

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

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 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.

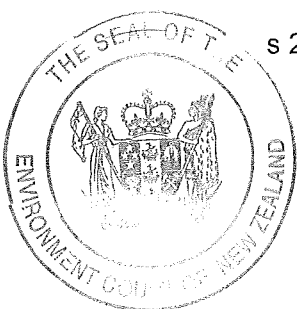
[4] The parties have reached an agreement that Somerset Road be removed from the designation.

[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;



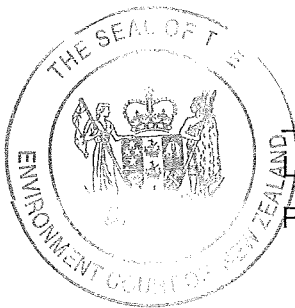
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

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 *7th* day of *April* 2017



J Newhook

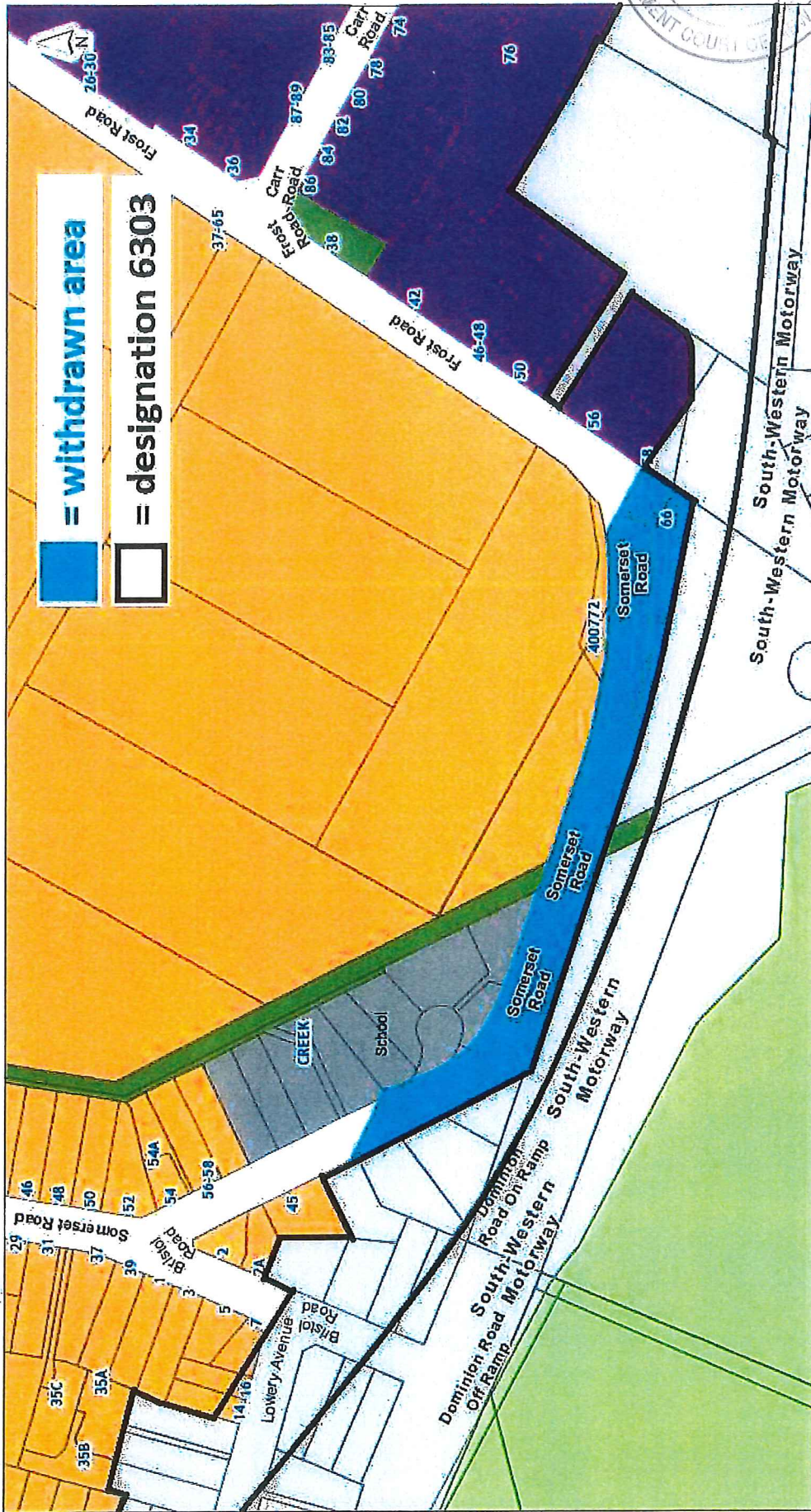
J Newhook
Principal Environment Judge



Map

Auckland Unitary Plan - Operative in part

Auckland Council



■ = withdrawn area
▬ = designation 6303



Scale @ A4
 = 1:2,500
 Date Printed:
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Zones and Rural Urban Boundary

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