

UNITARY PLAN UPDATE REQUEST MEMORANDUM

TO Celia Davison, Manager Planning, Central South

FROM Terry Conner, Principal Planner



DATE 6 October 2020

SUBJECT *Alteration of a Designation in accordance with s181(3) of the Resource Management Act in the Auckland Unitary Plan(AUP) Operative in Part*



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

Reason for update – alteration to Designation 1715	
Chapter	AUP GIS Viewer Chapter K designations
Section	AUP GIS Viewer Schedules and Designations – Auckland Transport
Designation only	
Designation 1715	Newmarket Level Crossing Project
Locations:	Laxon Terrace to Cowie Street Newmarket Affected parcels are Part DP 23351 and Lot 1 DP 206508 (CT's NA91D/818 and NA134D/38)
Lapse Date	10 years from being operative in the Unitary Plan unless given effect to prior
Purpose	The construction, operation, and maintenance of a new road.
Changes to text (shown in underline and strikethrough)	N/A
Changes to diagrams	N/A
Changes to spatial data	Minor extension of the designation (on railway side, overlapping the railway designation) onto land identified in Attachment 2.
Attachments	Attachment 1: Section 181(3) Report Attachment 2: Updated GIS Viewer

Prepared by: Terry Conner Principal Planner, Plans & Places	Maps prepared by: Aching Konyak Geospatial Analyst
Signature: 	Signature: 

Reviewed by:
Fiona Sprott
Team Leader, Plans & Places

Signed off by:
Celia Davison
Manager, Planning, Central South Unit

Signature: 

Signature: 

Attachment 1: Section 181 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 1715 Newmarket Level Crossing Project
Requiring authority:	Auckland Transport
Site address:	Lot 1 DP 57235, PT DP 23351, Lot 1 DP 206508, Allotment 37 SECT 4 SBRS OF Auckland, DP 24765, Pt Allotment 35 SECT 4 SBRS OF Auckland, Lot 1 DP 53284 (location of specific alteration is adjoining Laxon Terrace Newmarket)

Summary

Auckland Council has received a request from Auckland Transport under section 181(3) of the Resource Management Act 1991 (RMA), dated 5 June 2020, to alter Designation 1715 Newmarket Level Crossing Project. The alteration was requested to be considered concurrently with the uplift of several large areas of the designation (distant from this alteration) that were used in conjunction with the construction of the works.

Further information was requested for both processes and this was received on 24 August 2020.

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 1715 Newmarket Level Crossing Project in the Auckland Unitary Plan be confirmed, for the following reasons:
 - the alteration involves no more than minor changes to the effects on the environment associated with the use of the land
 - there are only minor adjustments to the boundaries of the existing designation
 - the land (Part DP 23351 and Lot 1 DP 206508) is owned by the Crown and both managed and occupied by KiwiRail Holdings Limited (KiwiRail) and as owners and occupiers of all land directly affected by the proposed alteration have been given notice and agree with the proposed alteration
 - both the requiring authority and Auckland Council agree with the alteration
 - adherence to the existing conditions will ensure any potential adverse effects are avoided, remedied or mitigated.
2. That Designation 1715 Newmarket Level Crossing Project is altered accordingly 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 1715 Newmarket Level Crossing Project from Auckland Transport under section 181(3) of the RMA.

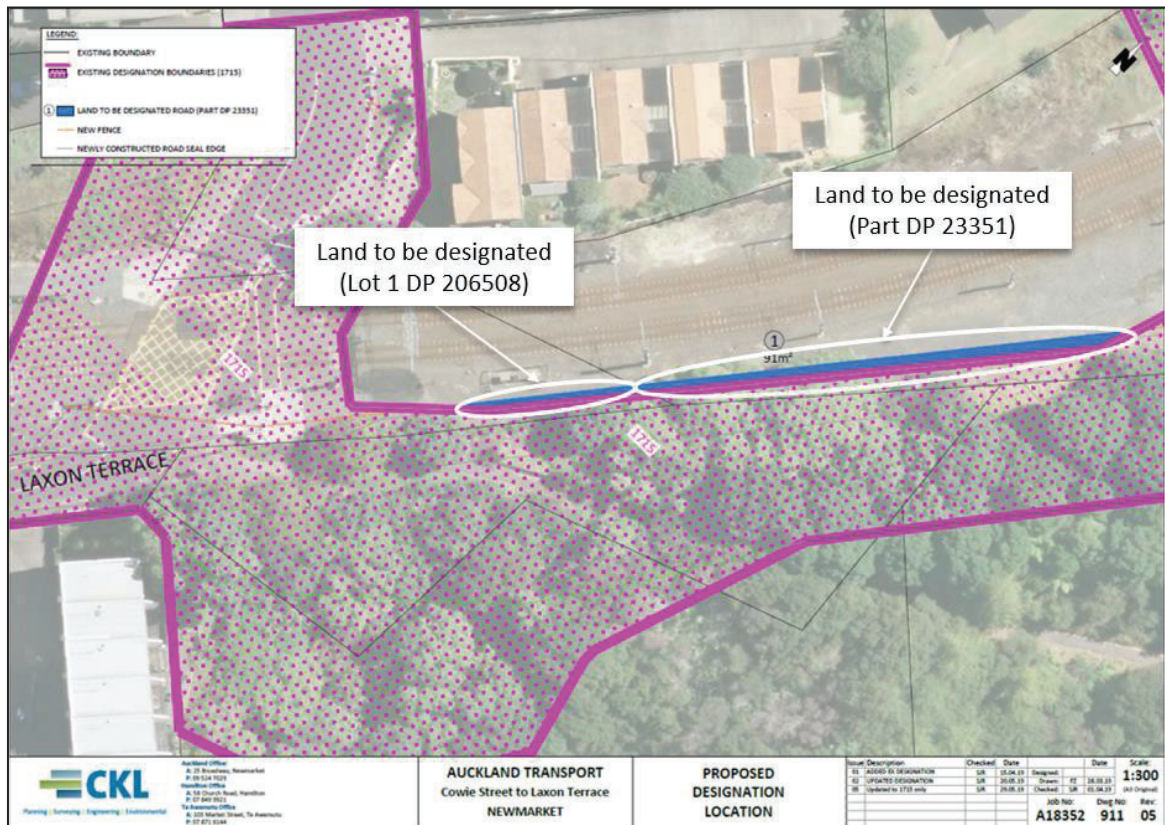
The existing designation is for the “construction, operation and maintenance of a new road”. This involved the construction of a new road connecting Laxon Terrace in Newmarket to Cowie Street, including construction of a bridge over the Newmarket Branch rail line and closure of the road connections between Sarawia Street and Laxon Terrace. The physical work is now completed.

However, the road construction was found to have encroached onto the railway land and Auckland Transport has submitted this alteration to rectify the encroachment and include it within the roading designation.

The land affected is itself designated by KiwiRail Holdings Ltd as Designation 6301 for Newmarket Branch Railway Line. As the earlier designation, Designation 6301 will remain in force unless uplifted by KiwiRail.

The encroachment is a narrow strip (91m²) lying between the new wooden fence which runs between the rail line and the road carriageway (refer area shaded blue Figure 1 below and in Drawing A18352 No 911 Rev.05 in Attachment 2 of the Assessment of Environmental Effects which shows the consent of KiwiRail Holdings Ltd).

Figure1



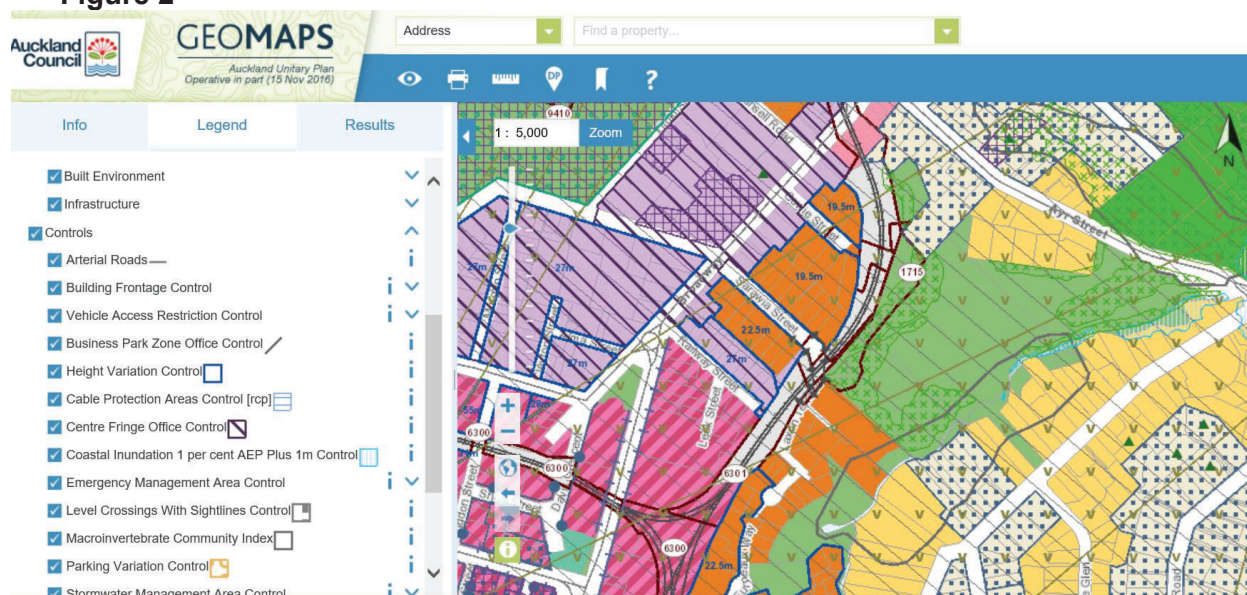
This small section of the road which was constructed slightly outside of the designation boundary, is required to be included within the designation.

There is a concurrent notice of requirement to uplift parts of the designation, however none of these are in the same location as the land concerned by this alteration. The balance of the road designation, including the added strip, will remain.

1.2. Land affected by the alteration

The current designation 1715 is shown in the Auckland Unitary Plan maps as follows:

Figure 2



The land affected by the alteration to the designation is located at Laxon Terrace which now extends to connect over the rail line with Cowie Street. The land is included in two parcels described as Part DP 23351 and Lot 1 DP 206508 (CT's NA91D/818 and NA134D/38).

The requiring authority has provided a site plan showing the original designation and the extent of the alteration to the designation boundary in the AEE in Attachment A to this report, Form 18 page 4, Figure 2 (however, details of the alteration are better seen on page 30 drawing A18352 911 05).

1.3. Description of the site and existing environment

The land proposed to be included in the road designation is the edge of the new road connecting Laxon Terrace to Cowie Street. It is bounded on the railway side by a wooden fence. The land then falls gradually away from the road towards the rail line. The only directly adjoining activities are therefore road and railway.

Laxon Terrace runs along a slight ridge at this location. It serves an area of mixed density housing at its southern end, including some older villas on a narrow and winding portion just prior to the former Sarawia Street crossing. Traffic volumes appear low and there is a footpath provided on the Newmarket Park side only. Opposite the encroachment and beyond the rail line there is a row of terrace houses at the end of Sarawia Street.

Newmarket Park is on the other side of the new road. A pedestrian path runs down from Laxon Terrace to the main body of the park through mainly native trees and vegetation.

Sarawia and Cowie Streets lead back to Broadway. Both these streets and Laxon Terrace are developed with a mix of terrace houses, apartments and older homes. They are zoned Terrace and Apartment Housing.

A google street view photograph in Figure 3 below illustrates the line of the fence from the new overbridge:

Figure 3



Newmarket Park is zoned Open Space-Informal Recreation. The rail corridor is zoned Strategic Transport Corridor Zone, and there is a Level Crossing Control still extant on the end of Sarawia Road and across the former level crossing.

Underground services for KiwiRail, Auckland Transport and Chorus are located under a concrete slab on the railway side of the fence and therefore beyond the proposed alteration.

1.4. Delegated authority

The Team Leader - Planning Central/South has delegated authority, in accordance with Schedule 2A of the Auckland Council Delegations: Chief Executive Officer (updated December 2019), to exercise the council's functions, powers, duties and discretions under the Resource Management Act 1991 in relation to section 181(3).

The Notice of Requirement can therefore be considered by the Team Leader – Planning Central/South 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.

It is not necessary for both the tests s181(3)(a)(i) and (ii) to be passed. It is sufficient to pass one of them. However, it must cumulatively pass all of s181(3)(a), (b) and (c).

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

The requiring authority has provided an assessment of environmental effects (AEE) with the Notice of Requirement.

The AEE notes that land to which the alteration applies is subject to the following provisions in the AUP:

- Chapter H22 Strategic Transport Corridor Zone

- Chapter D14 Natural Heritage: Regionally Significant Volcanic Viewshafts and Height Sensitive Areas Overlay [rcp/dp] – E11, Mount Eden, Viewshafts
- Chapter D14 Natural Heritage: Regionally Significant Volcanic Viewshafts and Height Sensitive Areas Overlay [rcp/dp] – E12, Mount Eden, Viewshafts
- Controls: Vehicle Access Restriction Control – Adjacent to Level Crossing
- Controls: Macroinvertebrate Community Index – Urban
- Designation – 6301, Newmarket Branch Railway Line, KiwiRail
- Designation – 1715, Newmarket Level Crossing Project, Auckland Transport
- Rule H22.4.1(A3) classifies the operation maintenance and use of roads, railways and transport equipment (which includes underpasses and overpasses) as a permitted activity within the Strategic Transport Corridor.
- Rule E12.14.1(A3) classifies general earthworks up to 500 m² and 250m³ as a Permitted Activity in all other zones and roads.
- Rule E30.4.1(A2) classifies the discharges of contaminants into air, or into water, or onto or into land from disturbing soil containing elevated levels of contaminants as a Permitted Activity provided the volume of soil disturbed does not exceed 200 m³.
- There are no known archaeological sites within the vicinity of the alteration. An archaeological authority was obtained to undertake works within the rail corridor (Authority no. 2018/356). Works were undertaken in accordance with the authority.

The AEE states that the small section of road was constructed within the permitted activity standards and no resource consents are required. Permitted activity status has been questioned by the resource consents officers, as in Rule H22.4.1 operation does not include construction.

I have considered the following possible effects :

- additional construction effects
- effects on the strategic transport function of the road or the rail line
- potential alteration of drainage
- noise effects
- contamination effects
- discharge of sediment laden water
- landscape and visual effects on the residences opposite the road

2.1.1. Construction effects

I agree that construction is not a permitted activity in the zone and the activity of road construction requires consent. The effects of construction were considered in the decision report for the existing designation and regional resource consents dated 10 June 2016 (**Attachment B**). They were also considered in more detail in the existing designation process for the road construction (see **Attachment C**). Additional effects relating to the area, which was constructed inadvertently outside its boundaries were, in practice, managed by the conditions of the designation, its OPW and resource consents. The physical effect of constructing the portions of the road which were mistakenly outside the alteration boundary is small (91m²) and therefore because of their scale, location and nature I consider the effects to be less than minor.

2.1.2. Effect on Strategic Transport Functions

The effects on the strategic transport function of the road or the rail line are not greater than those of the existing designation because neither the road, nor the rail route function has been altered by the slight encroachment onto the rail corridor. KiwiRail has agreed to the alteration that encroaches on their rail line, from which I have concluded that it does not materially affect the strategic function of the rail line.

2.1.3. Effects on drainage

The potential alteration of drainage is not of significance as the actual drainage has been managed by way of the consents already granted and their conditions (**Attachment B**). The shape and alignment of the batter and kerbs of the road are similar to those originally designed. Any differences of flow due to ground contour would have been picked up and managed during the construction process for the whole road, which was controlled by conditions in the outline plan of works and consents.

2.1.4. Effects from noise and vibration

The noise and vibration effects of road construction would have similarly been managed by the noise conditions of the designation (condition 18). The edge of the road may be slightly closer to the houses opposite, but this would have no more than a very minor affect on noise, if it was even measurable. No complaints were recorded.

2.1.5. Contamination effects

The AEE does not directly refer to the following rules relating to earthworks and related contamination effects:

- E30.4.1 (A2) provides for Discharges of contaminants into air, or into water, or onto or into land from disturbing soil on land containing elevated levels of contaminants
- Where discharges do not meet the rules for permitted activities E30.4.1 (A6) applies and the activity is a controlled activity and matters of control under E30.7.1 apply.

The AEE does not refer to the volume of additional earthworks carried out during construction which might be greater than the approx. 300m² discussed in the decision in **Attachment B** due to the additional 91m² outside the designation. All cut material was to be sent off site because of the potential presence of contamination. The construction management plan would have dealt with all soil in the same manner and not distinguished any earthworks in the land subject to this decision as different from the land consented and designated. All land disturbance would have been in accordance with the conditions of designation and consent and the OPW.

I conclude that there are no more than minor effects, if any, from the earthworks carried out on the land subject to this decision.

Discharge of sediment laden water effects

The AEE does not directly refer to the following additional rules relating to sediment control:

- E11.4.2 A13 and A14 apply regional land disturbance controls to the discharge of sediment laden water.

The AEE does not state the specific areas that may have been exposed during construction that might be greater than the areas consented and designation in 2016. However in this case I consider the volume and areas exposed would be within the parameters assessed and if not,

then the additional affects were adequately addressed by the designation and consent conditions.

2.1.6. Visual and amenity effects

The Requiring Authority considers that the proposed alteration to the designation involves no more than minor changes to the effects on the environment. It concludes that:

“The adverse environmental effects resulting from the alteration are considered de minimis in relation to the effects already anticipated and provided for by the designation in delivering the works for the Newmarket Level Crossing Project. The visual/amenity effects resulting from the alteration to include a small section of road within the rail corridor are not expected to be discernible from the works provided for under the existing designation.”

After having visited the site I agree with the Requiring Authority that the effects are minor or de minimis. I have concluded that the effects are not discernibly different from the works provided for by the existing designation. If anything, the visual effects are somewhat improved as the residences opposite are elevated and will be able to see slightly more of the decorative fence and park over the other side of the rail line fence, because the latter is located slightly closer to them.

2.1.7. Conclusion on Effects

Having considered the matters above and the conditions of the existing designation and regional consents, I consider there are no more than minor changes to the effects on the environment.

The only effects caused by or during the construction that would not have been addressed by the Outline Plan of Works, were if there are any additional contamination effects from the additional volume of earthworks and any additional visual effects due to the road being closer to the residences opposite. These effects are also minor or de minimis as explained above.

All the conditions that apply to the ongoing operation of the road in the original designation will apply to the additional land if the alteration is approved. I consider there is no need to amend conditions or to include new conditions. The Requiring Authority has also not considered this necessary.

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

The alteration to the designation involves the changes to the boundary of the existing designation as shown above in Figure 1. The designation boundary is moved slightly towards the rail line to enclose the road and is bounded by the fence at the road edge. This is shown in Figure 4 below.

The proposed alteration to the designation will amend the designation footprint to provide for a section of road (91 m² in area) that was constructed outside of the designation boundary. The two adjoining pieces of land are very narrow slivers and I agree that they are minor. I consider that s181(3) (a) (ii) has been met.



Figure 4 Detail showing orange fence line as limit of alteration:

2.3. 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))

The requiring authority has given written notice to KiwiRail Holdings. Their agreement has been provided. This is reproduced within Attachment A pages 39-40.

The land affected by the road under the alteration is owned by the Crown and managed by KiwiRail Holdings and there are no other occupiers, except for Auckland Transport which has requested the alteration. In this case KiwiRail Holding's agreement also represents the agreement of the Crown.

The designation conditions contain references to extensive community consultation, which has now been completed. For this reason, I have concluded the only affected party is KiwiRail Holdings, and as they have given their agreement to the alteration, I consider that section 181(3) (b) has been met.

2.4. Agreement of both the territorial authority and the requiring authority (181(3)(c))

The alteration to the designation has been requested by the requiring authority, and therefore it agrees to the alteration. Auckland Council can also agree with the proposed alteration for the following reasons:

- The alteration involves no more than minor changes to the environmental effects associated with the use of the land
- The alteration involves only minor changes to the boundary
- The owners and/or occupiers of all land directly affected by the proposed alteration have been given notice and agree with the proposed alteration
- Adherence with the existing conditions will ensure any potential adverse effects are avoided, remedied or mitigated.

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:

- The alteration involves no more than minor changes to the environmental effects.
- The existing conditions relating to the designation will ensure any potential adverse effects are avoided, remedied or mitigated.
- There are only minor changes or adjustments to the boundaries of the existing designation.
- The owners and/or occupiers of all land directly affected agree with the alteration
- The council and the requiring authority can agree with the alteration.

3.2 Recommendation

1. That pursuant to section 181(3) of the Resource Management Act 1991, Auckland Transport's notice of requirement for an alteration to Designation 1715 Newmarket Level Crossing Project is confirmed as described in Appendix A, to this report being the Notice of Requirement to alter the designation.
2. That Designation 1715 Newmarket Level Crossing Project 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 as shown on page 30 drawing No. A18352 911 05 in Attachment A to this report.

Report Prepared by:

Date:28 September 2020



Terry Conner
Principal Planner Central/South

5. SECTION 181(3) DETERMINATION

Having read the council planner's report and recommendations on the notice or 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 1715 Newmarket Level Crossing Project 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 – Planning Central South
Signed:

A handwritten signature in black ink, appearing to be 'Fiona Sprott', written over a light grey circular stamp.

29 September 2020

Date:

SCHEDULE OF ATTACHMENTS

- | | |
|----------------------|--|
| Attachment A: | Form 18 Notice of requirement for an alteration of Designation 1715 in the Auckland Unitary Plan |
| Attachment B | Decision on the original designation and regional resource consents |
| Attachment C: | Conditions applying to the existing designation |

Attachment A: Form 18 Notice of requirement for an alteration of Designation 1715 in the Auckland Unitary Plan

(refer to page 30 for the map of the alteration).

NOTICE OF REQUIREMENT FOR AN ALTERATION OF DESIGNATION UNDER SECTION 181 OF THE RESOURCE MANAGEMENT ACT 1991

To: Auckland Council
Private Bag 92300
Auckland 1142
Attn: Craig Cairncross – Team Leader – Planning - Plans & Places

From: Auckland Transport
Private Bag 92250
Auckland 1010

Alteration of Designation 1715 – Newmarket Level Crossing in the Auckland Unitary Plan (Operative in Part)

Auckland Transport (AT) as Requiring Authority under section 167 of the Resource Management Act 1991 (RMA) gives notice of a requirement to alter Designation 1715 in the Auckland Unitary Plan: Operative in Part (AUP:OP) to provide for the final built alignment of the Newmarket Level Crossing Project.

The sites to which the Notice of Requirement to alter Designation 1715 applies are:

Address	Legal Description	Certificate of Title
North Auckland Line	Part DP 23351	NA91D/818
North Auckland Line	Lot 1 DP 206508	NA134D/38

The sites are owned by the Crown and managed by KiwiRail Holdings Limited (KiwiRail). The proposed alteration to the boundary of Designation 1715 is illustrated in **Attachment 1**.

Existing Designation Details

The details of the existing designation as set out under the AUP:OP is below:

Designation Number:	1715
Requiring Authority:	Auckland Transport
Location:	Lot 1 DP 57235, PT DP 23351, Lot 1 DP 206508, Allotment 37 SECT 4 SBRS OF Auckland, DP 24765, Pt Allotment 35 SECT 4 SBRS OF Auckland, Lot 1 DP 53284
Rollover Designation	No
Purpose	The construction, operation, and maintenance of a new road

AT has responsibility for Designation 1715 in the AUP:OP which is designated for the construction, operation, and maintenance of a new road constructed as part of the Newmarket Level Crossing Project. The designation applies to the following properties:

- 9 Cowie Street (Lot 1 DP 57235 Certificate of Title NA12C/285),
- North Auckland Line (PT DP 23351 Certificate of Title NA91D/818; Lot 1 DP 206508 Certificate of Title NA134D/38),
- Newmarket Park (Pt Allotment 35 SECT 4 SBRS OF Auckland; Allotment 37 SECT 4 SBRS

OF Auckland Certificate of Title 944040; Lot 1 DP 53284 Certificate of Title 944050; DP 24765 Certificate of Title 944044).

Land Affected by Alteration

AT has identified that the following additional areas are required to be designated as road (refer **Figure 1** below).

Address	Legal Description	Certificate of Title	Area to be designated
North Auckland Line	Part DP 23351	NA91D/818	70 m ²
North Auckland Line	Lot 1 DP 206508	NA134D/38	21 m ²

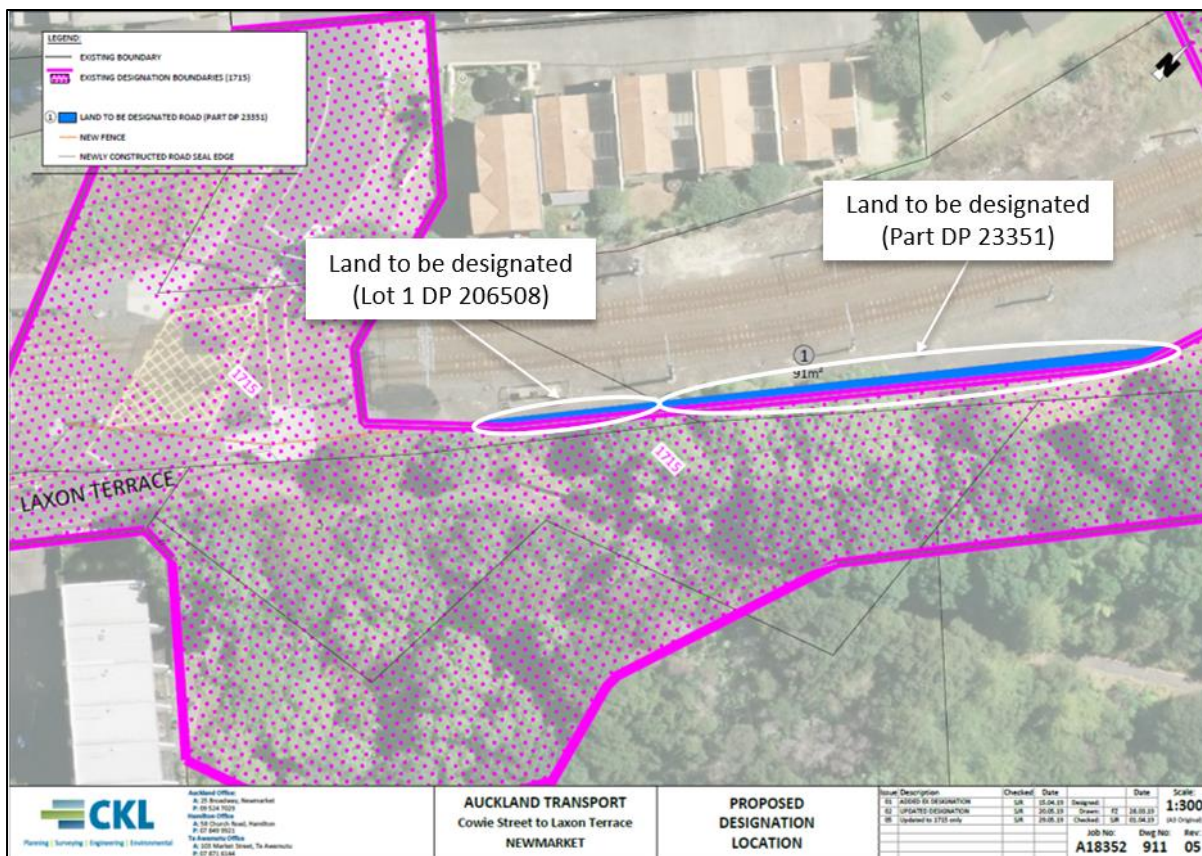


Figure 1: Additional land areas to be designated

Reasons for the Alteration of Designation 1715

The minor alteration of Designation 1715 is required to include a small section of road erroneously constructed outside of the designation boundary.

The alteration slightly amends areas (Part DP 23351 and Lot 1 DP 206508) already designated to include a section of road (91 m² in area) constructed as part of the Newmarket Level Crossing Project.

Relevant Statutory Provisions

Section 181(1) of the RMA provides that a requiring authority may at any time give notice to the territorial authority of its requirement to alter the designation if -

(a) the alteration—

(i) involves no more than a minor change 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.

Effects of alteration to Designation 1715 are minor

The adverse environmental effects resulting from the alteration are considered de minimis in relation to the effects already anticipated and provided for by the designation in delivering the works for the Newmarket Level Crossing Project. The visual/amenity effects resulting from the alteration to include a small section of road within the rail corridor are not expected to be discernible from the works provided for under the existing designation.

Attachment 2 to this Notice includes an Assessment of Environmental Effects which provides further detail.

Alteration to Designation 1715 involves a minor adjustment to the boundary of the designation

The alteration amends areas in the rail corridor already designated as new road for the Newmarket Level Crossing Project. A small section of road (91 m²) constructed slightly outside of the designation boundary is required to be included within the designation. This is a minor adjustment to the boundary of the designation in two areas.

Consultation with directly affected parties

Consultation has been undertaken with KiwiRail as the only landowner affected by the alteration and written approval has been provided. A copy of this approval is contained within **Attachment 3** to this Notice.

It is considered that s181(3)(b) has been satisfied and that written notice of the proposed alteration has been given to every owner or occupier of the land directly affected (being KiwiRail) and that the owner and occupier agrees with the alteration.

Summary

The alteration is required to correct the boundaries of Designation 1715 to include two small areas of road which have been constructed outside the designation. The land owner has provided written consent to the alteration and the change in effects is considered de minimus

AT requests that AC amends the AUP: OP accordingly as required by Section 181 of the Resource Management Act 1991.

Yours faithfully,



Jane Small

Group Manager Property and Planning

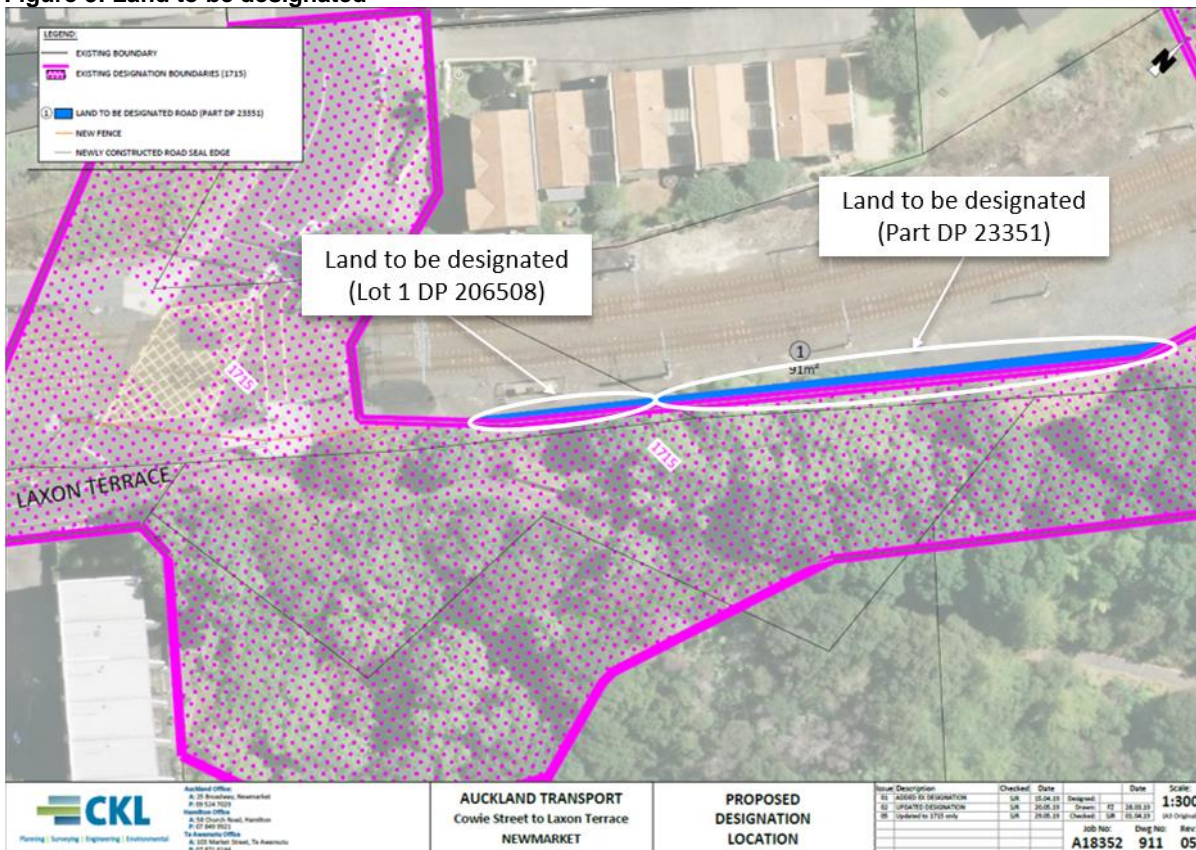
Integrated Networks

Attachment 1 – Drawings to show alteration to AT Designation 1715

Figure 2: Existing boundary of Designation 1715



Figure 3: Land to be designated



Attachment 2 – Assessment of Environmental Effects

Newmarket Level Crossing - Proposed alteration to Designation 1715

Assessment of Environmental Effects

May 2020

1. Introduction

Designation 1715 is an existing Auckland Transport (AT) designation in the Auckland Unitary Plan (Operative in Part) (AUP) to construct, operate and maintain a new road which forms part of the Newmarket Level Crossing project. The designation runs from the southern end of Laxon Terrace and Sarawia Street, across the Newmarket Branch Railway Line, into Newmarket Park and then heads northwards and back over the Newmarket Branch Railway Line to connect into the southern extent of Cowie Street (see **Figure 1**) below:

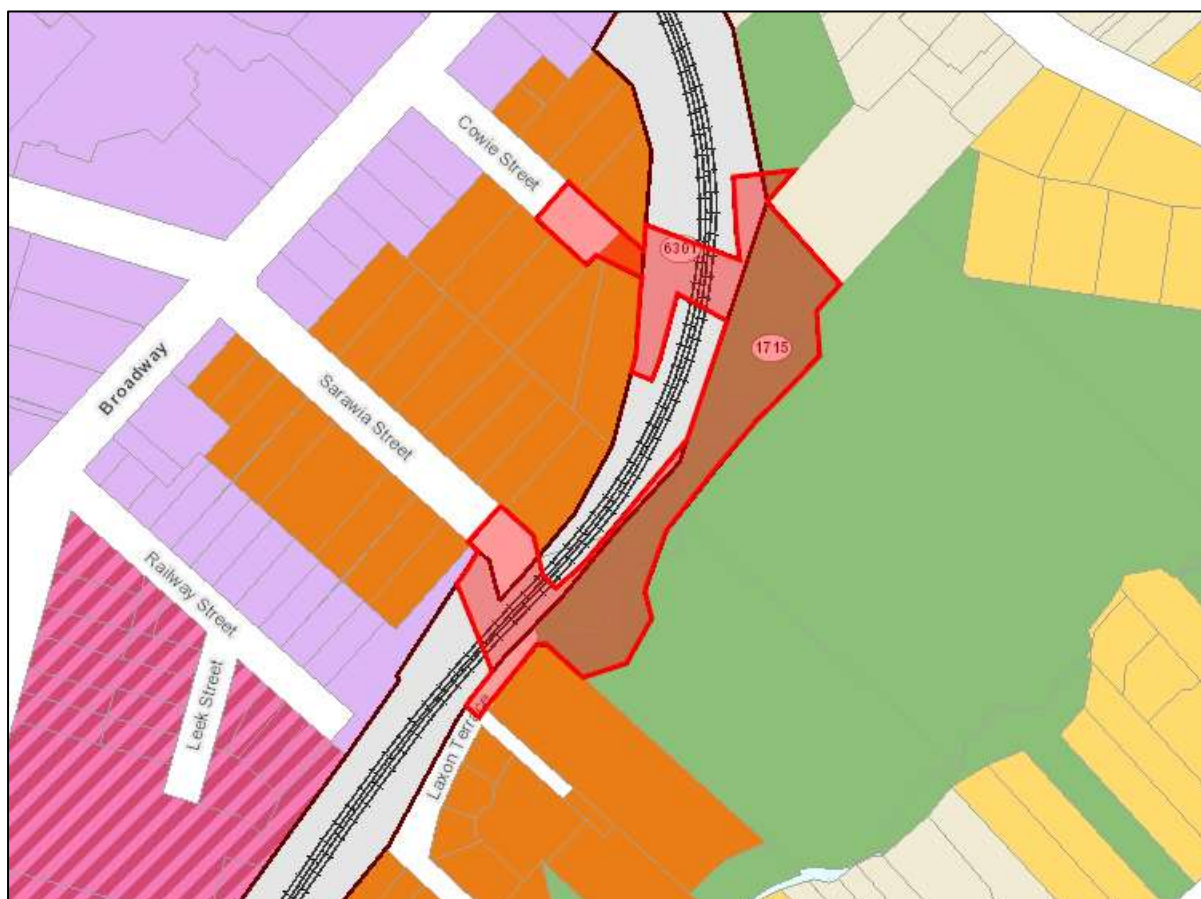


Figure 1: Existing Designation 1715 within the AUP

AT is a Requiring Authority (RA) under section 167 of the Resource Management Act (RMA).

