

BEFORE THE ENVIRONMENT COURT

ENV-2016-AKL-000

IN THE MATTER

of an appeal under section 157(1) of the Local Government (Auckland Transitional Provisions) 2010

AND

IN THE MATTER

of Designation Number 6304 relating to the Onehunga Branch Railway Line (being a rollover of legacy Designation G12-07, Auckland Council District Plan (Isthmus Section 1999) for inclusion in the Proposed Auckland Unitary Plan)

BETWEEN

TIMOTHY LAIRD EDNEY and D J BEVAN TRUSTEES LIMITED, trustees of the Rockfield Trust, of Auckland

Appellant

AND

KIWIRAIL HOLDINGS LIMITED

Respondent

NOTICE OF APPEAL UNDER SECTION 157(1) OF THE LOCAL GOVERNMENT (AUCKLAND TRANSITIONAL PROVISIONS) 2010

29 November 2016

TO: The Registrar
Environment Court
AUCKLAND

1. **TIMOTHY LAIRD EDNEY and D J BEVAN TRUSTEES LIMITED**, trustees of the Rockfield Trust, of Auckland (**Appellant**) appeal a decision on Designation Number 6304 relating to the Onehunga Branch Railway Line, Auckland (**Designation**).
2. The Appellant made a submission on the Designation.
3. The Appellant received notice of the decision on 18 October 2016.

4. The decision was made by KiwiRail Holdings Limited (**Respondent**).
5. The Appellant is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (**Act**).
6. The appeal is of part of a decision of the Respondent accepting a recommendation of the Auckland Council that it confirm the Designation over the Appellant's land at 5 to 9 Maurice Road, Penrose (**Decision**).¹
7. The Designation applies to the whole of the Respondent's Onehunga Branch Line, but this appeal is limited to that part of it located on 5 to 9 Maurice Road, Penrose, Auckland.

Reasons for Appeal

Background

8. The Decision arises from Independent Hearing Panel (**IHP**) allocated Topic 074 – Designations and a late submission made by the Respondent on or about 2 November 2015 seeking the inclusion of additional land to the rollover of legacy designation G12-07 that the Respondent claimed it had omitted to include when it gave notice under Clause 4, Schedule 1 to the Act prior to the notification of PAUP (**Late Designation**).
9. The Late Designation sought to designate part of the Appellant's land for "railway purposes". With the leave of the IHP, the Appellant made a late further submission in opposition to the Late Designation.
10. The IHP recommended to the Auckland Council that the Respondent's late submission that the land be designated be accepted and that the Appellant's further submission be rejected.
11. The Auckland Council accepted the recommendation of the IHP.
12. The Decision accepted that recommendation and confirmed the Late Designation in relation to the Appellant's land.

The Proposal was unlawful and the Decision is therefore unlawful

13. The Respondent advised the IHP by memorandum dated 2 November 2015 (in support of the request for leave to file a late submission on Topic 074), that the Late Designation applied only to areas for which it held an operative designation prior to the notification of the PAUP.

¹ This appeal does not challenge any other part of the Designation.

14. However, the Respondent had no operative designation over the Appellant's land (described as being part of site 7 (Lot 1 DP104624)), as it had uplifted that part of legacy designation G12-07 as it affected the Appellant's land on 9 September 2013, prior to notification of the PAUP. That notice was accepted by the Auckland Council who amended the operative Isthmus Plan to that effect. The Appellant's land was not designated on the day the PAUP was notified for submissions.
15. Once the designation had been uplifted, it could only be included in the PAUP in accordance with the processes in Part 8 of the Act.
16. There is no First Schedule process in the Act by which the Respondent could bring a non-existent designation into existence. There is no ability to include a new designation in the PAUP by way of a late submission.
17. In accepting the Respondent's late submission to designate the Appellant's land and recommending the Late Designation be included in the PAUP, the IHP erred in law. In accepting that recommendation, the Council erred in law. In confirming the Council's recommendation, the Respondent erred in law.
18. The portion of the Late Designation affecting the Appellant's land is unlawful.

Relief Sought

19. The Appellant seeks the following relief:
 - (a) That the part of the Respondent's Decision challenged by this appeal is cancelled;
 - (b) That Designation 6304 be modified so as not to apply to the Appellant's land at 5 to 9 Maurice Road, Penrose;
 - (c) Such further, other or consequential relief as may be necessary to give effect to the grounds of this appeal;
 - (d) Costs against the Respondent.

Documents

20. The following documents are attached to this notice:
 - (a) A copy of the Respondent's late submission;
 - (b) A copy of the Appellants' further submission;
 - (c) A copy of the Independent Hearing Panel's "Report to

Auckland Council hearing topic 074 – KiwiRail Designations 6300-6306, R6307”;

- (d) The recommendation of the Auckland Council;
- (e) The Respondent’s decision;
- (f) A list of names and addresses of persons to be served with a copy of this notice.

Signature:

TIMOTHY LAIRD EDNEY and D J BEVAN TRUSTEES LIMITED by their authorised agent:



K R M Littlejohn

Date:

29 November 2016

Address for service:

K R M Littlejohn
Quay Chambers
Level 7, 2 Commerce Street
P O Box 106215
AUCKLAND CITY 1143

Telephone:

(09) 374 1669 or 021 657 376

Email:

littlejohn@quaychambers.co.nz

Advice to Recipients of Copy of Notice

How to Become Party to Proceedings

You may be a party to the appeal if:

- a) *you made a submission on the matter of this appeal;*
- b) *within 15 working days after the period for lodging a notice of appeal ends, you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and*
- c) *within 20 working days after the period for lodging a notice of appeal ends, you serve copies of your notice on all other parties.*

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under Section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see Form 38).

The copy of this notice served on you does not attach a copy of the relevant application and the relevant decision. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington or Christchurch.

