

AUCKLAND UNITARY PLAN  
INDEPENDENT HEARINGS PANEL

*Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau*

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**Report to Auckland Council  
Hearing topic 074  
KiwiRail Designations  
6300-6306, R6307**

**July 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 30 August 2015, updated 30 September 2015 and further amended on 13 July 2016 following the lodging and hearing of a late submission by KiwiRail

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.

# Report to Auckland Council – Hearing topic 074 KiwiRail Designations 6300-6305, R6307

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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 8 of this report for the assessment of each modification and requirement.

On the basis of the assessment, the report concludes as set out below.

- i. The designation/modifications/requirements 6300, 6301, 6302, 6303, 6304, 6305 and R6307 can be recommended for confirmation subject to the amendments shown in Attachment 1 and Attachment 2.
- ii. Submissions by the requiring authority and by third-party submitters have identified issues regarding the accuracy of the delineation of the boundaries of the designations. There is insufficient information to enable an assessment and recommendation on whether or how these boundaries need to be amended. This process needs to be carried out as a comprehensive combined exercise between the requiring authority and the Council and any changes that are identified for correction need to be specifically identified on a before and after basis and in particular any changes affecting private property need to be highlighted so they are easily identified. This exercise should include removing the overlapping designations in respect of: 6300 and 6301; 6303 and 6304; 6304 and 6305. This detail needs to be provided before any changes to the boundaries of the designation can be recommended for confirmation. **Note: This bullet point amended following the Requiring Authority's response and the Pre-hearing Meeting and Report of 16 September 2015.**
- iii. A number of submitters including Housing New Zealand and Duncan McKenzie have requested that Designation 6303, Avondale to Southdown Railway Line, be removed from the proposed Auckland Unitary Plan on the grounds of

uncertainty as to timing and the nature and extent of effects and methods of how those effects might be managed. I have assessed those submissions and am not able to make a recommendation due to insufficient information. **Note this bullet point amended following the Requiring Authority's response and the Pre-hearing Meeting and Report of 16 September 2015.**

### 3. Expert input

Not applicable.

### 4. Mediation required

Mediation may be required regarding designations 6302 and 6304 and submissions 3116-3 and 236-1. **Note: amended following the Requiring Authority's response and the Pre-hearing Meeting and Report of 16 September 2015.**

### 5. Hearing required


A hearing will likely be required for submissions on 6303. **Note: amended following the Requiring Authority's response and the Pre-hearing Meeting and Report of 16 September 2015.**

## 6. Recommendation to Panel

That the Panel:

- i. recommends that the designation/modifications/requirements 6300, 6301, 6302, 6303, 6304, 6305 and R6307 be confirmed subject to the amendments shown in Attachment 1 and Attachment 2;
- ii. recommends that the submissions by the requiring authority relating to checking of the extent of the designation boundaries to ensure that they are accurate is carried out in conjunction with the Council and the work completed in accordance with the Panel directions in its Pre-hearing Meeting Report dated 16 September 2015. This exercise should include removing the overlapping designations in respect of: 6300 and 6301; 6303 and 6304; 6304 and 6305. This detail needs to be provided before any changes to the boundaries of the designation can be recommended for confirmation.
- iii. make provision for a hearing of submissions to 6303.

**Note recommendation 2 was amended, a recommendation regarding lapse dates was deleted, and recommendation 3 was added, following the Requiring Authority's response and the Pre-hearing Meeting and Report of September 2015.**


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| <b>Author</b>             | Harry Bhana  |
| <b>Author's Signature</b> |   |
| <b>Date</b>               | 30 August 2015 amended updated 30 September 2015 and further amended on 13 July 2016 following the lodging and hearing of a late submission by KiwiRail. |

## 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 in the notices of requirement for designations 6300, 6301, 6302, 6303, 6304, 6305; and confirms the notice of requirement R6307 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.

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| <b>Panel Chair</b>       | Judge David Kirkpatrick   |
| <b>Chair's Signature</b> |  |
| <b>Date</b>              | 22 July 2016  |

## 9. Assessment of modifications and submissions

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| Requiring authority                        | KiwiRail Ltd   |
| Designation number (s)                     | 6300, 6301, 6302,6303, 6304, 6305 & R6307  |
| Designation purpose                        | 6300, 6301, 6302, 6303, 6304, 6305 & R6307<br>The purpose of the designation is to develop, operate and maintain railways, railway lines, railway infrastructure, and railway premises as defined in the Railways Act 2005.  |
| Location                                   | 6300 - North Auckland Railway line from Portage Road Otahuhu to Ross Road Topuni.<br>6301 – Newmarket Branch Railway Line from Remuera Road Newmarket to the Strand Parnell.<br>6302 - North Island Main Trunk Railway Line Buckland to Britomart.<br>6303 - Avondale to Southdown Railway Line from Soljak place, Mount Albert to Bond Place, Onehunga.<br>6304 - Onehunga Branch Railway Line.<br>6305 - Southdown Freight Terminal.<br>R6307 - Manukau rail link/branch line/Railway Station.   |
| Designations given effect to               | All have been given effect to except 6303 Avondale to Southdown Railway Line.  |
| Lapse date in operative plan               | 1 November 2015  |
| Land ownership                             | No information provided  |
| Land owned by the requiring authority      | As above   |
| Rollover designation with no modifications | 6303 No modifications.   |
| Description of the modification            | 6300 - Minor modifications only to annotate boundary between former Waitākere City area, Auckland City, and Rodney District where conditions applicable in each area have been identified and included in the rollover other than the addition of a standard statement of purpose for the designation.<br><br>6301 - Minor modifications only to annotate boundary between legacy plans, Auckland City District Plans - Isthmus section and Central Area section, where conditions applicable in each area have been identified and included in the rollover other than the addition of a standard statement of purpose for the designation.<br><br>6302 - Minor modifications only to annotate boundary between legacy plans, Auckland City District Plans - Isthmus section and Central Area section where conditions applicable in each area have been identified and included in the rollover other than the addition of a standard statement of purpose for the designation.<br><br>6304 –No conditions applied under the Auckland City District Plans - Isthmus section and no modifications have been made other than the addition of a standard statement of purpose for the designation.<br><br>6305 –No conditions applied under the Auckland City District Plans - Isthmus section and no modifications have been made other than the addition of a standard statement of purpose for |