This assessment only applies to the proposed alteration to Designation 1715.

2. Proposed alteration and notice of removal to Designation 1715

Construction of the Newmarket Level Crossing project was completed in 2018. In the final stages of construction, it was identified that a small area of the new road had erroneously been constructed slightly outside the spatial extent of Designation 1715.

AT seeks to rectify this error by altering the boundary of designation 1715 to include this small area of land under section 181 of the Resource Management Act 1991 (RMA).

The original designation also provided for a construction area and with construction now complete only those parts of the designation required for the on-going maintenance, operation or mitigation of the Newmarket Level Crossing are to be retained.

In addition, condition number 3.1 of the designation conditions requires the requiring authority to give notice to Auckland Council for removal of those parts of the designation identified as no longer necessary for the on-going maintenance, operation or mitigation of the project.

Pursuant to section 182 of the RMA, AT seeks to remove part of designation 1715 identified as no longer necessary for the on-going maintenance, operation or mitigation for the Newmarket Level Crossing Project.

The remaining area of Designation 1715 will continue under its original purpose.

The existing designation covers an area of approximately 10,360 m² and the inclusion of an additional 91 m² of land equates to an increase of approximately 0.88% of the total original land area. See original land requirement plan in **Figure 2** below:

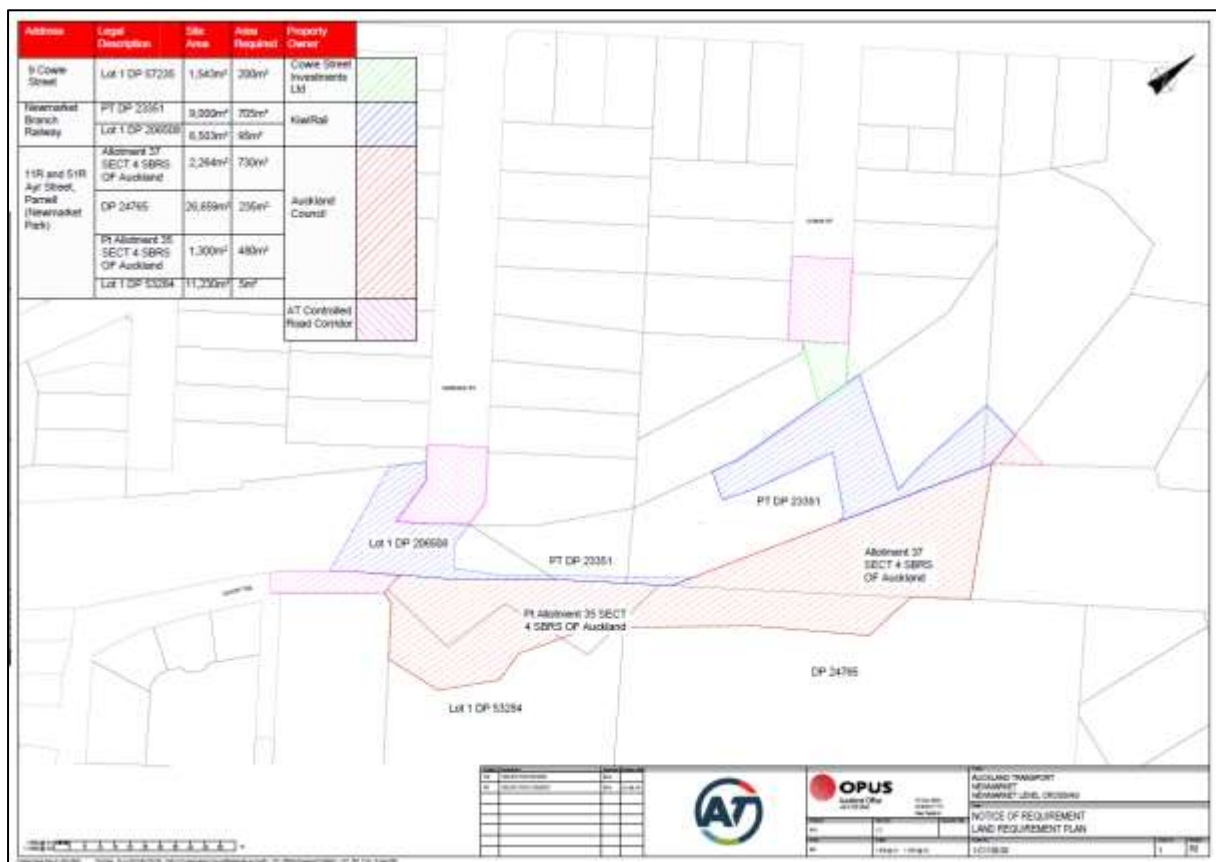


Figure 2: Original Land Requirement Plan

The proposed alteration to the designation will amend the designation footprint to provide for a section of road (91 m² in area) that was constructed outside of the designation boundary (shown in **Figure 2** below and attached as **Appendix A** to this Notice).

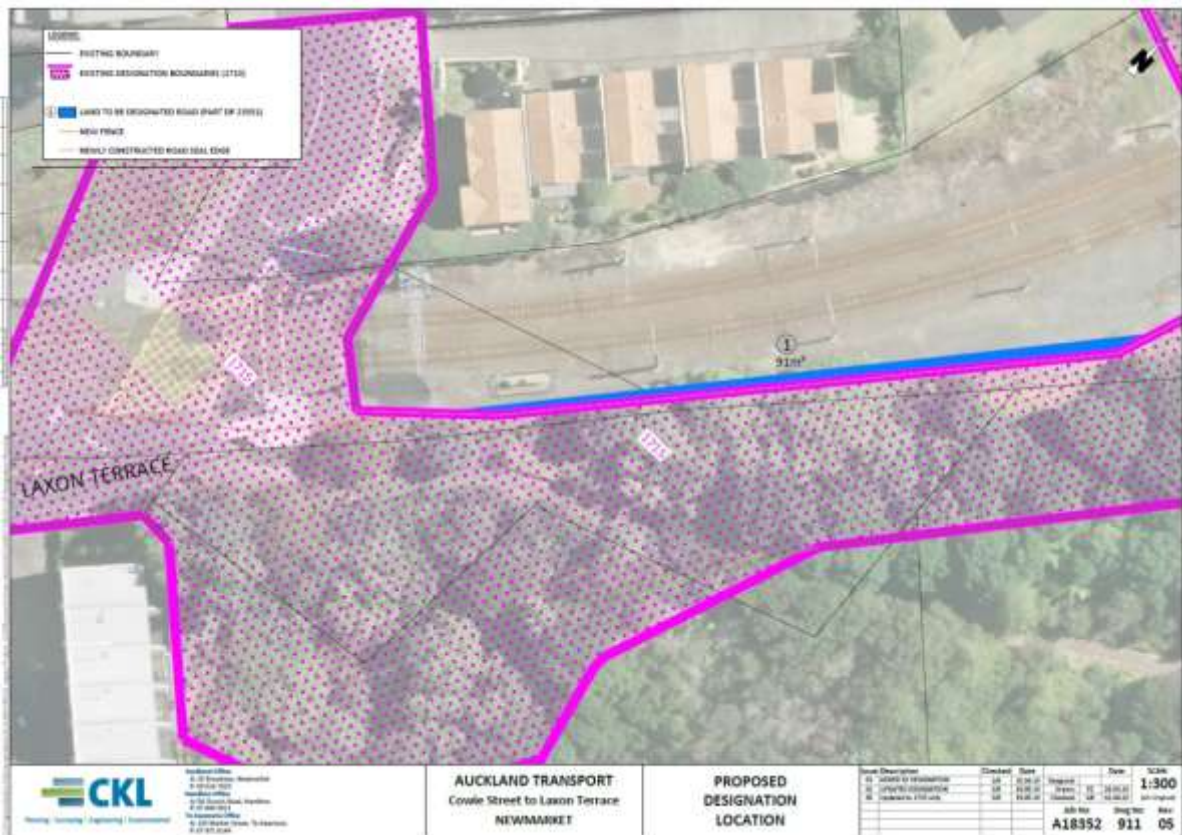


Figure 3: Alteration to Existing Designation (shown as blue area)

The part removal of designation 1715 will amend the designation footprint to an area of approximately 3,383 m². See figure 4 below and attached as **Appendix B**. This includes the minor alteration to the designation to include the 91 m² of road described above.

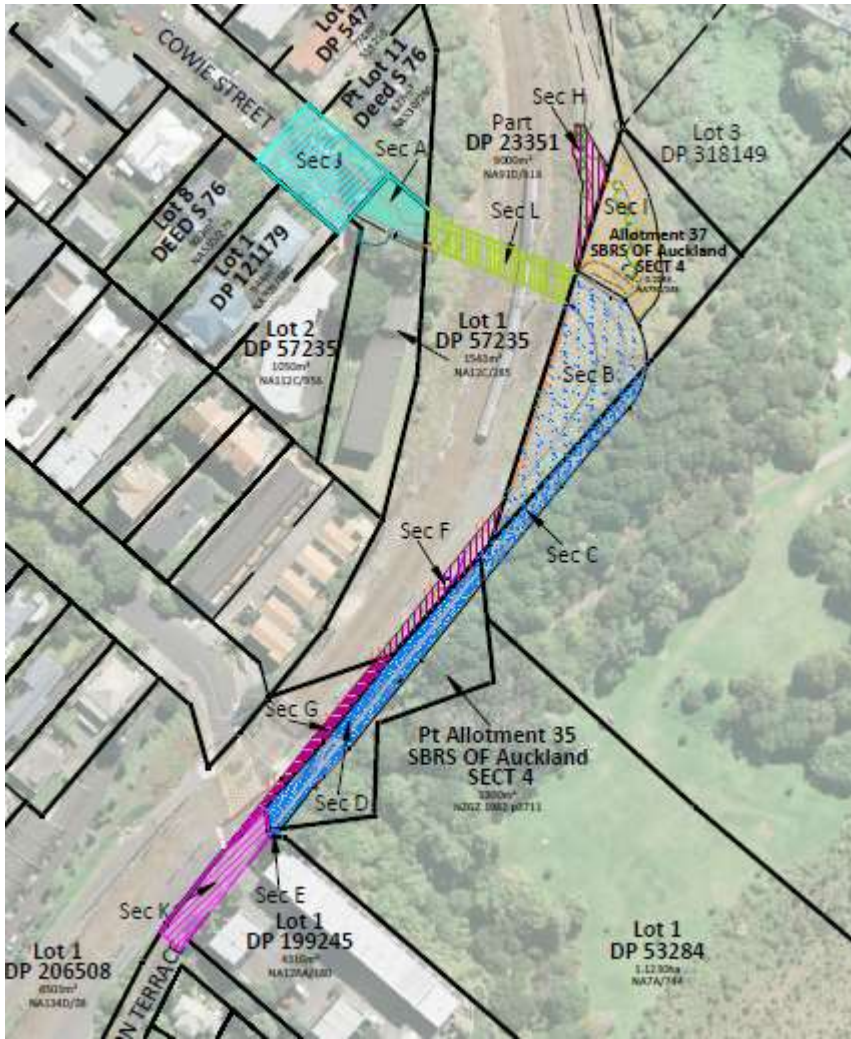


Figure 4: Proposed footprint for AT Designation 1715

Sites affected by proposed alteration of Designation 1715

The sites to which the proposed alteration to Designation 1715 applies are identified below in Table 1:

Table 1: Sites affected by alteration

Address/Description	Owner	Legal Description	CT Identifier
North Auckland Line	The Crown (KiwiRail)	Part DP 23351; Lot 1 DP 206508	NA91D/818; NA134D/38
Newmarket Park	Auckland Council	Pt Allotment 35 SECT 4 SBRS OF Auckland; Allotment 37 SECT 4 SBRS OF Auckland; Lot 1 DP 53284; DP 24765	NZGZ 1982 p3711; 944040; 944050; 944044

Copies of the Certificates of Title for the above sites are contained within **Attachment 1**.

Consultation has been undertaken with KiwiRail as the only landowner affected by the alteration to amend the designation footprint by 91 m² and written approval has been provided. A copy of this

approval is contained within **Attachment 2** to this Notice. There has been no additional consultation undertaken.

3. Permitted Activities

The following assessment only applies to the alteration to include the small section of road (91 m² in area) constructed outside of the designation boundary.

The land to which the alteration applies is subject to the following provisions in the AUP:

- Chapter H22 Strategic Transport Corridor Zone
- Chapter D14 Natural Heritage: Regionally Significant Volcanic Viewshafts and Height Sensitive Areas Overlay [rcp/dp] – E11, Mount Eden, Viewshafts
- Chapter D14 Natural Heritage: Regionally Significant Volcanic Viewshafts and Height Sensitive Areas Overly [rcp/dp] – E12, Mount Eden, Viewshafts
- Controls: Vehicle Access Restriction Control – Adjacent to Level Crossing
- Controls: Macroinvertebrate Community Index – Urban
- Designation – 6301, Newmarket Branch Railway Line, KiwiRail
- Designation – 1715, Newmarket Level Crossing Project, Auckland Transport

Rule H22.4.1(A3) classifies the operation maintenance and use of roads, railways and transport equipment (which includes underpasses and overpasses) as a permitted activity within the Strategic Transport Corridor. The section of road constructed outside of the designation footprint is within the rail corridor and is part of the new road and bridge constructed for the Newmarket Level Crossing project, therefore is a permitted activity.

Rule E12.14.1(A3) classifies general earthworks up to 500 m² as a Permitted Activity in all other zones and roads.

Rule E30.4.1(A2) classifies the discharges of contaminants into air, or into water, or onto or into land from disturbing soil containing elevated levels of contaminants as a Permitted Activity provided the volume of soil disturbed does not exceed 200 m³.

This confirms the small section of road was constructed within the permitted activity standards and no resource consents are required.

4. Assessment of Effects

This assessment considers the effects of the section of road (91 m² in area) that was constructed outside of the designation boundary to be included within the amended designation footprint.

4.1 Positive Effects

The 91 m² section of road enables the operation and maintenance of the new road thereby improving pedestrian and traffic safety at the crossing.

4.2 Amenity

The change to the existing designation will result in an increase of approximately 3.7% to the total original designation land area and is not expected to be visually discernible from the works provided for under the existing designation.

4.3 Archaeology

There are no known archaeological sites within the vicinity of the alteration. An archaeological authority was obtained to undertake works within the rail corridor (Authority no. 2018/356). Works were undertaken in accordance with the authority.

4.4 Summary of Effects

Construction of this small section of road was managed in accordance with the existing suite of conditions and management plans required by the designation conditions.

Therefore, it is considered that any adverse environmental effects resulting from the alteration to provide for the inclusion of a small section of road (91 m²) constructed outside of the designation boundary are de minimis in relation to the effects already anticipated by the designation in delivering the works for the Newmarket Level Crossing project.

5. Section 181 of the RMA

Section 181(1) of the RMA provides that a requiring authority may at any time give notice to the territorial authority of its requirement to alter the designation. Section 181(3) of the RMA states a territorial authority may at any time alter a designation in its district plan if:

(a) *the alteration —*

(i) involves no more than a minor change to the effects on the environment associated with the use or proposed use of the land; or

(ii) involves only minor changes to the boundaries of a designation; 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.*

The assessment of effects concludes the effects on the environment associated with the use of the small section of land was already anticipated by designation 1715 albeit in a slightly different location, and any adverse effects were appropriately managed and mitigated. Based on this assessment it is considered the effects of the alteration will be less than minor and therefore meets the requirement of Section 181(3)(a)(i) of the RMA.

The change to the existing designation boundary involves only a minor change resulting in an increase of approximately 0.88% to the total designation area and is not considered to be visually discernible from the works provided for under the existing designation.

Consultation has been undertaken with KiwiRail as the only landowner affected by the alteration and written approval has been provided. A copy of this approval is contained within **Attachment 2** to this Notice. There has been no additional consultation undertaken for this notice of requirement to alter the designation.

For completeness, it is considered that s181(3)(b) has been satisfied and that written notice of the proposed alteration has been given to every owner or occupier of the land directly affected (being KiwiRail) and that the owner and occupier agrees with the alteration.

It is envisaged on that basis that Auckland Council as the territorial authority and the requiring authority will agree with the alteration and that s181(3)(c) can be satisfied.

6. Conclusion

Confirmation of the alteration utilising s181(1) of the RMA is reasonably necessary to ensure the continued operation and maintenance of the new road.

The adverse effects on the environment are considered to be less than minor as all effects were appropriately avoided, remedied or mitigated by the conditions that form part of Designation 1715.

The works and designation are on land that is owned and occupied by KiwiRail. Written approval has been provided by KiwiRail for the alteration and AT intends to purchase this portion of land and vest as road. There are no other directly affected parties.

AT seeks that the alteration is confirmed and the shape file within the AUP updated as anticipated in s181(3) of the RMA as the relevant tests of Section 181(3) as described in the previous sections have been met.

ATTACHMENT 1 – CERTIFICATES OF TITLE



**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy**




R. W. Muir
Registrar-General
of Land

Identifier 944040
Land Registration District North Auckland
Date Issued 13 March 2020

Prior References
NA730/245

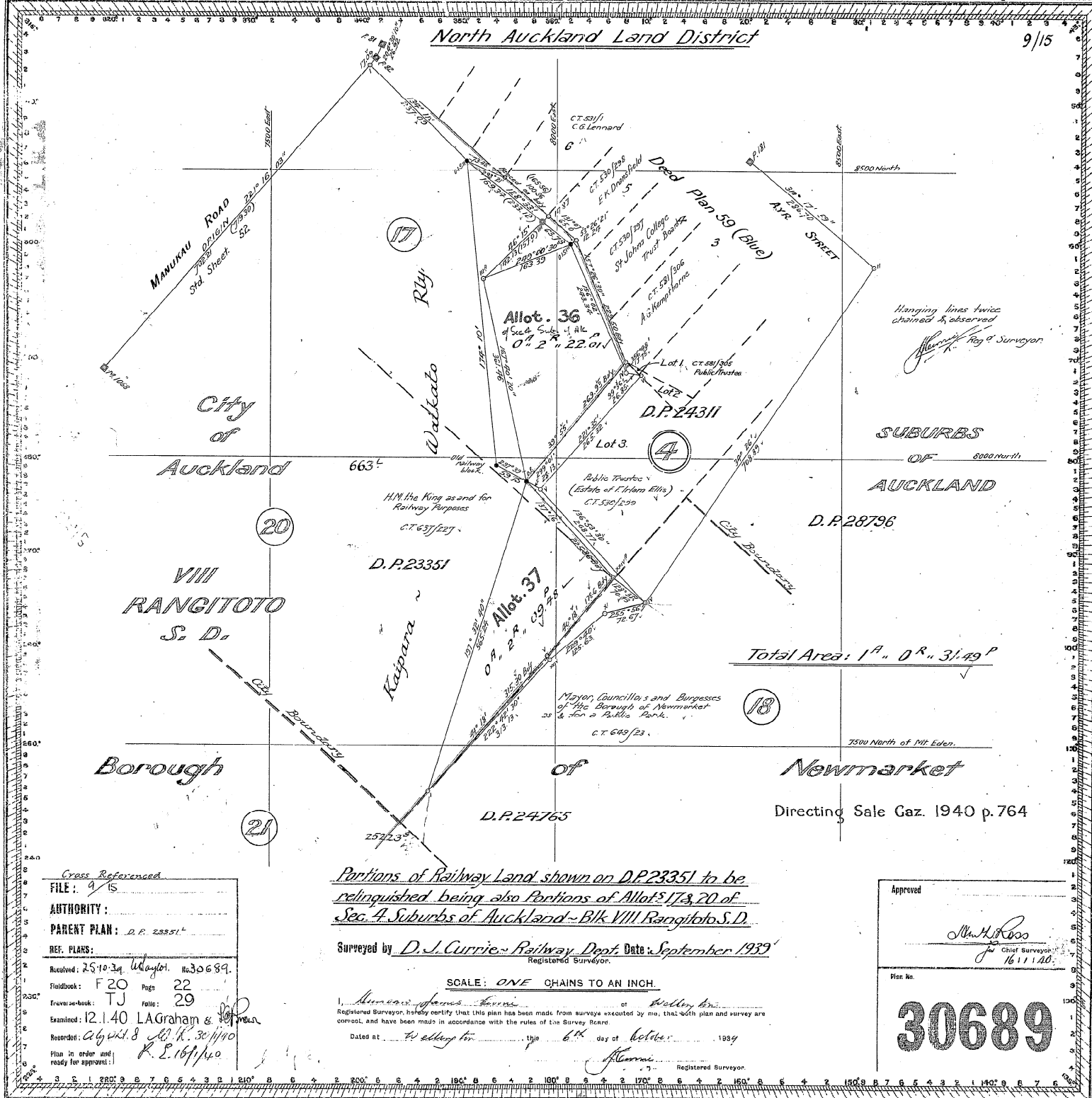
Estate Fee Simple
Area 3815 square metres more or less
Legal Description Allotment 36 Section 4 Suburbs of
Auckland and Section 11 Survey Office
Plan 534755

Registered Owners
Auckland Council

Interests

9/15

North Auckland Land District



Hanging lines twice chained & observed
[Signature] Reg. & Surveyor

SUBURBS OF AUCKLAND

Total Area: 1^{A.} 0^{R.} 31.49^{P.}

Directing Sale Gaz. 1940 p.764

Cross Referenced
 FILE: 9/15
 AUTHORITY:
 PARENT PLAN: D.P. 23351
 REF. PLANS:
 Received: 25.10.39 *W. Taylor* No. 30689.
 Fieldbook: F20 Page 22
 Traverse-book: TJ Folio: 29
 Examined: 12.1.40 L.A. Graham & *[Signature]*
 Recorded: *Ag. 12.8* R.R. 30/140
 Plan in order and ready for approval: *R. E. 16/1/40*

Partitions of Railway Land shown on D.P. 23351 to be relinquished being also Partitions of Allotments 17 & 20 of Sec. 4 Suburbs of Auckland - Blk VIII Rangitoto S.D.

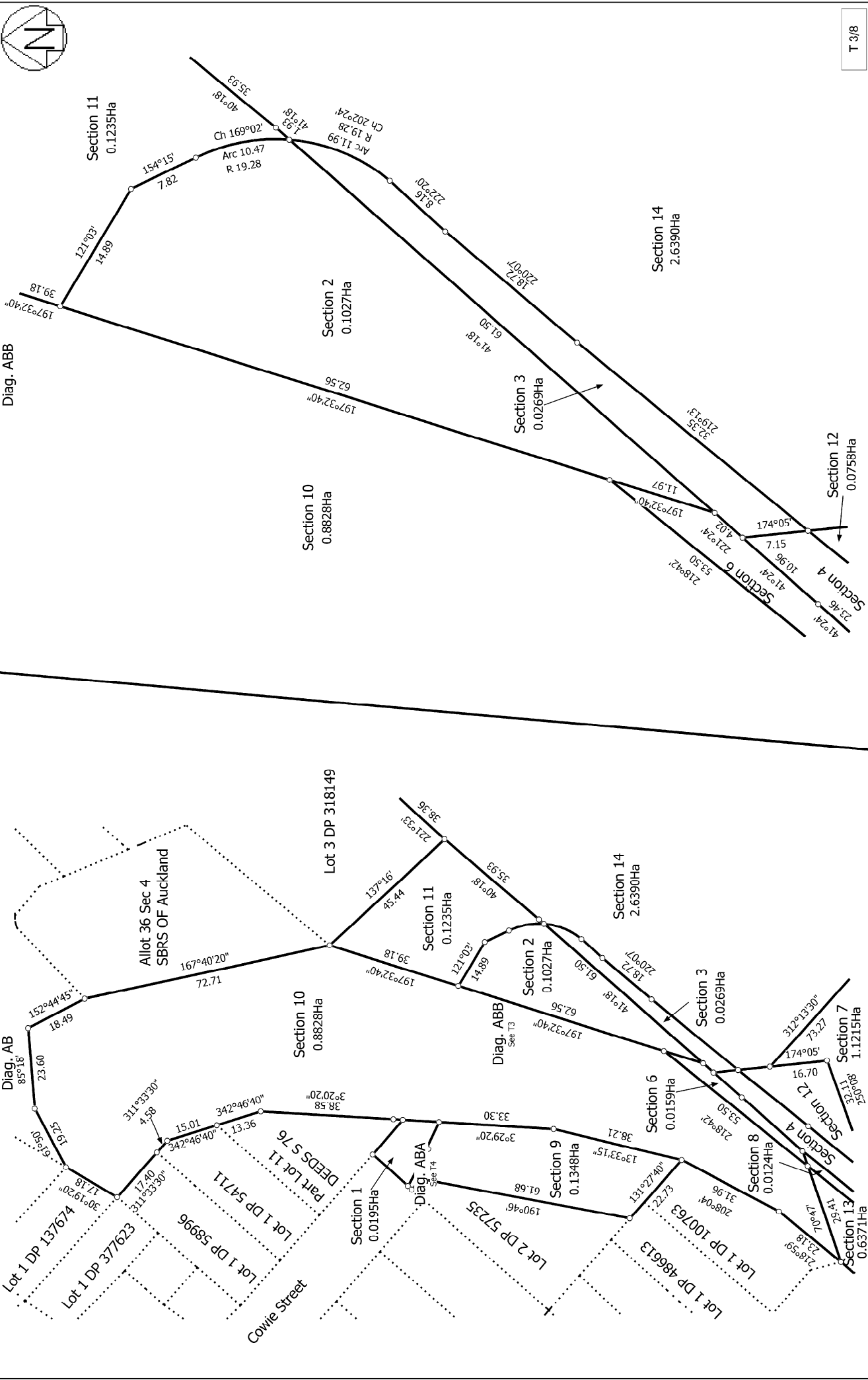
Surveyed by D. J. Currie - Railway Dept. Date: September 1939
 Registered Surveyor.

SCALE: ONE CHAINS TO AN INCH.

I, *Murray James Currie* of *Wellington*,
 Registered Surveyor, hereby certify that this plan has been made from surveys executed by me, that both plan and survey are correct, and have been made in accordance with the rules of the Survey Board.
 Dated at *Wellington* this *6th* day of *October* 1939

[Signature] Registered Surveyor.

Approved
[Signature]
 Chief Surveyor
 16.11.40.
 Plan No.
30689



T 3/8

Land District: North Auckland
Digitally Generated Plan
Generated on: 03/01/2020 4:16pm Page 5 of 10

Sections 1 - 14

Surveyor: Simon John Reid
Firm: CKL

Title Plan
SO 534755
Approved on: 8/01/2020



**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy**




R.W. Muir
Registrar-General
of Land

Identifier 944044
Land Registration District North Auckland
Date Issued 13 March 2020

Prior References

NA649/23

Estate Fee Simple
Area 2.6390 hectares more or less
Legal Description Section 14 Survey Office Plan 534755
Purpose Reserve for Recreation

Registered Owners

Auckland Council

Interests

Subject to the Reserves Act 1977

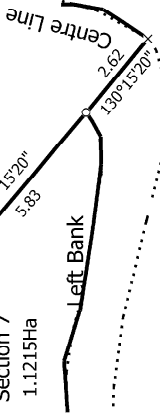


Diag. AFA

Section 14
2.6390Ha

Section 7
1.1215Ha

Section 7
1.1215Ha

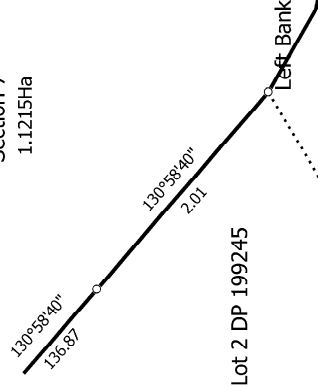


Lot 3 DP 141980

Diag. AEA

Section 7
1.1215Ha

Section 7
1.1215Ha



Lot 2 DP 199245

T 1/8

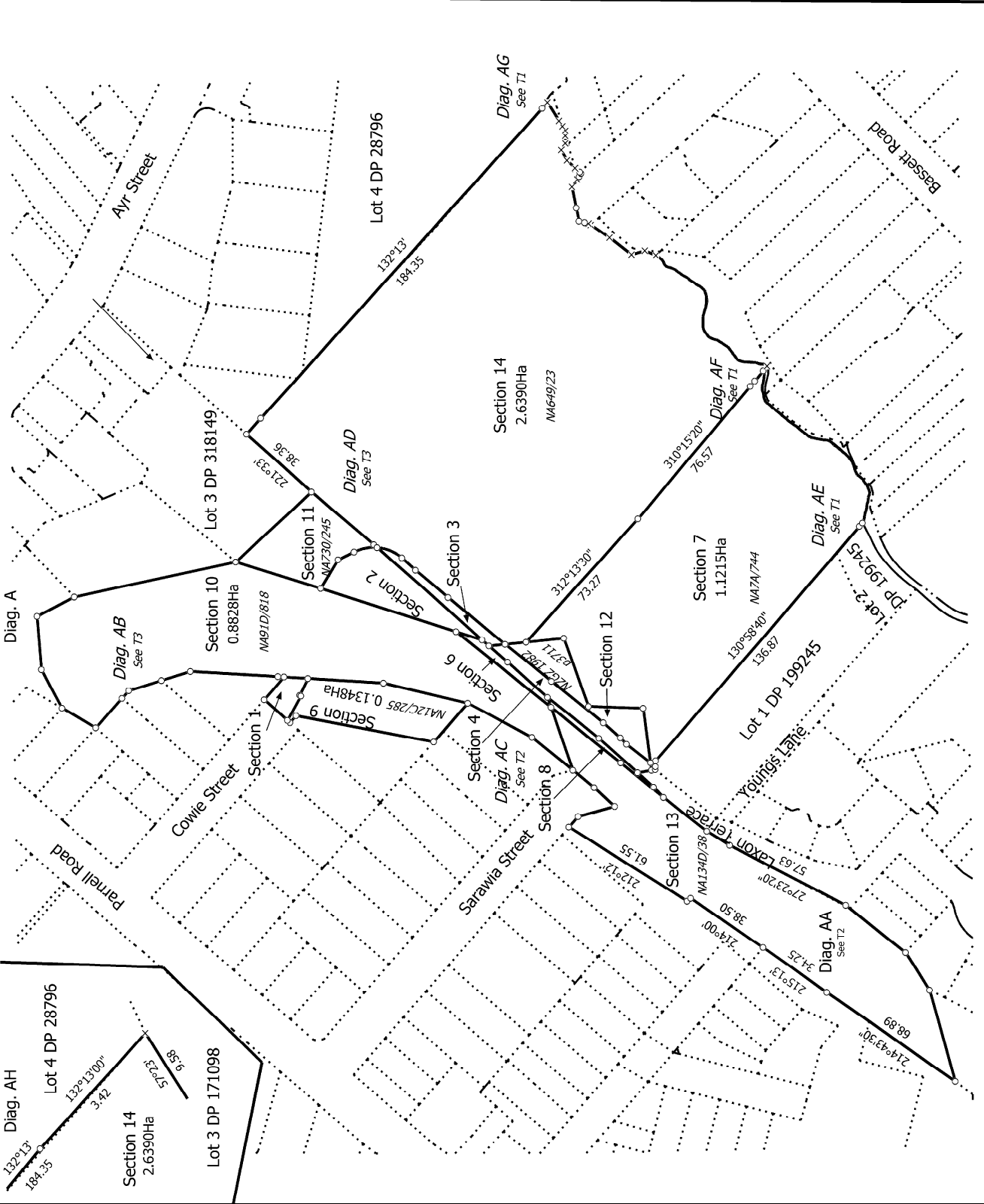
Title Plan
SO 534755
Approved on: 8/01/2020

Surveyor: Simon John Reid
Firm: CKL

Sections 1 - 14

Land District: North Auckland

Digitally Generated Plan
Generated on: 03/01/2020 4:16pm Page 3 of 10





**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy**




R. W. Muir
Registrar-General
of Land

Identifier 944050
Land Registration District North Auckland
Date Issued 13 March 2020

Prior References

NA7A/744

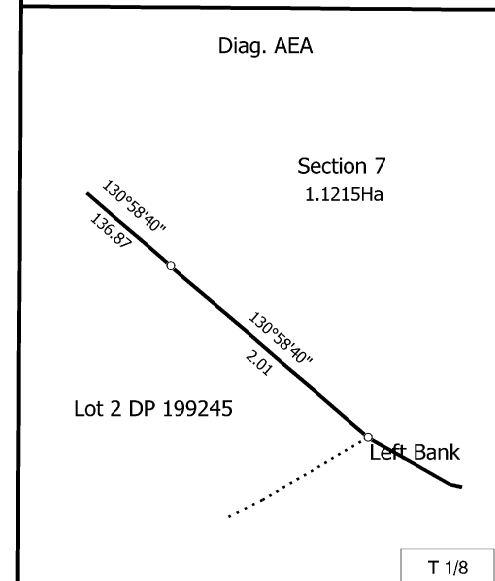
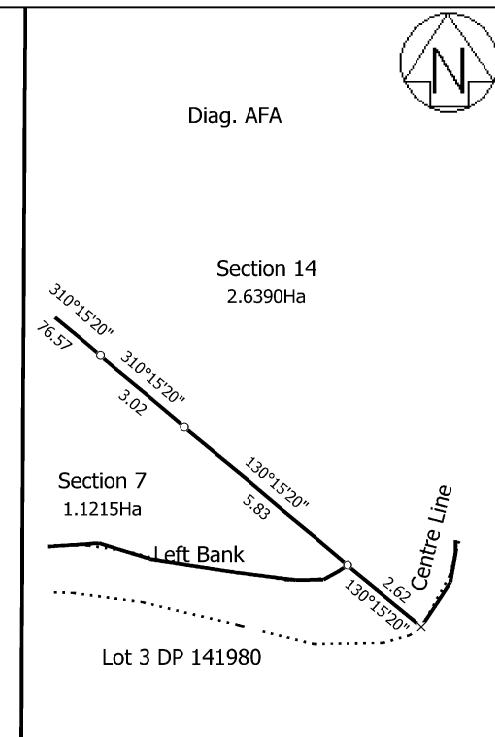
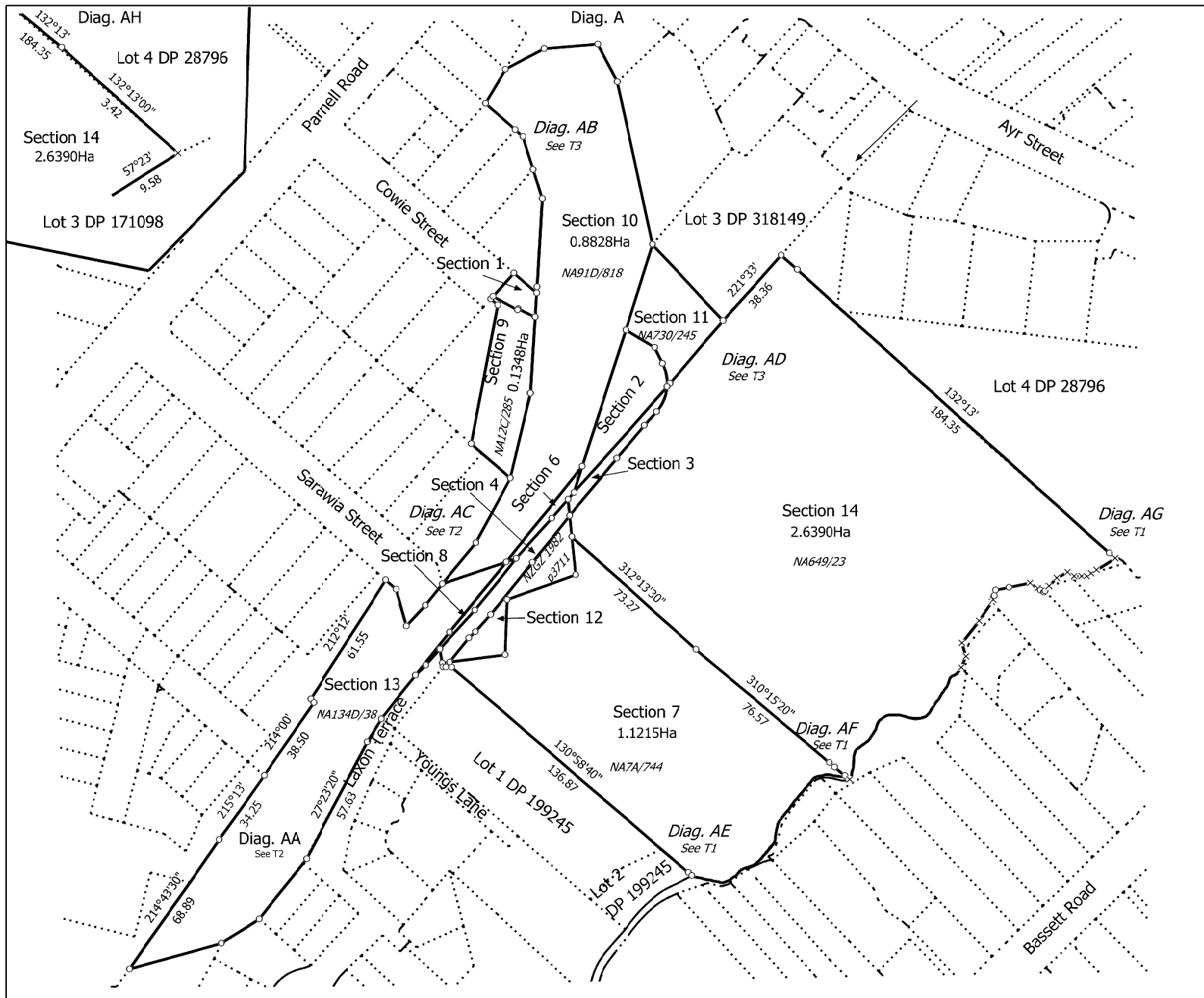
Estate Fee Simple
Area 1.1215 hectares more or less
Legal Description Section 7 Survey Office Plan 534755
Purpose Reserve for recreation

