

## Recommendation to the Ministry of Education for an alteration to an existing Designation 4992 Sir Keith Park School, Robertson Road, Māngere under section 181(2) the Resource Management Act 1991

### Recommendation of Commissioner on a Notice of Requirement by the Minister of Education for an alteration to Designation 4992 Sir Keith Park School, Robertson Road, Māngere in the Auckland Unitary Plan (operative in part).

The Commissioner appointed by the Auckland Council to consider the proposal recommends to the Ministry of Education that the notice of requirement be **CONFIRMED** subject to conditions.

#### Introduction

1. This recommendation is made on behalf of the Auckland Council (“**the Council**”) by Independent Hearing Commissioner Janine Bell (sitting alone) appointed and acting under delegated authority under section 34A of the Resource Management Act 1991 (“**the RMA**”).
2. The notice of requirement (“**NOR**”) was referred to the Commissioner for recommendation. This report assesses the NoR under section 171 of the Act. This report addresses the issues surrounding the alteration, the submission received and contains a recommendation to the Requiring Authority under section 171(2) of the Act.

#### Background

3. Pursuant to section 181 of the RMA, the Minister of Education (“**the Minister**”) as the requiring authority, has lodged a NoR to alter the boundaries of existing designation 4992 Sir Keith Park School to include a property at 31 Robertson Road, Māngere. The Crown has purchased the property at 31 Robertson Road and removed the existing houses to enable the school to expand onto the site as part of a masterplan development. Sir Keith Park School is to be redeveloped to accommodate the sustained roll growth due to a demand for specialist schooling at the site. The Minister proposes to alter the designation boundaries of the school to include this newly acquired piece of land. The proposal is more fully described in section 5 of the Assessment of Environmental Effects (“**AEE**”)¹.
4. There are currently 78 students at the base site of Sir Keith Park School and a total roll of 166 students with the other students based at satellites at other schools. There are currently 54 staff, 7 itinerant teaches and 7 teaching spaces. The proposal allows for 120 students at the base site of Sir Keith Park School. In terms of staffing, it is proposed

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¹ Incite Report, April 2022.

to expand to 40 teachers, 40 teacher aides, 12 therapists and 8 management staff, a total of 100 employees. Up to 18 teaching spaces are proposed. The acquisition of the land at 31 Robertson Road is part of a planned masterplan development of the site to accommodate the continued roll growth due to the demand for specialist schooling at the site and in the area.

5. The existing school and the adjoining sites are zoned Residential – Mixed Housing Suburban Zone while the sites located directly opposite on Robertson Road are zoned Residential Mixed Housing Urban. The land opposite the site fronting Robertson Road, between Te Motu Way and Cameo Court Road are zoned Business Local Centre these properties are occupied by residential dwellings with the exception of a large, purpose built, Congregational Church located at number 38 Robertson Road. There is also a small block of local convenience shops on the corner of Robertson Road and Hall Avenue. It is noted in the s42A report that the school site and the areas surrounding the site are located in the Auckland Light Rail Corridor. As the specific route and stations have not been confirmed, there are no zoning changes or any other planning rules proposed by the Proposed Plan Change 78 at this time. The Council notes that when this work is finalised, a variation to the Proposed Plan Change 78 will occur.
6. The Minister currently has no detailed design of the redeveloped school and as such plans for the development of the site are not included in the NoR, although a masterplanning exercise has been undertaken to show how the proposed redevelopment of the school on the existing site and acquired land can be accommodated. A feasibility plan is attached to the NoR to confirm the redeveloped school on the site is able to accommodate the planned school roll size. Abley Consultants have also undertaken a traffic assessment confirming the feasibility plan is acceptable from a transport perspective and represents a significant improvement for traffic movements associated with the site. The standard conditions for schools in the AUP (OP) will apply to the designation along with some amendments and additional site-specific conditions.



7. I visited the site and surrounding area on Sunday 18 December 2022.

## **NOTIFICATION**

8. The NoR was publicly notified on 23 June 2022 and the closing date for submissions was 22 July 2022.

## **SUBMISSIONS**

9. One submission was received from Auckland Transport in support of the proposed NoR and the proposed conditions, although it sought a minor amendment to one condition to require identification of any redundant vehicle crossings that will need to be removed as a result of changes to the current access arrangements. A copy of the submission was included as Attachment 4 to the Council's s42A report. The issue raised in the submission is addressed in Section 4.3.5 of that report.

