MARLBOROUGH ENVIRONMENT PLAN

Section 32 Report

Chapter 10: Heritage Resources and Notable Trees

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Contents

Overview

Background

Section 32 of the Resource Management Act 1991 (RMA) requires that in the process of reviewing its regional policy statement and resource management plans, the Marlborough District Council (the Council) must prepare and publish an evaluation report. The three documents being reviewed are the Marlborough Regional Policy Statement (MRPS), the Marlborough Sounds Resource Management Plan (MSRMP) and the Wairau/Awatere Resource Management Plan (WARMP). Each resource management plan is a combined regional, coastal and district plan.

Section 32[1] of the RMA requires that:

- reviewed regional policy statements and plans must be examined for their appropriateness in achieving the purpose of the RMA;

- the benefits, costs and risks of new policies and rules on the community, the economy and the environment be clearly identified and assessed; and

- the written evaluation must be made available for public inspection.

The Section 32 process is intended to ensure that the objectives, policies and methods the Council decides to include in the new resource management framework have been well tested against the sustainable management purpose of the RMA. The Section 32 evaluation report for the proposed Marlborough Environment Plan[2] (MEP) has been prepared on a topic basis, centred on the policy chapters of Volume 1 of the MEP. Individual reports have been prepared on the following:

Topic	Volume 1 Chapter of the MEP
Introduction to Section 32 evaluation reports	
Marlborough's tangata whenua iwi	3
Use of natural and physical resources	4
Allocation of public resources – freshwater allocation	5
Allocation of public resources – coastal allocation	5
Natural character	6
Landscape	7
Indigenous biodiversity	8
Public access and open space	9
Heritage resources	10
Natural hazards	11
Urban environments	12
Use of the coastal environment – subdivision, use and development activities in the coastal environment, recreational activities, fishing, residential activity, shipping activity and Lake Grassmere Salt Works	13
Use of the coastal environment – ports and marinas	13
Use of the coastal environment – coastal structures, reclamation and seabed disturbance	13

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[1] See Appendix A.

[2] The Marlborough Environment Plan is a combined regional policy statement, regional plan, regional coastal plan and district plan.

Topic	Volume 1 Chapter of the MEP
Use of the rural environment	14
Resource quality – water	15
Resource quality – air	15
Resource quality – soil	15
Waste	16
Transportation	17
Energy	18
Climate change	19

Chapters 1 and 2 of Volume 1 of the MEP are not included within the Section 32 evaluation as they provide an introduction and background to the proposed document. These chapters do not include provisions that must be evaluated in accordance with Section 32.

The Introduction report covers the scope of the review that the Council has undertaken including consultation and the nature of information and analysis that has occurred. An overview of the Council's statutory obligations, the relationship of the MEP with other plan and strategies and working with Marlborough's tangata whenua iwi is described. A set of guiding principles the Council has used in the development of the objectives, policies and methods for the MEP is provided. The Council acknowledges that the principles have no statutory basis and do not in themselves have specific objectives, policies or methods. However, they have been included as the philosophy and values underlying the content of the MEP and consequently help to inform the Section 32 evaluation.

The policy provisions for heritage resources and notable trees are included within Chapter 10 of Volume 1 of the MEP, while the rules are included within the General Rules chapter of Volume 2. This Section 32 evaluation report on the provisions for heritage resources and notable trees is set out as follows:

- Description of issues – this provides an overview of the resource management issues for heritage resources and notable trees.

- Statutory obligations – the extent to which there are direct links with Section 6 or 7 matters and whether the provisions are directed or influenced by national policy statements or national environmental standards.

- Information and analysis – whether specific projects or other information have influenced the inclusion of provisions or other responses to dealing with resource management issues.

- Consultation – an overview of the extent and nature of specific consultation undertaken on the proposed provisions.

- Evaluation – an assessment of the provisions under each of the identified issues. Where appropriate, reference is made to supporting material that has helped to inform why a particular option has been chosen. In some cases the evaluation is undertaken on an individual provision, while in others groups of policies or methods have been assessed together.

In some parts of this evaluation report there are references to provisions within other chapters of the MEP. This is due to those provisions assisting in implementing the management framework for the subject matter of this report or vice versa. A reader should consider the evaluation for these other provisions where they are referred to in this report.

Key changes

The key changes in the MEP from the approach in the MRPS, WARMP and MSRMP are:

- The separation of notable trees from the management of heritage resources.

- Removing regulatory management of archaeological sites to eliminate duplication with Heritage New Zealand processes.

- Identifying places of significance to iwi and explicitly controlling land disturbance activities in these areas, with iwi to be treated as affected parties.

- An explicit recognition of the different levels of heritage significance.

- Including detailed criteria to be considered in assessing and deciding on resource consent applications.

- New policy criteria for considering resources or places of significance to iwi.

- The criteria for significance being extended to include amenity value in addition to heritage value.

Summary of reasons for the proposed provisions

Section 32(1)(b)(iii) requires a summary of the reasons for deciding on the provisions included in the MEP. This summary of reasons for the provisions in relation to issues concerning heritage resources and notable trees are set out below, however the more detailed evaluation is set out in the remainder of this report.

Heritage resources

- Heritage resources, including historic buildings, places and sites, places or sites of significance to Marlborough's tangata whenua iwi and archaeological sites, collectively contribute to environmental quality and community wellbeing in Marlborough.

- Section 6(f) of the RMA requires the Council to recognise and provide for the protection of historic heritage from inappropriate subdivision, use and development as a matter of national importance.

- Multiple agencies and groups are involved in the protection of Marlborough's historic heritage, therefore it is important that the actions of all are co-ordinated to ensure integrated management of heritage resources. This means that it is important there are positive relationships between these agencies and groups.

- Criteria are included to help identify heritage resources that require protection. In this way, the policy allows an inventory of heritage resources to be established.

- Any adverse effects on Category I heritage resources are to be avoided. This is because any loss or damage of or significant change to a Category I heritage resource would result in a significant and potentially irreversible loss of historic heritage important in a national context.

- Criteria are included to guide the assessment of any resource consent application to demolish, remove, alter or add to a heritage resource or to destroy or modify a waahi tapu site or area, or other area of significance to Marlborough's tangata whenua iwi. These criteria are designed to ensure the significance of the heritage resource or the spiritual and cultural significance of the site or area is recognised and appropriately provided for in the decision making process.

- Specific regulatory protection provisions for archaeological sites already exist through the Heritage New Zealand Pouhere Taonga Act 2014. Because of this, the Council considers it an inefficient use of resources to have a dual consenting process. The Council acknowledges that archaeological sites are important in a Marlborough context, but rather than have regulation within the MEP for these areas will actively support Heritage New Zealand's protection of these sites through the provision of a range of non-regulatory methods.

- As there are likely to be unrecorded archaeological sites beneath the ground, a person may not be aware that a particular site is of significance as an archaeological site. Such sites can be unearthed as a result of land disturbance activities. For this reason, the Council will liaise with Heritage New Zealand, the New Zealand Archaeological Association and Marlborough's tangata whenua iwi to establish protocols to guide appropriate action in the event of a discovery of an archaeological site.

Notable trees
- Section 7 requires that particular regard is had to (c) "*the maintenance and enhancement of amenity values*" and (f) the "*maintenance and enhancement of the quality of the environment*". Both of these sections of the RMA are relevant in the consideration of notable trees.

- Individual indigenous and exotic trees and stands of trees make a significant contribution to Marlborough's character and the amenity values the community enjoys. Some trees also have historic heritage significance because they commemorate an important local event, serve as an important local landmark or have an association with a well-known public figure. The contribution that notable trees make to historic heritage and amenity would be lost if they were to be adversely affected, harmed or felled.

