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**Title:** **Notice of Requirement – Proposed Auckland City Council Designation for Community Facilities**

**Report to:** **Duty Commissioners**

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## **1.0 Introduction**

This report considers a Notice of Requirement (NoR) lodged by Auckland City Council for a designation to establish the use of a site at 127-129, 131 and 133 Ocean View Road, and 2 and 4 Korora Road, Oneroa, for community facilities. The notice is lodged under section 168A and clause 4 of the First Schedule of the Resource Management Act 1991 (the RMA).

The proposal is for a designation in both the Operative Auckland City Council District Plan 1996 – Hauraki Gulf Islands Section (the Operative District Plan), and the Proposed Auckland City Council District Plan 2006 – Hauraki Gulf Islands Section (the Proposed Plan).

In this instance, the Auckland City Council is both the requiring authority and the territorial authority. For the purposes of ease of reference, from hereon, where the Council is proposing the designation, it shall be referred to as the “requiring authority”.

## **2.0 Existing facilities**

Presently, the Waiheke Library is provided within a small building (with an approximate gross floor area of 230m<sup>2</sup>) contained on the Artworks Site at 127-129 Ocean View Road. The existing Council service centre is based at 10 Belgium Street, Ostend.

## 3.0 Notice of Requirement

### 3.1 Background

This NoR seeks authorisation to establish community facility activities at the site. The requiring authority has considered the actual and potential effects of any future development on the site by proposing that the designation adopt the majority of the development controls for the Commercial 1 zone (using those provisions of the decision version of the Proposed Plan).

In 2003, the Council carried out a review of the library services provided on Waiheke Island. The conclusion reached at that time was that the existing facilities were insufficient. Following further analysis and review, including consideration of the limitations of the existing service centre at Ostend, the Council resolved to provide a joint library and service centre at a location yet to be determined.

The requiring authority has stated that the project objectives of the Notice of Requirement are:

- 1) *To provide a new co-located community library and service centre in Oneroa adjacent to Artworks (2 Korora Road) which will provide the space and facilities necessary to deliver a cost effective and high quality service for Library and Service Centre customers.*
- 2) *To provide for the future development of community facilities on the wider Artworks site in an integrated manner*

### 3.2 Nature of activity to be undertaken

The nature of the activity to be undertaken within the designation area are comprised of community facilities, and in the first instance the establishment of a new library and Council service centre on a vacant portion of the site.

The requiring authority is proposing to use the premises generally in terms of the definition of community facilities as set out in the Proposed Plan. This definition states:

*means land or buildings used for community or public use and run on a not-for profit basis.*

*It includes places used for the gathering of people for recreation, worship, cultural and spiritual instruction and deliberation, public halls and libraries.*

*It does not include any of the following:*

- *entertainment facilities*
- *healthcare services*
- *restaurants, cafes and other eating places.*

The requiring authority has adopted the basis of the definition, although for the designation it proposes a slight variance, which simplifies the wording. It is proposed to read as follows:

*land or buildings used for community or public use, including places used for the gathering of people for recreation, worship, cultural and spiritual instruction and deliberation, public halls and libraries.*

The requiring authority does, however, seek to add some detail to the definition, stipulating that:

*For the avoidance of doubt, buildings for public use under this designation include service centres providing Council functions, and ancillary office space.*

The requiring authority has identified that in the first instance a new library and service centre building of approximately 1,300m<sup>2</sup> will be located primarily on that portion of the site that presently contains the existing Church and residential dwelling located at 131 and 133 Ocean View Road and the information centre currently located on the south-eastern corner of the existing Artworks site. This would entail the demolition or removal of these buildings as well as the single storey annex to the Artworks building.

The requiring authority has stated that future community facility-related development could also be expected, although only a preliminary master planning exercise of the library and service centre has been undertaken at this time. Any such future development could be expected to be undertaken in an integrated manner and would be expected to be in accordance with the applicable conditions imposed on this designation.

It should also be noted that as part of the designation, a modification to the definition of height is proposed.

The existing District Plan definition of height reads:

*in relation to a building means the vertical distance between ground level at any point and the highest part of the building immediately above that point (as shown on figure 14.2: Height).*

*When determining the highest part of the building, parapets will be taken into account but not any of the following:*

1. *Radio and television antennas which do not exceed the maximum height normally permitted by the rules for the land unit or settlement area by more than 3m.*
2. *Chimneys which:*
  - a. *Do not exceed 1.1m in any horizontal direction; and*
  - b. *Do not exceed the maximum height normally permitted by the rules for the land unit or settlement area by more than 1.5m.*
3. *Finials which do not exceed the maximum height normally permitted by the rules for the land unit or settlement area by more than 1.5m.*

The requiring authority would amend the definition, by way of inclusion of a condition on the designation that would state:

*in relation to a building means the vertical distance between ground level at any point and the highest part of the building immediately above that point. When determining the highest part of the building, parapets will be taken into account but not any of the following:*

- *Radio and television antennas.*
- *Chimneys, finials or ventilation shafts*

### **3.3 Amendments to the district plan**

The NoR would require modification to both the Operative District Plan and the Proposed Plan, as follows:

- Operative District Plan – Amendment to Appendix G to add a new designation, and to sheet 3a to show the area of the designation; and
- Proposed Plan – Amendment to Appendix 7 to add a new designation, and to sheet 2 of Map No. 2 to show the area of the designation.

### **3.4 Documentation**

The NoR and an accompanying assessment of statutory requirements is contained in the following documentation:

- Covering letter by Beca Carter Hollings & Ferner Limited dated 18 March 2010;
- Further Information letter by Beca Carter Hollings & Ferner Limited dated 31 May 2010;
- Further Information letter by Beca Carter Hollings & Ferner Limited dated 1 July 2010;
- Further Information letter by Beca Carter Hollings & Ferner Limited dated 17 August 2010;
- Assessment of Environmental Effects Report (AEE) by the requiring authority, prepared by Beca Carter Hollings & Ferner Limited dated 26 April 2010; and
- Traffic Impact Assessment report by the requiring authority, prepared by Beca Carter Hollings & Ferner Limited dated 12 February 2010.

A copy of all above documentation is contained in **Appendix 1**.

## **4.0 Description of the directly affected land and the surrounds**

### **4.1 Site**

Section 4 of the requiring authorities AEE provides detailed commentary on the subject site and the surrounding environment. The key features of the proposed designation site are that it is comprised of six separate certificates of title at present. All, except for the northern and easternmost lots, contain non-residential activities. The site presently contains the following within the Artworks site:

- Musical Museum;
- Art Gallery;
- Artworks Community Theatre;
- Cinema;

- Waiheke Library;
- Story Centre;
- Studio;
- Waste Resource Trust;
- Waiheke Radio;
- Waiheke Visitor Information Centre; and
- Ajadz Indian Restaurant.

