

## UNITARY PLAN UPDATE REQUEST MEMORANDUM

**TO** Celia Davison, Manager Planning- Central South

**FROM** Terry Conner, Principal Planner



**DATE** 6 October 2020

**SUBJECT** *Partial removal of a Designation in accordance with s182 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

<b>Reason for update – partial uplift to Designation 1715</b>	
<b>Chapter</b>	AUP GIS Viewer Chapter K designations
<b>Section</b>	Schedules and Designations – Auckland Transport
<b>Designation only</b>	
<b>Designation 1715</b>	Newmarket Level Crossing Project - Auckland Transport
<b>Locations:</b>	Laxon Terrace to Cowie Street, Newmarket Lot 1 DP 57235, PT DP 23351, Lot 1 DP 20650 Allotment 37 SECT 4 SBRS OF Auckland, DP 2476 Pt Allotment 35 SECT 4 SBRS OF Auckland, Lot DP 53284
<b>Lapse Date</b>	10 years from being operative in the Unitary Plan unless given effect to prior
<b>Purpose</b>	The construction, operation, and maintenance of a new road.
<b>Changes to text (shown in underline and strikethrough)</b>	N/A
<b>Changes to diagrams</b>	N/A
<b>Changes to spatial data</b>	Remove partial extent of designation from land identified in Attachment 1
<b>Attachments</b>	Attachment 1: Section 182 Report  Attachment 2: Updated GIS Viewer

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

**Reviewed by:**  
Fiona Sprott  
Team Leader, Plans & Places

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

**Signature:** 

**Signature:** 

# Attachment 1: Section 182 Report

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



**To:** Fiona Sprott-Team Leader Central South 3

**From:** Terry Conner Principal Planner Central South 3

**Date:** 21 September 2020

**Subject:** Partial removal Designation 1715 Newmarket Level Crossing Project in the Auckland Unitary Plan

## Summary

Auckland Council has received a request from Auckland Transport under section 182 of the Resource Management Act 1991 (RMA), dated 5 June 2020, to remove in part Designation 1715 Newmarket Level Crossing Project. Further information was requested and received on 24 August 2020.

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

Auckland Council, as the territorial authority, is required to amend its district plan, without using the process in Schedule 1, as soon as reasonably practicable after receiving a Section 182 request unless it considers that the effect of the removal of part of the designation on the remaining designation is more than minor.

It is recommended that the partial removal be accepted.

## Recommendation

1. That the section 182 request from Auckland Transport for the partial removal of Designation 1715 Newmarket Level Crossing Project in the Auckland Unitary Plan be **accepted** for the following reasons:
  - The requiring authority, Auckland Transport, has implemented the works and no longer requires the land in the areas shown as 'Area to be removed' in Appendix B to this report to be designated.
  - Condition number 3.1 of Designation 1715 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. Auckland Council parks department has been given notice of this, and the land will return to Auckland Council's control.
  - The effect of the removal of the parts of the designation is less than minor because the remaining designation will be used for its final purpose and the areas to be removed from the designation were only needed for construction.
2. That Designation 1715 Newmarket Level Crossing Project be partially removed, as soon as reasonably practicable, in the Designation overlay in the Auckland Unitary Plan maps.

## 1. Description

### 1.1. References

<b>Designation number:</b>	Designation 1715 Newmarket Level Crossing Project
<b>Lodgement date:</b>	5 June 2020
<b>Requiring authority:</b>	Auckland Transport
<b>Reporting officer:</b>	Terry Conner Principal Planner Central South 3
<b>Site address:</b>	Laxon Terrace to Cowie Street Newmarket 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
<b>UP Zoning:</b>	Strategic Transport Corridor Zone

## 2.0 Background

### 2.1 Details of designation

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.

