

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 for Tertiary Education,
Skills and Employment

Designation 6100

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 21 August 2015 and 14 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 designation 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, if there is no record of agreement reached on an appropriate heritage provision with Heritage New Zealand then this matter would benefit from mediation.

5. Hearing required

Based on the responses of the requiring authority as detailed in section 9, no matter has been identified to progress to a hearing.

6. Recommendation to Panel

That the Panel confirms the designation modifications and on the assumption that agreement can be reached concerning an additional condition addressing built heritage, that the Panel recommend to Council that the designation is confirmed with the modification to include a new condition with details to be confirmed by the parties.

Author	Murray Kivell
Author's Signature	
Date	21 August 2015 and updated 14 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 modifications to the designation 6100 and the further modifications to the designation 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 Tertiary Education, Skills and Employment
Designation number	Proposed Auckland Unitary Plan No. 6100 – Auckland University of Technology City Campus
Designation purpose	Construction, undertaking, establishment, management, operation and maintenance of a tertiary educational facility and every use of the land for educational and ancillary purposes.
Location	St Paul Street, Wellesley Street, Governor Fitzroy Place and Mount Street, Auckland Central.
Designation given effect to	Yes
Lapse date in operative plan	NA
Rollover designation with no modifications	NA
Description of the modification	The designation was expanded to include sites owned and used by Auckland University of Technology. One condition requiring compliance with the development controls for the underlying zoning was deleted.
Notice of requirement	NA
Land ownership	NA
Land owned by the requiring authority	All land subject to the designation is owned by the requiring authority.
Submitter	Heritage New Zealand (371).
Matters addressed in submission	A request to include a condition concerning the conservation of heritage values associated with building(s) on the site. A 'type 2' condition is sought as presented in the Housing New Zealand submission regarding the protection of the building exterior. This is recorded in the Pre-hearing meeting report- 30 July 2015 –outcome of discussions with Heritage New Zealand.
Engagement by requiring authority with submitters.	Parties have been in discussion. A memorandum is understood to confirm the inclusion of an additional condition to the designation. The memorandum has not been provided to the report writer.
Assessment and reasons	<p>The activity has already been authorised by designation and has been given effect to.</p> <p>The modifications made on rollover of the designation will enable integrated management of the entire site for the designated purpose and should be confirmed.</p> <p>The parties to advise whether a signed memorandum has been agreed to confirm the inclusion of an additional condition to the designation relating to heritage.</p> <p>On the assumption that the memorandum with the changes agreed between the parties can be provided to the Panel, then I can support the change that can be made to the designation conditions.</p> <p>The modification to the conditions to the designation will enable the consideration of heritage values associated with</p>

	<p>the building to be considered as part of any outline plan of works that may affect the future of the building.</p> <p>I do not consider that there are any adverse effects on adjacent properties and on the wider environment with the inclusion of this additional condition. The activity has already been authorised by designation and has been given effect to.</p>
Recommendation	<p>If agreement has been reached on an acceptable condition then the modification to the conditions to the designation is appropriate and acceptable in resource management terms and will not result in any adverse effects on adjacent properties and on the wider environment.</p> <p>If no agreement is provided between the parties then the matter should proceed to mediation.</p>
Recommendation to Panel	<p>On the assumption that agreement can be reached concerning an additional condition addressing built heritage, that the Panel recommends to Council that the designation is confirmed with the modification to include a new condition with details to be confirmed by the parties.</p> <p>In the alternative, the Panel recommends that the matter proceed to mediation.</p>
Response from Requiring Authority	<p>In response, the consultant (Justine Bray, Opus – 21 October 2015) reported on behalf of the Minister agreeing with the above recommendations to the Panel, noting that the proposed 'type 2' heritage condition with Heritage New Zealand had not been settled. However, it was hoped the matter could be settled through ongoing discussions.</p>
Report writer's response	<p>A memorandum from legal counsel on behalf of the Minister dated 23 November 2015 confirmed that agreement had been reached with Heritage New Zealand, and that the condition set out in Annexure A should be added to designation 6100.</p> <p>The condition reads:</p> <p>Where any construction works for a project on designated land that includes total or substantial demolition of, or modifications to, the Auckland Technical College (former) (historic heritage schedule # 2086) any outline plan that is required shall incorporate:</p> <ol style="list-style-type: none"> a) An assessment of the effects on the historic heritage values of that building. That assessment shall be limited to the values of the building identified in Appendix 9.1 # 2086 (F - physical attributes, G - aesthetic and H - context); b) A consideration of alternative methods and/or appropriate mitigation to avoid, remedy or mitigate loss or destruction of the values of the building identified in Appendix 9.1 # 2086 (F - physical attributes, G - aesthetic and H - context).

	<p>This condition shall not apply where Council waives the requirement for an outline plan under section 176(2)(c).</p> <p>This condition shall not apply in respect of repair or maintenance of the building, structure or feature.</p> <p>This condition shall not apply where there is a conservation plan or similar plan for the management of the scheduled historic heritage place and the proposed new works are in accordance with this conservation or similar plan.</p> <p>The condition provides that appropriate consideration is given to heritage matters by the requiring authority when assessing outline plans of work for scheduled heritage buildings in the Proposed Auckland Unitary Plan so as to inform the Council on these matters.</p>
Recommendation from Panel	The Panel agrees with the report writer's recommendations except that it has amended the recommended condition to remove cross references to the Plan.
Reasons	The Panel agrees with the report writer's reasons except that it is better practice to word conditions for designations in way that does not include a cross reference to the Plan where possible.

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

Include a new condition to read as set out below:

Where any construction works for a project on designated land involves the total or substantial demolition of, or modification to the interior or exterior of the original former Auckland Technical College, any outline plan required shall include:

- a. an assessment of the effects on the historic heritage values of the place;
- b. a consideration of alternative methods and/or appropriate mitigation to prevent or avoid damage, loss or destruction of the values of the historic 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 the proposed new works are in accordance with this conservation or similar plan.