Registered Owners

Auckland Council

Interests

17326 Order in Council imposing Building Line Restriction - 11.2.1960 at 2:20 pm
Subject to the Reserves Act 1977



<p>Land District: North Auckland</p> <p>Digitally Generated Plan Generated on: 03/01/2020 4:16pm Page 3 of 10</p>	<p align="center">Sections 1 - 14</p>	<p>Surveyor: Simon John Reid Firm: CKL</p>	<p align="right">Title Plan SO 534755 Approved on: 8/01/2020</p>
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**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy**




R. W. Muir
Registrar-General
of Land

Identifier **NA91D/818**
Land Registration District **North Auckland**
Date Issued 24 January 1994

Prior References

NA91D/657

Estate	Fee Simple
Area	1.1260 hectares more or less
Legal Description	Part Deposited Plan 23351
Purpose	Railway

Registered Owners

Her Majesty The Queen

Interests

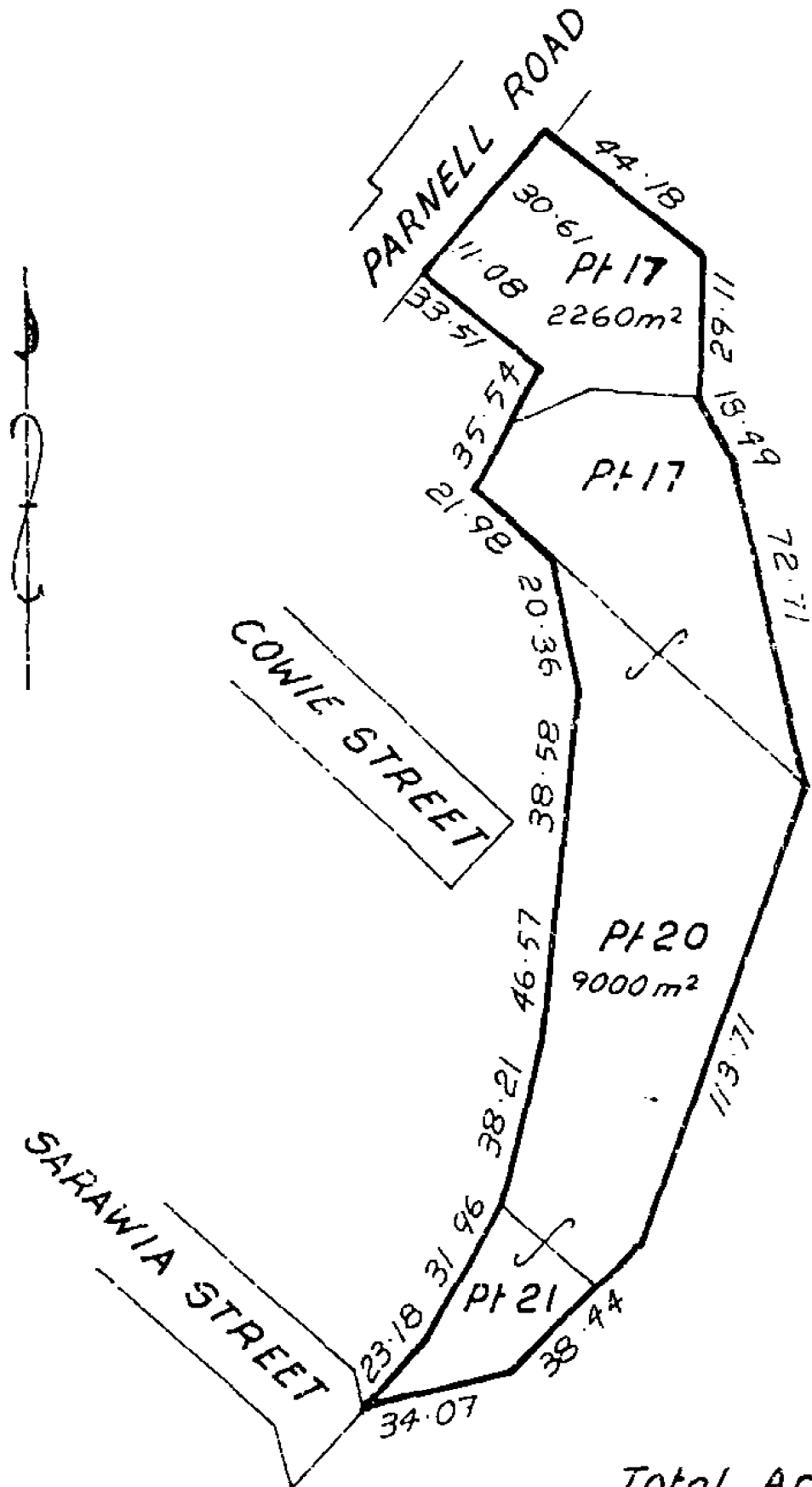
Part of the within land being part of the part Allotment 17 Section 4 Suburbs of Auckland comprises the subsoil below RL 51.20

5492626.1 Gazette Notice (NZ Gazette, 13/2/2003, No 13, p344) declaring the leasehold interests created by Memorandum of Variation of Lease dated 28/4/1993 in the land, together with any leasehold interests in the easements and covenant described herein to have been surrendered by the lessee, Tranz Rail Limited and acquired by Her Majesty the Queen for railway purposes, and is vested in the crown on the 13/2/2003 in terms of Section 35 Public Works Act 1981, it is intended that the leasehold interest acquired shall merge with the freehold interest already held by the crown - 19.2.2003 at 9:00 am

6115145.1 Gazette Notice (5/8/2004 p2376) amending Gazette Notice 5492626.1 by inserting in the third paragraph of the recital between the words "declares the leasehold interests created by" and "Memorandum of Variation of Lease" the words "Memorandum of Lease dated 20 December 1991 and varied by" - 16.8.2004 at 9:00 am

9889372.1 Certificate under section 148 of the Nga Mana Whenua o Tamaki Makaurau Collective Redress Act 2014 that the within land is RFR land as defined in section 118 and is subject to Subpart 1 of Part 4 of the Act (which restricts disposal, including leasing of the land) - 10.11.2014 at 7:00 am

AUCKLAND CITY



Total Area : 1



**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy**




R. W. Muir
Registrar-General
of Land

Identifier NA134D/38
Land Registration District North Auckland
Date Issued 23 January 2001

Prior References

NA86A/26

Estate	Fee Simple
Area	6503 square metres more or less
Legal Description	Lot 1 Deposited Plan 206508
Purpose	railway

Registered Owners

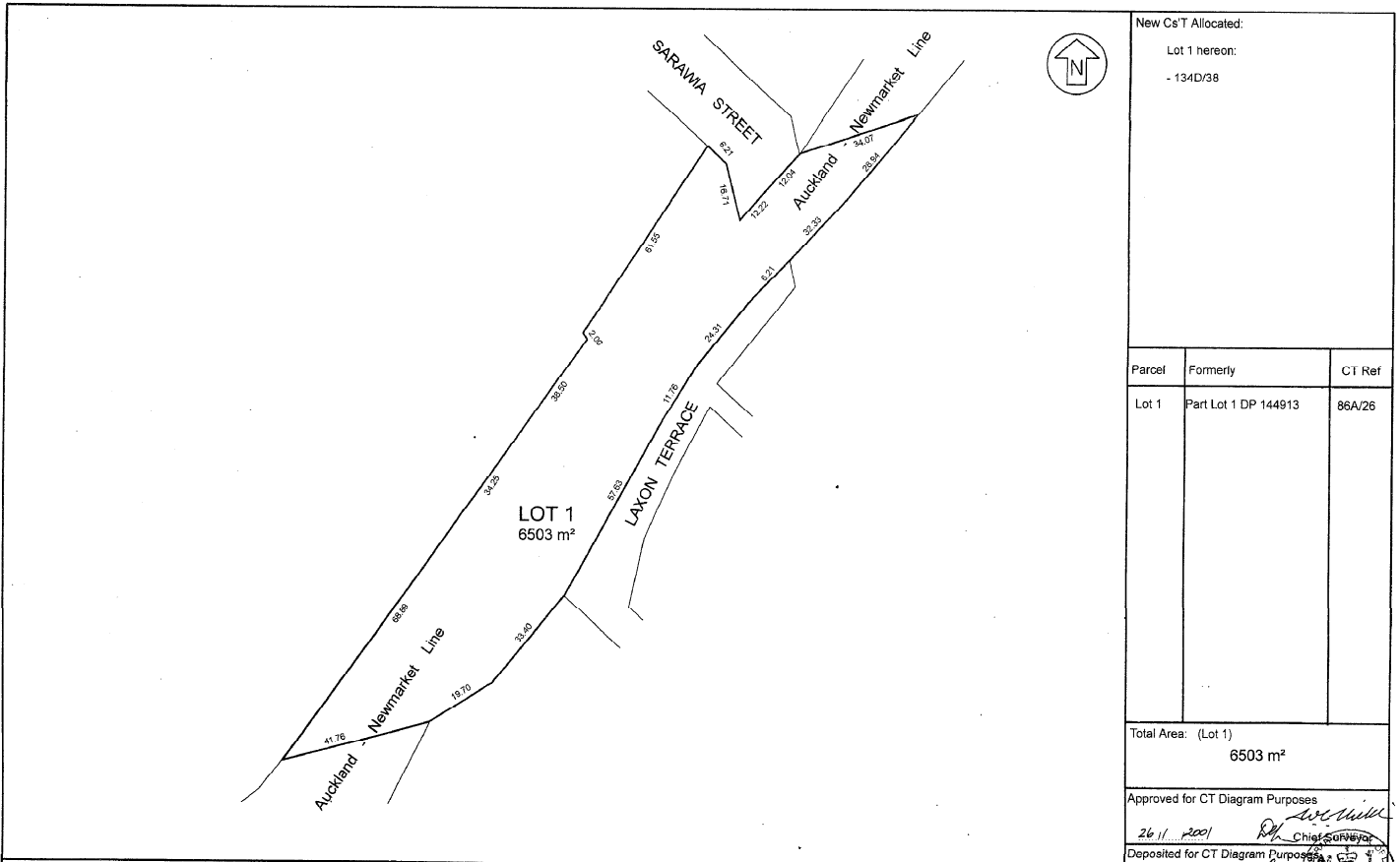
Her Majesty the Queen

Interests

5492626.1 Gazette Notice (NZ Gazette, 13/2/2003, No 13, p344) declaring the leasehold interests created by Memorandum of Variation of Lease dated 28/4/1993 in the land, together with any leasehold interests in the easements and covenant described herein to have been surrendered by the lessee, Tranz Rail Limited and acquired by Her Majesty the Queen for railway purposes, and is vested in the crown on the 13/2/2003 in terms of Section 35 Public Works Act 1981, it is intended that the leasehold interest acquired shall merge with the freehold interest already held by the crown - 19.2.2003 at 9:00 am

6115145.1 Gazette Notice (5/8/2004 p2376) amending Gazette Notice 5492626.1 by inserting in the third paragraph of the recital between the words "declares the leasehold interests created by" and "Memorandum of Variation of Lease" the words "Memorandum of Lease dated 20 December 1991 and varied by" - 16.8.2004 at 9:00 am

9889364.1 Certificate under section 148 of the Nga Mana Whenua o Tamaki Makaurau Collective Redress Act 2014 that the within land is RFR land as defined in section 118 and is subject to Subpart 1 of Part 4 of the Act (which restricts disposal, including leasing of the land) - 10.11.2014 at 7:00 am



New Cs'T Allocated:
 Lot 1 hereon:
 - 134D/38

Parcel	Formerly	CT Ref
Lot 1	Part Lot 1 DP 144913	86A/26

Total Area: (Lot 1)
 6503 m²

Approved for CT Diagram Purposes
 26.11.2001 *[Signature]* Chief Surveyor

Deposited for CT Diagram Purposes
 20.11.2001 *[Signature]* Registrar General of Land

Land District: NORTH AUCKLAND
 Survey District: VIII RANGITOTO

**PLAN OF LOT 1
 FOR CT DIAGRAM PURPOSES**

Local Authority: AUCKLAND CITY
 Prepared by: Nick's Draughting Service
 Scale: Proportional

25 JAN 2001 DP 206508



EXTRAS

6. The maximum charges for extras which may be added to the basis price as appropriate are as follows:

(1) Size

Rounds—

Reinforcing and Engineering:	Per Tonne
	\$ c
6 mm	30 00
10 mm	24 00
12 mm	20 00
16 mm	5 00

Squares—

	Per Tonne
	\$ c
10 mm	20 00

Flats—

25 mm × 5 mm	25 00
25 mm × 10 mm	22 00
30 mm × 5 mm	25 00
30 mm × 10 mm	15 00
40 mm × 5 mm	20 00
40 mm × 10 mm	10 00
50 mm × 6 mm	5 00
60 mm × 6 mm	5 00

Angles—

25 mm × 25 mm × 5 mm	30 00
30 mm × 30 mm × 5 mm	25 00
40 mm × 40 mm × 5 mm	15 00
50 mm × 50 mm × 5 mm	10 00

Channels—

76 mm × 38 mm × 6.5 kg/m	30 00
102 mm × 51 mm × 10 kg/m	10 00

(2) Quantity

For quantities of one size, quality and length for one destination:

	Per Tonne
	\$ c
1 tonne to under 4 tonnes	10 00

Minimum order for Bar 1 tonne.
Minimum order for Coil 2 tonnes.

Where quantities under 10 tonnes of an item incur any extra freight, cartage or other charges, such charges are to customers account.

(3) Length

	Per Tonne
	\$ c
Over 10 m to 12 m	3 00
Over 12 m to 15 m	5 00

Lengths over 15 m by arrangement with Mill.

(4) Extra for exact length or cutting to other than standard specification cutting tolerance by arrangement with Mill.

(5) Specification

	Per Tonne
	\$ c
BS 4360 grades 43A or 43A1	Basis
NZS 3402P: grade 275 plain or deformed	Basis
NZS 3402P: grade 380 plain	12 00
NZS 3402P: grade 380 deformed	17 00

Steels to other specifications by arrangement with mill.

(6) Bar Count

	Per Tonne
	\$ c
Applicable to rounds 24 mm and above (at mill option)	2 00

(7) Packaging

Normal packaging of rounds 10–14 mm diameter inclusive is nominal 2 tonne bundles;
An extra of \$5.00 per tonne shall apply where orders specify that packaging must be in 1 tonne bundles.

DEDUCTIONS

1. Coil

Steel supplied in coil form either plain or deformed deduct \$4.00 per tonne.

Dated at Wellington this 11th day of November 1982.

C. A. RICKIT, Director, Commerce Division.

(T. and I.)

Reservation of Land and Declaration that the Reserve be Part of the Waipu Gorge Scenic Reserve

PURSUANT to the Land Act 1948, and to a delegation from the Minister of Lands, the Assistant Commissioner of Crown Lands hereby sets apart the land, described in the Schedule

hereto, as a reserve, and further, pursuant to the Reserves Act 1977, declares the said reserve to form part of the Waipu Gorge Scenic Reserve to be administered as a reserve for scenic purposes, subject to the provisions of section 19 (1) (a) of the said Act.

SCHEDULE

NORTH AUCKLAND LAND DISTRICT—OTAMATEA COUNTY

14.1113 hectares, more or less, being Allotment 235, Wairau Parish, situated in Block V, Waipu Survey District, S.O. Plan 55265. Subject to water pipeline and power transmission easements by Document B.104407.

Dated at Wellington this 28th day of October 1982.

J. V. BOULD,

Assistant Commissioner of Crown Lands.

(L. and S. H.O. Res. 2/3/123; D.O. 13/73)

Classification of Reserve

PURSUANT to the Reserves Act 1977, and to a delegation from the Minister of Lands, the Assistant Commissioner of Crown Lands hereby declares the reserve, described in the Schedule hereto, to be classified as a reserve for recreation purposes, subject to the provisions of the said Act.

SCHEDULE

NORTH AUCKLAND LAND DISTRICT—NEWMARKET BOROUGH

3.9188 hectares, more or less, being Lot 1, D.P. 53284, part Allotments 18 and 19, shown on D.P. 24765 and part Allotment 35, Section 4, Suburbs of Auckland, all situated in Block VIII, Rangitoto Survey District. All certificates of title 7A/744, 649/23 and balance certificate of title 603/265. S.O. Plan 25223.

NORTH AUCKLAND LAND DISTRICT—AUCKLAND CITY

1.9128 hectares, more or less, being Lots 4 and 5, D.P. 28796, situated in Block VIII, Rangitoto Survey District. All certificate of title 738/252.

Dated at Auckland this 17th day of October 1982.

J. V. BOULD,

Assistant Commissioner of Crown Lands.

(L. and S. H.O. Res. 2/2/143; D.O. 8/5/415)

Classification of Reserve

PURSUANT to the Reserves Act 1977, and to a delegation from the Minister of Lands, the Assistant Commissioner of Crown Lands hereby declares the reserve, described in the Schedule hereto, to be classified as a reserve for recreation purposes, subject to the provisions of the said Act.

SCHEDULE

NORTH AUCKLAND LAND DISTRICT—MANUKAU CITY

5186 square metres, more or less, being Allotment 408, Pakuranga Parish. Situated in Block X, Rangitoto Survey District. Part certificates of title 107/114 and 712/72. S.O. Plan 51995.

Dated at Auckland this 6th day of October 1982.

J. V. BOULD,

Assistant Commissioner of Crown Lands.

(L. and S. H.O. Res. 2/2/97; D.O. 8/5/61/2)

Classification of Reserve

PURSUANT to the Reserves Act 1977, and to a delegation from the Minister of Lands, the Assistant Commissioner of Crown Lands hereby declares the reserve, described in the Schedule hereto, to be classified as a reserve for local purpose (site for a kindergarten), subject to the provisions of the said Act.

SCHEDULE

NORTH AUCKLAND LAND DISTRICT—AUCKLAND CITY

1687 square metres, more or less, being Allotment 180, District of Tamaki, situated in Block IX, Rangitoto Survey District. Part certificate of title 444/219. S.O. Plan 35299.

Dated at Auckland this 6th day of October 1982.

J. V. BOULD,

Assistant Commissioner of Crown Lands.

(L. and S. H.O. Res. 2/2/6; D.O. 8/1/236)

ATTACHMENT 2 – WRITTEN APPROVAL FROM KIWIRAIL



13 September, 2019

Diana Bell
Senior Planner
Auckland Transport
Private Bag 92250
Auckland 1142

By Email to: Diana.Bell@at.govt.nz

Dear Diana,

S181(3)(b) Approval from KiwiRail to Auckland Transport for Newmarket Level Crossing

KiwiRail has received and reviewed the change to the designation boundaries proposed by AT for the Newmarket Level Crossing project. Specifically, this change involves updating the designation boundaries for the AT designation to reflect the physical extent of works recently completed. These works involved closing the at-grade level crossing between Sarawia Street and Laxon Terrace / Youngs Lane over the Newmarket Branch, with the construction of a grade separated crossing of the rail corridor between Cowie Street and Laxon Terrace / Youngs Lane. The area of land to be included within AT's designation is approximately 91m².

This is to confirm that KiwiRail hereby provides AT with s181(3)(b) approval in relation to the alteration to the AT designation 1715 over land already contained within the KiwiRail designation for the Newmarket Branch, Designation 6301 in the Auckland Unitary Plan. This approval is in accordance with the plans for Auckland Transport, titled Cowie Street to Laxon Terrace Newmarket and referenced as Job No 18352, drawings 910 and 911, Rev 05. The area to be included in the AT designation is shaded blue. A signed copy of the plans is appended to this approval.

If you have any questions on this, please don't hesitate to contact me.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Rebecca Beals".

Rebecca Beals
RMA Team Leader
KiwiRail



www.kiwirail.co.nz | 0800 801 070
Wellington Railway Station, Bunny Street, Wellington 6011
PO Box 593, Wellington 6011, New Zealand

APPENDIX A



LEGEND:

- EXISTING BOUNDARY
- █ EXISTING DESIGNATION BOUNDARIES (1715)
- ① █ LAND TO BE DESIGNATED ROAD (PART DP 23351)
- - - NEW FENCE
- NEWLY CONSTRUCTED ROAD SEAL EDGE

C:\ProgramData\12DSynergy\data\CKL-HAM-SVN\C11 Legacy Project_11380\survey\Survey Data\CAD\A18352 910-911_05 Designation Plan.dwg



Auckland Office:
 A: 25 Broadway, Newmarket
 P: 09 524 7029
Hamilton Office:
 A: 58 Church Road, Hamilton
 P: 07 849 9921
Te Awamutu Office:
 A: 103 Market Street, Te Awamutu
 P: 07 871 6144

AUCKLAND TRANSPORT
 Cowie Street to Laxon Terrace
 NEWMARKET

**EXISTING
 DESIGNATION
 LOCATION**

Issue	Description	Checked	Date	Designed:	Date	Scale:
01	ADDED EX DESIGNATION	SJR	15.04.19			1:1600 (A3 Original)
02	UPDATED DESIGNATION	SJR	20.05.19	Drawn: FZ	28.03.19	
05	Updated to 1715 only	SJR	29.05.19	Checked: SJR	01.04.19	
				Job No:	Dwg No:	Rev:
				A18352	910	05



LEGEND:

- EXISTING BOUNDARY
- █ EXISTING DESIGNATION BOUNDARIES (1715)
- ① █ LAND TO BE DESIGNATED ROAD (PART DP 23351)
- NEW FENCE
- NEWLY CONSTRUCTED ROAD SEAL EDGE

C:\ProgramData\12DSynergy\data\CKL-HAM-SYV\CI1 Legacy Project_11380\survey\Survey Data\CAD\A18352 910-911_05 Designation Plan.dwg

LAXON TERRACE

1715

1715

①
91m²



Auckland Office:
 A: 25 Broadway, Newmarket
 P: 09 524 7029
Hamilton Office
 A: 58 Church Road, Hamilton
 P: 07 849 9921
Te Awamutu Office
 A: 103 Market Street, Te Awamutu
 P: 07 871 6144

AUCKLAND TRANSPORT
Cowie Street to Laxon Terrace
NEWMARKET

PROPOSED
DESIGNATION
LOCATION

Issue	Description	Checked	Date	Designed:	Date	Scale:
01	ADDED EX DESIGNATION	SJR	15.04.19			1:300 (A3 Original)
02	UPDATED DESIGNATION	SJR	20.05.19	Drawn: FZ	28.03.19	
05	Updated to 1715 only	SJR	29.05.19	Checked: SJR	01.04.19	
				Job No:	Dwg No:	Rev:
				A18352	911	05

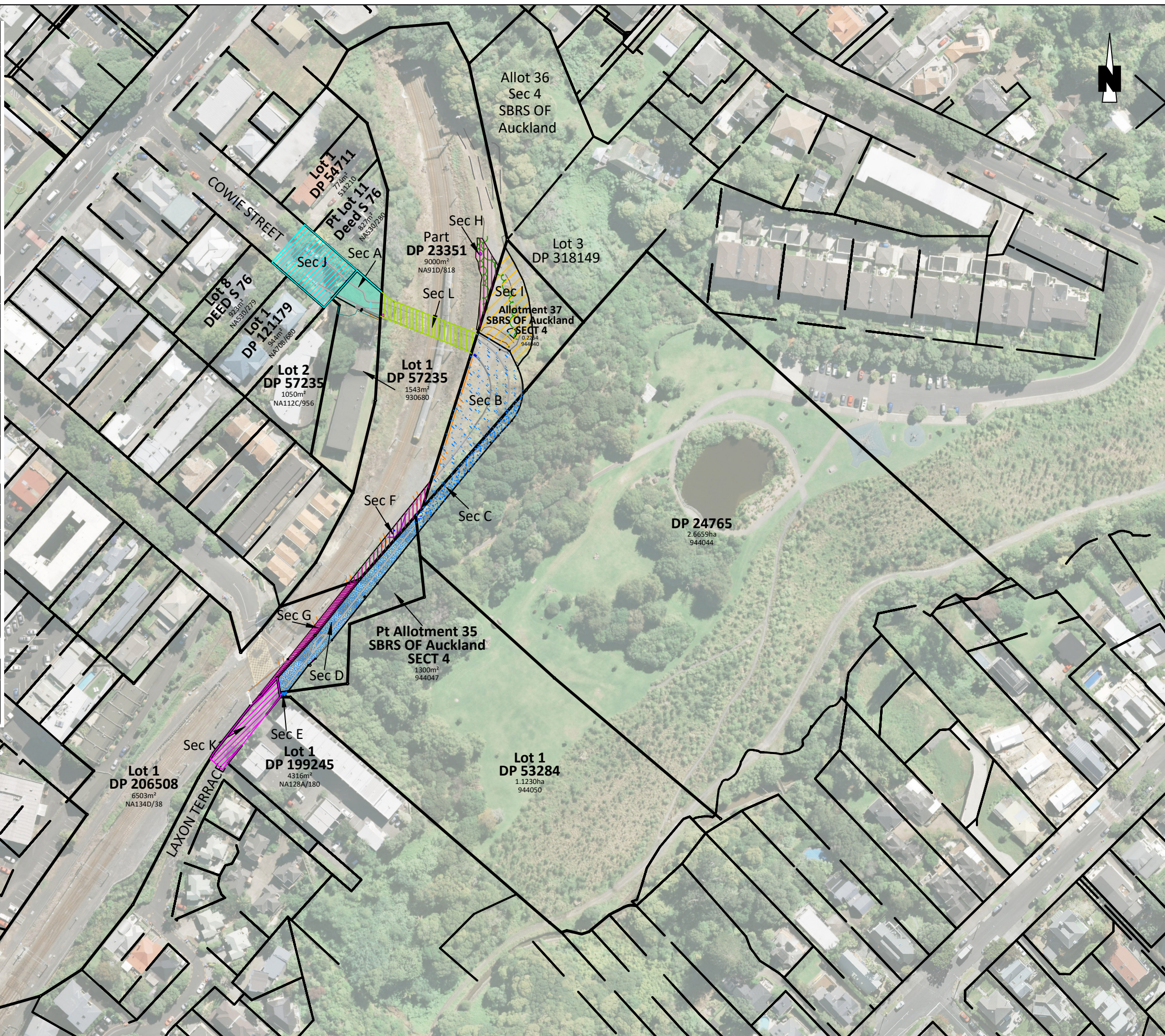
APPENDIX B

LAND REQUIREMENT SHEDULE (9 COWIE STREET)			
SECTION	AREA(m ²)	LEGAL DESCRIPTION	RT
A	195	LOT 1 DP 57235	930680
L	320	Part DP 23351	NA91D/818
J	564	LOT 1 DP 57235, LOT 2 DP 57235, LOT 1 DP 121179, LOT 8 DEED S 76, LOT 1 DP 54711, PT LOT 11 DEED S 76	NA12C/285, NA112C/956, NA70B/680, NA530/279, 511210, NA530/280

LAND REQUIREMENT SHEDULE (COUNCIL LAND)			
SECTION	AREA(m ²)	LEGAL DESCRIPTION	RT
B	1027	Allotment 37 SBRS OF Auckland SECT 4	944040
C	269	DP 24765	944044
D	540	Pt Allotment 35 SBRS OF Auckland SECT 4	944047
E	4	Lot 1 DP 53284	944050

LAND REQUIREMENT SHEDULE (KIWIRAIL LAND)			
SECTION	AREA(m ²)	LEGAL DESCRIPTION	RT
F	160	Part DP 23351	NA91D/818
H	157		
G	125	Lot 1 DP 206508	NA134D/38
I	586	Allotment 37 SBRS OF Auckland SECT 49	944040

LAND REQUIREMENT SHEDULE (3 LAXON TERRACE)			
SECTION	AREA(m ²)	LEGAL DESCRIPTION	RT
K	274	LOT 1 DP 199245, LOT 1 DP 206508	NA128A/180, NA134D/38



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Auckland Office:
A: 25 Broadway, Newmarket
P: 09 524 7029
Hamilton Office:
A: 58 Church Road, Hamilton
P: 07 849 9921
Te Awamutu Office:
A: 103 Market Street, Te Awamutu
P: 07 871 6144

LAND REQUIREMENT PLAN
Auckland Transport
Cowie Street to Laxon Terrace

Issue	Description	Checked	Date	Designed:	Date	Scale:
01	Section H added	SJR	02.04.19	Drawn:	20.03.19	1:1600 (A3 Original)
02	ADDED AERIAL	SJR	15.04.19	Drawn:	FZ	
03	SECTION I ADDED	MRD	15.01.20	Checked:	SJR	
04	SECTIONS J & K ADDED.	MRD	03.02.'20			
05	SECTION L ADDED	MRD	01.04.20			
06	AMENDED ABUTTALS	SJR	17.04.20			
07	UPDATED TITLE REFS	SJR	03.06.20			

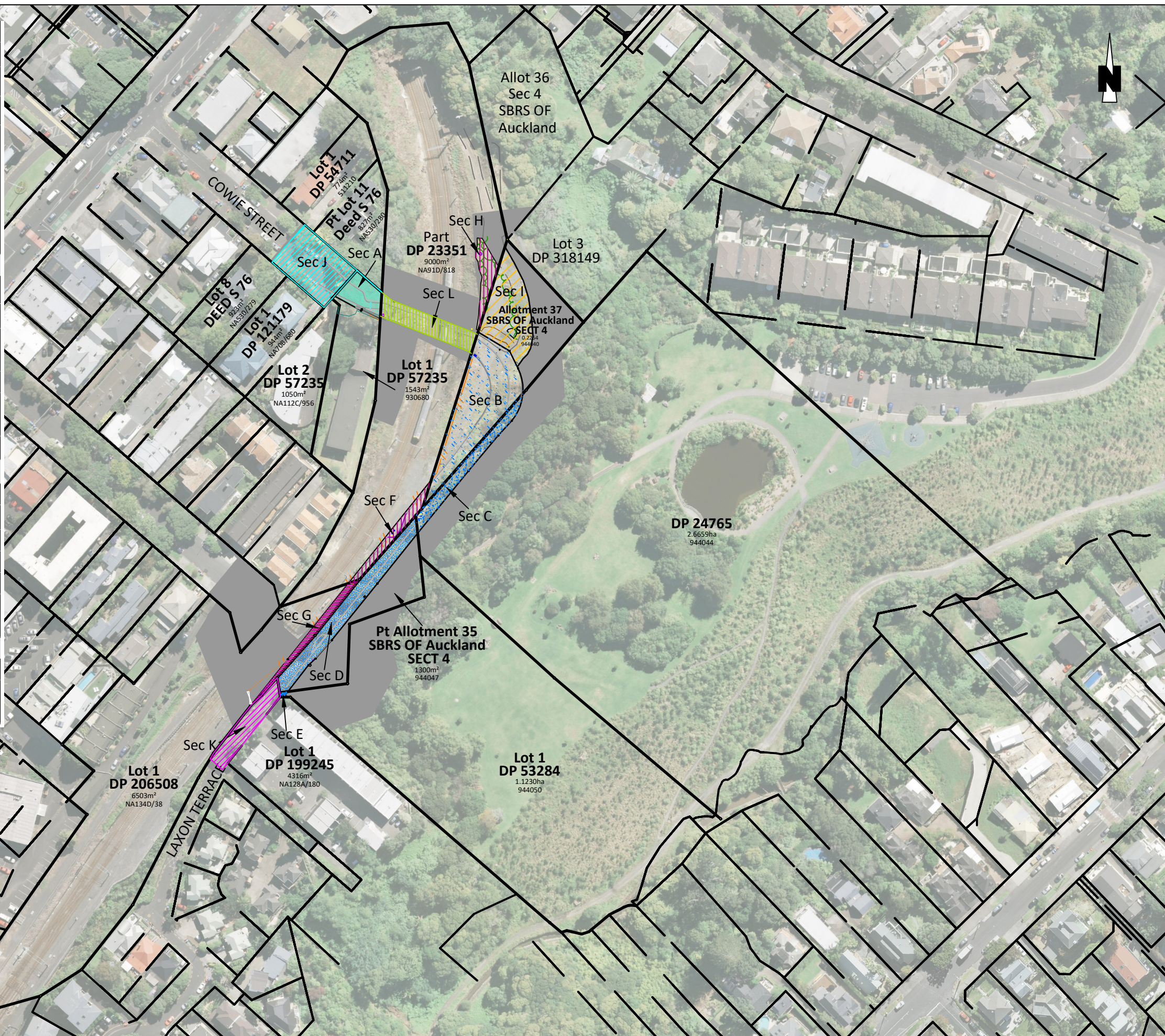
Job No: **A18352** Dwg No: **900** Rev: **07**

LAND REQUIREMENT SHEDULE (9 COWIE STREET)			
SECTION	AREA(m ²)	LEGAL DESCRIPTION	RT
A	195	LOT 1 DP 57235	930680
L	320	Part DP 23351	NA91D/818
J	564	LOT 1 DP 57235, LOT 2 DP 57235, LOT 1 DP 121179, LOT 8 DEED S 76, LOT 1 DP 54711, PT LOT 11 DEED S 76	NA12C/285, NA112C/956, NA70B/680, NA530/279, 511210, NA530/280

LAND REQUIREMENT SHEDULE (COUNCIL LAND)			
SECTION	AREA(m ²)	LEGAL DESCRIPTION	RT
B	1027	Allotment 37 SBRS OF Auckland SECT 4	944040
C	269	DP 24765	944044
D	540	Pt Allotment 35 SBRS OF Auckland SECT 4	944047
E	4	Lot 1 DP 53284	944050

LAND REQUIREMENT SHEDULE (KIWIRAIL LAND)			
SECTION	AREA(m ²)	LEGAL DESCRIPTION	RT
F	160	Part DP 23351	NA91D/818
H	157		
G	125	Lot 1 DP 206508	NA134D/38
I	586	Allotment 37 SBRS OF Auckland SECT 49	944040

LAND REQUIREMENT SHEDULE (3 LAXON TERRACE)			
SECTION	AREA(m ²)	LEGAL DESCRIPTION	RT
K	274	LOT 1 DP 199245, LOT 1 DP 206508	NA128A/180, NA134D/38