These activities are situated within two main buildings. One building traverses the western boundary and adjoins Korora Road, housing the music museum, cinema, gallery, library and restaurant; while the building occupying the eastern portion of the Artworks site contains theatre, story centre, studio, the Waste Resource Trust and Waiheke Radio. A separate small building contains the Visitor Information Centre and is situated close to Ocean View Road.

The western portion of the site, where the existing Artworks facilities are contained, are intended to initially remain as is, with the mix of single and two level building structures, and a central outdoor communal space between the buildings. A solid block wall lines the eastern edge of the Artworks site, while a parking area is situated in the northern portion, accessed via Korora Road.

The highest portion of the site is in the northernmost corner, with the contours falling away towards the Ocean View Road road boundary and the north-eastern corner of the site.

The eastern portion of the site contains an existing church and an existing single storey (and basement) dwelling. Both of these structures are intended for removal as part of the development works on site.

An aerial photograph showing the extent of the proposed designation is contained in **Appendix 2**.

## **4.2 The surrounds**

A mix of activities surrounds the site. Properties to the north and west have a residential zoning, with most properties occupied by residential dwellings. The residential dwelling to the north on Korora Road is situated centrally within that property, and separated with the existing residential dwelling within the subject site at 2 Korora Road by a 2 metres high fence and semi-mature vegetation. The residential property to the east (135 Ocean View Road) is set centrally within the property and is separated from 133 Ocean View Road by a fence and a mix of semi-mature vegetation. Located along Korora Road opposite the site are residential dwellings, on properties that fall away at a relatively gentle contour down from the road carriageway. To the north of the site are two properties that front Waikare Road. These properties (14 and 16 Waikare Road), are both residential properties containing existing dwellings, and are situated on landholdings that fall at a moderate gradient away from the subject site. Dwellings on these properties are also located centrally on their respective properties, although it is noted that 16 Waikare Road has a studio space situated in close proximity to the rear boundary adjoining the subject site.

The site is located adjacent to the western edge of the Oneroa commercial village, so also has some commercial activity nearby, with the Waiheke Island Police Station and butchery situated to the south-east.

The transport and parking environment is described in the technical report provided by the requiring authority (refer to the assessment by Beca contained at Appendix B of the AEE provided with the NoR).

## 5.0 Statutory framework

### 5.1 Section 168A of the RMA

Section 168A of the RMA sets out the process for the consideration of a NoR. This section states:

- (1) *This section applies if a territorial authority decides to issue a notice of requirement for a designation—*
  - (a) *for a public work within its district and for which it has financial responsibility; or*
  - (b) *in respect of any land, water, subsoil, or airspace where a restriction is necessary for the safe or efficient functioning or operation of a public work.*
- (1A) *The territorial authority must decide whether to notify the notice of requirement under sections 95A to 95F (but without the time limit specified by section 95), which apply with all necessary modifications and as if—*
  - (a) *a reference to a resource consent were a reference to the requirement; and*
  - (b) *a reference to an applicant or a consent authority were a reference to the territorial authority; and*
  - (c) *a reference to an application for a resource consent were a reference to the notice of requirement; and*
  - (d) *a reference to an activity were a reference to the designation.*
- (1B) *Section 168 applies to the notice of requirement with all necessary modifications.*
- (2) *Sections 96, 97, and 99 to 103 apply to the notice of requirement with the modifications described in subsection (1A).*
- (2A) *When considering a requirement and any submissions received, a territorial authority must not have regard to trade competition or the effects of trade competition.*
- (3) *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.*
- (4) *The territorial authority may decide to—*
  - (a) *confirm the requirement;*
  - (b) *modify the requirement;*
  - (c) *impose conditions;*
  - (d) *withdraw the requirement.*
- (5) *Sections 173, 174, and 175 apply, with all necessary modifications, in respect of a decision made under subsection (4).*

## **5.2 District Plan Provisions**

### **5.2.1 Designations**

Section 2.4.1 of the Operative District Plan describes designations as follows:

*A designation is a form of land use control which is available to a requiring authority. A requiring authority is a Minister of the Crown, a local authority or a network utility operator approved by the Minister for the Environment for a particular project or work.*

*Sites for existing or proposed public works, project or works described by an Order in Council under Section 167 of the Act, and any associated restrictions in respect of any land, water, subsoil or airspace are specifically designated in this Plan.*

*Designations are illustrated on the Planning Maps by means of distinctive notation and reference number. The reference number applies to information describing the designation in Appendix G. The effect of designating land is to give notice of the designated purpose and generally to limit the use of land to that purpose.*

*The land unit within which the designated land lies is identified to indicate the purposes for which, and the conditions subject to which, the land could be used if it were not designated. The rules for the relevant land unit will apply to the construction of any building or to any activity which is not part of the designated work but which is undertaken by, or is approved by, the requiring authority.*

*The information to accompany a notice of requirement is set out in Section 168 of the Act. In addition to this, the Council will require the information set out in Part 6D to be included in any notice of requirement.*

*When a requirement for a work has been received by the Council, any work or change of use or subdivision which would prevent or hinder the work may not be carried out without the consent of the authority responsible for the work concerned. Once the designation becomes operative, Section 175 of the Act prohibits the carrying out of any work on the land or its subdivision without the requiring authority's consent.*

*A designation lapses on the expiry of 5 years after the date on which it is included in the District Plan, unless it has been given effect to or a different period applies under Section 184 of the Act.*

Section 1.6.5 of the Proposed Plan provides a similar commentary, stating:

*A designation is a form of land use authorisation which is available to a requiring authority. Requiring authorities include ministers of the crown, local authorities (such as the council), or network utility operators. A designation is for a public work such as a school, police station, road, motorway, park, drainage or infrastructure systems.*

*Sites, which are subject to a designation, are identified on the planning maps by means of a distinctive notation and a map reference number. The reference number links to further information in appendix 7 - List of designations, which describes the designation and any associated conditions.*

*The effect of a designation is to override the general provisions of the Plan and any resource consent, for activities that are consistent with the designated purpose. Once a designation is included in the Plan, no one may without the prior written consent of the requiring authority do anything to the affected land that would prevent or hinder it being used for its designated purpose.*

*Designated land is also classified into a land unit or settlement area to indicate the purposes for which the land could be used if it was not designated. The provisions of the Plan apply to the designated land only to the extent that the land is used for a purpose other than its designated purpose.*

#### *New designations*

*From time to time during the life of the Plan, the council may receive notices of requirement from requiring authorities seeking to designate land. The RMA sets out a formal process applying to notices of requirement. That process involves public notification and includes submission, hearing and appeal rights.*

*Once the requiring authority has given the notice of requirement to the council, no one may, without the prior written consent of the authority, do anything that would prevent or hinder the public work or project or work.*

It is noted that the Operative and Proposed Plans were both written prior to the 2009 Resource Management Amendment Act. The Amendment Act altered section 168A of the principal Act, and now makes notification / non-notification a matter the territorial authority can consider pursuant to the current provisions of s95 of the Act.



