

## NOTICE OF SPECIAL MEETING

### HEARINGS COMMITTEE

I hereby give notice that pursuant to Standing Order 14.1(b)(i) that a Special Meeting of the Hearings Committee will be held on:-

**DATE:**            **Friday,            20 December 2002**            **TIME:**            **10.30 am**

**VENUE:**        **Civic Centre, 6 Waipareira Avenue, Lincoln, Waitakere City**

to consider the Limited Discretionary Application for Resource Consent under Section 88 of the Resource Management Act 1991 by A and E Rompa to Remove a Protected English Oak Tree (*Quercus Robur*) from the Property at 22 Abbotleigh Avenue, Te Atatu Peninsula and to take any necessary action connected therewith.

13 December 2002

Owena Schuster  
**COMMITTEE SECRETARY**

Telephone (09) 836 8000 extn 8864

#### **MEMBERSHIP:**

Councillors	GE	Nash, JP (Chairperson)	
	DA	Yates, JP (Deputy Chairperson)	
	DQ	Battersby, JP	
	BA	Brady, JP	
	PA	Hulse	
	VS	Neeson, JP	

Ward Representative  
Ms C Nakhid (Henderson Community Board)

Alternate Representative  
Mr DB Shaw, JP (Henderson Community Board)

(Quorum 4 members)

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(The reports and recommendations contained in all agendas are reports and recommendations only and are not to be construed, in any way, as Council policy until adopted.)

**AGENDA FOR A SPECIAL MEETING OF THE HEARINGS COMMITTEE TO BE HELD IN  
THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY,  
ON FRIDAY, 20 DECEMBER 2002, COMMENCING AT 10.30 AM.**

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ON FRIDAY, 20 DECEMBER 2002, COMMENCING AT 10.30 AM.**

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**1 APOLOGIES**



**2 LIMITED DISCRETIONARY APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991 BY A AND E ROMPA TO REMOVE A PROTECTED ENGLISH OAK TREE (*QUERCUS ROBUR*) FROM THE PROPERTY AT 22 ABBOTLEIGH AVENUE, TE ATATU PENINSULA**

**HENDERSON WARD**

**RMA 20021142**

**N.B. This report sets out the advice of Consent Services to the Hearings Committee on the environmental issues raised by the application for resource consent. It is not the decision of the Council. The decision will be made after consideration of the application by the Hearings Committee.**

**APPLICATION DETAILS**

Planner:	Jeannette Ibrahim
Site Address:	22 Abbotleigh Avenue, Te Atatu Peninsula
Applicant:	A and E Rompa
Date Received:	24 June 2002
Building Consent No:	N/A
Legal Description:	Lot 1 DP 190915
Address for Service:	A and E Rompa 22 Abbotleigh Avenue Te Atatu Peninsula
Site Area:	527 m <sup>2</sup>
Unit Site Area(s):	N/A
Transitional Plan:	
Zoning:	Residential 2
Section:	Waitemata
Hazards:	None on record

Proposed Plan:	
Human Environment:	Living 1
Natural Area:	General
Landscape Elements:	N/A
Hazards:	N/A
Roading Hierarchy:	Local
Further Information Required:	No
Date Requested:	N/A
Date Received:	N/A

## 1.0 INTRODUCTION AND RECOMMENDATION

### 1.1 Nature of the Application

The applicant seeks consent to remove an English Oak tree (*Quercus robur*) approximately 15m high and measuring 2.05m in girth measured at 1.4m from ground level from the property located at 22 Abbotleigh Avenue, Te Atatu Peninsula being Lot 1 DP 190915.

### 1.2 Resource Management Issues Raised

The Resource Management Act 1991 requires that, when considering an application for a resource consent, a consent authority shall have regard to the environmental effects of the proposed activity, together with any relevant objectives, policies and rules of the Transitional and the Proposed District Plan.

The significant resource management issues associated with this proposal are related to vegetation removal, visual impact on the surrounding area and impact on local amenity values and neighbourhood character and therefore the proposal does not satisfy the relevant assessment criteria set down for protection of trees in the General Natural Area. The removal of the English Oak tree would be contrary to Council's Objectives and Policies which seek to protect quality and character within the City's intensively settled residential areas and maintain neighbourhood character and amenity by managing activities in a manner that avoids clearance of or damage to trees and vegetation.

