

**AGENDA FOR A HEARING BY A COMMISSIONER TO BE HELD AT THE TRUSTS
STADIUM, 65 – 67 CENTRAL PARK DRIVE, HENDERSON WAITAKERE, ON
TUESDAY, 15 DECEMBER 2009 COMMENCING AT 9.30 AM**

TABLE OF CONTENTS

<u>ITEM</u>		<u>PAGE NO.</u>
1	NOTICE OF REQUIREMENT BY A REQUIRING AUTHORITY UNDER SECTION 168A OF THE RESOURCE MANAGEMENT ACT 1991 FOR CLARK STREET EXTENSION LOW LEVEL BRIDGE AND ASSOCIATED WORKS IN THE NEW LYNN TOWN CENTRE	1

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**1 NOTICE OF REQUIREMENT BY A REQUIRING AUTHORITY UNDER SECTION 168A
OF THE RESOURCE MANAGEMENT ACT 1991 FOR CLARK STREET EXTENSION
LOW LEVEL BRIDGE AND ASSOCIATED WORKS IN THE NEW LYNN TOWN
CENTRE**

GLOSSARY

Auckland Regional Transport Authority	(ARTA)
Local Government (Auckland) Amendment Act 2004	(LGAAA)
Notice of Requirement	(the Notice)
The Resource Management Act 1991	(the Act)
The Waitakere District Plan	(the Plan)
Waitakere City Council	(the Council)
New Zealand Rail Corporation	(NZRC)
Office of Treaty Settlement	(OTS)
Plan Change 17	(PC17)

EXECUTIVE SUMMARY

The Waitakere City Council (the Council) has issued a Notice of a Requirement (the Notice) to designate land in the vicinity of Clark Street (where it intersects with Rankin Avenue and Totara Avenue) over the rail corridor to Great North Road. The designation will be for a 300m extension of Clark Street that includes a low level bridge. Ancillary works include construction of a new intersection at Great North Road, a new access road to the Cambridge Clothing Company to be known as Cambridge Lane, a new roading configuration for Totara Avenue to enable the redevelopment of the open space area known as the Todd Triangle, and expansion and modification of Gardner Reserve.

The effect of the Notice, if confirmed, will be to create a designation in the Waitakere District Plan (the Plan). The Council is required to process the Notice in accordance with the Resource Management Act 1991 (the Act). The Notice has been publicly notified and nine submissions, one of them late, have been received. The Commissioner is required to consider the submissions and make a recommendation to the Council on the Notice in accordance with the Act. This report includes the Waitakere City Council staff recommendation on the Notice. A description of the Notice, the site and an analysis of effects is provided. The staff recommendation seeks that the Commissioner recommend that Waitakere City Council confirm the Notice subject to specific conditions that will control the effects of the low level bridge and associated works.

RECOMMENDATIONS:

It is recommended that the Hearing Commissioner resolve to:

1. Receive the Notice of Requirement by a Requiring Authority under Section 168A of the Resource Management Act 1991 for the Clark Street extension low level bridge and associated works in the New Lynn Town Centre report.
2. Receive the late submission by Auckland Regional Transport Authority and include it in the consideration of all the submissions received on the Notice of Requirement.
3. Recommend that the Waitakere City Council confirm the Notice of Requirement for the Clark Street extension low level bridge and associated works in the New Lynn Town Centre, subject to the conditions.

BACKGROUND

- A1- A11
1. The purpose of this report is to provide background information, a discussion of the environmental effects and officer recommendations to the Commissioner for the Council's Notice for the Clark Street extension low level bridge and associated works in the New Lynn Town Centre. A copy of the Notice is attached at pages A1 t A11 Appendix One.
 2. The Act provides for requiring authorities to give notice of a requirement for a designation in the Plan. In this instance the Council is the requiring authority. A commissioner will make the recommendation on the designation to the Council after having considered the submissions and considered the relevant matters set out in the Act. The Council will then make a decision on those recommendations.
 3. This report sets out the advice from the Waitakere City Council staff on the resource management issues introduced by the Notice for the Clark Street extension low level bridge and associated works in the New Lynn Town Centre. The report contains the recommendations to the Hearings Commissioner. It is not the formal recommendation of the Hearings Commissioner. The formal notice of recommendation will be compiled by the Hearings Commissioner, after consideration of the requirement, a site visit and the hearing of submissions (if required).
- A1-A11
4. The actual area to be designated covers a number of existing sites that are individually owned by the Council, New Zealand Rail Corporation (NZRC), also known as ONTRACK, the Crown and public companies. See the copy of the Notice that is attached at pages A1 to A11 as Appendix One for the current individual site ownership. These sites are currently identified under the Operative Plan as Transport, Open Space, Community, Community Periphery and Working Human Environments. The ONTRACK land consists of two areas, one being the rail corridor that is designated under the Waitakere City District Plan, as NZR1 for rail purposes. In addition there is a parcel of land accessed from Rankin Avenue that is currently utilised as a park and ride facility. This latter portion of land is subject to the processes of the Office of Treaty Settlement. The Council continues to work with ONTRACK in relation to this project and to obtain their formal approval of the project.
- A40-A72
5. All of the land included in the Notice is subject to Plan Change 17(PC17). The consequence of PC 17 is to change the portions of land identified as Community Periphery to Community Environment and the land identified as Working Environment to Community Environment. See the map attached as Appendix Three at pages A40 to A72 for these zoning changes. PC 17 has been notified and is currently subject to appeals to the Environment Court. This Notice is not inconsistent with PC 17.
 6. The collective sites currently accommodate a range of uses. The existing open space areas are located at the northern and southern ends of the site. At the southern side of the site ONTRACK operate a large park and ride area that is adjacent to the rail line and in proximity to a large child care centre. On the northern side of the rail corridor is the Council's New Lynn Community Centre, with its own carpark. These uses abut the rear of a range of commercial uses that have frontage to Totara Avenue and Great North Road. As mentioned above the entire site is located within the area of P C 17 that will be subject to a regeneration programme of commercial and residential intensification that aims to successfully integrate landuse with transportation modes. The establishment of an intensive residential and commercial population will require necessary improvements to the supporting infrastructure. It is considered that the rerouting of Clark Street will provide an effective bypass for traffic around the edge of New Lynn, while contributing to the improved efficiency of sub regional traffic patterns, hence the Notice.
 7. It is appropriate to note at this point that the successful completion of the Clark Street low level bridge project will be contingent on the approval of several related resource consents.

8. The reporting officer's recommendation is that the Commissioner recommends that the Council confirm the Notice subject to modifying it by the inclusion of specific conditions (see paragraph 160 below).

DECISION MAKING

Issues

9. Issues arising from the Notice are discussed in detail in Paragraphs 24-29 below.
10. The options available to the Council are limited to those set out in section 171(2) of the Act which states:

"The territorial authority may recommend to the requiring authority that it –

- (a) confirm the requirement;*
- (b) modify the requirement;*
- (c) impose conditions; and*
- (d) withdraw the requirement."*

11. There is no "do nothing" option in this statutory framework.

THE DESIGNATION SITE: DESCRIPTION AND NATURE OF THE REQUIREMENT

The Site

12. The Notice relates the following sites (which shall be collectively referred to as the "the site"):
 - Todd Triangle : Pt Allot 256 PSH OF Waikomiti Gazette 1965 p625
 - Lot 15 DP 42203 NA137B/298
 - Lot 16 DP 42203 NA 137B/298
 - Lot 17 DP 42203 NA137B/298
 - Lot 3 DP 58386 NA13D/869
 - Lot 2 DP 161309 NA978A/66
 - Lot 1 DP 161309NA97A/65
 - Lot 1 DP 209280NA137B/298
 - Lot 2 DP 209280 NA137B/299
 - Lot 1 DP 199076NA127D/557
 - New Zealand Rail Corporation North Auckland Line
 - Lot 1 DP164120 NZ98D831
 - Lot 1 DP115005
 - Great North Road, Legal Road between street numbers 3075-3119, and 3094-8108
 - All of Todd Avenue
 - Totara Avenue between nos 1-29 inclusive
13. The site is located on the southern edge of the New Lynn Town Centre, adjacent to the commercial area of Great North Road and Totara Avenue, and the medium density housing developed around Ambrico Place and Melview Road. To the east of the subject site the commercial and service area of New Lynn extends along the existing portion of Clark Street. To the west of the subject site is a mixture of residential sites, and commercial sites on the southern and northern side of the northern rail corridor respectively.

