

## UNITARY PLAN UPDATE REQUEST MEMORANDUM

**TO** Celia Davison, Manager Planning, Central / South

**FROM** Vanessa Leddra Policy Planner, Central / South

**DATE** 8 April 2022



**SUBJECT** Extension of Designation lapse dates in accordance with s184 of the Resource Management Act to the Unitary Plan (AUP) Operative in part (15 November 2016)



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

<b>Reason for update – Extension of lapse dates in accordance with S184 to Designation 1809 Road Widening - Allens Road and Smales Road</b>	
<b>Chapter</b>	<b>Chapter K Designations</b>
<b>Section</b>	<b>Auckland Transport</b>
<b>Designation only</b>	
<b>Designation #1809</b>	<b>Road Widening - Allens Road and Smales Road</b>
<b>Locations:</b>	2, 5, 17, 22-38, 47-59, 56-60 and 67 Allens Road, 3-9 Smales Road, 1,2 Harris Road, 2 Ross Reid Place and 61 Sir William Avenue, East Tamaki
<b>Lapse Date</b>	5 years from being operative in the Unitary Plan unless given effect to prior
<b>Purpose</b>	Road widening
<b>Changes to text (shown in underline and strikethrough)</b>	<p><b>1. Lapse Date</b> <del>5 years from being operative in the Unitary Plan 15 November 2026</del> unless given effect to prior</p> <p><b>Conditions</b></p> <p><b>2. Designation Lapse Date</b></p> <p>1. In accordance with section 184(2)(b) of the Resource Management Act 1991, this designation will lapse on <del>the expiry of 5 (five) years after the date on which it is included in the Unitary Plan 15 November 2026</del> unless:</p>
<b>Changes to diagrams</b>	N/A
<b>Changes to spatial data</b>	N/A
<b>Attachments</b>	Attachment A: Auckland Transport s184 Application Letter Attachment B: Commissioner's Decision Attachment C: Updated Text shown by strikethrough and underscore

<b>Prepared by:</b> Vanessa Leddra Policy Planner	<b>Text Entered by:</b> Bronnie Styles Planning Technician
<b>Signature:</b> 	<b>Signature:</b> 

<b>Maps prepared by:</b> Geospatial Specialist	<b>Reviewed by:</b> Craig Cairncross Team Leader
<b>Signature:</b> n/a	<b>Signature:</b> 
<b>Signed off by:</b> Celia Davison Manager Planning – Central/South	
<b>Signature:</b> 	

**Attachment A**

**Auckland Transport s184 Application Letter**

29 October 2021

Plan and Places  
Auckland Council  
Private Bag 92300  
Auckland 1142  
Attn: Jo Hart - Senior Policy Planner; Kasey Zhai - Policy Planner  
Via email: [unitaryplan@aucklandcouncil.govt.nz](mailto:unitaryplan@aucklandcouncil.govt.nz)

Dear Jo and Kasey,

## **SECTION 184(1)(b) APPLICATION FOR DESIGNATION 1809 – ALLENS ROAD AND SMALES ROAD**

Auckland Transport is the requiring authority for Designation 1809 in the Auckland Unitary Plan. The purpose of this designation is “road widening” and it has a lapse date of 15 November 2021, being five years from the effective operative (in part) date of the Auckland Unitary Plan.

Pursuant to section 184(1)(b) of the Resource Management Act 1991 (**RMA**), Auckland Transport seeks to extend the lapse date of this designation by 5 years to 15 November 2026. Please accept this letter as our application under section 184(1)(b).

### **1 Designation Details**

An excerpt of the designation is shown as Figure 1 below.



## 1809 Road Widening - Allens Road and Smales Road

Designation Number	1809
Requiring Authority	Auckland Transport
Location	2, 5, 17, 22-38, 47-59, 56-60 and 67 Allens Road, 3-9 Smales Road, 1,2 Harris Road, 2 Ross Reid Place and 61 Sir William Avenue, East Tamaki
Rollover Designation	Yes
Legacy Reference	Designation 308, Auckland Council District Plan (Manukau Section) 2002
Lapse Date	5 years from being operative in the Unitary Plan unless given effect to prior

## Purpose

Road widening.

