

Recommendation following the hearing of a Notice of Requirement under the Resource Management Act 1991



Proposal

Notice of Requirement to designate land at 121 Murphys Road, Flat Bush, for a Primary School (Years 0-8).

It is recommended that the Notice of Requirement is **CONFIRMED**, subject to conditions. The reasons are set out below.

Site address:	121 Murphys Road, Flat Bush
Requiring Authority:	Minister of Education
Hearing commenced:	Monday 9 October 2023, 9.30am
Hearing panel:	Philip Brown (Chairperson) Michael Parsonson Rebecca Skidmore
Appearances:	<p><u>For the Requiring Authority:</u> Ministry of Education represented by:</p> <ul style="list-style-type: none"> - Daniel Sadlier, legal - Deb Taylor, Corporate - Kate Brill, Transport - Kay Panther-Knight, Planning <p><u>For Howick Local Board:</u> Adele White</p> <p><u>Council specialists:</u> (some appeared in person, while others were present online or available if required)</p> <p>Vanessa Leddra, Planner Craig Cairncross, Team Leader Dan Windwood, Built Heritage Wes Edwards, Traffic Engineer Myfanwy Eaves, Archaeology Andrew Gordon, Acoustic and Vibration Trent Sunich, Flooding and Stormwater Marcus Herrmann, Contaminated Land Maria Baring, Infrastructure and Geotech Chad Croft, Ecology and freshwater Millie Ahlstrom, Ecology - Terrestrial Sidra Khan, Hearings Advisor</p>
Hearing adjourned	Monday 9 October 2023
Commissioners' site visit	Thursday 5 October 2023
Hearing Closed:	Tuesday 24 October 2023

INTRODUCTION

1. This recommendation is made on behalf of the Auckland Council (“**the Council**”) by Independent Hearing Commissioners Philip Brown, Michael Parsonson, and Rebecca Skidmore, appointed and acting under delegated authority under section 34A of the Resource Management Act 1991 (“**the RMA**”).
2. Pursuant to section 168 of the RMA, the Minister of Education (“**the Requiring Authority**”), gave notice to the Council to designate the site at 121 Murphys Road, Flat Bush, to enable the establishment of a new primary school catering for school age children from Year 0 to Year 8. The designation would be subject to the Requiring Authority’s standard conditions together with some additional site-specific conditions, and a standard lapse period of five years is sought.
3. The Requiring Authority currently has no detailed information available regarding the proposed site development such as building locations, although a preliminary concept plan was provided. This information will not be available until the detailed design stage and will be submitted as part of the outline plan of works under section 176A of the RMA, once the designation is confirmed and the Establishment Board of Trustees has been appointed by the Minister.
4. At the request of the Requiring Authority, the Notice of Requirement (“**NoR**”) was publicly notified on 27 April 2023. Submissions closed on 25 May 2023. Nine submissions were received from residents of the immediate area, Auckland Transport, Waka Kotahi, Heritage New Zealand Poehere Taonga (“**HNZPT**”), and Hugh Green Limited (a developer of land on the opposite side of Murphys Road).
5. The NoR was referred to the Panel of Commissioners for a hearing, and to confirm a recommendation on behalf of Council. The hearing took place on Monday 9 October 2023. There were no appearances at the hearing by submitters, although we did receive comments from a representative of the Howick Local Board.
6. Our recommendation assesses the NoR under section 171 of the Act. This report addresses the issues raised in the submissions and contains our recommendation to the Requiring Authority under section 171(2) of the Act. In making this recommendation, we have considered the NoR and its supporting information, the Council’s comprehensive s42A report prepared by Ms Vanessa Leddra, the submissions received, and the evidence and legal submissions presented at the hearing. We have also undertaken a site visit to understand the existing environment of the site and surrounding area.

THE EXISTING ENVIRONMENT

7. The site is described in the s42A report and in the Requiring Authority’s evidence. In summary, the site is approximately 3ha in area and located immediately east of Murphys Road. It is currently vacant, except for a dilapidated dwelling and the remnants of the garden and site development associated with that former residential use. The southern edge of the triangular-shaped site is defined by a stream and riparian area.

