

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 Education

Designations with modifications

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 28 August 2015 and updated 13 October 2015 and 16 December 2015.

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 designations, modifications and new designations 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 modification or requirement;
- ii. mitigation measures proposed by requiring authority including any proposed conditions;
- iii. other section 171 matters or section 168A(3) (if the requiring authority is Auckland Council) 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 designation 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, there are no matters that have been identified that would benefit from mediation:

5. Hearing required

Based on the responses of the requiring authority as detailed in section 9, there are no matters that have been identified to progress to a hearing:

6. Recommendation to Panel

That the Panel confirms the designation modifications

Author	Murray Kivell
Author's Signature	
Date	28 August 2015 and updated 13 October 2015 with changes, and updated 16 December 2015 and the 18 April 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 notice of requirement for the modifications to the designations included in the Proposed Auckland Unitary Plan subject to the further modifications in Attachment 1 and Attachment 2.

This recommendation applies to the designations listed in section 9 below.

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

The Minister of Education requested that the over 400 education facilities with existing designations included in the operative plan which have not lapsed be included in the Proposed Auckland Unitary Plan.

The Minister seeks that the designations be included in the Proposed Auckland Unitary Plan in a standardised form that includes consistent designation descriptions and terms/conditions.

The report considers the list of designations with modifications that are requested to adopt the standard set of conditions set out in Schedules 1, 2 and 3 to the Minister's Notice of Requirement by the Minister of Education regarding the inclusion of existing Designations in the Proposed Auckland Unitary Plan (the Minister's notice of requirement), for which there were no submissions received.

This is one of three reports prepared to consider the Minister's designations.

No site visits were completed by the report writer in preparing this report.

Requiring authority	Minister of Education
Designation number (s)	Refer to Annexure 1
Designation purpose	Refer to Annexure 1
Location	Refer to Annexure 1
Designations given effect to	Yes
Lapse date in operative plan	Not provided
Rollover designation with no modifications	NA
Description of the modifications	<p>Modifications proposed to each designation include:</p> <ul style="list-style-type: none"> i. adoption of a consistent, standardised designation purpose statement; ii. adoption of explanatory notes which summarise the terms and are incorporated into the Proposed Auckland Unitary Plan; and iii. adoption of a standard set of conditions; and, where appropriate, iv. adoption of a set of site specific conditions. <p>The requiring authority provided a substantial spreadsheet tabulating all information for every school designation in the region. This was appended to the requiring authority's Memorandum of Counsel to the Panel dated 17 July 2015. That supplemented documentation lodged in August 2012 that covered the same matters.</p> <p>That July 2015 document is not appended given its bulk.</p>
Notice of requirement	NA
Land ownership	See below.
Land owned by the requiring authority	All land subject to designations is owned by the requiring authority.
Submitter	There are no specific submissions on these designations.

	However, it was agreed by parties that a non-specific Heritage New Zealand submission does apply to some of these designations.
Matters addressed in submission	NA
Engagement by requiring authority with report writer	There have been extensive discussions to establish an efficient, robust and considered framework for the assessment and reporting on these designations.
Assessment and reasons: Purpose Statements	<p>Purpose statements</p> <p>The following purpose statements and combinations thereof are proposed relating to all Education designations:</p> <ul style="list-style-type: none"> i. Educational Purposes – a general category used in relation to a limited number of training, support and resource facilities; ii. Educational Purposes – Primary School (years 0-8); iii. Educational Purposes – Intermediate School (years 7-8); iv. Educational Purposes – Secondary School (years 7-13); v. Educational Purposes – Junior High School (years 7-10); vi. Educational Purposes – Senior High School (years 11-13); vii. Educational Purposes – Kura Kaupapa (years 0-13); viii. Educational Purposes – Special School (years 0-13). <p>Where accommodation for students may be provided, the notation is augmented by including the words ‘...and may include residential accommodation for up to [] students’.</p> <p>Where an early childhood centre is attached or is considered to be desirable and appropriate, the notation is augmented by including the words ‘... and may include Early Childhood Education (preschool)’.</p> <p>In my opinion the adoption of the purpose statement for a particular school from an accepted and readily understood list of designation descriptions will ably inform Plan users of the broad age-related nature of the educational services provided. This will improve both the understanding and administration of these provisions for Auckland Council, the Ministry of Education and the general community.</p> <p>The adoption of standardised purpose statements simply reflects the established operation of all listed schools in the region that have previously been confirmed through designation processes under Part 8, Resource Management Act 1991. They provide administrative clarity as to each</p>

