

BEFORE THE ENVIRONMENT COURT
AT AUCKLAND

I MUA I TE KŌTI TAIAO O AOTEAROA
TĀMAKI MAKĀURAU ROHE

ENV-2024-AKL-000056

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

AND

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

BETWEEN **BPG DEVELOPMENTS LIMITED**

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 the following proceedings:

BPG Developments Limited's (**BPG**) appeal against the decision of Auckland Transport, dated 21 February 2024, confirming two Notices of Requirement for designations in the Auckland Unitary Plan (Operative in Part) (**AUP(OP)**) being:

- a) Airport to Botany Bus Rapid Transit from Botany to Rongomai Park (NoR 1); and
 - b) Airport to Botany Bus Rapid Transit from Rongomai Park to Puhinui Station (in the vicinity of Plunket Avenue) (NoR 2).
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 1: Botany to Rongomai Park (**NoR 1**) and Notice of Requirement 2: Rongomai Park to Puhinui Station (in the vicinity of Plunket Avenue (**NoR 2**) were notified on 8 March 2024 (**Decision**). The Decisions accepted in part the Commissioners' recommendations in relation to NoR 1 and NoR 2, and sets out the modifications made by Auckland Transport to the Notices 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 generally supports the reinstatement of the Commissioners' recommendations as sought by BPG. The Council's position on the proposed amended conditions by BPG are set out as follows:

Condition Number & Topic	NoR	BPG's Proposed wording	Auckland Council's Position
5 Lapse	NoR 1	Lapse <i>In accordance with section 184(1)(c) of the RMA, this designation shall lapse if not given effect to within 1045 years from the date on which it is included in the AUP.</i>	The Council agrees and supports a 10-year lapse date as recommended by the Commissioners.
	NoR 2		
16 Existing property access	NoR 1	<p>Existing Property Access</p> <p><i>A. Where existing property vehicle access which exists at the time the Outline Plan is submitted is proposed to be altered by the project, the Requiring Authority 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><i><u>B. The Requiring Authority shall ensure that all property access at 277 Te Irirangi Drive, 123 Ormiston Road and 308 Te Irirangi Drive that exists at the time the Outline Plan is submitted shall be retained in and reinstated into its current form following completion of construction. In addition, the</u></i></p>	The Council neither opposes nor supports this new condition as it is a matter between BPG and Auckland Transport.

Condition Number & Topic	NoR	BPG's Proposed wording	Auckland Council's Position
		<p><u>Requiring Authority must ensure that:</u></p> <p>a. <u>Direct vehicle access between 277 Te Irirangi Drive and Botany Way is retained in a form that caters to 11.5 metre trucks.</u></p> <p>b. <u>Direct vehicle access between 308 Te Irirangi Drive and Bishop Lenihan Place is retained in a form that caters to 12.6 metre trucks.</u></p>	
	NoR 2	<p>Existing Property Access</p> <p><i>A. Where existing property vehicle access which exists at the time the Outline Plan is submitted is proposed to be altered by the project, the Requiring Authority 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><u><i>B. The Requiring Authority shall ensure that all property access at 613 – 615 Great South Road that exists at the time the Outline Plan is submitted shall be retained in and reinstated into its current form following completion of construction.</i></u></p>	The Council neither opposes nor supports this new condition, as it is a matter between BPG and Auckland Transport.

Condition Number & Topic	NoR	BPG's Proposed wording	Auckland Council's Position
<p>20</p> <p>Construction Traffic Management Plan (CTMP)</p>	NoR 1	<p>Construction Traffic Management Plan (CTMP)</p> <p><i>(a) A CTMP shall be prepared prior to the Start of Construction for a Stage of Work.</i></p> <p>...</p> <p><i>(b)</i></p> <p><i><u>(xii) Methods to maintain key vehicle access routes within sites during the designation extent to ensure business operations on affected sites can continue in a viable manner during construction works.</u></i></p> <p><i><u>(xiii) Members of the public and stakeholders directly affected by any Construction Traffic Management Plan and adjacent owners and occupiers of land shall be engaged in the preparation of that Plan.</u></i></p>	<p>The Council supports condition 20(b)(xii) as recommended by the Commissioners. However, the Council opposes condition 20(b)(xiii) as public consultation will take place on the Project.</p>
	NoR 2		<p>The Council neither opposes nor supports as it is a matter between BPG and Auckland Transport.</p>
<p>New condition:</p> <p>Carpark</p>	NoR 1	<p><u>Carpark</u></p> <p><i><u>The Requiring Authority is to ensure that there is no reduction in the quantity of carparks at 277 Te Irirangi Drive, 123 Ormiston Road and 308 Te Irirangi Drive both during the construction period and following completion of construction. Carparking configuration must also be retained in its current form.</u></i></p>	<p>The Council neither opposes nor supports as it is a matter between BPG and Auckland Transport.</p>
	NoR 2	<p><u>Carpark</u></p>	<p>The Council neither opposes nor supports as</p>

Condition Number & Topic	NoR	BPG's Proposed wording	Auckland Council's Position
		<p><u>The Requiring Authority is to ensure that there is no reduction in the quantity of carparks at 613 to 615 Great South Road both during the construction period and following completion of construction. Carparking configuration must also be retained in its current form.</u></p>	<p>it is a matter between BPG and Auckland Transport.</p>
<p>New Condition: Signage</p>	<p>NoR 1</p>	<p><u>Signage</u></p> <p><u>The Requiring Authority is to ensure that the large format destination signage at 277 Te Irirangi Drive, 123 Ormiston Road and 308 Te Irirangi Drive is either:</u></p> <p><u>(a) retained in its current location; or</u></p> <p><u>(b) relocated to a suitable location, as agreed in consultation with the landowner, at the Requiring Authority's own cost.</u></p>	<p>The Council neither opposes nor supports as it is a matter between BPG and Auckland Transport.</p>
	<p>NoR 2</p>	<p><u>Signage</u></p> <p><u>The Requiring Authority is to ensure that the large format destination signage at 613 – 615 Great South Road is either:</u></p> <p><u>(c) retained in its current location; or</u></p> <p><u>(d) relocated to a suitable location, as agreed in consultation with the landowner, at the Requiring Authority's own cost.</u></p>	<p>The Council neither opposes nor supports as this is a matter between BPG and Auckland Transport.</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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