

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 Transport Agency

Minor matters and errors

Corrections to errors concerning lapse periods
applying to various designations

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 27 August 2015 and updated 9 October 2015 and updated 18 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 minor matters and errors in relation to some designations by the New Zealand Transport Agency.

2. Assessment

Errors do not require an assessment. A summary of these errors and corrections recommended is presented based upon responses provided by the requiring authority.

3. Recommendation to Panel

That the Panel recommend to Auckland Council that the errors identified be corrected as set out in section 6.

Author	Murray Kivell
Author's Signature	
Date	27 August 2015 and updated 9 October 2015 with no change, and updated 18 December 2015 with changes.

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 notices of requirement for designations 6719, 6722, 6723, 6726 and 6729 subject to the modifications shown in Attachment 1 and also as set out in the Panel report IHP Report to AC_074 NZTA AC submissions.

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

Analysis of all requirements for designation rollover requests indicated that the New Zealand Transport Agency (NZTA) had a number of designations where lapse date extensions were being sought. This was based on the comparison of provisions in the operative district plan and the Proposed Auckland Unitary Plan. On further analysis and consultation with the requiring authority it became clear that these matters were errors where information had been incorrectly transferred from the operative plans into the Proposed Auckland Unitary Plan.

For this reason there are no recorded submission points to address these errors so this report provides a record of the error and the method of correction.

Clarification was sought from New Zealand Transport Agency and their response is recorded in email correspondence with the report writer dated 14 and 17 August 2015. These responses are relied upon for the following assessment.

Requiring authority	New Zealand Transport Agency (NZTA)
Designation number (s)	6719: State Highway 1 - Shelly Beach priority lane 6722: State Highway16 – Waterview Connection causeway to Patiki Road 6723: State Highway 1 – Waterview Connection Waterview to Western Springs 6728: State Highway 20 – Waterview Connection Mt Roskill to Waterview 6729: State Highway 20 and Railway – Mt Roskill
Designation purpose	6719: Motorway - Shelley Beach Road priority lane. 6722: To alter designation A07-01, SH16, causeway and Rosebank Peninsula – Notice of requirement 2. Alteration to existing designation at Rosebank Interchange and Patiki bridges, including part of Rosebank Park Domain; modifications to land on existing causeway, ancillary safety and operational services, and maintenance, relocation of services, pedestrian and cycleway, landscaping and planting etc. 6723: To alter designation A07-01, SH16, between Great North Road and St Lukes Interchange – Notice of Requirement 3. Addition of properties to existing designation, and construction of two new lanes, stormwater treatment, wetland pond, ancillary works and services, vegetation removal and restoration works, relocation of services, works on existing cycleway, landscaping and planting. 6728: For a new designation, SH20 tunnels, Great North Road underpass to Alan Wood Reserve – Notice of requirement 5. New strata (subsoil) designation for construction, operation and maintenance of cut and cover and deep excavation tunnels, restricting subsurface activities

	<p>beneath certain properties, through proposed Sectors 7 and 8; construction, operation and maintenance and protection of SH20 subsurface works (tunnels).</p> <p>6729: Proposed motorway; proposed motorway and railway; proposed road, Hayr Road to Richardson Road.</p>
Location	As generally described above forming part of the state highway network.
Designation given effect to	Designations that have not been given effect to.
Lapse date in the Proposed Auckland Unitary Plan	<p>These designations were recorded to have the following lapse period extensions included, where those designations have been recorded as not being given effect to in the operative plan:</p> <p>6719: Five years from being operative in the Unitary Plan unless given effect to prior.</p> <p>6722: Five years from being operative in the Unitary Plan unless given effect to prior.</p> <p>(Previously: DC.2 The period within which this designation shall lapse if not given effect to shall be 10 years from the date on which it is confirmed in accordance with Section 184(1) of the Resource Management Act 1991).</p> <p>6723: Five years from being operative in the Unitary Plan unless given effect to prior.</p> <p>(Previously: 3. This alteration to designation will lapse if it is not given effect to before the expiry of 5 years from the date on which it is included in the District Plan under section 184(1) of the Resource Management Act 1991.)</p> <p>6728: Five years from being operative in the Unitary Plan unless given effect to prior.</p> <p>(Previously: DC.2 The period within which this designation shall lapse if not given effect to shall be 10 years from the date on which it is confirmed in accordance with Section 184(1) of the Resource Management Act 1991).</p> <p>6729: 6. The term for implementation of this designation shall be 8 years from the inclusion of the designation in the District Plan. 7. Unless lapsed prior to 15 June 2010, the expiry date of this designation was extended to 1 November 2015, by section 78 of the Local Government (Auckland Transitional Provisions) Act 2010.</p>
Rollover designation with no modifications	Yes
Description of the modification	NA
Land owned by the requiring authority	All land subject to designations is owned by the Agency as requiring authority.
Submitter	NA