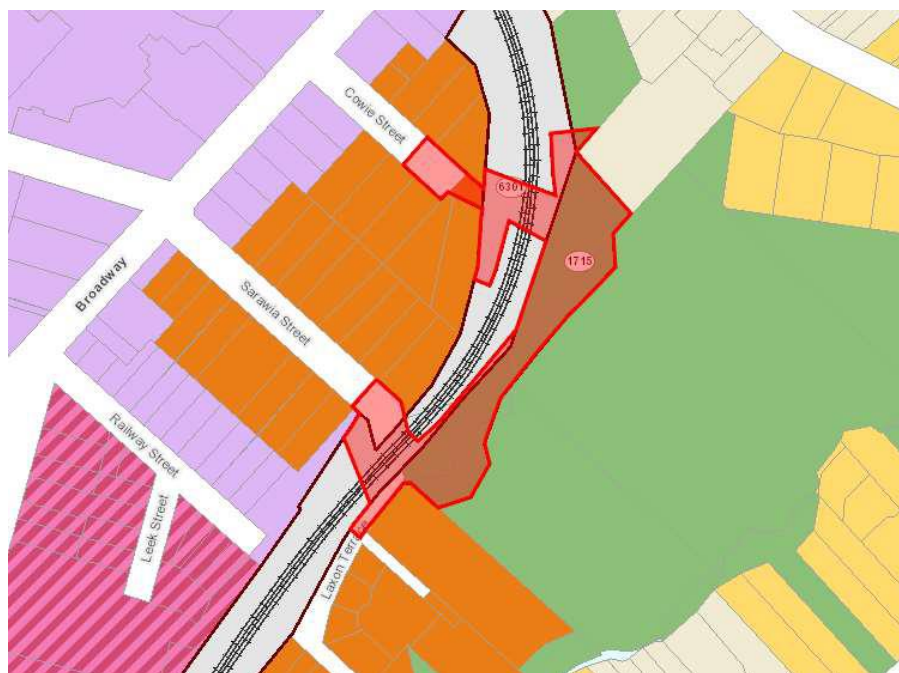
Pursuant to section 182 of the RMA, Auckland Transport seeks to remove part of Designation 1715 identified as no longer necessary for the on-going maintenance, operation or mitigation for the Newmarket Level Crossing Project. The remaining area of Designation 1715 will continue under its original purpose.

The current designation covers parts of Sarawia and Cowie Streets and part of Newmarket Park as well as the area on which the road and bridge were constructed. A NOR for an alteration to extend a small area of the designation in the inside curve of the road over land owned by the Crown and managed by KiwiRail Holdings Limited (KiwiRail) has been lodged concurrently with this application and is the subject of a report under section 181(3) which is recommended for approval. The AEE submitted covers both the alteration and the partial removal requests.

The partial removal of the designation will not require the amendment of the references to the Designation in Chapter K and this has been confirmed with the requiring authority.

## 1.2 Land affected by removal

The designation is currently shown in the AUP maps as follows



Auckland Transport has provided a site plan showing the extent of the designation which is to be partially removed (refer to **Attachment B**). Attachment B is more accurate than the map shown in the AEE in **Attachment A** and has been accepted as an update.

## 1.3 Delegated authority to consider alterations to designations

The Team Leader - Planning Central South 3 (Plans and Places Tier 5) 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 182 to approve a removal of a designation. The section 182 request to remove the designation can therefore be considered by the Team Leader – Planning Central South 3 (Plans and Places Tier 5) and accepted.

## 1.4 Relevant Statutory Provisions

Section 182 of the RMA allows a requiring authority to remove a designation or part of a designation if it no longer wants it.

Section 182(1) provides

- (1) If a requiring authority no longer wants a designation or part of a designation, it shall give notice in the prescribed form to—
  - (a) the territorial authority concerned; and
  - (b) every person who is known by the requiring authority to be the owner or occupier of any land to which the designation relates; and
  - (c) every other person who, in the opinion of the requiring authority, is likely to be affected by the designation.

These conditions have been met, the owners and occupiers being KiwiRail (the occupier and managing the subject land on behalf of the Crown, Auckland Transport itself and the council (Parks) have been served notice. There are no other persons affected by the partial removal of this designation.

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.

The effect of the removal of the parts of the designation is less than minor because the remaining designation will be used for its final purpose and the areas to be removed from the designation were only needed for construction. The removal has a beneficial effect, as those parts can be returned to their former uses, including public park land.

It is considered that Auckland Transport has provided sufficient justification for the partial removal of Designation 1715 for the following reasons:

- 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.

## 2.0 Recommendation

That pursuant to Section 182 of the Resource Management Act 1991 that the partial removal of Designation 1715 Newmarket Level Crossing Project be **accepted** and the Auckland Unitary Plan Operative in part designation overlay be amended accordingly.

