

Mackenzie District Council

Tree Policy May 2006

Council rules for Planting, Pruning and Removal of trees on Council Reserve and Road Reserves and trees list in the District Plan

1 Introduction

- 1.1 The purpose of the policy is to recognise the important role that amenity trees play in our environment and to set guidelines for their pruning, planting and removal.
- 1.2 All trees on road reserve are the property of the Council. Trees that have been planted by adjoining landowners with the approval of the Council shall be maintained and trimmed by the adjoining landowner in accordance with the conditions of approval or as otherwise directed by the Council.
- 1.3 Where a significant tree requires removal the appropriate Community Board or Council will be advised prior to any work being undertaken.
- 1.4 Self propagating trees (wilding trees), for example, wild fruit trees, pines, willows, and sycamores can be a nuisance and will generally be controlled or removed when they impact upon Council roads or reserves
- 1.5 Good specimens of other species can make a worthwhile contribution to the landscape of the District and will be retained unless there is good reason for their removal.
- 1.6 This Policy does not apply to State Highways.
- 1.7 This Policy shall apply from the date of its adoption by Council

2 Law

2.1 Local Government Act 1974. 316. - Property in Roads

(1) Subject to section 318 of this Act, all roads and the soil thereof, and all materials of which they are composed, shall by force of this section vest in fee simple in the council of the district in which they are situated. There shall also vest in the council all materials placed or laid on any road in order to be used for the purposes thereof.

2.2 Local Government Act 1974. Section 357 - Damage to Roads

Every person commits an offence who, not being authorised by the Council, or by or under any Act, -

*(a) Encroaches on a road by making or erecting any building, fence, ditch or other obstacle or work of any kind upon, over, or under the road, **or by planting any tree or shrub thereon.***

2.3 The Council has significant powers under the Local Government Act 1974 and Public Works Act 1981 to order the cutting down, lowering or trimming of trees on, overhanging or adjacent to road reserves.

2.4 The Property Law Act 1975 says that owners are responsible for any nuisance or damage their trees cause to neighbours

2.5 Electricity (Hazards from Trees) Regulations 2003

The purpose of these regulations is to protect the security of the supply of electricity, and the safety of the public by:

- (a) prescribing distances from electrical conductors within which trees must not encroach; and
- (b) setting rules about who has responsibility for cutting or trimming trees that encroach on electrical conductors; and
- (c) assigning liability if those rules are breached; and
- (d) providing an arbitration system to resolve disputes between works owners and tree owners about the operation of these regulations.

3.0 Principles Governing the Pruning and Removal of Trees on Roads and Reserves

3.1 Pruning

Trees on Council reserves will be pruned in accordance with the Council's policy, generally to:

- Abate a nuisance
- Ensure the trees do not create a hazard for traffic or pedestrians
- Prevent or mitigate damage to pipes or power lines
- Manage risk with larger ageing trees
- Meet the specification for the removal of inappropriate tree species
- Meet any obligations Council has as a good neighbour
- Prevent or stop damage to Council and private assets
- Maintain specified clearances over roads, driveways and around street and traffic lights and power wires

- To preserve significant public viewing corridors as seen from the road or footpath

3.2 Tree topping

As a rule Council will not ‘top trees’, i.e. reduce their height.

In exceptional circumstances crown reduction may be considered when:

- Tree topping or regular height reduction has been carried out on a particular tree in the past and other management options are not considered sensible.
- For the clearance of high voltage services or to meet other statutory requirements
- If the tree or trees form part of a formally planted and maintained hedge
- Where the Council has no specific interest in the future maintenance of the tree or trees

3.3 Tree Removal

- Trees will not generally be removed to maintain private views, remove shading or for the control of leaf litter.
- Trees that are dead, dying, or storm damaged will be removed as a priority.
- Tree removal may be undertaken where significant public views from the road and footpath are compromised.
- Tree removal may be undertaken to eliminate an ice hazard where trees shade the road.

There is a small range of tree species that will be proactively removed due to the following factors:

- rapid growth rates
- eventual large size of the tree (in relation to the site)
- prolific at self-seeding
- pose a major risk when ageing
- often colonise or grow on inappropriate sites
- considered a pest plant

4.0 Cost recovery for Discretionary Work, Storm Damage and Potential Hazards

Where Council agrees that a tree is blocking a view, or shading a property by the occupier of the property and Council carries out work on the tree the following criteria will apply to cost recovery for the work:

4.1 Full cost recovery

Re-instatement of views where this is considered to be work of a discretionary nature.

Mitigating the effects of shading where this is considered to be work of a discretionary nature.

Cost recovery, will be agreed to by both parties before work commences.