	school designation purpose relating to their age-based clientele.
Assessment and reasons: proposed explanatory notes	<p>Proposed explanatory notes</p> <p>These notes accompany the list of designations to include in the Proposed Auckland Unitary Plan and inform the term 'Educational Purposes'. The text proposed is as set out below.</p> <ol style="list-style-type: none"> a) Each of these designations enables the establishment of a school that is able but is not required to cater for all of the school years listed in the designation description. b) 'Educational Purposes' for the purposes of these designations shall, in the absence of specific conditions to the contrary: <ol style="list-style-type: none"> (i) Enable the use of the facilities on the designated site by and for the educational benefit of any school age students (i.e.: years 0 to 13) regardless of whether they are enrolled at an institution located on that designated site. (ii) Enable the provision of supervised care and study opportunities for students outside school hours in school facilities. (iii) Enable the provision of community education (e.g.: night classes for adults) outside school hours in school facilities. (iv) Include but not be limited to the provision of academic, sporting, social and cultural education including through: <ul style="list-style-type: none"> • formal and informal recreational, sporting and outdoor activities and competitions whether carried out during or outside school hours; • formal and informal cultural activities and competitions whether carried out during or outside school hours; and • the provision of specialist hubs and units (including language immersion units and teen parenting units) for students with particular educational requirements or special needs. (v) Enable the use of facilities for purposes associated with the education of students including school assemblies, functions, fairs and other gatherings whether carried out during or outside school hours. (vi) Enable the provision of associated administrative services; car-parking and vehicle manoeuvring; and health, social service and medical services

	<p>(including dental clinics and sick bays).</p> <p>(vii) Enable housing on site for staff members whose responsibilities require them to live on site (e.g.: school caretakers) and their families.</p> <p>In my opinion the standard explanation informs the general purpose statement outlined above as to warrant inclusion in the Proposed Auckland Unitary Plan at the commencement of the schedule of designations for the Ministry of Education.</p> <p>The approach is an effective way to inform the operation of a very large number of educational facilities throughout the region.</p>
<p>Assessment and reasons: proposed standard conditions</p>	<p>Proposed standard conditions</p> <p>The proposed conditions intended to apply to all Minister of Education designations and seek to replace previously confirmed conditions. The set of conditions addresses seven environmental parameters:</p> <ul style="list-style-type: none"> i. height in relation to boundary; ii. noise; iii. on-site car parking – schools; iv. on-site car parking – early childhood education (preschool); v. scheduled trees; vi. scheduled heritage buildings; and vii. outline plan. <p>The report writer is advised, and it is stated that the conditions are not intended to ‘change substantively’ the effect of the conditions currently governing the designations (Form 18 Notice). The report writer accepts this general statement.</p> <p>The report writer also acknowledges that copies of all sets of conditions attached to the Minister’s designations have not been able to be assembled and reviewed during this reporting exercise. The requiring authority advises that it is endeavouring to provide this information by way of supplementary information to the Panel.</p> <p>However, it is important to provide context to the consideration of the merits of adopting each of these environmental parameters and supporting standards, by noting:</p> <ul style="list-style-type: none"> i. the public works (the schools) are established and their operation and conditions to manage effects have previously been addressed through the designation process;

