

## **Executive Summary**

# **Hearing 15**

## **Designations**

**Jane Macartney**

**20 April 2020**

# **Waikato**



**DISTRICT COUNCIL**

*Te Kaunihera aa Takiwaa o Waikato*

1. My name is Jane Macartney. I am the author of the s42A hearing report and WDC's rebuttal evidence on the topic of designations in the PWDP.
2. This executive summary briefly discusses:
  - meanings of designation and requiring authority
  - existing designations in the OWDP that are to be rolled over into the PWDP, with or without modification
  - notices of requirement for new designations
  - outstanding issues for requiring authorities and submitters wishing to be heard today
3. As defined by s166 of the RMA, a designation means a provision made in a district plan which gives effect to a requirement made by a requiring authority. A requiring authority is also defined in the RMA as a Minister of the Crown, a local authority, or a network utility operator approved under s167.
4. There are 21 requiring authorities who have designations in Waikato District. Existing and proposed designations are listed in Section E of the PWDP with a letter/number and shown on the planning maps.
5. As part of Clause 4 in Schedule 1 of the RMA required Council to invite all requiring authorities having an existing designation in their district to confirm whether they wish to rollover that designation into the PWDP, with or without modification. Examples of these modifications are changes to the spatial extent of a designation and corresponding legal description, and existing consent conditions.
6. Requiring authorities were also given an opportunity to seek new designations through this district plan review process if their notices of requirement were lodged within the 40 working day timeframe that preceded public notification of the PWDP on 18 July 2018. The Ministry of Education, NZTA and Chorus are in this category.
7. In terms of procedure, clause 9(3) in Schedule 1 of the RMA does not allow Council to make a recommendation or decision in respect of existing designations that are rolled over into a proposed plan without modification, and on which no submissions are received. Therefore, all designations in this category have been listed in Appendix 2 of my s42A report and will be included in the decision version of the PWDP without further formality.
8. For existing rolled over designations not captured by clause 9(3), s171 of the RMA applies. After considering the requirement against the test in s171 and any submissions received, Council may recommend to the requiring authority that it confirm the requirement, modify the requirement, impose conditions or withdraw the requirement.
9. Within 30 days of receiving Council's recommendation, the requiring authority is to advise whether they accept or reject the recommendation in whole or in part. The requiring authority may modify the requirement only if that is recommended by the hearings panel or is not inconsistent with the requirement as notified. If the requiring authority rejects the recommendation in whole or in part, or modifies the requirement, they shall give reasons for its decision.

10. The procedure for dealing with Council's own designations may be slightly different, depending on the authority delegated to the hearings panel. My recommendations have been made on the basis that the panel can make decisions for those.

### **Introduction in Section E**

11. The introduction contains a brief commentary on designations and the effect of these in a district plan. This commentary is for information purposes only and does not override the statutory requirements for designations set out in Part 8 of the RMA.
12. I support the request from Heritage New Zealand to amend this introduction so that the word 'damaged' is removed in respect to archaeological sites. The resulting phrase '... if an archaeological site is to be modified or destroyed' mirrors the language used in the New Zealand Pouhere Taonga Act.
13. I do not support Watercare's request to add a new advice note stating that: 'Any works undertaken in accordance with a designation are not subject to the requirements of any district plan rules including any overlay rules'. This is because s176A of the RMA sets out the circumstances when a requiring authority is required, or not required, to submit an outline plan of works to Council.
14. I now summarise the requests from the requiring authorities for the designations not listed in Appendix 2, any submissions and my recommendations.

### **Ministry of Education**

15. I support the rollover of 40 existing MoE designations, involving modifications that I consider have no significance in terms of potential effects on the environment. However, I do not support the Ministry's request to add their own definition of 'Education Purposes' into Section E. This is because, firstly, their definition reads more like a set of rules. Secondly, their definition lists activities that may not be consistent with the designated purpose, hence should be subject of a resource consent test. I have noted my preference to rely on the NPS definition of 'educational facility' recommended in the earlier Hearing 5.
16. The Ministry has lodged a notice of requirement to designate three already established school sites in Huntly, Ngaruawahia and Tamahere. It is understood that the main driver for this notice is the repeal of the Private Schools Conditional Integration Act 1975 and its merger in 2017 with the Education Act 1989. This merger is intended to create a more streamlined, flexible and modern regulatory framework for state integrated schools. I have recommended that this notice of requirement be confirmed, without conditions and that future developments be managed through the s176A process for outline plans of works.

