

NOTICE OF HEARING

HEARING BY COMMISSIONER

I hereby give notice that a Hearing by Commissioner will be held on:-

DATE: Thursday, 26 August 2010 **TIME:** 9.30 am

MEETING ROOM: Council Chamber

VENUE: Waitakere Central, 6 Henderson Valley Road, Henderson, Waitakere

to consider a Notice of Requirement by a Requiring Authority Under Section 181 of the Resource Management Act 1991 for the Waitakere Ranges Regional Park and to take any necessary action connected therewith.



27 August 2010

Maea Petherick
COMMITTEE SECRETARY
Telephone (09) 836 8000 extn 8104

MEMBERSHIP:

Commissioner: Les Simmons

(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 A HEARING BY COMMISSIONERS TO BE HELD IN THE COUNCIL
CHAMBER AT WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD,
HENDERSON, WAITAKERE, ON THURSDAY, 26 AUGUST 2010
COMMENCING AT 9.30 AM**

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**AGENDA FOR A HEARING BY COMMISSIONERS TO BE HELD IN THE COUNCIL
CHAMBER AT WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD,
HENDERSON, WAITAKERE, ON THURSDAY, 26 AUGUST 2010
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**1 NOTICE OF REQUIREMENT BY A REQUIRING AUTHORITY UNDER SECTION 181
OF THE RESOURCE MANAGEMENT ACT 1991 FOR THE WAITAKERE RANGES
REGIONAL PARK**

GLOSSARY

Auckland Regional Council	(ARC)
Auckland Regional Council designation 1	(ARC 1)
Auckland Regional Council designation 2	(ARC 2)
Auckland Regional Policy Statement	(ARPS)
New Zealand Coastal Policy Statement 1994	(NZCPS)
Notice of Requirement	(the Notice)
Section 55 of the Regional Parks Management Plan 2002	(S55RPMP)
The New Zealand Historic Places Trust	(the Trust)
The Resource Management Act 1991	(the Act)
The Waitakere City Council	(the Council)
The Waitakere City Operative District Plan	(the Plan)
The Waitakere Ranges Heritage Area Act 2008	(the WRHA)
The Waitakere Ranges Protection Society	(the Society)
The Waitakere Ranges Regional Park	(the Park)
Watercare Services Limited designation 1	(WSL 1)
Watercare Services Limited designation 2	(WSL 2)

EXECUTIVE SUMMARY

The Auckland Regional Council (ARC) has given Notice of a Requirement (the Notice) to designate land for the Waitakere Ranges Regional Park (the Park). This includes land already designated as a regional park and some additional areas of land not previously designated as regional park. In addition, the Notice alters the conditions applying to the designation.

The Waitakere City Council (the Council) is required to process the Notice in accordance with the Resource Management Act 1991 (the Act). The Notice has been publicly notified and 7 submissions have been received. The Council is required to consider the submissions and make a recommendation to the ARC on the Notice in accordance with the Act. This report includes the Council staff recommendation on the Notice. A description of the Notice and an analysis of effects is provided. The staff recommendation is to the effect that Council recommend that the ARC confirm the Notice subject to amendments.

RECOMMENDATIONS

It is recommended that the independent commissioner determine:

That the Council recommends that the Auckland Regional Council confirm the Notice of Requirement for the Waitakere Ranges Regional Park:

- subject to the following conditions;
- subject to minor corrections to the Notice documents; and
- with land to which the Notice applies identified as follows.

for the following reasons:

- i) The Notice is consistent with the relevant Provisions of the New Zealand Coastal Policy Statement, the Auckland Regional Policy Statement, the Plan and the Waitakere Ranges Heritage Area Act 2008;
- ii) The Notice is reasonably necessary; and
- iii) Subject to acceptance by the requiring authority of the recommended conditions attached to this report, the Notice would create no more than minor adverse effects on the environment.

CONDITIONS:

1. The following information shall be provided with any outline plan submitted in accordance with section 176A of the Act:
 - a) An assessment of effects that the work or project will have on the environment, including:
 - effects on vegetation and significant trees (as identified in the District Plan),
 - sensitive ridgelines (as identified in the District Plan),
 - effects on residential properties within 10 metres from the works;
 - b) Where appropriate, an assessment of natural, cultural and/or built heritage features and a statement on how effects on these features will be avoided, remedied or mitigated;
 - c) A written statement of how the works will give effect to the Auckland Regional Council Threatened Plant Management Strategy;
2. All *vegetation alteration* for track maintenance will be done in accordance with NZS HB 8630:2004.
3. The New Zealand Historic Places Trust shall be consulted about additions or alterations to a *heritage item* scheduled in the *Plan*, where those additions or alterations affect the values described in the schedule to the *Plan*. Consultation is not required for maintenance and repair of *heritage items*.
4. The designation shall not apply to the relocation, demolition or partial demolition of *heritage items* scheduled in the *Plan*.
5. The following works will be exempt from an outline plan pursuant to section 176A (2) of the Act:

Development and maintenance of park infrastructure		Nature of works
Tracks	Maintenance of existing tracks	Maintenance including minor upgrades of existing tracks, including maintaining <ol style="list-style-type: none"> i) water tables and track drainage; ii) track surface; iii) track structures such signs, safety barriers, bridges, steps, board walks and rafts; and iv) modification of vegetation up to 1 metre from the centre of the track, depending on the track classification.

Development and maintenance of park infrastructure		Nature of works
Buildings, structures and utility services, including drainage systems	Maintenance and minor repairs to buildings, structures and utility services, including heritages sites.	Maintenance and minor repairs to existing buildings, structures and utility services, including the modification of vegetation up to 1 metre from the building, structure or utility service.
	Minor structures and utility services, not including heritage sites.	The construction of minor recreational structures such as notice boards, signs, picnic tables, shade shelters and entry gates.
Car parking and roads	Maintenance of car parks and roads.	Maintenance of car parking areas and access roads, including the modification of vegetation up to 1 metre from the edge of the car park or road or within the car park for safety reasons.
Farming	Construction and maintenance of farming structures (not including heritage sites or works within the drip line or root zone of scheduled trees).	Works associated with operating and maintaining existing farms, including fencing and livestock management structures, such as stockyards. This does not include structures with impervious surfaces.
Vegetation	Management of vegetation for specified reasons.	Vegetation management involved in; <ul style="list-style-type: none"> i) control of pest plants; ii) re-vegetation programmes; iii) the maintenance of views shafts identified in the Regional Parks Management Plan; and iv) regulations under the Electricity Act 1992.

Advice Notes:

1. Work affecting pre-1900 archaeological sites is subject to a consenting process under the Historic Places Act 1993. If any activity, such as earthworks, fencing or landscaping, may modify, damage or destroy any archaeological site(s), an authority (consent) from the New Zealand Historic Places Trust must be obtained for the work to proceed lawfully. The Historic Places Act 1993 contains penalties for unauthorised site damage. Evidence of archaeological sites may include burnt and fire cracked stones, charcoal, rubbish heaps including shell, bone and/or glass and crockery, ditches, banks, pits, old building foundations, artefacts of Maori and European origin or human burials.
2. The Council intends to protect *heritage items* scheduled in the *Plan*. Therefore this designation does not provide for the relocation, demolition or partial demolition of *heritage items* scheduled in the *Plan*. The underlying *Plan* rules will apply to relocation, demolition or partial demolition of *heritage items*.

End of Conditions

SITES TO WHICH THE NOTICE APPLIES

Legal descriptions of all properties to be included in the Waitakere Ranges Regional Park designation		
Waitakere Ranges Regional Park		
CT number	Area (ha)	Legal Description
NA1025/7	0.1454	Lot 57 DP 21508
NA1052/242	20.7818	Part Lot 2 DP 17775
NA1071/221	1.3087	Lot 7 DP 40510
NA10A/1028	2.7618	Part Lot 1 DP 17775
NA10B/41	37.5495	Lot 2 and Part Lot 1 DP 22385, Lots 1 and 3 DP 55854, and Part Allotment SWM42, Parish of Karangahape
NA10B/609	78.8049	Allotments 260, 471 and 472 and Part Allotment 97A, Parish of Waikomiti, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 DP 31077, Lots 23, 24, 25, 26, 27, 28, 29, 30 and 31 DP 32318 and Lot 14 DP 51334
NA10B/610	108.8422	Allotment 36A and Part Allotment 418, Parish of Waikomiti, Parts Allotment 94, Parish of Waikomiti (Land on DP 536), Part Allotment 96 Parish of Waikomiti (Land on DP 3524) and Lot 1 DP 2945
NA10B/611	398.4426	Allotment 155 Parish of Karangahape, Allotments 37, 55 and Part Allotments 31, 33, 38 and 56 Parish of Waikomiti (Part land on DP 9847), Allotments 583, 584 and 601 Parish of Waikomiti, Part Allotment 6 Parish of Karangahape (Part Land on DP 976), Lots
NA10B/612	1,622.7424	Allotments N49, N49, S49, S50, 52, 53, NW55, SE55, NW56, S56, 62, SE63, 64, 65, 72, 72A, 73, 76, 77, 78, 79, NE80, SW80, 103, 104, 115, 116, 117, 118, 119, 120, 121, 122, 123, and Part Allotments 51, E57 (Land on DP 792), E66, M81, NW81, N82, NM82, M82, S8
NA10B/614	1.2616	Part Allotment 60, Parish of Waikomiti (Land on DP 10500) and Lots 9, 10 and 27 DP 10136
NA10D/397	381.0596	Allotments 71, 72, 73, 74, 82, 95, 97 and Part Allotments 38, 69, 70 and 259, Parish of Waikomiti
NA10D/446	24.4235	Lot 2 DP 52875 and Part Allotment 27 Parish of Karangahape (Part Land on DP 3191)
NA1111/173	19.9308	Allotment 150, Parish of Karangahape
NA1111/174	0.5463	Parts Allotment 125, Parish of Karangahape
NA1111/175	38.6702	Allotment 519, Parish of Waikomiti
NA1163/15	26.9101	Part Lot 2 DP 32134
NA1169/94	0.7125	Lot 11 DP 42858
NA1176/90	19.4502	Lot 1 DP 43157
NA1181/34	0.9067	Lot 10 DP 42858
NA1189/88	0.9136	Lot 1 DP 43426
NA126D/340	0.2440	Lot 1 DP 197569
NA12A/658	1.1308	Part Allotment 28, Parish of Waikomiti