ANNEXURE (a) – KIWIRAIL LATE SUBMISSION

IN THE MATTER

of the Local Government (Auckland Transitional Provisions) Act 2010, and the Resource Management Act 1991

AND

IN THE MATTER

of the Proposed Auckland Unitary Plan

**MEMORANDUM OF COUNSEL FOR KIWIRAIL HOLDINGS LIMITED IN
RESPECT OF ITS OPERATIVE DESIGNATIONS**

2 NOVEMBER 2015

RUSSELL McVEAGH

A A Arthur-Young | A M Cameron
Phone +64 4 499 9555
Fax +64 4 499 9556
PO Box 10-214
DX SX11189
Wellington 6143

MAY IT PLEASE THE HEARINGS PANEL

1. This memorandum is filed on behalf of KiwiRail Holdings Limited ("**KiwiRail**"). KiwiRail is a requiring authority under the Resource Management Act 1991 ("**RMA**") and holds designations throughout the Auckland region for rail purposes.¹
2. As a result of an internal review of KiwiRail's designations in the notified Auckland Unitary Plan ("**Unitary Plan**") in preparation for this Topic, KiwiRail has identified discrete areas in its operative designations that were not "rolled over" to the Unitary Plan, but are in fact still required by KiwiRail for rail purposes. KiwiRail is of the view that those areas should have been "rolled over", and now seeks directions from the Hearings Panel to determine the best means to achieve this within the current Unitary Plan process.
3. In summary, KiwiRail respectfully seeks directions from the Hearings Panel that:
 - (a) KiwiRail is granted leave to urgently file a late submission on the Unitary Plan seeking to include the discrete and identified areas of its operative designations within the Unitary Plan ("**KiwiRail's proposed relief**").
 - (b) Directly affected landowners are granted leave to file further submissions in respect of KiwiRail's proposed relief in its late submission.
 - (c) Where KiwiRail, affected landowners, and Council reach agreement, changes to the designations in the Unitary Plan are made by way of section 181(3) RMA.
 - (d) Where there is disagreement, the Hearings Panel may facilitate mediation between KiwiRail, Council, and affected landowners if sought; and convene a short hearing of submissions on KiwiRail's proposed relief.

¹ "Resource Management (Approval of KiwiRail Holdings Limited as Requiring Authority) Notice 2013" (4 March 2013) 31 *New Zealand Gazette* 942.

Background

4. On 21 June 2012, KiwiRail² confirmed its wish to have all existing railway designations in the Auckland region rolled over into the Unitary Plan pursuant to Schedule 1, Clause 4(1) of the Resource Management Act 1991 ("**RMA**").
5. At that time, KiwiRail identified those parts of its designations it sought to uplift through the Unitary Plan "roll over" process. As a result, some areas that are designated under the operative Plans were not included in the notified Unitary Plan because KiwiRail uplifted them in its roll over notice.
6. In its submission on the Unitary Plan, KiwiRail sought a number of additions and deletions to correct minor cadastral errors in its designations as notified. KiwiRail did not submit on the parts of its designation that it sought to uplift in June 2012.

Review of KiwiRail's operative designations

7. As part of KiwiRail's preparation for the 074 topic, it has identified that some areas within its operative designations that were not rolled over are in fact still required for railway purposes. Some of these areas relate to land that is now required for future projects, such as the City Rail Link, Avondale to Southdown corridor, and the planned Airport link.
8. Many of those projects have either been borne out of, or rejuvenated by, recent Government policy and the growing level of investment from central and local Government in public transport in Auckland to support its accelerating pattern of growth. At the time KiwiRail was required to provide notice of its intended rollovers, those projects did not have the level of Government support they now do.
9. KiwiRail has undertaken a very careful and considered review of those areas, and now seeks to retain its operative designations over a limited number of areas through the Unitary Plan process. KiwiRail

² By way of the New Zealand Railways Corporation ("**NZRC**"), who still held requiring authority status for railway purposes at that time, prior to KiwiRail's restructure.

has been in discussions with Auckland Transport regarding the proposed additions, and has reached a level of agreement with them. A list of those areas, and GIS mapping in relation to each (showing the extent of the notified designations and the additions KiwiRail intends to make to them) is attached as **Appendix A** to this memorandum. A shape-file of KiwiRail's proposed additions will be provided to Auckland Council once its GIS staff have finalised them.

Efficiencies to be generated through seeking relief now

10. KiwiRail has only very recently become aware of this issue. In KiwiRail's submission, it is more efficient and reasonable to consider the relief now sought by KiwiRail as part of the current Unitary Plan process, rather than waiting for the Plan to become operative and applying for new notices of requirement to replace these (currently operative) areas.
11. Addressing these matters now will result in real efficiencies of scale and cost by utilising the resources available to the Hearings Panel under its empowering legislation, reducing the need for repetition of evidence, and providing access to a process that is now very familiar to submitters.
12. Approaching these issues now will also provide certainty to both KiwiRail and potentially affected landowners going forward. Deferring those issues until after the Unitary Plan is notified presents real uncertainty as to what both KiwiRail and affected landowners can do in respect of the areas identified.

Options available to include the designations within the Unitary Plan process

13. KiwiRail has reviewed the options available to include the designations within the Unitary Plan. Those options are:
 - (a) seeking to alter the requirements in the Unitary Plan by way of section 181 RMA;

- (b) seeking to vary the Unitary Plan through section 125 of the Local Government (Auckland Transitional Provisions) Act 2010 ("**LG(ATP) Act**"), and the corresponding processes under Schedule 1 RMA; and
 - (c) seeking leave to file a late submission on the Unitary Plan under section 165(c) of the LG(ATP) Act.
- 14. Having carefully reviewed those options, KiwiRail respectfully submits that it is most appropriate and efficient to deal with this issue by way of a late submission seeking for the limited number of areas KiwiRail has identified as still necessary for rail purposes to be included within the Unitary Plan.
- 15. If the Hearings Panel was minded to accept KiwiRail's late submission, all directly affected landowners could be notified of that submission, and invited to make further submissions on KiwiRail's proposed relief. Where a landowner agrees with the change sought, KiwiRail would seek to alter its designation under section 181(3) RMA. Where agreement cannot be reached, KiwiRail would attend mediation with affected landowners if necessary, followed by a short a hearing before the Panel.
- 16. KiwiRail acknowledges that there is unlikely to be sufficient time available to complete this process before the 074 Designations hearings on 30 November and 1 December 2015. However, given the limited nature of the relief sought and the small number of affected landowners, KiwiRail respectfully submits that this process could be facilitated alongside other topics as a standalone and bespoke process, with minimal intrusion to, and / or disruption of, the Hearings Panel's current business.
- 17. KiwiRail respectfully seeks directions that:
 - (a) KiwiRail is to file a late submission identifying areas within its existing operative designations that it seeks to "roll over" by Thursday 26 November 2015;

- (b) The Council will notify all affected landowners on the day KiwiRail files its late submission, and affected landowners will have until Thursday 17 December 2015 to make further submissions on KiwiRail's proposed relief;
- (c) KiwiRail, Council, and affected landowners (to the extent that agreement cannot be reached between them on KiwiRail's proposed relief) will attend facilitated mediation at a time convenient to the Hearings Panel following the closing date for further submissions; and
- (d) the Hearings Panel convenes a hearing limited to the submissions on KiwiRail's proposed relief at a time convenient to the Hearings Panel in the New Year.