### **Waikato Regional Council**

17. I support the rollover of 21 existing designations, involving modifications that I consider appropriate and have no significance in terms of potential effects on the environment.

### **Hamilton City Council**

18. I support the rollover of 2 existing designations for Hamilton Zoo and Taitua Arboretum with accompanying corrections to legal descriptions.

### **Minister of Justice**

19. I support the rollover of one existing designation for the Huntly District Courthouse, involving appropriate modifications to the designation purpose and site area which I consider have no significance in terms of potential effects on the environment.

### **Minister of Police**

20. I support the rollover of 6 existing designations, involving appropriate modifications to the designated purpose, site area and address, which I consider have no significance in terms of potential effects on the environment.

### **Counties Power**

21. I support the rollover of 6 existing designations, involving appropriate modifications to the designation purpose and legal descriptions which I consider have no significance in terms of potential effects on the environment.

### **New Zealand Transport Agency**

22. I support the rollover of 16 existing designations, with modifications to the designated purpose and reordering and renumbering each designation so that they generally coincide with locations that run north to south. This task is considered clerical and will depend on accurate shape files being applied to the planning maps. NZTA has advised that the notified planning maps are not based on the most current shape files held by NZTA. However, this matter can be easily resolved through their submission so that the latest shape files to be provided by them are used for the decision version of the planning maps.
23. Woolworths own and operate a Countdown supermarket in Huntly. They have requested the uplift of part of the adjoining designation for SH1 and unrestricted access to the supermarket site. NZTA advises that this future uplift and subsequent transfer of ownership and responsibilities to Council are subject of an agreement expected to be actioned some time in 2021. However, Woolworths' 2006 resource consent notes that any change to vehicular access to and from this site would require a variation. In this regard, a detailed traffic assessment would be expected to address the limited access status of this highway and demonstrate how safe vehicle movements could be achieved. Accordingly, I recommend that Woolworths' request be rejected.
24. Other submissions either support the rollover or, in the case of Reid Investments Trust, request amendment to the configuration of SH1 in the vicinity of the Hampton Downs interchange. NZTA state they will provide their current shape files to Council showing the removal of this designation from private properties.
25. NZTA has also lodged a notice of requirement to designate existing SH39 which forms a western bypass of Hamilton City between Ngaruawahia and Otorohanga. This route was not designated earlier because when it was gazetted in 1999, it was envisaged that it would be a state highway on a temporary basis pending the construction of the Waikato Expressway. NZTA states that it will be reviewing the function of SH39 but wishes to designate it now so that it can achieve its objectives to manage and maintain a safe and efficient state highway system on a district-wide basis, while reflecting their current ownership and maintenance

responsibilities. I support this notice and consider that a designation status is more administrative in nature, rather than involving any change in environmental impact.

26. NZTA has also confirmed that it is appropriate to delete the following sentence that precedes the table of their designations:

*All state highways identified on the planning maps are deemed to be designated, except for State Highway 1B.*

### **Transpower NZ Limited**

27. Transpower has provided helpful evidence to support all modifications sought for the rollover of its 8 existing designations. This includes their second set of evidence for their (still operational) switching station at the former Meremere Power Station site. This evidence has not been challenged by any submitter and I now support all of Transpower's requests. Ms Whitney and I have recently produced word documents that can be made available to the hearings panel during the hearing which clearly show recommended strikeouts and amendments to conditions.

### **KiwiRail Holdings Limited**

28. I support the rollover of 4 existing designations, with appropriate modifications that involve the replacement of the name 'New Zealand Railways Corporation' with 'KiwiRail Holdings Limited' and updating the railway land cadastre. I consider these modifications have no significance in terms of potential effects on the environment.

### **Waikato District Council**

29. I support the rollover of WDC's 40 existing designations, with various corrections requested in Council's own submission. I have recommended rejection of other submissions that request new designations for Mercer Cemetery, Mercer Reserve/Domain, a site for a future wastewater plant at Mercer, and an amendment to the designated purpose for M51 Local Purposes (Aerodrome) Reserve at Raglan. This is because Council, as the requiring authority, is the only party that can initiate a notice of requirement for these types of new designations or an amendment to an existing designation.

