
CHANGE REQUEST MEMORANDUM

TO Celia Davison – Manager Central/South







FROM Elisabeth Laird – Planner Central/South

DATE 31 October 2019

SUBJECT **Designation to be partially uplifted in accordance with s182 of the Resource Management Act 1991**

This memorandum concerns an update to Designation 6726 (State Highway 20 - Waterview Connection Great North Road) under s182 of the Resource Management Act 1991

Unitary Plan Designation Number	6726
Requiring Authority	New Zealand Transport Agency
Location:	2 and 4 Oakley Avenue, Waterview; 1433, 1435, 1437, 1439, 1441, 1443, 1445 and 1449 Great North Road, Waterview.
Type of Designation	Partial uplift
Reason for request	The subject sites, while being important for the construction phase of the tunnel, are now considered surplus to NZTA's ongoing operations and maintenance of the resulting assets.
Changes to text	N/A
Changes to diagrams	N/A
Changes to spatial data	Remove designation 6726 from 2 and 4 Oakley Avenue, Waterview; 1433, 1435, 1437, 1439, 1441, 1443, 1445 and 1449 Great North Road, Waterview; as per Attachment 2 .
Attachments	Attachment 1 – Section 182 Report Attachment 2 – Update GIS viewer

Prepared by: Elisabeth Laird Planner Central/South	Maps prepared by: Mitesh Bula Geospatial Analyst
Signature: 	Signature: 
Reviewed by: Fiona Sprott Team Leader – Central/South	Signed off by: Celia Davison Manager Planning – Central/South
Signature: 	Signature: 

Attachment 1 – Section 182 Report

Partial removal of a designation under section 182 of the Resource Management Act 1991



To: Fiona Sprott – Team Leader Planning Central/South

From: Elisabeth Laird, Planner Planning Central/South

Date: 30 October 2019

Subject: Partial removal of Designation 6726 State Highway 20 - Waterview Connection Great North Road in the Auckland Unitary Plan (Operative in Part)

Summary

Auckland Council has received a request from the New Zealand Transport Agency under section 182 of the Resource Management Act 1991 (RMA), to remove, in part, Designation 6726 State Highway 20 - Waterview Connection Great North Road. The final version of the request was received 16 October 2019.

A section 182(1) request is required to remove the existing designation in part from land which has been deemed surplus by the New Zealand Transport Agency.

Auckland Council, as the territorial authority, is required to amend its district plan, without using the process in Schedule 1, as soon as reasonably practicable after receiving a Section 182 request unless it considers that the effect of the removal of part of the designation on the remaining designation is more than minor.

It is recommended that the partial removal be accepted.

Recommendation

1. That the section 182 request from the New Zealand Transport Agency for the partial removal of Designation 6726 State Highway 20 - Waterview Connection Great North Road in the Auckland Unitary Plan be **accepted** for the following reasons:
 - The land subject to the partial removal is no longer needed to give effect to the designation.
 - The effects of the removal on the remaining designation are no more than minor
2. That Designation 6726 State Highway 20 - Waterview Connection Great North Road be partially removed, as soon as reasonably practicable, in the Designation overlay in the Auckland Unitary Plan (Operative in Part).

1. Description

1.1 References

Designation number:	6726 State Highway 20 - Waterview Connection Great North Road
Lodgement date:	26 August 2019
Requiring authority:	New Zealand Transport Agency
Reporting officer:	Elisabeth Laird
Site address:	2 Oakley Avenue; 4 Oakley Avenue; 1433, 1435, 1437, 1439, 1441, 1443, 1445 and 1449 Great North Road, Waterview. Section 24 Survey Office Plan 481543; Lot 2 DP 196810; Sections 10, 12, 14, 16, 18, 20, and 22 Survey Office Plan 530985.
UP Zoning:	Strategic Transport Corridor Zone (1433, 1435, 1437, 1439, 1441, 1443, 1445 and 1449 Great North Road) Business - Neighbourhood Centre Zone (2 Oakley Avenue)

2. Background

2.1 Details of designation

The purpose of designation 6726 is for construction, operation and maintenance of the State Highway 20 – Waterview connection and associated structures and works.

