

UNITARY PLAN UPDATE REQUEST MEMORANDUM

TO Celia Davison- Manager, Central and South Planning, Plans and Places

FROM Stuti Kumar- Policy Planner, Central and South Planning, Plans and Places




DATE 15/12/21

SUBJECT Partial removal of designation in accordance with s182 of the Resource Management Act, in the Auckland Unitary Plan (AUP) Operative in part (15 November 2016)



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

Reason for update – Designation to be removed in part	
Chapter	AUP(OIP) GIS Viewer
Section	AUP(OIP) GIS Viewer
Designation only	
Designation # 6300	North Auckland Railway Line
Locations:	101 Mount Eden Road, Mount Eden, Auckland.
Lapse Date	Given effect to (i.e. no lapse date)
Purpose	The purpose of Designation 6300 is to develop, operate and maintain railways, railway lines, railway infrastructure, and railway premises as defined in the Railways Act 2005.
Changes to text (shown in underline and strikethrough)	No changes to text
Changes to diagrams	No changes to diagrams
Changes to spatial data	Remove Designation 6300 from 101 Mount Eden Road, Mount Eden
Attachments	Attachment 1- Section 182 Report Attachment 2 – Images from site visit Attachment 3 – Updated GIS viewer

Prepared by: Stuti Kumar – Policy Planner, Central and South Planning, Plans and Places	Text Entered by: N/A Planning Technician
Signature: 	Signature: N/A
Maps prepared by: Aching Konyak Geospatial Specialist	Reviewed by: Fiona Sprott Team Leader Central and South Planning, Plans and Places
Signature: 	Signature: 

Signed off by:

Celia Davison

Manager

Central and South Planning, Plans and Places

Signature:

C. @. Davison

Attachment 1- Section 182 Report

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



To: Fiona Sprott – Team Leader, Planning Central/South

From: Stuti Kumar – Planning Intern, Planning Central/South

Date: 17 January 2022

Subject: Partial removal of Kiwirail Designation 6300 (North Auckland Railway Line): 101 Mount Eden Road, Mount Eden, Auckland 1024 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 December 3rd, 2021, to remove, in part, Designation 6300 (North Auckland Railway Line).

A section 182(1) request is required to uplift the existing designation in part from land which has been deemed surplus by KiwiRail.

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 Limited for the partial removal of Designation 6300 North Auckland Line in the Auckland Unitary Plan be **accepted** for the following reasons:
 - The land subject to the partial removal is no longer required in connection with a rail work, or to give effect to the designation.
 - The effects of the partial removal of the designation on the remaining designation are no more than minor.
2. That Designation 6300 North Auckland Line be partially removed, as soon as reasonably practicable, in the Designation overlay in the Auckland Unitary Plan (Operative in Part).

1. Description

1.1. References

Designation Number:	6300 (North Auckland Railway Line)
Lodgement date:	December 3 rd , 2021
Requiring authority:	KiwiRail Holdings Limited
Reporting officer:	Stuti Kumar
Site address:	101 Mount Eden Road, Mount Eden, Auckland, 1024 Legal description: NA98A/683 Lot 1 DP162760
UP Zoning:	Business – Mixed Use Zone

2.0 Background

2.1 Details of designation

The purpose of Designation 6300 is to develop, operate and maintain railways, railway lines, railway infrastructure, and railway premises as defined in the Railways Act 2005. On 10th November, 2016, the Independent Hearing Panel gave approval to KiwiRail to lodge a late submission to the Unitary Plan that sought the rollover of parts of the existing designations that had not been included in KiwiRail's original request for rollover of existing designations. The submission sought the reinstatement of the KiwiRail designation for seven sites which included extending designation 6300 to a part of 101 Mt Eden Road, Mt Eden.