### 1.3 Planner's Recommendation

The planner who has prepared this report recommends that **consent be declined** to the application for **removal of an English Oak Tree (*Quercus robur*) from the property at 22 Abbotleigh Avenue, Te Atatu Peninsula.**

It is considered that the adverse environmental effects that would be generated by the activity would be more than minor and would not be adequately avoided, remedied or mitigated by conditions. In addition, the proposed activity is contrary to the relevant objectives and policies of both the Transitional and Proposed District Plans

2.0 LOCATION PLAN AND SUBJECT TREE



Fig 1: Location Plan

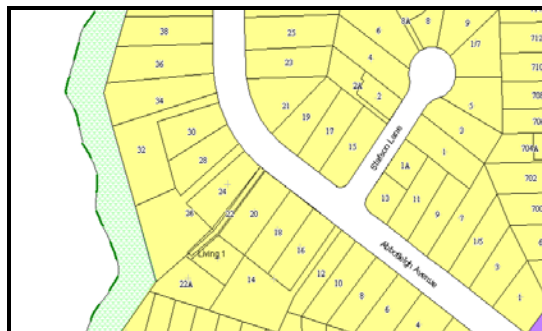


Figure 2: Human Environment



Figure 3: Natural Environment

Figure 4: View of tree from south  
(esp.edge)

Figure 5: View of tree from road north

### 3.0 PROPOSAL

The applicant seeks consent to remove an English Oak tree (*Quercus robur*) from the property located at 22 Abbotleigh Avenue, Te Atatu Peninsula. The tree is identified in the Waitakere City proposed District Plan as being protected by reason of its size.

### 4.0 REASONS FOR THE APPLICATION

Consent is required under those provisions of the Transitional and Proposed District Plans for the following reasons:

#### 4.1 Proposed District Plan

The subject site is located in the Living 1 Environment and General Natural Area under the Proposed District Plan. The removal of an exotic tree that is greater than 6m in height and greater than 600mm in girth within the General Natural Area is a Limited Discretionary Activity under Rule 2.3.

#### 4.2 Transitional District Plan

The subject tree is not protected under the provisions of the Transitional District Plan (Waitemata Scheme) and that Plan provides for the proposal as a permitted activity.

**Overall, the application is considered to be a Limited Discretionary activity. The proposal complies with all other development controls under the Transitional and Proposed District Plans.**

### 5.0 THE SITE AND NEIGHBOURHOOD DESCRIPTION

The subject site is a relatively small, 'rear' site accessed by means of a right-of-way from the south west side of Abbotleigh Avenue and is one of two recently subdivided sites created in 1998. Earlier subdivision in this neighbourhood resulted in relatively large site areas (> 1000m<sup>2</sup>) and these larger sites have more recently come under intensification of use as a result of infill development. Thus the area is well established with older trees forming a continuum with the shoreline vegetation in the immediate vicinity.

The site slopes down from the street and there are views from the street to the west over Henderson Creek with the Waitakere Ranges in the background. The English Oak tree is the only substantial tree on the site. The 'green' link with the row of Poplar trees on the western boundary of the site at 22A Abbotleigh will disappear once these trees are removed.

### 6.0 ISSUES IDENTIFIED

#### 6.1 Background

An application for consent to erect a second dwelling (RMA 970250) on the undivided site at 22 Abbotleigh Avenue was granted on 1 September 1997. A requirement of this consent was that the 'large oak tree' on the site should be protected. The new dwelling (building consent ABA 97003346) was completed on 3 April 1998. Application was then made to subdivide the site and this consent was granted on 18 June 1998, with the 224(c) certificate of completion being issued on 9 August 1999 with two lots created, sharing a common access from Abbotleigh Avenue. No further applications concerning land use were received until earlier in 2002, when Council received an application for the removal of a row of Poplars from the western boundary of 22A Abbotleigh Avenue. Consent granted on 28 May 2002 was for the removal of two Poplars at the end of the row of trees that were showing signs of failure.

An objection to condition/s of consent under Section 357 of the Resource Management Act was subsequently received by Council and the resulting variation to conditions has allowed for the removal of the whole row of trees because:

- they are not a focal point in the neighbourhood in terms of visual amenity;
- they are of inappropriate form and appearance within the landscape;
- there are other large scale trees nearby that impart amenity value and landscape integration.

