

Lessons learned from one of New Zealand's most challenging civil engineering projects: rebuilding the earthquake damaged pipes, roads, bridges and retaining walls in the city of Christchurch 2011 - 2016.

Variation to Global Tree Consent

Story: Looking after the Environment: SCIRT Global Resource Consents

Theme: Programme Management

A variation to the consent granted by the Christchurch City Council, providing consent to carry out earthquake repair work that may affect protected vegetation.

This document has been provided as an example of a tool that might be useful for other organisations undertaking complex disaster recovery or infrastructure rebuild programmes.

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Report / Decision on Change or Cancellation of Condition(s)

(Section 127)

Application Number: RMA92020557
Applicant: Christchurch City Council
Site address: Various (Global Consent)
City Plan Zoning: Various

Description of Application: Change of conditions pursuant to Section 127

Introduction

The applicant is seeking to vary the conditions of an existing resource consent (RMA92019127) which was granted on a non-notified basis by Commissioner on 20 February 2012.

The consent is to cover Council undertaking works within required setbacks from protected vegetation of all types except heritage trees (any work within required setbacks from heritage trees will require a separate consent). The works covered included the rebuild works to horizontal infrastructure required post the Canterbury earthquake sequence of 2010 and 2011, and general Christchurch City Council maintenance, repair and upgrading of roading and public utilities and structures.

The proposed change to conditions has been canvassed with a number of Christchurch City Council and City Care staff (including the City Arborist –). advises that he is satisfied that the proposed amendment is acceptable.

The applicant proposes wording amendments to Condition 8 to allow the pruning of roots greater than 25 mm (with the consent of the City Arborist) by means other than severance with shears or pruning saw, carried out by a suitably qualified arborist. If roots have penetrated pipework, shears and saws cannot be used, and specialised machinery is instead utilised to sever the root, this also rules out the severing being carried out by the arborist.

Condition 8 in its *original* and *proposed* form is repeated below:

- 8.** *All roots larger than 25mm diameter shall be retained in an undamaged state and protected, unless the City Arborist gives permission in advance for them to be cut. No roots shall be cut if this will have a significant adverse effect on the health and stability of the tree. Where consent is given to cut roots they shall be severed cleanly with a saw or pruning shears by a suitably qualified arborist. The name and qualifications of the arborist shall be submitted to Council through the Contract Quality Plan.*
- 8.** *All roots larger than 25mm diameter shall be retained in an undamaged state and protected, unless the City Arborist gives permission in advance for them to be cut.*
- *No roots shall be cut if this will have a significant adverse effect on the health and stability of the tree.*
 - *Where the consent is given to cut roots they shall be:*
 - *severed cleanly with a saw or pruning shears by a suitably qualified arborist, or*
 - *where pipes are not exposed by excavation and roots are located within public service pipes by machinery specific to the purpose of clearing the root blockage*
 - *The name and qualifications of the arborist shall be submitted to Council through the Contract Quality Plan*

A variation to condition 24 was also proposed to correct a cross reference to condition 25 that should have been to condition 23. This matter was dealt with by a minor amendment under s133A shortly after the consent was approved. This issue is not further canvassed here.

The consent – as noted above – is a global consent and is to be implemented across the city area. Consequently any discussion of existing and/or surrounding environment is of no practicable utility in considering the variation proposed.

Statutory Considerations

Section 127 of the Resource Management Act 1991 states:

“127. Change or cancellation of consent condition on application by consent holder

- (1) *The holder of a resource consent may apply to the consent authority for a change or cancellation of a condition of a consent, subject to the following:*
 - (a) *the holder of a subdivision consent must apply under this section for a change or cancellation of the consent before the deposit of the survey plan (and must apply under section 221 for a variation or cancellation of a consent notice after the deposit of the survey plan); and*
 - (b) *No holder of any consent may apply for a change or cancellation of a condition on the duration of the consent.*
- (2) *Repealed*
- (3) *Sections 88 to 121 apply, with all necessary modifications, as if -*
 - (a) *the application were an application for a resource consent for a discretionary activity; and*
 - (b) *the references to a resource consent and to the activity were references only to the change or cancellation of a condition and the effects of the change or cancellation respectively.*
- (4) *For the purposes of determining who is adversely affected by the change or cancellation, the local authority must consider, in particular, every person who -*
 - (a) *made a submission on the original application; and*
 - (b) *may be affected by the change or cancellation.*

Planning Framework

The Christchurch City Plan became operative in part on the 21 November 2005. All rules applicable to this application are operative and therefore assessment is only required under the City Plan.

The consent is a global one and thus subject sites are variously zoned under the City Plan. Pursuant to Section 127 (3) the proposal is to be assessed as a discretionary activity.

