



NOTICE OF EMERGENCY MEETING

COUNCIL

I hereby give notice that pursuant to Standing Order 14.2 an Emergency Meeting will be held on:-

DATE: **Monday, 18 February 2002** **TIME:** **8.45 am**

VENUE: **Civic Centre, 6 Waipareira Avenue, Lincoln, Waitakere City**

to receive a report with respect to a requirement for the designation of a proposed reserve at 5 Ambrico Place, New Lynn and to take any necessary action connected therewith.

15 February 2002

Sidney Hargis
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8864

MEMBERSHIP:

Mayor	RA	Harvey, QSO, JP
Deputy Mayor	CA	Stone
Councillors	DQ	Battersby, JP
	BA	Brady, JP
	JM	Clews, QSO, JP
	RP	Dallow, QPM, JP
	AC	Fenton
	OE	Hoskin, JP
	PA	Hulse
	JP	Lawley
	GE	Nash, JP
	VS	Neeson, JP
	GB	Presland
	GW	Russell
	DA	Yates, JP

(Quorum 8 members)

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(The reports and recommendations contained in all agendas are reports and recommendations only and are not to be construed, in any way, as Council policy until adopted.)

**AGENDA FOR AN EMERGENCY MEETING OF THE COUNCIL TO BE HELD IN THE
CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY,
ON MONDAY, 18 FEBRUARY 2002 COMMENCING AT 8.45 AM.**

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ON MONDAY, 18 FEBRUARY 2002 COMMENCING AT 8.45 AM.**

1 APOLOGIES



2 5 AMBRICO PLACE, NEW LYNN - DESIGNATION OF "PROPOSED RESERVE"

PURPOSE OF THE REPORT

A1 - A4

At its meeting of 29 August 2001, Council resolved (1993/2001) that pursuant to S.168A of the Resource Management Act 1991, a notice of requirement be issued to designate as "Proposed Reserve" all that land comprising Lot 3 DP 152489. A copy of the Notice of Requirement adopted and publicly notified as a result is attached at pages A1 to A4.

The purpose of this report is to update Council on the Commissioner's recommendation on the application for the Designation, and to seek the Council's acceptance of that recommendation.

BACKGROUND

The land to which the Requirement applies is legally described as Lot 3 DP 152489. The Requirement is for a Proposed Reserve. The site is owned by Ambrico Apartments Limited. This company is currently in liquidation. The site has a total land area of 2105m² and is located on the southern side of Ambrico Place. The site is zoned as Industrial B in the Waitakere City Transitional District Plan (New Lynn Section), and is identified as Working Environment and General Natural Area in the Waitakere City Council Proposed District Plan.

Council engaged a Commissioner, Mr Harry Bhana, to hear submissions on the Requirement for the Designation. The Requirement attracted 22 submissions, with all but one being in support of the Designation. A hearing occurred on 31 January 2002, and Mr Bhana provided his recommendation to the Council on 7 February 2002.

STRATEGIC CONTEXT

Council's Parks Strategy seeks to improve accessibility to neighbourhood and local reserves. A key policy of the Strategy indicates that all residential areas should be located within 800m of a fully developed park. In residential areas that will experience even further growth, this standard should rise to 80% of homes being within 400m of a fully developed park.

Ambrico Place comprises a number of medium density housing developments totalling over 300 household units and approximately 600-800 residents. Residents in New Lynn have made a number of approaches to the Council requesting improvement to the amount of open space within their neighbourhood. Reserves that have been created or upgraded to meet the demands of the medium density developments in the Ambrico Place area include Gardner Reserve, Manawa Wetland, Margan Reserve, Ambrico Reserve (the subject site) and the reserve containing the historic kiln opposite the subject site (Ambrico Kiln Reserve).

The Proposed Reserve in respect of the requirement for a designation (locally known as Ambrico Reserve) is an existing neighbourhood reserve located in an emerging inner-urban neighbourhood. The reserve contributes to the amenity and visual appeal of the area, and provides a play area and space for informal activities.

Given the context and scale of development in Ambrico Place, and that recent studies indicate there are a significant number of families with children residing in Ambrico Place, the provision of a significant safe neighbourhood park is entirely necessary and appropriate. Failure to identify and protect the site for reserve purposes in the area would cause adverse crowding effects on surrounding reserves, restricted access for some residents to existing reserves, and the local community would be significantly disadvantaged.

