

# Decision on notification of an application for resource consent under the Resource Management Act 1991



Restricted discretionary activity

**Application number:** R/TRC/2017/293  
**Applicant's name:** Auckland Transport  
**Site address:** Road Reserve – Quay Street  
Mechanics Bay

**Proposal:** To construct a cycleway within the road reserve, including the removal of 15 protected trees and works within the root zone of 3 protected trees.

The resource consents required are:

## Land use consents (s9)

### Auckland Council Unitary Plan (Operative in Part)

- The proposal involves the removal of trees greater than 4m in height or greater than 400mm in girth within the road reserve. Pursuant to Rule E17.4.1, this is a restricted discretionary activity.
- The proposal involves works within the root zone of generally protected trees, which do not comply with Standard E17.6.3. Pursuant to Rule E17.4.1, this is a restricted discretionary activity.
- The proposal involves the removal of trees greater than 4m in height or greater than 400mm in girth within the road reserve. Pursuant to Rule E26.4.3.1, this is a restricted discretionary activity.
- The proposal involves works within the root zone of generally protected trees, which do not comply with Standard E26.4.5.2. Pursuant to E26.4.3.1, this is a restricted discretionary activity.

## Decision

I have read the application, supporting documents, the report and recommendations on the consent application and undertaken a site visit. I am satisfied that I have sufficient information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on notification.

### Public notification

Under section 95A of the RMA this application shall proceed with public notification because:

1. The adverse effects of the consent applications are or are likely to be more than minor with respect to the removal of the 15 protected trees. This is due to the reasons that follow.
2. Section 95A - Public notification of consent application at consent authority's discretion states:
  - (1) A consent authority may, in its discretion, decide whether to publicly notify an application for a resource consent for an activity.
  - (2) Despite subsection (1), a consent authority must publicly notify the application if—
    - (a) it decides (under section 95D) that the activity will have or is likely to have adverse effects on the environment that are more than minor; or
3. It is my finding that in the first instance subsection (2)(a) applies as the removal of the trees (irrespective of their proposed relocation rather than their destruction) will have or will likely have adverse landscape and visual amenity effects that are more than minor. In my view all other effects would be no more than minor.
4. I agree with the expert reports that the existing environment is a highly modified mixed use urban, business and transport and port environment lacking any significant landscape features other than the trees (14 pohutukawas and a five finger tree) flanking the road and within the central median. The area has low natural character values and does not exhibit high visual amenity values. The area is typically CBD, urban/waterfront with relatively low landscape values and sensitivity
5. In determining if the adverse landscape and visual amenity effects are more or less than minor, the existing environment as described in paragraph 4 is important. In this case it is the presence of the trees flanking the road and within the central median that provide positive landscape and visual amenity effects. The effect of the loss of the trees will not be mitigated by the proposal, but the reports conclude the effects will be "offset" by the relocation of the pohutukawa trees. While the relocation of the trees may be considered a positive effect, offsetting and positive effects are not relevant matters in determining notification. However, they are likely be relevant matters in terms of any assessment under section 104 of the RMA.
6. Provisions E17.8.1. and E26.4.7.1 set out the Matters of Discretion for Restricted Discretionary Activities. Those relevant to this application are:
  - (a) the effect on the values of the tree or trees;
  - (b) any loss or reduction of amenity values provided by the tree or trees;
  - (c) any mitigation proposed;

Related Assessment criteria are also set out.

7. The applicant's landscape architect considers under the heading - Assessment of Landscape Effects - that the existing street trees within Quay Street are identified as the key landscape features of value within the proposal area. It also states that these trees "contribute to the amenity of the road reserve and are a valuable landscape feature of the streetscape, and their loss will reduce the scenic value of the streetscape with a high level of initial impact". The conclusion made is that in landscape terms "...the overall character of the road reserve from the new cycle way or tree removal will be moderate-low adverse.

8. The applicant's landscape architect also sets out the key viewing audiences, and concludes the "effects of the proposal on the more sensitive viewing audiences (i.e. those walking/cycling for leisure will be moderate-low adverse". In respect of all other viewing audiences he considers that the adverse effects are "low".
9. The council's landscape architect, in his Conclusion states that the "removal of the pohutukawa trees within the central median islands will have a moderate adverse effects on the visual amenity of the area in close proximity to them". He further states that "...while the loss of fourteen pohutukawa trees within the road corridor will be highly noticeable, the retention of the pohutukawa on either side of Quay Street and the transplanting of the trees to be removed to location within the vicinity will offset for the loss of the trees".
10. Having considered all of the material including the application, supporting documents, the report on the consent application and undertaken a site visit and for the reasons above, my finding is that notwithstanding: the intent of the cycleway proposal; the retention of the trees on both sides of Quay Street; and the proposed "offsetting" by relocating the trees, the loss of the trees will have or will likely have adverse landscape and visual amenity effects that are more than minor.
11. Given my findings above, the application is required to be publicly notified under section 95A(2)(a). However, I note that given the 'site's' location; a highly travelled route to and from the city from Parnell, the eastern suburbs and other parts of the city, and the likely wider public interest in this application, I would have otherwise exercised Section 94A(1) which enables the consent authority, in its discretion, to decide to publicly notify an application for a resource consent.

Accordingly, for all of the above reasons this application shall proceed with **PUBLIC NOTIFICATION**.



**Greg Hill**

**Duty Commissioner**

24 March 2017