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|  | <p>the designation.</p> <p>R6307 - This is a new designation so no modifications are applicable.</p>  |
| Assessment of rollover modifications and reasons       | <p>No assessment of these minor modifications is necessary. None of these changes will have any consequences for the management of effects on the environment arising from the operation of these works/activities.</p>   |
| Notice of requirement                                  | <p>R6307 - Manukau Rail Link from Lambie Drive (off-ramp) to Onslow Drive Wiri.</p>   |
| Assessment of new designation and reasons              | <p>The new designation request was accompanied by an assessment which addressed the criteria of section 171 of the Resource Management Act 1991. The works proposed to be designated have already been put into effect after being authorised by way of resource consents.</p> <p>Having reviewed the material supplied by KiwiRail in support of its request for this designation I have reached the following conclusions.</p> <p>The works and activity covered by the designation are in accord with:</p> <ul style="list-style-type: none"> <li>i. The objectives B2.1 and B3.3 of the regional policy statement and with the policies to provide for the development of an effective, efficient and safe integrated transport system that is integrated with and supports urban growth and associated land use.</li> <li>ii. The provisions of the Auckland-wide objectives and policies of C1.1 - Infrastructure which seek to ensure that the benefits of infrastructure are recognised, its adverse effects are managed and that the safe and efficient and secure development, operation and upgrading of infrastructure is enabled, and to service the needs of existing and planned use and development.</li> <li>iii. There is no need to give consideration to alternative sites, routes or methods, or to the necessity for the designation, as the requiring authority has already given effect to the works/activities to be designated.</li> </ul> <p>Accordingly for these reasons I am satisfied that the designation proposed is in accord with the criteria of section 171 and I recommend that the Panel recommends that the designation be confirmed.</p> |
| Submitters and summary of relief sought in submissions | <p><b>6300, 6301, 6302, 6303, 6304, 6305, R6307</b><br/> Submissions 371-214 and 371-217 by Heritage New Zealand sought to add a condition and advice note to all designations that contain scheduled historic heritage to address heritage values.</p> <p><b>6300</b><br/> Submission 2345-1 by Westcon Investments Ltd 6 that the designation be amended or deleted from land owned by third parties.</p>   |