COMMISSIONER RECOMMENDATION

A5 - A18

The Commissioner has recommended to the requiring authority (the Council) that it confirm the requirement for a designation under section 189A of the Resource Management Act 1991. A full copy of the Commissioner's decision is attached at pages A5 to A18.

The acceptance of the Commissioner's recommendation will facilitate the inclusion of the Designation for the Proposed Reserve at Ambrico Place into the Proposed District Plan.

NEXT STEPS

Upon receipt of the Commissioner's recommendation, the requiring authority (the Council) has 30 working days to advise whether it accepts or rejects the Commissioner's recommendation. Within 15 working days of the requiring authority's decision, a copy of that decision must be served on all those who made a submission and the land owners. That decision may then be appealed to the Environment Court by any person who made a submission on the requirement to designate the site. If no Environment Court appeals are lodged, the Council shall, without further formality, include the Designation as a rule in the Proposed District Plan.

RECOMMENDATIONS

1. That the information be received.
2. That pursuant to section 189A of the Resource Management Act 1991, the Council, in its role as the requiring authority, accept the Commissioner's recommendation that the requirement for the designation of a proposed reserve at 5 Ambrico Place, being Lot 3 DP 152489, be confirmed.

Report prepared by: Eryn Shields, Service Planner.



NOTICE OF A REQUIREMENT FOR A DESIGNATION UNDER SECTION 168A OF THE RESOURCE MANAGEMENT ACT 1991

Waitakere City Council gives Notice of a Requirement for a designation for a Proposed Reserve in accordance with the following criteria and conditions:

- The area to be designated 'Proposed Reserve' is shown on the Requirement Plan accompanying this Notice of Requirement.
- The designation shall lapse on the expiry of 10 years from the date on which it is included in the Waitakere City Proposed District Plan if it has not been given effect to before the end of that period [Section 184(1)(c)].

The following information is submitted in accordance with Section 168A of the Resource Management Act 1991.

1. The reasons why the designation is needed (section 168(3)(a)).

There are currently 216 ha of reserves in the suburban areas of Waitakere City. Expressed as a ratio of land to people this translates into a total of 1.6 ha of reserve land to every 1000 people. When determining future reserve requirements Council considers the quantity and quality of reserves, their accessibility, resident satisfaction with current reserve provision and likely future population growth patterns. Generally, Council's objective in relation to reserve and recreation facilities is to provide appropriate facilities in appropriate locations and in a timely manner to cater for residents.

Council's Parks Strategy seeks to improve accessibility to neighbourhood and local reserves. A key policy of the Strategy indicates that all residential areas should be located within 800m of a fully developed park. In residential areas that will experience even further growth, this standard should rise to 80% of homes being within 400m of a fully developed park.

Ambrico Place comprises a number of medium density housing developments totalling up to 300 household units and approximately 600-800 residents. Residents in New Lynn have made a number of approaches to the Council requesting improvement to the amount of open space within their neighbourhood. Reserves that have been created or upgraded to meet the demands of the medium density developments in the Ambrico Place area include Gardner Reserve, Manawa Wetland, Margan Reserve, Ambrico Reserve (the subject site) and the reserve containing the historic kiln opposite the subject site (Ambrico Kiln Reserve).

The Proposed Reserve in respect of this Notice (locally known as Ambrico Reserve) is an existing neighbourhood reserve located in an emerging inner-urban neighbourhood that contributes to the amenity and visual appeal of the area and provides a play area and space for informal activities.

Given the context and scale of development in Ambrico Place, and that fact that recent studies indicate there are a significant number of families with children residing in Ambrico Place, the provision of a significant safe neighbourhood park is entirely necessary and appropriate. Failure to identify and protect the site for reserve purposes in the area would cause adverse crowding effects on surrounding reserves, restricted access for some residents to existing reserves, and the local community would be significantly

disadvantaged. In summary, analysis of the catchment's demographic and residential development characteristics more than adequately establishes the need for the Proposed Reserve (Ambrico Reserve).

The Council has allowed the current owner, Ambrico Apartments Ltd, which has developed some 120 medium density housing units on two parcels immediately adjacent to the site a credit in relation to the reserve contributions applicable in recognition of the intention to vest the land in Council as recreation reserve.

2. A description of the site in respect of which the Requirement applies and the nature of the proposed public work... and any proposed restrictions [Section 168(3)(b)].

