

AUCKLAND UNITARY PLAN
INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

Report to Auckland Council
Hearing topic 074 Designations

Minister of Defence

Designation 4313 Hobsonville

May 2016

Report first prepared by Murray Kivell in accordance with the Auckland Unitary Plan Independent Hearing Panel procedure and in accordance with section 142 of the Local Government (Auckland Transitional Provisions) Act 2010, on: 26 August 2015 and updated 7 October 2015 and updated 21 January 2016.

Adopted as Auckland Unitary Plan Independent Hearings Panel recommendations in accordance with the Auckland Unitary Plan Independent Hearing Panel procedure and in accordance with section 144 of the Local Government (Auckland Transitional Provisions) Act 2010 on date of signature.

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1. Introduction

The purpose of this report is to provide an assessment and recommendation in relation to modifications to existing designations being rolled over by the requiring authority, and classified by the Independent Hearings Panel as moderately complex. This classification will generally apply where there is a:

- i. rollover of a designation with no modifications and a submission lodged by third party;
- ii. modification to a designation that will result in more than minor effects and with or without submissions;
- iii. notice of requirement for a new designation for existing works with or without submissions.

2. Assessment

The assessment will address:

- i. effects on the environment of allowing the modifications;
- ii. mitigation measures proposed by requiring authority including any proposed conditions;
- iii. other section 171 matters where relevant;
- iv. whether land is owned by the requiring authority.

See section 9 of this report for the assessment of each modification and requirement.

On the basis of the assessment, the report concludes that the following modifications should be confirmed.

3. Expert input

Not applicable.

4. Mediation required

Based on the responses of the requiring authority as detailed in section 9, the following matters have been identified that would benefit from mediation:

submissions from the New Zealand Historic Places Trust (now Heritage New Zealand) referenced as 371-214, 371-215, 371-216 and 371-217, and the Character Coalition submission 6370-15, have not been resolved. The requiring authority does not agree to the Type 2 condition sought by the submitters on any of its designations. The requiring authority is also seeking the deletion of designation condition 4 in respect of heritage matters and outline plans.

It is estimated that one day of mediation will be required.

5. Hearing required

Based on the responses of the requiring authority as detailed in section 9, the following matters have been identified to progress to a hearing:


submissions received from the Character Coalition (6370-15) and Heritage New Zealand (371-214, 215, 216, 217), and the related designation condition 4 from the operative district plan.

It is estimated that one day of hearing will be required (if not resolved prior through mediation).

6. Recommendation to Panel

That the Panel:

- i. modify the designation as set out in section 9;
- ii. agree to schedule mediation between the submitters and the requiring authority to address the matters identified in section 4 above; and (if required)
- iii. agree to hear matters identified in section 5 above.


Author	Murray Kivell
Author's Signature	
Date	26 August 2015 and updated 7 October 2015 with changes, and updated 21 January 2016 with changes

7. Panel recommendations to Auckland Council

The Auckland Unitary Plan Independent Hearings Panel recommends that Auckland Council recommends to the requiring authority that it confirms the modifications to the notice of requirement for designation 4313 included in the Proposed Auckland Unitary Plan subject to the further modifications shown in Attachment 1.

8. Panel reasons

The reasons for the Panel's recommendation are set out in section 9 below.