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|  | <p>Submission 5566-16 by Tram Lease Ltd and Viaduct Harbour Holdings requesting that Designation 6300 be removed from the land surface of 511 Parnell Road.</p> <p>Submission 5747-14 from Parnell Community Committee Incorporated seeking to add conditions requiring the Parnell Diesel Depot building to be preserved and the Waipara Stream to be appropriately managed.</p> <p>Submission 4336-122 by KiwiRail Holdings Ltd seeking retention of the designation and amendment of the reference from New Zealand Railways Corporation to KiwiRail Holdings Ltd.</p> <p>Submission 4336-134 by KiwiRail Holdings Ltd requesting extent of designation be checked to ensure an accurate match with the requiring authority's landholdings.</p> <p>Submission 4336-175 by KiwiRail Holdings Ltd seeking to amend the description of the location to read: "North Auckland Railway Line from <del>Portage Road</del> <u>Bell Avenue</u> Otahuhu to Ross Road Topuni."</p> <p><b>6301</b><br/>Submission 5173-1 from Martyn Hamilton requesting that the designation be removed from buildings at 12, 16, 18, 20, 22, and 24 Heather Street Parnell.</p> <p>Submission 5747-15 from Parnell Community Committee Incorporated seeking to add conditions requiring the Parnell Diesel Depot building to be preserved and the Waipara Stream to be appropriately managed.</p> <p>Submissions 4336-124 by KiwiRail Holdings Ltd seeking retention of the designation and amendment of the reference from New Zealand Railways Corporation to KiwiRail Holdings Ltd.</p> <p>Submission 4336-130 and 4336-135 by KiwiRail Holdings Ltd requesting extent of designation in Condition 1 be checked to ensure an accurate match with the requiring authority's landholdings.</p> <p>Submission 4336-131 by KiwiRail Holdings Ltd requesting the deletion of Condition 2.</p> <p>Submission 4336-174 by KiwiRail Holdings Ltd requesting the amendment of notation on planning maps from 6300 to 6301.</p> <p><b>6302</b><br/>Submission 3116-3 by the Maurice Hayes Family Trust seeking that the purpose be limited to the development, operation and</p> |
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|  | <p>maintenance of railway facilities excluding other non-KiwiRail activities.</p> <p>Submission 5137-564 by Ports of Auckland Limited seeking that the designation be amended so that it does not apply to Ports of Auckland Limited land at Wiri Inland Port.</p> <p>Submission 6449-4 Madill and Smeed Ltd/Halls Transport seeking retention of the designation and its delineation.</p> <p>Submission 872-4 by Whai Rawa Ltd seeking confirmation that the existing height in extent of the designation is not altered and that the requiring authority does not seek changes to the designation height and lateral extent.</p> <p>Submissions 4336-125 by KiwiRail Holdings Ltd seeking retention of the designation and amendment of the reference from New Zealand Railways Corporation to KiwiRail Holdings Ltd.</p> <p>Submission 4336-132 and 4336-136 by KiwiRail Holdings Ltd requesting extent of designation in Condition 5 be checked to ensure an accurate match with the requiring authority's landholdings.</p> <p>Submission 4336-133 by KiwiRail Holdings Ltd requesting that references to legacy District plan provisions be amended to the corresponding Unitary Plan provisions.</p> <p><b>6303</b><br/> <b>Submissions by third parties opposed to the rollover of the designation.</b></p> <p>Submission 125-1 by the Nasura Family Trust opposing the designation on the basis of uncertainty in respect of timing and effects on their property at 22 Symonds Street Royal Oak, if the works are implemented.</p> <p>Submission 3864-1 from T C Robb and R A Ogden-Robb requesting the removal of the designation on the basis of uncertainty in respect of timing and effects on their property if the works are implemented. The submitters advise there is a reference to the railway line on their Certificate of Title to 62 Hill Road Onehunga.</p> <p>Submission 4612-1 by Duncan McKenzie requesting the deletion of the designation on the grounds that it has been in place since 1940, has never had the benefit of a proper notice of requirement and section 171 assessment and that designation is not required to protect the route since KiwiRail already owns the land.</p> <p>Submissions from Housing New Zealand expressing concern that the designation has been rolled over through two consecutive plan reviews without provision of further</p> |
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|  | <p>environmental assessment or demonstration that the requiring authority requires the land or is prepared to take financial responsibility for protecting the corridor. As there has been insufficient information to support a rollover Housing New Zealand seeks its removal. Particular Housing New Zealand properties identified as affected by the designation are as follows:</p> <ul style="list-style-type: none"> <li>i. submission 839-9997 - 26 Normans Hill Road</li> <li>ii. submission 839-9978 - 14 Forbes Street,</li> <li>iii. submission 839-9979 - 3, 5, 7 Bristol Road and 14, 16 Lowery Avenue, Mount Roskill;</li> <li>iv. submission 839-9980 - 35A and 35 Pleasant Street Onehunga.</li> </ul> <p><b>Submissions by the requiring authority and the Council</b></p> <p>Submission 4336-126 from the requiring authority requesting retention of the designation and amendment of the reference from “New Zealand Railways Corporation” to “KiwiRail Holdings Ltd”.</p> <p>Submission 4336-171 by the requiring authority requesting that the Council GIS files be checked for accuracy against the KiwiRail landholdings.</p> <p>Submission 4336-172 by the requiring authority requesting that the notation on the plan be amended from 6304 to 6303.</p> <p>Submission 4336-176 by the requiring authority requesting that the location for the designation be amended to read “Avondale Southdown Railway Line from Soljak Place Mount Albert to <del>Bond Place, Onehunga</del> <u>Nielson Street, Te Papapa.</u>”</p> <p>Submission 5716-3635 by the Council seeking retention of the designation.</p> <p><b>6304</b></p> <p>Submission 236-1 from All Secure Self Storage (Auckland) Ltd seeking that proposed modifications to designation 6304 be removed.</p> <p>Submission 3230-20 from New Zealand Starch Limited seeking retention of noise limits and other development controls proposed for the Heavy Industry Zone within the designation.</p> <p>Submissions 4336-127 by KiwiRail Holdings Ltd seeking retention of the designation and amendment of the reference from New Zealand Railways Corporation to KiwiRail Holdings Ltd.</p> <p>Submission 4336-138 by KiwiRail Holdings Ltd requesting extent of designation to be checked to ensure an accurate match with the requiring authority’s landholdings.</p> |
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|                                       | <p>Submission 4336-177 by KiwiRail Holdings Ltd requesting the location for the designation to read: “Onehunga Branch Railway Line from Onehunga Harbour Road Onehunga to Station Road Penrose and <del>Nielson Street Te Papapa.</del>”</p> <p>Submission 4336-174 by KiwiRail Holdings Ltd requesting the amendment of notation on planning maps from 6305 to 6304.</p> <p><b>6305</b><br/>Submission 3230-23 from New Zealand Starch Limited seeking retention of noise limits and other development controls proposed for the Heavy Industry Zone within the designation.</p> <p>Submission 5716-2817 from Auckland Council requesting that the extent of the designation be changed to align with the part of the site zoned Strategic Transport Corridor.</p> <p>Submissions 4336-128 by KiwiRail Holdings Ltd seeking retention of the designation and amendment of the reference from New Zealand Railways Corporation to KiwiRail Holdings Ltd.</p> <p>Submission 4336-139 by KiwiRail Holdings Ltd requesting extent of designation to be checked to ensure an accurate match with the requiring authority’s landholdings.</p> <p>Submission 4336-178 by KiwiRail Holdings Ltd requesting the location for the designation to read: “Southdown Freight Terminal at Nielson Street (adjoins number 345 Nielson Street) Onehunga.”</p> <p><b>R6307</b><br/>Submission 2745-785 by Vector Ltd and Vector Gas Ltd seeking amendment to the designation to clarify that the submitter is entitled to appropriate access in respect of its works within the designated area.</p> <p>Submissions 4336-123 by KiwiRail Holdings Ltd seeking retention of the designation and amendment of the reference from New Zealand Railways Corporation to KiwiRail Holdings Ltd.</p> <p>Submission 4336-141 by KiwiRail Holdings Ltd requesting extent of designation to be checked to ensure an accurate match with the requiring authority’s landholdings.</p> <p>Submission 4336-179 by KiwiRail Holdings Ltd requesting the location for the designation to read: “Manukau Rail Link from <del>Lambie Drive (off-ramp), Davies Avenue</del> Manukau City Centre to Onslow Drive Avenue Wiri.”</p> |
| Assessment of submissions and reasons | <p><b>Designation 6300</b><br/><b>2345-1</b> The submitter requested that the designation be restricted so that future development of railway infrastructure</p>   |

