

AUCKLAND UNITARY PLAN  
INDEPENDENT HEARINGS PANEL

*Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau*

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Report to Auckland Council  
Hearing topic 074 Designations

Minister of Police

Designations 5700, 5708, 5710, 5713, 5720,  
5723, and 5736

May 2016

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**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 26 August 2015 and updated on 23 September 2015 and further amended on 21 December 2015.**

**Adopted as Auckland Unitary Plan Independent Hearings Panel recommendations in accordance with the Auckland Unitary Plan Independent Hearing Panel procedure and in accordance with section 144 of the Local Government (Auckland Transitional Provisions) Act 2010 on date of signature.**

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## 1. Introduction

The purpose of this report is to provide an assessment and recommendation in relation to designations, modifications and new designations classified by the Independent Hearings Panel as moderately complex. This classification will generally apply where there is a:

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

## 2. Assessment

The assessment will address:

- i. effects on the environment of allowing the modification or requirement;
- ii. mitigation measures proposed by requiring authority including any proposed conditions;
- iii. other section 171 matters or section 168A(3) (if the requiring authority is Auckland Council) matters where relevant;
- iv. whether land is owned by the requiring authority.

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

On the basis of the assessment, the report concludes that the following modifications/requirements should be recommended for confirmation subject to the amendments shown in Attachment 1:

5700, 5708, 5710, 5713, 5720, 5723 and 5736

## 3. Expert input

Not applicable.

## 4. Mediation required

Not applicable.

## 5. Hearing required

Not applicable.

## 6. Recommendation to Panel

That the Panel recommends that the following modifications/requirements should be recommended for confirmation subject to the modifications shown in Attachment 1:

5700, 5708, 5710 5713, 5720, 5723 & 5736.

<b>Author</b>	Harry Bhana
<b>Author's Signature</b>	
<b>Date</b>	26 August 2015 and updated on 23 September 2015 with amendments and further amended on 21 December 2015

## 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 designations 5700, 5710 5713, 5720, 5723 and 5736 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.

<b>Panel Chair</b>	David Kirkpatrick
<b>Chair's Signature</b>	
<b>Date</b>	18 May 2016

## 9. Assessment of modifications and submissions

Requiring authority	Minister of Police
Designation number (s)	5700, 5710 5713, 5720, 5723 and 5736
Designation purpose	Auckland Central Police Station, Northern Region Police Headquarters, Te Atatu Police Station, Helensville Police Station, Newmarket Police Station, Waiuku Police Station, and Wellsford Police Station
Location	5700 - 67-101 Vincent Street Auckland Central 5708 – 390 Don Buck Road Massey 5710 - 482-486 Great South Road Otahuhu 5713 – 492 Te Atatu Road, Te Atatu 5720 – 6-12 Rimu Street Helensville 5723 – 58 Remuera Road, Newmarket 5736 – 108 Rodney Street (State Highway 1) Wellsford
Designations given effect to	Yes
Lapse date in operative plan	NA
Land ownership	NA
Land owned by the requiring authority	Yes
Rollover designation with no modifications	No
Description of the modification	<p><b>Modifications to 5700</b> The operative plan had a single condition which required as follows:</p> <p style="padding-left: 40px;">Development to be in accordance with the following:</p> <p style="padding-left: 80px;">1. development of the site shall comply with the underlying development controls.</p> <p>The rollover provisions contained the following conditions:</p> <p style="padding-left: 40px;">1. That development of the site shall comply with the underlying development controls for the site except in the following circumstances:</p> <p style="padding-left: 80px;">a. The maximum Floor Area Ratio can be sought without requiring the inclusion of bonus features within the development;</p> <p style="padding-left: 80px;">b. The underlying development controls shall not apply to the addition or relocation of existing antennas and ancillary equipment attached to the tower located on the roof of the building that exists as at May 2013; and</p> <p style="padding-left: 80px;">c. Future development of the site may retain the maximum building height (and intrusion into the volcanic view shaft) as the existing CPS building.</p> <p><b>Advice Note</b></p> <p style="padding-left: 40px;">1. Condition 1 does not apply if the proposed development of the site is permitted by obtaining a resource consent for the development.</p> <p><b>Modifications to 5710</b> The operative plan provisions for this designation included Condition 3 which stated as follows:</p>