14. The site is generally flat, with a slight slope down towards Great North Road in the vicinity of the Cambridge Clothing Company, located at 3094 Great North Road. Large parts of the site are covered by commercial buildings, and the Northern Rail Line. However the Gardner and (to a lesser extent) the Todd Reserves have a significant level of vegetation, both native and exotic, with a number of trees protected under the general tree protection provisions of the Plan. Other notable vegetation in the site area is the pohutakawa tree that is in proximity to Ceramco House, where it appears that works will take place in the dripline of this tree. An aerial photograph (Figure 1) shown below includes the general location of the site.
15. The site identified in the Notice is located within land that is Transport, Working, Open Space and Community and Community Periphery Human Environment Environments and the General Natural Environment. The Northern Rail Line, with an underlying zoning of Transport Environment is a designated site, under the Plan, being designation NZR1, for Railway purposes. The portion of the Northern Rail Line in proximity to this proposed designation is currently undergoing extensive works to trench the rail line to improve connectivity within the New Lynn Town Centre.

The Site as Defined by Policy

16. As noted above the site relates to land that has a mixture of uses, including a designation for rail purposes. The underlying land use is Working, Community, Community Periphery and Transport Environment, and General Natural Area and the development established on this and adjoining the site reflects this zoning.
17. The site however is subject to change. Preceding this proposed designation is a suite of plan changes promulgated by the Local Government (Auckland) Amendment Act 2004 (LGAAA) which seeks to enable the urbanisation of green field parts Waitakere City and intensify particular existing urban areas. The proposed extension of new urban areas was contingent on the proposed intensification of existing areas within the City, therefore maximising the use of the City's land resource. These plan changes have progressed to varying extents through the statutory process with PC 17 being notified on 31 March 2005, along with the other Plan Changes; 13 14, 15, 16, and 18. These plan changes were notified to fulfil statutory requirements of the LGAAA whereby all councils in the Auckland region were required to integrate their land transport and land use provisions to ensure consistency with the Auckland Regional Growth Strategy.



Figure 1: The subject site as viewed by ortho-photography (2008)

18. In addition and in concert to the above Plan Change 6 to the Auckland Regional Policy Statement was simultaneously notified. Plan Change 6 sought to achieve the following:
 - Ensure District Plan objectives, policies and rules support and better integrate intensified land use to support viable public transport and investment in transport infrastructure; and
 - Ensure that high quality, integrated and compact development is undertaken in this growth area in a manner that is consistent with the City's overall Growth Management Strategy.
19. PC 17, which establishes the new mixed use Community Human Environment, urban design rules, provides for residential and commercial intensification of New Lynn. The Plan Change is currently under appeal, however good progress has been made with appellants and the Council is hopeful that PC 17 will be operative in 2010. PC17 will be implemented in conjunction with the Plan Change 18.
20. The approach established by PC 17 is part of a wider Council approach to regenerate the New Lynn Town Centre with PC17 enabling the physical development to take place. It is anticipated that future plan changes may be required to implement further enhancement measures currently in the development phase.
21. PC 17 has progressed sufficiently to be given some weight as the statutory planning document. The Notice must therefore consider the environment as it is and also an environment within and adjoining an area to be intensified for commercial and residential purposes. For the purposes of considering the Notice from a statutory perspective 'Environment' is defined in Section 2 of the Resource Management Act 1991 as follows:

Environment includes—

- (a) *Ecosystems and their constituent parts, including people and communities;*
- (b) *All natural and physical resources;*
- (c) *Amenity values; and*
- (d) *The social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters:*

The Proposed Clark Street Low Level Bridge Extension And Associated Works

22. The Council proposes to designate the site specifically for the construction, establishment, operation and maintenance of the Clark Street extension low level bridge and associated works in the New Lynn Town Centre. Ongoing management of the bridge would be the responsibility of the future Council of Auckland, as the construction will be completed after the transition deadline of November 2010.
- A1-A11 23. Appendix One attached at pages A1 to A11 contains a copy of the Notice including a designation plan. The assessment of effects and supporting reports relating to concept design, traffic, landscape, noise, heritage and arborist assessments are available on request. The Notice describes the proposed project as follows:

The proposed work is for road purposes and associated open space improvements. The works within the area to be designated will provide for the construction, operation and maintenance of:

- Clark Street extension and low-level bridge between Clark Street and Great North Road;
- improvements to Totara Avenue (from the intersection of Rankin Ave to Great North Road) and the Todd Triangle;
- improvements to Gardner Reserve to provide a pedestrian link to the Clark Street extension and low-level bridge and beyond to the New Lynn town centre; and
- a new access road to be known as Cambridge Lane.

Clark Street extension and low-level bridge

These works include the construction of a four lane arterial road with footpaths on either side; embankments; signalled intersections; earthworks; vegetation removal; screen walls; a bridge structure over the

North Auckland Line ("NAL") rail trench; and an extension to the existing Gardner Reserve. The bridge structure and associated embankments will require changes to be made to the community centre carpark and access.

Works will also be required to provide a new access to the apartments located at 1C Rankin Ave as the existing access will be closed as a result of this NOR.

Totara Avenue and Todd Triangle

Works include the reconfiguration of Totara Avenue to include a new intersection further east with Great North Road allowing for the creation of an improved public plaza known as Todd Triangle. Specifically the reconstruction of a two lane carriageway; removal and reinstatement of kerbs; construction of vehicle crossings; new kerb and channelling; a traffic island; new footpaths; earthworks; and landscaping / vegetation removal.

Cambridge Lane

Works associated with the construction, operation and maintenance of a new road identified for the purposes of the NOR as Cambridge Lane, including the closure of the existing access from Great North Road to Cambridge Clothing Limited; removal and reinstatement of existing kerbs; construction of a pram crossing; new footpaths; retaining walls; the removal of a traffic island; earthworks, vegetation removal and landscaping.

Progress of the detailed design of the Project to date.

24. A high level of detail has been provided with the Notice and the Council in its role as the requiring authority does not anticipate any changes to the geometry or major changes to the design. At the time of writing this report the detailed design for the entire project has been submitted for review, and the comments to date have not been major in nature, mostly relating to lack of finer detail, such as fixing details for handrails. These are currently being addressed by the designer prior to final submission for building consent. The project is also in the process of having the design independently peer reviewed; the structural and geotechnical review being undertaken by Peters & Cheung Limited in preparation for the upcoming building consent and stage 3 safety audit being undertaken by Traffic Design Group Limited to meet New Zealand Transport Agency funding requirements. After that the process will be the final/tender submission prior to construction, after which the building consent application will be submitted. Some of the more minor detail will be addressed at the Outline Plan of Works stage, for example the exact location of the toilets within the Gardner Reserve. However the general parameters for the site's built development are guided by the conditions that will be part of the Notice. It is noted that the Requiring Authority did not propose a suite conditions within the designation application, although some of the individual specialists proposed conditions(for example the Arborist).

- A73-A120 25. Since notification of the Notice, and as a result of Council officer review some aspects of the application have been subject to refinement. An amendment has been made to the Landscape and Visual assessment to detail the actual height of the bridge structure, previously absent. This revised report is contained in Appendix Four attached at pages A73 to A120. Other changes are summarised below in paragraphs 26 – 29.

Gardner Reserve

26. As a result of the Notice being circulated to internal staff, the proposed design of some aspects of the Gardner reserve will be modified. Council officers expressed concerns about maintenance requirements that the new terracing on the edge of Gardner Reserve would require. Council officer discussions with the applicant to date indicate there will be a minor change in the configuration of the terracing, being one terrace instead of several and this is expected to reduce the cost of ongoing maintenance. Finalised drawings of this change were not available at the time of writing this report, and they will be made available at the Hearing for the Commissioner to include in his consideration of the Notice. The preliminary drawings indicate that this revision is minor in nature, and this portion of the Gardner Reserve will still achieve the required levels of mitigation, as discussed within the landscape assessment included as part of the Notice.
27. The revision of the terrace area will also potentially include the removal of some of the stairs, which will result in a reduction of the number of formed paths through the reserve area. This amendment has been requested by Councils parks staff to reduce the level of built form within the proposed Gardner Reserve including paths that were to be located within the dripline of a pohutakawa tree. It is considered that this proposed amendment will not reduce the pedestrian connectivity levels of the project. It will increase the overall quantity of impermeable ground, and reduce the level of works within the dripline of existing vegetation.
28. The Council Arborist, while supporting the removal of trees directly within the line of the Clarke St extension initially expressed concern about the number of trees to be removed from Gardner Reserve, as per the notified version of the NOR, in addition to proposed works in the dripline or in proximity of the trees, in both the Gardner Reserve, and in relation to the Pohutakawa near Ceramco house. The abovementioned changes in Gardner Reserve will assist to address these concerns in addition to proposed conditions of consent.