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|  | <p>should not take place on land in third-party ownership as at February 2014. It is not apparent whether the submitter is concerned that an area of land included in the designation is owned by a third party. The designation concerned has not been modified other than in the statement of purpose and I do not believe that modification has extended the powers that already existed under current legislation. In any event I would be unable to recommend the relief sought to the extent that may attempt to prevent the requiring authority's statutory powers to amend, alter or extend its designations in the future.</p> <p><b>5566-16</b> The submission concerned a property at the corner of Domain Drive and Parnell Road located above the Parnell Tunnel. It should be noted that submission 4336-174 by KiwiRail Holdings Ltd has requested the amendment of notation on planning maps from 6300 to 6301. That amendment would mean that submission 5566-16 should be related to 6301. The submitter seeks to have the designation map amended so it is not shown as affecting the land surface. However Condition 4 of Designation 6301 makes it clear that the designation in this area applies to the subsoil space only and the strata nature of the designation is clearly illustrated in diagram B09-06(1). I do not recommend any change to the mapping of this designation.</p> <p><b>5747-14</b> The Parnell Community Committee Incorporated sought to add conditions to the designation that the Parnell Diesel Depot building be preserved. The requiring authority advises that the designation has been uplifted from this part of the site, however the Unitary Plan requires amendment to reflect that uplifting of part of the designation. I recommend that KiwiRail provides the Panel with the necessary amendments to the documentation showing the designation.</p> <p>4336-122 KiwiRail's request to amend reference from New Zealand Railways Corporation to KiwiRail is recommended for confirmation.</p> <p>4336-134 KiwiRail request for the extent of the designation to be checked for an accurate match with their landholdings is a matter that needs to be determined between KiwiRail and the Council. I recommend that this submission be rejected for the detailed reasons set out in Sections 2 and 6 above.</p> <p>4336-175 I recommend that the description of the location be amended as requested by KiwiRail.</p> <p><b>Designation 6301</b></p> <p><b>5173-17</b> The designation abuts but does not extend over these properties. KiwiRail advises that the submitter's concern arose from an incorrect letter from the Council advising that the properties were covered by the designation. No action is required or recommendation made in respect of the submission.</p> |
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|  | <p><b>5747-15</b> The Parnell Community Committee sought to include a condition within the designation that “Management of the Waipapa Stream and any adjoining works to ensure the natural and historical importance of this watercourse are given regard to”. To the extent that the proposed condition relates to ongoing operational effects of the designated works it does not provide sufficient clarity or precision to enable the application of any assessment of compliance. As I note below KiwiRail is discussing this matter further with the submitter. Unless a more suitable condition or conditions is proposed I recommend against the inclusion of a condition of the kind sought in the submission.</p> <p><b>4336-124</b> KiwiRail’s request to amend reference from New Zealand Railways Corporation to KiwiRail Holdings Ltd is recommended for confirmation.</p> <p><b>4336-130 and 4336-135</b> KiwiRail’s request for the extent of the designation to be checked for an accurate match with its landholdings is a matter that needs to be determined between KiwiRail and the Council. I recommend that this submission be rejected for the detailed reasons set out in Sections 2 and 6 above.</p> <p><b>4336-131</b> KiwiRail advised that this condition related to the provision of a temporary station prior to construction of Britomart Transport Centre. I recommend the condition be deleted.</p> <p><b>4336-174</b> I agree with the requiring authority that the planning maps do not clearly distinguish between the extent of the adjoining designations between 6300 (the main North Island Main Trunk Railway) and 6301 the Newmarket Branch Railway Line from Newmarket to the Strand Parnell. I recommend that this submission be rejected for the detailed reasons set out in Sections 2 and 6 above.</p> <p><b>Designation 6302</b><br/> <b>3116-3.</b> The submission seeks that the purpose of the designation be limited so as to exclude non-KiwiRail activities. The submission expresses concern that land owned by KiwiRail adjacent to the railway line could be used by an unrelated party for housing and operating a collection of vintage steam locomotives with consequent reverse sensitivity effects for the potential development of the submitters land for urban purposes. I am unable to comment whether the purpose as amended would enable the activity that concerned the submitter to be established under the terms of the designation. I have referred to this matter further with reference to the requiring authority’s engagement with submitters.</p> <p><b>5137-564</b> KiwiRail advises that the submission by Ports of Auckland Ltd arose from an incorrect letter from the Council advising that the Ports of Auckland land was covered by the</p> |
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|  | <p>designation. No action is required or recommendation made in respect of the submission.</p> <p><b>6449-4</b> This submission is in support of the designation and no recommendation is required.</p> <p><b>872-4</b> The submission seeks assurance that no additional land or airspace/subsoil will be affected or taken by the modified designation and that the submitter would not support any further changes to the designation particularly in relation to designation height and lateral extent. The submission appears to accept that KiwiRail has not altered the designation height or lateral extent in the rollover designation. Whether or not KiwiRail chooses to alter the extent of its designation in the future is not a matter that can be addressed in this Unitary Plan process. Accordingly no recommendation is required in respect of this submission.</p> <p><b>4336-125</b> request to amend reference from New Zealand Railways Corporation to KiwiRail is recommended for confirmation.</p> <p><b>4336-132 and 136</b> KiwiRail's request for the extent of the designation to be checked for an accurate match with their landholdings is a matter that needs to be determined between KiwiRail and the Council. I recommend that this submission be rejected for the detailed reasons set out in Sections 2 and 6 above.</p> <p><b>4336-133</b> This Submission by KiwiRail sought that references to district plan provisions be amended to the corresponding Unitary Plan provisions. I have reviewed the rollover designations and agree that they contain a number of references to legacy plan provisions including the Tamaki Drive Scenic Way and a Scheduled Geological feature (D12-04) around the Orakei basin. However a complete review of all legacy provisions contained in these designations and a correct identification of the relevant proposed Auckland Unitary Plan provision was not able to be undertaken in the context of this assessment and is a task that would be more appropriately carried out by Council planning staff more knowledgeable about the process of transfer of these legacy provisions into the Unitary Plan. I recommend that the submission is rejected.</p> <p><b>6303</b><br/> <b>Submissions by third parties seeking removal of rolled over designation</b><br/> In both the submissions by Duncan McKenzie and by Housing New Zealand there is reference to rollovers which I interpret as meaning continuing extension of lapse dates. The issues raised in these submissions by all of the parties submitting in opposition concern the uncertainty that arises from the ongoing imposition of this designation without any indication of when or how it would be implemented and how any effects arising from</p> |
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its implementation and ongoing operation would be managed. I do not consider that the rollover of the designation provides that opportunity for reassessment. I note that the designation will lapse on 1 November 2015 unless KiwiRail seeks an extension under section 184 of the Resource Management Act 1991. I consider that an application under section 184 would provide an appropriate opportunity for the issues raised in the submissions to be properly assessed.

