

Application for resource consent under the Resource Management Act 1991



Proposed public amenity building (toilet block) at Mercury Lane, Auckland.

1. Application description

Applicant's name:	Auckland Council Parks and Community Facilities
Site address:	Road Reserve, Mercury Lane, Auckland
Legal Descriptions:	N/A
Site Area:	N/A
Auckland Unitary Plan (Operative in Part) Zoning:	Road
Relevant special features, overlays etc:	

Precinct

Karangahape Road, Precinct

Overlays

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - E16, Mount Eden, Viewshafts

Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - E10, Mount Eden, Viewshafts

Historic Heritage and Special Character: Historic Heritage Overlay Extent of Place [rcp/dp] - 2739, Karangahape Road Historic Heritage Area

Historic Heritage and Special Character: Historic Heritage Overlay Extent of Place [rcp/dp] - 1981, Hallenstein Brothers Building

Controls

Controls: Macroinvertebrate Community Index - Urban

Designations

Designations: Designations - 2500-2, 2500-2 City Rail Link-substrata, Mayoral Dr to New North Rd, Designations, City Rail Link Limited

Designations: Designations - 2500-3, 2500-3 City Rail Link-strata Mayoral Dr to New North Rd, Designations, City Rail Link Limited

Designations: Designations - 2500-4, 2500-4 City Rail Link-Karangahape Rd Station, Designations, City Rail Link Limited

Locality Plan:



Image 1: Location plan

2. The proposal, site and locality description

Proposal

The applicant proposes to install a public amenity building (public toilet) within the road reserve of Mercury Lane. The toilets are proposed to be located on the east side of Mercury Lane, adjacent to the George Court building (separated by a footpath).

The building accommodates two toilet stall areas. Both toilets will open on the east wall of the building, towards the footpath.

Details of the public toilet are as follows:

- a length of 4.4m, width of 2.34m, and a maximum height of 3.3m. A total area of 10.3m².
- Continuously open. Operating hours of up to 24 hours a day, every day of the week.
- Model is Exeloo ORBIT. This design is compact with a low-profile roof system; a profile well suited to urban streetscapes and transit locations. The steel framed ORBIT has a heavy duty stainless steel cladding system.
- Automated doors and automatic cleaning.
- Wastewater, water and power connections are available in close proximity in the road reserve.

The toilets that were previously located on Pitt Street (Beresford Square) were removed in December 2020 as part of the CRL (City Rail Link) development of the Beresford Street train station. CRL will be installing new public toilets in Beresford Square, that are planned for completion in December 2024. The new toilets will provide one standard plus one accessible toilet.

Given the high pedestrian volumes and concentration of activities on Karangahape Road, another set of toilets is proposed, in addition to the Beresford Square toilets being delivered by CRL.



Image 2: previous public toilet at Beresford Square that was removed to facilitate the construction of the City Rail Link Karangahape Station

Auckland Transport (AT), as asset owner of the road reserve, has been involved with the project. An Encroachment licence from AT will be applied for if required before physical works commences.

Background / project context

City Rail Link Limited (CRL) and its delivery partner the Link Alliance are currently constructing the City Rail Link Project (CRL), which consists of twin 3.45 km long rail tunnels up to 42 m below the Auckland City Centre between Waitemata Station (Britomart), and Maungawhau/Mount Eden Station on the Western Line. The project includes construction of a new underground station called Karanga-a-Hape Station in the Karanga-a-hape neighbourhood, which will have entrances at both Mercury Lane and Beresford Square. Karanga-a-Hape Station is currently under construction and is due to open as part of CRL in 2025.

Once CRL opens and as the subsequent development of the area occurs, the number of pedestrians on both Mercury Lane and Pitt Street will increase significantly. The Waitemata Local Board has identified that with the removal of the toilets at Beresford Square, the area along and around Karangahape Road is lacking in public toilets. While the train station will provide toilets, there are restricted to those with a valid public transport ticket and limited to the hours in which the train station is open.

In order to address this issue, Council (Parks and Community Facility) has identified an appropriate location on Mercury Lane to establish public toilets.

Operational maintenance

Auckland Council Parks and Community Facilities manages over 850 standalone public toilets, most of which are in town centre and park locations.

Auckland Council Parks and Community Facilities have maintenance contracts for cleaning and maintaining toilets that are 'outcome' focussed rather than prescriptive. The outcome statement in the maintenance contract is 'All Auckland Council owned and/or operated buildings that require planned and response cleaning shall be cleaned to a standard that allows all buildings users to utilise a sanitary, hygienic, safe, functional and fit for purpose space for their operation. All litter and debris shall be removed from site and done so in a sustainable manner.' Auckland Council requires its contractors to ensure their cleaning schedules and frequencies meet the outcome statement. It is anticipated that these public toilets would be attended by cleaners between 1-3 times per day. The use of the toilet will ultimately determine the frequency of cleaning that is required. Auditing of all maintenance activities including toilet maintenance and cleanliness is undertaken on a regular basis.