Matters addressed in submission	NA
Assessment and reasons	<p>The Agency response in respect of each designation is provided below.</p> <p>6719</p> <p>The Shelly Beach Priority Lane Project was completed in the early 2000's and thus has been 'given effect to'. This designation does not have a specific lapse date condition, however the Proposed Auckland Unitary Plan should detail its current status.</p> <p>6722, 6728</p> <p>The Waterview set of designations (6722 - 23, 28) were confirmed in June 2011 and associated lapse dates for these designations were 10 years expiring June 2021. The Agency is not seeking to modify the lapse date and consequently the date detailed in condition DC. 2 (All Waterview designations share condition DC. 2) should be clearly reflected in the Proposed Auckland Unitary Plan.</p> <p>6723</p> <p>While also related to Waterview, there has been an alteration to Designation 6723 confirmed during February 2013. A new lapse period condition was confirmed. This now reads:</p> <p style="padding-left: 40px;">3. This alteration to designation will lapse if it is not given effect to before the expiry of 5 years from the date on which it is included in the district plan under section 184(1) of the Resource Management Act 1991 ("the Act").</p> <p>On this basis, the actual lapse date now is February 2018.</p> <p>The new Condition 3 should be included in the Unitary Plan by way of a correction to resolve the lapse date issue.</p> <p>6729</p> <p>This designation is associated with the Mt Roskill SH 20 Extension project which was completed in 2009 and thus 'given effect to'. Having a lapse date associated with this designation serves no purpose. However the Agency is not seeking to modify the lapse date and requests the lapse date from the operative plan to be reflected in the Proposed Auckland Unitary Plan.</p> <p>The report writer's opinion is that the matter is better dealt with as being a correction, so the lapse date can be correctly recorded as 'Given effect to' in the summary table in the Proposed Auckland Unitary Plan.</p>
Recommendation to Panel	<p>That the Panel recommend to Council that:</p> <p>Designation 6719, the lapse date is recorded as "Given effect to";</p>

	<p>Designations 6722 and 6728, the lapse dates be recorded as:</p> <p>The period within which this designation shall lapse if not given effect to shall be June 2021, being ten years from the date on which it was confirmed in accordance with Section 184(1) of the Resource Management Act 1991;</p> <p>Designation 6723:</p> <p>The new condition 3 is included in the Unitary Plan by way of a correction:</p> <p>3. This alteration to designation will lapse if it is not given effect to before the expiry of February 2018, being 5 years from the date on which it is included in the district plan under section 184(1) of the Resource Management Act 1991 (“the Act”);</p> <p>Designation 6729, the lapse date is recorded as “Given effect to’.</p>
Response from Requiring Authority	Counsel for the New Zealand Transport Agency provided a memorandum dated 11 September 2015 confirming that the Agency agrees with the recommendations.
Response from report writer	I reaffirm my original recommendation set out above.
Recommendation from Panel	The Panel agrees with the report writer’s reasons.
Reasons	The Panel agrees with the report writers reasons.

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

Designation 6719

Amend the lapse date as follows:

~~Five years from being operative in the Unitary Plan unless given effect to prior~~ Given effect to (i.e. no lapse date)

Designation 6722

Amend the lapse date as follows:

~~Five years from being operative in the Unitary Plan unless given effect to prior~~ The period within which this designation shall lapse if not given effect to shall be June 2021, being ten years from the date on which it was confirmed in accordance with Section 184(1) of the Resource Management Act 1991

Designation 6723

Amend condition 3 to read as follows:

3. This alteration to designation will lapse if it is not given effect to before the expiry of February 2018, being 5 years from the date on which it is included in the District Plan under section 184(1) of the Resource Management Act 1991 ("the Act").

Designation 6728

Amend the lapse date as follows:

~~Five years from being operative in the Unitary Plan unless given effect to prior~~ The period within which this designation shall lapse if not given effect to shall be June 2021, being ten years from the date on which it was confirmed in accordance with Section 184(1) of the Resource Management Act 1991

Designation 6729

Amend the lapse date as follows:

~~8 years from when the circumstances in section 175(1) of the Resource Management Act 1991 apply~~ Given effect to (i.e. no lapse date)