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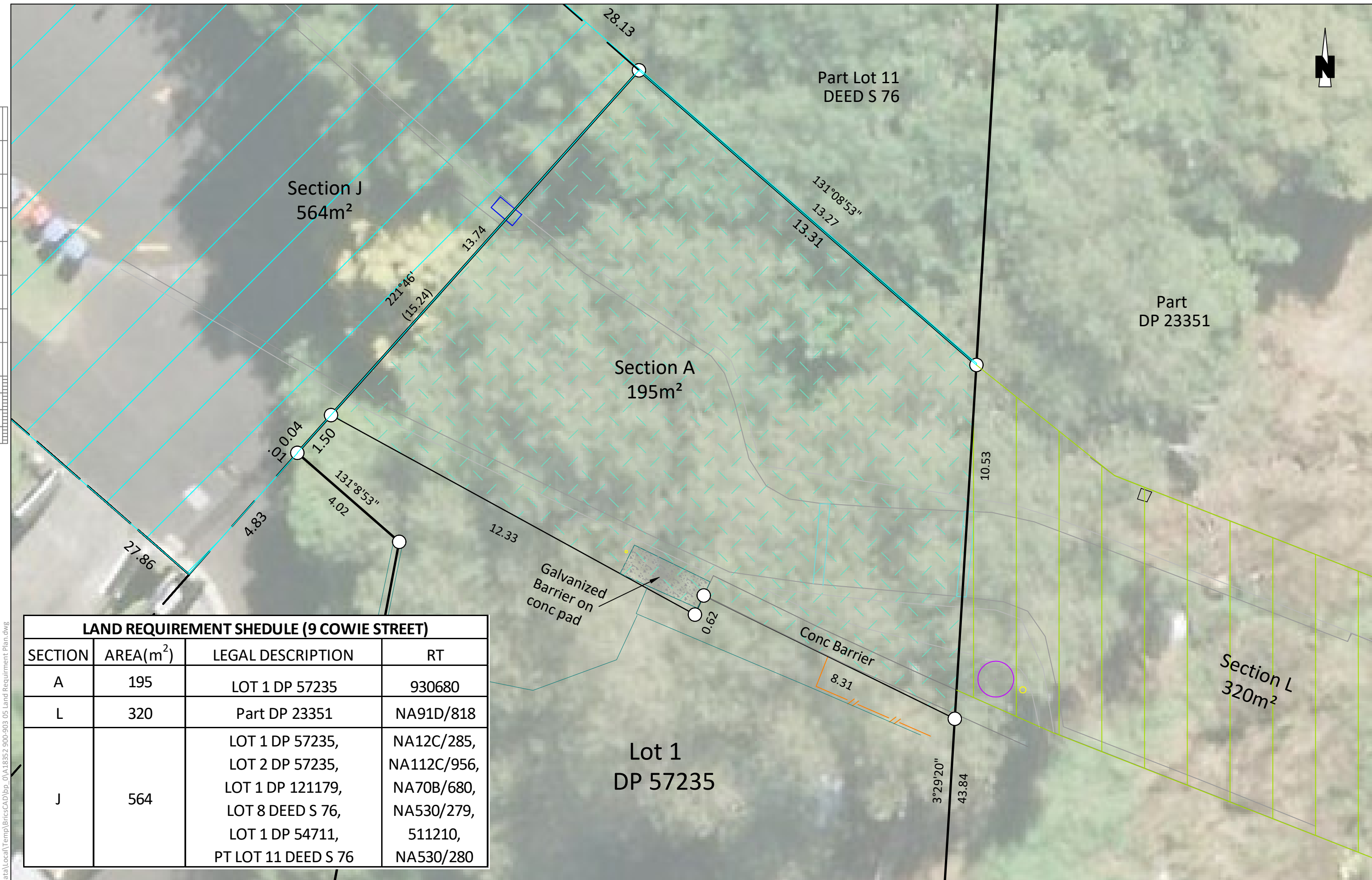


Auckland Office:
A: 25 Broadway, Newmarket
P: 09 524 7029
Hamilton Office:
A: 58 Church Road, Hamilton
P: 07 849 9921
Te Awamutu Office:
A: 103 Market Street, Te Awamutu
P: 07 871 6144

LAND REQUIREMENT PLAN
Auckland Transport
Cowie Street to Laxon Terrace

Issue	Description	Checked	Date	Designed:	Date	Scale:
01	Section H added	SJR	02.04.19	Drawn:	20.03.19	1:1600 (A3 Original)
02	ADDED AERIAL	SJR	15.04.19	Drawn:	FZ	
03	SECTION I ADDED	MRD	15.01.20	Checked:	SJR	
04	SECTIONS J & K ADDED.	MRD	03.02.'20			
05	SECTION L & DESIGNATION ADDED	MRD	01.04.20			
06	AMENDED ABUTTALS	SJR	17.04.20			
07	UPDATED TITLE REFS	SJR	03.06.20			

Job No: **A18352** Dwg No: **904** Rev: **07**



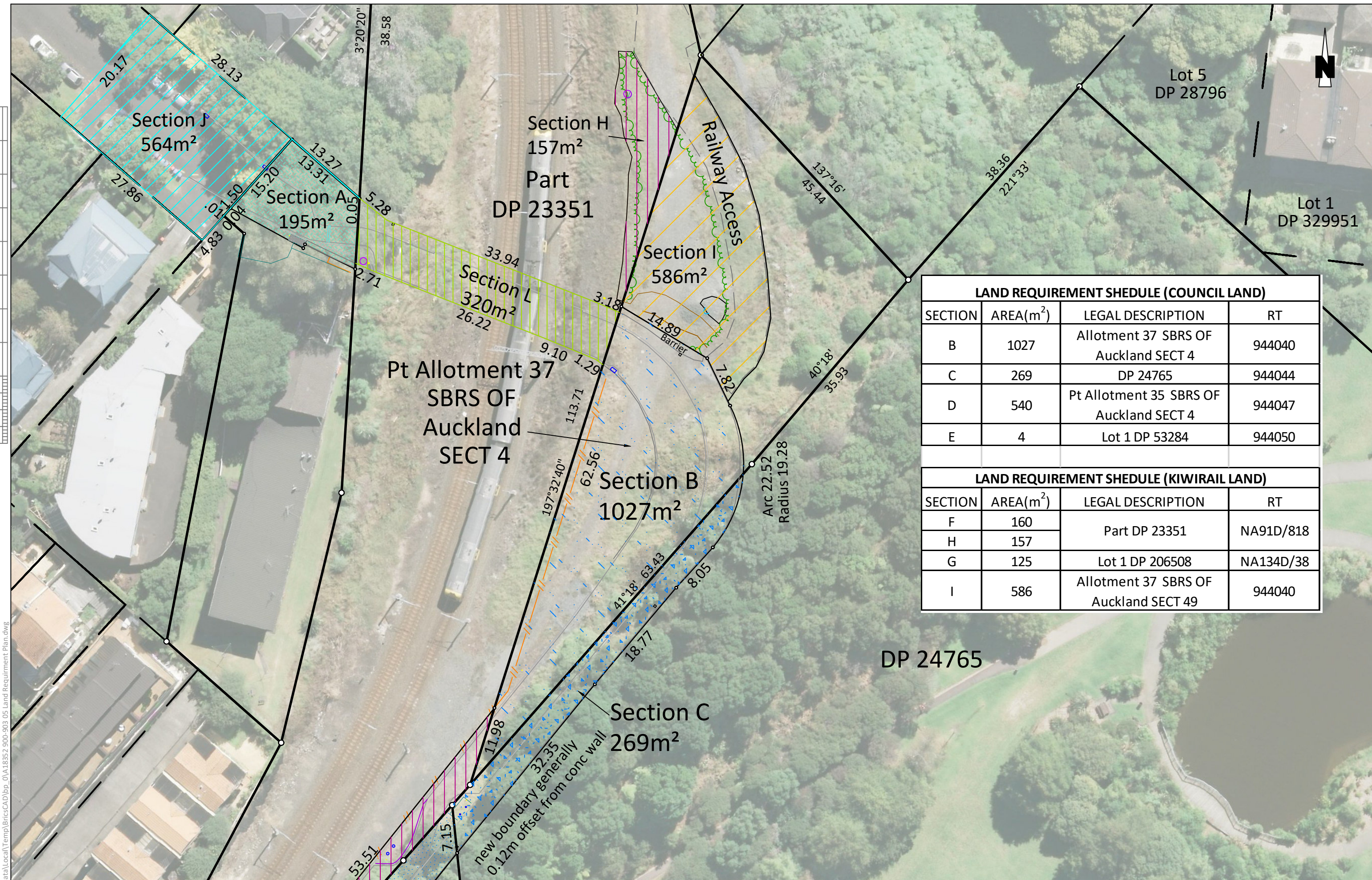
LAND REQUIREMENT SHEDULE (9 COWIE STREET)			
SECTION	AREA(m ²)	LEGAL DESCRIPTION	RT
A	195	LOT 1 DP 57235	930680
L	320	Part DP 23351	NA91D/818
J	564	LOT 1 DP 57235, LOT 2 DP 57235, LOT 1 DP 121179, LOT 8 DEED S 76, LOT 1 DP 54711, PT LOT 11 DEED S 76	NA12C/285, NA112C/956, NA70B/680, NA530/279, 511210, NA530/280

LAND REQUIREMENT PLAN
Auckland Transport
Cowie Street to Laxon Terrace

Issue	Description	Checked	Date	Date	Scale:
1	Section H added	SJR	02.04.19	Designed:	1:100 (A3 Original)
02	ADDED AERIAL	SJR	15.04.19	Drawn: FZ	
03	SECTION I ADDED	MRD	15.01.20	Checked: SJR	
04	SECTIONS J & K ADDED.	MRD	03.02.'20		
05	SECTION L ADDED	MRD	01.04.20		
06	AMENDED ABUTTALS	SJR	17.04.20		
07	UPDATED TITLE REFS	SJR	03.06.20		

Job No: **A18352** Dwg No: **901** Rev: **07**

Auckland Office:
 A: 25 Broadway, Newmarket
 P: 09 524 7029
Hamilton Office:
 A: 58 Church Road, Hamilton
 P: 07 849 9921
Te Awamutu Office:
 A: 103 Market Street, Te Awamutu
 P: 07 871 6144



LAND REQUIREMENT SHEDULE (COUNCIL LAND)			
SECTION	AREA(m ²)	LEGAL DESCRIPTION	RT
B	1027	Allotment 37 SBRS OF Auckland SECT 4	944040
C	269	DP 24765	944044
D	540	Pt Allotment 35 SBRS OF Auckland SECT 4	944047
E	4	Lot 1 DP 53284	944050

LAND REQUIREMENT SHEDULE (KIWIRAIL LAND)			
SECTION	AREA(m ²)	LEGAL DESCRIPTION	RT
F	160	Part DP 23351	NA91D/818
H	157		
G	125	Lot 1 DP 206508	NA134D/38
I	586	Allotment 37 SBRS OF Auckland SECT 49	944040

DP 24765

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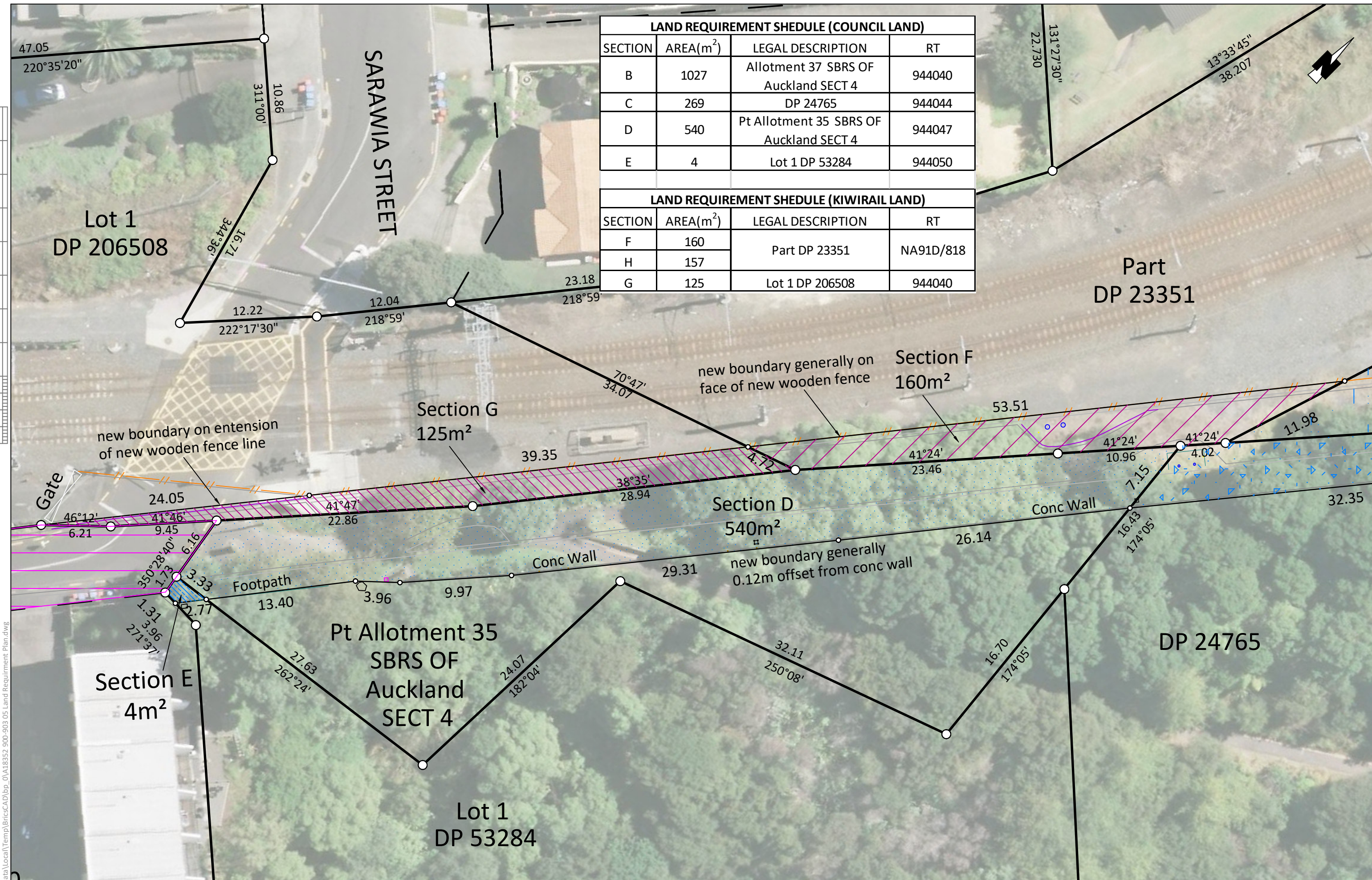


Auckland Office:
 A: 25 Broadway, Newmarket
 P: 09 524 7029
Hamilton Office
 A: 58 Church Road, Hamilton
 P: 07 849 9921
Te Awamutu Office
 A: 103 Market Street, Te Awamutu
 P: 07 871 6144

LAND REQUIREMENT PLAN
Auckland Transport
Cowie Street to Laxon Terrace

Issue	Description	Checked	Date	Designed:	Date	Scale:
1	Section H added	SJR	02.04.19			1:500
02	ADDED AERIAL	SJR	15.04.19	Drawn: FZ	20.03.19	
03	SECTION I ADDED	MRD	15.01.20	Checked: SJR	27.03.19	(A3 Original)
04	SECTIONS J & K ADDED.	MRD	03.02.'20			
05	SECTION L ADDED	MRD	01.04.20			
06	AMENDED ABUTTALS	SJR	17.04.20			
07	UPDATED TITLE REFS	SJR	03.06.20			

Job No: **A18352** Dwg No: **902** Rev: **07**



LAND REQUIREMENT SHEDULE (COUNCIL LAND)			
SECTION	AREA(m ²)	LEGAL DESCRIPTION	RT
B	1027	Allotment 37 SBRS OF Auckland SECT 4	944040
C	269	DP 24765	944044
D	540	Pt Allotment 35 SBRS OF Auckland SECT 4	944047
E	4	Lot 1 DP 53284	944050

LAND REQUIREMENT SHEDULE (KIWIRAIL LAND)			
SECTION	AREA(m ²)	LEGAL DESCRIPTION	RT
F	160	Part DP 23351	NA91D/818
H	157		
G	125	Lot 1 DP 206508	944040

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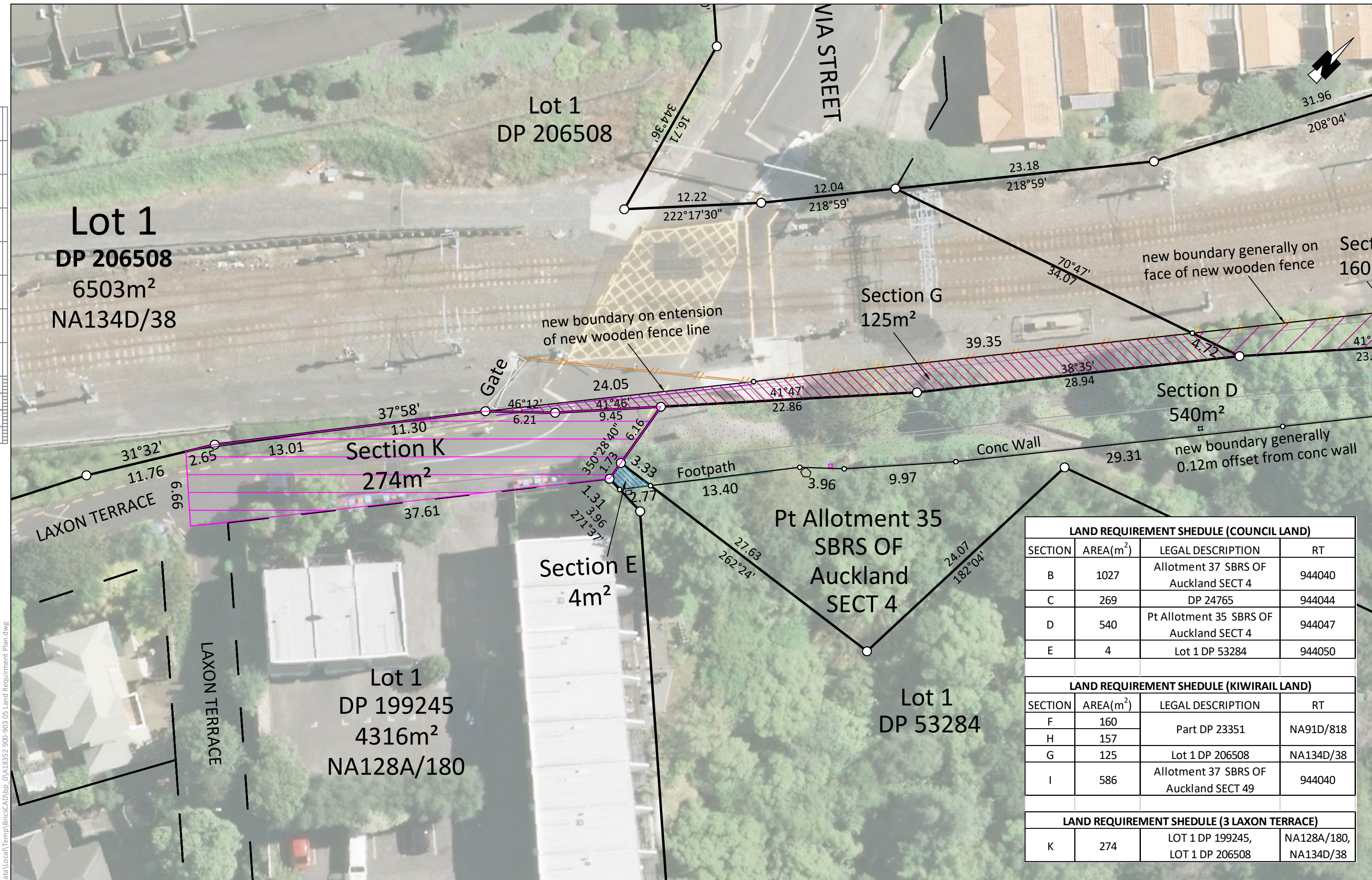


Auckland Office:
 A: 25 Broadway, Newmarket
 P: 09 524 7029
Hamilton Office:
 A: 58 Church Road, Hamilton
 P: 07 849 9921
Te Awamutu Office:
 A: 103 Market Street, Te Awamutu
 P: 07 871 6144

LAND REQUIREMENT PLAN
Auckland Transport
Cowie Street to Laxon Terrace

Issue	Description	Checked	Date	Designed:	Date	Scale:
1	Section H added	SJR	02.04.19			1:300 (A3 Original)
02	ADDED AERIAL	SJR	15.04.19	Drawn: FZ	20.03.19	
03	SECTION I ADDED	MRD	15.01.20	Checked: SJR	27.03.19	
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05	SECTION L ADDED	MRD	01.04.20			
06	AMENDED ABUTTALS	SJR	17.04.20			
07	UPDATED TITLE REFS	SJR	03.06.20			

Job No: **A18352** Dwg No: **903** Rev: **07**



LAND REQUIREMENT SHEDULE (COUNCIL LAND)			
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SECTION	AREA(m ²)	LEGAL DESCRIPTION	RT
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H	157		
G	125	Lot 1 DP 206508	NA134D/38
I	586	Allotment 37 SBRS OF Auckland SECT 49	944040

LAND REQUIREMENT SHEDULE (3 LAXON TERRACE)			
SECTION	AREA(m ²)	LEGAL DESCRIPTION	RT
K	274	LOT 1 DP 199245, LOT 1 DP 206508	NA128A/180, NA134D/38



Auckland Office:
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Hamilton Office:
A: 58 Church Road, Hamilton
P: 07 849 9921

Te Awamutu Office:
A: 103 Market Street, Te Awamutu
P: 07 871 6144

Planning | Surveying | Engineering | Environmental

LAND REQUIREMENT PLAN
Auckland Transport
Cowie Street to Laxon Terrace

Issue	Description	Checked	Date	Designed:	Date	Scale:
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05	SECTION L ADDED	MRD	01.04.20			
06	AMENDED ABUTTALS	SJR	17.04.20			
07	UPDATED TITLE REFS	SJR	03.06.20			

Job No: **A18352** Dwg No: **903** Rev: **07**

Attachment 3 – KiwiRail written approval

13 September, 2019

Diana Bell
Senior Planner
Auckland Transport
Private Bag 92250
Auckland 1142

By Email to: Diana.Bell@at.govt.nz

Dear Diana,

S181(3)(b) Approval from KiwiRail to Auckland Transport for Newmarket Level Crossing

KiwiRail has received and reviewed the change to the designation boundaries proposed by AT for the Newmarket Level Crossing project. Specifically, this change involves updating the designation boundaries for the AT designation to reflect the physical extent of works recently completed. These works involved closing the at-grade level crossing between Sarawia Street and Laxon Terrace / Youngs Lane over the Newmarket Branch, with the construction of a grade separated crossing of the rail corridor between Cowie Street and Laxon Terrace / Youngs Lane. The area of land to be included within AT's designation is approximately 91m².

This is to confirm that KiwiRail hereby provides AT with s181(3)(b) approval in relation to the alteration to the AT designation ~~1715~~ over land already contained within the KiwiRail designation for the Newmarket Branch, Designation 6301 in the Auckland Unitary Plan. This approval is in accordance with the plans for Auckland Transport, titled Cowie Street to Laxon Terrace Newmarket and referenced as Job No 18352, drawings 910 and 911, Rev 05. The area to be included in the AT designation is shaded blue. A signed copy of the plans is appended to this approval.

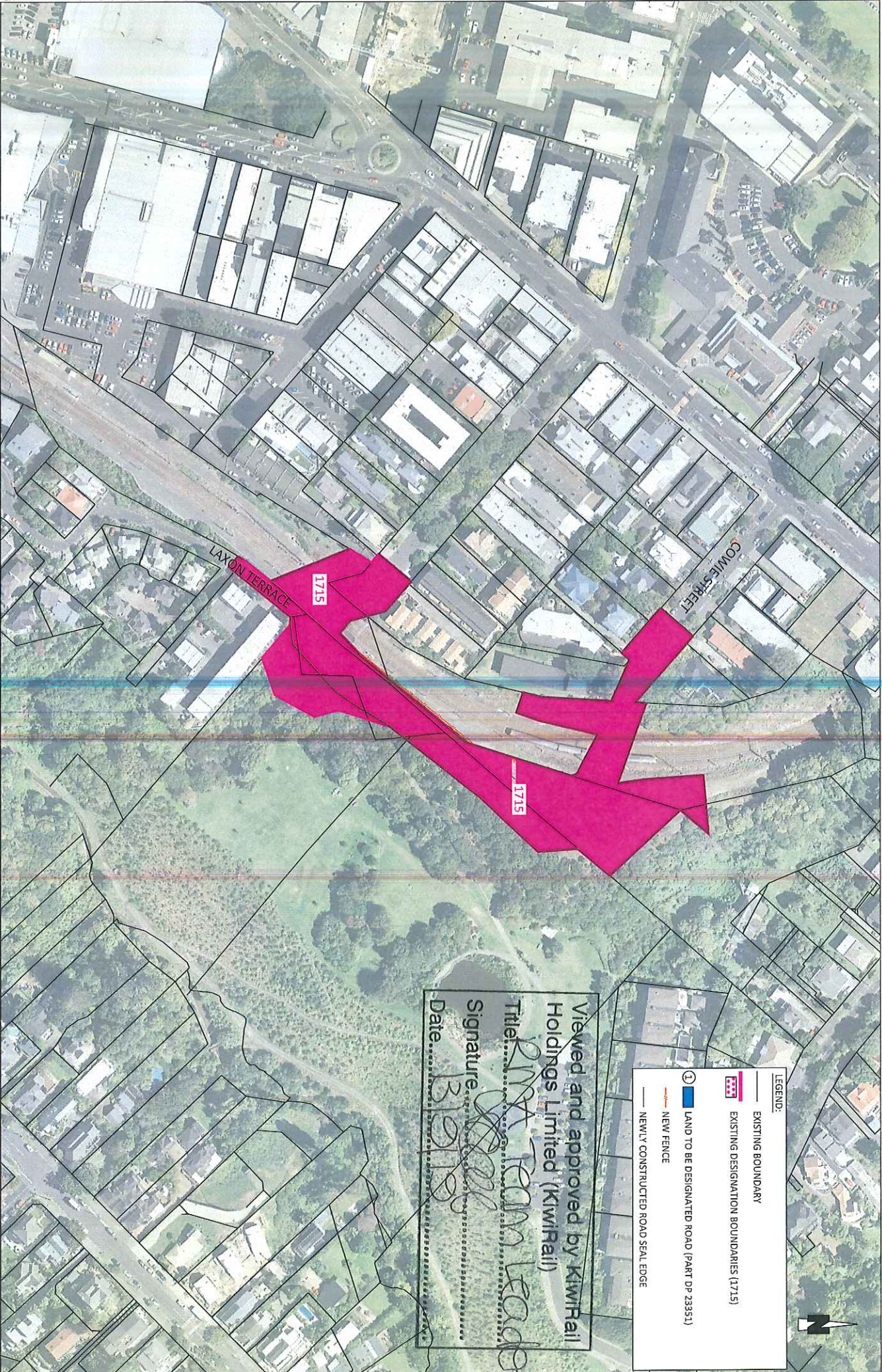
If you have any questions on this, please don't hesitate to contact me.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Rebecca Beals".

Rebecca Beals
RMA Team Leader
KiwiRail





LEGEND:

- EXISTING BOUNDARY
- EXISTING DESIGNATION BOUNDARIES (1715)
- ① LAND TO BE DESIGNATED ROAD (PART DP 23351)
- NEW FENCE
- NEWLY CONSTRUCTED ROAD SEAL EDGE

Viewed and approved by KiwiRail Holdings Limited (KiwiRail)

Title: *RMA Team Leads*

Signature: *[Handwritten Signature]*

Date: *[Handwritten Date]*

CKL

Planning | Surveying | Engineering | Environmental

Auckland Office:
 At 25 Broadway, Newmarket
 P: 09 524 7029

Hamilton Office:
 Hamilton Road, Hamilton
 P: 07 549 9911

Tauranga Office:
 At 103 Market Street, Tauranga
 P: 07 571 6144

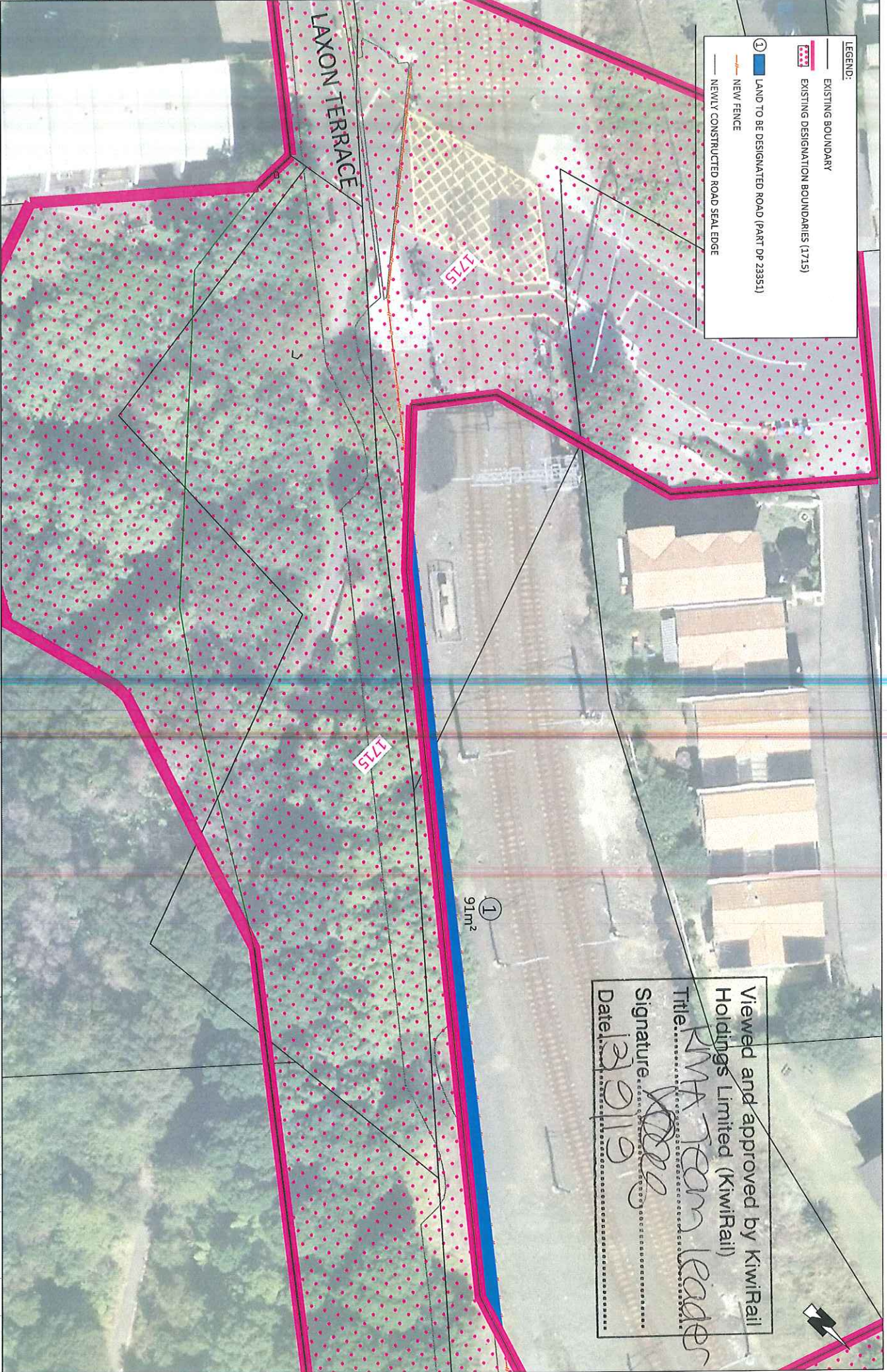
AUCKLAND TRANSPORT
 Cowie Street to Laxon Terrace
 NEWMARKET

EXISTING DESIGNATION LOCATION

Issue Description	Checked	Date	Designed	Date	Scale:
01. ADDED EX-DESIGNATION	S/R	15.04.19	FZ	28.03.19	1:1600
02. UPDATED DESIGNATION	S/R	20.05.19			
05. Updated to 1715 only	S/R	23.05.19	Checked: S/R	01.04.19	(As original)
				Job No: A18352	DWG No: 910
				Rev: 05	

LEGEND:

- EXISTING BOUNDARY
- EXISTING DESIGNATION BOUNDARIES (1715)
- LAND TO BE DESIGNATED ROAD (PART DP 23351)
- NEW FENCE
- NEWLY CONSTRUCTED ROAD SEAL EDGE



Viewed and approved by KiwiRail Holdings Limited (KiwiRail)
 Title: *RMA Team Leader*
 Signature: *[Handwritten Signature]*
 Date: *13/01/19*

CKL
 Planning | Surveying | Engineering | Environmental

Auckland Office:
 At: 25 Bondway, Newmarket
 P: 09 524 7029

Hamilton Office:
 At: 100A Woodhouse Road, Hamilton
 P: 07 548 9111

Taranaki Office:
 At: 108 Market Street, Te Awamutu
 P: 07 871 5144

AUCKLAND TRANSPORT
 Cowie Street to Laxon Terrace
 NEWMARKET

PROPOSED DESIGNATION LOCATION

Issue Description	Checked	Date	Designed	Date	Scale:
01. ADDED EX DESIGNATION	SIR	15.04.19	Drawn: FZ	28.03.19	1:300 (As original)
02. UPDATED DESIGNATION	SIR	20.05.19	Checked: SIR	01.04.19	
05. Updated to 1715 only	SIR	23.05.19			

Job No: **A18352** Dwg No: **911** Rev: **05**

NOTICE OF REMOVAL OF PART OF DESIGNATION UNDER SECTION 182 OF THE RESOURCE MANAGEMENT ACT 1991

To: Auckland Council
Private Bag 92300
Auckland 1142
Attn: Craig Cairncross – Team Leader – Planning - Plans & Places

From: Auckland Transport
Private Bag 92250
Auckland 1010

Partial removal of Designation 1715 – Newmarket Level Crossing from the Auckland Unitary Plan (Operative in Part)

Auckland Transport (AT) gives notice to Auckland Council (AC) under section 182 of the Resource Management Act 1991 (RMA), that it no longer requires part of the following designation under the Auckland Unitary Plan: Operative in Part (AUP: OP):

- Designation 1715 Newmarket Level Crossing.

The part of Designation 1715 that is no longer required relates to the following site addresses and legal descriptions:

Table 1: Sites affected by partial removal of Designation 1715

Address/Description	Owner	Legal Description	CT Identifier
9 Cowie Street	Cowie Street Investments Ltd	Lot 1 DP 57235	NA12C/285
North Auckland Line	The Crown (KiwiRail)	Part DP 23351; Lot 1 DP 206508	NA91D/818; NA134D/38
Newmarket Park	Auckland Council	Pt Allotment 35 SECT 4 SBRS OF Auckland; Allotment 37 SECT 4 SBRS OF Auckland; Lot 1 DP 53284; DP 24765	NZGZ 1982 p3711; 944040; 944050; 944044

Attachment 1 enclosed shows the area of designation to be removed from the properties, and the area of designation which will remain.

Existing Designation Details

The details of the existing designation as set out under the AUP: OP is below:

Designation Number:	1715
Requiring Authority:	Auckland Transport
Location:	Lot 1 DP 57235, PT DP 23351, Lot 1 DP 206508, Allotment 37 SECT 4 SBRS OF Auckland, DP 24765, Pt Allotment 35 SECT 4 SBRS OF Auckland, Lot 1 DP 53284
Rollover Designation	No
Purpose	The construction, operation, and maintenance of a new road

AT has responsibility for Designation 1715 in the AUP:OP which is designated for the construction, operation, and maintenance of a new road constructed as part of the Newmarket Level Crossing Project. The designation applies to the following properties and legal road (see **Figure 1** below):

- Legal Road: Cowie Street, Sarawia Street and Laxon Terrace,
- 9 Cowie Street (Lot 1 DP 57235 Certificate of Title NA12C/285),
- Newmarket Branch Railway Line (PT DP 23351 Certificate of Title NA91D/818; Lot 1 DP 206508 Certificate of Title NA134D/38),
- Newmarket Park (Pt Allotment 35 SECT 4 SBRS OF Auckland; Allotment 37 SECT 4 SBRS OF Auckland Certificate of Title 944040; Lot 1 DP 53284 Certificate of Title 944050; DP 24765 Certificate of Title 944044).

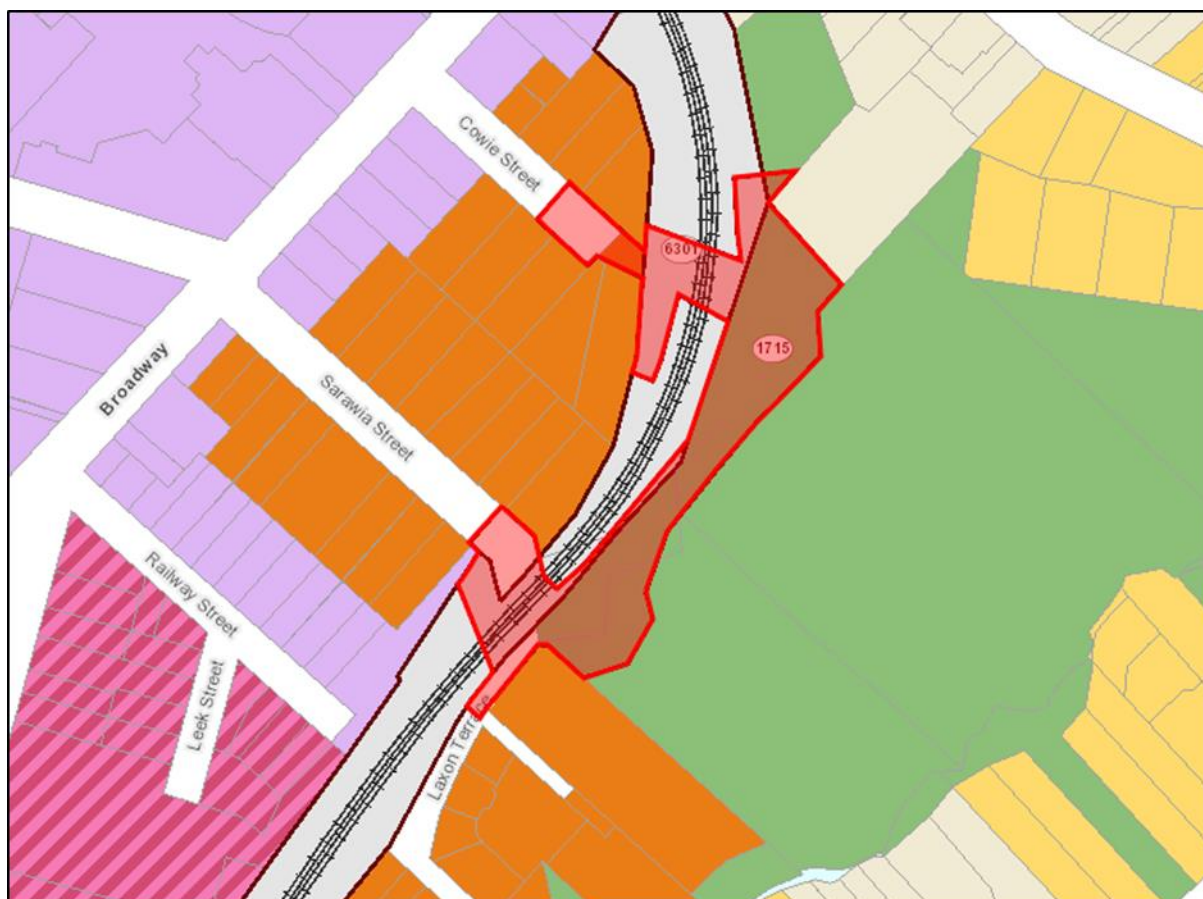


Figure 1. Existing boundary of Designation 1715 in red outline (source: AUP planning map).