- Criteria are included to identify notable trees that require protection. The use of the criteria allows an inventory of notable trees to be established. This inventory is to be included as a schedule within the MEP to increase the community's awareness of amenity and historic heritage values in Marlborough.

- Criteria are included to guide decision making in any resource consent application to remove, trim or prune a notable tree or trees, or undertake activities in close proximity to a notable tree. These criteria are designed to ensure the heritage or amenity significance of the tree or trees is recognised and appropriately provided for in the decision making process.

- There are circumstances where it will be appropriate to allow a notable tree to be removed, trimmed or pruned despite its contribution to historic heritage and/or amenity values. This recognises that trees can lose the essential qualities for which they are valued, create a risk in terms of public safety or otherwise unreasonably restrict the use of a site.

- Encouraging and supporting the retention and protection of notable trees through the use of non-regulatory methods recognises that proactive actions, including support for the owners of notable trees, can be effective in ensuring these trees are retained and protected in our surrounding environment.

Description of issues

Throughout Marlborough, a variety of important heritage resources reflect a rich and varied cultural history. This includes a long history of occupation by Māori and a legacy left by early exploration, settlement and extractive industries, including agriculture, flax milling, logging, mining and whaling. While there may be more iconic heritage examples in other parts of New Zealand, Marlborough possibly contains the best overall combination of sites with historic heritage value. Some of Marlborough's heritage resources are nationally significant, such as the history of Māori occupation at the Wairau Bar or the ship Edwin Fox in Picton Harbour.

Many other heritage resources will either be significant for the District or for local communities. Sites of historical or cultural value are also becoming increasingly important as tourism in Marlborough grows, bringing with it the advantage for commercial support for enhancement of historic heritage.

Significant trees are also important to the identity of Marlborough, as many express historical connections or act as landmarks. These trees may be rare species, old or large, or may have special significance to the local community.

The issues for heritage resources and notable trees are as follows:

Issue 10A – Marlborough's historic heritage may be lost or adversely affected by changes in land use and land use management practices.

- Marlborough's historic heritage is vulnerable to the use and development of natural and physical resources. Changes brought about by resource use can involve the demolition,

relocation or modification of heritage resources. These changes have the significant potential to either completely eliminate or otherwise reduce the values of the heritage resource.

- Archaeological sites are particularly vulnerable to land disturbance as they tend to be buried and excavation at or in close proximity to the site can unearth the object of significance. If appropriate action is not taken, the heritage resource that was previously buried can potentially be damaged, destroyed or cause serious cultural affront to the mana of an iwi.

- One threat to historic heritage is that there are many unknown areas of heritage significance. For example, although past archaeological studies have revealed a little of the Māori and early European settlement patterns and culture, much more remains to be identified, researched and recorded. This lack of awareness of the existence of a heritage resource makes the resource vulnerable to irreparable damage as a result of land use change.

- Managing environmental change is a significant challenge as it involves recognising the needs of the community to develop and grow, while ensuring that heritage resources are retained for present and future generations. Protection of heritage resources does not necessarily mean that the heritage resource cannot be developed; some heritage resources, such as buildings, may be able to be reused or redeveloped in a way that enhances their heritage value. It is important to acknowledge that it can be difficult to balance safety objectives, especially in terms of fire and earthquake, with the retention of historic buildings.

Issue 10B – Trees that contribute to Marlborough's historic heritage and/or amenity values are at risk of being removed or adversely affected.

- Individual indigenous and exotic trees and stands of trees make a significant contribution to Marlborough's character and the amenity values that the community enjoys. Some trees also have historic heritage significance because they commemorate an important local event, serve as an important local landmark or have an association with a well-known public figure.

- The contribution that notable trees make to historic heritage and amenity would be lost if they were to be adversely affected, harmed or felled. This may occur where a notable tree has become an impediment to the use or development of a site or it might have become a nuisance (e.g., through size, blocking of sunlight or leaf fall). Sometimes the removal of a notable tree is unavoidable, especially if it is dying, or diseased or creates a threat to public safety. Maintenance pruning of notable trees can also pose a threat, as such work can damage the tree, or adversely affect the essential qualities for which the tree is valued.

- Other activities undertaken in close proximity to notable trees create the potential for adverse effects. Activities of particular concern include excavation, laying of overhead or underground services and the construction of buildings.

Statutory obligations

Section 6(f) of the RMA requires councils to recognise and provide for as a matter of national importance the *protection of historic heritage from inappropriate subdivision, use, and development*. The consideration of historic heritage and notable trees is also a matter for Section 7, specifically in relation to 7(c) (*the maintenance and enhancement of amenity values*) and 7(f) (*the maintenance and enhancement of the quality of the environment*).

Heritage New Zealand manages heritage resources on a national basis. This autonomous Crown Entity administers the New Zealand Heritage List/Rārangi Kōrero, which informs property owners and the public about New Zealand's historic places. It also investigates and processes proposals for new additions to the List. It is important to note that Heritage New Zealand retains regulatory responsibilities regarding archaeological sites. Any destruction, damage or modification of a known or unknown archaeological site requires an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014 which is process by Heritage New Zealand.

The protective mechanisms for places or sites included on the List are administered by local authorities through district plans prepared under the RMA. This reflects Sections 6(f) of the RMA, which requires the Council to recognise and provide for protection of historic heritage from inappropriate subdivision, use and development. Local authorities can also protect unregistered heritage resources significant to the district or to local communities within it.

There are no national policy statements or national environmental standards for historic heritage alone. However, within the New Zealand Coastal Policy Statement 2010 (NZCPS), Policy 17 states (in relation to the coastal environment):

> *Policy 17 Historic heritage identification and protection*
>
> *Protect historic heritage in the coastal environment from inappropriate subdivision, use, and development by:*
>
> *(a)   identification, assessment and recording of historic heritage, including archaeological sites;*
>
> *(b)   providing for the integrated management of such sites in collaboration with relevant councils, heritage agencies, iwi authorities and kaitiaki;*
>
> *(c)   initiating assessment and management of historic heritage in the context of historic landscapes;*
>
> *(d)   recognising that heritage to be protected may need conservation;*
>
> *(e)   facilitating and integrating management of historic heritage that spans the line of mean high water springs;*
>
> *(f)   including policies, rules and other methods relating to (a) to (e) above in regional policy statements, and plans;*
>
> *(g)   imposing or reviewing conditions on resource consents and designations, including for the continuation of activities;*
>
> *(h)   requiring, where practicable, conservation conditions; and*
>
> *(i)   considering provision for methods that would enhance owners' opportunities for conservation of listed heritage structures, such as relief grants or rates relief.*

Policy 2(g)(ii) of the NZCPS is also relevant, highlighting the need for the Council, in consultation and collaboration with tangata whenua, to:

> *… provide for the identification, assessment, protection and management of areas or sites of significance or special value to Māori, including by historic analysis and archaeological survey and the development of methods such as alert layers and predictive methodologies for identifying areas of high potential for undiscovered Māori heritage, for example coastal pā or fishing villages.*

The Council also has a range of statutory functions set out Section 30 and 31 of the RMA, which enable it to establish management frameworks in response to the identified issues.

Information and analysis

The most significant body of work undertaken for Chapter 10 has been a review of the heritage resources and notable trees included within the current resource management plans. The policies and rules for heritage resources and notable trees have also been reviewed.

