

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 6501

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 26 August 2015 updated and amended 7 October 2015.

Adopted as Auckland Unitary Plan Independent Hearings Panel recommendations in accordance I am concerned 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 Designation 6500 be recommended for confirmation subject to the amendments set out in Attachment 1 and Attachment 2.

3. Expert input

Not applicable.

4. Mediation required

Not applicable.

5. Hearing required

Not applicable.

6. Recommendation to Panel

That the Panel recommends to Auckland Council that Designation 6501 be confirmed subject to the amendments set out in Attachment 1 and Attachment 2.

Author	Harry Bhana
Author's Signature	
Date	<p>26 August 2015 updated and amended on 7 October 2015</p> <p>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. Notes to address this issue were added to this report on 24 March 2016.</p>

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 6501 included in the Proposed Auckland Unitary Plan subject to the further modifications shown in Attachment 1 and Attachment 2.

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	Refining New Zealand Ltd
Designation number (s)	6501 (labelled as 6500 in Proposed Auckland Unitary Plan maps).
Designation purpose	<p>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:</p> <ol style="list-style-type: none"> i. the existing 275mm petroleum transmission pipeline; ii. the existing isolation valves; iii. cathodic protection terminals; and iv. 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. <p>The stated purpose also sets out limitations on renewal and upgrading works and requirements for work in road reserves and on land other than road reserve.</p>
Location	102 Amreins Road, Taupaki to 149 Roscommon Road, Wiri
Designations given effect to	Yes
Lapse date in operative plan	NA
Land ownership	Various
Land owned by the requiring authority	NA
Rollover designation with no modifications	No
Description of the modification	Minor modifications to wording of conditions to correct references to previous operative plan provisions and standards. However see my comments below in assessment of submissions about the effects of incorrect mapping of the designation boundaries. If these are not corrected they would amount to major modifications in terms of potential effects on third parties.
Assessment of rollover modifications and reasons	These minor modifications to wording to correct references to previous operative plan provisions and to standards do not require assessment.
Notice of requirement	NA
Assessment of new designation and reasons	NA
Submitters and summary of relief sought in submissions	<p>Submission number 3210-7 from Gordon A Kopu requested amended mapping of the designation at 2 and 4 Clifton Road Hillsborough.</p> <p>Submission 5682-19 by Wiri Oil Services Ltd requested an amendment to the description in the property summary to more correctly align with the designation description.</p>

	<p>Submission 7344-62 by the Church of Jesus Christ of Latter Day Saints Trust Board sought the removal of reference to designation 6500 on 66 Rua Road, Glen Eden.</p> <p>Submission 4734-35 by the requiring authority requested that reference to Transit New Zealand be amended to NZTA.</p> <p>Submission 4734-37 by the requiring authority requested the reference to NZ Refining be amended to Refining NZ.</p> <p>Submission 5716-2703 by the Council sought the amendment of clause (d) of the purpose by the addition of the word 'former' in front of Waitakere City Boundary.</p> <p>Submission 5716-2704 by the Council requested an amendment of an outdated reference in Condition 13.</p> <p>Submission 5716-2705 by the Council requested a review of the mapping of the designation to ensure it matched the true designation corridor.</p>
<p>Updated assessment of submissions and reasons. This assessment was updated after receipt of revised mapping information from the requiring authority in 2016.</p>	<p>As noted below the submission by Gordon Kopu has been resolved so no assessment is made of that submission.</p> <p>As noted below the submission by Wiri Oil Services Ltd has been resolved so no assessment is made of that submission.</p> <p>As noted below the submission by the Church of Jesus Christ of Latter Day Saints Trust Board has been resolved. However the submission raises other issues in that the designation boundary appears to be incorrectly aligned on other properties on Rua Road and the designation is also identified in the property summary of these other properties as being affected by it. (As an example see Proposed Auckland Unitary Plan Viewer and search the property summary for 54 Rua Road).</p> <p>Furthermore if you follow the designations as shown in the viewer along the roads to the west and east of Rua Road there are other cases where the designation crosses into properties fronting those roads. Search 52 Astley Avenue or 121 Portage Road for example, and you will see in the property summary of the viewer that the designation is listed. I am aware that the designations were intended to be primarily in the road corridor and where they were not easements across private property were negotiated and registered against the property titles.</p> <p>(Note added on 24 March 2016).</p> <p>Submissions 3210-7, 5682-19 and 7344-62 relate to the urban section of the pipeline which was incorrectly recorded as Designation 6500 on the Proposed Auckland Unitary Plan map. As noted above the error was not identified until 23 March 2016. The assessment of the submissions has</p>

