

Submission on a requirement for a designation or an alteration to a designation subject to full or limited notification

Sections 168A, 169, 181, 189A, 190, and 195A of the Resource Management Act 1991

FORM 21



Send your submission to unitaryplan@aucklandcouncil.govt.nz or post to:

Attn: Planning Technician
Auckland Council
Level 24, 135 Albert Street
Private Bag 92300
Auckland 1142

For office use only
Submission No:
Receipt Date:

Submitter Details

Full Name or Name of Agent (if applicable)

Mr/Mrs/Miss/Ms (Full Name) Paula Beaton

Organisation Name (if submission is made on behalf of Organisation)

Endeans Building (Body Corporate 095035)

Address for service of Submitter

C/- Body Corporate Administration

PO Box 2322, Auckland 1141

Telephone: (09) 373 2336

Fax/Email: paula@bca.co.nz

This is a submission on a notice of requirement:

By: Name of Requiring Authority

City Rail Link Limited

For: A new designation or alteration to an existing decision

Alteration of Britomart Transport Centre Designation 2501

The specific parts of the above notice of requirement that my submission relates to are: *(give details)*

The Alteration in full

My submission is:

We oppose the Notice of Requirement for the Alteration

The reasons for my views are:

See Appendix 1

I seek the following recommendation or decision from the Council *(give precise details including the general nature of any conditions sought)*.

See Appendix 1

I wish to be heard in support of my submission.



10 August 2021

Signature of Submitter
*(or person authorized to sign on behalf of
submitter)*

Date

Notes to person making submission:

If you are making a submission to the Environmental Protection Authority, you should use Form 16B.

You must serve a copy of your submission on the person who gave the notice of requirement as soon as reasonably practicable after you have served your submission on the Council (unless the Council itself, as requiring authority, gave the notice of requirement).

If your submission relates to a notice of requirement for a designation or alteration to a designation and you are a trade competitor of the requiring authority, you may make a submission only if you are directly affected by an effect of the activity to which the requirement relates that:

- (a) Adversely affects the environment; and
- (b) Does not relate to trade competition or the effects of trade competition.

Attachment to Submission by Endeans Building (Body Corporate 95035)

To: Auckland Council

Name of submitter: Endeans Building (Body Corporate 95035) (**Endeans**)

Regarding: Notice of Requirement to Auckland Council to alter the CRL Designation 2501 to provide for 'The Works' (**Alteration**)

Endeans is not a trade competitor for the purposes of s 308B of the Resource Management Act 1991.

Summary of Submission

1. Endeans **opposes** the Alteration and seeks that it be withdrawn.
2. The reasons for Endeans' position are set out below but are in summary that the Alteration:
 - (a) Will have significant and unreasonable adverse effects on the owners and occupiers of the Endeans Building, specifically adverse effects associated with heavy vehicle usage of Tyler Street, interference with vehicular access to the Building, and adverse amenity effects.
 - (b) Fails to have appropriate regard to, or make provision for, the Pedestrian Mall Declaration applying to Lower Queen Street, Tyler Street and Galway Street, the Draft Operational Strategy for Te Komititanga which applies to that Pedestrian Mall, and Auckland Transport's (**AT's**) obligations under those documents and separate agreements to ensure appropriate access is provided to the Endeans Building.

Background

3. The Endeans Building is located at 2 Queen Street, Auckland and is a Category II heritage building. It was originally an office building, built circa 1920 and was converted to apartments in 1994, at which time two new floors were added. The building now comprises 37 units, including seven retail units on the ground and 30 residential apartments over six levels. Its main entrance is to Queen Street, with a smaller side entrance to Tyler Street. It has no on-site parking or loading areas.
4. Endeans has been affected by construction associated with the City Rail Link (**CRL**), as well as various other Council and/or AT construction projects since at least 2016. While that activity has significantly affected the owners and occupiers within the Endeans Building, it has always been

on the basis that the effects would be for a finite period, with positive outcomes for the public good being delivered within a reasonable timeframe.

