

IN THE MATTER OF the Resource Management Act 1991
(the 'RMA')

AND

IN THE MATTER OF Five Notices of Requirement (NoR) for
the Airport to Botany Bus Rapid Transit
Project by the Supporting Growth
Alliance (SGA - Auckland Transport and
Waka Kotahi NZ Transport Agency)

DIRECTION OF THE HEARING PANEL – WAIVER OF TIME LIMIT

1. Pursuant to sections 34 and 34A of the RMA, Auckland Council (the Council) has appointed a Hearing Panel consisting of three independent hearing commissioners - David Wren (Chair), Alan Pattle and Basil Morrison. The Hearing Panel's function is to hear the applications and submissions and make recommendations to the Requiring Authority on the five Notices of Requirement. It is also to deal with any procedural matters.
2. The five NoR's are:

NoR 1 - Bus Rapid Transit - Botany to Rongomai Park (Auckland Transport)

NoR lodged by Auckland Transport for a new designation to widen Te Irirangi Drive between Botany and Rongomai Park to provide for a Bus Rapid Transit corridor and walking and cycling facilities.

Key features of the proposal include:

- a dedicated Bus Rapid Transit corridor, centre-running along Te Irirangi Drive
- Bus Rapid Transit stations at Smales Road, Accent Drive, and Ormiston Road – Botany Junction Shopping Centre
- walking and cycling facilities on both sides of the corridor
- swales and wetlands
- areas for construction related activities including yards, site compounds, and bridge and structure works.

NoR 2 - Notice of Requirement: Rongomai Park to Puhinui Station (in the vicinity of Plunket Avenue) (Auckland Transport)

NoR lodged by Auckland Transport for a new designation to widen a number of existing roads to provide for a Bus Rapid Transit corridor and walking and cycling facilities.

Key features of the proposal include:

- a dedicated Bus Rapid Transit corridor, centre-running for the majority of the corridor along Te Irirangi Drive, Great South Road, Ronwood Avenue, Manukau Station Road,

Lambie Drive, and Puhinui Road. West-running on Davies Avenue along the edge of Hayman Park

- Bus Rapid Transit stations at Dawson Road, Diorella Drive, Ronwood Avenue, Manukau Station, and the corner of Lambie Drive and Puhinui Road Station.
- walking and cycling facilities on both sides of the corridor
- priority access for fire engine movements across the Bus Rapid Transit corridor at Papatoetoe Fire Station
- new signalised intersections at Mitre 10 and Bunnings Warehouse, Lambie Drive and Ronwood Avenue, and Puhinui Road and Plunket Avenue
- swales and wetlands
- areas for construction related activities including yards, site compounds, and bridge and structure works.

NoR 3 - Notice of Requirement: Bus Rapid Transit – Puhinui Station (in the vicinity of Plunket Avenue) to SH20/20B Interchange (Auckland Transport)

NoR lodged by Auckland Transport for a new designation to widen the existing Puhinui Road between Plunket Avenue and east of the SH20/SH20B Interchange to provide for a Bus Rapid Transit corridor and walking and cycling facilities.

Key features of the proposal include:

- a dedicated Bus Rapid Transit corridor, centre-running along Puhinui Road connecting to the Puhinui Station concourse via a new Bus Rapid Transit bridge structure
- a Bus Rapid Transit station at Puhinui Station
- walking and cycling facilities on both sides of the corridor
- walking and cycling facilities will be provided along Cambridge Terrace, Bridge Street and Kenderdine Road
- wetland
- areas for construction related activities including yards, site compounds, and bridge and structure works.

NoR 4a - Notice of Requirement: Bus Rapid Transit - SH20/20B Interchange to Orrs Road (Auckland Transport)

NoR lodged by Auckland Transport for a new designation to widen Puhinui Road between the SH20/SH20B Interchange and Orrs Road to provide for a Bus Rapid Transit corridor and walking and cycling facilities.

