

FORM 18

**NOTICE OF A REQUIREMENT BY REQUIRING AUTHORITY FOR A DESIGNATION
UNDER SECTION 168 OF THE RESOURCE MANAGEMENT ACT 1991**

**To: Auckland Council
Private Bag 92,300
Auckland 1142**

**From: Auckland Transport
Private Bag 92,250
Auckland 1142**

**NOTICE OF REQUIREMENT BY AUCKLAND TRANSPORT FOR DESIGNATION OF THE ROAD
ASSET**

Section 168 of the Resource Management Act 1991

Auckland Transport (an Auckland Council Controlled Organisation) as Requiring Authority under section 167 of the Resource Management Act gives Notice of Requirement (Notice) under section 168 of the Resource Management Act 1991 (RMA) for a designation in respect of the land that forms the public local road network of the Auckland Region, to provide for the on-going operation, maintenance and improvement of the region's public local road network. The designation of the public local road network will support the management of Auckland's transport network (that comprises motorways, roads and streets, public transport (ferries, buses and trains), footpaths and cycle-ways, ports and airports) as a single-system while managing the use of road corridors for other network utility infrastructure and other parties.

1. The sites to which the requirement applies are as follows:

A. The requirement for designation applies to all the Auckland Council owned and Auckland Transport managed roads in the Auckland Region as identified in:

- i. Auckland District Plan – Waitakere Section
- ii. Auckland District Plan – Manukau Section
- iii. Auckland District Plan – Franklin Section (within the Auckland Region)
- iv. Auckland District Plan – Papakura Section
- v. Auckland District Plan – Hauraki Gulf Islands Section
- vi. Auckland District Plan – Isthmus Section
- vii. Auckland District Plan – Central Area Section
- viii. Auckland District Plan – North Shore Section and
- ix. Auckland District Plan – Rodney Section.

B. The designation applies to:

The full width of the legal roads, being the area between the boundaries of its adjacent private properties, and includes all assets and facilities and any grass berms, footpath,

kerbs, channels and sealed or unsealed carriageway and any structures and other parts of the road that are owned by the Auckland Council or Auckland Transport.

C. For the avoidance of doubt, the designation does not apply to:

- i. Roads and service lanes not vested as legal road owned by Auckland Council but managed and operated by other parties;
- ii. Roads and service lanes not owned by the Auckland Council;
- iii. Private land or private roads within the meaning of section 315 of the Local Government Act 1974;
- iv. Structures over the coastal marine area;
- v. Unformed roads (commonly known as paper roads);
- vi. Beaches, parks and reserves;
- vii. Areas of road for which the New Zealand Transport Agency is the road controlling authority;
- viii. Sections of roads that cross (at grade) the space occupied by a railway line, as defined in the Railways Act 2005;
- ix. Any physical works affecting any scheduled archaeological or geological feature listed in a section of the District Plan;
- x. Any physical works requiring removal of part or all of any scheduled notable tree listed in a section of the District Plan; and
- xi. Any physical works affecting any scheduled building, heritage property or places of special value listed in a section of the District Plan.

Any such works as noted in ix – xi above will be subject to the requirements and statutory processes under the provisions of the relevant section of the District Plan. It is noted that resource consent under regional rules for earthworks and discharges associated with increases in impervious surface may still be required for some work.

D. For the avoidance of doubt, the designation includes and provides for:

- i. On-going maintenance, renewal and replacement, including in particular:
 - a) Works to improve the existing roads or road sections or on road parking areas to address any deficiencies against current standards for road surfaces, marking, signage, and lighting;
 - b) Maintenance and replacement of public transport infrastructure and parking infrastructure (including but not limited to bus shelters, pay and display machines and signs);
 - c) Maintenance and replacement of directional and informational signage;
 - d) Maintenance of vegetated berms / verges;
 - e) Maintenance and replacement planting of street gardens and rain gardens, stormwater treatments areas and ponds;
 - f) Maintaining, pruning and removal of vegetation (including but not limited to grass and trees) on roads;
 - g) Maintaining, pruning and trimming of overhanging vegetation from private property and in the road;
 - h) Maintenance and replacement of street furniture (including but not limited to seats, bicycle racks, litter bins and other features), and amenity lighting;
 - i) Cleaning of the road and its infrastructure (including but not limited to road drains, cycle facilities, bridle paths);