	<ul style="list-style-type: none"> ii. the extent of each designated school site is unchanged; iii. the approach to standardise conditions is reflective of already established conditions applying to existing school designations; iv. each environmental parameter is supported by general-level evidence regarding its effectiveness in avoiding or mitigating adverse environmental effects on neighbouring properties; v. that experience derived from the operative plan provisions should provide satisfactory evidential basis to adopt the proposed set of standard conditions as to ensure that cumulatively effects are minor or no more than minor on adjoining properties resulting from the current and future day-to-day operation of schools. <p>The fundamental question is what is the scale of changes on the environment likely to arise from the adoption of the standard set of conditions, bearing in mind that any substantive changes still will require consideration under the outline plan of works process.</p> <p>My summary evaluation follows below.</p> <p>Height in relation to boundary There is merit in adoption of this standard condition as it will provide a workable interface control between the development, intensification or expansion of school buildings on designated land in the circumstance where 'adjoining land zoned primarily for residential purpose' or 'zoned for open space/outdoor recreation' occurs.</p> <p>The condition should reflect any Panel-confirmed provisions that relate to height in relation to boundary. The relevant diagrams will need to be substituted for those provided in the lodged documentation.</p> <p>I am unclear however whether the quoted phrases have sufficient certainty about their interpretation and administration.</p> <p>Noise Expert opinion is required to affirm the overall approach to noise management and therefore the appropriateness of this proposed condition. Again the reference in the condition is '...shall comply with the noise limits at the boundary of any site zoned primarily for a residential purpose...'</p> <p>Any noise conditions adopted should also reflect the Proposed Auckland Unitary Plan provisions as recommended by the Panel to ensure a consistent approach</p>
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	<p>to noise mitigation and management.</p> <p>On-Site Car Parking – Schools The proposed condition derived from existing parking ratio provisions relating to classroom numbers (or classroom equivalents) for schools.</p> <p>There is no provision requiring suitable on-site drop-off areas in recognition that many school sites are already intensively developed and may not be practical. I accept that it is preferable to consider this on a case by case basis as part of the outline plan of works process.</p> <p>On-site Car Parking – Early Childhood Education (Preschool) A similar approach is adopted to determine a ratio for car parking specifically for childcare centres that is derived from provisions in several operative plans. Discretion is provided to allow a lesser number than required by the car parking to licensed full-time equivalent child ratio based upon independent expert evidence to support this. This is a pragmatic approach and I accept this condition.</p> <p>Scheduled Trees This condition is derived from the Isthmus section of the operative Auckland Council District Plan and is focused on scheduled tree ‘protection’ other than when an outline plan of works is approved. Again this is a pragmatic approach and I accept this condition.</p> <p>Scheduled Heritage Buildings This condition is derived from the Isthmus section of the operative Auckland Council District Plan and is focused on scheduled tree ‘protection’ other than when an outline plan of works is approved. Again this is a pragmatic approach and I accept this condition.</p> <p>Outline Plan This condition records the exclusions to the requiring authority being obliged to lodge outline plan of works. The exclusions concern routine minor works or amenity enhancement. I accept this condition.</p> <p>In summary, I am advised that the set of proposed conditions “are not intended to change substantially the effect of the conditions currently governing the designations but are intended to rationalise the range and content of conditions and reduce repetition.” (Form 18, paragraph 12)</p> <p>Overall, I conclude that the change in environmental effects on neighbouring property and the wider community will be no more than minor and in some cases there could be an environmental benefit achieved through adoption of this standardised set of performance conditions.</p>
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	The final set of standard conditions recommended should ensure consistency with relevant plan-wide provisions.
Assessment and reasons: proposed site specific conditions	<p>Proposed Site Specific Conditions</p> <p>4500 – Albany Junior High School 4525 – TKKM o Raki Paiwhenua 4540 – Pinehill School 4644 – Hobsonville Point Secondary School 4723 – TKKM o Puau Te Moananui-a-kiwa 4748 – Stonefields School and ECE 4777 – Eden Campus Teen Parent Unit 4781 – Luke Street Special School 4901 – Alfriston College 4915 – Clendon Teen Parent Unit 4927 – Ormiston Campus 4938 – Mission Heights Junior College 4978 – Elim Primary School 5017 – Hingaia Peninsula School</p> <p>Site specific conditions in Schedule 3 of the Minister’s Notice of Requirement by the Minister of Education regarding the inclusion of existing Designations in the Proposed Auckland Unitary Plan that apply to the above designations are in addition to or override conditions provided in Schedule 2 of the Minister’s Notice of Requirement by the Minister of Education regarding the inclusion of existing Designations in the Proposed Auckland Unitary Plan for rollover of all Education designations. The explanatory note to the Schedule confirms this interpretation of the relationship intended between Schedule 2 and Schedule 3.</p> <p>There have been no submissions received to these ‘rollover’ provisions recorded against each of the above listed designations. They are site specific in their development control focus. The report writer therefore recommends they be confirmed.</p>
Recommendations:	<p>Modifications proposed to each school designation be adopted that include:</p> <ol style="list-style-type: none"> i. adoption of a consistent, standardised designation purpose statement; ii. adoption of Explanatory Notes which summarise the terms and is incorporated into the Proposed Auckland Unitary Plan Schedule of designations; and iii. adoption of a standard set of conditions; and, where appropriate, iv. adoption of a set of site specific conditions.
Updated recommendation to Panel	That the Panel recommends that these designations with modifications included in the Schedule of Designations in the Proposed Auckland Unitary Plan be confirmed with the further modifications included in Attachment 1 and

