

**AGENDA FOR AN ORDINARY MEETING OF THE HEARINGS COMMITTEE TO BE HELD
IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY,
ON WEDNESDAY, 24 JULY 2002, COMMENCING AT 9.30 AM.**

TABLE OF CONTENTS

<u>ITEM</u>		<u>PAGE NO.</u>
1	APOLOGIES	1
2	URGENT BUSINESS	1
3	CONFIRMATION OF MINUTES	1
4	ELECTION OF DEPUTY CHAIRPERSON	2
5	NOTIFIED APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991 BY WAITAKERE CITY COUNCIL, PARKS AND GREEN ASSETS TO REMOVE A LISTED TREE (PHOENIX PALM) FROM THE ROAD RESERVE OUTSIDE THE PROPERTY AT 10 TWIN WHARF ROAD, HERALD ISLAND RMA 20020596	2

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1 APOLOGIES



2 URGENT BUSINESS

Section 46A(7) and (7A) of the Local Government Official Information Act and Meetings Act 1987 provides that where an item of business is not on the agenda, it may only be dealt with at the meeting if:

- (i) the item is a minor matter; and
- (ii) the Chairperson has explained at the beginning of the meeting (when open to the public) that the item will be raised for discussion, why the item is not on the agenda, and why it cannot be delayed until a subsequent meeting; and
- (iii) the Committee resolves to deal with the item.

No resolution, decision, or recommendation may be made in respect of the item except to refer the item to a subsequent meeting for further discussion.

NOTE: Urgent Business need not be dealt with now and may be delayed until later in the meeting.



3 CONFIRMATION OF MINUTES

Ordinary - Thursday, 20 June 2002

RECOMMENDATION

That the minutes of the Ordinary Meeting of the Hearings Committee held on Thursday, 20 June 2002, as circulated, be taken as read and now be confirmed.



4 ELECTION OF DEPUTY CHAIRPERSON

Council at its meeting held on Wednesday, 26 June 2002 received a report advising that Cr Ross Dallow due to other Council's comments requested that he no longer be a member of the Hearings Committee. Cr Ross Dallow was the Deputy Chairperson of the Hearings Committee, Council resolved that:

1. *That the information be received.*
2. *That Cr Ross Dallow no longer be a member of the Hearings Committee and that Cr Derek Battersby be appointed to the Hearings Committee.*
3. *That the Hearings Committee consider the appointment of a replacement Deputy Chairperson at the next meeting of the Hearings Committee."*

2152/2002

The Hearings Committee, may wish to appoint a replacement Deputy Chairperson pursuant to Section 101U of the Local Government Act 1974.

Once a Deputy Chairperson is appointed that person will retain that position for the entire term of office or until they resign from the position.

The election of a Deputy Chairperson shall be conducted on the same basis as election of the Chairperson as prescribed under Section 101P of this Act unless the Committee resolves to use the voting system described in Section 114K.

RECOMMENDATIONS

1. That the information be received.
2. That the Hearings Committee elect one member to be the Deputy Chairperson of the Hearings Committee.



5 NOTIFIED APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991 BY WAITAKERE CITY COUNCIL, PARKS AND GREEN ASSETS TO REMOVE A LISTED TREE (PHOENIX PALM) FROM THE ROAD RESERVE OUTSIDE THE PROPERTY AT 10 TWIN WHARF ROAD, HERALD ISLAND RMA 20020596

MASSEY WARD

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: Hamish Anderson

Site Address: Road Reserve outside the property located at 10 Twin Island Road, Herald Island

Applicant: Waitakere City Council, parks and Green Assets

Date Received: 9 April 2002

Resource Consent No: RMA 20020596

Building Consent No: N/A

Legal Description: Road Reserve outside Lot 3 DP 39775

Address for Service: Waitakere City Council, Parks and Green Assets, Private Bag 93109, Henderson

Site Area: N/A

Unit Site Area(s): N/A

Transitional Plan: Zoning: Existing Road
Section: Waitemata
Hazards: None on record

Proposed Plan: Human Environment: Transport
Natural Area: General
Landscape Elements: Listed Tree (No. 113)
Hazards: None on record
Roding 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 a Phoenix canariensis (Canary Island Palm/Phoenix Palm) from the road reserve outside the property located at 10 Twin Wharf Road, Herald Island. The tree is identified in the Waitakere City proposed District Plan as being a listed tree (Ref No. 113).

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 the City's heritage.