Heritage

- A73-A120 29. A submission from the Historic Places Trust raised concern that heritage matters had not been canvassed in sufficient depth within the AEE provided by the Notice. A heritage assessment has been undertaken which pertains to the New Lynn Town Centre. This assessment discusses the Notice of Requirement and now forms part of the application. Relevant recommendations from this report have been taken up and have been included as proposed conditions of the designation. The report is in Appendix Four attached at pages A73 to A120.

Related Consenting issues

30. The ability of the project to proceed is contingent on the approval of several resource consents i.e. matters outside the current designation process. Currently processing is resource consent, LUC 2009-1411, to develop an access point from Ambrico Place, through the Ambrico Reserve, to the group of apartments currently known as 1C Rankin Ave. This is required as the designation terminates the existing access to these apartments from Rankin Ave. This consent application has been lodged and was notified on the 18th of November 2009. The other resource consent related to this project is for the construction of the Community Centre Access Lane and for the reduction in the number of car park spaces behind the Community Centre.

These consents LUC 2009-991 and LUC 2009-1310 respectively have already been granted. A further application for consent for the works on Totara Avenue West, beyond the designation site will be submitted once the Council receives the preliminary design in December 2009. The Requiring Authority expects this consent to be non-notified as all the works are roadworks and streetscaping in nature and are all located within the road reserve.

Rail Corridor Issues

31. There are also matters related to the proposed road crossing over the rail corridor one of which will have to be resolved prior to the implementation of the project. These matters relate to approval or permissions from ONTRACK and they are the Deed of Grant, ONTRACK Engineering approval of the structural design, and gaining permission to enter and construct within the rail corridor. Each of these is briefly discussed below.
32. The Council has to gain approval from ONTRACK to enter the rail corridor and undertake construction within it. This approval will have to be received from ONTRACK prior to the implementation of the project, and accordingly this aspect will be a condition of the designation. This process will cover training to be given to workers who will work within the rail corridor.
- A40-A72 33 The two deeds of Grant, one for services and one for structures can be informally described as rental agreement/s to have structures in and over the rail corridor. All of the information required by ONTRACK for the deed of grant for the low level bridge has been passed to ONTRACK for processing on 19 November 2009. ONTRACK is expected to send back a draft document to the Requiring Authority for its review, and it is expected that an iterative process will follow to achieve a final document. It is the report writers understanding that the deeds will be granted and that both parties will work together towards a conclusion. This process oriented form of consultation and resolution is reflected in the submission from ONTRACK, found at Appendix Three attached at pages A40 to A72.
- 34 The upcoming processes that ONTRACK require prior to the commencement of works within the rail corridor are that they can give an engineering approval to the design. It is anticipated that the Requiring Authority will be able to give an update on all of these processes at the Hearing.
35. As mentioned previously the land at 1A Rankin Ave is owned by ONTRACK. The Council have engaged with ONTRACK with regard to the purchase of this land to assist with the Clark St low level bridge project. This land sits directly under the path of the bridge. The purchase of 1A Rankin was referred to the Office of Treaty Settlement (OTS) by ONTRACK. The OTS period for registration of interest closed on 6 November 2009. Council was advised on 6 November 2009 by the OTS that to date, no registrations of interest had been received. The OTS will meet in December 2009 to agree on a recommendation, which then goes the Transport Minister for approval in January 2010. The Requiring Authority consider that as this is a project of national significance and the central government funding for the project hinges on his decision, it is likely that the Transport Minister will rule in their favour. If this decision is known, it will be communicated to the commissioner at the hearing.

The Resource Management Act 1991

36. Section 168A of the Act provides that a requiring authority may, at any time, give notice to a territorial authority of its requirement for a designation for a project or work. Waitakere City Council is a requiring authority.

37. The Requirement Notice lodged under Section 168A must include:-

- a) *The reasons why the designation is needed; and*
- b) *A description of the site in respect of which the Requirement applies and the nature of the proposed public work, project or work, and any proposed restrictions;*
- c) *The effects that the public work or project or work will have on the environment, and the ways in which any adverse effects may be mitigated, and the extent to which alternative sites, routes, and methods have been considered;*
- d) *Any information required to be included in the Notice by a plan or regulation;*
- e) *A statement of the consultation, if any, that the requiring authority has had with persons likely to be affected by the designation, public work, or project or work; and*
- f) *A statement specifying all other resource consents that the requiring authority may need to obtain in respect of the activity to which the Requirement relates, and whether or not the requiring authority has applied for such consents.*

In respect of this Requirement, the Requiring Authority has included all of the above details in the documentation lodged with the Requirement.

38. The Act provides that the procedures to be adopted in processing a notice are generally those that are adopted for processing a resource consent application. This includes lodging the notice, requiring further information, public notification, lodging of submissions and hearing of submissions. In respect of this notice, all of those procedures have been followed, up to the stage of this hearing.

39. The procedure differs from the resource consent process in respect of the territorial authority consideration of the notice, and the hearing of any submissions. Section 171 states:

When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to—

- (a) *any relevant provisions of—*
 - (i) *a national policy statement;*
 - (ii) *a New Zealand coastal policy statement;*
 - (iii) *a regional policy statement or proposed regional policy statement;*
 - (iv) *a plan or proposed plan; and*
- (b) *whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if—*
 - (i) *the requiring authority does not have an interest in the land sufficient for undertaking the work; or*
 - (ii) *it is likely that the work will have a significant adverse effect on the environment; and*
- (c) *whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and*
- (d) *any other matter the territorial authority considers reasonably necessary in order to make a decision on the requirement.*

40. Section 171(1) is subject to Part II of the Act. Part II contains the purpose and principles of the Act within four sections (Sections 5-8). It has been confirmed by the Environment Court that, in relation to a designation matter:

...all considerations, whether favouring or negating the designation, are secondary to the requirement that the provisions of Part II of the RMA must be fulfilled by the proposal". (See Estate of P.A. Moran and Others v Transit NZ (W55/99)).

41. Part II of the Act is therefore important in consideration of this notice.
42. Section 5 of the Act sets out the purpose of the Act, "to promote the sustainable management of natural and physical resources". "Sustainable management" is defined as meaning:

Managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while:

 - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations;*
 - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
 - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*
43. Section 6 sets out Matters of National Importance which shall be recognised and provided for. These include the natural character of the coastal environment, wetlands, lakes and rivers and their margins; outstanding natural features and landscapes; protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna; maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers; the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga, historic heritage and recognised customary activities.
44. Section 7 sets out a range of "other matters" which shall be given "particular regard". These include kaitiakitanga; the ethic of stewardship; the efficient use and development of natural and physical resources; the efficiency of the end use of energy, the maintenance and enhancement of amenity values; the intrinsic values of ecosystems, maintenance and enhancement of the quality of the environment; and any finite characteristics of natural and physical resources, the habitat of trout and salmon, the effects of climate change and the benefits of renewable energy.
45. Section 8 covers the Treaty of Waitangi and imposes an obligation to "take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi)".
46. After considering these matters, the Council needs to make a recommendation to the Ministry under section 171(2) which states:

"The territorial authority may recommend to the requiring authority that it –

 - (e) *confirm the requirement;*
 - (f) *modify the requirement;*
 - (g) *impose conditions; and*
 - (h) *withdraw the requirement."*
47. Reasons must be given for the recommendations.
48. As stated above the Commissioner makes recommendations, not a decision (as would be the case in a resource consent application).

49. Under section 172, the Requiring Authority (The Council) has a 30 working day period from the receipt of the Commissioners recommendations, to advise if the Council will accept or reject the recommendation in whole or in part recommendations. The Council may modify the Notice only if the modification is recommended by the Commissioner or is not inconsistent with the Notice as originally notified.
50. Where the requiring authority rejects a recommendation in whole or in part, or modifies the Notice, the authority must give reasons for its decision.
51. It then becomes the obligation of the Council (under Section 173) to ensure that a copy of the requiring authority's decision, in this case the Council, is served on every person who made a submission and given to the landowners and occupiers directly affected by the decision. This notification must be completed within 15 working days of the decision.
52. The Council itself, and any person who made a submission on the notice, may lodge an appeal on the requiring authority's decision to the Environment Court (Section 174). This must be done within 15 working days of receiving the notice of the decision. In determining an appeal, the Environment Court must have regard to the matters set out in Section 171 and may confirm or cancel a notice or modify the notice in such a manner, or impose such conditions, as the Court thinks fit.
53. Finally, if there are no appeals, or once the Environment Court decision is received, the Council must, as soon as reasonably practicable, include the designation in its District Plan (assuming the designation is confirmed).