	Attachment 2 below.
Response from requiring authority	<p>Letter from Ellis Gould dated 11 September 2015 records agreement with the above recommendations to the Panel except for the un-intentional omission from the section 142(1) report concerning Designation 4636 – Summerland Primary School. It is requested that the recommendation included in this report apply to Designation 4636.</p> <p>The Ellis Gould letter also notes that the Minister has identified the need to provide further marked up maps that were not part of the rollover notice of August 2012 for the following designations:</p> <p>Designation 4583 – Whangaparaoa Campus; Designation 4623 – Konini School; Designation 4637 – Prospect School; Designation 4788 - TKKM o Nga Maungarongo; Designation 4926 – Finlayson Park School; Designation 4957 – Maraetai Beach School; Designation 5012 – Ardmore School; and Designation 5015 – Drury School.</p>
Report writer's further comments	<p>The report writer acknowledges this omission concerning Designation 4636.</p> <p>It is therefore accepted that the recommendations in this report also should apply to Designation 4636 - Summerland Primary School.</p> <p>The report writer notes that the provision of further marked up maps for the above listed schools are assumed to be modifications to address minor mapping errors and will need to be subject to the Panel reviewing the maps once available before providing a recommendation.</p> <p>It is therefore recommended that the mapping corrections to the above listed designations be subject to review by the Panel before a recommendation can be made to incorporate into the Designation Schedule.</p>
Report writer's final comments	<p>Annexure 4 of the planning evidence of Ms Orchid Atimalala for the Minister of Education (20 October 2015) provides the amended designation maps for:</p> <p>Designation 4583 – Whangaparaoa Campus; Designation 4623 – Konini School; Designation 4637 – Prospect School; Designation 4788 TKKM o Nga Maungarongo; Designation 4926 – Finlayson Park School; Designation 4957 – Maraetai Beach School; and Designation 5015 – Drury School. These are included in Attachment 2.</p> <p>Planning map for Designation 5012 – Ardmore School is not included as advice from Ms Atimalala (email, 17 December</p>

	<p>2015) states that further investigation has confirmed there is no error. Therefore there is no correction to the map required.</p> <p>I am further advised that the provisions in MOE Schedule 2 of the Minister's NOR for rollover of education designations – Standard Conditions – Noise, were considered appropriate as part of discussion on Topic 040 Noise and Vibration. Therefore, those provisions remain acceptable as a standard condition for the operation of schools in the Proposed Auckland Unitary Plan unless otherwise provided for in recommendations concerning noise-specific conditions for the operation of specific schools.</p> <p>It has subsequently been agreed between parties that the general submission of Heritage New Zealand on all designations does apply to some of the Minister's designations included in this report. The parties also agreed to the deletion of the standard heritage condition and its replacement with a site specific condition on only those designations with heritage items. This approach is recommended and the amendments are set out in Attachment 1.</p> <p>The changes to the standard conditions and specific conditions relating to heritage included in Attachment 1 below are addressed in more detail in the report on general submissions to the Minister's designations.</p>
Recommendation from Panel	The Panel agrees with the report writer's recommendations.
Reasons	The Panel agrees with the report writer's reasons.

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

Site specific conditions applying to particular designations of the Minister for Education

Designations 4510, 4535, 4548, 4550, 4569, 4608, 4615, 4617, 4632, 4652, 4701, 4716, 4734, 4758, and 4968:

Insert a new condition to read:

Where any construction works for a project involve total or substantial demolition of, or modifications to, a scheduled historic heritage place, any outline plan that is required shall incorporate:

a. an assessment of the effects on the historic heritage values of the scheduled historic heritage place;

b. a consideration of alternative methods and/or appropriate mitigation to prevent or avoid damage, loss or destruction of the values of the scheduled historic heritage place;

c. an analysis of the extent to which the construction works are required or desirable to enable educational activities to be carried out; and

d. an assessment of the extent to which the construction works are necessary to address safety concerns and/or the extent to which the costs associated with overcoming safety concerns offset the values associated with 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 for the management of the scheduled historic heritage place and the proposed construction works are in accordance with this conservation or similar plan.

