In the matter of the Resource Management Act 1991

And an alteration to Designation 1714 to enable the construction, operation and maintenance of the City Rail Link

REQUEST FOR FURTHER INFORMATION

Introduction

1. The City Rail Link project (CRL) provides for a 3.4km underground passenger railway between Britomart Station and the North Auckland Line (NAL), and involves six individual CRL Designations.

2. This application relates to Designation 4 (Karangahape Station) (Designation 1714) and to land in and in the vicinity of Pitt Street, Beresford Street, Karangahape Road, and Mercury Lane. Designation 4 provides for Karangahape Station with station entrances in Beresford Square and Mercury Lane, a localised construction area, and ancillary construction and reinstatement activities through surface and sub-strata designations.

3. There is no change to the proposal to construct Karangahape Station between Beresford Square and the southern end of Mercury Lane, but further work on the CRL has identified changes in design which include the following which are relevant to this request for further information:

   a. Whilst the main access to Karangahape Station was originally proposed to be from Beresford Square with secondary access in Mercury Lane, City Rail Link Limited (CRLL) are now proposing to make the Mercury Lane entrance the main access and to defer the construction of the Beresford Square entrance for an unspecified period of time, meaning that for the time being, the only station entrance for Karangahape Station will be on Mercury Lane.

   b. The designation originally placed the ventilation stack(s) relating to operational and emergency discharges in Beresford Square and this alteration would see the ventilation stack moved to a location in a widened footpath in front of 72-74 Pitt Street. This requires an extension to the designation boundary.

   c. The other above ground structure is an emergency egress stair, which (for operational and safety reasons) is now proposed to be placed in a widened footpath in front of 80-86 Pitt Street.
Information provided after the hearing adjourned

4. Following the adjournment of the hearing, at the Commissioners’ request, the following information was provided:

a. A document from the Requiring Authority entitled “Triggers for the Provision of the Second Entrance at Karangahape Station” and “Appendix 3 Proposed Conditions” with a note from the Council planning team; and

b. An email from Counsel for Body Corporate 413692 relating to the aforementioned Proposed Conditions.

5. In the undated document Triggers for the provision of the second entrance at Karangahape Station which confirmed Mr Fellows’ oral evidence at the hearing, it was stated that:

“A second entrance in Beresford Square has been future proofed to respond to a potential future need .. When the patronage trends indicate that, within three years, the existing capacity of the station will be exceeded by passenger demand the development of an additional station entrance will be considered.”

6. The key generators of change that could result in increased patronage and trigger the requirements for a second entrance at Karangahape station are therefore any combination of:

1. Increasing the passenger capacity of the 6 car CAF trains, carrying more passengers to use the station in the peak period

2. Longer trains (i.e. more than 6 cars) carrying more passengers through the station in the peak period

3. A significant development in the vicinity of Beresford Square that generates additional patronage for Karangahape station to the North of Karangahape Rd.”

7. In his email of 6 December 2017, Counsel for Body Corporate 413692 raised a concern with the revised wording of Condition 41.2(h) which in his view could result in the loss of the recognised heritage characteristics of both the canopies and the building façade at 70-74 Pitt Street. We note our preliminary agreement with that concern given the parties had earlier agreed on the wording of the Condition but reserve our final decision on that matter.

Further information required

8. This further information request has been generated by the following issues which have arisen during our discussions and preliminary drafting of our recommendation:

a. Whether we can consider, comment on and make a recommendation on CRLL’s decision to make the Mercury Lane entrance the main (and, for an unspecified time) the only entrance to Karangahape Station. Although the
Requiring Authority and the Council both assume that this change is enabled through Designation 4, the material before us is ambivalent.

b. Following from (a), the relevance of the evidence relating to the difficulties in accessing the Mercury Lane entrance from and to Karangahape Road, in terms of ‘universal access’ concerns.

c. Whether we have sufficient evidence to determine that the two proposed structures in Pitt Street are complementary, that they retain and integrate with heritage values, and avoid significant adverse effects on heritage values in terms of Policy D17.3(8).

d. Whether there can be said to be a functional need or operational constraint that necessitates their location within a scheduled historic heritage place in terms of Policy D17.3(25), given that there is no certainty about the timing or even the eventuality of the Beresford Square entrance.

e. For the same reason, whether we can determine that significant adverse effects on the heritage values of the place are avoided where practicable; and other adverse effects are avoided, remedied or mitigated in terms of the same Policy D17.3(25).

f. Whether CRLL’s assessment of alternatives was compromised by the failure to include in the assessment an evaluation of heritage impacts or visual effects; and a requirement to consider only “customer experience in the station”) which did not extend to an evaluation of the Station entrance’s accessibility.

g. Whether the vent and the emergency stair structures can be said to be reasonably necessary, given that their location is justified in order to safeguard the ability to build the future second entrance in Beresford Square without affecting the by then operational CRL tunnels and Karangahape Station..... when there is no commitment as to when the Beresford Square entrance might be built.

Particulars of the above points

**Switching the entrances**

9. The Council Planning Report states that the confirmed designation authorises the construction and operation of two station entrances, regardless of the timing of construction. We accept that the designation is enabling and not obligatory but given the issues which have arisen as a consequence, we are not comfortable with any finding that this issue is out of scope.