2.1 Physical and legal description of site

The land to which the Requirement applies is legally described as Lot 3 DP 152489. The site has a total land area of 2101m² and is located on the southern side of Ambrico Place with significant frontage to the road. The site is located south of the New Lynn town centre and Rail Station. The site is relatively flat but is elevated approximately 1.5 metres above Ambrico Place and enjoys a northerly aspect.

Tuscany Towers, a medium density housing development, is located immediately adjacent to the proposed reserve's southern boundary. Vehicle access between Ambrico Place and the Tuscany Towers site is located along the proposed reserve's southern boundary. Tuscany Terraces, another medium density housing development, is located adjacent to the reserve's eastern boundary where residents of eleven of the units can gain pedestrian access to the proposed reserve via gates on the property boundaries.

Approximately two-thirds of the subject site has been developed for passive recreation purposes. This development comprises a 'play-ground' facility designed for 0-12 year olds, a petanque court, paving and seating, and substantial planting and landscaping. Mosaic signs identify the site as 'Ambrico Reserve' on the Ambrico Place street frontage. This development occurred between 1999 and 2000. The existing facilities are well maintained and in excellent condition.

The remaining one-third of the subject site remains vacant and is generally overgrown with grass.

2.2 The nature of the work and any proposed restrictions

It is intended that the subject site, comprising both the developed (identified as Ambrico Reserve) and undeveloped portion of the site, be retained for use as a Neighbourhood Reserve.

There are no proposed restrictions at this juncture although it is recognised that such may result from the subsequent proposal of further buildings or structures on the site and that the appropriate approvals in respect of the Resource Management Act 1991 will be sought at that time.

3. The effects that the public work... will have on the environment, and the ways in which any adverse effects may be mitigated, and the extent to which alternative sites... and methods have been considered [Section 168(3)(c)].

3.1 Effect that the proposed work will have on the environment and proposed mitigation measures

The proposed reserve is in an area that has experienced considerable conversion to medium density residential development. This has meant that there has been a demand for additional recreation facilities, including neighbourhood reserves, to adequately cater for the increase in residents at a higher density in the Ambrico area. In addition, residents have also expressed to Council that additional recreation facilities are needed. Securing and identifying the proposed reserve through the designation process, clearly indicates that Council is seeking to provide adequate neighbourhood reserves in the area. Ultimately the effect on the local environment of securing the subject site for reserve purposes will be positive as there is a strong demand for reserves, and it has been determined that the associated population will sustain a permanent reserve given the prevailing demographic characteristics.

A reserve is a generally accepted feature in a residential neighbourhood. However, it is considered that potential adverse effects could arise from some sources, such as noise. At various times during the day, groups of children will be outside, and this will be a source of noise. However, such noise is unlikely to be of a volume, duration or nature which gives rise to nuisance.

In regard to the design of the public open space, the location of the proposed reserve was well considered in regard to access, supervision and general strategic planning during concept development preparations. Accommodating such features in a small reserve space, surrounded by houses, which is good for informal surveillance and a potential asset for surrounding properties, without compromising a perceived need for privacy and quiet is a consideration for most medium density residential developments. It is considered that the proposed reserve is strategically located and that the existing facilities complement adjoining development layouts.

All built development within the proposed reserve is currently at a scale that is compatible with the surrounding residential environment. Experience elsewhere has established that through appropriate attention to design, there need be no adverse visual effect on surrounding residences. The open space and landscaping associated with the reserve is very likely to be perceived as a positive environmental effect. In addition, frontage to Ambrico Place provides the proposed reserve with good visibility and profile in the community.

An essential part of an integrated residential community is access to suitable recreation facilities. It is considered that a reserve in this locality will be of benefit to the local community.

3.2 Alternative sites

No other potentially suitable locations have been identified in the Ambrico Place area for a neighbourhood reserve. As discussed above, there are a number of other reserves in close proximity to the subject site, however these do not provide the range of passive recreation facilities available at the proposed reserve.

3.3 Alternative methods [refer Section 171(1)(b)]

The main alternative method to acquiring a reserve is to have it vested in Council at the time of subdivision prior to the land being gazetted as a reserve under the Reserves Act 1977. The subject land was originally identified as Industrial B in the Transitional District Scheme, and then later, in the Waitakere City Proposed District Plan, as Working Environment. However, subsequent development for medium density housing meant that no adequate provision for neighbourhood recreation reserves was made. With development of the larger industrial sites only financial reserve contributions have been received, and land has not been able to be vested for reserve purposes and further subdivision will not now occur in Ambrico Place. Therefore, the designation process is necessary to identify and secure the subject site for reserve purposes.