## Conditions

1. In accordance with section 184 of the Resource Management Act 1991, this designation will lapse on the expiry of 5 (five) years after the date on which it is included in the Unitary Plan unless:
  - a. It is given effect to before the end of that period; or
  - b. The territorial authority resolves that it has made, and is continuing to make, substantial progress or effort towards giving effect to the designation and fixes a longer period to give effect to the designation; or
  - c. The designation lapses earlier by virtue of the Unitary Plan ceasing to be operative.

## Attachments

No attachments.

**Figure 1 – Details of designation**

**Source: Auckland Unitary Plan, Chapter K**

## 2 Statutory context

### 184 *Lapsing of designations which have not been given effect to*

- (1) *A designation lapses on the expiry of 5 years after the date on which it is included in the district plan unless—*
  - (a) *it is given effect to before the end of that period; or*
  - (b) *the territorial authority determines, on an application made within 3 months before the expiry of that period, that substantial progress or effort has been made towards giving effect to the designation and is continuing to be made and fixes a longer period for the purposes of this subsection; or*
  - (c) *the designation specified a different period when incorporated in the plan.*



### 3 Assessment against section 184(1)(b)

In accordance with the requirements of section 184(1)(b) of the RMA, Auckland Transport has made substantial progress and effort towards giving effect to the designation and continues to do so.

#### Property purchase

Within the designation, the following properties have been acquired by Auckland Council:

Address	Ownership
2 Allens Road	Partial acquisition by Auckland Transport
5 Allens Road	Partial acquisition by Auckland Transport
17 Allens Road	Partial acquisition by Auckland Transport
22 Allens Road	Partial acquisition by Auckland Transport
28 Allens Road	Partial acquisition by Auckland Transport
30 Allens Road	Partial acquisition by Auckland Transport
34 Allens Road	Partial acquisition by Auckland Transport
38 Allens Road	Partial acquisition by Auckland Transport
47 Allens Road	Partial acquisition by Auckland Transport
51 Allens Road	Partial acquisition by Auckland Transport
55 Allens Road	Partial acquisition by Auckland Transport
56 Allens Road	Partial acquisition by Auckland Transport
59 Allens Road	Partial acquisition by Auckland Transport
60 Allens Road	Partial acquisition by Auckland Transport
67 Allens Road	Partial acquisition by Auckland Transport
3 Smales Road	Partial acquisition by Auckland Transport
5 Smales Road	Partial acquisition by Auckland Transport
7 Smales Road	Partial acquisition by Auckland Transport
9 Smales Road	Partial acquisition by Auckland Transport

9A Smales Road	Partial acquisition by Auckland Transport
1 Harris Road	Partial acquisition by Auckland Transport
2 Harris Road	Partial acquisition by Auckland Transport
2 Ross Reid Place	Partial acquisition by Auckland Transport
61 Sir William Ave	Partial acquisition by Auckland Transport

## Funding

Funding towards this project has been committed in the Regional Land Transport Plan, with an excerpt shown as Figure 2 below.

Lake Road/Esmonde Road Improvements	AT	48
SH20A to Airport (Debt Repayment)	Waka Kotahi	48
Wynyard Quarter Integrated Road Programme	AT	46
Unsealed Road Improvements	AT	40
Smales Allens Road Widening and Intersection Upgrade	AT	23
Hill Street Intersection Improvement	AT	19
Resolution of Encroachments and Legacy Land Purchase Arrangements	AT	17
Ormiston Town Centre Link	AT	17
Noise wall upgrade programme	Waka Kotahi	15

**Figure 2**

**Source: Regional Land Transport Plan 2021-2031, p.67**

## Summary

Overall, in our opinion, the assessment above demonstrates the progress and effort that Auckland Transport has made, and continues to make, towards giving effect to this designation.

## 4 Conclusion

Based on the above, there is no reason precluding Auckland Council from extending the lapse date of Designation 1809 by 5 years, in line with section 184(1)(b) of the RMA.



Auckland Transport has provided the following purchase order number for lodgement and processing fees: **4200072941**.

Please contact Lloyd Johnson on 09 447 4607 or [lloyd.johnson@at.govt.nz](mailto:lloyd.johnson@at.govt.nz) if you have any queries about this application.

Yours sincerely,

A handwritten signature in black ink, which appears to read 'Jane Small', is positioned above the printed name.

Jane Small  
**Group Manager Property and Planning**

**Integrated Networks Division**



**Attachment B**

**Commissioners Decision**

# Decision on application to extend the lapse period under section 184 of the Resource Management Act 1991



## Decision of Commissioner on an application to extend the lapse period of Designation 1809 Road Widening - Allens Road and Smales Road, East Tamaki in the Auckland Unitary Plan (Operative in Part).