	<p>3. Parking shall be in accordance with the provisions of Part 12 of the Proposed District Plan (Isthmus Section)</p> <p>The rollover designation amended this condition to read as follows:</p> <p>3. Parking shall be in accordance with the provisions of Rule 4.2.1 of the Proposed Auckland Unitary Plan.</p> <p>A modification was made to Condition 4 of the operative plan which referred to control of electromagnetic radio frequency fields. This condition was updated in the rollover version to reference NZS2722.1:1999 or any successor standard as required by the National Environmental Standards for Telecommunications Facilities, at any place with the public has reasonable access.</p> <p><b>Modifications to 5708 and 5713</b></p> <p>The operative plan included Condition 1 setting out matters that the operative plan required to be included in an outline plan and Condition 2 which referred to sedimentation and erosion control measures for any earthworks. These 2 conditions were not included in the rollover version. A further condition relating to the height of buildings, masts poles and antenna was rolled over without modification and the condition in 5713 is the subject of submissions by the Requiring Authority and the Council.</p>
<p>Assessment of rollover modifications and reasons</p>	<p><b>5700</b></p> <p>All of the rollover conditions relate to any potential development of the site which is the subject of the designation. The site is already occupied by a very substantial building and as noted in the plans attached to the designation also has various communication equipment and antenna attached to its roof.</p> <p>Any alterations to the development already approved on the site would presumably require an application pursuant to section 181 of the Resource Management Act 1991. More significant works would presumably require the submission of a new outline plan. The requirements for any new outline plan that might be required in respect of any future works on the sites of these designations are set out in section 176A of the Resource Management Act 1991.</p> <p>Accordingly I do not consider that it is necessary or helpful to include conditions that were included in the operative plan (relating to assessment of future development proposals) when the designation was rolled over. The development controls applying in the central area where the designated site is located apply when development of a site is undertaken. Any conditions which need to be applied to manage potential adverse effects on the environment,</p>

arising from a designation which has been given effect to, need to relate to operational matters such as noise or effects of radio transmissions. None of the conditions proposed fall into this category. I recommend that the designation be rolled over without the attached conditions that the requiring authority has requested.

#### **5710**

The modification to Condition 4 is simply an update of the applicable standard for EMF controls.

The reference in Condition 3 to Rule 4.2.1 is an error. I have reviewed the rules in the Proposed Auckland Unitary Plan that might have been a relevant location for provisions governing parking loading and access on the site. The site is located in the Mixed Use Zone and Rule 4.2.1 relates to building heights in that zone. Chapter H1 .2 Auckland-wide rules for transport at 4.2 provides assessment criteria for applications in relation to transport which require a resource consent. I concluded that the reference to rule 4.2.1 is now meaningless. Clearly this error requires that Condition 3 be replaced. As it is a condition which governs operational matters it cannot simply be deleted.

I requested some further clarification from the Minister's consultant and counsel and received in response the following amended conditions which the Minister's representatives considered were reasonably consistent with the intent of the rollover conditions. The Minister's proposed replacement of conditions is as follows:

3. The minimum number of parking and loading spaces and the access arrangements in place on the date on which the Plan becomes operative shall be maintained.

I record that there may be some issues concerning scope to make these changes. However given that the conditions in the rollover make reference to rules which no longer exist I consider the Minister's proposal to substitute the above conditions is appropriate and is unlikely to result in any adverse effect on the environment or on surrounding properties which is more than minor.

#### **5708 and 5713**

I concur with the proposal to delete operative plan conditions 1 and 2 from the rollover of this designation. District plan provisions cannot require matters to be included in an outline plan since those matters are set out in section 176A of the Resource Management Act 1991. Condition 2 is now superfluous since the site is fully developed and any further development that required significant earthworks would require an amendment to the designation.