Panel Chair	David Kirkpatrick
Chair's Signature	
Date	18 May 2016

9. Assessment of modifications and submissions

Requiring authority	Minister of Defence
Designation number	4313
Designation purpose	Defence purposes (as defined by section 5 of the Defence Act 1990) – administration and operations
Location	Clark Road, Hobsonville.
Designation given effect to	Yes
Lapse date in operative plan	NA
Rollover designation with no modifications	No, involves modifications.
Description of the rollover modifications and reasons	<p>The modifications sought in the rollover seek the following changes:</p> <ul style="list-style-type: none"> i. amended wording which elaborates on the purpose of the designation; ii. amendment to the legal descriptions in the designations schedule and corresponding amendments to the designation maps, to reflect the areas from which the existing designation has been uplifted; iii. deletion of the aircraft approach path diagrams as now redundant. iv. removal of all references to Whenuapai Airbase in the designation schedule, as separate designations now exists for Whenuapai Airbase (4310 and 4311); v. removal of all four operative plan conditions attached to the designation, as related to former airbase and now redundant, with other conditions inappropriate and/or unnecessary; vi. the addition of two new conditions that improve the workability of the designation by clarifying that an outline plan is not required for maintenance works or for activities that are provided for as permitted activities.
Notice of requirement	NA
Land owned by the requiring authority	All land subject to designation is owned by the Crown.
Submitter	<p>838-38 – New Zealand Defence Force 3859-66 – Hobsonville Land Company Ltd 6370-15 – The Character Coalition 371-214, 215, 216, 217 – Heritage New Zealand</p>
Matters addressed in submission	<p>838-38 – New Zealand Defence Force requesting term ‘purpose’ be used rather than ‘description’ within designation schedule.</p> <p>3859-66 – Hobsonville Land Company Ltd requesting that the designation be lifted from a parcel of land to the north.</p> <p>6370-15 – The Character Coalition requesting greater protection of</p>

	<p>historic heritage.</p> <p>371-214, 215, 216, 217 – Heritage New Zealand requesting greater protection of historic heritage.</p>
Engagement by requiring authority with submitters	<p>No further discussion has taken place with the Hobsonville Land Company Ltd as the Minister has previously issued a notice to remove the designation from the land parcel in question pursuant to the section 182 Resource Management Act 1991 process.</p> <p>No agreement reached on heritage matters. Submitters are seeking an additional condition regarding heritage protection, and the requiring authority opposes this outcome. The requiring authority is also seeking the removal of Condition 4 regarding heritage matters and outline plans.</p>
Assessment and reasons	<p>Basis of Assessment</p> <p>The designation has been given effect to, and the modifications proposed are to clarify the purpose statement, to amend the designation schedules and designation maps to reflect designation uplift notices from the Minister (section 182 Resource Management Act 1991), to remove all references to Whenuapai from the designation schedule, deletion of the aircraft approach paths conditions and diagrams, the deletion of the four existing designation conditions, and insertion of two additional designation conditions regarding outline plans.</p> <p>Effects of modifications to Description/Activity</p> <p>The clarified ‘purpose’ statement of (additional text underlined) ‘Defence purposes <u>(as defined by s5 of the Defence Act 1990) – administration and operations</u> is an enhancement with no adverse effects on the environment.</p> <p>Effects of modifications to Designation extent</p> <p>The legal descriptions contained within the schedule of designations and the designations as shown on the designation maps, and deletion of the aircraft approach paths diagrams, should all be amended as sought to reflect designation uplift notices received from the Minister. There are no environmental effects however, in particular as the former runway is no longer operational and the designation now relates only to ‘administration and operations’ on a far smaller land area.</p> <p>Effects of modification of conditions</p> <p>The operative plan designation conditions were in respect of outline plan requirements, sediment/erosion control matters, aircraft noise, and heritage matters. The two designation conditions sought by the Requiring Authority replace the operative plan Conditions 1 and 2; operative plan Condition 3 regarding aircraft noise is redundant; and heritage matters (and deletion of condition 4) remain unresolved between the parties. The removal of operative plan Conditions 1-3 and addition of the two designations sought are supported. The effects of the modification of conditions have been assessed, and the effects are considered to be not more than minor.</p> <p>Effects on submitters</p> <p>i. The New Zealand Defence Force submission should be accepted and the term ‘purpose’ applied consistently in the</p>