NA12D/240	2.2114	Allotments 427, 429, 432, 434, 436, 439 and 440, Parish of Waipareira
NA12D/241	383.3597	Allotments W75, WM75, EM75 and E75, Part Allotments 90, 91 and NW92, Parish of Waitakere and Part Lot 1 DP 640
NA12D/361	1,667.7095	Allotments 16, 18, 19, E64, 65, S68, S75, S78, S79, 110, 111 and 112, Parish of Karangahape
NA12D/363	457. 30 .79	Allotments 29, 30, 31, SW36, M36, 74, NW75, 76, 77, NW78, NW79, NW80, SE80, 132, 133, 134 and Part Allotments NE36 and 73, Parish of Karangahape
NA12D/364	1,165.3909	Allotments N8, S8, 8A, 10, SE11, M11, W11, WM11, 14, W15, E15, 17, E20, E22, 62, 63, NE66, NW66, N68, 69, 70, N71, S71, 109 and Parts Allotments 9, 13 and 39 Parish of Karangahape, Lots 1 and 2 DP 3192, and Part Allotment 12, Parish of Karangahape
NA1319/75	21.6684	Lot 2 DP 43669
NA1327/64	19.2276	Lot 1 DP 43669
NA133C/953	102.1858	Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 13 and 14 DP 206360 and Allotment 57, Parish of Waikomiti
NA134/29	305.3055	Allotments 5A, 5B, 5C, 25, 26 and Part Allotment 5, Parish of Karangahape
NA1341/10	183.8770	Allotment 163 and Part Allotment 193, Parish of Waipareira
NA1347/83	11.1668	Lot 1 DP 44159
NA134D/578	9.0873	Sections 1, 2, 3 and 4 SO 40327
NA1359/76	3.9237	Allotments 428, 431, 433, 435, 437, 438, 441 and 442, Parish of Waipareira and Parts Allotment 84, Parish of Waitakere
NA1367/100	0.1012	Part Allotment 106, Parish of Karangahape
NA138C/492	852.4806	Lot 4 DP 83918, Lots 4, 5, 6, 7 and Part Lot 2 DP 31544, Lot 1 DP 208340 and Lot 2 DP 211491
NA1396/82	1.0739	Part Section 430, Parish of Waikomiti
NA1396/83	5.3899	Part Allotment 38, Parish of Waikomiti
NA1396/84	13.8099	Part Allotments 69 and 70, Parish of Waikomiti
NA13B/326	0.3121	Lot 1 DP 55265
NA13C/800	4.2492	Allotment SWM70, Parish of Waitakere
NA13D/348	1.3347	Lots 2 and 6 DP 49389
NA14B/404	48.9571	Part Lot 3 DP 10077
NA14D/1216	1.8676	Lots 2 and 3 DP 12078 and Lot 1 DP 58468
NA14D/387	57.8700	Allotments SM50 and N63, Parish of Waitakere
NA1565/34	0.1012	Lot 20 DP 18296
NA1682/100	27.0378	Allotments 549, 550 and 551, Parish of Waikomiti
NA16A/99	20.8803	Allotments 157, 158 and 159, Parish of Karangahape
NA175/171	11.8244	Part Allotments 45, 92 and 242A, Parish of Waikomiti (Part Land on DP 6583)

NA17B/238	44.9201	Allotment 24, Parish of Karangahape
NA17B/425	6.0359	Lot 5 DP 40976 and Part Lot 1 DP 35700
NA17C/1059	20.2343	Lot 2 DP 61386
NA1803/20	213.6234	Allotments 152, 153, and 154, Parish of Waitakere
NA1827/56	131.0468	Allotments 89, 95 and Parts Allotments 91, E93 and 94, Parish of Karangahape
NA1835/6	0.0463	Lot 4 DP 19259
NA1865/100	80.8489	Part Allotments SWM48, M48, NE48, N49 and NW81, Parish of Karangahape
NA1867/100	1.9549	Lots 111 and 150 DP 27719
NA1887/37	0.0969	Section 3, Block III, Waitakere Survey District
NA18B/71	0.6169	Lot 49 DP 15765
NA18D/544	45.6756	Part Allotment 9, Parish of Waitakere
NA18D/88	4.2242	Allotment 160, Parish of Karangahape
NA1936/97	0.1872	Lot 28 DP 40109
NA1946/1	21.1448	Part Allotments 7A and 7B, Parish of Waipareira
NA1979/62	0.1186	Part Allotments M48 and SWM48, Parish of Karangahape
NA19A/248	2.3715	Allotment 635, Parish of Waikomiti
NA19A/856	0.7532	Allotment 161, Parish of Karangahape
NA1B/96	0.1083	Lot 1 DP 49389
NA2060/83	41.7251	Part Allotment SE35, Parish of Waikomiti (Part Land on DP 1069)
NA2076/33	0.4978	Part Lot 1 DP 31356
NA2085/77	0.1935	Lot 30 DP 40109
NA20A/735	7.5499	Lot 1 DP 63608
NA20B/637	30.3947	Part Allotment 28, Parish of Karangahape
NA21C/1211	57.5106	Part Allotment 93, Parish of Waikomiti
NA21C/867	13.3521	Lot 2 DP 65455 and Allotment 548, Parish of Waikomiti
NA21D/390	2.2845	Part Allotment E57, Parish of Waitakere
NA22A/688	1.3967	Allotment 664, Parish of Waikomiti
NA22D/1063	2.3277	Allotments 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174 and 175, Parish of Karangahape
NA22D/1064	0.0076	Allotment 192, Parish of Karangahape
NA2D/1067	2.0580	Allotments 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190 and 191, Parish of Karangahape
NA231/84	347.9720	Allotments NE67, SW67, SM67, S67, SE68, and SW38, Parish of Waitakere, and Part Allotments SW40, SWM40, NEM40, NE40, 41 and NE42, Parish of Karangahape (Land on DP 8434)

NA240/273	72.8287	Part Allotment W59, Parish of Waitakere
NA241/195	0.5686	Part Lot 2 DP 9262
NA25B/945	2.8224	Lot 1 DP 69280
NA261/149	5.7218	Part Lot 2 DP 11266
NA268/204	0.0775	Part Lot 6 DP 10374
NA26A/456	0.5432	Part Lot 2 DP 8837
NA270/257	72.1833	Allotment 100, Parish of Karangahape (Land on DP 3193)
NA276/180	250.6107	Part Allotment 7A, Parish of Waipareira (Part Land on DP's 1469 and 8877)
NA28A/880	0.3624	Allotments 196, 197 and 198, Parish of Karangahape
NA28A/881	0.0149	Allotments 199, 200 and 201, Parish of Karangahape
NA28A/882	0.7907	Allotments 203, 204 and 205, Parish of Karangahape
NA28A/883	1.1582	Allotment 178, Parish of Waitakere
NA28A/884	0.7784	Allotments 206 and 207, Parish of Karangahape
NA28A/885	0.1718	Allotments 680, 681 and 682, Parish of Waikomiti
NA28A/886	0.1156	Allotments 683, 684, 685 and 686, Parish of Waikomiti
NA28A/887	0.9180	Allotments 176 and 177, Parish of Waitakere
NA291/151	32.3663	Lot 4 DP 10077
NA30A/180	0.1454	Part Lot 1 DP 32707
NA30A/402	5.9767	Lot 2 DP 31241
NA30A/403	0.8801	Lot 3 DP 31241
NA318/87	1.0092	Lot 5 DP 8837
NA31B/1480	1.7806	Lot 4 DP 46054
NA31D/813	37.3752	Part Allotments 23 and 27, Parish of Karangahape (Part Land on DP 24016) and Lots 1 and 5 DP 52875
NA320/22	0.3121	Allotment 116, Parish of Karangahape
NA320/25	4.8911	Allotments 117, 118, 119, 120 and 121, Parish of Karangahape
NA320/26	7.5094	Allotments 123 and 124, Parish of Karangahape
NA324/199	57.7689	Part Allotment NE43, Parish of Waitakere
NA331/139	1.0977	Lot 2 DP 12966
NA33A/974	0.4552	Allotments 627 and 628, Parish of Waipareira
NA35C/614	32.7699	Part Allotments 86, 87 and 208, Parish of Karangahape
NA387/190	20.8540	Lot 2 DP 17236
NA38A/375	14.1058	Part Allotment E87, Parish of Waitakere
NA3C/135	4.8158	Lot 76 DP 31268
NA3C/354	44.4277	Part Allotments NW46, 46A, W47 and 47A, Parish of Karangahape

NA409/190	0.3415	Lot 1 DP 10282
NA411/235	0.1315	Part Allotments 45, 46 and 242A, Parish of Waikomiti
NA414/165	20.3709	Lot 1 DP 16650
NA414/243	8.8335	Lot 1 DP 4352
NA42C/1131	6.5640	Allotment 155, Parish of Waitakere
NA430/159	209.5766	Lot 1 Allotment 8, Parish of Waitakere
NA446/108	18.1856	Lot 18 and Parts Lots 17 and 19 DP 8877
NA453/234	0.1239	Part Allotment 27, Parish of Karangahape (Part Land on DP 19936)
NA47/189	43.3014	Allotment 90A, Parish of Karangahape
NA483/194	0.0754	Parts Lot 3 DP 17236
NA494/233	2.1448	Lot 3 and Part Lot 1 DP 22406
NA494/234	1.9169	Lot 2 DP 22406
NA497/233	3.5714	Lots 31 and 32 DP 21538
NA4B/1211	7.2717	Lots 3 and 4 DP 52875
NA4C/476	7.2884	Part Allotment 393, Parish of Waipareira and Part Lot 7 DP 8837
NA503/171	7.2843	Part Allotment 76, Parish of Waikomiti
NA50C/789	4.4920	Lot 16 DP 54016
NA516/115	7.4867	Part Allotment 97, Parish of Waitakere
NA516/15	9.7125	Lot 1 Deeds Plan 1240
NA516/17	0.8395	Lot 1, Part Allotments 61 and 97, Parish of Waitakere
NA518/271	74.4622	Allotment NE41 and Part Allotment SW41, Parish of Waitakere
NA51D/1130	0.1348	Lot 1 DP 30693
NA54/205	171.9914	Allotment 113, Parish of Karangahape
NA54/206	67.5825	Allotments 21 and W22, Parish of Karangahape
NA590/305	0.5367	Part Allotment 61, Parish of Waitakere
NA596/176	37.2311	Allotment SW48, Parish of Waitakere
NA5A/1101	1.6946	Part Lot 2 DP 30156
NA5B/1100	86.9080	Lot 1 DP 53875 and Part Lots 2 and 3 DP 1266
NA5C/585	0.5817	Lot 4 DP 27625
NA5C/586	0.8473	Lot 7 DP 34474
NA5C/587	6.3042	Lots 14 and 15 DP 21141
NA5C/588	7.1452	Lot 272 DP 24221
NA6/82	11.7113	Part Allotment M57, Parish of Waitakere
NA60B/90	0.3240	Allotment 757, Parish of Waikomiti
NA620/147	67.5825	Part Allotments 7A, 7C and 186, Parish of Waipareira (Land on DP 23081)
NA640/111	2.3216	Lot 12 DP 18475
NA648/153	22.3627	Part Allotment 7A, Parish of Waipareira, Lots 7, 12, 13, 15 and Part Lots 17 and 36 DP 8877 and Lot 1 DP 24505
NA690/60	0.1060	Lot 1 DP 27164
NA700/109	6.6310	Allotments 126, 128 and Part Allotment 127, Parish of Karangahape