	<p>As I note below Condition 1 in both Designations 5708 and 5713 is an identical condition limiting the height of buildings on the designated sites. There are submissions in relation to this condition in respect of 5713 from the requiring authority and the Council seeking an amendment to the height permitted. I consider that Condition 1 is also no longer of any relevance as both designations have been given effect to and any changes to the development on those sites would require an application under section 181 of the Resource Management Act 1991. I have accordingly recommended that these conditions be deleted also.</p>
Notice of requirement	NA
Assessment of new designation and reasons	NA
Submitters and summary of relief sought in submissions	<p>There were no submissions in respect of Designations 5700 and 5710.</p> <p><b>Submission on 5713</b>  The operative plan version of Designation 5713 included the following condition which was rolled over unchanged in the Proposed Auckland Unitary Plan:</p> <p style="padding-left: 40px;">New buildings and structures shall not exceed a height of 10 metres as measured from the average ground level at the base of the new building, provided that any masts, poles and radio and television aerials which are attached to the building and do not project more than 6 metres above the part of the building to which they are attached shall not be included in the calculation of height.</p> <p>The Minister's rollover request had been for the increase in height from 10m to 14.5m and submissions 4274-111 by the Minister of Police and 5716-2700 sought that the omission be corrected by amending the 10m reference in the above condition to 14.5m.</p> <p>Submissions 371-214, 371-215 and 371-217 by Heritage New Zealand sought various broadly described amendments for protection of heritage values in relation to all designations including those of the Minister of Police. Following a pre-hearing meeting on 31 July 2015 the specific designations that Heritage New Zealand wished to focus on were 5720, 5723 and 5736.</p>
Assessment of submissions and reasons	<p><b>Submissions 4274-111 and 5716-2700</b>  As I have noted above I do not consider that this amendment to permitted height will have any relevance to the management of effects on the environment arising from the continued operation of the activity and works authorised by the designation. I see no reason for incorporating a condition which otherwise has little effect on the operational effects of the designated activities and works.</p>

	<p><b>Submissions 371-214, 371-215 and 371-217</b></p> <p>The Minister has proposed the addition of a condition on Designations 5720, 5723 and 5736 to meet the concerns raised in these submissions. Heritage New Zealand advises that it has accepted that the imposition of this condition would satisfy its concerns in regards to these designations.</p>
Engagement by requiring authority with submitters.	Not necessary
Recommendation to Panel	<p>I recommend that Designations 5700 and 5710 be recommended for confirmation subject to deleting the conditions included in the rollover version of Designation 5700 and replacing Condition 3 in the rollover version of Designation 5710 with the following alternative conditions:</p> <p style="padding-left: 40px;">3. <u>The minimum number of parking and loading spaces and the access arrangements in place on the date on which the Plan becomes operative shall be maintained.</u></p> <p>Recommend that Condition 1 in the rollover version of Designation 5708 and 5713 be deleted.</p>
Response from requiring authority	<p>Agrees with the above recommendations to the Panel that Designations 5700, 5710 and 5713 be recommended to be confirmed.</p> <p>Agrees with the deletion of Condition 1 from the rollover version of Designations 5708 and 5713.</p> <p>Disagrees with the omission of reference to and assessment of submissions by Heritage New Zealand in respect of Designations 5720, 5723 and 5736</p> <p>Disagrees with the retention of Conditions 1, 5 and 6 for Designation 5710 and requested addition of a new Condition as follows:</p> <p style="padding-left: 40px;">Any increases in the number of parking and landing spaces and any changes to the access arrangements above will be subject to an outline plan according to section 176A of the Resource Management Act, 1991.</p> <p>Wishes to be heard on the following matters: None required.</p> <p>Mediation requested on the following matters: None required.</p>
Report writer's further recommendations and comments	<p>This report has been amended to:</p> <p style="padding-left: 40px;">1. Include assessment of Designations 5720, 5723 and 5736. There were no other modifications or submissions to these designations. Since Heritage New Zealand and the requiring authority are in agreement that the relief sought in the submissions can be appropriately addressed by the inclusion of</p>