The analysis work has considered the heritage resources currently listed in Appendix A of the MSRMP and Appendix A of the WARMP. A review as to accuracy of information (i.e. whether the heritage resource still exists and its location) was undertaken. This information was verified with Heritage New Zealand (formerly the New Zealand Historic Place Trust), where the heritage resources listed in the resource management plans are also on the New Zealand Heritage List/Rārangi Kōrero. In some cases, houses had burnt down or a heritage resource had been shifted, so the review has provided an opportunity to update information held by the Council.

Additionally, there have been requests to add heritage resources to the Council's schedules by individuals as well as by Heritage New Zealand. Heritage New Zealand has recommended ten additional items for inclusion in the MEP and the Council has decided that three of these should be included. Of the remaining items proposed for inclusion by Heritage New Zealand, one has been substantially modified, three are completely or partly demolished, and three are awaiting further investigation by Heritage New Zealand. An additional six items of local significance are also to be included within the MEP, as well as one additional place of spiritual/cultural significance.

Seven items are to be removed from the schedules contained in the current resource management plans, as several have been demolished or substantially modified and no longer meet the criteria for historical significance. Other listings have been removed as they are already recorded in other listings.

In addition to the inclusion of heritage resources in the two resource management plans, schedules also include a list of heritage trees for protection. These are located in Appendix A of the MSRMP and Appendix A of the WARMP. The listed trees have also been reviewed for accuracy, i.e. whether they still exist and the locations are accurate.

Furthermore, the Council has a process whereby land owners and members of the public can nominate heritage items for inclusion in the resource management plans. A list of trees nominated through this process has been considered for inclusion in the MEP. These trees have been assessed using a standardised methodology by a qualified arborist to determine the values of individual trees and groups of trees. The method used is called the Standard Tree Evaluation Method (or STEM), which uses a points system in three general categories of condition, amenity and notable (special merit) qualities. This system is used by a number of other councils around the country to determine the appropriateness of identifying trees for protection and has now been included in the MEP. A number of trees nominated for inclusion in the MEP meet the criteria as notable under the STEM method.

Consultation

Early Consultation

The first round of consultation undertaken in 2006 for the review of the MRPS was the distribution of a community flyer to all ratepayers in Marlborough, as well as to other groups and organisations in contact with the Council on resource management matters. This sought to gather the community's views of the most important resource management issues that Marlborough would face over the next ten years. Approximately 380 responses were received and feedback included a number of comments about cultural heritage, although these were limited in number. Comments included:

- That Marlborough has several important sites and probably many others that aren't protected or are not known about.

- A suggestion that a survey of heritage sites be undertaken, such as had been undertaken for significant natural areas in Marlborough. This was considered important as historic sites help create the character of Marlborough and need to be identified. Feedback noted that these sites should be included in resource management plans along with suitable incentives to encourage protection and economic use.

- Having such information was considered likely to improve the Council's ability to protect culturally and historically significant sites in Marlborough. It was suggested a survey should start with the areas of most significance and/or most at risk, then progressively work through remaining areas within the District.

Following on from this initial consultation, a series of discussion papers were prepared by the Council and released for public feedback in late 2007. Although no specific discussion paper on heritage resources was prepared, in *Discussion Paper 1: Quality of Life in Marlborough*, a section on Marlborough's heritage was included. This described the importance of Marlborough's heritage and the changes made to the RMA in 2003, which elevated the status of heritage and heritage protection to a matter of national importance in Section 6 of the RMA. The loss of some of Marlborough's heritage was noted in the discussion of whether heritage was considered a regionally significant issue. A range of options to help improve the management of heritage resources were included in the

discussion paper, as well as the need for a review of the Council's approach to heritage in light of changes to the RMA in 2003.

Surprisingly few comments were received on whether heritage was considered to be a regionally significant issue; those who did comment supported greater efforts in protecting Marlborough's heritage. More controls to protect Marlborough's heritage were thought necessary through the resource consent process, whether in consideration of buildings, sites, trees, vegetation or waterways. Overall, good leadership was suggested to inspire cooperation in the community about heritage matters.

Respondents reported that greater awareness was needed to understand the importance of Marlborough's heritage, beyond the loss of trees and knowledge of group occupation; industrial and farming heritage, families and developments also needed to be highlighted and celebrated. Protecting and making the best use of the history of small towns and settlements was suggested, with environmental heritage being linked to the future of the Marlborough Sounds. Trees were identified as contributing to the character and quality of life in communities and it was suggested that removing notable trees should only occur where all other alternatives have been explored or exhausted.

Feedback on the importance of notable trees in the landscape was also recognised by the Council's Landscape Group. In 2002, the Council established two complementary Landscape Working Groups (one for public land and another for private land) to actively promote and implement voluntary landscape guidelines for the Wairau Plain. This transpired in response to community concerns over rapid land conversion from a mix of orcharding, cropping and farming to predominantly vineyards, with many older trees and shelter belts being removed. In late 2007, with some of the landscape principles becoming a more accepted part of the Council's policy on public land, a decision was made to combine the two working groups. Since then the focus of the Landscape Group has extended to include the wider Marlborough District and beyond the Wairau Plain.

Later Consultation

The heritage provisions have been considered by internal Council staff and a number of external groups and agencies. Internally, Resource Management Officers, responsible for the processing of resource consents, and the Reserves Section of the Council's Assets and Services Department were consulted. The consideration of policy and rules for trees has been a particular focus for the Reserves Department as they are responsible for managing trees on Council land.

Early on in the review process, the Council decided on an iterative approach in developing provisions for the MEP. This approach sought to 'test' as many of the provisions as possible before the new resource management documents were formally notified under the First Schedule of the RMA. The rationale for this was that the greatest flexibility for change to provisions exists prior to notification of a proposed document. Once notified, only those provisions submitted on can be changed, and then only within the scope of those submissions.

Therefore the Council set up a number of focus groups with the task of reviewing the provisions to discuss their likely effectiveness or otherwise. The aim was to have as much community participation in developing the provisions as possible in order to reflect the communities' views and to resolve any substantive issues prior to notification.

The specific focus groups that considered the heritage and notable tree provisions and helped refine them included the Sounds Advisory Group, the Iwi Working Group and the Landscape Group.

Chapter 10 was also released in 2013 for public feedback as part of a package of draft MEP provisions. Most of the feedback received on Issue 10A relating to heritage resources came from Heritage New Zealand. Some of the comments helped to refine the policies, although Heritage New Zealand were very concerned that the Council proposed to rely primarily on the requirements of the Heritage New Zealand Pouhere Taonga Act 2014 to regulate archaeological sites within Marlborough. This is discussed later in this report in terms of other options considered to achieve Objective 10.1.

Feedback was also received on the notable tree provisions, though this was relatively minor with limited changes suggested.

Specific consultation on heritage matters was undertaken with Heritage New Zealand and has continued throughout the review process. This consultation related to the specific heritage resources to be included within the MEP, as well as the policy and rule framework to apply to those resources. Management of archaeological sites was also discussed.

Recognition is also made of the consultation with Marlborough's tangata whenua iwi on heritage matters. Through the development of the iwi chapter of the MEP[3] and in identifying resource management issues of significance for iwi, identification of significant sites has been discussed.

As indicated in the Information and Analysis section, the Council operates a system in which the public can nominate a tree for inclusion within a resource management plan. This formal system has operated for six years, although other trees had been suggested for inclusion in the plan through other Council processes prior to this. At the time of the review of heritage provisions, 141 trees had been nominated by members of the public. The Regional Planning and Development Committee of the Council determined that all trees nominated should be considered for inclusion within the MEP but should be assessed against the STEM criteria.

Of the 141 trees assessed for inclusion within the MEP, 34 met the criteria for significance. Landowners whose properties on which the trees were located were contacted for their views on including the tree in the MEP, as not all trees had been nominated by landowners. A number of trees nominated were also located in public locations such as parks and other public lands administered by the Department of Conservation and the Ministry of Education.