Additional statutory processes are required to complete the establishment of the proposed reserve. These include a Variation to the Proposed District Plan to identify the subject site as Open Space Environment, instead of Working Environment, the gazetting of the reserve in respect of the Reserves Act 1977, and the preparation and adoption of a Reserve Management Plan (currently being prepared by Council), also in respect of the Reserves Act.

4. Any information required to be included in the notice by a plan or regulation [Section 168(3)(d)]

There is no information required to be included in this notice by either the Proposed or Transitional District Plans.

5. A statement of the consultation, if any, that the requiring authority has had with persons likely to be affected by the designation... (Section 168(3)(e)).

Consultation with Ambrico Place residents was not directly carried out as part of the preparation of this Notice of Requirement. However, consultation with the local community and New Lynn Community Board was undertaken during the preparation of the concept plan (late 1999). This included public meetings on site. The outcome of these meetings indicated that there was overwhelming public support for the development of the subject site for reserve purposes. Negotiations have also been entered into with the land owner, Ambrico Apartments Ltd.

6. A statement specifying all other Resource Consents that the requiring authority may need to obtain in respect of the activity to which the requirement relates, and whether or not the requiring authority has applied for such consents (Section 168(3)(f)).

6.1 All Other Resource Consents

No other resource consents are required.

6.2 Resource Consents which have been applied for

No other resource consents have been applied for.

.....
Harry O'Rourke
Chief Executive

.....
Date

IN THE MATTER OF The Resource Management Act
1991

AND

IN THE MATTER OF The City of Waitakere Transitional
and Proposed District Plans

AND

A Notice of Requirement for a
designation under section 168 of
the Resource Management Act
1991 for a proposed reserve in
Ambrico Place New Lynn.

REPORT AND RECOMMENDATION

The report and recommendation of Harold Francis Bhana, Commissioner, to the
requiring authority (Waitakere City Council) is as follows:

BACKGROUND

This decision relates to a requirement for a designation under Section 168 of the
Resource Management Act 1991 for a proposed reserve on Ambrico Place, New
Lynn. The Notice of Requirement was served by the Council on the 6 September
2001. The notice sets out the reasons why the designation is needed and
provides a physical and legal description of the site, the nature of the work and
any proposed restrictions. It also describes the effects that the "public work" will
have on the environment and the ways in which any adverse effects may be
mitigated, and the extent to which alternative sites and methods have been
considered. Consideration is given to alternative methods for achieving the

Council's objectives and describes previous consultation on the development of the reserve.

The site is zoned Industrial B under the Transitional District Plan and Working Environment under the Proposed District Plan.

The Notice of Requirement and the planning report prepared for the hearing both describe the unusual circumstances that relate to the previous development of the land, the subject of the notice, and to the use of the surrounding land in Ambrico Place. Although the land which is served by Ambrico Place was zoned Industrial B under the Transitional Plan and Working Environment under the Proposed Plan almost all of the land has been developed for apartments. The Council has purchased the only business activity in Ambrico Place, "Homeworks", a building supply yard. The latter site will be developed by Waitakere Properties Limited, with further apartments. There are about 260 apartments in the area immediately surrounding the subject site and that this number will be further increased with the additional (23-25) apartments to be developed by Waitakere Properties Limited. The major part of the subject site had been set aside to be vested in the Council in lieu of reserve contributions by Ambrico Apartments Ltd. However that company had been placed in liquidation prior to the land being vested. That area had been developed (with play equipment, grassing, landscaping and retaining walls) by the Council in association with the surrounding community as a neighbourhood reserve in the expectation that the vesting would proceed in due course.

Following notification of the Notice of Requirement, 22 submissions were received. Four of the submissions were received after the closing date. All the submissions supported the Notice of Requirement except for one submitter. The majority of submissions supported the subject site being retained for use as a recreation reserve particularly for children's play. A number of the submitters in

support also requested that the area of reserve as presently developed, be extended.

The one submission in opposition was lodged by the Dominion Finance Group Limited ("DFGL"). DFGL raised a number of issues relating to its financial interest as a second ranking mortgagee over the subject property. The submissions by DFGL also argued the designation was not reasonably necessary for achieving the objectives, that adequate consideration had not been given to alternative sites, and that it is not in the public interest, or the special interest of the submitter, for the proposed designation to be confirmed.

