

## UNITARY PLAN UPDATE REQUEST MEMORANDUM

**TO** Celia Davison, Manager, Central South Unit, Plans and Places

**FROM** Nicholas Lau, Principal Planner, Plans and Places


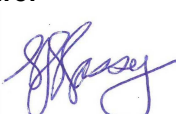


**DATE** 28 August 2020

**SUBJECT** **Consent Order for Environment Court appeal relating to the Auckland Unitary Plan Operative in part (15 November 2016)**  
 • ENV-2016-AKL-000-277



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

Reason for update – Consent order in relation to Environment Court appeal	
<b>Chapter</b>	Chapter K Designations and AUP GIS Viewer
<b>Section</b>	Chapter K – KiwiRail Holdings Ltd
<b>Designation only</b>	
<b>Designation #</b>	<b>6303 Avondale Southdown Railway Line</b>
<b>Locations:</b>	Avondale to Southdown Railway Line from Soljak Place, Mount Albert to Neilson Street, Te Papapa
<b>Lapse Date</b>	31 August 2029
<b>Purpose</b>	To develop, operate and maintain railways, railway lines, railway infrastructure, and railway premises as defined in the Railways Act 2005.
<b>Changes to text (shown in underline and strikethrough)</b>	N/A
<b>Changes to diagrams</b>	N/A
<b>Changes to spatial data</b>	Partially Remove Part of Deisgnation 6303 in accordance with the Consent Order issued by the Environment Court, detailed in Attachment 1.
<b>Attachments</b>	Attachment 1: Consent Order Attachment 2: Updated GIS Viewer

<b>Prepared by:</b> Nicholas Lau Principal Planner, Plans and Places	<b>Maps prepared by:</b> Shelley Glassey Geospatial Analyst
<b>Signature:</b> 	<b>Signature:</b> 
<b>Reviewed by:</b> Nicholas Lau Principal Planner, Plans and Places	<b>Signed off by:</b> Celia Davison Manager, Central South Unit, Plans and Places
<b>Signature:</b> 	<b>Signature:</b> 

## Attachment 1: Consent Order

**BEFORE THE ENVIRONMENT COURT**

IN THE MATTER of the Local Government (Auckland Transitional Provisions) Act 2010 and the Resource Management Act 1991

AND of an appeal under s 157(3) of the LGATPA against a decision in relation to Designation 6303

BETWEEN AUCKLAND TRANSPORT  
(ENV-2016-AKL-000277)

Appellant

AND KIWIRAIL HOLDINGS LIMITED

Respondent

Principal Environment Judge L J Newhook sitting alone under s 279 of the Act  
In Chambers at Auckland

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**CONSENT ORDER**

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[A] Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the appeal is allowed subject to Annexure A to this order; and
- (2) the appeal is otherwise dismissed.

[B] Under s 285 of the Resource Management Act 1991, there is no order as to costs.



## REASONS

### **Introduction**

[1] KiwiRail Holdings Limited made a decision on 30 September 2016 in relation to Designation 6303: Avondale Southdown Railway Line from Soljak Place, Mount Albert to Bond Place, Onehunga.

[2] This appeal was lodged by Auckland Transport on 29 November 2016 seeking, by way of primary relief, the inclusion of a condition on the Designation to ensure that the Designation does not affect Auckland Transport's ability to exercise its statutory functions and powers as a road controlling authority on Somerset Road.

[3] By way of alternative relief, Auckland Transport sought that the boundaries of the Designation be altered to exclude Somerset Road.

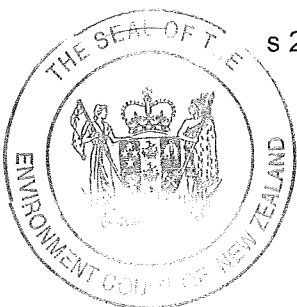
[4] The parties have reached an agreement that Somerset Road be removed from the designation.

[5] In making this order the Court has read and considered the consent memorandum of the parties dated 3 April 2017.

[6] Auckland Council gave notice of an intention to become a party to this appeal under s 274 of the Resource Management Act 1991 and has signed the memorandum of the parties setting out the relief sought.

[7] The Court is making this order under s 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order;



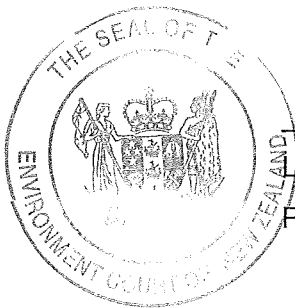
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

### Order

[8] Therefore, the Court orders, by consent that:

- (a) the alternative relief sought by Auckland Transport in paragraph 9(b) of its notice of appeal is granted, so that the boundaries of Designation 6303 are altered to exclude the area of legal road at Somerset Road, as shown on the map attached to this order as Annexure A.
- (b) the appeal by Auckland Transport against Designation 6303 is otherwise dismissed; and
- (c) costs lie where they fall.

