

**Notice of requirement under section 181
of the RMA by the Minister of Education
for the Waiheke Primary School
Designation (10-13).**

To: Manager, North West and Islands Planning

From: Anna Papaconstantinou, Planner

Report date: 13 August 2018

Notes:

The notice for this alteration was publicly notified. As the issues raised through submission have been resolved, and no submitters wish to be heard, a hearing has not been required.

The Manager - Planning - North/West and Islands, Plans & Places has delegated authority, in accordance with Schedule 1 of the Auckland Council Delegations: Chief Executive Officer (updated January 2018), to exercise the council's functions, powers, duties and discretions under the Resource Management Act 1991 in relation to section 171.

The NoR can therefore be considered by the Manager – Planning - North/West and Islands, Plans & Places and a recommendation made under section 171 as to whether the requiring authority confirm, modify or withdraw the requirement.

Contents

Summary	3
1 Introduction	3
2 Notice of requirement description	5
3 Notification and submissions	7
4 Consideration of the notice of requirement	8
5 Conclusions	19
6 Recommendation and conditions	20
Attachment A:	
Attachment B:	
Attachment C:	
Attachment D:	

Summary

Requiring authority	The Minister of Education
Notice of requirement reference	Waiheke Primary School Designation (10-13)
Resource consent applications	No resource consent applications have been lodged by the requiring authority.
Reporting planner	Anna Papaconstantinou, Planner, North West and Islands
Site address	26 Sea View Road, Waiheke
Lodgement date	2 May 2018
Notification date	17 May 2018
Submissions close date	18 June 2018
Number of submissions received	Total: 6

1 Introduction

1.1 The notice of requirement

Pursuant to section 181 of the RMA, the Minister of Education as the requiring authority, has lodged a notice of requirement (NoR) for an alteration to the Waiheke Primary School Designation 10-13, Auckland Council District Plan - Hauraki Gulf Islands section – Operative 2018, at 26 Sea View Road Waiheke.

1.2 Locality plan

The location of the site is shown in Figure 1.



Figure 1 –Aerial photograph of subject site and local area

1.3 Notice of requirement documents

The lodged NoR consists of the following documents:

- Lodgement letter and Form 18
- Assessment of Environmental Effects – Notice of requirement for an alteration to Waiheke Primary School: 26 Sea View Road, Waiheke

The documents are included in Attachment A

1.4 Section 92 requests and responses

Section 92 of the RMA allows councils to request further information from a requiring authority and/or commission a report, at any reasonable time before a hearing.

No requests for further information were made by the council. However, following notification and submissions, the following addendum and further information was provided by the requiring authority:

- Letter dated 18 July 2018, from Dr Claire Kirman, Ellis Gould, Counsel for the Minister of Education seeking amendment to the lodged notice and signed in agreement by submitters (or agent) (Attachment B)
 - Susan (aka Flynn) Washington

- Jay Clarke
 - Tricia Blair
 - Waiheke Ecological Environmental Defence Society
 - Anne Ripper;
-
- Report –Waiheke Primary School Transport Assessment, prepared by Beca Limited for Ministry of Education, dated 6 August 2018 (Attachment C);
 - Letter from Dr Claire Kirman, Ellis Gould, Counsel for the Minister of Education to Auckland Transport confirming the amendment to the lodged notice and addressing the relief sought in the submission from Auckland Transport, dated 2 August 2018 (Attachment C);
 - Letter to John Duguid from Auckland Transport confirming agreement to the amended alteration and confirming that Auckland Transport no longer wishes to be heard at hearing, dated 3 August 2018 (Attachment C);

The requiring authority also provided the original NoR noise specialist evidence to the Environment Court from Nevil Hegley (Attachment D).

All the additional lodged information and correspondence is included in Attachments B - D.

1.5 Specialist reviews

No specialist reviews were requested by the council.

2 Notice of requirement description

2.1 Background

In July 1996 the Minister of Education lodged a NoR for a new primary school at 26 Sea View Road, Waiheke Island as the existing primary school was said to be reaching capacity.

In August 1997 the council recommended that the Minister withdraw the notice as a school was not compatible with the policies for the (then) Land Unit 20 of the selected location. Council also considered there was insufficient evidence provided regarding possible traffic effects, the community consultation that had been undertaken, and the assessment of alternative sites. The Minister rejected the council's recommendation and advised that the requirement would proceed.

Council and local resident submitters appealed the Minister's decision. Following hearings and mediation a settlement was reached with appellants, and a consent order was signed by the Environment court in February 2002.

The settlement included limiting the school roll to 260 students from the original proposed maximum roll of approximately 520- 560 students. The consent order upheld the designation for the school subject to a schedule of conditions that form the existing conditions for designation 10-13 in the Auckland Council District Plan – Hauraki Gulf Islands section (Operative 2018).

2.2 Proposal

The Minister's original proposal in the notified NoR was to alter the designation to remove the existing Condition 4.

Condition 4 reads:

- 4 a. *Subject to (b), the school roll as at 1 March in any calendar year shall not exceed 260 pupils. Provision of the 1 March roll return filed by the school with the ministry of education will be deemed to be sufficient evidence of the school roll in each year.*
- b. *After 1 March, the school roll may exceed 260 provided that it does not exceed the 1 March roll by more than 10 per cent, and further provided that those additional pupils are either:*
- i New entrants starting school during that school year; or*
 - ii New enrolments during the school year which occur after 1 March.*

NB: For the avoidance of doubt, it is recorded that the minister of education reserves the right to seek to amend condition 4 of the designation in the future. Any proposals to amend or remove the limitations on the school roll set out above shall involve public notification of a further notice of requirement under section 168(3) or section 181(1) of the RMA, or any equivalent provision under subsequent legislation.

No other alterations to the existing conditions were proposed.