DATED: 2 November 2015



A A Arthur-Young / A M Cameron
Counsel for KiwiRail Holdings Limited

Appendix A

Number	Line	Description
1.	North Auckland Line	Normanby and Mt Eden Roads, Mt Eden
2.	North Island Main Trunk Line	Jutland Road, Manurewa
3.		Great South Road, Te Mahia
4.		Spartan Road, Te Mahia
5.		Ash Road, Wiri
6.	Avondale to Southdown Line	Somerset Road, Mt Roskill
7.	Onehunga Branch Line	Maurice Road, Onehunga

Site 7 - Maurice Road, Onehunga



ANNEXURE (b) – APPELLANTS' FURTHER SUBMISSION



17 December 2015

Unitary Plan Submission Team
Auckland Council
Private Bag 92300
Auckland 1142

Our ref: 51/3333/5
DocNumber
Your ref:

Dear Sir/Madam

Submission to Kiwi Rail Holdings Submission #4336

Please find enclosed a submission on behalf of TL Edney as Governing Trustee of Rockfield Trust in respect of the proposed designation of the Rockfield Trust site at 5-9 Maurice Road Penrose.

Rockfield Trust opposes the proposed designation of the Trust property at 5-9 Maurice Road Penrose. The property location is shown on the plan attached to the Kiwi Rail submission which is identified by Kiwirail as part of 'Site 7 Maurice Road Onehunga' and being Lot 1 DP104624.

The reasons for the submission are that:

- The submission does not include an evaluation of the need for the proposed location and extent of the designation. There is no supporting documentation confirming the need for the designation as currently proposed;
- There are no remnant railway tracks on the land and as such no immediate ability to use the land for railway purposes; and
- The proposed designation appears as an expansion to the existing adjoining designation (and not currently designated) when the proposed location as shown on the plan attached with Kiwirail submission #4336 is compared to the existing designation plan (copies of both attached).

Rockfield Trust wishes to be heard in respect of this submission.

Sincerely
GHD Limited

A handwritten signature in blue ink, appearing to read 'K Hardy', written in a cursive style.

Kim Hardy
Principal Planner
021712242

Further submission in support of, or in opposition to, submission on the Proposed Auckland Unitary Plan



Section 123 Local Government (Auckland Transitional Provisions) Act 2010;
 Clause 8 of Schedule 1, Resource Management Act 1991
 FORM 3 Resource Management (Forms, Fees, and Procedure for Auckland Combined Plan) Regulations 2013

Return your signed further submission to Auckland Council by 17 December 2015

Further submissions may be:

- posted to Attn: Unitary Plan Submission Team, Auckland Council, Private Bag 92300 Auckland 1142. Freepost Authority 237170
- lodging your further submission in person at any Auckland council office, library, service centre or local board office
- or emailed to unitaryplan@aucklandcouncil.govt.nz

Note: online further submissions can also be made at www.aucklandcouncil.govt.nz

For office use only
Further Submission No:
Receipt Date:

A late submission relating to the Proposed Auckland Unitary Plan has been accepted by the Independent Hearings Panel resulting in a separate further submissions process so limited submitters can either support or oppose this submission #4336 points 181 and 192

1. Further submitter details

Full name of person making further submission:
T L Edney as governing trustee of Rockfield Trust

Contact name if different from above:

Organisation or company (if relevant):

Address for service of person making further submission:
*el- GHD Ltd
 27 Napier St, Freemans Bay*

Phone: *09 370 8188*

Fax:

Email: *kim.hardy@ghd.com*

I live in the following Local Board area (if known): */*

2. Interest in the submission

I am: (select one)

A person representing a relevant aspect of the public interest; or

A person who has an interest in the Proposed Auckland Unitary Plan that is greater than the interest the general public has; or

Auckland Council

The grounds for saying that I come within the selected category are: *Owner of affected property at 5 to 9 Maurice Rd, Penrose*

3. Request to be heard in support of further submission

Please indicate by ticking the relevant box whether you wish to be heard in support of your further submission

I **do** or I **do not** wish to be heard in support of my further submission

If others make a similar submission, I will consider presenting a joint case with them at a hearing

Yes **No**

4. Signature of further submitter (note a signature is not required if you make your submission by electronic means, but please type your name below)

Signature of further submitter (or person authorised to sign on behalf of further submitter) *Kim Hardy on behalf of*
T Edney

Date: *17/12/2015*

Note: Please use second page to state the scope of your further submission

Further Submission in support of, or opposition to, submission on the Proposed Auckland Unitary Plan

Section 123 Local Government (Auckland Transitional Provisions) Act 2010;
 Clause 8 of Schedule 1, Resource Management Act 1991
 FORM 3 Resource Management (Forms, Fees, and Procedure for Auckland Combined Plan) Regulations 2013



I support or oppose (circle your choice) the original submission of:	The particular parts of the original submission I support or oppose are: (list one submission point per box)	Provision No. of the Proposed Auckland Unitary Plan	The reasons for my support or opposition are:	I seek that the whole or part of the original submission be allowed or disallowed:
KiwiRail Holdings Limited C/- Russell McVeagh PO Box 8 Auckland 1140 aidan.cameron@russellmcveagh.com	Submission number 4336 Point 181-192 <input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose	Part 7 Designation	see attached letter	Select one- <input type="checkbox"/> Allowed <input checked="" type="checkbox"/> Disallowed Specify precise details: #4336-181-192
KiwiRail Holdings Limited C/- Russell McVeagh PO Box 8 Auckland 1140 aidan.cameron@russellmcveagh.com	Submission number 4336 Point <input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose 181-192	Zoning Maps	see attached letter	Select one- <input type="checkbox"/> Allowed <input checked="" type="checkbox"/> Disallowed Specify precise details: #4336-181-192

Note: Continue on a separate sheet if necessary

Important notes to person making further submission:

A further submission must be limited to a matter in support of, or in opposition to, an original submission listed in the Council's Summary of Decisions Requested Report. A further submission cannot introduce new matters that were not raised in original submissions.

A copy of your further submission must be served on the original submitter within 5 working days after it is served on Auckland Council.

Your contact details will be published in Council reports which are available for viewing on the Council website

Date recieved 26/11/2015

4336

8

Site 7 - Maurice Road, Onehunga





Click the map legends for more detail. Click [here](#) for more help

[Map index](#) [Map 1 of 3](#) [Map 2 of 3](#) [Map 3 of 3](#)



Sheet G11 Planning Map 2

The purpose of this map is to indicate relevant zoning information. Click on the area in the map legend to link to the appropriate text.

Note that this image is fairly large (119k) to show enough detail to help you get the correct information.