## 6.2 Proposal before Council

This application has **not** been publicly notified. An application for tree removal was received by Council on 25 June 2002. After visiting the site and assessing the application Council's Arborist and Council's Landscape Architect could not support the application for removal of the tree. The tree is large, is in good health and contributes significantly to neighbourhood identity, character and amenity and provides opportunity for further 'green' linkage to the vegetation along the foreshore to the west of these sites, as well as with the established trees in the gardens of surrounding properties to the east.

A5-A6

The applicant was informed by letter, dated 17 July 2002, as attached at page A5, that the application for tree removal could not be supported and that if they wished to pursue the matter further, there was the option of having the application heard by Council's Hearing Committee. Council was formally requested on 7 August 2002 to proceed with the application to be heard by the Hearing Committee, as attached at page A6.

## 7.0 STATUTORY REQUIREMENTS

### 7.1 The Weighting of District Plans

The Resource Management Act 1991 requires the consideration of both the Transitional and Proposed District Plan prior to the Proposed Plan becoming operative. In relation to this application the approach taken by both plans could be considered to be significantly different with the Transitional Operative Plan permitting the activity within the zone. However as determined by case law the regard to be given to the different plans can be assessed in relation to how far the proposed District Plan has progressed towards full operative status. Progressively more weight is assigned to the proposed Plan rules as the Plan progresses towards becoming an operative document. In this case the Proposed Plan is in the final stages before becoming operative with only a few outstanding references. There are no outstanding references affecting this specific site, it's zoning and related development controls. Any provisions of the Proposed Plan, which has been prepared under the auspices of the Resource Management Act 1991, relevant to this proposal have been resolved via the District Plan submission and appeal process. In particular, all references in relation to the General Natural Area Vegetation Alteration provisions, have recently been settled by Consent Order. Therefore the Proposed Plan is considered to have greater weight in this particular case.

### 7.2 Limited Discretionary Activities

A12-A13

The relevant objectives, policies, rules and assessment criteria which apply under the Transitional and Proposed District Plan and the Resource Management Act 1991 are set out in more detail in the following pages of this report and attached at page A12 to A13. This provides the legal framework within which the application should be addressed.

Under Section 76 (3B) of the Resource Management Act 1991, *where a rule in a district plan or a proposed district plan provides for a discretionary activity, the rule may also-*

- (a) *State the standards and terms that the activity shall comply with; and*
- (b) *State the matters to which the territorial authority has restricted the exercise of its discretion ....*

Furthermore, Section 94(1A)(a) of the Resource Management Act 1991 provides for resource consents to be processed on a non-notified basis if the activity to which the application relates is a limited discretionary activity and the plan expressly permits consideration of the application without the need to obtain the written approval of affected persons. The Proposed District Plan does expressly permit that limited discretionary activities need not be publicly notified and that written consents are not required. This application has been processed on this basis.

Applications for resource consent should be set out in the manner provided for under Section 88 of the Resource Management Act 1991 where the application shall be in the prescribed form and include a description of the activity, its location, an assessment of actual and potential effects, methods of mitigation and any information required to be included under Section 88(4)(a), (b), and (c). However where the local authority has restricted the exercise of its discretion, under Section 88(5) any assessment shall address only those matters specified in a plan or a proposed plan over which the local authority has retained control, or to which the local authority has restricted the right to exercise its discretion, as the case may be.

In this case the Council has limited its discretion to landscape treatment, scale, method and location of vegetation alteration and assessment will be considered in accordance with the specified criteria set out in General Natural Areas: Rule 2 - Vegetation Alteration - Assessment Criteria 2(a) - 2(k)

Nevertheless, a consent authority in exercising jurisdiction to grant consent, must have regard to the matters specified in Section 104. In short, the proposal must be able to establish and operate without generating more than minor adverse effects on the environment, or must not be contrary to the relevant objectives and policies of either the Proposed District Plan or the Transitional District Plan.

Section 104 of the Resource Management Act 1991 sets out those matters to be considered when assessing an application for resource consent. Amongst other things, these matters require consideration of any actual and potential effects on the environment arising from the proposal, together with an assessment as to whether the application is consistent with relevant objectives, policies and rules of the Transitional and Proposed District Plan. All considerations are subject to the provisions of Part II of the Resource Management Act 1991, which sets out the purpose and principles that guide this legislation.