The proposed toilets are of a high specification, with self-cleaning functionality. In addition, the toilets are time controlled. Users cannot stay more than 10 minutes, with the doors programmed to open after 10 minutes. A loiter alarm is installed with pre-programmed voice messages to deter vagrancy and extended occupation.

Engagement

Engagement has occurred for this project as follows:

1) Engagement with the Waitemata Local Board

The proposed toilets are supported by the Waitemata Local Board, The Waitemata Local Board is funding the project. The Waitemata Local Board have been activity involved in the project to date. Since project inception the Parks and Community Facilities department has presented project updates to the Waitemata Local Board.

The Waitemata Local Board resolved (under resolution WTM/2023/132) to:

MOVED by Member A Bonham, seconded by Deputy Chairperson G Moyle:

d) note there is a key requirement for mid-town public toilets which service the Karangahape Road area. An accessible and safe public toilet facility needs to be considered and delivered at street level that can service not only public transport users but also general public in the Mercury Lane locality.

2) Engagement with Public

A public meeting was held on 30 April 2024. A number of interested parties attended and raised a number of matters. Eight questions were raised during the meeting concerning placement, cleanliness, accessibility and potential antisocial behaviour. A response was provided on 17 May 2024 and is provided in **appendix 5**.

Additionally, at the residents' request, the applicant consulted with the Police regarding the potential for increased antisocial behaviour linked to the toilets. Inspector David Christoffersen, Area Prevention Manager for Auckland City, expressed support for the toilets.

Mercury Theatre

The Mercury Theatre has provided support for the proposal, noting the problems that they have had with a lack of public toilet facilities in the vicinity.

3) Karangahape Road Business Association

The Karangahape Road Business Association has provided support for the proposal, noting the problems that they have had with a lack of public toilet facilities along Karangahape Road.

4) Engagement with Mana Whenua

Engagement for the wider project has been undertaken with mana whenua. There was a preference for the toilets to be simple and refined, not conflicting with the other design elements on the streetscape enhancement.

5) Engagement with Auckland Council

A specific pre-application meeting has not been held with Auckland Council regulatory services. Engagement with Dan Windward of the Heritage Department occurred before resource consent lodgement.

6) Auckland Transport

Engagement with Auckland Transport (AT) has occurred. This has been through their Project K team and has involved discussion about integrating the proposed toilets into their streetscape design.

7) Heritage New Zealand

The application plans were sent to Heritage New Zealand on 30 April 2024. A response was received on 20 May 2024 from Robin Byron which has advised:

Tēnā koe Graham,

The area proposed for the toilets is not ideal in general terms from the perspective that all buildings in the context of the upper part of Mercury Lane are listed with Heritage New Zealand Pouhere Taonga – the George Courts Building on the East side, and the HB Building and Mercury Lane on the West side.

However, if there is going to be a toilet facility put in this vicinity, we accept that the position proposed is likely the least intrusive in affecting the heritage context, features and functioning of the buildings.

It is important to stay well away from the position marked by the circle on the Google Earth screenshot below as this is an entrance to the George Courts Building used by many of the residents. Internally it leads to a common lobby and mailboxes etc., so ensuring that this is not obstructed in any way and avoids people lingering in its vicinity is essential.

You are right that the position shown on the elevation needs to be amended. The elevation appears incorrect for a start vis-à-vis the position (height) of the blank panel above. What is important is that the top-side part of the toilets should avoid being under the canopy, and additionally not being in front of the shopfront glazing and banded pilaster (both important features). Visually the toilets would be best located symmetrically within the bay in which it is being positioned.

The height of the proposed toilets should also sit under the lowest set of windows in this bay.

The response received is provided in **appendix 5**.



Image 2: location for proposed toilets (approximately in the empty car parking space in the middle of the photograph).



Image 3: location for proposed toilets (approximately in the empty car parking space in the middle of the photograph).

Site and locality

The site is road reserve owned by Council, administered by Auckland Transport.

The proposed works will be located at the northern extent of Mercury Lane (between Karangahape Road and Cross Street). The area is a busy cultural, residential and commercial hub which is surrounded by residential, commercial and office buildings, many of these having heritage value.

Once City Rail Link opens, the new Karanga-a-hape Station will become a focal point for public transport, with up to 40,000 people expected to use the station each day. Mercury Lane is an urban collector road which has a speed limit of 30 km/h and carries over 3,000 vehicles per day. The road reserve is approximately 15 m wide, including an approximately 10 m wide carriageway, and footpaths which are approximately 2 to 3 m wide on either side of the road. The section of Mercury Lane from the intersection with Karangahape Road to the intersection with Cross Street is comprised of a single southbound lane with parking along both sides of the lane. The road reserve contains one mature tree at the intersection of Karangahape Road and Mercury Lane.