The proposed extension to the lapse period of Designation 1809 Road Widening – Allens Road and Smales Road, East Tamaki by five years is **APPROVED**.

### Introduction

1. This recommendation is made on behalf of the Auckland Council (“**the Council**”) by Independent Hearing Commissioner Janine Bell (sitting alone) appointed and acting under delegated authority under section 34A of the Resource Management Act 1991 (“**the RMA**”).
2. The Council has received a request from Auckland Transport under section 184 of the Resource Management Act 1991 (RMA), dated 29 October 2021, to extend the lapse period of Designation 1809 – Allens Road and Smales Road, East Tamaki by 5 years to 15 November 2026.

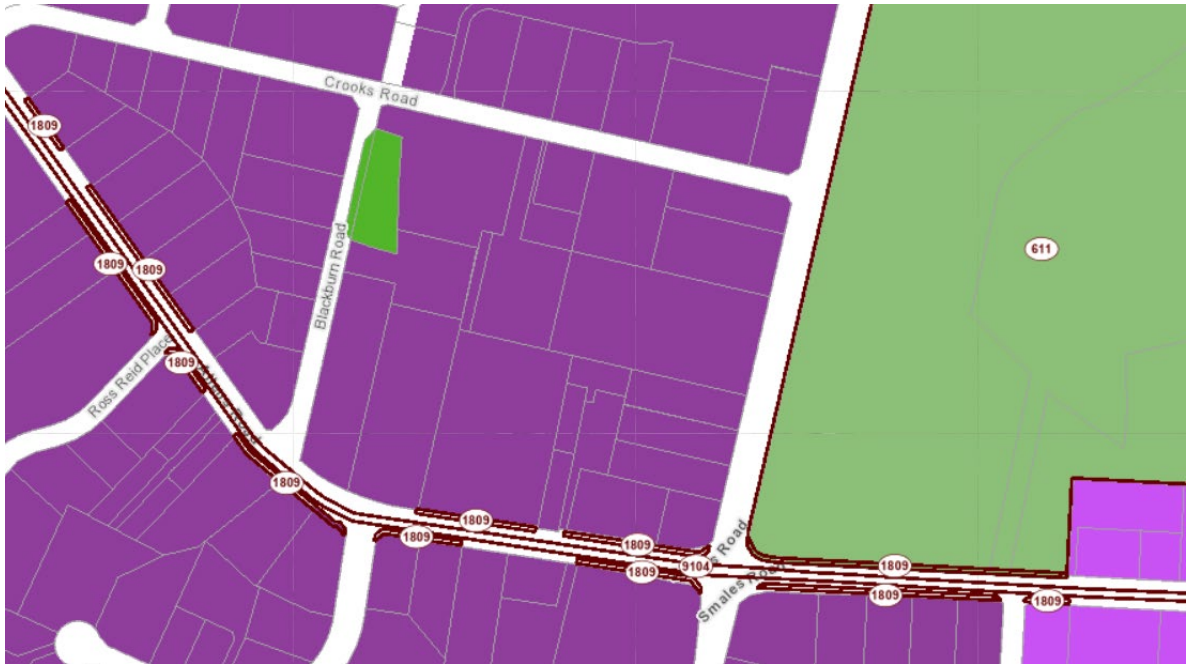
### References

<b>Designation number</b>	1809
<b>Purpose</b>	Road widening
<b>Location</b>	2, 5, 17, 22-38, 47-59, 56-60 and 67 Allens Road, 3-9 Smales Road, 1,2 Harris Road, 2 Ross Reid Place and 61 Sir William Avenue, East Tamaki
<b>Date of request to extend lapse date:</b>	29 October 2021
<b>Requiring authority:</b>	Auckland Transport

3. The purpose of Designation 1809 – Allens Road and Smales Road, East Tamaki is for ‘road widening’. The designation applies to a number of properties as set out above, the majority of which are located on Allens Road. Auckland Transport advises that 24 of these properties have been partial acquired. That is the Auckland Transport have entered into or completed negotiations to buy some or all of the land to enable the road widening to take place. AT have, however, confirmed that all properties listed are necessary for the road widening project to proceed. Funding for this road widening and intersection upgrade has been committed in the Regional Land Transport Plan 2021-2031. Designation 1809 has a lapse date of 15 November 2021. In accordance with s184(1)(b) of the Resource Management Act 1991 (RMA)

Auckland Transport has applied to extend the lapse date by five years to 15 November 2026.

