

AUCKLAND UNITARY PLAN
INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

Report to Auckland Council
Hearing topics 045 Airports and 074
Designations

Minister of Defence

Designation 4310
Whenuapai Airbase

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: 26 August 2015 and updated 7 October 2015 and 16 December 2015 for matters addressed in hearing topic 074 Designations.

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. This includes matters addressed in both hearing topic 045 Airports and hearing topic 074 designations.

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1. Introduction

The purpose of this report is to provide an assessment and recommendation in relation to modifications to existing designations being rolled over by the requiring authority, and 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 modifications;
- ii. mitigation measures proposed by requiring authority including any proposed conditions;
- iii. other section 171 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 should be confirmed.

3. Expert input

Not applicable.

4. Mediation required

Based on the responses of the requiring authority as detailed in section 9, the following matters have been identified that would benefit from mediation:

submissions from the New Zealand Historic Places Trust (now Heritage New Zealand) referenced as 371-214, 371-215, 371-216 and 371-217, and the Character Coalition submission 6370-15, have not been resolved. The requiring authority does not agree to the Type 2 condition sought by the submitters on any of its designations. The requiring authority is also seeking the deletion of designation condition 4 in respect of heritage matters and outline plans.

It is estimated that one day of mediation will be required.

5. Hearing required

Based on the responses of the requiring authority as detailed in section 9, the following matters have been identified to progress to a hearing:

submissions received from the Character Coalition (6370-15) and Heritage New Zealand (371-214, 215, 216, 217), and the related designation condition 4 from the operative district plan.

It is estimated that one day of hearing will be required (if not resolved prior through mediation).

6. Recommendation to Panel

That the Panel:

- i. modify the designation as set out in section 9;
- ii. agree to schedule mediation between the submitters and the requiring authority to address the matters identified in section 4 above; and (if required)
- iii. agree to hear matters identified in section 5 above.

Author	Murray Kivell
Author's Signature	
Date	26 August 2015 and updated 7 October 2015 with changes and updated 16 December 2015 with changes

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 notices of requirement for the modifications to designation 4310 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.

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

9. Assessment of modifications and submissions

Requiring authority	Minister of Defence
Designation number	4310
Designation purpose	Defence purposes (as defined by section 5 of the Defence Act 1990) – air base
Location	Brigham Creek Road, Kowhai Road, Kauri Road, and Bristol Road, Whenuapai.
Designation given effect to	Yes
Lapse date in operative plan	NA
Rollover designation with no modifications	No, involves modifications
Description of the rollover modifications and reasons	<p>The modifications sought in the rollover seek the following changes:</p> <ol style="list-style-type: none"> i. amended wording which elaborates the purpose of the designation; ii. amendments to the legal descriptions and maps to reflect the expanded extent to additional land (for approach light sites); iii. removal of all references in the designation schedule to Hobsonville Airbase and the Noise Control Area map for Hobsonville as the former airbase is no longer operational and a new designation (4313) now exists for the remaining piece of land at Hobsonville; iv. removal of Conditions 1, 2 and 4 attached to the designation. These conditions are considered inappropriate and/or unnecessary; v. the addition of two conditions that improve the workability of the designation by clarifying that an outline plan is not required for maintenance works or for activities that are provided for as permitted activities.
Notice of requirement	NA
Land owned by the requiring authority	The designated area is Crown-owned land or otherwise contains approach path lighting infrastructure on land owned by the New Zealand Defence Force.
Submitters	<p>838-38 – New Zealand Defence Force 6370-15 – The Character Coalition 371-214, 215, 216, 217 – Heritage New Zealand 1896-1 – John Farthing 5695-3 – Edward Lyons</p>
Matters addressed in submission	<p>838-38 – New Zealand Defence Force requesting term ‘purpose’ be used rather than ‘description’ within designation schedule.</p> <p>6370-15 – The Character Coalition requesting greater protection historic heritage.</p> <p>371-214, 215, 216, 217 – Heritage New Zealand requesting greater protection of historic heritage.</p>

	<p>1896-1 – John Farthing with unclear relief but appears to be requesting that Whenuapai airbase become a civil airport.</p> <p>5695-3 – Edward Lyons requesting that the military use of the designated land be retained.</p>
<p>Engagement by requiring authority with submitters</p>	<p>No agreement reached on heritage matters. Submitters are seeking an additional condition regarding heritage protection, and requiring authority opposes this outcome. The requiring authority is also seeking the removal of condition 4 regarding heritage matters and outline plans.</p> <p>The requiring authority has not engaged further with the latter two submitters given the nature of their relief sought.</p>
<p>Assessment and reasons</p>	<p>Basis of Assessment Some modifications and submissions for Designation 4310, particularly those relating to airbase noise contours, were addressed through the hearing on Topic 045 Airports. The Panel's recommendations on the matters considered in Topic 045 are addressed in this report in the Panel Reasons section below.</p> <p>Remaining matters to be heard in Topic 074 Designations are assessed below.</p> <p>The designation has been given effect to, and the modifications proposed are to clarify the purpose statement, to remove all references to Hobsonville, to amend the designation schedules and designation maps to reflect the altered extent; deletion of designation Conditions 1, 2 and 4 as being redundant, and insertion of two additional designation conditions regarding outline plans.</p> <p>Effects of modifications to Description/Activity The clarified 'purpose' statement of (additional text underlined) "<u>Defence purposes (as defined by s5 of the Defence Act 1990) – air base</u>" is an enhancement with no adverse effects on the environment.</p> <p>Effects of modifications to Designation extent The designation extent has been increased to include all approach path lighting infrastructure owned by New Zealand Defence Force over Crown owned land.</p> <p>Effects of modification of conditions The operative plan designation Conditions 1, 2 and 4 were in respect of outline plan requirements, sediment/erosion control matters, and heritage matters. The two designation conditions sought by the requiring authority replace the operative plan Conditions 1 and 2. The removal of operative plan conditions 1 and 2, and addition of the two conditions sought are all supported.</p> <p>The deletion of Condition 4 as sought is in respect of heritage matters and remains unresolved between the parties. The effects of the modification of conditions have been assessed, and the effects are considered to be not more than minor.</p>

