

ANNEXURE 12

COUNCIL DESIGNATIONS



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COUNCIL DESIGNATIONS

1.0 DESCRIPTION

A designation is a form of land use control which overrides the zoning rules. It is used by the Council, Ministers of the Crown and network utility operators (collectively known as *requiring authorities*) to provide for utility services and such works as roads, railways and airports in District Plans. Council designations in the Plan include roads, building lines, carparks, community centres and libraries.

2.0 SCOPE

The Council is empowered, by Section 168A of the Act, to initiate designations for a public work within its district for which it has financial responsibility and also for a restriction on any land, water, subsoil or airspace necessary to ensure the safe and efficient operation of a public work. Public work is defined in Section 2 of the Act. It has the same meaning as in the Public Works Act 1981 (Section 2) and includes any existing or proposed public reserve as defined in section 2 of the Reserves Act 1977. A public work of the Council on the whole or part of a public reserve held by the Council shall not be undertaken unless the land is designated for the work (see Section 52(5) of the Public Works Act 1981). Privately owned land which is subject to a Council designation will ultimately be purchased by the Council at market prices.

3.0 PROCEDURE

The procedure to be followed with a new designation is set out in Section 168A(1A) of the Act.

4.0 DECISION

In considering the requirement for the designation, the Council may decide to:

- (a) confirm the requirement; or
- (b) cancel the requirement; or
- (c) modify the requirement in such manner or impose such conditions as the Council thinks fit.

The decision will be notified within 15 days in accordance with Section 173 of the Act.

5.0 APPEALS

Any person who made a submission on the requirement may appeal to the Environment Court against the whole or any part of the decision of the Council. Details are set out in Section 174 of the Act. Notice of the appeal must be lodged with the Environment Court and be served on the Council within 15 working days of the date on which notice of the decision was given.

6.0 ALTERATION OF DESIGNATION

The procedure for altering a designation is given in Section 184 of the Act. Generally, the procedure set out above applies. However, the Council may, at any time, alter a designation in the 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 land or any water concerned; or
- (ii) involves only minor changes or adjustments to the boundaries of the 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.

The Public Works Act 1981 provides for the change of purpose of a Council designation. The procedure is set out in Section 52 subsections (4), (6), (7) and (8) and enables land held by the Council (other than a road, accessway or service land), to be set aside for another local work of the Council by the Minister by notice in the *New Zealand Gazette*.

7.0 REMOVAL OF DESIGNATION

The procedure for removing a designation is given in Section 182 of the Act.



8.0 LAPSING OF DESIGNATIONS

Section 184A of the Act provides for Council designations to lapse on the expiry of five years after the date on which it is included in the District Plan unless:

- (a) it is given effect to before the end of that period; or
- (b) within three months before the expiry of that period the Council resolves that it has made, and is continuing to make, substantial progress or effort towards giving effect to the designation and fixes a longer period; or
- (c) the designation specified a different period when incorporated in the Plan.

Where paragraph (b) or (c) applies in respect of a designation, the designation shall lapse on the expiry of the period referred to in whichever of those paragraphs is applicable, unless:

- (i) it is given effect to before the end of that period; or
- (ii) within three months before the expiry of that period the territorial authority resolves that it has made, and is continuing to make, substantial progress or effort towards giving effect to the designation and fixes a longer period.

9.0 OUTLINE PLANS

Section 176A of the Act (inserted by the Resource Management Amendment Act 1997) requires an outline plan of the public work, project, or work to be constructed on designated land to be submitted by the requiring authority to the Council to allow the Council to request changes before construction is commenced. The Council has the right to appeal to the Environment Court if the requiring authority decides not to make the changes which the Council has requested.

10.0 BUILDING LINES

A building line is a form of special yard (refer to Clause [4A.1.F](#) of Part 4A).

Building lines may be of two types:

- (1) Those imposed under former legislation (Public Works Act) on underwidth roads, ie, roads less than 20.12 m wide and noted on the titles of the affected land;

- (2) Those denoted on the District Plan and, generally, not endorsed on property titles (see Planning Maps and diagrams).

In addition, building lines may sometimes be used to limit building in special instances, eg, Queen Elizabeth Square (Central Area Section), unstable land etc.

Building lines of type (1) may be removed by the Council if no longer required. Authority for this is given in Section 327A of the Local Government Act 1974 (as inserted by the Eighth Schedule to the Act 1). A fee is payable.

Note that under the provisions of Clause [12.8.1.3 ASSESSMENT AND FORMATION OF PARKING AND LOADING AREAS](#) of the Plan no required parking or loading spaces, manoeuvring area or part thereof shall be located between any building line designation and the road alignment shown on Planning Map No 2.

Subject to the bulk and location rules of the zone and to the rules governing reverse manoeuvring, the Council may grant a permit for a motor garage adjacent to the line of the road or to a line intermediate between the line of the road and the building line. Authority for this given in Section 340 of the Local Government Act 1974.



11.0 CONSENT FOR WORKS ON DESIGNATED LAND

Where land not in Council ownership is the subject of a requirement for a Council designation or is designated by the Council for a public work, the written consent of the Council is required before any work on the land is undertaken or any subdivision made or any change of use which would prevent or hinder the public work or project or work to which the designation relates (Sections 176, 178 of the Act).

The granting of this consent is delegated to the Manager: City Planning, to whom all enquiries should be addressed.