1.3 Planner's Recommendation

The planner who has prepared this report recommends that, subject to any contrary or additional evidence submitted at the Hearing, **consent be granted** to the application for the removal of a Phoenix canariensis (Canary Island Palm/Phoenix Palm) from the road reserve outside the property located at 10 Twin Wharf Road, Herald Island. It is considered that the environmental effects that may be generated by the activity would be minor or could be adequately avoided, remedied or mitigated by the imposition of conditions, and that the relevant objectives and policies of both the Transitional and Proposed District Plans will be satisfied.

2.0 LOCATION PLAN AND SUBJECT TREE



Fig 1: Location Plan.



Fig 2: Phoenix Palm outside 10 Twin Wharf Road.



Fig 3: Phoenix Palm and Moreton Bay Fig located opposite.

3.0 PROPOSAL

The applicant seeks consent to remove a *Phoenix canariensis* (Canary Island Palm/Phoenix Palm) from the road reserve outside the property located at 10 Twin Wharf Road, Herald Island. The tree is identified in the Waitakere City proposed District Plan as being a listed tree (Ref No. 113).

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 Transport Environment and General Natural Area under the Proposed District plan. The removal of a listed tree is not defined as a permitted or discretionary activity under Rules 3.1 or 3.2 of the Heritage Section so it is considered a non complying activity under Rule 3.3 (Heritage Section).

4.2 Transitional District Plan

The subject tree is considered to be located on an existing road under the Transitional District Plan (Waitemata Scheme) and that Plan provides for the proposal as a permitted activity.

4.3 Overall, the application is considered to be a non complying 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 grassed area of road reserve outside the property located at 10 Twin Wharf Road. The Phoenix Palm is the only tree located in this area of the road reserve. Herald Island is a unique residential island in the City and is characterised by treed road reserves and a low density of residential development. Twin Wharf Road runs along the northern part of the island and properties on the north side of the road have views of the upper Waitemata Harbour. The road is defined, in the proposed District Plan, as being a Local Road and it is a cul de sac which ends at the Herald Island wharf on the eastern side of the Island.

6.0 ISSUES IDENTIFIED THROUGH THE SUBMISSION PROCESS

A13-A24

The application was publicly notified on 17 May 2002, and the period for submissions closed on 19 June 2002. Six submissions were received four of which were in support and two which opposed the application. Please refer to attached pages A13 to A23 for copies of the submissions that were received. A map showing the location of the submitters is attached at page A24.

6.1 Submissions

The submissions in support of the application are as follows:

- Louise Dyet: 62 Anich Road, Massey, Auckland (owner of 10 Twin Wharf Road).
- Supports the removal of the tree for safety reasons. She considers the proximity of the tree to overhead power lines and the foot path make it a public safety issue especially when it rains. Mrs Dyet supports immediate removal of the tree.
- Mr William Dyet: 1/687 East Coast Road, Browns Bay (owner of 10 Twin Wharf Road).
- Supports the removal of the tree for safety reasons and recalls that the fire brigade have been previously called to douse a fire at the top of the tree after sparking had set it alight. He considers constant remedial work to the tree has made it unsightly and although transplanting may be possible he feels the tree may still die through pruning.
- Mr Rob Green: 5 Twin Wharf Road.
- Supports removal of the tree as soon as possible.
- Patricia Williams: 129 Ferry Parade (1 Twin Wharf Road).
- Supports removal of the tree as it is dangerous and conflicts with the electricity supply to the local community. She seeks a grant towards the application. Attention was also brought to other Phoenix Palms located outside 121 and 119 Ferry Parade in relation to their proximity to power lines.

The submissions in opposition of the application are as follows:

- *FJ Smith: 39 The Terrace, Herald Island, opposes the removal of the tree due to the length of time it takes to grow and a desire for it to be enjoyed by their grandchildren.*
- *Mrs S Dodge: 66 The Terrace, Herald Island, opposes the removal of the tree as it and the Morton Bay Fig (located on the opposite side of Twin Wharf Road see Fig 3 on page 5 of the agenda report) give character to the Island and too many trees have already been removed from the Island. Mr Fred Tubb, an identity of the Island, planted the tree. Mrs Dodge wishes instead that more trees were planted for the enjoyment of those who live there.*

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. Therefore the Proposed Plan is considered to have greater weight in this particular case.

7.2 Non-Complying Activities

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 pages A26 to A29 attached to this report. This should be referred to as the legal framework within which the application should be addressed.