[Map index](#)

[Map 1 of 3](#)

Map 2 of 3

[Map 3 of 3](#)

 Click [here](#) to download the high resolution print version of the 3 sheets for this Planning Map - (566k)

(Click [here](#) for instructions if you're unsure how to use Acrobat pdf files)



	Residential Activity Zones		Boundary between zones
	Business Activity Zones		Special Parking Zones
	Special Purpose Activity Zones		Footways
	Open Space Activity Zones		Service Lanes
			Motorways, Roads
			Central Area Boundary
			District Boundary

F10	F11	F12
G10	G12	G11
H10	H11	

**PLANNING MAP No 1
ZONING**





G11

F10	F11	F12
G10		G12
H10	H11	H12

PLANNING MAP No 2 ADDITIONAL LIMITATIONS



0 1:7000 200m



CITY OF AUCKLAND
DISTRICT PLAN
ISTHMUS SECTION
- OPERATIVE 1999

	Reference Numbers		Archaeological and Geological Features		Interchange Control Areas
	Designated Works		Archaeological Feature only		Pedestrian Malls
	Additional Development Controls		Geological Feature only		Footways
	Former Landfill Areas		Maori Heritage Sites		Service Lanes
	Sites subject to both Retail Frontage and Verandah Controls		Significant Ecological Areas		Local Roads
	Sites subject to Verandah Control only		Cliffline Tree Amenity Area		Collector Roads
	Special Yard Requirement		Tamaki Drive Scenic Way		District Arterial Roads
	Buildings, Objects or Places		Protection of Sunlight Admission Control to Broadway		Regional Arterial Roads
	Trees (singular)		Building Line Restrictions		Strategic Routes
	Groups of trees (two or more)		Vehicular Access Restrictions		All public roads are subject to designation B08-04
			Central Area Boundary		District Boundary

UPDATED 04/10/13



		Reference Numbers		D09-34 View Protection - Newmarket Viaduct Affected Areas - Harbour & Gulf
		H05-04 Airport Approach Height Control		E05-29 View Protection - Volcanic Cones Affected Areas
		B04-01 Coastal Management Area		H09-13 View Protection - Onehunga Motorway Affected Areas
		B09-01 View Protection - War Memorial Museum Affected Areas		Footways
		D09-33 View Protection - Newmarket Viaduct Affected Areas - Mt Hobson		Service Lanes
				District Boundary

F10	F11	F12	G11
G10		G12	
H10	H11	H12	

**PLANNING MAP No 3
ADDITIONAL LIMITATIONS**



CITY OF AUCKLAND
DISTRICT PLAN
ISTHMUS SECTION
- OPERATIVE 1999



ANNEXURE (c) – IHP REPORT

AUCKLAND UNITARY PLAN
INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

**Report to Auckland Council
Hearing topic 074
KiwiRail Designations
6300-6306, R6307**

July 2016

Report first prepared by Harry Bhana 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 30 August 2015, updated 30 September 2015 and further amended on 13 July 2016 following the lodging and hearing of a late submission by KiwiRail

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.

Report to Auckland Council – Hearing topic 074 KiwiRail Designations 6300-6305, R6307

Contents

1.	Introduction	3
2.	Assessment	3
3.	Expert input.....	4
4.	Mediation required	4
5.	Hearing required	4
6.	Recommendation to Panel.....	5
7.	Panel recommendations to Auckland Council	6
8.	Panel reasons.....	6
9.	Assessment of modifications and submissions	7
10.	Attachment 1 Changes to text of proposed Auckland Unitary Plan.....	23
11.	Attachment 2 Changes to Maps in the proposed Auckland Unitary Plan	26

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 8 of this report for the assessment of each modification and requirement.

On the basis of the assessment, the report concludes as set out below.

- i. The designation/modifications/requirements 6300, 6301, 6302, 6303, 6304, 6305 and R6307 can be recommended for confirmation subject to the amendments shown in Attachment 1 and Attachment 2.
- ii. Submissions by the requiring authority and by third-party submitters have identified issues regarding the accuracy of the delineation of the boundaries of the designations. There is insufficient information to enable an assessment and recommendation on whether or how these boundaries need to be amended. This process needs to be carried out as a comprehensive combined exercise between the requiring authority and the Council and any changes that are identified for correction need to be specifically identified on a before and after basis and in particular any changes affecting private property need to be highlighted so they are easily identified. This exercise should include removing the overlapping designations in respect of: 6300 and 6301; 6303 and 6304; 6304 and 6305. This detail needs to be provided before any changes to the boundaries of the designation can be recommended for confirmation. **Note: This bullet point amended following the Requiring Authority's response and the Pre-hearing Meeting and Report of 16 September 2015.**
- iii. A number of submitters including Housing New Zealand and Duncan McKenzie have requested that Designation 6303, Avondale to Southdown Railway Line, be removed from the proposed Auckland Unitary Plan on the grounds of

uncertainty as to timing and the nature and extent of effects and methods of how those effects might be managed. I have assessed those submissions and am not able to make a recommendation due to insufficient information. **Note this bullet point amended following the Requiring Authority's response and the Pre-hearing Meeting and Report of 16 September 2015.**

3. Expert input

Not applicable.

4. Mediation required

Mediation may be required regarding designations 6302 and 6304 and submissions 3116-3 and 236-1. **Note: amended following the Requiring Authority's response and the Pre-hearing Meeting and Report of 16 September 2015.**

5. Hearing required

A hearing will likely be required for submissions on 6303. **Note: amended following the Requiring Authority's response and the Pre-hearing Meeting and Report of 16 September 2015.**

6. Recommendation to Panel

That the Panel:

- i. recommends that the designation/modifications/requirements 6300, 6301, 6302, 6303, 6304, 6305 and R6307 be confirmed subject to the amendments shown in Attachment 1 and Attachment 2;
- ii. recommends that the submissions by the requiring authority relating to checking of the extent of the designation boundaries to ensure that they are accurate is carried out in conjunction with the Council and the work completed in accordance with the Panel directions in its Pre-hearing Meeting Report dated 16 September 2015. This exercise should include removing the overlapping designations in respect of: 6300 and 6301; 6303 and 6304; 6304 and 6305. This detail needs to be provided before any changes to the boundaries of the designation can be recommended for confirmation.
- iii. make provision for a hearing of submissions to 6303.

Note recommendation 2 was amended, a recommendation regarding lapse dates was deleted, and recommendation 3 was added, following the Requiring Authority's response and the Pre-hearing Meeting and Report of September 2015.

Author	Harry Bhana
Author's Signature	
Date	30 August 2015 amended updated 30 September 2015 and further amended on 13 July 2016 following the lodging and hearing of a late submission by KiwiRail.

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 in the notices of requirement for designations 6300, 6301, 6302, 6303, 6304, 6305; and confirms the notice of requirement R6307 included in the proposed Auckland Unitary Plan subject to the further modifications shown in Attachment 1 and Attachment 2.