Land Affected by Removal

AT has determined that the following areas within Designation 1715 are no longer required as works are now complete, and gives notice to:

- Partially remove the designation from 9 Cowie Street;
- Partially remove the designation from the Newmarket Branch Railway Line;
- Partially remove the designation from Newmarket Park; and
- Fully remove the designation from Sarawia Street.

The partial removal is illustrated in **Attachment 1**.

The remaining area of Designation 1715 will continue under its original purpose.

Reasons for the Partial Removal of Designation 1715

The partial removal of Designation 1715 is due to the following reasons:

- the new road enabled by the designation has been completed and only those parts of the designation required for the on-going maintenance, operation or mitigation of the Newmarket Level Crossing Project need to be retained.
- Condition 3.1 of the designation requires AT to give notice to Auckland Council (AC) for removal of those parts of the designation identified as no longer necessary for the on-going maintenance, operation or mitigation of the project.

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.

Effect of Partial Removal on Remaining Designation

The effect on the remainder of the designation will be negligible for the following reasons:

- There is no effect on the new road enabled by the designation.
- The partial removal does not hinder the ability for Auckland Transport to maintain and operate the Newmarket Level Crossing Project.

Summary

AT requests that AC amends the AUP: OP accordingly as required by Section 182 of the Resource Management Act 1991.

Yours faithfully,

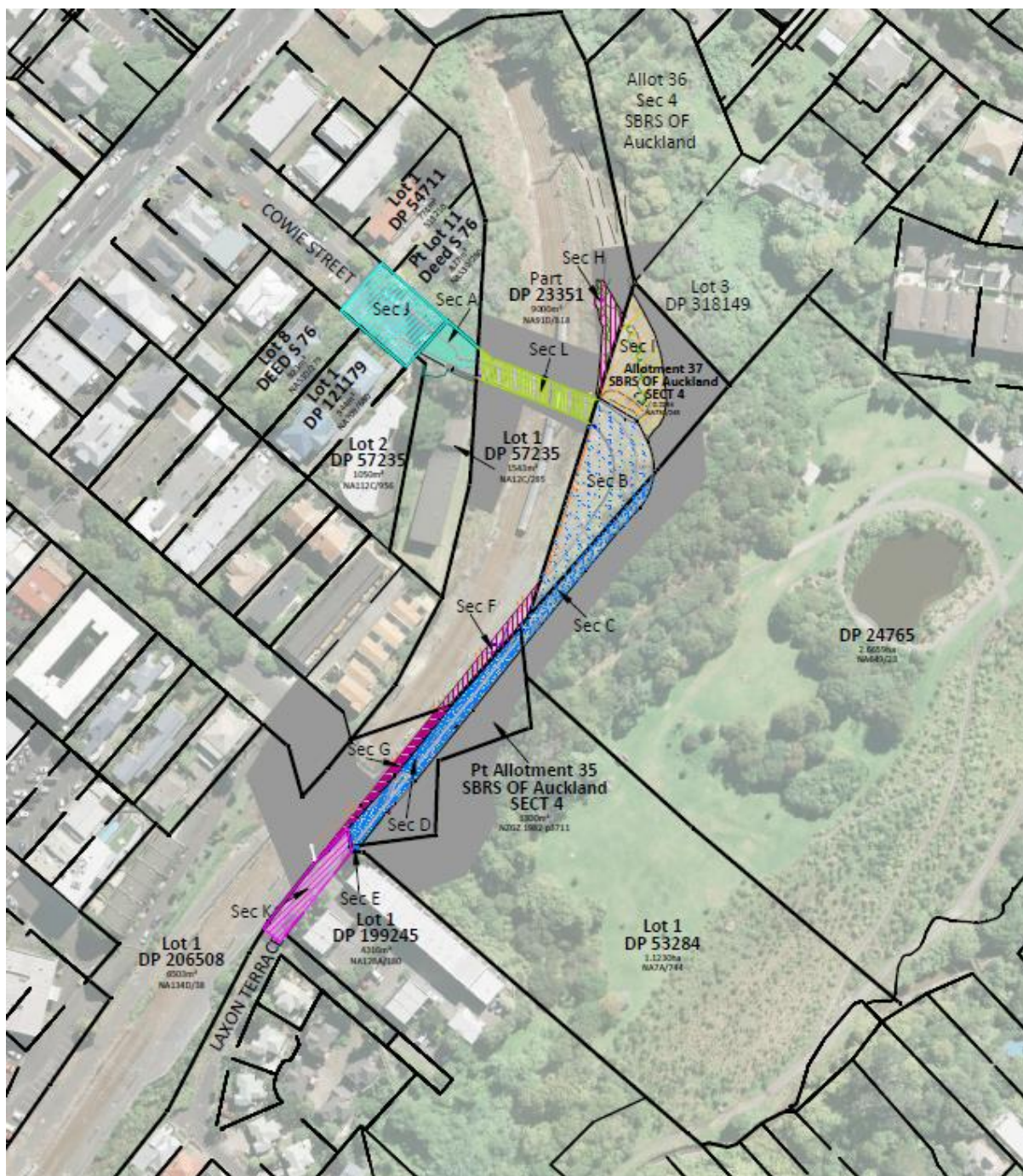


Jane Small

Group Manager Property and Planning

Integrated Networks

Attachment 1 – Partial removal of AT Designation 1715 Drawing



Attachment B: Decision on the original designation and regional resource consents dated
10 June 2016

Recommendation on a Notice of Requirement and decision on applications for associated resource consents

SUBJECT: Notice of Requirement for a designation for the Newmarket Level Crossing Project and applications for associated resource consents under the Resource Management Act 1991 by Auckland Transport at Sarawia Street, Laxon Terrace, Cowie Street and Newmarket Park, Newmarket. Hearing held at the Town Hall, Auckland, commencing at 9.30 am on 19 April 2016

PURSUANT TO SECTION 171 OF THE RESOURCE MANAGEMENT ACT 1991 THE NOTICE OF REQUIREMENT, AS MODIFIED, IS RECOMMENDED TO BE CONFIRMED. PURSUANT TO SECTION 104B OF THE ACT, THE RESOURCE CONSENTS ARE GRANTED. THE FULL RECOMMENDATION AND DECISIONS ARE SET OUT BELOW

Hearings Commissioners:	The Notice of Requirement and the applications were heard by independent Hearings Commissioners consisting of:	
	Miss Leigh McGregor	(Chair)
	Ms Janine Bell	
	Ms Pamela Peters	

Council Officers and Consultants:	Ms Fritha Witton	Senior planner (resource consents)
	Mr Chris Scrafton	Planning consultant (Notice of Requirement)
	Mr Andrew Gysberts	Manager, Major Projects
	Mr Scott Paton	Development Engineer
	Mr Jon Styles	Acoustics engineer
	Mr Leo Hills	Traffic engineer
	Ms Rosa Cockburn	Democracy Advisor - Hearings

For the applicant:	Mr Gerald Lanning - legal counsel with Ms Antonia Smith
	Mr Nicholas Seymour – electrical engineer, project director
	Mr Adrian Price – team leader – rail, public transport capital improvements, Auckland Transport
	Mr Jeremy Gibbons - civil and transport engineer
	Dr Moustafa Al-Ani – civil engineer (bridges)
	Mr Richard Donaldson – principal rail operations advisor
	Ms Siiri Wilkening – acoustics engineer
	Ms Yanesherie (Nesh) Pillay – principal planner
	Ms Melaina Voss – planning consultant
	Ms Helen Preston Jones – landscape architect
	Mr Matthew Paul - arborist
	Mr Alok Vashista – engineer and senior parking design and policy coordinator, Auckland Transport
	Mr Warren Burt – stormwater engineer

Submitters:	Dr Martin Putterill
	Mr William Carson
	Cowie Street Residents Association, Parnell Community Committee and Parnell Inc. represented by Mr Russell Bartlett QC with Mr Stephen Brownhill, legal counsel, with evidence called from:
	Mr Hamish Firth – planning consultant
	Mr John Parlane – traffic engineer
	Mr Clive Baddeley – civil contracts manager
	Mr Nicholas Robinson - landscape architect
	Mr Selwyn Rabbits – mechanical engineer
	Mrs Debbie Haysom – Cowie Street resident
Mrs Debbie Haysom	
Laxon Terrace and Youngs Lane Residents Group represented by Mr Michael Murray	
KiwiRail Holdings Limited represented by Ms Rebecca Beals, resource management planner, and Mr Carl Mills, manager – operations development	

RECOMMENDATION AND DECISIONS OF THE COMMISSIONERS

1.0 INTRODUCTION

- 1.1 Auckland Transport has issued a Notice of Requirement (“NoR”) for a designation and applied for associated resource consents to enable the construction, operation and maintenance of a new road bridge over the Newmarket branch railway line to connect Laxon Terrace to Cowie Street in Newmarket. If approved the existing at-grade connection between Sarawia Street and Laxon Terrace will be closed. The project has been proposed to improve pedestrian and traffic safety and to improve the frequency of rail movements through Newmarket with the introduction of more efficient electric trains on the region’s network.
- 1.2 Auckland Transport is a Council Controlled Organisation and is tasked by section 39 of the Local Government (Auckland Council) Act 2009 with contributing to an effective, efficient and safe Auckland land transport system in the public interest. Section 47 of that statute deems Auckland Transport to be a requiring authority for transport purposes in the Auckland region. While KiwiRail manages the Crown’s interest in the rail corridor and associated infrastructure, Auckland Transport has obligations to improve the number and reliability of the train services, upgrading railway stations and services, and developing facilities.
- 1.3 There are a number of issues with the current at-grade crossing in Newmarket, including delays caused to rail services while waiting for the safety barriers to be opened and closed when allowing traffic to cross the lines; noise and other impacts for neighbouring residents; and an increased safety risk because of the number of trains that pass through the crossing. At present there are around 10 trains an hour and closure of the crossing is expected to increase this hourly figure by four trains (two in each direction) under the existing signalling regime.
- 1.4 The objectives for the current project are:
- *to improve the operation of the Auckland rail network by removing the potential safety issue at the existing at-grade level crossing;*
 - *to provide an alternative vehicle access to and from Laxon Terrace and Youngs Lane (both on the Remuera side of the rail alignment) which would*

otherwise be isolated from the surrounding area if the level crossing access was to be removed;

- *to retain pedestrian and cycle connections between Parnell Road and the Newmarket Park area;*
- *to take account of the interests and preferences of stakeholders including the Parnell Local Board, community groups, park users, Mana Whenua and local residents; and*
- *to achieve a compatible urban design that is safe and environmentally sensitive.*

1.5 The Notice of Requirement and the resource consent applications were bundled together for consideration as an integrated proposal and heard at a public hearing in Auckland before three independent Commissioners with delegated authority from the Council to make a recommendation to Auckland Transport on the NoR and to decide the consent applications.

2.0 THE SITE, THE LOCALITY AND THE EXISTING ENVIRONMENT

2.1 Cowie and Sarawia Streets are on the border of Newmarket, with the latter situated very close to the major roundabout on the eastern side of that centre where Broadway joins Parnell Road. Each of the roads is accessed from Parnell Road. The topography of the immediate area slopes relatively steeply to the south and down to a gully where the railway lines pass through the area to either Parnell and the Britomart Station or in the other direction to the nearby Newmarket station. The Newmarket rail station is a major hub for all rail movements through the Auckland region and feeds a high volume of rail traffic to the west and the south and beyond. The junction is commonly known as the Newmarket Triangle because of the routes that coincide there.

2.2 Cowie Street is currently a short no exit road while Sarawia Street provides the only through road access across the railway lines to residents of Laxon Terrace and Youngs Lane on the other side of the gully. If the project is approved those positions would be reversed: Cowie Street would then supply the road access link and Sarawia Street would become a no exit road with barriers being installed to prevent any through movements. Newmarket Park also lies on the southern side of the gully,

and access for pedestrians and cyclists to the reserve is gained from Sarawia Street while the only road access to the Park is located in Ayr Street further to the east.

- 2.3 Both Cowie Street and Sarawia Street have been settled since the 19th century while development in Laxon Terrace and Youngs Lane is relatively new, with the more recent Broadway Park apartment developments lying beyond and accessed from Laxon Terrace by foot and cycle only using an accessway that is too narrow to allow any vehicles to pass through. Furneaux Way lies beyond this. During the consultation phase of the project residents of Broadway Park made it known that they would strenuously oppose any suggestion that a link might be created by forming the existing path into a road or thoroughfare that would then join the Laxon Terrace and Youngs Lane area to Furneaux Way and from there provide access to and from Remuera Road instead of Parnell Road. The Laxon Terrace and Youngs Lane Residents Group was established for the same purpose, namely specifically to participate in consultation of a preferred option process.
- 2.4 There are 50 residential units in Cowie Street, some of which are townhouses or apartments contained in multi-unit buildings. The individual houses are large and well established and have sizeable and well-tended gardens and mature trees. At the lower end of the street is a multi-unit development on the edge of the gully overlooking the railway lines, and along with the more elevated properties in the street has views over Newmarket Park to Hobson Bay and the harbour beyond. Part of the multi-unit property at 9 Cowie Street will be required to be taken for the project. It was apparent on our inspection of the area that around three of the houses closer to Parnell Road are used for business purposes although each of these appeared to provide off-street parking for their clients. Cowie Street has 21 kerbside parking spaces while there are only six small spaces on Laxon Terrace and none at all in Youngs Lane.
- 2.5 Development in Sarawia Street has a different character with numerous older style flats (principally of a mock Spanish style) and newer multi-storey apartment buildings being predominant on both sides of the carriageway. Both streets have on-road parking which we were told is heavily utilised by people who work and shop in the Newmarket area with the local area being fully 'parked up' by around 7am each week day. There is no formal pedestrian crossing installed on either road.
- 2.6 There are 53 dwellings in Laxon Terrace and Youngs Lane, with 18 of those located in four apartment blocks which are part of the Broadway Park development. Local

resident and Residents Group spokesman Mr Murray said a further 12 dwellings have recently been approved for construction in Youngs Lane. On the edge of Newmarket Park at 3 Laxon Terrace is a block of 21 apartments which will be affected by stormwater and other construction works if the project proceeds. Two Pin Oak trees on the boundary of this property with the existing line will remain.

- 2.7 In the gully itself (at Sarawia Street) the rail lines are the most obvious feature. These are crossed by way of a level crossing with barrier arms and an alarm warning system. A separate pedestrian/cyclist path on the eastern side includes a metal 'maze' with automatic gates that close whenever the barriers come down. Numerous train movements pass through this crossing every day, with trains being held back at the Newmarket Station until the tracks are cleared of traffic at the crossing point. In simple terms the proposal has been designed to separate the road and rail movements for safety reasons as well as to make more efficient use of the electric trains which have come on line and consequentially to avoid delays and thus carry more passengers because the frequency of services can then be increased.
- 2.8 In the wider area beyond the major Parnell Road thoroughfare is the Jubilee Building (the former home of the Blind Institute) on the opposite side of the road to Cowie Street, the Auckland Domain further to the north, and the Newmarket and Parnell shopping centres to the west and east respectively. It would be fair to say that traffic in the general area is heavy but our observation was that both Cowie and Sarawia Streets are quiet in terms of traffic movements.
- 2.9 A range of zones will be traversed by the new road and bridge, namely land zoned for residential, open space and transport purposes, as well as being subject to designations, overlays and other notations in the Auckland District Plan: Isthmus Section ("the District Plan") and the Proposed Auckland Unitary Plan ("PAUP"). The most relevant of the notations for present purposes is a Significant Ecological Area under the PAUP on a portion of Newmarket Park where some vegetation needs to be removed and works will be conducted, and there is a Special Character Overlay which covers the area involved.

3.0 THE PROPOSAL

- 3.1 The project involves construction, operation and maintenance of a new road to connect Laxon Terrace and Youngs Lane to Cowie Street and construction of a

bridge over the Newmarket branch railway line so the rail lines will no longer need to be crossed at grade. The level crossing between Sarawia Street and Laxon Terrace will be closed when the works are completed. The new road is proposed to be a low speed environment with traffic calming measures being implemented at several locations, including a pedestrian refuge outside 4 Cowie Street and a single direction chicane near Laxon Terrace. Apart from a 200m² area required to be taken from 9 Cowie Street the land to be used for the project is owned by either the Council or KiwiRail.

- 3.2 The existing pedestrian and cycle access from Newmarket Park to Laxon Terrace and Youngs Lane will be relocated so that access to the Park for these users will remain. A *pou* (symbolic pole) and seating area presently at the Park entrance from Laxon Terrace near the apartments at No.3 will be relocated and pathways altered. Around 30 trees will be removed from the park property and mitigation planting will be undertaken elsewhere on the reserve. A letter from the Council's acting manager, local and sports parks central, dated 8 September 2015 records an assessment had concluded on its behalf that "nothing hugely significant will be removed" and gave approval for the proposed removals¹.
- 3.3 As part of its application material, Auckland Transport submitted a "Fact Sheet" prepared by KiwiRail, which outlines issues associated with the existing at grade railway level crossing at Sarawia Street, being its impact on train operations, its impact on neighbouring residents and that it presents a safety risk because of the high number of trains that pass over it. The fact sheet explains what distinguishes the Sarawia Street crossing and makes it a priority for closure, how it impacts the current train operations, how it impacts on neighbouring residents, the length of time the safety barriers are down, noise issues from the alarm bells at the crossing and the impact of the level crossing on future rail development, particularly with the introduction of electric trains.
- 3.4 The issues identified with the existing crossing have been investigated for a number of years by various parties including the Council, Auckland Transport and KiwiRail. Mr Donaldson and Mr Mills detailed the operational benefits of the Newmarket Crossing project in terms of operational, travel time savings and safety in their evidence with Mr Mills explaining on behalf of KiwiRail that there is extremely limited spare capacity in this part of the network, thus creating a cascading effect of delays.

¹ Dr Putterill construed this letter as an agreement to sell the land concerned but it is clearly headed as a landowner approval and no mention of an actual or potential sale is made in its content

Removing the level crossing will supply capacity, which we understood from the evidence is particularly important as this is the busiest section of railway in the country, and the site of a major railway hub (the “Newmarket Triangle”), and even a saving of a few seconds in travel time can produce positive effects in terms of railway traffic flows on lines elsewhere and provide for efficiency overall.

- 3.5 Construction of the Crossing project is proposed to start as soon as the NoR has been confirmed and the resource consents granted with completion proposed for mid-2017. The construction works will be conducted in staged sequences with the new road and the bridge abutments forming the first stage. The new 260 metre road will be adjacent to Newmarket Park and lead from Laxon Terrace to the eastern bridge abutment. This stage 1 work involves clearing vegetation on the western border of the park, constructing retaining walls along the road alignment and a gated 50m private access road for KiwiRail that will lead toward the Parnell tunnel, as well as creating a vegetated swale and a raingarden for stormwater attenuation and disposal purposes. At the same time both bridge abutments will be formed by drilling three bored concrete piles down to competent rock in each case and then placing wingwalls and pre-cast concrete panels around the framework that is created. Where possible the wingwalls will be aligned with the road direction to minimise the volume of fill and associated earthworks that will be required.
- 3.6 This will be followed by construction of the western bridge approach on KiwiRail land and also part of the multi-unit site at 9 Cowie Street including clearing vegetation, including some large trees, on the latter. Stage 3 is when the seven beams that will form the base of the pre-cast concrete bridge superstructure will be craned over the gully and fixed to the abutments as well as being tensioned together. The bridge span will be approximately 20 metres and the structure will include two 2.7m² traffic lanes, drainage channels and a 1.8m footpath on one side. This stage will occur during a long weekend “block of line”, i.e. for safety reasons all train movements will be stopped while the works over the gully are taking place. Construction on the bridge deck surface will be completed at this time, including paving the surface, installing the edge barriers and utilities although this finishing work will not impact on any train movements. The works will take place from the eastern bridge approach to minimise construction impacts on local residents and construction access will be achieved through Sarawia Street.

² Amended from 2.5 metres during the hearing

- 3.7 The next stage involves paving the new roadway, installing street lights, road signage and other urban design features. After that 'tie-ins' such as road paving, street lights and drainage works will be installed in Cowie Street and Laxon Terrace. The final stage involves closing the southern end of Sarawia Street with a 'hammerhead' junction and some planting to make it obvious that it is no longer a through road and the level crossing, barrier arms, pedestrian refuge and alarm bells will be removed.
- 3.8 The volume of earthworks required for the project is relatively small. Around 300m² of cut material is expected and will be sent off site because of the potential presence of contaminated materials. About the same volume of fill will be required to be imported for use, mainly for the bridge abutment locations.
- 3.9 The Assessment of Environmental Effects ("AEE") advised that the relevant vibration limits can be complied with at dwellings 20 metres or more from the construction site where equipment such as vibratory rollers will operate. Ms Wilkening's evidence was the property at 3 Laxon Terrace is closer than this and while there is a risk of some vibration effects that will be mitigated by the size of the equipment to be used and a dilapidation survey will be carried out on this property before the works start so there is a baseline for any damage alleged afterwards. This property is also the closest receiver in terms of construction noise.
- 3.10 A stormwater swale and a lined raingarden are proposed for stormwater attenuation and disposal purposes. The location of the raingarden was shifted closer to 3 Laxon Terrace while the application was being processed and is now shown in its preferred location. The reason for shifting it was explained as being so stormwater will not have to be conveyed back along the Council's park track in order to dispose of it. Mr Burt advised that stormwater from the roads is currently not treated and discharges from Cowie Street to enter into a combined stormwater-wastewater connection. The new swale will provide treatment and from its outlet stormwater will be conveyed through a piped system. The result should be that cleaner stormwater eventually discharges into Hobson Bay.
- 3.11 The area of the proposed works has been extensively modified during the 20th century and the archaeological assessment lodged on behalf of Auckland Transport advised that the 19th and early 20th century rail track bed has been modified on numerous occasions, most recently for the Auckland Rail Electrification Project (from 2010 on). There were no archaeological effects of any moment raised during the hearing.

4.0 STATUTORY REQUIREMENTS

The Notice of Requirement

4.1 Part 8 of the RMA deals with designations and heritage orders, including notices of requirements for designations. Section 168 provides simply that a requiring authority may give notice of its requirement for a designation for a project or work. Auckland Transport is a requiring authority and has had that status for a considerable time. The NoR is to be considered under section 171. This requires when considering a requirement and any submissions received, and subject to the broad overall judgement required under Part 2 of the Act, we must consider the effects on the environment of allowing the requirement, having particular regard to –

- (a) any relevant provisions of –
 - (i) a national policy statement
 - (ii) the New Zealand Coastal Policy Statement
 - (iii) a regional policy statement or proposed regional policy statement
 - (iv) a plan or proposed plan; and
- (b) whether adequate consideration has been given to alternative sites, routes or methods of undertaking the work if –
 - (i) the requiring authority does not have an interest in the land sufficient for undertaking the work; or
 - (ii) it is likely that the work will have a significant adverse effect on the environment; and
- (c) whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and
- (d) any other matter we consider reasonably necessary in order to make a recommendation on the requirement.

4.2 The recommendation made to the requiring authority following those considerations is to be one of the following:

- that the requiring authority confirms the requirement;
- that it modifies the requirement;
- that conditions are imposed; or

- that the requirement be withdrawn.

We consider the NoR in terms of the relevant requirements further on.

The Resource Consents

- 4.3 Resource consents are required for land disturbance and vegetation removal, including in a Significant Ecological Area, stormwater discharges, and discharges of contaminants to land or water from land containing elevated levels of contaminants that is to undergo land disturbance. While each of these has a different activity classification, the consent for land disturbance and vegetation removal is classified as a discretionary activity and because the various activities overlap they are to be 'bundled' together for the purposes of the decision. This means that the strictest classification is to be applied to consideration of the consents overall and as a result the consent applications are to be considered as discretionary activities. Consent is also required under Regulation 10 of the National Environmental Standard for Assessing and Managing Contaminants in soil to Protect Human Health ("NES: Soil").
- 4.4 Because of the discretionary activity classification section 104B of the RMA applies. This provides that a consent authority may grant or refuse consent, and if the consents are granted then conditions may be imposed pursuant to section 108. The discharge consents are also to be considered in the context of sections 105 and 107. All considerations are subject to section 104 and, following that, to a broad overall discretionary judgement after taking account of the matters set out in Part 2.
- 4.5 Section 104 requires that in considering the applications we must have regard to:
- (a) any actual or potential effects on the environment of allowing the activity concerned; and
 - (b) any relevant provisions of –
 - (i) a national environmental standard;
 - (ii) other regulations;
 - (iii) a national policy statement;
 - (iv) a New Zealand Coastal Policy Statement;
 - (v) a regional policy statement or proposed regional policy statement;
 - (vi) a district plan or proposed district plan; and
 - (c) any other matter we consider relevant and reasonably necessary to determine the application.

- 4.6 Part 2 sets out the purpose and principles of the Act in section 5; matters of national importance in section 6 which, where relevant, we must have regard to; section 7 lists other matters to which we are to pay particular regard; and section 8 requires that the principles of the Treaty of Waitangi are to be taken into account when reaching a decision. In that regard we record that a Cultural Impact Assessment (“CIA”) was prepared by Ngāti Maru Runanga and lodged with the application materials. We return to its content later but note that it included a disclaimer to the effect that provision of the CIA was not to be taken as “a sign off for consent”.
- 4.7 Aside from the RMA processes Auckland Transport will have to obtain an authority from Heritage New Zealand for works on an archaeological site, gain relevant approvals from the affected landowners, and also any party already holding a designation over the land involved, which in this case is KiwiRail. Steps will also have to be taken to acquire the affected portion of land at 9 Cowie Street and to revoke the reserve status of the land in Newmarket Park which is required for the project and to vest the land involved in the Council as road.

5.0 NOTIFICATION AND SUBMISSIONS

- 5.1 The NoR and applications were notified to the public on 7 October 2015 with the submission period having ended on 18 November. This was an extended closing date and had been requested by Auckland Transport. Eleven submissions were lodged with the Council on each of the NoR and the resource consent applications and there was a further combined submission from KiwiRail. Of these, four were in support of the resource consents, one was neutral and six opposed the consents being granted. In respect of the NoR five submitters were in support and six opposed it. In February the submission lodged by Vector Limited in respect of the NoR was withdrawn.
- 5.2 The issues raised by the submissions included: the effects of increased traffic on Cowie Street and associated safety, parking and loss of character and amenity concerns; ecological effects in terms of the proposed tree and vegetation removals; construction effects such as noise and vibration; stormwater effects and the proposed stormwater management approach; effects on archaeology and heritage; a lack of meaningful consultation; and the adequacy of Auckland Transport’s consideration of alternative routes and methods, in particular in its having discounted

the prospect of using an underpass instead of an over-bridge to achieve the outcome sought.

- 5.3 One submission alleged the proposal failed to meet the threshold tests set out in section 104D of the Act, but as that provision applies to non-complying activities and not to discretionary activities that ground of opposition is not correct and is not discussed further as a result. In a similar vein, allegations of effects on property values and a lack of any assessment under section 32 of the Act are not relevant. Alleged effects on property values have been held in a number of cases not to constitute effects on the environment for the purposes of the RMA (an example being *Foot v Wellington City Council*, Environment Court decision W73/98 dated 2 September 1998), and the section 32 evaluation process applies only to plan changes and not to considerations of NoRs or consent applications. Another submission made reference to a former landfill site but detailed site investigations conducted on behalf of Auckland Transport had showed that there has been no landfill inside the project area although there were quantities of fly-tipped materials which had been thrown down the gully banks including some fibreboard.
- 5.4 KiwiRail's combined submission was supportive but at the same time it wished to be assured that any land not required for the ongoing operation of the project would not be subject to the proposed designation once the construction works have been completed. Cycle Action sought that the proposed footpaths be wider, and that bypasses be included in the chicanes in order to create a shared path facility for both pedestrians and cyclists.
- 5.5 There were no written approvals supplied as part of the application materials.
- 5.6 Following receipt of the submissions, reports and recommendations for each of the NoR and consent applications were prepared on behalf of the Council by Mr Scrafton of MWH Limited for the NoR and senior Council planner Ms Witton for the resource consents after considering the application materials, the submissions received, the actual and potential effects of the project and the relevant statutory and non-statutory instruments as well as other matters. They were assisted by a number of technical and evaluative reports prepared by Council specialists and external consultants in a range of specialities and produced a combined report which we are referring to as either "the section 42A report" or the "Council's report(s)" and those who reported as the Council's "reporting team". Because of the depth of detail provided in the

application materials and the Council's reports it is not necessarily being repeated in these recommendations and decisions.

- 5.7 In the section 42A report the reporting team had reserved their position in respect of the NoR because at the time it was written they were awaiting further information to be provided by Auckland Transport with respect to its consideration of alternatives and managing the effects of parking that would be lost in Cowie Street. They nevertheless provided marked up copies of the conditions that were being recommended for the NoR and the consents and which had been supplied to the Council on behalf of AT. Ms Witton recommended that the resource consents be granted for the reasons given throughout the Council's report and also summarised as part of a four page table of conclusions in the hearing agenda ("table 23.1"). At the conclusion of the hearing Ms Witton advised her recommendation had not changed. Mr Scrafton was satisfied he had received the information he required and with the consideration given to alternatives, and went on to recommend that the NoR be approved. Mr Hills maintained the view expressed in his traffic assessment report that a pedestrian refuge on Cowie Street was not required and said that calming measures could be installed without any need to remove the existing supply of on-street parking there.

6.0 ISSUES IN CONTENTION

- 6.1 We address the NoR first in this section as the resource consents are subordinate to it. The principal issue for the hearing on the part of the Cowie Street residents (who also presented on behalf of the Parnell Community Committee, and Parnell Inc.) was whether Auckland Transport had given adequate consideration to an alternative of constructing an underpass from Laxon Terrace to Sarawia Street instead of the proposed over-bridge which would connect with Cowie Street instead. Allied to that were the potential adverse effects on Cowie Street and its amenity. Directly opposing them was the Laxon Terrace and Youngs Lane Residents Group who strongly favoured the bridge proposal and who considered an underpass would not be in the public interest for a number of reasons which Mr Murray articulated in his presentation.

Adequacy of Consideration of Alternatives and Effects on the Environment

- 6.2 The question of alternative sites, routes or methods of undertaking the work arises because of section 171(1)(b) which is set out earlier. We have combined this discussion with that on the effects on the environment as the submitters who appeared tended to merge their comments on effects with the relief they were seeking by way of our recommending that the NoR be withdrawn or requiring that the underpass option be adopted by Auckland Transport. To some extent many of the effects on the environment will also be generated by the activities sought to be authorised by the resource consents and where they do we will not repeat the discussion later.
- 6.3 For the purpose of the statutory provision we are to have particular regard to whether Auckland Transport has made sufficient investigations of alternatives to satisfy itself as to the alternative it was proposing rather than having acted arbitrarily or giving only cursory consideration to them. It is not however required to eliminate speculative or suppositions options³ or to examine every possible alternative. The test is whether *adequate* consideration has been given. The focus is on the process rather than the outcome.
- 6.4 It is important to record at the outset that the policy function of determining the most suitable alternative lies with the requiring authority and not with the Council. Options for managing the Newmarket level crossing project have been considered in various iterations since 2004 by AT, its predecessors and other organisations such as Kiwirail. These considerations culminated in a Scheme Assessment report in 2013 which summarised a large number of reports. This was updated in 2015 after the underpass option had been investigated and evaluated including an independent review by the engineering firm AECOM.
- 6.5 In the section 42A report, the Council's reporting team conveyed that they were not satisfied that sufficient details of Auckland Transport's consideration of alternatives had been provided to the Council to facilitate a conclusion on their part that the requirements of section 171(1)(b) would be met and accordingly did not make a recommendation in that respect until it had received the details it had identified. In particular, the reporting team noted that little detail had been provided at that stage regarding:

³ *Bungalo Holdings Ltd v North Shore City Council*, Environment Court decision A052/01; *Queenstown Airport Corporation Ltd v Queenstown Lakes District Council* [2013] NZHC 2347

- a) How the options were originally identified and thus whether the range of options identified was appropriate.
- b) The process or method adopted to assess a long list of alternatives and to refine the long list to a shortlist; and
- c) The technical inputs utilised to refine the long list to a shortlist.

6.6 As covered by Mr Price's evidence, Auckland Transport supplied the following response:

- a) Between 2004 and 2011 five alternative options were identified;
- b) A further three options were identified in 2012;
- c) Two further options were identified between 2012 and 2014, including the Cowie Street Residents Association's underpass option;
- d) These options ("the long list") were assessed between April 2013 and September 2013;
- e) A 2013 Scheme Assessment report was drafted to record both the shortlisting process and identification of a preferred option;
- f) The assessment of the initial options (the long list) had been assisted by internal and external expert advice including:
 - i. Project managers and engineers;
 - ii. Transportation planners;
 - iii. KiwiRail;
 - iv. Auckland Transport operations;
 - v. Property acquisition specialists
- g) Key elements or criteria for informing the shortlisting process were:
 - i. Technical feasibility;
 - ii. Amenity outcomes;
 - iii. Construction disruption; and

- iv. Cost estimates
 - h) No benefit-cost ratio (“BCR”) or formal multi-criteria analysis (“MCA”) was used to consider the long list options. Instead, the shortlisting process had relied primarily on expert judgement; and
 - i) The 2013 Scheme Assessment report had recorded the details of the shortlisting process and was supplied with the NoR materials.
- 6.7 Two options for lowering the road carriageway (underpass options) were explored in 2004 but dismissed due to the need for the significant civil works required to implement them. Mr Price said a variation of the Sarawia Street to Laxon Terrace underpass option was reintroduced in June 2013 following further discussions with the Cowie Street residents. The option of forming an overbridge from Sarawia Street to Laxon Terrace was discounted due to topographical and geographical constraints and Mr Price said this option was considered to be significantly inferior to the Cowie Street bridge option. Other options considered were two variations of a road passing through Newmarket Park and three Parnell Road connections. These were discounted for various reasons including land acquisition issues, potential geotechnical risks including ground stability, issues navigating the Mobil Station on Parnell Road and traffic safety risks in the proximity of the Parnell Road/Ayr Street intersection.
- 6.8 Having reviewed this further information, the reporting team considered that the matters outstanding in terms of the consideration of alternatives had been adequately addressed, and concluded that the considerations had been appropriately undertaken and had satisfied the requirements of section 171(1)(b).
- 6.9 Mr Bartlett QC presented legal submissions on behalf of the Cowie Street residents, the Parnell Community Committee and Parnell Incorporated⁴. The Cowie Street residents maintain that the residential environment in their street and the surrounding area will be adversely affected to such a degree that the NoR should be withdrawn and the consents declined. In his submission the relevant “environment” for present purposes included Cowie Street, Ayr Street, Sarawia Street, Newmarket Park, Laxon Terrace, Youngs Lane and Middleton Road. He advised that the key aspects of the residents’ opposition related to constructability, traffic safety, crime, safety and

⁴ For convenience we have referred to them together as the “Cowie Street residents”

security (Crime Prevention Through Environmental Design or “CPTED”), residential character and amenity values. Mr Bartlett’s submission was the proposal conflicted with the residents’ legitimate expectation that the amenity values of Cowie Street and the surrounding area would be maintained and enhanced in accordance with the residential objectives and policies in the operative Auckland District Plan: Isthmus Section (“the District Plan”).

