

# Proposed Auckland Unitary Plan Information on Designations



## Frequently Asked Questions

Decisions have now been made on all requiring authority designations that were included in the Proposed Auckland Unitary Plan (**PAUP**) when it was notified by the Auckland Council (**Council**) on 30 September 2013. This includes the designation of the requiring authority listed in the **Schedule** to this letter, in respect of which you made a submission.

### What is a designation?

A designation is a planning tool used by Ministers of the Crown, local authorities and network utility operators approved as requiring authorities under section 167 of the Resource Management Act 1991. Designations are used to authorise a requiring authority's work and activity on a particular site, without the need for land use consent.

Designations can apply to multiple properties and restrict what land owners and occupiers can do on certain land, while allowing for certain types of public works, activities or projects to be undertaken more easily by requiring authorities (e.g. constructing new parks, schools or infrastructure).

Most of the designations included in the PAUP were already included in the former Auckland Council District Plans (e.g. for Rodney, North Shore City, Waitakere, Manukau etc.) and have been 'rolled over' into the PAUP, with some being modified where necessary. There are however some new designations which have been requested as part of the PAUP process.

### How were decisions on designations determined?

Designations included in the PAUP were publicly notified and open to public submissions between 30 September 2013 and 28 February 2014. The public submissions were then heard as part of hearings before the Auckland Unitary Plan Independent Hearings Panel (**Panel**) on 30 November 2015, 1 December 2015 and 2 May 2016.

Following the conclusion of these hearings, the Panel provided the Council with a series of reports containing recommendations on whether or not the designations should be confirmed, and (if confirmed) on the content of those designations. The Panel provided its reports to the Council on most designations in the PAUP on 18 May 2016, with the remaining reports provided on 22 July 2016.

Other than one or two minor exceptions, the Council accepted the Panel's recommendations on all designations under section 148 of the Local Government (Auckland Transitional Provisions) Act 2010, including the modifications to those designations that were recommended by the Panel. The Council notified its decisions to all requiring authorities on 19 August 2016.

Under the Local Government (Auckland Transitional Provisions) Act 2010, the Council's decisions must be treated as if they were recommendations to the requiring authorities under clause 9(1) of Schedule 1 to the Resource Management Act 1991. Requiring authorities then had until 30 September 2016 to notify the Council whether they accept or reject the Council's recommendation(s) in whole or in part. Where a requiring authority rejected any recommendation in whole or in part, or modifies a requirement, section 151(4) of the Local Government (Auckland Transitional Provisions) Act 2010 requires that the requiring authority must give its reasons for that decision.

### Why is Auckland Council telling you this?

As noted above you are receiving this notice of decision because you made a submission on the designation set out in the **Schedule** to this letter, in relation to which a decision has been made by the relevant requiring authority. The Schedule to this letter contains information about the decision made by the requiring authority.

The Local Government (Auckland Transitional Provisions) Act 2010 requires the Council to make a copy of the decisions made by requiring authorities on designations available. All decisions by requiring authorities will be uploaded to the Council's Unitary Plan webpage by 5pm on 17 October 2016 (see the 'What's new' heading).

We note that only those people who made submissions on designations are able to lodge appeals against the decisions of requiring authorities. The appeal rights differ depending on whether or not a submitter is also an owner / occupier of land subject to the designation.

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The following is a brief summary of the appeal rights available under the Local Government (Auckland Transitional Provisions) Act 2010 relating to decisions on requiring authority designations:

### *Environment Court appeal rights*

- Submitter **and** owner / occupier: A person has a right of appeal to the Environment Court against any aspect of the requiring authority's decision on a designation if the person is an owner or occupier of land to which the designation applies, **and** the person made a submission on the requirement (i.e. the designation) that referred to that aspect of the decision.
- Submitter, but **not** owner / occupier: A person has a right of appeal to the Environment Court against any aspect of the requiring authority's decision on a designation if the person is **not** an owner or occupier of land to which the designation applies, **and** the person made a submission on the requirement (i.e. the designation) that referred to that aspect of the decision, **and** in that aspect of the decision, the Council **rejected** the Panel's recommendation on the matter.

### *High Court appeal right*

- Submitter, but **not** owner / occupier: A person may appeal to the High Court against any aspect of the requiring authority's decision on a designation, **but** on questions of law only, if the person is **not** an owner or occupier of land to which the designation applies, **and** the person made a submission on the requirement (i.e. the designation) that referred to that aspect of the decision, **and** in that aspect of the decision, the requiring authority **accepted** the Panel's recommendation on the matter.

In relation to appeals, it is noted that notice of appeal must be filed:

- In the High Court on questions of law only, within 20 working days after the date on which the Council gives notice of the requiring authorities' decisions on designations; or
- In the Environment Court, within 30 working days after the same date.

The Council encourages anyone contemplating an appeal to seek legal advice.