



**SOUTH WAIRARAPA
DISTRICT COUNCIL**
Kia Reretahi Tātau

SOUTH WAIRARAPA DISTRICT COUNCIL

APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF RESOURCE MANAGEMENT ACT 1991

Application No: 230101

Consent Type: Land Use

Applicant: South Wairarapa District Council

Proposal: Removal of a Notable Tree - Liquid Amber (Tsg62)

Location: 54A Wood Street, Greytown – road reserve

Legal Description: Legal Road Reserve

Zone: Residential – road reserve - Wairarapa Combined District Plan 2011

Activity Status: Wairarapa Combined District Plan (District Plan)
Restricted Discretionary Activity – Rule 21.4.1 for removing a listed tree.

The application is therefore a Restricted Discretionary Activity.

Locality Diagram:



1.0 APPLICATION

The tree is located along the frontage of 54a Wood Street Greytown and is within legal road reserve. The area is zoned Residential. There are no special overlays or other features of the area. There is no legal description as the tree is located within road reserve. The tree is listed as a notable tree in Appendix 1.4 of the District Plan and is identified as Tsg62 Liquid Amber. The tree was initially assessed in 2017 and did not appear to hold significant value relating to a historic event, person or its rarity. A 2022 assessment depicts how the majority of the tree's growth has declined and this is predicted to continue reducing the trees value. An arborist report by Paper Street Tree Company has been commissioned which also notes the presence of dieback over around 25% of the trees canopy and within the bark. This report is discussed further in this report.

It is proposed to remove the tree as it exhibits a poor structure. Due to the structural condition of this tree, it presents an unacceptable risk and therefore it is proposed to remove it from the site. It is also proposed to plant a replacement tree after removal. As this work is beyond the scope of trimming for the health of the tree permitted under Rule 21.1.1(a)(i)(3), resource consent is required under the rules of the District Plan as specified above.

2.0 S95A – 95F NOTIFICATION ANALYSIS AND DETERMINATION

2.1 Public Notification

1: Mandatory Public Notification (s95A Step 1)

Public Notification is required when the application meets any of the following criteria;

- *The applicant has requested public notification,*
- *Public notification is required under s95C of the Act (relating to a requests for further information),*
- *The application been made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act.*

The above criteria do not apply to this application.

2: Public notification precluded in certain circumstances (s95A Step 2)

If not required by Step 1 above, Public Notification is precluded in certain circumstances when the application meets either of the following criteria;

- *All activities in the application are subject to one or more rules or national environmental standards that preclude public notification.*
- *The application is for one or more of the following, but no other, types of activities:*
 - *a controlled activity,*
 - *a restricted discretionary, discretionary activity or non-complying activity that is a boundary activity,*

The above provisions do not apply, therefore notification under Step 3 needs to be assessed.

3: Public notification required in certain circumstances (s95A Step 3)

If not precluded in Step 2 above, Public Notification is required in certain circumstances when the application meets either of the following criteria;

- *Any activity in the application is subject to a rule or national environmental standard that requires public notification,*
- *The activity has, or is likely to have, adverse effects on the environment that are more than minor in accordance with s95D of the Act.*

Notable Trees provide amenity and character beyond the site and adjacent sites. Removal of such trees has the potential to cause adverse visual effects within the local area. However, a professional arborist has assessed the tree and concluded that in this instance the tree has reached a stage where the maintenance investment is much higher than the benefit to retain the tree and that the existing disease and damage is likely irreversible. Although the risk to human life and property is considered relatively low given the likely fall path of the tree, the risk is exacerbated by leaving it as is. It is also proposed to plant a replacement tree in order to maintain the visual amenity of the site in the future. It is therefore considered that the proposed removal of the tree would have less than minor adverse effects on the wider amenity and character of Greytown.

4. Public notification in special circumstances (s95A Step 4)

If special circumstances exist in relation to the application which warrant public notification, then the application must be publicly notified in accordance with s2AB of the Act.

As noted above, the proposed removal would prevent the likely failure of the tree which has the potential to damage other trees, property and people. There are no special circumstances identified.

2.2 Limited Notification

If public notification is not required, the Council must then determine whether there are any affected persons that would warrant limited notification under Section 95B(1).

1: Certain affected groups and affected persons must be notified (s95B Step 1)

An application shall be notified to each affected person/group if it meets any of the following criteria;

- *There are affected protected customary rights groups,*
- *There are affected customary marine title groups (in the case of an application for a resource consent for an accommodated activity),*
- *The proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11 of the Act; and the person to whom the statutory acknowledgement is made is affected under s95E of the Act.*

The above criteria do not apply to this application.