70751	0.2029	Lot 2 DP 318085
NA709/317	4.6261	Allotment 389 and Part Allotment 69, Parish of Waikomiti
NA712/384	41.9664	Lots 3, 4, 13 and Part Lot 1 DP 25709, and Part Piha and Wekatahi Blocks (Part Land on DP 28737)
NA715/230	0.0056	Part Allotment 1, Parish of Karangahape (Part Land on DP 28567)
NA715/231	0.0741	Part Allotment 1, Parish of Karangahape (Part Land on DP 28567)
NA716/175	1.7063	Lot 2 DP 28786
NA723/96	17.8315	Part Allotment NE95, Parish of Waitakere
NA753/134	10.3827	Allotment 68, Parish of Waikomiti
NA755/67	2.0234	Lot 14 of Allotment 1, Parish of Karangahape
NA757/140	16.4859	Part Allotment 87, Parish of Karangahape
NA757/78	32.3749	Allotment NW48, Parish of Waitakere
NA758/111	64.7497	Allotments NW55 and SE55, Parish of Karangahape
NA760/139	0.9485	Part Allotments M96 and E96, Parish of Waitakere
NA761/88	2.4281	Part Allotment 90, Parish of Karangahape
NA764/298	16.1874	Allotment SW58, Parish of Karangahape
NA765/15	1.8211	Part Allotments NE81 and NW81, Parish of Karangahape
NA765/20	16.1874	Allotment SWM38, Parish of Karangahape
NA767/175	97.8859	Allotment M 66 and Part Allotment N71, Parish of Waitakere
NA767/206	32.3749	Part Allotments SW45 and NW54, Parish of Waitakere
NA767/255	28.7696	Part Allotment SW54, Parish of Waitakere
NA768/126	18.2109	Allotment SW94, Parish of Waitakere
NA768/147	36.3109	Allotment SE58 and Part Allotment SM58, Parish of Waitakere
NA769/116	52.2044	Allotments SE85 and W85, Parish of Waitakere
NA769/233	6.0703	Suburban Allotment 9, Town of Cornwallis
NA769/234	0.9143	Lots 30, 245, 291, 301, 341, 362 and 364, Town of Cornwallis
NA771/14	50.7865	Part Allotment W95, Parish of Waitakere
NA773/291	76.0809	Allotments NE44, M44 and SW44, Parish of Waitakere
NA774/272	731.9812	Lot 1 DP 31372 and Part Allotment 1, Parish of Karangahape
NA775/217	88.9264	Part Allotments 37, NE38 and NEM38, Parish of Karangahape
NA776/139	62.2457	Part Allotments S49 and NE50, Parish of Karangahape
NA776/30	58.2747	Part Allotments 61, 97, M60, W60, M96 and E96, Parish of Waitakere

NA778/154	3.2092	Part Allotment 46, Parish of Waikomiti
NA780/60	47.6419	Part Allotment NE100, Parish of Waitakere, Allotment 131, Parish of Karangahape, and Part Allotment 37, Parish of Karangahape (Part Land on DP 27040)
NA781/30	3.2678	Piha Island (Lion Rock)
NA78D/113	0.3129	Allotment 156, Parish of Karangahape
NA796/25	35.2077	Allotment N58, Parish of Waitakere
NA7B/292	0.3518	Lots 13, 14, 15 and 16 DP 45463
NA803/126	4.1657	Lot 1 DP 18475
NA803/127	4.8082	Lot 3 DP 18475
NA803/128	4.8082	Lot 2 DP 18475
NA828/108	0.4745	Allotments 135, 136 and Part Allotment 137, Parish of Karangahape
NA832/286	29.4952	Part Allotments 107, E60 and W96, Parish of Waitakere
NA832/287	28.3406	Lot 3 DP 32124
NA833/67	0.2378	Allotment 111A, Parish of Waipareira
NA833/68	28.5152	Allotments SW100 and 124, Parish of Waitakere
NA833/69	5.2609	Allotment SW53, Parish of Karangahape
NA833/71	46.7387	Allotments 388, 450 and 451, Parish of Waikomiti
NA837/263	777.6384	Allotments 104, 105, 122, NE61 and E101, Parish of Karangahape, Allotment 107, Parish of Karangahape (Land on DP 3328), Lots 1 and 9 DP 31127, Lots 1 and 4 DP 31241, Allotments W101, 102 and Part Allotments 92 and W93, Parish of Karangahape (Part Land on
NA845/210	43.3059	Lot 13 and Part Lots 19, 20, 21 DP 27798 and Part Allotments 33, 35 and 35A, Parish of Karangahape (Part Land on DP 10639)
NA855/3	0.1047	Lot 46 DP 25709
NA857/37	0.6854	Allotment 138, Parish of Karangahape
NA85A/865	25.7987	Allotment 101, Parish of Waitakere
NA862/83	0.1593	Lot 2 DP 25709
NA869/212	2.6881	Lots 47 and 69 DP 25709
NA86C/713	4.9350	Lot 3 DP 146127
NA86C/714	4.1920	Lot 4 DP 146127
NA86C/715	4.6380	Lot 5 DP 146127
NA86C/716	68.0000	Lot 7 DP 146127
NA895/274	106.4323	Allotment 114, Parish of Karangahape
NA895/275	18.8938	Allotment 103, Parish of Karangahape
NA895/276	160.6602	Allotment 108, Parish of Karangahape
NA897/131	5.7314	Lots 2, 5 and 6 DP 34474
NA897/132	4.1227	Lots 3 and 4 DP 34474
NA8A/109	57.3971	Part Allotment 39, Parish of Karangahape
NA8D/1315	8.0937	Allotment M94, Parish of Waitakere
NA901/121	0.4907	Allotments 143 and 145, Parish of Karangahape
NA901/122	26.0011	Lot 1 DP 33852
NA907/274	22.0554	Allotment 465, Parish of Waipareira

NA923/73	0.3941	Part Allotment 90, Parish of Karangahape
NA945/235	22.0812	Part Allotment 32, Parish of Karangahape
NA945/245	384.4514	Part Allotment 34, Parish of Karangahape
NA945/260	121.8485	Part Allotment 84, Parish of Waitakere
NA945/280	16.1874	Allotment 66, Parish of Waikomiti
NA950/261	19.3996	Part Lot 1 DP 35875
NA952/110	1.7791	Part Lot 1 DP 37071
NA953/291	6.0703	Allotment M55, Parish of Karangahape
NA95C/472	0.2555	Part Allotment NE95, Parish of Waitakere (Part Land on DP 12705)
NA961/97	0.4452	Part Allotment 430, Parish of Waipareira
NA965/5	5.6049	Allotment SWM53, Parish of Karangahape
NA96B/407	194.4960	Lot 1 DP 160207
NA96B/408	68.2600	Lot 2 DP 160207
NA970/253	61.9169	Allotments SWM43 and SW43, Parish of Waitakere
NA971/262	3.3387	Lot 1 DP 34474
NA972/285	43.9223	Part Allotment 90, Parish of Karangahape
NA977/47	6.1841	Part Allotment SEM45, Parish of Karangahape
NA977/48	97.1903	Part Allotments M45, SE45 and SE46, Parish of Karangahape (Part Land on DP 2946)
NA97C/130	52.1700	Lot 7 DP 161748
NA987/159	12.4238	Lot 2 DP 36910
NA987/160	0.4553	Part Allotment 90, Parish of Karangahape
NA9A/791	5.2609	Lot 1 DP 55821 and Part Lot 1 DP 27625
NA9A/830	1.1903	Part Allotments 12 and 13, Parish of Karangahape
NA9B/1359	0.8347	Part Allotment 7A, Parish of Waipareira
NA9B/1360	115.0572	Allotments SW59, M59 and 57, Parish of Karangahape
NA9B/928	108.0511	Allotments 42 and NE94, Parish of Waitakere
NA9D/248	11.1289	Lot 3 DP 17775
NA9D/898	64.7497	Allotments NE56, SW56 and NE59, Parish of Karangahape
NA16A/54	9.5910	Allotment W66, Parish of Waitakere
GN 539529.1 (NZ Gazette 1977 p 1391)	12.9691	Part Lots 4 and 7 DP 8837
GN 539529.1 (NZ Gazette 1977 p 1391)	4.9623	Lot 1 DP 35150 and Lot 1 DP 32732
GN 539529.1 (NZ Gazette 1977 p 1391)	0.8067	Part Lot 2 DP 8837, shown marked "A" on SO 49903
GN 470013.1 (NZ Gazette 1978 p 654)	11.3735	Part Allotment 88, Parish of Karangahape, shown marked "A" on SO 52071
GN 496052.1 (NZ Gazette 1979 p 1704)	33.3096	Part Allotment 47, Parish of Karangahape, shown marked "A" on SO 53547 and Part Allotment SW48, Parish of Karangahape, shown marked "B" on SO 53547

GN 830265.1 (NZ Gazette 1980 p 2256)	1.7589	Part Lot 2 DP 55821, shown marked "A" on SO 53810
GN B743301.1 (NZ Gazette 1987 p 4341)	1.8302	Part Allotment SW82, Parish of Karangahape, shown marked "A" on SO 59488 and Allotment 216, Parish of Karangahape, coloured sepia edged sepia on SO 44949
NA86C/711	6.2500	Lot 1 DP 146127
NA86C/712	4.8890	Lot 2 DP 146127
193580	20.4154	Lot 200 DP 347095
NA 930/65	8.2202	Lots 59-60 DP 25709 & Lot 3 DP 31544
NA 12D/362	100.6296	Allotments 129, 130, Part Allotment 72 Parish of Karangahape
NA 38A/376	48.7504	Part Allotment W87 Part Allotment 88 Parish of Waitakere
NA 35A/956	51.6091	Allotment 86 Parish of Waitakere
NA 38A/376	48.7504	Allotment W87 Part Allotment 88 Parish of Waitakere
CROWN LAND		
NA48B/652	155.8750	Lake Wainamu Lot 1 DP 91173 (Management Agreement with QE II Trust)
NA175321	820.0000	Area A SO 64997 (Whatipu Accretion)
NZ Gazette 1985, 2379	280.0464	Allotment 85A Parish of Waitakere, Lot 2 Allotment 8 Parish of Waitakere, Allotments 696, 697 Parish of Waipareira
Crown land at Huia	36.8264	Allotment NWM66 PSH OF Karangahape, Allotment M66 PSH OF Karangahape, Allotment W20 PSH OF Karangahape

BACKGROUND

A1-A88

1. The purpose of this report is to provide background information, and discussion of the environmental effects and officer recommendations to the Council for the ARC Notice for the Park. A copy of the Notice as notified is attached at pages A1 to A88.
2. The Act provides for requiring authorities to give notice of a requirement for a designation in the Plan. The Council's role in processing the Notice is similar to that of an application for resource consent. One important difference is that the Council does not make decisions on submissions to the Notice. Instead, the Council makes recommendations to the requiring authority, in this instance the ARC, after having considered any submissions and considered the relevant matters set out in the Act. The ARC will then make a decision on those recommendations.
3. This report seeks to set out the advice from the Council staff on the resource management issues of the Notice for the Park. The report contains the recommendations to the Council but it is not the formal recommendation of the Council. The formal recommendation will be compiled by the Council, after consideration of the Notice.
4. The sites are owned by the Crown and are administered by the ARC. The sites are mostly identified under the Plan as Open Space Environment. The sites are also within the Waitakere Ranges Heritage Area.