THE HEARING

Only one submitter attended the public hearing. Mr Ron O'Grady of Unit 28, Tuscany Towers, 1 Ambrico Place, appeared in support of his submission and stated in particular that the under developed triangular part of the site should also be developed further as reserve. I have considered Mr O'Grady's submission and the other written submissions that supported the requirement.

A number of Council officers were available at the hearing to provide additional information regarding the matter. Amanda Blakey advised that it is the intention of the Council to develop the portion of the site, which is presently undeveloped, for informal recreation. This would involve clearing that part of the site and grassing it, continuing the planting and retaining wall along the Ambrico Place frontage around that undeveloped portion, and providing a "swimming pool" type fence along the southern boundary.

Although DFGL did not appear at the hearing, I have considered the written submission that has been made. I accept the advice that has been provided by the Council's legal adviser that I am unable to take into account the financial

issues raised in the submission. However I have considered the other more general issues raised by DFGL in the assessment which follows.

Following the public hearing I inspected the site and the surrounding area.

ASSESSMENT

The Resource Management Act sets out the basis under which I must consider the Notice of Requirement as follows:

171. Recommendation by territorial authority

(1) Subject to Part II, when considering a requirement made under section 168, a territorial authority shall have regard to the matters set out in the notice given under section 168 (together with any further information supplied under section 169), and all submissions, and shall also have particular regard to

- (a) Whether the designation is reasonably necessary for achieving the objectives of the public work or project or work for which the designation is sought; and*
- (b) Whether adequate consideration has been given to alternative sites, routes, or methods of achieving the public work or project or work; and*
- (c) Whether the nature of the public work or project or work means that it would be unreasonable to expect the requiring authority to use an alternative site, route, or method; and*
- (d) All relevant provisions of any national policy statement, New Zealand coastal policy statement, regional policy statement, proposed regional policy statement, regional plan, proposed regional plan, district plan, or proposed district plan.*

- (2) *After considering a requirement made under section 168, the territorial authority shall recommend to the requiring authority that the requiring authority either*
- (a) *Confirm the requirement, and any conditions as to duration, with or without modification and subject to such conditions as the territorial authority considers appropriate; or*
 - (b) *Withdraw the requirement.*
- (3) *The territorial authority shall give reasons for a recommendation made under subsection (2).*

APPLICATION OF S171 CONSIDERATIONS

A. – Subject to Part II

The application of Part II of the Act has been set out in the Notice of Requirement and in the planning report. I am satisfied that the confirmation of the requirement would be in conformity with Part II of the Act and in particular would be entirely consistent with the purpose of the Act in *"enabling people and communities to provide for their social, and cultural well-being and for their health and safety..."*

B. – Whether the designation is reasonably necessary for achieving the objectives

The Council's objectives have been described in the Notice.

I am satisfied that the specific designation of all of this land for this purpose is reasonably necessary for achieving the Council's objectives. I am also satisfied that the process of designation is a method that is reasonably necessary for achieving the Council's objectives. The explanation contained under heading 1 of the Notice of Requirement in my view provides an adequate and reasonable response to the consideration in (B) above. I accept this explanation and in my

view it establishes that particular regard has been had to whether the process of designation is the appropriate mechanism to achieve the Council's objectives.

C. – Whether adequate consideration has been given to alternative sites, routes, or methods

I consider that the Notice and the planning report both establish that proper consideration was given to alternative sites and methods.

D. – Whether the nature of the public work or project means that it would be unreasonable to expect the requiring authority to use alternative sites routes or methods

The information contained in the notice and in the planning report indicate that the subject site is particularly suitable to meet the objectives of the Council, the site is particularly well-placed because it was selected to serve the purpose of a neighbourhood reserve before the notice was contemplated. It has already been developed with community assistance and input and for these reasons I consider that would be unreasonable to expect the Council to seek an alternative site or method for satisfying its objectives.