2: Limited notification precluded in certain circumstances (s95B Step 2)

If not required by Step 1 above, Limited Notification is precluded in certain circumstances when the application meets either of the following criteria;

- *All activities in the application are subject to one or more rules or national environmental standards that preclude limited notification.*
- *The application is for either or both of the following, but no other activities:*
 - *a controlled activity, that requires consent under a district plan (other than a subdivision)*
 - *an activity prescribed by regulations made under section 360H(1)(a)(ii) of the Act (if any) precluding limited notification*

The above do not apply, therefore limited notification is not precluded from being assessed under Step 3.

3. Certain other affected persons must be notified (s95B Step 3)

If not precluded by Step 2 above, the following affected persons must be notified;

- *In the case of a boundary activity, an owner of an allotment with an infringed boundary*

- A person prescribed in regulations made under s360H(1)(b) of the Act (if any) in respect of the proposed activity
- For other activities, “affected persons” under s95E of the Act.

Under Section 95(E) of the Act, Council must consider a person to be affected if the activity’s adverse effects on that person are minor or more than minor unless an activity with that effect is permitted by a Rule or NES, the effect is not within the matters of control or discretion (as applicable to Controlled and Restricted Discretionary Activities) or that person has given written approval to the proposed activity.

Notable Trees provide amenity and character beyond the site and adjacent sites. Removal of such trees has the potential to cause adverse visual effects within the local area. However, a professional arborist has assessed the tree and concluded that in this instance the tree has reached a stage where the maintenance investment is much higher than the benefit to retain the tree and that the existing disease and damage is likely irreversible. Although the risk to human life and property is considered relatively low given the likely fall path of the tree, the risk is exacerbated by leaving it as is. The risk of damage would outweigh any local amenity provided by the tree remaining and any adverse effects on adjacent parties would be less than minor as they would be at less risk from the tree falling if the work did not occur. The owners of 54A Wood Street have been in discussion with Council and support the decision to remove the tree based on the recommendations of the arborist report. It is also proposed to plant a replacement tree in order to maintain the visual amenity of the site in the future. It is therefore considered that limited notification is not required.

4: Limited notification in special circumstances (s95B Step 4)

If special circumstances exist in relation to the application that warrant notification to any persons not already determined to be eligible for limited notification (excluding persons considered not affected under s95E) then the application must be notified to these persons.

The proposed work would reduce the risk of damage to adjoining sites and property from the tree falling, thus it is considered that there are no circumstances that would necessitate the notification of the application to any person.

3.0 S104 ASSESSMENT

The relevant statutory provisions that were considered are the Resource Management Act 1991, the Regional Policy Statement and the Wairarapa Combined District Plan.

3.1 Wellington Regional Policy Statement (RPS)

Objective 15 and Policy 22 seek to protect historic heritage from inappropriate modification, use and development. The policy is not intended to prevent change to historic heritage, but rather to ensure that change is carefully considered. Policy 46 seeks to manage the effects on historic heritage values, but also notes that it would be superseded by similar policies in the relevant District Plan. Objective 22 seeks to ensure townships have good urban form.

Part of Greytown’s character and form is provided by the number of mature trees. However, this must be considered against the risk that the tree could fall and damage other trees that also contribute to Greytown’s heritage character. The tree was not assessed to hold significant value in 2017 and the 2022 assessment concludes the same result with canopy and other reductions limiting the amenity value the tree provides. The removal of the affected tree is considered consistent with the RPS.

3.2 Wairarapa Combined District Plan

The Wairarapa Combined District Plan became operative on 25 May 2011.

The relevant assessment criteria are contained in Section 22 of the District Plan and the relevant objectives and policies of the District Plan are:

- Objectives 10.3.1
- Policies 10.3.2(a) and (c)

3.3 District Plan Analysis

Where a proposal does not meet the permitted standards of the District Plan, assessment of the proposal is concerned with avoiding, remedying or mitigating any effects that would derive from not complying with the relevant permitted standards. Rule 21.1.1(a) provides for trimming of notable trees for the purposes of maintaining the health of the tree, but does not cover the removal of trees. It is proposed to remove the entire tree and plant a replacement tree.