Of those landowners contacted, three landowners did not want trees on their property included within the MEP, while five did agree to have trees on their property included. Several landowners did not respond; however, because the land involved was public land, the Council chose to include the trees within the MEP.

Evaluation for Issue 10A

Issue 10A – Marlborough's historic heritage may be lost or adversely affected by changes in land use and land use management practices.

Appropriateness of Objective 10.1

Objective 10.1 – Retain and protect heritage resources that contribute to the character of Marlborough.

Relevance
Because historic heritage makes a significant contribution to the identity of Marlborough and provides us with a sense of place, it adds to the social and cultural wellbeing of our community. It is therefore important for heritage resources to be retained. However, retention of heritage resources does not necessarily ensure their protection as many heritage resources, especially buildings, need to be maintained on an ongoing basis given their age. Where maintenance has not occurred or where past development has not taken into account a resource's heritage values, heritage resources may need to be actively enhanced. Any enhancement of heritage resources will improve the contribution they currently make to our social and cultural wellbeing. In this regard, the objective is relevant in addressing the issue identified in Issue 10A. The objective is also highly relevant in helping to meet the Council's responsibilities under Sections 6(e) and 6(f) of the RMA.

Feasibility
Objective 10.1 is considered feasible to attain, but only with the support of and working with other agencies, groups and the wider community who have either statutory responsibilities or interests in historic heritage. There is a risk that the objective will not be achieved if such collaboration does not occur (either through external party unwillingness or inability to participate), and this could result in loss of heritage resources. However, the risk of this occurring is considered low given the willingness shown to date by those interested in preserving Marlborough's historic heritage.

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[3]   Chapter 3 – Resource management issues of significance to Marlborough's tangata whenua iwi.

Acceptability

As indicated in the consultation section and feedback received, there was very few community responses related to heritage matters. However, what was noted from the feedback was that there was support for more significant efforts in protecting Marlborough's heritage. It was thought that more controls were necessary to protect Marlborough's heritage through the resource consent process, whether in relation to buildings, sites, trees, vegetation or waterways. Overall, it was suggested that good leadership would be necessary to inspire cooperation within the community regarding heritage matters. Collectively, there is considered to be an acceptance from the community for a need to retain, protect and maintain Marlborough's heritage resources as set out in Objective 10.1.

The objective is not expected to result in unacceptably high costs on any part of the community. Indeed, a similar approach included in the current resource management documents has already been described, so no additional costs will be introduced in this objective. It is considered that resources can be more appropriately directed to manage Marlborough's heritage resources and that the collaborative approach will allow for more proactive engagement with the community. Importantly, the objective will help to achieve the outcomes sought in Chapter 3 - Marlborough's tangata whenua iwi (Volume 1 of the MEP).

Assessment of provisions to achieve Objective 10.1

Policies 10.1.1 and 10.1.2

Policy 10.1.1 – Manage Marlborough's heritage resources in association with Heritage New Zealand, the Department of Conservation, the New Zealand Archaeological Association, Marlborough's tangata whenua iwi, other heritage organisations and the local community.
Policy 10.1.2 – Support community initiatives to retain and enhance heritage resources.

Benefits

Significant social and cultural benefits arise from the policies above. They acknowledge that other parties are involved in heritage protection and that a collaborative approach will achieve the best outcomes. The policies take advantage of the expertise, knowledge and resources of other organisations in heritage protection, as the Council itself lacks the expertise or knowledge in these areas. The policies reflect a community responsibility for looking after Marlborough's heritage resources and subsequently recognise that some initiatives for protection may come from within the community, engendering a sense of community pride in doing so. Increased community awareness through involvement in heritage management is also an important benefit from these policies.

The policies also help effect Section 8 of the RMA.

Costs

While there are financial costs associated with supporting community initiatives, this is not a new approach and the Council's Long Term Plan has budgeted for such a heritage fund. Policy 10.1.2 may be vulnerable if funding is removed through the Long Term Plan; however, the funding has been in place for some time and the risks of it being removed are not considered significant.

Actual implementation costs will be determined on a case-by-case basis, as these are dependent on what the community proposes for the retention and enhancement of heritage resources.

Efficiency

The policies recognise that a number of agencies are involved in heritage management. Policy 10.1.1 is therefore considered highly efficient as it is aimed at collaborating with these agencies to achieve the overall objective. Furthermore, sharing costs in heritage protection is expected to result in shared benefits: outcomes are likely to be better than if the Council worked alone to achieve the objective.

Effectiveness

As described above, the policies are considered likely to be very effective in achieving Objective 10.1 and addressing Issue 10A.

Policy 10.1.3

> Policy 10.1.3 – Identify and provide appropriate protection to Marlborough's heritage resources, including:
>
> (a)   historic buildings (or parts of buildings), places and sites;
>
> (b)   heritage trees;
>
> (c)   places of significance to Marlborough's tangata whenua iwi;
>
> (d)   archaeological sites; and
>
> (e)   monuments and plaques.

Benefits
Policy 10.1.3 provides certainty in setting out those elements considered to be heritage resources in a Marlborough context, and which will be identified in order to achieve Objective 10.1. This follows the same approach as most other Section 6 matters of national importance identified in the MEP, in which to help achieve the protection directed through 6(f), it has been considered necessary to identify the specific resources needing protection.   There are both important social and cultural benefits in identifying these heritage resources, as it helps to raise community awareness of their significance. In turn, this may see a greater level of community support for protecting Marlborough's remaining heritage resources, which will be necessary if these resources are to remain for appreciation by future generations.

Costs
Potential costs exist to individuals undertaking activities in relation to one of the elements contributing to Marlborough's heritage resources, where one of those resources is identified in the MEP. As such, it may not be possible to realise an individual's aspirations. In addition, landowners could be expected to invest in the protection of heritage resources. Conversely, Section 6(f) and the NZCPS indicate that there could well be environmental, social and cultural costs if these resources are not identified and appropriately protected through the MEP.

However, there could be a community stigma associated with identifying a heritage resource. This reflects a lack of understanding or a fear of process and may cause individuals to act unlawfully, resulting in a possible loss of or damage to a heritage resource.

Efficiency
The individual costs of implementing the policy are considered justified when the results benefit the wider community. Furthermore, in some cases costs are not borne solely by the resource owner, as earlier policy has signalled that Council will support landowner initiatives to protect heritage resources.

Serious consequences could be incurred if the Council does not identify heritage resources and establish a management response to protect them; many of Marlborough's heritage resources have already been lost and it is important to identify and protect what remains. For this reason, the policy is considered efficient.

Effectiveness
Policy 10.1.3 is considered effective, as identification of heritage resources can improve community understanding of the significance of such resources, which can in turn minimise future loss. If Policy 10.1.3 is not implemented, Objective 10.1 would not be achieved and Issue 10A would continue to be unresolved.

Understanding what a heritage resource is helps to build identity; this policy is effective in helping to achieve that.

Policy 10.1.4

> Policy 10.1.4 – Increase the community's awareness of historic heritage values by identifying heritage resources, including historic buildings, places, sites, monuments and plaques that meet the following criteria for significance in the Marlborough Environment Plan:
>
> (a)   have value as a local landmark, over a significant length of time;
>
> (b)   have historic association with a person or event of note, or has strong public association for any

> reason;
>
> (c)   reflect past skills, style, materials, methods of construction or workmanship that would make it of educational or architectural value;
>
> (d)   is unique or rare in relation to particular historical themes, or is a work of art;
>
> (e)   is important to Marlborough's tangata whenua iwi; and
>
> (f)   forms part of a precinct or area of heritage value.