## 5.2.2 Zonings

Within the Operative Auckland City District Plan 1996 (Operative District Plan), the sites at 131-133 Ocean View Road, 2 and 4 Korora Road are zoned Land Unit 11 – Traditional Residential. The remainder of the site (127 and 129 Ocean View Road) is zoned Land Unit 13 – Retail. The planning map showing the zoning is contained in **Appendix 3**.

Within the decisions versions of the Proposed Auckland City District Plan (Hauraki Gulf Islands Section) 2006 (Proposed Plan), the entire proposed designation area is contained within the Commercial 1 – Oneroa Village land unit.

By way of background, the following is an outline of the zones applying to the site.

### Operative District Plan

As noted above, the site is split zoned, Land Unit 11 - Traditional Residential and Land Unit 13 - Retailing.

Land Unit 11 - Traditional Residential is the most intensive residential development located on the Island and is where there has been the greatest level of modification of the natural environment. The Land Unit seeks to provide for the continuation of residential activity, although there is recognition of the need to carefully manage the environmental and visual impacts of such activities. The Operative District Plan provides for the establishment of a range of non-residential activities where these complement or service the surrounding residential area and also enhance the amenity of the neighbourhood. Such activities do require resource consent to enable evaluation and control to ensure that they do not adversely affect the amenities of adjoining residential sites and the surrounding neighbourhood.

Land Unit 13 - Retailing is the primary land unit that provides areas of commercial and retail development on the Island. The Operative District Plan notes that areas covered by the provisions of this land unit are well-established and are located within relatively large local communities that depend on the facilities of the land unit for retailing, business, and community activities and opportunities. The Operative District Plan notes that Oneroa is a major centre of commercial and business activity serving Western Waiheke, while Ostend continues to be seen as the administrative centre of the Western Waiheke and is further evolving a range of commercial and community functions, which indicate the emergence of a significant activity centre for all of Western Waiheke. The land unit provides for a mix of retailing, commercial services and community activities.

### Proposed Plan

The Commercial 1 land unit under the Proposed Plan applies to the entire site of the proposed designation. The land unit is specific to Oneroa Village and therefore the zoning strategy, issues, objectives and policies are targeted directly at the village. The village is identified as a busy shopping centre that functions as a community focal point. Being within walking distance to the wharf at Matiatia and on the major transport route on the Island, the village is identified as having a major role in meeting the needs of residents, commuters and visitors through provision of various commercial and service activities. The location of the village overlooking Oneroa Beach also means that there is an emphasis on providing a high level of amenity.

### Development Controls

A breakdown of the development controls applicable in the operative and proposed plan land units that make up the site are appended to this report (refer **Appendix 4**).

### **5.2.3 District Plan Weighting**

The NoR is proposed for inclusion in both the Operative and Proposed District Plans. The proposal therefore needs to be considered against the provisions of both plans; however, a decision has to be made as to which set of provisions is to be given greater importance. Each case has to be determined on its merits. The question of appropriate weighting between a plan and a proposed plan is a discretionary exercise. This approach does not remove the need for councils to consider the proposal against the plan or proposed plan; it only impacts upon the weighting that should be placed on each document.

While the weight to be given to a proposed plan generally depends on what stage the relevant provision has reached, with the weighting typically being greater as a proposed plan moves through the notification and hearing process, assigning weighting is influenced by a number of other factors, including:

- (i) The extent (if any) to which the proposed measure might have been exposed to testing and independent decision making;*
- (ii) Circumstances of injustice which may apply to applicants, submitters, or the general community;*
- (iii) The extent to which a new measure, or the absence of one, might implement a coherent pattern of objectives and policies in a plan.*

Council notified the Proposed Plan on 18 September 2006 and released decisions on 4 May 2009. Accordingly, the Proposed Plan can now be said to have advanced significantly through the statutory plan preparation process.

Greater weighting may be afforded to a proposed plan, despite its infancy, where there has been a paradigm shift by the Council in its policy on a particular issue (*Lee v Auckland City Council* [1995] NZRMA 241). Both plans remain relevant, as the Proposed Plan still remains subject to further testing. The Proposed Plan has been subjected to submissions, hearings have been held, decisions of the Council have been released and appeals to the Environment Court have been received. The provisions of the Proposed Plan have therefore been tested through public participation and have reached an advanced stage in the process. However, appeals exist that challenge the strategic provisions of the Proposed Plan, being parts 1-3.

It also needs to be noted that until such time as a Proposed Plan becomes operative a designation under a Proposed Plan cannot take effect.

Therefore, until these appeals are resolved, it is considered that the weighting between the plans remains relatively evenly balanced.

## **6.0 Assessment**

### **6.1 Introduction**

Section 6 of the requiring authority report provides an assessment of the proposal, with the AEE including a technical assessment addressing traffic and parking matters associated with the NoR.

The requiring authority has sought that the NoR be considered on a non-notified basis.

As noted in section 5.1 and 5.2.1 above, the Amendment Act altered section 168A of the principal Act, and now makes notification a matter for which the territorial authority can make consideration.

## **6.2 Notification Assessment (Sections 95A to 95E)**

Section 168A(1) states that the territorial authority must decide whether to notify the notice of requirement under sections 95A to 95F. The following section of the report provides an assessment under those sections of the RMA.

### **6.2.1 Statutory Matters**

Section 95A gives a council discretion to decide whether to publicly notify an application or not. However an application must be publicly notified if:

- (a) the activity will have, or is likely to have, adverse effects on the environment that are more than minor;
- (b) the applicant requests public notification of the application; or
- (c) a rule or national environmental standard requires public notification.

Section 95A(3) provides that an application must not be publicly notified if a rule or national environmental standard precludes public notification and the applicant has not requested public notification.

Despite the above, a council also has discretion to publicly notify an application if it decides there are special circumstances in relation to the application.