The issue of lapse dates of submissions and the application of rollover of lapse periods is discussed later in this report. I refer later in this report to the advice from KiwiRail as to its ongoing discussions/mediation with the submitters.

#### **Submissions by KiwiRail and the Council**

**4336-126** KiwiRail's request to amend reference from New Zealand Railways Corporation to KiwiRail Holdings Ltd is recommended for confirmation.

**4336-137** KiwiRail request for the extent of the designation to be checked for an accurate match with its landholdings is a matter that needs to be determined between KiwiRail and the Council. I recommend that this submission be rejected for the detailed reasons set out in Section 2s and 6 above.

**4336-176** I recommend that the description of the location be amended as requested by KiwiRail.

**4336-172** I agree with the requiring authority that the planning maps do not clearly distinguish between the extent of the adjoining designations 6303 and 6304 the Onehunga Branch Railway Line. I recommend that this submission be rejected for the detailed reasons set out in Sections 2 and 6 above.

#### **Designation 6304**

**236-1** The submitter's property adjoins Designation 6304. However the property summary on the planning maps indicates that the designation covers the property. It may be that reference which has concerned the submitter. I recommend that the property summary be amended to indicate that the submitter's land at 44-46 Galway Street Onehunga is not subject to this designation.

**3230-20** This submitter is concerned to ensure there are no reverse sensitivity effects arising from the submitter's activities particularly in regard to air quality and noise. The relief sought was for the retention of the relevant heavy industry controls within the designation. This relief is not sufficiently specific to enable a recommendation and I accordingly recommend that the submission be rejected.

**4336-127** KiwiRail's request to amend reference from New Zealand Railways Corporation to KiwiRail Holdings Ltd is recommended for confirmation.



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|  | <p><b>4336-138</b> KiwiRail request for the extent of the designation to be checked for an accurate match with its landholdings is a matter that needs to be determined between KiwiRail and the Council. I recommend that this submission be rejected for the detailed reasons set out in Sections 2 and 6 above.</p> <p><b>4336-177</b> I recommend that the description of the location be amended as requested by KiwiRail.</p> <p><b>4336-174</b> I agree with the requiring authority that the planning maps do not clearly distinguish between the extent of the adjoining designations 6305 (the Southdown Freight Terminal) and 6304 (the Onehunga Branch Railway Line). I recommend that this submission be rejected for the detailed reasons set out in Sections 2 and 6 above.</p> <p><b>Designation 6305</b></p> <p><b>3230-23</b> This submitter is concerned to ensure there are no reverse sensitivity effects arising from the submitter's activities particularly in regard to air quality and noise. The relief sought was for the retention of the relevant heavy industry controls within the designation. This relief is not sufficiently specific to enable a recommendation and I accordingly recommend that the submission be rejected.</p> <p><b>5716-2817</b> The Council has identified errors in the mapping of the 'underlying' zoning of the designation. When viewed in the proposed Auckland Unitary Plan maps the designation boundary and the zone boundary do not align. I recommend this error be corrected.</p> <p><b>4336-128</b> KiwiRail's request to amend reference from New Zealand Railways Corporation to KiwiRail Holdings Ltd is recommended for confirmation.</p> <p><b>4336-139</b> KiwiRail's request for the extent of the designation to be checked for an accurate match with their landholdings is a matter that needs to be determined between KiwiRail and the Council. I am not able to make any recommendation in this regard.</p> <p><b>4336-178</b> I recommend that the description of the location be amended as requested by KiwiRail.</p> <p><b>Notice of Requirement R6307</b></p> <p><b>2745-785</b> Vector Ltd is concerned that a number of electricity transmission facilities including underground cables pass under the railway line and requests clarification in the designation that Vector has access rights to maintain its equipment. This is a matter that needs to be settled between the submitter and the requiring authority and as discussed below has been the subject of continuing discussions.</p> <p><b>4336-123</b> KiwiRail's request to amend reference from New</p> |
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|   | <p>Zealand Railways Corporation to KiwiRail Holdings Ltd is recommended for confirmation.</p> <p><b>4336-141</b> KiwiRail's request for the extent of the designation to be checked for an accurate match with their landholdings is a matter that needs to be determined between KiwiRail and the Council. I recommend that this submission be rejected for the detailed reasons set out in Sections 2 and 6 above.</p> <p><b>4336-179</b> I recommend that the description of the location be amended as requested by KiwiRail.</p>  |
| <p>Engagement by requiring authority with submitters.</p> | <p>KiwiRail's memorandum of 11 August 2015 set out a summary of its engagement with submitters.</p> <p>In this part of the report I have only reviewed matters which do not appear to have been resolved at the time that memorandum was issued.</p> <p>Submissions by Duncan McKenzie, the Nasura Family Trust , T C Robb and RA Ogden-Robb and by Housing New Zealand had not been discussed with those submitters as at 11 August 2015.</p> <p>Submission 5566-16 from Tram Lease Ltd has not yet been resolved. It is essentially an issue of how a subsoil designation is shown on the planning maps without the inference that it affects the surface of the ground. The conditions make it clear that only the subsoil is affected and I have no recommendation to make regarding any change.</p> <p>Submission 5747-15 from the Parnell Community Committee regarding the Waipapa stream is still under discussion. As I have noted the proposed condition as worded in the relief sought by the Committee is not sufficiently clear and precise to enable a recommendation that it be included in the designation.</p> <p>Submission 3116-3 arises from a concern that land owned by KiwiRail adjoining the submitter's property could be used by a third party for activities associated with vintage locomotives with associated reverse sensitivity issues. The submitter and requiring authority will need to provide the necessary legal opinion regarding the extent of the purpose as proposed in the rollover provisions.</p> <p>Submission 3230-20 and 23 related to the control of potential reverse sensitivity issues arising from noise and air quality effects generated by the submitter's activities affecting the designated works and activities. KiwiRail advises that it intends to discuss this issue with the submitter.</p> <p>Submission 2745-785. KiwiRail advises that it will review the matter and discuss with Vector.</p> |
| <p>Recommendation to Panel</p>                            | <p>That Designations 6300, 6301, 6302, 6304, 6305 and R6307 as recorded in the proposed Auckland Unitary Plan be</p>   |