Following public notification, and in response to submissions received, the Minister has amended the alteration and instead of deleting condition 4 in its entirety, the condition is now amended to provide for a school roll of 290, rather than 260, as shown below:

4. a. *Subject to (b), the school roll as at 1 March in any calendar year shall not exceed ~~260~~290 pupils. Provision of the 1 March roll return filed by the school with the ministry of education will be deemed to be sufficient evidence of the school roll in each year.*
- b. *After 1 March, the school roll may exceed ~~260~~290 provided that it does not exceed the 1 March roll by more than 10 per cent, and further provided that those additional pupils are either:*
- i. New entrants starting school during that school year; or*
 - ii. New enrolments during the school year which occur after 1 March.*

NB: For the avoidance of doubt, it is recorded that the minister of education reserves the right to seek to amend condition 4 of the designation in the future. Any proposals to amend or remove the limitations on the school roll set out above shall involve public notification of a further notice of requirement under section 168(3) or section 181(1) of the RMA, or any equivalent provision under subsequent legislation.

No other alterations or amendments to the existing conditions are proposed.

2.3 Affected land

The affected land is the existing school site. The alteration is to amend existing designation condition 4 that places a cap on the school roll of 260 students as of 1 March each year (and allowing for an additional 10% roll increase from this date each year to a maximum roll of 286 students). The proposed amended condition will raise the cap to 290 students as of 1 March each year, allowing for an additional 10% roll increase from this date, to a maximum of 319 students.

Any further development on the site will continue to require an Outline Plan and be subject to the other designation conditions.

2.4 Site, locality, catchment and environment description

The school site is located at 26 Sea View Road and is legally described as Lot 48 DP11656, Pt Lot 47 DP 11656. The site is 3.8546 hectares and has an underlying zone of Rural 1 (landscape amenity). The site is outside of the Rural Urban Boundary (RUB)¹.

The surrounding land uses to the east and west are predominantly larger rural lifestyle blocks, while to the north and south there is Island residential 1 (traditional residential) zoned land, generally comprised of smaller parcel sizes. Further to the south of the site is Commercial 5 (industrial) zoned land uses and large format retail on Ostend Road, including a Placemakers store. Beyond this is Tawaipareira Creek and Anzac bay. The area around Tawaipareira Creek is identified as a significant ecological area and is also subject to flooding.

2.5 Other designations, notices of requirement and consent applications.

The land within or adjoining the NoR is not subject to any other existing designations or notices of requirement. There are also no unimplemented resource consents associated with the site.

3 Notification and submissions

3.1 Notification

The NoR was publicly notified on 17 May 2018.

The closing date for submissions was 18 June 2018.

3.2 Submissions

Six submissions were received from:

1. Jay Clarke
2. Anne Elisabeth (Anna) Ripper
3. Lynette Reed for Waiheke Ecological Environmental Defence Society Inc
4. Susan (aka Flynn) Washington
5. Tricia Blair

¹ The RUB has been reinstated on Waiheke Island at Regional Policy Statement level in Urban growth and form policy B2.2.2(9) via recent consent order, signed 1 March 2018.

6. Auckland Transport (AT)

Copies of submissions are included in Attachment E.

The issues raised in submissions are addressed in section 4.2.6 of this report.

4 Consideration of the notice of requirement

4.1 Designations under the Resource Management Act 1991

The RMA provides that the procedures adopted in processing a notice of requirement are generally those adopted for processing a resource consent application. This includes lodgement, further information (if required), notification, receiving and hearing of submissions (if required).

The procedure differs from the resource consent process in respect of the council consideration of the NoR, Section 171(1) of the RMA states:

- (1) *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 recommendation on the requirement.*

Section 171(1)(a) is addressed in section 4.3-4.8 below. Section 171(1)(b) is addressed in section 4.9 below. Section 171(1)(c) is addressed in section 4.10 below. Section 171(1)(d) is addressed in section 4.11 below.

Section 171(1) is subject to Part 2 of the RMA. Part 2 contains the purpose and principles of the RMA. 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.²

After considering these matters, the council needs to make a recommendation to the requiring authority under section 171(2) of the RMA which states:

- (2) *The territorial authority may recommend to the requiring authority that it –*
- (a) *confirm the requirement:*
 - (b) *modify the requirement:*
 - (c) *impose conditions:*
 - (d) *withdraw the requirement.*

Reasons must be given for the recommendation under section 171(3) of the RMA. Refer to section 6 below for my recommendation.

4.2 Consideration of submissions

The concerns raised in the six submissions were that the removal of condition 4 in its entirety provided for potentially unlimited future growth in student numbers, and the effects of this.

Following discussions between the Requiring Authority and the submitters prior to completion of this report, an agreement was reached to amend the alteration from the removal of condition 4 in its entirety to the amendment of condition 4, raising the roll cap from 260 to 290 students. As a result, the concerns raised can be seen to have been addressed and the submitters have confirmed that they no longer wish to be heard at hearing. For completeness, all the original submissions are summarised below, and how the issues raised in the submissions have been addressed is discussed in the adverse effects assessment in Section 4.2.6.

4.2.1 Original submission summaries

Submission 1 – Jay Clarke

The submitter is opposed to the notice of requirement as the AEE does not provided sufficient information or reasons for the proposed amendment.

Submission 2 – Anne Elizabeth (Anna) Ripper

The submitter was party to the proceedings for the initial Notice of Requirement and is opposed to the amendment to remove the roll cap for the following reasons, as summarised:

- The school roll was reduced to 260 pupils as part of the hearing and mediation process because of the sensitive, rural nature of the site. An increase in student numbers will place a strain on the existing infrastructure, including effluent and water take and discharge, and these effects cannot be adequately evaluated, or measured, and are not addressed in the NoR.

² See Estate of P.A. Moran and Others v Transit NZ (W55/99)

- There is a lack of information within the AEE regarding the future roll growth projections and inadequate exploration of the alternative options;
- No consultation with the community has been undertaken;
- The existing conditions will not adequately address potential effects regarding noise and traffic; and
- Overall, there is a lack of full analysis and information to address potential effects of the proposed alteration as if the requirement were for a new designation.

Submission 3 – Waiheke Ecological Environmental Defence Society Inc

The submitter is opposed to the notice of requirement for the following reasons, as summarised:

- The designation was the result of mediated decision in the Environment Court and was made on the basis of a cap of 260 pupils. Removal of the cap would mean that all the conditions would have to be reassessed and it is impossible for the Ministry of Education to say that the effects are less than minor.
- The Ministry of Education has not demonstrated the need for the urgent removal of the cap.
- There is insufficient exploration of alternatives, such as Years 7 and 8 moving to Te Huruhi school.