The New Zealand Transport Agency (NZTA) has determined that part of this designation is no longer required for NZTA's work. This is because the construction of the Waterview tunnel has now been completed and the subject sites, while being important for the construction phase of the tunnel, are now considered surplus to NZTA's ongoing operations and maintenance of the resulting assets.

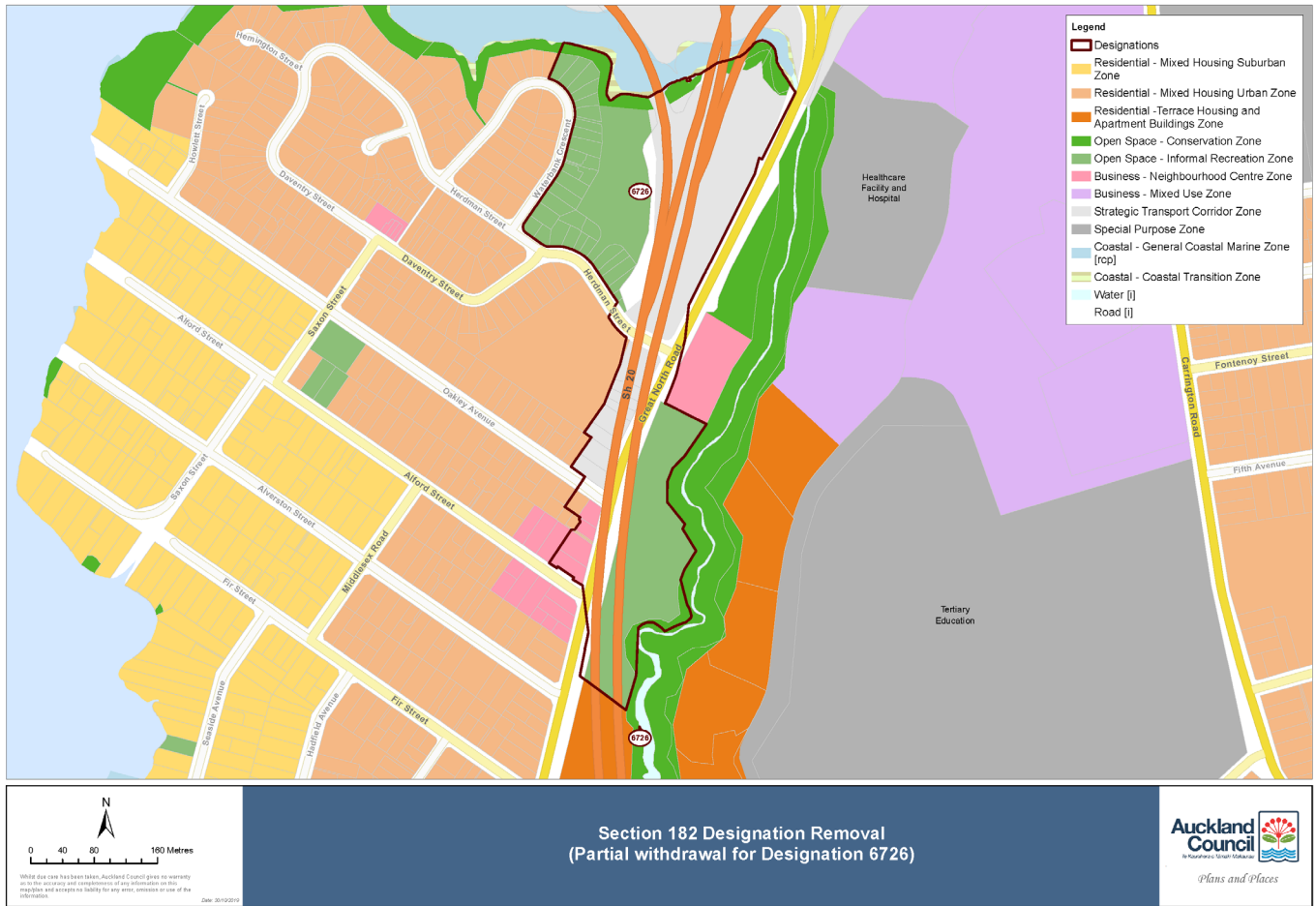
The subject sites were used for the creation of a construction site access road (1433, 1435, 1437, 1439, 1441, 1443, 1445 and 1449 Great North Road) and as construction site offices (2 and 4 Oakley Avenue).

