

BEFORE THE ENVIRONMENT COURT
AT AUCKLAND

I MUA I TE KŌTI TAIAO O AOTEAROA
TĀMAKI MAKAURAU ROHE

ENV-2024-AKL-000061

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

AND

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

BETWEEN **MITRE 10 HOLDINGS LIMITED**

Appellant

AND

AUCKLAND TRANSPORT

Respondent

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

22 April 2024

Auckland Council

Legal Services
Private Bag 92300, Victoria Street
AUCKLAND 1142

Solicitor Acting: **C L Faesenkloet**
Mob: 021 605 896
Corina.Faesenkloet@aucklandcouncil.govt.nz

To: The Registrar
Environment Court
Auckland

1. Auckland Council (**Council**) wishes to be a party to Mitre 10 Holdings Limited's (**Mitre 10**) 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 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 the 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 and relief sought by Mitre 10 in relation to NoR 2 are set out as follows:

Condition Number & Topic	NoR	Mitre 10's Proposed wording / relief sought	Auckland Council's Position
3 Land use Integration Process	NoR 2	<p><i>Land use Integration Process</i></p> <p><u><i>(e) Where a Developer or Development Agency wishes to advance development plans, the Requiring Authority shall:</i></u></p> <p><u><i>(i) engage with the Developer or Development Agency in good faith to consider how the designation can integrate with the development plans;</i></u></p> <p><u><i>(ii) use all reasonable endeavours to advance the design of the relevant part of the designation to understand how it can integrate with the development plans; and</i></u></p> <p><u><i>(iii) use all reasonable endeavours to minimise the impact of the designation on development plans (including, but not limited to, considering design and construction methods to minimise the loss of land available for the development plans).</i></u></p> <p><u><i>(f) The nominated contact shall maintain a record of the engagement between the Requiring Authority and Developers and Development Agencies for the period following the date in which this designation is included in the AUP through to the Start of Construction for a Stage of Work. The record shall include:</i></u></p> <p>...</p> <p><u><i>(iv) details of any agreed changes to achieve integration with development plans.</i></u></p>	The Council agrees and supports in principle as recommended by the Commissioners.

Condition Number & Topic	NoR	Mitre 10's Proposed wording / relief sought	Auckland Council's Position
9 Outline Plan	NoR 2	<p><i>Outline Plan</i></p> <p><i><u>(e) Outline Plans (or Plan) shall include details of where retaining walls will replace proposed cut/fill batters, at the Project edges. Earthworks and batters should be designed in consultation with property owners to minimise the land required for the works and the utilisation of retaining walls in preference to batters should be investigated to minimise impacts on the adjacent land. Retaining walls should be considered rather than a batter slope in areas where space is limited. This needs to be undertaken on a site-by-site basis and ensure property access and flood risk are not adversely affected.</u></i></p>	<p>The Council opposes and prefers the wording in the Auckland Transport decision subject to the detailed design stage for the Project being undertaken before any Outline Plan is lodged, stakeholder input commencing six months prior to the start of detailed design, and the new Condition 14 (h)(iii)(A)(c) proposed by Auckland Transport.</p>
Amend the NoR boundary	NoR 2	<p>Amend the NoR boundary to remove the NoR from the Site at 61 Lambie Drive, Manukau.</p>	<p>The Council neither opposes nor supports this condition as it is a matter between Mitre 10 and Auckland Transport.</p>

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

Date: 22 April 2024



.....
C L Faesenkloet / F Y Cho
Counsel for Auckland Council

Address for service:
Auckland Council
Level 15, 135 Albert Street, Auckland
AUCKLAND 1010
Attn: Corina Faesenkloet / Frida Cho

Mobile: 021 605 896
Email: Corina.Faesenkloet@aucklandcouncil.govt.nz
Frida.Cho@aucklandcouncil.govt.nz