Type of Application

The first consideration that is required is whether the application can be treated as one for a change of conditions or whether it will result in a fundamentally different activity or one having materially different adverse effects, such that it should be treated as a new application. The original application sought to allow Council to undertake required utility related works within setbacks required from protected vegetation, and set parameters for, among other things, the pruning of roots over 25mm in diameter. In my opinion this application can be considered as a variation to the original resource consent as the nature of the activity will not fundamentally change and the adverse effects will not be materially different from those associated with the original consent. The proposed variation results simply in a more practicable process for pruning of root material where it is found to have penetrated pipework.

Has the applicant requested that the application be publicly notified? [Section 95A(2)(b)]

No

Actual and potential effects on the Environment [Section 95A and Section 104(1)]

I consider that the effects on the environment associated with the change/cancellation of conditions relate to the impact on protected vegetation of root removal (and of the use of the specified method). The applicant has

carried out an assessment of the likely effects of the change to the condition which I accept in full. It is repeated here:

"In regard to the removal of roots within pipes, for the vast majority of situation there will be no adverse effects on the trees, particular with removal of root balls where the majority of roots are small even though the ball itself may be of considerable size.

In the few cases where the roots entering the pipes are very large it is likely that the City Arborist will be able to determine whether the cutting of the root will adversely affect the health of the tree. It would then be a decision as to whether the tree is required to be removed as well as the root being cut.

In these situations roots cannot be left within pipes and even if a pipe has to be removed and replaced it will likely require cutting of the identified root. For obvious reasons this cannot be undertaken by an arborist and the will be undertaken by machinery specifically developed to clear the pipes, this could be either hand or motor operated.

There will be no adverse environmental effects from the use of this specific machinery.

It is also noted that condition 17(iii) of the consent does allow for the removal of street trees if they are causing serious damage to essential public or private services or property."

I consider that the scale of effect associated with the change of condition is insignificant and I am satisfied that the oversight of the City Arborist of any works carried out under this consent will continue, even with the addition of new means of root severance where this is required, to provide an acceptable outcome in terms of preservation of protected vegetation where that is able to be achieved.

Despite the above, do any special circumstances exist in relation to this application which would lead you to conclude that the application should be publicly notified? If the answer is yes, why? [Section 95A(4)]

No

Recommendation (A): That, for the reasons outlined above, the application **need not be publicly notified** in accordance with Section 95A of the Resource Management Act 1991.

Who may be considered to be adversely affected by the change or cancellation of condition(s)? Identify the properties on the attached plan. [Section 95E(1) and Section 127(4)]

As for the original approval I do not consider that any party will be adversely affected by the proposed change of condition 8. I consider that the input required from the City Arborist to any severance of roots over 25mm in diameter will adequately mitigate any adverse effects, and further I consider that the means of severing the root (if required) is inconsequential. No party will be affected by severance of a root greater than 25mm by a specialised machine rather than by a saw or pruning shears.

Recommendation (B): That the application be processed on a **non-notified** basis in accordance with Sections 95A – 95F of the Resource Management Act 1991.

How do any relevant objectives, policies, rules or other provisions of the City/District Plan relate to the proposal? [Section 104(1)(b)(iv)]

The relevant objectives and policies essentially seek to maintain and enhance the City's natural features and habitats, and maintain amenity through the retention of tree cover and promulgation of the Garden City identity.

In my opinion this proposal is consistent with the objectives and policies as it does not depart from the intent of the original resource consent, and makes minor changes only to the methods that may be utilised (under supervision of an arborist) to sever any larger roots.

Is the application consistent with Part II of the Act, and are there any other matters which are relevant and reasonably necessary to determine the application? [Section 104(1)]

The proposal is considered to be consistent with Part II matters in that the proposal will maintain the amenity of the surrounding environment, in accordance with Section 7(c) and 7(f) of the Resource Management Act 1991.

Recommendation (C)

That, for the reasons outlined above, the application **be approved** pursuant to Section 127 of the Resource Management Act 1991.

The conditions of consent shall now read as follows:

1. The development shall proceed in accordance with the information submitted with the application. The Approved Consent Documentation has been entered into Council records as RMA92019127 (119 pages).
2. All approved Christchurch City Council contractors shall be aware of these resource consent conditions and copies of the resource consent and these conditions shall be available for reference on each work site.
3. This consent is for works affecting protected vegetation within the CCC boundary, where protected vegetation is defined as
 - a. notable trees identified within the Christchurch City Plan, Appendix 4 to Part 10 Volume 3,
 - b. Scheduled trees within the Proposed Banks Peninsula Plan APPENDIX VII, and
 - c. Protected trees SP (Road) Zone are listed under Vol.3: Part 8 Special Purpose zones. Christchurch City Plan, or pursuant to a resource or subdivision consent.
 - d. Protected native vegetation. Volume 3. Christchurch City Plan
4. This consent **does not** include the pruning, disturbance or removal of any heritage trees as listed in the Schedule 4 of the Christchurch City Plan, or the removal of healthy or structurally sound protected trees and vegetation protected by either the Christchurch City Plan or the Banks Peninsula Proposed District Plan.
5. Healthy or structurally sound protected trees and vegetation (as identified in consent condition 4) may only be removed where written approval has been provided by the CCC City Arborist.
6. This consent does not include works affecting protected vegetation within Ecological Heritage Sites identified within the Christchurch City Plan.

