

## UNITARY PLAN UPDATE REQUEST MEMORANDUM

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

**FROM** Lisa Roberts, Senior Policy Planner, Central South Unit

**DATE** 28 January 2021

**SUBJECT** **Alteration and Partial Removal of Designation 6300, in accordance with s181(3) and s182 of the Resource Management Act the Auckland 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 – Alteration and partial removal of designation 6300</b>	
<b>Chapter</b>	Chapter K Designations AUP GIS Viewer
<b>Section</b>	Schedules and Designations - Kiwirail Holdings Ltd
<b>Designation only</b>	
<b>Designation 6300</b>	North Auckland Railway Line
<b>Locations:</b>	North Auckland Railway Line from Bell Avenue, Otahuhu to Ross Road, Topuni
<b>Lapse Date</b>	Given effect to (i.e. no lapse date)
<b>Purpose</b>	The purpose of the designation is 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>	Amend designation 6300 by: <ul style="list-style-type: none"> <li>- Adding parcel reference Section 3 SO 501351 to the designation</li> <li>- Removing parcel reference Lot 2 DP 507702 from the designation (note this is referred to as Section 2 SO 501351 in the attachment)</li> </ul>
<b>Attachments</b>	Attachment A: s181 & s182 Report  Attachment B: Updated GIS Viewer

<b>Prepared by:</b> Lisa Roberts Senior Policy Planner, Central South Unit	<b>Maps prepared by:</b> Aching Konyak Geospatial Specialist
<b>Signature:</b> 	<b>Signature:</b> 
<b>Reviewed by:</b> Lisa Roberts Senior Policy Planner, Central South Unit	<b>Signed off by:</b> Celia Davison Manager Planning, Central South Unit
<b>Signature:</b> 	<b>Signature:</b> 

## Attachment A: s181 & s182 Report

# Notice of requirement for a minor alteration to a designation under section 181(3) of the Resource Management Act 1991



## Notice of requirement description

Designation number:	Designation 6300 North Auckland Railway Line
Requiring authority:	KiwiRail Holdings Ltd.
Site address:	3094-3096 Great North Road, New Lynn

## Summary

Auckland Council has received a request from KiwiRail Holdings Limited (KiwiRail) under section 181(3) of the Resource Management Act 1991 (RMA), dated 16 October 2017, to alter Designation 6300- North Auckland Railway Line (**Attachment A**).

It is considered after undertaking an assessment of the notice, that the proposed alteration meets the statutory tests of section 181(3) of the RMA and can therefore be processed and confirmed as a minor alteration.

## Recommendation

1. That the proposed alteration of Designation 6300 North Auckland Railway Line in the Auckland Unitary Plan be confirmed for the following reasons:
  - there are only minor adjustments to the boundaries of the existing designation; and
  - written notice has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alternation; and
  - both the requiring authority and Auckland Council agree with the alteration.
2. That Designation 6300 North Auckland Railway Line is altered in the designation map layer in the Auckland Unitary Plan.

## 1. Background

### 1.1. Minor alteration to a designation

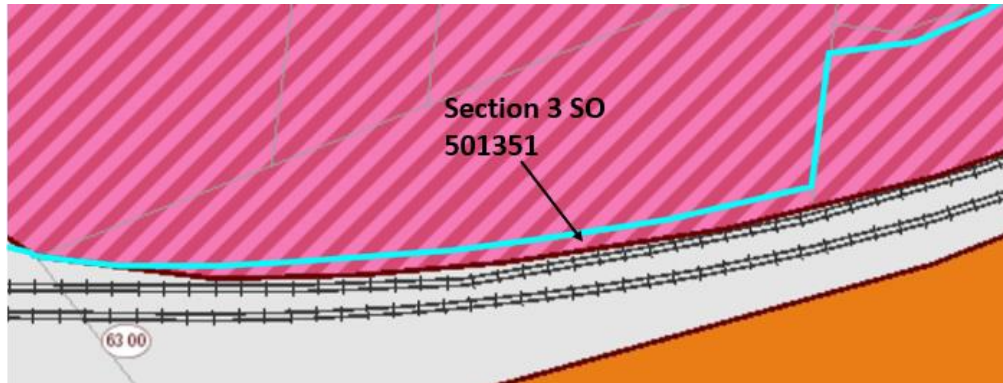
Auckland Council has received a notice of requirement (NoR) for an alteration to a Designation 6300 North Auckland Railway Line from KiwiRail Holdings Limited under section 181(3) of the RMA.

This alteration seeks to add a small area of land to Designation 6300. This land was acquired by KiwiRail through a land swap in 2017.

KiwiRail have also applied for a partial uplift of Designation 6300 on the land that it sold as part of this land swap. The partial uplift is considered in a separate report.

## 1.2. Land affected by the alteration

The land affected by the alteration to the designation is Section 3 SO 501351 and is a slither of land between the existing designation and the site to the north, 3094-3096 Great North Road. It is shown in the Auckland Unitary Plan maps as follows:



KiwiRail has provided site plans showing the extent of the alteration to the designation boundary (**Attachment B**).

## 1.3. Description of the site and existing environment

The land subject to the alteration is 207 m<sup>2</sup> and is adjacent to the existing rail corridor. It is a long narrow piece of land and does not contain any buildings.

Before the land swap, the land was part of the site at 3094-3096 Great North Road. This site is now owned by the Crown for educational purposes and is currently the subject of a proposed Notice of Requirement for a new school and early childhood education centre. The existing uses at this site include an outlet store, Mega Zone entertainment centre and parking. The parcel of land to be added to Designation 6300 currently contains a retaining wall and landscaped area. The existing car park on the site remains outside Designation 6300. Therefore no conflicts between the uses is expected.

