

BEFORE THE ENVIRONMENT COURT

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

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

BETWEEN AUCKLAND COUNCIL
ENV-2016-AKL-000276
Appellant

AND KIWIRAIL HOLDINGS LIMITED
Respondent

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

CONSENT ORDER

[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 the amendments set out in this order;
- (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 Council on 29 November 2016 seeking, by way of primary relief, the inclusion of the following condition, or a condition to similar effect, requiring the following matters to be submitted as part of the outline plan of works:
- Detailed arrangements to ensure that vehicle access along New North Road, Richardson Road, May Road, Dominion Road, Hayr Road, Hillsborough Road, Queenstown Road, Pleasant Street, Symonds Street, Forbes Street, Norman Hill Road, Quadrant Road, Hill Street, Selwyn Street, Onehunga Mall, Galway Street, Spring Street, Victoria Street and Alfred Street will be maintained when construction is completed. This should include arrangements, such as grade separation, to ensure safety wherever the line crosses any public street.
- [3] KiwiRail has been in discussions with Auckland Council regarding its appeal and has agreed to grant the relief sought in Auckland Council's notice of appeal, namely by replacing condition 3 of the Designation.
- [4] In making this order the Court has read and considered the Auckland Council's notice of appeal and the joint memorandum of counsel dated 28 March 2017.
- [5] No person gave notice of an interest in this appeal under s 274 of the RMA.
- [6] The Court is making this order under s 279(1)(b) of the RMA, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297 of the RMA. The Court understands for present purposes that:
- (a) all parties to the proceeding have executed the memorandum requesting the order; and



- (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 RMA, including in particular Part 2.

Order

[7] Therefore, the Court orders, by consent of the parties that:

- (a) The appeal is dismissed.
- (b) The relief sought by Auckland Council is granted so that Condition 3 on Designation 6303: Avondale Southdown Railway Line from Soljak Place, Mount Albert to Bond Place, Onehunga reads:

Details submitted as part of the outline plan of works shall include detailed arrangements to ensure that vehicle access along New North Road, Richardson Road, May Road, Dominion Road, Hayr Road, Hillsborough Road, Queenstown Road, Pleasant Street, Symonds Street, Forbes Street, Norman Hill Road, Quadrant Road, Hill Street, Selwyn Street, Onehunga Mall, Galway Street, Spring Street, Victoria Street and Alfred Street will be maintained when construction is completed. This should include arrangements, such as grade separation, to ensure safety wherever the line crosses any public street.

- (c) That costs lie where they fall.

DATED at Auckland this

3rd

day of

April

2017



J Newhook

J Newhook
Principal Environment Judge