Currently, CRL (through the Link Alliance) are undertaking works to construct the Karanga-a-Hape Station, which will comprise of two connected underground platforms at Beresford Square and Mercury Lane. Entrances to these platforms will be from Beresford Square and Mercury Lane. These works are expected to be completed by 2025, with the stations set to open with the CRL in 2025.

Upper Mercury Lane, which is located between the intersection with Karangahape Road and Cross Street, is adjacent to the station entrance and will receive higher intervention treatment. The road reserve is proposed to be converted into a pedestrian mall between Karangahape Road and the southern side of the intersection between Mercury Lane and Cross Street.

The works granted under **LUC60420320** to Auckland Transport at upper Mercury Lane will include the following elements:

- Resurfacing of the road surface with a high quality concrete finish potentially in two tones (e.g. exposed aggregate and seeded aggregate);
- raised table at the Cross Street intersection that extends into Cross Street, and which extends south along Mercury Lane to incorporate the station laneway access;
- Street furniture, including approximately 11 benches, 20 stools, 3 low planters and 2 new inground tree pits / garden beds (including irrigation / drainage and steel seating walls). Where a stage / platform element was possibly to be located, the toilets as part of this application are now proposed;
- New, upgraded and realigned road network activities, minor utility structures, and network utilities to match the new road layout. Approximately four existing light poles will be removed, and approximately ten new poles will be installed with feature catenary lighting strung between the poles across the lane way (details to be confirmed during the detailed design stage). The lane will also have six conventional streetlight poles.
- The tītoki tree on the corner of Mercury Lane and Karangahape Road will be retained, with the existing tree pit upgraded and extended to include a garden bed as part of the works.

Construction

The following sets out the anticipated construction methodology of the proposed works. Whilst this is indicative only, and may differ once a contractor is appointed, the construction methodology is broad enough that any changes to it are not expected to change the outcome of the assessment of effects on the environment. Overall, construction is expected to take approximately 2 months to complete and will be undertaken concurrently with the associated street upgrades by Auckland Transport.

- Limited excavations are required to the existing footpath in order to construct the toilets. The areas to be excavated were already anticipated to be excavated as part of the Auckland Transport works in Mercury Lane. Any changes to kerblines will re-use the existing historic bluestone kerbs where possible. A concrete foundation is proposed for the toilet block and the toilet will be manufactured off site and delivered in-situ.
- The footpath adjacent to the toilet doors will be constructed with compliant gradients to enable accessibility. These works are similar to typical footpath upgrade works across the city.
- Minimal pavement resurfacing works will occur in the carriageway to be consistent with
- Earthworks up to 0.8m depth will be required for services connections. This will only be required at localised and generally these areas are to be excavated as part of the wider Auckland Transport works.
- Very limited earthworks are proposed for the toilet construction. All of the area of earthworks was anticipated for the Auckland Transport wider project. The wider works will be undertaken in stages with the total area of open excavation being less than 2,500m² at any one time. The area of works will be progressively closed and stabilised before further excavation is carried out.
 - Area of earthworks: 20m².
 - Volume of earthworks: 10m³.

3. Reasons for the application and status

Land Use Consent (s9)

Auckland Unitary Plan: Operative in Part

E26 Infrastructure

- The proposal involves earthworks within the Historic Heritage Overlay from 10m² to 2500m² and from 5m³ to 2500m³ is a **restricted discretionary activity** pursuant to rule E26.6.3.1 (A117).
 - Overall, a volume of 10m³ over an area of 20m² is proposed in Mercury Lane.
- To construct a public amenity building under rule E26.2.3.2 (A70) failing to meet the following core standards is a restricted discretionary activity under rule C.1.9(2):
 - The public toilet is considered to be a public amenity but not one within the formation width of the road that is incidental to, and serves a supportive function for, the existing public road or is required for the safety of road users or is required

for the safety of adjacent landowners or occupiers required under permitted standard E26.2.5.4(3).

Karangahape Road Precinct

- New buildings not otherwise provided for is a **restricted discretionary activity** pursuant to rule I206.4.1(A2)

D17 Historic Heritage Overlay

- Modifications to, or restoration of, a building, structure, or feature, within a Historic Heritage Area except for controlled and restricted discretionary activities specifically listed in this table is a **controlled activity** pursuant to rule D17.4.3 (A33).
- New buildings or structures within a Historic Heritage Area is a **restricted discretionary activity** pursuant to rule D17.4.3 (A34).

Overall, the application is assessed as a **restricted discretionary activity**.

In considering the reasons for consent, the following is noted:

- The proposed public toilets will not be located in the Historic Heritage and Special Character: Historic Heritage Overlay Extent of Place [rcp/dp] - 1981, Hallenstein Brothers Building.
- The proposed works area is outside of any overland flowpath or flooding area.
- Works will be outside of the dripline of the any protected vegetation.

4. Public notification assessment (sections 95A, 95C-95D)

Section 95A specifies the steps the council is to follow to determine whether an application is to be publicly notified. These steps are addressed in the statutory order below.