been made within this report and I am satisfied that the incorrect labelling has not prevented an appropriate assessment of the submissions and resolution of the issues that were raised.)

Note: minor amendment made to correct the text to accurately record clause (d) of Designation 6500. The amendment to include 'former' in front of 'Waitakere' remains the same.

Submission 5716-2705 by the Auckland Council was that:

The mapping of these designations (6500 and 6501) does not appear to match the Vector Gas designations (9100, 9101 and 9102) which share the same designated corridor.

The relief sought was:

Review to ensure it matches the true designation corridor.

In response to the Panel's direction to requiring authorities that they advise of their progress with submitters, the Memorandum of Counsel for New Zealand Refining Company Ltd dated 7 August 2015 stated at paragraph 14:

Refining New Zealand has had discussions with Council officers and Counsel for the Council and has agreed that the changes sought in Council submissions (submission points 5716-2703, 5716-2704 and 5716-2707) are appropriate. In addition, the Council has confirmed in writing to Refining New Zealand that the mapping concerns it raised in submission points 5716-2705 and 5716-2706 have been satisfied and it will not be pursuing these matters.

In response to the section 142 reports the Council (page 10 of appendix 2 to the Council memorandum) advised that it accepted my recommendation

but notes that the mapping issues are being fixed in the context of the zoning to ensure that the zone boundaries and designations align.

In regard to the Vector designation 9102 which follows the same corridor the Council had lodged a similar submission. I incorrectly assumed in my section 142 report on that designation that the mapping concerns would have been agreed between Vector and the Council. On page 3 of appendix 2 to the Council memorandum it states that my recommendation is:

Not accepted. The Council and Vector agree that the mapping should be reviewed and will be undertaking the review prior to the 074 hearing in the expectation that any boundary adjustments necessary can be

	<p>addressed in evidence. The recommendation to confirm the designation without change is therefore premature.</p> <p>Response from Counsel for Vector and Vector Gas was that:</p> <p>Vector agrees the Council’s submission seeking that the mapping of the designation be reviewed and will work with the Council to complete this as soon as possible.</p> <p>The Panel in its 16 September prehearing meeting report encouraged Auckland Council and the requiring authorities to resolve minor mapping corrections that are not a modification made at rollover or requested in the submission and do not affect 3rd parties.</p> <p>The mapping issues identified above seem to be subject to undertakings between the Council and both Vector and Refining NZ for the designation boundaries to be realigned to their correct position. The Panel will need to be satisfied that all of the potential errors have been identified and corrected because there are otherwise major extensions to the designations taking place without proper process.</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. I inspected the revised mapping of the Refining New Zealand Ltd Designations 6500 and 6501 in the GIS viewer on 23 March 2016 and on the basis of that overall visual inspection I am satisfied that the maps appear to have been corrected.</p>
<p>Engagement by requiring authority with submitters.</p>	<p>Counsel for Refining New Zealand submitted a memorandum to the Panel which confirmed that the submissions by Gordon Kopu, and Wiri Oil Services Ltd had been resolved.</p> <p>In regard to the submission by The Church of Jesus Christ of Latter Day Saints Trust Board he advised that the submission had been satisfactorily resolved but requested that the Panel recommend the removal of the reference to Designation 6500 from the planning maps and property summary for 66 Rua Road.</p> <p>The requiring authority has advised that it has agreed to the minor amendments proposed in the Council submission points 5716-2703, 5716-2704 and 5716-2706 and that the mapping concerns raised by the Council in 5716-2705 and 5716-2707 have been satisfied. (Note submission 5716-2707 does not relate to this designation; it applies to 6501.)</p>
<p>Recommendation to Panel</p>	<p>I recommend that designation 6500 by Refining New Zealand Ltd be recommended for confirmation subject to the amendments set out in Attachment 1 and Attachment 2.</p>
<p>Response from requiring</p>	<p>Agrees with the above recommendations to Panel and</p>