- j) Maintenance and replacement of all road related assets and facilities including street lighting, traffic signals, bridges, retaining walls and crash barriers;
 - k) Maintenance and replacement of all stormwater drainage within the road;
 - l) Emergency works (including but not limited to slip repairs, removal of fallen trees) and crash repairs;
 - m) Maintenance and replacement of enforcement infrastructure (including but not limited to red light camera and weigh bridge sites);
 - n) Maintenance and replacement of infrastructure associated with the enforcement of transport laws, rules and bylaws (including but not limited to speed limit and parking restriction signage and parking meters and pay and display kiosks);
 - o) Maintenance and replacement of communications, water supply and energy supply infrastructure necessary to support the above;
 - p) Works in the drip line of scheduled and non scheduled trees and trimming of non scheduled trees in relation to the above;
 - q) Earthworks to implement the above; and
 - r) Temporary traffic management necessary to implement the above.
- ii. Improvements and in particular:
- a) Construction works undertaken following safety audits, surveys or observations and crash reduction studies to incorporate safety features into existing road design;
 - b) Construction works to implement engineering measures (including but not limited to the introduction of interactive warning signs, road markings, rumble strips, lighting, removal of roadside hazards, barriers, widened road margins, improved skid resistance, improved road geometry on bends and at intersections, fine tuning of signalised intersections, improved visibility at non-signalised intersections, fencing, speed humps traffic separators);
 - c) Construction and installation of devices and structures to implement regulatory controls (including but not limited to no-stopping, no-overtaking, parking controls, buslane controls, vehicle restrictions)
 - d) Installation of facilities (including but not limited to facilities for pedestrians and cyclists) to create 'complete streets', 'connected networks' or 'shared spaces,' share zones and pedestrian malls;
 - e) Installation of amenity features (including but not limited to street furniture and art works and other urban design features) and transport infrastructure (including but not limited to bus shelters, real time information systems etc) within existing roads;
 - f) Construction works to improve existing formed roads such as widening carriageways, installation of new lighting, footpaths, cycle facilities, storm water drainage and other improvements;
 - g) Reconfiguration of the road layout within the existing road reserve;
 - h) Rebuilding and rehabilitation and resurfacing of existing road structure;
 - i) Investigations of the surface and structure of roads (including but not limited to test pits and geotechnical testing);
 - j) Installation of kerb and channel, stormwater drainage infrastructure culverts, storm water treatment devices and other surface water management infrastructure;

- k) Installation of traffic control devices (including but not limited to traffic islands, traffic signals, pedestrian crossings and roundabouts and intersection controls) and traffic and cycle monitoring devices;
- l) Installation of communications, water supply and energy supply infrastructure, necessary to support the above;
- m) Works in the drip line of scheduled and non scheduled trees and trimming of non scheduled trees in relation to the above;
- n) Earthworks to implement the above; and
- o) Temporary traffic management necessary to support the above.

2. The nature of the public work is:

Auckland Transport is a requiring authority, pursuant to section 167 of the RMA and by virtue of section 47 of the Local Government (Auckland Council) Act 2009. The purpose of Auckland Transport as set out under section 39 of the Local Government (Auckland Council) Act 2009 is to contribute to an effective and efficient land transport system to support Auckland's social, economic, environmental, and cultural well-being.

Accordingly, the nature of the public work sought to be authorised by the designation is the continued and on going operation, maintenance and improvement of the local road network (as more fully described in section 1.D, above) for the purpose of delivering an effective and efficient land transport system in accordance with Auckland Transport's statutory functions.

The Assessment of Environmental Effects (AEE) attached to, and forming part of, this Notice details the adverse effects of the works and restrictions authorised by the designation.

3. The nature of proposed restrictions on other parties

The restrictions that would apply are only on those activities that are likely to affect the operation, maintenance, integrity, condition, function and amenity of the public local road network that may prevent Auckland Transport from delivering an effective and efficient land transport system and those that may affect the use of the public local road network by network utility infrastructure.

The restrictions proposed under the designation are:

That no person may, within the designated area, undertake the following activities without the express written approval of Auckland Transport:

- *any excavation in or under the road or road reserve (including but not limited to drilling, tunnelling, thrusting or similar);*
- *any activity where damage is caused, or is likely to be caused, to the road or road reserve through excavation or works;*
- *any activity where a new surface is to be laid within the road or road reserve;*
- *occupation of the road or road reserve for the purposes of construction and events and marketing.*
- *traffic management for temporary events and construction activities*
- *Any activity that restrict the movement of pedestrians (including but not limited to café seating)*

Except that emergency works can be undertaken without the need for express written approval from Auckland Transport but the party undertaking the emergency works must advise the Auckland Transport, within two working days, that the activity has been undertaken and seek written approval if the works are ongoing.

“Emergency works” means works defined in section 330(1) of the RMA or Section 6.22.1 of the National Code of Practice for Utility Operators Access to the Transport Corridors (November 2011).