## 1.4. Delegated authority

The Team Leader - Central and South Planning has delegated authority, in accordance with Schedule 2A of the Auckland Council Combined Chief Executives Delegation Register (updated September 2020), to exercise the council's functions, powers, duties and discretions under the Resource Management Act 1991 in relation to section 181(3).

The NoR can therefore be considered by the Team Leader – Central and South Planning and confirmed or declined under section 181(3)(c).

## 1.5. Relevant statutory provisions

Section 181 "Alteration of designation" of the Resource Management Act 1991 states:

*(1) A requiring authority that is responsible for a designation may at any time give notice to the territorial authority of its requirement to alter the designation.*

(2) *Subject to subsection (3), sections 168 to 179 and 198AA to 198AD shall, with all necessary modifications, apply to a requirement referred to in subsection (1) as if it were a requirement for a new designation.*

(3) *A territorial authority may at any time alter a designation in its district plan or a requirement in its proposed district plan if-*

*(a) The alteration-*

*(i) Involves no more than minor changes to the effects on the environment associated with the use or proposed use of land or any water concerned; or*

*(ii) Involves only minor changes or adjustments to the boundaries of the designation or requirement; and*

*(b) Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and*

*(c) Both the territorial authority and the requiring authority agree with the alteration –*

*and sections 168 to 179 and 198AA to 198AD shall not apply to any such alteration.*

*(4) This section shall apply, with all necessary modifications, to a requirement by a territorial authority to alter its own designation or requirement within its own district.*

## **2. Analysis of the proposed alteration**

The relevant matters to consider are contained in section 181(3) of the RMA as outlined above.

### **2.1. Assessment of Environmental effects (s181(3)(a)(i))**

**2.2.** This notice seeks an alteration under s181(3)(a)(ii), relating to a boundary change. An assessment of environmental effects has therefore not been provided as only s181(3)(a)(i) or s181(3)(a)(i) (ii) must be met.

### **2.3. Assessment of minor changes or adjustments to the boundary (s181(3)(a)(ii))**

The alteration to the designation involves changes to the boundary of the existing designation. It extends the existing boundary of the designation to align with the land that is now in Kiwirail's ownership. The notice does not involve any proposed changes to the purpose or conditions of the designation at this location.

The boundary change is considered minor because it is a very narrow slither of land of only 207m<sup>2</sup>. It is approximately 96metres in length and is 2.83m wide at its widest point. It represents a very small area of land in relation to the whole designation, which is 439 hectares in total.

It is also considered minor because there is also a proposed partial removal of 207m<sup>2</sup> of land from the designation. Overall, there will be no change to the total amount of land subject to the designation.

## **2.4. Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners and occupiers agree with the alteration (s181(3)(b))**

KiwiRail owns this land and there are no other occupiers or landowners affected. KiwiRail is the applicant and therefore agrees to this change. Therefore, all owners and occupiers of land affected agree with the notice, as required under section 181(3)(b).

However, because this alteration relates to a land swap, there is also an associated s182 notice to uplift the designation from the site that KiwiRail sold. At the time of providing the notice to council, KiwiRail also notified the (then) owner of that land, as required under s182(1)(b). This is considered in a separate report.

## **2.5. Agreement of both the territorial authority and the requiring authority (181(3)(c))**

The alteration to the designation has been requested by KiwiRail as the requiring authority, and therefore it agrees to the alteration.

Auckland Council agrees with the proposed alteration for the following reasons:

- The alteration involves only minor changes to the boundary
- All owners and/or occupiers of the land agree with the alteration.

## **3. CONCLUSIONS AND RECOMMENDATIONS**

### **3.1. Conclusions**

The proposed alteration meets the statutory tests of Section 181(3) of the Resource Management Act 1991, in that:

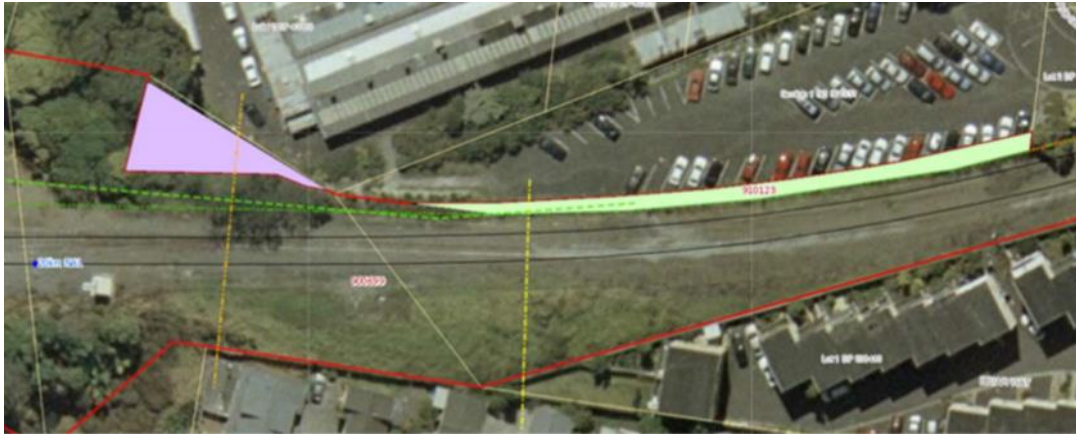
- There is only a minor change or adjustment to the boundaries of the existing designation.
- All owners or occupiers agree with the alteration.
- The council and the requiring authority agree with the alteration.

