

**SECTION 95 NOTIFICATION ASSESSMENT OF RESOURCE CONSENT TO REMOVE 27 PLANE TREES FROM QUEEN STREET WEST TO DEVON STREET ALONG OXFORD STREET, LEVIN).**

<b>RM number:</b>	LUC/501/2021/321
<b>Date:</b>	27 July 2022
<b>Site Address:</b>	Queen Street West to Devon Street on both sides of The State Highway 1, Levin
<b>Applicant:</b>	Horowhenua District Council
<b>Agent:</b>	N/A
<b>Address for service:</b>	Arthur Nelson [REDACTED]

**1. PROPOSAL**

The applicant’s Assessment of Environmental Effects (“AEE”) includes a description of the proposal, which I adopt for the purposes of this report. The applicant’s proposal description should be read in conjunction with this report.

The Horowhenua District Council seeks to remove twenty-seven (27) of the thirty – eight (38) *Platanus x acerfolia* (Plane trees) planting along Oxford Street (SH1). These plane trees are in the road corridor along Oxford Street (SH1) between Queen Street West and Devon Street, across a distance of 300 metres. These plane trees have Notable Tree status under the Horowhenua District Plan and identified as NT23 – NT34 and NT47 – NT60.

The removal of the trees would consist of cutting each tree off at the base, grinding the stumps to sit below the adjoining asphalt level and their former locations then re – sealed in asphalt, and where practicable, converted back into parking spaces.



**Figure 1: Identifying trees to be removed in red and in green are trees to remain**

Further information was sought on 11 February 2022 for the following matters;

1. *Please provide an aerial photo or site plan identifying notable trees that are proposed to be removed.*
2. *Please provide an amended arboriculture assessment which is specific to the removal of the identified notable trees above, and should also include addressing matters identified in Section 25.7.15 of the District Plan.*
3. *Please provide a landscape assessment report prepared by a suitably qualified person assessing the impacts of the removal of the notable trees.*
4. *Please provide a site plan including cross sections and architectural photomontage of the proposed reinstatement of tarmac footpaths and roads.*

*Please note, the applicant is responsible for obtaining all necessary approvals from NZTA for working within the SH1 corridor.*

In response to this, the applicant's provided the following information on 16 February 2022, 11 & 12 July 2022, and will be included as part of the proposal;

1. An aerial photo identifying 27 notable trees to be removed.
2. An amended arboriculture assessment prepared by Tend Trees Limited.
3. Architectural photomontage and a landscape assessment report prepared by Beca Limited.

## 2. SITE DESCRIPTION

Oxford Street is the main street in Levin, with the core retail businesses located along this street. The Plane trees intermittently line the streetscape along the CBD blocks, from Bath street to Devon Street, a distance of 600 metres. The Plane Trees subject to this Resource Consent Application line both sides of Oxford Street, Levin, from Queen Street West Northward to Devon Street. These plane trees have Notable Tree status under the Horowhenua District Plan. These trees are in an area of Oxford Street which is zoned Commercial Zone, and as State Highway 1 (D2).

### Background

Council engaged Arborlab in May 2020 to undertake a condition assessment of the Plane Trees on Oxford Street. All the notable trees were assessed as being in fair condition with the majority having some form of structural issue whether decay, cavities, or dead/dying branches. The report made the following observations;

*"There are approximately 38 London Plane trees (Platanus x acerfolia) on Oxford Street in Levin. The trees are the vestiges of an avenue of 65 trees that were planted along the Levin Main Street (Oxford Street) to commemorate Queen Victoria's Diamond Jubilee in 1897. In 1999 Council undertook a project to identify notable trees in the district. The Oxford street Plane Trees were identified as 'notable trees' under Plan Change 7 and became notable trees when the plan change became operative in 2000.*

*The current avenue of trees are not the original trees, none are considered to be older than 80 years. Given these trees are not those originally planted and all are generally of poor form and condition the historic heritage is restricted to the pollarded avenue concept arising from the original planting. Over the last 10-15 years it would appear that as and when trees have failed they have either not been replaced or replaced with indigenous trees (Cordyline, Psuedopanax etc), as such the integrity of the original concept being an avenue planting paralleling those in industrial cities in England for Queen Victoria's Diamond Jubilee has been seriously compromised.*

*Active management of the trees as pollards ceased in 1992 and the replacement regime was to manage the trees at a maximum height of 11m and maximum spread of 8m. It would appear between 1992 and 2002 this work was not consistently undertaken leading to some of the problems identified today."*

The importance of the plane tree avenue is:

- To frame and indicate the main street/main thoroughfare/town or city centre, providing a sense of prominence and importance.
- To provide a pleasant street environment through visual amenity, shade, cooling and

- cleaning of the air.
- To reference and celebrate the familiarity of an English aesthetic in the progression and development of these small towns on the other side of the world from the British monarchy.