8. Panel reasons

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

Panel Chair	Judge David Kirkpatrick
Chair's Signature	
Date	22 July 2016

9. Assessment of modifications and submissions

Requiring authority	KiwiRail Ltd
Designation number (s)	6300, 6301, 6302, 6303, 6304, 6305 & R6307
Designation purpose	6300, 6301, 6302, 6303, 6304, 6305 & R6307 The purpose of the designation is to develop, operate and maintain railways, railway lines, railway infrastructure, and railway premises as defined in the Railways Act 2005.
Location	6300 - North Auckland Railway line from Portage Road Otahuhu to Ross Road Topuni. 6301 - Newmarket Branch Railway Line from Remuera Road Newmarket to the Strand Parnell. 6302 - North Island Main Trunk Railway Line Buckland to Britomart. 6303 - Avondale to Southdown Railway Line from Soljak place, Mount Albert to Bond Place, Onehunga. 6304 - Onehunga Branch Railway Line. 6305 - Southdown Freight Terminal. R6307 - Manukau rail link/branch line/Railway Station.
Designations given effect to	All have been given effect to except 6303 Avondale to Southdown Railway Line.
Lapse date in operative plan	1 November 2015
Land ownership	No information provided
Land owned by the requiring authority	As above
Rollover designation with no modifications	6303 No modifications.
Description of the modification	6300 - Minor modifications only to annotate boundary between former Waitākere City area, Auckland City, and Rodney District where conditions applicable in each area have been identified and included in the rollover other than the addition of a standard statement of purpose for the designation. 6301 - Minor modifications only to annotate boundary between legacy plans, Auckland City District Plans - Isthmus section and Central Area section, where conditions applicable in each area have been identified and included in the rollover other than the addition of a standard statement of purpose for the designation. 6302 - Minor modifications only to annotate boundary between legacy plans, Auckland City District Plans - Isthmus section and Central Area section where conditions applicable in each area have been identified and included in the rollover other than the addition of a standard statement of purpose for the designation. 6304 - No conditions applied under the Auckland City District Plans - Isthmus section and no modifications have been made other than the addition of a standard statement of purpose for the designation. 6305 - No conditions applied under the Auckland City District Plans - Isthmus section and no modifications have been made other than the addition of a standard statement of purpose for

	<p>consideration of historic heritage effects in an Outline Plan of Works where the work would affect a scheduled historic place. KiwiRail opposed that relief on the basis that the scheduling in itself provided the appropriate protection.</p> <p>Duncan McKenzie sought the deletion of Designation 6303 on the basis that it had been in place for at least 70 years and had never been updated or re-assessed in terms of the significant changes that had occurred over that time particularly in terms of the management of adverse effects on the environment. His evidence was to the effect that the designation as currently worded did not provide for adequate control over the effects of the construction and operation of a public work of this scale. KiwiRail responded that there was significant scope for the Avondale to Southdown corridor to provide for some form of passenger rail in the future including the potential for light rail. It confirmed that the designation was required to protect a key part of KiwiRail's future plans for operation and development in Auckland. It advised the Panel that it was continuing to work towards the implementation of this designation and required the protection of the designation in the interim.</p>
<p>Panels recommendation on Kiwirail's designations.</p>	<p>In regard to the hearing of submissions on Designation 6303 the Panel has concluded that the relief sought by Heritage New Zealand should be granted and that the "Type 2 condition" that this submitter sought ought to be included in the conditions attached to that designation. While the Panel was not satisfied that it was not appropriate to grant Mr McKenzie's relief and recommend deletion of the designation it was of the view that more robust conditions ought to be imposed to ensure that any outline plan of works to initiate the project would clearly demonstrate how adverse effects associated with the construction and operation of the works would be avoided, remedy or mitigated. The Panel accordingly recommends that Designation 6303 as recorded in the proposed Auckland Unitary Plan should be confirmed subject to the amendments set out in Attachment 1.</p> <p>In regard to Designations 6300, 6301, 6302, 6304, 6305 and R6307 as recorded in the proposed Auckland Unitary Plan it recommends that those designations be confirmed subject to the amendments set out in Attachment 1 and Attachment 2</p>
<p>Late Submission by Kiwirail</p>	<p>On 10 November 2016 the Panel gave approval to Kiwirail to lodge a late submission to the Unitary Plan. The submission was received by the Council on 26 November 2016 and was notified accordingly. The submission sought the rollover of parts of existing designations that had not been included in Kiwirail's original request for rollover of existing designations. The submission sought the reinstatement of the Kiwirail designation for seven sites as follows:</p> <ol style="list-style-type: none"> 1. Extend Designation 6300 by the addition of three areas which are part of 97 Mt Eden Road, 101 Mt Eden Road and 14-22 Boston Road Mt Eden; 2. Extend Designation 6302 by the addition of an area of railway land in the vicinity of Jutland Road; 3. Extend Designation 6302 by the addition of an area of railway land adjoining 276, 278 and 280 Great South Road

	<p>Manurewa;</p> <p>4. Extend Designation 6302 by the addition of an area of railway land adjoining 1-15 Spartan Road Takanini;</p> <p>5. Extend Designation 6302 by the addition of an area of land adjoining 65 Ash Road Wiri;</p> <p>6. Extend Designation 6303 by the addition of an area of land including part of 66 Frost Road and that part of the road reserve of Somerset Road extending west from 66 Frost Road for a distance of about 420 metres;</p> <p>7. Extend Designations 6304 and 6305 by the addition of an area of 5 Maurice Road and 218 Station Road</p>
<p>Further submissions in response to the late submission</p>	<p>There were no further submissions in response to sites 1-5. KiwiRail received four further submissions from:</p> <p>(a) All Secure Self-Storage Limited ("All Secure"), in relation to Designation 6304 for the Onehunga Branch Line;</p> <p>(b) Auckland Transport, in relation to Site # 6 on the Avondale to Southdown Railway Corridor at Somerset Road;</p> <p>(c) T&O Properties; a landowner affected by amendments to KiwiRail's designations at Site # 7 at Maurice and Station Roads, Onehunga; and</p> <p>(d) The Rockfield Trust, a landowner affected by amendments to KiwiRail's designations at Site # 7 at Maurice and Station Roads, Onehunga.</p>
<p>Hearing of further submissions in response to the late submission</p>	<p>(a) The submission by All Secure was not made in response to the changes sought in the late submission by KiwiRail but was seeking to further add to their submission 236-1 opposing the designation.</p> <p>(b) Auckland Transport (AT) was concerned about the potential effects of closure of Somerset Road and sought that it should be subject to a condition deeming approval in terms of section 176 and 178 of the RMA, to avoid AT's operations being unnecessarily constrained. At the hearing AT modified its position to request the imposition of the following condition:</p> <p><i>KiwiRail Corporation Limited is deemed to have given its written approval (as requiring authority) under sections 176 or 178 of the RMA to Auckland Transport and parties with Auckland Transport Corridor Access approval to undertake any activity for the purposes of operating, maintaining or upgrading Auckland Transport or utility assets within Somerset Road, Mt Roskill, until either:</i></p> <ul style="list-style-type: none"> • <i>this section of road subject to the designation is stopped or otherwise no longer a road as defined by the Local Government Act 1974; or</i> • <i>KiwiRail Corporation Limited gives six months written notice of its intention to construct the Avondale to Southdown Railway in accordance with a legal right of access.</i> <p>In response KiwiRail stated that such a condition was unnecessary and it was committed to working with AT to ensure (through existing processes outside a condition) that AT's ability to continue to utilise Somerset Road is protected until such time as the railway line is constructed. In the light of these submissions and evidence the Panel considers that re-imposition of the designation of Somerset Road is reasonably</p>

