

BEFORE THE ENVIRONMENT COURT
AT AUCKLAND

I MUA I TE KŌTI TAIAO O AOTEAROA
TĀMAKI MAKAURAU ROHE

ENV-2024-AKL-000059

IN THE MATTER of the Resource Management Act 1991 (**RMA**)

AND

IN THE MATTER of an appeal under section 174 of the RMA

BETWEEN **AUCKLAND UNIVERSITY OF TECHNOLOGY**

Appellant

AND

AUCKLAND TRANSPORT

Respondent

**NOTICE OF WISH TO BE PARTY TO PROCEEDINGS ON BEHALF OF
AUCKLAND COUNCIL**

22 April 2024

Auckland Council

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To: The Registrar
Environment Court
Auckland

1. Auckland Council (**Council**) wishes to be a party to Auckland University of Technology's (**AUT**) appeal against the decision of Auckland Transport, dated 21 February 2024, on a notice of requirement for a designation in the Auckland Unitary Plan (Operative in Part) (**AUP(OP)**) relating to the Airport to Botany Bus Rapid Transit from Rongomai Park to Puhinui Station (in the vicinity of Plunket Avenue).
2. The Council is a local authority under section 274(1)(b) of the Resource Management Act 1991 (**RMA**).
3. The Council appointed Independent Commissioners (**Commissioners**) to consider the five Notices of Requirement for the Airport to Botany Bus Rapid Transit Project and submissions received on them, and to make a recommendation to Auckland Transport in accordance with section 171 of the RMA. The Commissioners recommended that the five Notices of Requirement be confirmed subject to conditions. Auckland Transport's decision on Notice of Requirement 2: Rongomai Park to Puhinui Station (in the vicinity of Plunket Avenue) (**NoR 2**) was notified on 8 March 2024 (**Decision**). The Decision accepted in part the Commissioners' recommendation in relation to NoR 2 and sets out the modifications made by Auckland Transport to the Notice of Requirement conditions recommended by the Commissioners on 18 December 2023 and the reasons for the modifications.
4. The Council is not a trade competitor for the purposes of section 308C or 308CA of the RMA.
5. The Council is interested in all of the proceedings.
6. The Council wishes to participate in this appeal in light of its role as the recommending unitary authority responsible for the AUP(OP). The Council wishes to ensure that any resolution of this appeal results in clear, consistent and enforceable conditions to the designation.

7. The Council's position on the proposed amended conditions by AUT are set out as follows:

Condition Number & Topic	NoR	AUT's Proposed wording	Auckland Council's Position
5 Lapse	NoR 2	<p>Lapse</p> <p><i>In accordance with section 184(1)(c) of the RMA, this designation shall lapse if not given effect to within 10¹⁵ years from the date on which it is included in the AUP.</i></p>	The Council supports a 10-year lapse date as recommended by the Commissioners.
12 Stakeholder Communication and Engagement Plan (SCEMP)	NoR 2	<p>Stakeholder Communication and Engagement Plan (SCEMP)</p> <p><i>(c) ... To achieve the objective of the SCEMP:</i></p> <p><i>(i) At least six (6) months prior to detailed design for a stage of Work, the Requiring Authority shall identify:</i></p> <p><i>A. a list of properties within the designation which the Requiring Authority does not own or have occupation rights to <u>and all directly affected and adjacent owners and occupiers of land.</u></i></p> <p>...</p> <p><i>(iii) The SCEMP shall include:</i></p> <p>...</p> <p><i>D. methods and timing to engage with landowners whose <u>pedestrian, cycle and/or vehicle</u> access is directly affected.</i></p>	Amendments to the wording of conditions 12(c) (i)A. and (iii)D. are acceptable in principle as they provide an additional level of clarity.

Condition Number & Topic	NoR	AUT's Proposed wording	Auckland Council's Position
<p>14 Urban and Landscape Design Management Plan (ULDMP)</p>	<p>NoR 2</p>	<p><i>Urban and Landscape Design Management Plan (ULDMP)</i></p> <p><i>(f) To achieve the objective, the ULDMP shall provide details of how the Project:</i></p> <p>...</p> <p><u><i>(viii) Has responded to consultation undertaken in accordance with (d) [Key stakeholder participation] and how comments from Key stakeholders have been incorporated into the ULDMP. Where requests for changes by Key Stakeholders have not been agreed to, the Requiring Authority shall provide the request and the reason for rejection.</i></u></p> <p>...</p> <p><i>(h) The ULDMP shall include:</i></p> <p>...</p> <p><u><i>Details of property access – including how pedestrian and vehicle access to the site and adjacent sites is affected, what changes are proposed and what provision has been made to retain existing levels of amenity and functionality;</i></u></p>	<p>Amendment to the wording of condition 14(f)(viii) is acceptable in principle as it ensures the views of key stakeholders have been taken into consideration and if not, the reason for not accepting their changes.</p> <p>Acceptable in principle as recommended by the Commissioners.</p>
<p>16 Existing property access</p>	<p>NoR 2</p>	<p><i>Existing property access</i></p> <p><i>(a) Where existing property <u>pedestrian, cycle and/or vehicle access</u> which exists at the time the Outline Plan is submitted is proposed to be altered by the project, the Requiring Authority</i></p>	<p>Amendments to the wording of the condition are acceptable in principle.</p>

Condition Number & Topic	NoR	AUT's Proposed wording	Auckland Council's Position
		<p><i>shall consult with the directly affected landowner regarding the required changes. The Outline Plan shall demonstrate how safe access will be provided, unless otherwise agreed with the affected landowner.</i></p>	
<p>20 Construction Traffic Management Plan (CTMP)</p>	<p>NoR 2</p>	<p>Construction Traffic Management Plan (CTMP)</p> <p><i>(b) ... To achieve this objective, the CTMP shall include:</i></p> <p>...</p> <p><i>(iii) the estimated numbers, frequencies, routes and timing of traffic movements, including any specific non-working or non-movement hours (for example on roads serving educational facilities during pick up and drop off times) to manage vehicular and pedestrian traffic near educational facilities and tertiary facilities or to manage traffic congestion.</i></p> <p>...</p> <p><i>(vi) methods to maintain pedestrian, cycle and vehicle access to and within property and/or private roads where practicable, or to provide alternative access arrangements when it will not be. Engagement with landowners whose access is directly affected shall be undertaken in accordance with Condition 12(b)(iii)D 12(c)(i)D;</i></p>	<p>Acceptable in principle.</p>
<p>New Condition: AUT South Campus Buildings and Infrastructure</p>	<p>NoR 2</p>	<p><u>Within 24 months of the designation being confirmed, the requiring authority shall consult with the Minister of Tertiary Education, Skills and Employment and Auckland University of</u></p>	<p>The Council neither opposes nor supports as it is a matter between AUT and Auckland Transport.</p>

Condition Number & Topic	NoR	AUT's Proposed wording	Auckland Council's Position
		<p><u>Technology (AUT) on the design, program and construction methodology for any work that is intended to occur within the South Campus designation, to develop a design and construction methodology that minimises effects on the South Campus buildings, above and below ground infrastructure and services. A record of this engagement process, the proposed design and construction methodology, and any comment by AUT and the Minister is to be included in any outline plan for NoR2 lodged with Auckland Council.</u></p> <p><u>Advice Note:</u></p> <p><u>Under section 177(1)(a) of the RMA, the requiring authority is required to obtain approval from the Minister of Education before works commence in the land subject to the South Campus.</u></p>	

8. The Council agrees to participate in mediation or other alternative dispute resolution of the proceedings.

Date: 22 April 2024



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