E. – All relevant provisions of any national policy statement, New Zealand coastal policy statement, regional policy statement, proposed regional policy statement, regional plan, proposed regional plan, district plan, or proposed district plan

I do not consider that the New Zealand coastal policy statement or the Regional Policy Statement are particularly pertinent to this requirement. I am satisfied that the designation of the site for the purposes of a recreation reserve would not in any event be inconsistent with the Auckland Regional Policy Statement. The planning officer's report to the hearing sets out the basis for assessing the notice

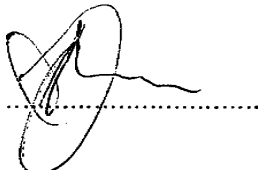
having regard to the provisions of the proposed district plan and the transitional district plan. Having regard to those provisions I do not consider that any particular inconsistency will arise as a result of the requirement being confirmed.

SECTION 168 MATTERS

I am satisfied that the Notice of Requirement was properly served. I consider that all of the information required by this section was provided with the Notice.

CONCLUSION AND RECOMMENDATION

I am satisfied that the Council has had particular regard to the matters referred to in section 168 and section 171 and that the relevant criteria are met and that the proposal is consistent with Part II of the Act. Accordingly, for those reasons and for the more detailed reasons given above, I recommend that the proposed requirement be confirmed.

A handwritten signature in black ink, consisting of a large, stylized initial 'H' followed by a series of loops and a long horizontal stroke extending to the right. The signature is positioned above a horizontal dotted line.

H F Bhana

Commissioner

7 February, 2002

IN THE MATTER OF The Resource Management Act
1991

AND

IN THE MATTER OF The City of Waitakere Transitional
and Proposed District Plans

AND

A Notice of Requirement for a
designation under section 168 of
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provides a physical and legal description of the site, the nature of the work and
any proposed restrictions. It also describes the effects that the "public work" will
have on the environment and the ways in which any adverse effects may be
mitigated, and the extent to which alternative sites and methods have been
considered. Consideration is given to alternative methods for achieving the

Council's objectives and describes previous consultation on the development of the reserve.

The site is zoned Industrial B under the Transitional District Plan and Working Environment under the Proposed District Plan.

The Notice of Requirement and the planning report prepared for the hearing both describe the unusual circumstances that relate to the previous development of the land, the subject of the notice, and to the use of the surrounding land in Ambrico Place. Although the land which is served by Ambrico Place was zoned Industrial B under the Transitional Plan and Working Environment under the Proposed Plan almost all of the land has been developed for apartments. The Council has purchased the only business activity in Ambrico Place, "Homeworks", a building supply yard. The latter site will be developed by Waitakere Properties Limited, with further apartments. There are about 260 apartments in the area immediately surrounding the subject site and that this number will be further increased with the additional (23-25) apartments to be developed by Waitakere Properties Limited. The major part of the subject site had been set aside to be vested in the Council in lieu of reserve contributions by Ambrico Apartments Ltd. However that company had been placed in liquidation prior to the land being vested. That area had been developed (with play equipment, grassing, landscaping and retaining walls) by the Council in association with the surrounding community as a neighbourhood reserve in the expectation that the vesting would proceed in due course.

Following notification of the Notice of Requirement, 22 submissions were received. Four of the submissions were received after the closing date. All the submissions supported the Notice of Requirement except for one submitter. The majority of submissions supported the subject site being retained for use as a recreation reserve particularly for children's play. A number of the submitters in

support also requested that the area of reserve as presently developed, be extended.

The one submission in opposition was lodged by the Dominion Finance Group Limited ("DFGL"). DFGL raised a number of issues relating to its financial interest as a second ranking mortgagee over the subject property. The submissions by DFGL also argued the designation was not reasonably necessary for achieving the objectives, that adequate consideration had not been given to alternative sites, and that it is not in the public interest, or the special interest of the submitter, for the proposed designation to be confirmed.

THE HEARING

Only one submitter attended the public hearing. Mr Ron O'Grady of Unit 28, Tuscan Towers, 1 Ambrico Place, appeared in support of his submission and stated in particular that the under developed triangular part of the site should also be developed further as reserve. I have considered Mr O'Grady's submission and the other written submissions that supported the requirement.

A number of Council officers were available at the hearing to provide additional information regarding the matter. Amanda Blakey advised that it is the intention of the Council to develop the portion of the site, which is presently undeveloped, for informal recreation. This would involve clearing that part of the site and grassing it, continuing the planting and retaining wall along the Ambrico Place frontage around that undeveloped portion, and providing a "swimming pool" type fence along the southern boundary.

Although DFGL did not appear at the hearing, I have considered the written submission that has been made. I accept the advice that has been provided by the Council's legal adviser that I am unable to take into account the financial

issues raised in the submission. However I have considered the other more general issues raised by DFGL in the assessment which follows.