- 6.10 Mr Lanning’s response to the legitimate expectation point made was set out in the Reply. He said there was no scope in this case to take any such expectation into account because there had been no evidence to establish that the Cowie Street residents had relied on an assurance given by a public authority, made in the lawful exercise of that authority’s powers, but in any event if there was a legitimate expectation it was not one created by Auckland Transport. To the extent that it may have been created by the District Plan provisions then that is taken account of by section 171(1)(a)(iv) and the need to consider the effects on the environment of allowing the requirement under section 171.
- 6.11 Mr Bartlett’s further submission for the Cowie Street residents was Auckland Transport had failed to consider the alternative method in the form of an underpass between Sarawia Street and Laxon Terrace adequately. In this regard Mr Bartlett referred to a number of cases decided by either the Environment Court or the High Court on appeal and also a Board of Inquiry matter, drawing a particular parallel with the Basin Bridge decision (*New Zealand Transport Agency v Architectural Centre Inc* [2015] NZRMA 375), a proposal based on reducing journey times and providing variability for people and freight, thereby facilitating economic development. The cases he cited included *Queenstown Airport Corporation Ltd v Queenstown Lakes District Council* [2013] NZHC2347 which suggests that where private land is involved the extent of the consideration of alternatives should correlate with the extent of private land that will be affected by the proposed designation, and that the greater the impact on private land, the more careful the assessment of alternative sites not affecting private land will need to be. Mr Bartlett submitted the area of public land in Newmarket Park required for the current project is an aspect of this. The measure of adequacy of the consideration will also depend on the impact on the environment of the adverse effects of a proposal. Mr Bartlett submitted the authorities he relied on represented a legal shift for the evaluation of matters under section 171(1)(b) –(d), from procedural to substantial compliance. Mr Lanning disagreed.

- 6.12 Mr Bartlett described the extent of private land required for the project as “significant” and thus requiring greater scrutiny than had been undertaken on behalf of AT. In the context of other roading projects each of the Commissioners has considered in the course of many years we do not accept that characterisation. The extent of the private land required is actually small, being comprised of 200m² to be taken from 9 Cowie Street and a total of 1650m² from Newmarket Park, along with 800m² of KiwiRail’s area. Even if the additional land Mr Parlane mentioned in his evidence was to be added to that, we consider the area then involved would still not be large in relative terms.
- 6.13 In respect of the present project Mr Bartlett argued the residents’ underpass option is neither suppositious nor hypothetical. He said the evidence called for the Cowie Street residents demonstrated this option was viable and could be undertaken with less risk to the environment, particularly in relation to stability and geotechnical considerations. According to their figures the residents had estimated it would also cost less than the bridge and road extension proposal. A wealth of BCR information was supplied with the submitters’ statements and the costs and benefits of the project were set out in the detail of Auckland Transport’s consideration of alternatives.
- 6.14 The submitters’ material did not persuade us that Auckland Transport failed in this aspect of its considerations. More importantly, we draw attention to a portion of the *Queenstown Airport* decision where Justice Whata found [at para 132] “*There is nothing in the language of ss 7(b) or 171(1)(b) that imposes a legal duty on the requiring authority to prepare a cost benefit analysis or require the Court to consider a cost benefit analysis. ... such an analysis may be very helpful and the failure to do one may mean that the Court finds that the assessment of efficiency and/or alternatives is inadequate. But rarely will the failure of the Court to require a cost benefit amount to an error of law. Indeed the full High Court in Meridian Energy Ltd v Central Otago District Council*⁵ considered that the Environment Court had erred by requiring a cost benefit analysis”.
- 6.15 Even though Auckland Transport advised it was increasing the width of the lanes on the overbridge from 2.5 to 2.7 metres⁶ Mr Parlane’s traffic engineering evidence for the Cowie Street residents was the carriageway would still remain too narrow to provide an adequate connection to Laxon Terrace. He acknowledged narrow roads

⁵ [2011] 1 NZLR 513 (PC) at 522

⁶ Which accords with section 7 of its Code of Practice (“ATCOP”)

have been used for short sections of residential streets in the past but said those were usually straight roads over short distances where there were passing opportunities for larger vehicles, but in the present case a truck would “*barely be able to pass an oncoming car and two trucks could not pass each other at all*”. He said a truck would need to stop at the Cowie Street end to allow another to wind its way up the road from Laxon Terrace and “*worse than that, each end of the constrained section would not be visible from the other so a truck driver would have no way of knowing they actually need to stop. Instead it is more likely that one truck will either need to reverse or even drive on the footpath*”. He acknowledged this would not happen often but said it would occur from time to time such as on rubbish collection days. Chicanes to be installed on the bridge before the curve is reached would also not allow sufficient space to pass another vehicle which he regarded as a more than minor adverse effect. We found this difficult to reconcile with Figure 3 of his evidence as that appears to show that there would be at least adequate visibility along the carriageway before the chicanes are reached.

- 6.16 Mr Parlane ventured that the curve and narrow lanes had been designed to slow traffic because of the steep 12% grade for a critical section down from Cowie Street to the point where the bridge will turn toward Laxon Terrace. If the traffic was not slowed then there would be a risk to vehicles and their occupants because of the tracking geometry, and also a risk to pedestrians because the footpath would be on the outside of the curve with no physical barriers to separate the path and the carriageway. He said guard rails, as shown in some of the art work presented in the application documents, could restrict visibility.
- 6.17 In his opinion as a bare minimum the bridge should include 3 metre wide lanes, further widening should be provided to cater for vehicle tracking on the area where the bridge would have a tight curve, and if double height kerbs were to be installed then there should also be an additional clearance of 300mm provided on the carriageway. He said that while widening the bridge as he suggested would mitigate adverse effects on vehicle tracking, at the same time that step could require more land from the edge of Newmarket Park to accommodate the widened road along with the footpath and fences or railings. Sufficient space appeared to be available to do this but it had not been shown on the applicant’s land acquisition plan.
- 6.18 Mr Parlane was not opposed to closure of the level crossing, although he was sceptical about the claim that it is required for safety reasons as there had been no recorded injury crashes in recent years and he considered the traffic flows in the area

are too low for crash models to suggest a problem exists. He was not convinced an underpass would present the 'significant safety challenges' referred to in Mr Price's evidence saying that it could be designed to meet approach speed requirements.

- 6.19 In Mr Parlane's opinion an underpass would be a better solution than the overbridge being proposed as a preliminary design had indicated it would have better lane widths, better manoeuvring for large vehicles, and would provide a more direct and therefore shorter link for vehicles and pedestrians than a bridge would. He acknowledged there would be places where oncoming trucks would need to pass in single file but said there would be space for a truck to wait while another passes through the tunnel.
- 6.20 He said the underpass could be built around 60 metres south of the level crossing "*at a location where the landform is conducive to an underpass*". Mr Robinson produced sketch plans of how the underpass might appear and we noted at the time that a steep escarpment behind its location did not appear to have been taken into account. Mr Parlane provided some detail of the suggested design and configuration of the underpass and advised that it would not suffer from the traffic constraints that in his opinion the proposed new road and overbridge would. A curve on the eastern side of the underpass option would have a radius of 15 metres which is tighter than Auckland Transport's option but would not require a continuous sharp turn through more than 90 degrees and would have the required visibility.
- 6.21 Mr Parlane was aware that underpasses generally are not favoured. He said this is largely because of some very poor examples which had given little thought to public safety, an example being under the Mangere Bridge (which we note is a New Zealand Transport Agency asset). However in his view that does not mean a safe underpass cannot be developed and a short underpass with a wide footpath and traffic lanes is likely to be preferable to a longer bridge option located away from other activities and which also required a long walk between a park and a railway line. In his evidence Mr Firth also concluded that an underpass would provide good outcomes that would adhere with Auckland Transport's objectives and would be better overall. The basis for this conclusion in planning terms was not stated.
- 6.22 Mrs Haysom addressed the apprehended effects for the Cowie Street residents in her statement, saying it would be dramatically altered with the introduction of passing traffic and removal of large trees at its present termination point. Mrs Haysom lives in the original homestead in the area and described Cowie Street as "*a private, leafy,*

boutique residential cul-de-sac, very community based. Our street has remained relatively untouched and authentic in many aspects since we moved in [34] years ago". Her view is there will be a significant change in the street from "a tree-lined, low volume traffic street, to a street with limited parking, an additional volume of traffic each day, all trying to get out onto Parnell Road at a T intersection". She described this turning manoeuvre as "a hazard at the best of times" and said the situation has been worsened by the recent introduction of bus lanes on Parnell Road. Parking in Cowie Street was described as a major problem and she told us that constant calls have to be made to Auckland Transport to have cars parked over driveways, on yellow lines and on the roadside berms removed. In her view this unfavourable situation would be exacerbated if four of the existing on-street parking spaces and also nine private spaces at 9 Cowie Street were to be removed as proposed.

- 6.23 Mr Parlane believed there was no question that residents of Cowie Street would notice the impact of additional traffic. In part this would be due to vehicles travelling up the steep grade into what is currently the quietest part of the road at present and because of the increased flows. The current traffic flow has been measured as 409 vehicles a day with 425 at the Parnell Road end and 107 at the cul-de-sac. He interpreted the Opus traffic counts prepared on behalf of Auckland Transport as increasing this number to 862 movements. Mr Firth said the road will become a "busy thoroughfare" and there would be a consequent loss of character and amenity as a result. Our finding based on the figures provided is the number of increased movements will be small, and less than the capacity of a local road which is the classification of Cowie Street.
- 6.24 As to the parking supply Mr Parlane assessed the impact of removing the four street spaces along with the private spaces from 9 Cowie Street in terms of the assessment criteria in the operative District Plan, including setting out his findings in respect of zonings and activities that do not apply to the land involved. As we are considering a Notice of Requirement and not a consent application, strictly speaking assessment criteria do not apply. When questioned Mr Parlane advised that the PAUP is moving to parking maximums and also that the parking requirements for the Terrace Housing and Apartment Building zone, which the PAUP has proposed be applied to Cowie Street, will be relaxed or minimised.
- 6.25 In the Council's reporting team's final comments after having heard all the evidence Mr Hills' opinion was the effect of removing the on street carpark spaces would be

adverse effect but in his view not significantly so because of the proximity to the Newmarket town centre and to public transport/amenities such as the Newmarket rail station approximately 900 metres away and bus stops on Parnell Road which are around 100 metres away from Cowie Street. He said the zoning proposed by the PAUP recognises this and also encourages use of public transport. Having said that, his opinion was although the effect would not be significant it could be avoided.

6.26 The applicant's position in respect of the on-street parking spaces had been stated in the opening legal submissions and was reiterated in its Reply with Mr Lanning saying on both occasions that it was questionable whether this is an "effect" that can be considered by the Commissioners as on-street parking can be removed or modified by Auckland Transport as a regulatory function in accordance with its parking strategy without the need for any approvals under the RMA. He said Auckland Transport had considered the effect without prejudice to that. However the on-street parking issue would be considered again when the detailed design phase is undertaken.

6.27 In respect of Mr Parlane's analysis using the District Plan criteria, the reporting team did not consider that a loss of the parking spaces at 9 Cowie Street and any potential subsequent inconsistency with rule 12.9.1.2 of the District Plan will be of such significance that the Commissioners should recommend the NOR be withdrawn. Their reasoning, which we have adopted with some minor editing, was:

'The reporting team directs the Commissioners to s171(1)(a)(iv) of the RMA that requires a territorial authority, subject to Part 2 of the RMA, to consider the effects on the environment of allowing the requirement, having particular regard to any relevant provisions of a plan or proposed plan.

From the reporting team's experience:

- a) *It is a common occurrence for a designated public work to infringe District Plan rules as they are often for activities (public works) not anticipated within the relevant zone. A common example of this would be infrastructure within a public reserve. In such a scenario, any infringement of or inconsistency with a District Plan provision is generally considered in the context of Part 2 of the RMA and any potential effects of allowing the requirement.*
- b) *In considering s171(1)(a)(iv) of the RMA as part of an NOR process, greater emphasis is generally placed on objectives and policies of a district plan as opposed to rules. The reporting team considers that the "spot zoning" principle referred to by Ms Voss in her summary statement of evidence, and the fact that s176(a) of the RMA states that s9(3) of the RMA does not apply to a designation adds further credence to the reporting team's view on this matter.*

... the reporting team notes that s171(1)(a)(iv) of the RMA requires the territorial authority to have “particular regard” to relevant provisions of a plan or proposed plan. In the view of the reporting team, have particular regard to does not mean “give effect to” or “be consistent with”. As stated above, the reporting team considers that any infringement of or inconsistency with a District Plan provision should be considered:

- a) Subject to Part 2 of the RMA; and*
- b) In the context of any potential effects of allowing the requirement.*

In this regard:

- a) .. Mr Hills is of the view that the adverse effects of the loss of off-street parking is not significant; and*
- b) As outlined in the reporting team’s s42A report, the reporting team consider that the project is consistent with Part 2 of the RMA.’*

6.28 We have accepted the advice of both the Council and Auckland Transport on this consequential aspect of the proposal and recommend that if possible the on-street parking spaces remain.

6.29 In the reporting team’s final comments after having considered all the evidence presented, Mr Hills’ opinion was the maximum gradient of 12%, the radii of the bends at a minimum of 20 metres, and the revised lane widths of 2.7m were all acceptable and accorded with the ATCOP. However his view was there would be no need for a pedestrian crossing (in any form) in Cowie Street, being one of the reasons behind the proposal to remove the four on-street spaces. His experience with this road was that it is as easy to cross as Sarawia Street which has no crossing. In any event, a significant number of pedestrians currently cross both roads at Parnell Road without any apparent pedestrian safety issues as no pedestrian accidents have been reported in the last 5 years as a result of crossing either Sarawia or Cowie Street. He said traffic calming device(s) can be installed on Cowie Street that do not removing any parking and would still achieve the safety benefits of lowering traffic speeds. An example of this can be found in Temple Street, Meadowbank where a simple speed hump has been installed and parking is permitted over it.

6.30 Mr Hills said there is no need for a footpath wider than 1.8m as it had been designed to accommodate pedestrians only and a width of 1.8m is acceptable and in accordance with ATCOP at this location. He also saw no need for the footpath to be widened to accommodate cyclists due to the predicted low speeds and low volumes of traffic. He concluded by noting that the details of such matters would be subject to a further safety audit once the detailed design has been undertaken.

6.31 Auckland Transport's response to these roading issues in its Reply was that Mr Parlane had not taken account of the existing road widths on Laxon Terrace or the fact that the proposed new road was to be a local road providing access to 50 or 60 dwellings with constrained potential for future development and not, for example, a collector or arterial route being provided as part of a brownfields or greenfields development. The road would comply with the default road widths provided in the ATCOP which also allows for narrower widths if justified for situation-specific reasons. Mr Lanning said the proposed widths will be examined again during the detailed design stage taking safety issues into account. He pointed out also that this is a proposed designation situation, rather than a consent application, being a situation where it is not appropriate to specify all the details.

Character and amenity

6.32 Mrs Haysom believes there will be a significant adverse effect on the character and residential amenities of Cowie Street if the proposed bridge and road extension proceed. Construction would involve removing a number of mature and exotic trees which she said are an important feature of this environment and add to the street's pleasantness and ambience with the established trees and villas also providing an aesthetic coherence. The visual effects of the work were also a concern in the context of a road that to date has been protected from urban development and she queried how the construction noise would be monitored.

6.33 Landscape architect Mr Robinson described the bridge proposal as the creation of a "circuitous and poorly legible route" from Laxon Terrace to Broadway in Newmarket. He said although the road and footpath are proposed to be lit they will run alongside extensive densely vegetated areas which would provide isolation opportunities and entrapment and concealment spots with no good options for escape. In his opinion there would be inadequate surveillance from the dwellings. The proposed road and bridge would therefore be perceived as unsafe by pedestrians, especially at night when the traffic is lighter.

6.34 We were not convinced by this reasoning. The vegetation already exists and furthermore we heard from submitters who clearly do not wish for it be removed. If it causes a safety problem we would have thought they might have welcomed the vegetation removals proposed. Secondly, the bridge will be elevated and also well lit. If there are pedestrian safety problems in this area we heard no evidence to suggest it already occurs on the ground in the local tree-lined streets. We find the

apprehension that the appearance of the bridge would suddenly attract undesirable people into this area is speculative rather than having a credible factual foundation.

- 6.35 Mr Robinson said further that local residents of the three streets would not acquire any significant sense of ownership over the bridge and approach road as they would read as separated transport infrastructure rather than as community space, although some detailed design could reduce the level of adverse effects but would not avoid them. The fact that the railway lines and the associated rail infrastructure have been established in the gully since the 19th century, and for that reason inevitably any residents moved into this area can be taken to have known that those were there, also leads us to the view that the 'community ownership' argument is not merited.
- 6.36 Along with others called to speak for the Cowie Street Residents Group Mr Robinson believed an underpass would supply a greater level of visibility and surveillance and pose no entrapment or isolation opportunities. Given that the sketches provided showed the only views into it would be from a very small handful of residences on Laxon Terrace because of the curve required to access the underpass, and by definition this type of structure would prevent views into it from above, we were not persuaded that would necessarily be the case.

Consultation

- 6.37 Mr Carson resides at 5 Cowie Street. His perspective was if there is a problem with Sarawia Street then it should be fixed there rather than elsewhere. He regarded the consultation carried out for the project as superficial and somewhat secretive. His understanding was Auckland Transport had agreed with nearby Broadway Park residents that an overbridge would be the best option for the crossing as early as 2009 and from that time the outcome was pre-determined. Mr Carson tabled a number of documents including an excerpt from *Wellington International Airport Limited and others v Air New Zealand* [1993] 1 NZLR 671 which addresses consultation, and also copies of various letters and emails which tended to confirm there had been an ongoing dialogue and that a number of options were being explored at the relevant times.
- 6.38 Dr Putterill also resides in Cowie Street and holds international accounting qualifications. He described himself as the initiator of the underpass concept and outlined his involvement in Parnell community activities and his attendances at various consultation meetings regarding the Newmarket crossing project, the first of

which he attended in 2012. He was sceptical about Auckland Transport's costings for the project, particularly so far as the geology of the ground where the swale, raingarden and bridge will be built, saying it was a surprising feature that the accounting for the bridge was a static total cost estimate which had been repeated for three years. While he alluded to effects on the environment, apart from a query regarding the geology of the directly affected areas Dr Putterill did not spell out what he apprehended those might be.

- 6.39 After attending a number of meetings since that time, in 2014 Dr Putterill had undertaken his own investigations and commenced developing the underpass option. He said "*the reaction of AT to the [u]nderpass idea can best be described as cautious but it was not dismissed out of hand*". He said sketch plans were prepared and there were several meetings to try to overcome the points of difference. Through lobbying with the Waitemata Local Board the engineering firm AECOM was instructed to undertake the independent study of the bridge versus underpass options. Dr Putterill regarded the outcome of this study as having shown little sign of independence as it endorsed the bridge option. However, the fact that it was undertaken served to demonstrate to us as independent Commissioners that in fact the underpass option was obviously considered on more than a cursory or hypothetical basis and Auckland Transport's materials confirm that.
- 6.40 The residents of Laxon Terrace and Youngs Lane have a directly opposing stance to those in Cowie Street. On their behalf Mr Murray said these residents had been consulted about the closure of level crossing and access and egress to and from their streets since the outset. He said the initial consultations were conceptual but since 2012 they had examined a number of options which were detailed and broad as well as 'lively' which he said was because of disruptions by people from Cowie Street. He said his group's experience was that Auckland Transport "*went out of its way and responded to things well*". The upshot was that residents of Laxon Terrace and Youngs Lane supported the bridge option.
- 6.41 His view was a tunnel (underpass) would pose a greater risk and liability for the Council and ratepayers than a bridge, for example by land and buildings subsiding in the adjacent areas above and below the tunnel, air pollutants being contained in the structure, noise reverberating, people not being visible when in the tunnel, emergency vehicles having difficulty turning left onto Laxon Street from the exit at 5 Laxon Terrace, fires in tunnels being more frequent, the structure attracting vagrants, and at the same time it would provide no community access or other benefits (such

as a viewing platform for looking over Newmarket Park and beyond) and therefore it would not contribute to the amenity of the neighbourhood.

- 6.42 Mr Murray said the reason there are significantly more bridges than tunnels in New Zealand is *“simply that bridges are inherently safer than tunnels, easier and quicker to build, operate and maintain, and for the matter under consideration significantly less disruptive to the community during construction and maintenance”*. He concluded by saying that from the public interest and risk assessment perspectives it was difficult to see why a tunnel would be considered in the first place. In his view the objections by the Cowie Street residents had not considered the wider public interest or amenities.
- 6.43 There is actually no duty on the part of a requiring authority, or a consent applicant, to consult any person about either a NoR or an application for a resource consent. This was enshrined in section 36A of the RMA by an amendment made in 2005. But consultation is usually conducted as an aspect of good practice by requiring authorities nevertheless. Having regard to the details provided with the NoR, in Mr Murray's and Dr Putterill's evidence and that of Ms Pillay, and the obligations that can be imposed through conditions on the designation requiring ongoing pre-construction and construction communication and consultation, we agree with the Council's final comments regarding consultation to the effect that there has been, and will continue to be, adequate consultation undertaken for this project including that which occurred with a number of parties including local residents in terms of alternative sites, routes or methods before the NoR was issued.
- 6.44 We record Mr Lanning's advice on behalf of Auckland Transport in response to the underpass evidence that excavating under the busiest section of rail track in New Zealand creates more significant construction-related risks than building a bridge over the rail. He said that is a decision Auckland Transport is entitled to make and submitted that the process by which it has reached that decision cannot be described as “cursory” or arbitrary”.

Conclusion on alternatives

- 6.45 In terms of Auckland Transport's consideration of alternatives, after considering all the evidence, submissions, and materials provided, we find that Auckland Transport has given adequate consideration to alternative routes and methods of undertaking this project and the requirements of section 171(1)(b).of the RMA have been satisfied

as a result. We agree with Mr Lanning's submission that whether or not the underpass alternative may be considered by some to be "better" does not reflect a test recognised by the RMA.

Construction Effects

- 6.46 Another of the Cowie Street residents' concerns was the effect of construction traffic and noise (in particular) on the amenity of Cowie Street and its residents. After hearing their presentations Auckland Transport's response was the vast majority of construction traffic would be directed through Sarawia Street for the construction site access. Truck movements through Cowie Street will be restricted to those required for construction activities west of the rail corridor, being primarily the western bridge abutment and road tie-in works to Cowie Street. Mr Lanning said night time truck access through both Sarawia Street and Cowie Street will be minimised through limiting the night time works and using short term storage areas for materials and equipment. An approved Construction Traffic Management Plan would also be required. This is common practice for major projects in the region. Because Auckland Transport is the body responsible for approving such traffic management plans, in this case proposed management plan would be included in the outline plan of works for the project and would thus be approved by the Council as part of that process instead.
- 6.47 We inquired whether deliveries, particularly of large materials such as the pre-formed bridge components, could be delivered by rail as that seemed to be a convenient option in the circumstances but were reassured that due to the railway's own requirements, including its passenger and staff safety requirements, that will not prove to be practical.
- 6.48 The limited night time work hours would also serve to limit construction noise. Dr Al-Ani's evidence advised that when night time work is required this will occur for only isolated periods of up to three consecutive nights at any time.

Stormwater

- 6.49 A discharge permit is required for the diversion and discharge of stormwater from the new impervious surfaces which will be created by the project. The actual and potential environmental effects of the proposed stormwater management measures are to be considered in terms of sections 104 and 171 of the RMA. Various questions were raised by the Commissions regarding where stormwater will enter the

reticulated system and whether stormwater will discharge into Newmarket pond and, if so, whether the pond would benefit from this discharge or it would be subject to adverse effects.

- 6.50 The proposed bridge, road formation and construction works will be undertaken on relatively steep land and an embankment, formed midway from the Parnell Road ridge down to the gully of Newmarket Park, where overland water from the site and the wider Newmarket gully naturally flows out to Hobson Bay. The proposed structures will sit in a created, as opposed to a natural, environment comprised of established residential areas, roads, essential rail infrastructure, and an urban park, all with stormwater management provisions demanded by the local topography and environment.
- 6.51 The materials disclosed that water from the proposed raingarden will be connected to an existing stormwater pipe that discharges directly to the Newmarket Stream (and bypassing the pond completely). Another option considered was connecting the proposed swale to an existing pipe that would then discharge through the pond and from there flow into the stream. In the instance there would be a good flow of stormwater moving through the pond from either the raingarden or swale, although the Council's stormwater specialist Mr Woortman's advice was he would not count on any benefits to the pond in Newmarket Park.
- 6.52 Submitters who raised stormwater issues cautioned the Commissioners to ensure conditions were imposed to maintain the function and asset condition of current rail infrastructure (KiwiRail) and local residents who were concerned the stormwater and run-off might contaminate a play area in Newmarket Park and also create potential problems in terms of site stability. On behalf of the Cowie Street residents Mr Rabbits and Mr Baddeley questioned the structural integrity of the raingarden being installed close to Laxon Terrace, cautioning it could serve to de-stabilise a slope in an environmentally sensitive area.
- 6.53 Both Dr Al-Ani and Mr Burt provided evidence on stormwater matters for Auckland Transport. Dr Al-Ani's evidence covered several critical points. He said stormwater treatment is not required for this project due to the small, 1250m², area of impervious surfaces that it would introduce. He said all the stormwater collected could be directed into the existing piped underground systems at minimum cost and still meet the Council's requirements. However after discussion with stakeholders, including Mana Whenua in particular, Auckland Transport considered a vegetated swale and

raingarden would potentially enhance the project outcomes without generating any significant adverse effects at the same time. Dr Al-Ani addressed the stability of the raingarden in a statement of rebuttal evidence. In this he said a draft detailed geotechnical design had been completed to confirm the integrity of the retaining structures being proposed. This was confirmed in the Reply to the evidence and the Ngati Whātua Iwi Management Plan was addressed in the reporting team's final comments which noted that one of the iwi's objectives for urban environments is to create locally adapted native plantings in indigenous groves and corridors for native animals.

- 6.54 Dr Al-Ani concluded the project will have a net positive effect on the downstream receiving environment. Mr Burt reinforced this when he addressed the hearing. He advised the current residential infrastructure and road surface in Cowie Street discharges to combined sewer overflows (combined waste and stormwater). Any future stormwater runoff from the Cowie Street roading surface and bridge structure would be treated through the vegetated swale, which removes most of the total suspended solids, and then be directed into the public and separated stormwater system. He advised this system does not direct water down to the Newmarket Park pond and/or children's play area.
- 6.55 For KiwiRail Ms Beals noted in respect of stormwater effects that this had been translated into the recommended conditions 15 and 16 for the NoR and 43-47 of the stormwater permit, both of which had included the proposed stormwater management devices. Based on this, Ms Beals agreed the effects on the rail environment from this aspect of the proposal would be no more than minor.
- 6.56 The Council's stormwater adviser Mr Woortman had undertaken a technical review of the project and his conclusions were included in the section 42A report. He concluded that the adverse effects on the environment from the stormwater discharge and diversion activity would be appropriately mitigated by the proposed stormwater works.
- 6.57 Implementation of the project should effectively reduce discharges of sewerage into Hobson Bay during heavy rainfall events by removing a combined sewer/stormwater catchpit at the end of Cowie Street and introducing a vegetated swale at the bottom of the road and bridge area to capture and treat stormwater run-off and then pipe the filtered stormwater into the public systems below instead of the present combined system. The urban design and landscape mitigation concepts prepared by Opus

provide for two new areas of native plantings associated with the raingarden, with the species to be selected in agreement with iwi and the Council's Parks division. The recommended conditions carry this through by requiring that all the proposed landscaping is to be of native plantings in their original habitat context and sourced from the ecological district in general accordance with the Ngāti Whātua Ōrākei Iwi Management Plan 2012. We regard both aspects as being positive benefits of the project and consider further that these measures accord with the spirit of the Cultural Impact Assessment prepared by Ngati Maru Runanga and the aspirations expressed through the IMP.

Conclusion on Stormwater

- 6.58 After considering all the evidence and technical advice we have found the proposed stormwater treatment for the project and the associated conditions of consent will satisfy the Council's relevant environmental requirements. We have been satisfied that any adverse stormwater effects will be appropriately mitigated and also that positive effects should accrue over time as the vegetation matures. We agree with the applicant's position that there will be net positive effects from the project's providing the raingarden and vegetated swale, and positive effects in terms of the quality of the water that will be discharged to Hobson Bay. We note Auckland Transport's advice that the proposed measures developed during consultation discussions with stakeholders including Mana Whenua which for us provided practical evidence for the purposes of section 6 (e) of the RMA as did the conditions recommended for the landscaping proposed.

Whether the Work and Designation are Reasonably Necessary to Achieve the Project Objectives

- 6.59 The objectives for the Newmarket Crossing are set out in paragraph 1.4 and section 171(1)(c) of the RMA requires us to consider whether the work and designation are reasonably necessary to achieve them. It is well settled that the RMA neither requires nor allows the merits of the objectives themselves to be judged by the decision maker.
- 6.60 Mr Bartlett submitted on behalf of the Cowie Street residents that there was no evidence to support Auckland Transport's first objective, namely to improve the operation of the Auckland rail network by removing a potential safety issue with trains and the level crossing. He referred in support to Mr Parlane's evidence that the benefit cost ratio for the preferred alternative had not been robust and had failed to consider a realistic 'do minimum' scenario. The materials provided advised that this option had been dismissed early in the consideration of options as it was not considered to be viable.
- 6.61 Counsel said Auckland Transport appeared to have assumed that the level crossing currently causes 30 seconds delay to each and every train passenger but there was no survey data, modelling or other justification to support that. Further, its assumption accounted for 10 times as much as the time benefits of removing the level crossing which *"completely overshadows the dis-benefits or travel time disadvantages that each of the options other than the underpass would have due to requiring traffic to travel further. It also completely obscures the fact that the Cowie Street bridge option has more dis-benefits due to the longer travel route than benefits due to removing the level crossing"*.
- 6.62 Mr Parlane contended that the 30 second delays being claimed by KiwiRail are due to the way it manages the trains rather than to the crossing itself as there is no history of crashes in the crossing location. His conclusion was that at best Auckland Transport had double-counted the delay to rail passengers and at worst it had counted the delay twice without it existing in fact. In the light of this evidence Mr Bartlett submitted Auckland Transport had not established that the proposed work and the designation were "reasonably necessary" to achieve the first project objective.

- 6.63 Mr Bartlett further submitted that the proposed design was not sympathetic with the urban environment and will have a “significant enduring adverse effect on Cowie Street and the surrounding residential environment”, implying that the fifth objective, to have a compatible urban design that is safe and environmentally sensitive, would not be met.
- 6.64 For Auckland Transport Ms Voss’ planning evidence, which accorded with that given by Ms Pillay, was that a designation as a planning mechanism is necessary as it will identify the location, nature and extent of the project and the intended use of that land in the District Plan and the PAUP; secondly it would protect the land and secure the project from other development which might prevent or hinder its construction, operation and maintenance. The planners said a designation would also enable Auckland Transport to have the flexibility and ability to construct, operate and maintain the project notwithstanding anything contrary in those plans. This evidence was not actively contested.
- 6.65 After considering the reports, submissions and evidence on this issue we have found that the proposed works and a designation are reasonably necessary to achieve the requiring authority’s objectives for this project.

Other Relevant Matters

Road closures

- 6.66 Mr Bartlett submitted in terms of ‘other matters’ that the project would require stopping Sarawia Street in accordance with Schedule 10 of the Local Government Act 1974 and this step should be undertaken expeditiously so any objections in that regard could then be heard at the same time as any appeals that may be lodged with respect to the current NoR and resource consents.
- 6.67 After hearing this argument the Commissioners questioned the Council’s reporting team whether there were any examples where roads have been required to be closed as a result of implementing a designation. From personal experience members of the reporting team, particularly Mr Hills, were well aware that the City Rail Link NoRs (Auckland) and the Ruakura Interchange project in Hamilton NOR have both required road closures. The City Rail Link is requiring a number of roads to be closed, especially in the Newton area. To the best of the team’s knowledge, the formal road closure process for this project is or will be undertaken at a time closer to its implementation.

- 6.68 The Reply to the evidence on behalf of Auckland Transport advised that, contrary to Mr Bartlett's submissions, a road stopping process is not required under either the Local Government Act or the Public Works Act 1981 as in this case the railway crossing is not a "road" but a rail corridor with the right to access it being controlled by KiwiRail under the Railways Act 2005. It was therefore not susceptible to being stopped as suggested.
- 6.69 The legitimate expectations of residents in Cowie Street in terms of the District Plan provisions was also raised as an 'other matter' and has been addressed earlier in these recommendations and we refer to that discussion.

Lapse period

- 6.70 Mr Carson was concerned that Auckland Transport was proposing a 5 year lapse period for the designation in terms of the effect this could have on his confidence to invest in his property, for example whether he should paint his house. Five years is the default designation lapse period under section 184 (1) of the RMA and as a result AT was not seeking an extended lapse date - which requiring authorities frequently do, with 15 years being a relatively common request in our experience. A longer lapse period can create greater uncertainty and is therefore more likely to result in planning blight and anxiety for affected parties.

Overall Finding on the NoR

- 6.71 Based on the foregoing the Commissioners have been satisfied that the section 171 RMA requirements have been met and are recommending pursuant to section 171(1A) that the Notice of Requirement, as modified by Auckland Transport, be confirmed.

The Resource Consents

- 6.72 The subject matter of the resource consents required for the project has been covered in discussing the NoR. As discussed, we have been satisfied with respect to the stormwater measures proposed for the project and also that there is no issue in terms of the NES: Soil such that the consents should be refused in terms of the actual and potential effects on the environment. We were satisfied on the facts that any contamination will be appropriately dealt with.

7.0 RELEVANT PLANNING INSTRUMENTS

7.1 As highlighted in the Council's section 42 report the NoR and resource consent applications are subject to different, albeit similar, statutory considerations under the RMA. Both applications must, subject to Part 2, consider the effects on the environment of allowing the requirement or activity, having particular regard to any relevant provisions of a national policy statement, the New Zealand Coastal Policy Statement, the regional policy statement, the proposed regional policy statement and the relevant regional and district plans and proposed plans.

7.2 Collectively the assessment of environmental effects prepared to support the NoR and applications for resource consent and the Council's section 42A report provided a comprehensive commentary on the relevant national and regional policy statements, the relevant provisions of the Regional and District Plans, the Proposed Auckland Unitary Plan and other instruments. We do not intend to repeat this material, rather we rely on the application documents and reporting team's reports in this regard, except to indicate that the following documents were considered of particular relevance in reaching our decision in relation to the both the NoR and the resource consent applications:

- Auckland Regional Policy Statement ("ARPS");
- Auckland District Plan : Isthmus section;
- Proposed Auckland Unitary Plan, including Chapter B Regional Policy Statement;
- National Policy Statement for Freshwater Management;
- National Environment Standard for Assessing and Managing Contaminants in Soil to Protect Human Health;
- The New Zealand Coastal Policy Statement;
- Hauraki Gulf Marine Park Act 2000.

7.4 In respect of the resource consent applications, specific consideration was also given to the relevant sections of the Auckland Regional Plan: Sediment Control and the Auckland Council Regional Plan: Air, Land and Water. Other matters we also considered relevant and reasonably necessary to determine these matters included

the relevant sections of the Auckland Plan and the Auckland Regional Land Transport Plan 2015-2025.

- 7.5 Schedule 1 to the ARPS identifies High Density Centres and Intensive Corridors and Future Urban Areas. Newmarket is identified as a sub-regional growth centre located on the rapid transit system. This is reflected in both the operative District Plan and the PAUP which zones Cowie Street, Sarawia Street, Laxon Terrace and Youngs Lane as areas suitable for high density residential development, albeit that the PAUP also identifies Cowie and Sarawia Streets as being in a Special Character overlay.
- 7.6 The project accords with the strategic direction of the ARPS set out in clause 2.6 and in particular the following strategic objectives and policies:

Objectives

3. *To achieve a compact well designed more sustainable urban form served by an integrated multimodal (private vehicles, public transport, walking and cycling) transport system.*
4. *To develop and manage the region's transport system including road, rail, ferry, bus, cycling and pedestrian networks and services in a manner that supports urban development and land use intensification.*
6. *To achieve a high level of mobility and accessibility within the Region that provides for an integrated, responsive, sustainable, safe, affordable and efficient movement of goods and people.*

Policies

2.6.5 Urban Structure

3. *To develop a network of High Density Centres and Intensive Corridors which are linked by high quality public transport ranging from frequent local bus services supplemented by express buses to rapid transit (rail, ferry, or bus) on separate rights-of-way.*

2.6.8 Urban Design

1. *The design of Future Urban Areas and the management and promotion of change in existing urban areas is to occur so that:*

(iv) Urban environments have a logical permeable and safe structure of connected routes for all modes of transport, including walking and cycling;

(v) Public transport, roading, cycling and walking networks are integrated with each other and the land uses they serve;

(vi) Roads (including new roads) and road improvements within higher density areas should be designed to provide a pleasant environment for cyclists, pedestrians and residents and minimise adverse effects on urban amenities

2.6.11 Land Use and Transport Integration

- (i) High Density Centres and Intensive Corridors are able to be served by an efficient and effective public transport network;*
- (ii) High Density Centres on the rail rapid transit network and on the bus rapid transit system are served by a fast, frequent and reliable public transport service;*
- (iii) High Density Centres and Intensive Corridors are planned to develop to a density which supports planned transport infrastructure and service improvements (refer to Appendix H);*
- (iv) provision is made for transport improvements which deliver a multi-modal transport system (including walking and cycling) in a manner which supports quality, compact and contained High Density Centres and Intensive Corridors;*
- (vi) High Density Centres and Intensive Corridors are not compromised by inappropriate transport infrastructure. This includes avoiding, remedying or mitigating the severance of communities*

- 7.7 The project also accords with the transport objectives in the ARPS which seek “to develop a transport network that supports a compact sustainable urban form”, but which also “is safe as is practicable and promotes better physical health for the community”. These objectives are supported by policies that include development of a transport system that “avoids, remedies, or mitigates the adverse effects of transport on local communities”.
- 7.8 The project is consistent with the transport objectives and policies in the operative District Plan, in particular:

12.3.1 Objective – Efficiency/Environment

To manage the use and development of the City’s transportation resources in a way that promotes the protection and enhancement of the City’s environment.