### **3.2 Recommendation**

1. That pursuant to Section 181(3) of the Resource Management Act 1991, KiwiRail Holdings Limited's notice of requirement for an alteration to Designation 6300 North Auckland Railway Line is **confirmed**.
2. That Designation 6300 is amended in the Designation overlay in the Auckland Unitary Plan Operative in part as recommended in Section 4 of this report.

## **4. Agreed alterations**

The boundary alterations are shown in detail in Attachment B. The recommendations in this report relate to the boundary change shown in green on the map below. The area that is shown in purple is subject to a notice for partial uplift under s182 and is addressed in a separate report.



**Report Prepared by:**  
Lisa Roberts, Senior Policy Planner

**Date:**  
26 November 2020

## 5. SECTION 181(3) DETERMINATION

Having read the council planner's report and recommendations on the notice of requirement, I am satisfied I have adequate information to consider the matters required by the Resource Management Act 1991 (the RMA) and to make a decision under delegated authority.

Accordingly, the notice of requirement for an alteration to Designation 6300 North Auckland Rail Line is confirmed under section 181(3) of the RMA as agreed and set out in section 4 of this report.

Name: Fiona Sprott

Title: Team Leader – Central/South Planning Unit

Signed:

Date: 27 November 2020

## SCHEDULE OF ATTACHMENTS

- Attachment A** Notice of Alteration to KiwiRail Designation 6300 (North Auckland Line) from Auckland Unitary Plan, Operative in Part
- Attachment B** Requirement Plans showing Part Removal and Alteration of KiwiRail Designation 6300 (North Auckland Line) from Auckland Unitary Plan, Operative in Part



**Resource Management Regulations 2003  
Schedule 1, Form 19**

**Notice of Alteration to KiwiRail Designation 6300 (North Auckland Line) from  
Auckland Unitary Plan, Operative in Part**


**Section 181 of the Resource Management Act 1991**

To: Auckland City Council

KiwiRail Holdings Limited (KiwiRail) gives notice that it wishes to alter designation: 6300 North Auckland Line to include a 207m<sup>2</sup> sliver of land comprising part of the former Cambridge factory site at 3096 Great North Road, New Lynn.

The part of the Designation affected by this Notice is shown on the enclosed Requirement Plan. Following a land swap, this area is now owned by KiwiRail. The area is shown on the attached Requirement Plans and is described as: Section 3 SO501351 and comprises 0.0207ha.

KiwiRail requests Auckland City Council to amend the Designation 6300 North Auckland Line as required by Section 181 of the Resource Management Act 1991 by including Section 3 SO501351 within designation: 6300 North Auckland Line.



Stephanie Campbell  
Manager, Property Strategy and Investment  
On behalf of KiwiRail Holdings Limited

Dated: 16 October 2017

Address for service:

Telephone: (04)4982127

Fax/email: Pamela.Butler@kiwirail.co.nz

Contact person: Pam Butler, Senior Resource Management Act Advisor



**Resource Management Regulations 2003  
Schedule 1, Form 23**

**Notice of Part Removal of KiwiRail Designation 6300 (North Auckland Line)  
from Auckland Unitary Plan, Operative in Part**

**Section 182 of the Resource Management Act 1991**

To: Auckland City Council

And

To: Top Edge Property Development Limited, Level 26, PWC Tower, 188 Quay Street,  
Auckland Central, Auckland, 1010, New Zealand

KiwiRail Holdings Limited (KiwiRail) gives notice that it requires part of the following designation: 6300 North Auckland Line for railway purposes to be removed from 207m<sup>2</sup> of land comprising the former Cambridge factory site, 3096 Great North Road, New Lynn.

The part of the Designation affected by this Notice is shown on the enclosed Requirement Plan. This Notice refers to the area of land described as:

- Section 2 SO 501361 being 0.0207 hectares

Removal of the designation is required as, following a land swap, this area is no longer in KiwiRail's ownership.

Written notice has been given to the owners of the land from which the designation is to be removed.

KiwiRail requests Auckland City Council to amend the Designation 6300 North Auckland Line as required by Section 182 of the Resource Management Act 1991.



Stephanie Campbell  
Manager, Property Strategy and Investment  
On behalf of KiwiRail Holdings Limited

Dated: 16 October 2017

Address for service:

Telephone: (04)4982127

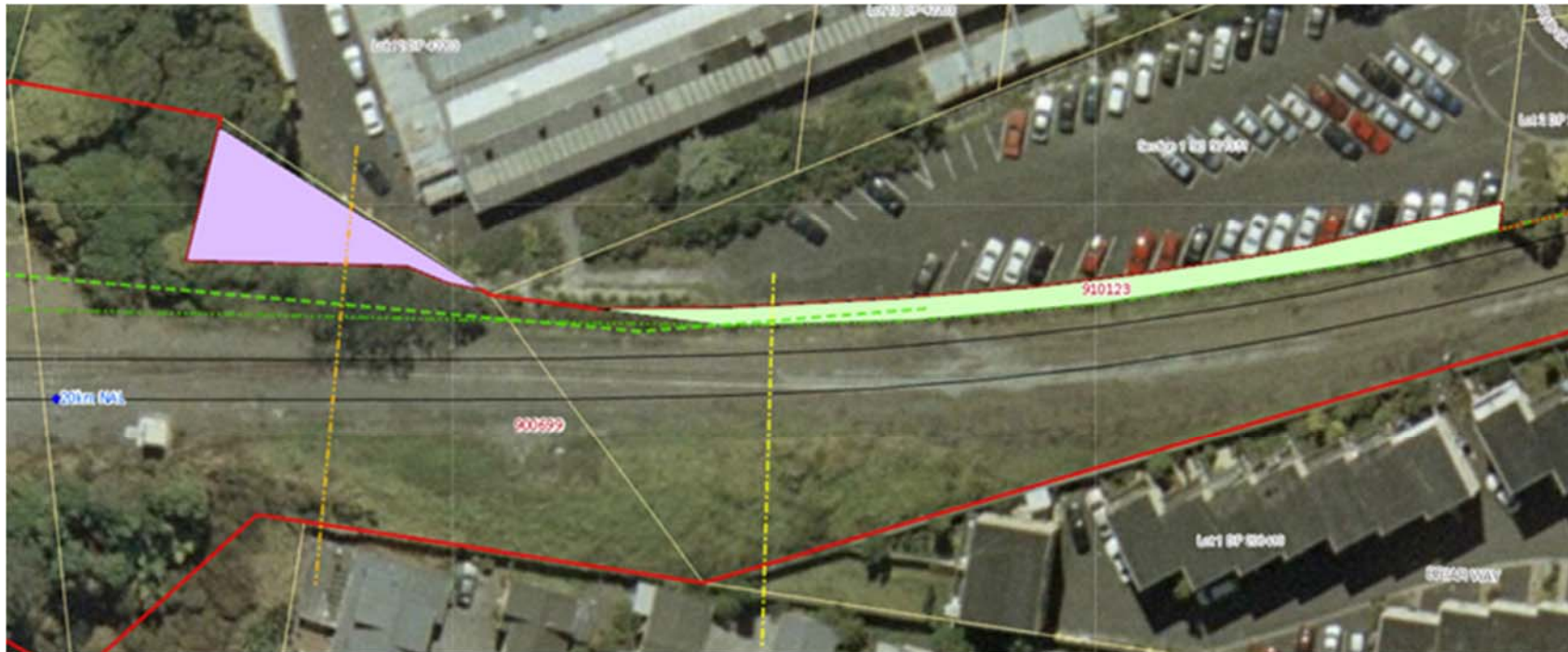
Fax/email: Pamela.Butler@kiwirail.co.nz

Contact person: Pam Butler, Senior Resource Management Act Advisor

**Section 181 and Section 182 of the Resource Management Act 1991**  
**Requirement Plans showing Part Removal and Alteration of**  
**KiwiRail Designation 6300 (North Auckland Line) from Auckland Unitary Plan, Operative in Part**

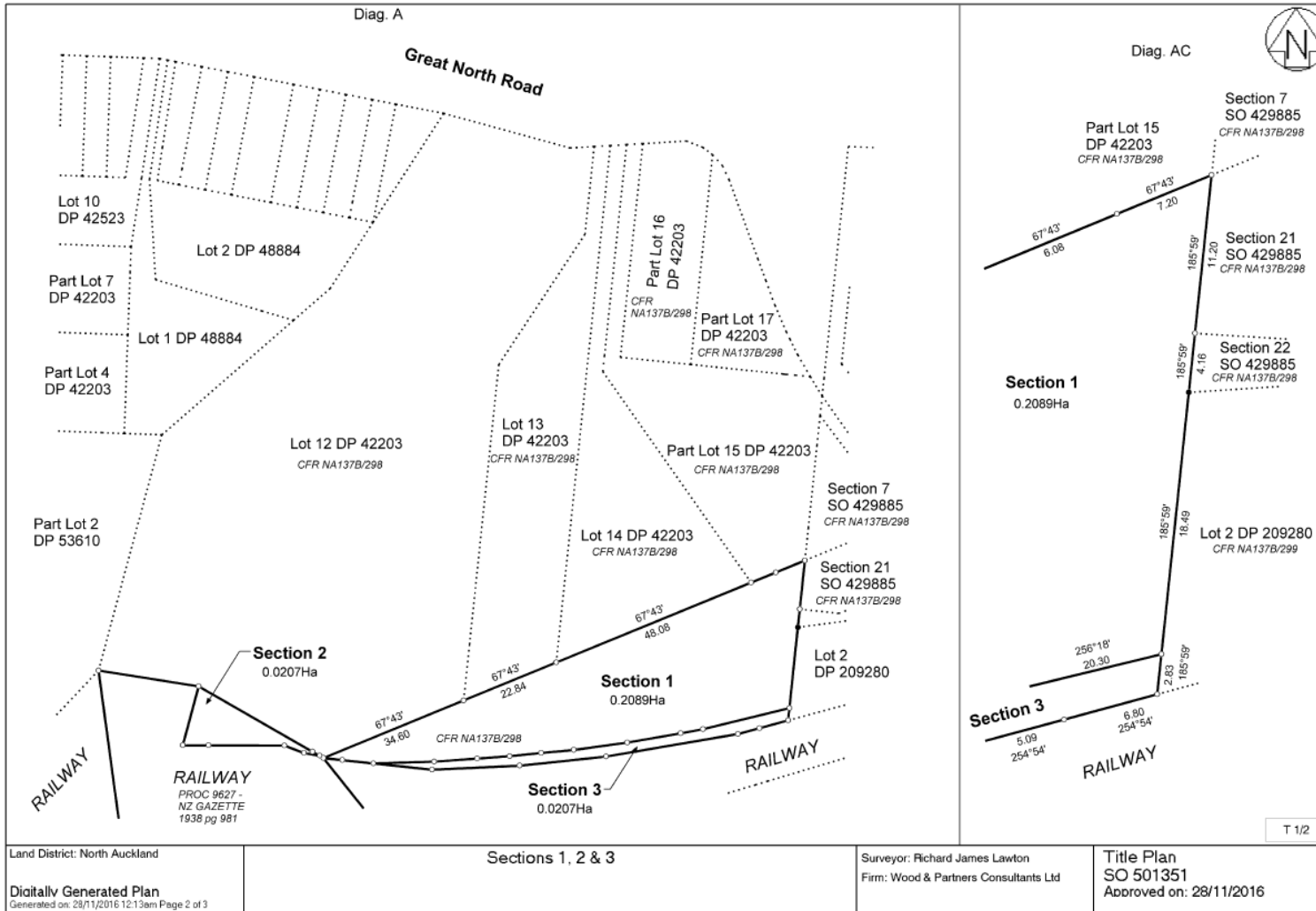
Plan 1 Aerial Plan showing areas where s181 and s182 action is required:

- area in pink to be removed from Designation 6300
- area in yellow to be added to Designation 6300



Plan 2 Title Plans

- Designation to be uplifted under from Section 2 0.0207Ha
- Designation to be altered to include Section 3 0.0207Ha



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



**To:** Fiona Sprott, Team Leader- Central/South Planing Unit

**From:** Lisa Roberts, Senior Policy Planner- Central/South Planing Unit

**Date:** 27 November 2020

**Subject:** Partial removal - Designation 6300 North Auckland Railway Line in the Auckland Unitary Plan

## Summary

Auckland Council has received a request from KiwiRail Holdings Limited (Kiwirail) under section 182 of the Resource Management Act 1991 (RMA), dated 16 October 2017, to remove in part Designation Designation 6300- North Auckland Railway Line.

A section 182 request is required to remove the existing designation in part from land which is no longer owned by KiwiRail or required as part of the designation.

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 KiwiRail Holdings for the partial removal of Designation 6300 North Auckland Railway Line in the Auckland Unitary Plan be **accepted** because the requiring authority no longer owns the land and is it surplus to requirements for the remaining designation.
2. That Designation 6300 North Auckland Railway Line be partially removed, as soon as reasonably practicable, in the Designation overlay in the Auckland Unitary Plan.

## 1. Description

### 1.1. References

<b>Designation number:</b>	6300 North Auckland Railway Line
<b>Lodgement date:</b>	16 October 2017 ( <b>Attachment A</b> )

<b>Requiring authority:</b>	KiwiRail Holdings Limited
<b>Reporting officer:</b>	Lisa Roberts, Senior Policy Planner, Central/South Planning Unit
<b>Site address:</b>	3094-3096 Great North Road, New Lynn
<b>UP Zoning:</b>	Strategic Transport Corridor Zone

## 2.0 Background

### 2.1 Partial removal of a designation

Auckland Council has received a Notice of Part Removal of Designation 6300 North Auckland Railway Line from KiwiRail Holdings Limited under section 182 of the RMA (**Attachment A**).

This alteration seeks to remove a small area of land from Designation 6300. This land was sold by KiwiRail through a land swap in 2017.

KiwiRail have also applied for a minor alteration to add the land that it acquired as part of this land swap to Designation 6300. This is considered in a separate report.

### 2.2 Details of the designation

Designation 6300 North Auckland Railway Line extends from Bell Avenue, Otahuhu to Toss Road, Topuni. It was 'rolled over' into the Auckland Unitary Plan (AUP) from legacy Auckland City, Waitakere City and Rodney District Council District Plans. It has the following purpose:

*The purpose of the designation is to develop, operate and maintain railways, railway lines, railway infrastructure, and railway premises as defined in the Railways Act 2005.*

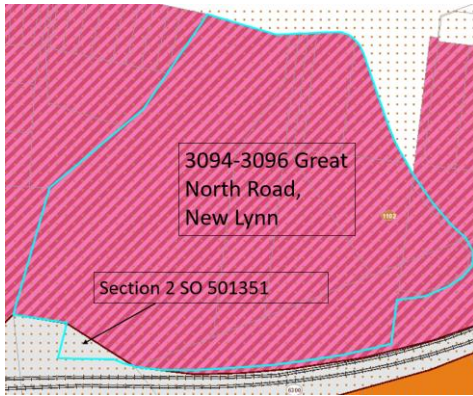
### 2.3 Land affected by removal

The notice for the partial removal relates to land referred to in the notice and plans as Section 2 SO 501351. This land now has a legal description of Lot 2 DP 507702 and is 207 m<sup>2</sup>

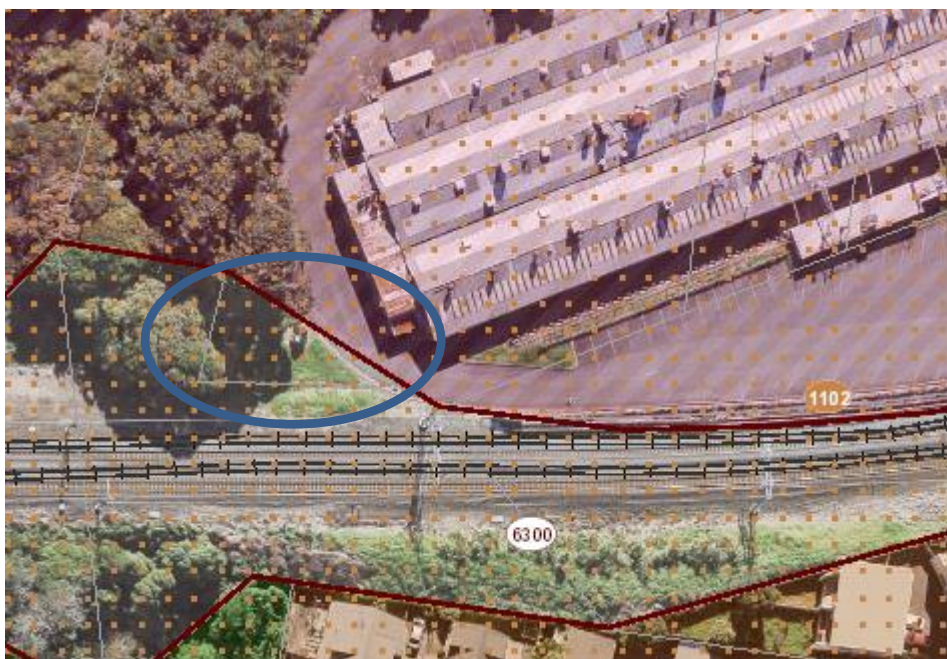
Lot 2 DP 507702 is owned by the Crown for educational purposes and is currently the subject of a proposed Notice of Requirement for a new school and early childhood education centre. It was sold by KiwiRail as part of a land swap between KiwiRail and the former owners of 3094-3096 Great North Road. The land that KiwiRail acquired as part of this land swap is considered in a separate report relating to a notice of alteration under s181(3).