Key features of the proposal include:

- a dedicated Bus Rapid Transit corridor, centre-running on Puhinui Road through to the Manukau Memorial Gardens intersection (approximately 600m west of SH20/SH20B Interchange); and south running to Orrs Road
- walking and cycling facilities on southern side of the corridor
- swales

- area for construction related activities including yards, site compounds, and bridge and structure works.

NoR 4b - Notice of Requirement: Alteration to Designation 6717 State Highway 20B – State Highway 20 to Auckland International Airport (Waka Kotahi NZ Transport Agency)

NoR lodged by Waka Kotahi NZ Transport Agency to alter Designation 6717 State Highway 20B - State Highway 20 to Auckland International Airport. The alteration is from the SH20/SH20B Interchange to Manukau Memorial Gardens.

Key features of the proposal include:

- to provide westbound lanes to Auckland Airport
- walking and cycling facilities
- a ramp from SH20B onto SH20 for southbound traffic while enabling a Bus Rapid Transit corridor.

3. The NoR's have been the subject of notification and submissions have been received. The submission period closed on 11 April 2023.
4. On 11 May 2023, Auckland Council was advised by Jonathan Cutler of Planning Initiatives Limited that his clients, East Tamaki Investments Ltd and Beale Partnership had not been notified of the NoR's due to the incorrect address for service being used. Mr Cutler also advised Auckland Council on 17 May 2023 that his client, Howard Property Ltd had also not received notice of the NoR's due to the same reason. All three parties are affected by the proposals and intended to make submissions.
5. On 25 May 2023, submissions were received from East Tamaki Investment Ltd, Beale Partnership and Howard Property Ltd. As these submissions were received outside the timeframe for doubling submissions, the agreement from the Requiring Authority was sought as per s37A(2)(b) of the RMA. The Requiring Authority responded on 31 May 2023 as follows:

“Further to the email below and the attached submissions, Auckland Transport understands the submissions are 30 working days late (from the end of notification), which means the submitters had a substantial period to prepare and lodge a submission.

Acknowledging this point and the lack of justifiable reason to extend the timeframes, Auckland Transport's position is that it does not agree with accepting the three late submissions (Howard Property Ltd, East Tamaki Investments Ltd, and Beale Partnership).”

6. The hearing panel has considered the request to waive the timeframes and must decide to either accept or reject these late submissions. It has weighed up the reasons provided from the submitter's agent for the lateness against the Requiring Authorities non-agreement to accept the late submissions.

7. In this instance, the Hearing Panel considers there are special circumstances under s37A(4)(b)(i) being the incorrect address for service being used for these three affected parties. The Hearing Panel believe that it is unduly harsh and procedurally unfair to begin the deadline timer from the time the notices were sent to the wrong address, and the time really ought to begin from the time the notices were actually received. The Hearing Panel believe the notices were received early-mid May, therefore the receipt of the submissions on 25 May 2023 is well within the initial time period (without even the need for an extension). On that basis it seems there is scope to accept the submissions.
8. It is also noted that the S42A report that was released on Friday 2 June 2023 provides commentary of these three submissions commencing on page 213 of the hearing agenda.
9. The Hearing Panel has determined that:
 - (a) No persons' interests will be adversely affected by the waiver as it does not result in any time delay or additional steps in the notice of requirement;
 - (b) The interests of the community in achieving adequate assessment of the effects of the notice of requirement will be achieved as the submitters raise valid concerns arising from the notice of requirement; and
 - (c) Accepting the submissions will not interfere with the Council's duty to avoid unreasonable delay and provides natural justice and procedural fairness to the submitters.
 - (d) Special circumstances apply given the delay in the submitters receiving the notification of the NoRs.
10. The Panel directs, under section 37A of the RMA that the late submissions from East Tamaki Investment Ltd, Beale Partnership and Howard Property Ltd on NoR1 be accepted in accordance with s37A(4)(b)(i).
11. Any correspondence relating to this Direction and related matters should be sent to the Hearings Advisor, Mr Donovan via bevan.donovan@aucklandcouncil.govt.nz.



David Wren (Chair)
for the Hearing Panel
12 June 2023