

## 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-000-276



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

<b>Reason for update – Consent order in relation to Environment Court appeal</b>	
<b>Chapter</b>	Chapter K Designations
<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>	<p>As per <b>Attachment 1</b> to this memo, with the text changes being to condition 3 as shown below (additions underlined and deletions struckout):</p> <p><u>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, Normans 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. All crossings to be grade separated, with the exception of local roads This should include arrangements, such as grade separation, to ensure safety wherever the line crosses any public street.</u></p>
<b>Changes to diagrams</b>	N/A
<b>Changes to spatial data</b>	N/A
<b>Attachments</b>	Attachment 1: Consent Order  Attachment 2: Updated Text

<b>Prepared by:</b> Nicholas Lau Principal Planner, Plans and Places	<b>Text Entered by:</b> Harry Barnes Planning Technician
<b>Signature:</b> 	<b>Signature:</b> 
<b>Reviewed by:</b> Nicholas Lau Principal Planner, Plans and Places	<b>Signed off by:</b> Celia Davision Manager Planning – Central and South
<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 ("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

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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 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

Attachment 2: Updated Text

## 6303 Avondale Southdown Railway Line

Designation Number	6303
Requiring Authority	KiwiRail Holdings Ltd
Location	Avondale to Southdown Railway Line from Soljak Place, Mount Albert to Neilson Street, Te Papapa
Rollover Designation	Designation G08-05, Auckland Council District Plan (Isthmus Section) 1999
Lapse Date	31 August 2029

## 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.

## Conditions

1. That prior to implementation of the designation an assessment of environmental effects be undertaken to determine effects the works will have on the environment and the most appropriate means of mitigating these effects.
2. That a landscape plan be submitted for approval to the Council at the time of detailed design including fencing and planting which will be implemented at the boundary of the line with all land zoned residential and open space to minimise noise effects and provide screening.
3. 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, Normans 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.
4. The short term construction effects including noise, visual effects and dust be reduced through appropriate construction methods.

## Attachments

No attachments.