The Objectives of the Requirement

54. The following is taken from the Notice and details the Councils objective for the requirement found in Section 3.3 of the AEE contained within Volume 1 of the application.
55. **The proposed work and designation are reasonably necessary for achieving the objectives of the requiring authority because:**

The necessity for the project and Waitakere City Council's objectives are set out more fully in Section 3.3 of the AEE contained within Volume 1. In summary Waitakere City Council's objectives for the project are:

- To protect the strategic road network from Auckland City to Waitakere City through the designation process to secure land required for the construction, operation and maintenance of the Clark Street extension and low-level bridge and associated road re-alignments;
- To provide a sustainable link from Waitakere City (New Lynn) to Auckland City (Avondale) that integrates Great North Road, Clark Street, Wolverton Street and Tiverton Street;
- To provide an alternative safe and sustainable road network from east to west Auckland, as an alternative to the North Western Motorway;
- To support Transit Orientated Development within the New Lynn Town Centre, by improving pedestrian and cycle safety and by providing better pedestrian and cycle linkages; and
- To assist in accommodating future growth in New Lynn Town Centre, which has been identified as a Sub-Regional centre in the Auckland Regional Growth Strategy ("ARGS").

The Need for the Requirement

56. Sections 168(3) (a) and 171(1) (a) of the Act require the Council to indicate the reasons why the Requirement is needed, and whether the Requirement is reasonably necessary for achieving the objectives of the project.
57. The Council has identified a specific area for the location of the Clark St low level bridge extension, and the associated works. This specific location has to be in proximity to the existing portion of Clark Street and identified and protected to ensure the provision of the strategic road network from Waitakere City to Auckland City.

The reporting officer accepts the Council's reasons for the need for the Requirement and accepts that the Requirement is reasonably necessary to achieve the objectives of the Councils, in terms of providing the strategic road network for the City and the region.

Other Options Available to the Requiring Authority

58. The Council is required under sections 168(3) (c), 171(1) (b) and 171(1) (c) of the Act to consider alternative sites that could achieve the aims of the designation. It is important to note that the Act does not state that alternatives *must* be considered or that the *best* alternative must be picked.
59. The actual site of the proposed works was constrained to the New Lynn Town Centre in the vicinity of the existing portion of Clark Street and informed by an earlier decision to underground the rail line.
60. It is accepted that the assessment of alternative options undertaken by the Council in section 6 of Volume 1 of the Notice application is adequate. The report writer therefore accepts the preferred location which is the site subject to the Requirement.

Other Methods Available to the Requiring Authority

61. The Council is also required under sections 168(3) (c) and 171(1) (b) of the Act to consider alternative methods that could achieve the aims of the Requirement.
- A1-A11 62. Council identified 4 potential options for the project within the general subject area, two of which had further design variants. The assessment of the four options is summarised on page 3 of the Notice, contained at Appendix One attached at pages A1 to A11. According to the information supplied as part of the Requirement, the option that included the partial undergrounding of the rail line and the extension of Clark Street over the rail line was considered the most suitable option.
63. The report writer accepts that the designation is the most appropriate method available to achieve the aims of the Requirement. The designation of the site for a bridge and roading purposes is consistent with the planning mechanism used for some of the roads within the vicinity of the town centre.

STATUTORY PROCESS

64. Section 168(3) (c) requires that the territorial authority have regard to the effects that the project will have on the environment, and the ways that any adverse effects can be mitigated.
65. Section 171(1) (d) requires that the territorial authority shall have particular regard to all relevant provisions of any National Policy Statement, New Zealand Coastal Policy Statement, Regional Policy Statement, Proposed Regional Policy Statement, Regional Plan, Proposed Regional Plan, District Plan or Proposed District Plan.

Effects Identified by the Requiring Authority

66. The Council has identified a variety of effects arising from the Requirement. These are as follows:

- Property Effects, values and rights;
- Construction effects;
- Noise Effects;
- Landscape and visual Effects;
- Effects on existing trees and vegetation;
- Traffic Effects;
- Social Effects;
- Cumulative Effects and
- Positive Effects.

67. The Requirement outlines positive effects and where necessary proposed mitigation measures to reduce the impact of adverse effects where they will arise or where there is the potential for these adverse effects to arise, in relation to the development of the site for the roading and open space purposes. Some of these mitigation measures are built into the design of the project. For example the proposed design of the Gardner Reserve and other mitigation measures are achieved through proposed conditions outlined in the AEE, in particular the Arborists report contained within Volume 3: Technical Reports. The proposed conditions contained within the AEE plus further conditions that arise from the discussion in this report that are detailed below will satisfactorily address these potential effects.

National Policy Statements, New Zealand Coastal Policy Statement, Regional Policy Statements and Plans

68. The only operative National Policy Statement is the New Zealand Coastal Policy Statement (1994). The site is not visible from the coast, future development associated with the Notice will not be visible from the coast nor will development adversely impact on the coast and therefore this Policy Statement is not considered relevant in this case.

69. The establishment of the improved roading connection is considered to be consistent with the objectives and policies of the Auckland Regional Policy Statement (ARPS) which seek to promote transport efficiency. It is considered that the requirement would not impact adversely on the Region's natural and physical resources and adverse effects will be appropriately avoided, remedied or mitigated. The relevant policies from the ARPS and the other plans are discussed below.

Auckland Regional Policy Statement

70. The ARPS became operative on 31 August 1999. The relevant provisions of the ARPS commented on below and are contained within Volume 1, Section 9 of the AEE.

Chapter 2a and Chapter 2b - Regional Overview and Strategic Direction

Objective 2.6.1

71. The proposal assists the intensification of New Lynn as part of providing for the regions growth, through improving the quality of the living environment, enhanced amenity, provision of multimodal transport networks, and providing an alternative safe and sustainable road network from east to west Auckland.

The proposal will promote the use of public transport by improving pedestrian linkages to the train and bus station.

Policy 2.5.2

72. This project will provide for the intensification of New Lynn town centre identified as a sub-regional centre in the Auckland Regional Growth Strategy (ARGS). The proposal will assist to encourage modal change from car use to walking, cycling and using public transport through the provision of better pedestrian linkages to the bus and railway station. This will contribute to the viability and future investment in regional public transport infrastructure including the Northern Rail Line and bus service.

Policy 2.6.1

73. The proposal will provide for regional growth through the intensification and regeneration of an existing urban area. This proposal, being the upgrading existing roading infrastructure, allows the more effective functioning of the regenerating town centre. Proposed improvement to the general streetscape will enhance the quality of the town centre thus contributing to the social wellbeing of the community.

Chapter 3 Matters of Significance to Iwi: Objective 3.3 and Policy 3.4.1

74. No waahi tapu or ancestral taonga of special value to Tangata Whenua have been identified. Iwi, included as part of the notification processes, have not submitted to this process.

Chapter 4 – Transport Objective 4.3

75. Adverse effects associated with the proposal have been assessed and it is concluded that adverse effects can be avoided, remedied and mitigated where practicable. The proposal will improve accessibility from the town centre to the train and bus station, by improving road and pedestrian safety.
76. Stormwater will be conveyed via stormwater catchpits, and a treatment facility and overflow arrangement on the corner of Great North Road and the Clark Street extension low-level bridge. Rain gardens and swales will be installed in the Gardner Reserve. Appropriate sediment control measures will be put in place to avoid adverse effects associated with construction as described within the AEE at Volume 1 Section 8.4.3.
77. The proposal will improve the existing transport network in New Lynn by reducing congestion in the New Lynn Town Centre. It is noted that when combined with the trenching of the railway that there will be a significant a reduction in the traffic congestion in New Lynn.

Policy 4.4.1

78. This proposal forms part of the wider project to integrate land use and transport within the New Lyn Town Centre following the Transited Oriented Design model. The proposal will encourage modal shift from vehicle use to more sustainable forms of transport such as walking, cycling and using public transport by providing improved pedestrian linkages. The AEE for the designation advises that the effects on the environment will be avoided, remedied, and mitigated where practicable, which the report writer concurs with.

Auckland Regional Plan: Air, Land and Water (ARP: ALW)

79. The ARP: ALW applies to all of the area within the Auckland Region (the jurisdiction of the ARC). The ARP: ALW applies to the management of air, land and water resources in the region including: air, soil, rivers and streams, lakes, groundwater, wetlands and geothermal water. The ARP: ALW was notified for public submissions in October 2001. Variation 1 to the ARP: ALW and Variation 1 to the Auckland Regional Plan: Coastal were notified in June 2002. Decisions on submissions and further submissions were notified on 8 October 2004.

Chapter 2 - Use and Development, Objective 2.2.3.3

80. This objective relates to the efficient use of land. It is anticipated that the proposal will enable the more efficient use of use of the land resource in New Lynn as it will allow for the redevelopment of a street within the town centre that will in turn assist to support intensified development within the town centre. This approach is consistent with the ARGS.