	<p>necessary and is unlikely to lead to any significant difficulties in the day to day operations of the road network in this area.</p> <p>(c) T&O properties submission was met by Kiwirail's amendment to the designation so that the submitter's land was no longer affected.</p> <p>(d) The Rockfield Trust was concerned that their land was to remain designated after being earlier informed that the designation was no longer required. That submitter was of the opinion that the additional width of designation was not necessary for double tracking the rail line. The evidence of KiwiRail was that the additional area was required to prevent a "pinch point" being created which would hinder the implementation of double tracking of the rail line in this area. The Panel accepts the evidence of KiwiRail that the additional width is reasonably necessary.</p>
Recommendation from Panel in regard to late submission by KiwiRail	That in regard to the late submission by Kiwirail the extensions to Designations 6300, 6302 and 6304 as shown on the maps in Attachment 2 be included in the areas of those Designations which are recommended for confirmation.
Reasons	The Panel's reasons are as set out in "Hearing of further submissions in response to the late submission".

10. Attachment 1 Changes to text of proposed Auckland Unitary Plan

Designation 6300

Amend the name of the requiring authority from New Zealand Railways Corporation to KiwiRail Holdings Ltd.

Amend the description of the location in the designation header table to read:

North Auckland Railway Line from ~~Portage Road~~ Bell Avenue Otahuhu to Ross Road Topuni.

Designation 6301

Amend the name of the requiring authority from New Zealand Railways Corporation to KiwiRail Holdings Ltd.

Delete Condition 2

Designation 6302

Amend the name of the requiring authority from New Zealand Railways Corporation to KiwiRail Holdings Ltd.

Designation 6303

ANNEXURE (d) – COUNCIL RECOMMENDATION



**Decisions of the Auckland Council on
recommendations by the Auckland Unitary
Plan Independent Hearings Panel on
submissions and further submissions to the
Proposed Auckland Unitary Plan**

Attachment E
Designations (Parts 1, 2 and 3).

19 August 2016

Panel Reports delivered on 22 July 2016 on Other Requiring Authorities' designations containing recommendations proposed for acceptance:

1. Report entitled "*Report to Auckland Council Hearing topic 045 – Airports, July 2016*"

That the following Panel recommendation at section 4.2 of the above report be **ACCEPTED**:

"Therefore the Panel recommends adopting the modifications to the Auckland International Airport designations in the proposed Auckland Unitary Plan, and the further modifications made in mediation, subsequent evidence and rights of reply of Auckland Council, Auckland International Airport Limited and Board of Airline Representatives of New Zealand. The Panel has recommended an additional condition on temporary noise mitigation in designation 1100 Auckland International Airport as proposed by Auckland International Airport Limited. This condition relates to the amended D24 Aircraft Noise Overlay addressed in section five below. The Panel has produced a separate recommendation report on the Auckland International Airport Limited designations (see Report to Auckland Council – Hearing topic 045 Auckland International Airport designations July 2016)."

2. Report entitled "*Report to Auckland Council Hearing topic 074 – KiwiRail designations 6300-6305 and R6307, July 2016*"

That the following Panel recommendation at section 7 of the above report be **ACCEPTED**:

"The Auckland Unitary Plan Independent Hearings Panel recommends that Auckland Council recommends to the requiring authority that it confirms: the modifications in the notices of requirement for designations 6300, 6301, 6302, 6303, 6304, 6305; and confirms the notice of requirement R6307 included in the proposed Auckland Unitary Plan subject to the further modifications shown in Attachment 1 and Attachment 2."

3. Report entitled "*Report to Auckland Council Hearing topic 074 – Designations KiwiRail minor matters, July 2016*"

That the following Panel recommendation at section 4 of the above report be **ACCEPTED**:

"The Auckland Unitary Plan Independent Hearings Panel recommends that Auckland Council recommends to the requiring authority that it confirms the modifications in the notice of requirement for designation 6306 included in the proposed Auckland Unitary Plan subject to the further modifications shown in Attachment 1."

4. Report entitled "*Report to Auckland Council Hearing topic 074 – New Zealand Transport Agency designation 6727, July 2016*"

That the following Panel recommendation at section 8 of the above report be **ACCEPTED**:

“The Auckland Unitary Plan Independent Hearings Panel recommends that Auckland Council recommends to the requiring authority that it confirms the notices of requirement for Designation 6727 included in the proposed Auckland Unitary Plan subject to further modifications, and as set out in Attachment 1 and Attachment 2.”

ANNEXURE (e) - RESPONDENT'S DECISION

30 September, 2016

Celia Davison
Manager Unitary Plan
Auckland Council
Private Bag 92300
Auckland 1142

Dear Celia

Proposed Auckland Council District Plan: Decision on Council Recommendations on Designations

Background

1. KiwiRail Holdings Limited ("**KiwiRail**") is a requiring authority for the purposes of the Resource Management Act 1991 ("**RMA**") and Local Government (Auckland Transitional Provisions) Act 2010 ("**LGATPA**").
2. KiwiRail rolled over its existing designations from legacy plans into the notified version of the Proposed Auckland Unitary Plan ("**Unitary Plan**") as follows:
 - (a) **Designation 6300** (North Auckland Railway Line from Portage Road, Otahuhu to Ross Road, Topuni);
 - (b) **Designation 6301** (Newmarket Branch Railway Line from Remuera Road, Newmarket to The Strand, Parnell);
 - (c) **Designation 6302** (North Island Main Trunk Railway Line from Buckland to Britomart Station, Auckland Central);
 - (d) **Designation 6303** (Avondale Southdown Railway Line from Soljak Place, Mount Albert to Bond Place, Onehunga);
 - (e) **Designation 6304** (Onehunga Branch Railway Line from Onehunga Harbour Road, Onehunga to Station Road, Penrose and Neilson Street, Tepapa);
 - (f) **Designation 6305** (Southdown Freight Terminal at Neilson Street (adjoins No. 345), Onehunga);