8. Land immediately north of the site is currently undergoing civil works to facilitate residential development. The works include establishment of three public roads, one of which will provide frontage to the site along the length of the northern boundary. Established medium density housing is located to the east of the site, on the opposite side of the stream that flows along the site's southern boundary before straightening to the north. Land to the south, while zoned for residential use, is undeveloped at this stage and used for grazing, while residential development is progressing on the opposite side of Murphys Road.
9. We note that Murphys Road is a high-volume, high-speed environment and currently has a rural configuration and character as it passes the site, with narrow lanes, an absence of pedestrian facilities, no kerb and channel, and open drainage along each side. The current state of the road is an important consideration in our assessment of the NoR, as it prevents direct access to the site and is not a suitable environment for safe use by pedestrians. We are aware that upgrading of Murphys Road to an urban standard is intended in the future, facilitated by the 'Mill Road - Redoubt Road Corridor Project' designation that widens the current road reserve by 12m into the site.

SUBMISSIONS AND EVIDENCE

10. A total of nine submissions were received, with three in opposition and the rest either supporting the NoR or adopting a neutral position. Several of the submissions raised issues relating to transportation and access, including traffic congestion and safety of travel using active modes. The HNZPT submission raised concerns relating to the dilapidated dwelling on the site and its heritage values.
11. Ms Leddra's s42A report (including the Council's various specialist assessments) recommended that the NoR is confirmed subject to amendments to the conditions. The s42A report was circulated prior to the hearing and taken as read. Ms Leddra also produced a brief addendum report prior to the hearing, responding to the Requiring Authority's evidence and updating her recommended amendments to the proposed designation conditions.
12. The evidence presented at the hearing responded to the issues and concerns identified in the s42A report, the NoR itself, and the submissions made on the NoR. Expert evidence on behalf of all parties who appeared was also circulated prior to the hearing and again was taken as read. Witnesses were provided with the opportunity to highlight the main points raised in their statements of evidence, and responded to our questions. The following is a summary of the evidence presented at the hearing.

Requiring Authority

13. Legal submissions on behalf of the Requiring Authority were presented by **Daniel Sadlier**. Mr Sadlier introduced the project, summarised the legal framework that applies to our consideration of the NoR, and identified the Requiring Authority's witnesses and the matters that they were addressing. His submissions were directed at the issues that remain outstanding or unresolved, which he characterised as being

the built heritage effects, the physical interventions relating to pedestrian safety, and questions around modal shift and the remote pick up and drop off (“**PUDO**”) location.

14. Corporate evidence was provided by **Deborah Taylor**, who is the Requiring Authority’s Programme Manager in its Land Investment and Planning Team. Ms Taylor’s evidence addressed the Requiring Authority’s need for a new school in this location, the process undertaken to open a new primary school, and the suitability of the site for the proposed school. Ms Taylor advised that the Requiring Authority’s analysis confirms that a new school is required in the southern part of Flat Bush to accommodate rapid population growth, and described the analysis of population catchments, infrastructure, and rolls of the other Ministry of Education (“**MoE**”) schools in the Flat Bush area.
15. In response to our questions, Ms Taylor explained that the school catchment has been deliberately limited to the land east of Murphys Road due to concerns relating to safe movement of children along or across that road when travelling to and from the proposed school. She also explained how the school infrastructure and role would grow progressively and that, while accepting out-of-zone enrolments was at the discretion of the Board of Trustees, in her experience such boards always abide by MoE directives to avoid such enrolments in the first three years of operation.
16. **Kate Brill**, a transportation planner, provided evidence addressing transportation matters including the proposed school’s access arrangements, and issues relating to road safety. Ms Brill does not support primary vehicle access being directly from Murphys Road and considers that access from the local roads provides a safer environment for students travelling by active modes. Ms Brill considers that the PUDO location in Picturesque Drive can work efficiently and safely, and was confident that her assumptions as to usage of the PUDO were realistic.
17. Ms Brill considers that the transport and traffic effects of the proposal can be accommodated on the road network without compromising its function, capacity, or safety. She supports the conditions that were proposed by the Requiring Authority and does not see a need for further on-road interventions or upgrading.
18. Planning evidence in support of the NoR was provided by **Kay Panther Knight**, an experienced consultant planner. Ms Panther Knight assessed the NoR against the statutory considerations in s171 of the RMA. She considers that the NoR appropriately assesses the potential adverse effects on the environment, and is consistent with the planning framework including relevant national policy statements and the provisions of the Auckland Unitary Plan (“**AUP**”). Ms Panther Knight stated that consideration of alternatives was not necessary in this case as the Requiring Authority owns the site, and she also considers that the designation is reasonably necessary to achieve the education objectives of the Requiring Authority, based on the evidence of Ms Taylor.
19. Ms Panther Knight provided a set of conditions that she considered appropriate to be applied to the designation. These were attached to her evidence in chief and subsequently amended and attached to her rebuttal evidence. The recommended conditions included several amendments from those provided with the notified NoR,

in response to engagement that had been undertaken with submitters and the Council.

