC has found the method used to generate the list of notable trees in the Operative plan to be ineffective in some way. However, this assessment is not available in the s32 or s42A documents.

32. Best practice advice on s32 evaluation reporting published by the Ministry for the Environment recommends that Step 1 of the s32 process be to 'define the problem':

The problem statement should identify what the key issue is, and in what way it isn't being addressed well at present. As part of this, the current situation (or baseline) should be clearly defined and understood. (Ministry for the Environment, 2017)

33. In my view SWDC's description and analysis of the status quo is incomplete and unclear. There is no information as to how Appendix 1.4 was populated in the previous review, how the STEM method was applied or what threshold score was applied. This makes it difficult for stakeholders and decision-makers to understand the rationale for the SWDC's preferred choice of approach of PC10 or to understand the potential costs and benefits of the preferred choice compared to the continued implementation of the status quo.
34. Central to a description of the status quo is a description of the relevant planning context. This helps stakeholders understand what the rules and other methods are there to achieve, and better enables participants in the process to form a view as to whether any modifications and changes to those methods will be effective.
35. However, the s32 report only partially describes the district plan framework relevant to a consideration of PC10. It provides a list and brief analysis of the relevant policies from the Regional Policy Statement and lists the two rules to manage activities affecting trees listed on Appendix 1.4, 21.1.1 (permitted activity) and 21.4.1 (restricted discretionary activity). In my view the relevant planning framework against which to consider proposed PC10 should include the relevant resource management issue, and the related district plan objective and policies, as shown in the table 1.

Table 2: Relevant WCDP Provisions for PC10

Provision	Detail
10.2 Significant Resource Management Issue	6. The potential for the inadvertent damage or destruction of notable trees within the Wairarapa.
10.3.1 Objective HH1 Historic Heritage Values	To recognise and protect the important historic heritage of the Wairarapa.
10.3.2 Policies	(a) Identify significant historic heritage. (b) Avoid, remedy or mitigate the potential adverse effects of subdivision, development and use on historic heritage.
10.3.4 Methods	(g) Identify notable trees important to the Wairarapa community using the STEM criteria.
21.1.1 Notable Trees and Street Trees	Permitted activity rule, as set out in the s32 evaluation report.
21.4.1 Work undertaken on a Notable Tree or Street Tree	Restricted Discretionary rule, as set out in the s32 evaluation report.
Appendix 1.4	Schedule of Notable Trees

36. When seen within the broader planning context, Method 10.3.4(g) and Appendix 1.4 can be better understood as being *in service* of the policies and objective above it. Method 10.3.4(g) outlines the principle method for identifying trees, as sought by Policy 10.3.2(a), so that adverse effects on those trees can be avoided, remedied or mitigated, as required by Policy 10.3.2(b). If the implementation of Policies 10.3.2(a) and (b) is effective, Objective HH1 is achieved (in respect of trees). If Objective HH1 is being achieved, it follows that the resource management issue identified above is being addressed.
37. Setting out this broader planning framework would enable SWDC to more clearly set out the 'story' of how SWDC, under the operative WCDP, currently recognises and protects trees in the district. It would also provide stakeholders and the wider public with the ability to better understand what the problems are with the implementation of the current method, and whether the problems undermine SWDC 's ability to implement Policies 10.3.2(a) and (b) above and achieve Objective HH1.
38. However, by taking the update of Appendix 1.4 out of its local planning context in the s32 reporting process, the potential and actual effects of the proposed STEM threshold framework to populate the Appendix are at best understated and at worst unexplained by SWDC in the s32 and other documents. Consequently, I believe SWDC have made it difficult for the South Wairarapa community to engage with PC10 in an informed way and to consider the implications of the way the method is implemented on the current review of Appendix 1.4 and future reviews in South Wairarapa.