There are currently no strategic plans to reinstate the avenue of Plane Trees with the redevelopment of the town centre yet to be formalised by the transforming Taitoko strategy.

### **3. RELEVANT PLANNING RULES AND REGULATIONS**

#### **District Plan**

The application site lies within the Commercial Zone of the District Plan and is shown to be subject to the following District Plan notations:

- Pedestrian Area
- Designated as State Highway 1 (D2).

The following activities are permitted activities in the Commercial Zone provided activities comply with all relevant conditions in Rule 17.6 and Chapters 21, 22, 23 and 24.

17.1(x) Where a tree is listed in Schedule 3 – Notable Trees, the following are permitted activities:

- (i) The removal or partial removal of a Notable Tree.
- (ii) Any activities within the drip line of a Notable Tree.
- (iii) Any trimming and maintenance of a Notable Tree.

*Note: The above activities must comply with all Conditions for Permitted Activities specified in Rule 17.6.23.*

#### **17.6.23 Notable Trees**

- (a) Any removal or partial removal of a tree listed in Schedule 3 - Notable Trees shall comply with the following conditions:
  - (i) Council has confirmed the tree is dead; or
  - (ii) Removal or partial removal is required as an emergency work to safeguard life or habitable buildings from immediate danger (as confirmed by a qualified arborist).

All the notable trees were assessed as being in fair condition with the majority having some form of structural issue whether decay, cavities, or dead/dying branches. The removal of these notable trees is not permitted. The proposal is listed as a Discretionary Activity under rule 17.4(a), which reads;

*“Any activity that is not a permitted, controlled, restricted discretionary or non-complying activity is a discretionary activity.”*

#### **National Environmental Standards**

The proposal does not require assessment under any National Environmental Standards.

#### 4. PERMITTED BASELINE

There is no relevant permitted baseline assessment to be considered for this application since the trees to be removed are not dead or are required as an emergency work to safeguard life or habitable buildings from immediate danger.

#### 5. NOTIFICATION ASSESSMENT

Council must assess any resource consent application under section 95 of the Resource Management Act 1991 to determine whether a resource consent application should be notified. The Resource Management Act 1991 details a four-step process that must be followed and triggers or precludes notification of applications in certain circumstances. The sections below follow the four-step process for public notification (under section 95A) and limited notification (under section 95E).

##### 5.1 Public Notification Steps Under Section 95A

Pursuant to section 95A of the Resource Management Act, this section follows the four-step process to determine if public notification is required.

##### Step 1 - Public notification is mandatory in certain circumstances

Public notification is mandatory in certain circumstances:

Has the applicant requested public notification?	No
Is public notification required under s95C?	No
Is the application made jointly with an application to exchange recreation reserve land under s15AA of the Reserves Act?	No

Public notification is not mandatory under step 1.

##### Step 2 - Public notification is precluded in certain circumstances

If public notification is not required under step 1 it may be precluded in certain circumstances (unless special circumstances apply under step 4):

Are all activities in the application subject to a rule in a Plan or National Environmental Standard precluding public notification?	No
Is the application for one or more of the following (but no other) activities? <ul style="list-style-type: none"><li>▪ A controlled activity</li><li>▪ A boundary activity with a restricted discretionary, discretionary or non-complying activity status</li></ul>	No

Public notification is precluded under step 2.

##### Step 3 - Public notification is required in certain circumstances

If public notification precluded under step 2, public notification may be required in certain circumstances:

Is any activity in the application subject to a rule in a Plan or National Environmental Standard that requires public notification?	No
Does the activity have, or is likely to have, adverse environmental effects	Yes

that are more than minor in accordance with s95D?	(see assessment below)
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**Considerations pursuant to Section 95D:**

Public notification is required under step 3 if the activity will have or is likely to have adverse effects on the environment that are more than minor.

