

AUCKLAND UNITARY PLAN  
INDEPENDENT HEARINGS PANEL

*Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau*

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Report to Auckland Council  
Hearing topic 074 Designations

Minister for Courts

Notice of Requirement  
R4103 Henderson Courthouse

May 2016

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**Report first prepared by Murray Kivell in accordance with the Auckland Unitary Plan Independent Hearing Panel procedure and in accordance with section 142 of the Local Government (Auckland Transitional Provisions) Act 2010, on 20 August 2015 and updated 22 September 2015 and 15 December 2015.**

**Adopted as Auckland Unitary Plan Independent Hearings Panel recommendations in accordance with the Auckland Unitary Plan Independent Hearing Panel procedure and in accordance with section 144 of the Local Government (Auckland Transitional Provisions) Act 2010 on date of signature.**

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## **1. Introduction**

The purpose of this report is to provide an assessment and recommendation in relation to designations, modifications and new designations classified by the Independent Hearings Panel as moderately complex. This classification will generally apply where there is a:

- i. rollover of a designation with no modifications and a submission lodged by third party;
- ii. modification to a designation that will result in more than minor effects and with or without submissions;
- iii. notice of requirement for a new designation for existing works with or without submissions.

## **2. Assessment**

The assessment will address:

- i. effects on the environment of allowing the modification or requirement;
- ii. mitigation measures proposed by requiring authority including any proposed conditions;
- iii. other section 171 matters or section 168A(3) (if the requiring authority is Auckland Council) matters where relevant;
- iv. whether land is owned by the requiring authority.

See section 9 of this report for the assessment of each modification and requirement.

On the basis of the assessment, the report concludes that the notice of requirement R4103 should be confirmed:

## **3. Expert input**

Not applicable.

## **4. Mediation required**

Based on the responses of the requiring authority as detailed in section 9, there are no matters that have been identified that would benefit from mediation.

## **5. Hearing required**

Based on the responses of the requiring authority as detailed in section 9, the matter has not been identified to progress to a hearing.

## 6. Recommendation to Panel

That the Panel recommends that the notice of requirement be confirmed.

<b>Author</b>	Murray Kivell
<b>Author's Signature</b>	
<b>Date</b>	20 August 2015 and updated 22 September 2015 and 15 December 2015 with minor changes

## 7. Panel recommendations to Auckland Council

The Auckland Unitary Plan Independent Hearings Panel recommends that Auckland Council recommends to the requiring authority that it confirms the notice of requirement R4103 included in the Proposed Auckland Unitary Plan subject to the modification shown in Attachment 1.

## 8. Panel reasons

The reasons for the Panel's recommendation are set out in section 9 below.

<b>Panel Chair</b>	David Kirkpatrick
<b>Chair's Signature</b>	
<b>Date</b>	18 May 2016

## 9. Assessment of modifications and submissions

This assessment has been prepared based on the review of the Form 18 Notice of Requirement lodged in 2012 and supplementary information provided by the requiring authority in July 2014, and without the benefit of a site visit by the report writer.

Requiring authority	Minister for Courts
Designation number	R4103
Designation purpose	Judicial, court, tribunal and related purposes including collection of fines and reparation, administration, support, custodial services, and ancillary activities. Works include development and operation of land and buildings for the aforementioned purposes.
Location	415-421 Great North Road, Henderson
Designation given effect to	No
Lapse date in operative plan	NA
Rollover designation with no modifications	NA
Description of the modification	NA
Notice of requirement	<p>The Minister has responsibility for providing administrative and other services necessary to:</p> <ul style="list-style-type: none"> <li>• operate the New Zealand court system;</li> <li>• support independent judicial decision making;</li> <li>• oversee the collection of fines and reparations;</li> <li>• serve court documents; and</li> <li>• enforce civil judgement orders.</li> </ul> <p>The development of new court facilities in the west Auckland area will be required prior to 2020. The development of the courthouse and judicial facilities is proposed in Henderson. The site is within the existing urban area zoned Metropolitan Centre in the Proposed Auckland Unitary Plan.</p> <p>A ten-year lapse period from the date that the Unitary Plan is made operative is sought.</p> <p>An extensive set of conditions is proposed. This includes the designation plan and two diagrams showing the application of proposed bulk and location controls to the site. Refer to Notice of Requirement documentation provided by the requiring authority.</p>
Land ownership	NA
Land owned by the requiring authority	All land subject to this designation is owned by the requiring authority.
Submitter	No submitters.
Matters addressed in submission	Not relevant.
Engagement by requiring authority with submitters.	NA
Assessment and reasons: (Overview of Section 171 Matters)	<p><b>Effects on submitters:</b> There are no submitters.</p> <p><b>Existing environment:</b> The existing development on the</p>