Section 95B provides that if an application is not publicly notified, a council must decide if there are any affected persons (or affected whole orders) in relation to the activity. Limited notification of the application must be given to affected persons unless a rule or environmental standard precludes limited notification.

### **6.2.2 Sections 95A and 95D – Public Notification**

In determining whether to publicly notify an application, section 95D specifies a council must decide whether an activity will have, or is likely to have, adverse effects on the environment that are more than minor. In making this decision, a council:

- must disregard any effects on persons who own or occupy:
  - the land in, on or over which the activity will occur; or
  - any land adjacent to that land;
- may disregard an adverse effect if a rule or national environmental standard permits an activity with that effect (i.e. council may consider the “permitted baseline”);
- must disregard an adverse effect that does not relate to a matter for which a rule or national environmental standard reserves control or restricts discretion;
- must disregard trade competition and the effects of trade competition;
- must disregard any effect on a person who has given written approval to the application.

**Land excluded from the assessment**

In this case, it is considered that adjacent land includes the following properties because they adjoin the boundaries of the application site or are located directly on the opposite side of the road from the application site. The effects on these owners and occupiers have been disregarded.

Ref	Address	Ref	Address
1	12 Waikare Road	8	1 Korora Road
2	14 Waikare Road	9	3 Korora Road
3	16 Waikare Road	10	5 Korora Road
4	135 Ocean View Road	11	6 Korora Road
5	102 Ocean View Road	12	7 Korora Road
6	104 Ocean View Road	13	9 Korora Road
7	106 Ocean View Road	14	11 Korora Road



Source: ALGGi 2009

### ***Permitted baseline***

The site that is the subject of the NoR has a split zoning under the Operative District Plan. The site is zoned both Land Unit 11 – Traditional Residential and Land Unit 13 – Retailing. The area of the proposed service centre and library are on land that has a Land Unit 11 – Traditional Residential zoning. Within that zone, community facilities are contemplated by the Operative District Plan as a Discretionary Activity. Within Land Unit 11 – Traditional Residential, permitted activities are limited to the construction of a single residential dwelling complying with development controls, such as an 8 metre maximum building height, 15% lot coverage, compliance with height in relation to boundary controls, a 4 metre front yard and 1.5 metre side and rear yards. Accordingly, although the activity itself is not a permitted activity, a permitted baseline could be adopted under the Operative District Plan based around the development controls which apply to the bulk of a building that can be accommodated on site.

Within the Proposed Plan, the entire site is zoned Commercial 1, which provides for community facilities as a permitted activity. However, the construction of any building is a minimum of a Restricted Discretionary Activity, and therefore no permitted baseline can be applied under this plan. However, it is considered appropriate to assess the development against the bulk and location standards of the Proposed Plan which provide for the anticipated level of development for the site (i.e. maximum height, building coverage, height to boundary, yard setbacks etc), as the relevant rules and assessment criteria do not seek to restrain these development controls.

It also needs to be noted that until such time as a proposed plan becomes operative a designation under a Proposed Plan cannot take effect. Accordingly, although the NoR seeks to enable the activity to be permitted, this can have no effect.

### ***Persons who have given their written approval***

In this case, no persons have given their written approval to the NoR.

### ***Assessment of effects***

Having regard to the above and after an analysis of the application, including any proposed mitigation measures and specialist reports, the adverse effects of the activity on the environment are identified and discussed below.

#### **6.2.2.1 Dominance / Visual Effects**

Within section 6.3 of the AEE, the requiring authority has provided an extensive assessment of the visual effects of the proposal. An addendum has also been provided in a letter dated 1 July 2010, which has addressed an aspect of height related to the NoR.

The requiring authority is proposing to adopt the majority of the development controls that are applicable under the Proposed Plan. The basis for this is that it would result in a form of development that has a building bulk on site that resembles what could be achieved under that plan if no designation was in place. In this regard, the requiring authority has proposed the imposition of a series of conditions for the designation, which would confirm the requirement of these development controls to be adopted.

The AEE therefore concludes:

*By establishing buildings along Ocean View Road primarily in accordance with the conditions proposed on this designation will minimise adverse visual effects on the wider environment, while the landscaped areas will provide appropriate buffer areas between surrounding residential properties.*

*In light of this discussion it is considered that the visual effects of future built form can be appropriately managed through conditions relating to building height, yard requirements and through landscaping (which will be detailed in the Outline Plan). Further consideration of the height shape and bulk of new buildings on the land to be designated will be undertaken at the Outline Plan stage (within the parameters of the conditions set in section 9).*

It is considered that through the application of the development controls outlined by the requiring authority, that it can be established that the potential adverse effects arising from the proposed development of community facilities has the ability to fit in with the locality and avoid significant adverse dominance or visual effects. Compliance with height, applicable building in relation to boundary and yard controls will result in the building being appropriately set back from its boundaries thereby ensuring that future development is not inconsistent in scale with the local village.

The proposal includes a variation to the definition of “height” so that an allowance is made for the construction of ventilation shafts on the roof to project through the maximum height limit by up to 3 metres. The addendum dated 1 July 2010 goes on to state that by being located centrally, views of the shafts were likely to be oblique from street level. Conceptually, this conclusion is agreed with although it is noted that no current limitation of setbacks from the edge of the buildings on site is proposed to ensure that the oblique angle will reduce (or eliminate) any views of shafts. Typically, ventilation shafts are located centrally on top of buildings, and at a height of three metres above a rooftop, the form of the main building envelope provides the opportunity to obscure visibility of plant rooms for the viewing audience immediately surrounding a site. That would be the case in this instance, where immediately adjoining properties and road are at lower contours than the application site. Accordingly, subject to the imposition of conditions to the designation, it is considered that the plant rooms are unlikely generate more than minor adverse dominance or visual effects. It should also be noted that any buildings will be subject to consideration as part of an outline plan of works.

Overall, the proposal is anticipated to result in adverse dominance and visual effects that would be no more than minor on the wider environment.

#### **6.2.2.2 Character and Amenity**

The NoR seeks to establish community facilities through the site. This is a variation to the existing mix of activities, and accordingly has the potential to modify the character of the locality and create adverse effects in this regard. In this instance, community facilities (the Artworks premises and the Church) already form part of the activities within the site. The establishment of a greater intensity of community facilities will result from the NoR, but is not considered to be out of context with what presently exists.

The most notable change, at least initially, will be through the removal of the existing dwelling at 133 Ocean View Road. However, this will simply enable the expansion of the area of the existing community facilities (including community facilities and offices).

Given the surrounding land uses along Ocean View Road, such a change is not considered to result in a significant adverse effect.