As noted, the proposal requires consideration as a non-complying activity under the provisions of the Resource Management Act 1991. Section 105(2A) of the Resource Management Act 1991 sets a threshold test which all resource consent applications for non-complying activities must first pass before a consent authority has jurisdiction to grant consent, having 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.

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.

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 on the environment.

8.1.2 Water Quality and Quantity

The subject site is not located near a water body or stream. Further, the site is grassed and would remain grassed if the tree were to be removed. For the aforementioned reasons it is considered there would be no adverse effect on water quality or quantity from the proposal.

8.1.3 Native Vegetation, Vegetation and Fauna Habitat

A25-A29

The application has been assessed by Andrew Richards of Council's Field Services Department. Mr Richard's full report is attached at pages A25 to A29 in Appendix Five but is summarised below.

The subject palm is not a good example and still relatively young. These palm types are not protected in many areas of Waitakere City and are commonly known as weed species. They have high maintenance requirements when growing in high use sites and can cause serious injury to persons and damage to property if not cared for and respected.

The site the subject palm grows in has limitations, which include the overhead lines and the footpath and carriageway alongside. These confines limit the potential of the palm and consideration needs to be given its retention at this location.

The immediately surrounding site is well vegetated with a splendid maturing Moreton Bay Fig (see Fig 3 page 3) located opposite and younger trees, but still protected because of their height, growing within the front yard of the residential site immediately behind the subject palm. The retention of these plant specimens would reduce any loss to the site's amenity values the removal of the palm would bring about.

The subject palm would continue to increase in height and therefore infringe on the overhead lines above. The required pruning to establish a safe distance between the palm and the overhead lines would kill the tree within an estimated 1-2 years. The transplanting of the subject palm is not a viable option, as is the removal or otherwise of the overhead lines. This leaves the removal of it and the replanting of appropriately selected trees in well-chosen site nearby as a satisfactory outcome.

Mr Richards recommended conditions of consent related to the removal of the tree and subsequent replanting in the nearby reserve. If consent were granted, those recommendations would be included as conditions of consent.

For these reasons it is considered the removal of the tree would not cause an adverse effect on the vegetation habitat and its removal would cause positive effects due to its lack of visual appeal and potential hazardous nature.

8.1.4 Land / Soil

There would be no adverse effects on soil/ existing landform as a result of the proposed activity as the site is within the urban area and is already modified.

8.1.5 Air

As the site is within the urban area and the proposed activity does not include air emissions of any kind, there would be no adverse effects on air quality.

8.1.6 Ecosystem Stability

Growing on the opposite side of the road from the subject palm there is a large Moreton Bay fig (*Ficus macrophylla*) and other vegetation (mix of exotic and native plant species of which many of the exotics are weed species). Notably below the Moreton Bay fig there are many young phoenix palms establishing themselves. As mentioned this is indicative of the way phoenix palms will seed themselves into new areas and one of the reasons why they are considered a problem plant.

As the site is within the urban area and the existing environment is already modified there would be no adverse effects on the stability of ecosystems as a result of the proposal.

8.1.7 Outstanding Natural Features; Landforms, Geological Sites

The subject site is not identified in the Proposed District Plan as being within an area identified as containing "outstanding natural features" within the City (refer Maps 3.5D and E). The site is within the urban area of the city and the environment is already extensively modified and therefore the proposed activity would not adversely affect any identified outstanding natural features.

8.1.8 Natural Character of Coast and Margins of Lakes, Rivers and Wetlands

It is recognised that Herald Island is a small Island predominantly surrounded by the sea however, the tree is located on a central part of the Island and the Coast is not readily visible from the tree and visa versa. For that reason it is considered there would be no adverse effects in relation to the natural character of the coast arising from the proposed activity.

8.1.9 Outstanding Landscapes

The subject site is not identified in the Proposed District Plan as being within an area identified as "outstanding landscape" within the City (refer Map 3.6B). Further, the site is within the urban area of the Island and the environment is already extensively modified and therefore the proposed removal of the tree would not adversely affect any identified outstanding landscapes.

8.1.10 Amenity Values - Health and Safety, Landscapes, Local Areas and Neighbourhood Character

- *Visual amenity, streetscape, sense of place, neighbourhood character, amenity values, views, on site amenity, adequate open space.*

It is recognised that the Phoenix Palm has historic and aesthetic value to a number of residents on the island. The subject palm is not a good example and still relatively young. These palm types are not protected in many areas of Waitakere City and are commonly known as weed species. They have high maintenance requirements when growing in high use sites and can cause serious injury to person and damage to property if not cared for and respected.