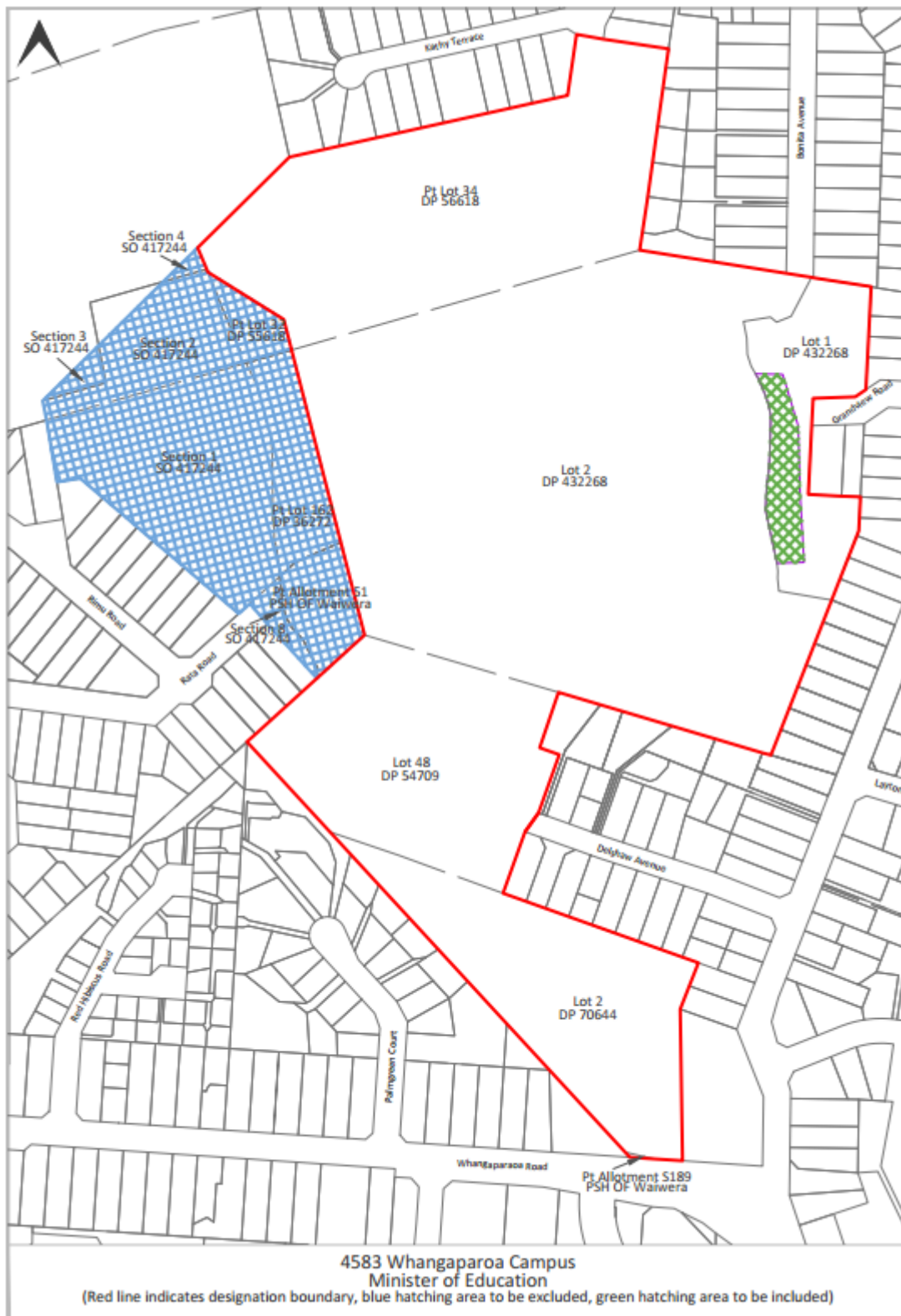
Standard conditions applying to all designations of the Minister for Education