Designation 6726 is a surface designation, which is why it would need to be partially removed in order to allow for other uses of the subject sites.

Designation 6728 also partially covers some of the subject sites. This is a strata (subsoil) designation for construction, operation and maintenance of tunnels, restricting subsurface activities beneath certain properties; and the construction, operation and maintenance and protection of SH20 subsurface works (tunnels).

2.2 Land affected by removal

The designation is currently shown in the Auckland Unitary Plan (Operative in Part) (AUP) maps as follows:

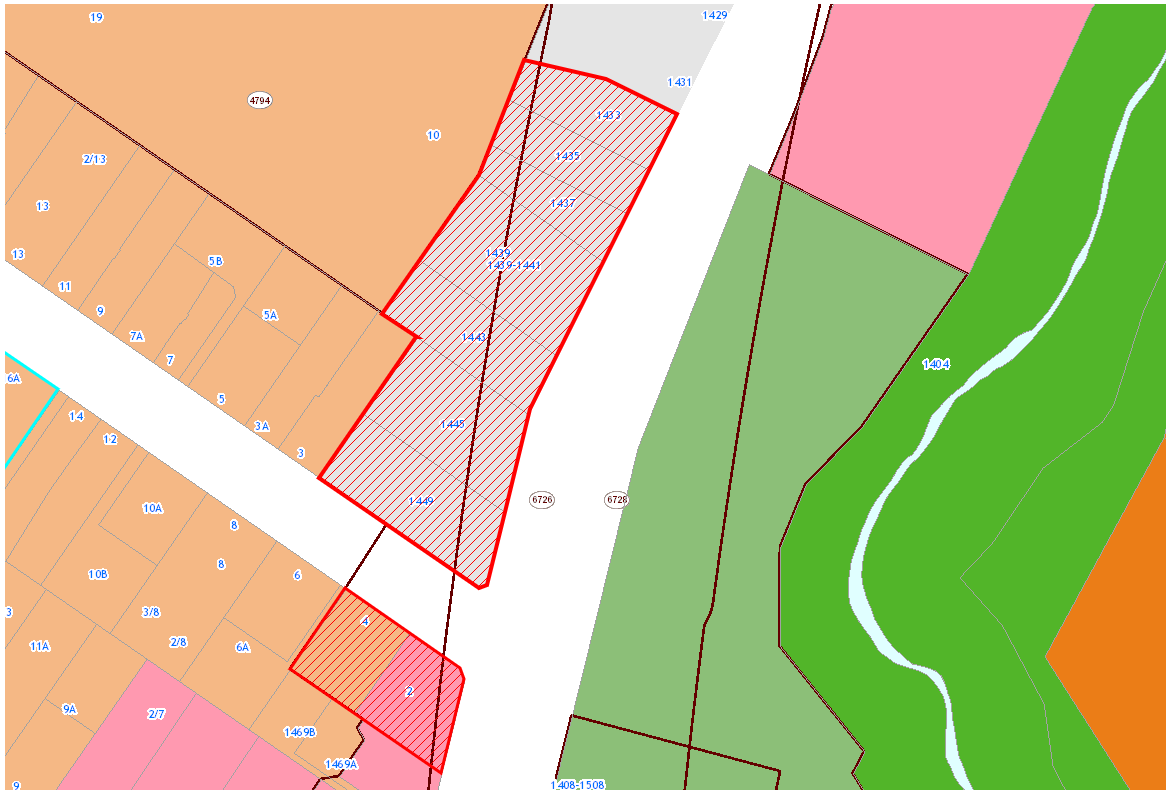


NZTA has provided a site plan showing the extent of the designation which is to be partially removed (see Figure 1 below).