5. There is an existing Park designation in the Plan. The Notice seeks to replace the existing designation with a new one. There are two reasons for this. The first is to extend the designation to include land acquired for parks purposes subsequent to the original designation. The second reason is to amend the conditions applying to the designation. These amendments would have the general effect of removing the requirement to comply with the natural area and citywide rules of the Plan.

DECISION MAKING

Issues

6. Issues arising from the Notice are discussed in detail in paragraphs 122 - 153 below.
7. The options available to the Council are limited to those set out in section 171(2) of the Act which states:

“The territorial authority may recommend to the requiring authority that it –
 - a) *confirm the requirement;*
 - b) *modify the requirement;*
 - c) *impose conditions; and*
 - d) *withdraw the requiremen.”*
8. There is no “do nothing” option in this statutory framework.

THE DESIGNATION SITE: DESCRIPTION AND NATURE OF THE REQUIREMENT

The Sites

9. The Notice includes all the land currently designated for parks purposes and the following additional sites:

Lot 1 DP 91173, Lake Wainamu Reserve, Bethels Road; QE II
Lots 1-2 DP 106207, Lot 7 DP 161748, Pae O Te Rangi, Bethels Road;
Lots 1-5 and 7 DP 146127, Big Muddy Creek, Laingholm;
Area A SO Plan 64997, Whatipu Scenic Reserve, Whatipu;
Lots 59-60 DP 25709, Lot 3 DP 31544, Stedfast Park, Piha;
Lot 200 DP 347095, Kitewaho Road, Swanson;
Lot 2 DP 318085, Titirangi Beach Road, Titirangi;
Lot 57, DP 21508, 28 Turanga Road, Waiatarua; and
Lot 1 DP 197569, 71 TurangaRoad, Waiatarua.
10. The sites listed above are vested in the ARC with the exception of Lot 1 DP 91173, Lake Wainamu Reserve which is owned by The Queen Elizabeth the Second National Trust, and Whatipu Scientific Reserve.
11. All the above areas are managed as reserve and have a predominantly natural environment.
12. Both the existing designated park land and the new areas of park land included in the Notice are subject to the Regional Parks Management Plan 2002, Variation No 2 September 2002.

The Site as Defined by Policy

13. As noted above the site is land used for reserve purposes. The land is predominantly identified as Open Space Environment within the Human Environments section of the Plan maps. There are three exceptions to this. Lots 59-60 DP 25709, Lot 3 DP 31544, Stedfast Park, Piha are identified as Waitakere Ranges Environment. Lot 57, DP 21508, 28 Turanga Road, Waiatarua and Lot 1 DP 197569, 71 Turanga Road, Waiatarua are identified as Bush Living Environment. However, the City-wide district plan rules deem these areas of land to be Open Space Environment as they are owned by the ARC for regional parks purposes. Consequently, all of the land subject to the Notice is Open Space Environment.
14. Park activities within the current Waitakere Ranges Regional Parkland designation are required to comply with the Plan rules to the following extent:
 1. All relevant Natural Area Rules;
 2. City-Wide Rules of the Plan relating to noise standards, natural hazards, hazardous facilities and contaminated sites and heritage; and
 3. All relevant Human Environment Rules relating to: noise, air discharges and odour, dust, glare and vibration.
15. The existing Waitakere Ranges Regional Parkland designation is subdivided into two geographic components labeled with the acronyms "ARC1" and "ARC2" in the Plan maps. Parkland designated ARC2 covers that same area as the Watercare Services Limited Designation "WSL2" also referred to in the designations text as "catchment land". The ARC2 designation has priority over the WSL2 designation. The same operative designation description and conditions apply to both ARC1 and ARC2.
16. The new areas referred to in paragraph 9 which are listed in the Notice are not subject to the existing designation and are therefore subject to all the underlying Plan zones, rules and policies, until the Notice becomes operative.
17. The Notice applies to land within the Waitakere Ranges Heritage Area.

The Notice of Requirement

18. The Notice was lodged by the ARC with reference to section 168 of the Act which applies to new notices of requirement. The ARC has advised that the reference to 168 of the Act was an error and that the ARC intended to lodge the application with reference to section 181 of the Act which applies to alterations to existing designations. The ARC has also requested that the Notice be processed under section 181 of the Act as this preserves the priority of the existing Waitakere Ranges Regional Parkland designation.
19. The Council sought and received legal advice on this matter. The advice indicates that it is appropriate to process the application under section 181 of the Act. Therefore this report considers the Notice under section 181 of the Act.
20. The Notice has the aim of altering the effect of the Waitakere Ranges Parkland designation in the following ways.

21. The statement of purpose is cross referenced to Section 55 of the Regional Parks Management Plan 2002 (S55RPMP). S55RPMP is an extensive document relating to the management of the Park and the park works therein. This indicates the types of park works anticipated in the Park. In comparison the current operative statement of purpose is literally the phrase "Waitakere Ranges Regional Parkland".
22. New areas of reserve are included as described in paragraph 9.
23. New conditions are inserted as described in Appendix F of the Notice. It removes the general requirement to comply with the Plan rules as described in paragraph 14.

The Resource Management Act 1991

24. Section 168 of the Act provides that a requiring authority may, at any time, give notice to a territorial authority of its requirement for a designation for a project or work. The ARC is a requiring authority.
25. The Notice lodged under Section 168 in accordance with form 18 must include:-
 - a) The reasons why the designation is needed;
 - b) A description of the site in respect of which the requirement applies;
 - c) The nature of the proposed public work, project or work;
 - d) The nature of proposed restrictions;
 - e) The effects that the public work or project or work will have on the environment, and the ways in which any adverse effects may be mitigated;
 - f) The extent to which alternative sites, routes, and methods have been considered;
 - g) Any information required to be included in the Notice by a plan or regulation;
 - h) A statement of the consultation, if any, that the requiring authority has had with persons likely to be affected by the designation, public work, or project or work; and
 - i) 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.
26. The ARC has provided reasons why it thinks the designation is needed as set on page 1 and section 6 of the Notice.
27. A description of the sites to which the requirement applies is provided in section 1 and Appendices A, B, and C of the Notice. There are some discrepancies in the information supplied in the Notice. These discrepancies have been resolved via a
28. The nature of the public work is described in section 2 and Appendix E of the Notice.
29. The nature of the proposed restrictions is set out in Appendix F of the Notice. Further information on the restrictions was requested under section 92 of the Act. In response, the ARC submitted a revised Appendix F and, after prehearing meetings, this has been revised further as discussed in paragraphs 167 - 170.

30. The effects are described in section 3 of the Notice and the methods of mitigation are described in section 4 and Appendix F of the Notice. Further information on effects and the methods of mitigation were requested under section 92 of the Act, particularly in relation to Heritage. A response has been received from the ARC.
31. Neither the Plan nor regulations required additional information in the Notice.
32. Copies of correspondence with other parties is attached in Appendix D of the Notice.
33. Section 4 of the Notice states that resource consents may be required under regional plans. This will depend on the nature of works.
34. The Act provides that the procedures adopted in processing a notice are generally those adopted for processing a resource consent application. This includes lodging the notice, requiring further information, public notification, lodging of submissions and hearing of submissions. In respect of the Notice, all of those procedures have been followed, up to the stage of this hearing.
35. The procedure differs from the resource consent process in respect of the territorial authority consideration of the notice, and the hearing of any submissions. Section 171 of the Act states:

When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to—

- (a) *any relevant provisions of—*
 - (i) *a national policy statement;*
 - (ii) *a New Zealand coastal policy statement;*
 - (iii) *a regional policy statement or proposed regional policy statement;*
 - (iv) *a plan or proposed plan; and*
 - (b) *whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if—*
 - (i) *the requiring authority does not have an interest in the land sufficient for undertaking the work; or*
 - (ii) *it is likely that the work will have a significant adverse effect on the environment; and*
 - (c) *whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and*
 - (d) *any other matter the territorial authority considers reasonably necessary in order to make a decision on the requirement.*
36. Section 171(1) is subject to Part II of the Act. Part II contains the purpose and principles of the Act within four sections (Sections 5-8). It has been confirmed by the Environment Court that, in relation to a designation matter:

...all considerations, whether favouring or negating the designation, are secondary to the requirement that the provisions of Part II of the RMA must be fulfilled by the proposal'. (See Estate of P.A. Moran and Others v Transit NZ (W55/99)).

37. Part II of the Act is therefore important in consideration of this Notice.
38. Section 5 of the Act sets out the purpose of the Act, *to promote the sustainable management of natural and physical resources*. Sustainable management is defined as meaning:

Managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while –

 - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
 - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*
39. Section 6 of the Act sets out matters of national importance which shall be recognised and provided for. These include the natural character of the coastal environment, wetlands, lakes and rivers and their margins; outstanding natural features and landscapes; protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna; maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers; the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga, historic heritage and recognised customary activities.
40. Section 7 sets out a range of “other matters” which shall be given “particular regard”. These include kaitiakitanga; the ethic of stewardship; the efficient use and development of natural and physical resources; the efficiency of the end use of energy, the maintenance and enhancement of amenity values; the intrinsic values of ecosystems, maintenance and enhancement of the quality of the environment; and any finite characteristics of natural and physical resources, the habitat of trout and salmon, the effects of climate change and the benefits of renewable energy.
41. Section 8 covers the Treaty of Waitangi and imposes an obligation to “*take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi)*”.
42. After considering these matters, the Council needs to make a recommendation to the ARC under section 171(2) which states:

“The territorial authority may recommend to the requiring authority that it –

 - a) confirm the requirement;*
 - b) modify the requirement;*
 - c) impose conditions; and*
 - d) withdraw the requirement.”*
 43. Reasons must be given for the recommendations.

44. Under section 172 of the Act, the ARC has a 30 working day period from the receipt of the Council's recommendations, to advise the Council whether the recommendations are accepted or rejected, in whole or in part. The ARC may modify the Notice only if the modification is recommended by the Council or is not inconsistent with the Notice as originally notified.
45. Where the requiring authority rejects a recommendation in whole or in part, or modifies the Notice, the authority must give reasons for its decision.
46. It then becomes the obligation of the Council to ensure that a copy of the ARC's decision is served on every person who made a submission and given to the landowners and occupiers directly affected by the decision. This notification must be within 15 working days of the decision.
47. The Council itself, and any person who made a submission on the Notice, may lodge an appeal on the requiring authority's decision to the Environment Court. This must be done within 15 working days of receiving the Notice of the decision. In determining an appeal, the Environment Court must have regard to the matters set out in Section 171 of the Act and may confirm or cancel a Notice, or modify the Notice, or impose such conditions, as the Court thinks fit.
48. Finally, if there are no appeals, or once the Environment Court decision is received, the Council must, as soon as reasonably practicable, include the designation in the Plan (assuming the designation is confirmed).