Given the range of activities undertaken by utility operators, requiring authorities and other parties that are likely to occur within roads, Auckland Transport considers that restrictions are appropriately targeted at those activities that pose the greatest potential risk to the integrity and the safe and efficient operation, maintenance and improvement of the public roads; as part of the delivery of Auckland Transport’s various transport functions and the delivery of a single system approach to the transport network; and the road network’s use by a range of network utility infrastructure.

It is noted that these and other activities undertaken within the road or road reserves of the region’s public local road network may also be subject to controls or requirements under the relevant section of the District Plan or Auckland Council bylaws or statute.

4. The nature of conditions

Auckland Transport proposes that the designation be subject to the following conditions or conditions to similar effect:

A. Conditions on requiring authority (Auckland Transport) approvals of third party works within roads

- 1. In providing written approvals for works in roads under section 176 of the RMA, Auckland Transport shall comply with the requirements, procedures and timeframes set out in the National Code of Practice for Utility Operators Access to Transport Corridors or any replacement (Code).*

For the avoidance of doubt, section 176 approval is given if either:

- Auckland Transport has imposed reasonable conditions on access to the road corridor under sections 135 to 141 of the Telecommunications Act 2001, sections 25 to 30 of the Gas Act 1992 or sections 24 to 29 of the Electricity Act 1992 (the utilities legislation) within the timeframes prescribed under the utilities legislation in accordance with the Code; or*
 - Auckland Transport fails to notify reasonable conditions on access to the road corridor within the timeframes prescribed under the utilities legislation.*
- 2. The process implemented for providing requiring authority approvals under Condition 4.1 shall incorporate, or be incorporated into, the process for granting access to the road network such that a single process for both requiring authority approvals and road access approvals is implemented unless otherwise requested by the party seeking approval.*

B. Conditions on requiring authority (Auckland Transport) works

- 1. Auckland Transport shall be exempt from providing an Outline Plan of Works for ongoing maintenance works enabled by this designation in section 1.D.i of this Notice.*

2. *Auckland Transport shall be exempt from providing an Outline Plan of Works for works enabled by this designation in section 1.D.ii of this Notice if Auckland Transport has submitted and had approved a Construction Methodology for the Management of Road Design.*
3. *The Construction Methodology for the Management of Road Design (**Construction Methodology**) shall guide the management of all works enabled by this designation across all or part of the region and detail:*
 - a. *the type of works that are provided for within the **Construction Methodology** and for each:*
 - i. *How construction noise levels will be managed;*
 - ii. *Management of road design (including geometry, provision of stormwater drainage and utilities);*
 - iii. *Management of streetscape, landscaping, street furniture and amenities;*
 - iv. *Sediment and dust control methodology;*
 - v. *Management of access to properties;*
 - vi. *Temporary traffic management;*
 - vii. *Method of consultation with property owners and operators;*
 - viii. *Construction methodology for works in close proximity to unscheduled trees located in the road reserve and on adjacent land;*
 - b. *In the case of works occurring in the area subject to the Waitakere Ranges Heritage Area Act 2008 the **Construction Methodology** shall outline how heritage features identified in the Waitakere Ranges Heritage Area Act 2008 will be protected while works are undertaken on existing roads.*
4. *The Council must approve the Construction Methodology within 20 working days of receiving it. If changes are required as a result of subsequent changes in methodology associated with the works, the Requiring Authority must submit amendments in writing to the Council. The Council must approve the amendments within 20 working days of receiving them.*

C. Advice Notes

1. This designation does not override any prior (primary) designations that may already be in place within sections of the public local road network. Auckland Transport must obtain approval from any requiring authority holding a prior designation, in accordance with the provisions and requirements of that designation, for works/activities undertaken within the designated area. Some sections of the road network are or will be covered by other designations in addition to this designation, in which case multiple requiring authority approvals may be required for activities in these areas.
2. Other (secondary) designations may be lodged in the future that apply to existing public roads affected by this designation and these will be subject to section 177 of the RMA.
3. Documents such as the National Code and processes to access the road network will change over time. Auckland Transport may therefore seek to alter the conditions of this designation in the future to reflect any such changes to ensure that the designation remains current.