Submitters

20. There were no appearances at the hearing by any of the submitters. However, we did receive written statements from Waka Kotahi, Auckland Transport, and HNZPT. None of the statements were in the form of expert evidence and, in any event, we did not have the opportunity to question representatives of these three organisations. We have taken the statements at face value, as a record of the organisations' respective positions at the time of the hearing.
21. Waka Kotahi tabled a brief statement confirming that it continues to support the proposal, and is satisfied that the revised conditions proposed by the Requiring Authority can suitably manage the transport effects of the proposed NoR. Waka Kotahi stated that it deferred to Auckland Transport in relation to potential transport effects on local roads.
22. A tabled statement was provided by Auckland Transport, indicating that it still retained some residual transport concerns. Auckland Transport stated that its concerns can be addressed if additional active mode connections are provided, the attractiveness of using the PUDO is strengthened, and safe pedestrian facilities are provided if students are required to travel from the west of Murphys Road.
23. HNZPT also tabled a statement of its position at the hearing. The statement explained HNZPT's role and indicated that it made a submission on the NoR because the land includes a recorded archaeological site (being the pre-1900 two-storey building (R11/2975) and its associated curtilage).
24. NZHPT stated that further engagement has occurred with the Requiring Authority and, as a result, a heritage assessment and photographic record has been prepared by the Requiring Authority's heritage advisor. HNZPT now accepts that the state of the building is such that its heritage values have been lost through modification of original fabric, but stated that it continues to advocate for the further recording of the building once wall linings have been removed.

Local Board

25. We received a presentation from Adele White, a representative of the Howick Local Board. Ms White stated that the Local Board supports the construction of a primary school on the site. She explained that the Local Board would like the design of the school to be sympathetic to management of road safety from the outset, with necessary infrastructure established at the same time as the school is constructed. Ms White also noted that the Local Board supported the installation of a signalised pedestrian crossing on Murphys Road.

Auckland Council

26. After hearing the evidence, Ms Leddra maintained her recommendation that the NoR should be confirmed, but subject to the additional or amended site-specific conditions that addressed the matters raised by Wes Edwards, the Council's consultant traffic engineer. Mr Edwards explained the amendments to designation conditions that he is seeking and the reasons behind those recommended amendments. He acknowledged that the modification of wording being discussed through our questions and applicant responses addressed some of his concerns, but maintained the opinion that:
- a. Condition 6(a) did not impose sufficient certainty on the frequency of monitoring and did not sufficiently address the potential risk posed to in-zone pedestrians if they attempted to approach the school from the south, along Murphys Road;
 - b. Condition 6(b) did not provide a sufficient timeframe for reviewing the Travel Management Plan in light of issues identified through monitoring; and
 - c. Condition 6(c), as proposed by the Requiring Authority, did not explicitly require the implementation of the Travel Management Plan, or physical works, that may be required for the site to manage and minimise travel risks.

Requiring Authority (in reply)

27. Mr Sadlier provided an oral reply at the hearing, and subsequently submitted a written reply formalising and expanding on his earlier comments. His reply focused on providing feedback to a number of our queries raised during the hearing and addressing the remaining transport-related issues that were not agreed between the Requiring Authority and Council.
28. Mr Sadlier clarified matters relating to the indicative enrolment zone and methods that the Requiring Authority has considered to accommodate roll growth in south Flat Bush. He acknowledged the potential for student trips to originate or end outside of the school enrolment zone, but noted that the Requiring Authority has sought to manage effects directly associated with school trips to and from students' homes.
29. Mr Sadlier explained that there is a disincentive to accept students from beyond the enrolment zone because property funding is based on the number of 'in-zone' enrolments. He noted that the relevance of this is that out of zone enrolments (from west of Murphys Road) are not likely to be significant in number.
30. Having considered the comments from Mr Edwards at the hearing, Mr Sadlier identified several additional amendments that the Requiring Authority is prepared to accept to the transport-related conditions.

PROCEDURAL MATTERS

31. There were no procedural matters that were referred to us for determination, and all submissions were received within the statutory submission period.