## **MĀNGERE-ŌTAHUHU LOCAL BOARD**

10. The Māngere-Ōtahuhu Local Board considered the application at its meeting on 17 August 2022. The Board supports the NoR proposal to alter the boundaries of the existing designation for Sir Keith Park School at 33 Robertson Road, Māngere. The Local Board supports and recognises the need to accommodate the increased demand for special education schooling and the forecasted future enrolment demand. In relation to the traffic effects, the Board supports the provision of safe onsite pick up and drop off facilities for cars, taxis and taxi vans while wanting to ensure there are no major effects impacting on local traffic movements, the environment or the community as a result of the redevelopment of the school and supporting infrastructure. The Board's comments also requested the Ministry of Education and Auckland Council engage with local stakeholders including mana whenua in the development of the project.

## **PROCEDURAL MATTERS**

11. Pursuant to section 100 of the RMA, a hearing in respect of the application was not held as neither the applicant nor the submitter wished to be heard.

## **ISSUES IN CONTENTION**

12. There appears to be broad community support for the NoR. The main issues raised in relation to the NoR relate to transport concerns. These were articulated in the submission by Auckland Transport and the comments from the Māngere-Ōtahuhu Local Board. Auckland Transport supports the NoR with a minor amendments to the proposed condition 1b (iv) to require the identification of any redundant vehicle crossings that will need to be removed as a result of changes to the current access arrangements. Following discussions between the MoE's traffic consultants (Abley), Auckland Transport and the Council's traffic consultant (Mr Wes Edwards) agreement has been reached on proposed site-specific conditions.

## STATUTORY ASSESSMENT

13. The Minister of Education is a Requiring Authority in terms of s166 of the Act. The Minister has given notice to the Auckland Council of the Requiring Authority's requirements to alter Designation 4992 Sir Keith Park School to include the site at 31 Robertson Road, Māngere.
14. Section 171 of the Resource Management Act 1991 ("the Act") sets out the matters to which a territorial authority must have regard to when considering a requirement and any submissions received, and in making its recommendations to the requiring authority. Section 171 is subject to Part 2, which states the purpose and principles of the Act.
15. Section 171(1) requires:
  - (1) *When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to -*
    - (a) *any relevant provisions of -*
      - (i) *a national policy statement:*
      - (ii) *a New Zealand coastal policy statement:*
      - (iii) *a regional policy statement or proposed regional policy statement:*
      - (iv) *a plan or proposed plan; and*
    - (b) *whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if –*
      - (i) *the requiring authority does not have an interest in the land sufficient for undertaking the work; or*
      - (ii) *it is likely that the work will have a significant adverse effect on the environment; and*
    - (c) *whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and*
    - (d) *any other matter the territorial authority considers reasonably necessary in order to make a recommendation on the requirement.*

**Section 171(1)(a) – Any relevant provisions of a national policy statement, a New Zealand coastal policy statement, a regional policy statement or proposed regional policy statement, a regional plan, a district plan or proposed district plan.**

16. Pursuant to section 171(1)(a), when considering the requirement, I must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to any relevant provisions of a national policy statement, the New Zealand Coastal Policy Statement, the regional policy statement, the proposed regional policy statement and the relevant regional and district plans and proposed plans.
17. Collectively the Minister's Notice of Requirement application and the Council officer's s42A report provides a comprehensive commentary on the relevant national and regional policy statements, sections of the AUP(OP). I do not intend to repeat this material in this recommendation report; rather I rely on the application documents and the officer's report (sections 3.6 - 3.11), in relation to these matters and adopt the conclusions therein, except to indicate that the following documents were considered of particular relevance in reaching my recommendation:
  - Auckland Unitary Plan, including Chapter B Regional Policy Statement,
  - National Policy Statement on Urban Development (2020).
18. The New Zealand Coastal Policy Statement is not relevant to the consideration of this NoR.
19. No regional plans are relevant to the consideration of this NoR. Any subsequent applications to develop the site that triggers the need for resource consents under the regional plans will be applied for at that time.

**Section 171(1)(b) – Adequate consideration has been given to alternative sites, routes, or methods of undertaking the work or that it is likely that the work will have a significant adverse effect on the environment.**

20. The Ministry of Education already has an interest in the land which is proposed to be designated for educational purposes in the AUP (OP). As set out in the assessment of environmental effects and supported by the assessment in the Council officer's report (section 3.12), the works, with the imposition of appropriate conditions of consent will not have a significant adverse effect on the environment. Accordingly, it is not necessary to assess alternative sites, routes or methods.