### **Waikato Regional Airport**

30. WRAL has provided helpful evidence to support the rollover of their existing Designation NI without modification. This designation establishes an 'Airport Obstacle Limitation Surface' that controls the height of buildings and structures so that aircraft using Hamilton Airport can operate safely. Various landowners in the vicinity of Matangi and Tamahere oppose this rollover as they consider the designation has no relevance to their property and may have been imposed in error.
31. It would appear that the submitters on this matter have misunderstood the workings of this designation. WRAL considers that the AOLS 'is likely to be very high' in these locations and 'unlikely to impact on the activities occurring on those sites.' I consider it appropriate to retain Designation NI without change as it is an important resource consent consideration for any future building that might breach the building height rule.

### **Watercare Services Limited**

32. I support the rollover of 3 Watercare designations, with appropriate modifications that only involve amendments to the designated purpose to reflect modern terminology for their facilities, and to planning maps to correspond with areas that are already designated. I consider these modifications have no significance in terms of potential effects on the environment.

### **Department of Corrections**

33. The Department of Corrections requests the rollover of their existing designation for Springhill Prison at Hampton Downs. They seek modifications involving the removal or update of existing designation conditions they consider to be redundant. These conditions address compliance with plans, formation of a community liaison group, pre-works consultation, implementation of landscaping, construction traffic management, earthworks management, upgrading of the Te Kauwhata wastewater treatment plant and directional signage. They state the removal of redundant conditions 'will result in a more efficient package of planning requirements relating to Springhill Prison'.
34. I have some reservations in respect to the Department's view that deleting such conditions will result in a more 'efficient' process for future developments. I also consider that some conditions should remain because they set out obligations that need to be met on an ongoing basis.
35. My preference remains for all changes to be considered through a s181 process (alteration of a designation) to enable a more detailed engagement with affected landowners which, in turn, has potential to produce more sustainable outcomes. This would include the Department's request in their evidence to amend existing condition 4.2 (shown below) because of changes to named parties. My rebuttal evidence notes this particular request was not part of their original notice.

*4.2 The puna (springs) shown on Figure 4 dated December 2003 shall be fenced off and protected from construction works, including earthworks. There shall be no future building development or earthworks within 5m of any of the puna, unless agreed between the Minister and the Waikato Raupatu Lands Trust, Ngati Naho Co-operative Society Limited and Horahora Marae Trust.*

### **WEL Networks Limited**

36. I support the rollover of 13 existing designations, with appropriate modifications to the designated purpose, site address, site area and legal descriptions. I consider these modifications have no significance in terms of potential effects on the environment.

### **First Gas Limited**

37. I support the rollover of the First Gas designation for its gas transmission lines running between Rotowaro and East Tamaki. One submission has been received querying whether the designation granted in 2005 is still live or whether it has lapsed. Because the designation contains the existing operational pipeline, I agree with First Gas that the designation has been given effect.

**Radio New Zealand Limited**

38. I support the rollover of the existing designation at Gordonton which provides for a radio communication and telecommunication facility.

**Auckland Council**

39. I support the rollover of Auckland Council's Regional Park designation, with modifications that only involve the designated purpose, legal descriptions and planning maps.

**Chorus NZ**

40. I support the rollover of 8 existing designations and the notice of requirement to designate 25 sites that have been established with telecommunication and radio communication facilities for a considerable time. I agree with Mr Horne's evidence which helpfully discusses all of the Chorus designations, and also support his requested amendments to conditions.
41. I have recommended rejection of two submissions that query whether Chorus is the requiring authority for Designation U13 and request exclusion of a possible future cellphone transmitter/tower for Designation U23 due to concerns with electromagnetic radiation.
42. Lastly, my s42A report notes the requirements in the National Planning Standards for how designations are to be shown in a district plan, including unique identifiers and the listing of conditions. I have suggested that the format of these designations could be provided to each requiring authority for feedback together with the hearing panel's recommendations resulting from this hearing.

I am happy to answer any queries that the hearings panel may have.

Jane Macartney  
20 April 2020