Step 1: mandatory public notification in certain circumstances

No mandatory notification is required as:

- the applicant does not request that the application is publicly notified (s95A(3)(a))
- there are no outstanding or refused requests for further information (s95C and s95A(3)(b)), and
- the application does not involve any exchange of recreation reserve land under s15AA of the Reserves Act 1977 (s95A(3)(c)).

Step 2: if not required by step 1, public notification precluded in certain circumstances

The application is not precluded from public notification as:

- the activities are not subject to a rule or national environmental standard (NES) which precludes public notification (s95A(5)(a)), and

- the application does not involve one or more of the following activities exclusively: a controlled activity; a restricted discretionary or discretionary activity for a residential activity (as defined in s95A of the RMA) or a subdivision; a boundary activity; or a prescribed activity (s95A(5)(b)).

Step 3: if not precluded by step 2, public notification required in certain circumstances

The application is not required to be publicly notified as the activities are not subject to any rule or a NES that requires public notification (s95A(8)(a)).

The following assessment addresses the adverse effects of the activity on the environment, as public notification is required if the activity will have or is likely to have adverse effects on the environment that are more than minor (s95A(8)(b)).

As a restricted discretionary activity, the range of effects is restricted.

Adverse effects assessment (sections 95A(8)(b) and 95D)

The following assessment addresses the adverse effects of the activity on the environment.

Effects that must be disregarded

Effects on persons who are owners and occupiers of the land in, on or over which the application relates, or of land adjacent to that land

Effects are to be disregarded on the land in, on, or over which the activity will occur, and on persons who own or occupy any adjacent land (s95D(a)). The land adjacent to the subject site is identified as the following:

- 238 Karangahape Road (in multiple units)
- 246-254 Karangahape Road (in multiple units)

For the purposes of s95D(e), no persons have provided their written approval.

Effects that may be disregarded

Permitted baseline

The permitted baseline may be taken into account and the council has the discretion to disregard those effects. In terms of the business town centre zone, new structures and alterations (complying with standards) are a permitted activity. In terms of works in the Historic Heritage overlay, the permitted baseline is not considered relevant given the very limited works that can be undertaken in the Historic Heritage overlay as a permitted activity.

Overall, the permitted baseline is not considered relevant.

Assessment

Receiving environment

The receiving environment beyond the subject site includes permitted activities under the relevant plans, lawfully established activities (via existing use rights or resource consent), and any unimplemented resource consents that are likely to be implemented. The effects of any unimplemented consents on the subject site that are likely to be implemented (and which are not being replaced by the current proposal) also form part of this reasonably foreseeable receiving environment. This is the environment within which the adverse effects of this application must be assessed.

In this case the receiving environment is a subject site which is road reserve with residential development and commercial uses surrounding.

The receiving environment also includes granted but unimplemented resource consents. This includes the works currently underway to establish the Karangahape Station by CRL. When completed, this will activate the surrounding area with significantly more public transport users. In addition, the associated works proposed by Auckland Transport under **LUC60420320** for street enhancement works are programmed for commencement in July 2024.

Adverse effects

As a restricted discretionary activity, the range of effects that can be considered is restricted. These matters for discretion are:

- E26.6.7.1 (1) for all restricted discretionary activities;
- E26.8.7.1 (1) for all restricted discretionary activities;
- I206.8.1 for restricted discretionary activities;
- D17.8.1 (1) for all restricted discretionary activities in Table D17.4.3 Activity Table.

Heritage

A Heritage Impact Assessment for the works has been prepared by Plan.Heritage Ltd. The Heritage Impact Assessment is provided in **Appendix B** and contains a full assessment on the heritage values of the area, with a summary provided below.

As outlined in Schedule 14.2 of the AUP:OP, Karangahape Road has been identified as a significant Historic Heritage Area due to its historical association with the commercial and residential development of Auckland, from the time of the city's colonial establishment through to the mid-20th century. The area retains considerable significance due to the predominance of Victorian and Edwardian-era buildings that have survived modern redevelopment. Despite the many changes that have occurred in the rest of the city throughout the years, Karangahape Road has retained its original purpose, which reinforces its significance as one of Auckland's earliest and most important commercial and entertainment areas.

The identified extent of place for the Karangahape Road Historic Heritage Area is the area of Karangahape Road in between Ponsonby Road at its eastern end and Symonds Street Cemetery at its western end. Included within this area are the buildings and areas that were part of the

commercial and residential development of this area from Auckland's colonial settlement through to the era of Karangahape Road's decline in the mid-1960s.