- (g) Designation 6306 (**Mission Bush Branch Railway Line from Mission Bush Road, Glenbrook to Paerata Road**).
3. KiwiRail also sought to include one new Notice of Requirement ("**NOR**") in the Unitary Plan as follows:
- (a) Designation 6307 (Manukau Rail Link from Lambie Drive (off-ramp), Manukau City Centre to Onslow Drive, Wiri). The NOR was included in the Unitary Plan under Schedule 1, Clause 4 of the Resource Management Act 1991 ("RMA"), and notified under Schedule 1, 5(1B) of the RMA, and section 123(5) of the Local Government (Auckland Transitional Provisions) Amendment Act 2013.
4. KiwiRail sought minor modifications, modifications for consistency and the correction of errors when it rolled over its designations into the Unitary Plan and in its submission on the Unitary Plan, after the Unitary Plan was notified. To that end, KiwiRail filed a number of memoranda of counsel with the Panel, provided evidence in respect of those modifications at the Topic 074 hearing, and attended the hearing of Topic 074.
5. KiwiRail was also granted leave by the Panel to file a late submission on Topic 074, seeking the inclusion of parts of its legacy designations that were not rolled over and included in the notified Plan. Landowners were notified by Auckland Council, and further submissions were received. KiwiRail worked closely with affected landowners, and the Panel heard from KiwiRail and a number of submitters on these issues.
6. The Panel commissioned reports on KiwiRail's designations involving changes classified as minor matters and errors; and those classified as moderately complex in accordance with section 142 of the LGATPA dated 30 August 2015, and amended on 30 September 2015 and 13 July 2016. These reports were also adopted as the Panel's recommendations in accordance with section 144 of the LGATPA on 22 July 2016.
7. The Council notified requiring authorities of its recommendations on their designations on 19 August 2016 ("**Council Decision**"), and accepted the Panel's recommendations in respect of KiwiRail's designations.

Summary of KiwiRail's decision

8. KiwiRail accepts in full the Council's recommendations in respect of the following Designations:

- (a) 6300 North Auckland Railway Line.
 - (b) 6301 Newmarket Branch Railway Line.
 - (c) 6302 North Island Main Trunk Line.
 - (d) 6304 Onehunga Branch Railway Line.
 - (e) 6305 Southdown Freight Terminal.
 - (f) 6306 Mission Bush Branch Railway Line.
 - (g) 6307 Manukau Rail Link.
9. KiwiRail rejects in part the Council's recommendations in respect of Designation 6303 Avondale to Southdown Railway Line, specifically in regard to the proposed amendments to the conditions in Attachment 1 to the Panel's recommendations. KiwiRail has decided to reinstate the wording of Conditions 1 to 4 to the Designation as notified. The remainder of the Council's recommendations in respect of Designation 6303 are accepted.
10. KiwiRail has also made a number of minor modifications to the mapping of its designations that are either:
- (a) recommended by the Council (but not actioned in the Council's GIS viewer); or
 - (b) not inconsistent with the designations as notified.
11. A copy of the revised texts for each designation, including all conditions, in tracked form (ie using strike through text to show deleted text, and underlined text to show new text) and in clean form have been provided with this decision as **Attachment 1**.
12. Amended maps showing minor mapping modifications made in accordance with paragraph 10 above have been provided with this decision as **Attachment 2**.

6303 - Avondale to Southdown Railway Line

13. The Panel's recommendations regarding Designation 6303 - Avondale to Southdown Railway Line on 22 July 2016 responded to submissions from Heritage New Zealand Pouhere Taonga ("**Heritage NZ**") and Mr Duncan McKenzie. Heritage NZ sought the imposition of a condition requiring consideration of historic heritage effects in an Outline Plan of Works where the work would affect a scheduled historic place. Mr McKenzie sought the deletion of Designation 6303 altogether.

14. In the Panel's recommendation, it recommended the following in respect of the designation:

In regard to the hearing of submissions on Designation 6303 the Panel has concluded that the relief sought by Heritage New Zealand should be granted and that the "Type 2 condition" that this submitter sought ought to be included in the conditions attached to that designation. While the Panel was not satisfied that it was not appropriate to grant Mr McKenzie's relief and recommend deletion of the designation it was of the view that more robust conditions ought to be imposed to ensure that any outline plan of works to initiate the project would clearly demonstrate how adverse effects associated with the construction and operation of the works would be avoided, remedy or mitigated. The Panel accordingly recommends that Designation 6303 as recorded in the proposed Auckland Unitary Plan should be confirmed subject to the amendments set out in Attachment 1.

15. KiwiRail has rejected that recommendation.

16. KiwiRail's reasons for rejecting that recommendation are as follows.

Heritage effects

17. With respect to the specific relief relating to heritage effects, KiwiRail already addresses issues relating to historic heritage values through the Outline of Public Works process. KiwiRail understands that the intent of Heritage NZ's submission on its designation (and on other requiring authorities' designations) reflects Heritage NZ's poor experiences with some of those requiring authorities in dealing with effects on historic heritage. In contrast, KiwiRail has a positive relationship with Heritage NZ and is required to deal with historic heritage effects on a regular basis, particularly in relation to railway stations it either owns or operates through that are often scheduled buildings.

18. KiwiRail takes the view that the proposed "Type 2" condition proposed by HNZ is an unnecessary repetition of its responsibilities under statute, specifically under s 176A(3)(f) and "any other matters to avoid, remedy or mitigate adverse effects on the environment", which, if it fails to do so, leave it subject to challenge and/or appeal by Auckland Council under s 176A(4) and (5). To the extent HNZ may have an interest in any appeal against a decision to reject changes proposed by Council, it can always seek to participate under the interested party provisions in s 274 of the Act. It could also arguably bring private enforcement proceedings in its own right under s 314 (which it could also do in respect of non-compliance with the proposed condition).

The Panel's other proposed conditions

19. In respect of the other conditions proposed by the Panel to address its concerns relating to the detail of any outline plan of works for the designation, KiwiRail takes the view that (for largely the same reasons above) the proposed conditions are unnecessary. The Avondale to Southdown Railway Line runs over a range of different land areas, including industrial land, residential properties, the State Highway corridor, and local roads. As a result of any decision to construct a railway through this land, considerable thought will be required to be given to the proposal to address the range of effects that could result as part of the construction process, and as the result of the operation of rail infrastructure.
20. This was a point acknowledged by the Chair of the Panel in addressing the similar concerns of Auckland Transport at the hearing of KiwiRail's late submission on its designations, when he categorised potential problems of negotiating conflict between amendments to the designation and roads as "the least" of concerns relating to how the designation will be given effect to. The precise wording of s 176A(3) requires that an outline plan "**must** show ... **any** other matters to avoid, remedy, or mitigate **any** adverse effects on the environment".
21. As a result, the conditions contained as notified in the Designation in no way limit the matters which KiwiRail will have to address in the event that it seeks to give effect to its designation and begin construction, and KiwiRail will be required to produce enough material to satisfy Auckland Council that it has sufficiently considered and avoided, remedied, or mitigated the adverse effects of construction, or face (in the result of failure) almost certain appeal.