The area immediately surrounding the subject site is well vegetated with a splendid maturing Moreton Bay Fig (listed tree #114 shown in Fig 3 on page 3), located on the opposite side of Twin Wharf Road from the subject tree, and younger trees, which are protected because of their height, growing within the front yard of the residential site immediately behind the subject palm. The importance of trees to the residents of Herald Island was noted in the submission made by FJ Smith. It is considered the retention of the other plant specimens in the immediately surrounding area would reduce any loss to the sites amenity values the removal of the palm brings about.

- *Traffic generation, on-street parking, driver safety, pedestrian safety, roading capacity and roading network, traffic noise, vehicle movements, access and driveway manoeuvring, driveway width and gradient.*

It is estimated that it would take approximately two to three hours to remove the tree from the site and that it would be likely some of the width of the road would be blocked when that removal took place. Further, it is recognised that Twin Wharf Road serves the Herald Island wharf and weekends would be more likely to attract recreational users on the road. Conditions of consent would require the tree to be removed on a weekday when it is considered there would be less vehicle movements along Twin Wharf Road. Further, that condition would require the removal to be done wholly on one day. Due to Twin Wharf Road being a cul de sac and a local road with low vehicle movements it is considered the limited time anticipated to remove the tree coupled with the condition requiring a weekday removal would ensure any traffic effects would be no more than minor.

- *Noise, odour, dust, vibration.*

It is considered any adverse noise, dust, vibration effects associated with the removal of the tree would be limited to the two to three hours of its removal and would be less intrusive if the tree were to be removed on a weekday (as alluded to above).

8.1.11 Heritage

It is recognised that there is a need to protect and preserve Waitakere City's heritage items as they aid in linking the current City to its past. Further, as was alluded to in the submission made by Mrs S Dodge, recognition of Mr Tubb's importance to the Island should be continued. In this instance it is considered more appropriate for that recognition to be made by way of a quality planting in the nearby reserve as the subject tree is in a dilapidated state.

8.1.7 Summary

It is considered the tree has, over time, deteriorated to the point that it would die in the foreseeable future. Further, its proximity to the overhead power lines has caused sparking and it is thought of as being hazardous to those in close proximity to it. In addition, it is considered the subject tree is not a unique specimen.

It is the report writer's opinion that the potential adverse effects of the proposed activity are no more than minor and can be adequately mitigated through appropriate conditions of consent. Further, having regard to the meaning of the word 'effect', the potential adverse effects are such that this activity can meet the requirements of Section 104(1)(a).

8.2 District Plan Considerations (104(1)(d)): Relevant Objectives, Policies, Rules and other provisions of a Plan or Proposed Plan

8.2.1 Proposed District Plan

8.2.1.1 Rules and Assessment Criteria

The District Plan provides a range of assessment criteria to be considered in relation to the prospective removal of a Heritage Tree and these have been used as a guide in considering the proposal and are discussed below.

Assessment Criteria

The proposed Plan outlines assessment criteria which should be addressed for any work or activity affecting heritage vegetation. The following are matters which should be considered:

- A statement of the significance of the heritage vegetation.
- The condition of the heritage vegetation.
- The effects on the significance of the tree of the work of activity to be carried out.
- Measures proposed for retaining the health and significance of the heritage vegetation.
- The expert advice that has been received regarding the proposal.
- 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.

A25-A29

As commented by Councils Field Service department the Phoenix Palm is in a poor state of health due to the continual pruning given its location under power lines. That Department considered the tree would die in the near future if pruning were to continue and that it would be more appropriate for planting to be undertaken elsewhere. That compensatory planting could also recognise the importance of Mr Tubb to the Island. A more detailed assessment of the state of the tree is attached at page A25 to A29 in Appendix Five. For these reasons it is considered the assessment criteria have been met and the removal of the tree is appropriate and would not cause adverse effects on the immediately surrounding area.

8.2.1.2 Policies and Objectives

A30-A33

A copy of the relevant Objectives and Policies related to this development are contained in Appendix Six as attached at pages A30 to A33. The applicants propose to remove a heritage tree from the subject site. There is no information in Council records describing why the tree was protected and it is considered that the subject tree is not a unique specimen worthy of further protection. In addition, as discussed previously, pruning of the tree due to its proximity to overhead power lines has left it in a dilapidated state and unlikely to survive. Further, it is noted that Phoenix Palms are listed in the Removable Vegetation Appendix of the Proposed Plan.