Whilst acknowledging the commentary on district plan 'weighting' in section 5.2.3 above, it is noted that the inclusion of the entire site of the proposed designation as part of the Commercial 1 land unit within the Proposed Plan, is a shift in thinking that allows a greater degree of community activities. As such, the use of the site for community facilities is considered to be consistent with the Council's policy shift for the site that has emerged through the Proposed Plan process.

The development of the site would be controlled by the requiring authority's application of the definition for Community Facilities. It is noted that the requiring authority proposes to use a definition for community facilities that differs slightly from that contained in the Proposed Plan. It proposes that the designation include reference to the fact that community facilities would include services providing for Council functions and ancillary office spaces. Although different from the current definition, such activities are considered to be commensurate with the remainder of the community facilities that would otherwise be enabled by the definition, and suited to the community related intent for use of the site.

Although no particular buildings are proposed at this time, the requiring authority is proposing to adopt the majority of the development controls that would apply to the Commercial 1 zoning of the site. In this regard, the overall building envelope would be anticipated to be of a form that is consistent with the intent of the Proposed Plan, and generally consistent with other development that may occur in the future within the Oneroa village. Accordingly, it is considered that the proposal will not result in a built form that is out of character with the surrounding environment.

Overall, it is considered that the provision for further community facilities on the site will be complementary to the existing character and function of the Oneroa village. The designation would specifically provide for community facilities, which would be a use contemplated by the change of zoning outlined in the Proposed Plan. Through the introduction of an appropriate condition to govern the size and extent of building development, it is considered that the proposed built form of the site will be consistent with the existing character of the village. Again, it should also be noted that any buildings will be subject to consideration as part of an outline plan of works.

#### **6.2.2.3 Noise Effects**

The requiring authority has stated that it is anticipated that the majority of the community facilities will generally operate during day time hours of 8am through to 5pm, Monday to Saturday, consistent with the neighbouring commercial activities within the Oneroa Village.

The requiring authority has also suggested that it is appropriate to impose the proposed underlying commercial zone noise controls on this designation as this is the baseline that will be established by the Proposed Plan once it becomes operative (with a suggested condition of the designation proposed in section 9 of the AEE). This would provide some certainty around the potential degree of noise effects and allow the proposed community facilities to operate in accordance with these controls.

Given the above, and the general nature of community facilities that are typically provided for, it is considered that the proposed activities will not result in noise levels that are objectionable beyond the site boundary or which create significant adverse effects in the adjoining residential environments.

#### **6.2.2.4 Traffic and Parking Effects**

The proposal is for the establishment of community facilities throughout the site. As noted in the AEE, the requiring authority anticipates that a new library and service centre will be the first to be developed under the designation. The AEE includes a Traffic Impact Assessment (TIA), with the TIA report basis its assessment on these activities in assessing the actual and potential effects.

The actual and potential effects of the designation can be broken down into the effects of traffic generation by the proposal; the effects of any proposed site accesses; and the parking (and loading) effects. All of these aspects have been addressed in the AEE and TIA.

##### *Traffic Generation*

The new facilities will generate additional visitor demand for the library, with the TIA estimating this to be approximately 10%, and that the combination of the new library and service centre could potentially generate approximately 50 additional vehicle trips in a one hour period on the surrounding road network. It is also noted however that the library and services centres are both existing facilities on Waiheke Island, and therefore the extent of new trips being generated on the Island will be limited to those that presently occur.

The requiring authorities TIA concludes that the adverse effects associated with the operation and safety of the proposed vehicle accesses, the existing Korora Road / Ocean View Road intersection as a result of the predicted additional traffic generation on the environment will be no more than minor.

##### *Access*

The site will have the provision for vehicle accesses from both Korora Road and Ocean View Road.

The requiring authority has identified that the two vehicle accesses off Korora Road are to be predominantly for visitors to the site to ensure that parking on the site is not taken up by staff associated with the new service centre and library. Both of these accesses would utilise existing vehicle crossings. It is considered that these existing vehicle crossings are positioned such that visibility in each direction is far along Korora Road as possible and can operate in a safe and efficient manner. It is noted that the TIA also concludes that, given the location of these accesses on a local road, these access arrangements will be able to operate safely and efficiently and that the predicted additional vehicle trips will have no significant adverse effects on the safe operation of the existing intersection of Korora Road and Ocean View Road.

With regard to the Ocean View Road site frontage, the requiring authority's TIA has recommended improvements in visibility from the Ocean View Road site access by providing a new vehicle crossing a distance of 80 metres from the intersection of Korora Road and Ocean View Road. The AEE notes that this will require removal/re-grading of the existing retaining structure at the site.



### Parking / Loading

The site has several existing activities operating within it (as noted in section 4.1 above), with these activities having an existing parking requirement of some 93 spaces (based on Proposed Plan parking standards). The proposal will enable the establishment of further community facilities, with the library and Council service centre identified as the first activities to be introduced. The establishment of additional activities will generate additional parking demand to either be accommodated on site or by kerbside parking in the surrounding area.

At present, the Artworks site contains 17 parking spaces for existing activities (situated on the properties at 2 and 4 Korora Road), while there are a further 17 angle parking spaces immediately adjoining the site along Korora Road.

It is proposed to provide up to 34 parking spaces on site (including the upgrade of the existing 17 spaces that are on site), with a maximum of 12 spaces to be allocated for staff use and the remainder to be for visitors to the site. The requiring authority has stated that the final configuration of the parking areas will be determined through the detailed design process once the master plan for the site is completed, and that the layout would be provided with the details of the subsequent development of the site (such as for the library and service centre) as part of the Outline Plan process.

With regard to the provision of on-site spaces, the AEE states:

*Given the existing facilities on site it is likely that the likely configuration (when the library and service centre are constructed) will generally be as follows:*

- *The two existing separate car parks, with separate vehicle crossovers, will be retained off Korora Road on the north western part of the site. They will ultimately be sealed, marked and provided predominantly for visitor use. It is likely this area will provide up to 27 car parks, including one disabled car park.*
- *One new parking area is likely to be provided off Ocean View Road in the north eastern part of the site in closer proximity, an approximately 35m walk, to the new library/service centre building. This car parking area is likely to provide 7 parking spaces parks: two disabled car parks for visitors and five spaces shared by service/delivery (e.g. couriers) and staff fleet vehicles.*

By limiting staff parking, it is acknowledged that there will be some flexibility to allocate parking between visitors and staff/fleet requirements as required.