2.2.2 The reasonably practicable options identified by SWDC are incomplete

39. Best practice guidance highlights the importance of establishing the status quo in s32 reporting, and the role the baseline forms in identifying options:

A core part of the problem definition is to clearly understand the situation now and in the future in the absence of a new RMA proposal. This will form one of the options, and enables other options to be compared to a policy of no change. It also may indicate why local government intervention is required. (Ministry for the Environment, 2017)

40. On page 18 of the s32 evaluation report, the report writer identifies three options as part of the s32(1)(b)(i) assessment. These are:
- Option 1 - Retain current schedule
 - Option 2 - Add to current schedule based on specific STEM scores
 - Option 3 - As Option 2 with higher or lower scores

41. In my view, a 'reasonably practicable' option would be to review Appendix 1.4 using the same method and single threshold as in the previous review. The analysis undertaken by Mr Partridge would indicate that the previous threshold was 99 points (refer to Appendix 2 in Mr Partridge's Statement of Evidence).
42. Option 1 could be described as the 'status quo'. However, there is no clear or comprehensive description of what it is and what the problems with it are. Without the assessment of the status quo option in the s32 report, the costs and benefits associated with it are not readily available to stakeholders. There is no evidence that SWDC sought to identify or interrogate baseline information that would have helped them build a more comprehensive picture of the problem they were seeking to solve through PC10. For example, how many resource consent applications under Rule 21.1.4 has SWDC processed in the years 2005 – 2018? How many applications have been declined and approved? How many SWDC decisions were appealed? Were the applications dealt with under delegated authority or subject to a public hearing? What was the average processing time for the applications? How many applications required the applicant to engage a consultant arborist? What has SWDC spent on engaging external arborist expertise to assess the applications, or were those costs passed to the applicant? I am not familiar with SWDC's systems, but I would imagine that some or all of this information could be retrieved from a resource consent database relatively straightforwardly, and a study of a sample of resource consent applications for tree works could have revealed more in depth information for analysis.
43. Documenting this information, much of it quantifiable, would have provided SWDC with a robust foundation against which to assess Options 2 and 3, and indeed any number of threshold options, in a far more comprehensive and useful way than that presented in the s32. For example, the total number of trees able to be recruited to Appendix 1.4 under any threshold scenario based on Mr Hill's assessments could have been quantified and the environmental and social costs and benefits associated with those scenarios could have been better identified and assessed. Using the baseline data, the monetary costs to both SWDC and landowners under any threshold scenario could also have been better estimated.

2.2.3 Efficiency and Effectiveness Assessments

44. Under s32(i)(b)(ii), efficiency and effectiveness of the provisions of a Plan Change are to be assessed as part of assessing the appropriateness of the provisions in achieving the

objectives.¹ Efficiency and effectiveness are not defined in the RMA, but best practice defines the terms as follows:

Effectiveness assesses the contribution new provisions make towards achieving the objective, 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 society. The assessment of efficiency under the RMA involves the inclusion of a broad range of costs and benefits, many intangible and non-monetary. (Ministry for the Environment, 2017)

45. I would argue that had it established a comprehensive baseline as part of its development of PC10, SWDC would have been able to undertake a more meaningful assessment of the effectiveness and efficiency of the range of options than that available in the s32 report. This would ensure that when considering PC10, stakeholders are doing so from an informed position.
46. I believe that the failure to establish a clear and comprehensive baseline scenario in the formulation of PC10 adversely has adversely impacted on SWDC 's ability to identify an appropriate range of reasonably practicable options for achieving the objective of PC10, as required by s32(1)(b)(i). It has led to a situation in which the status quo option is not assessed. It has also led to a situation in which SWDC has focused on options that involve only a range of thresholds against which to assess trees, not consideration of the implications of the use of different single thresholds.

2.2.4 Landowner Consent STEM Threshold

47. PC10 introduces a threshold of 230 STEM points for trees on land where the landowner objects to the inclusion of a tree in Appendix 1.4. SWDC will only impose the listing of a tree in the Appendix where the tree scores 230 STEM points or more. This only applies to trees proposed to be added to Appendix 1.4 as part of this review. It does not apply to existing trees on the register.
48. The approach is justified in the s32 report as follows:

¹ I consider the objectives in this case to be both the purpose of PC10, which is to update Appendix 1.4; and Objective HH1, which PC10 is designed to help achieve. This is consistent with the definitions of 'objectives' set out in section 32 of the Act, as follows:

Objectives means –

- (a) For a proposal that contains or states objectives, those objectives;
- (b) For all other proposals, the purpose of the proposal.