- By supporting the creation of an efficient public transport network which provides an integrated system, with appropriate levels of convenience and service.*
- By minimising the adverse local environmental effects of proposed new roads and other additions to the City’s transportation network.*

12.3.1 Objective – Accessibility/Safety

To improve access, ease and safety of movement within the City, while ensuring that adequate provision is made for the various transport needs of the region.

- By improving the capacity and safety of existing facilities through the use of appropriate traffic management techniques.*

- *By providing new roads or other facilities where these are considered essential.*
- *By controlling access and the intensity of use along particular roads, so as to ensure both vehicle and pedestrian safety.*
- *By improving passenger transport infrastructures where appropriate.*
- *By recognising the need for effective public transport and for catering for people without cars.*
- *By enhancing public and personal safety through reducing opportunities for crime to occur through appropriate design and management of transportation facilities.*

7.9 With respect to the PAUP, we find the project is not contrary to Chapter B which provides the Proposed Regional Policy Statement and that it also accords with the Auckland-wide objectives and policies relating to infrastructure and transport.

7.10 On behalf of the Cowie Street residents, we heard planning evidence from Mr Firth who did not agree with the Council's reporting officer that the project is consistent with the objectives and policies in the District Plan. In his opinion, and relying on the evidence of Mr Parlane and Mr Robinson, his view was the disturbance to traffic and impact upon the character of Cowie Street would be more than minor and concluded the project is not consistent with the objectives and policies for the Residential 8c zone. However his statement of evidence failed to identify the particular objectives and policies he considered the project did not meet nor could he provide any reasoning for this conclusion when questioned by the Commissioners.

7.11 Overall we have concluded that the applications are not contrary to the objectives and policies of the instruments traversed. In particular the proposal is generally consistent particularly with the transport and infrastructure objectives of the Regional Policy Statement, the Proposed Regional Policy Statement (Chapter B – PAUP) and the operative District Plan along with the Auckland-wide objectives and policies of the Proposed Auckland Unitary Plan. The proposal accords with Auckland Transport's legislative purpose as set out in section 39 of the Local Government (Auckland) Act 2009. We agree with the reporting officer's assessment that, while many of the relevant zone objectives and policies of both the District Plan and the PAUP are not

particularly relevant to the assessment of the project, the project is not contrary to these objectives and policies.

8.0 PART 2 OF THE RMA

- 8.1 The purpose, policies and directions contained in Part 2 of the RMA, which is comprised of sections 5 to 8, provide a framework for an overall consideration of the effects on the environment of allowing the requirement, and override the section 171 matters in the event of a conflict. The dominant provision is section 5 which sets out the purpose of the Act, to promote the sustainable management of natural and physical resources in a way or at a rate that enables people and communities to provide for their social, economic and cultural wellbeing, and their health and safety.
- 8.2 When addressing Part 2 Ms Voss drew attention to the support the project will provide for Auckland Transport's initiative to improve passenger transport across Auckland thus enabling people and communities in the region to move in a more sustainable manner. She said also through removing the level crossing the project will contribute to reducing vehicle congestion, which given the evidence we heard of the limited amount of traffic in this area we did not find particularly convincing. We agree however with her opinion that removing the need for local traffic to wait at the level crossing, or for trains to be held back while waiting for the barrier arms to be lifted, will improve the safety and efficiency of both transport modes. For the purposes of sections 6 and 7 of the RMA her evidence referred to the cleaner stormwater which will be directed to the coast and to Auckland Transport's consultation and engagement with mana whenua (which was traversed in some detail in Ms Pillay's statement).
- 8.3 Mr Bartlett concluded for the Cowie Street residents the adverse effects on Cowie Street and 'other local streets' will be enduring and permanent and no mitigation could avoid or remedy that "inevitable outcome". What other local streets he was referring to were not specified. Mr Firth's planning evidence was the project is inconsistent with Part 2 as it would be an inefficient use of funds, there would be a substantial reduction in the amenity of Cowie Street both during construction and once the bridge is completed through a substantial increase in noise and disturbance, and that the additional traffic would result in the character of the neighbourhood being altered forever. In his opinion the sustainable management purpose of the Act would not be achieved as a result.

- 8.4 In contrast with counsel's assertion was the evidence brought on behalf of the Laxon Terrace and Youngs Lane residents, roads that we regard as 'other local streets', which clearly favoured the proposed bridge option and was actively opposed to an underpass. We heard no evidence from residents of any other local streets, including any parties who are based in Sarawia Street and who can be expected to have their existing amenity enhanced as a result of through traffic no longer passing by, installation of a sizeable garden area at the lower end of their street, and an end to intrusions in terms of level crossing alarm noise (which will benefit the Cowie Street residents also).
- 8.5 The Newmarket Crossing project has been envisaged for the wider community to benefit from improved rail journey times through the busiest section of rail track in the country and for Auckland Transport and KiwiRail to operate their infrastructure safely and efficiently. It will also contribute to encouraging people to adopt public transport modes, being a long-term strategic objective for the region which is reflected in the relevant planning instruments. Public access to Newmarket Park will be maintained and no longer involve having to pass directly across the railway lines. We find in this situation that the wider benefits outweigh the interests of the Cowie Street residents whose principal concern is to secure the status quo so far as their street and its amenity is concerned. We have also found that the apprehended 'significant increase' in the volumes of traffic that will pass through Cowie Street is not supported as the evidence was clear there are a limited number of properties in Laxon Terrace and Youngs Lane with very limited further development opportunities that would increase the existing volume of traffic movements. While there will be some negative effects relating to the limited amount of additional traffic and reduced parking on Cowie Street as well as on the 9 Cowie Street property these effects are minimal when viewed in the broader context.
- 8.6 In terms of section 8 we inquired whether the Iwi Management Plan ("IMP") for the area had been considered, although it is not mandatory in this context for that to have occurred. The reporting team had reviewed the Ngāti Whātua Iwi Management Plan and identified the following key objectives, policies and actions in relation to this project:
- Objective: The urban environments, including open spaces and streets in Tāmaki Makaurau, will contain predominantly locally adapted native plants to provide indigenous vegetation groves and corridors for native animals.

- Policy: Establish and maintain strong partnerships / working relationships / agreements with key stakeholders / environmental authorities in the implementation of sustainable ecological initiatives throughout our *rohe*.
- Action: Ensure that the Auckland Council and other public entities prioritise native planting in preference to exotic planting on public land and require native planting as conditions of resource consent for development on private land unless there is a compelling reason for specific exotics. All native plantings are to be within their original habitual context e.g. coastal plants on the coast, and sourced from that ecological district.

8.7 The reporting team considered, subject to adoption of recommended amendments to conditions relating to the involvement of iwi in the development of the project's management plans, that the project is consistent with the IMP. There was no evidence suggesting otherwise in the case of either the IMP or the Ngāti Maru Runanga CIA. We are satisfied that section 8 has been appropriately taken into account for the project as reflected in the stormwater measures having been adopted, the landscaping proposed and through the ongoing iwi involvement contemplated by the relevant conditions that were recommended to us.

9.0 CONCLUSION, RECOMMENDATION AND DECISION

9.1 After considering all the materials and evidence put before us for the hearing we have concluded that the Newmarket Crossing project has been envisaged for the wider community to benefit from improved rail journey times through the busiest section of rail track in the country and for Auckland Transport and KiwiRail to operate their infrastructure safely and efficiently. It will also contribute to encouraging people to adopt public transport modes, being a long-term strategic objective for the region which is reflected in the relevant planning instruments. Public access to Newmarket Park will be maintained and no longer involve having to pass directly across the railway lines.

9.2 We find in this situation that the wider benefits outweigh the interests of the Cowie Street residents whose principal concern is to secure the status quo so far as their street and its amenity is concerned. We have also found that the apprehended 'significant increase' in the volumes of traffic that will pass through Cowie Street is not supported as the evidence was clear there are a limited number of properties in

Laxon Terrace and Youngs Lane with very limited further development opportunities that would increase the existing volume of traffic movements. While there will be some negative effects relating to the limited amount of additional traffic and reduced parking on Cowie Street as well as on the 9 Cowie Street property these effects are minimal when viewed in the broader context.

9.3 We agree with Ms Voss' conclusion that *"It is inevitable that the construction of the Project will have some temporary local adverse effects and that the post-construction reinstatement will take some time to establish with regards to trees and vegetation. With the exception of these few effects, the Project provides significant broader long-term positive effects as well as localised benefits, such as safety, accessibility and noise reduction"*.

9.4 Having regard to all relevant matters under sections 168, 171 and Part 2 of the Resource Management Act 1991, and exercising our delegations under section 34A of the RMA, the Commissioners make the following **recommendation** to Auckland Transport:

That the notice of requirement by Auckland Transport for the designation of land to construct, operate and maintain a new road connecting Laxon Terrace to Cowie Street, including construction of a bridge over the existing Newmarket branch railway line and closure of the existing at grade connections between Sarawia Street and Laxon Terrace, Newmarket and all associated activities and infrastructure, including a new approach road be **CONFIRMED** subject to the designation conditions attached as Attachment 1.

9.5 The reasons for this recommendation are:

(a) the proposed designation, as modified before the hearing concluded, satisfies the requirements of the Resource Management Act 1991, particularly Part 2 and section 171;

(b) adequate consideration has been given by the requiring authority to alternative sites and methods of conducting the project and the consideration undertaken was transparent, appropriate and covered a number of potential routes and methods including an underpass option;

(c) the designation and the works are reasonably necessary for achieving the stated objectives for the project;

(d) the construction activities effects identified as potentially adverse can be managed in a way that either avoids or mitigates their effects to a point where these are likely to be no more than minor or moderate;

(e) the project will generate a number of positive effects for the wider community;

(f) confirming the designation with conditions meets the purpose of the RMA better than recommending its withdrawal or further modification.

9.6 Having considered the applications, the Assessment of Environmental Effects, the submissions lodged on the applications, the reports and recommendations prepared on behalf of the Council and the evidence and submissions presented at the hearing, pursuant to sections 104, 104B, 105 and 107 of the Resource Management Act consent is **granted** to the applications by Auckland Transport for resource consents including a land use consent (“R/LUC/2015/3627”) for earthworks, vegetation removals in a Significant Ecological Area, and to disturb soil under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health pursuant to section 9 of the RMA; a discharge permit (“R/REG/2015/3629”) for stormwater discharges pursuant to section 15 of the RMA; and a discharge permit (“R/REG/2015/3633”) for discharges from contaminated land pursuant to section 15 of the RMA, all associated with the construction, operation and maintenance of a new road connecting Laxon Terrace to Cowie Street, including construction of a bridge over the existing Newmarket branch railway line and closure of the existing at grade connections between Sarawia Street and Laxon Terrace, Newmarket. The conditions of the consents are attached to this decision document as part of Attachment 1.

9.7 The reasons for this decision are:

(a) While the project will generate adverse effects on the environment, the applicant has adequately demonstrated that the identified adverse effects can be accommodated or mitigated by a range of measures;

(b) The project will deliver significant wider benefits through enabling improved network resilience and improved rail and passenger capacity for the Auckland region;

- (c) The project is consistent with the objectives and policies of the Auckland Regional Policy Statement, the Auckland District Plan: Isthmus Section and also those of the Proposed Auckland Unitary Plan;
- (d) The proposal is consistent with the requirements of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health and the National Policy Statement for Freshwater Management 2014;
- (e) The requirements of each of section 105 and section 107 of the Act will be met; and
- (f) The project supports sustainable management of the environment in accordance with Part 2 of the RMA.

9.8 Pursuant to section 108 of the RMA these consents are subject to the consent conditions attached to this decision as part of Attachment 1.



Leigh A McGregor (Chair) for and on behalf of the Commissioners appointed on behalf of the Auckland Council
10 June 2016

Attachment 1 – Recommended designation conditions and approved conditions of consent

Attachment C: Conditions applying to the existing designation

1715 Newmarket Level Crossing Project

Designation Number	1715
Requiring Authority	Auckland Transport
Location	Lot 1 DP 57235, PT DP 23351, Lot 1 DP 206508, Allotment 37 SECT 4 SBRS OF Auckland, DP 24765, Pt Allotment 35 SECT 4 SBRS OF Auckland, Lot 1 DP 53284
Rollover Designation	No
Legacy Reference	N/A
Lapse Date	10 years from being operative in the Unitary Plan unless given effect to prior

Purpose

The construction, operation, and maintenance of a new road.

Conditions

DEFINITIONS

Consult, Consulting, Consultation

The process of providing information about the construction works, and receiving for consideration, information from stakeholders, directly affected parties, regarding those effects and proposals for the management and mitigation of them.

Material Change

Includes any amendment to information informing the CEMP or other Management Plan (including, but not limited to, methods, processes, procedures or details) which has potential to materially increase adverse effects on a particular receiver. For clarity, changes to personnel and contact schedules do not constitute a material change.

Affected in Proximity

All owners and occupiers of properties within the 250m radius as depicted in Appendix 1 to the Assessment of Environmental Effects – Newmarket Level Crossing – Visual Catchment/Viewing Audience (prepared by Opus International Consultants and dated January 2016)

Directly affected parties

All property owners and occupiers identified within the designation footprint

The project

The construction of a new road connecting Laxon Terrace to Cowie Street including construction of a bridge over the Newmarket Branch Line and closure of the road connections between Sarawia Street and Laxon Terrace.

ABBREVIATIONS

PCCP	Pre-Construction Communication and Consultation Plan
CEMP	Construction Environmental Management Plan
CCCP	Construction Communication and Consultation Plan
CLG	Community Liaison Group
HNZPT	Heritage New Zealand Pouhere Taonga
CNVMP	Construction Noise and Vibration Management Plan
UDLP	Urban Design and Landscape Management Plan
CPTED	Crime Prevention Through Environmental Design
EMP	Ecological Management Plan
VMP	Vegetation Management Plan
CTMP	Construction Traffic Management Plan
HHMP	Historic Heritage Management Plan

General conditions

Condition number 1

- 1.1 Except as modified by the conditions below, the project is to be undertaken in general accordance with the following information:
- a) Notice of Requirement and Resource Consent - Assessment of Environmental Effects prepared by Opus International Consultants Ltd, August 2015;
 - b) Supporting environmental assessment reports dated August 2015;
 - c) Plans sets:
 - i. 1-C1135.00 Notice of Requirement Preliminary Design Plan, Sheet 1, Revision RI;
 - ii. 1-C1135.00 Notice of Requirement Preliminary Design - Longsection, Sheet 1A, Revision RI;
 - iii. 1-C1135.00 Notice of Requirement Bridge – General Arrangement, Sheet 1B, Revision RI;
 - iv. 1-C1135.00 Notice of Requirement Temporary Construction Designation, Sheet 2, Revision RI;
 - v. 1-C1135.00 Notice of Requirement Permanent Designation, Sheet 3, Revision RI;
 - vi. 1-C1135.00 Notice of Requirement Land Acquisition – 9 Cowie Street, Sheet 4, Revision RI;
 - vii. 1-C1135.00 Notice of Requirement Land Acquisition – Auckland Council Parks, Sheet 5, Revision RI;

- viii. 1-C1135.00 Notice of Requirement Land Acquisition – KiwiRail, Sheet 6, Revision RI;
 - ix. Newmarket Level Crossing Tree Identification Plan;
 - x. 1-C1135.00 Notice of Requirement Cowie St Effected Trees – 1, Sheet 8, Revision RI;
 - xi. 1-C1135.00 Notice of Requirement Cowie St Effected Trees – 2, Sheet 9, Revision RI;
 - xii. 1-C1135.00 Notice of Requirement Mitigation Planting Concept Plan, Sheet 10, Revision RI;
 - xiii. 1-C1135.00 Notice of Requirement Stormwater Drainage Plan – Sht 1 of 2, Sheet 11, Revision RI;
 - xiv. 1-C1135.00 Notice of Requirement Stormwater Drainage Plan – Sht 2 of 2, Sheet 12, Revision RI; and
 - xv. 1-C1135.00 Notice of Requirement Specimen Erosion & Sediment Control Plan, Sheet 13, Revision RI.
- d) Section 92 Response to Notice of Requirement and Resource Consent for the Newmarket Level Crossing Project prepared by Opus International Consultants Ltd, 23 December 2015;
 - e) Section 92 Response to Notice of Requirement and Resource Consent for the Newmarket Level Crossing Project prepared by Opus International Consultants Ltd, 5 February 2016;
 - f) Supporting documents (as updated by information provided by the Requiring Authority up until the close of the hearing)

1.2 Where there is inconsistency between:

- a) The documents provided by the Requiring Authority and listed above and these conditions, these conditions prevail.
- b) The information and plans lodged with the Notice of Requirement and presented in evidence on behalf of the Requiring Authority at the Council hearing, the most recent information and plans prevail.
- c) The evidence presented at the Council hearing and the management plans required by the conditions of this designation and submitted through the Outline Plan, the requirements of the management plans prevail.

Condition number 2

- 2.1 In accordance with section 184(1)(c) of the Resource Management Act 1991 (“RMA”), this designation will lapse if not given effect to within 5 years from the date on which it is confirmed.

Condition number 3

- 3.1 As soon as reasonably practicable, and no later than 12 months from the date of the project becoming operational, the Requiring Authority is to:
 - a) Identify any areas of the designation that are no longer necessary for the on-going maintenance or operation of the project or for on-going mitigation measures; and
 - b) Give notice to the Auckland Council in accordance with section 182 of the RMA for the removal of those parts of the designation identified in (a) above.

Pre-construction conditions

Condition number 4

Appointment of communication and consultation manager

- 4.1 Within three months of confirmation of the designation, the Requiring Authority is to appoint a communication and consultation manager to implement the pre-construction Communication and Consultation Plan (condition 5). The communication and consultation manager is to be the main and readily accessible point of contact for persons affected by or interested in the project until the commencement of the construction phase of the project, or the contact person required by condition 13 is appointed.
- 4.2 The communication and consultation manager's contact details are to be listed in the pre-construction Communication and Consultation Plan, on the Requiring Authority's website, and on the Auckland Council's website.

Condition number 5

Pre-construction communication and consultation plan

- 5.1 The Requiring Authority is to prepare a pre-construction Communication and Consultation Plan. This plan is to be submitted to the Auckland Council's Major Infrastructure Projects Team Manager, three months prior to construction commencing to certify that the Plan has been prepared in accordance with this condition. The objective of the pre-construction Communication and Consultation Plan is to set out a framework to ensure appropriate communication and consultation is undertaken with the community, stakeholders, affected parties and affected in proximity parties prior to the commencement of construction of the project.
- 5.2 The Plan is to be implemented and complied with from the date of its certification until the commencement of construction.
- 5.3 This Plan is to set out recommendations and requirements (as applicable) that should be adopted by and/or to inform the Construction Environmental Management Plan ("CEMP") and management plans.
- 5.4 The pre-construction Communication and Consultation Plan is to set out how the Requiring Authority will:
 - a) Inform the community of project progress and likely commencement of construction works and programme;
 - b) Engage with the community in order to foster good relationships and to provide opportunities for learning about the project;
 - c) Respond to queries and complaints. The information is to include but not be limited to:
 - i. who is responsible for responding;
 - ii. how responses will be provided; and
 - iii. the timeframes in which the responses will be provided.
 - d) Seek (and specify reasonable timeframes for) feedback and input from stakeholders, directly affected and affected in-proximity parties regarding development of the CEMP and management plans.
- 5.5 Where feedback in accordance with this condition is provided, the pre-construction Communication and Consultation Plan is to articulate how that feedback has informed the development of the CEMP and management plans and where it has not, reasons why it has not.
- 5.6 The pre-construction Communication and Consultation Plan is to be prepared in consultation with:

- a) All property owners and occupiers identified within the designation footprint;
 - b) All affected in proximity parties;
 - c) The CLG;
 - d) HNZPT; and
 - e) Network utility operators.
- 5.7 The pre-construction Communication and Consultation Plan is to include as a minimum:
- a) A communications framework that details the Requiring Authority's communication strategies, the accountabilities, frequency of communications and consultation, the range of communication and consultation tools to be used (including any modern and relevant communication methods, newsletters or similar, advertising etc.) and any other relevant communication matters;
 - b) Details of the communication and consultation manager for the pre-construction period including their contact details (phone, email and postal address);
 - c) The methods for identifying, communicating and consulting with stakeholders, directly affected parties and affected parties and other interested parties. Such methods are to include but not be limited to:
 - i. Newsletters;
 - ii. Newspaper advertising;
 - iii. Notification and targeted consultation with stakeholders, affected parties and affected in proximity parties; and
 - iv. The use of the project website for public information.
 - d) The methods for communicating and consulting with Mana Whenua for implementation of Mana Whenua principles for the project; and
 - e) How communication and consultation activity will be recorded.
- 5.8 The pre-construction Communication and Consultation Plan is to be publicly available once certified by the Council (Major Infrastructure Projects Team Manager) and for the duration of construction.

Condition number 6

Mana Whenua engagement

- 6.1 Within three months of the designation being confirmed, the Requiring Authority is to establish a kaitiaki Mana Whenua forum (or similar) to provide for an on-going role in the design and construction of the project and is to maintain this forum until completion of the construction period.
- 6.2 The Requiring Authority is to extend an invitation for membership of the kaitiaki forum to (but not limited to) representatives of:
- a) Ngāi Tai ki Tāmaki Tribal Trust;
 - b) Ngāti Maru Runanga;
 - c) Ngāti Pāoa Trust Board;
 - d) Ngāti Tamaoho Trust;
 - e) Ngāti Te Ata Waiohua;
 - f) Ngāti Whātua Ōrākei;
 - g) Te Ākitai Waiohua; and

- h) Ngati Whatua Runanga.
- 6.3 The role of the kaitiaki forum may include (but is not limited to) the following:
- a) Input into preparation of the following plans as required by these conditions:
 - i. UDLP
 - ii. EMP
 - iii. CEMP
 - b) Input into the structural design elements of the project to reflect cultural values using Te Aranga principles;
 - c) Involvement of Mana Whenua in the removal and or replanting of any native tree species, or any on-going maintenance that may be required, and provision for use of any removed native vegetation for customary purposes;
 - d) Working collaboratively with the Requiring Authority on archaeological matters;
 - e) Undertaking kaitiakitanga responsibilities associated with the project, including ceremonial, monitoring/surveying of native flora and fauna, pest and weed control, assisting with discovery procedures, and providing mātauranga Māori input in the relevant stages of the project; and
 - f) Undertaking monitoring of construction activities on site by representatives appointed by kaitiaki forum members.
- 6.4 All landscaping proposed as part of the UDLP and EMP is to be comprised of native plantings within their original habitat context and sourced from that ecological district in general accordance with the Ngāti Whātua Ōrākei Iwi Management Plan 2012.
- 6.5 The kaitiaki forum may provide written advice to the Requiring Authority in relation to any of the above matters. The Requiring Authority must consider this advice and the means by which any suggestions may be incorporated in the project.

Condition number 7

Network utility operators

- 7.1 In the period before construction begins on the project, the following activities undertaken by network utility operators will not prevent or hinder the project, and can be undertaken without seeking the Requiring Authority's written approval under section 176(1)(b) of the RMA:
- a) Maintenance of and urgent repair works to existing network utilities.
 - b) Minor renewal works to existing network utilities necessary for the on-going provision or security of supply of network utility operations.
 - c) Minor works such as new property service connections.
 - d) Upgrades to existing network utilities within the same or similar location with the same or similar effects on the Newmarket Level Crossing designation.
- 7.2 For the avoidance of doubt, in this condition an "existing network utility" includes infrastructure operated by a network utility operator which was:
- a) In place at the time the Notice of Requirement for the project was served on the Auckland Council; or
 - b) Undertaken in accordance with this condition or an approval given under section 176(1)(b) of the RMA.
- 7.3 On completion of construction of the project, security fencing is to be constructed at the termination of Sarawia Street with the approved landscaping required by these conditions.

Condition number 8

Community liaison group

- 8.1 Within three months of the confirmation of the designation, the Requiring Authority, in consultation with the Council, is to establish a Community Liaison Group (“CLG”).
- 8.2 Membership of the CLG is to include representatives of the Requiring Authority and be open to all directly affected and affected in proximity parties to the project including, but not limited to, the following:
 - a) Representative(s) for and/or directly affected and affected in proximity property owners and occupiers;
 - b) Representative(s) for and/or members of the Cowie Street Residents Association Incorporated;
 - c) Representative(s) for and/or members of the Parnell Community Committee Incorporated;
 - d) Representative(s) for and/or members of Parnell Incorporated;
 - e) Representative(s) for and/or members of the Laxon Terrace and Youngs Lane Residents Group.
- 8.3 The purpose of the CLG is to:
 - a) Provide a means for receiving regular updates on project progress;
 - b) Monitor the effects of constructing the project on the community by providing a regular forum through which information about the project can be provided to the community;
 - c) Enable opportunities for concerns and issues to be reported to and responded to by the Requiring Authority;
 - d) Provide feedback on the development of the CEMP and any other management plans.
- 8.4 The Requiring Authority is to consult with the CLG in respect of the development of the CEMP and any other management plans.
- 8.5 The Requiring Authority is to appoint one or more persons appropriately qualified in community consultation as community consultation advisor(s) to (as a minimum):
 - a) develop and administer a code of conduct to ensure that the CLG works effectively;
 - b) act as a community consultation advisor to the CLG.
- 8.6 The Requiring Authority is to use its best endeavours to ensure that the CLG meets at least twice prior to the commencement of construction and then at least once every three months once construction has commenced.
- 8.7 Once construction has commenced, the Requiring Authority is to provide an update at least every three months to the CLG, with a copy of the update being provided to the Council, on compliance with the designation conditions, the CEMP, any management plans and any material changes to these plans.
- 8.8 The Requiring Authority is to provide reasonable administrative support for the CLG including organising meetings at a local venue, inviting all members of the CLG to meetings, and taking and disseminating meeting minutes.
- 8.9 The CLG is to continue for the duration of the construction phase of the project and for three months following completion of the project. The Requiring Authority is to use its best endeavours to ensure that the CLG meets at least once post completion of construction.

Construction conditions

Condition number 9

Outline plan requirements

- 9.1 Before construction is commenced, the Requiring Authority is to submit an outline plan for construction of the project to the Auckland Council in accordance with section 176A of the RMA. The outline plan may be submitted in stages to reflect any proposed staging of the physical works. The outline plan is to include:
 - a) The Communication and Consultation Plan;

- b) The CEMP;
 - c) Other management plans required by these conditions for any particular stage, including the:
 - i. CNVMP
 - ii. UDLP
 - iii. VMP
 - iv. EMP
 - v. CTMP
 - vi. HHMP
 - a) Any other information required by the conditions of this designation associated with the construction of the project.
- 9.2 The management plans listed above must clearly document the comments and inputs received by the Requiring Authority during its further discussion and consultation undertaken in accordance with these conditions.
- 9.3 The Requiring Authority may elect to give effect to the designation conditions associated with construction of the project:
- a) Either at the same time or in parts; and
 - b) By submitting one or more:
 - i. Communication and Consultation Plan;
 - ii. CEMP; and
 - iii. Other management plans required for any particular stage.
- 9.4 Early engagement by the Requiring Authority is to be undertaken with the Auckland Council in relation to preparation and submission of the outline plan to establish a programme that ensures achievable timeframes for both parties.
- 9.5 All works are to be carried out in accordance with the confirmed outline plan.

Condition number 10

Construction monitoring conditions

- 10.1 The Requiring Authority is to establish and to implement a collaborative working process with the Council (Major Infrastructure Projects Team Manager) for dealing with day to day construction processes, including monitoring compliance with these conditions and with the CEMP and management plans and any material changes to these plans associated with construction of the project.
- 10.2 This collaborative working process is to:
- a) Operate for the duration of the construction works and for 6 months following completion of construction works where monitoring of designation conditions is still required, unless a different timeframe is mutually agreed between the Requiring Authority and the Auckland Council.
 - b) Have a “key contact” person representing the Requiring Authority and its contractor team to work with the Council (Major Infrastructure Projects Team Manager)
 - c) The “key contacts” are to be identified in the CEMP and is to meet at least monthly with the Council (Major Infrastructure Projects Team Manager) unless a different timeframe is agreed. The purpose of the meetings is to:
 - i. Report on compliance with these conditions and with the CEMP, management plans and material changes to these plans and on any matters of non-compliance and how they have been addressed.
 - ii. Identify and agree:
 - a. that material changes have occurred or are required that require a review of the CEMP or management plans in accordance with condition 11. The key contacts are to provide

the Council (Major Infrastructure Projects Team Manager) with written confirmation that a material change has occurred or is required and;

b. Which receivers are affected parties.

10.3 The purpose and function of the collaborative working process is to:

- a) Confirm with the Council (Major Infrastructure Projects Team Manager) that:
 - i. The works authorised by this designation are being carried out in compliance with the designation conditions, the CEMP, management plans and any material changes to these plans.
 - ii. The Requiring Authority and its contractor(s) are undertaking all monitoring and recording the monitoring results in compliance with the requirements of the CEMP and management plans and any material changes to these plans.
- b) Subsequent to a confirmed outline plan, provide a mechanism through which any changes to the design, CEMP or management plans, which are not material changes requiring approval that triggers a requirement for a new outline plan, can be required, reviewed and confirmed.
- c) Advise where changes to construction works following a confirmed outline plan require a new CEMP or management plan.
- d) Review and identify any concerns or complaints received related to, the construction works monthly (unless a different timeframe is mutually agreed with the Council (Major Infrastructure Projects Team Manager) and the adequacy of the measures adopted to respond to these.

Condition number 11

Review process for CEMP and management plans

11.1 The CEMP and management plans are to be reviewed as a result of a material change to the project or to address unforeseen adverse effects arising from construction or unresolved complaints. Such a review may be initiated by either the Auckland Council or the Requiring Authority. The review is to take into consideration:

- a) Compliance with the designation conditions, the CEMP, management plans and material changes to these plans.
- b) Any changes to construction methods.
- c) Key changes to roles and responsibilities for the project.
- d) Changes in industry best practice standards.
- e) Changes to legal or other requirements.
- f) Results of monitoring and reporting procedures associated with the management of adverse effects during construction.
- g) Any comments or recommendations received from the Auckland Council regarding the CEMP and/or subsidiary management plans.
- h) Any unresolved complaints and any response to the complaints and remedial action taken to address the complaint.

11.2 The Requiring Authority is to provide the opportunity (and specify reasonable timeframes for) feedback and input from affected parties identified in condition 10.2(c)(ii)(b) regarding the CEMP and management plan review process.

11.3 A summary of the review process is to be kept by the Requiring Authority, provided annually to the Council (Major Infrastructure Projects Team Manager), and made available to the Auckland Council on request.

Condition number 12

Update of CEMP and/or management plans following review

- 12.1 Following any review process required by the previous condition, the CEMP or management plan may require updating.
- 12.2 Any material change to the CEMP and/or management plan must be consistent with the purpose and objective of the relevant condition.
- 12.3 Any affected parties (including any identified in accordance with condition 10.2(c)(ii)(b)) is to be notified of any material change proposed to a CEMP or management plan.
- 12.4 The CEMP and management plans must clearly document the comments and inputs received by the Requiring Authority from affected parties about the material change along with a clear explanation of where any comments have not been addressed in the CEMP or management plan, and the reasons why not.
- 12.5 Following that review any material change proposed to the CEMP and/or management plans relating to an adverse effect are to be submitted for approval to the Auckland Council's Compliance and Monitoring Officer at least 10 working days prior to the proposed changes taking effect. If any changes are not agreed, the relevant provisions of the RMA relating to approval of outline plans apply.

Condition number 13

Contact person

- 13.1 The Requiring Authority is to make a contact person available during standard working hours and also a 24 hour phone contact for the duration of the construction period to answer and to follow-up on public enquiries and concerns about the project and construction works.

Condition number 14

Construction Communication and Consultation Plan

- 14.1 The Requiring Authority is to prepare a Construction Communication and Consultation Plan ("CCCP") which is to be implemented and complied with for the duration of construction of the project. The objective of the CCCP is to set out a framework to ensure appropriate communication and consultation is undertaken with the community, stakeholders, directly affected parties, Cowie Street Residents Association Incorporated (or a representative), and affected in proximity parties during construction of the project.
- 14.2 The CCCP is to set out how the Requiring Authority will:
 - a) Inform the community and Cowie Street Residents Association Incorporated (or a representative), of construction progress and future construction activities and constraints that could affect them (including activities that will cause noise, vibration and dust effects, information on temporary traffic disruptions and suggested alternative routes to avoid traffic disruption);
 - b) Provide early information on key project milestones;
 - c) Obtain and specify a reasonable timeframe (being not less than 10 working days) for feedback and inputs from directly affected and affected in proximity parties and Cowie Street Residents Association Incorporated (or a representative), regarding construction of the project (as part of the review process provided by condition 11) and implementation of the CEMP or other management plans; and
 - d) Respond to queries and complaints including but not limited to:
 - i) who is responsible for responding;

- ii) how responses will be provided; and
- iii) the timeframes within which responses will be provided.

14.3 As a minimum the Communication and Consultation Plan is to include:

- a) A communications framework that details the Requiring Authority's communication strategies, the accountabilities, frequency of communications and consultation, the range of communication and consultation tools to be used (including any modern and relevant communication methods, newsletters or similar, advertising etc.), and any other relevant communication matters;
- b) Details of the Communication and Consultation manager for the project including their contact details (phone, email and postal address);
- c) The methods for identifying, communicating and consulting with people affected by the project including but not limited to:
 - i) The CLG;
 - ii) All property owners and occupiers identified within the designation footprint;
 - iii) Cowie Street Residents Association Incorporated (or a representative);
 - iv) All owners and occupiers immediately adjacent to construction sites;
 - v) HNZPT; and
 - vi) Network utility operators.
- d) Methods for communication and consulting in advance of the proposed hours for construction activities outside normal working hours and on weekends and public holidays, to directly affected and affected in proximity parties (including surrounding communities);
- e) How stakeholders, Cowie Street Residents Association Incorporated (or a representative), and persons affected by the project be consulted in the development and review of the CEMP and management plans, including specifying reasonable timeframes for feedback;
- f) Methods for communicating with directly affected and affected in proximity parties (including surrounding communities), Cowie Street Residents Association Incorporated (or a representative), bus (public and private) operators, taxi operators, bus users and the general public in advance of temporary traffic management measures and permanent changes to road networks and layouts;
- g) Methods for communicating and consulting in advance of construction works with emergency services (Police, Fire, Ambulance) on the location, timing and duration of construction works, and particularly in relation to temporary road lane reductions and/or closures and the alternative routes or detours to be used; and
- h) The process for Concerns and Complaints Management (receiving, acknowledging, responding and reporting to the community on actions taken) required by condition 15.

14.4 The Communication and Consultation Plan is also to include (as relevant) linkages and cross-references to the CEMP and management plans.

14.5 If, in the course of amendments undertaken as part of the review process, a material change to the Communication and Consultation Plan is made, those parties affected by the change are to be notified within one month of the material change occurring.

