

Decision on notification of an application for resource consent under the Resource Management Act 1991



Restricted discretionary activity

Application number: LUC60377967 (s9 land use consent)

Applicant: Auckland Transport

Site address: North-western Cycleway (road)
36 Alexander Street, Kingsland
24 & 27 Mostyn Street, Kingsland
21 Richbourne Street, Kingsland
52 King Street, Kingsland

Legal description: Null (road)
Pt Lot 22 BLK 9 DP 383
Lot 1 DP 36419
Lot 16 DP 383
Lot 17 DP 383
Part Allot 11 Sec 5 SBRS of Auckland
Part Lot 13 Block 5 DP 383
Part Allot 11 Sec 5 SBRS of Auckland
Section 22 SO 452750

Proposal:

To construct a new dual pedestrian / cycleway to replace the existing, with associated vegetation alteration and removal requirements.

Resource consent is required for the following reasons:

Land use consent (s9) – LUC60377967

Auckland Unitary Plan (Operative in part)

District land use (operative plan provisions)

E26 Infrastructure

- To undertake tree trimming or alteration that does not comply with Standard E26.4.5.1 is a restricted discretionary activity under rule E26.4.3.1(A84).

- The proposal will potentially involve the removal of branches over 100mm in diameter or over 30 percent of live foliage to protected tree / tree groups 1, 2, 4, 5 and 11 (refer Arboricultural Assessment dated 30.03.2021 prepared by Arbeco), which exceeds the thresholds required by Standard E26.4.5.1(1).
- To undertake infrastructure works within the defined root zones of protected trees in roads and open spaces zones that are 'not otherwise provided for' is a restricted discretionary activity under rule E26.4.3.1(A88).
 - The proposal will potentially involve the disturbance of over 20 percent of the root zone or removal of roots over 80mm in diameter of protected tree / tree groups 1, 2, 4, 5, 8, 11, 12, 17, 18, 19, 20 & 29 (refer Arboricultural Assessment dated 30.03.2021 prepared by Arbeco), which exceeds the thresholds required by Standard E26.4.5.2(1)(b).
- To undertake removal of trees which are greater than 4m in height and/or 400mm in girth, being protected trees 7, 9 & 10 and 14 trees from tree group 13 (refer Arboricultural Assessment dated 30.03.2021 prepared by Arbeco), is a restricted discretionary activity under rule E26.4.3.1(A92).

Decision

I have read the application, supporting documents, and the report and recommendations on the application for resource consent. I am satisfied that I have sufficient information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on notification.

Public notification

Under section 95A of the RMA, this application shall proceed without public notification because:

1. Under step 1, public notification is not mandatory as:
 - a. the applicant has not requested it;
 - b. there are no outstanding or refused requests for further information; and
 - c. the application does not involve any exchange of recreation reserve land under s15AA of the Reserves Act 1977.
2. Under step 2, public notification is not precluded as:
 - a. there is no plan rule or regulation in an NES that specifically precludes public notification of the application; and
 - b. the application is for activities other than those specified in s95A(5)(b).
3. Under step 3, public notification is not required as:
 - a. the application is for activities that are not subject to a plan rule or regulation in an NES that specifically requires it; and
 - b. the activities will have or are likely to have adverse effects on the environment that are no more than minor because:

Adverse vegetation effects

- The applicant has provided an Arboricultural Assessment prepared by ArbEco which has been reviewed by Sean McBride - Arborist acting on behalf of Council. As detailed in his memo dated 21 July 2021, Mr. McBride concurs with the findings of this report and considers the *“proposal is manageable in terms of preserving and protecting trees, with appropriate tree protection conditions attached to the consent, and by mitigating the loss of the protected trees.”* The applicant has offered conditions of consent to this effect, notably the replanting of a minimum of 25 specimen trees and use of best practice tree protection methods to protect trees to be retained.
 - Following from the applicant’s and the Council specialist’s assessments, I conclude that any adverse vegetation effects on the environment will be less than minor.
4. Under step 4, there are no special circumstances that warrant the application being publicly notified because there is nothing exceptional, abnormal or unusual about the application, and the proposal has nothing out of the ordinary run of things to suggest that public notification should occur.