ISSUES IN CONTENTION

32. After analysis of the lodged NoR (including proposed mitigation measures), undertaking a site visit, reviewing the s42A report, and reviewing the submissions and Local Board feedback, the proposed NoR raises two main issues for consideration. The principal issues for consideration are:
- *Whether the NoR raises any potential for significant adverse effects to arise in the future, particularly in relation to transport matters and historic heritage; and*
 - *Whether any such adverse effects can be appropriately managed by standard or site-specific conditions that would attach to the designation.*
33. The Requiring Authority's conclusions in the AEE report were reviewed by Ms Leddra in her s42A report, together with several Council specialists. Ms Leddra has concluded, subject to some further amendments to the conditions, that the adverse effects of the project appear to be able to be avoided, remedied, or mitigated.¹ Ms Leddra noted in the s42A report that she was expecting further information from the Requiring Authority relating to transportation matters and built heritage matters, essentially reporting back on engagement with the submitters on these issues.
34. Following the exchange of evidence between the parties, it is apparent to us that heritage issues have been resolved between the parties and can be addressed through the *authority to modify* that will be required under the Heritage New Zealand Pouhere Taonga Act 2014 in respect of the existing house on the site.
35. However, at the adjournment of the hearing there had not been full agreement between the Requiring Authority and Mr Edwards as to the appropriate transport-related conditions that would apply to the designation. Ms Leddra continued to rely on his specialist opinion in reaching a similar conclusion.
36. By contrast, the Requiring Authority considers that it has appropriately addressed transport effects through the conditions that it now proposes for the designation. Ms Panther Knight (at the hearing) and Mr Sadlier (in reply) advised us that some further refinement of the conditions would be acceptable in response to Mr Edwards' concerns and suggestions provide by the Panel, and proposed some final amendments through the written reply. Having considered the conditions provided in the reply in relation to transport, and Mr Edwards concerns, we find that the potential travel safety issues can be appropriately managed and minimised through the conditions proposed by the Requiring Authority in its reply.
37. We agree with and recommend Condition 6(a) as now proposed.
- i. The condition will ensure that monitoring of the school catchment is undertaken at least every school term, and is satisfactory to identify changes in the effective school catchment. We note Ms Taylor's statements that, in effect, the school will monitor its catchment on a more frequent basis, but the

¹ Section 42A report, paragraph 4.3.5.9, page 32

Requiring Authority also accepts that the condition must impose an enforceable minimum frequency.

- ii. The wording of the condition will require the monitoring of the school catchment within its zone and enrolments from outside the zone.
38. We agree with and recommend Condition 6(b) as now proposed.
 - i. The condition will explicitly require the monitoring of students travelling along Murphys Road.
 - ii. The condition will ensure that any review of the School Travel Plan that is triggered must occur within three months of identifying students taking that route i.e. the condition now imposes an enforceable timeframe for the review.
39. We agree with and recommend, with minor edit, Condition 6(c) as now proposed in the Reply.
 - i. The Council's preferred wording includes the wording "...and where necessary to implement physical measures to ensure safe access". The Requiring Authority did not support that addition as its requested wording of Conditions 5 and 6 provide for a suite of potential measures and do not exclude physical measures. Condition 5 requires the School Travel Plan to be prepared prior to the opening of the school, and that the school must operate in accordance with the School Travel Plan developed under that condition, and the monitoring and review programme that is required under Condition 6.
 - ii. Specific on-road measures that must be provided prior to the first operation of the school are required by Condition 8.
 - iii. The Requiring Authority's addition of the following sentence to Condition 6(c) will ensure that it is clear that outcomes of any review of the School Travel Plan are implemented: "Any such incorporated transport mitigation measures must ~~shall~~² then be implemented pursuant to the Travel Plan and Condition 5".
40. We have carefully considered the nature and extent of the transport-related conditions. On balance, we are satisfied that the final version of conditions proposed by the Requiring Authority is sufficient to address the potential adverse effects of the designation and appropriately addresses the matters raised by Mr Edwards. Parallel to the NoR process and resulting designation, we also note from Ms Taylor's evidence that the Requiring Authority is obligated by various other regulatory requirements to ensure the safe and efficient operation of the school.
41. It is also clear to us that the new school will have positive effects, principally through the provision of educational facilities to service the projected population growth in this

² Our edit for consistency with Council's conditions style guide.

area of Flat Bush. Schools also provide an important community focal point that facilitates social interaction between families in the contributing area.