Minor modifications

22. KiwiRail has also made a number of minor modifications to the mapping of its designations that are either:
- (a) recommended by the Council (but not actioned in the Council's GIS viewer); or
 - (b) are not inconsistent with the designations as notified.

23. Those modifications are shown in **Attachment 2** to this decision.

Rollover modifications

24. As part of KiwiRail's rollover notices for the proposed designations, KiwiRail identified a number of amendments it sought to make to amend the Unitary Plan Maps to "accurately show lawfully constructed and operational parts of the railway network" in accordance with clause 16(2) of Schedule 1 to the RMA. Modifications were also made to the Designation 6303 Avondale to Southdown Railway Line to include land which was purchased for railway purposes since the previous Auckland Ishtmus Plan became operative. Copies of the relevant rollover notices demonstrating the requested amendments are attached as **Attachment 3** to this decision, and the designations themselves were provided in electronic and hard copy format.
25. In reviewing the designations as recommended in Attachment 2 to the Council's recommendations, KiwiRail has identified a number of amendments in the decisions version of the Plan which were recommended by the Council (but not actioned through its GIS viewer), and are not inconsistent with the designations as notified. As a result, KiwiRail has decided to make modifications under s 151(4) of the LGATPA.
26. Its reasons for those modifications are as follows:
- (a) The modifications are consistent with the GIS dataset provided to Council at the time of notification of the proposed Unitary Plan.
 - (b) Those modifications relate, as the rollover notices suggest, to modifications or amendments that either reflect land purchased for railway purposes (in the case of Designation 6303 Avondale to Southdown Railway Line) or to accurately show lawfully constructed and operational parts of the railway network.

- (c) The modifications sought to correct errors recorded in the Council's GIS mapping software that have been reflected in the Council's recommendations on its online GIS viewer.

Modifications sought through KiwiRail's original submission

27. KiwiRail's original submission on the proposed Unitary Plan also sought to make modifications to a number of designations to check the Council's GIS files against those held by KiwiRail to ensure the extent of the relevant designation matches KiwiRail's landholdings (#4336-136). KiwiRail submitted that where a discrepancy occurs, the Unitary Plan maps should be amended to reflect KiwiRail's GIS software. At the time it lodged its submission, KiwiRail was still in the process of identifying those modifications, but gave examples at Appendix 6 of its original submission.
28. Mr Bhana for the Panel originally recommended that the submission be rejected on the basis of inadequate information, but later acknowledged that the process of correcting and aligning boundaries of designations was progressing and the Panel had given a direction in that regard.¹ The Panel's direction in that manner recorded:²

The Panel also encourages Auckland Council and the requiring authorities to resolve minor mapping corrections that are not a modification made at rollover or requested in a submission and do not affect third parties. The Panel will not be keeping a record of these and will rely on Auckland Council to advise the Panel of any mapping changes made.

29. Accordingly, Mr Bhana withdrew his recommendation, and noted that issues regarding alignment and correction of designation boundaries were being resolved by discussion between KiwiRail and the Council in accordance with the direction given by the Panel. KiwiRail provided "snips" of the relevant parcels as an attachment to its corporate evidence on Topic 074, and shortly thereafter provided Auckland Council with a GIS shapefile of the minor corrections required.³

¹ See Decision Report on KiwiRail's designations at p 20.

² See Pre-Hearing Meeting Report of the Panel on Topic 074 dated 16 September 2016 at 2.2.

³ Email from Deborah Hewett of KiwiRail to Shelley Glassey of Auckland Council dated 28 October 2015.

30. KiwiRail relies on the recommendation (from both Council and the Panel) that the modifications in the notices of requirement for designations 6300, 6301, 6302, 6303, 6304, 6305 and 6307 be confirmed subject to the further modifications shown in Attachment 2 be accepted. KiwiRail takes the view that its modifications to resolve minor mapping corrections have been recommended by Council (but not actioned in the Council's GIS viewer).

Modifications sought through KiwiRail's late submission

31. As noted above, KiwiRail was granted leave to file a late submission on the Unitary Plan to incorporate parts of its legacy designations which it had not rolled over. KiwiRail received further submissions on that point, provided evidence, refined the scope of the modifications it sought, and attended a hearing on that submission.

32. The Panel's recommendation, also recommended by Council, was as follows:

That in regard to the late submission by KiwiRail the extensions to Designations 6300, 6302 and 6304 as shown on the maps in Attachment 2 be included in the areas of those Designations which are recommended for confirmation.

33. The modifications sought by KiwiRail in Attachment 3 in respect of its late submission are consistent with the Council's recommendation, but are not otherwise reflected in the Council's GIS viewer and should be corrected.

DATED 30 September 2016



Deborah Hewett
Senior RMA Advisor
KiwiRail

PART 7 - DESIGNATIONS»Schedules and Designations»New Zealand Railways Corporation»

6304 Onehunga Branch Railway Line

Designation Number	6304
Requiring Authority	New Zealand Railways Corporation (KiwiRail) KiwiRail Holdings Ltd
Location	Onehunga Brach Railway Line from Onehunga Harbour Road, Onehunga to Station Road, Penrose and Neilson Street (Southdown Freight Terminal), Tepapa
Rollover Designation	Yes
Legacy Reference	Designation G12-07, Auckland Council District Plan (Isthmus Section) 1999
Lapse Date	Given effect to (i.e. no lapse date)

Purpose

The purpose of the designation is to develop, operate and maintain railways, railway lines, railway infrastructure, and railway premises as defined in the Railways Act 2005.

Conditions

No conditions.

Attachments

No attachments.

6304 Onehunga Branch Railway Line

Designation Number	6304
Requiring Authority	KiwiRail Holdings Ltd
Location	Onehunga Brach Railway Line from Onehunga Harbour Road, Onehunga to Station Road, Penrose and Neilson Street (Southdown Freight Terminal), Tepapa
Rollover Designation	Yes
Legacy Reference	Designation G12-07, Auckland Council District Plan (Isthmus Section) 1999
Lapse Date	Given effect to (i.e. no lapse date)

Purpose

The purpose of the designation is to develop, operate and maintain railways, railway lines, railway infrastructure, and railway premises as defined in the Railways Act 2005.

Conditions

No conditions.

Attachments

No attachments.

ANNEXURE (f) – PERSONS TO BE SERVED

KiwiRail Holdings Limited
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PO Box 8
AUCKLAND 1140

T&O Properties Ltd
C/- Wells & Co Solicitors
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Remuera
AUCKLAND

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