4.2 No cost recovery

Essential work to mitigate an actual or potential hazard.

4.3 Ability to waive cost recovery

Council will consider the following factors when exercising discretion in relation to cost recovery, or the requirement to mitigate a nuisance:

- the level of direct benefit to the applicant or Council as a result of the work
- the priority or the need for the work.
- The need for assistance as determined by the Community Board or Council

4.4 Replacement Planting

Where the work is of a discretionary nature and cost recovery is appropriate, Council may also require an additional contribution for replacement planting. Replacement of trees by the applicant will not generally be considered due to the ongoing maintenance requirement.

5.0 Tree management

5.1 Shading and re-instatement of views

Council will be a 'good neighbour' and will assess Council owned trees, and undertake work to mitigate a nuisance as defined by The Property Law Act 1975 in response to requests from the occupiers of properties that are affected by trees on reserves. The cost of the work will be recovered in accordance with this policy.

The following factors determine the *significance* of the issue and will be considered when making decisions on requests for work on trees from the public or a landowner/occupier:

- The wider community's interests in the maintenance of an aesthetically pleasing environment.
- The value of the tree as a public amenity, including the ability to provide shelter from wind,
- The likely effect (if any) of the removal or trimming on ground stability or the stability of other trees.
- The historical, cultural, botanical or scientific significance (if any) of the tree.
- The length of time the property owner has resided in the property. Often the applicant has recently purchased the property and was aware of the trees at the time of purchase.

Council will give full consideration to residents' concerns

5.2 Overhead Wires

Electricity (Hazards from Trees) Regulations 2003 define the requirements for works associated with trees and overhead power wires. However, as the owner of these trees, Council will deal with requests for line clearance on an individual basis.

The permission of Council must be obtained in advance of carrying out any pruning or removal of trees to clear overhead wires from Council land

5.3 Clearance and Repair of Drains

Where a significant tree is blocking a drain on reserve, the tree takes precedence.

For trees that are not significant trees, the drainage infrastructure will take precedence.

Where a significant tree is blocking a drain the general practice will be to move and relay the drain.

Cost recovery will be at the discretion of Council.

In general there will be no cost recovery for:

- repairs to private drains on reserve (i.e. laterals from private properties to the mains),
- work on private property with the agreement of the property owner, if the fault originated from a Council tree, and
- work where a tree on private property is damaging a public main (percentage of public mains are on private property).

Note: Council does not accept liability for damage by tree roots to drives and pathways where these cross reserves.

5.4 Removal of Large Ageing Trees

Where Council considers large trees to be inappropriate or high risk, the trees will be added to a list of larger trees for removal and prioritised by their level of risk.

Assessment criteria:

- the condition of the trees,
- previous failure history,
- the potential damage or target if the tree was to fail, the tree species and
- topography or other factors specific to the site.

5.5 Storms and Clearance of Trees

The main priority during storms is to keep roads clear and open. Private access ways and drives are generally given a lower priority.

Private trees will be cleared from roads but the cost of the work will be recovered from the tree owner.

Cost must be agreed to before work is commenced.

6.0 Planting of Trees on Road Verge

- 6.1 Only plantings that offer some aesthetic value will be considered. Self propagating species will not be permitted. Private individuals must consult with Council before any planting is done.
- 6.2 To avoid winter shading of the road, plantings will generally only be permitted on the southern side of sections of roads aligned north-west to south-east through to south-west to north-east.
- 6.3 The applicant shall contact all utility providers to determine the presence and location of underground and overhead services, (for example; power, telephone, water) and also land survey marks. The applicant shall be responsible for any damage done to underground and overhead services and survey marks.

Note: Network South advises that trees must be trimmed when they come within a 4m vertical separation distance from power wires. If they become too close to the wires they will be trimmed by the network operator, at the applicants cost.

- 6.4 All plantings shall be a minimum of 5.0m from the road edge.
- 6.5 Plantings shall be of species with a mature height not exceeding 5.0m, and shall be spaced not closer than 5.0m apart.
- 6.6 Issues including, but not limited to, sight distance, distance from existing access ways, drainage, known safety concerns, and possible road upgrade plans shall be considered by the Council when considering applications.

7.0 Trees on Neighbouring Property that Causes a Nuisance

- 7.1 Trees on adjacent private property may be ordered by the Council to be cut down, lowered, or trimmed when they overhang or overshadow a road/footpath to such an extent that they cause damage to the road/footpath or obstruct use of the road/footpath or obstruct the maintenance of the road/footpath.
- 7.2 When planting trees within 5 metres of Council property e.g. road verge or footpaths, Section 7.1 should be considered. If in doubt, a Council staff member should be asked to give guidance of the type of tree to be planted and the distance the tree is to be planted from adjoining boundaries e.g. road verges or footpaths,

8.0 Heritage trees

Council's District Plan identifies and provides protection for heritage trees, specimen trees or groups of trees.