KiwiRail Holdings Limited has provided a site plan showing the extent of the designation which is to be partially removed (refer to **Attachment B**). This area of the designation is currently shown in the AUP maps as follows:





As shown in the map below, the land is planted and sits outside of the main area of the railway line:



## 2.4 Delegated authority to consider alterations to designations

The Team Leader - Central/South Planning (Plans and Places Tier 5) has delegated authority, in accordance with Schedule 2A of the Auckland Council Combined Chief Executives Delegation Register (updated September 2020), to exercise the Council's functions, powers, duties and discretions under the Resource Management Act 1991 in relation to Section 182 to approve a removal of a designation.

The section 182 request to remove the designation can therefore be considered by the Team Leader –Central/South Planning (Plans and Places Tier 5) and accepted or declined.

## 2.5 Relevant Statutory Provisions

Section 182 'Removal of designation' of the RMA states:

*(1) If a requiring authority no longer wants a designation or part of a designation, it shall give notice in the prescribed form to—*

*(a) the territorial authority concerned; and*

*(b) every person who is known by the requiring authority to be the owner or occupier of any land to which the designation relates; and*

*(c) every other person who, in the opinion of the requiring authority, is likely to be affected by the designation.*

*(2) As soon as reasonably practicable after receiving a notice under subsection (1), the territorial authority shall, without using the process in [Schedule 1](#), amend its district plan accordingly.*

*(3) The provisions of [Schedule 1](#) shall not apply to any removal of a designation or part of a designation under this section.*

*(4) This section shall apply, with all necessary modifications, to a notice by a territorial authority to withdraw its own designation or part of a designation within its own district.*

*(5) Notwithstanding subsections (2) to (4), where a territorial authority considers 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 the notice under subsection (1), decline to remove that part of the designation.*

*(6) A requiring authority may object, under [section 357](#), to any decision to decline removal of part of a designation under subsection (5).*

### **3.0 Analysis of the proposed partial removal of Designation 6300**

3.1 KiwiRail served notice on Auckland Council and the owner of the land at the time of the notice of removal in accordance with s182(1)(a) and (b) (**Attachment A**). The land is now owned by the Crown for education purposes and the Ministry of Education is also aware of this s182 notice under s182(1)(b) and (c), as discussed at page 4 of their recent NoR application at:

<https://www.aucklandcouncil.govt.nz/UnitaryPlanDocuments/new-lynn-primary-school-ae.pdf>

3.3 As shown in the aerial map in section 2.3 of this report, the land is part of the vegetated area near the Manawa Stream and is located away from the current activities on the site. There are no other parties, including current occupiers of the site, who are considered to be affected by the partial removal. The notice is therefore considered to meet s182(1).

3.4 Under s182(5), I consider that the proposed partial removal of the designation will not have more than minor effects on the remaining designation. The area of removal, 207m<sup>2</sup> in size, is considered very minor in terms of the whole designation, which is 439 hectares. The area to be uplifted lies outside the rail corridor and away from the tracks. It is vegetated in grass and trees and is not considered part of the operational area for rail purposes. The area is fenced off from the remainder of the rail corridor. KiwiRail have not indicated that there will be any effects on the remaining designation and the ability to achieve its purpose. Based on this, the notice is considered to meet s182(5).




#### 4.0 Recommendation

That pursuant to Section 182 of the Resource Management Act 1991 that the partial removal of Designation 6300 North Auckland Railway Line be **accepted** and the Auckland Unitary Plan Operative in part designation overlay be amended accordingly.

**Prepared by:** Lisa Roberts  
Senior Policy Planner  
Central/South Planning

**Accepted by:** Fiona Sprott  
Team Leader  
Central/South Planning

**Signature:** 

**Signature:** 

Date: 27 November 2020

#### **SCHEDULE OF ATTACHMENTS:**

- Attachment A** s182 Notice of Removal of part of KiwiRail Designation 6300 (North Auckland Line) from Auckland Unitary Plan, Operative in Part
- Attachment B** Requirement plans showing Part Removal and Alteration of KiwiRail Designation 6300 (North Auckland Line) from Auckland Unitary Plan, Operative in Part

**Resource Management Regulations 2003  
Schedule 1, Form 23**

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Written notice has been given to the owners of the land from which the designation is to be removed.

KiwiRail requests Auckland City Council to amend the Designation 6300 North Auckland Line as required by Section 182 of the Resource Management Act 1991.