7. Any works within 10 metres of a notable or scheduled tree on private land will require that landowners are notified at least 5 working days before works are to be undertaken.

8. ~~All roots larger than 25mm diameter shall be retained in an undamaged state and protected, unless the City Arborist gives permission in advance for them to be cut. No roots shall be cut if this will have a significant adverse effect on the health and stability of the tree. Where consent is given to cut roots they shall be severed cleanly with a saw or pruning shears by a suitably qualified arborist. The name and qualifications of the arborist shall be submitted to Council through the Contract Quality Plan.~~

All roots larger than 25mm diameter shall be retained in an undamaged state and protected, unless the City Arborist gives permission in advance for them to be cut.

- **No roots shall be cut if this will have a significant adverse effect on the health and stability of the tree.**
- **Where the consent is given to cut roots they shall be:**
 - **severed cleanly with a saw or pruning shears by a suitably qualified arborist, or**
 - **where pipes are not exposed by excavation and roots are located within public service pipes by machinery specific to the purpose of clearing the root blockage**
- **The name and qualifications of the arborist shall be submitted to Council through the Contract Quality Plan**

9. In regard to works affecting roots and root plates

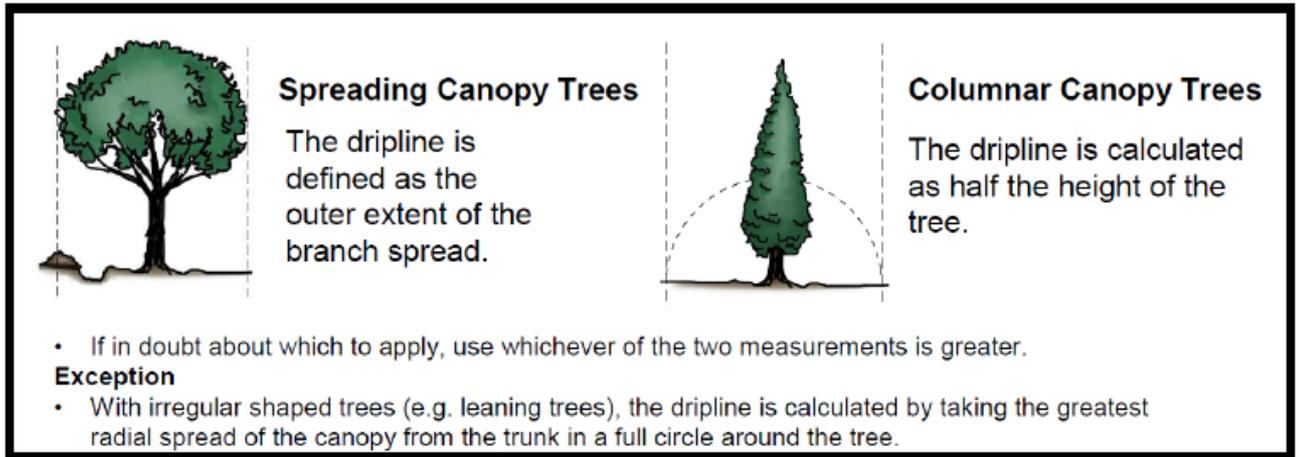
- a. No ripping or tearing of roots (including the root plate itself) is to occur.
- b. Any exposed roots shall immediately be covered in moist sacking or scrim, polythene or similar material immediately after being exposed.
- c. Root covers shall be kept in place and moist at all times,
- d. Backfill shall be placed as soon as possible and comprise of high quality topsoil (70% first grade topsoil and 30% coir¹), or similar product approved by the Council. The backfill shall be mixed thoroughly before being placed.

10. Disposing of water used for washing down machinery within 10.0 metres of the base of any protected tree is prohibited unless the run off is on existing sealed surfaces, and runoff is not released directly into or onto the root plate.

11. All underground services within 10 metres of the trunk of a notable tree or within 5 metres of the trunk of any other protected tree shall be installed by trenchless methods wherever practical.

12. All excavations include street and infrastructure excavation and within the dripline distances indicated in the diagram below shall be carried out by hand wherever practical. Care shall be exercised while excavations are carried out to ensure root damage is minimised.

¹ As specified in the CCC Civil Engineering Construction Standard Specifications.