Specifically, the plan decrees the following to be discretionary activities unless they are conducted in accordance of an approved management plan

- the removal of any protected tree;
- the significant trimming of any protected tree;
- the construction of any building or laying of any underground or overhead services with 5m of any protected tree;
- paving within 0.5 metres of the base of any protected tree.

These provisions apply to protected trees regardless of whether they are on private or public land.

Attachments:

- Protected Trees Schedule From The District Plan
- District Plan, Appendix O - Other Significant Trees

Protected Trees Schedule

DP number & (Map) No.	Species	Legal description /Location
1 (31)	<i>Populus deltoides</i> (Poplar)	Lot 2 DP 70690, Robs Hut, Skipton
5A (31)	<i>Podocarpus totara</i> (Totara); <i>Populus deltoides</i> (Poplar)	Pt RS 40886, Pioneer Park
17A (49)	<i>Fraxinus excelsior</i> (English Ash); <i>Ulmus procera</i> (English Elm); <i>Malus spp</i> (Ornamental Apple); <i>Ulmus pumila</i> (Elm)	Lot 1 DP 44482, Albury War Memorial
19 (41)	<i>Quercus coccinea</i> (Scarlet Oak)	Sec 35 SO 1523, Mona Vale School Domain
33 (48)	<i>Quercus robur x petraea</i> (Hybrid Oak); <i>Quercus acutissima</i> (Sawtooth Oak)	RES 4014, McLean Park
34 (48)	<i>Pinus wallichiana</i> (Bhutan Pine); <i>Chamaecyparis nootkatensis</i> (Alaska Cedar)	Pt RS 19490, Fairlie Cemetery
35 (47)	<i>Picea likiangensis</i> (Likiang Spruce)	RS 40929, Fairlie Village Green
36 (47)	<i>Quercus robur</i> (Oak)	Corner of Frayne Street and Kirke Street, Fairlie
37 (47)	<i>Quercus robur</i> (Oak)	Pt RS 22444, School Road, Athletic Park
39 (31)	<i>Ulmus procera</i> (Golden Elm)	Pt RS 18193, SH 8, Eversley
41 (26)	<i>Cedrus deodara</i> (Dedoar Cedar)	RS 36290B, Ashwick Flat Road
42 (25)	<i>Pinus coulteri</i> (Big Cone Pine)	Lot 5 DP 49913, cnr Monument and Seddon Roads
47 (47)	<i>Fagus sylvatica 'Purpurea'</i> (Copper Beech)	RS 40930, Fairlie Village Green
52 (46)	<i>Quercus robur</i> (Oak)	Road verge Burkes Pass, adjacent to Lot 3 DP735
59 (18)	<i>Pinus coulterii</i> (Big Cone Pine) (Several)	Lake Tekapo Island
66 (25)	<i>Quercus robur</i> (Oak)	RES 1845, Woodburn, Kimbell
68 (44)	<i>Pinus, Sequoiadendron giganteum</i> (Wellingtonia), & Cedars, Spanish Fir	Tekapo Road Reserve, Sealy Street, Lake Tekapo
70 (47)	Pin Oak	Fairlie Village Green
71 (31, 47, 18)	Various	Peace Avenue trees Fairlie (from the intersection of Cricklewood Road & SH8 to the intersection of Stoneleigh Rd & SH8)

APPENDIX O – OTHER TREES OF INTEREST

The following trees identified in a survey of the Mackenzie District in 1995/96 are included in the District Plan for information purposes. These trees are not formally protected by the District Plan, however they are considered to be notable because of their history, rarity, amenity or size. (The survey of trees has not been completed for the whole district at the time of preparing this District Plan).

