

AUCKLAND UNITARY PLAN
INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

Report to Auckland Council
Hearing topic 074 Designations

Minister of Defence

Designation 4305
Kauri Point Ammunition Depot

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 27 August 2015 and updated 7 October 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 modifications to existing designations being rolled over by the requiring authority, and classified by the Independent Hearings Panel as moderately complex. This classification will generally apply where there is a:

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

2. Assessment

The assessment will address:

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

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

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

3. Expert input

Not applicable.

4. Mediation required

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

submissions from the New Zealand Historic Places Trust (now Heritage New Zealand) referenced as 371-214, 371-215, 371-216 and 371-217, and the Character Coalition submission 6370-15, have not been resolved. The requiring authority does not agree to the 'Type 2 condition' sought by the submitters on any of its designations. The requiring authority is also seeking the deletion of the operative plan designation condition in respect of the accidental discovery of an archaeological site during works.

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

Refer to section 9: Report writer's further comments for an update on this matter. In summary, the Heritage New Zealand submission does not apply to Designation 4305.

5. Hearing required

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

submissions received from the Character Coalition (6370-15) and Heritage New Zealand (371-214, 215, 216, 217), and the related designation condition in respect of the accidental discovery of an archaeological sites during works from the legacy district plan.

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

6. Recommendation to Panel

That the Panel:

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

Author	Murray Kivell
Author's Signature	
Date	27 August 2015 and updated 7 October 2015 with no change

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 designation 4305 included in the Proposed Auckland Unitary Plan subject to the further modifications shown in Attachment 1.

8. Panel reasons

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

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

9. Assessment of modifications and submissions

Requiring authority	Minister of Defence
Designation number	4305
Designation purpose	Defence purposes (as defined by section 5 of the Defence Act 1990) – ammunition depot
Location	Lying between Onetaunga Bay (on the western side) and Onetaunga Road (on the eastern side), comprising 80 hectares of land.
Designation given effect to	Yes
Lapse date in operative plan	NA
Rollover designation with no modifications	No, involves modifications.
Description of the rollover modifications and reasons	<p>The modifications sought in the rollover seek the following changes:</p> <ul style="list-style-type: none"> i. amended wording which elaborates the purpose of the designation; ii. apply the designation also to the area of land which the Minister of Defence has certified is necessary for reasons of national security under section 4(2) Resource Management Act 1991 (in respect of explosives). Section 4(2) Resource Management Act 1991 is a full exemption from the Resource Management Act applying to land subject to such a certificate; iii. amend operative plan designation conditions with the conditions outlined in the roll-over notice. The modifications relate to noise, parking, building height and bulk/location controls, landscaping and tree protection, and archaeological sites; iv. the addition of two conditions that improve the workability of the designation by clarifying that an outline plan is not required for maintenance works or for activities that are provided for as permitted activities.
Notice of requirement	Requirement to include existing designation subject to above modifications.
Land owned by the requiring authority	All land subject to designation is owned by the Crown.
Submitter	838-38 – New Zealand Defence Force 6370-15 – The Character Coalition 371-214, 215, 216, 217 – Heritage New Zealand
Matters addressed in submissions	<p>838-38 – New Zealand Defence Force requesting term ‘purpose’ be used rather than ‘description’ within designation schedule.</p> <p>6370-15 – The Character Coalition requesting greater protection of historic heritage.</p> <p>371-214, 215, 216, 217 – Heritage New Zealand requesting greater protection of historic heritage.</p>

Engagement by requiring authority with submitters	No agreement reached on heritage matters. Submitters are seeking an additional condition regarding heritage protection, and Requiring authority opposes this outcome. The requiring authority also seeks the deletion of the operative plan designation condition regarding the accidental discovery of archaeological sites.
Assessment and reasons	<p>Basis of Assessment The designation has been given effect to, and the modifications proposed are to clarify the purpose statement, to apply the designation to an area subject to a section 4(2) certificate (exemption from the Resource Management Act 1991 for national security purposes), and modifications to designation conditions on the basis that the existing conditions are overly prescriptive not practical, will frustrate the function of a designation as set out by the Resource Management Act 1991, and are not necessary to control effects.</p> <p>Effects of modifications to Description/Activity The clarified 'purpose' statement of (additional text underlined) 'Defence purposes <u>(as defined by s5 of the Defence Act 1990) – ammunition depot</u>' is an enhancement with no adverse effects on the environment.</p> <p>Effects of modifications to Designation extent The inclusion of the land subject to the exemption from the Resource Management Act 1991 (section 4(2) Resource Management Act 1991) should be accepted, as there are defence activities undertaken on this land that are not covered by the section 4(2) certificate, and are more appropriate covered by the designation.</p> <p>Effects of modification of conditions The modifications to conditions relate to noise, parking, building height and bulk/location controls, landscaping and tree protection, and archaeological sites. The existing designation conditions are considered overly prescriptive and unnecessary, particularly given the size of the designation and low level of built development relative to the designation area and lack of interface with residential development nearby. The updated noise condition provides better alignment with the Proposed Auckland Unitary Plan approach and is supported. In other respects the requiring authority seeks to utilise the outline plan process in replacement of prescriptive designation conditions, and this approach is supported. The two additional conditions are supported also to clarify when an outline plan is required, and will improve the workability of the designation. The effects of the modification of conditions have been assessed, and the effects are considered to be not more than minor.</p> <p>Effects on submitters</p> <ol style="list-style-type: none"> i. The New Zealand Defence Force submission should be accepted and the term 'purpose' applied consistently in the designation schedule. The List of Minor Amendments has already identified this change. ii. The Character Coalition and Heritage New Zealand

	<p>submissions have sought a Type 2 condition be imposed on the designation. The Requiring Authority does not agree and this matter should proceed to mediation.</p> <p>Effects on adjacent properties and on wider environment I do not consider that there are any adverse effects on adjacent properties and on the wider environment that are more than minor. The modified designation conditions will be effective in managing any adverse effects.</p>
Recommendation to Panel	That the Panel recommends to Council that the designation is confirmed with all modifications requested, including by New Zealand Defence Force's own submission, but with the exception of heritage matters and the removal of the existing archaeological condition, as no agreement reached between the parties. The parties to advise.
Response from requiring authority	Agrees with the above recommendations to Panel (in letter from Tonkin and Taylor dated 11 September 2015).
Report writer's further comments	Parties and Issues Report dated 24 September 2015 recorded outcomes from the pre-hearing meeting of 16 September 2015. This confirmed that the Heritage New Zealand submission (and as a consequence, the Character Coalition submission) did not relate to this designation. In summary, the Heritage New Zealand submission does not apply to this Designation 4305. Both the requiring authority and Heritage New Zealand re-affirmed this point at mediation (on another matter) 6 October 2015. On this basis, there are no outstanding submission points or issues remaining for consideration. The report writer confirms his above recommendation.
Recommendation from Panel	The Panel agrees with the report writer's recommendations set out in the 'Recommendation to Panel' row above and as modified in the 'Report writer's further comments' row above.
Reasons	The Panel agrees with the report writer's reasons.

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

Amend the description as follows:

Purpose ~~Description~~

Defence purposes (as defined by section 5 of the Defence Act 1990) - ammunition depot.