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|                                   | confirmed subject to the amendments set out in Attachment 1 and Attachment 2.   |
| Response from requiring authority | <p>The memorandum by Russell McVeagh - Response by KiwiRail Ltd in relation to the section 142 reports for Topic 074 - Designations, dated 11 September 2015 recorded as follows.</p> <p><b>All KiwiRail Designations</b></p> <p>The requiring authority disagrees with the assessment that there is insufficient information on how the boundaries delineating the designations could be amended for accuracy. It advises that KiwiRail is a significant way through checking the designations and identifying the minor amendments on an electronic GIS layer for consideration by the Council and intends to clarify and discuss these with Council so the amendments can be completed.</p> <p><b>6300</b></p> <p>The requiring authority advises that the recommendation to provide the Panel with documentation on the uplifting the designation from the Parnell Diesel Depot is unnecessary as it will be uplifted through a separate process. It advises that mediation may be required if the Parnell Community Committee pursues their submission. The requiring authority otherwise agrees with the recommendations on this designation.</p> <p><b>6301</b></p> <p>The requiring authority agrees with the recommendation and neither mediation nor hearing is required.</p> <p><b>6302</b></p> <p>The requiring authority agrees that mediation with submitter Maurice Hayes Family Trust submission number 3116-3, would be useful. It disagrees with the recommendation that its submissions seeking the updating of legacy plan references be rejected. The requiring authority otherwise agrees with the recommendations on this designation.</p> <p><b>6303</b></p> <p>The requiring authority does not agree that the submissions against Designation 6303 should be rejected on the basis that the designation lapses on 1 November 2015 unless an application for extension is made under section 184 of the Resource Management Act 1991. The designation has been rolled over with the same lapse reference as in the operative district plan, "12 years from the date of inclusion in the District Plan." It considers that the rollover date has not been amended. Accordingly KiwiRail considers that the matters raised in the submissions should be addressed at mediation and if necessary at a hearing.</p> <p><b>6304</b></p> <p>The requiring authority does not agree that 44-46 Galway Street Onehunga is not subject to the designation and considers that mediation is necessary. The requiring authority otherwise agrees with the recommendations on this designation.</p> |

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|  | <p><b>6305</b><br/>KiwiRail disagrees with the recommendation to amend the planning map to align the designation with the part of the site zoned Strategic Transport Corridor. It advises it will consult with Council regarding those changes. The requiring authority otherwise agrees with the recommendations on this designation.</p> <p><b>R6307</b><br/>The requiring authority is to work with Vector to resolve the submitter's concerns regarding access and otherwise agrees with the recommendations on this designation.</p>  |
| <p>Report writer's further recommendations</p>                       | <p>I have amended above my recommendations regarding mediation and hearing of submissions. I acknowledge that:</p> <ul style="list-style-type: none"> <li>i. the process of correcting and aligning boundaries of designations is progressing and the Panel has given a direction regarding this process; and,</li> <li>ii. the process of updating legacy plan references is likely to continue through discussion between the Council and KiwiRail;</li> </ul> <p>Accordingly my recommendation that the submissions by KiwiRail on those matters be rejected has been withdrawn. I have also withdrawn the recommended amendment to Designation 6305 which was made to satisfy submission 5716-2817 by the Council. As noted above issues regarding alignment and correction of designation boundaries are being resolved by discussion between KiwiRail and the Council in accordance with the direction given by the Panel.</p> <p>The issue of rollover of lapse dates which was a specific issue in regard to Designation 6303 was the subject of submissions and memoranda from a number of requiring authorities and was addressed at the Pre-hearing meeting for topic 074 on 16 September 2015. After considering those submissions and memoranda the Panel recorded in its report of that meeting that it would apply a number of principles relating to the application of s 144(4) of the Local Government (Auckland Transitional Provisions) Act 2010. The application of these principles meant that the proposed rollover of the lapse date for Designation 6303 was not a matter on which the Panel could make a recommendation.</p> <p>Following the Pre-hearing Meeting of 16 September 2015 it became evident that a hearing of submissions in relation to Designation 6303 would be necessary.</p> |
| <p>Hearing of Submissions on Designation 6303 on 1 December 2015</p> | <p>There were two submitters who wished to pursue their submissions in relation to Designation 6303, at the hearing on 1 December 2015. These submitters were Heritage New Zealand Pouhere Taonga, and Duncan McKenzie. Heritage New Zealand did not attend the hearing but it had lodged evidence seeking the imposition of a condition requiring</p>   |