DP number	Species	Legal description/Location
1	<i>Acer palmatum</i> (Japanese Maple); <i>Corylus avellana</i> (Hazelnut); <i>Laburnum anagroides</i> (Laburnum); <i>Juglans ailantifolia</i> (Japanese Walnut); <i>Pinus muricata</i>	Lot 2 DP 70690, Robs Hut, Skipton
2	<i>Pyrus communis</i> (Pear Tree)(Several)	Gudex Road
3	<i>Populus nigra 'italica'</i> (Lombardy Poplar); <i>Thuja plicata</i> (Western Red Cedar); <i>Abies pinsapo</i> (Spanish Fir); <i>Tilia x europaea</i> (Common Lime); Copper Beech; Dawn Redwood; Ponderosa Pines(6)	Raincliff Station
6	<i>Podocarpus dacrydioides</i> (White Pine Kahikatea)(Forest Remnant including species in lower tiers as well)	Parr Property, Middle Valley
7	Various Conifers	Raincliff Forest Middle Valley
8	<i>Pinus radiata</i> (Radiata Pine)	Guilford, Middle Valley
9	<i>Sequoiadendron giganteum</i> (Wellingtonia) (x3) <i>Salix alba</i> (Cricket Bat Willow); <i>Cupressus Macrocarpa</i> (Macrocarpa); <i>Pinus strabus</i> (Pine)	Middle Valley, La Mothe
10	<i>Cupressus sempervirens 'Stricta'</i> (Pencil Cypress) <i>Photinia serrulata</i> ; <i>Cupressus macrocarpa</i> (Macrocarpa); <i>Quercus robur</i> (English Oak); <i>Crataegus monogyna</i> (Hawthorn)	Simpson Property, Mt Nessing
11	<i>Quercus robur</i> (Oak)(x2) Golden Cypress <i>Tilia sp</i> (Lime)	Mount Nessing Hall, Albury
12	<i>Pinus</i>	Ross, Mossvale - Opposite Mt. Nessing Hall
13	<i>Sequoiadendron giganteum</i> (Wellingtonia); <i>Aesculus hippocastanum</i> (White horsechestnut)	McPherson, Mt Nessing Road, R.D. 16, Albury
14A	<i>Pinus ponderosa</i> (Ponderosa Pine); <i>Calocedrus decurrens</i> (Incense Cedar); <i>Tsuga heterophylla</i> (Western Hemlock); Eucalyptus	Hole Property, Opawa Downs, Albury
15	<i>Cedrus atlantica 'Glauca'</i> (Blue Atlantic Cedar); <i>Cypressus macrocarpa 'Aurea'</i> (Golden Macrocarpa)	Albury Hall
16	<i>Fagus sylvatica</i> (Copper beech)	Albury School

DP number	Species	Legal description/Location
18	<i>Robinia pseudoacacia</i> (Black Locust)	"Pig & Whistle" Old Albury Hotel, Opawa Accommodation House
19	<i>Cedrus atlantica</i> (Blue Atlantic Cedar)	Sec 35 SO 1523, Mona Vale School Domain
20A	<i>Plagianthus regius</i> (Ribbonwood); <i>Pinus</i> ; <i>Picea</i> (Spruce); <i>Larix</i> (Larch); <i>Sequoia sempervirens</i> (Coast Redwood); <i>Podocarpus totara</i> (Totara)(x3); <i>Sequoiadendron giganteum</i> (Wellingtonia); <i>Populus yunnanensis</i> (Yunnan Poplar); <i>Liriodendron tulipifera</i> (Tulip Tree); <i>Tilia</i> (Lime); <i>Pinus radiata</i> (Radiata Pine); <i>Ulmus glabra</i> (Scotch Elm); <i>Aesculus hippocastanum</i> (White Horsechestnut); <i>Fraxinus excelsior</i> 'Aurea'(Golden Ash); <i>Juglans regia</i> (English Walnut); <i>Ginkgo biloba</i> (Ginkgo); <i>Carya</i> (Hickory); <i>Ulmus glabra camperdownii</i> (Camperdown Elm)	Johns' Property, Mona Vale
21	<i>Populus tremula</i> (Poplar)	Mona Vale, Cave
22	<i>Chordospartium stevensonii</i> (Weeping Broom); <i>Plagianthus regius</i> (Ribbonwood); <i>Eucalyptus viminalis</i> (Ghost Gum)	Winter
23	<i>Fagus sylvatica</i> (English Beech); <i>Quercus robur</i> (English Oak); <i>Fagus sylvatica</i> (English Beech); <i>Fagus purpurea</i> (Copper Beech); <i>Quercus palustris</i> (Pin Oak)	Cannington School
24	<i>Cedrus atlantica</i> (Atlantic Cedar), <i>Picea</i> (Spruce)	Rogers property
25	<i>Betula pendula</i> (Silver Birch)	St. David Church, Cave
26	Conifer Collection And <i>Populus tremuloides</i> (Quaking Aspen)	Anderson Property, "Glendonald", Albury, R.D. 16
27	<i>Pinus nigra</i> (Corsican Pine); <i>Thuja plicata</i> (Western Red Cedar); <i>Pinus ponderosa</i> (Ponderosa Pine); <i>Populus trichocarpa</i> (Black Cottonwood)	Te Ngawai School Site
28	<i>Sequoia sempervirens</i> (Redwood) <i>Pinus radiata</i> , <i>Albies alba</i> (European Silver Fir)	Hope, Albury Park, No. 16 RD Albury
29	<i>Cupressus macrocarpa</i> (Golden Macrocarpa)	Winscombe Hill Main Highway
30	<i>Sequoiadendron giganteum</i> (Wellingtonia); <i>Pinus ponderosa</i> (Ponderosa Pine); <i>Pinus radiata</i> (Radiata Pine) (Several of each)	Ammunition Dump - Winscombe
31	<i>Carpinus betulis</i> (Hornbeam); <i>Fagus sylvatica</i> (English Beech); <i>Tilia sp.</i> (Lime); <i>Quercus robur</i> (Oak)	Woodlot Opposite Gorge Road
32A	<i>Cedrus atlantica</i> (Atlantic Cedar)(x2); <i>Sequoiadendron giganteum</i> (Wellingtonia)(x3); <i>Quercus robur</i> (English Oak); <i>Tilia cordata</i> (Lime); Palm (Several); <i>Populus nigra</i> 'Italica'(Lombardy Poplar)	Johnson, Strathconan Homestead
33	<i>Quercus coccinea</i> (Scarlet Oak); <i>Quercus cerris</i> (Turkey Oak); <i>Fraxinus angustifolia</i> (Narrow leaved Ash)	RES 4014. Mclean Park
34	<i>Chamaecyparis psifera</i> (Sawara)	Pt RS 19490, Fairlie Cemetery
38	<i>Juglans regia</i> (Walnut)	23 Talbot Street, Fairlie