The submitter would support a small increase in the roll cap, subject to the agreement of all parties.

Submission 4 – Susan (aka Flynn) Washington

The submitter is opposed to the notice of requirement for the following reasons, as summarised:

- Lack of evidence on school roll projections that would necessitate the removal of the roll cap; and
- That an increase in the school roll would have other effects including: on the traffic network, noise, flooding and the effluent system, and visual amenity and infrastructure effects from increases in buildings, car parks and playgrounds.

Submission 5 – Tricia Blair

The submitter is opposed to the notice of requirement for the following reasons, as summarised:

- The school roll was reduced to 260 pupils as part of the hearing and mediation process because of the sensitive, rural nature of the site. An increase in student numbers will place a strain on the existing infrastructure, including effluent and water take and discharge, and these effects cannot be adequately evaluated, or measured, and are not addressed in the NoR.
- There is a lack of information within the AEE regarding the future roll growth projections and inadequate consideration of the alternative options;
- The existing conditions will not adequately address potential effects of an uncapped student numbers regarding noise and traffic; and
- Overall, there is a lack of full analysis and information to address potential effects of the proposed alteration as if the requirement were for a new designation.

Submission 6 – Auckland Transport

The submitter generally supports the notices of requirement subject to the following modifications–

- A traffic assessment is provided for review in advance of the hearing and it include any conditions to provide mitigation measures that the assessment identifies in order to address on and off-site transport effects;
- A condition is included that will require a traffic impact assessment report to be included with any future Outline Plan of Works
- A condition is included to require additional on-site car parking at a rate of two carparks for every new classroom or classroom equivalent; and
- Any other outcome or consequential relief which would address the matters raised

4.2.2 Effects to be disregarded – trade competition

I do not consider that there are any trade competition effects.

4.2.3 Effects that may be disregarded – permitted baseline assessment

The permitted baseline refers to the adverse effects of permitted activities on the subject site.

The Environment Court in *Beadle v Minister of Corrections* A074/02 accepted that the obligation to apply permitted baseline comparisons extended to Notices of Requirement. In *Nelson Intermediate School v Transit NZ* (2004) 10 ELRNZ 369, the Court accepted that the permitted baseline must define the “environment” under section 5(2) (b) and (c) and from that section 171(1). When considering the adverse environmental effects of a proposal, the effects may be considered against those from permitted baseline activities. As the effects resultant from permitted baseline activities may be disregarded, only those environmental effects which are of greater significance need be considered.

In *Lloyd v Gisborne District Council* [2005] W106/05, the Court summed up the three categories of activity that needed to be considered as part of the permitted baseline as being:

1. What lawfully exists on the site at present
2. Activities (being non-fanciful activities) which could be conducted on the site as of right; i.e., without having to obtain a resource consent (see for example *Barrett v Wellington City Council* [2000] CP31/00).
3. Activities which could be carried out under granted, but as yet unexercised, resource consent.

The existing environment includes the designated primary school activity with a permitted maximum school roll of 286 students (post 1 March each year). The effects of the existing school form part of the permitted baseline. The only change proposed to this designation is the number of students who may be enrolled at the school, and the effects to be considered are from this increase above and beyond the effects of a roll of 286 students.

4.2.4 Effects that may be disregarded – written approvals.

Any effect on a person who has given written approval to the notice of requirement may be disregarded if it is appropriate to do so.

No written approvals were included in the original notice of requirement as lodged.

4.2.5 Positive effects

The AEE describes the positive effects of the project as providing for students to undertake their studies on Waiheke Island without having to travel to the Isthmus, and the use of existing social infrastructure and physical resources to provide for the social and cultural wellbeing of the community.

I agree with this assessment of the positive effects.

4.2.6 Adverse effects

Effects on the environment are addressed in section 15 of the AEE. Submissions have also been considered and are referred to where relevant. The assessment of adverse effects, below, is based on the amended alteration to the NoR, allowing for a maximum of 33 additional students.

Noise Effects – Noise effects are addressed in section 15 of the AEE where it is stated that any potential noise effects from the increase in student numbers will continue to be managed by the following existing conditions of the designation:

Condition 15 that requires an acoustic fence on the boundary of 28 Sea View Road

Condition 16 that requires no adventure playground equipment to be located closer than 30m from any site boundary

Condition 24 which sets noise standards for all activities at the site other than from normal school recreation activities occurring outdoors between 8am and 5pm.

Relevant submissions – 2, 4 and 5

Comment – Submitters raised concerns about potential noise effects from the increase in student numbers. Condition 24 will continue to set noise standards for activities outside of usual school hours however there are no specific limits set for normal school activities. I note that the Rural 1 zone allows for Leq levels of 50dBA as permitted from Monday to Saturday 7am to 10pm.

Additional information provided post-notification by the requiring authority included the Statement of Evidence to the Environment Court from Nevil Hegley that formed part of the initial designation (I am not aware of any other noise evidence from these proceedings). This evidence is contained in Attachment D.

This evidence, based on predicated noise levels from analysis of other schools, concluded that the noise measure at the nearest adjacent property (the Ripper residence) would be 45dBAL₁₀ (based on a school roll of 520 pupils). This is within the current permitted noise limit for the zone.

The evidence of Nevil Hegley also showed that, more broadly, overall noise measures at a school with a roll of 587 students were only slightly higher (1-2 dBA L₁₀) than a school of less than half that roll (251 students). Based on this evidence, the difference in potential noise generation between a school with 260 students, and a maximum of 286 students and a school with the proposed new roll cap of 290 with a maximum of 319 students should be considered negligible.

Overall, I consider that the existing acoustic fence and the location of play equipment in relation to the site boundaries should continue to mitigate noise arising from the increase in school roll of a maximum of 33 students.

Traffic Effects – Traffic effects are addressed in section 15 of the AEE where it is stated that any potential traffic effects will be managed by Conditions 18-20 of the existing designation.