4. Requiring authority approval for working in the road does not obviate any party from obtaining land owner consent or leases as relevant where the work involves the installation of structures (either temporary or permanent). This is subject to any rights conferred by the utility legislation referred to in condition 4.1.
5. Where under condition 4.1 Auckland Transport fails to notify reasonable conditions on access to the road corridor within the timeframes prescribed under the utilities legislation, access may still be subject to any reasonable conditions specified as applying in this circumstance under the National Code.
6. Requiring authority approval for working in the road is not required before any party obtains any resource consents (district or regional) or other approvals necessary under any relevant legislation for the proposed works. Parties may seek to obtain requiring authority approval prior to seeking approval to access roads under the statutes listed in condition 4.1.
7. Consistent with condition 4.1, Auckland Transport will adopt the arbitration processes outlined in the Code to resolve conflicts pertaining to approvals and associated conditions. However, this does not limit the rights of third parties to appeal approvals and associated conditions to the Environment Court at their discretion.
8. Auckland Transport may in the future provide alternative forms of the Construction Methodology for the Management of Road Design such as the Auckland Transport's Code of Practice (ATCOP) or any replacement that covers the works or a detailed design plan that forms part of a Corridor Management Plan or council town centre revitalisation or mainstreet plan.
9. Where public roads are already designated or managed by the New Zealand Transport Agency (as part of the State highway network) or the New Zealand Railways Corporation (at-grade railway crossings) this designation does not apply. Requiring authority or road controlling authority approvals are required from these agencies in accordance with the relevant designations/management regime.

Activities undertaken in accordance with this designation may also be subject to the requirements of the Railways Act 2005 and the Government Roading Powers Act 1989.

10. Auckland Transport will seek to alter the designation under section 181 of the RMA in the future to add new public roads or extend this designation onto land that is vested as public road.

5. The effects that the work will have on the environment, and the way in which any adverse effects will be mitigated are:

The full Assessment of Environmental Effects (AEE) attached to, and forming part of this Notice describes and evaluates the adverse effects associated with the restrictions that will be authorised by the designation.

By way of summary, the designation will provide for Auckland Transport's road operation, maintenance and improvement activities across the region and allow them to be undertaken in a consistent manner in order to deliver Auckland Transport's transport functions.

The designation will also improve Auckland Transport's ability to manage the public local road network as a conduit for other essential network utility infrastructure in a sustainable manner.

The adverse effects of the designation are insignificant for the reasons outlined in the AEE which are:

- The designation covers only existing formed public roads, which are operated by Auckland Transport, and does not directly affect any private land.
- The designation does not affect any existing designations over or under the road network. A requiring authority with a preceding designation is able to undertake activities in accordance with their designation without needing the approval of the requiring authority for any subsequent designation.
- The scope of the designation is limited and most of the activities or works are already provided for as permitted activities or through existing road network designations in the sections of the Operative District Plan.

While work on legal road potentially will temporarily affect property owners e.g. through noise or vibration or limits on access as a result of the works, these effects will be managed through the mechanisms provided for in conditions. The outline plan process will be available to manage the effects of more significant activities related to the improvement of roads should this be necessary.

6. Alternative routes, sites, and methods considered

Auckland Transport is under no obligation to assess the alternatives to the proposed designation given that it's interest in the roads owned by Auckland Council which are subject to this designation is sufficient for undertaking the works, and the effects of the proposal are not significant (section 168A(3)(b) of the RMA). However, despite there being no duty under the RMA to do so, the following alternatives have been considered:

1. Do nothing;
2. Zone roads in the District Plan;
3. Alternative designations:

Consideration has been given to the extent and nature of the designation of the public local road network. This has included:

- Designating key arterial routes only;
- Providing for a greater level of restriction of activities;
- Enabling a wider range of road operation, maintenance and works activities to be provided for by way of this designation.

However, in all instances, these options either did not meet Auckland Transport's objectives or would result in greater potential restrictions or adverse effects on other parties that are not necessary to meet Auckland Transport's objectives.

These alternatives are described and assessed in the AEE that is attached to this Notice.

7. The designation is reasonably necessary for achieving the objectives of the Requiring Authority because:

Auckland Transport's Objectives are to:

1. Contribute to an effective and efficient land transport system to support Auckland's social, economic, environmental and cultural well-being.
2. Provide for a single-system approach in the planning, design, management and development of Auckland's transport system;
3. Provide statutory protection to safeguard the integrity of Auckland's public local road network.
4. Improve the operation and maintenance of Auckland's existing public local road network.
5. Ensure all infrastructure located within the existing public local road network is managed in a sustainable manner in the interests of the Auckland community.

Auckland Transport considers that the designation is necessary to ensure that:

- The ongoing operation, maintenance and improvement of the region's road network is authorised for the purposes of the RMA as part of delivery of an effective and efficient land transport system that is not compromised by future designations by other Requiring Authorities;
- Work by other parties within the road is undertaken in accordance with the requirements of Auckland Transport; and
- The public road asset, which is an essential community resource, is able to be managed on an on-going basis in the interests of the community.