Rule 21.4.1(a) sets out the matters of discretion when assessing such works;

- (i) Ensuring that any adverse effects on the tree's health are avoided, remedied or mitigated through the use of appropriate arboricultural techniques;
- (ii) Ensuring that the work undertaken minimises any alteration to the particular factors which led to the tree being scheduled;
- (iii) Options for the tree's management, including relocation or protection;
- (iv) Disposal of timber;
- (v) Archival recording; and
- (vi) Replacement planting

Part 22.1.2 sets out the assessment criteria for Notable and Street Trees, with the relevant criteria being;

- (i) The condition of the notable or street tree.
- (ii) The visual value of the tree to its surrounds and its contribution to neighbourhood amenity, and the extent to which the activity will adversely affect this.
- (iii) Whether the notable or street tree is causing or likely to cause damage to property or danger to life.
- (iv) Any adverse effects the notable or street tree is creating.
- (v) Whether the activity is likely to damage any part of the notable or street tree, including its roots, or endanger its health or stability.
- (vi) Alternative locations for conducting the activity or whether it can be undertaken without adversely affecting the notable or street tree's health or appearance.
- (vii) The extent to which excavation is necessary to preserve or maintain the efficiency or safety of any public work, network utilities or road.
- (viii) Whether a replacement tree, of appropriate size and suitability, can be established and maintained on the site.
- (ix) Whether the notable or street tree inhibits the growth of a more desirable specimen nearby.
- (x) The arboreal impact of removing one or more specimens.

It is proposed to remove the tree. The applicant has engaged Richie Hill from Paper Street Tree Company to provide an assessment on the tree and provide recommendations to the work required. The report provides an in-depth assessment of this tree and concludes that entire failure is foreseeable. The overall summary of the structural condition is rated as poor, the most vulnerable category to failure. The report predicts the likely location of where the tree may fall which is likely within road reserve/road. It is likely this would occur in a storm event such as high winds which could result in property or vehicle damage. The report notes the presence of dieback

within the canopy and bark, as well as evidence of growth reduction over the past 5 years relating to this. It is likely the root system has been damaged and historical maintenance has impacted the trees overall health. The report notes that the maintenance work and cost involved to retain the trees is outweighed by the risk of failure and existing condition of the tree. Remedial work is unlikely to extend the life of the tree or reduce the potential damage to the tree, property and people. It is considered that the tree's current health and surrounding environment would not make it viable to retain the tree. Thus complete removal of the tree is the recommended option. Requiring the work to be done by a qualified arborist would ensure the removal would not endanger other nearby trees or buildings.

Due to the assessed poor state of the tree and high risk of failure, removal is required and impact on the surrounding amenity is considered to be less than minor. The proposal will also maintain the integrity of the objectives and policies of the District Plan for the reasons given above.

There are no other matters considered relevant to the assessment of this proposal.

4.0 CONCLUSION

It is considered the proposal will have no more than minor adverse effects on the environment, no parties are considered to be adversely affected, and that it is consistent with the relevant objectives, policies and assessment criteria of the Wairarapa Combined District Plan.

5.0 DECISION

- A. That, pursuant to Section 95A of the Resource Management Act 1991, the South Wairarapa District Council resolves that, notification is not mandatory under step 1, is not precluded under step 2, is not required under step 3 and section 95D, and that no special circumstances that warrant the notification of this application as set out in step 4.
- B. That, pursuant to Section 95B of the Resource Management Act 1991, the South Wairarapa District Council resolves that, under step 1 no certain parties or groups are required to be notified, limited notification is not precluded by step 2, no certain persons must be notified under step 3 and section 95E, and that no special circumstances that warrant the notification of this application as set out in step 4.
- C. That, pursuant to Sections 104, 104C of the Resource Management Act 1991 and the provisions of the Operative Combined Wairarapa District Plan 2011, the South Wairarapa District Council GRANTS consent for a Land Use – Restricted Discretionary application 230101 subject to the conditions imposed under Section 108 of that Act as follows:

CONDITIONS

THAT:

1. The works shall be undertaken in accordance with the report provided with the application entitled Tree Inspection Report prepared by Paper Street Tree Company for 54A Wood Street Greytown for South Wairarapa District Council – Dated 9/12/22.
2. Prior to the removal of the tree and after the removal, the consent holder shall take a photo of the tree to be submitted to Council for their records.

3. All tree works are to be undertaken by a suitably qualified arborist.
4. The consent holder shall plant a replacement tree at the earliest planting season. The tree shall be maintained and in the event that it fails to thrive another tree will be planted and maintained.

Notes:

- (a) Please note that, in accordance with Section 125 of the Resource Management Act 1991, this resource consent will lapse if not given effect to within 5 years.
- (b) This land use is based on the assessment provided with the application. Any changes to the proposed works could require further resource consent.

The Council grants the Consent for the following reasons:

- i) The effects of the proposal, with the conditions imposed, are considered to be no more than minor.
- ii) The proposal is in accordance with the objectives and policies of the Wairarapa Combined District Plan, and with the purpose of the Act.
- iii) No parties are considered to be adversely affected by the proposal.

Prepared by:

Reviewed / Approved by:



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Harriet Barber
Planner

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Russell O'Leary
Group Manager Planning and Environment

DATED at Martinborough this 22nd day of August 2023

For and on behalf of the
SOUTH WAIRARAPA DISTRICT COUNCIL