Condition 17 requires consultation prior to the submission of the initial Outline plan for the development of the site, and *'for any further incremental development'*.

Condition 18 requires that any outline plan required by condition 17 must include *"a description of the current traffic environment and the predicted traffic environment"*

Although the AEE refers to condition 19 as being relevant, this condition states that a traffic management plan is required only in conjunction with the outline plan for the *initial development* of the site. The traffic management plan in condition 19 is not required for any subsequent development on the site.

Relevant submissions – 2, 4, 5 and 6

Comment – The existing transport conditions came from the consent order for the original NoR and they are particularly focussed on the initial development of the school site.

As part of the additional information provided by the requiring authority post-notification, and in response to submissions, a Transport Assessment report has been provided that addresses the existing transport environment and the potential traffic and transport issues of the alteration proposed (Attachment C).

The Transport Assessment concludes that the increase in school roll would result in an additional 16-17 cars performing pick up and drop off each day. This could be accommodated within the existing infrastructure via a more efficient turn-over on the parking bays. The report also concludes that there will be no adverse effects on the safe operation of Sea View Road from the minor increase in car movements and that the existing walking, cycling and bus infrastructure can accommodate the predicted very small increase in pupils walking, cycling and travelling by bus to and from the school.

Based on this report and the letter provided by the requiring authority, AT has provided confirmation that they are satisfied that the concerns raised in their submission have been addressed and that they no longer need to attend a hearing.

Based on the Transport Assessment report and the letters from the requiring authority and AT, I am satisfied that there will be no discernible transport effects from the proposed amendment to the NoR, and no further mitigation is required. I do note that if any future development is proposed at the school site, conditions 17 and 18 of the existing designation will require consideration of the current and predicted traffic environment as part of any Outline plan.

Flooding and the effluent system

Submissions 2, 4 and 5 raised concerns regarding flooding on the site and the state of the effluent system. These are regional issues that are managed through resource consent and compliance rather than through conditions attached to the NoR. However, I note that there is a flood plain on the subject site's south western boundary, and the site is located adjacent to, but not within, a Stormwater Management Flow 1 Area Control area under the AUP and an area that is subject to flooding. An incremental increase in the school roll maximum will not have any effect on this as no further development is proposed at the site at this time.

Submitters raised concerns about the capacity of the existing effluent system to be able to manage the increase in student numbers. This matter is also not within the scope of the proposed amendment, but it is addressed for completeness.

The original consent to authorise the discharge of domestic wastewater at the site went through a notification, hearing and environment court process prior to its construction in 2005. That consent allowed for a staged approach to the construction of the system, and it was proposed to be increased in response to the school roll and wastewater volumes generated. At the time of initial development all the components of the system, including the reticulation lines, tanks, filters and pumps, etc. were installed.

A new consent was granted on 30 November 2011 (Consent number 39493). The final discharge volume was determined based on an expected peak school roll of 356 students and staff, with the design of the system allowing for a maximum roll of 550 students and staff. At the time of the issue of the consent only the first stage of the disposal system was in use but there is ample capacity consented to manage the maximum growth permitted by the alteration to the designation.

Visual and amenity effects

Relevant submissions – 2,4 and 5. Submitter 4 raises specific concerns around the visual impacts of new development on the site as a consequential effect of the removal of the roll cap.

As no additional development is proposed on the site there will be no additional visual or amenity effects of the amendment. Any future development will be subject to the other conditions of the NoR.

I do not consider that there are any other adverse effects relevant to this NoR.

4.2.7 Effects conclusion

I consider that any effects of the amendment to the existing designation will continue to be avoided, remedied or mitigated by the existing conditions and no further amendment to the conditions of the designation are required.

4.3 National environmental standards

There are no National environmental standards considered relevant to this NoR.

4.4 National policy statements

Section 171(1)(a)(ii) requires the council to, subject to Part 2, consider the effects on the environment of allowing the notice of requirement, having particular regard to any relevant provisions of a national policy statement.

I do not consider that any National Policy Statements are relevant to this NoR. However, the site is in the coastal environment of the Hauraki Gulf at Anzac Bay and the New Zealand Coastal Policy Statement is relevant.

The NZCPS contains objectives and policies relating to the coastal environment. These include:

- safeguarding the integrity, form and functioning of the coastal environment and sustaining its ecosystems; and
- preservation of the natural character of the coastal environment, protection from inappropriate subdivision, use and development; and

As all the existing school infrastructure is already developed and the NoR does not propose any works or changes to the existing designation apart from the school roll cap, I consider that the NoR is generally consistent with the provisions of the NZCPS.

4.4.1 Hauraki Gulf Marine Park Act 2000 (HGMPA)

The HGMPA is also to be treated as a national policy statement (refer section 9 of the HGMPA). Geographically it applies to the Hauraki Gulf, its islands and catchments. Catchment is defined to mean *any area of land where the surface water drains into the Hauraki Gulf*. This includes the catchment within which the school is located.

The key issue is the extent to which the proposal addresses the matters set out in sections 7 and 8 of the HGMPA. Section 7 recognises the national significance of the Hauraki Gulf, its islands and catchments, while section 8 outlines the objectives of the management of the Hauraki Gulf, its islands and catchments. The objectives are intended to protect, maintain and where appropriate enhance the life-supporting capacity of the environment of the gulf and its islands.

This NoR does not propose any works or changes to the existing designation apart from the change to the school roll cap. I consider that the NoR is generally consistent with the relevant provisions of the HGMPA.

4.5 Regional Policy Statement (Chapter B of the AUP) (RPS)

The RPS sets the strategic direction for managing the use and development of natural and physical resources throughout Auckland.

The following chapters of the RPS are of relevance to this NoR:

- B2 Urban growth and form
- B3 Infrastructure, transport and energy
- B7 Natural resources

- B9 Rural environment
- B10 Environmental risk.

The objective and policies in Chapter B2 centre around the development of a quality compact urban form. The provisions promote a quality built-environment with high amenity and accessibility while ensuring the health, safety and wellbeing of people and communities. Social facilities that meet the needs of people and communities are supported through the provisions of B2.8 Social facilities.