In addition to the above, the requiring authority has identified the potential to increase the number of parking spaces for visitors within Ocean View Road. It has held initial discussions with Stagecoach regarding the rationalisation of the existing bus stop on the northern side of Ocean View Road, immediately adjacent to the site to allow more on-street parking. The AEE states that Stagecoach have indicated that, provided sufficient manoeuvring space is provided for one bus to stop, that it would not object to the remainder of the lay-by area being utilised for additional car parks. The AEE outlines that this could provide approximately four further parking spaces, which given the location of these spaces in close proximity to the new library/service centre building, would be suitable as short duration car parks for visitors. The AEE states that it would be intended that a time restriction of a maximum of 15 minutes would be imposed on these spaces.

The requiring authority's TIA has been reviewed on behalf of the Council by T<sup>2</sup> Engineers (refer letter dated 17 August 2010).

The requirement for parking based on district plan standards (and in particular the Proposed Plan parking standards), indicated that approximately 93 parking spaces would be required on site for all activities. The proposed designation does however benefit from being able to analyse the existing operations on site and those of the existing Council service centre in order to gauge the actual level of parking requirements and to make predictions on the extent of parking required. The conclusion reached by both traffic engineers is that there is a small surplus of parking throughout the day that exists for the existing activities on site, while the proposed initial library and service centre activities will generate demand for approximately 33 additional parking spaces. These will be a combination of visitors to both facilities (approximately 10 spaces) and staff (approximately 23 spaces).

Critical to the analysis of parking requirements is the demand that is anticipated from regular users, being staff for the existing and proposed facilities on site, with the TIA and AEE stating that the requiring authority would limit staff parking to a maximum of 12 spaces. The T<sup>2</sup> letter advises that *"it is believed that at least four staff make use of the existing parking area, which means at least 15 staff will require long term parking on local roads."*

The TIA predicts 11 additional off-site parking spaces for staff as being required. Although there is a difference in the conclusions reached on the actual number of offsite staff parking requirements, it can be reasonably concluded that at least 11 parking spaces will be required on a daily basis to be provided off-site, and will need to be met by parking on the street in either Korora Road, Ocean View Road or Mako Street.

The TIA survey work and analysis indicates that there is sufficient on-street parking within the vicinity of the site to meet the demands of the activities for the site. The T<sup>2</sup> report concurs with those findings.

As noted earlier, the requiring authority has stated that time limited parking would be introduced, with the TIA noting:

*The implementation of these recommended time restrictions is considered to relate to the operational hours of the service centre, when additional staff parking demand associated with the service centre is predicted to have a significant effect on the availability of on-site and off-site parking in the vicinity of the site.*

Korora Road has some time limited parking at present, opposite the designation site. By establishing time limits, it is unlikely that those areas would be used by staff who park at the site. Accordingly, the proposal has the ability to disperse the combination of staff and visitors parking throughout the surrounding area. This will avoid the potential for a build up in any one particular area that would have an adverse effect on the parking condition or amenity of that locality. Having some degree of time restricted parking will address potential problems that might otherwise exist if there were no restrictions. Without restrictions, it could reasonably be anticipated that commuters and staff would dominate available parking in the area. The time restrictions will ensure that a balance is achieved.

Given the regular requirement for on-street parking and the likelihood that as the parking would typically be occupied by staff, those spaces would be expected to be occupied for the entire working day. This therefore raises the likelihood of a competition for demand on those spaces with the other neighbouring activities (be they residents, businesses or other community activities). As the T<sup>2</sup> letter notes:

*On-street parking is usually used by local residents and visitors to residential sites as well as providing overflow parking in the case of a special event. By requiring regular visitors to use these parking spaces visitors to local residences will find it more difficult to locate available parking spaces and there will be fewer parking spaces if a special event is being held in the area.*

The letter goes on to note:

*This will further reduce the availability of on-street parking for locals and increase the distance from the site at which residents will notice the effects of the parking shortfall at the site.*

Subsequent to the findings in the T<sup>2</sup> report, and following further discussions with the requiring authority, the requiring authority has amended the NoR, with modifications made to the proposed self-imposed conditions for the designation regarding the monitoring of the site. This has included details of the process of monitoring, the inclusion of a parking management plan for activities established on site, and adjustments to the conditions in order to allow for changes or additions to the provision of parking on site. The NoR initially outlined the possibility of providing additional parking in future; however, there was no rationale (or threshold) established to determine how or when that parking was to be provided. The modifications made provided a clearly, more defined link so that requiring authority is able to provide additional parking on site if necessary, while the extent of monitoring has been addressed so that an appropriate measurement of the parking condition of the area is assessed to determine if additional parking is necessary.

As a result of those adjustments being made, a greater degree of certainty has been gained that, should the level of parking demand result in an adverse effect on the surrounding environment, the requiring authority has appropriate measures in place to monitor and address those effects. Accordingly, it is considered that the amendments made by the requiring authority to the NoR will adequately address the potential adverse parking effects so that no long term adverse effects that are minor or more than minor will be experienced. Although the kerbside parking is likely to occur in the surrounding road network (as the TIA and T<sup>2</sup> analysis have indicated), the conditions on the designation would ensure that the activities on the designation site do not result in a minor adverse effect being experienced by surrounding neighbours or the wider environment. The monitoring of the activity once in operation, and the ability to address any problems that the monitoring identifies, will mean that any adverse effects can be appropriately mitigated.

Overall, it is considered that the potential adverse effects of the parking demands created by the proposed designation will be minor, with the requiring authority proposing sufficient measures to monitor and address any adverse effects once the development is in place, so as to ensure that there will be a less than minor adverse effect for adjacent neighbouring properties.

#### **6.2.2.5 Social and Community Effects**

As the proposal relates to the provision of community facilities on Waiheke Island, there are potential social or community effects that may arise. The AEE states the following in respect of the social/community effects of the proposal:

*Designating this land for multi purpose community facilities is considered to have the following positive social/community effects:*

- *It protects land for the establishment of key community infrastructure to enable the community to provide for their well being;*
- *Establishing a site that allows for existing and future community facilities which has the potential to become a focal point for the Waiheke community;*
- *The community facility site is strategically located in close proximity to Oneroa Town Centre and therefore is accessible to a range of users;*
- *The redeveloped site will act as a 'gateway' to Oneroa Village with architecturally designed buildings;*
- *The integrated service centre/library development will enable improved service delivery as floor space for both the activities will be significantly increased in comparison to the existing buildings which house these activities;*
- *The site will result in the consolidation of the library and service centre activities which will enable the community to visit both activities at one location;*
- *Provides an opportunity to create a sustainably developed, integrated site to provide for community facilities which will reflect the culture and aspirations of the Waiheke Island community; and*
- *The development of this site for the purpose of a new library and service centre, in addition to further community facilities in the future is the first stage in creating what is envisaged to become the heart of the Oneroa Community.*

*As a result of the above discussion it is concluded that the proposed designation for community facilities will have positive and beneficial social and community effects on the wider Waiheke Island community.*

The above comments are acknowledged and many are generally agreed with. In particular, it is considered that the proposal will provide greater floor space and therefore enable an enhanced level of community service to be provided. The combining of certain community facilities does also present the opportunity to provide a community focal point.

