

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



Restricted discretionary activity

Application number(s):	LUC60433218 (s9 land use consent)
Applicant:	Auckland Council
Site address:	Mercury Lane Road adjacent to 238 Karangahape Road, Newton 1010
Legal description:	N/A - Road
Proposal:	To construct a new public amenity building (toilet block) on Mercury Lane as part of the wider street renewal works for the proposed Karanga-a-hape train station.

Resource consent is required for the following reasons:

Land use consent (s9) – LUC60433218

Auckland Unitary Plan (Operative in part)

District land use (operative plan provisions)

D17 Historic Heritage Overlay

- To conduct modifications to a non-contributing feature within a Historic Heritage Area is a **controlled** activity under rule D17.4.3(A33). The proposal involves modifying the footpath which is considered a 'non-contributing feature' within the Karangahape Road Historic Heritage Area.
- To construct a new building within a Historic Heritage Area is a **restricted discretionary** activity under rule D17.4.3(A34). The proposal involves the construction of a new toilet block within the Karangahape Road Heritage Area.

E26 Infrastructure

- To construct a public amenity building under rule E26.2.3.2 (A70) that fails to meet the E26.2.5.4 permitted activity standards is a **restricted discretionary** activity under rule C.1.9(2). The proposal involves the construction of a public toilet within the formation width of the road that is not incidental to or serves a supportive function for the existing public road.
- To conduct between 10m² to 2,500m² and between 5m³ to 2,500m³ of earthworks is a **restricted discretionary** activity under rule E26.6.3.1 (A117). The proposal involves 20m² and 10m³ of earthworks.

I206 Karangahape Road Precinct

- New buildings within the Karangahape Road Precinct are a **restricted discretionary** activity under rule I206.4.1(A2).

The reasons for consent are considered together as a **restricted discretionary** activity overall.

Decision

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

Public notification

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

1. Under step 1, public notification is not mandatory as:
 - a. the applicant has not requested it;
 - b. there are no outstanding or refused requests for further information; and
 - c. the application does not involve any exchange of recreation reserve land under s15AA of the Reserves Act 1977.
2. Under step 2, public notification is not precluded as:
 - a. there is no plan rule or regulation in an NES that specifically precludes public notification of the application; and
 - b. the application is for activities other than those specified in s95A(5)(b).
3. Under step 3, public notification is not required as:
 - a. the application is for activities that are not subject to a plan rule or regulation in an NES that specifically requires it; and
 - b. the activities will have or are likely to have adverse effects on the environment that are no more than minor because:
 - The proposed toilet block will not appear incongruous as viewed within its surrounds due to its small scale, recessive finish and location both away from any detailed facades and between proposed vegetation approved under the wider streetscape upgrades.
 - The proposed earthworks are of a limited scale that will result in fairly minimal modifications to the overall landform. Erosion and sediment control measures in accordance with GD05 will be employed while accidental discovery protocols are offered as a condition of consent.

- Council's Heritage Specialist finds that the scale of the excavation proposed is limited. The specialist also notes that the location of the toilet block and its simple and modest material finish ensure that it does not compete with the architectural styles of the surrounding environment.
 - Construction-related noise will be temporary and negligible when conducted in conjunction with the wider street upgrade works. Noise generated by the use of the toilet block will be minimal compared to that of the wider environment given its wide variety of noise-producing activities.
 - The location of the toilet block to the side of the road will ensure that the road is still accessible for emergency vehicles and that the line of sight down the road is still available for pedestrians and cyclists.
 - The toilet block will be connected to the reticulated public network which will result in odour being seldomly detected from outside the toilet block. Regular cleaning 1-3 times per day is proposed to suitably mitigate adverse odour effects resulting from a lack of maintenance.
 - The small scale and shallow depth of the proposed land disturbance combined with its location in an area already disturbed under the street upgrade works and provision of suitable accidental discovery protocols will ensure that the risk of generating adverse cultural effects is minimal.
 - The small-scale of the proposed toilet block is not anticipated to noticeably affect sightlines. Further mitigation is provided in the form of increased passive surveillance enabled by the wider street upgrade works and the provision of adequate lighting. While I had some concerns about safety the evidence I have been provided with about consultation with the Police as part of the wider public consultation for the project has confirmed their support for the proposal.
4. Under step 4, there are no special circumstances that warrant the application being publicly notified because although toilet blocks have the potential to generate public interest, the applicant has conducted appropriate public engagement with relevant stakeholders in the wider area and has received support from the Waitemata Local Board. In addition, public toilet blocks are a relatively common occurrence in the city centre area and their effects are therefore not considered 'out of the ordinary'. Therefore, I consider that there is nothing exceptional or unusual about the application to warrant public notification under special circumstances.

Limited notification

Under section 95B of the RMA this application shall proceed with limited notification because:

1. Under step 1, limited notification is not mandatory as:
 - a. there are no protected customary rights groups or customary marine title groups affected by this proposal; and
 - b. no person to whom a statutory acknowledgement is made is adversely affected by this proposal.
2. Under step 2, limited notification is not precluded as:
 - a. there is no plan rule or regulation in an NES that specifically precludes limited notification of the application; and
 - b. the application is for activities other than that specified in s95B(6)(b).
3. Under step 3, limited notification is required as:
 - a. this application is not for a boundary activity; and
 - b. there are adversely affected persons because:

Persons at 238 Karangahape Road (George Court Building)

- The small scale of the toilet block combined with being located beside an existing blank wall will ensure that the toilet block will not be viewed as a dominant form from residential units within the George Court building. While views of the toilet block from some residential units within this building will likely only be possible when standing directly adjacent to the window and looking out at a sharp angle the fact that the opening doors of the toilet block are located close to and face the George Court building are likely to have amenity effects (largely visual and noise) that are at least minor for the closest unit. However, the proposal's recessive finish and unintrusive design will not create a dominant form on the George Court building frontage such that the overall legibility of the frontage will remain.
- The windows most in proximity to the proposed toilet block are adjacent to non-residential uses including a tattoo studio, café, jewellery workshop and offices. While these do not demand the same level of amenity as residential uses there are likely to be minor amenity effects on these spaces particularly the café space as there will be views from the café area to the toilet doors.
- Noise and vibration from the proposed earthworks will be temporary and minimal noting the small scale proposed. In addition, the earthworks will be conducted away from any windows and entranceways on the George Court building. The areas immediately adjacent to the toilet block on the ground floor of George Court are a café and tattoo studio and are activities less sensitive to noise, compared to residential activities.
- Council's Heritage Specialist finds that the limited scale and location of the toilet block does not block views of the George Court building or compete with its

verandah. In addition, the earthworks will be located away from this building to minimise adverse effects to its historic fabric.

All other persons

- All other persons are not considered adversely affected as the proposed toilet block is of a low profile, recessive nature and limited scale that will not dominate views from adjacent properties. Associated construction effects will be minimal and temporary noting that the toilet block is prefabricated off site reducing the time on site for construction. Noise generated by the use of the toilet block will be consistent with that of other people-noise occurring within the redeveloped Mercury Lane area.
4. Under step 4, there are no special circumstances that warrant the application being limited notified to any other persons because, for the same reasons outlined under the s95a summary above, there is nothing exceptional, abnormal or unusual about the application, and the proposal has nothing out of the ordinary run of things to suggest that notification to any other persons should occur.

Accordingly, this application shall proceed on a **LIMITED NOTIFIED** basis and shall be served on the owners and occupiers of Units GH, GI, GG, GF and 1F within 238 Karangahape Road (George Court Building).



David Wren

Duty Commissioner

15 August 2024