## **8.0 EVALUATION IN ACCORDANCE WITH SECTION 104 OF THE RESOURCE MANAGEMENT ACT 1991**

### **8.1 Assessment of Environmental Effects [104 (1)(a)]: Actual and Potential Effects**

The Proposed District Plan has been prepared with an “effects based” emphasis, in keeping with the Resource Management Act 1991. As such, consideration of the application in relation to each of the assessment criteria relating to the various infringements would ensure that all the relevant matters contained in Section 104 of the Resource Management Act 1991 would have been addressed. In addition, a brief summary is presented below of the main effects on the environment generated by the application.

The relevant assessment criteria from the Proposed Plan, together with comments as to whether each criterion can be satisfied are summarised as follows:

### 8.1.1 Assessment Criteria

The proposed Plan outlines assessment criteria which should be addressed for any work or activity affecting vegetation alteration or removal in the General Natural Areas under Rule 2, these criteria being 2(a) to 2(k) as follows:

#### **2(a) The extent to which vegetation alteration adversely affects amenity values and neighbourhood character.**

A7-A11

The tree is a healthy specimen and has good form as noted by Council's Arborist, as attached at pages A7 to A11. Although the house has been sited only 1.5m from the trunk of the tree, the tree is causing no obvious structural damage either to the house or to the paving around the trunk. Past pruning of the tree means that the branches are clear of the roof and future pruning to maintain form is unlikely to have significant long term impact on the health and survival of the tree. The tree is on the south side of the house so that it does not present a shading problem and outdoor areas on the north and west sides of the house are unshaded.

Loss of this tree would have significant cumulative effect as consent has already been granted for the removal of a row of nearby Lombardy poplars (*Populus nigra 'italica'*) at 22A Abbotleigh Avenue. Once the Poplars are removed the English Oak will attain greater significance as a specimen tree dominating the immediate neighbourhood and providing a connection with the foreshore vegetation.

The 15m high Oak tree is visually prominent and readily seen from the immediate neighbouring properties (14, 20, 22A and 26 Abbotleigh Avenue) and from the street entry at the head of the long access way leading to the property. The tree is visible to southbound travellers along Abbotleigh Avenue and is also in view to travellers northwest bound from the opposite direction.

The tree complements vegetation on neighbouring sites, in particular a Totara tree at 14 Abbotleigh to the south east and a Mexican Cypress at 6 Wharf Road to the south, thus generating green linkages to foreshore vegetation and contributing to the overall urban ecosystem.

Loss of such a large and prominent tree would therefore have significant adverse effects in terms of residential and neighbourhood character and amenity.

For these reasons it is considered the removal of the tree would have an adverse effect on the local vegetation and its removal would have negative effects due to loss of visual amenity and sense of connectivity with other trees in the neighbourhood.

- *Amenity values (visual amenity, views, on site amenity, adequate open space) and neighbourhood character (streetscape, sense of place).*

A7-A11

These values were also separately assessed by Council's Landscape Architect and his full report is attached at pages A7 to A11.

The conclusion is that "the oak tree is a fine urban tree placed in a relatively prominent location. By virtue of its size, form and placement it contributes significant amenity and neighbourhood identity to the area and it relates to other trees in the vicinity to provide integration to the buildings and nature within the City. The tree is of appropriate form in the landscape and is placed to enframe the view towards the Ranges and the Henderson Creek rather than to block it. If and when the nearby Lombardy Poplars are removed the subject oak tree will acquire greater significance in this landscape."

**2(b) *The extent to which vegetation alteration will threaten natural ecosystems.***

The tree is an exotic species, is an isolated specimen and is part of the urban environment and thus its loss would contribute to further incremental reduction in the urban ecosystem.

The site is within the urban area and the existing environment is already modified. Therefore it is considered that loss of a significant, mature tree would contribute to incremental adverse effects on the urban ecosystem as a result of the proposal, particularly in terms of canopy connectivity and urban bird refuge.

**2(c) *The extent to which vegetation alteration creates, contributes to or exacerbates stability problems.***

There are no known stability issues on this site.

**2(d) *The extent to which development is located or can be designed in a way that avoids the need to remove vegetation and in particular the removal of any trees that are notable examples of their species.***

The present dwelling was designed around the tree and despite its proximity to the tree, appears to have had no detrimental effects on the tree, ie. regard was had to the existence of a fine example of this species in the area during development of the site in 1998. The 'large Oak tree' was to be retained as a condition of site development.