STATUTORY ASSESSMENT

49. Section 171 of the Act requires that the territorial authority consider the effects on the environment of allowing the requirement.

Effects Identified in the Notice

50. Sections 3 and 4 of the Notice outline effects identified by the ARC. These can be summarised as:
 - the positive effects of protection of the natural values of the Park;
 - the potential effects of park works such as track construction on those natural values; and
 - the potential effects of the use of the Park on the surrounding environment.
51. The Notice outlines proposed mitigation measures to reduce the impact of adverse effects where there is the potential for these adverse effects to arise.
52. The Notice includes S55RPMP, as Appendix E, which is referred to in section 2 of the Notice. S55RPMP guides the management of the Park. This document may be referred to in the future if any situation arises where there is a dispute about whether the designation authorises particular works and associated effects.
53. Appendix F of the Notice contains conditions. This Appendix defines which park works do or do not require an outline plan of works and also sets some general conditions applying to all park works to manage effects.

- A89-A 174 54. Further information on effects was requested from the ARC under section 92 of the Act. This information has been provided by the ARC. The section 92 request and response are attached at pages A89 to A174. This information has been considered by Council officers. It is considered that some amendments to Appendix F are appropriate to ensure that any effects of park works on threatened plants and scheduled sites are avoided, remedied or mitigated. These amendments are contained in the recommended conditions and have been agreed to by ARC staff. The principal changes to the proposed conditions are to increase the range of parks works that will be subject to an outline plan of works process, and to exclude relocation, demolition or partial demolition of heritage items from the designation.
55. Potential effects raised by submitters are discussed at paragraphs 109 – 140 below.

National Policy Statements, New Zealand Coastal Policy Statement, Regional Policy Statements and Plans

56. Section 171 of the Act requires that the territorial authority have particular regard to any relevant provisions of national or regional policy statements, plans or proposed plans.
57. The only operative national policy statement with relevant provisions is the New Zealand Coastal Policy Statement, 1994 (NZCPS). The Park and the associated Notice include land that is in the coastal environment and directly adjoining the coastal marine area. Therefore the provisions of the NZCPS are relevant. Policies 1.1.2, 1.1.3, 1.1.4, 1.1.5, 3.1.1, 3.1.2, 3.1.3 are most relevant to consideration of the Notice.
58. Policy 1.1.2 states:

It is a national priority for the preservation of the natural character of the coastal environment to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna in that environment by:

- a) *avoiding any actual or potential adverse effects of activities on the following areas or habitats:*
 - (i) *areas and habitats important to the continued survival of any indigenous species; and*
 - (ii) *areas containing nationally vulnerable species or nationally outstanding examples of indigenous community types.*
- b) *avoiding or remedying any actual or potential adverse effects of activities on the following areas:*
 - (i) *outstanding or rare indigenous community types within an ecological region or ecological district;*
 - (ii) *habitat important to regionally endangered or nationally rare species and ecological corridors connecting such areas; and*
 - (iii) *areas important to migratory species, and to vulnerable stages of common indigenous species, in particular wetlands and estuaries.*
- c) *protecting ecosystems which are unique to the coastal environment and vulnerable to modification including estuaries, coastal wetlands, mangroves and dunes and their margins; and*
- d) *recognising that any other areas of predominantly indigenous vegetation or habitats of significant indigenous fauna should be disturbed only to the extent reasonably necessary to carry out approved activities.*

59. Policy 1.1.3 states:

It is a national priority to protect the following features, which in themselves or in combination, are essential or important elements of the natural character of the coastal environment:

- a) *landscapes, seascapes and landforms, including:*
 - (i) *significant representative examples of each landform which provide the variety in each region;*
 - (ii) *visually or scientifically significant geological features; and*
 - (iii) *the collective characteristics which give the coastal environment its natural character including wild and scenic areas.*
- b) *characteristics of special spiritual, historical or cultural significance to Maori identified in accordance with tikanga Maori; and*
- c) *significant places or areas of historic or cultural significance.*

60. Policy 1.1.4 states:

It is a national priority for the preservation of natural character of the coastal environment to protect the integrity, functioning, and resilience of the coastal environment in terms of:

- a) *the dynamic processes and features arising from the natural movement of sediments, water and air;*
- b) *natural movement of biota;*
- c) *natural substrate composition;*
- d) *natural water and air quality;*
- e) *natural bio diversity, productivity and biotic patterns; and*
- f) *intrinsic values of ecosystems.*

61. Policy 1.1.5 states:

It is a national priority to restore and rehabilitate the natural character of the coastal environment where appropriate.

62. Policy 3.1.1 states:

Use of the coast by the public should not be allowed to have significant adverse effects on the coastal environment, amenity values, nor on the safety of the public nor on the enjoyment of the coast by the public.

63. Policy 3.1.2 states:

Policy statements and plans should identify (in the coastal environment) those scenic, recreational and historic areas, areas of spiritual or cultural significance, and those scientific and landscape features, which are important to the region or district and which should therefore be given special protection; and that policy statements and plans should give them appropriate protection.

64. Policy 3.1.3 states:

Policy statements and plans should recognise the contribution that open space makes to the amenity values found in the coastal environment, and should seek to maintain and enhance those values by giving appropriate protection to areas of open space.

65. Collectively these policies make it a national priority to maintain the natural and cultural heritage of the coastal environment in those locations where these values are significant. The western and southern coastline of the Waitakere Ranges rates highly in regard to all these values. A high proportion of land on those two coastlines is within the Park. The Park is an important institution for the maintenance of those values and the Notice will facilitate management of the Park and protection of those values.
66. The natural and cultural values of the Waitakere Ranges is specifically recognised in Chapter 6 and Appendix B (item 87) of the Auckland Regional Policy Statement (ARPS). The Notice is considered to be consistent with the objectives and policies of the ARPS, in particular those related to heritage and the coastal environment, i.e. 6.3, 6.4 and 7.3.
67. Objective 6.3 states:
1. *To preserve or protect a diverse and representative range of the Auckland Region's heritage resources;*
 2. *To maintain, enhance or provide public access to the Region's heritage resources consistent with their ownership and maintenance of their heritage value;*
 3. *To protect and restore ecosystems and other heritage resources, whose heritage value and/or viability is threatened; and*
 4. *To maintain the overall quality and diversity of character of the landscapes of the Auckland Region.*
68. Policy 6.4 states:
1. *The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga shall be recognised and provided for in the preservation or protection of the heritage resources of the Auckland Region. (Refer also to Chapter 3 – Matters of Significance to Iwi).*
 2. *The subdivision of land, and use and development of natural and physical resources shall be controlled in such a manner that:*
 - (i) *the values of heritage resources of international, national or regional significance are preserved or protected from significant adverse effects.*
 - (ii) *where preservation or protection and avoidance of significant adverse effects on the values of such significant heritage resources is not practicably achievable, such significant adverse effects shall be remedied, or mitigated.*
 - (iii) *In the context of this Policy, significant adverse effects would include:*
 - *the destruction of the state and physical integrity of significant heritage resources or of a significant physical or biological process to the level where the maintenance of that process cannot be assured;*
 - *the destruction of or significant reduction in, the educational, scientific or amenity value of a significant heritage resource, or of that heritage feature's contribution to significant natural character and landscape values;*
 - *the fragmentation of significant connections of indigenous vegetation between significant ecosystems;*
 - *the loss of a threatened or protected species;*

- a significant reduction in the abundance or natural diversity of significant indigenous flora and fauna;
- a significant reduction in the value of the historical, cultural and spiritual association with significant heritage resources which are held by Tangata Whenua and the wider community;
- a significant reduction in the value of significant heritage resources in their wider historical, cultural and landscape contexts;
- the loss of significant historic places, areas and waahi tapu; and
- a significant modification of the viability or value of a significant heritage resource as a result of the use or development of other land in the vicinity of the heritage resource.

69. Method 6.4.2 states:

1. *Regional and district plans shall include provisions which preserve or protect (as appropriate) heritage resources identified in Appendix B of the RPS and the values of those identified as significant using criteria in Policies 6.4.7-1 and 2, and 6.4.13-1 and 6.4.16.*
2. *In preparing regional, district and annual plans the following mechanisms for the preservation and protection of heritage resources should be considered:..... (vii) land acquisition and designation...*

70. Objective 7.3 states:

- 1 *To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use and development;*
2. *To protect outstanding natural features and landscapes, areas of significant indigenous vegetation and significant habitats of indigenous fauna, and significant historic and cultural places and areas in the coastal environment;*
3. *To enable appropriate subdivision, use and development to be undertaken in the coastal environment...;*
4. *To reduce the risk of environmental damage from subdivision, use and development within the coastal environment arising from uncertainty or lack of knowledge about coastal processes;*
5. *To maintain and enhance public access to and along the CMA and to publicly-owned land in the coastal environment;*
6. *To enable an appropriate range of recreational opportunities to be undertaken in the coastal environment...; and*
7. *To recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga of the coastal environment...*

District Plan and Proposed District Plan

Operative Plan

71. The Notice relates to sites which are identified as Open Space Environment. The sites are mainly either managed, protected or coastal natural area, with smaller areas of general and restoration natural area.
72. The operative rules of the Plan apply to the extent provided for by the existing operative Park designation, where the sites in the Notice are also in the operative designation. As the existing operative designation remains in effect, those rules listed in paragraph 14 and related policy are relevant to the Notice.

73. The natural area rules apply to activities involving vegetation clearance, earthworks and impermeable surfaces. Given the limited extent of park works anticipated by S55RPMP, it is considered that the natural area provisions relating to vegetation alteration are most relevant, e.g. for track construction and maintenance. The vegetation alteration rules are complex but have the general effect of requiring resource consent for parks activities requiring alteration of trees more than 6m in height. Relevant Plan policies include 1.5, 1.6, 2.4, 2.12, 5.1, 5.3, 5.4, 6.2, 7.4, 8.2, 8.4, 9.9, 9.13, and 11.32.

74. Policy 1.5 states:

Activities (including structures) should be managed in a way that avoids further clearance and damage to native vegetation within the margins of the City's lakes, rivers, wetlands and the coast, provided that exotic vegetation may be removed where there is a programme to restore native vegetation to the riparian margins and coastal edges.

75. Policy 1.6 states:

Activities (including structures and impermeable surfaces), should be designed, located and carried out in a way that they do not impede or adversely affect the potential for the regeneration of native vegetation, or reduce the extent, range and linkages between areas of native vegetation within riparian margins and coastal edges.