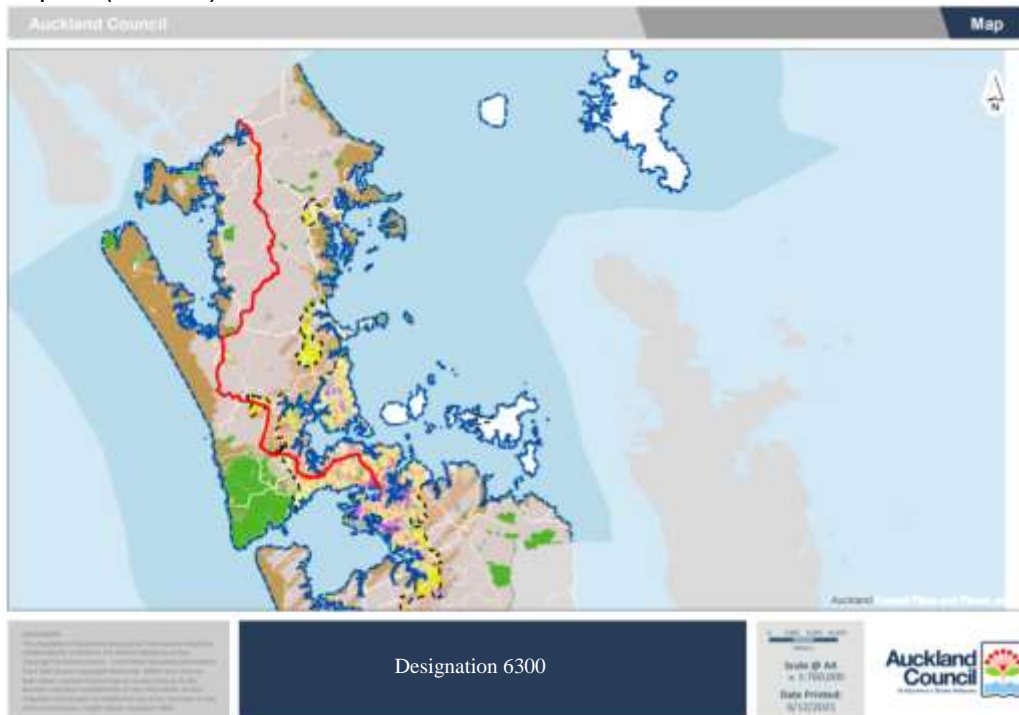
Designation 6300 at 101 Mt Eden applies to 127m² of land within the property. The designated land was used as an accessway by KiwiRail for City Rail Link (CRL) integration works at Mt Eden Station. CRL used the designated area indirectly, as it provided temporary access while KiwiRail's enabling works were underway at the station.

KiwiRail has determined that this part of the designation is no longer required in connection with rail work, and that the subject site is surplus for its requirements. CRL has no permanent need of the land; in addition, KiwiRail enabling works are also complete. Furthermore, the current owner (Mt Eden 101 Limited) has requested that the designation be uplifted from the site.

There are no other designations that cover the subject site, however, Designation 2500-6 covers area immediately adjacent to the subject site.

2.2 Land affected by removal

The designation 6300 (North Auckland Railway Line) is currently shown in the Auckland Unitary Plan (Operative in Part) map as extending from Bell Avenue, Otahuhu to Ross Road, Topuni (red line) – see below:



KiwiRail Holdings Limited has provided a site plan showing the extent of the designation (outlined in red), and the part which is to be removed (outlined in blue) – see below.



101 Mount Eden Road, Mount Eden

This site is zoned Business – Mixed Use. This zone is typically located around centres and corridors served by public transport. It acts as a transition area, in terms of scale and activity, between residential areas and the Business – City Centre Zone, Business – Metropolitan Centre Zone and Business – Town Centre Zone. It also applies to areas where there is a need for a compatible mix of residential and employment activities.

One of the objectives for this zone is to create a strong network of centres which are reinforced as focal points for the community. Public transport connection and integration provides an essential basis for regeneration and intensification initiatives in this zone.

Designation 6300 was appropriate for the site because it was adjoined to the existing designated area and was needed to be used as an accessway by KiwiRail for City Rail Link (CRL) integration works at Mt Eden Station. CRL used the designated area as it provided temporary access while KiwiRail's construction works were underway at the station. The enabling works in the Mt Eden Station area involved the construction of the twin rail lines to tie-in to the existing North Auckland Rail Line (NAL) and the redevelopment of Mt Eden Station building and platforms.

The combination of the zone and the designation ensured that public transport could be prioritized and the CRL would be able to use the subject site as an accessway to the adjoining site which has CRL Designation 2500-6. This is a surface designation for the construction, operation and maintenance of the CRL – including the rail tunnels and connections required to join the CRL to the North Auckland Railway Line (NAL).

The enabling works are now complete and Kiwirail and CRL have confirmed that they do not require the temporary accessway for railwork.

Other Designations

There are no other designations covering the subject site.