NZTA has advised that:

- The removal of the designation from 1433, 1435, 1437, 1439, 1441, 1443, 1445 and 1449 Great North Road, Waterview is needed to facilitate the transfer of this land to the Ministry of Housing and Development for state housing purposes.
- The removal of the designation from 2 and 4 Oakley Avenue, Waterview is needed to facilitate the disposal of this land. The two sites will be disposed together as one lot.

Figure 1: Removal of NZTA Designation 6726 from 2 and 4 Oakley Avenue, 1433 to 1449 Great North, Waterview, as indicated by Red Hash Areas.



1433, 1435, 1437, 1439, 1441, 1443, 1445 and 1449 Great North Road, Waterview

This land is zoned Strategic Transport Corridor Zone. The purpose of this zone is to provide for state highway and railway corridors to be:

- developed and used for a wide range of activities associated with the transportation of people and goods;
- used as a single, integrated transport system operated by more than one agency; and
- used for interim non-transport related activities that do not undermine the future use of the corridor for transport purposes.

This was an appropriate zoning for the land at the time of the AUP because the land was being developed for state highway purposes. The combination of the zone and the designation ensured that the use of the land would complement the necessary infrastructure construction.

The land was used for the creation of a construction access road for the Waterview Connection project, but is now surplus to requirements.

2 and 4 Oakley Avenue, Waterview

2 Oakley Avenue is zoned as Business – Neighbourhood Centre. This zone provides for frequent retail and commercial service needs for residents and passers-by. Development is expected to be in keeping with the surrounding residential environment.

4 Oakley Avenue is zoned as Residential – Mixed Housing Urban. This zone provides for reasonably high-intensity residential development.

This land is currently occupied by a duplex building that goes across both sites.

The land was being used for construction site offices for the Waterview Connection project, which are no longer required. The land is now surplus to requirements.

2.3 Delegated authority to consider withdrawal of designations

The Team Leader - Planning Central/South (Plans and Places Tier 5) has delegated authority, in accordance with the Auckland Council Combined Executives Delegation Register (Updated October 2019) to exercise the Council's functions, powers, duties and discretions under the Resource Management Act 1991 in relation to Section 182 to receive withdrawals of designations and to amend the District Plan accordingly (see page 19). The section 182 request to remove the designation can therefore be considered by the Team Leader – Planning Central/South (Plans and Places Tier 5) and accepted or declined.

2.4 Relevant Statutory Provisions

Section 182 of the RMA allows a requiring authority to remove a designation or part of a designation if it no longer wants it. This section also applies to a notice by a territorial authority, to withdraw its own designation or part of a designation within its own district.

Section 182(2) states that as soon as reasonably practicable the territorial authority shall, without using the process in Schedule 1, amend its district plan accordingly. If the territorial authority considers that the effect of the removal of part of a designation on the remaining designation is more than minor, it may, within 20 working days of receipt of a section 182 notice, decline to remove that part of the designation.

3. Effect of partial removal of designation on remaining designation

NZTA has provided the following reasons for the partial removal of Designation 6726 State Highway 20 - Waterview Connection Great North Road:

- The land subject to the partial removal is no longer needed to give effect to the designation.
- The construction phase has been completed.
- The designation to be partially removed is a surface designation. Its partial removal will not affect the strata designation for the Waterview Connection (6728 State Highway 20 - Waterview Connection Mt Roskill to Waterview).
- The ongoing maintenance and operation of the tunnel and other assets is controlled by:
 - the strata designation 6728 which partially covers the subject sites
 - the remaining part of the surface designation 6726 (which will provide for operation and maintenance of the State Highway 20 – Waterview connection and associated structures and works, such as the ventilation stacks)

- tunnel protection encumbrances on the property titles.

3.1 Assessment 1433, 1435, 1437, 1439, 1441, 1443, 1445 and 1449 Great North Road, Waterview:

The zoning of these sites is Strategic Transport Corridor. NZTA has indicated in its application that the land is to be transferred to the Ministry of Housing and Development for state housing purposes.

