

**UNITARY PLAN UPDATE REQUEST MEMORANDUM**

**TO** Phill Reid – Manager: Planning Aucklandwide  
**FROM** Megan Patrick – Principal Advisor: Special Projects  
**DATE** 30 August 2018  
**SUBJECT** **Withdrawal of a Notice of Requirement for a Heritage Order in accordance with s189 of the Resource Management Act from Chapter 13 of the Auckland Unitary Plan (AUP) Operative in part (15 November 2016)**



This memorandum requests an update to Auckland Unitary Plan Operative in part

Reason for update – withdrawal of NOR for a Heritage Order	
<b>Chapter</b>	L Schedules
<b>Section</b>	Schedule 13 – Heritage Orders
<b>Heritage Order #</b>	#7 & #8 Auckland Council
<b>Locations:</b>	HO#7 – Thomas Doo Building, 164-168 Hobson Street, Auckland Central HO#8 – Gilfillan’s Store (former), 95 Queen Street, Auckland Central
<b>Lapse Date</b>	Decision to withdraw made under delegated authority - 7 November 2017 Public notification of the withdrawal – 13 September 2018
<b>Purpose</b>	Heritage protection
<b>Changes to text (shown in underline and strikethrough)</b>	See attachment
<b>Changes to diagrams</b>	N/A
<b>Changes to spatial data</b>	N/A
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Decision under delegated authority memorandum</li> <li>2. Public Notice</li> <li>3. Schedule 13 Strike Through</li> <li>4. Schedule 13 revised</li> </ol>

**Prepared by:**  
 Megan Patrick  
 Principal Advisor – Special projects

**Signature:**

**Reviewed by:**  
 Megan Patrick  
 Principala Advisor – Special Projects

**Signature:**

**Text entered by:**  
 Bronnie Styles  
 Planning Technncian

**Signature:**

Noel Reardon  
 Manager

**Signature**

## Memo

30 October 2017

To: John Duguid, General Manager Plans & Places  
cc: Celia Davison, Manager Planning – Central / South  
Joao Macado, Team Leader Planning – Central / South Planning  
From: Noel Reardon, Manager Heritage

### **DECISION UNDER DELEGATED AUTHORITY: WITHDRAWAL OF NOTICE OF REQUIREMENT FOR A HERITAGE ORDER**

Heritage orders are provided for under the RMA (s187 to 198) whereby any place of special interest, character, intrinsic or amenity value or visual appeal may be protected. A heritage order is similar in effect and has a similar process to a designation. Namely, no one without the prior consent of the heritage protection authority can do anything that would compromise the effect of the heritage order (s193).

A Notice of Requirement (NOR) is an application for a heritage order and has interim effect (s194).

The Auckland Unitary Plan (Operative in Part) (AUP) includes eight heritage orders (Schedule 13 – Heritage Order Schedule). Of these heritage orders, two are subject to a NOR with council as the heritage protection authority:

1. Thomas Do Building, 164 – 168 Hobson Street, Auckland Central; and
2. Gilfillan's Store (former), 95 Queen Street, Auckland Central.

NORs were made on these places in April 2011 by Auckland Council. At the time, it was considered "demolition was foreseeable" for the Thomas Do Building as it had a valid resource consent for demolition and "demolition of the building could be a future threat" for the Gilfillan's Store.

Since this time, both places have been included as scheduled historic heritage places with the Auckland Unitary Plan – operative in part (AUP); Thomas Do Building being Category B and Gilfillan's Store being Category A. The demolition consent for the Thomas Do Building has lapsed and the site has been subject to redevelopment.

While the NORs were publically notified, the process to confirm them was never completed. This would require a hearing and likely the presentation of evidence.

The removal of the NOR from these places is considered appropriate. The places have been given appropriate protection through their scheduling within the AUP and are no longer considered to be at threat of demolition.

The withdrawal of the NORs is supported by Heritage New Zealand Pouhere Taonga (Sherry Reynolds, General Manager Northern).

A NOR can be withdrawn at any time. This is not considered a complex or onerous process.