76. Policy 2.4 states:

Where native vegetation is cleared, this should be carried out in a way that:

- *avoids high quality bush and locates in lower quality bush - clearing should take place in areas which avoid native vegetation on the site which may have greater significance than other native vegetation, as assessed in an ecological or landscape context;*
- *avoids notable trees, - the tree's significance being measured by whether it is:*
 - *highly representative of its species, or;*
 - *of a rare species, or;*
 - *of high value in providing for the local diversity of species, or;*
 - *of a significant size and/or shape, or;*
 - *of significance in a landscape context;*
- *minimises any edge effect on remaining native vegetation;*
- *minimises adverse effects on ecosystems;*
- *does not isolate or remove linkages between areas of native vegetation or fauna habitat;*
- *does not impede the movement of native fauna; and*
- *avoids disturbance of root systems of remaining native vegetation.*

77. Policy 5.1 states:

Activities within Restoration Natural Areas, should be carried out in a way that does not impede regeneration of native vegetation. Where possible, activities in areas identified as Ecological Linkage Opportunities should not prevent the future regeneration of these areas.

78. Policy 5.3 states:

Activities on any public land should be carried out in a way that promotes and enhances regeneration and the re-establishment of linkages between areas of native vegetation and fauna habitat within the Green Network, and the effectiveness of any adjacent Ecological Linkage Opportunities and Restoration Natural Areas in protecting the stability of native ecosystems.

79. Policy 5.4 states:

Activities (including subdivisions) should be designed, be of a nature and scale, and be located and managed in a way that avoids or minimises adverse effects on the overall resilience, biodiversity and ecological integrity of the Green Network and its constituent parts, and enhances linkages between natural resources in all parts of the City. Particular regard should be had for the design of subdivision and the placement of structures in maintaining the linkages between native vegetation, fauna habitats, natural features, landforms and waterways.

80. Policy 6.2 states:

Activities should be carried out or located so that they do not:

- *disturb the underlying rock, covering soils and vegetation on any Outstanding Natural Feature (outstanding land forms and geopreservation sites), to the extent that the significance of the site, in terms of form and materials, is adversely affected; and*
- *or impede any natural process that is integral to the nature of the feature.*

81. Policy 7.4 states:

Activities should be carried out in a way that removal or damage to native vegetation that contributes to and is an essential part of the natural character of coastal edges and riparian margins, is minimised.

82. Policy 8.2 states:

Activities involving the clearance of native vegetation and fauna habitat within the Green Network should be carried out in a way that the mauri of that resource is not adversely affected.

83. Policy 8.4 states:

Any activity within the Riparian Margins/Coastal Edges Natural Areas, Coastal Natural Areas and Protected Natural Areas that involves:

- *disturbance of soils and removal of rock;*
- *alteration to the natural character of the coastal area or impeding of any natural process that forms that character;*
- *alteration to the interface between land and water;*
- *removal of vegetation;*

should be managed in a way that avoids, remedies or mitigates adverse effects on the natural character and mauri of the coastal area.

84. Policy 9.9 states:

Activities should be managed in a way that avoids, remedies or mitigates damage to or clearance of native vegetation from the outstanding coastal and Waitakere Ranges landscapes.

85. Policy 9.13 states:

Activities involving the trimming and pruning of vegetation may be carried out in a way that maintains, uninterrupted, the identified public views of the City noted on Map 3.6(e) and in Appendix K of the Policy Section. Any such trimming or clearing should be carried out in a way that minimises damage to vegetation.

86. Policy 11.32 states:

Public open space should be managed in a way that balances the needs of the city's residents for recreational opportunities with the protection of the natural environment by:

- *ensuring that the management and development of recreational facilities on land in the Open Space Environment is sensitive to the natural landscape elements and qualities;*
- *protecting outstanding natural features and vegetation in the Green Network from development;*
- *ensuring that where necessary the natural environment is enhanced by planting and/or restoration; and*
- *maintaining the infrastructure and facilities on parks to provide a high level of environmental amenity.*

87. Policy 12.1 states:

Activities should be carried out in a way that avoids or minimises adverse effects on the City's valued natural heritage, including the extent and range of species. Particular regard shall be had for protecting native vegetation and fauna habitat, and rare or threatened fauna species.

88. Collectively these policies speak of the importance of avoiding adverse effects on the native vegetation, habitats, ecosystems, outstanding features and landscapes of natural areas such as the Waitakere Ranges. Alteration of vegetation may be necessary for some park works such as track construction and maintenance. The need for some vegetation alteration to provide for use and enjoyment of the Park needs to be acknowledged. At the same time, the effects on vegetation need to be managed so that they do not become locally or cumulatively significant.

89. The provisions in the Notice provide for maintenance of the values of vegetation in the Park in the following ways:

- a) Designating the area for a Park prioritises use and management of this area of land for a Park explicitly focussed on maintaining natural values.
- b) Appendix E – S55RPMP limits the general scale and type of parks works anticipated, to those relevant to the function of the Park. This limits the scale and cumulative quantity of vegetation alteration that may be required, to a minor nature in relation, to the Parks vegetative cover and regenerative capacity.
- c) Appendix F – Proposed Conditions, as amended in the recommendations, sets information requirements for projects involving vegetation alteration. This information would be considered in the processing of applications for outline plans of works. The information would also be applied to project management of park works.

90. In summary, the Notice provides sufficient protection for vegetation to maintain the values of the Park and is therefore consistent with the above policies of the plan.

91. Some park activities may require earthworks. However, the extent and effects of this are likely to be minor in the context of the receiving environment.
92. The City Wide Heritage rules and related policy are relevant because of the existence of a number of scheduled heritage sites within the Park. Generally, resource consent is required to modify a scheduled heritage site. Relevant Plan policies include 12.2, 12.3, 12.4, 12.5, 12.7 and 12.9.
93. Policy 12.2 states:

Activities must be carried out in a way that avoids demolition or partial demolition of a Listed Heritage site, building or object. If an applicant will suffer unreasonable hardship by reason of restrictions on demolition or partial demolition, Council may adopt one of the following courses of action:

- *take steps to acquire any scheduled item and any land on which it is situated;*
- *enter into any other agreement which is mutually acceptable to the Council, the applicant and/or owner of the listed item, and the Historic Places Trust as appropriate; and*
- *offer any other suggestions or assistance which would be likely to reduce any hardship suffered by the applicant or owner.*

and will take account of:

- *whether there is any change in the circumstances that has resulted in a reduction of significance since the item was listed in the District Plan;*
- *whether any building can be economically adapted for re-use;*
- *whether any item can be relocated on or offsite, and the impact that relocation would have on the heritage significance of the object;*
- *whether any alteration to the area can be made that retains the heritage significance of the object; and*
- *whether any alteration to the area can be made that retains the heritage significance of the item while accommodating the objectives of the applicant.*

94. Policy 12.3 states:

Alterations and additions to the exterior of any heritage item listed in the City Wide Rules Heritage Appendix of the District Plan and the interior of any heritage item where that protection is provided for in the Heritage Appendix of the Plan, should be carried out in a way that is consistent with the heritage values for which it has been listed and any Conservation Plan required for a Category I item, and is sympathetic to and protects the following features:

- *street elevation and streetscape;*
- *style and character of the building;*
- *interior quality of the building;*
- *scale, form and detailing, including roof form, roof angles and eaves;*
- *the heritage significance of the building;*
- *historic fabric, significant materials and original craftsmanship;*
- *original materials including cladding profiles, coloured texture; and*
- *original setting, including protection and maintenance of surrounding trees and gardens.*

95. Policy 12.4 states:

Activities on sites containing heritage items listed in the District Plan, should be managed and located, and be of a scale, form and appearance which does not detract from the appearance and integrity of the listed heritage item. Particular regard should be had for signs, structures and exterior lighting placed on or adjacent to a heritage item, the location of vehicle access points and parking areas, the design of paths, fencing and gates and the retention of vegetation. Subdivision should be managed to ensure that any land closely associated with the value or significance of a heritage item in the Plan, is maintained within the same site.

96. Policy 12.5 states:

Activities on sites adjacent to sites containing listed heritage items shall be designed, located and carried out in a way that minimises:

- *physical domination of the listed heritage item;*
- *loss of the original setting, including surrounding trees and gardens; and*
- *incompatibility with the scale and form of any heritage building, including roof form and roof angles.*

97. Policy 12.6 states:

Activities should be carried out in a way that avoids the clearance of any listed heritage vegetation, provided that any such vegetation may be cleared where:

- *the vegetation is a threat to the health and safety of residents; and*
- *the vegetation has been certified as carrying a disease contagious to other vegetation, and/or is dying.*

98. Policy 12.7 states:

Activities within the dripline of any listed heritage tree should avoid any adverse effect on the health of the tree including:

- *altering the soil levels or water table by addition to or excavation or compaction of soils;*
- *damage to root systems;*
- *damage to the tree from fires or storage of materials;*
- *release of toxic substances; and*
- *introducing environmentally damaging plants.*

99. Policy 12.8 states:

Activities should not cause adverse effects to the physical structure and integrity of any archaeological site listed in the District Plan, including adverse effects arising from:

- *the removal, addition, excavation or compaction of any soil, rock or other materials, on or in the vicinity of the listed archaeological site;*
- *the planting of vegetation on or in the vicinity of any listed archaeological site;*
- *the removal of vegetation from a listed site in a way that causes adverse effects on the stability of the site, the form, structure, and materials of the site, and the overall integrity of its heritage values; and*
- *subdivision of the site or adjoining sites in a way that causes adverse effects on the value or significance of the listed archaeological site.*

100. Policy 12.9 states

Natural and cultural resources of national, regional or local significance that are located on public open space must be sustainably managed to ensure their long term protection.

These resources on public open space are:

- *outstanding natural features, landforms, geological sites and soils;*
- *outstanding landscapes;*
- *the natural character of the coast and margins of lakes, rivers and wetlands;*
- *significant and outstanding native vegetation and fauna habitat;*
- *rare and threatened plants;*
- *waahi tapu and other archaeological sites of significance to Maori; and*
- *buildings, sites, artefacts and trees of historical significance.*

101. These policies collectively promote the protection of heritage, particularly heritage items listed in the Plan. The Notice, with conditions amended as recommended is consistent with these policies for the following reasons:

- a) The inclusion of Appendix E – S55RPMP within the Notice defines the purpose of the designation in a way that will protect heritage;
- b) Modification of heritage items will require an outline plan of works and all applications for an outline plan of works will need to include an assessment of effects on heritage values;
- c) Consultation with the Trust is required for all proposals to modify heritage items;
- d) Relocation, demolition and partial demolition of heritage items is expressly excluded from the designation. The ARC does not anticipate doing these activities and it is therefore appropriate to exclude them from the designation; and
- e) Pre 1900 sites are protected under the Historic Places Act 1993.

102. The City Wide Rules relating to noise, air discharges, odour, dust, noise and vibration are unlikely to be relevant to the activities anticipated in the Park.

103. Those parts of the Notice which are outside the area of the existing designation are subject to all relevant Plan policy and rules that apply to the underlying zoning. The rules and policy that are most relevant are those discussed above.

Plan Change 35 Waitakere Ranges Heritage Area District Plan Section, Oratia Local Area Plan, and Waiatarua Local Area Plan, and Oratia Rural Village

104. Proposed Plan Change 35 was notified in February 2010. Policies 5B.3.1.6 and 5B.3.2.6 have some relevance to that part of the Notice within the areas to which the policies apply. The Council has not released decisions on Proposed Plan Change 35 at the time of writing. Therefore relatively little weight can be placed on these policies.