RELEVANT STATUTORY PROVISIONS CONSIDERED

42. The Minister of Education is a Requiring Authority in terms of s166 of the RMA. The Minister has given notice to the Auckland Council of its requirement to designate the site at 121 Murphys Road, Flat Bush for “*Educational Purposes – Primary School (Years 0-8).*”
43. Section 171 of the Act sets out the matters to which a territorial authority must have regard 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 RMA.
44. 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.

45. Pursuant to section 171(1)(a), when considering the NOR we 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, and the Auckland Unitary Plan (which includes both the regional policy statement and district plans and proposed plans.
46. Collectively the Requiring Authority's NoR application, the evidence provided, and Ms Leddra's s42A report provided a comprehensive commentary on the relevant national policy statements, and the relevant provisions of the Auckland Unitary Plan. We do not intend to repeat this material in this decision; rather we rely on the application documents and s42A report in this regard, except to indicate that the following documents were considered of particular relevance in reaching our decision:
- National Policy Statement on Urban Development ("NPSUD") and National Policy Statement on Freshwater Management ("NPSFM");
 - Auckland Unitary Plan, including Chapter B Regional Policy Statement.
47. We consider that the proposal will support urban development and intensification that is enabled under the NPSUD, by providing essential social infrastructure that is needed to accompany growth in a well-functioning urban environment. The NoR does not directly engage with the NPSFM, as matters relating to freshwater resources on or adjacent to the site will be considered at the time of future development.
48. The New Zealand Coastal Policy Statement was not considered relevant in instance, given the remote location of the site in relation to the coast, and we do not consider that the regional rules in the AUP are relevant to the consideration of this NoR. Any subsequent applications to develop the site that trigger the need for resource consents under regional rules would be assessed at that future time.
49. The site is identified as Mixed Housing Urban ("MHU") Zone under the AUP. We note that the MHU Zone contemplates non-residential activities that support the social, economic, and cultural well-being of the community and that the Zone provides for a relatively high-intensity of built form. For these reasons, we consider that the outcomes enabled under the NoR are compatible with development expectations under the MHU Zone.

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.

50. We note that consideration of alternative sites is only required under s171(1)(b) if the Requiring Authority does not have an interest in the land that is sufficient to

undertake the work or if it is likely that the work will give rise to significant adverse effects. In this case the Requiring Authority has obtained an interest in the land.

51. In addition, we are satisfied that the work envisaged under the NoR would not give rise to any significant adverse effects and we are also aware from the evidence of Ms Taylor that the Requiring Authority did consider other sites before deciding that the land at 121 Murphys Road was a suitable location for a new school in this area.
52. Consequently, there is no need for us to assess whether adequate consideration has been given to alternative sites 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.

53. The supporting information provided with the NoR explains that the Education and Training Act 2020 empowers the Minister of Education to designate schools. The management of schools, once established, sits with the elected Board of Trustees in each case.
54. We consider that a designation is the most efficient and effective means of enabling a school to be established and to operate into the future without any significant impediment. It is also evident that the immediately surrounding area is identified for significant growth since the AUP has assigned a high-intensity residential zone to that land. For these reasons, we consider that the work and designation is reasonably necessary for achieving the objectives of the Requiring Authority in providing state schooling. 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.

55. There are no other matters that need to be considered in making our recommendation on the NoR. We note in this case that the Requiring Authority has not sought to extend the five-year default period for the lapse of a designation after its inclusion in a plan.³

Part 2 of the Act

56. Part 2 of the Act sets out the purpose and principles of the RMA.
57. In terms of **section 5**, we accept that the proposed designation is necessary to provide for the educational needs of the burgeoning community of Flat Bush. The works enabled by the designation will assist people and communities to provide for their social, economic, and cultural well-being. The investment in new education and

³ Section 184(1) of the RMA

community infrastructure in this location will also contribute positively to the existing and emerging community.

58. In terms of **section 6**, we do not consider that the NoR engages directly in any significant way with any matters of national importance. While the site contains a recorded built heritage site (the old dwelling), it appears to be accepted by all parties that its removal can occur provided further recording of historic fabric is undertaken.
59. The designation will also provide for the efficient use and development of natural and physical resources, which is a matter that should be had particular regard to under **section 7** of the RMA. A local school will avoid the need for new residents in this location to travel further afield to obtain schooling for their children.
60. **Section 8** of the RMA 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). We are satisfied that the principles of the Treaty have been taken into account, noting that the Requiring Authority has undertaken consultation with Mana Whenua about the NoR and has indicated a commitment for ongoing engagement as the project is implemented.