The removal of the designation will remove NZTA's ability to exert control over the use of the land no longer subject to their designations under s176 of the RMA. The ability of NZTA to exert influence through ownership will also stop once the sites have been divested to the Ministry of Housing and Development. Since the sites are no longer used for construction and are not required for operation and maintenance, it is appropriate that NZTA no longer exert this influence.

However, the current zoning means that the effects from non-transport related activities will need to be assessed under the Strategic Transport Corridor zone, which will consider compatibility with surrounding land uses, reverse sensitivity, the land reverting to a transport use, and effects on surrounding land (including the adjoining land which remains designated).

Removal of the designation on these sites will still enable transport uses to be maintained under the existing zone. Although the subject sites were used as an access road, the remaining designation to the north of these sites retains access via Herdman Street and Great North Road.

The part of the designation that is on these sites is not required for access to or maintenance of tunnel operational equipment such as ventilation shafts.

The tunnels and subsurface works will be protected by Designation 6728 and by the tunnel protection encumbrances that will be placed on the titles by NZTA.

If this part of the designation is removed, the adjusted designation boundary will still be legible and will not isolate any part of the remaining designation.

For these reasons, I consider that the effects of removing this part of Designation 6726 (i.e. on these sites) on the remainder of Designation 6726 will be less than minor.

It is noted though that the resulting Strategic Transport zone, even without a surface designation, may cause some problems for the stated new use of the sites for housing. The zone provides for non-transport related activities (H22.2(4)) only if they do not generate adverse reverse sensitivity effects on the operation of the corridor. Policy H22.3(3) provides for non-transport related activities only where they will not prevent the land reverting to transport uses when required. It would be difficult to conclude that development of housing could allow a reversion to transport uses.

There is a complicated arrangement in the activity table for activities not relating to transport uses using adjoining zoning.

The current zone protects the sites for use as transport related activities. The removal of this designation does not affect those outcomes for the zone. Additionally, the access road is still in place and the sites have not been rehabilitated for residential development. This

designation removal may need to be followed by a plan change should the intention for the land be for housing.

2 and 4 Oakley Avenue, Waterview:

The zoning of these sites is Business – Neighbourhood Centre and Residential – Mixed Housing Urban, respectively. As stated above, the sites are no longer needed to give effect to the designation.

The removal of Designation 6726 on 2 Oakley Ave will allow the site to be used for a variety of activities such as corner stores or local businesses, with residential use on upper floors. The removal of the designation on 4 Oakley Ave will allow the site to be used for a variety of activities such as residential use, visitor accommodation, or non-residential activities that support the social and economic well-being of the community.

If Designation 6726 is removed from these sites and development in accordance with the underlying zones is enabled, I consider that the effect on the remainder of the designation will be less than minor because:

- The part of the designation that is on these sites is not required for access to or maintenance of tunnel operational equipment such as ventilation shafts.
- This part of the designation is no longer needed by NZTA to fulfil the purpose of the designation.
- If this part of the designation is removed, the adjusted designation boundary will be more complicated than currently, as it will remain in place along part of Oakley Avenue, but it will still be legible and will not isolate any part of the remaining designation.
- The tunnels and subsurface works will be protected by Designation 6728 and by the tunnel protection encumbrances that will be placed on the titles by NZTA.

As laid out above, it is my assessment that the effects of the removal of the parts of Designation 6726 on the land at:

- 1433, 1435, 1437, 1439, 1441, 1443, 1445 and 1449 Great North Road, Waterview
- 2 and 4 Oakley Avenue, Waterview

on the remainder of Designation 6726 to be no more than minor.

4. Recommendation

That pursuant to Section 182 of the Resource Management Act 1991 that the partial removal of Designation 6726 State Highway 20 - Waterview Connection Great North Road Plan be **accepted** and the Auckland Unitary Plan (Operative in Part) designation overlay be amended accordingly.