Benefits

The criteria included in the policy provide certainty to resource users, the wider public and decision makers about how significant historic heritage values are determined. They provide a definition of historic heritage from the RMA, but in a Marlborough context. The criteria reflect the broad nature of what contributes to historic heritage as well as celebrating the identity of Marlborough's historic heritage.

Costs

There are costs in the identification process and in increasing community awareness of historic heritage values in Marlborough. However, the costs are shared as many of the items have been identified by Heritage New Zealand. Having a framework in place to determine whether a heritage resource is considered significant reduces costs, especially where a new item is proposed for inclusion in the MEP.

Efficiency

An efficient, consistent approach is applied to evaluating the values of heritage resources. Additionally, there is a wide community benefit from understanding the values of heritage resources, some of which are local, while others are recognised nationally and internationally; for example, the Wairau Bar.

Effectiveness

Identification of heritage resources allows such resources to be protected and/or enhanced. The policy is considered effective in achieving Objective 10.1.

Policy 10.1.5

> Policy 10.1.5 – Avoid adverse effects on the historic heritage values of Category I heritage resources.

Benefits

The policy ensures that nationally recognised heritage resources are retained for future generations and that adverse effects on these resources are to be avoided. There are 11 such listed items in the MEP. The policy focusses on the values of the heritage resource and subsequently where the adverse effects assessment needs to be focussed in any resource consent application. Through related rules, the policy does allow for the opportunity to make minor changes or alterations to a Category I resource, but ultimately the resource must be retained. This has significant social and cultural benefits for the community.

Costs

An individual who owns a Category 1 heritage resource and wishes to demolish it or carry out significant alterations does potentially face significant costs. This is a prohibited activity under related rules so resource consent cannot be applied for. The Council has opted for this approach as there is a potential cost to the community from the loss of such resources. Though there are some instances of heritage resource owners choosing not to maintain that resource, the Council considers that in general, most owners of these resources are aware of their heritage values and take pride in this.

Efficiency

The costs of maintaining Category I heritage resources are high, but there is a national benefit in doing so. The policy is efficient in that it is very clear about what the most important heritage resources are and the preservation outcomes that are expected.

Effectiveness

Only 11 Category I resources in Marlborough are included in the MEP. Any efforts to protect what little is left of Marlborough's nationally recognised original heritage resources are important. For that reason, Policy 10.1.5 is considered to be effective.

Policies 10.1.6 to 10.1.8

Policy 10.1.6 – Where modifications are proposed to Category I heritage resources and other heritage resources, the adverse effects of the modifications on the values of the resources should be avoided, remedied or mitigated.

Policy 10.1.7 – When assessing resource consent applications in relation to heritage resources, have regard to:

(a)   the contribution the heritage resource makes to the local or national identity and sense of place;

(b)   the effect demolition, removal, alteration or additions will have on the heritage values of the heritage resource;

(c)   the extent to which the adaptive reuse of a heritage resource enables reasonable and economic use of that resource;

(d)   the extent to which the work is necessary to enable the continued use of the heritage resource;

(e)   the extent to which the work is necessary to ensure structural stability, accessibility, fire egress, sufficient earthquake strengthening, and the extent of the impact of the work on the heritage values of the heritage resource;

(f)   any cumulative effects, especially where the resource is part of a group of similar resources;

(g)   efforts by the applicant to retain important features of the heritage resource;

(h)   the extent to which any alteration or addition is in keeping with the original design and materials, or otherwise enhances the heritage value of the resource;

(i)   the need for ongoing recognition of the significance of sites currently identified by monuments or plaques;

(j)   options for retaining a heritage resource when its demolition is proposed; and

(k)   for heritage resources on the New Zealand Heritage List/Rārangi Kōrero, the views of Heritage New Zealand.

Policy 10.1.8 – When assessing resource consent applications to destroy or modify a registered waahi tapu site or area, or to undertake activities in a place of significance to Marlborough's tangata whenua iwi, have regard to:

(a)   the effect of demolition, removal, alteration or additions on the heritage values of the heritage resource;

(b)   the position of the relevant iwi;

(c)   the views of Heritage New Zealand;

(d)   the effects of the destruction or alteration on the heritage resource or the effects of the proposed activity on the spiritual and cultural values of iwi;

(e)   any cumulative effects, especially where the resource or place is part of a group of similar resources or places;

(f)   efforts by the applicant to retain important features of the heritage resource, or spiritual and cultural values of iwi; and

(g)   whether the activity can be undertaken at an alternative location on the same property or on another property owned by the applicant, where the adverse effects on the heritage resource or place can be avoided.

Benefits

Through the resource consent process, Policy 10.1.6 provides an opportunity for the modification of Category I heritage resources, or the demolition or other modification of other heritage resources, to be assessed. This enables the values of heritage resources identified in the MEP to be assessed where some modification is proposed. Subsequent policies 10.1.7 and 10.1.8 provide the criteria by which decision makers can determine the effects of the proposal. These policies provide clarity to both the applicant and decision makers.

The policies include Heritage New Zealand and Marlborough's tangata whenua iwi, both of whom have expertise in their respective fields, which helps to build relationships between these organisations, the Council and the community. Applicants are encouraged to consult with the relevant iwi, which is particularly important as Method 10.M.7 identifies iwi as an affected party in such consent applications. This provides significant cultural and social benefits.

From an economic perspective, Policy 10.1.7 provides opportunities for reuse, which has the potential to save a heritage resource from falling into disrepair or being demolished. Importantly, the integrity of the heritage resource is a focus through 10.1.7(b), (g) and (h), and this continues to focus on what contributes to making a heritage resource significant and consideration of how an activity may affect those values.

Costs

The resource consent process does present costs to any individual wishing to make modifications to a Category I heritage resource or undertake more significant work to a Category II heritage resource. However, this approach is currently included in the MSRMP and the WARMP, so there is no additional cost that arises from implementing these policies. Potential costs may arise as a consequence of imposing conditions of consent when addressing the matters in the policies, however this cannot be quantified as the costs would be proposal specific.

There is a potential for reduced costs in terms of the resource consent process with greater clarity about the matters to be considered in decision making.

Efficiency

The policies continue to protect Marlborough's heritage resources in a resource consent environment. This maintains the efficiency of the current resource management plans but improves the process with greater clarity and guidance provided for achieving the protection of heritage resources.

Effectiveness

The policies are considered more effective than those in the current resource management plans due to their improved clarity and guidance for decision makers. This is likely to result in more consistent outcomes, as well as outcomes that reflect Section 6 of the RMA and the importance of a heritage resource to Marlborough's historic heritage.

Policies 10.1.9 to 10.1.11

Policy 10.1.9 – Except as set out in Policy 10.1.11, primarily rely on Heritage New Zealand and the requirements of the Heritage New Zealand Pouhere Taonga Act 2014 to regulate archaeological sites within Marlborough.
Policy 10.1.10 – Liaise with Heritage New Zealand, the New Zealand Archaeological Association and Marlborough's tangata whenua iwi to develop and implement an appropriate discovery protocol for archaeological sites.
Policy 10.1.11 – Control land disturbance activities in places of significance to Marlborough's tangata whenua iwi.

Benefits

There are dual management responsibilities for the management of historic heritage in New Zealand, with both Heritage New Zealand and local authorities involved, especially for archaeological sites. (These are set out on page 16 of this report under the option of '*Use land use controls to manage archaeological sites in addition to permissions required from Heritage New Zealand'*.) Given the specific regulatory protection provided to archaeological sites through the Heritage New Zealand Pouhere Taonga Act 2014, the Council considers it would be inefficient to have a dual consenting process. The most significant benefit of Policy 10.1.9 is that it avoids duplication in process, resulting in cost savings to the resource user. An additional consenting process under the RMA would provide no measurable additional protection for the archaeological site and therefore no greater environmental benefit.