As outlined in Schedule 14.1 of the AUP:OP, the site has a historic heritage extent of place applicable. The listing in schedule 14a of the unitary plan details the following:

- **ID:** 2739
- **Area Name and/or description:** Karangahape Road Historic Heritage Area
- **Verified location:** Refer to planning map; area includes Karangahape Road and Symonds Street Cemetery, Auckland Centra
- **Heritage Values:** A (historical), F (Physical attributes), G (aesthetic), H (Context)
- **Extent of place:** refer to planning maps.
- **Exclusions:** Interiors of all buildings contained within the extent of place unless otherwise identified in another scheduled historic heritage place
- **Additional rules for archaeological sites or features:** none identified
- **Place of Maori Interest or significance:** none identified
- **Contributing Sites/ Features:** Refer to Schedule 14.2.12
- **Non-contributing Sites/ Features:** Refer to Schedule 14.2.12; stand-alone accessory buildings or garages built after 1940 on contributing sites; all buildings on non contributing sites.

The extent of the physical works proposed in the context of the wider Historic Heritage Area is very limited, as detailed in the plans provided in **appendix 1**.

The overall conclusion of John Brown, in the assessment provided in **appendix 2**, is that there are neutral adverse effects on the Historic Heritage values of the Karangahape Road historic heritage area. Effects are also considered cumulatively and considered 'less than minor' with overall moderate beneficial effects of a permanent nature arising from the general upgrade of the streetscape throughout the project area related to consent LUC60420320.

I have reviewed the assessment prepared by John Brown and I agree with it.

Of note in addressing adverse effects:

- The proposed toilet block sits back and down from the corner of Mercury Lane and Karangahape Road. This intersection is dominated by the large place setting buildings of the George Court Building and the Hallenstein Bros building.
- A detailed planning context assessment is provided including historic photographs and history of the park. Of note, although there is a single CHI record entry for the K' Road historic heritage area, numerous buildings are recorded individually in the Historic heritage area overlay as contributing sites.
- An appropriate assessment of the known heritage values has been undertaken and provided as part of the HIA assessment. This includes details of effects on the scale, location, design, duration and extent of the activity, construction methodology and associated site works.
- The nature, location and scale of the proposed building mean its presence will not interfere with the relationship of existing buildings within the heritage landscape. These factors have also been considered to allow a sympathetic presence and not detract from neighbouring contributing character buildings in the heritage setting.
- The activity is supportive of visitors in the area and minor in scale. As a supportive and

small activity it will not adversely impact on the overall significance of the local area.

- Alternatives have been considered through discussions with stakeholders at various points through design and conception with the proposal being the best fit for the location and in conjunction with the wider street developments.
- As a supportive function the activity also encourages users to stay for longer rather than seeking comfort elsewhere allowing for a longer experience. The proposal contributes to the functional use and viability of the street going in to the future.

Earthworks

Limited earthworks are required for the installation of the toilets. The works, and associated earthworks, are all within the road reserve. Earthworks will occur within the Historic Heritage extent of place of place as listed above.

The earthworks area and volume is very limited, totalling 20m² and 10m³.

An Erosion and Sediment Control Plan (ESCP) has been prepared for the wider project and was provided in Appendix D of **LUC60420320**. While earthworks are being undertaken, best practice erosion and sediment control measures will be employed in accordance with Auckland Council Guidance Document 05: Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region and the ESCP. Accidental discovery protocols will be adopted and are offered as a condition of consent.

- Land disturbance will not result in any instability. The appointed contractor will be responsible for maintaining land stability during works. The proposed works are generally shallow and the geotechnical investigation (appendix C) has not raised any ground condition risks.
- The earthworks will not impact on any identified overland flow path.
- Land disturbance will not cause malfunction or result in damage to network utilities. The contractor will be required to obtain any permissions from utility serves prior to physical works. Existing services have been investigated and identified.
- Restricting access to the public reserve during construction is necessary to prevent harm to the public during construction. Access will be provided once construction of the works is completed.
- The land disturbance is a relatively simple landform modification. It is not expected that there will be any adverse noise, vibration, odour, dust, lighting or traffic effects. Works will be undertaken in normal business hours and given the limited level of construction works, will be moderate in duration (estimated 1-2 months for physical works, within the context of the wider works to be undertaken by Auckland Transport).
- There are no identified floodplains in the works area. The works will result in similar gradients and landform, therefore not adversely affecting any floodplains or overland flowpaths on site.
- It is not anticipated that any large sized stockpiles will be required, excavated material will be reused where possible.
- Given the scale of the project, staging is unlikely and progressive stabilisation will be considered by the appointed contractor for the wider Auckland Transport works.
- Monitoring of earthworks will occur on site by the appointed contractor. Best practice erosion and sediment controls will be adopted in accordance with GDO5.

- An expiry of consent is not sought. It is anticipated that the works will occur in the next year. A standard lapse period of 5 years is considered appropriate.
- No significant ecological areas or trees will be impacted by the proposal. The earthworks in this area will be small (no more than 20m²) and this area is currently asphalt.

Amenity / streetscape

The applicant acknowledges that there is often a tension between the need for public toilets to be visible and a desire for them to be discreet. This has been considered in the design and location of the proposed public toilets.