Although the subject tree is not a listed tree, consideration should be given to its potential to contribute to the developing history of the area as well as its contribution to the existing natural heritage of the neighbourhood. Clearly the presence of the tree was taken into consideration at the time the site was created in 1998 and appropriate care was required by condition of consent to protect the tree during construction of the new dwelling now on the site. There is no evidence that development of the site has had a detrimental effect on the tree and no evidence that the presence of the tree is having a detrimental effect on the site.

**2(e) *The extent to which the proposed vegetation alteration is necessary:***

- ***To accommodate development otherwise permitted by the Plan;***
- ***To ensure the safety and integrity of existing development on the site;***
- ***For pruning to provide light;***
- ***For pruning to preserve public views.***

The applicant has stated that the tree is causing damage to the property. The tree is located approximately 1.5m from the southern wall of the dwelling and its branches extend over the roof. Past pruning of the tree means that the branches are well clear of the roof and there is little evidence on the ground to suggest that any damage has resulted from root activity. The house was in any case designed to take account of the presence of the tree at the time the site was subdivided in 1998.

The applicant has claimed that the oak tree is causing damage to the property through leaf fall and dropping twigs and acorns. This is claimed to be causing flooding and cost of maintenance is becoming too high. Personal circumstances mean that the outdoor environment is hard to maintain and the owners are experiencing stress.

It is not possible to comment on the health and personal circumstances of the owners. Council's Arborist has visited the site on a number of occasions and found no obvious evidence of damage to the dwelling. It is the Arborist's opinion that Oak trees do not contribute significantly to garden maintenance requirements and that leaf drop, etc. is no more than might be expected from any deciduous tree close to a dwelling. There is no direct reference to suitability of trees for particular sites, except for general guidelines in gardening books. In general, provided that the health and potential lifespan of a tree has not been compromised by nearby development there would be no valid botanical reason for its removal. This particular situation appears to be singularly unusual in that tree and house are in harmony with each other with no evidence of damage to either tree or dwelling.

It is considered that normal maintenance procedures and the use of products such as gutter guard can minimise or prevent blockage of drainage structures from fallen vegetation. Council's Arborist has visited the site three times and found no evidence of ponding or flooding despite recent heavy rain at the time of the visit/s.

No specific evidence has been provided that illustrates that the tree is causing safety concerns or adversely affecting the integrity of any structures on the site and its removal for the reasons given by the applicant is not considered appropriate or necessary.

**2(f) *The extent to which vegetation alteration adversely affects plant health.***

There are no issues in relation to this criterion. Past pruning of the tree has cleared the trunk of low branches so the trunk is well clear of the dwelling, including the roof and the tree does not appear to have suffered any adverse effects from this pruning.

**2(h) *The extent to which more than minor adverse effects can be adequately avoided, remedied, mitigated or offset through provision of works and services on or off the site and/or through payment or provision of a financial contribution.***

Replanting has been proposed. The suggested replacement is small native or flowering shrubs that would never attain the size or prominence of the tree removed. It has been suggested that a Liquidambar growing close by may provide replacement amenity. However this tree is unlikely to achieve the prominence of the present Oak tree until at least 4 or 5 growing seasons have elapsed.

An appropriate financial contribution has not been proposed as no monetary value has been placed on the tree in terms of amenity/intrinsic loss to the neighbourhood but such a value would likely be in the order of several thousand dollars.

**2(i) *The extent to which vegetation alteration reduces the ability to create linkages between native vegetation, fauna habitats, or natural features or landforms.***

Although the subject tree is an exotic in a highly modified landscape there is no doubt that the canopy forms part of a 'bridge' to the shoreline vegetation of Henderson Creek and its loss would take a number of years to replace.

**2(j) *The extent to which vegetation alteration can be offset by restoration or enhancement around and within the area subject to the application.***

A consent for removal of a row of Lombardy Poplars on the western boundary of 22A Abbotleigh Avenue was granted on 19 June 2002, though this has yet to be given effect. Replacement planting is a condition of consent for the removal of the Poplars but it will take a number of years before the replacement trees will be mature enough to provide similar levels of connectivity as the present situation. Nor is the loss of the Poplars considered to constitute the same level of loss of visual/neighbourhood amenity as the potential loss of the Oak tree as they are less appropriate in this landscape and block a view, whereas the oak enframes the view.

The nearest tree that might provide adequate 'replacement' form and function is a Liquidambar but it is still relatively small and of low visual impact. It is thus vitally important to retain the English Oak for the immediate future.