CONCLUSIONS

61. Section 171 of the RMA provides the means by which the NoR can be recommended to be confirmed or otherwise by the Requiring Authority. In terms of section 171, after considering all the information put before us, we consider that the NoR should be confirmed by the Requiring Authority, subject to the conditions we are recommending (as set out in Attachment A).
62. Many of the issues raised by submissions will be appropriately dealt with at the Outline Plan of Works stage, which must occur before work commences and is subject to overview by the Council.

RECOMMENDATION

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 for Educational purposes — Primary School (Years 0-8), applying to Lot 3 DP 515396 at 121 Murphys Road, Flat Bush, as shown on the 'Designation Plan' attached to the Notice of Requirement, be confirmed, and be subject to the following conditions set out in Attachment A.

REASONS FOR THE RECOMMENDATION / DECISION*

Under section 171(3) of the RMA the reasons for the recommendation are:

1. The NoR satisfies section 171 of the RMA as the designation is reasonably necessary for achieving the objectives of the Requiring Authority, and will provide required primary school education facilities in the rapidly growing area of Flat Bush.

2. The work proposed by the designation is consistent with Part 2 of the Act in that it enables people and communities to provide for their social, economic, and cultural wellbeing and represents an efficient use of natural and physical resources.
3. The designation is in general accordance with relevant objectives and policies of the Auckland Unitary Plan, including the Regional Policy Statement.
4. Subject to the recommended conditions, set out in Attachment A, the designation will avoid, remedy, or mitigate adverse environmental effects.

AMENDMENTS TO THE UNITARY PLAN (OPERATIVE IN PART)

It is recommended that the Auckland Unitary Plan (Operative in Part) be amended as set out in Attachment A.



Philip Brown

Chairperson

For Independent Hearing Panel of Philip Brown, Michael Parsonson, and Rebecca Skidmore

Date: 18 December 2023

ATTACHMENT A: DESIGNATION AND RECOMMENDED CONDITIONS

49XX Primary School Flat Bush

Designation Number	49XX
Requiring Authority	Minister of Education
Location	121 Murphys Road, Flat Bush
Rollover Designation	N/A
Lapse Date	The designation shall lapse on the expiry of 5 years from the date on which it is included in the district plan if it has not been given effect to before the end of that period.

Purpose

Educational Purposes – Primary School (Years 0-8).

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. Building height in relation to boundary

Any new building or building extension (excluding goal posts and similar structures) shall comply with the height in relation to boundary controls of adjoining residential zones insofar as they relate to any adjoining land zoned primarily for a residential or outdoor space/outdoor recreation purpose.

2. Noise

The noise (rating) level arising from the operation of the school must comply with the following noise levels when measured within the boundary of any residentially zoned site zoned site:

DAY/TIME	NOISE LEVEL
Mon – Sat, 7.00am – 10.00pm (0700 -2200)	55 dB _{LAeq}
Sunday 9am to 6pm	
All other times	45 dB _{LAeq} 75 dB _{LAFmax}

These noise limits do not apply to noise from normal school sports and school recreational activities occurring between 8am and 6pm Monday to Saturday.

Noise levels shall be measured and assessed in accordance with NZS 6801: 2008 “Measurement of Environmental Sound” and NZS 6802:2008 “Environmental Noise”.

Noise from construction shall not exceed the limits recommended in, and shall be measured in accordance with, New Zealand Standard NZS 6803:1999 “Acoustics – Construction Noise”.

3. **Establishment Outline Plan of Works**

The Requiring Authority shall, in accordance with the requirements of s176A of the Resource Management Act 1991, submit an Outline Plan of Works for initial construction and development of the school.

