

I hereby give notice that an ordinary meeting of the Waitematā Local Board will be held on:

Date: Tuesday, 8 July 2014
Time: 6.00 pm
Meeting Room: Waitematā Local Board Office Boardroom
Venue: Level 2
35 Graham Street
Auckland

Waitematā Local Board OPEN ADDENDUM AGENDA

MEMBERSHIP

Chairperson	Shale Chambers
Deputy Chairperson	Pippa Coom
Members	Christopher Dempsey
	Greg Moyle
	Vernon Tava
	Rob Thomas
	Deborah Yates

(Quorum 4 members)

Desiree Tukutama
Democracy Advisor

7 July 2014

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Submission on Auckland Transport's Notice of Requirement for the St Lukes Interchange

File No.: CP2014/14926

Purpose

1. The purpose of this report is to seek agreement for the Waitematā Local Board submission on Auckland Transport's Notice of Requirement for the St Luke's Interchange.

Executive summary

2. In 2013 NZTA and Auckland Transport in alliance with Aurecon approached Auckland Council seeking landowner approval from the Parks, Sport and Recreation Department for works that would affect parkland at 820 Great North Road. This work was linked to the SH16 St Lukes Interchange and Waterview Project and was not covered by the original designation and consent for these works.
3. 820 Great North Road is Auckland Council owned land and is treated as "local park". Waitematā Local Board is responsible for council decisions on local parks.
4. The initial proposal involved two left hand turn lanes (when travelling west along Great North Road) onto the St Lukes overbridge and involved the removal of significant Pohutukawa trees. The proposal was not supported by the board and the Parks, Sport and Recreation Department.
5. The application was later modified to reduce the proposed widening of Great North Road, maintain a single left hand turn lane onto St Lukes overbridge and retain the Pohutukawa trees. This single left hand lane proposal was granted landowner consent in November 2013. This proposal subsequently obtained resource consent and works have now commenced on site.
6. On 22 May 2014, Auckland Transport submitted a Notice of Requirement (NoR) for road works along Great North Road. The NoR, if successful, would designate part of the parkland at 820 Great North Road for roading purposes and would enable two left hand turn lanes to be constructed onto St Lukes overbridge.
7. Works associated with two left turn lanes would require the removal of six significant Pohutukawa trees from the site. The NoR has been publicly notified and submissions close on 3 July 2014.
8. Officers were asked to investigate what options were available for the local board to make a submission on the NoR and three options were initially identified:
 - Option 1 - The Waitematā Local Board resolves to make a separate submission
 - Option 2 - The Waitematā Local Board gives their views and preferences through the council staff report
 - Option 3 - The Waitematā Local Board do not provide views separate to council staff
9. Option 3 was rejected on the basis that the Board members wanted to make their views known on the NoR.
10. The submission closing date for the NoR was 3rd July 2014.

11. It was agreed by the Chair and Parks Portfolio holders to lodge a separate submission (Option 1) subject to final board approval on the 8th July. The implication being that if the board did not approve it then the submission would be withdrawn.
12. A submission was lodged on the 3rd July 2014 (Attachment A).

Recommendations

That the Waitematā Local Board:

- a) Approve the submission on Auckland Transport's Notice of Requirement for the St Lukes Interchange.
- b) Agree to delegate to the Chair, Deputy Chair and Parks Portfolio for any further matters relating to the submission.
- c) Agree for the Chair, Deputy Chair and Parks Portfolio to represent the board at the hearing process.

Comments

13. In November 2013 the NoR application was split into two phases. Phase two works (which is the subject of the current application) required written approval from Auckland Council Parks and the Waitematā Local Board to remove six mature Pohutukawa trees for the application to proceed on a non-notified basis. This was not supported by the board and the Parks, Sport and Recreation Department.
14. The NoR was amended and phase one proceeded on a non-notified basis, which included a single left hand turning lane. The works for phase one are scheduled to start shortly.
15. In May 2014 Auckland Transport lodged an alteration to AT designations (D05-08 and B08-04) for the phase two works which includes the removal of six mature Pohutukawa trees as a result of including an additional left turn lane.
16. The following concerns were raised by the chair and portfolio members regarding the NoR:
 - The loss of amenity that would result from the removal of six pohutukawa trees from the Auckland Council carpark at 820 Great North Road;
 - The adequacy of provision for positive pedestrian and cycling outcomes;
 - The adequacy of provision for public transport outcomes;
 - The adequacy of the assessment of the need for the works in their current form, in particular issues of traffic management and traffic flow;
 - The adequacy of the assessment of the impact of the proposed works on the safety of the wider roading network;
 - The adequacy of the business case to support to the project generally.
17. These board members confirmed that they wished to express their views and preferences on the NoR.

Submission Approach and Options

18. The NoR process is carried out under the Resource Management Act. Officers advised that the council hearing panel which relates to both resource consents and NoR processes should, where possible under the Resource Management Act, consider “any views and preferences expressed by a local board, if the decision affects or may affect the responsibilities or operation of the local board or the wellbeing of communities within its local board area.”
19. The usual process for these views to be heard for resource consents and therefore could be implied for the NoRs is to have the local board views and preferences included as part of the council report to the hearings panel, in a separate section. This way, the local board views and preferences are clearly expressed.

