

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

New Zealand Refining Company Ltd

Designation 6500

May 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 14 August 2015 updated with minor amendments 4 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 and submissions on designations classified by the Independent Hearings Panel as minor matters and errors. This classification applies where there is a:

- i. modification to a designation and no submissions;
- ii. rollover of a designation with no modification and submissions lodged by the requiring authority (submissions to correct errors or address minor matters);
- iii. modification to a designation and submissions lodged by the requiring authority (modifications address minor matters and submissions to correct errors or address minor matters);
- iv. where the modification involves changes to the boundary to incorporate additional land, and the requiring authority has an interest in the land sufficient for undertaking the proposed work.

2. Assessment

Errors do not require an assessment. The assessment applies the following criteria.

Does the modification/submission:

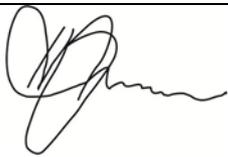
- i. involve no more than a minor change to the effects on the environment associated with the use or proposed use of land or any water concerned? or
- ii. involve only minor changes or adjustments to the boundaries of the designation?

See section 6 of this report for the application of these criteria to the individual designations.

On the basis of the assessment, this report concludes that the modifications and designations in section 6 meet the above criteria.

3. Recommendation to Panel

That the Panel recommend to Auckland Council the modifications and designation be confirmed as set out in section 6.

Author	Harry Bhana
Author's Signature	
Date	14 August 2015 updated with minor amendments 4 October 2015. On 23 March 2016 it was discovered that the Proposed Auckland Unitary Plan maps incorrectly labelled designations 6500 and 6501 in reverse. Designation 6500 is the rural section of the pipeline and 6501 is the urban section. This error was not detected previously, although the modifications and submissions in respect of the rural section of the pipeline and the urban section of the pipeline were appropriately addressed in the section 142 reports.

4. 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 6500 included in the Proposed Auckland Unitary Plan subject to the further modifications shown in Attachment 1 and Attachment 2.

5. Panel reasons

The reasons for the Panel's recommendation are set out in section 6 below.

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

6. Assessment of modifications and designations

Requiring authority	New Zealand Refining Company Ltd
Designation number (s)	6500 (Incorrectly labelled as 6501 in Proposed Auckland Unitary Plan maps)
Designation purpose	Petroleum Pipeline - Rural Section Topuni to Taupaki
Location	109 Vipond Road, Topuni to 102 Amreins Road, Taupaki
Designation given effect to	Yes
Lapse date in operative plan	NA
Description of the modification	Minor modifications to wording of conditions to correct references.
Land owned by the requiring authority	NA
Submitter	The New Zealand Refining Company Limited (4734) Auckland Council (5716-2706 & 5716-2707)
Matters addressed in submission	<p>4734-33: Amend the Proposed Auckland Unitary Plan maps so that designations are accurate (particularly at the smaller scales which they are viewed online); linked to designation information in Part 7 of the Plan; and correctly identified.</p> <p>4734-34: Amend reference to Designation 6501 in the 'Property Summary' pop up box in the planning maps, as follows; 'Infrastructure: Designations - ID 6501, Refinery to Airport Petroleum Pipeline - Urban, Designations, New Zealand Refining Company Ltd'. (Currently in topic 026 General – Others).</p> <p>4734-36: Change references from 'Transit New Zealand' to 'NZTA'.</p> <p>4734-38: Change references from 'NZRC' to 'Refining NZ'.</p> <p>5716-2706: minor amendment proposed to clause (d) of the purpose to insert 'former' in front of 'Waitakere City Boundary'.</p> <p>5716-2707: review mapping of the designation to ensure it matches the true designation corridor.</p> <p>No third-party submitters.</p>
Assessment and reasons	<p>The requiring authority has advised by memorandum to the Panel dated 7 August 2015 that the mapping issues referred to in submission 5716-2707 have been resolved with the Council and no further change is required. I have assumed that this equally applies to submission 4734-33 by the requiring authority.</p> <p>The remaining matters involved in modifications/submissions described above involve no more than minor changes to descriptive parts of the designation and will have no more than minor effects on the environment associated with the use or proposed use of land or any water concerned.</p>
Recommendation to Panel	That the Panel recommends to Council that it confirms the designations as amended through the modifications and submissions.