Alternative Sites Routes and Methods

105. The ARC owns all sites within area covered by the Notice, with the exception of the Whatipu Scientific Reserve and Lot 1 DP 91173. In these two cases the ARC has management agreements with the owners of these two reserves. These management agreements are deemed to be “an interest in the land sufficient for undertaking the work” referred to in section 171 (b)(i) of the Act. Subject to the recommended conditions, it is considered that the Notice will not have significant adverse effects on the environment as referred to in section 171(b)(ii) of the Act. Therefore an evaluation of alternative sites, routes or methods as described in section 171(b) of the Act is not required.

Whether the Designation is Reasonably Necessary.

106. Section 171(c) requires regard to be had to whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority.
107. Section 6 of the Notice does not explicitly state the objectives of the ARC for the Park but does state:

The public work and designation are reasonable and necessary for achieving the objectives of the requiring authority because:

- a) The land is held and managed for the use, benefit and enjoyment of the wider public of the Auckland region as part of a regional parks network;*
- b) The land is subject to the Long Term Council Community Plan and Annual Plans which sets out the funding and development priorities for the manage the regional parks network as a whole;*
- c) The designation brings all land held for regional park purposes in the Waitakere Ranges within the same management and statutory framework*
- d) The designation acknowledges the statutory framework provided by the Waitakere Ranges Heritage Area Act 2008; and*
- e) The current designation includes rules that are inappropriate and unnecessary for the proper management of a large forested park with remote and rugged settings.*

108. To this it can be added that the designation is a means of giving effect to the Regional Parks Management Plan 2002. The Council accepts that the Notice is reasonably necessary to provide for the Park.

ISSUES IDENTIFIED BY SUBMISSIONS

109. The Notice was publicly notified in the New Zealand Herald on the 8 February 2010. Advertisement signs were placed near those sites that are to be added to the existing designation and for which there is road or foot access. A full copy of the notice was served in accordance with the Act on directly affected parties. A full copy of the notice was placed for public inspection in the City's Libraries, Council's main office and on Council's Website.
- A175-A194 110. There were seven submissions on the Notice. All submissions were received within the 20 day time frame. Two of the submissions support the Notice. The other submissions oppose the Notice in part or in full, seeking relief in the alteration of the Notice from its original form. The submissions are summarised in the table below. Each submission is attached at pages A175 to A194.

Number	Name	Support or Opposition
ARC 3/1	The New Zealand Historic Places Trust	The submitter opposes the Notice of Requirement.
ARC 3/2	The Waitakere Ranges Protection Society	The submitter opposes the Notice of Requirement.
ARC 3/3	South Titirangi Residents and Ratepayers	The submitter opposes the Notice of Requirement.
ARC 3/4	Anne Grace	The submitter opposes the Notice of Requirement.
ARC 3/5	Telecom NZ	The submitter opposes the Notice of Requirement.
ARC 3/6	West Coast Plan Liaison Group	The submitter supports the Notice of Requirement.
ARC 3/7	Arnold Turner	The submitter supports the Notice of Requirement.

Discussion of Submissions

The New Zealand Historic Places Trust

111. The New Zealand Historic Places Trust (the Trust) is a statutory agency operating under the Historic Places Act 1993. The Trust is an advocate for historic heritage.
112. The Trust opposed that part of the Notice that affects historic heritage. It considered that there is insufficient information on the effects of the Notice on historic heritage. In addition, the Trust requested the Notice be amended so that the existing Plan heritage rules apply to all works within the new designation. This is effectively asked for the same heritage provisions as the existing designation.
- A89-A174 113. Further information was requested from the ARC on historic heritage under section 92 of the Act. This request and the ARC response is attached at pages A89 to A174. The ARC submitted a revised Appendix F Proposed Conditions to be included in the Notice. The revised Appendix F:
- a) Included a requirement for applications for an outline plan of works stating:
 - where appropriate, an assessment of natural, cultural and/or built heritage features and a statement on how effects on these features will be avoided, remedied or mitigated;*
 - b) Increased the range of park activities that will potentially be subject to an outline plan of works, i.e. the table of exemptions from outline plans contains fewer activities; and
 - c) Specifically excluded modification of heritage sites from works that are exempt from an outline plan of works.
- A89-A174 114. The Council's heritage specialist has reviewed the information and provided comments including a request for additional conditions. This is included at pages A89 to A174.

115. A pre-hearing meeting was held on 30 June 2010 with staff from the Trust, ARC and WCC. Further amendments to Appendix F Proposed Conditions were agreed between the ARC and the Trust. These amendments are contained in the recommended conditions of this report. The principal change to the conditions is to exclude relocation, demolition and partial demolition of heritage items from the designation. The Council's heritage specialist has considered and approved the recommended conditions.

The Waitakere Ranges Protection Society

116. The Waitakere Ranges Protection Society (the Society) opposes aspects of the Notice of Requirement concerning the extent to which park works are exempt from a requirement for an outline plan of works. In particular, the Society requests the following:
- i) The deletion of the construction of farm buildings for the listed activities exempt from the requirement to follow the outline plan process;*
 - ii) The deletion of the construction of minor buildings, structures and utility services for the listed activities exempt from the requirement to follow the outline plan process;*
 - iii) The deletion of the construction of new tracks or the realignment of existing tracks for the listed activities exempt from the requirement to follow the outline plan process; and*
 - iv) An addition to the proposed conditions specifying that all activities carried out on significant ridgelines shall be subject to the outline plan process.*
117. The ARC proposes a revised Appendix F Proposed Conditions. The revised Appendix 4 provides for much but not all of the submitters relief and is compared in relation to the points raised by the submitter as follows:
118. With respect to item (i) of the Society's request - the exemption for buildings up to 100m² is removed. The revised Appendix F also contains a more limited exemption for notice boards, signs, picnic tables, shade shelters and entry gates. The exemption for farming structures is retained but does not include impervious surfaces, i.e. buildings with a roof or a floor are not exempt.
119. With respect to item (ii) of the Society's request - the exemption for construction of minor buildings, structures and utility services is removed.
120. With respect to item (iii) of the Society's request - the exemption for construction and realignment of tracks is removed.
121. With respect to item (iv) of the Society's request – an information requirement to provide an assessment of effects on sensitive ridgelines in applications for outline plans of works applications is inserted.
122. A copy of the revised conditions was forwarded to the Society on the 9 July 2010. The Society advised that they wish to attend the hearing.

South Titirangi Residents and Ratepayers Association

123. The relief requested by the South Titirangi Residents and Ratepayers Association is very similar to that of the Waitakere Ranges Protection Society and the same commentary applies.

Anne Grace

124. Anne Grace made a primary and a secondary submission. Both submissions oppose the Notice entirely for similar reasons, but differ in the extent of relief requested. The primary submission requests that the Notice be withdrawn. The secondary submission requests that in the event that the primary submission is not accepted; either that the Notice be amended to include compliance with all the Plan objectives and policies, or that the Notice be amended to include unspecified amendments that include the submitter's concerns.
125. The submitter contends that the Open Space Environment rules and related Plan provisions are a better mechanism for managing the Park, rather than having a park designation. Accordingly the submitter's primary submission requests that the Notice be withdrawn on the assumption that this would allow the Open Space Environment Rules to apply to park works unfettered by a designation.
126. The primary submission is essentially requesting an alternative to the Notice. Section 171(b) of the Act does allow a degree of consideration of alternatives, although this consideration is limited in two ways. However, firstly, the requiring authority is not obliged to consider or use completely different methods. Secondly, alternatives are not to be considered where the requiring authority owns the land or has an interest sufficient for the works. The ARC either owns the land or has sufficient interest in it. Therefore, the Council is effectively barred from considering alternative methods. This does not mean that the Council cannot recommend that withdrawal of the Notice, but the Council cannot recommend that the Notice be withdrawn for the purpose of an alternative in terms of section 171(b) of the Act. The primary submission seeks an outcome that is not available to the Council within this process.
127. The secondary submission requests the following alternative relief:
- Retain the provisions of the current designation with an additional provision for compliance with all District Plan objectives and policies; or recommend amendments to the Notice of Requirement that address my concerns.*
128. A pre-hearing meeting was held with Anne Grace, ARC staff and WCC staff on the 25 March 2010. At that meeting it became apparent that the submitter is particularly concerned with the potential effects of park works, such as track construction, on threatened plants and archaeological sites. This matter has been considered further by the ARC who have responded with a revised Appendix - Proposed Conditions to the Notice. Key changes are:
- a) Insertion of a requirement for applications for an outline plan of works to include:
- A written statement detailing the degree to which the works meet the relevant, objectives, policies and rules of the District Plan; and*
Where appropriate, an assessment of natural, cultural and/or built heritage features and a statement on how effects on these features will be avoided, remedied or mitigated.
- and
- A written statement of how the works will give effect to the Auckland Regional Council Threatened Plant Management Strategy.*
- b) Increase the range of park activities that will potentially be subject to an outline plan of works, i.e. the table of exemptions from outline plans contains fewer activities. In particular, construction of new tracks and modification of heritage sites are no longer exempt from an outline plan of works.

- c) relocation, demolition or partial demolition of heritage items is excluded from the designation.

A89-A174 129. A second prehearing meeting was held with Anne Grace on the 16 July 2010. As a result of this, minor corrections have been made to the Notice. Appendix A – Legal Description of Properties to be Included in the Notice of Requirement, has also been amended to correct errors and simplify the table. These amendments do not alter the intended extent of the Notice as publicly notified. The amended Notice and Appendix A are attached at pages A89 to A174.

Telecom New Zealand

- 130. Telecom New Zealand's submission seeks relief to the effect that Telecom not be required to obtain the ARC's permission under section 176 of the Act for Telecom works within the Park, in situations where Telecom has already obtained a road opening notice or resource consent.
- 131. Section 176(b) of the Act states:
 - b) *no person may, without the prior written consent of that consent authority, do anything in relation to the land that is subject to the designation that would prevent or hinder a public work or project or work to which the designation relates, including –*
 - (i) *undertaking any use of the land,*
 - (ii) *subdividing the land, and*
 - (iii) *changing the character, intensity, or scale of the use of the land.*
- 132. This provision of the Act is fundamental to the purpose of designations. The discretion to either grant or refuse permission under section 176(b) of the Act is the requiring authorities alone and cannot be dispensed of or assumed by another agency without the requiring authority's permission. Also, the written permission required under section 176(b) of the Act is not directly linked to the resource consent process under the Act or any other permit or consent required under other legislation. Instead section 179 of the Act provides a specific appeal process for persons who believe they have been unreasonably refused permission under section 176 of the Act by a requiring authority.
- 133. A pre-hearing meeting was held with Telecom, ARC staff and WCC staff on the 29 March 2010. Telecom indicated that they were concerned that permission would be refused by ARC for Telecom works in the Park. Telecom were also of the view that they did not want to have to obtain separate permissions from separate government agencies or from different units in the same agency. Telecom also suggested that leases be added into permissions deemed to be a permission under section 176(b) of the Act. ARC indicated that they would consider the matter further.
- 134. Subsequently the ARC advised Council that the ARC does not accept the relief requested by Telecom.
- 135. Further correspondence with Telecom has occurred but the matter has not been resolved.
- 136. Legal advice on the Telecom submission has been obtained. That advice is confidential but is to the general effect that amendments to the conditions of the Notice requested by Telecom are not appropriate. It would be more appropriate for Telecom to work together with ARC on an operational policy regarding section 176(b) of the Act.