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|  | <p>consideration of historic heritage effects in an Outline Plan of Works where the work would affect a scheduled historic place. KiwiRail opposed that relief on the basis that the scheduling in itself provided the appropriate protection.</p> <p>Duncan McKenzie sought the deletion of Designation 6303 on the basis that it had been in place for at least 70 years and had never been updated or re-assessed in terms of the significant changes that had occurred over that time particularly in terms of the management of adverse effects on the environment. His evidence was to the effect that the designation as currently worded did not provide for adequate control over the effects of the construction and operation of a public work of this scale. KiwiRail responded that there was significant scope for the Avondale to Southdown corridor to provide for some form of passenger rail in the future including the potential for light rail. It confirmed that the designation was required to protect a key part of KiwiRail's future plans for operation and development in Auckland. It advised the Panel that it was continuing to work towards the implementation of this designation and required the protection of the designation in the interim.</p> |
| <p>Panels recommendation on Kiwirail's designations.</p> | <p>In regard to the hearing of submissions on Designation 6303 the Panel has concluded that the relief sought by Heritage New Zealand should be granted and that the "Type 2 condition" that this submitter sought ought to be included in the conditions attached to that designation. While the Panel was not satisfied that it was not appropriate to grant Mr McKenzie's relief and recommend deletion of the designation it was of the view that more robust conditions ought to be imposed to ensure that any outline plan of works to initiate the project would clearly demonstrate how adverse effects associated with the construction and operation of the works would be avoided, remedy or mitigated. The Panel accordingly recommends that Designation 6303 as recorded in the proposed Auckland Unitary Plan should be confirmed subject to the amendments set out in Attachment 1.</p> <p>In regard to Designations 6300, 6301, 6302, 6304, 6305 and R6307 as recorded in the proposed Auckland Unitary Plan it recommends that those designations be confirmed subject to the amendments set out in Attachment 1 and Attachment 2</p>  |
| <p>Late Submission by Kiwirail</p>                       | <p>On 10 November 2016 the Panel gave approval to Kiwirail to lodge a late submission to the Unitary Plan. The submission was received by the Council on 26 November 2016 and was notified accordingly. The submission sought the rollover of parts of existing designations that had not been included in Kiwirail's original request for rollover of existing designations. The submission sought the reinstatement of the Kiwirail designation for seven sites as follows:</p> <ol style="list-style-type: none"> <li>1. Extend Designation 6300 by the addition of three areas which are part of 97 Mt Eden Road, 101 Mt Eden Road and 14-22 Boston Road Mt Eden;</li> <li>2. Extend Designation 6302 by the addition of an area of railway land in the vicinity of Jutland Road;</li> <li>3. Extend Designation 6302 by the addition of an area of railway land adjoining 276, 278 and 280 Great South Road</li> </ol>   |

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|  | <p>Manurewa;</p> <p>4. Extend Designation 6302 by the addition of an area of railway land adjoining 1-15 Spartan Road Takanini;</p> <p>5. Extend Designation 6302 by the addition of an area of land adjoining 65 Ash Road Wiri;</p> <p>6. Extend Designation 6303 by the addition of an area of land including part of 66 Frost Road and that part of the road reserve of Somerset Road extending west from 66 Frost Road for a distance of about 420 metres;</p> <p>7. Extend Designations 6304 and 6305 by the addition of an area of 5 Maurice Road and 218 Station Road</p>  |
| <p>Further submissions in response to the late submission</p>            | <p>There were no further submissions in response to sites 1-5. KiwiRail received four further submissions from:</p> <p>(a) All Secure Self-Storage Limited ("All Secure"), in relation to Designation 6304 for the Onehunga Branch Line;</p> <p>(b) Auckland Transport, in relation to Site # 6 on the Avondale to Southdown Railway Corridor at Somerset Road;</p> <p>(c) T&amp;O Properties; a landowner affected by amendments to KiwiRail's designations at Site # 7 at Maurice and Station Roads, Onehunga; and</p> <p>(d) The Rockfield Trust, a landowner affected by amendments to KiwiRail's designations at Site # 7 at Maurice and Station Roads, Onehunga.</p>  |
| <p>Hearing of further submissions in response to the late submission</p> | <p>(a) The submission by All Secure was not made in response to the changes sought in the late submission by KiwiRail but was seeking to further add to their submission 236-1 opposing the designation.</p> <p>(b) Auckland Transport (AT) was concerned about the potential effects of closure of Somerset Road and sought that it should be subject to a condition deeming approval in terms of section 176 and 178 of the RMA, to avoid AT's operations being unnecessarily constrained. At the hearing AT modified its position to request the imposition of the following condition:</p> <p><i>KiwiRail Corporation Limited is deemed to have given its written approval (as requiring authority) under sections 176 or 178 of the RMA to Auckland Transport and parties with Auckland Transport Corridor Access approval to undertake any activity for the purposes of operating, maintaining or upgrading Auckland Transport or utility assets within Somerset Road, Mt Roskill, until either:</i></p> <ul style="list-style-type: none"> <li>• <i>this section of road subject to the designation is stopped or otherwise no longer a road as defined by the Local Government Act 1974; or</i></li> <li>• <i>KiwiRail Corporation Limited gives six months written notice of its intention to construct the Avondale to Southdown Railway in accordance with a legal right of access.</i></li> </ul> <p>In response KiwiRail stated that such a condition was unnecessary and it was committed to working with AT to ensure (through existing processes outside a condition) that AT's ability to continue to utilise Somerset Road is protected until such time as the railway line is constructed. In the light of these submissions and evidence the Panel considers that re-imposition of the designation of Somerset Road is reasonably</p> |

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|  | <p>necessary and is unlikely to lead to any significant difficulties in the day to day operations of the road network in this area.</p> <p>(c) T&amp;O properties submission was met by Kiwirail's amendment to the designation so that the submitter's land was no longer affected.</p> <p>(d) The Rockfield Trust was concerned that their land was to remain designated after being earlier informed that the designation was no longer required. That submitter was of the opinion that the additional width of designation was not necessary for double tracking the rail line. The evidence of KiwiRail was that the additional area was required to prevent a "pinch point" being created which would hinder the implementation of double tracking of the rail line in this area. The Panel accepts the evidence of KiwiRail that the additional width is reasonably necessary.</p> |
| Recommendation from Panel in regard to late submission by KiwiRail | That in regard to the late submission by Kiwirail the extensions to Designations 6300, 6302 and 6304 as shown on the maps in Attachment 2 be included in the areas of those Designations which are recommended for confirmation.   |
| Reasons  | The Panel's reasons are as set out in "Hearing of further submissions in response to the late submission".   |

## 10. Attachment 1 Changes to text of proposed Auckland Unitary Plan

### Designation 6300

Amend the name of the requiring authority from New Zealand Railways Corporation to KiwiRail Holdings Ltd.