CRL Designation 2500-6 covering the land adjacent to the site will not be affected by the partial removal of Designation 6300 as the KiwiRail integration works are now complete.

Overlays

101 Mount Eden Road, Mount Eden is subject to the following overlays and the partial removal of the designation will imply that these overlay rules will now apply-

1. Natural Resources: The Quality-Sensitive Aquifer Management Areas Overlay (Auckland Isthmus Volcanic and Western Springs Volcanic Aquifers) apply to the subject site.
2. The regionally significant Volcanic Viewshafts and Height Sensitive Areas Overlay (Viewshaft E10 Mount Eden, E16 Mount Eden and E20 Mount Eden) cover the site.

Partial removal of Designation 6300 will not have an affect on these overlays.

2.3 Delegated authority to consider alterations to designations

The Team Leader - Planning Central/South (Plans and Places Tier 5) has delegated authority, in accordance with Schedule 2A of the Auckland Council Delegations: Chief Executive Officer (updated February 2021), 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 – Planning Central/South (Plans and Places Tier 5) and accepted or declined.

2.4 Relevant Statutory Provisions

Section 182 of the RMA allows a requiring authority to remove a designation or part of a designation if it no longer wants it. This section also applies to a notice by a territorial authority, to withdraw its own designation or part of a designation within its own district.

Section 182(2) states that as soon as reasonably practicable the territorial authority shall, without using the process in Schedule 1, amend its district plan accordingly. If the territorial authority considers that 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 a section 182 notice, decline to remove that part of the designation.

It is considered that KiwiRail Holdings Limited has provided sufficient justification for the partial removal of Designation 6300 (North Auckland Line) for the following reasons:

- The designated land was used as an accessway by KiwiRail for CRL integration works at Mt Eden Station. As the enabling works are now complete, the land is surplus to the requirements of the designation.
- The current owner (Mt Eden 101 Limited) has requested that the designation be uplifted from the site for redevelopment purposes.
- The remaining area of Designation 6300 will be able to fulfil its original purpose without requiring the strip of land at 101 Mt Eden Road to be covered by the designation. The partial uplift will have no more than a minor impact on the remaining designation.
- CRL and KiwiRail access requirements will be fulfilled by other sections of Mt Eden Road.
- No other changes are proposed to the existing Designation 6300

2.5 Assessment

The partial uplift of the designation will remove KiwiRail's rights to use the land as an accessway for City Rail Link (CRL) integration works under section 176 of the RMA. Since the enabling works for the CRL integration are now complete, it is appropriate for KiwiRail to relinquish control over the site. Removal of the designation will imply that the site will no longer be able to be used to develop, operate and maintain railways, railway lines, railway infrastructure, and railway premises as defined in the Railways Act 2005.

The site is zoned as "Business – Mixed Use", which are areas typically located around centres and along corridors served by public transport, and thus acts as a transition area. Therefore, the land will retain its compatibility for supporting residential and small-scale commercial activity in close proximity to public transport provisioned by KiwiRail and the CRL.

KiwiRail has indicated that one of the reasons for the designation uplift pertains to the landowner's intentions to redevelop the land, therefore, activities on the site must give consideration to the zoning requirements, as well as surrounding land uses and reverse sensitivity arising from the vicinity to railway lines and Mount Eden train station. In this case, KiwiRail and CRL have railway lines adjoining the subject site.

As can be seen from images 1 and 2 from my site visit (attached in Appendix A), currently 101 Mt Eden Road, Mt Eden is tenanted by CACI, Carbon Method Crossfit, Auto Services and Dubber & Craig Customs Limited; the property is owned by Southside Group Management Limited. Image 3 shows that the site is adjacent to an apartment building. In my conversations with an employee of Auto Services, and Cary Bowkett, an employee of Southside Group, both of them acknowledged that they were aware of the notice of requirement for the partial removal of Designation 6300 and its implications. KiwiRail have confirmed that written notice has been given to the owners of the land from which the designation is to be removed. I do not consider that there are any other persons likely to be affected by the designation uplift.

The part of the property on which the designation applies is used as a carpark by Auto Services (Image 4). Apart from cars, the red drum containers on the left edge of the site are also the property of Auto Services. During my site visit, I observed that the land was used neither by KiwiRail nor CRL for storing any construction material. KiwiRail personnel and rail equipment such as pipes were all on the other side of the fence demarcating the subject site from the main designation (Image 5).