The proposal will appear as an integrated element of public views within the surrounding streetscape and is characteristic of the existing visual environment such that it would maintain the current levels of visual amenity.

The building form will not dominate street views, nor dominate adjacent heritage buildings. The design features of the toilet, including its small size, recessive exterior colour, materials, minimal roof pitch and associated roof profile, adequately mitigate adverse effects on the pleasantness and coherence of views from adjacent street users.

The proposed toilet structure has been designed to integrate within the existing built form within the street, specifically the style of the building is appropriate for its streetscape context with heritage buildings adjacent. The small scale, visually recessive roof and integration with the proposed streetscape upgrades by Auckland Transport, will ensure that the structure doesn't appear prominent along the street or detract from the heritage significance of the adjacent buildings. The vegetation adjacent to the structure (as part of the wider streetscape upgrades by Auckland Transport, a mix of an existing tree and additional trees and other vegetation) will soften the buildings form, as detailed in the preliminary render below in **Image 4**.

The toilets are to be well lit with both lighting on the front and inside the toilets. The street lighting proposed by the street scape enhancement will assist with providing a well lit environment around the proposed toilets. There is good passive surveillance along Mercury Lane with Mercury Lane anticipated to be significantly busier than currently once the Karanaga-a-hape train station opens.



Image 4: preliminary render of the toilet in context of the proposed streetscape upgrades proposed by Auckland Transport.

Overall, it is considered that the effects of the proposal are less than minor.

Step 4: public notification in special circumstances

If an application has not been publicly notified as a result of any of the previous steps, then the council is required to determine whether special circumstances exist that warrant it being publicly notified (s95A(9)).

Special circumstances are those that are:

- exceptional or unusual, but something less than extraordinary
- outside of the common run of applications of this nature, or
- circumstances which makes notification desirable, notwithstanding the conclusion that the adverse effects will be no more than minor.

In this instance I have turned my mind specifically to the existence of any special circumstances and conclude that there is nothing exceptional or unusual about the application, and that the proposal has nothing out of the ordinary run of things to suggest that public notification should occur.

Public notification conclusion

Having undertaken the s95A public notification tests, the following conclusions are reached:

- Under step 1, public notification is not mandatory.

- Under step 2, there is no rule or NES that specifically precludes public notification of the activities, and the application is for an activity other than those specified in s95A(5)(b).
- Under step 3, public notification is not required as the application is for an activity that is not subject to a rule that specifically requires it, and it is considered that the activity will have or is likely to have adverse effects on the environment that are less than minor.
- Under step 4, there are no special circumstances that warrant the application being publicly notified.

It is therefore requested that this application be processed without public notification.

5. Limited notification assessment (sections 95B, 95E-95G)

If the application is not publicly notified under s95A, the council must follow the steps set out in s95B to determine whether to limited notify the application. These steps are addressed in the statutory order below.

Step 1: certain affected protected customary rights groups must be notified

There are no protected customary rights groups or customary marine title groups affected by the proposed activity (s95B(2)).

In addition, the council must determine whether the proposed activity is on or adjacent to, or may affect, land that is subject of a statutory acknowledgement under schedule 11, and whether the person to whom the statutory acknowledgement is made is an affected person (s95B(3)).

Within the Auckland region the following statutory acknowledgements are relevant:

- Te Uri o Hau Claims Settlement Act 2002
- Ngāti Manuhiri Claims Settlement Act 2012
- Ngāti Whātua Ōrākei Claims Settlement Act 2012
- Ngāti Whātua o Kaipara Claims Settlement Act 2013
- Te Kawerau ā Maki Claims Settlement Act 2015
- Ngāti Tamaoho Claims Settlement Act 2018
- Ngāti Tai Ki Tamaki Claims Settlement Act 2018

In this instance, the proposal is not on or adjacent to land that is subject to a statutory acknowledgement. The site contains no items listed as Sites or Places of Value to Mana Whenua. Given the scale of the project, it is not considered to result in adversely affected persons in this regard. The project provides a toilet facility for public use, connected to reticulated wastewater and water systems.

Step 2: if not required by step 1, limited notification precluded in certain circumstances

The application is not precluded from limited notification as:

- the application is not for one or more activities that are exclusively subject to a rule or NES which preclude limited notification (s95B(6)(a)), and
- the application is not exclusively for one or both of the following: a controlled activity, other than a subdivision, that requires consent under a district plan; or a prescribed activity (s95B(6)(b)).

Step 3: if not precluded by step 2, certain other affected persons must be notified

As this application is not for a boundary activity or a prescribed activity, there are no affected persons related to those types of activities (s95B(7)).

The following assessment addresses whether there are any affected persons that the application is required to be limited notified to (s95B(8)).