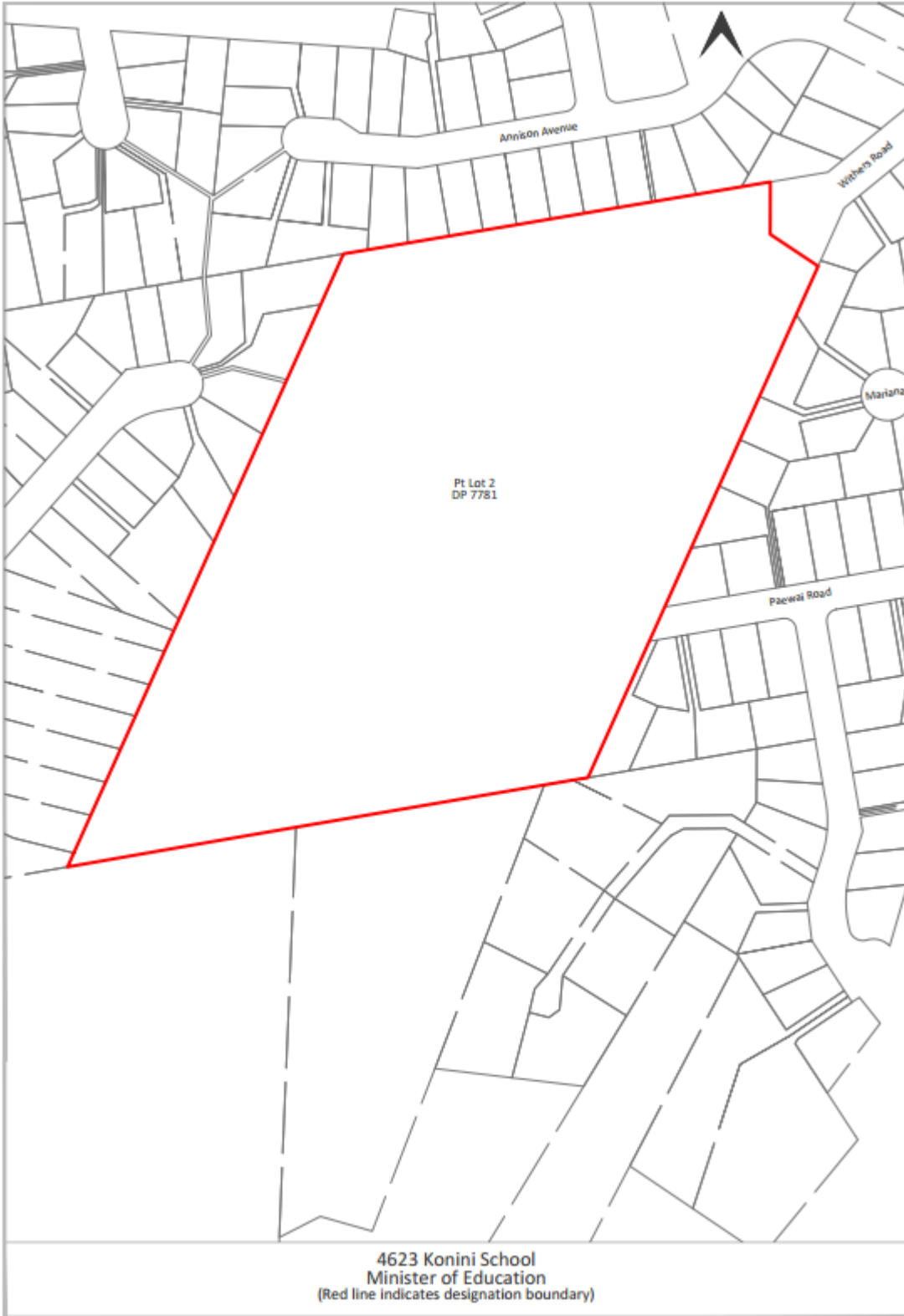
Delete standard Condition 6 Scheduled Heritage Buildings