- Objective 10 and Policy 10.27 seek to maintain and enhance those natural and physical characteristics that contribute to the well being of residents.
- Objective 11 and Policy 11.2 seek 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 building) features which contribute to the amenity value and the neighbourhood character of an area.

It is considered the proposal is consistent with these objectives and policies as the subject tree is not a unique specimen worthy of further protection. Further, pruning of the tree due to its proximity to overhead power lines has left it in a dilapidated state and unlikely to survive. In addition, it is noted that Phoenix Palms are listed in the Removable Vegetation Appendix of the Proposed Plan.

- Objective 12 and Policies 12.1 and 12.5-12.8 seek to manage the effects of activities on the City's valued heritage in a way that -
 - Maintains its variety and complexity;
 - Recognises and protects its national, regional and local significance;
 - Protects the links between particular heritage objects and the surrounding context;
 - Integrates that heritage with people's everyday lives; where possible and appropriate.

It is recognised that there is a need to protect and preserve Waitakere City's heritage items as they aid in linking the current City to its past. Further, a recognition of Mr Tubb's importance to the Island should be continued. In this instance it is considered more appropriate for that recognition to be made by way of a quality planting in the nearby reserve. That recognition of the Man rather than the existing tree would be appropriate and consistent with the above objective and policies.

It is therefore considered the proposal 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 subject to conditions any adverse effects arising from the proposal would be insignificant or no 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.
 - 2.5.1.7 To preserve and protect a representative range of the Region's heritage resources.
- 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.
- Heritage Objectives -
 - 6.3.1 To preserve or protect a diverse and representative range of Auckland Region's heritage resources.
 - 6.3.2 To protect and restore ecosystems and other heritage resources, whose heritage value and/or viability is threatened.

- Policies -
 - 6.4.1.3 The use and development of natural and physical resources shall be controlled in such a manner that:
 - 6.4.1.3(i) The values of heritage resources of regional significance are preserved or protected from significant adverse effects.
 - 6.4.10.2 In the restoration and rehabilitation of heritage resources, opportunities should be taken which ensure that, where appropriate resources are replaced by those of a similar type and size and in revegetation work, use the indigenous species naturally occurring in the general vicinity.
 - 6.4.16 The significance of cultural heritage resources in the Region, and the identification of the qualities and values which give rise to their significance, shall be determined.

It is considered that the proposal is not contrary to the above objectives and policies given the tree's current state of health and its proximity to overhead power lines. Further, the trees removal is consistent with the principles of sustainable management and any off-site effects would be controlled through a condition of consent limiting the hours the removal could take place.

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

8.4.1 Addressing Concerns of Submitters Opposing Application

Submitter	Concerns	Planning Assessment
FJ Smith	Length of time to grow Phoenix Palm and wish for it to be enjoyed by grandchildren.	It is considered the health of the tree as referred to by Field Services coupled with its approximation to power lines means it is likely it would die in the near future. Further, trees of this type are considered to be dangerous in this setting given its proximity to the road reserve.
Mrs S Dodge	Character of the Island. Recognition of Mr Fred Tubbs.	It is acknowledged that there is a need to provide a link from the City's current state to its past. Given the state of the tree it is considered more appropriate to plant vegetation in the nearby reserve recognising Mr Tubbs. If that is done the species chosen would be able to grow in a more receptive setting.

8.4.2 Monitoring

The performance of the activities under this consent will be subject to Council's standard monitoring procedures. These procedures include scheduled inspections to ascertain compliance with conditions of consent, together with periodic inspections as and when required to establish whether conditions are being complied with on an ongoing basis.

9.0 PART II OF THE RESOURCE MANAGEMENT ACT 1991

It is considered that the proposal would 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 would allow for the removal of a tree without detracting from the visual amenity of heritage of Herald Island. Further, the trees removal would prevent a potentially hazardous situation and comments received from Council's Field Services Department point to the tree not being unique to the island or the Region and a poor specimen.

"It is considered that the granting of this application would not be contrary to the purpose of the Act. The proposal will enable people and communities to provide for their economic, social and cultural well-being and their health and safety without significantly compromising the needs of future generations or the life supporting capacity of natural resources such as air, water and soils. Through the imposition of appropriate conditions of consent, it is considered that the proposed activity can sufficiently avoid, remedy or mitigate any adverse effects on the environment."