In determining whether a person is an affected person:

- a person is affected if the activity's adverse effects on that person are minor or more than minor (but not less than minor)
- adverse effects permitted by a rule in a plan or NES (the permitted baseline) may be disregarded
- the adverse effects on those persons who have provided their written approval must be disregarded, and
- as a restricted discretionary activity, only those effects on persons that fall within the matters of discretion restricted under the plan can be considered.

Adversely affected persons assessment (sections 95B(8) and 95E)

In noting that no persons have provided their written approval, no person is considered adversely affected by the proposal because:

- The location of the proposed toilets is adjacent to the George Court Building. The directly adjacent wall of the George Court Building is windowless at ground floor, as detailed in **image 5** below. The toilet doors will open towards this wall.
- There are no outdoor living areas on this façade of the George Court Building, for instance no balconies or terraces.
- The building form will not dominate views from adjacent properties and the people who reside in these properties. The proposed toilet building is of low profile and limited in scale.
- The design features of the toilet, including its small size, recessive exterior colour, materials, minimal roof pitch and associated roof profile, adequately mitigate adverse effects on the pleasantness and coherence of views from adjacent properties and the people who reside in these properties.
- Operational matters including cleaning and maintenance of the toilets are detailed above. The cleaning of the toilets and operation will be in accordance with the performance standards. Regular cleaning and maintenance will occur.
- Construction effects associated with the toilet building will be minimal and temporary, as typically associated with a small-scale building project. The toilet building is prefabricated off site which reduced the time on site for construction.



Image 5: location for proposed toilets (approximately in the empty car parking space in the middle of the photograph) with adjacent properties including location of their windows.

Step 4: further notification in special circumstances

In addition to the findings of the previous steps, the council is also required to determine whether special circumstances exist in relation to the application that warrant it being notified to any other persons not already determined as eligible for limited notification.

Special circumstances are those that are:

- exceptional or unusual, but something less than extraordinary;
- outside of the common run of applications of this nature; or
- circumstances which make limited notification to any other person desirable, notwithstanding the conclusion that no other person has been considered eligible.

In this instance I have turned my mind specifically to the existence of any special circumstances under s95B(10) and conclude that there is nothing exceptional or unusual about the application, and that the proposal has nothing out of the ordinary run of things to suggest that notification to any other persons should occur.

Limited notification conclusion

Having undertaken the s95B limited notification tests, the following conclusions are reached:

- Under step 1, limited notification is not mandatory.
- Under step 2, there is no rule or NES that specifically precludes limited notification of the activities, and the application is for an activity other than those specified in s95B(6)(b).
- Under step 3, limited notification is not required as it is considered that the activity will not result in any adversely affected persons.
- Under step 4, there are no special circumstances that warrant the application being limited notified to any persons.

It is therefore requested that this application be processed without limited notification.

6. Notification request

Given the above assessment, it is requested that the application be processed without notification.

7. Relevant Statutory Documents

Section 104(1)(b) of the RMA requires the Council consider the relevant provisions of the District Plan or Proposed District Plan, Regional Plans and Policy Statements and National Policy Statements. These matters are addressed below.

When considering an application for resource consent, Section 104(1)(b) of the RMA requires the Council to have regard to the relevant provisions of:

- a) A national environment standard;
- b) Other regulations;
- c) A national policy statement;
- d) A New Zealand coastal policy statement;
- e) A regional policy statement or proposed regional policy statement; and
- f) A plan or proposed plan

In consideration of the above matters, the following assessment is provided:

1. In accordance with an assessment under s104(1)(a) of the RMA the actual and potential effects from the proposal will be acceptable as:
 - Built form has been limited and it is not considered that the size and scale of the toilet building is excessive or inappropriate for its setting.
 - The proposed built form is sympathetic to the existing built environment and does not detract from adjacent contributing sites/ buildings in the Historic Heritage area.
 - Overall, it is considered that there will be no adverse effects on the overall significance of the Historic Heritage area.
 - The proposed building is designed to be in keeping with the existing character of the area, it will not impact the integrity of the Heritage Area, will have less than minor adverse effects on the amenity values of the area.
 - The proposed earthworks will be temporary in nature and necessary in order to enable the development. Ongoing and temporary instability, sediment and dust effects, resulting from the earthworks and construction activities, on neighbouring sites, assets and the wider environment, will be appropriately managed and mitigated.
2. In terms of positive effects:
 - The proposal for a public toilet building will have positive effects by enabling the community to have conveniently located toilets, as a result of the relocation of the toilets at Beresford Square (which serves the Karangahake Road and surrounding environs) and the increased pedestrian volumes and concentration of activity anticipated in the area with the train station opening.