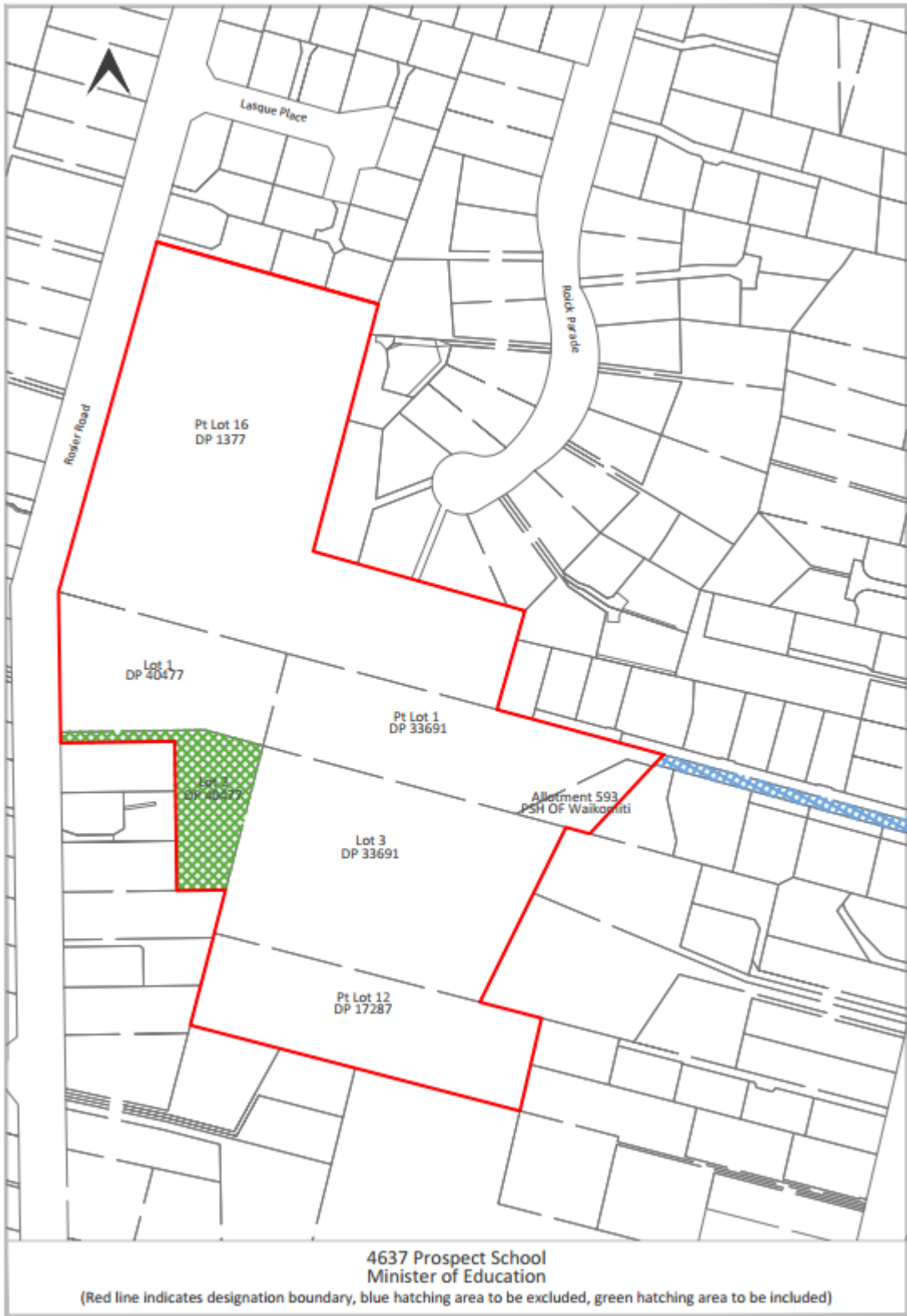
~~6 — No additions or alterations shall be made to any building or group of buildings specifically scheduled for a heritage purpose in the District Plan, other than in accordance with an outline plan submitted and processed in accordance with s176A of the Resource Management Act 1991. This condition shall not apply to internal alterations unless the interior of the building forms part of the scheduled heritage item in the District Plan.~~