Amend the description of the location in the designation header table to read:

North Auckland Railway Line from ~~Portage Road~~ Bell Avenue Otahuhu to Ross Road Topuni.

### Designation 6301

Amend the name of the requiring authority from New Zealand Railways Corporation to KiwiRail Holdings Ltd.

Delete Condition 2

### Designation 6302

Amend the name of the requiring authority from New Zealand Railways Corporation to KiwiRail Holdings Ltd.

### Designation 6303

Amend as follows

**6303 Avondale Southdown Railway Line - updated following alteration to designation pursuant to section 181 of the Resource Management Act 1991**

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| Designation Number   | 6303  |
| Requiring Authority  | <del>New Zealand Railways Corporation (KiwiRail)</del> <u>KiwiRail Holdings Ltd</u>   |
| Location             | Avondale to Southdown Railway Line from Soljak Place, Mount Albert to <del>Bond Place, Onehunga-Nielson Street, Te Papapa</del>   |
| Rollover Designation | Designation G08-05, Auckland Council District Plan (Isthmus Section) 1999   |
| Lapse Date           | <del>12 years from when the circumstances in section 175(1) of the Resource Management Act 1991 apply</del> <u>31 August 2029</u> |

**Purpose**

The purpose of the designation is to develop, operate and maintain railways, railway lines, railway infrastructure, and railway premises as defined in the Railways Act 2005.

**Conditions**

~~1. That prior to implementation of the designation an assessment of environmental effects be undertaken to determine effects the works will have on the environment and the most appropriate means of mitigating these effects.~~

~~2. That a landscape plan be submitted for approval to the Council at the time of detailed design including fencing and planting which will be implemented at the boundary of the line with all land zoned residential and open space to minimise noise effects and provide screening.~~

~~3. That vehicle access along New North Road, Richardson Road, May Road, Dominion Road, Hayr Road, Hillsborough Road, Queenstown Road, Pleasant Street, Symonds Street, Forbes Street, Normans Hill Road, Quadrant Road, Hill Street, Selwyn Street, Onehunga Mall, Galway Street, Spring Street, Victoria Street and Alfred Street be maintained when construction is completed. All crossings to be grade separated, with the exception of local roads.~~

~~4. The short term construction effects including noise, visual effects and dust be reduced through appropriate construction methods.~~

~~5. The term for this designation shall be 12 years from the inclusion of the designation in the District Plan.~~

Detailed conditions covering the following matters shall be submitted as part of the outline plan of works:



1. A construction environmental management plan setting out the details of how the project and its environmental effects will be managed. It must include contact information for the Project Manager and details of how all potential adverse environmental effects including those affecting neighbouring properties will be managed.
2. A report from a suitably qualified noise consultant assessing potential noise effects arising from the project and setting out recommendations how noise and vibration from the works should be managed.
3. A report from a suitably qualified consultant assessing potential effects arising from rock removal required to implement the project and setting out recommendations on how adverse effects resulting from any measures required for rock removal, including blasting and mechanical methods should be managed.
4. A report from a suitably qualified consultant assessing potential effects arising from the ground vibration created by construction machinery involved in the project and setting out recommendations on how adverse effects of vibration from construction activities should be managed.
5. A construction noise and vibration management plan setting out how noise, vibration and blasting effects as determined from the reports set out above can be managed in a manner that will minimise the impacts on affected parties and sensitive receivers in accordance with best practice.
6. An assessment of effects of noise from the operation of the railway activity that is proposed, prepared in accordance with the relevant New Zealand standard if one exists or a relevant overseas standard if no New Zealand standard exists. The assessment shall include recommendations on any methods to be used to avoid, remedy or mitigate the effects of noise from the railway operation.
7. A landscape plan including detailed design of fencing and planting at the boundary of the line where it interfaces with all land zoned residential and open space.
8. Detailed arrangements to ensure that vehicle access along New North Road, Richardson Road, May Road, Dominion Road, Hayr Road, Hillsborough Road, Queenstown Road, Pleasant Street, Symonds Street, Forbes Street, Norman Hill Road, Quadrant Road, Hill Street, Selwyn Street, Onehunga Mall, Galway Street, Spring Street, Victoria Street and Alfred Street will be maintained when construction is completed. This should include arrangements, such as grade separation, to ensure safety wherever the line crosses any public street.
9. Where any works or development involve the demolition of, or, alterations or additions to a scheduled historic heritage place, the following shall be submitted with the Outline Plan of Works:
  - a. An assessment of the effects on the historic heritage values of the place; and
  - 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.

## **Designation 6305**

Amend the name of the requiring authority from New Zealand Railways Corporation to KiwiRail Holdings Ltd.

Amend the description of the location in the designation header table to read:

Southdown Freight Terminal at Nielson Street (adjoins number 345 Nielson Street) Onehunga.

### **Designation R6307**

Amend the name of the requiring authority from New Zealand Railways Corporation to KiwiRail Holdings Ltd.

Amend the description of the location in the designation header table to read:

Manukau Rail Link from ~~Lambie Drive (off-ramp)~~, Davies Avenue Manukau City Centre to Onslow ~~Drive~~ Avenue Wiri.

## **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 designations as of 22 July 2016. No map attachments are provided in this report because of the length of the designations makes this impracticable.

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