**Section 171(1)(c) - Whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought.**

21. As set out in the NoR, the Education and Training Act 2020 empowers the Minister of Education to designate schools. The proposed alteration to the designation and its site-specific conditions are reasonably necessary to enable the school to meet the educational needs of the local community and implement its master plan for Sir Keith Park school. The designation will provide the appropriate mechanism for the Minister



to have ongoing certainty that the site can be developed and used for the purpose. In the longer term the designation provides certainty and flexibility for the operation of the facilities on site.

**Section 171(1)(d) Other matters considered reasonably necessary in order to make a recommendation on the requirement.**

**Part 2 of the Act**

22. Part 2 of the Act sets out the purpose and principles of the RMA. In terms of section 5, I accept that the proposed alteration to the existing school designation boundaries is consistent with the principles of Part 2 of the Act as it will enable the community to provide for their social, cultural and economic well-being by providing necessary community infrastructure to service the existing and projected demand on the roll at Sir Keith Park School. Sir Keith Park School is only one of ten specialist schools operating within Auckland. The existing site is currently constrained by space, with new enrolments being managed to a minimum. This limits the ability for the Minister to provide the necessary space for students with high learning needs in the Auckland region. The purchase of the adjacent property at 31 Robertson Road allows for the school to redevelop and expand. It will allow the Minister to provide a redeveloped learning environment, tailored to the individual needs of its students, which differ to those students who attend a standard primary, intermediate or secondary school.
23. As set out in the assessment of environmental effects and supported by the assessment in the Council officer's report, the actual and potential effects on the environment of the proposal, including the effects on the roading network will be able to be avoided, remedied or mitigated by the imposition of appropriate conditions. There is general agreement between the parties on the substantive content of the proposed conditions.
24. **Section 6** deals with the matters considered of national importance. I note that the AEE considers there are no matters of importance considered relevant to this proposal to alter the designation. I note, however, the comments in the Council officer's report, with respect to Section 8 of the RMA, that no specific consultation was undertaken with mana whenua, therefore Section 6 (e) dealing with the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga, may be relevant. I further note that while there was no specific consultation with iwi, that iwi holding mana whenua were publicly notified of the NoR and that no submissions were received. I am therefore satisfied that there are no matters of national significance of relevance raised to this alteration.
25. There are, however, a number of "Other Matters" under **Section 7**, of relevance to the proposed designation, to which I must have regard namely:
  - (b) The efficient use and development of natural and physical resources;
  - (c) The maintenance and enhancement of amenity values;
  - (f) Maintenance and enhancement of the quality of the environment;

26. **Section 8**, of the Act, requires all persons exercising functions and powers under the Act, in relation to managing the use, development, and protection of natural and physical resources, to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).
27. The AEE indicates that no treaty issues were identified that were relevant to the changes in conditions proposed. As outlined above, the MoE has confirmed no specific consultation was undertaken with mana whenua. This approach fails to fully acknowledge and respond to the major changes that the Government has implemented to give specific recognition to the interests of mana whenua. It is, however, pleasing to note that MoE has now changed its approach to engaging with the local iwi holding mana whenua in relation to all NoRs. Through the public notification of the NoR, iwi holding mana whenua have been consulted on the project and no submissions were received from mana whenua. That noted, I accept that, through the public notification of the NoR, iwi holding mana whenua in the area have been consulted on the project and the requirements of Section 8 of the Act are met.
28. Overall, I agree with the Council officer's assessment that the NoR, subject to the inclusion of the site-specific conditions in the designation, meets the relevant provisions of Part 2 of the RMA and will achieve the purpose of the RMA, being sustainable management of natural and physical resources.
29. An assessment of the potential effects on the environment is undertaken in section 7.0 of the AEE. The alteration of the existing designation's boundaries will enable the delivery of essential community infrastructure in the form of a specialist school to accommodate the sustained pressure on the existing roll and support the overall population growth in the area due to various housing developments. A Feasibility Plan and a Transport Assessment have been provided as supporting information for assessment of the effects of the change in designation boundaries. The Council's Policy Planner and traffic consultant (Mr Edwards) have reviewed these assessments and have not identified any significant environmental effects arising from the proposal. Following discussions with MoE and Auckland Transport, certain modifications have been recommended to the proposed conditions that will guide the detailed design to ensure appropriate outcomes for the site.