Prepared by: Elisabeth Laird
Planner
Planning Central/South

Signature:



Date 30 October 2019

Accepted by: Fiona Sprott
Team Leader
Planning Central/South

Signature:



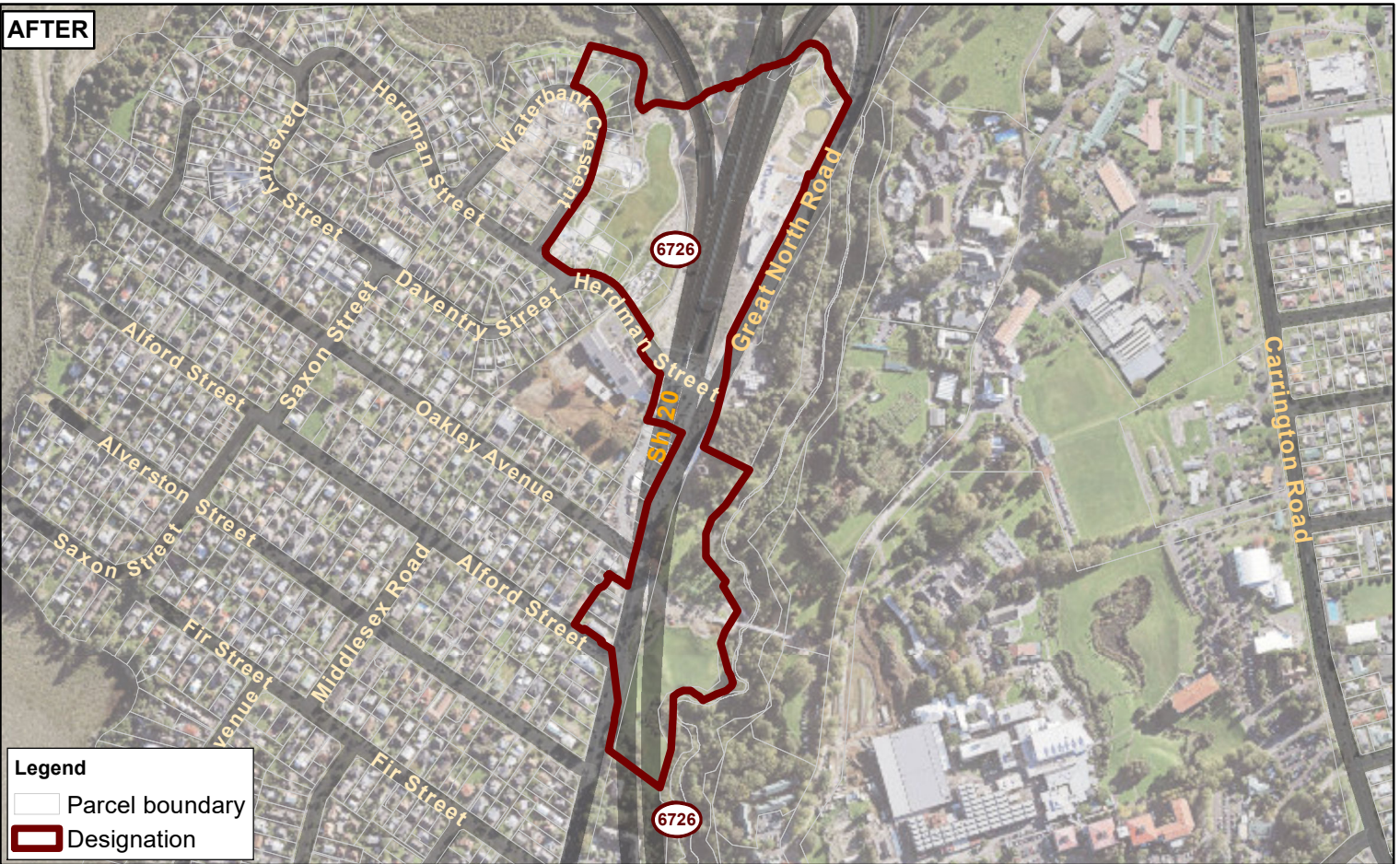
Date 30 October 2019

Attachment 2 – Update GIS viewer

BEFORE



AFTER



0 60 120 240 Metres

Whilst due care has been taken, Auckland Council gives no warranty as to the accuracy and completeness of any information on this map/plan and accepts no liability for any error, omission or use of the information.

Date: 13/11/2019

Partial Removal of Designation 6726 - Waterview



Plans and Places