Stephanie Campbell  
Manager, Property Strategy and Investment  
On behalf of KiwiRail Holdings Limited

Dated: 16 October 2017

Address for service:

Telephone: (04)4982127

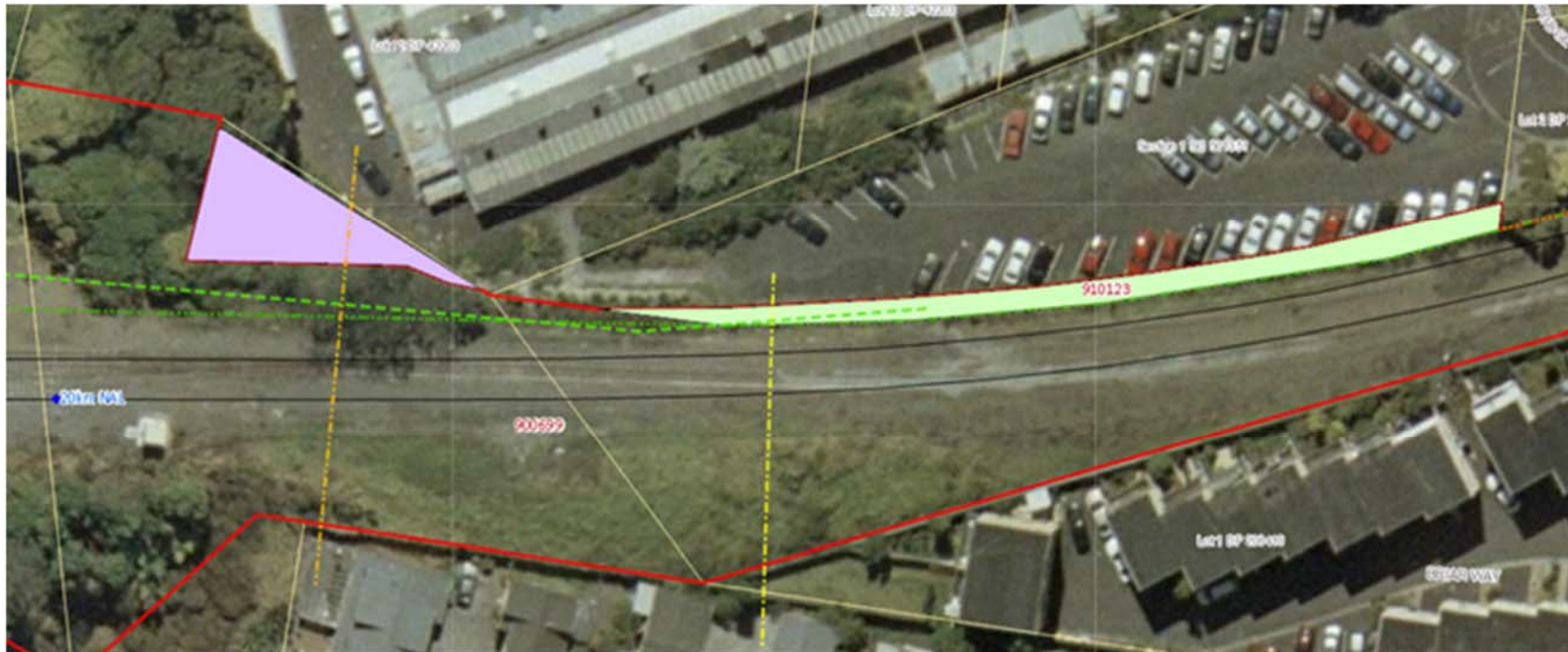
Fax/email: Pamela.Butler@kiwirail.co.nz

Contact person: Pam Butler, Senior Resource Management Act Advisor

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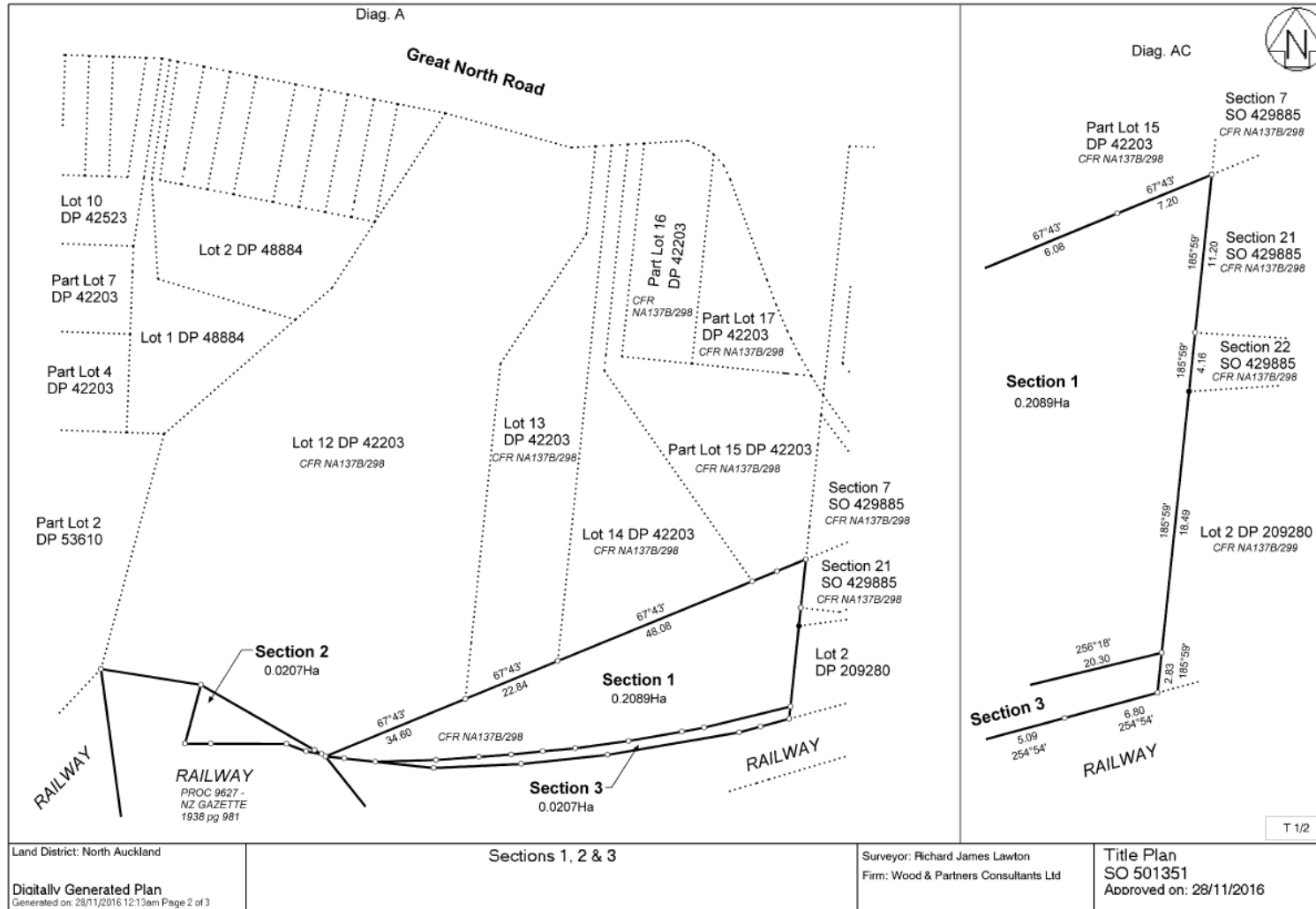
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Plan 2 Title Plans