There are no other designations that apply to the subject site and in my opinion, there will be no more than a minor effect on the adjacent CRL Designation 2500-6 from the partial removal of Designation 6300. Similarly, the partial removal of the designation will not have an effect on the volcanic viewshafts and quality-sensitive aquifer management overlays on the subject site.

I noted that the property 101 Mt Eden Road can be accessed from both Mt Eden Road and 13 Akiraho Street (Image 6). KiwiRail and CRL used the site as a temporary accessway from its entrance on Akiraho Street, which the designation uplift will put to a permanent stop. However, KiwiRail and CRL will have adequate access to the remaining area under Designation 6300 from other sections of Mount Eden Road. As the integration construction work is complete, I conclude that the effect of the partial removal of the Designation 6300 will have no more than minor on the rest of the designation, and thereby comply with RMA 182(5).

Concerns

Although the part of the enabling work which required the CRL and KiwiRail to have access at 101 Mt Eden Road may be complete, there is a considerable amount of construction still

underway in the adjacent site on which the designation will continue to apply (Image 5). The designation uplift will remove KiwiRail's ability to use the land for strategic works. While after the designation uplift, the site will not allow direct use for railway construction, maintenance and operational purposes, it will still sustain an effect from the nearness to railways lines and regular train passage. This will have to be considered if the site is to be redeveloped by the landowner, for instance, for residential uses which are a permitted activity on the site.

3.0 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 and in Chapter K Designations be amended accordingly.

Prepared by: Stuti Kumar
Policy Planning Intern
Planning Central/South

Signature:



Accepted by: Fiona Sprott
Team Leader
Planning Central South
17 January 2022

Signature:



Date: 17 January 2022

SCHEDULE OF ATTACHMENTS:

- Attachment 1:** Section 182 Notice of Removal
- Attachment 2:** Appendix A
- Attachment 3:** Updated GIS viewer

Attachment 2 – Images from site visit

Appendix A



Image 1: Auto services and Carbon Method Crossfit are some of the tenants



Image 2: CACI – tenant on the subject site



Image 3: Apartment building adjoining the site



Figure 4: Drums on the periphery are the tenants' property (not KiwiRails')



Image 5: Fence demarcating the subject site from the adjoining site that will remain under designation 6300