Limited notification

Under section 95B of the RMA this application shall proceed without limited notification because:

1. Under step 1, limited notification is not mandatory as:
 - a. there are no protected customary rights groups or customary marine title groups affected by this proposal; and
 - b. no person to whom a statutory acknowledgement is made is adversely affected by this proposal.
2. Under step 2, limited notification is not precluded as:
 - a. there is no plan rule or regulation in an NES that specifically precludes limited notification of the application; and
 - b. the application is for activities other than that specified in s95B(6)(b).
3. Under step 3, limited notification is not required as:
 - a. this application is not for a boundary activity; and
 - b. there are no adversely affected persons because:
 - Appropriate measures are proposed by the applicant to mitigate and minimise adverse effects resulting from the vegetation alteration / removal, which are endorsed by the applicant’s and Council’s arborists, to the degree where no persons will be adversely affected.
4. Under step 4, there are no special circumstances that warrant the application being limited notified to any other persons because there is nothing exceptional, abnormal or unusual about the application, and the proposal has nothing out of the ordinary run of things to suggest that notification to any other persons should occur.

Accordingly, this application shall proceed on a **NON-NOTIFIED** basis.

A handwritten signature in blue ink, appearing to read "D Serjeant". The signature is fluid and cursive, with the first letter "D" being particularly large and stylized.

Dave Serjeant

Duty Commissioner

28 July 2021

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Decision

I have read the application, supporting documents, and the report and recommendations on the application for resource consent. I am satisfied that I have sufficient information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on the application.

Acting under delegated authority, under sections 104, 104C and Part 2 of the RMA, the resource consent is **GRANTED**.

Reasons

The reasons for this decision are:

1. The application is for restricted discretionary resource consent, and as such under s104C only those matters over which council has restricted its discretion have been considered. Those matters are:
 - E26.4.7.1(1) – trees in roads and open space zones.
 - C1.9(2) – infringements to standards
2. In accordance with an assessment under ss104(1)(a) and (ab) of the RMA, the actual and potential effects from the proposal will be acceptable as:
 - a. The proposed replacement planting scheme will adequately mitigate effects associated with the loss of / alteration to subject trees, noting that while these make a positive contribution to the amenity of the area, they are relatively small in stature and widely distributed.
 - b. The extent of vegetation alteration / removal is necessary to enable the works, with appropriate measures proposed to reduce adverse effects on trees to remain, as required through the conditions below.

- c. In terms of positive effects, the proposal will address existing and future safety effects that result from conflicts between pedestrian and cycle traffic, in addition to facilitating ongoing and increasing use of the cycleway.
 - d. With reference to s104(1)(ab), there are no specific offsetting or environmental compensation measures proposed or agreed to by the applicant to ensure positive effects on the environment and/or within the relevant matters of discretion.
3. In accordance with an assessment under s104(1)(b) of the RMA the proposal is consistent with the relevant statutory documents, insofar as they relate to the matters over which discretion is restricted. In particular, the relevant provisions of Chapters D18, E16 and E17 of the AUP:OP.
 4. As a restricted discretionary activity, the other matters that can be considered under s104(1)(c) of the RMA must relate to the matters of discretion restricted under the plan. In this case, no other matters are considered to be relevant.
 5. In the context of this restricted discretionary activity application for land use, where the relevant objectives and policies and other relevant provisions in the relevant statutory documents were prepared having regard to Part 2 of the RMA, they capture all relevant planning considerations and contain a coherent set of policies designed to achieve clear environmental outcomes. They also provide a clear framework for assessing all relevant potential effects and there is no need to go beyond these provisions and look to Part 2 in making this decision as an assessment against Part 2 would not add anything to the evaluative exercise.
 6. Overall, the proposal is consistent with the relevant statutory documents and legislation and will result in acceptable effects.

Conditions

Under sections 108, 108AA of the RMA, this consent is subject to the following conditions:

1. This consent must be carried out in accordance with the documents and drawings and all supporting additional information submitted with the application, detailed below, and all referenced by the council as resource consent number LUC60377967.
 - Application Form and Assessment of Environmental Effects prepared by Michael Parsonson of SouthernSkies Environmental Ltd, dated April 2021.