Objective 2.2.3.4

81. This objective relates to the provision of the upgrade of infrastructure to provide for community needs. The proposal supports the regeneration of the New Lynn town centre while improving pedestrian and road safety. It is considered adverse effects associated with proposal will be avoided, remedied or mitigated by the applicant to a suitable level where practicable.

Objective 2.2.3.5

82. This objective seeks that adverse effects on network infrastructure are avoided. The proposed bridge being part of the roading network has been designed to ensure the future functioning, and avoidance of adverse effects on the operation of the rail line- for example the height of the underside of the bridge is sufficiently high to accommodate the future requirements of the electrification processes.

Policy 2.2.4.1

83. This objective relates to development being consistent with the strategic direction of the ARPS, and the avoidance of adverse effects. This work will improve the functioning of the New Lynn Town Centre, which in turn will assist the centre to operate more effectively as a sub regional centre. Adverse effects associated with the proposal will be avoided, remedied or mitigated.

Policy 2.2.4.4

84. This objective seeks consistency with the Regional Council Policy Statements with the use, development or upgrading of network infrastructure. The proposal is generally consistent with the policy documents in that the proposal will have an overall positive effect on New Lynn town centre, as mentioned above, and the adverse effects will be avoided, remedied and mitigated where practicable.

Chapter 5 Discharges to Land and Water

85. It is noted that at the time of writing this report the Council in its role as the requiring authority has still to determine if a stormwater discharge consent was required from the Auckland Regional Council. This matter will be clarified through the future development of the detailed design of the project. The applicant may wish to advise the hearing of any progress with regard to this matter. The comment below draws on the application to date.

Objective 5.3.1

86. This objective relates to the enhancement of water quality by the avoidance of adverse effects. The proposal as presented seeks to minimise the discharge of sediment through sediment control measures during the construction phase. In addition the stormwater will be managed and controls will be put in place such as rain gardens and swales within the Gardner Reserve and additional catchment devices.

Objective 5.3.4

87. Adverse effects associated with construction of the Clark Street extension low-level bridge have been assessed in paragraphs 145-149 of this report and it has been concluded that adverse effects will be minimised through silt and sediment control measures and stormwater management controls as mentioned above.

Objective 5.3.5

88. This objective seeks to avoid or minimise the adverse effects of stormwater discharge. As discussed above the stormwater will be managed and controls will be put in place at both construction and operational phases.

Auckland Regional Plan: Sediment Control (ARP:SC)

89. The ARP: SC addresses the issue of sediment discharge, and methods to avoid, mitigate or remedy any adverse effect on the environment due to sediment discharge from bare earth surfaces. The relevant provisions of the ARP: SC Plan are discussed below, and contained in Volume 3 Appendix H of the AEE.

Objective 5.1.1

90. This objective relates seeks to maintain the quality of water in waterbodies by using appropriate stormwater management and sediment control measures. The applicant's proposal has been reviewed as having proposed such measures to ensure that water quality is maintained.

Objective 5.1.2

91. This objective relates to the mauri of water in water bodies being sustained by using appropriate stormwater management and sediment control measures as mentioned above. No ancestral lands, sites, waahi tapu have been identified as being affected by the proposal.

Policy 5.2.1

92. This policy relates to adverse effects on water quality being avoided through appropriate stormwater management and sediment control measures in accordance with ARC: TP 90 and ARC: TP 108 (respectively).
93. The requirement or otherwise for a stormwater discharge consent will be resolved prior to the Outline Plan of Works stage.

District Plan or Proposed District Plan

94. The WCC Proposed Plan was made operative on 27 March 2003, with the exception of provisions that remain subject to unresolved Environment Court appeals. The relevant provisions of the Plan are included in Volume 1, Section 9 of the AEE, and are commented on below:
95. The Notice relates to a site which is currently identified as Transport, Community Periphery, Open Space and Working Human Environment and General Natural Area under the Operative Waitakere City District Plan.

In addition the area is overlain by PC 17, where some of the portions of the subject site, being Community Periphery and Working are proposed to be Community Environment.

96. Given the progress of PC 17 through the statutory planning system to date it can be accorded some weight, as it has reached the appeal stage, with some draft consent orders being issued to appellant parties. The Notice acknowledges the intent of PC 17. The Natural Areas remain unchanged in relation to the site.

Objective 1, 2 and Policy 1.6, 2.4 and 2.12

97. Objectives one and two relate to the management of the effects of land use on water, and the protection of the native vegetation and habitat respectively. The proposal will manage the effects of land use through appropriate stormwater management techniques as described in the assessments of effects for the Notice, and includes such measures as rain gardens and swales within the Gardner Reserve, and connections into the existing stormwater system.
98. Tree removal will be within the road reserve in a highly urban environment, with additional tree removals in the Open Space Environment (Gardner Reserve). There will be no removal of significant areas of bush associated with this proposal and the proposal, subject to proposed conditions will avoid adverse effects on significant trees. Replacement tree planting will be undertaken to assist in the mitigation of tree removals.

Objective 3 and Policy 3.2

99. This objective relates to the maintenance of the life supporting capacity of the City's land resource, in particular (policy 3.2) the soils. Earthworks are required for the piling associated with the bridge construction. This is in an area that is already compromised in terms of the existing uses (being in the rail corridor and its surrounds) however the Notice proposes the use of silt and sediment control measures. Similar measures are proposed in relation to the works within the Gardner Reserve.

Objective 5, 5.3 and Policy 11.3

100. This objective relates to the protection of the natural regeneration within the City and the maintenance of the links between areas of vegetation. The proposed works, particularly those relating to Gardner Reserve are described within the AEE of the Notice. The proposed changes to Gardner Reserve will result in the expansion of this open space that in turn will provide the city's residents with enhanced urban amenity and pedestrian linkages.
101. The AEE has anticipated some effects through the removal of existing vegetation, and expects that a proposed replanting plan (to be confirmed at Outline Plan of Works stage) will protect processes of natural regeneration within the City.
102. The streetscaping proposed within Gardner Reserve would provide a high level of environmental amenity as specified in Policy 11.3. The proposed changes to the reserve will improve the linkages to the town centre, and create a more open and inviting public space.

Issue 5.10 and Policy 10.8

103. The proposal is consistent with Policy 10.8 because it provides for and improves the safe movement of vehicles, cyclists and pedestrians. The proposed works will also provide potential health and wellbeing benefits as people are encouraged to use more sustainable modes of transport.

104. It is further considered that the proposed works are consistent with the objectives and policies of the WCC ODP, and Plan Changes 17 and 18 being Council's response to the LG (A) AA which seeks to integrate land use and transportation, especially in relation to intensification and key transportation initiatives. PC 17 provides the impetus for the New Lynn Transit Oriented Development. The proposed Clark Street extension low-level bridge enables the objectives of PC 17 to be met and therefore is considered with the objectives and policies of the Plan Change.

Plan Change 17 New Lynn

105. PC 17 introduced specific rules and supporting policies intended to facilitate and encourage the intensification and mixed use development in and around the New Lynn town centre. Specifically, it introduced:

- A new Living 5 and Living 6 Environments to provide for intensive residential development in selected locations around the New Lynn town centre;
- Rezoned land from Working Environment and Community (Periphery) Environment to Community Environment, to provide for an expanded retail and mixed use core town centre;
- Introduced a 'New Lynn Concept Plan™' to guide development in and around the New Lynn town centre, and identify features that should be retained and enhanced as development occurs; and
- Created a 'Monier Brick Making Special Area™' to protect the established brick making industry from reverse sensitivity issues and provide for its continued operation.
- The proposed changes were intended to give a clearer framework within which the further development and redevelopment of New Lynn as a mixed use town centre can occur.

106. To accommodate the further growth of the retail and commercial area of the centre an expanded Community Environment is proposed. The current distinction in the Plan relating to the Community and Community (Periphery) will be removed, and the new combined Community Environment is extended to apply to land in the Clark Street area. Changes to the Community Environment rules include:

- A new street frontages rule is introduced™ to manage the public / private interface of development. The streets in the Community Environment are classified as to the type of building form (set back, height, location of parking) to enable that the Centre to develop as a high quality, community node. Car parking rules in the Community Environment are altered to provide flexibility for residential development, and the redevelopment of small sites. Car parking requirements for other development are reduced in recognition of the current stock of parking in the centre, as well as the availability of other travel modes;
- Development over 20m in height requires assessment of visual and wind effect;
- A Concept Plan that shows proposed new street connections, which include the Clark Street as well as highlighting a number of features that need to be taken into account in development proposals; and
- Residential development is made a non-complying activity in the Working Environment in New Lynn.