In encouraging liaison to develop a discovery protocol, Policy 10.1.10 recognises the number of agencies involved in archaeological site management. The expertise within Heritage New Zealand to manage archaeological sites is acknowledged, as is the importance of the involvement of

Marlborough's tangata whenua iwi. This has considerable social and cultural benefits for iwi and the wider community.

Collectively, the policies enable the Council to focus on areas of significance for iwi, as opposed to individual sites, through the resource consent process. They also redirect Council resources to focus on education, build relationships with those groups interested in archaeological sites and develop an appropriate response in the event of accidental discovery.

Costs
With the help of Heritage New Zealand as described in Policy 10.1.9, some costs can be avoided. However, there is a potential cost for resource consent in relation to Policy 10.1.11. In this case, a developer may not be able to realise their aspirations, depending on what is proposed and what the effects are on the place of significance to Marlborough's tangata whenua iwi.

Developing an Accidental Discovery Protocol will cost ratepayers, but this is considered justified to ensure that unknown sites are afforded a degree of protection from continued land disturbance activities. These costs are also considered appropriate in respect of the requirements of Section 6 of the RMA as well as Policies 2 and 17 of the NZCPS.

There are potential environmental, social and cultural costs from such an approach in that because there is a lack of local presence by Heritage New Zealand in Marlborough, there may be more disturbances of archaeological sites locally. There may be a perception by some that because there is no specific regulation by the Council, the requirements of the Heritage New Zealand Pouhere Taonga Act 2014 can be ignored.

Efficiency
The policy is considered an improvement on the current regulatory regime, as costs will be reduced while still achieving the protection required under the Heritage New Zealand Pouhere Taonga Act 2014. This approach also releases Council resources to more efficiently promote heritage management, including through non-regulatory methods. Overall, the policies are considered efficient as an integrated management approach will better align funding from all agencies involved in archaeological sites.

Effectiveness
The Council's efforts, including the availability of resources, will be more focussed on providing complimentary tools to existing legislative requirements for archaeological sites. This will create greater community awareness of archaeological sites and the legislative requirements for those sites; this potentially makes protection more likely.

Other options considered to achieve Objective 10A

Three other options were considered by the Council to achieve Objective 10A. They were:

1.   Status quo in terms of the existing provisions of the MRSP, MSRMP and WARMP
The status quo would be to maintain the existing provisions of the MRSP, the MSRMP and the WARMP. There are provisions for managing heritage resources in the MRPS and both resource management plans. For the MRPS one objective is aimed specifically at 'retaining' buildings, sites, trees and locations identified of significant cultural or heritage value [Objective 7.3.2]. A subsequent policy is to protect identified significant cultural and heritage features. However, no guidance is given as to what constitutes 'significant' or what criteria should be used to determine this.

Chapter 6 - Landscape of the MSRMP includes provisions to respond to an issue to retain a '*… sense of the cultural heritage that contributes to the character of the Sounds*'. While these provisions are similar to those proposed in the MEP concerning relationships with agencies and working with the community, they are high level and do not provide the level of detail that has been included in the MEP. The MEP differs in that specific policies deal with the management of archaeological sites. There are no equivalent provisions in the MSRMP, although it does contain rules providing direction in situations where historical, cultural or registered archaeological artefacts or sites are unearthed during land disturbance activities. Those rules state that for work to continue, permission must be gained by the iwi who have jurisdiction or manawhenua over the site/area, the New Zealand Historic Places

Trust (now Heritage New Zealand) or by resource consent from the Council. The Council has opted to discontinue this approach for the reasons set out under the next option.

The provisions of the MSRMP are to be discontinued as the policies do not include criteria to determine whether a heritage resource is considered 'significant'. While criteria are identified within the methods of implementation set out in 6.2.3, the Council considers it is preferable to list these criteria within the policy, as this is what guides decision making.

In addition, the current MSRMP policies will not be adequate to determine resource consent applications given the Council's new approach for the MEP of having assessment criteria within policy, rather than alongside the rule triggering the need for consent. This is another very significant reason why the current framework was not preferred.

Chapter 3 of the WARMP takes a very similar approach as the MSRMP, the only difference being that instead of a rule regulating archaeological sites, an advisory note is included that states:

> "Notwithstanding any permitted activity status herein, an authorisation from the New Zealand Historic Places Trust is required before any person may destroy, damage or modify the whole or part of any historical, cultural or archaeological site." [30.1.5.2]

2. *Use of land use controls to manage archaeological sites in addition to permissions required from Heritage New Zealand*

This option would continue to see resource consent required for land disturbance activities where an archaeological site is to be disturbed. An example of this is Rule 36.1.3.2.3 from the MSRMP, which states:

> "Any person unearthing or otherwise disturbing any historical, cultural, archaeological artefact or waahi tapu of significance to iwi during the course of a land disturbance operation shall cease work immediately and report the discovery to the Council. Work may not recommence unless expressly agreed to in writing by the iwi who have jurisdiction or manawhenua over it, the New Zealand Historic Places Trust or a resource consent to a Discretionary Activity has been obtained."

The requirement for resource consent effectively establishes a dual consenting regime as both Heritage New Zealand and local authorities are responsible for historic heritage, especially for archaeological sites. This dual management responsibility has been extended to dual consent requirements in Marlborough in respect of archaeological sites, especially for the MSRMP area.

Retaining this approach could offer advantages, as it has been in place for some time and therefore there is some level of community awareness of it. However, there have only been three instances over the life of the MSRMP in which resource consent to disturb an archaeological site has been sought. In each case, a condition or advice note was imposed upon the consent that required an authorisation to be obtained from Heritage New Zealand if an archaeological site was to be disturbed.

Given the specific regulatory protection provided to archaeological sites through the Heritage New Zealand Pouhere Taonga Act 2014, the Council considers it inefficient to use resources to create a dual consenting process. An additional consenting process under the RMA would provide no measurable additional protection of the archaeological site. A dual regime effectively requires an applicant to be subject to two consenting processes, which would add to costs, and the Council has difficulty identifying benefits of the dual regime that would outweigh the costs. In addition, the Council does not have in-house resources to determine such applications and would likely rely heavily on the expertise of Heritage New Zealand in deciding whether to grant consent or not. Therefore, the Council has decided to discontinue with the use of land use controls to manage archaeological sites.

3. *Greater regulation to manage heritage resources*

This option would see greater use made of rules to manage heritage resources. What has been included in the MEP for managing heritage resources are a range of rules from permitted through to prohibited activity status as well as a range of non-regulatory mechanisms such as liaison, support and provision of information. Greater use of regulation would see the need for more resource consents, especially for those activities where the modification of heritage resources is proposed.

However, the Council sees no need to impose more regulatory constraints than those proposed in the rules of the MEP. Additional regulation is not considered to result in any extra benefits beyond those that would result through application of the rules in the MEP.

Evaluation for Issue 10B

Issue 10B – Trees that contribute to Marlborough's historic heritage and/or amenity values are at risk of being removed or adversely affected.

Appropriateness of Objective 10.2

Objective 10.2 – Retain and protect trees that make a notable contribution to Marlborough's character.

Relevance
Objective 10.2 is a direct response to the issue and is therefore highly relevant. Trees that have significant heritage value or make a significant contribution to the character and amenity values of an area should be retained, given the contribution that they make to our social and cultural wellbeing. The retention of such notable trees ensures that current and future generations will continue to appreciate and benefit from them. This objective also reflects the Council's obligations under Sections 6(f), 7(c) and 7(f) of the RMA.