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

The threshold test in Section 105(2A) of the Resource Management Act 1991 states that a consent authority must not grant consent to a non-complying activity unless it is satisfied that the adverse effects on the environment will be minor (105(2A)(a)) or the activity will not be contrary to the objectives and policies of a plan or proposed plan (105(2A)(b)). As discussed in Section 7.0 of this report very little weight shall be given to the objectives, policies and rules of the Transitional Plan as the Proposed Plan is considered to be the dominant document.

It is considered that the threshold test for a non-complying activity has been met as the proposal satisfies Section 105(2A) in that, subject to appropriate conditions of consent requiring mitigation, the adverse effects on the environment of the proposal will be no more than minor and the proposal is not contrary to the relevant objectives and policies of the Proposed District Plan. Jurisdiction to grant consent has therefore been established.

CONCLUSION

The applicant seeks consent to remove a Phoenix canariensis (Canary Island Palm/Phoenix Palm) from the road reserve outside the property located at 10 Twin Wharf Road, Herald Island. The tree is identified in the Waitakere City proposed District Plan as being a listed tree (Ref No. 113).

The tree is located in the Transport Environment and General Natural Area in the proposed District Plan and the Non-Urban Residential 3 Zone of the Transitional District Plan (Waitemata Scheme).

It is considered that the proposal meets the criteria for granting consent as the potential adverse environmental effects are no more than minor and can adequately be mitigated through the imposition of appropriate conditions of consent. It is considered that the removal of the Phoenix Palm will not lead to a decline in the amenity values of the area in which it is currently located. Further, the proposal is considered to be consistent with the objectives and policies of the Proposed Plan. For the aforementioned reasons it is considered the proposal meets the Section 105 threshold test.

It is considered that the issues raised by the submitters **have been** addressed in the assessment of effects contained in section 8 of this report, for example the likelihood that the tree would die in the foreseeable future.

Subject to any additional and/or contrary evidence being presented at the hearing, it is concluded that the application **merits consent** 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 granted to the application by Waitakere City Council, Parks and Green Assets to remove a listed tree from the road reserve outside the property located at 10 Twin Wharf Road, being Lot 3 DP 39775 for the following reasons:

- i) The subject palm is not a good example and still relatively young. These palm types are not protected in many areas of Waitakere City and are commonly known as weed species. They have high maintenance requirements when growing in high use sites and can cause serious injury to person and damage to property if not cared for and respected.
- ii) The site the subject palm grows in has limitations, which include the overhead lines and the footpath and carriageway alongside. These confines limit the potential of the palm and consideration needs to be given its retention at this location.
- iii) The immediately surrounding site is well vegetated with a splendid maturing Moreton Bay Fig located opposite and younger trees, but still protected because of their height, growing within the front yard of the residential site immediately behind the subject palm. The retention of these plant specimens will reduce any loss to the sites amenity values the removal of the palm brings about.
- iv) The subject palm will continue to increase in height and therefore infringe on the overhead lines above. The required pruning to establish a safe distance between the palm and the overhead lines will kill the tree within an estimated 1-2 years. The transplanting of the subject palm is not a viable option, as is the removal or otherwise of the overhead lines. This leaves the removal of it and the replanting of appropriately selected trees in well-chosen site nearby as a satisfactory outcome.
- v) The proposal is generally consistent with the Objectives and Policies of the Proposed District Plan and Part II of the Resource Management Act 1991.

Consent shall be subject to the following conditions:

1. The tree shall be removed wholly on one day and between the following hours only:

Monday to Friday: 7.30 am to 7.00 pm

Saturday: 8.00 am to 5.30 pm

Sunday and Public Holidays: No work
2. The felling and removal of the subject tree shall be carried out in accordance with accepted arboricultural standards and practice, by an experienced and competent arborist and done in such away that surrounding protected vegetation is not damaged.
3. Following the removal of the subject palm, three replacement native trees of PB Grade* 95, or equivalent shall be planted in an appropriate location within Herald Island, as selected by the Parks Representative, Waitakere City Council. It shall be the responsibility of the resource consent holder to provide evidence of this replacement planting to Council's Environmental Monitoring Officer in the form of an invoice or similar.

* This is a horticultural term referring to the pint bag size the tree has been grown in. A tree nursery or garden centre will be able to advise you with respect to fulfilling the outlined requirements.
4. The replacement trees shall be of good quality nursery stock and maintained to the satisfaction of Council for a period of two years from the date of planting. If the replacement trees die within this period they shall be replaced and maintained as per the stated conditions.

Report prepared by: Hamish Anderson, Resource Planner.