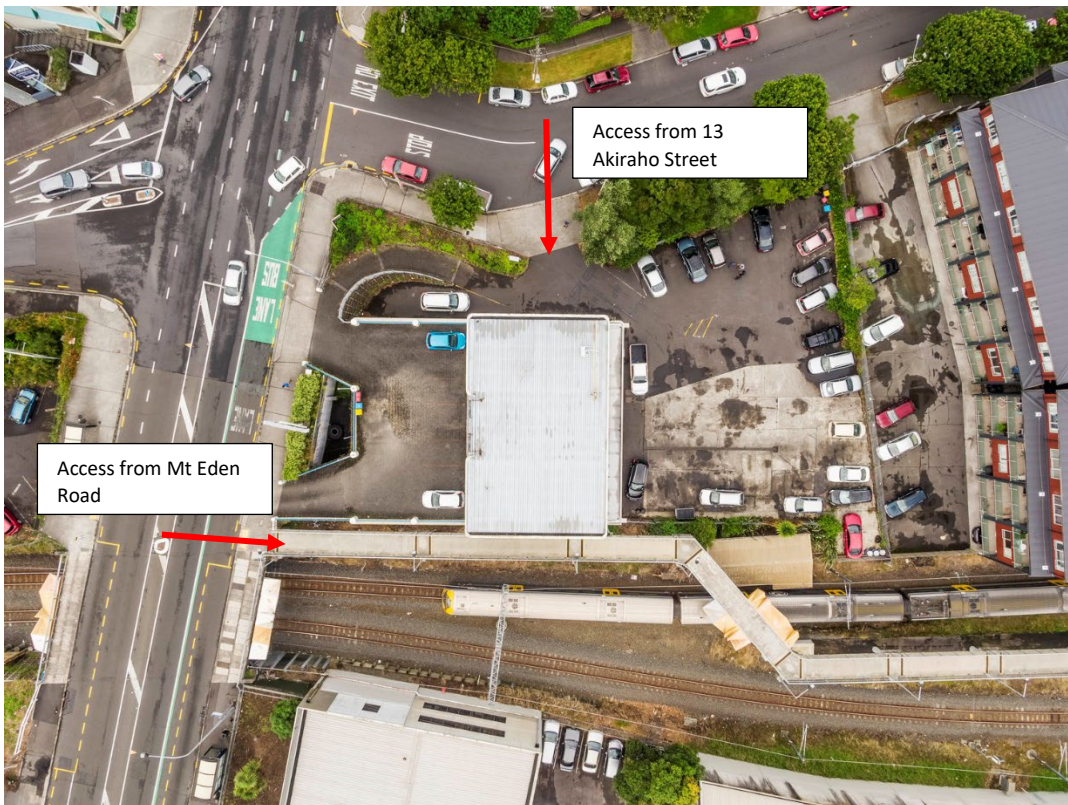
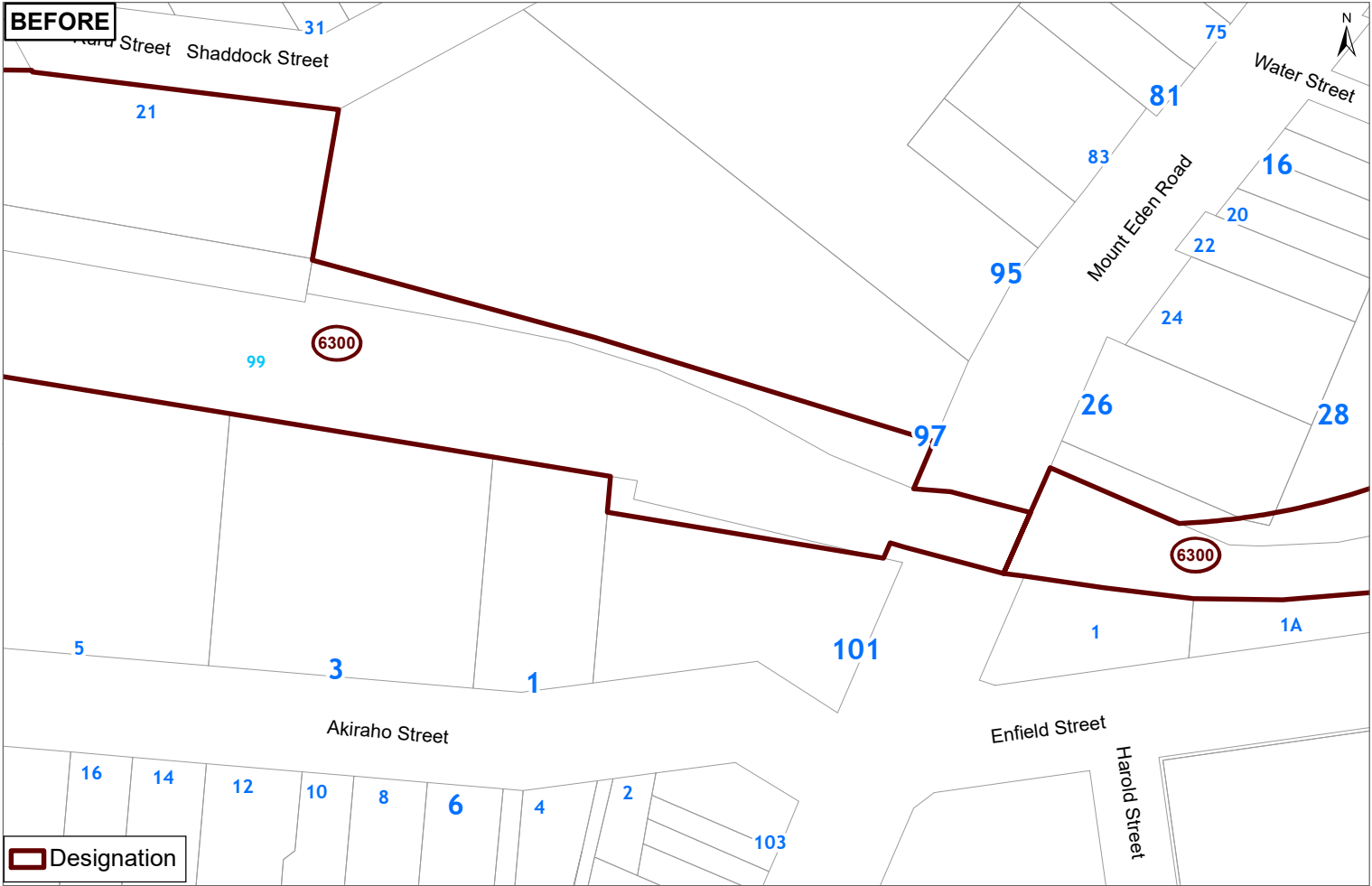