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- Designation to be altered to include Section 3 0.0207Ha

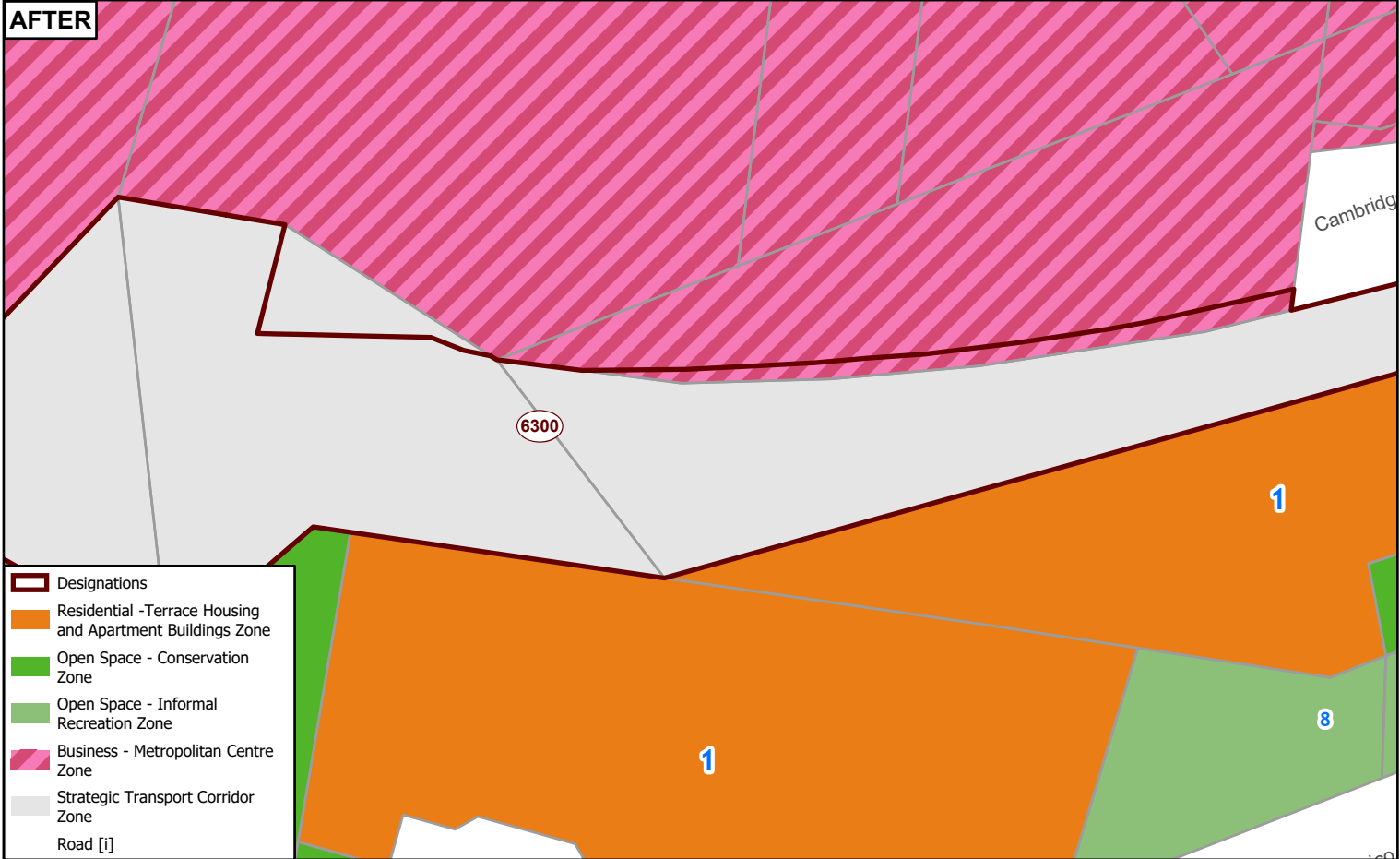


## Attachment B: Updated GIS Viewer

**BEFORE**



**AFTER**



**Alteration to Designation 6300**

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: 9/02/2021



Plans and Places