Following the public hearing I inspected the site and the surrounding area.

ASSESSMENT

The Resource Management Act sets out the basis under which I must consider the Notice of Requirement as follows:

171. Recommendation by territorial authority

(1) Subject to Part II, when considering a requirement made under section 168, a territorial authority shall have regard to the matters set out in the notice given under section 168 (together with any further information supplied under section 169), and all submissions, and shall also have particular regard to

(a) Whether the designation is reasonably necessary for achieving the objectives of the public work or project or work for which the designation is sought; and

(b) Whether adequate consideration has been given to alternative sites, routes, or methods of achieving the public work or project or work; and

(c) Whether the nature of the public work or project or work means that it would be unreasonable to expect the requiring authority to use an alternative site, route, or method; and

(d) All relevant provisions of any national policy statement, New Zealand coastal policy statement, regional policy statement, proposed regional policy statement, regional plan, proposed regional plan, district plan, or proposed district plan.

- (2) *After considering a requirement made under section 168, the territorial authority shall recommend to the requiring authority that the requiring authority either*
- (a) *Confirm the requirement, and any conditions as to duration, with or without modification and subject to such conditions as the territorial authority considers appropriate; or*
 - (b) *Withdraw the requirement.*
- (3) *The territorial authority shall give reasons for a recommendation made under subsection (2).*

APPLICATION OF S171 CONSIDERATIONS

A. – Subject to Part II

The application of Part II of the Act has been set out in the Notice of Requirement and in the planning report. I am satisfied that the confirmation of the requirement would be in conformity with Part II of the Act and in particular would be entirely consistent with the purpose of the Act in "*enabling people and communities to provide for their social, and cultural well-being and for their health and safety...*"

B. – Whether the designation is reasonably necessary for achieving the objectives

The Council's objectives have been described in the Notice.

I am satisfied that the specific designation of all of this land for this purpose is reasonably necessary for achieving the Council's objectives. I am also satisfied that the process of designation is a method that is reasonably necessary for achieving the Council's objectives. The explanation contained under heading 1 of the Notice of Requirement in my view provides an adequate and reasonable response to the consideration in (B) above. I accept this explanation and in my

view it establishes that particular regard has been had to whether the process of designation is the appropriate mechanism to achieve the Council's objectives.

C. – Whether adequate consideration has been given to alternative sites, routes, or methods

I consider that the Notice and the planning report both establish that proper consideration was given to alternative sites and methods.

D. – Whether the nature of the public work or project means that it would be unreasonable to expect the requiring authority to use alternative sites routes or methods

The information contained in the notice and in the planning report indicate that the subject site is particularly suitable to meet the objectives of the Council, the site is particularly well-placed because it was selected to serve the purpose of a neighbourhood reserve before the notice was contemplated. It has already been developed with community assistance and input and for these reasons I consider that would be unreasonable to expect the Council to seek an alternative site or method for satisfying its objectives.

E. – All relevant provisions of any national policy statement, New Zealand coastal policy statement, regional policy statement, proposed regional policy statement, regional plan, proposed regional plan, district plan, or proposed district plan

I do not consider that the New Zealand coastal policy statement or the Regional Policy Statement are particularly pertinent to this requirement. I am satisfied that the designation of the site for the purposes of a recreation reserve would not in any event be inconsistent with the Auckland Regional Policy Statement. The planning officer's report to the hearing sets out the basis for assessing the notice

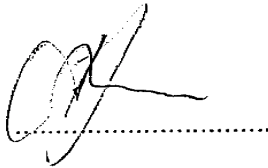
having regard to the provisions of the proposed district plan and the transitional district plan. Having regard to those provisions I do not consider that any particular inconsistency will arise as a result of the requirement being confirmed.

SECTION 168 MATTERS

I am satisfied that the Notice of Requirement was properly served. I consider that all of the information required by this section was provided with the Notice.

CONCLUSION AND RECOMMENDATION

I am satisfied that the Council has had particular regard to the matters referred to in section 168 and section 171 and that the relevant criteria are met and that the proposal is consistent with Part II of the Act. Accordingly, for those reasons and for the more detailed reasons given above, I recommend that the proposed requirement be confirmed.

A handwritten signature in black ink, appearing to be 'H F Bhana', written over a horizontal dotted line.

H F Bhana

Commissioner

7 February, 2002