

NOTIFICATION REPORT PURSUANT TO THE RESOURCE MANAGEMENT ACT 1991 ('THE ACT')

Reference:	RM250267
Proposal:	Proposed removal of Amenity Tree #24 (part retrospective) on the Taupahi Road Reserve adjoining the property at 43 Taupahi Road, Turangi
Location:	43 Taupahi Road, Turangi

1 DESCRIPTION OF PROPOSAL

Taupō District Council (Reserves Department) is seeking land use consent to remove amenity tree # 24 being a red oak (*Quercus rubra*) tree located within the road reserve adjoining the property at 43 Taupahi Road, Turangi. The consent sought is part retrospective as substantial parts of the tree have already been removed prior to submission of the consent application.

Section 3.2 of the consent application explains the background circumstances which are summarised as follows.

In January 2017 Taupō District Council granted land use consent RM160403 which authorises on-going maintenance and remedial works on various protected trees in Taupō District, including Amenity Tree #24. In reliance of that consent, Taupō District Council Parks and Reserves Department arranged for pruning of the tree to reduce encroachment into a neighbouring property.

The contractor then undertook work to remove (rather than prune) the tree. Before ceasing the work, the entire branch system of the tree had been removed with only the central-most stem and bole (the section of the trunk from the base of the tree to the first major branches) remaining, consistent with the usual method of dismantling the tree.



Prior to tree works (Feb 2024)



Following tree works (22 Nov 2024)

Figure 1: Amenity Tree Before and After Photos

The consent application confirms that a formal investigation was undertaken to determine how the result came about but no details are provided in the application as to the outcome.

2 SITE DESCRIPTION

2.1 Subject Site and Surrounding Area

The subject site is the road reserve adjoining the residential property located at 43 Taupahi Road, Turangi. The tree is located on the grass verge between the footpath and 43 Taupahi Road. Taupahi Road is a local road located on the south side of State Highway 1 and the north side of the Tongariro River. The surrounding area is characterised by residential properties.

Amenity tree # 24 is one of a line of amenity trees that run along the south side of Taupahi Road to approximately 160 m south of the Taupahi / Tongariro Road intersection.



Figure 2: Site and Surrounding Area (amenity tree noted by red x)

3 TAUPŌ DISTRICT PLAN

3.1 Zoning / Overlays / Definitions

Amenity tree # 24 is listed in schedule 9.2 of the Taupō District Plan. Under section 9.2 of the Taupō District Plan the following explanation of an amenity tree is provided.

‘There are other trees in the District that may not reach the threshold required for listing as notable trees, however provide important amenity and botanical contributions. Additionally, they develop to become notable trees in the future, and their protection will assist to sustain and develop the District’s tree resource. In order to recognise the contribution provided by these trees, a second category of protection called amenity trees has been created.’

Additionally, the following definition of amenity tree is provided in the Taupō District Plan:

‘A tree or group of trees that is considered significant, listed in the Schedule of Amenity Trees and identified on planning maps. An amenity tree or group shall achieve a STEM Criteria score of 110 points or more.’

On either side of Taupahi Road properties are located within the General Residential Zone as identified on TDC’s interactive e-District Plan mapping tool. Taupahi Road is classified as a Local Road under the District Plan Roding Hierarchy and parts of the road are identified as Flood Hazard Area (1% AEP) - Low.

3.2 District Plan Standards / Rules

The proposal infringes the following rule in the Taupō District Plan.

Table 1: Relevant District Plan Rule

AMENITY TREE RULES (Section 9.2 Rule NT-R2)		
Rule	Requirement	Proposal
Rule NT-R2.3 Discretionary Activity	The removal or any other alteration, pruning or works to an amenity tree	Alteration to the amenity tree has already occurred and the proposal is to remove the remainder of the tree

4 NOTIFICATION ASSESSMENT

Under section 95 of the RMA, it is considered that the relevant notification assessment relates to sections 95A to 95D, which are discussed in turn below. The following assessment addresses the actual and potential adverse effects resulting from the proposal followed by the notification process steps set out in section 95A to 95D.

Section 95A(1) of the RMA requires consent authorities to follow the sequential assessment set out in Section 95A when deciding whether to publicly notify an application for resource consent. An assessment against Section 95A is set out in the following table.