	<p>designation schedule. This is acknowledged as an error on the List of Minor Amendments.</p> <p>ii. The Hobsonville Land Company Ltd submission relates to the same land as the Minister’s uplift notices. The submission can be accepted as the uplift notices must be reflected in the designation schedules and maps, and this is the outcome sought by the submitter.</p> <p>iii. The Character Coalition and Heritage New Zealand submissions have sought a Type 2 condition be imposed on the designation. The Requiring Authority does not agree and should proceed to mediation.</p> <p>Effects on adjacent properties and on wider environment I do not consider that there are any adverse effects on adjacent properties and on the wider environment that are more than minor. The designation conditions will be effective in managing any adverse effects.</p>
Recommendation to Panel	That the Panel recommend to Council that the designation is confirmed with all modifications requested, including by New Zealand Defence Force’s own submission, but with the exception of heritage matters and the removal of condition 4, as no agreement reached between the parties. The parties to advise.
Response from requiring authority	The requiring authority requested mediation on the following matter: The inclusion of an additional condition described as a “type 2 condition” concerning heritage requested by Heritage New Zealand (371-214).
Response from report writer	The report writer participated in mediation with the two parties on Tuesday 6 October. A signed Mediation Outcomes Statement confirms that there is no agreement on the matter and that the matter will proceed to a hearing.
Final response from report writer	<p>Further discussion between the parties resulted in an agreement to the wording of a condition to manage and protect scheduled historic heritage places on selected Defence Force sites. This wording is recorded in statements of planning evidence by Ms Kate Searle for the New Zealand Defence Force (23 October 2015) and Duncan McKenzie for Heritage NZ (5 November 2015) and is also recorded in the updated position statement of Heritage NZ dated 1 December 2015. The agreed standard condition to apply to selected Defence Force sites including this facility is:</p> <p>“Where any construction works for a project involve the total or substantial demolition of, or modifications to, a scheduled historic heritage place, any outline plan that is required shall, pursuant to s176A(3)(f), include:</p> <p>a) an assessment of the effects on the historic heritage values of the place;</p> <p>b) a consideration of alternative methods and/or appropriate mitigation to prevent or damage, loss or destruction of the values of the scheduled historic heritage place.</p> <p>This condition shall not apply in respect of repair or maintenance of the</p>

	<p>scheduled historic heritage place.</p> <p>This condition shall not apply where there is a conservation plan or similar plan (such as a New Zealand Defence Force Heritage Management Plan) for the management of the scheduled historic heritage place and the proposed construction works are in accordance with this plan.”</p> <p>This condition is supported as it provides for the consideration of historic heritage when associated with the management of scheduled historic heritage places and will appropriately inform the Council on this matter.</p> <p>The requiring authority clarified that the designation mapping change is being pursued with Council under section 182 of the Resource Management Act 1991, in an email dated 20 January 2016. In other words, New Zealand Defence Force is pursuing the matter by a different statutory mechanism to that of the Panel’s hearing process. Accordingly the Panel need not make a recommendation regarding the mapping of the designation.</p>
Recommendation from Panel	The Panel agrees with the report writer’s recommendations set out in the ‘Recommendation to Panel’ row above and as modified in ‘Final response from report writer’ row above.
Reasons	The Panel agrees with the report writer’s reasons.

10. Attachment 1 changes to text of the Proposed Auckland Unitary Plan

Amend the description as follows:

Purpose Description

Defence purposes (as defined by section 5 of the Defence Act 1990) - administration and operations.

Add new condition concerning historic heritage as follows:

3. Where any construction works for a project involve the total or substantial demolition of, or modifications to, a scheduled historic heritage place, any outline plan that is required shall, pursuant to s176A(3)(f), include:
 - a. an assessment of the effects on the historic heritage values of the place;
 - b. a consideration of alternative methods and/or appropriate mitigation to prevent or damage, loss or destruction of the values of the scheduled historic heritage place.

This condition shall not apply in respect of repair or maintenance of the scheduled historic heritage place.

This condition shall not apply where there is a conservation plan or similar plan (such as a NZDF Heritage Management Plan) for the management of the scheduled historic heritage place and the proposed construction works are in accordance with this plan.