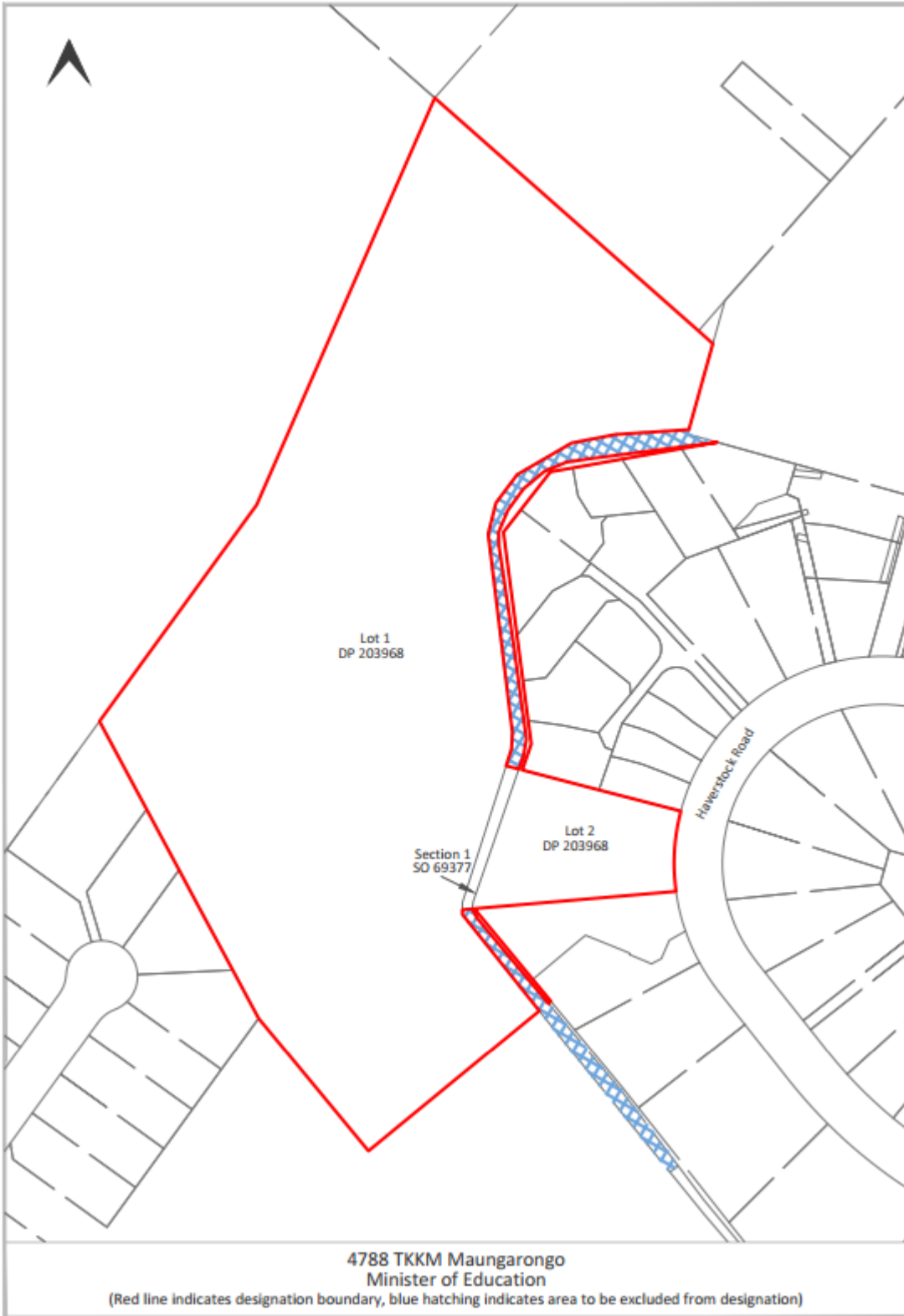
This deletion requires the consequential re-numbering of the remaining condition from Condition '7' to condition '6'.

11. Attachment 2 changes to the Proposed Auckland Unitary Plan maps















12. Annexure 1

Designation numbers, names, purpose statements, standard conditions, site specific conditions and other information referred to in the assessment in section 9.

This is a separate document referenced as:

IHP Report to AC_074 Minister of Education no submissions_Annexure 1_2016-05-18.