The existing library is part of the Artworks site, and will therefore be maintained in the same location. The Council service centre would be relocated from its current premises in Ostend. It is considered that there is no particular aspect of either service that will be adversely affected by the proposal.

Overall, it is considered that there is unlikely to be any noticeable adverse social or community effects that are generated by the proposal.

As is commented on in section 6.2.2.7 below, the Council has received some correspondence from the community raising concerns and expressing interest in the decision making of the Council on the NoR. Comments are made in respect of the correspondence in that section of this report.

### 6.2.2.6 Cumulative Effects

The proposal is to designate the site to enable additional community facilities at the site. At present, the site contains the Artworks site, including library and information centre, with the proposal to expand the activity to the north (onto the site at 2 Korora Road, and to the east onto the properties at 131 and 133 Ocean View Road), with the initial stage being to develop a library and Council service centre on the properties at 131 and 133 Ocean View Road. The proposal will therefore add to the extent of community facilities in the area, and has the potential to result in adverse cumulative effects.

While community facilities are generally people generating activities, it is this writer's observation that they are also typically less intensive than many other commercial activities. Accordingly, it is considered that an additional level of community facilities can be accommodated in an area without having a cumulative effect on that environment that is more than minor. That is the case in this instance, where the site already contains the Artworks site. Although on the edge of Oneroa village, the site is observed as part of the commercial area, with community facilities such as a library and Council service centre considered capable of being accommodated without a noticeable impact on the function of the commercial area.

It is anticipated that the proposal will have an impact on the parking condition of the area; however, that is more specifically addressed in section 6.2.2.4 above.

Accordingly, any adverse cumulative effects that result from the proposed additional visitor accommodation on site are anticipated to be less than minor.

### 6.2.2.7 Summary

In summary, having assessed the adverse effects of the NoR on the environment, it is considered that the creation of the designation would have minor adverse effects on the wider environment.

It is noted that the Council has received correspondence from three parties during the course of assessing the NoR to-date. Letters have been received from the Waiheke Community Input Group (dated 4 July 2010), from the Waiheke Island Community Planning Group Inc (letter dated 1 June 2010) and from Mr Roger Bryant (dated 15 July 2010). These letters raise the following issues:

- That community views should be given greater importance, including consideration of community wellbeing under section 5 of the RMA; and
- That the NoR should be publicly notified

This correspondence has been noted as part of the consideration of the effects of the NoR proposal. It is noted that the exercise by Council of where money is spent and use of land available to it, is one that falls under other Council requirements, such as those under the Long Term Council Community Plan. A copy of the correspondence received is contained in **Appendix 6**.

### **6.2.1 Special Circumstances (section 95A(4))**

Section 95A(4) states that a council may publicly notify a proposal if it considers that special circumstances exist, notwithstanding that a rule or national environmental standard precludes notification and the applicant has not requested notification.

“Special circumstances” have been defined by the Court of Appeal as those that are unusual or exceptional, but they may be less than extraordinary or unique (*Peninsula Watchdog Group (Inc) v Minister of Energy* [1996] 2 NZLR 529). With regards to what may constitute an unusual or exceptional circumstance, Salmon J commented in *Bayley v Manukau CC* [1998] NZRMA 396 that if the district plan specifically envisages what is proposed, it cannot be described as being out of the ordinary and giving rise to special circumstances.

In *Murray v Whakatane DC* [1997] NZRMA 433, Elias J stated that circumstances which are “special” will be those which make notification desirable, notwithstanding the general provisions excluding the need for notification. In determining what may amount to “special circumstances” it is necessary to consider the matters relevant to the merits of the application as a whole, not merely those considerations stipulated in the tests for notification and service.

In this case, community facilities are specifically envisaged by the Operative District Plan as a discretionary activity and by the Proposed Plan as a permitted activity in this locality. Therefore, it is considered that a proposal for a Notice of Requirement to designate a site for community facilities cannot be described as out of the ordinary and giving rise to special circumstances.

### **6.2.2 Public Notification Summary**

Accordingly, it is considered that this application can be processed without public notification.

### **6.2.3 Sections 95B and 95E – Limited Notification**

If the application is not publicly notified, a council must decide if there are any affected persons and give limited notification to those persons. A person is affected if the effects of the activity on that person are minor or more than minor (but not less than minor).

In deciding who is an affected person under section 95E, a council:

- may disregard an adverse effect of an activity on a person if a rule or national environmental standard permits an activity with that effect (i.e. council may consider the “permitted baseline”);
- must disregard an adverse effect that does not relate to a matter for which a rule or environmental standard reserves control or restricts discretion;
- must have regard to every relevant statutory acknowledgement made in accordance with a statute set out in Schedule 11 of the Act.

A council must not consider that a person is affected if they have given their written approval or it is unreasonable in the circumstances to seek that person's approval. In this case, no persons have given their written approval.

Having regard to the above provisions, it is considered that the following neighbours will not be adversely affected for the following reasons:

#### 102, 104 and 106 Ocean View Road

- With regard to the building form and activities proposed, the imposition of conditions by the requiring authority on the designation (with respect to building form) in combination with the separation provided by the road corridor of Ocean View Road will ensure that the proposed designation does not result in any more than minor adverse effects for the neighbouring activities to the south of the site (being 102, 104 and 106 Ocean View Road). The proximity of these properties to the entrance of the designation site will mean that kerbside parking in front of these properties will be used by visitors to the site. However, the proposal is located such that a range of parking options exists, including visitor parking on site, so that visitors will generally be dispersed to the extent that any parking adverse effects for these neighbours would be less than minor.