## CONCLUSIONS AND RECOMMENDATIONS

30. The MoE has lodged a NoR under section 181(2) of the RMA for an alteration to Designation 4992 in the Auckland Unitary Plan (operative in part) (AUP(OP)). This alteration will include the adjacent land at 31 Robertson Road into the designation for the purpose of expanding the school as part of a redevelopment of the site with the addition of site-specific conditions which support this proposal.
31. Section 171 of the Act provides the means by which the NoR can be recommended to be confirmed or otherwise by the Council. In terms of section 171, after considering all the material put before me and visiting the site, I have concluded that the NoR is appropriate subject to the imposition of site-specific conditions. It is recognised that the proposal will generate adverse environmental effects, but subject to the imposition of site-specific conditions these effects will be no more than a minor and are outweighed

by the positive benefits of providing for the educational and community wellbeing of the local community. Proposed conditions recommended to be attached to the designation, will ensure that adverse effects are avoided or mitigated to the extent that is practicable, and address the maintenance and enhancement of amenity values and quality of the environment, such as the location and design of future school buildings on site and the transport and traffic effects arising from the expansion of the school. These matters will be addressed at the Outline Plan stage which must occur before work commences and is subject to overview by the Council.

## RECOMMENDATION

32. In accordance with section 171(2) of the Resource Management Act 1991, the Auckland Council recommends to the Minister of Education that the Notice of Requirement to alter the existing designation 4992 Sir Keith Park School, Educational Purposes – Special School (years 0 -13) to include the site at 31 Robertson Road, Māngere, being a change to the Auckland Unitary Plan (Operative in Part), be confirmed subject to the recommended with the addition of special site-specific conditions set out in Attachment A.

## REASONS FOR THE RECOMMENDATION

33. Under section 171(3) of the Act the reasons for the recommendation are:
  1. The notice of requirement satisfies section 171 of the Act as the designation is reasonably necessary for achieving the objectives of the Requiring Authority and will provide for the community's social, cultural and economic well-being and for their health and safety. Altering the designation in the Auckland Unitary Plan (Operative in Part) is considered to be the appropriate mechanism as it provides certainty to the Ministry as well as the community.
  2. The notice of requirement works is consistent with Part 2 of the Act in that it represents the sustainable management of natural and physical resources.
  3. The expansion of the special school as set out in the NoR is consistent with and give effect to the relevant national policy statements and the relevant objectives, policies and rules of the Auckland Unitary Plan (Operative in Part).
  4. Subject to the recommended conditions, set out in Attachment A, the designation will avoid, remedy or mitigate any potential adverse environmental effects associated with the works.



## AMENDMENTS TO THE DISTRICT PLAN

34. That the Auckland Unitary Plan (Operative in Part) be amended to alter Designation 4992 Sir Keith Park School to include 31 Robertson Road, Māngere and that the designation “Educational Purposes – Special School (years 0-13)” be subject to the recommended site-specific conditions set out in Attachment A.



**Janine A. Bell**

**Independent Hearing Commissioner**

**21 December 2022**

## Attachment A:

### 1. Amend Designation Schedule – Minister of Education as follows:

Number	Purpose	Location
4922	Educational purposes – Special School (years 0 to 13)	31 & 33 Robertson Road, Māngere

### 2. Amend 4992 Sir Keith Park School

Designation Number	4992
Requiring Authority	Minister of Education
Location	31 & 33 Robertson Road, Māngere
Rollover Designation	Yes
Legacy Reference	Designation 89, Auckland Council District Plan (Manukau)
Lapse Date	Given effect to (i.e. no lapse date)

#### Purpose

Educational purposes - Special School (years 0 – 13).

#### Conditions

The standard conditions for all Minister of Education designations apply to this designation, except that where any standard condition conflicts with a site-specific condition below, the site-specific condition shall take precedence.

#### 1. Outline Plan of Works requirements

The Requiring Authority shall, in accordance with the requirements of s176A of the Resource Management Act 1991, submit an Outline Plan of Works for the construction and development of the Sir Keith Park School which shall include the following information:

- (a) Access to the school shall be redesigned and remarked to ensure a one-way flow of vehicles through the school site, with vehicle access onto the site from Bingara Place and egress onto Robertson Road.
- (b) Sir Keith Park Special School concept plan and an assessment where required, including:
  - i. General location of access points for vehicles, cyclists, scooters and pedestrians, on-site parking areas (including cars, cycle parks), and on-site pick-up and drop-off areas, and loading spaces to facilitate deliveries and rubbish removal.
  - ii. Measures and treatments at all access points to manage conflict between pedestrians, cyclists, and vehicles.