Response from requiring authority	<p>Agrees with the above recommendations to Panel and request some minor updating of conditions.</p> <p>Wishes to be heard on the following matters: Not required.</p> <p>Mediation requested on the following matters: Not required.</p>
Report writer's response prior to the hearing.	Attachment 1 has been amended to include various minor changes and corrections. These changes require no further assessment.
Report writer's updated response and recommendation in response to receipt of map updates from the requiring authority	<p>The section 142 report for Designation 6500 recorded a recommendation in response to submission 7344-62 as follows:</p> <p style="padding-left: 40px;">That the reference to Designation 6500 be removed from the planning maps and the property summary for 66 Rua Road and from all properties where the boundary of the designation appears to incorrectly cross the frontage of properties instead of being confined to the road corridor (does not refer to those properties which have been subject to a pipeline easement in favour of the requiring authority).</p> <p>As noted in that section142 report the submissions to which this recommendation related were incorrectly identified as submissions against 6500 because the Proposed Auckland Unitary Plan maps had labelled the urban section of the pipeline as 6500 rather than 6501. Accordingly, not only was it necessary to change the label on the Proposed Auckland Unitary Plan map but also to relocate the designation to its correct location in the Road corridor.</p> <p>Shape files of the designation alignment agreed by the requiring authority and Auckland Council have been supplied and incorporated into the Panel's GIS viewer. On 23 March 2016 the report writer carried out a visual inspection of the mapping amendments in GIS that have been made to implement this required change and was satisfied that the corrections requested appear to have been made. No map attachments are provided in this report because of the length of the designation makes this impracticable.</p> <p>Accordingly my recommendation is updated as follows:</p> <p>That the Panel recommends to Council that it confirms the designations as amended through the modifications and responses to submissions set out in Attachment 1 and Attachment 2.</p>
Recommendation from Panel	The Panel agrees with the report writer's recommendations.
Panel Reasons	The Panel agrees with the report writer's reasons.

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

Amend the text of the Purpose, Conditions, General and Advice Notes for this designation as set out below.

Purpose

The designation by The New Zealand Refining Company Ltd (Refining NZ) is for the operation, maintenance and repair, upgrade and renewal of the existing petroleum transmission pipeline and ancillary facilities as required for the transportation of refined fuel products and described as follows:

- a. The existing 275mm petroleum transmission pipeline;
- b. The existing isolation valves;
- c. Cathodic protection terminals; and
- d. Surface marker posts and warning signage, located between the northern district boundary extending from the former Waitakere City Boundary at Amreins Road, Taupaki and the Wiri Oil Services Terminal at 149 Roscommon Road, Wiri, Manukau City.

The following limitations apply:

- i. Renewal shall be limited to works on the petroleum transmission pipeline and will be limited to the replacement of sections of the pipeline with sections having equivalent diameter, and maximum allowable operating pressure of no more than (9.0MPa) and no more than [20] lineal metres of pipeline will be excavated within any 14 day period.
- ii. Upgrade will be limited to adding or replacing aboveground components provided the ~~district plan relevant~~ applicable Unitary Plan permitted activity standards are complied with and the maximum allowable operating pressure is not increased.

Above ground components are limited to:

- The existing isolation valves;
- The existing cathodic protection terminals;
- Surface marker posts; and
- Warning signage.

iii. All activities within road reserve shall be in accordance with the requirements of "Code of Practice for Utility Operators' Access to Transport Corridor is (2011) or its successor ~~The National Code of Practice for working in Roads~~"; and

iv. All activities within land other than the road reserve shall be in accordance with the Guide to Land Access for the Oil and Gas Industry and Landowners.

The contact details for Refining NZ are:

Postal Address: Private Bag 9024, Whangarei, New Zealand

Telephone: +64 9 432 8311

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Email: corporate@refiningnz.com

Conditions

Restrictions of the Designation

1. a. No person shall:
 - i. Erect any structure; or
 - ii. Plant any tree or shrub; or
 - iii. Disturb the soil below a depth of 0.4m; or
 - iv. Do anything on or to the land which would or could damage or endanger the pipeline, without first obtaining the written consent of Refining NZ.

For the avoidance of doubt, such written consent shall not be required for ordinary cultivation, digging, excavating, tilling and working soil to a depth of less than 0.4m or where Refining NZ has provided specific written approval prior to the designation coming into effect. A minimum of 1m cover shall remain above the top of the pipe after any ordinary cultivation, digging or excavation has taken place.

Landowners and/or developers can apply to Refining NZ for consent to do any work on the land within the designation corridor. Refining NZ will review each application with the landowner and/or developer and work to achieve the most suitable outcome for all parties. Refining NZ may give its written consent subject to reasonable conditions including the power to revoke the consent in specified circumstances.

~~NZRC~~ Refining NZ agrees to not unreasonably withhold its consent.

Works or activities that would or could damage or endanger the pipeline include, for example, the use of heavy compaction or vibration machinery and equipment, piledriving machinery and equipment, trenching, excavation or drilling (including micro drilling and directional drilling).

b. No person shall undertake road opening, trenching, excavation or drilling (including micro drilling and directional drilling), or lay underground high voltage power lines >450v either in parallel with or intersecting Refining NZ's petroleum pipeline, without first obtaining Refining NZ's written approval.

c. However, the restrictions in a. and b. above do not apply, and Refining NZ's consent is not required under section 176 of the RMA to the following activities, provided that

- i. Road Opening Notice has been obtained from the Road Controlling Authority;
- ii. Any road widening or associated works in accordance with any existing road designation;
- iii. Any repair, maintenance or upgrade to existing road surface;
- iv. Any repair, maintenance or upgrade to any existing network utility infrastructure.