Report title and reference	Author	Rev	Dated
Arboricultural Assessment	ArbEco	7	30.03.2021

Drawing title and reference	Author	Rev	Dated
Layout Plan with Critical Dimensions, Drawing No. R1-001	Traffic Engineering Solutions Limited	C	21.04.2021

Layout Plan with Critical Dimensions, Drawing No. R1-002		Traffic Engineering Solutions Limited	C	21.04.2021
Layout Plan with Critical Dimensions, Drawing No. R1-003		Traffic Engineering Solutions Limited	C	21.04.2021
Layout Plan with Critical Dimensions, Drawing No. R1-004		Traffic Engineering Solutions Limited	C	21.04.2021
Layout Plan with Critical Dimensions, Drawing No. R1-005		Traffic Engineering Solutions Limited	C	21.04.2021
Layout Plan with Critical Dimensions, Drawing No. R1-006		Traffic Engineering Solutions Limited	C	21.04.2021
Layout Plan with Critical Dimensions, Drawing No. R1-007		Traffic Engineering Solutions Limited	C	21.04.2021
Layout Plan with Critical Dimensions, Drawing No. R1-008		Traffic Engineering Solutions Limited	C	21.04.2021
Layout Plan with Critical Dimensions, Drawing No. R1-009		Traffic Engineering Solutions Limited	C	21.04.2021
Layout Plan with Critical Dimensions, Drawing No. R1-010		Traffic Engineering Solutions Limited	C	21.04.2021
Layout Plan with Critical Dimensions, Drawing No. R1-011		Traffic Engineering Solutions Limited	C	21.04.2021
Footpath Improvements Landscaping Plan, Drawing No. L-001		Traffic Engineering Solutions Limited	C	16.04.2021
Footpath Improvements Landscaping Plan, Drawing No. L-001		Traffic Engineering Solutions Limited	C	16.04.2021
Footpath Improvements Landscaping Plan, Drawing No. L-002		Traffic Engineering	C	16.04.2021

Footpath Improvements Plan, Drawing No. L-003	Landscaping	Solutions Limited Traffic Engineering Solutions Limited	C	16.04.2021
Footpath Improvements Plan, Drawing No. L-004	Landscaping	Traffic Engineering Solutions Limited	C	16.04.2021
Footpath Improvements Plan, Drawing No. L-005	Landscaping	Traffic Engineering Solutions Limited	C	16.04.2021
Footpath Improvements Plan, Drawing No. L-006	Landscaping	Traffic Engineering Solutions Limited	C	16.04.2021
Footpath Improvements Plan, Drawing No. L-007	Landscaping	Traffic Engineering Solutions Limited	C	16.04.2021
Footpath Improvements Plan, Drawing No. L-008	Landscaping	Traffic Engineering Solutions Limited	C	16.04.2021
Footpath Improvements Plan, Drawing No. L-009	Landscaping	Traffic Engineering Solutions Limited	C	16.04.2021
Footpath Improvements Plan, Drawing No. L-010	Landscaping	Traffic Engineering Solutions Limited	C	16.04.2021
Footpath Improvements Plan, Drawing No. L-011	Landscaping	Traffic Engineering Solutions Limited	C	16.04.2021
Footpath Improvements Plan, Drawing No. L-102	Landscaping	Traffic Engineering Solutions Limited	C	16.04.2021
Footpath Improvements Plan, Drawing No. L-103	Landscaping	Traffic Engineering Solutions Limited	C	16.04.2021
Footpath Improvements Plan, Drawing No. L-104	Landscaping	Traffic Engineering Solutions Limited	C	16.04.2021

Other additional information	Author	Rev	Dated
Section 92 response emails	Peng Zhang of Auckland Transport	-	14.06.2021, 17.06.2021, 18.06.2021, 5.07.2021

2. Under section 125 of the RMA, this consent lapses five years after the date it is granted unless:
 - a. The consent is given effect to; or
 - b. The council extends the period after which the consent lapses.
3. The consent holder shall pay the council an initial consent compliance monitoring charge of \$1,026 (inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs incurred to ensure compliance with the conditions attached to this consent.