The transport provisions within Chapter B3 are relevant for the assessment of this NoR. In particular, Policy B3.3.2(4) seeks to ensure that transport infrastructure is designed, located and managed to: (a) integrate with adjacent land uses, taking into account their current and planned use, intensity, scale, character and amenity; and (b) provide effective pedestrian and cycle connections.

The provisions in Chapter B7, in particular B7.4 seek to manage stormwater runoff and ensure adverse effects from land use on coastal water and freshwater quality are avoided, remedied or mitigated.

The school is located in the coastal environment and the provisions of Chapter B8 are also relevant, in particular Objective B8.5.1(2) that provide that use and development supports the social and economic well-being of the resident communities of Waiheke and Great Barrier islands, while maintaining or, where appropriate, enhancing the natural and physical resources of the islands.

A floodplain covers a portion of the western boundary of the subject site. There is direction in the RPS to not increase risk to people, property, infrastructure and the environment from natural hazards through Chapter B10.

The objectives and policies in Chapter B9 are concerned with the management of Auckland's rural land. The existing school is located within a Rural zone and outside of the RUB, however the incremental changes proposed as part of this NoR will not have any additional effect on the existing character and amenity of the site within its rural setting.

4.6 Auckland Unitary Plan - Chapter D overlays

There are no applicable Chapter D overlays to the subject site.

4.7 Auckland Unitary Plan - Chapter E Auckland-wide

The provisions within Chapter E Auckland-wide that apply to the Hauraki Gulf Islands are regional level provisions and are not applicable to the NoR. It is appropriate for regional plan matters to be addressed when any additional regional consents are sought.

District plan matters such as noise and transport are relevant to this NoR and these are discussed in section 4.8 below.

4.8 Auckland Council District Plan - Hauraki Gulf Islands Section (Operative 2018)

The provisions of the Auckland Council District Plan - Hauraki Gulf Islands Section are addressed in section 33-55 of the AEE. In addition to the provisions identified in the AEE, other District plan matters such as transport are relevant to this NoR.

Provisions for Land Unit -Rural 1 (landscape amenity) are in Section 10a.19. Relevant objectives and policies include:

To provide for rural activities and a limited range of non-rural activities while protecting the rural character and visual amenity of the land unit.

Policy - By limiting the non-productive activities that can occur in the 'other areas' of the land unit to those which avoid adverse effects on the landscape and rural character, and the general and visual amenity values of the locality....

By ensuring that the scale, form, colour and location of new buildings will not have adverse effects on the landscape, rural character and visual amenity values of the land unit.

By ensuring that the land unit continues to provide the clear distinction between its rural landscape and the characteristics of the neighbouring villages.

There are no relevant objectives and policies for noise. The noise limits in the Rural 1 zone is contained in Table 10c.4 Development controls and allow for a Monday to Saturday 7am to 10pm and Sunday 9am to 6pm noise limit of 50dBA.

I do not consider that the alteration is inconsistent with the objectives and policies of Land Unit 1. The school site is already developed, and the existing conditions will continue to manage any future landscape, rural character or visual amenity effects.

Objectives and policies for roading, parking and access are contained in Part 13 – Transport.

Relevant objectives and policies include:

13.3.3 – Objectives – roading:

To recognise and provide for the existing road system as an important resource for an integrated transport network, while managing it to ensure the adverse effects on the surrounding environment are minimised.

Policy 1 – By providing for and enhancing the road network to ensure it is safe, effective and efficient for vehicles, cyclists and pedestrians.

Policy 2 - By reducing conflicts between vehicles, pedestrians and cyclists around key community focal points, such as wharves, commercial centres, schools and other public facilities.

13.3.4 – Objectives – parking and access:

To ensure the impact of activities on the safety and efficiency of the road network is addressed while avoiding adverse effects on the environment.

Policy 1 - By requiring sufficient on-site parking to meet the demand generated by different activities

Policy 2 - By ensuring that there is not an oversupply of on-site parking, which can encourage traffic generation and result in unnecessary on-site modification.

The Traffic Assessment demonstrates that the existing school infrastructure and surrounding transport network can accommodate the small increase in vehicle movements that the increase in school roll will generate. Submitter AT agrees with the conclusion in the report. I consider that the alteration is not inconsistent with the relevant objectives and policies of Transport chapter of the Auckland Council District Plan - Hauraki Gulf Islands

4.9 Alternative sites, routes or methods – section 171(1)(b)

The site is owned by the Crown and is already developed as Waiheke Primary school. The AEE concludes that the proposed alteration will not have significant effects on the environment. I agree with this conclusion but also note that the scope of the amendment has been further refined since the AEE was submitted.

The requiring authority has provided an assessment of alternative methods in section 18 of the AEE. This assessment concludes that the alteration is the most effective and efficient method to provide education for students in the area in the short to medium term. Given that it is understood that the existing school roll will soon exceed the limits set in Condition 4, I agree with this analysis.

Although the Minister has not been able to provide detailed roll projections, the information that has been provided indicates that the school roll is already in excess of the 260 student limit prior to 1 March each calendar year, requiring students to defer enrolment until after this date.

The Minister has advised that the school roll is projected to peak in the short term, before decreasing. The revised condition 4 will provide sufficient capacity to manage this small projected increase in the short term. The existing infrastructure on site will allow for the increase in student numbers to be accommodated without the need for further works on the site. This will provide for children to be able to continue to attend their local school of preference without additional environmental effects.

In my opinion, the information supplied demonstrates that the requiring authority has satisfied the requirements of section 171(1)(b), in that adequate consideration has been given to alternative sites, routes, or methods of undertaking the work.

4.10 Necessity for work and designation – section 171(1)(c)

The AEE concludes that the designation alteration is reasonably necessary to achieve the objectives of the requiring authority, being to provide opportunities for students to undertake their studies as required for under the Education Act 1989. I agree with this conclusion.

4.11 Any other matter – section 171(1)(d)

Section 171(1)(d) requires the council to have particular regard to any other matter the territorial authority considers reasonably necessary in order to make a recommendation on the requirement. In this case the non-RMA documents are considered relevant.