authority	<p>requested additional amendments to update Condition 5.</p> <p>Agrees to amendments to condition 13 to remove references to Rodney district plan and rule numbers relating to that plan. Advised that amendments set out in the report had been agreed with Auckland Council and no mediation or hearing was required. (Email from Mathew Gribben to Harry Bhana dated 4 October 2015.)</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 further recommendations	The additional amendments requested by the requiring authority simply update and clarify the conditions without changing the extent or nature of the control imposed. I have amended Attachment 1 accordingly. A further minor correction (to better reflect Proposed Auckland Unitary Plan definitions) requested by Auckland Council has also been made to Advice Note (c) of Condition 13 in Attachment 1.
Recommendation from Panel	The Panel agrees with the report writer's recommendation.
Panel Reasons	The Panel agrees with the report writer's reasons.

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

That clause (d) of the Purpose of this designation be amended as set out below.

- (d) Surface marker posts and warning signage, located between the northern district boundary extending from Mangawhai Road at Kaiwaka and the southern district boundary extending from the former Waitakere City Boundary at Amreins Road, Taupaki

Amend Condition 5 as follows:

Road Opening

5. Any maintenance, repair, upgrade or renewal works associated with the pipeline within public roads within the designation shall be carried out in accordance with the document ~~“Working in the Roads Requirements National Code of Practice for Utility Operators’ Access to Transport Corridors (2011) or its successor”~~ and a Road Opening Notice obtained from the Road Controlling Authority prior to the works commencing.

Amend the condition 13 as follows

Welding, Dust and Smoke

13. Maintenance works, repair, upgrade and renewal activities shall comply with ~~Rule 16.5.2 Welding, and rule 16.7 Dust or Smoke of the Auckland Council District Plan (Rodney Section) 2011~~ below: the following:

~~16.5.2~~ All welding activities shall be screened from adjacent sites and roads.

16.7

~~Rule 16.7.1~~ No activity (apart from traffic travelling on formed roads, or activities authorised by resource consent for a discharge of contaminants into air) shall create a dust or smoke nuisance, which is discernible beyond the boundary of the site or sites on which the activity is being undertaken. For the purposes of this rule-condition a dust or smoke nuisance will occur if the Council considers there is visible evidence of noxious, dangerous, offensive or objectionable deposited particulate matter settling on the ground, a building, or structure, which is traceable from a dust or smoke source; or if the Council considers that the level of dust or smoke, beyond the boundary of the site or sites on which the activity is being undertaken, is noxious, dangerous, offensive or objectionable. In making its determination as to whether there is or is not a dust or smoke nuisance, the Council shall take into account the character of the zone in which the dust or smoke is created. ~~Emergency Service Training and Investigation undertaken by the New Zealand Fire Service Commission is exempt from complying with this rule, however reference should be made to the requirements of the relevant Regional Plan.~~

Note:

a. In addition to this rule-condition the ~~Proposed Auckland Regional Plan: Air, Land and Water~~ Auckland Unitary Plan has rules relating to the discharge of smoke and dust.

b. It is the nature of the rural area that rural farming activities are undertaken that will create a level of dust and/or smoke as a part of reasonable farming activities. However, this does not exempt farming activities from meeting Rule 16.7.1 any relevant rules.

c. In making the above determination Council shall utilise suitably qualified and experienced persons ~~appropriately trained and/or experienced persons~~ where possible.

Amend the heading to condition 14 as follows:

Consultation with Transit New Zealand NZTA

14. The requiring authority shall consult with New Zealand Transport Agency (NZTA) at least 30 working days prior to carrying ~~our~~ out any works or activities on, in or under State Highways, except in emergency situations.

Amend Advice Note 8 as follows:

8. 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.

11. Attachment 2 changes to maps in the Proposed Auckland Unitary Plan

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.