DP number	Species	Legal description/Location
39	<i>Cedrus deodara</i> (Deodar Cedar); <i>Aesculus hippocastanum</i> (White Horsechestnut); <i>Ulmus procera</i> (Golden Elm)	Pt RS 18193
40	<i>Quercus robur</i> (Oak)	Ashwick War Memorial, Fairlie
42	<i>Pinus torreyana</i> (Torrey Pine); <i>Sequoiadendron giganteum</i> (Wellingtonia); <i>Pinus attenuata</i> (Knobcone Pine)	Lot 5 DP 49913, cnr Monument and Seddon Roads
43	<i>Pinus ponderosa</i> ; <i>Chamaecyparis lawsoniana</i> (Lawson Cypress); <i>Quercus robur</i> (Oak)	Behind Kimbell Garage
44A	<i>Alnus glutinosa</i> (Black Alder); <i>Quercus robur</i> (English Oak) (x2); <i>Chamaecyparis lawsoniana</i> (Lawson Cypress)(x3); <i>Picea abies</i> (Spruce); <i>Cupressus macrocarpa</i> (Macrocarpa Monterey); <i>Cedrus deodara</i> (Deodar Cedar)(x2); <i>Fagus sylvatica</i> (English Beech)(x2); <i>Betula pendula</i> (Silver Birch); <i>Juglans regia</i> (Walnut); <i>Pinus ponderosa</i> ; <i>Fraxinus excelsior</i> (English Ash); <i>Cordylone australis</i> (Cabbage Tree); <i>Sequoiadendron giganteum</i> (Wellingtonia)(x5); <i>Tilia europaea</i> (Lime)	Old Ashwick Station Homestead Site, R.D. 17 Fairlie
45	<i>Juglans regia</i> (Walnut) (x2)	Kimbell Township (By stream)
46	Copper Beech & Claret Ash	St. Josephs School, Fairlie
48	Cabbage Tree	Kimbell (Collyer Property)
49	<i>Quercus palustris</i> (Oak pin)	Presbyterian Church, Fairlie
50	<i>Coprosma intertexta</i>	Opposite Marchwood Gateway, Middle Valley
51	<i>Quercus robur</i> (Oak)	Tasman Downs, Lake Tekapo
53	Poplar & Lombardy Poplar	Grays Hill Homestead, Haldon Road, Fairlie
54	<i>Corylus avellana</i> (Common Hazel)	Mount Cook Station
55	Eucalyptus	Braemar Station
56	<i>Sequoia sempervirens</i> (Redwood)	Albury Park
57	<i>Betula pendula</i> (Silver Birches)	Cowans Hill, Sandy Cuttings
58	Apricot Tree	Black Forest Station, Fairlie
62	'Cottage Reserve' containing Wellingtonia, Oregons, Oaks	Simons Hill Station
63	Oregon	Lake Alexandrina
64	Cherry (Several)	Glenmore Station, Lake Tekapo
67	Cedar	Sherwood Downs Hall
69	Conifers	Simons Pass