5. In late 2020, AT undertook a special consultative procedure in relation to an amended Pedestrian Mall Declaration for Lower Queen Street (Customs Street to Quay Street), Tyler Street and Galway Street (**Pedestrian Mall Declaration**). This was premised on the construction works in Lower Queen Street, Tyler Street and Galway Street having been completed by the end of 2021. That timing was consistent with Endeans' understanding and expectation of when the construction activities would be complete.
6. Endeans filed an appeal against AT's decision on the Pedestrian Mall Declaration, which was eventually resolved between the parties. Endeans' agreement to resolve the appeal was in reliance on having full and improved access to Tyler Street. Part of the resolution was that amendments were made to the Exceptions recorded in the Pedestrian Mall Declaration which ensure Endeans owners and occupiers have rights of access to the pedestrian mall area in certain circumstances. Details of how these rights of access are to be secured are recorded in a document titled '*Draft Operational Strategy for Te Komititanga*' which applies to that Pedestrian Mall. It is unclear whether that document has yet been finalised, however AT agreed that parts affecting Endeans would not be amended without consultation with Endeans.
7. The Notice of Requirement for the Alteration does not reference the Pedestrian Mall Declaration, nor Endeans' rights of access under it.

Adverse Effects of the Alteration on Endeans

8. The Alteration will have the following adverse effects on the owners and occupiers of the Endeans Building.

Vehicular access

9. The use of Tyler Street for delivery and concrete trucks will have a significant impact on the ability of vehicles to access the Endeans Building, noting that Tyler Street provides the only access now that Lower Queen Street is confirmed as a Pedestrian Mall.
10. The exceptions to the Pedestrian Mall Declaration recognise that access to the Queen Street frontage is essential for:

- (a) Maintenance, construction, delivery, collection and servicing of activities within, or to, the Endeans Building.
 - (b) Picking up or dropping off residents of the Endeans Building with medical conditions and mobility constraints that require picking up and dropping off immediately in front of the Building.
11. Outside those exceptions, Endeans' owners and occupiers are reliant on the availability of 5-minute loading spaces on Tyler Street.
12. If the Alteration is approved, there will be large periods of time when access to the Endeans Building is not available at all, and it will be difficult and unpredictable at all other times. It is also anticipated that the loading spaces on Tyler Street will be rendered unavailable for long periods.
13. The Integrated Transport Assessment, and its appended Construction Traffic Management Plan, do not adequately assess the effects on Endeans nor identify whether or how they can be successfully mitigated.

Amenity Effects

14. The Works proposed to be authorised by the Alteration will have significant adverse effects on the amenity the owners and occupiers of Endeans could otherwise reasonably expect to enjoy. As noted above, the premise on which the Pedestrian Mall Declaration was put forward was that the CRL construction works were coming to an end and the creation of Te Komititanga would create a high amenity public space.
15. Instead, Endeans is now looking at a further 2.5 years of heavy construction activity as well as impeded access.¹ Endeans' immediate environment will include ventilation equipment in acoustic enclosures, mobile equipment such as cranes, hiabs, containers, and hoardings.
16. The AEE minimises these effects by describing them as '*by and large similar in nature and scale to other central Auckland construction sites*'. However this disregards the fact that construction-related amenity effects are generally considered acceptable because of their limited duration. Endeans has already suffered construction-related effects from CRL since 2016, and these are now proposed to be extended for another approximately 2.5 years. In that light, the adverse amenity effects are unreasonable and significant.

¹ AEE, Appendix C, 'Traffic Access and Parking Assessment', p22.

Relevance of the Pedestrian Mall Declaration and Draft Operational Strategy

17. Section 171(1)(d) provides that regard must be had to any other matter the territorial authority considers reasonably necessary in order to make a recommendation on the requirement. In this regard, Endeans considers that the Pedestrian Mall Declaration and the *'Draft Operational Strategy for Te Komititanga'* must be considered.
18. Endeans participated in the Pedestrian Mall consultation and appeal process in good faith. CRL knew of that process and participated in meeting with Endeans. The premise of that process was that CRL construction activities were coming to a close and a permanent access arrangement was to be provided for Endeans. Having resolved its appeal on that basis, the proposal to extend construction activities which directly impact that access for a further 2.5 years is of significant concern.

Relief sought by Endeans

19. For the reasons above, Endeans considers the Alteration should be withdrawn.
20. In the less preferred alternatives, and without limiting its primary relief sought, conditions should be imposed that, at a minimum:
 - (a) Require that the access to the Endeans Building provided for under the Pedestrian Mall Declaration be available at all times, and in preference to construction transport if necessary, on terms no less favourable to Endeans than provided for in the *'Draft Operational Strategy for Te Komititanga'*.
 - (b) Mitigate the adverse visual amenity effects associated with the Works.
 - (c) Require appropriate communication with Endeans, including suitable notice as to times when concrete deliveries are anticipated, and consultation in relation to traffic management measures.
 - (d) Any other conditions necessary to mitigate effects on Endeans.