If there is no land owner approval for new trees, Mr Hill's view is that the STEM score level should exceed 210 (sic) before statutory plan protection is proposed. This is because at this very high level the Council can readily justify in a statutory hearing or Environment Court that the public benefit through protection of the tree will outweigh the private interest considerations of the land owner not wanting to list it. (Kaha Consulting, 2018)

49. GTAG's submission on this matter is that:

- There is no explanation as to how the 230 threshold has been established, or whether a higher or lower threshold may be suitable; and
- The proposed 230 threshold will embolden landowners to prevent significant trees from being listed as notable.

50. GTAG seeks that:

All references to landowners being able to prevent trees being listed on their property and associated STEM threshold should be removed from the proposed plan change. Tree owners would still have the ability to make their arguments against tree protection which Council would consider on a case by case basis through the available RMA processes if listed as Notable.

51. There is no assessment of SWDC 's preferred approach against the status quo approach regarding landowner consent in the s32. Furthermore, I agree with GTAG's submission and Mr Partridge's evidence that there is little justification for trees in this scenario to achieve a STEM score of 230. I am not aware of a requirement in the RMA for land owner's consent to be obtained in order to facilitate tree protection; this requirement has been added at SWDC's discretion. I am also not aware of landowners in the South Wairarapa district with other heritage items, such as Heritage Buildings, within their property being able to avoid the inclusion of such an item in a Plan Appendix as a consequence of not meeting a points-based threshold. Furthermore, I understand Mr Partridge's research into the use of STEM by New Zealand councils reveals that only 40% of councils using STEM use a landowner consent threshold (Partridge, 2019).

52. Mr Partridge has shown in his evidence that there are currently trees in Appendix 1.4 that have national significance or historic heritage values that score less than 230 STEM points. Arguably in the future other trees, as yet unidentified, will attain or accrue national significance or historic heritage values but achieve STEM scores of less than 230. These trees will not fall under the protections offered by SWDC 's proposed landowner consent

threshold and therefore could be lost, damaged or destroyed. This outcome is inconsistent with the Policy 10.3.2(a) and (b) and Objective HH1.

53. As a result of the lack of justification in PC10, I share Mr Partridge's concern that the 230 threshold is potentially too high and may undermine SWDC 's ability to implement Policies 10.3.2(a) and (b) and achieve Objective HH1. Consequently, I support GTAG's request that the 230 STEM point landowner consent threshold be removed and that the review of Appendix 1.4 be undertaken without that threshold in place.

2.2.5 The rules framework for notable trees on Appendix 1.4

54. In my view, when assessing the effectiveness and efficiency of the 230 landowner threshold (or any alternative threshold related to landowner consent), I believe it is necessary to achieve an understanding and consideration of the implications of the rules framework of the WCDP which would apply in the event that a tree is listed. I do not consider this has been adequately explored or explained in SWDC 's documentation for PC10.
55. Inclusion on Appendix 1.4 does not prevent or prohibit landowners to undertake works to notable trees on their property. Instead, the WCDP provides a regulatory pathway allowing landowners with listed trees on their property to apply for and justify works to notable trees beyond 'minor trimming'. When one considers that outcomes sought by the WCDP policies and objective in respect of notable trees, the regulatory pathway is not, in my view, excessively onerous.
56. Currently, trees listed on Appendix 1.4 are subject to a permitted activity rule 21.1.1 and a restricted discretionary rule 21.4.1. The permitted activity rule allows for minor trimming of a notable tree and some activities within the dripline, subject to conditions. Where activities affecting a tree in Appendix 1.4 cannot meet the permitted activity standards in rule 21.1.1, resource consent must be sought under the restricted discretionary rule 21.4.1. Rule 21.4.1 is drafted as follows:
- Any work undertaken on a Notable Tree listed in Appendix 1.4 or any Street Tree not undertaken in accordance with the standards for permitted activities, or which involves removing or pruning the tree.*
- Discretion is restricted to the following matters:*
- (i) Ensuring that any adverse effects on the tree's health are avoided, remedied or mitigated through the use of appropriate arboricultural techniques;*

(ii) Ensuring that the work undertaken minimises any alteration to the particular factors which led to the tree being scheduled;

(iii) Options for the tree's management, including relocation or protection;

(iv) Disposal of timber;

(v) Archival recording; and

(vi) Replacement planting.