The Auckland Plan 2050

The Auckland Plan 2050 replaced the Auckland Plan 2012 and was adopted by Auckland Council in June 2018. It is Auckland's long-term spatial plan that provides for how Auckland is expected to grow and change over the next 30 years and is required by the Local Government (Auckland Council) Act 2009 to contribute to Auckland's social, economic, environmental, and cultural well-being.

The Auckland Plan 2050 includes in its *Outcome: Belonging and Participation Focus Area 2 to Provide accessible services and social infrastructure that are responsive in meeting people's evolving needs*. This includes schools.

Although Waiheke is not identified as a high growth area, I consider that the removal of the school roll cap is consistent with Auckland Plan 2050 in that it provides for the social wellbeing of school children on Waiheke Island by providing them with the opportunity to accessible local education services.

4.12 Part 2 of the Resource Management Act 1991

The purpose of the RMA is set out in section 5(1) which is: *to promote the sustainable management of natural and physical resources*.

Sustainable management is defined in section 5(2) as:

...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.*

Section 6 of the RMA sets out the matters of national importance which must be recognised and provided for.

Section 7 of the RMA sets out other matters which shall be given particular regard to.

Section 8 of the RMA requires the principles of the Treaty of Waitangi to be taken into account.

The proposal is consistent with Part 2 of the RMA in that it will provide for the community's social and cultural wellbeing through the provision of education opportunities while avoiding, remedying, or mitigating any adverse effects on the environment and providing for the efficient use of natural and physical resources.

5 Conclusions

The requiring authority has lodged, and subsequently amended, a NoR under section 181(1) of the RMA for the alteration to the existing Waiheke Primary school designation in order to amend the roll cap condition (Condition 4) to provide for an additional maximum of 33 students at the school.

It is recommended that the notice of requirement should be confirmed subject to the amended condition 4 (as shown in Section 2.2), for the following reasons.

- The notice of requirement amendment is reasonably necessary for achieving the objectives of the requiring authority.
- Adequate consideration has been given to alternative sites, routes or methods of undertaking the work identified in the notice(s) of requirement.
- The notice of requirement is generally consistent with the relevant Auckland Unitary Plan provisions and the provisions of the Auckland Council District Plan – Hauraki Gulf Islands section.
- The notice of requirement is generally in accordance with Part 2 of the RMA and; and relevant national environmental standards and national policy statements.
- The existing conditions of the designation can avoid, remedy or mitigate any potential adverse environmental effect from the alteration.

6 Recommendation and conditions

6.1 Recommendation

In accordance with section 171(2) of the Resource Management Act 1991, the Auckland Council recommends to the Minister of Education that the Notice of Requirement to amend the Waiheke Primary School Designation (10-13) in the Auckland Council District Plan (Hauraki Gulf Islands section) 2018, by amending condition 4 to read '290' instead of '260 be confirmed. The amended conditions are set out below.

That pursuant to section 171(3) of the RMA the reasons for the recommendation are as follows:

- The notice of requirement is consistent with Part 2 of the RMA in that it enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety.
- The notice of requirement is consistent with and give effect to the relevant national environmental standards, national policy statements and the AUP and HGIDP.
- In terms of section 171(1)(b) of the RMA, adequate consideration has been given to alternative sites, routes or methods for undertaking the work.
- In terms of 171(1)(c) of the RMA, the notice(s) of requirement is reasonably necessary to achieve the requiring authority's objectives.

Report prepared by:

Anna Papaconstantinou,
Planner



**Reviewed and approved for release
by:**

Peter Vari, Team Leader,
North West and Islands Planning



Recommendation approved by:

Warren MacLennan,
Manager, North West and Islands,
Plans and Places



under delegated authority pursuant to
the Auckland Council Delegations,
Resource Management Act 1991,
Adopted 23 June 2011 (GB/2011/123)

Date: 13/8/2018

Planning map ref	Conditions
10-13	<p>Waiheke Primary School</p> <p>This designation is subject to the following conditions:</p> <p>Designated purpose</p> <ol style="list-style-type: none"> 1. The purpose of the designation is to provide for a primary school for Waiheke Island. 2. The nature of the proposed work is to construct and thereafter operate, maintain and upgrade as necessary the buildings, facilities and improvements required for a contributing primary school, in accordance with the designation and subject to the conditions which follow. 3. The designated site comprises 3.86ha and includes the areas required for landscaping, effluent treatment and disposal, carparking and access and manoeuvring areas. <p>Development conditions</p> <ol style="list-style-type: none"> 4. a. Subject to (b), the school roll as at 1 March in any calendar year shall not exceed 260 290 pupils. Provision of the 1 March roll return filed by the school with the ministry of education will be deemed to be sufficient evidence of the school roll in each year. <ul style="list-style-type: none"> b After 1 March, the school roll may exceed 260 290 provided that it does not exceed the 1 March roll by more than 10 per cent, and further provided that those additional pupils are either: <ol style="list-style-type: none"> i. New entrants starting school during that school year; or ii. New enrolments during the school year which occur after 1 March. <p>NB: For the avoidance of doubt, it is recorded that the minister of education reserves the right to seek to amend condition 4 of the designation in the future. Any proposals to amend or remove the limitations on the school roll set out above shall involve public notification of a further notice of requirement under section 168(3) or section 181(1) of the RMA, or any equivalent provision under subsequent legislation.</p> 5. The total coverage of all buildings on site shall not exceed 7 per cent of the site area. The total area of impermeable surfaces on the site shall not exceed 20 per cent of the site area. 6. In conjunction with the outline plan required by condition 17, and specifically the landscaping details required by subparagraph (a), the minister shall submit a landscape plan that meets the following criteria: <ol style="list-style-type: none"> i. Visual mitigation of the school buildings, carpark and playing fields when viewed from the road and the dwellings on the adjoining properties at 24 Sea View Road (Lot 49 DP11656) and 28 Sea View Road (Lot 1 DP 91556). The landscape plan shall provide features to achieve the effect described and shown in the attached landscape criteria plan. The minister shall consult with adjoining property owners at 24 and 28 Sea View Road prior to finalising the details of the landscape plan. <p>NB: The following wording is to be shown on the landscape criteria plan referred to in condition 6(a):</p> <p style="margin-left: 40px;">Boundary planting along the north east and south west boundaries of the site will (subject to ensuring appropriate operation of the effluent disposal field) be wide enough to provide an effective screen to adjacent properties but will, in any event, be no less than 3m wide in the case of the north east boundary and 2m wide in the case of the south west boundary and should use a variety of species (predominantly native) to enhance existing character. Selection of suitable native plant species for screen planting shall be approved by a qualified and experienced landscape architect to ensure fast and effective growth.</p> <p style="margin-left: 40px;">Existing vegetation is to be retained as far as possible to add visual separation of areas and screening of buildings/carparks. This will include wetland vegetation, boundary planting and internal trees or hedges.</p>