In considering if the adverse effects on the environment are more than minor, the effects on persons who own or occupy the land in, on, or over which the activity will occur; or any land adjacent to that land must be disregarded in making an assessment under s95D:

The following is the assessment of the effects of the proposal on the environment:

The historical significance of the trees primarily relates to their age, and reason for being planted. The trees are the vestiges of an avenue of trees that were planted along the Levin Main Street (Oxford Street) to commemorate Queen Victoria’s Diamond Jubilee in 1897. Their heritage value is not assigned exclusively to the trees or the avenue itself, but to the broader integrated Victorian concept central to the town’s original execution. The remaining heritage buildings, in combination with the intermittent plane tree avenue and English street names, provide connections to the origins and earlier design intent and aesthetic of the main street.

The plane tree avenue is part of an integrating concept that includes cultural, historical and amenity values. In addition to their historical derivations, the trees provide a physical and visual separation between vehicular traffic and the finer grained and more pleasant pedestrian footpath environment. The greenness of the trees themselves enhances the pleasantness of the setting by contrasting against the built environment, adding a sense of ‘nature’ or natural elements. The removal of the plane trees will increase the dominance of the road environment and vehicle use as the new core components of its character, and therefore will have adverse effects on the historical significance, street character and visual amenity to a level that is more than minor.

The Oxford Street Plane Trees were identified as ‘notable trees’ under Plan Change 7, which went through public notification. These notable trees were nominated by the public to be included on the notable schedule list. It can be concluded that these plane trees were assessed as having a high historical, environmental visual or landscape values.

The submitted Landscape Assessment Report summarised the landscape effects of the removal of trees to;

- *Significantly reduce the organic and natural qualities remaining in the setting.*
- *Increase the dominance of the built form, road environment and vehicle use as the new core components of its character.*
- *Reduce the amenity of the streetscape for vehicle users and particularly pedestrians.*
- *Reduce the integrity, legibility, and distinctiveness of the town’s central business district.*
- *Lesson the links to the town’s historic setting.*

The Landscape Assessment Report also made the following observations;

*“It is strongly recommended that given the high level of landscape and visual effect caused by the trees’ removal the trees are retained until a confirmed replacement date is within 1-2 years of the trees’ removal. Without this information and certainty on the timing of this process, no mitigation can be considered to reduce the visual and landscape effects.”*

I concur with this statement and assessment.

Considering the above and that no mitigation measures are offered, the visual amenity, local character and landscape effects will be more than minor on the environment, as result of the proposal.

The plane trees are important because they add a greenery, separate pedestrians from the traffic, provide shade, amenity and offer a sense of cohesion and prominence to the CBD. As stated in the Landscape Report provided, the removal the trees, will expose the town’s mediocre built form and associated signage. The plane trees contribute amenity value to the streetscape. In this case, the removal of proposed notable trees will have adverse visual amenity effects that are more than minor on the street environment.

The Landscape Report also stated that:

*“Further removal of the remaining trees north of Queen Street will significantly reduce visual and physical links along the main street and will undermine the extent and intent of the original avenue as a whole. This will compromise the integrity and distinctiveness of the streetscape”.*

I concur with this statement and assessment.

The Arboricultural Assessment has concluded that overall condition of the notable trees is good. No notable trees at the site pose a risk that is elevated to the point where they require intervention.

The Council Development Engineer did not raise any access safety issues, and advised that the applicant is responsible for obtaining all necessary approvals from NZTA for working within the SH1 corridor.

Based on the assessment above, the overall effects of the proposed removal of the 27 notable plane trees on the surrounding environment are considered to be more than minor and therefore public notification is required.

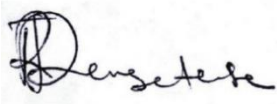
## **Conclusion**

Public notification is required.

## **5.2 Overall Notification Decision**

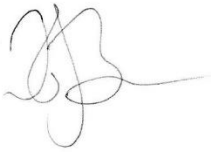
That, for the reasons outlined above, the application be processed on a notified basis in accordance with sections 95A of the Resource Management Act 1991.

Report prepared by:

A handwritten signature in black ink, appearing to read 'Robinson Dembetembe', written in a cursive style.

Robinson Dembetembe  
Consultant Resource Management Planner

Report reviewed by:

A handwritten signature in black ink, appearing to read 'Daniel Batley', written in a cursive style.

Daniel Batley  
**Consultant Resource Management Planner**