107. Proposed Plan Change 17 was publicly notified on Thursday 31 March 2005. The Decision version of the PC 17 was incorporated in the District Plan on 9 July 2007. The decision version of the plan change has been appealed. Council officers are working to resolve the appeals, and draft consent orders have been issued. It is therefore considered that the plan change does have statutory weight and the aspirations of the plan change cannot be disregarded in the processing of consents and designations.

108. This designation has been anticipated by P C 17 and the proposed plans for the development of the Clark Street low level bridge and surrounds are considered to be consistent with PC 17. The designation when implemented will allow the redevelopment of Totara Avenue area of New Lynn, as shown in the AEE plans with the modified /reduced nature of this road and enhanced pedestrian amenities.

109. The proposal is consistent with the objectives and policies and the Plan, including PC 17. The relevant rules of the Plan are covered in the Council officer feedback, discussed below in the section entitled Other Matters.

ISSUES IDENTIFIED BY SUBMISSIONS

110. The Council received the Notice of Requirement for the designation on 12 August 2009.

111. The Notice was publicly notified in the New Zealand Herald on Friday 2 October 2009. Six signs were erected in the New Lynn Area at the following locations; at Todd Triangle, the grounds of Cambridge Clothing, the access driveway to 1C Rankin Ave, the Council community carpark off Totara Avenue, Gardner Reserve, and outside Ceramco House. The signs could not be located on some of the requirement area as this is on ONTRACK land i.e. the rail corridor onto which access is limited. A full copy of the Notice was served in accordance with the Act on directly affected parties. Additional parties were provided with an executive summary for their review and a full copy of the Notice was placed for public inspection in the City's Libraries, Council's main office and on Council's Website. It is to be noted that due to a computer error a group of parties that were to be notified were accidentally left off the notification list. This error was discovered a few days after the original notification and accordingly these additional parties notified. The close time for submissions was extended to Thursday 12 November 2009.

A40-A72

112. The public notification of the Notice attracted nine submissions. All but one of the submissions was received within the 20 day time frame. Two of the submissions support the Notice, one supports the Notice in part, one is neutral, one opposes the Notice, one opposes the Notice in part and three do not state a position. Some of the submissions seek relief in the alteration of the Notice from its current form and all are summarised in the discussion. Each submission is attached in Appendix Three at pages A40 to A72.

Each submission is considered further as follows:

Cambridge Clothing Company

113. This submission opposes the requirement in part, based on a difference between the designation as notified, and the designation as understood by the submitter through discussions with Council Officers. The submission requests that the designation is altered to address this discrepancy. As part of the work contributing to the Notice Council has been negotiating with Cambridge Clothing Company regarding the location of Clark St, as it turns towards Great North Road. The Cambridge Clothing Company understood the designation would not intrude onto their land to the extent that was shown in the notified version. At the time of writing the report, survey work was being commissioned by Council officers to clarify the location of the designation and works in the area of concern. It is anticipated that this work would be finished by early January 2010 and will reflect these earlier discussions. It is expected that the version of the designation, in the event of a recommendation of approval from the commissioner, would include a revision in this area of the designation. Should the survey material not be provided in sufficient time, the report writer notes that the matter could also be resolved at a later stage, in the event that the current designation is confirmed, through the lodgement of a s181(3) application under the Act, for a minor alteration to a designation.

New Zealand Transport Agency

114. This submission in support of the proposal identifies that the proposal is an essential part of the New Lynn Transit Oriented Development project, providing travel time and vehicle operating cost savings to road users. In addition the submission recognises that the transport aspects of the project have high priority as they deliver on the Government's key objective of supporting economic growth and development by delivering relief on major urban arterial routes.

The relief sought by the submission is that approval is recommended to the Notice of Requirement

New Zealand Historic Places Trust (NZHPT)

115. This submission opposed the requirement in its current state as it was considered that the proposal will have a significant effect on the form and function of the New Lynn Town Centre such that a full heritage assessment should be undertaken and that the findings of the report are to be implemented.

The Council has undertaken meetings with the NZHPT, and commissioned a heritage report by Dave Pearson in response to these concerns. A number of the recommendations of his report are to be recommended as conditions of consent.

Mr David Bulog

116. This submission offers general support to the project but raises concerns about the possible loss of on street parking as a result of the Notice in the vicinity of 3075-3119 Great North Road. The report writer was able to clarify for the submitter that it was known that at least one car park would be removed from this area for the installation of a pedestrian crossing; however the detailed design is not sufficiently advanced to be able to respond on the entire area of concern at this time. Council's traffic engineer has said that this matter would be resolved at the Outline Plan of Works stage.

New Lynn Professional Services 1991 Ltd/D B Thomas

117. These identical submissions relate to the redirection of Totara Avenue and the creation of a new intersection east of the new Clark Street intersection with Great North Road. The submission expresses concerns about the proposal destroying a green area-Todd Triangle, and the traffic issues with the two intersections so close together. These submitters interpretate Totara Avenue being maintained as a major road, and therefore contrary to the intention of a mixed use for the road. The submitters seek that Todd Triangle is retained in its present form, Totara Avenue traffic is reduced by restricting traffic movements out of Totara Avenue, and that future access north of Great north Road be from the Clark Street extension.

Council's traffic engineer has reviewed these submissions and has confirmed that it is not the intention that Totara Avenue is a major road in the roading hierarchy of New Lynn. The installation of the new portion of Clark Street will alter the functioning of Totara Avenue from its current status of being part of a District Arterial to that of a local road only. With regard to the request that the range of traffic movements being reduced out of Totara Avenue, Council's traffic engineer believes that the realignment of Totara Avenue will allow the full range of turning movements.

Hazel Berryman

118. The submission relates to the retention of the existing roading pattern, or that it is only supplemented by a reduced Clark Street Extension. The specific relief sought by the submitter are more detail of the roading and footpath levels, removal of an existing power transformer and a better garden area outside 3093 Great North Road.

The reporting planner has spoken to a representative of the submitter on the 1 December 2009 and advised that at the designation stage much of this detail is not currently developed and accordingly cannot yet be made available to the submitter. The submitter requested some information relating to traffic reports and the plans for Todd Triangle. These were forwarded by mail by the reporting planner on 4 December 2009.

ONTRACK

119. This submission states that it does not object to the Notice, acknowledging the ongoing dialogue between ONTRACK and the Council to date, and seeks that the Council continue to consult with ONTRACK especially during the design phase. ONTRACK seek that the Council have all property acquisition and property rights over the rail corridor to be executed prior to any construction commencing.

As discussed earlier in this report, the Requiring Authority has already established a process to obtain the necessary approvals from ONTRACK prior to the implementation of the Notice. An update on the progress of those approvals can be given at the hearing if required by the Commissioner.

Auckland Regional Transport Authority (ARTA) Late Submission

120. This submission supports the Notice and seeks that the Clark Street Extension Low Level Bridge be approved. The submission notes that the designation when implemented will lift high traffic counts from in and around Totara Avenue and the New Lynn Transport interchange allowing the interchange to function effectively.

A40-A72

The submitter raised concerns verbally relating to the possible delay caused to bus services by the alterations to Totara Avenue. A Council officer from the Councils Transport Strategy Team has confirmed that the project and the implementation works have been designed in such a way that delays will not occur, for example the Clark Street Bridge will be installed prior to the realignment to Totara Avenue. The full officer response is in Appendix Three attached at pages A40 to A72.

OTHER MATTERS

121. The Notice has in addition been considered by other Council officers and technical specialists. Various meetings have occurred and comments have been provided from the following specialists:

- Urban Design;
- Parks and Open Space;
- Infrastructure;
- Transportation Matters: Assets and Strategy;
- Acoustics;
- Earthworks;
- Heritage;
- Landscape Design; and
- Arboriculture.

122. The comments from these specialists are considered below and where appropriate conditions have been amended and new conditions added in Paragraph 159 below.

Urban Design

A40-A72

123. Urban Design has considered the Notice and their comment is attached pages A40 to A72 in Appendix Three. The comment places the Clark Street Bridge in the context of the works. The Officer has commented as follows:

“The Clark Street Low Level Bridge is identified in the New Lynn Urban Regeneration Framework (adopted by Council in October 2008) as a "critical strategic intervention" in the regeneration of the New Lynn Town Centre. The construction of this bridge would remove approximately 30,000 vehicle movements per day from the town centre mainstreet and would enable the development of the Merchants Quarter as a pedestrian friendly retail and character heart for New Lynn. The development of the low level bridge and the removal of traffic from the core of the town centre would allow the Council to restore Totara Avenue West as the historical mainstreet of New Lynn and reconnect the Community Centre and historic Potters Post buildings to the heart of the town centre. In addition the Clark Street low level bridge contributes to the Council's goals for increased connectivity in the town centre by providing a pedestrian connection which does not currently exist over the railway line and the establishment of an open space connection between Gardner and Ambrico Reserve”.