Feasibility
Given the Council's past experience in protecting heritage trees, the objective is considered feasible. The objective maintains the existing situation although goes somewhat further in terms of including trees that contribute to amenity values. Potentially, some trees have been missed from being included in the MEP, but community support and providing a route through the nomination process for new trees to be considered helps to reduce the risk of this occurring.

There is a risk that a lack of resources may create challenges in the future in terms of being able to assess trees in a timely manner for inclusion in the MEP. The time it takes for this process could see the loss of some trees in the interim. Realistically however, there is no alternative to this.

Acceptability
The community has been supportive of the identification process and the clarity of the assessment with a more robust set of criteria to be applied will result in a more credible result. The objective is effectively an extension of the existing regime and should not introduce significantly greater costs. Regardless, any costs are considered appropriate given the requirements of Sections 6(f), 7(c) and 7(f) of the RMA.

Assessment of provisions to achieve Objective 10.2

Policy 10.2.1

Policy 10.2.1 – Increase the community's awareness of the contribution that trees make to historic heritage and/or amenity values by identifying trees that meet any of the following criteria for significance in the Marlborough Environment Plan:

(a)   any tree commemorating an important local event in Marlborough's history, settlement and development;

(b)   any tree regarded as an important landmark and acknowledged as such for a significant period of time;

(c)   any tree that has historic association with a well-known public figure or has had strong public association for some reason;

(d)   any rare or important species;

(e)   any tree that accumulates a score greater than 150 points when using the Standard Tree Evaluation Method assessment system for amenity trees; and

(f)   a stand of trees conforming to any of the above.

Benefits

The benefits of this policy are that it sets out the criteria to be used to identify notable trees that require protection, thereby providing a consistent approach in methodology to determine whether trees should be included within the MEP. The criteria is able to be used for trees considered to be heritage trees, in which Section 6(f) of the RMA has to be recognised and provided for, as well as those trees that have significance for amenity values in terms of Section 7(c) of the RMA. Application of these two Part II matters of the RMA will result in both environmental and social benefits.

The policy helps to inform the community about the type of trees that may be considered significant and as a consequence, there may be a greater chance of protection if people are aware of these trees and their particular values. Consultation on the inclusion of trees in the resource management plans has seen widespread support for their protection.

Costs

There is a cost relating to the identification process and in having to have a tree assessed for inclusion in the MEP. The Council would arrange for a qualified arborist to undertake this assessment so there is a community cost in doing so. There is the potential for tension to arise if a person who is not a landowner nominates a tree on private land for inclusion in the MEP. The Council would not list a tree without consulting with the landowner in the first instance but a landowner may decide to remove a tree to avoid inclusion in the MEP (though this would then create an environmental cost). Tension may also arise where a protected tree is located on or near a property boundary and the root or branch structures extend into an adjoining property.

Efficiency

The cost of the policy is outweighed by the community's desire to have notable trees recognised and provided for, as well as having to give effect to Sections 6 and 7 of the RMA. Notwithstanding this cost, there is efficiency in setting out the criteria to provide a clear and consistent approach to the identification of notable trees.

Effectiveness

Policy 10.2.1 helps to achieve Objective 10.2 as without identifying notable trees in some way, it is impossible for them to be protected. The policy is aimed at those trees needing protection in response to Sections 6 and 7 of the RMA. In turn, this also helps to recognise community aspirations in protecting trees and achieve community wellbeing.

Policies 10.2.2 and 10.2.3

Policy 10.2.2 – When considering resource consent applications to remove, trim or prune a notable tree or trees, or undertake activities in close proximity to a notable tree, have regard to:

(a)   the reasons for the identification of the notable tree or trees;

(b)   the effects of any pruning on the notable tree or proposed works in vicinity of the notable tree or trees;

(c)   the extent to which replacement trees (or other vegetation) are to be planted and maintained and whether those trees (or other vegetation) will provide for amenity values in time; and

(d)   whether replacement of trees will enhance indigenous biodiversity.

Policy 10.2.3 – Consider approving any application to remove, trim or prune a notable tree or trees where:

(a)   the tree or trees are dying, diseased or have otherwise lost the essential qualities for which the tree was originally identified;

(b)   the tree or trees have become a danger to people; or

(c)   the tree or trees are significantly restricting a particular use of the site that offers greater positive effects in terms of historic heritage or amenity values.

Benefits

The main benefit of the two policies is that they provide a framework by which resource consent applications can be assessed to remove or alter a notable tree or trees, or undertake activities in close proximity to a notable tree. This provides a consistent approach to determining whether consent should be granted or not and helps to focus an applicant on the matters for consideration. Policy 10.2.2 provides flexibility, or an option to consider substitution or replacement where a tree is to be

removed. Policy 10.2.3 acknowledges that trees are living and changing organisms and that they do die or can be affected by disease; and that this is an appropriate matter for assessment in considering whether consent should be granted. For both policies there is also consideration of why a tree was protected in the first place.

Costs

No additional costs are anticipated from implementing these policies, as a similar approach already exists in the current resource management plans. However, greater clarity around the criteria to be considered should be more helpful for applicants. There are potential environmental, social and cultural costs if trees are removed, but this is alleviated somewhat through the flexibility to provide substitute or replacement trees.

Efficiency

Individual landowners may benefit if trees can be removed, but the potential loss of heritage and amenity values could cost the wider community. However, the policies are considered efficient as they recognise that trees are living organisms that change with time. The conditions under which trees may be removed, trimmed or pruned are clearly set out.

Effectiveness

Objective 10.2 may not be achieved with the application of these policies, particularly where trees are able to be removed on the granting of a resource consent. However, the policies are pragmatic as they do recognise that there are some circumstances under which trees need to be removed.

Policy 10.2.4

Policy 10.2.4 – Encourage and support landowners in retaining and protecting notable trees.

Benefits

The policy sets out that the Council will encourage and support the retention and protection of notable trees through the use of non-regulatory methods as well as district rules. In this way, the policy recognises that proactive action, including support for the owners of notable trees, is effective in ensuring notable trees are retained and protected in our environment.

The policy acknowledges that landowners to a large extent bear the costs of protecting notable trees. Landowners play an important custodial role in protecting and retaining notable trees and the policy will help the Council to build relationships with landowners in recognition of this; this signifies a significant social benefit arising from the policy. The policy reflects the Council's Landscape Group's desire to assist landowners in protecting trees.

Policy 10.2.4 aims to care for the general health of notable trees and is not simply a response to landowners no longer wanting to retain a notable tree on their property. Protection extends to the health of a tree and the extent to which the Council will assist in this.

Costs

The costs of this policy fall to the wider community through provision in the Long Term Plan for financial support. This cost is considered justified when taking into account the requirements of Section 6(f), 7(c) and 7(f) of the RMA.

Efficiency

Working with landowners and the community is considered beneficial and for this reason the cost to the community as a whole is considered an efficient use of money. Additionally, by working with landowners it is more likely that the protection sought in the policy will be achieved.

Effectiveness

Policy 10.2.4 is likely to be effective as there is Council support available and protection in terms of Objective 10.2 is likely to result. The combination of regulatory and non-regulatory approaches is considered more effective than one or the other alone.

Other options considered to achieve Objective 10.2

Three other options were considered by the Council to achieve Objective 10.2. These options were:

1.   Status quo in terms of the existing provisions of the MRPS, MSRMP and WARMP
The status quo would be to maintain the existing provisions of the MRPS, the MSRMP and the WARMP to manage trees in Marlborough. For the MRPS one objective is aimed specifically at 'retaining' buildings, sites, trees and locations identified of significant cultural or heritage value [Objective 7.3.2]. The subsequent policy aims to protect identified significant cultural and heritage features, although no guidance is given as to what constitutes 'significant' or the criteria to be used to determine this. The methods do make reference specifically to the identification of significant trees.