Advice has been sought from Legal Service (Mike Moodie, Senior Solicitor, Litigation & Regulatory in April 2017). This advice is the council's Delegation Register<sup>1</sup> does not identify any relevant delegation relating to

---

<sup>1</sup> Updated July 2017

either s196 or 182(1) of the RMA. In the absence of a specific delegation, any member of staff can exercise the function. Accordingly, the decision to withdraw the NORs can be made under delegated authority, should an officer be comfortable to exercise this discretion.

The delegated authority for the "power, as requiring authority to withdraw a requirement [for a designation] by giving notice in writing to the territorial authority; s168(4)" is provided for within the Delegation Register at Tier 4. This is relevant as under the RMA a heritage order is similar in effect and has a similar process to a designation.

It is recommended that the NOR withdrawal be done under delegated authority. A report to the Planning Committee is not considered necessary, given that the places have been given appropriate protection through their scheduling within the AUP, the places are no longer considered to be at threat of demolition, the redevelopment of Thomas Do Building is completed, and this is not a substantive (or a change in policy position) decision requiring to be considered by the committee.


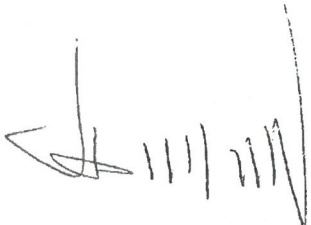
There were no submissions to the NORs through the unitary plan process and no evidence was presented to the Independent Hearing Panel.

If the NORs are not to be withdrawn, resources should be allocated to complete the process to confirm the NORs.

**Approval, under delegated authority, for:**

The withdrawal of the Notice of Requirement for a heritage order within the Auckland Unitary Plan (Operative in Part) for:

1. Thomas Do Building, 164 – 168 Hobson Street, Auckland Central; and
2. Gilfillan's Store (former), 95 Queen Street, Auckland Central.

	Signature	Date
Noel Reardon Manager Heritage		30/10/17
John Duguid General Manager Plans & Places		7/11/17

## **Auckland Unitary Plan**

### **Withdrawal of Heritage Orders Auckland Unitary Plan Operative in part**

Auckland Council has withdrawn Heritage Order # 7 Thomas Doo Building, 164 – 168 Hobson Street, Auckland Central and Heritage Order # 8 Gilfillan's Store (former), 95 Queen Street, Auckland Central to the Auckland Unitary Plan (Operative in Part) under Schedule 1 (s189) to the Resource Management Act 1991 (RMA).

The reasons for the withdrawals are:

- Notice of Requirements was made on these places in April 2011 by Auckland Council. At the time, it was considered "demolition was foreseeable" for the Thomas Doo Building as it had valid resource consent for demolition and "demolition of the building could be a future threat" for the Gilfillan Store.
- Since this time, both places have been included as scheduled historic heritage places with the Auckland Unitary Plan Operative in part (AUP); Thomas Doo Building being Category B and Gilfillan's Store being Category A. The demolition consent for the Thomas Doo Building has lapsed and the site has been subject to redevelopment.

For further information on please visit the Auckland Council website at [www.aucklandcouncil.govt.nz/unitaryplan](http://www.aucklandcouncil.govt.nz/unitaryplan).

**Dated 13/09/2018**

Changes to text

## Schedule 13 Heritage Orders Schedule

...

Table: Schedule of heritage orders

Heritage order number	Heritage order name/ description	Address
1	Bluestone store	9-11 Durham Lane, Auckland Central
2	Courtville Annexe Building, middle flats - 3-storey block	9 Parliament Street, Auckland Central
3	Courtville - Corner flats, 5-storey block	11 Parliament Street, Auckland Central
4	Bank of New Zealand - facade only	125 Queen Street, Auckland Central
5	Civic Theatre	269-285 Queen Street, Auckland central
6	Terrace of shops	456 -486 Queen Street, Auckland Central
7	Thomas Doo Building	164-168 Hobson Street, Auckland Central
8	Gilfillan's Store (former)	95 Queen Street, Auckland Central

...