	<p>The design of and landscaping around buildings will take into account visual effects on neighbours.</p> <p>Carparking will require special attention to ensure that it is integrated with the surrounding landscape by, for example:</p> <ul style="list-style-type: none"> • using permeable "green" surfaces • breaking up the parking into smaller areas • using planting to break up, screen, or disguise parking areas. <p>b. The landscape planting along the north eastern boundary shall occur prior to the school buildings being constructed on the site and as soon as practicable after the designation is confirmed.</p> <p>c. Landscape planting of the effluent disposal fields</p> <p>NB: This matter will require consultation with the ARC to determine whether planting is appropriate and if so, in what circumstances.</p> <p>7. Council's senior landscape architect shall have a monitoring role in the following stages:</p> <ul style="list-style-type: none"> • site location/site planning; • site design, including the developing of conceptual landscape and architectural plans; • developed design/working drawings; • landscape establishment/maintenance planning; and • fencing design/location. <p>The minister or his authorised consultant shall contact the council's landscape architect immediately prior to commencement of each of the above stages.</p> <p>8. The minister shall supply a report from a qualified and experienced ecologist to describe the level of effect the physical development of the school will have on the Tawaipareira Creek and the wetland area in the south eastern corner and their respective life-supporting capabilities/ecological significance. The council will request alterations to the outline plan if any structures or activities on the site are shown in locations which may detrimentally affect the ecology of the wetland areas. The wetland area margins are to be preserved in accordance with the concept plan A.</p> <p>9. The wetlands on the east and west boundaries of the site shall be fenced to prevent access from the school.</p> <p>10. A fence shall be provided to prevent general access from the school to the remnant taraire bush area in the upper area of the site (north western boundary). The general location of the bush area is shown in the concept plan A. A gate may be provided in the fence to allow supervised access for educational purposes.</p> <p>11. All water tanks are to be fitted with connections enabling them to be used for firefighting purposes.</p> <p>12. All carparking areas are to be screened from adjacent properties by the erection of a wall or a fence and appropriate landscaping.</p> <p>13. All artificial lighting on the site shall comply with the Auckland City Council Hauraki Gulf District Plan controls on lighting.</p> <p>14. Any use of the school buildings other than that which relates directly to the core school function must be measured against the provisions of the Hauraki Gulf Islands District Plan, and a resource consent obtained if so required by the Plan.</p> <p>15. A suitably designed acoustic fence of at least 2m in height and 50m in length is to be constructed along the north eastern boundary of the site to screen the house at 28 Sea View Road. The fence shall be constructed no closer to the boundary than along the border between the wetland area and the open space/playing field area. The design of the fence is to be confirmed by a suitably qualified acoustic engineer prior to construction.</p>
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No adventure playground equipment shall be located closer than 30m from any boundary of the site or from the border between the wetland area located at the south eastern corner of the site and the open space/playing field area.

17. The minister of education shall, following consultation with the owners of the adjoining properties at 24 and 28 Sea View Road, submit an outline plan of development to Auckland City Council's manager: City Planning, at least three months prior to initial development on the site, or, in the event of any further incremental development in the future, together with any comments received from the owners of the adjoining properties on the outline plan.

The outline plan shall incorporate:

- a. The recommendations of council's landscape architect into the design, location and landscaping of the school buildings.
- b. Details of how the school complies with the land unit 20 provisions and part 6F - Educational facility assessment criteria of the Plan (noting that greater building and impermeable surface limits set out in condition 5 will apply); and
- c. Details of final contours, earthworks and silt control measures involved in developing the playing areas and building foundations.

The council, after considering the proposals included in the outline drawings, may, within 20 working days after receipt of the drawings, request the requiring authority to make changes to all or any of the proposals contained in the drawings so that the proposals comply more fully with the conditions imposed.

In any event the outline plan will be in accordance with the concept plan A annexed hereto.

18. In conjunction with the outline plan required by condition 17, the minister shall submit details of the roading upgrades necessary for the safe and efficient movement of pedestrians and traffic to or from the school grounds including:

- a. Widening of Sea View Road between the school and Ostend Road;
- b. Upgrading the Sea View Road and Ostend Road intersection;
- c. Provision of a concrete footpath along Sea View Road from the school to Ostend Road; and
- d. Provision of pedestrian facilities, appropriate lighting and signage -

in accordance with the plans prepared by Opus International Consultants Limited entitled Auckland City Council / Ministry of Education, Waiheke Island No.2 Primary School, Sea View Road, Ostend Road upgrading, sheets 1-8, dated 28/9/98 and subsequent plan 1/1017/101/5104 sheet 1, revision 2, dated 17/8/99. This information shall include a description of the current traffic environment and the predicted traffic environment as a result of the school's operation. The owners of the properties at 24 and 28 Sea View Road shall be consulted in respect of any aspects of the road upgrading which could affect their properties and any comments received submitted to council with the details of the roading upgrades.

19. In conjunction with the outline plan required in terms of the initial development of the site in condition 17, the minister shall supply a traffic management plan for the development detailing movements of vehicles and pedestrians in a safe and efficient manner. At least 96 carparking spaces shall be provided on site in the general location shown on the concept plan A annexed hereto.