1 This interpretation was used in the Council Planning Report refer paragraph 5.7(c)
2 John Fellows evidence, paragraph 13(f)
3 Report paragraphs 3.5-3.6
10. It seems to us that the issue is in fact required in terms of section 171(1)(b) of the Resource Management Act and is addressed in the application\textsuperscript{4}, the Planning Report\textsuperscript{5} and in the evidence\textsuperscript{6}.

**Universal Access**

11. With Mercury Lane now providing the only access to Karangahape Road, ‘universal access’ concerns were raised in submissions but were deemed out of scope by the Council planning team\textsuperscript{7} and in legal submissions on behalf of CRLL\textsuperscript{8}. Mr Fellows addresses Mercury Lane issues in his evidence\textsuperscript{9} and he notes that the gradient of Mercury Lane remains unchanged from that in Designation 4.

12. However, the focus on that access has changed as a consequence of the removal of choice of entranceways and in the Commissioners’ opinion, access to the Station remains a valid and relevant matter for consideration, particularly given the inclusion of Condition 47 Urban Design Principles which provides at (c)(ii) “Public Realm and Landscape, Universal Access – Station environments should promote universal access (eg footpath ramps and smooth ground surfaces)’.

**Heritage effects of proposed structures**

13. In terms of the relevant Policies quoted above, the Commissioners are concerned that the evidence is missing the link necessary firstly, to determine the future design of the structures and secondly, to conclude that there is a functional need for their location, given the lack of any specific requirement to construct the Beresford Square entrance if and when certain criteria or trigger points are met. This lack seems to us to result in a situation where the future proofing of this entrance is actually a ‘nice to have up our sleeve’ rather than a necessity to enable its opening in the future.

14. The policy direction is quite clear: the structures may be located within scheduled historic heritage places only “where all of the following apply” – that is, the functional need or operational constraint, the avoidance of significant adverse effects (where practicable), and that other adverse effects are avoided, remedied or mitigated. In the absence of clear trigger points, we are not satisfied at the present time that these circumstances exist.

**Assessment of alternatives**

15. The exclusion of relevant assessment criteria in CRLL’s assessment of alternatives relating to heritage impacts, visual effects and an evaluation of the station

\textsuperscript{4} 4.2 Station Construction Alternatives
\textsuperscript{5} 5 Assessment of Alternatives
\textsuperscript{6} For example, Mr Fellows’ evidence paragraphs 20-21
\textsuperscript{7} Paragraph 3.6
\textsuperscript{8} Paragraph 46
\textsuperscript{9} Paragraphs 34, 35-43
entrance’s accessibility\textsuperscript{10} concerns the Commissioners as it raises the possibility that the assessment process was not sufficiently robust as the criteria were inappropriately limited.

16. The Council Planning Report found that the lack of assessment criteria relating to heritage or amenity values was a “shortfall” but not a “fatal flaw”.\textsuperscript{11} We are not so convinced. We accept the reasons given in that Report relating to future proofing and practicalities, but come back to our other point relating to the failure to identify the trigger points which would convert that future proofing into an actual Beresford Square entrance.

\textit{“Reasonably necessary”}

17. This brings us to our final issue and the reasonable necessity of providing the vent and emergency stair structure in a recognised heritage area without a commitment as to when the Beresford Square entrance might be built. We have not been persuaded as to the ‘functional need’ for these structures without that commitment. In these circumstances, the structures might be built without the Station ever reaching the capacity at which the second entrance might be considered “necessary”.

Directions

18. In relation to the above points, and in accordance with section 41C of the Resource Management Act 1991, the Requiring Authority is directed to provide to the Senior Hearings Advisor, by email Paulette.Kenihan@aucklandcouncil.govt.nz the further information described above by 31 January 2018.

19. The information is to be distributed by the Senior Hearings Advisor to the Council planning team and to the submitters who attended the hearing and its receipt advised to all other submitters. The submitters have until 14 February 2018 to respond to the information received. Any responses should be provided to the Senior Hearings Advisor by email as above.

20. The responses are to be distributed by the Senior Hearings Advisor to the Council planning team and to the Requiring Authority. The Council has until 28 February 2018 to provide its comments on the information and responses received under paragraphs 18 and 19 above. Any comments should be provided to the Senior Hearings Advisor by email as above.

21. The comments are to be distributed by the Senior Hearings Advisor to the Requiring Authority and all submitters who provided a response under paragraph 19 above. The Requiring Authority has until 14 March 2018 to provide its closing submissions

\textsuperscript{10} Refer paragraphs 5.7 and 5.25 of the Council Planning Report for a summary of the criteria used, which included regeneration potential; precinct place-making; in-station experience; and construction and operating costs.

\textsuperscript{11} Council Planning Report, paragraph 5.27
and any additional information. Any submissions or additional information should be provided to the Senior Hearings Advisor by email as above.

22. The submissions or additional information are to be distributed by the Senior Hearings Advisor to the Commissioners, the Requiring Authority, all submitters who provided a response under paragraph 19 above and the Council planning team.

23. The Commissioners will then decide whether to reconvene the hearing or finalise their recommendation/s on the papers without the need for a reconvened hearing.

24. In the meantime, the hearing stands adjourned.

For Alan Watson and Rebecca Macky

Hearing Commissioners

20 December 2017