#### 1, 3, 5, 6, 7, 9 and 11 Korora Road

- The proposal does not, at this time, include any modification to the existing buildings within the Artworks site, and involves only an upgrade to the existing parking area that is accessed via Korora Road. Accordingly, the buildings and activities initially proposed for the site are not anticipated to result in any adverse effects on the neighbours at 1, 3, 5, 7, 9 and 11 Korora Road
- The proposal to impose conditions on the designation related to yard controls, maximum height and height in relation to boundary are considered appropriate to ensure that the extent of potential development will create less than a minor adverse effect for the neighbouring residential activity to the north of the site at 6 Korora Road.
- The parking analysis of both the requiring authority and T<sup>2</sup> indicates that there will be a regular demand for on-street parking of approximately 11 spaces. As these properties are situated closest to the primary parking area on site, some degree of overflow parking is anticipated to be met in the first instance by people parking on the adjoining portion of the road network, along Korora Road and in front of these properties. It is noted; however, that there is some time restricted parking along Korora Road, while the requiring authority is also proposing further time restrictions. Furthermore, the requiring authority has proposed a series of conditions in respect of the parking demands generated by the NOR. Accordingly, although the kerbside parking may be possible along Korora Road, the conditions on the designation would ensure that the activities on the designation site do not result in a minor adverse effect being experienced by these neighbours. The monitoring of the activity once in operation, and the ability to address any problems that the monitoring identifies, will mean that any adverse effects can be appropriately mitigated. Accordingly, it is considered that any adverse effects would be less than minor.

### 1 and 2 Mako Street

- The TIA identifies that angled parking at the start of Mako Street is a likely place where parking (in particular by staff) will occur. The proximity to the site will mean that kerbside parking in front of these properties will be likely to be used by visitors or staff of the site (with the potential for staff to be dependent on any time restrictions that may apply), and that the use of these spaces will have a degree of adverse effect on these properties. These parking spaces are utilised by the Oneroa Bowling Club as the primary source of parking for that activity (as there would appear an existing use right for that site to have no on-site parking), with the advertising signage indicating that the Club is open from late morning during the week, creating some degree of potential for competition for available spaces.

The requiring authority has proposed a series of conditions in respect of the parking demands generated by the NOR. Accordingly, although the angled parking on Mako Street has been identified as a primary parking location for staff of the site, the conditions on the designation would ensure that the activities on the designation site do not result in a minor adverse effect being experienced by neighbours of this angled parking. The monitoring of the activity once in operation, and the ability to address any problems that the monitoring identifies, will mean that any adverse effects can be appropriately mitigated. Accordingly, it is considered that any adverse effects would be less than minor.

### 117, 119, 121, 123 and 125 Ocean View Road

- The TIA identifies that kerbside parking in front of these properties is likely to be used to meet the demand created by the designation of the site and the activities proposed for it. The proximity of these properties to the entrance of the designation site will mean that kerbside parking in front of these properties will be used by visitors to the site. However, the proposal is located such that a range of parking options exists, including visitor parking on site, so that visitors will generally be dispersed to the extent that any parking adverse effects for these neighbours would be less than minor.

### 12, 14 and 16 Waikare Road

- The proposal to impose conditions on the designation related to yard controls, maximum height and height in relation to boundary, are considered appropriate to ensure that the extent of potential development will create less than a minor adverse effect for the neighbouring residential activities to the north of the site (being 6 Korora Road and 12, 14 and 16 Waikare Road).
- With regard to the potential traffic and parking effects, it is considered that the position of the properties at 12, 14 and 16 Waikare Road are such that any traffic or parking effects on the road network would be avoided, as a greater level of parking in closer proximity to the site will be available.

### 135 Ocean View Road

- The proposal to impose conditions on the designation related to yard controls, maximum height and height in relation to boundary, are considered capable of ensuring that the extent of development on site creates less than a minor adverse effect for the neighbouring residential property to the east of the site at 135 Ocean View Road. In addition, a no parking restriction in front of the property will mean that no adverse parking effects will be directly experienced by this neighbour.



108, 110, 137 and 139 Ocean View Road

- The TIA identifies that kerbside parking in front of these properties is likely to meet some of the demand created by the designation of the site and the activities proposed for it. The proximity to the site will mean that kerbside parking in front of these properties will be likely to be used by visitors or staff of the site (subject to any time restrictions that may apply), and that the use of these spaces will have some adverse effect on the activities conducted on these sites. The proximity of these properties to the entrance of the designation site will mean that kerbside parking in front of these properties will be used by visitors to the site. However, the proposal is located such that a range of parking options exists, including visitor parking on site, so that visitors will generally be dispersed to the extent that any parking adverse effects for these neighbours would be less than minor.

Other

- No other neighbours are considered to be adversely affected by the proposal due to the scale and intensity of the NOR, and the proposed conditions that have been outlined by the requiring authority.

### **6.3 SECTIONS 95A AND 95B RECOMMENDATION**

That, pursuant to section 95A of the Resource Management Act 1991, this Notice of Requirement be processed without public notification because the activity will have adverse effects on the environment that are minor. In particular, the community facilities designation for the site will provide for activity similar to that already established in the locality, and will have conditions placed upon it to ensure that any building development on site minimises or avoids significant adverse dominance, character, visual, character or parking effects, so that any adverse effects on the surrounding residential environment will be minor.

That, pursuant to section 95A(4), there are no special circumstances to warrant public notification because the operative and proposed district plans envisage what is proposed, and as such, it cannot be described as being out of the ordinary and giving rise to special circumstances.

That, pursuant to section 95B of the Resource Management Act 1991, this Notice of Requirement be processed without limited notification because the adverse effects on any persons (as defined under section 95E) will be less than minor. In particular, as identified in section 6.2 of this report the proposal will generate no adverse dominance, character or parking effects that are limited to the immediate adjoining neighbours.

Accordingly, it is recommended that the Notice of Requirement proceed on a non-notified basis.

Report author



**Andrew Wilkinson**  
**Planning Consultant/Partner, Blakey Scott Planning Limited**

Date: 31 August 2010

**Report reviewer**

\_\_\_\_\_  
**Joao Machado**  
Islands manager, City Planning

**Date:** 07 September 2010

**DETERMINATION**

Having considered the notice of requirement to designate the properties at 2 and 4 Korora Road and 127, 129, 131 and 133 Ocean View Road, Waiheke Island by Auckland City Council, and all relevant statutory considerations, I concur with the foregoing assessment. As such, acting under delegated authority, the Council shall not notify the notice of requirement.

\_\_\_\_\_  
**Duty Commissioner**

**Date:** \_\_\_\_\_

List of appendices

Appendix 1	Auckland City Council Notice of Requirement AEE and supporting Assessment
Appendix 2	Aerial Photograph Proposed Designation Boundary
Appendix 3	Zoning Maps
Appendix 4	Zoning Activity Table and Development Controls
Appendix 5	Traffic Engineering Review
Appendix 6	Community Correspondence