20. Any works which are required by conditions 18 and 19 shall be undertaken at the expense of the minister to the extent that they are required in order to avoid, remedy or mitigate the effects of the additional traffic associated with the school. Any works required by conditions 18 and 19 shall be undertaken prior to the school opening.

21. No building shall exceed a height of 8m.

No part of any building shall exceed a height equal to the recession plane angle shown in the attached figure 9B - recession plane cross section. To determine the maximum permitted height in relation to boundaries on the lot the diagram in the attached figure 9A - recession plane indicator must be viewed within the lot and oriented north. The angle of inclination relative to a particular boundary is determined by the angle on the diagram in figure 9A adjacent to the boundary. [Figures 9A and 9B copied from figures 9A and 9B in the District Plan].

23. Where the lot boundary abuts the street no part of any building shall exceed a height limit imposed by a line drawn at an angle of 55° from the horizontal and originating and drawn at right angles from a point 2m above the boundary of the lot where it abuts the street subject to the following exceptions:
- a. The addition or replacement of any antenna or aerial to a maximum increase in height of 4m, where the aerial or antenna does not exceed 150mm in diameter; and
 - b. The addition or replacement of any panel antenna, the dimensions of which do not exceed 1.5m in height, 1m in width and 0.5m in depth; and
 - c. The addition or replacement of any dish antenna with a radius which does not exceed 1.5m; and
 - d. Telecommunication lines (including telephone poles) are exempt from this rule, provided that they do not exceed a height of 8m; and
 - e. No account shall be taken of radio and television aerials, solar heating devices and chimneys, not exceeding 1.1m in any horizontal direction.
- 24.a. With the exception of condition (b) below the following noise standards shall apply to all activities other than the noise from normal school recreation activities occurring outdoors between 8.00am and 5.00pm:
- i. Noise (L_{10}) levels from 7.00am to 10.00pm Monday to Saturday and Sunday 9.00am to 6.00pm shall not exceed 45dBA.
 - ii. Noise (L_{10}) levels at all other times including public holidays (night time) shall not exceed 34dBA.
 - iii. The maximum noise level (L_{max}) at "night time" shall be the background noise level (L_{95}) plus 30dBA or 75dBA, whichever is the lower.
- b The L_{10} noise level arising from the use of any generator or wind powered equipment used solely for the generation of electricity shall not exceed the following limits:
- i. Monday to Sunday from 7.00am to 10.00pm 55dBA; and
 - ii. At all other times 45dBA.
- c. Except where otherwise stated all noise measures shall be made 20m from any adjacent dwelling (on another lot) or at the legal boundary, when this is closer to the dwelling. This may be referred to as the national boundary.
- d. Noise levels shall be measured and assessed in accordance with the requirements of the New Zealand Standards NZS 6801:1991 Measurement of Sound and NZS 6802:1991 Assessment of Environment Sound.
- e. The noise shall be measured with a sound level meter complying at least with the International Standard IEC651(1979) Sound Level Meters, Type 1.
- 25.a. Earthworks undertaken on the site in any 12 month period other than those for which a consent has been obtained from the Auckland Regional Council shall not exceed 20m³ and shall not have a face height exceeding 2m; and
- b Where earthworks are undertaken on the site:
- i. Any earthworks undertaken must not create or increase potential for soil instability; and
 - ii. Any excavation or fill shall not detrimentally affect natural landforms or vegetation, and must avoid soil instability or siltation of natural watercourses, wetlands, estuaries, or coastal waters; and
 - iii. Areas of cut and fill are to be reinstated by appropriate stabilisation, planting and drainage.
- c. In order to meet the above standards the following techniques are outlined as a guide:
- i. Runoff control measures – runoff diversion channels, contour drains, earth bunds or similar, which control and direct runoff and limit the accumulation of erosive volumes of water.
 - ii. Sediment retention traps and ponds – to detain sediment laden water.

	<ul style="list-style-type: none"> iii. Silt fences and hay bales – to avoid under scouring by runoff. iv. Vegetative buffer strips – to filter sediment from overland runoff eg thick grass cover. Stormwater inlet protection – to filter sediment from runoff draining bare worked areas to stormwater systems eg using filter cloth and securely stacked hay bales. vi. Revegetation – sowing of grass seed for restabilisation to be progressively carried out and completed by following spring or autumn whichever is the closer. <p>d. The digging of trenches for works or services undertaken by a local authority or approved network utility operator shall be exempted from the above standards where:</p> <ul style="list-style-type: none"> i. No more earth shall be removed than is absolutely necessary for the trench; and ii. The trench shall not remain open for more than 24 hours except in an emergency; and iii. The trench shall be reinstated to as close to its original condition as possible. <p>e. Where evidence of a burial site or any other archaeological feature is exposed during the earthworks process, all work must cease and the council advised. [Within five working days of receiving such advice the council will consult with the relevant authorities (Historic Places Trust, Department of Conservation, tangata whenua) and the requiring authority with regard to the appropriate treatment of the feature].</p> <p>26.a. All areas or parts of the site where hazardous substances (including waste) are stored, used, loaded or unloaded shall be sealed, banded and roofed or covered.</p> <p>b All bunds shall be sealed or constructed from impervious materials and shall be sufficient to contain the total volume of material stored or used on the site in the event of a spill.</p> <p>c. All sealed areas of the site shall be drained to an appropriate stormwater or wastewater treatment system. Regarding stormwater treatment systems developments and activities which comply with the ARC's publication Stormwater Treatment Devices – Design Guideline Manual Technical Publication No.10 generally meet this rule. However, in some instances additional controls and/or a discharge permit from the ARC may be required.</p> <p>d. All areas or parts of sites where vehicles, equipment or containers that have or may have come into contact with hazardous substances are washed, shall be sealed and banded.</p> <p>e. No hazardous substance shall be used in a way that an accidental or deliberate release of the substance into or onto water, land or air may take place except in accordance with any relevant legislation and regulations.</p> <p>f. Site management and spill contingency plans shall be prepared and implemented by all operators of hazardous facilities.</p> <p>g. Hazardous facilities shall not generate general waste over 1.5m³ per week or any hazardous waste.</p>
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