57. I acknowledge that landowners wishing to carry out works on a notable tree located on their property will incur costs in order to do so. These include time to complete the application form (and money, if a planning consultant is used), possibly costs to contract an arborist to advise on the works and to prepare a report for SWDC in support of the works, time to engage with SWDC and possibly neighbours throughout the process and, if the application is successful, money to carry out approved works. I understand that SWDC waive the resource consent application fee for applicants, to provide some offset to the costs.
58. I consider the regulatory pathway established by Rules 21.1.1 and 21.4.1 allows for an appropriate degree of SWDC and public scrutiny over works to notable trees that is consistent with the outcomes sought by the related WCDP's policies and objectives. The costs to individual landowners are, I believe, outweighed by the environmental, social, cultural and, arguably economic, benefits of managing the notable tree stock in a way that is consistent with the WCDP's operative policies and objectives in HH1 of the Plan.

2.2.6 Implications of Formalisation of the Thresholds

59. The s32 and Paper Street Tree Company's technical reports accompanying PC10 appear to formalise SWDC's use of a thresholds framework against which to consider trees for inclusion in Appendix 1.4. A new threshold has also been introduced providing landowners with the ability to prevent trees on their property as being listed as being notable unless the tree has a STEM score of 230 points or more. The ongoing status of these thresholds is unclear. Will SWDC use these thresholds in future reviews of PC10? What are the implications of the new thresholds for other councils in Wairarapa when they review their portion of Appendix 1.4? And what are the potential implications for the achievement of Objective HH1 in the region as a whole if the thresholds are adopted across all three Wairarapa councils? These are questions that are not explored in any meaningful way in the documentation for PC10. Consequently, the robustness of the justification for SWDC's preferred approach is further undermined.

60. In this evidence I have considered the implications of the introduction of thresholds under PC10 which effect whether trees are included or excluded from Appendix 1.4. I consider that the inclusion in the Appendix affords notable trees protection from destruction, damage or removal under the rules and policies of the WCDP. Thresholds are therefore a powerful tool that help SWDC achieve its objectives in respect of notable trees in South Wairarapa. It could be argued that thresholds for the identification of trees for South Wairarapa should form part of the Plan, for example under Policy 10.3.1(a) or a new policy specifically for tree identification in South Wairarapa. It may be considered by the Commissioner that it is more efficient for these matters to be considered by all three Wairarapa councils at a later date as part of a wider review of the WCDP, which I understand will commence in 12-18 months' time. In which case, in the meantime I consider that the relief sought in GTAG's submission point relating to the re-institution of the single STEM score threshold be accepted, and the review of Appendix 1.4 be undertaken against that threshold.

2.3 Relief Sought

61. For the reasons set out in my evidence above, I seek the following relief:
- That the multi-threshold framework be replaced by a single STEM score threshold and all trees proposed or nominated to be listed in Appendix 1.4 be assessed for inclusion on that basis; and
 - That the landowner consent threshold of 230 STEM points be removed or replaced in consultation with relevant stakeholders and interested parties including Greytown Tree Advisory Group (GTAG).

3 REFERENCES

Partridge, Jeremy (2019). *Statement of Evidence in respect of PC10*.

Kaha Consultancy Ltd (2018). Proposed Plan Change 10: Update of the Council's notable tree register in Appendix 1.4 of the Wairarapa Combined District Plan - Proposal and section 32 report.

Ministry for the Environment (2017). A guide to section 32 of the Resource Management Act: Incorporating changes as a result of the Resource Legislation Amendment Act 2017. Wellington.