**2(k) *The extent to which vegetation alteration adversely affects the significance, natural character or landscape value of any natural features.***

There are views to the Waitakere Ranges from higher points on Abbotleigh Avenue but there are no significant views or natural character that will be affected. However the tree itself contributes significantly to the local urban landscape and its loss would be very noticeable.

It is considered there could also be adverse effects in relation to the natural character of the coast arising from the proposed activity. The tree will become more dominant from the shoreline when the poplars at 22A Abbotleigh Avenue are removed (see Figure 4). Tree loss from this perspective could possibly be mitigated by planting a replacement tree in an appropriate position within the reserve.

### **8.1.2 Summary**

It is considered the tree contributes significantly to the local neighbourhood in terms of 'green' links with other garden trees in the vicinity as well as having significant visual impact when viewed both from the road above the site and from the west of the site at the edge of the esplanade reserve. Loss of the tree would create a large gap in canopy connectivity that could not be compensated for in the short term although the Liquidambar close by may compensate for the loss of the Oak over the long term.

It is the report writer's opinion that the potential adverse effects of the proposed activity are more than minor because loss of the tree would lead to:

- a loss of green connections in the immediate neighbourhood and thus further incremental loss to the urban landscape, and
- significant loss of visual amenity and neighbourhood identity as the tree is clearly visible from both the street and from the edge of the esplanade reserve.

## 8.2 Policies and Objectives

A12-A13

A copy of the relevant Objectives and Policies related to this development are attached at pages A12 to A13. The applicants propose to remove a generally protected tree from the subject site. No substantial evidence has been provided to convince the reporting planner that, in terms of the assessment criteria, it is appropriate to remove this tree. The following Objective and associated Policies are considered to be particularly relevant:

**OBJECTIVE 11 - To achieve a quality of settlement and associated activities within each of the City's Human Environments which is sympathetic to, and protects and enhances the dominant natural and physical (including buildings) features which contribute to the amenity value and the neighbourhood character of the area, including maintaining and enhancing:**

- **The quality and character of different patterns of settlement within the City's intensively settled residential areas; ....**

**Policy 11.1 - Settlement should be of a type and a density that protects amenity values, including neighbourhood character of different parts of the City, by:**

- **Allowing for development within the .. [Te Atatu Peninsula] local character areas, provided that it maintains existing high levels of [amenity];**
- **Providing for more intensive settlement .. in a way that protects the wellbeing of residents and enhances the amenity of these areas.**

**Policy 11.2 - Activities should be managed in a way that avoids the clearance of or damage to trees and vegetation, to the extent that the following characteristics are adversely affected:**

- **The visual dominance of trees on private property within neighbourhoods of the Living Environment;**

Trees and other vegetation be they native or exotic are a significant element in defining amenity values of an area and as such are highly valued by residents. Clearly, the effect of the intensification of use of this site when it was subdivided in 1998 was considered to be offset by the retention of the mature English Oak. The house design was based around retention of the subject tree and considerable effort has been taken to ensure its continuing health.

It is therefore considered that the continued retention of the English Oak tree would be consistent with the Objectives and Policies of the proposed plan. The Proposed plan is "effects-based" in its approach to natural and physical resources and it has been demonstrated in the previous environmental assessment of effects that adverse effects arising from the proposal would be more than minor.

### 8.2.2 Transitional District Plan

As outlined above, the proposed activity is permitted in the Transitional District Plan and requires no further assessment.

## 8.3 Auckland Regional Policy Statement (104(1)(c))

The Auckland Regional Policy Statement sets out the broad resource management issues, objectives and policies for the Auckland Region to achieve the integrated management of its natural and physical resources. The Policy Statement functions as an umbrella policy document for environmental planning and policy development within the Region under which the Waitakere City Proposed District Plan has been prepared.

The most relevant Objectives and Policies from the Auckland Regional Policy Statement are as follows:

- Strategic Objectives

2.5.1.2 To maintain and enhance the overall quality of the environment of metropolitan Auckland.

2.5.1.5 To protect the intrinsic values of the Region's natural resource base, and to make appropriate provision for the avoidance, remediation or mitigation of adverse effects on the Region's environment.

- Strategic Policies

2.5.2.7 The use, development and protection of the Region's natural and physical resources is to be managed in an integrated manner, so that adverse effects, including significant cumulative adverse effects are avoided, remedied or mitigated.