4. The designation is currently shown in the AUP maps as follows:



### Relevant Statutory Provisions

5. Section 184 of the RMA, states:

- (1) *A designation lapses on the expiry of 5 years after the date on which it is included in the district plan unless—*
- (a) *it is given effect to before the end of that period; or*
  - (b) *the territorial authority determines, on an application made within 3 months before the expiry of that period, that substantial progress or effort has been made towards giving effect to the designation and is continuing to be made and fixes a longer period for the purposes of this subsection; or*
  - (c) *the designation specified a different period when incorporated in the plan.*
- (2) *Where paragraph (b) or paragraph (c) of subsection (1) applies in respect of a designation, the designation shall lapse on the expiry of the period referred to in that paragraph unless—*
- (a) *it is given effect to before the end of that period; or*

*(b) the territorial authority determines, on an application made within 3 months before the expiry of that period, that substantial progress or effort has been made towards giving effect to the designation and is continuing to be made and fixes a longer period for the purposes of this subsection.*

## **Assessment**

6. In terms of s184(2)(a), the Council officer have reviewed the proposal and formed a view that the road widening designation applied to Allens Road and Smales Road has not been given effect to as the works provided for in the purpose of the designation are not in place.
7. In terms of s184(2)(b) the application has been made by Auckland Transport within 3 months before the expiry of the designation lapse period, and sets out the progress and effort that has been made and continues to be made towards giving effect to the designation.
8. Auckland Transport's application outlines the progress that has been made, and continue to be made, to give effect to the designation. In summary these include:
  - Twenty-four properties within the designation have been partially acquired by Auckland Council and Auckland Transport.
  - Funding for the road widening and intersection upgrade is in the approved Regional Land Transport Plan 2021-2031.
9. The Council officer has reviewed the application and is satisfied that the requiring authority has made and continues to make substantial effort / progress towards giving effect to the designation and therefore recommends extending the lapse period by five years.

## **Conclusion**

10. While the works provided for by the designation has not been completed, as set out in the application documents, substantial effort and progress has been made and continues to be made towards giving effect to the designation. The additional five years sought will enable the completion of the land acquisition and physical works provided for by the designation. Therefore, the proposed extension to the lapse period for Designation 1809 – Allens Road and Smales Road, by five years to 15 November 2026 is appropriate.

## **Decision**

That pursuant to Section 184 of the Resource Management Act 1991 that the extension to the lapse date of Designation 1809 – Allens Road and Smales Road, to 15 November 2026 is **approved**.

**Approved**

**Janine A. Bell  
Independent Hearing Commissioner**

**Signature :**

A handwritten signature in blue ink, appearing to read 'J. Bell', with a horizontal line underneath the name.

**Date : 07 April 2022**

**NOTE: Decision of 21 March 2022 reissued to correct the requested lapse date in paragraph 2 from to “29 April 2026” to “15 November 2026”.**

## **Attachment C**

### **Updated designation text**

**1809 Road Widening - Allens Road and Smales Road**

## 1809 Road Widening - Allens Road and Smales Road

Designation Number	1809
Requiring Authority	Auckland Transport
Location	2, 5, 17, 22-38, 47-59, 56-60 and 67 Allens Road, 3-9 Smales Road, 1,2 Harris Road, 2 Ross Reid Place and 61 Sir William Avenue, East Tamaki
Rollover Designation	Yes
Legacy Reference	Designation 308, Auckland Council District Plan (Manukau Section) 2002
Lapse Date	<del>5 years from being operative in the Unitary Plan</del> <u>15 November 2026</u> unless given effect to prior

## Purpose

Road widening.

## Conditions

1. In accordance with section 184(2)(b) of the Resource Management Act 1991, this designation will lapse on ~~the expiry of 5 (five) years after the date on which it is included in the Unitary Plan~~ 15 November 2026 unless:

- a. It is given effect to before the end of that period; or
- b. The territorial authority resolves that it has made, and is continuing to make, substantial progress or effort towards giving effect to the designation and fixes a longer period to give effect to the designation; or
- c. The designation lapses earlier by virtue of the Unitary Plan ceasing to be operative.

## Attachments

No attachments.