**Prepared by:** Terry Conner  
Principal Planner  
Planning Central South 3



**Accepted by:** Fiona Sprott  
Team Leader  
Planning Central South 3



**Signature:**

Date: 21 September 2020

**Signature:**

Date : 22 September 2020

### **SCHEDULE OF ATTACHMENTS:**

**Attachment A:** Designation 1715 Newmarket Level Crossing Project s182 Notice of Removal

**Attachment B:** Revised map of areas for removal

**Attachment A:** Designation 1715 Newmarket Level Crossing Project s182 Notice of Removal (Form 23 from page 42 on).

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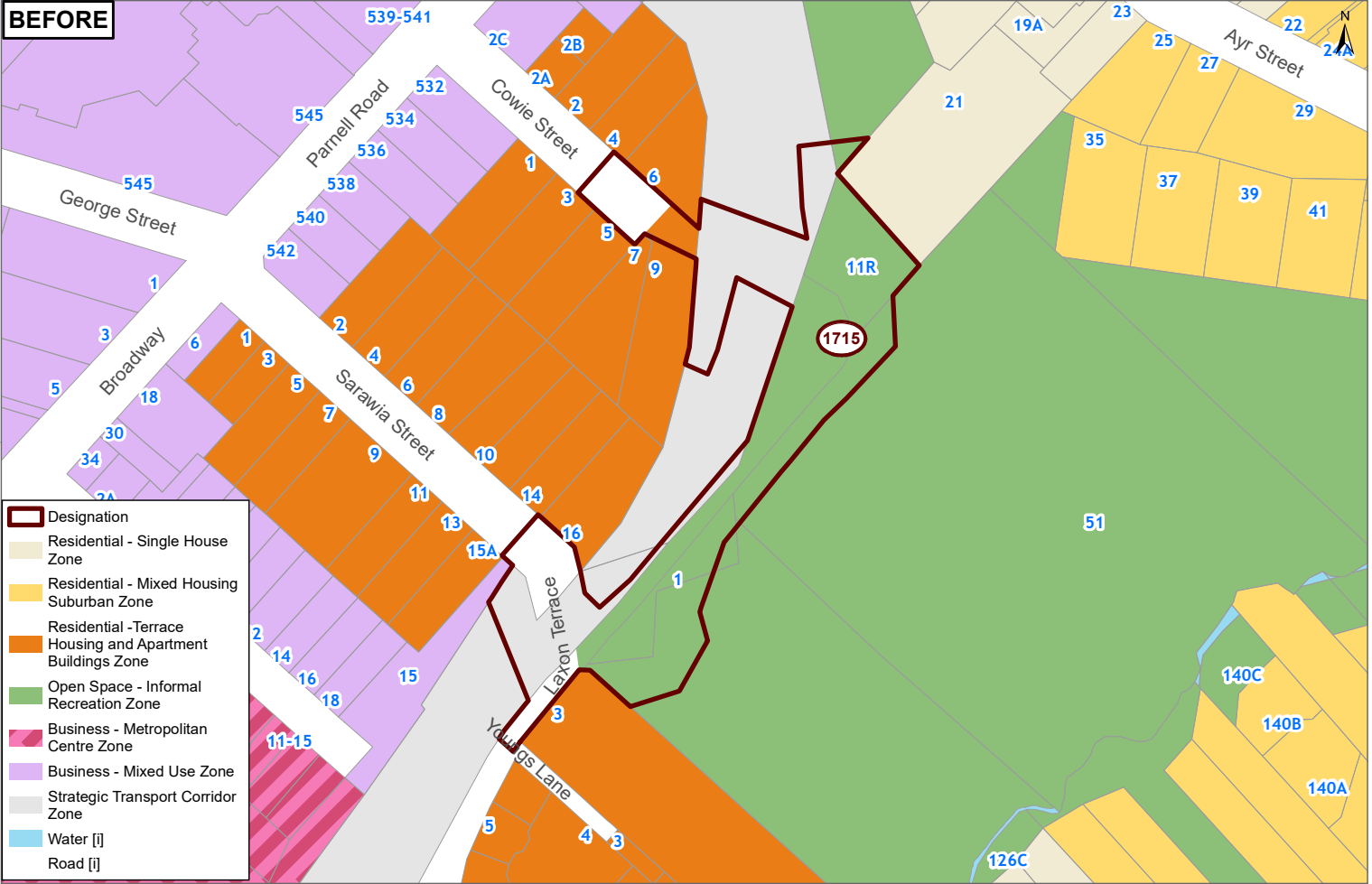