DATED at Auckland this *7<sup>th</sup>* day of *April* 2017



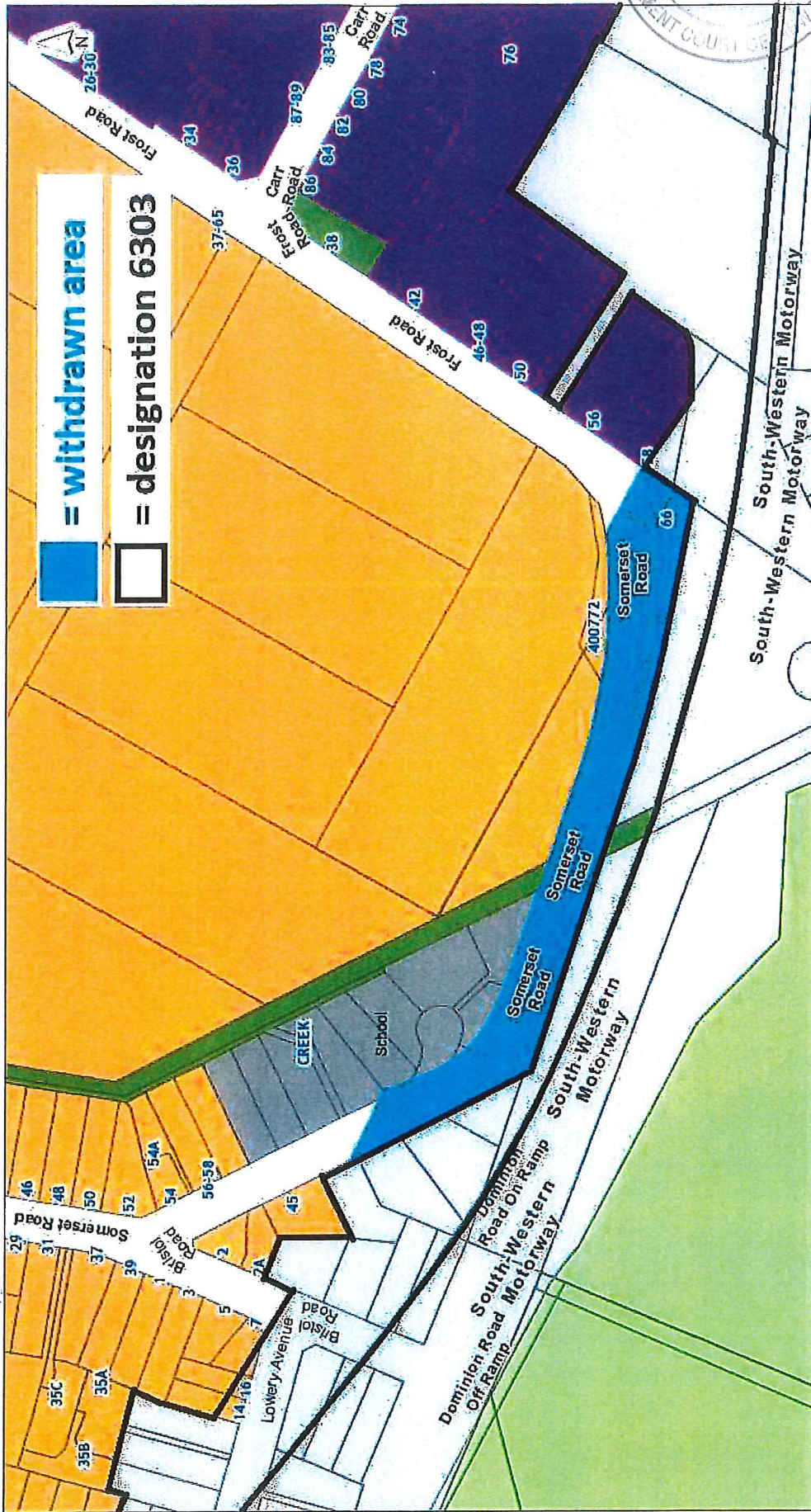
*J Newhook*  
\_\_\_\_\_  
J Newhook  
Principal Environment Judge