Table 2: Section 95A-95D RMA Notification Assessment

Provision	Comment
<u>Step 1: Circumstances When Public Notification is Mandatory</u> Section 95A(2)(a) requires that a consent authority must publicly notify an application if the applicant has requested public notification; public notification is required under section 95C and if the application includes the exchange of reserve land.	The Applicant has not requested public notification of this application, public notification is not required under section 95C and the proposal does not include the exchange of reserve land. Therefore, public notification is not mandatory under Step 1.
<u>Step 2: Circumstances When Public Notification is Precluded</u> Section 95A(4) requires that a determination be made as to whether the application meets the criteria in Section 95A(5) that would cause public notification to be precluded. These criteria are: (a) <i>The application is for a resource consent for 1 or more activities, and each activity is subject to a rule or environmental standard that precludes public notification;</i> (b) <i>The application is for a resource consent for 1 or more of the following, but no other, activities:</i> (i) <i>A controlled activity;</i> (ii) <i>[Repealed]</i> (iii) <i>A restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity.</i> (iv) <i>[Repealed]</i>	The proposal does not meet the criteria in Section 95A(5) because none of the relevant rules or standards preclude public notification. Further, the proposal is not a controlled activity and not a boundary activity. Therefore, public notification is not precluded under Step 2.
<u>Step 3: Certain Circumstances</u> Section 95A(8) specifies the criteria under which public notification is required by Section 95A(7). These criteria are: (a) <i>The application is for a resource consent for 1 or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification;</i> (b) <i>The consent authority decides, in accordance with s95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor.</i> In respect of Section 95A(8)(b), it is noted that Section 95D requires that a consent authority: (a) <i>Must disregard any effects on persons who own or occupy</i> i. <i>the land on which the activity will occur, and</i>	The Proposal does not meet the criteria in section 95A(8)(a) as there are no rules or national environmental standards that require public notification. Public notification is required under section 95A(8)(b) as it has been determined that the activity will have or is likely to have adverse effects on the environment that are more than minor. A full assessment of the adverse effects of the activity is provided below under the section 95D assessment.

ii. any adjacent land; and (b) May disregard an adverse effect of the activity if a rule or a national environmental standard permits an activity with that effect; and (c) Must disregard an adverse effect of the activity if the effect does not relate to a matter for which a rule or a national environmental standard restricts discretion; (d) Must disregard trade competition and the effects of trade competition; and (e) Must disregard any effect on any person who has given written approval to the application.	
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95D effects on the environment assessment
Section 95D states: A consent authority that is deciding, for the purpose of <u>section 95A(8)(b)</u>, whether an activity will have or is likely to have adverse effects on the environment that are more than minor— (a) must disregard any effects on persons who own or occupy— (i) the land in, on, or over which the activity will occur; or (ii) any land adjacent to that land; and (b) may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect; and (c) in the case of a restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard restricts discretion; and (d) must disregard trade competition and the effects of trade competition; and (e) must disregard any effect on a person who has given written approval to the relevant application.
The tree is located within the road reserve, which is administered by the Taupō District Council, who are also the applicant. It is noted from aerial imagery that parts of the former crown of the tree extended into the property at 43 Taupahi Road. Land adjacent to the tree includes the residential properties at 41, 43, 45, 49 and 53 Taupahi Road to the east and 38, 46 and 52 Taupahi Road to the west. In accordance with section 95D(a), effects on persons who own or occupy the land the tree is located on, and the above properties, have been disregarded. In terms of section 95D(b), there are no rules or national environmental standard that permit an activity with the effects proposed. In terms of section 95D(c), the proposed activity is not a restricted discretionary activity. In terms of section 95D(d), there are no trade competition matters related to this application. In terms of section 95D(e), Ngāti Tūrangitukua have provided an email which states they do not have any issues with the application. I have considered this as a written approval. I note the consent application limits the effects assessment to the restricted discretionary activity criteria NT-R4 which relate to Rule NT-R1 which addresses works to notable and amenity trees required for repairing damage or preventing further damage caused by disease or a natural event

or process. I consider the assessment criteria to be a useful guide as to the effects of the proposal but note the assessment is not restricted to these criteria given the application is a discretionary activity, requiring all actual and potential effects of the activity to be considered.

Under section 95D, as noted above, the determination is whether the proposed activity will have adverse effects on the environment that are more than minor and this assessment requires the focus to be on the actual and potential adverse effects that extend beyond the site of the tree and the land adjacent.

Due to its size and condition, prior to the unauthorised works the tree could be appreciated from land beyond the land adjacent to the site. This includes from a distance looking up and down Taupahi Road, from Piri Road, from other properties on Taupahi Road and Piri Road and from land further afield.

Given the application seeks retrospective consent for the unauthorised works undertaken to the tree, I consider the starting point for considering the adverse effects of the tree removal should be the tree in its original condition, prior to the unauthorised works being undertaken. The Dendrology arborist report submitted with the consent application states that prior to the partial felling of the tree it was in good health, with full, lush foliar cover.

I do not consider it appropriate to consider the current condition of the tree as reason to conclude that the adverse effects from the removal of the tree will be minor or less than minor. The current condition of the tree is the result of unauthorised works undertaken by the applicant which is the reason for the application to now remove the tree. These unauthorised works should not result in benefits to the applicant.

The Dendrology report notes that the tree has been included in the Amenity Tree Register for its botanic and amenity value (not cultural or historic value) which has now been largely lost. In my opinion the removal of the tree will have or is likely to have a more than minor effect on amenity values of the area given the contribution it made prior to the unauthorised works being undertaken. The replacement tree, while a positive and practical measure, will take a significant amount of time to grow to a size and condition whereby it will appropriately mitigate the removal of the tree.

Summary – Section 95D

In summary, it is considered that the activity will have or is likely to have adverse effects on the environment that are more than minor.

Conclusion on Notification

The notification assessment on the proposal is that:

Public notification is required under section 95A(7)(a) (the activity will have or is likely to have adverse effects on the environment that are more than minor as assessed under section 95D).

Report prepared by Cam Twigley, Consultant Planner.



Report reviewed by Rachel Dimery, Independent Commissioner.



Report reviewed, approved and recommendation adopted by Rachel Dimery, Independent Commissioner, under delegated authority pursuant to Section 34 of the Resource Management Act 1991.