It is considered that the proposal for tree removal would not be consistent with the above objectives and policies given the tree's current state of good health and its significance in the neighbourhood. Further, the **retention** of the tree is consistent with the principles of sustainable management by enhancing green linkages to the foreshore.

#### **8.4 Any Other Matters the Consent Authority Considers Relevant (104(1)(i))**

This application has not been publicly notified and regard has been given to the applicant's reasons for requesting removal of the tree. It is the Planner's opinion that there are no other relevant matters that are required in order for the Committee to make its decision.

#### **9.0 PART II OF THE RESOURCE MANAGEMENT ACT 1991**

It is considered that the proposal would not be consistent with Sections 5, 6, 7 and 8 of the Resource Management Act 1991.

The purpose and principles of the Resource Management Act 1991 have primacy over all other considerations that are set out in Section 104 of the legislation. In summary, Sections 5, 6 and 7 require that resources must be sustainably managed in such a way that any adverse effects on the environment can be avoided, remedied or mitigated. Furthermore, the Resource Management Act 1991 requires that amenity values and the quality of the environment are to be maintained and enhanced.

It is considered the proposal to remove an English Oak tree would detract from the visual amenity of this established residential part of the Te Atatu Peninsula. Further, the subject tree is likely to acquire increased significance in the immediate environment because consent has been granted for the removal of nearby trees with which it forms a continuum.

It is considered that the granting of consent to this application would be contrary to the purpose of the Act. Sustainable management is not achieved in terms of avoiding, remedying or mitigating adverse effects on the environment particularly with respect to the maintenance and enhancement of amenity values and maintenance and enhancement of the quality of the environment.

## 10.0 EVALUATION IN ACCORDANCE WITH SECTION 105 OF THE RESOURCE MANAGEMENT ACT 1991

The proposal requires consideration as a limited discretionary activity under the provisions of the Resource Management Act 1991. In considering the application, the consent authority shall have regard to the matters specified in Section 104. The relevant matters include a consideration of actual and potential effects on the environment, together with an assessment of the extent to which the proposal is consistent with the objectives, policies and rules of the Transitional and Proposed District Plans. In this case all weighting is given to the Proposed District Plan because all references relating to vegetation alteration have recently been settled by Consent Order (RMA 843/98 - 8 August 2002).

## 11.0 CONCLUSION

The applicant seeks consent to remove an English Oak tree (*Quercus robur*) from the property at 22 Abbotleigh Avenue, Te Atatu Peninsula. The tree is identified in the Waitakere City proposed District Plan as being protected by the Vegetation Alteration Rules. The tree is located in the Living 1 Environment and General Natural Area in the proposed District Plan and the Residential 2 Zone of the Transitional District Plan (Waitemata Scheme).

It is considered that the proposal does not meet the criteria for granting consent as the potential adverse environmental effects are more than minor and cannot adequately be mitigated, avoided or remedied. It is considered that the removal of the English Oak will lead to a decline in the amenity values of the area in which it is currently located. Further, the proposal is not considered to be consistent with the objectives and policies of the Proposed Plan, as discussed. For the aforementioned reasons it is considered the proposal cannot meet the Section 105 threshold test.

Subject to any additional and/or contrary evidence being presented at the hearing, it is concluded that the application **should be declined** in accordance with Sections 104 and 105 of the Resource Management Act 1991.

## RECOMMENDATIONS

That pursuant to Sections 104, 105, 108 and 113 of the Resource Management Act 1991, and subject to additional or contrary information being presented at the hearing, **consent be refused** to the application by A and E Rompa to remove a protected English Oak tree (*Quercus robur*) from the property located at 22 Abbotleigh Avenue, Te Atatu Peninsula, being Lot 1 DP 190915 for the following reasons:

- i) The subject oak is in good health.
- ii) The removal of the Oak would remove a significant visual amenity that contributes to local identity and sense of place.
- iii) The proposal to remove the Oak does not satisfy all the assessment criteria set down for alteration of vegetation, it is not diseased or dangerous and does not interfere with reasonable enjoyment of the land or any adjoining land.
- iv) The proposal is contrary to the Objectives and Policies of the Proposed District Plan and Part II of the Resource Management Act 1991 which seek to maintain and enhance tree cover in the city and retain trees that contribute to amenity and landscape values in the urban area.

Report prepared by: Jeannette Ibrahim, Resource Planner.