- Overall, the toilets will compliment the wider project to provide better amenity for the community, encouraging footfall and development within the area and supporting the continued use and operation of the Historic Heritage as a cultural and commercial hub.
3. In accordance with an assessment under s104(1)(b) of the RMA the proposal is consistent with the relevant statutory documents. In particular the objectives and policies of the Auckland Unitary Plan in Section E26 and D17 are considered below:
- Chapter B3 highlights that the quality of the environment and the well-being of people and communities are affected by choices about the management of, and investment in infrastructure. Objective B3.2.1(1) requires infrastructure to be efficient and effective, whilst Objective B3.2.1(2) recognises that infrastructure provides benefits for communities, including providing essential services for the functioning of communities, businesses and industries, enabling economic growth, and providing for the for the safety and wellbeing of people and communities. Objective B3.2.1(3), and Policies B3.2.2(1), (6) require upgrading of infrastructure to be enabled, including in areas with historic heritage, whilst avoiding where practicable, or otherwise remedying, mitigating, and managing adverse effects on the quality of the environment. Policy B3.2.2(3) provides for the locational requirements of infrastructure, in particular the functional need to be located in areas with physical resources that have been scheduled in the AUP:OP.
 - The works to install a public toilet will provide for the wellbeing of people by providing a convenient location to use. The toilets support the social and economic development of the area, including supporting Karangahape Road to remain a vibrant business and residential precinct. Whilst the toilets are proposed within a scheduled Historic Heritage Area, overall the improvements in amenity and the pedestrian realm will improve the setting of the area, and support the continuation of the precinct as a commercial hub. Adverse effects from the proposed toilet will be avoided, mitigated, and managed through the measures outlined in this assessment.
 - Chapter B5 identifies the importance of Auckland's distinctive historic heritage to the region's identity and economic, social, and cultural wellbeing. Objective B5.2.1(1) and Policy B5.2.2(7) requires that significant historic heritage places are protected from inappropriate use and development, including avoiding, remedying and mitigating adverse effects on significant historic heritage places, and encouraging new development to have regard to the protection and conservation of the historic heritage values of adjacent significant historic heritage places. Policy B5.2.2(6) requires that avoidance of the relocation or removal of any of the primary features of such places away from their original site and context. Objective B5.2.1(2) seeks that historic heritage places are used appropriately, and that their protection, management and conservation are encouraged, including providing for development where this will support the retention of, and will not detract from, the historic heritage values of the place.

- No significant adverse effects are identified as arising from the proposed works, the new toilets have had appropriate regard to the values of the adjacent historic heritage places. The location and design of the proposed toilets has been chosen to be recessive in sites scale.
 - Overall, the toilets and related street upgrade will maintain and enhance, rather than detract from the values of the Karangahape Road Historic Heritage Area, supporting the individually scheduled historic heritage places identified in the neighbourhood and the continued use of the precinct as a commercial hub.
 - The provisions within Chapter D17 manage the protection, conservation, maintenance, modification, relocation, use and development of scheduled historic heritage places. Objective D17.2(2) requires that scheduled historic heritage places are protected from inappropriate use and development, including inappropriate modification. Objective D17.2(3) and Policy D17.3(3) seeks to enable the appropriate use and development of these locations, including where this will not result in adverse effects on the significance of the place or significant adverse effects on the surrounding area, and where it will support the long-term viability, retention or ongoing use of the place.
 - The toilets will provide a convenient location for the public, compatible with the historic environment. The improvements will not result in significant adverse effects on the surrounding area, and any adverse effects will be negligible or less than minor. Overall, the works will support increased use and footfall within the neighbourhood, provide support to commercial business operating within historic heritage buildings, and therefore support the long-term viability, retention, and use of the neighbourhood as a commercial hub.
 - E26: Infrastructure is critical to the social, economic, and cultural well-being of people and communities and the quality of the environment. This section provides a framework for the upgrading of infrastructure. Objectives E26.2.1(3) - (5) and (9), and Policies E26.2.2(1) – (6) seek to enable upgrading of safe, efficient, secure and resilient infrastructure, including recognising functional and operational needs and location constraints, to provide for public safety, whilst avoiding, remedying or mitigating adverse effects.
 - The toilets are community infrastructure that will provide a convenient location for the public, compatible with the historic environment. The improvements will not result in significant adverse effects on the surrounding area, and any adverse effects will be negligible or less than minor. The toilets are to a high specification and will compliment a public realm with infrastructure which meets functional and operational needs.
4. In accordance with an assessment under s104(1)(c) of the RMA no other matters are considered relevant.

Overall, the proposal is considered acceptable because it will promote the sustainable management of natural and physical resources by allowing the provision of public amenity facilities to be located at a location that is accessible, convenient and visible for the community and its visitors, without adversely affecting the character of the Heritage environment and the amenity values of the local environment and neighbouring sites.

It is requested that consent be granted subject to appropriate conditions of consent.

Prepared on behalf of **Community Facilities, Auckland Council** by:



Graham Hooper
Principal Planner
Parks and Community Facilities, Auckland Council

Date: 29 May 2024

Appendices

Appendix 1	Plans
Appendix 2	Heritage Impact Assessment prepared by John Brown of Plan.Heritage.
Appendix 3	Geotechnical Investigation
Appendix 4	Certificate of title information
Appendix 5	Engagement documents