The Establishment Outline Plan of Works shall include the following information:

- a) A Design Concept Plan for the site including:
 - i. The general location of access points for vehicles, cyclists, scooters and pedestrians, with due consideration of how these integrate with the road layout for Te Ara Nikau (consented east-west cul-de-sac road along northern frontage of site) including its intersections with Te Ara Totara and Te Ara Rimu (the roads that run perpendicular to Te Ara Nikau and connect with Murphys Park Drive);
 - ii. The general location of a safeguarded future access point to and from Murphys Road to the school frontage for pedestrians, cyclists and scooters that can be provided at such time that the condition of Murphys Road enables safe active mode travel to and from the school;
 - iii. The general location of on-site parking areas (including cars, cycle and scooter parks), and on-site and off-site pick up and drop off areas;
 - iv. Measures and treatments at all access points to manage conflict between pedestrians, cyclists, scooter users and vehicles;
 - v. General location of building platforms, areas for proposed buildings and open space (such as playgrounds and sports fields); and
 - vi. “Indicative” areas accommodating future education purpose growth development on this site, including building platforms, car parking areas, vehicular access, manoeuvring and circulation areas.

- b) A Transport Assessment prepared by a suitably qualified traffic engineer/transportation planner which, taking into account the Integrated Transport Assessment (ITA) prepared by Abley Ltd dated January 2023, addresses transport network safety, efficiency and the following specific matters:
 - i. Safe access for pedestrians, cyclists and vehicles (including buses (if required), rubbish trucks and for ground and building maintenance) and appropriate measures and treatments to minimise conflicts between all transport modes;
 - ii. On-site staff and visitor car parking, cycle and scooter parking, and loading spaces to facilitate deliveries and rubbish removal;

- iii. On-site pick-up and drop-off (PUDO) area(s) specifically designed to accommodate predicted demand including vehicular access, circulation, manoeuvring for cars and buses (if required). Any on-site PUDO shall be provided with controlled egress (via a physical barrier or gate) to ensure any exit onto Murphys Road is only accessible during school drop off and pick up times;
- iv. The following matters shall specifically be addressed as they relate to the school, including any measures required to mitigate or address these matters:
 - a) Potential effects on the safe and efficient operation of the surrounding transport network and the internal school circulation;
 - b) Providing for the continuity of cycle and pedestrian facilities; and
 - c) Providing safe separated access points to the school for those who walk or cycle.
- v. Any impediments on the safe and efficient movement of pedestrians and cyclists as they relate to the school within the surrounding transport network and any measures required to mitigate these;
- vi. Traffic generation and any means of mitigating adverse effects on the efficiency and safety of the surrounding transport network.
- c) A summary of the consultation and engagement with Auckland Transport recording agreements reached on the transport matters addressed in (b) above and effects associated with the school on the surrounding existing and future roading network. A copy of the draft Design Concept Plan and draft Transport Assessment prepared to support the Establishment Outline Plan shall be provided to Auckland Transport for the purposes of this consultation and engagement.

4. **Subsequent Outline Plan of Works**

Where any subsequent proposal to increase the number of teaching spaces or to modify any vehicle access, parking or vehicle circulation feature arises, the Requiring Authority shall, submit an Outline Plan of Works which includes the following information:

- a) A Design Concept Plan for the site including:
 - i. The general location of access points for vehicles, cyclists, scooters and pedestrians including a safeguarded future access point to and from Murphys Road to the school frontage that can be provided at such time that the condition of Murphys Road enables safe active mode travel to and from the school;
 - ii. The general location of on-site parking areas (including cars, cycle and scooter parks), and on-site and off-site pick up and drop off areas;
 - iii. Measures and treatments at all existing and new access points to manage conflict between pedestrians, cyclists, scooter users and vehicles;

- iv. General location of building platforms, areas for proposed buildings and open space (such as playgrounds and sports fields); and
 - v. “Indicative” areas accommodating future education purpose growth development on this site, including building platforms, car parking areas, vehicular access, manoeuvring and circulation areas.
- b) An updated Transport Assessment prepared by a suitably qualified traffic engineer / transportation planner, which addresses all matters listed in condition 3(b) and the actual demand derived from surveys of the current school for PUDO parking on the school site, in nearby streets, and in remote PUDO locations;
 - c) A summary of engagement and consultation with Auckland Transport in accordance with condition 3(c).

5. **School Travel Plan**

- a) Prior to the opening of the school, the requiring authority shall either directly or through the School Board of Trustees, develop a School Travel Plan to provide specifically for operational and management measures including (upon review) identification of measures necessary to reduce vehicle dependence, and reduce the impact of vehicle movements on the local road network, including through active school promotion and support for walking school buses, carpooling, the encouragement of the use of public transport, the use of remote pick up/drop off locations, and the encouragement of walking and cycling.

The school shall operate in accordance with the approved School Travel Plan and its monitoring and review programme at all times.