The officer has not seen the need to recommend any specific conditions in relation to this project.

Parks and Open Spaces

124. The implementation of the Notice will require the reconfiguration of two existing Open Spaces within New Lynn being the Gardner Reserve and Todd Triangle. The Parks section of the Council has undertaken a comprehensive review of the proposal. In general the parks department approves of the works that are proposed as part of the Notice and accepts that an ongoing consultation process is required to develop the detail. However their review of the Notice AEE raised concerns relating to the new proposed terracing feature of Gardner Reserve and the number of stairs within the park.

125. As the works within the Gardner Reserve had been identified in the Boffa Miskell landscape report as one of the key mitigation works in relation to the adverse effects generated by the Clark Street low level bridge, it was considered appropriate that this matter was resolved as part of this evaluation process. The Council has undertaken meetings with the parks department, and both parties have reached agreement as to the nature of the revised design. It is understood that the revised design will include less terracing than the current version and a revision of the number of paths through the Gardner Reserve and connecting up to Clark Street. The proposed reduction of paths throughout the reserve would also allay some of the concerns of Councils Arborist, who has reservations about the degree of works within the driplines of trees within the Reserve Area.

Infrastructure

126. Ecowater has reviewed the proposal. They have deemed that the proposal is generally in accordance with the Council Code of Practice for City Infrastructure and Land development. Ecowater officers support this application with no Conditions relating to Stormwater.

127. The Council Officer has noted that all of the proposed works fall within the New Lynn East Integrated Catchment Management Plan and that the Council holds the Network Discharge consent for this area. As a result of being within this catchment area all works must be undertaken in accordance with Low Impact Design requirements as outlined in the Councils code of practice, and also in accordance with the Auckland Regional Council Technical Production 10.

Transportation Matters: Assets & Strategy

128. The transportation issues associated with the establishment of the Notice have been considered by Officers from both Transport Assets and Transport Strategy. Transport Assets' principle function is the implementation and ongoing management of transport programmes, projects and strategies.

Transport Strategy has an advocacy role in developing strategic transport advice and policies which include travel demand management, walking and cycling, passenger transport, roads and state highways.

129. The Assets Officer has commented that:

The proposed Clark Street extension is a component of the broader New Lynn Transport Oriented Development project (New Lynn TOD). The New Lynn TOD project incorporates road network improvements, relocation of the at grade railway line into a trench, and development of an integrated train station and bus interchange. The New Lynn TOD project has been subjected to extensive traffic modelling, option evaluation and analysis to investigate the costs and benefits of the project. The selected option coming out of the process is an optimal solution for current and future traffic demands and to support the future growth of New Lynn around the TOD.

130. With regard to specific details he has also commented that:

The scope of the NoR also includes changes to Great North Road and Totara Avenue. The western end of Totara Avenue is proposed to be realigned consistent with its reduced function in the network when the new arterial route is constructed. The realignment of Totara Avenue avoids creating an excessively complex junction at the intersection of Great North Road and Clark Street Extension.

This latter comment is in response to matters raised by submitters regarding the functioning of Great North Road and Totara Ave.

131. Another matter raised by submitters is the possible loss of onstreet parking as part of the project. At the time of writing the detailed design had not been completed. Therefore the writer is unable to confirm the exact nature of the possible changes to the on street parking detail of Great North Road. It is likely that any loss of on street parking spaces will be as a direct result of achieving the appropriate levels of functioning for the arterial road and the relevant intersections. It is therefore considered that the loss of any on street parks would be considered to be unavoidable. It is noted that there may be an opportunity for additional on street carparks to be created in the revised Totara Avenue. The Assets officer has suggested that a condition relating to onstreet parking issues to be made and the issue to be further canvassed at Outline Plan Stage.

132. Transportation Strategy has confirmed that the proposal will complement the other measures already being undertaken within New Lynn to provide enhanced public transport and improved circulation within the transport system.

Acoustics

133. The AEE contained an acoustic report by Marshall Day. The Council retained Hegley Acoustics Consultants to peer review this report. The review noted that the potential for the construction noise to exceed the levels of the Plan. The Marshall Day report recommends the development of a Construction Noise Management Plan, which Hegley Acoustics concurred with, however Hegley Acoustics sought clarity regarding the construction noise levels and how issues would be addressed. Marshall Day have responded with advice on general measures undertaken to mitigate noise, and advised that in the instance of the levels of the Plan were to be exceeded solutions would be designed on a case by case basis.

A73-A120

Accordingly, the condition relating to the Construction Noise Management Plan has been proposed as part of the conditions of the designation. The Marshall Day response is contained in Appendix Four attached pages A73 to A120.

Earthworks

- A73-A120 134. The proposal as submitted to the Council proposed earthworks, both cut and fill, to facilitate several aspects of the proposal, being the earthworks to install the bridge and earthworks for the upgrade of Gardner Reserve. The Council officer requested some additional information although the application was not put on hold in relation to this aspect. The Council officers review, and the additional information requested are contained in Appendix Four attached at pages A73 to A120.
135. The Council officer has undertaken an extensive review of the project and considers that the proposal is the most appropriate development option to avoid or minimise earthworks, and the resultant earthworks are of a suitable scale for the intended works. It is noted that the proposed earthworks associated with the upgrade to the Gardner Reserve (of approximately 500m² and a volume of approximately 300m³;) may alter with the proposed revision of the development within Gardner Reserve.
136. With regard to excavated material this will be removed from the site, with any contaminated material proposed to be removed to a registered land fill. In relation to the prevention of erosion from the site, which, if any is anticipated to be from the imported fill, this can be controlled through sediment control conditions.
137. It is anticipated that there is potential for noise to be caused by the undertaking of earthworks and any other construction. The applicant's noise consultant has anticipated that in some instances the relevant noise controls will be exceeded. This matter was also highlighted by the Councils noise expert. It is recommended as a condition of this designation that a construction noise management plan is produced prior to the commencement of construction.
138. With regard to the impacts on vegetation and ecological linkages there are areas within the Gardner Reserve, Todd Triangle and Totara Avenue where conditions of consent will be required to ensure that remaining vegetation is not compromised. These conditions will also address concerns raised by the Councils Landscape Architect and Arborist.

Heritage

139. Since notification of the Notice a heritage assessment of the proposal has been undertaken. It is noted that this heritage work is part of a wider assessment of heritage matters in New Lynn. This work is important as the Council actively plans for the regeneration of New Lynn, of which the Clark Street Low Level Bridge extension and associated works are a part.
- A40-A72 140. With regard to the built heritage of New Lynn, as contained within the Council officer feedback in Appendix Three attached pages A40 to A72, the bridge and associated works do not directly affect any of the built heritage; further more the heritage assessment by Dave Pearson notes that the bridge will for the most part be screened by existing development. In addition it is generally noted that future development could provide additional screening of the bridge.
- A40-A72 141. In terms of effects on natural heritage there are several listed trees within the scope of the designation, in particular a large Pohutakawa at 1 Totara Avenue. In response to concerns raised by the Council Arborist, as outlined in his response attached in Appendix Three attached at pages A40 to A72, a specific condition as agreed by the requiring authority, will be imposed on the designation to review works in the proximity of this heritage tree to ensure its long term health.
142. With regard to the works proposed within the Gardner Reserve, it has been noted by Dave Pearson and Councils Heritage advisor that the Gardner Reserve was once a part of a larger garden owned by the Gardner Family.

The recommendation by Dave Pearson that an interpretative panel recognising this historical link be installed in Gardner Reserve, has been endorsed by the Councils Heritage advisor, and accordingly is proposed as a condition of the designation. An additional condition regarding the possible finding of any archaeological material will also be a condition of this consent.

143. The Councils heritage advisor has recognised that this project provides further opportunities for heritage interests to be encapsulated within arts works as part of the project. These matters have been captured as part of the advice notes for the designation.

Landscape

144. The implementation of the Notice has the potential to establish built form and structures which is not consistent with the existing urban landscape. Consequently Council's Landscape Architect, has reviewed the Notice. The Councils landscape architect generally agrees with the assessment of landscape and visual effects undertaken by Boffa Miskell, and contained within Volume 3 Technical reports of the application. He agrees that the avoidance of adverse effects will rely on the quality detailed design consistent with those plans supplied by Architectus. He has raised concerns in his report regarding the choice of proposed plantings in some locations and the lack of detail regarding the location of lighting. It is noted that the majority of these matters will be subject to the final approval of the Councils Parks department, and accordingly a condition is proposed for the designation requiring that their approval be sought on these matters prior to the Outline Plan of Works stage

Arboriculture

- A40-A72 145. The Councils Arborist, whose report is in Appendix Three attached at pages A40 to A72 has raised concerns about the extent of tree removal and works in the dripline of some of the remaining trees. It is considered that in addition to the conditions recommended within the requiring authority arborist's report that further conditions are imposed in relation to attempting to reduce the extent of works in driplines, and in proximity to the remaining trees. It is noted that the proposed revisions to the project within the Gardner Reserve, being the removal of some of the footpaths, will assist to address some of the Council arborist's concerns.