Attachment B: Revised map of areas for removal

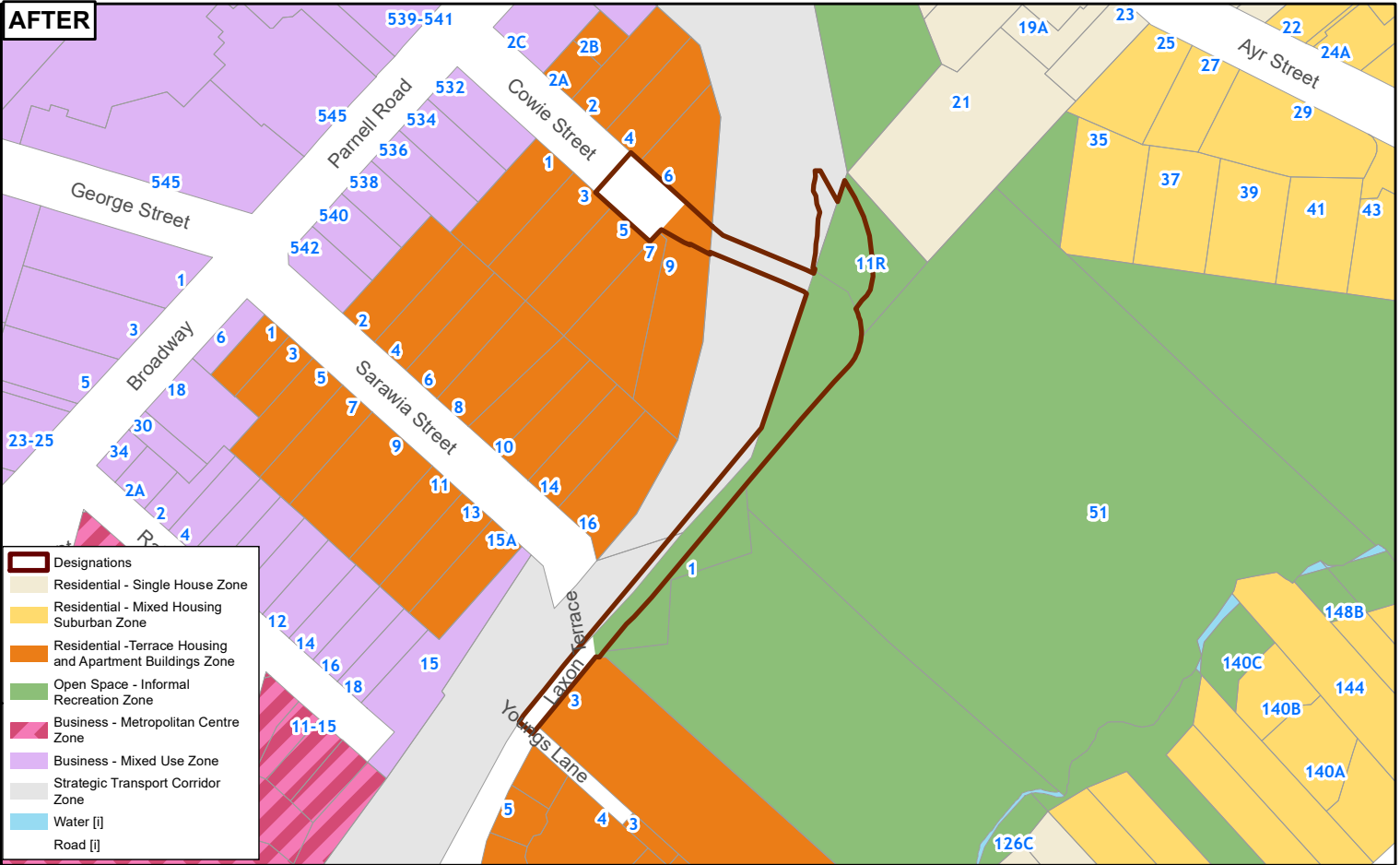


## Attachment 2: Updated GIS Viewer

**BEFORE**



**AFTER**



Whilst due care has been taken, Auckland Council gives no warranty as to the accuracy and completeness of any information on this map/plan and accepts no liability for any error, omission or use of the information.

Date: 9/11/2020

**Designation 1715 - alteration**



Plans and Places