- iii. General location of building platforms and open space (such as playgrounds and sports fields).
- iv. Details of the design of pedestrian paths, access arrangements and parking and loading facilities, including identification of any redundant existing vehicle crossing(s) that will need to be removed and reinstated, and referencing where these designs differ from Auckland Transport's Transport Design Manual (TDM) (or updated equivalent).
- v. A summary of any staging of development of the school and the information covered by i) to iv) above for each stage of development. This shall be updated at the time of each outline plan of works applying to the school.
- vi. An assessment of on-site pick-up and drop-off [PUDO] and access for private vehicles and how it relates to any van PUDO.
- vii. Details of the school van movements, and if they to be used during pick-up and drop-off times, confirmation that the vehicle can manoeuvre through gated van parking area during these time periods.

(c) A Staff Travel Demand Management Plan prepared in accordance with Condition 3.

## **2. Future changes to Sir Keith Park School**

- (a) Any changes to road access design or arrangement onto Robertson Road as a result of Sir Keith Park, shall require a Transport Assessment (TA) undertaken by a suitably qualified traffic engineer/ or transportation planner addressing the matters required under the Auckland Unitary Plan (Operative in Part) for access to an arterial road as well as any proposed measures to avoid, minimise or mitigate any adverse effects on the operation or safety of the road.
- (b) Any outline plan that seeks to increase the number of teaching spaces for Sir Keith Park School or otherwise results in increases in transport demands from those outlined in the Transport Assessment prepared by Abley dated 8th March 2022 the Requiring Authority shall require a Transport Assessment (TA) undertaken by a suitably qualified traffic engineer/transportation planner. This shall address effects from these changes on the transport network as well as any proposed measures to avoid, minimise or mitigate any adverse effects on the operation or safety of traffic (all modes) to the school.
- (c) A draft copy of any TA shall be provided to Auckland Transport for the purposes of consultation and engagement. The submitted version shall include a summary of the Consultation and Engagement with Auckland Transport recording agreements or respective positions reached on transport matters.
- (d) Any outline plan that seeks to increase the number of teaching spaces for Sir Keith Park School or otherwise results in increases in transport demands from those outlined in the Transport Assessment prepared by Abley dated 8th March 2022 the Requiring Authority shall review the Staff Travel Demand Management Plan and update it, if necessary.

## **3. Staff Travel Demand Management Plan**

- (a) Prior to the opening of the school, the requiring authority shall, either directly or through the School Board of Trustees, develop a Staff Travel Demand Management Plan.

- (b) The purpose of the Staff Travel Demand Management Plan is to provide specifically for measures to reduce vehicle dependence and parking demand. This may be achieved by a variety of means, including carpooling, the encouragement of the use of public transport, and the encouragement of walking and cycling. The Plan shall specifically address the following matters:
- i. Measures to encourage use of alternative modes of travel to sole vehicle use including car pooling and public transport, location and provision on-site scooter and cycle parking.
  - ii. Management of parking within the school site, including measures to determine staff allocation of this parking and practice for parking within the school site. The Plan must clearly identify a system for allocation of parking spaces to minimise staff driving through the site searching for a space.
  - iii. Identification of locations for overspill parking for staff within a 500m walk of the school site.
  - iv. Use of the PUDO area for parking for staff between the hours of 9.00am and 2.30pm. Clear signage should be installed to indicate how and when the PUDO area can be used by staff.
  - v. Opportunities for use of school vans as transport between satellite schools and the base school should be explored to accommodate transport for monthly meetings.

*Advice Note: An objective of the Staff Travel Demand Management Plan is to avoid overspill school staff parking from exhausting the supply of parking on nearby residential streets.*

*Therefore:*

- (i) *The Plan shall be developed in consultation with Auckland Transport*
- (ii) *The Plan shall be communicated to all existing and new staff and a reminder of the Plan conditions should be circulated to all staff annually*
- (iii) *The Plan shall be reviewed, and revised, if necessary, at the time of submitting each subsequent Outline Plan of Works relating to an increased staff capacity, or any other change to parking or transport patterns*

**3. Amend the planning maps to the include 31 Robertson Road, Māngere (shown in red) as part of Designation 4992 Sir Keith Park School on the Designation Management layer.**