### Heritage order number 7: Thomas Doo Building

Heritage order number	7
Heritage protection authority	Auckland Council
Location	164-168 Hobson Street, Auckland Central
Legacy reference	n/a
Date	n/a
Status	Subject to notice of requirement

#### Conditions

None

#### Attachments

None

### Heritage order number 8: Gilfillan's Store (former)

Heritage order number	8
Heritage protection authority	Auckland Council
Location	95 Queen Street, Auckland Central
Legacy reference	n/a
Date	n/a
Status	Subject to notice of requirement

**Conditions**

None

**Attachments**

None

## Schedule 13 Heritage Orders Schedule

The RMA enables heritage protection authorities to make requirements for heritage orders to assist in the protection and conservation of historic heritage places. Details of the processes by which a requirement for a heritage order is considered are set out in the RMA. The RMA requires all places subject to 'confirmed' heritage orders to be identified in the Unitary Plan. Historic heritage places subject to heritage orders are identified in a register of places subject to heritage orders held by Heritage New Zealand Pouhere Taonga.

Notices of requirements for heritage orders are identified as plan modifications until such time as the requirement is confirmed by a heritage protection authority, and mapped as a plan modification.\*

Any person wishing to undertake works within a place subject to a heritage order, or a requirement for a heritage order, must obtain approval for the works from the relevant heritage protection authority. This statutory protection takes immediate interim effect when a notice of requirement for a heritage order is given.

\*Section 175 and 192 of the RMA state that a territorial authority must include a heritage order 'as soon as practicable' once the heritage order has been confirmed by the heritage protection authority and is not subject to any appeals.

**Table: Schedule of heritage orders**

Heritage order number	Heritage order name/ description	Address
1	Bluestone store	9-11 Durham Lane, Auckland Central
2	Courtville Annexe Building, middle flats - 3-storey block	9 Parliament Street, Auckland Central
3	Courtville - Corner flats, 5-storey block	11 Parliament Street, Auckland Central
4	Bank of New Zealand - facade only	125 Queen Street, Auckland Central
5	Civic Theatre	269-285 Queen Street, Auckland central
6	Terrace of shops	456 -486 Queen Street, Auckland Central

### Heritage order number 1: Bluestone store

Heritage order number	1
Heritage protection authority	Heritage New Zealand Pouhere Taonga

Schedule 13 Heritage Orders Schedule

Location	9-11 Durham Lane, Auckland Central
Legacy reference	Heritage Order 031/342, Auckland Council District Plan (Central Area Section) 2005
Date	1987
Status	Confirmed

**Conditions**

None

**Attachments**

None

**Heritage order number 2: Courtville Annexe building, middle flats**

Heritage order number	2
Heritage protection authority	Heritage New Zealand Pouhere Taonga
Location	9 Parliament Street, Auckland Central
Legacy reference	Heritage Order 079/343, Auckland Council District Plan (Central Area Section) 2005
Date	September 1987
Status	Confirmed

**Conditions**

None

**Attachments**

None

**Heritage order number 3: Courtville – corner flats**

Heritage order number	3
Heritage protection authority	Heritage New Zealand Pouhere Taonga
Location	11 Parliament Street, Auckland Central (Corner Waterloo Quadrant)
Legacy reference	Heritage Order 080/343, Auckland Council District Plan (Central Area Section) 2005
Date	September 1987
Status	Confirmed



**Conditions**

None

**Attachments**

None

**Heritage order number 4: Bank of New Zealand**

Heritage order number	4
Heritage protection authority	Heritage New Zealand Pouhere Taonga
Location	125 Queen Street, Auckland Central
Legacy reference	Heritage Order 128/339, Auckland Council District Plan (Central Area Section) 2005
Date	July 1984
Status	Confirmed

**Conditions**

None

**Attachments**

None

**Heritage order number 5: Civic Theatre**

Heritage order number	5
Heritage protection authority	Heritage New Zealand Pouhere Taonga
Location	269-285 Queen Street, Auckland Central (Corner Queen Street and Wellesley Street)
Legacy reference	Heritage Order 141/341, Auckland Council District Plan (Central Area Section) 2005
Date	May 1988
Status	Confirmed

**Conditions**

None

**Attachments**

None

**Heritage order number 6: Terrace of shops (Queen Street associated retail use 2004)**

Heritage order number	6
Heritage protection authority	Heritage New Zealand Pouhere Taonga
Location	456-486 Queen Street, Auckland Central (between Turner Street and City Road)
Legacy reference	Heritage Order 151/340, Auckland Council District Plan (Central Area Section) 2005
Date	June 1989
Status	Confirmed

**Conditions**

None

**Attachments**

None