Advice note:

The initial monitoring deposit is to cover the cost of inspecting the site, carrying out tests, reviewing conditions, updating files, etc., all being work to ensure compliance with the resource consent(s). In order to recover actual and reasonable costs, monitoring of conditions, in excess of those covered by the deposit, shall be charged at the relevant hourly rate applicable at the time. The consent holder will be advised of the further monitoring charge. Only after all conditions of the resource consent(s) have been met, will the council issue a letter confirming compliance on request of the consent holder.

4. All works pertaining to this proposal must be executed in accordance with the submitted Arboricultural Assessment, including recommended vegetation protection and mitigation measures, prepared by Arb-Eco Limited, dated 30 March 2021 (Revision 7), unless superseded by the following conditions.
5. The consent holder must engage the services of a suitably qualified and experienced Arborist (the 'Works Arborist'), who must supervise and monitor all works and activities within the protected root zone and close to the retained protected trees.
6. Prior to works commencing, a meeting must be arranged by the consent holder so that the requirements of the consent conditions are explained by the appointed arborist to all contractors, sub-contractors and work site supervisory staff who are carrying out any works associated with the project within the root zone of any protected tree covered by this consent.
7. The consent holder must ensure that all contractors, sub-contractors and work site supervisory staff who are carrying out any works within the root zone of any protected tree covered by this consent are advised of the conditions of consent and act in accordance with the conditions. A copy of the conditions of consent and the report by Arb-Eco Limited, dated 30 March 2021 (Revision 7), must be kept on site at all times.
8. All works associated with this consent must be undertaken in accordance with the conditions of the tree owner approval provided by Council's Senior Urban Forest

Specialist. A copy of that document and these conditions must be held on site at all times during the work.

9. The widening of the pathway within the root zone of the mature totara at the end of Buchanan Street must comprise root bridging detail, and by retaining and protecting the large surface roots from damage.

Advice notes

1. Any reference to number of days within this decision refers to working days as defined in s2 of the RMA.
2. For the purpose of compliance with the conditions of consent, "the council" refers to the council's monitoring officer unless otherwise specified. Please email monitoring@aucklandcouncil.govt.nz to identify your allocated officer.
3. For more information on the resource consent process with Auckland Council see the council's website: www.aucklandcouncil.govt.nz. General information on resource consents, including making an application to vary or cancel consent conditions can be found on the Ministry for the Environment's website: www.mfe.govt.nz.
4. If you disagree with any of the above conditions, and/or disagree with the additional charges relating to the processing of the application(s), you have a right of objection pursuant to sections 357A and/or 357B of the Resource Management Act 1991. Any objection must be made in writing to the council within 15 working days of your receipt of this decision (for s357A) or receipt of the council invoice (for s357B).
5. The consent holder is responsible for obtaining all other necessary consents, permits, and licences, including those under the Building Act 2004, and the Heritage New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety at Work Act 2015), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004.
6. Pursuant to s176(1)(b) of the RMA, any works on land subject to a designation will require written consent of the relevant requiring authority.



Dave Serjeant

Duty Commissioner

28 July 2021

Resource Consent Notice of Works Starting

Please email this form to monitoring@aucklandcouncil.govt.nz at least 5 days prior to work starting on your development or post it to the address at the bottom of the page.

Site address:				
AREA (please tick the box)	Auckland CBD <input type="checkbox"/>	Auckland Isthmus <input type="checkbox"/>	Hauraki Gulf Islands <input type="checkbox"/>	Waitakere <input type="checkbox"/>
Manukau <input type="checkbox"/>	Rodney <input type="checkbox"/>	North Shore <input type="checkbox"/>	Papakura <input type="checkbox"/>	Franklin <input type="checkbox"/>
Resource consent number:			Associated building consent:	
Expected start date of work:			Expected duration of work:	

Primary contact	Name	Mobile / Landline	Address	Email address
Owner				
Project manager				
Builder				
Earthmover				
Arborist				
Other (specify)				

Signature: Owner / Project Manager (indicate which)	Date:
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Once you have been contacted by the Monitoring Officer, all correspondence should be sent directly to them.

SAVE \$\$\$ minimise monitoring costs!

The council will review your property for start of works every three months from the date of issue of the resource consent and charge for the time spent. You can contact your Resource Consent Monitoring Officer on 09 301 0101 or via monitoring@aucklandcouncil.govt.nz to discuss a likely timetable of works before the inspection is carried out and to avoid incurring this cost.