Designation Lapsing

146. Under Section 184 of the Act, a designation lapses on the expiry of five years after the date on which it is included in a district plan, unless among other things the designation specified a different period when incorporated in the plan.
147. The Council have sought 10 years for the proposed designation. No submissions were received related to duration of the designation. The reasoning relates to the size and scale of the project.

Consideration of Community Views

148. A consultative process has been used as described and reported on in the AEE in Volume 1 section 7 to assess community views. It is considered that this process as described has been sufficient to give both the wider community and the individuals an understanding of the project.

Preferred Option

149. As a result of the analysis provided in paragraphs above, it is recommended that the Council adopt the option set in section 171(2) (a) and (c) of the Act as follows:

“The territorial authority may recommend to the requiring authority that it –

- confirm the requirement:

...

- impose conditions:

...”

STRATEGIC CONTEXT

150.The establishment, operation and maintenance of the Clark Street Low Level Bridge and associated works, subject to the recommended conditions, will be consistent with Council’s strategic direction as set out in the Long Term Council Community Plan, Plan Change 17 and Draft Growth Management Strategy.

CONSULTATION

151.The procedures set out in the Act for public notification of notices of requirement have been followed. This included public notices in newspapers, signs set out on the site, mail out of copies of the notice to adjacent landowners and occupiers, and mail out to other relevant statutory agencies and iwi.

152.The Notice was also referred to the staff of the Council which included Council’s Traffic Engineer, Urban Design Advisor, Ecowater Drainage Engineer, Landscape Architect, Arborist, Open Space Planner, Heritage Advisor and an independent noise specialist for consideration.

153.It is considered that this consultation was appropriate and no additional consultation beyond that required in the Act is necessary.

RESOURCES

154.No staff resources other than staff time are required and this is cost recoverable.

IMPLEMENTATION ISSUES

155.The procedures for implementation are prescribed by the Act and are summarised above.

CONCLUSION

156.The officer who has prepared this report concludes that **the Requirement for a designation should be confirmed with changes**. This conclusion is accompanied by suggested conditions to be included in the formal recommendations on the Requirement for the designation.

157.That pursuant to section 171 of the Resource Management Act 1991, subject to additional or contrary information being presented at the hearing, the Requirement for a designation for a 300m extension of Clark Street that includes a low level bridge and ancillary works. Ancillary works include construction of a new intersection at Great North Road, a new access road to the Cambridge Clothing Company to be known as Cambridge Lane, a new roading configuration for Totara Avenue to enable the redevelopment of the open space area known as the Todd Triangle, and expansion and modification of Gardner Reserve, being:

- Todd Triangle : Pt Allot 256 PSH OF Waikomiti Gazette 1965 p625
- Lot 15 DP 42203 NA137B/298
- Lot 16 DP 42203 NA 137B/298
- Lot 17 DP 42203 NA137B/298
- Lot 3 DP 58386 NA13D/869
- Lot 2 DP 161309 NA978A/66
- Lot 1 DP 161309NA97A/65

- Lot 1 DP 209280NA137B/298
- Lot 2 DP 209280 NA137B/299
- Lot 1 DP 199076NA127D/557
- New Zealand Rail Corporation Northern Rail Line
- Lot 1 DP164120 NZ98D831
- Lot 1 DP115005
Great North Road, Legal Road between street numbers 3075-3119, and 3094-8108
- All of Todd Avenue
- Totara Avenue between nos 1-29 inclusive

158. **be confirmed with changes** for the following reasons:

- (i) The proposal meets the relevant Objectives and Policies of the District Plan, and has been considered in terms of the relevant Rules and Assessment Criteria;
- (ii) That the need for the Requirement has been demonstrated;
- (iii) That the other alternatives available to the requiring authority have been considered;
- (iv) That the other methods available to the requiring authority have been considered; and,
- (v) Subject to acceptance by the requiring authority of the recommended conditions attached to this report would create no more than minor adverse effects on the environment.

Recommended Conditions

159. Conditions recommended by Council officer's for consideration:

1. That the implementation of the Notice of Requirement shall proceed in general accordance with the plans contained within Volumes 1, 2, and 3, Entitled New Lynn Transit Oriented Development, Clark Street Low Level Bridge, being LUC 2009-949
2. That the Council as the Requiring Authority obtain the permission from the New Zealand Rail Corporation to enter and construct within the rail corridor, prior to the implementation of works within the rail corridor.
3. That the Council as the Requiring Authority obtain approval (of LUC 2009-1411) to construct an access through Ambrico Reserve to the apartment block known as 1C Rankin Ave, prior to the implementation of works for the project.
4. The designation shall lapse on the expiry of 10 years from the date on which it is included in the District Plan if it has not been given effect to before the end of that period.

Earthworks and Contamination

5. Prior to works commencing, submit a detailed Traffic Management Plan (TMP) to the satisfaction of the Council. Traffic shall be managed in accordance with the approved TMP during the construction of the project
6. Submit a Remediation Action Plan (RAP) for any potentially contaminated sites to include appropriate disposal or treatment to the satisfaction of the Council. Disposal or treatment of any potentially contaminated soil shall be provided in accordance with the approved RAP.
7. Submit a detailed Construction Noise Management Plan (CNMP) to the satisfaction of the Council. Management of noise, and implementation of any required mitigation measures, shall be in accordance with the approved CNMP.

8. Prior to works commencing, submit a detailed Earthworks Management Plan (EMP) for approval of the Manager Resource Consents. The EMP should include, but not be limited to:
- Contact details (to include responsibilities);
 - Sediment & Erosion Control Plans (to ARCTP90 standard or equivalent);
 - Progressive stabilisation;
 - Stabilised Entrances & Wheel Wash (if necessary);
 - Road Sweeping Contractor;
 - Weather Monitoring;
 - Stockpile location;
 - Access and storage of machinery & equipment;
 - Potentially Contaminated sites requirements; and
 - Any other details required by Councils Manager Resource Consents.

Management of earthworks associated with construction shall proceed in accordance with the approved EMP.

9. Before commencement of any works and until completion of exposed site works, adequate sediment and erosion control measures shall be constructed and maintained by the consent holder in accordance with the Auckland Regional Council Technical Publication No 90 "Erosion and Sediment Control Guideline for Earthworks" (latest version).

Arborocultural

10. That the recommendations contained within sections 9 and 10, of the report entitled ArborAdvice Ltd, Arborocultural Consultancy Services, Waitakere City Council-New Lynn Transit Oriented Design Project, submitted as part of the application be implemented as part of this Designation project, unless modified by the conditions 11 and 12 below.
11. That the works within the proximity of the Heritage tree (Pohutakawa) at 1 Totara Avenue, be reviewed with regard to proposed changes of ground level, and the avoidance of long term adverse effects on the health of the tree, with regard to the hydration of the tree.
12. That the Council Arborist review and approve final engineering drawings with regard to the location of works in the dripline of trees.

Heritage

13. That the Requiring Authority shall in the event of archaeological evidence being uncovered (e.g. shell, middens, hangi or ovens, pit depressions, defensive ditched, artifactual material or human bones) work is to cease in the vicinity of the discovery, and an Archaeologist, Historic Places Trust and Waitakere City Council are to be contacted so that appropriate action can be taken before any work can recommence there.
14. That the Requiring Authority, in consultation with the Councils Parks Department shall design and install an interpretative panel describing the association of the Gardner Reserve with the Gardner Family.

Traffic

15. That the Requiring Authority shall undertake an assessment of traffic effects specifically as it relates to on street parking and this will be submitted at the time of the Outline Plan of Works. This assessment should have regard to the New Lynn Town Centre Parking Management Plan.

ADVICE NOTES

That the Council has sufficient resources in its current annual plan for the restoration of the Ambrico Kiln. These works are due to be completed by June 2010.

That the Requiring Authority produce a heritage trail and related brochure highlighting New Lynn's history within the next 12 months.

That the Council commission a local artist, who will work with the council staff to design features on the concrete panels for the bridge and the Gardner Reserve that reflects New Lynn's Heritage.

That the requiring Authority liaise with the Councils Parks Department in the future development of the Landscape Treatment and Planting Plan, prior to the submission of the Outline Plan of Works.

Report prepared by: Carolyn McAlley, Senior Planner, Policy Implementation