137. The Council's reporting officer's recommendation is that Telecom's requested relief is inappropriate for the following reasons:
- a) The ARC, (the requiring authority) has advised that it does not agree to the submitters request;
 - b) The purpose of the Notice is to provide for a Park with the primary purpose of protecting natural values and allowing public enjoyment of those values. Other forms of land use must come secondary to the extent that there is any conflict. To that end the ARC as requiring authority and park manager is the appropriate primary agency to determine whether other land uses are consistent with the purpose of the Park;
 - c) Other regulatory mechanisms, such as an earthworks consent, for example, are not necessarily an adequate mechanism to determine whether a particular Telecom activity is appropriate in the Park;
 - d) There is no actual evidence of administrative unreasonableness on the part of the ARC;
 - e) If at any stage, Telecom believes that permission is being unreasonably withheld, it has the specific remedy of appealing to the Environment Court under section 179 of the Act; and
 - f) It would be more appropriate for Telecom and ARC to discuss and agree on an operational policy for determining the circumstances in which section 176(b) permission is required.

West Coast Plan Liaison Group

138. This submission supports the Notice in its proposed form. The ARC has proposed changes to the conditions in the Notice. These changes are unlikely to conflict with the submitter's interest in supporting the Notice. Revised conditions were sent to the submitter on 9 July 2010. No response has been received. The submitter has an opportunity to comment on the proposed changes through the hearing process, if they wish to.

Arnold Turner

139. This submission supports the Notice in its proposed form. The ARC has proposed changes to the conditions in the Notice. The revised conditions were sent to the submitter on 9 July 2010. Further email correspondence was exchanged with the submitter and this resulted in further agreed amendments to the conditions. A copy of relevant correspondence is attached with the submission. The submitter cannot attend the hearing and asks for their apologies to be presented.
140. Overall it is considered that the community, statutory bodies and other interested parties have been appropriately identified and their concerns addressed by the amended conditions.

OTHER MATTERS

Specialist Advice

- A195-A198 141. The Notice has been considered by Council's Heritage specialist and comment has been provided. That comment is attached at pages A195 to A198. The specialist has recommended additional conditions in relation to protection of heritage items. These additional conditions have been discussed with the ARC and the Trust. Further amendments were then agreed between ARC, Council and Trust staff. These amended conditions are the recommended conditions.

The Waitakere Ranges Heritage Area Act 2008

142. Section 15 of the Waitakere Ranges Heritage Area Act 2008 (WRHA) states:
- 1) Subsection (2) applies to a person if the person is making a decision or recommendation that relates to the heritage area or a part of it for—
 - a) a designation under section 168A, 171, 172, 174, 179, 181, or 182 of the Resource Management Act 1991; or
 - b) a heritage order under sections 189, 189A, 191, 192, 195, and 196 of the Resource Management Act 1991.
 - 2) The person, when making the decision or recommendation, must have particular regard to—
 - a) the purpose of this Act and the objectives; and
 - b) the relevant provisions of any national policy statement or New Zealand coastal policy statement.
 - 3) The requirements in subsection (2)(a) are in addition to the requirements in the Resource Management Act 1991.
143. The ARC's response to the Council's request for further information contains an assessment of the Notice with reference to sections 7 and 8 of the WRHA. This assessment is sufficient and the Notice is consistent with the WRHA.

The Reserves Act 1977 and the Local Government Act 2002

144. The Notice applies to the Waitakere Ranges Regional Park (the Park). The ARC, in its response to Council's section 92 request states:
- The Waitakere Ranges Regional Park is protected under section 139 of the Local Government Act which means the park is protected in perpetuity from disposition (by sale or otherwise). The bulk of the park contains land held and managed in terms of the Local Government Act 2002. A smaller proportion (approximately 2500 hectares or 15%) of the land area is also held and administered under the Reserves Act 1977, which places additional management obligations in relation to administering land classified as recreation, scenic and scientific reserves under the Act.*
145. Confirmation of the Notice will assist the ARC in carrying out its park management duties under local government and reserves legislation.

Reserves Management Plan 2002

146. The ARC, in its response to Council's section 92 request states:
- The Waitakere Ranges Regional Park is part of a regional park network of 25 regional parks. The regional park network is managed as a whole, through the Regional Parks Management Plan 2002 (the plan), which recognises the special and unique contribution each park makes to the range of recreational opportunities in the parks, while protecting and enhancing their intrinsic qualities.*
147. Section 55 of the Regional Parks Management Plan 2002 (S55RPMP) concerns the Waitakere Ranges Regional Park. The Notice includes S55RPMP at Appendix E. Section 2 – Then Nature of the Public Work of the Notice states:
- The works are those which relate to developing and managing regional parkland. This includes the construction of vehicle access, parking and public facilities that while partly to facilitate people's enjoy of the parkland, are also designed to protect the natural, cultural and scenic values of the parkland.*

The park is subject to the Regional Parks Management Plan (RPMP), which defines the nature of works proposed for the park. Excerpts of the RPMP that apply to the Waitakere Ranges Regional Park are attached as Appendix E. This outlines the envisaged works over a 10 year period.

It should be noted that the RPMP in its entirety applies to the management of the park. A key and central theme of the RPMP is to minimise development on the park to maintain its intrinsic qualities, and in particular, its wilderness qualities and the sense of remoteness that is apparent in many parts of the parkland.

Areas to be Included in the Notice

148. The areas of land included in the Notice are referred to in Section 1(b), Appendix A, Appendix B and Appendix C. Section 1(b) lists the sites added to the existing designation. Appendix A is a list of all the sites in the entire Notice. Appendix B contains a map showing the main additions to the Park. Appendix C contains the certificates of title for the sites added to the Park.
149. Appendix C contains a certificate of title for Part Lot 1 DP 36910. The ARC, in its response to Council's section 92 request has confirmed that the inclusion of this certificate of title is an error. This particular lot is not included in the Notice of Requirement. In addition, a certificate of title has now been obtained for the scientific reserve at Whatipu.
- A199-A283 150. Lot 200 DP 347095, Kitewaho Road, Swanson is included in both Section 1(b) and Appendix C of the Notice but is not shown in the map in Appendix B. The ARC, in its response to Council's section 92 request, has confirmed that this area is included in the Notice and that its absence from the map was an error. A revised map has been supplied and is attached at pages A199 to A283.
151. Some sites such as 71 Turanga Road are too small to show on the 1:105,000 scale map in Appendix B of the Notice, but will be apparent when shown on the Plan maps.
- A199-A283 152. Appendix A has been reviewed to correct errors and to simplify the table. These changes do not alter the land to which the Notice applies. It is recommended that the Notice of Requirement be amended by adopting the revised table in Appendix A of the Notice. This is attached at pages A199 to A283.

Watercare Services Ltd Designation

153. Part of both the Notice and the existing Park designation overlaps an existing water catchment designation for Watercare Services Ltd. This is intentional. A copy of the Notice was sent to Watercare Services Ltd and that agency has not made a submission.

REVIEW OF PROPOSED CONDITIONS

154. Appendix F of the Notice contains conditions proposed by the ARC. As notified Appendix F contained a table of typical park works and a statement of whether these works would or would not require an outline plan of works. In addition, it contained a list of general conditions applying to park works.
155. The Council sent a s92 request seeking clarification of some aspects of the proposed conditions, after receipt of submissions. In addition, several pre-hearing meetings were held with ARC staff. As a result of those meetings the proposed conditions were amended by the ARC with the following general effect:

- a) The range of works exempt from requiring an outline plan of works was reduced.
 - b) The additional conditions were amended so that the majority of them are information requirements for outline plan of works applications.
156. This amended set of conditions is included in the ARC's response to Council's request under section 92 of the Act. These amendments address some of the submitters concerns, particularly, those relating to the extent to which activities are exempt from an outline of works. They also clarify the application of the conditions.
157. After further discussion between ARC, WCC and the Trust staff, additional amendments to the conditions were agreed. These included additional conditions relating to heritage. This version of the conditions was sent to submitters on 9 July for comment. A pre-hearing meeting was held on the 16 July 2010. Subsequently, further correspondence took place with some submitters, and additional amendments to the conditions were agreed with those submitters. These are the recommended conditions for the designation.

Preferred Option

158. As a result of the analysis provided in paragraphs above, it is recommended that the Council adopt the option set in section 171(2) (a) and (c) of the Act as follows:

"The territorial authority may recommend to the requiring authority that it –

- *confirm the requirement;*
- *...;*
- *impose conditions; and*
- *..."*

STRATEGIC CONTEXT

159. The designation for the operation and maintenance of the Waitakere Ranges Regional Park, subject to the recommended conditions, will be consistent with Council's strategic direction as set out in Waitakere's 10 Year Plan and Draft Growth Management Strategy.

CONSULTATION

160. The procedures set out in the Act for public notification of notices of requirement have been followed. This included public notices in newspapers, signs set out on the site, mail out of copies of the notice to adjacent landowners and occupiers, and mail out to other relevant statutory agencies and iwi.
161. The Notice was also referred to Council's Heritage specialist and Council's Strategic Planning Unit for consideration.
162. It is considered that this consultation was appropriate and no additional consultation beyond that required in the Act is necessary.

RESOURCES

163. No resources other than staff time are required and this is a cost recoverable process.

IMPLEMENTATION ISSUES

164. The procedures for implementation are prescribed by the Act and are summarised above.

CONCLUSION

165. The reporting officer concludes that the Council should recommend that the ARC confirm the Notice, subject to the following changes:

- a) Correct identification of all sites to which the Notice is intended to apply;
- b) Minor amendments to the Notice documents; and
- b) Amendment of the conditions.

for the following reasons:

- i) The Notice is consistent with the relevant Provisions of the New Zealand Coastal Policy Statement, the Auckland Regional Policy Statement, the Plan and the Waitakere Ranges Heritage Area Act 2008;
- ii) The Notice is reasonably necessary; and
- iii) Subject to acceptance by the requiring authority of the recommended conditions attached to this report, the Notice would create no more than minor adverse effects on the environment.

Sites to Which the Notice Applies

- A199-A283 166. That pursuant to section 171 of the Resource Management Act 1991, subject to additional or contrary information being presented at the hearing, the Notice of Requirement for a designation for the Waitakere Ranges Regional Park being the land as described in Appendix A of the Notice as amended and attached at pages A199 to A283.

Recommended Conditions

- A284-A285 167. The conditions listed in the recommendations at the front of this report and attached at pages A284 to A285, are recommended by Council Officers:

Report prepared by: Christopher Turbott, Senior Planner: Policy Implementation