site is characterised by commercial, light industrial activity and is considered to be of low value in its contribution to the urban form and amenity of Henderson town centre.

**Mitigation measures proposed by requiring authority including any proposed conditions:**

The future use of the site for justice purposes may result in actual or potential effects on the environment are noted as:

- i. urban design; built-from and landscape;
- ii. transportation effects; and
- iii. construction effects.

**Urban design**

It is proposed to maintain a 10m riparian margin free from development along the length of the Opanuku Stream by way of a condition. This will ensure the majority of existing vegetation is retained and can be enhanced through further planting. In addition it is proposed to maintain a 5m side yard and 10m rear yard to ensure separation from surrounding development which has been built to adjoining boundaries. It is proposed to include conditions addressing building height, height in relation to boundary, and building setback at upper floors. Refer Figures 1 and 2 in the notice of requirement.

In combination with the proposed 10m riparian buffer, this will limit development to a height of 21m (5 storeys) along the site boundary with the Opanuku Stream. This height is consistent with several other buildings within the immediate vicinity of 415-421 Great North Road, including: 8-10 Wadier Place (6 storeys), 15 Sel Peacock Drive (3-5 storeys), and 6 Alderman Drive (3 storeys). A combination of the proposed yard, height in relation to boundary, and upper floor setback controls would limit the total permitted height on site to 62m (15 storeys) at its highest point. It is unlikely that any development on site would be required to maximise all 15 storeys available.

**Transportation**

An Integrated Transport Assessment has been prepared in support of this Notice. The Integrated Transport Assessment concludes that there are no inherent issues relating to access, impact on the arterial network or parking from the potential development that cannot be addressed at the time of an outline plan being submitted under section 176A of the Resource Management Act 1991. It is proposed a comprehensive Integrated Transport Assessment also be undertaken and submitted as part of the outline plan process as a condition attached to the notice of requirement.