Map

Auckland Unitary Plan - Operative in part

Auckland Council



 = withdrawn area  
 = designation 6303

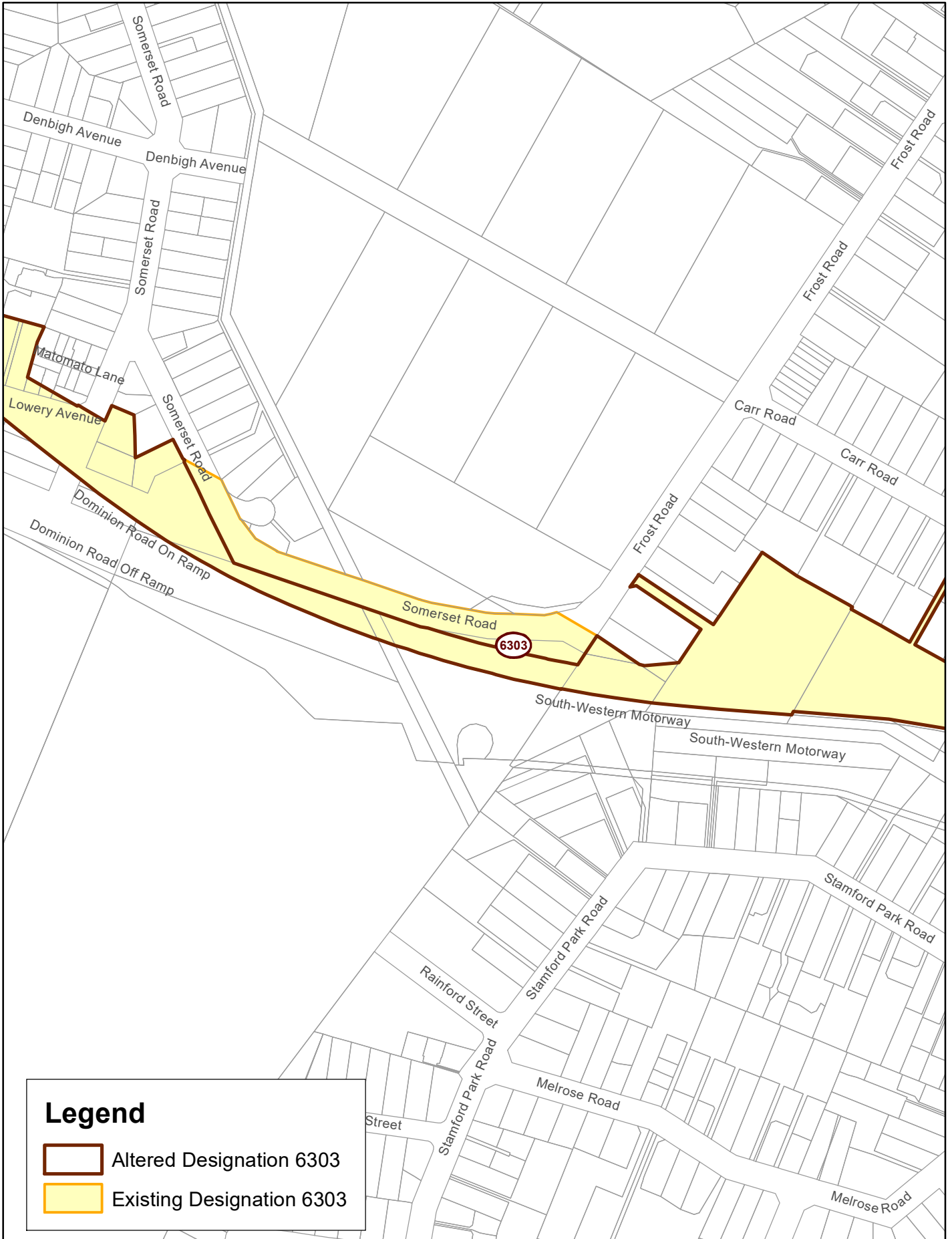


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 Date Printed:  
 30/03/2017



Zones and Rural Urban Boundary

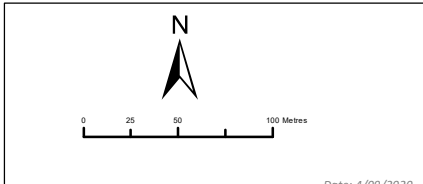
**DISCLAIMER:**  
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## Attachment 2: Updated GIS Viewer



**Legend**

-  Altered Designation 6303
-  Existing Designation 6303



**Alteration to Designation 6303  
Avondale Southdown Railway Line**

  
 Te Kaunihera o Tāmaki Makaurau  
*Plans and Places*