Provided in all cases that:

Soil is not disturbed below a depth of 0.4m from the surface; and

After works, the finished surface level is not reduced below the pre-existing surface datum.

Where works other than those authorised by an earlier designation would exceed a depth of 0.4m from the surface and/or after completion of such works the finished surface level is proposed to be reduced below the pre-existing surface datum then application shall be made to Refining NZ for consent to do the works. Refining NZ will review each application with the applicant and work to achieve the most suitable outcome for all parties.

Refining NZ may give its written consent subject to reasonable conditions, and agrees not to unreasonably withhold its consent.

Emergency works may be performed in line with the Vector Gas advice booklet by excavation to 0.4m depth and thereafter the use of hand tools only. Emergency operations should be notified immediately to Refining NZ or their agent (Vector Gas Ltd) who provide an oncall service outside of normal working hours.

General

2. Subject to these conditions, works shall be undertaken in general accordance with the plans and information submitted by the requiring authority in support of the

Notice of Requirement in the documents entitled "Proposed Designation Relating to the Refinery to Auckland Pipeline".

3. The maximum width of the designation shall be as follows:
 - a. For land, not including roads and rail corridor 12m; and
 - b. For land comprising roads and rail corridor under which the pipeline crosses, or is contained within, 6m.

For the avoidance of doubt, where the designation applies to road or rail corridors the designation shall not extend across any adjacent private property, except to the extent that private property is subject to an easement in favour of Refining NZ.

4. All pipeline maintenance, repair, upgrade and renewal activities within road reserves that involve excavation shall be pursuant to a Road Opening Notice and shall be subject to the Road Opening Notice requirements of the Council and carried out in accordance with "Code of Practice for Utility Operators' Access to Transport Corridor is (2011) or its successor The National Code of Practice for working in Roads".

5. Where maintenance, repair, upgrade and renewal activities involving excavation are undertaken pursuant to the designation, appropriate sediment and erosion measures shall be employed, in accordance with the current Unitary Plan standards.

6. Refining NZ shall at all times ensure that access between parts of any property held in single ownership temporarily severed by maintenance, repair, upgrade and renewal activities is maintained to a level that will enable, as far as practicable, normal activities on the property to continue.

7. Within road reserves scheduled maintenance, repair, upgrade or renewal work and associated activities shall be limited to between the hours of 7am and 7pm, Monday to Saturday (excluding public holidays) except:
 - a. where otherwise stated in a Traffic Management Plan, to the satisfaction of the Council; or
 - b. with the prior approval of the Road Controlling Authority Council.

8. All works or activities related to the designation shall be undertaken in compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001).

9. The noise from maintenance works, repair, upgrade and renewal activities shall be measured, assessed and controlled in accordance with the procedures and limits set out in NZS 6803:1999 Acoustics – Construction Noise.

10. Refining NZ shall consult with New Zealand Transport Agency (NZTA) at least 30 working days prior to carrying out any works or activities on, in or under State Highways, except in emergency situations.

11. Refining NZ shall consult with Auckland Transport at least 15 working days prior to carrying out any work or activities on, in or under Council controlled roads, except in emergency situations.

12. The requiring authority shall respond within 15 working days of receiving any request for its written approval under section 176 of the RMA.

Advice Notes

1. Access to overhead electricity transmission lines, poles or supporting structures shall be maintained at all times in accordance with the Electricity Act 1992.
2. Refining NZ has confirmed that it will consult with land owners and occupiers who may be affected by maintenance works, repair, upgrade and renewal activities to reach fair and reasonable arrangements for entry, and to address any matters regarding effects of maintenance, repair, upgrade and renewal activities, including restoring the surface of the land following maintenance, in accordance with its relevant obligations under the pipeline easement.
3. The Requiring Authority is obliged to operate the pipelines and ancillary facilities in accordance with the requirements of AS2885: Pipelines – Gas and Petroleum Liquids, the Health and Safety in Employment (Pipelines) Regulations 1999 and in accordance with the authorisations issued for those facilities in terms of the Petroleum Act 1937.
4. This designation traverses earlier Auckland Council roading, New Zealand Railway Corporation and NZTA Transit-designations that are protected pursuant to sections 176 and 177 of the RMA, and State Highways which are protected pursuant to sections 51 and 52 of the Government Roding Powers Act 1989. Where that occurs, the Requiring Authority may only carry out its activities with the written consent of the earlier requiring authorities.
5. An authority may need to be obtained from the Heritage New Zealand Historic Places Trust to destroy, damage, or modify an archaeological site in accordance with the Historic Places Act 1993 Heritage New Zealand Pouhere Taonga Act 2014.

Attachments

No attachments.

8. Attachment 2 changes to Proposed Auckland Unitary Plan maps

That the designation map be amended as set out in the Panel's GIS viewer map of the designation as of 23 March 2016. No map attachments are provided in this report because of the length of the designation makes this impracticable.