Condition number 15

Concerns and complaints management

- 15.1 On receiving a concern or complaint during construction, the Requiring Authority is to instigate a process to address concerns or complaints received about adverse effects. This process is to:
- a) Identify the nature of the concern or complaint, and the location, date and time of the alleged event(s).
 - b) Acknowledge receipt of the concern or complaint within 24 hours of receipt.
 - c) Respond to the concern or complaint in accordance with the relevant management plan, which may include monitoring the activity by an appropriately qualified expert and implementation of mitigation measures.
- 15.2 A record of all concerns and / or complaints received is to be kept by the Requiring Authority. This record is to include:
- a) The name and address of the person(s) who raised the concern or complaint (unless they elect not to provide this) and details of the concern or complaint.
 - b) Where practicable, the weather conditions at the time of the concern or complaint, including wind direction and cloud cover if the complaint relates to noise or air quality.
 - c) Known project construction activities at the time and in the vicinity of the concern or complaint.
 - d) Any other activities in the area unrelated to the project construction that may have contributed to the concern or complaint such as non-project construction, fires, traffic accidents or unusually dusty conditions generally.
 - e) Remedial actions undertaken (if any) and the outcome of these, including monitoring the activity.
- 15.3 This record is to be maintained on site, be available for inspection on request, and is to be provided every two months (or as otherwise agreed) to the Council (Major Infrastructure Projects Team Manager).
- 15.4 Where a complaint remains unresolved or a dispute arises, the Council (Major Infrastructure Projects Team Manager) is to be provided with all records of the complaint and how it has been addressed and whether the Requiring Authority considers that any other steps to resolve the complaint are required.
- 15.5 On receiving records of the complaint, the Council (Major Infrastructure Projects Team Manager) may determine whether a review of the CEMP and/or Management Plans is required under condition 11 to address the complaint. The Council (Major Infrastructure Projects Team Manager) will use its best endeavours to advise the Requiring Authority of its recommendation within 10 working days of receiving the records of complaint.

Condition number 16

Contractors' Environmental Management Plan ("CEMP")

Preparation compliance and monitoring

- 16.1 The objective of the CEMP and other management plans is, so far as is reasonably practicable, to avoid, remedy or mitigate any adverse effects associated with the project construction. All works are to be carried out in accordance with the CEMP and management plans required by these conditions and in accordance with any changes to any of these plans.
- 16.2 The CEMP and other management plans are to be prepared, complied with and monitored by the Requiring Authority throughout the duration of construction of the project.
- 16.3 The management plans are to give effect to any specific requirements and objectives set out in these designation conditions.
- 16.4 The CEMP is to include measures to give effect to any specific requirements and objectives set out in these designation conditions that are not addressed by the management plans.

- 16.5 Where mitigation measures are required to be implemented by the Requiring Authority in relation to construction of the project, it is to meet the actual and reasonable costs of implementing such mitigation measures.
- 16.6 The CEMP shall be prepared in consultation with Cowie Street Residents Association Incorporated (or a representative), and must clearly document the comments and inputs received by the Requiring Authority from Cowie Street Residents Association Incorporated (or a representative) and articulate how those comments and inputs have informed the development of the CEMP and where it has not, reasons why it has not.

Condition number 17

Contractors' Environmental Management Plan ("CEMP")

Information Requirements

- 17.1 To give effect to condition 16, the CEMP must include details of:
- a) Information boards clearly identifying the Requiring Authority and the project name, together with the name, telephone number and email address of the site or project manager and the communication and consultation manager;
 - b) Training requirements for employees, sub-contractors and visitors on construction procedures, environmental management and monitoring;
 - c) The procedure for a cultural heritage induction for all parties involved in excavation works on the project site;
 - d) Training requirements for employees sub-contractors and visitors on the cultural history and significance of the area, construction procedures, environmental management and monitoring;
 - e) The site or project manager and the communication and consultation manager (who will implement and monitor the Communication and Consultation Plan), including their contact details (phone, email and physical address);
 - f) The document management system for administering the CEMP, including review and Requiring Authority /contractor / Auckland Council requirements;
 - g) Environmental incident and emergency management procedures (including spills);
 - h) Environmental complaint management procedures;
 - i) An outline of the construction programme of the works, including construction hours of operation, indicating linkages to the other management plans which address the management of adverse effects during construction;
 - j) An outline of the location of the construction yard and how the construction yard is to be managed and maintained during the project including, but not limited to, how site offices and lower level noise construction activities will be located on the edge of the construction yards where practicable;
 - k) Specific details on demolition to be undertaken during the construction period;
 - l) How construction methods and processes will achieve waste minimisation and energy efficiency;
 - m) Methods to ensure the safety of the general public;
 - n) Specific details on the environmental monitoring to be undertaken throughout construction, as required by these designation conditions;
 - o) Methods to control the intensity, location and direction of artificial construction lighting to avoid light spill and glare onto sites adjacent to the construction areas;
 - p) Where access points are to be located and procedures for managing construction vehicle ingress and egress to construction support and storage areas;

- q) Measures to ensure that all storage of materials and equipment associated with the construction works takes place within the boundaries of the designation;
- r) Methods to ensure the prevention and mitigation of adverse effects associated with the storage, use, disposal, or transportation of hazardous substances;
- s) Measures to ensure all temporary boundary / security fences associated with the construction of the project are maintained in good order with any graffiti to be removed as soon as possible;
- t) How the construction areas are to be fenced and kept secure from the public and the location and specifications of any temporary acoustic fences and visual barriers;
- u) The location of any temporary buildings (including workers' offices and portaloos) and vehicle parking (which should be located within the construction area and not on adjacent streets);
- v) Measures adopted to ensure that any vehicles associated with construction of the project do not park on any adjacent streets.

Condition number 18

Project standards – construction noise

- 18.1 Construction noise is to be measured and assessed in accordance with the requirements of NZS6803:1999 Acoustics – Construction Noise. Noise generated from construction works is to comply with the long term noise limits stated in Tables 2 and 3 of NZS6803:1999 unless otherwise varied by a management schedule developed in accordance with condition 18.7.
- 18.2 The hours of work for construction activities shall be 0730 to 1800 from Monday to Saturday unless otherwise varied by a management schedule developed in accordance with condition 18.7.
- 18.3 Vibration from construction and demolition is not at any time to exceed the limits set out in Tables 1 and 3 of German Standard DIN 4150 Part 3: 1999 "Structural Vibration in Buildings – Effects on Structures" (the "DIN Standard") at any building.

Construction Noise and Vibration Management Plan

- 18.4 No later than ten working days prior to commencement of work on the project, the Requiring Authority must submit a Construction Noise and Vibration Management Plan ("CNVMP") to the Council (Major Infrastructure Projects Team Manager) for certification. The certified CNVMP and any management schedules prepared in accordance with condition 18.7 must be implemented, adhered to and maintained throughout the construction period.
- 18.5 The CNVMP must describe the best practicable option(s) that will be adopted to avoid, remedy or mitigate construction noise and vibration effects. The CNVMP must as a minimum address the noise management measures set out in Annex E of the NZS6803:1999 and the following:
 - a) Construction sequencing;
 - b) Machinery and equipment to be used, including promotion of the use of low noise machinery where practicable;
 - c) Hours of operation, including times and days and reasons for when it is necessary to undertake construction works outside of the hours in 18.2;
 - d) The design of noise mitigation measures such as temporary barriers or enclosures;
 - e) Methods for monitoring and reporting on construction noise; and
 - f) Methods for receiving and responding to complaints about construction noise.
- 18.6 The CNVMP must be prepared in accordance with the vibration management measures set out in the vibration standards of the DIN Standard and must address the following:
 - a) Vibration monitoring measures;
 - b) Vibration criteria;
 - c) Possible mitigation measures;

- d) Complaint response;
 - e) Reporting procedures;
 - f) Notification and information for the community of the proposed work;
 - g) Vibration testing of equipment to confirm vibration predictions;
 - h) Location for vibration monitoring when construction activities are adjacent to buildings identified for settlement monitoring.
- 18.7 Where an activity is predicted or measured to be non-compliant with the project standards in conditions 18.1 and/or 18.2, the Requiring Authority is to prepare a management schedule(s). Any management schedule is to be activity specific and include, as a minimum, the following details:
- a) A description of the activity (including duration), plant and machinery that is expected not to comply with the noise and/or vibration limits in conditions 18.1 and 18.2;
 - b) Predicted levels and proposed noise limits for all receivers where the levels will not be compliant with the limits in condition 18.1;
 - c) A description of the mitigation measures proposed to reduce the noise and vibration levels and minimise the degree of non-compliance as far as practicable including how the selected mitigation achieves the Best Practicable Option, and any mitigation options that have been discounted due to cost or any other reason;
 - d) A description of any additional methods to manage the effects on the affected parties (e.g. temporary accommodation during the specific activity).
- 18.8 Any management schedule produced in accordance with condition 18.7 is to be provided to the Council (Major Infrastructure Projects Team Manager) for certification no less than 5 working days prior to the authorised works commencing.
- 18.9 The CNVMP shall be prepared in consultation with Cowie Street Residents Association Incorporated (or a representative), and must clearly document the comments and inputs received by the Requiring Authority from Cowie Street Residents Association Incorporated (or a representative) and articulate how those comments and inputs have informed the development of the CNVMP and where it has not, reasons why it has not.

Condition Surveys

- 18.10 The Requiring Authority is to engage an appropriately qualified and experienced structural engineer who, prior to construction within 20 metres of any dwelling or structure on the properties shown on the Newmarket Level Crossing – Condition Survey Map prepared by Opus International Consultants dated 27 April 2016, is to undertake a survey of those dwellings and structures whose owners and occupiers provide their written consent for access. The survey is to assess the current condition of the exterior and interior of the dwellings and other structures (including swimming pools and masonry walls) and shall determine the vibration criterion for each dwelling and structure according to the DIN Standard. All surveys are to be at the Requiring Authority's cost.
- 18.11 A copy of each survey is to be provided to the Council's Team Leader Compliance and Monitoring – Central and a copy as it relates to the relevant property is to be made available to those property owners who participate in the survey and request a copy of the results.
- 18.12 On completion of the construction works a follow-up survey of each dwelling and/or structure surveyed is to be carried out at the Requiring Authority's cost.

Condition number 19

Urban Design and Landscape Plan

- 19.1 The Requiring Authority is to submit an Urban Design and Landscape Plan (“UDLP”) to the Council (Major Infrastructure Projects Team Manager). The objective of the UDLP is to provide a framework that ensures:
- a) The integration of any above ground structures of the project into the surrounding landscape;

- b) To the greatest extent practicable, the avoidance, remediation or mitigation of any adverse landscape or visual effects of the project;
 - c) The operation of the project is consistent with relevant CPTED principles; and
 - d) Preservation of the amenity value of Cowie Street.
- 19.2 To achieve the objective of the UDLP, the UDLP is to provide details of how the following design elements have been incorporated in the detailed design of the project:
- a) Visibility, sightlines and casual surveillance are to be maximised;
 - b) Concealment and isolation opportunities are to be minimised;
 - c) Fencing, landscaping and streetscape features are to be designed to maximise visibility;
 - d) Fencing and landscaping is to be utilised to discourage access to the rail corridor;
 - e) Design of above ground infrastructure is to encourage safe movement, orientation and way finding;
 - f) Materials and fixtures are to be vandal and graffiti resistant;
 - g) Design of above ground structures is to be integrated with the surrounding landscape to the greatest extent practicable;
 - h) Connectivity for pedestrians between Newmarket Park and the existing pedestrian network on Parnell Road, Laxon Terrace and Youngs Lane is to be provided for to the greatest extent practicable.
- 19.3 The UDLP is also to include the following details:
- a) How the proposed lighting will meet the requirements of the Auckland Transport's Street Lighting Policy for "Pathways in high risk, high brightness areas");
 - b) How opportunities to promote the character of Newmarket Park have been included in design (e.g. through providing information boards/signage and viewing platforms);
 - c) How mitigation planting is in general accordance with the mitigation planting concept plan;
 - d) How mitigation planting in front of 9 Cowie Street will avoid or mitigate adverse visual effects of the overbridge from properties to the south;
 - e) How mitigation landscaping addresses the recommendations of the EMP. Details are to include:
 - i. Plans showing plant species, plant spacing, plant sizes at the time of planting; layout; grade; likely heights on maturity and how planting will be staged and established methods of ground preparation; fertilising; mulching; spraying and ongoing maintenance;
 - ii. A maintenance schedule for maintenance of vegetation covering no less than 3 years;
 - iii. Methods of ground preparation, fertilising, mulching, spraying and ongoing maintenance;
 - iv. A vegetation maintenance schedule for the proposed landscaping, in particular details of maintenance methodology and dates/frequencies for the first three years following completion of the construction works.
- 19.4 To achieve objective 19.1(d) AT will implement the following:
- a) Construct the Project in accordance with the attached documents prepared by Opus and referenced as:
 - i. Plan titled Prelim Design Plan Option TC1 – Cowie St End Sheet 1B, Revision RJ,
 - ii. Plan titled Cowie Street Planting Landscape Concept Sheet L01 Revision 03,
 - iii. Plan titled Cowie Street Planting Street Tree Set Out 1 L02, Revision 03,
 - iv. Plan titled Cowie Street Planting Street Tree Set Out 2 L03, Revision 03,
 - v. Plan titled Cowie Street Planting Street Tree Set Out 3 L04, Revision 03,
 - vi. Plan titled Cowie Street Understorey Planting L05, Revision 03,
 - vii. Plan titled Cowie Street Planting Landscape Plant Schedule L06, Revision 03,
 - viii. Plan titled Cowie Street Amenity Improvements Poplar Tree Protection Sheet SK A02, Revision RK, and
 - ix. Memo titled Cowie Street Concept Design Summary dated 8 March 2017.

- b) Methods to emphasise the low speed residential environment of Cowie Street including the provision of traffic calming measures at the entrance to the new bridge in the form of a give-way sign and textured paving to slow traffic approaching and entering the bridge as shown on the memo titled Cowie Street Concept Design Summary dated 8 March 2017.
 - c) Form, type, location and duration of any signage on Cowie Street including any road signs and temporary way-finding signs (six month duration) on Parnell Road indicating access to Newmarket Park or Broadway Park.
- 19.5 The Requiring Authority is to undertake a practical completion audit of the landscaping implemented under condition 19 at the end of the 3 year maintenance period. Any defects identified by the audit are to be remedied by the Requiring Authority to the satisfaction of the Auckland Council's Compliance Monitoring Officer.
- 19.6 Following completion of the construction works on the site (or at a time agreed with the Council (Major Infrastructure Projects Team Manager), the Requiring Authority is to implement the UDLP. The planting is to be implemented and maintained to the satisfaction of the Council (Major Infrastructure Projects Team Manager).
- 19.7 The UDLP is to be prepared in consultation with the Auckland Council, the Waitemata Local Board, mana whenua, KiwiRail, Cowie Street Residents Association Incorporated (or a representative), and property owners identified in the Visual Catchment/Viewing Audience map dated January 2016 prepared by Opus International Consultants as part of the Assessment of Environmental Effects ("map 2") as being in Zone A and B (refer also to the definitions provided for these conditions). The Requiring Authority is to consider feedback from these parties and the means by which any relevant suggestions may be incorporated in the UDLP.
- 19.8 As part of the UDLP submitted, the Requiring Authority is to:
- a) Provide a record of feedback received from the parties referred to in condition 19.7.
 - b) Provide detail regarding the degree to which the feedback has been considered and where applicable incorporated into the design. Where feedback has not been incorporated, the Requiring Authority is to provide comment as to reasons why the feedback has not been incorporated.

Condition number 20

Tree protection

- 20.1 Prior to commencement of construction, the Requiring Authority is to appoint a qualified arborist ('Works Arborist') for the duration of the works. The role of the Works Arborist is to supervise all tree removals and works within the dripline of protected trees and street trees adjacent to the works site.
- 20.2 Contact details of the Works Arborist are to be provided to the Auckland Council's nominated project arborist prior to construction and in accordance with the CEMP.
- 20.3 Prior to commencement of construction, a pre-commencement meeting is to be conducted at the site. The pre-commencement meeting is to:
- a) Be attended by the Works Arborist, Council's project arborist and a representative Arborist on behalf of Cowie Street Residents Association Incorporated; and
 - b) Brief all contractors, sub-contractors and work site supervisory staff who will be carrying out project works of vegetation protection measures required on the site during construction.
- 20.4 Prior to works commencing, the following are to be implemented;
- a) Protective fences of day-glo mesh attached tautly to closely spaced Waratah standards are to be erected to enclose as much of the dripline areas of affected trees as practicable. The locations of these fences is to be agreed and supervised by the Works Arborist.
 - b) On completion of the pre-commencement meeting (condition 20.3), the Works Arborist is to submit a compliance memo to the Auckland Council's Compliance Officer and/or the Council's project arborist for certification.

- c) Communications and actions undertaken by the Works Arborist to manage activities implemented under condition 20.4 are to be supplied as part of the arboriculture works log sheet which is to form part of the tree management compliance report specified in condition 20.9.
- 20.5 In the event activities, machinery, storage of materials and/or vehicle tracking associated with construction are required within the dripline of trees and/or protected vegetation, the Requiring Authority, through the Works Arborist, must:
- a) Ensure no passage of machinery, or emplacement of materials, equipment, fuels and oils, and spoil, is permitted within the dripline of trees and/or protected vegetation without approved protection measures being installed.
 - b) Where 20.5(a) cannot be achieved, a practicable solution to protect the affected tree must be recommended by the Works Arborist. Methods may include, but are not limited to
 - i. track-mats,
 - ii. plywood at a minimum thickness of 17mm must be utilised in any machinery movement.
 - c) Storage of materials, equipment, and spoil must be stored on a hard surface adjacent to the works area with polythene sheeting or plywood used as a further preventative measure.
- 20.6 All tree removal, pruning and works within the dripline of protected trees shall be undertaken in accordance with, but not limited to, the tree protection methodology provided in sections 8 and 9 of the arboricultural assessment prepared by Peers Brown Miller Ltd, dated 24 July 2015. A copy of this report is to be accessible on the site at all times.
- 20.7 In accordance with condition 20.5(a), excavation undertaken to install new hard surface and/or permanent structures within the dripline of protected trees is to:
- a) Be assessed by the Works Arborist prior to excavation works occurring;
 - b) Be undertaken with approved methods to prevent damage to the tree, as recommended by the Works Arborist;
 - c) Excavation works are to be monitored by the Works Arborist,
 - d) Pruning of protected trees is to be carried out prior to works commencing by the Works Arborist or a qualified arborist under the instruction of the Works Arborist.
- 20.8 The Requiring Authority is to submit a Vegetation Management Plan (“VMP”) to the Auckland Council. The VMP is to be prepared in accordance with the recommendations provided in the arboricultural assessment prepared by Peers Brown Miller Ltd, dated 24 July 2015. The VMP is to include, but not be limited to:
- a) Measures to ensure that all contractors, sub-contractors, and workers engaged in all activities covered by this designation are advised of the tree protection measures required by conditions on the designation, and operate in accordance with those;
 - b) A tree works methodology for works in the root-zone of the mature Poplar and Puriri trees at 9 Cowie Street, with construction details for the proposed bridge and roadway designed to avoid any adverse effects on the immediate and long term health and stability of the trees;
 - c) Methods adopted to ensure the avoidance to the greatest extent practicable of machinery striking any part of any tree during the course of the project.
- 20.9 The Requiring Authority is to submit compliance reports on a monthly basis throughout the course of the works to the Auckland Council’s project arborist and to the Major Infrastructure Projects Team Manager, Auckland Council. The compliance reports are to include:
- a) A digital photographic record of the tree works undertaken from the Works Arborist.
 - b) Details of each instance that the Works Arborist is present on the site to supervise and monitor works in the rootzone of retained trees.
 - c) Details (including photographs) of all of the activities which have been undertaken on or within the rootzone of retained trees and
 - d) Confirmation that the works to date have been in accordance with the conditions of this designation while under the direction of the Works Arborist.
- 20.10 A tree management completion report is to be completed by the Works Arborist and provided to the Council’s project arborist within one month of completion of construction. The tree management completion report is to:

- a) Confirm (or otherwise) that the works have been undertaken in accordance with the tree protection measures required by these conditions and under the direction of the Works Arborist.
- b) Confirm that the impact on the protected trees has been no greater than that provided for by the conditions.

Condition number 21

Ecological Management Plan

- 21.1 The Requiring Authority is to prepare and submit an Ecological Management Plan (“EMP”) to the Council (Major Infrastructure Projects Team Manager). The objective of the EMP is to detail the ecological management and monitoring programme that will be implemented to manage ecological effects on the environment during and after the construction phase of the project.
- 21.2 The EMP is to be prepared by an appropriately qualified and experienced ecologist prior to commencement of the works.
- 21.3 The EMP is to include, but not be limited to, the following:
 - a) A revegetation planting plan using appropriate native species eco-sourced from the Tamaki Ecological District;
 - b) A planting schedule, methodology, and an implementation and maintenance programme;
 - c) A weed and pest management programme for a minimum of two years commencing on completion of the revegetation planting;
 - d) A Herpetofauna Management Plan (“HMP”) prepared by a qualified herpetologist. The HMP should include, but not be limited to, the following:
 - i. Lizard capture-relocation methodologies and timeframes including a minimum capture period duration of eight weeks outside of winter months.
 - ii. Details of habitat enhancement and protection measures.
 - iii. Details of a predator control programme including methodologies and timeframes.
 - iv. Details of any monitoring proposed to assess the effectiveness of the mitigation.
 - e) The revegetation planting is to be implemented during the first planting season (April to July) following the completion of works.

Condition number 22

Network utility infrastructure

- 22.1 The Requiring Authority must ensure that access to the existing infrastructure of network utility operators for maintenance work (at all reasonable times) and for emergency works (at all times) is not adversely affected by the activities authorised by the designation.
- 22.2 During final design of the project the Requiring Authority is to:
 - a) Liaise with all relevant network utility operators in relation to any part of the works within the designation where their infrastructure may be affected; and
 - b) Where required, make all reasonable changes requested by such network utility operators to the relevant design plans and methodologies, to ensure that access to, maintenance and the operation of, all network utility infrastructure within the designated area is not adversely affected.
- 22.3 Where during design or construction such infrastructure is found to be affected, subject only to reasonable planned interruption, the Requiring Authority is to either:

- a) protect the utility from any activity which may interfere with the proper functioning of the services, relocate it to the same or similar standard (including property rights) as the operator currently had before commencement of the project; or
 - b) repair or replace, at the Requiring Authority's expense, any infrastructure damaged during construction to the reasonable satisfaction of the affected network utility operator.
- 22.4 For works impacting on Vector assets, the requiring authority will consult with Vector Limited and enter into an agreement describing how the assets are to be relocated, and how the costs are to be apportioned. That agreement is to be consistent with Vector's standard "Agreement for Movement of Infrastructure", and is to be in place prior to any works taking place pursuant to the designation that might affect Vector's assets.
- 22.5 Works required at the termination point of Sarawia Street are to be designed in consultation with KiwiRail to address the following:
- a) Prevent pedestrian access from Sarawia Street to KiwiRail land; and
 - b) Appropriate fencing and structures located adjacent to KiwiRail land.

Condition number 23

Lighting

- 23.1 Any lighting used to illuminate carriageways is to be designed and located so that lighting levels comply with the Australia New Zealand Roadway Lighting Standard 1158, (series) - Lighting for Roads and Public Spaces.
- 23.2 Any lighting employed to illuminate carriageways is to be sited and designed to ensure that no more than 10 lux (vertical) of light is spilled during night time hours onto any residential building. This is to be measured at the windows of any habitable room in any such building.

Condition number 24

Construction Traffic Management Plan

- 24.1 The Requiring Authority is to submit a Construction Traffic Management Plan ("CTMP") to the Council (Major Infrastructure Projects Team Manager). The objective of the CTMP is to provide a framework to avoid, remedy or mitigate adverse traffic effects associated with the construction of the project.
- 24.2 The CTMP is to be provided to the Auckland Council at least 10 working days prior to construction activity and is to be implemented and complied with for the duration of construction of the project.
- 24.3 The CTMP is to describe the measures that will be undertaken to avoid, remedy or mitigate the local and network-wide effects of construction of the project. In particular, the CTMP is to include (but not be limited to) the following matters:
- a) Methods to avoid, remedy or mitigate the local and network-wide effects of the construction of individual elements of the project particularly near Cowie Street and Sarawia Street (e.g. intersections/ bridges);
 - b) Methods to manage the effects of the delivery of construction material, plant and machinery (including cranes and oversized trucks) during construction and methods to manage and control traffic during construction on Cowie Street particularly at the intersection of Cowie Street and Parnell Road;
 - c) Measures to maintain existing vehicle access, or where the existing property access is to be removed or becomes unsafe as a result of the construction works, measures to provide alternative access arrangements in consultation with the Auckland Council and the affected landowner;

- d) Measures to maintain pedestrian and cycle access with thoroughfare to be maintained on all roads and footpaths adjacent to the construction works, where practicable (e.g. unless provision of such access is severed by the works or such access will become unsafe as a result of the construction works). Such access is to be safe, clearly identifiable, provide permanent surfacing and seek to minimise significant detours; and
- e) Measures to minimise loss of parking through construction (including no parking on Cowie Street by contractor vehicles).

Condition number 25

Parking

- 25.1 Subject to the recommendations of a safety audit of the detailed design, there is to be no loss of on-street parking on Cowie Street. If the outcome of the detailed design safety audit necessitates the loss of on-street parking on Cowie Street, any reduction of on-street parking is to be minimised to the greatest extent practicable.
- 25.2 The CTMP will also specify that no on-street parking in Cowie Street will be used for commuter parking by employees of the contractor.

Condition number 26

Historic Heritage Management Plan

- 26.1 The Requiring Authority is to prepare and submit a Historic Heritage Management Plan (“HHMP”) to the Auckland Council at least 20 working days prior to commencement of any activity authorised by the designation. The objective of the HHMP is to provide a framework for the avoidance, remediation or mitigation of adverse effects on archaeological remains during construction, as far as reasonably practicable.
- 26.2 The Requiring Authority is to submit the HHMP to the Manager: Heritage Unit, Auckland Council to confirm that the activities undertaken in accordance with the HHMP will achieve the objectives of the plan and compliance with the following conditions.
- 26.3 The HHMP is to be prepared by the Requiring Authority in consultation with HNZPT and the Auckland Council's Heritage Unit (Cultural Heritage Implementation) and is to include details of (but not be limited to):
 - a) Details of all the historic heritage sites in the development area;
 - b) How construction, operation and maintenance of the project will ensure that any effects on the circa 1914 scoria retaining wall will be avoided;
 - c) How adverse direct and indirect effects on historic heritage sites identified are proposed to be avoided, remedied or mitigated;
 - d) The training requirements proposed to ensure the project team is aware of the processes and procedures;
 - e) Measures proposed for the storage and curation of the site archive and dissemination of the results of any fieldwork investigations undertaken in relation to historic heritage;
 - f) Details of the storage and curation of the site archive and dissemination of the results of any fieldwork investigations undertaken in relation to historic heritage;
 - g) Auckland Transport's Accidental Discovery Protocols as set out below:
 - i. If, at any time during site works, potential koiwi, archaeology or artefacts of Māori origin are discovered, then all site works, including earth moving machinery must stop around the location of the find and the following accidental discovery protocol must be followed.

- ii. The site owner or the site manager must immediately advise the kaitiaki and kaumatua of the relevant Mana Whenua, Team Leader Cultural Heritage (Implementation) and Heritage New Zealand Pouhere Taonga.
- iii. Mana Whenua will determine the tikanga for appropriate preservation, management and handling of the koiwi, archaeology or artefacts of Māori origin that are uncovered, which may include removal of the koiwi, archaeology or artefacts of Māori origin from the site by Mana Whenua or preservation within the site.
- iv. Preservation of the koiwi, archaeology or artefacts of Māori origin that are uncovered may require amendments to the site works to avoid adverse effects on sites of significance to Mana Whenua and Māori values.
- v. Works in the identified area must not recommence until approval has been granted by HNZPT in consultation with Mana Whenua.
- vi. Any final archaeological reporting resulting from an accidental discovery is to be submitted to the Council's the Cultural Heritage Team (Implementation) for the purpose of record keeping within 30 days of an updated report being provided to HNZPT.

Advice Notes

AN1

Some of the project land is subject to existing designations. Nothing in these designation conditions negates the need for the Requiring Authority to adhere to the provisions of section 177 of the RMA.

AN2

The resource consents for the project granted by the Council also include conditions that require preparation and implementation of a CEMP. It is appropriate that a single CEMP be prepared by the Requiring Authority/consent holder which meets the conditions of this designation and the conditions of the resource consents.

AN3

Certification of the Historic Heritage Management Plan by the Council relates only to those aspects of the management plan that are relevant under the Resource Management Act 1991. The certification does not amount to an approval or acceptance of suitability by the Council of any elements of the management plan that relate to other legislation, for example, but not limited to, the Heritage New Zealand Pouhere Taonga Act 2014 ("HNZPTA").

AN4

It is unlawful to modify or destroy a pre-1900 (or post -1900 archaeological site declared under section 43 of the HNZPTA) archaeological site without the prior authority of Heritage New Zealand Pouhere Taonga ("HNZPT") issued under the HNZPTA. The HNZPTA also requires that approval be sought of persons nominated to undertake the activity under an authority. Requirements under the HNZPTA should be confirmed directly with Heritage New Zealand Regional Archaeologist (ArchaeologistMN@heritage.org.nz).

AN5

The Requiring Authority is advised that installation of silt fences within the rootzone of retained trees must not involve the excavation or alteration of ground levels. Alternative methods to trenching should entail pinning the bottom edge of the siltcloth to the ground (using ground staples) and reinforcing with straw bales or similar. This requirement also applies where tree protection and silt/erosion control fences are combined into the one fence and constructed in the protected rootzone area.

AN6

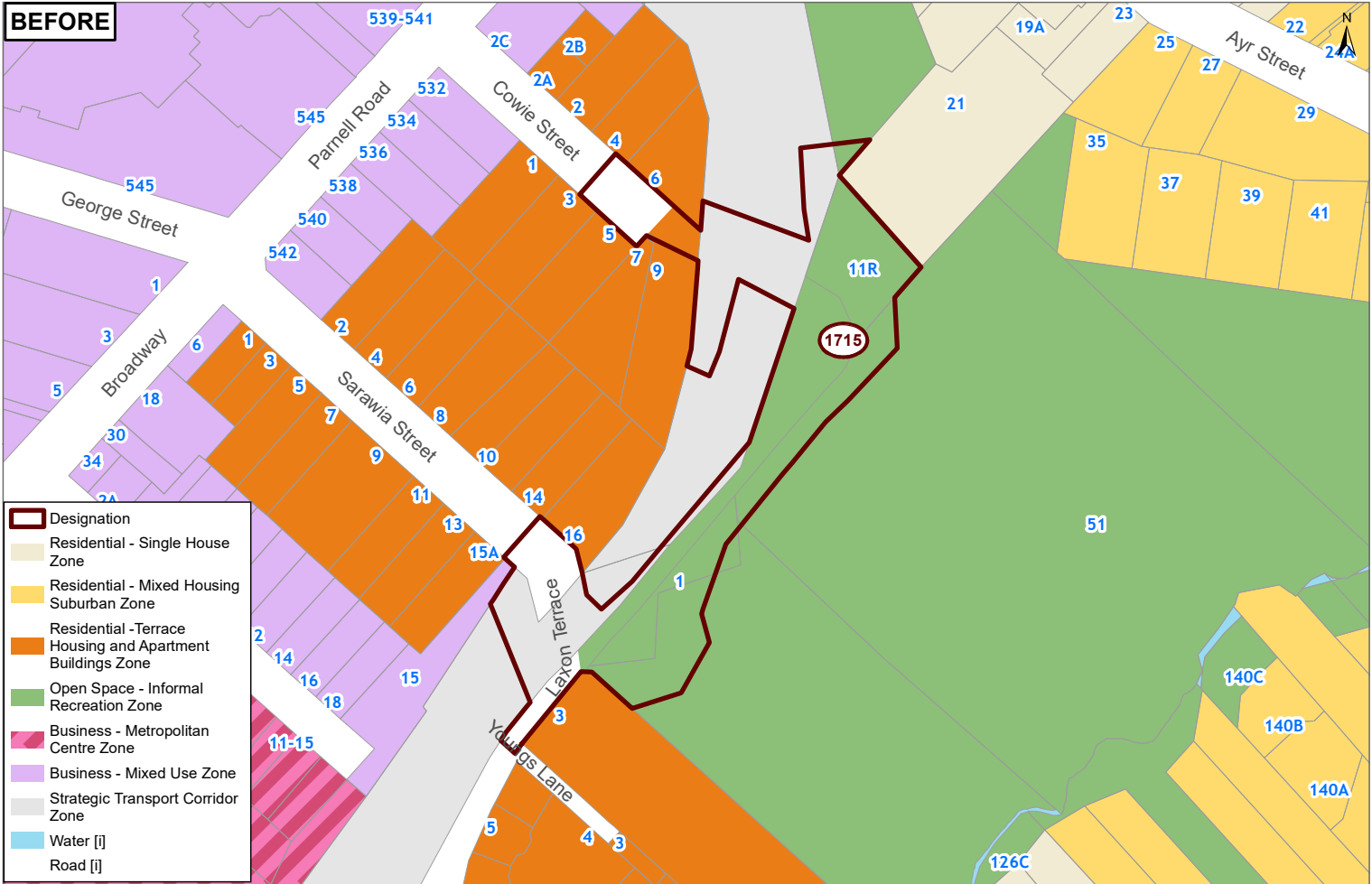
The EMP may be incorporated into the landscape plans for the project provided all the requirements of the EMP condition are met.

Attachments

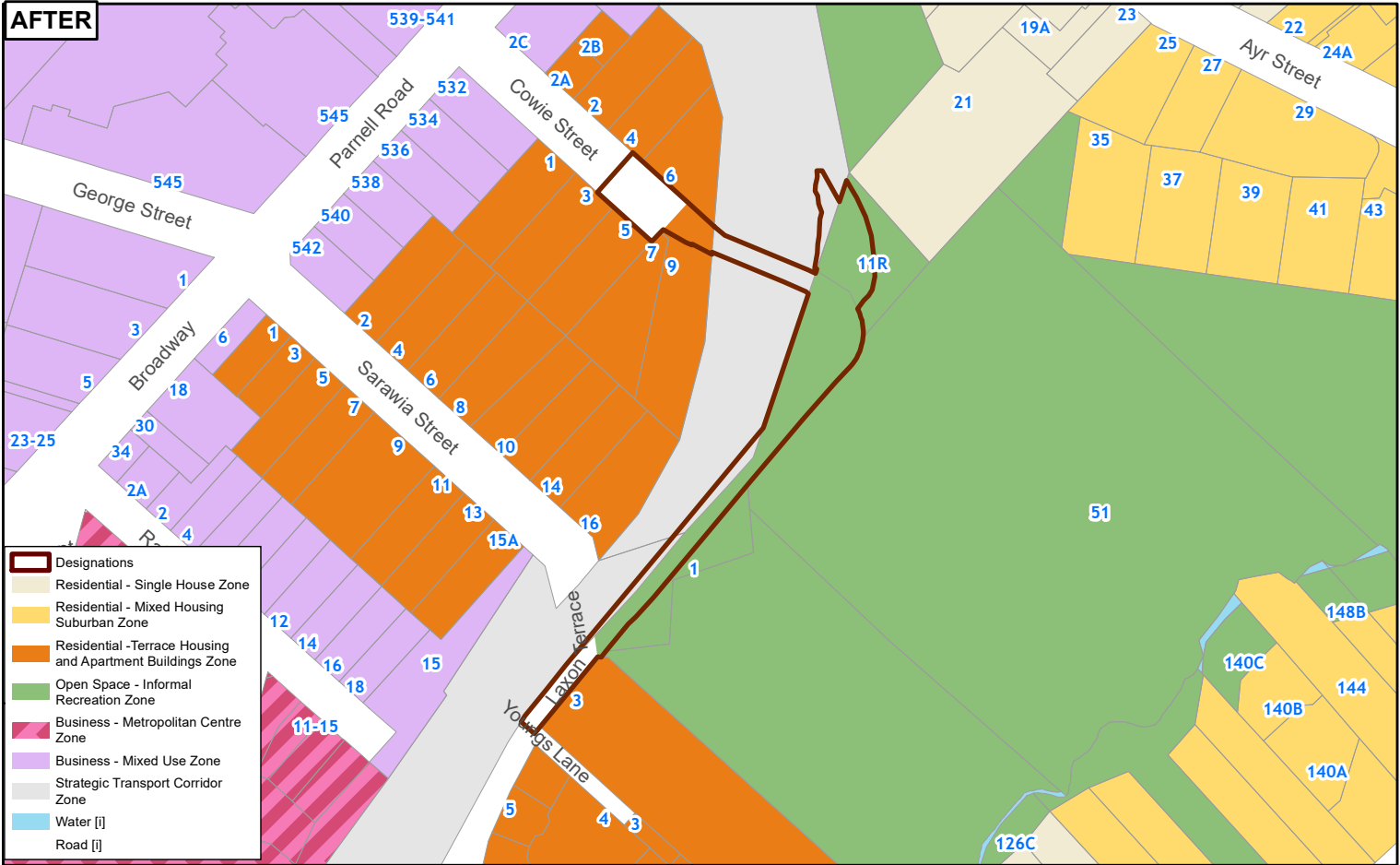
No attachments.

Attachment 2: Updated GIS Viewer

BEFORE



AFTER



0 20 40 80 Metres

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: 9/11/2020

Designation 1715 - alteration



Plans and Places