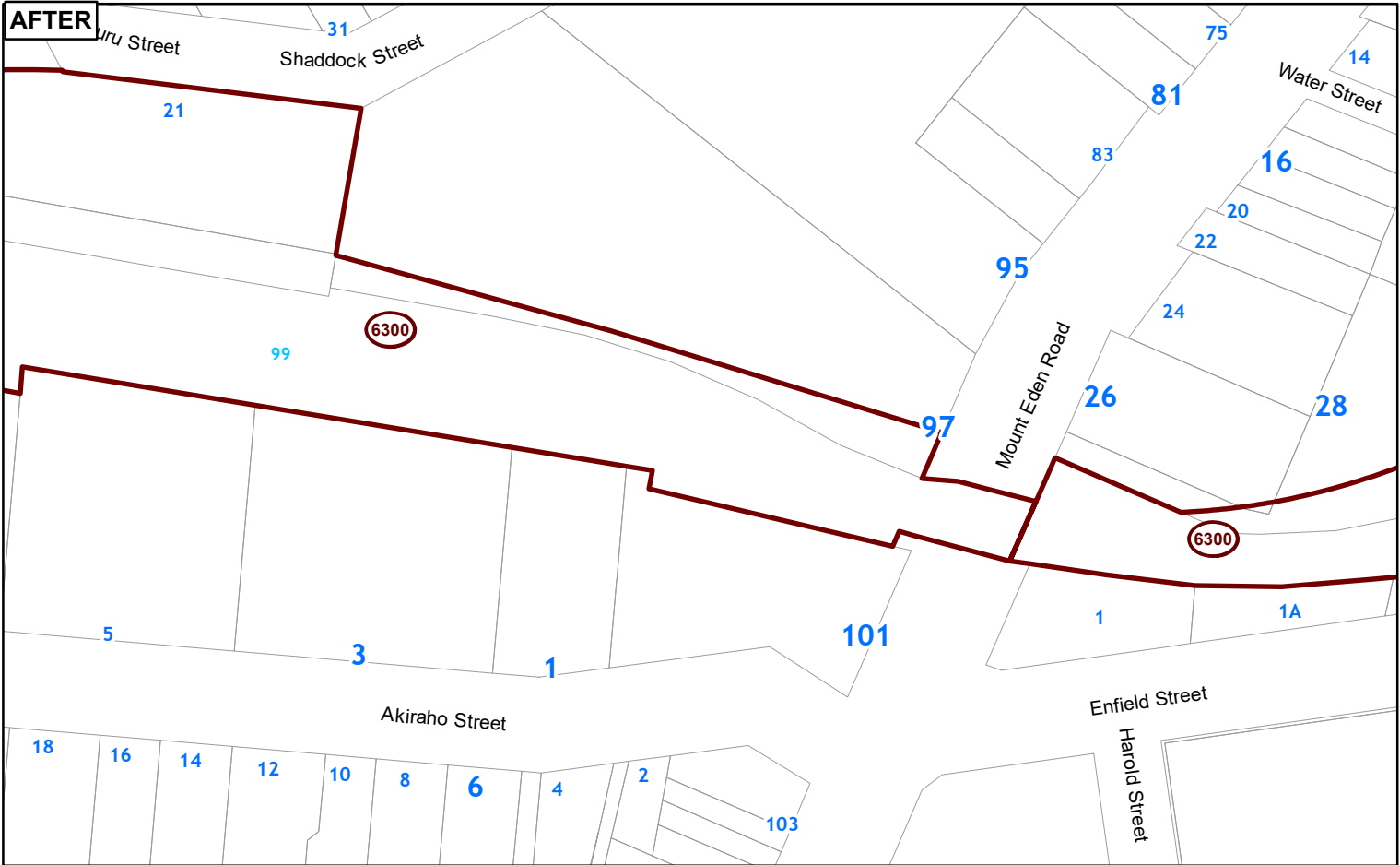
Image 6: Access from Akiraho Street and Mt Eden Road

Attachment 3 – Updated GIS viewer

BEFORE



AFTER



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: 8/02/2022

Remove Designation ID 6300 (partially) from 101 Mount Eden Road, Mount Eden



Plans and Places