

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 4309
Devonport Naval Base (North Yard))

May 2016

Report first prepared by Murray Kivell in accordance with the Auckland Unitary Plan Independent Hearing Panel procedure and in accordance with section 142 of the Local Government (Auckland Transitional Provisions) Act 2010, on: 26 August 2015 and updated 1 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 several operative plan designation conditions in respect of heritage matters and archaeology sites.

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

5. Hearing required

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

submissions received from the Character Coalition (6370-15) and Heritage New Zealand (371-214, 215, 216, 217), and the related designation conditions in respect of heritage and archaeology from the operative district plan.

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

6. Recommendation to Panel

That the Panel:

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

Author	Murray Kivell
Author's Signature	
Date	26 August 2015 and updated 1 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 4309 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	4309
Designation purpose	Defence purposes (as defined by section 5 of the Defence Act 1990) – naval base.
Location	West of Jim Titchener Parade and Cautley Street, Devonport, comprises 27 hectares.
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. amend operative plan designation conditions with the conditions outlined in the rollover notice. The modifications relate to noise, parking and transportation, height and bulk/location controls, tree protection, stormwater management, heritage buildings and archaeological sites. iii. 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	NA
Land owned by the requiring authority	All land subject to designation is owned by the Crown.
Submitter	838-38 – New Zealand Defence Force 838-36 – New Zealand Defence Force 6370-15 – The Character Coalition 371-214, 215, 216, 217 – Heritage New Zealand
Matters addressed in submission	<p>838-38 – New Zealand Defence Force requesting term ‘purpose’ be used rather than ‘description’ within designation schedule.</p> <p>838-36 – New Zealand Defence Force requesting that the wording of the exception statement ‘exceptions and notes for conditions 1-6’ be amended to correctly reflect the Minister’s roll-over notice.</p> <p>6370-15 – The Character Coalition requesting greater protection of historic heritage.</p> <p>371-214 – 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 several operative plan designation conditions regarding the heritage and the accidental discovery of archaeological sites.

<p>Assessment and reasons</p>	<p>Basis of Assessment The designation has been given effect to, and the modifications proposed are to clarify the purpose statement, and modifications to designation conditions are 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) – naval base</u>' is an enhancement with no adverse effects on the environment.</p> <p>Effects of modification of conditions The modifications relate to noise, parking and transportation, height and bulk/location controls, landscaping/tree protection, stormwater management, and archaeological sites. As above, the operative plan designation conditions are highly prescriptive and appear to be the imposition of various district plan requirements in the manner of resource consent conditions, in many respects are outdated in referring to reports from the 1990s for example, and in some cases represent a re-working of section 176A Resource Management Act 1991 regarding what the purpose of outline plans is and information levels.</p> <p>The modifications represent a more permissive regime but also one that is better aligned with the approach of the Proposed Auckland Unitary Plan in respect of noise provisions, tree protection and stormwater management.</p> <p>Further, the impact on the environment of these changes has been evaluated as being less than minor. In particular:</p> <ul style="list-style-type: none"> i. the updated noise condition provides better alignment with the Proposed Auckland Unitary Plan approach; ii. the parking and transportation operative plan conditions are outdated and overly prescriptive and this matter can be managed effectively through outline plans; iii. the amended height and bulk/location controls will be effective in managing amenity beyond the site and particularly at the residential interface; iv. the amended tree condition is better aligned to the Proposed Auckland Unitary Plan approach; v. stormwater will be effectively managed via regional rules and the outline plan process. <p>The removal of the heritage and archaeology conditions will be considered during mediation. Overall, the effects of the modification of the remaining conditions have been assessed, and</p>
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	<p>the effects are considered to be not more than minor.</p> <p>Effects on submitters</p> <ul style="list-style-type: none"> i. Both of the New Zealand Defence Force submissions should be accepted and the term 'purpose' applied consistently in the designation schedule, and the exceptions to Conditions 1-6 amended as sought. Both amendments are on the List of Minor Amendments to correct errors. ii. The Character Coalition and Heritage New Zealand submissions have sought a Type 2 condition be imposed on the designation. The requiring authority does not agree, and the requiring authority is also seeking the removal of several existing designation conditions regarding heritage and archaeology. Should proceed to mediation. <p>Effects on adjacent properties and on wider environment</p> <p>I do not consider that there are any adverse effects on adjacent properties and on the wider environment that are more than minor. The designation conditions as modified 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 submissions, but with the exception of heritage matters and the removal of the existing heritage and archaeological conditions as sought by the requiring authority, 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 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. There are no outstanding submission points or issues remaining for consideration. The report writer confirms his above recommendation.
Report writer's final comments	In a planning statement of evidence by Ms Kate Searle for New Zealand Defence Force it is noted at paragraph 24 that under 'Exceptions and notes for conditions 1-6', a colon should be used instead of a semi-colon between the words 'North Yard' and 'Sports Fields' in exception (b). This is noted and accepted, and a correction made to the condition below.
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 'Report writer's final comments' row above.
Panel 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) - naval base.

Amend the exceptions and notes for conditions 1-6 as follows:

Exceptions and notes for conditions 1-6:

Building height, bulk and location controls apply only in respect of new buildings and additions to existing buildings.

The following structures are exempt ~~excluded~~ from the following ~~all~~ building height, bulk and location controls:

- a. Perimeter security fencing up to a height of 34m is exempt from all height, bulk and location controls.;
- b. Flagpoles are exempt from building height and height in relation to boundary controls. Additionally flagpoles at DNB – North Yard; Sports fields are exempt from building length controls.; and
- c. Lighting standards up to a maximum height of 12.5m, and lighting standards exceeding a height of 12.5m subject to an outline plan, are exempt from all height, bulk and location controls.