

**BEFORE THE ENVIRONMENT COURT
AUCKLAND REGISTRY**

ENV-2025-AKL

**I MUA I TE KŌTI TAIAO
TĀMAKI MAKĀURAU ROHE**

UNDER

the Resource Management
Act 1991

IN THE MATTER

of an appeal by Restaurant
Brands Limited against the
decision of Auckland
Transport to confirm NoR 3
(South Frequent Transit
Network – Takanini FTN –
Weymouth, Alfriston, and
Great South Road upgrades)

BETWEEN

**RESTAURANT BRANDS
LIMITED**

Appellant

AND

AUCKLAND TRANSPORT

Respondent

**NOTICE OF APPEAL BY RESTAURANT BRANDS LIMITED
21 FEBRUARY 2025**



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To: The Registrar
Environment Court
AUCKLAND

1. **RESTAURANT BRANDS LIMITED** ("RBL") appeals the decision to confirm Notice of Requirement Number 3 ("NoR 3") for a designation for the Takanini Frequent Transport Network to upgrade Weymouth, Alfriston, and Great South Road ("NoR 3").
2. RBL made a submission on NoR 3.
3. RBL received notice of the decision on 30 January 2025.
4. The decision was made by Auckland Transport ("AT").
5. RBL is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
6. RBL is appealing the whole decision.
7. The sites which the requirement applies to are properties adjoining and near to the intersection of Weymouth Road, Alfriston Road, and Great South Road in Manurewa, including the RBL property at 2 Weymouth Road, Manurewa ("Site").

Reasons for the appeal

8. The reasons for the appeal are set out below.
9. RBL is a leading quick service retail provider ("QSR"). RBL's operation in New Zealand comprises the KFC, Pizza Hut, Carl's Jr., and Taco Bell portfolios. RBL has a combined portfolio (owned and franchised) of 241 sites across the country from Kaitia in the North to Invercargill in the South.
10. RBL is the leaseholder of the Site, which is occupied by a single storey KFC restaurant. The restaurant is serviced by a dual drive-through and access to the Site is obtained from Weymouth Road and Great South Road.
11. NoR 3 seeks to designate the whole Site. RBL is opposed to the NoR for the reasons addressed below.

General

12. The decision of AT to confirm NoR 3:
- (a) Does not promote the sustainable management of natural and physical resources, including with respect to enabling people and communities to provide for their health and safety and social, economic, and cultural wellbeing;
 - (b) Does not promote the efficient use and development of physical resources;
 - (c) Is not consistent with good resource management planning and practice;
 - (d) Is not reasonably necessary for achieving AT's objectives;
 - (e) Has not given adequate consideration to potential alternatives;
 - (f) Includes an excessive lapse period of 15 years; and
 - (g) Will have significant adverse effects on the Site and RBL.

Specific

13. Without limiting the generality of the above, the significant adverse effects of NoR 3 on the Site and RBL arise from the following:
- (a) KFC Manurewa is:
 - (i) Located on a premium site for QSR in that it is in a highly developed urban area on a corner site with high visibility and easy access from two-way vehicle crossings to Great South Road and Weymouth Road; and
 - (ii) A flagship store that is one of the three top performing stores in RBL's KFC network.
 - (b) Given the performance of KFC Manurewa, RBL:
 - (i) Signed a long-term lease in 2010 for continued use of the site and that lease does not expire until 2058 – around 18 years after the 15 year lapse period provided for by AT in its decision on NoR 3;
 - (ii) Undertook a \$2.3 million dollar rebuild in 2010;

- (iii) Invested an additional \$1.2 million in 2021 in further improvements; and
 - (iv) Included an obligation in its franchise agreement for RBL to undertake a minor and major upgrade of KFC Manurewa.
 - (c) The conceptual layout for NoR 3 results in:
 - (i) Removal of the Weymouth Road access to KFC Manurewa; and
 - (ii) The batter slope for the new grade required for the road extending into the KFC Manurewa drive through exit.
 - (d) As a result, critical aspects – the drive through and the Weymouth Road access – of the operation of KFC Manurewa would no longer be able to be used.
14. NOR 3, if confirmed, would result in the demise of the flagship KFC Manurewa long before the current lease expires in circumstances where RBL:
- (a) Has invested millions of dollars in KFC Manurewa; and
 - (b) Expected that that investment would pay off in the long term – out to 2058.
15. In addition, and even if the above issues can be addressed, there will be significant adverse effects arising from construction, including dust and noise generation, impacts to site access and not being able to operate the drive through, that are not avoided or adequately mitigated by what is proposed by AT. As a result, KFC Manurewa would not be able to operate during the construction phase, even with the agreement of AT.

Relief

16. RBL seeks the following relief:
- (a) The appeal is allowed;
 - (b) NoR 3 is cancelled / not confirmed;
 - (c) Such further or other relief, including consequential relief, as will address the reasons for the appeal; and
 - (d) Costs of and incidental to this appeal.

17. The following documents are **attached** to this notice:

- (a) A copy of RBL's submission.
- (b) A copy of the decision of AT.
- (c) A list of names and addresses of persons to be served with a copy of this notice.

DATED at AUCKLAND on 21 February 2025



S J Berry / C D H Malone

Counsel for Restaurant Brands Limited

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Advice to recipients of copy of notice

How to become party to proceedings

You may be a party to the appeal if—

- (a) you made a submission on the matter of this appeal; and
- (b) within 15 working days after the period for lodging a notice of appeal ends, you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- (c) within 20 working days after the period for lodging a notice of appeal ends, you serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of RBL's submission or the decision of AT. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.