Consideration

20. Two options were identified for Waitematā Local Board to submit their views on the Notice of Requirement

Option A – The Waitematā Local Board resolves to make a separate submission

Pros

- Allows the board to actively engage in the process
- Enables the board to be represented under the non-regulatory governance rights as the park owner as an affected party
- Opportunity for board members to speak at the hearing

Cons

- The financial cost to the council of separate representation
- Possibility of perception risks of having two different council views presented
- The views and preferences of the board will not be able to be part of the council officers report

Option B – Giving views and preferences through the council staff report

This option will include a Local Board views section as part of the council officer’s report.

Pros

- Includes a separate section so that the board’s views are clearly noted and expressed
- Fits with statutory requirements
- Has no additional cost implications

Cons

- Provides the board with a reduced level of input and may restrict the impact of the Waitematā Local Boards views in the hearing process

Note – the local board’s role in regulatory processes was generally set out in the governing body report July 2011. This report did not deal specifically with the process for notices of requirements. There is no clear reference to this process in the matters allocated to delegated to, or conferred on local boards. As an interim approach, staff are available to assist with either option listed in this paper.

Local board views and implications

21. The chair, parks and transport portfolio members discussed the proposed approach and felt that this situation was different to a resource consent process due to the board being an affected party. Therefore it was agreed that the Board should have the opportunity to submit their views in their role as the landowner of the park.
22. There were two options for progressing the submission either through the urgent decision process or for the chair to lodge the submission subject to final board approval
23. A memo outlining the background to the NoR and the proposed process for the submission was circulated to all members for their views and feedback.
24. The agreed approach was for the Acting Chair, with the support of the parks portfolio holder to lodge the submission 'subject to final board approval at the 8 July 2014 meeting.

Maori impact statement

25. The submission process does not specifically impact on iwi and mana whenua. As part of the next stage in gathering expert evidence to support the submission at the hearing any impact on Maori will be considered.

Implementation

26. Auckland Council Legal Services has assisted the board to develop and lodge the attached submission.
27. Officers will now assist the board to develop the more detailed submission for presentation at the hearing.
28. Limited funding has been identified to engage subject matter experts to further support the submission.

Attachments

No.	Title	Page
A	Submission on requirement for alteration of designation that is subject to public notification	9

Signatories

Authors	Trina Thompson - Senior Local Board Advisor - Waitemata
Authorisers	Judith Webster - Relationship Manager

Submission on requirement for alteration of designation that is subject to public notification

Section 181, Resource Management Act 1991 (RMA)

To: Auckland Council

1 Name of submitter:

Waitematā Local Board

2 This is a submission on a notice of requirement from Auckland Transport for an alteration to the St Lukes and Great North Road designation (the notice of requirement).

3 The notice of requirement will allow the construction, operation and maintenance of an additional lane for west bound Great North Road traffic turning left onto St Lukes Road over an Auckland Council owned site at 820 Great North Road.

4 The works proposed will require 726m² to be taken from 820 Great North Road and the removal of six pohutukawa trees.

5 The designation that currently applies to 820 Great North Road is for carparking.

6 The specific parts of the notice of requirement that this submission relates to are:

- (a) The proposal to remove six pohutukawa trees from the Auckland Council carpark at 820 Great North Road;
- (b) The loss of amenity that would result from the removal of six pohutukawa trees from the Auckland Council carpark at 820 Great North Road;
- (c) The adequacy of the provision for positive pedestrian and cycling outcomes;
- (d) The adequacy of the provision for public transport outcomes;
- (e) The adequacy of the assessment of the need for the works in their current form, in particular issues of traffic management and traffic flow;
- (f) The adequacy of the assessment of the impact of the proposed works on the safety of the wider roading network;
- (g) The adequacy business case to support to the project generally.

7 This submission:

- (a) Opposes the specific parts of the notice of requirement that relate to the matters outlined above and seeks to have those parts amended to effectively take account of the concerns outlined above.
- (b) The reasons for these views are:
 - (i) The work and alteration to the designation are not reasonably necessary for achieving the objectives of the requiring authority for which the alteration to the designation is sought;

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- (ii) Inadequate consideration has been given to alternative methods of undertaking the work;
- (iii) The work will have significant adverse effects on the environment; and
- (iv) The proposal is not consistent with the purpose and principles of the RMA as outlined in Part Two of the RMA.

8 The following recommendation is sought from the territorial authority:

- (a) that the requiring authority withdraw the notice of requirement.

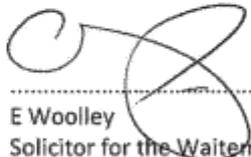
9 In the alternative, that the territorial authority recommend:

- (a) that the requiring authority modify the requirement to effectively take account of the concerns outlined above; or
- (b) the imposition of additional conditions and/or mitigation measures to take account of the concerns outlined above.

10 The Waitematā Local Board wishes to be heard in support of this submission.

11 If others make a similar submission, the Waitematā Local Board will consider presenting a joint case with them at a hearing.

Date: 3 July 2014

Signature: 
E Woolley
Solicitor for the Waitematā Local Board

Address for service of [Person making further submission]:

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Note to Submitter

If you are making a submission to the Environmental Protection Authority, you should use Form 16B.

If your submission relates to a notice of requirement for a designation or an alteration to a designation, and you are a trade competitor of the requiring authority, you may make a submission only if you are directly affected by an effect of the activity to which the requirement relates that:

- 1 adversely affects the environment; and
- 2 does not relate to trade competition or the effects of trade competition.

You must serve a copy of your submission on the person who gave the notice of requirement as soon as reasonably practicable after you have served your submission on the territorial authority (unless the territorial authority itself gave the notice of requirement).