The designation recognises that the roles and responsibilities related to transport in Auckland are split between local and central government. Auckland Council owns the local road network and Auckland Transport manages and controls them. The Crown owns the State highway and Motorway network and NZTA manages them. NZTA designates the State Highway network.

Auckland Transport through the Notice will be able to deliver the level of transport provision that supports the land use planning developed by Auckland Council and implemented through district plan(s) and ultimately through the Unitary Plan.

Neither the status quo, or possible alternatives, provide Auckland Transport with the ability to ensure the ongoing, safe and efficient operation, maintenance and improvement of the region's road network as part of an effective and efficient land transport system; or manage the use of the public road resource by other parties to support Auckland's social, economic, environmental and cultural well-being.

The designation will provide clarity and certainty for Auckland Transport and the wider community on how the public local road network will be operated and maintained, irrespective of potential future modifications to district plan rules or future designations by other parties. The designation will ensure the public roads across the region are managed and protected in a consistent manner. Accordingly the work and the designation are reasonably necessary to achieve Auckland Transport's objectives.

8. Resource consents

The designation provides land use authority under the RMA for Auckland Transport to undertake the ongoing operation, maintenance and improvements of Auckland's public local road network, subject to the limitations set out above. Generally, therefore, no land use resource consents will be required to undertake the activities that will be authorised by the designation. However, from

time to time, resource consents will be obtained as necessary to undertake physical work on the public local road network where it involves:

- any scheduled archaeological or geological feature; or
- works requiring the removal of part or all of a Scheduled Notable Tree; or
- work within the site surrounds of any scheduled building, heritage property or places of special value.

These works will be in accordance with the requirements of the relevant section of the District Plan. It is also noted that as a result of rules in relevant Regional Plans, consents may be required for physical work on the public local road network.

9. No consultation has been undertaken in respect of this notice of requirement

The designation applies to the existing public road asset and will provide greater statutory backing to existing requirements for access by others to the road network. The designation will not authorise any transport related works, structures or activities that are not already part of the existing environment created by existing legislation or the rules of district plans in the region. As the road controlling authority and manager of the public local roads of the region, Auckland Transport has a good understanding of the potential effects on parties with an interest in the roads. In addition, the adverse effects of the designation on the environment and other parties are insignificant. Accordingly, Auckland Transport considers that there is no need to consult prior to public notification of this Notice.

10. Additional information required to be included in this Notice of Requirement by the District Plan, regional plan, or any regulations

Each section of the District Plan specifies information requirements. Collectively they require the following information to be provided in addition to the information required by Form 18:

- a. Sufficient drawings to adequately illustrate the proposal.
- b. Whether the proposed work is a public work in terms of the Act, or if the requirement is for a proposed project or work by a network utility operator, details of the Order in Council which empowers the applicant as a requiring authority in this case, including any specified terms and conditions.
- c. The degree to which the work complies with Part II of the Act.
- d. How the work impacts on any relevant provisions of national, coastal and regional policy statements and regional plans.
- e. The degree to which the work meets the objectives, policies, and rules of the Plan, including the relevant zoning, or conflicts with those of the surrounding or predominant zone.
- f. Details of current ownership of the subject land, the proposed land acquisition programme, and site clearance proposals.
- g. The proposed sequence and timing of implementation of the work or project clearly identifying any part of the work which may not be commenced for 5 years or more.
- h. Proposals for the use and maintenance of those parts of the land which will not be developed for 5 or more years, in particular, identification of those buildings and structures which could continue to be used and maintained in the meantime.
- i. Details of the effects the work or project will have on the environment, particularly on any natural or physical resource identified in this Plan as having special value or significance,

(including versatile land), on the character and amenity of the locality, and on the public infrastructure. In addition, a description of the forecasting methods used to assess longer term and cumulative effects on the environment shall be provided.

- j. Where hazardous substances may be used in the construction or operation of the work or project, the degree of risk to public health and safety arising from the storage, use, disposal or transportation of such substances shall be evaluated.
- k. If the site is already designated or subject to a heritage protection order, a statement as to what that designation or order is for, whether the previous designation has been fully put into effect and if not, the extent to which it has been put into effect, and the generated effects of the existing designation.

The above information is provided in either this Notice or the attached AEE to the extent that is relevant.

It is noted that Auckland Transport has inherited the existing designations in place in the Auckland District Plan – Isthmus, Central Area, North Shore and Rodney Sections.

Signed:



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Peter Clark, Corporate Manager Strategy and Planning
Auckland Transport

Date:

14 June 2012

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