13. All underground services depths shall be in accordance with the provisions of the Infrastructure Design Standard.

Notable Trees and Scheduled Trees

14. Any works within 10.0 metres of a **notable** tree (identified with the CCP), or within the drip-line of a scheduled **notable** tree (identified in BPPDP) shall be communicated to Council City Arborist at least 5 working days before such works are to be carried out. The City Arborist shall determine whether or not a supervising Arborist is to be in attendance for the duration of the works.

15. To protect the root systems of any notable tree:

- any heavy machinery used during any works should avoid wherever possible coming within 10.0 metres of the base of the tree unless on existing sealed surfaces,
- materials including but not limited to chemicals and fuels, shall not be stored within 10.0 metres of the base of the tree unless on existing sealed surfaces, and
- machinery/vehicles shall not parked under the crown of the tree during the proposed work unless on existing sealed surfaces.

Protected trees within a Special Purpose Road Zone

16. Where a tree identified within the Special Purpose Road Zone is also a scheduled notable tree the conditions set for notable trees shall apply.

17. Where any protected tree is **not**:

- dead, dying or diseased
- presenting an immediate hazard due to structural weakness or root instability, or
- causing serious damage to essential public or private services or property

- a) Pruning of the tree below a height which is two thirds of the total height of the tree measured from ground level, and where the width of pruned branches is greater than 50mm in diameter, or
- b) Removal of the tree

shall require communication to the City Arborist at least 5 working days prior to the works being undertaken, who will determine whether or not a supervising Arborist is to be in attendance for the duration of the works.

- 18. Where a tree has been removed, wherever possible they shall be replaced in an appropriate location and be of the same or a complementary species.
- 19. To protect the root systems of any notable tree:
 - a. any heavy machinery used during any works should avoid wherever possible coming within 10.0 metres of the base of the tree unless on existing sealed surfaces,
 - b. materials including but not limited to chemicals and fuels, shall not be stored within 10.0 metres of the base of the tree unless on existing sealed surfaces, and
 - c. Machinery/vehicles shall not be parked under the crown of the tree during the proposed work unless on existing sealed surfaces.

Protected trees within zones and scheduled activities; other than the SP Road Zones, native vegetation within Conservation Zones, notable and heritage trees, and Ecological Heritage Sites (EHS).

- 20. Trees removed during works in these zones will be either
 - a. replaced with the trees as identified within the appropriate zones rules, or
 - b. where replanting is not possible, alternative amenity and screening solutions must be undertaken.

Protected trees pursuant to a resource or subdivision consent

- 21. Any works affecting a tree protected pursuant to a resource or subdivision consent shall be communicated to Council City Arborist at least 5 working days before such works are to be carried out. Council or Council approved Arborists (as identified in the attached advice note), may attend the site of the proposed works should it be considered necessary.

Protected native vegetation within Conservation Zones

Where removal of any vegetation indigenous to the site is for activities other than reasons identified in Part 5:2.3.2 Vegetation removal, the following conditions (22 – 25) are triggered.

- 22. All works including but not limited to pruning and removal of native vegetation for the repair of infrastructure shall be communicated to Council City Arborist at least 5 working days before such

works are to be carried out. Council or Council approved Arborists or plant ecologists may attend the site of the proposed works should it be considered necessary.

23. All works which require the removal of vegetation for reasons other than for those works identified under condition 17 (under protected trees within a Special Purpose Road Zone), will require the assessment by the Council City Arborist, or an approved Arborist, or plant ecologist, which ever is the most appropriate.
24. With respect to the Conservation 1 and 1A Zones, any works covered by an assessment under condition 23, will be required to consider the assessment matters under Part 4, 4.2.7 (a) and (b). of the Christchurch City Plan which apply to these sites. Assessment will include how best to mitigate any adverse effects on both the vegetation and habitat values.
25. All native vegetation removed from the site shall be replanted after activities have been completed, wherever practicable or possible. Where replanting of transplanted vegetation is not possible, planting of the same species or an alternative species appropriate to the site, shall be undertaken.

Reporting/Monitoring

26. All assessments and a list of works undertaken with regard to this consent shall be provided to the City Arborist at six month intervals from the date of this consent.

Advice Note:

For the purposes of this consent a **suitably qualified arborist** is a person who is in possession of a recognised arboriculture degree, diploma or certificate, and on the job experience, is familiar with the equipment and hazards involved in arboriculture operations, has demonstrated proficiency in inspecting, analysing and treating hazardous trees, and has demonstrated the ability to perform the tasks involved. A Certificate shall consist of a minimum of 240 credits of learning (i.e. Level 4). Acceptance of an arborist as being suitably qualified rests with the City Arborist.

Decision

That the above recommendation be adopted for the reasons outlined in the report.

Commissioner:

Name: _____

Signature: _____

Date: 8 August 2012