- b) This School Travel Plan shall also specifically address the following matters:
 - i. Set the sustainable travel mode goals of the school and identify and deliver mechanisms to address poor numbers of active mode trips to school or any other adverse transport network effects identified as attributable to school operations;
 - ii. Safe pedestrian access to the entry points to the school. Features such as kea crossings or zebra crossings should be specifically considered;
 - iii. Consistency with or use of Auckland Transport’s TravelWise programme, or any equivalent programme adopted;
 - iv. Measures to separate vehicle entry and pedestrian/cyclist entries;
 - v. Location and provision on site of any scooter and cycle parking; and
 - vi. The adequacy of on-site and remote pick-up / drop-off arrangements and management including an assessment of the existing and planned peak demand, alongside consideration of the need for additional remote pick-up / drop-off in suitable locations.
- c) The School Travel Plan and any subsequent reviews shall be developed and revised in consultation with Auckland Transport and shall include a monitoring and review programme. As a minimum the School Travel Plan shall be revised

at the time of submitting each subsequent Outline Plan of Works relating to increased teaching spaces.

6. Student Catchment

- a) Until such time as Murphys Road is upgraded, the Requiring Authority, either directly or through the School Board of Trustees, shall monitor the school catchment and any out of zone enrolments, and shall provide the results of this monitoring to Auckland Transport at least every school term.
- b) Where the results of monitoring pursuant to Condition 6(a) above identifies any students travelling to or from the school along or across Murphys Road, prior to the upgrade of Murphys Road, the Requiring Authority will, either directly or through the School Board of Trustees, undertake a review of the Travel Plan required by condition 5 within three months, in consultation with a suitably qualified traffic engineer / transportation planner.
- c) The purpose of the Travel Plan review pursuant to Condition 6(b) above will be to identify, adopt and incorporate any necessary transport mitigation measures into the Travel Plan to ensure safe access to and from the school. Any such incorporated transport mitigation measures must then be implemented pursuant to the Travel Plan and Condition 5.
- d) Any Outline Plan of Works for construction works required as a result of an alteration to the student catchment to include any land located west of Murphy's Road shall include:
 - i. A Transport Assessment prepared by a suitably qualified traffic engineer/transportation planner which addresses the effects of this change on the transport environment and what mitigation is appropriate, specifically to address safety and efficiency for pedestrian and vehicular movements along and across Murphys Road.
 - ii. A summary of the consultation and engagement with Auckland Transport recording agreements reached on the transport matters addressed in (a) above and effects associated with the school on the surrounding existing and future roading network. A copy of the Transport Assessment prepared to support the Outline Plan shall be provided to Auckland Transport for the purposes of this consultation and engagement.

Advice Note:

Condition 6 recognises that the roading network present at the time of the lodgement of the Notice of Requirement for this designation was not considered adequate to provide safe pedestrian access across Murphys Road to and from the school site. It acknowledges that works on the school site that arise from the student catchment changing to include land to the west of Murphys Road should only be implemented following the requirements of condition 6 or in response to an upgrade of the roading network to satisfy safety concerns.

7. **Pedestrian Access to Murphys Road**

The Requiring Authority shall not promote direct pedestrian, cyclist or scooter access to and from the school from Murphys Road, unless this activity is supported by:

- a) A Transport Assessment prepared by a suitably qualified traffic engineer/transportation planner which addresses the effects of this access and what mitigation is appropriate, specifically to address safety and efficiency for pedestrian, cyclist and scooter movements.
- b) A summary of the consultation and engagement with Auckland Transport recording agreements reached on the matters addressed in (a) above and effects associated with the school on the surrounding existing and future roading network.

8. **On-road Interventions**

Unless already delivered by others, the following on-road interventions must be provided by the Requiring Authority prior to first operation of the school (and may be informed by the Transport Assessment required as part of the Establishment Outline Plan of Works):

- a) Extension of footpath on Picturesque Drive to service the remote pick-up / drop-off area;
- b) Construction of parking bays on Picturesque Drive to service the remote pick up / drop off area;
- c) Parking restrictions (P2 mins) at school pick-up and drop-off times for intended remote pick up / drop off parking bays on Picturesque Drive;
- d) The installation of on-road physical measures to:
 - i. prevent right-turn manoeuvres into and out of the school site from Murphys Road;
 - ii. Installation of pedestrian crossing on Te Ara Nikau;
 - iii. Te Ara Nikau cul-de-sac turning heads (if required).