**Construction Effects**

	<p>Construction effects include effects from dust and sedimentation, construction noise and vibration, and disruption to vehicular and pedestrian traffic. These effects are considered to be the most relevant.</p> <p>To mitigate and avoid any potential adverse effects, it is also proposed to implement a Construction Management Plan and Communications Plan. Dust and sedimentation will be managed using appropriate measures including wetting down of exposed surfaces, wheel washing where required and the use of filter fabric over cesspits.</p> <p>A Construction Noise and Vibration Management Plan and Temporary Traffic Management Plan will also be required through the outline plan process to ensure compliance with the relevant New Zealand Standards.</p> <p>The development of management plans through conditions of consent is common practice for infrastructure projects.</p> <p><b>Part 2 Matters</b></p> <p><b>Section 5</b> The purpose of the notice is to enable the provision for district courthouse facilities on land which has already been set aside by the Crown for justice purposes. This inherently achieves the purpose of section 5, making efficient use of an existing resource, while providing facilities to accommodate the judicial system which serves to enable communities to provide for social, cultural and economic well-being.</p> <p><b>Section 6-Matters of National Importance</b> There are no section 6 matters of national importance.</p> <p><b>Section 7- Other Matters</b> Section 7 lists certain other matters to which particular regard is to be had. Of relevance to this notice is: (b) the efficient use and development of natural and physical resources.</p> <p>This notice seeks to enable development of a courthouse on land which has been set aside for justice purposes. As such, it represents an efficient use of an existing natural resource – the land. The site is also located in an area well serviced by existing transport infrastructure and is identified for significant residential and commercial growth.</p> <p><b>Section 8-Treaty of Waitangi</b> This proposal will not be in conflict with the principles of the Treaty of Waitangi.</p> <p>Overall, given the assessment of environmental effects and the above discussion, the proposal is considered to be consistent with Part 2 of the Resource Management Act</p>
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	<p>1991.</p> <p><b>Section 171 Considerations</b></p> <p>Section 171(1)(a): relevant provisions of plans (paraphrased). An assessment of the proposal against relevant provisions has been provided in section 4c of the notice.</p> <p>Section 171(1)(b): consideration of alternative sites for undertaking the work if the requiring authority does not have an interest in the land sufficient for undertaking the work, or, if it is likely that the work will have a significant adverse effect on the environment. Land is owned by the Crown as has been set aside for justice purposes since 1957. The effects of the public work on the environment are considered to be no more than minor and can be mitigated through conditions attached to the designation. Given this, there is no requirement to assess alternative sites.</p> <p>Section 171(1)(c): whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority (paraphrased). The development of additional court facilities has been identified as a priority for the Minister.</p> <p>Section 171(1)(d): any other matters reasonably necessary in order to make a decision (paraphrased). The notice by the Minister seeks a ten-year lapse period from when the Unitary Plan becomes operative. The authority has confirmed that this is to accommodate the Crown's own business planning cycle, assess strategic demand across all its sites for its judicial services and to be able to plan well in advance for such a significant build. These reasons are considered by the report writer an acceptable basis to confirm a ten-year lapse period.</p> <p>Subject to the clarification of the following matter:</p> <ul style="list-style-type: none"> <li>i. the rationale for the building height control, and</li> <li>ii. whether it is 62.5 metres (as in the notice lodged) or 72.5 metres as provided for the Proposed Auckland Unitary Plan Schedule;</li> </ul> <p>the proposed conditions to the notice of requirement will make adequate provision for the mitigation of potential adverse effects.</p>
Recommendation	Subject to the above qualification, the requirement by the Minister for Courts be confirmed to include the designation in the Schedule to the Unitary Plan with a ten-year lapse period.
Recommendation to Panel	That the Panel recommends that the requirement of the Minister of Courts for a courthouse at 415-421 Great North Road, Henderson be recommended to the Auckland Council

	consistent with the designation schedule attached.
Response from requiring authority: 12 September 2015	Agrees with the above recommendations to Panel: <ul style="list-style-type: none"> <li>i. confirms the conditions;</li> <li>ii. confirms the ten year lapse period;</li> <li>iii. confirms 72.5 metre height control (although 72.4 metres is noted in correspondence).</li> </ul>
Report writer's response	Agree with the above points. Incorporate the ten-year lapse as part of the designation summary: "10 years from being operative in the Unitary Plan unless given effect to prior."
Report writer's final comments	Further discussion on setting a lapse date was considered at hearing on 30 November 2015. The preference now is to specify a date upon which the lapse period would cease. This was accepted as a more transparent way to set a lapse condition for a designation.  A default date of 31 August 2017 to commence this lapse period can provide for a ten-year lapse date set at 31 August 2027. Therefore it is recommended that the following be adopted: "Lapse Date: 31 August 2027",
Recommendation from Panel	The Panel agrees with the report writer's recommendations.
Reasons	The Panel agrees with the report writer's reasons.

## 10. Attachment 1 changes to text of Proposed Auckland Unitary Plan

Lapse Date: ~~10 years from being operative in the Unitary Plan unless given effect to prior~~ For the purposes of section 184(1)(c) Resource Management Act 1991, the designation will lapse on the 31 August 2027 unless given effect to.