Chapter 6 of the MSRMP includes provisions to respond to an issue to retain a '*… sense of the cultural heritage that contributes to the character of the Sounds*.' This includes trees considered to contribute to both the heritage and the visual character of the Sounds. The policies are high level and include no criteria to determine how a tree is considered to be notable. Though there are criteria identified within the methods of implementation described in 6.2.3, the Council considers it preferable for these criteria to be listed within the policy as set out 10.2.1.

In addition, given the MEP's approach of having assessment criteria within policy, rather than alongside the rules introducing the need for consent, the current MSRMP policies are inadequate in determining resource consent applications. This is a very significant reason why the current framework was not preferred.

Chapter 3 of the WARMP takes a very similar approach as the MSRMP.

Both resource management plans currently list trees identified as needing protection. These trees are listed in Appendix A of each resource management plan. This will continue with the listing of trees in Appendix 13, Schedule 3 of the MEP as will the use of rules to assist in the protection of the trees.

2.   No assessment based method to determine significance of trees
Determining which new trees should be included within the MEP could be achieved without a formal assessment method. For example, trees could be included on the basis of simple application of the criteria set out in Policy 10.2.1 (excluding the use of 10.2.1(e)). While this may be adequate for trees identified in 10.2.1(a) to (d), the criteria would not be practical for identifying notable trees contributing to the amenity values of an area. As the community has indicated, the protection of trees with amenity values is as important as the protection of trees with heritage significance, and therefore some form of assessment method was considered appropriate. Without an assessment method, the Council would have to rely on information provided by the public through the tree nomination process. In many cases this would be insufficient, as information accompanying nominations is often limited, making the task of assessment more difficult.

For this reason, the Council opted to use a recognised methodology known as the Standard Tree Evaluation Method (STEM). This method is recognised by the Royal New Zealand Institute of Horticulture and is used by a number of other councils around New Zealand. Using this tool provides some rigour to the process of identification and removes case-by-case subjectivity. Furthermore, the Council's Reserves Section of the Assets and Service Department already uses this method for considering trees on Council reserve land.

3.   No regulation of trees
The Council could take an entirely non-regulatory approach to managing heritage and notable trees within the District. This would mean landowners would have sole and voluntary responsibility for trees on their land, with no official listing of trees occurring and therefore no rules needed to manage them. Depending on landowner aspirations, this approach could make it difficult to achieve the objective. There could be a loss of heritage and amenity values, making it more difficult for the Council to fulfil its obligations under Sections 6 and 7 of the RMA. Additionally, there could also be loss of indigenous biodiversity values if threatened tree species are not maintained.

Having no regulations would be of some financial benefit to landowners, particularly where a landowner wanted to remove, trim or prune a tree. Furthermore, it would also cost the Council less.

However, the social, cultural and environmental losses to the wider community could be great. The Council therefore considers that regulation is needed to protect heritage and amenity trees.

Methods of implementation for Objectives 10.1 and 10.2

Most of the methods in the MEP for heritage resources and notable trees are very similar to those already included within the MRPS, the MSRMP or the WARMP. However, there are some new methods and additions to existing methods. These include the following:

- STEM is a methodology that essentially uses a point system to rate 20 tree attributes in three general categories of condition, amenity and notable qualities.

- The tree protection zone, which forms part of the district rules method, has been used to provide certainty to protect notable trees from the adverse effects of activities undertaken in close proximity to them. The zone will take into account that potential adverse effects will vary depending on the size and dimensions of the tree. This approach will help in the protection of notable trees.

- A new prohibited activity rule for the removal or destruction of <u>all</u> Category 1 heritage resources is also part of the district rules method. (Currently the prohibited activity rules only apply to those heritage resources in the WARMP.) Heritage resources classified as Category I are those that are nationally significant. Any loss of, damage to, or significant change to one of these resources would result in a significant and potentially irreversible loss of historic heritage that is important in a national context. Such loss is to be avoided through the use of a prohibited activity rule.

- A discovery protocol for archaeological sites is to be prepared in conjunction with Heritage New Zealand, the New Zealand Archaeological Association and Marlborough's tangata whenua iwi. This will detail the procedures to be followed if any feature, artefact or human remains are discovered or are suspected to have been discovered.

- As part of the Information method, the Council will host information on known archaeological sites in Marlborough on its website. This will help resource users to determine whether they need to approach Heritage New Zealand for an archaeological authority.

Risk of acting or not acting

There is sufficient and detailed information on which to base the policies and methods to protect or otherwise maintain and enhance the heritage resources and notable trees included in the MEP. However, heritage resources and notable trees may exist that satisfy the criteria necessary to be included in the MEP that the Council is not aware of. These resources and trees may therefore not receive the protection proposed through the policies and methods of this chapter and a risk that they may be lost to the community. In time and with the support of the community and other interested agencies, it is anticipated that the schedules of heritage resources and particularly notable trees will expand.

Appendix A – Section 32 of the RMA

32   Requirements for preparing and publishing evaluation reports

(1)   An evaluation report required under this Act must—

   (a)   examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and

   (b)   examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—

      (i)   identifying other reasonably practicable options for achieving the objectives; and

      (ii)   assessing the efficiency and effectiveness of the provisions in achieving the objectives; and

      (iii)   summarising the reasons for deciding on the provisions; and

   (c)   contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.

(2)   An assessment under subsection (1)(b)(ii) must—

   (a)   identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—

      (i)   economic growth that are anticipated to be provided or reduced; and

      (ii)   employment that are anticipated to be provided or reduced; and

   (b)   if practicable, quantify the benefits and costs referred to in paragraph (a); and

   (c)   assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.

(3)   If the proposal (an **amending proposal**) will amend a standard, statement, regulation, plan, or change that is already proposed or that already exists (an **existing proposal**), the examination under subsection (1)(b) must relate to—

   (a)   the provisions and objectives of the amending proposal; and

   (b)   the objectives of the existing proposal to the extent that those objectives—

      (i)   are relevant to the objectives of the amending proposal; and

      (ii)   would remain if the amending proposal were to take effect.

(4)   If the proposal will impose a greater prohibition or restriction on an activity to which a national environmental standard applies than the existing prohibitions or restrictions in that standard, the evaluation report must examine whether the prohibition or restriction is justified in the circumstances of each region or district in which the prohibition or restriction would have effect.

(5)   The person who must have particular regard to the evaluation report must make the report available for public inspection—

   (a)   as soon as practicable after the proposal is made (in the case of a standard or regulation); or

   (b)   at the same time as the proposal is publicly notified.

(6)   In this section,—

    objectives means,—

(a)   for a proposal that contains or states objectives, those objectives:

(b)   for all other proposals, the purpose of the proposal

    proposal means a proposed standard, statement, regulation, plan, or change for which an evaluation report must be prepared under this Act

    provisions means,—

(a)   for a proposed plan or change, the policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change:

(b)   for all other proposals, the policies or provisions of the proposal that implement, or give effect to, the objectives of the proposal.

Appendix B – Bibliography

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Marlborough District Council   (November 2006).   *Community Views on Significant Issues for Marlborough – Summary of responses received on the review brochure.*

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Straker, A (July 2015). *Heritage Resources and Notable Trees - Review of Heritage Rules and Appendix A – Wairau Awatere and Marlborough Sounds Resource Management Plans.*