	<p>the condition which is set out in the amended Attachment 1, I recommend that these designations subject to that modification be recommended to be confirmed.</p> <ol style="list-style-type: none"> <li>2. To include an assessment of 5708 which had previously been dealt with in a different report. It is included in this report as I considered it should be dealt with consistently with Designation 5713.</li> <li>3. To amend the conditions for 5710 as requested by the Minister. I consider that these amendments remove obsolete construction conditions and advice notes and update the parking and access conditions in a way that ensures any changes to these arrangements is properly assessed.</li> </ol> <p><b>Further Matters arising from hearing</b>  Further discussion between the requiring authority and Heritage New Zealand has resulted in an agreement to amend the wording of a condition to manage and protect scheduled historic heritage places on Designations 5720, 5723 and 5736. The agreed amended wording has been substituted in the conditions for these designations set out in Attachment 1.</p> <p>Also during the hearing there was further discussion between the requiring authority, the Council and the Panel regarding the detail to be included in the amended conditions regarding parking, loading and access in regard to Designation 5710. It was agreed that the condition should be redrafted to refer to the existing specific number of parking spaces currently provided and did not need to refer to loading or access matters.</p> <p>The requiring authority has provided details of the existing number of parking spaces currently provided and the conditions have been redrafted to reflect this information and the agreement reached at the hearing.</p>
Recommendation from Panel	The Panel agrees with the report writer's recommendations.
Reasons	The Panel agrees with the report writer's reasons.

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

### Amendment to Designation 5700

That the heading 'Conditions', Condition 1 and the attached advice note be deleted.

### Amendment to Designation 5710

That Conditions 1, 5 and 6 be deleted.

That Conditions 1, 5 and 6 be deleted.

That condition 3 be deleted and replaced with the following conditions:

3. That 172 parking spaces shall be maintained.

That a further condition be added after the above replacement condition as follows:

Any increases in the number of parking and landing spaces and any changes to the access arrangements above will be subject to an outline plan according to section 176A of the Resource Management Act, 1991.

That the remaining and new conditions be renumbered accordingly.

### **Amendment to Designations 5708 and 5713**

That Condition 1 be deleted.

### **Amendment to Designation 5720 (amended 21 December 2015)**

That Condition 1 be added as follows:

1. Where any construction works for a project on designated land involves the total or substantial demolition of, or modifications to, the exterior of the scheduled historic heritage place ID 00457, described as the "Police House", any outline plan that is required shall include:
  - a) An assessment of the effects on the historic heritage values of the place; and
  - b) A consideration of alternative methods and/or appropriate mitigation to prevent or avoid damage, loss or destruction of the values of the heritage place.

This condition shall not apply in respect of repair or maintenance of the building, structure or feature.

This condition shall not apply where there is a conservation plan or similar plan for the management of the scheduled historic heritage place and proposed new works are in accordance with this conservation or similar plan.

### **Amendment to Designation 5723 (amended 21 December 2015)**

That Condition 1 be added as follows:

1. Where any construction works for a project on designated land involves the total or substantial demolition of, or modifications to, the exterior of the scheduled historic heritage place ID 02545, described as the "Masonry Villa and Lock-up (Newmarket Police Station)", any outline plan that is required shall include:
  - a) An assessment of the effects on the historic heritage values of the place; and

- b) A consideration of alternative methods and/or appropriate mitigation to prevent or avoid damage, loss or destruction of the values of the heritage place.

This condition shall not apply in respect of repair or maintenance of the building, structure or feature.

This condition shall not apply where there is a conservation plan or similar plan for the management of the scheduled historic heritage place and proposed new works are in accordance with this conservation or similar plan.

### **Amendment to Designation 5736 (amended 21 December 2015)**

That Condition 1 be added as follows:

1. Where any construction works for a project on designated land involves the total or substantial demolition of, or modifications to, the exterior of the scheduled historic heritage place ID 00529, described as the "Police Lock-up", any outline plan that is required shall include:

- a) An assessment of the effects on the historic heritage values of the place; and
- b) A consideration of alternative methods and/or appropriate mitigation to prevent or avoid damage, loss or destruction of the values of the heritage place.

This condition shall not apply in respect of repair or maintenance of the building, structure or feature.

This condition shall not apply where there is a conservation plan or similar plan for the management of the scheduled historic heritage place and proposed new works are in accordance with this conservation or similar plan.