	<p>Effects on submitters</p> <ul style="list-style-type: none"> i. The New Zealand Defence Force submission should be accepted and the term ‘purpose’ applied consistently in the designation schedule. This has been acknowledged as an error on the List of Minor Amendments. ii. The Character Coalition and Heritage New Zealand submissions have sought a Type 2 condition be imposed on the designation. The requiring authority does not agree and the matter should proceed to mediation. iii. The John Farthing submission has no clear relief. iv. The Edward Lyons submission supports the designation being retained. <p>Effects on adjacent properties and on wider environment I do not consider that there are any adverse effects on adjacent properties and on the wider environment that are more than minor. The designation conditions will be effective in managing any adverse effects.</p>
Recommendation to Panel	That the Panel recommends to Council that the designation is confirmed with all modifications requested, including by New Zealand Defence Force’s own submission, but with the exception of heritage matters and the removal of Condition 4, as no agreement reached between the parties. The parties to advise.
Response from requiring authority	The requiring authority requested mediation on the following matter: the inclusion of an additional condition described as a ‘type 2 condition’ concerning heritage requested by Heritage New Zealand (371-214).
Response from report writer	The report writer participated in mediation with the two parties on Tuesday 6 October. A signed Mediation Outcome for Defence Designations 6 October 2015 confirms that there is no agreement on the matter and that the matter will proceed to a hearing.
Final response from report writer	<p>Further discussion between the parties resulted in an agreement to the wording of a condition to manage and protect scheduled historic heritage places on selected Defence Force sites. This wording is recorded in statements of planning evidence by Ms Kate Searle for the New Zealand Defence Force (23 October 2015) and Duncan McKenzie for Heritage New Zealand (5 November 2015) and is also recorded in the updated position statement of Heritage NZ dated 1 December 2015.</p> <p>The agreed standard condition to apply to selected Defence Force sites including this facility is:</p> <p>Where any construction works for a project involve the total or substantial demolition of, or modifications to, a scheduled historic heritage place, any outline plan that is required shall, pursuant to s176A(3)(f), include:</p> <ul style="list-style-type: none"> a) An assessment of the effects on the historic heritage values of the place; b) A consideration of alternative methods and/or appropriate

	<p>mitigation to prevent or damage, loss or destruction of the values of the scheduled historic heritage place.</p> <p>This condition shall not apply in respect of repair or maintenance of the scheduled historic heritage place.</p> <p>This condition shall not apply where there is a conservation plan or similar plan (such as a New Zealand Defence Force Heritage Management Plan) for the management of the scheduled historic heritage place and the proposed construction works are in accordance with this plan.</p> <p>This condition is supported as it provides for the consideration of historic heritage when associated with the management of scheduled historic heritage places and will appropriately inform the Council on this matter.</p>
Recommendation from Panel	The Panel agrees with the report writer's recommendations set out in the 'Recommendation to Panel' row above and as modified in 'Final response from report writer' row above.
Panel Reasons	<p>The Panel agrees with the report writer's reasons which addressed matters raised in topic 074 Airports for Designation 4310 Whenuapai Airbase.</p> <p>In addition, the Panel has considered the modifications and submissions addressed within hearing topic 045 Airports, which were not addressed in Mr Kivell's reporting.</p> <p>The modifications and submissions on Designation 4310 considered in topic 045 were subject to mediation. These issues were resolved by mediation and the subsequent process of evidence and exchange and legal submissions. The Panel agrees with the outcomes of this process and recommends the modifications in the designation.</p> <p>The Panel notes that the Minister of Defence advised the Panel that the Minister would not pursue submission points seeking to modify the airport noise boundaries in Designation 4310 and would instead pursue that aim through a separate notice of requirement process to be lodged in the future. Hence the Panel has not made a recommendation on this particular submission point of the Minister.</p>

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

Amend the description as follows:

Purpose ~~Description~~

Defence purposes (as defined by section 5 of the Defence Act 1990) - air base.

Add new condition concerning historic heritage as follows:

4. Where any construction works for a project involve the total or substantial demolition of, or modifications to, a scheduled historic heritage place, any outline plan that is required shall, pursuant to s176A(3)(f), 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 damage, loss or destruction of the values of the scheduled historic heritage place.

This condition shall not apply in respect of repair or maintenance of the scheduled historic heritage place.

This condition shall not apply where there is a conservation plan or similar plan (such as a NZDF Heritage Management Plan) for the management of the scheduled historic heritage place and the proposed construction works are in accordance with this plan.