

Memo

Date 30.9.2022

To: Celia Davison, Manager Planning, Central & South Planning
 From: Roger Eccles – Planner, Central & South Planning

Subject: Plan Modification: Clause 20A modification to Chapter K of the Auckland Unitary Plan (AUP) Operative in part (15 November 2016)

A correction is required to the Auckland Unitary Plan (Operative in Part) 2016 (AUP).


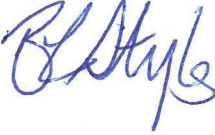


I seek your approval of this plan modification pursuant to clause 20A of the First Schedule to the Resource Management Act 1991 (RMA).

As Manager Planning, Central & South Planning, you have delegated authority, as a tier four manager, to make a decision to correct an error to an operative plan under clause 20A. Schedule 2A of the Auckland Council Combined Chief Executives Delegation Register¹ authorises all powers, functions, and duties under the RMA’s first schedule (except clause 17 which cannot be delegated) to tier four positions.

Rule or Section of Unitary Plan	<ul style="list-style-type: none"> AUP Chapter K Designations: schedules and designations – Watercare Services Ltd (Watercare): include text of Designation 9426. The clause 20A provides for Designation 9426 to be included in the current list of Watercare, Designations (Central) in AUP Chapter K Designations.
Subject Site (if applicable)	<ul style="list-style-type: none"> 254 Point England Road, Point England, Point England Reserve (formerly) 122 Elstree Avenue, Point England, Auckland
Legal Description (if applicable)	<ul style="list-style-type: none"> Sect 2 SO 503726 (254 Point England Road, Point England) Sect 1 SO 503726 (122 Elstree Avenue, Point England)
Nature of change	<p>A Clause 20A modification is required to correct Chapter K Designations; Designations Schedule-Watercare Services Ltd (2/3) central. This can be achieved by incorporating Designation 9426 text into the AUP Chapter K Designations schedule. (Attachment A)</p> <p>Discussion This clause 20A provides for Designation 9426 to be included in the list of AUP Watercare Services Ltd Designations.</p> <p>Designation 9426 is for wastewater trunk storage tanks and the associated infrastructure assets. It is primarily located at 122 Elstree Avenue, Point England, formerly part of Pt England Reserve and now owned by the Crown and zoned Mixed Housing Urban. (Attachment B)</p>

	<p>In June 1997, Watercare lodged a Notice of Requirement (NoR) to establish a new designation and protect the existing wastewater storage and backup facility at Pt England Reserve. The designation was to enable Watercare, as the Requiring Authority, to operate and maintain the wastewater assets on the site.</p> <p>Auckland Council’s recommendation on the NoR dated 6 December 2013 was forwarded to Watercare and their decision on the NoR as the Requiring Authority was received by Council on 11 February 2014, (Attachment C).</p> <p>This decision was included in the Auckland Council District Plan (Auckland City Isthmus Section) Decision Notice – Notice of Requirement (Plan Modification 173) that designated an area of land for an existing wastewater facility under the Resource Management Act 1991.</p> <p>As a part of the proposed AUP process it was intended that Designation 9426 be ‘rolled over’ from the Auckland Council District Plan (Auckland City Isthmus Section) into the AUP, as was the case with other Auckland Council District Plan Designations. (Attachment D: Correspondence 8 July 2013 – Watercare Services request for roll over of designations).</p> <p>Designation 9426 was incorporated into the AUP maps and hence given legal effect, but was not included in Chapter K. It is intended to correct this situation by incorporating the text shown in Attachment A into the Chapter K Watercare Designations Schedule.</p> <p>In 2016, the Crown offered Ngāti Paoa the opportunity to develop housing on part of Point England Reserve. The Point England Development Enabling Act 2017 resulted in the Government setting aside 11.7 hectares of Point England Reserve as developable land and the remaining retained as reserve. As a consequence of the Act, the AUP was amended to change the zoning of the area to Residential – Mixed Housing Urban. The intention was that this area be part of a future Ngāti Paoa treaty settlement with the land in question (122 Elstree Avenue) placed under the ownership of the Crown.</p> <p>In March 2021 Ngāti Paoa and the Crown signed the Ngāti Paoa Deed of Settlement, which among other things confirmed the Treaty settlement redress to be provided to Ngāti Paoa at Point England Reserve. Treaty settlement legislation is now required to give effect to the deed of settlement. The reserve will be transferred to Ngāti Paoa as a recreation reserve, with Auckland Council appointed to administer it under a Reserve Management Plan that is jointly developed and agreed with Ngāti Paoa. It is anticipated that a smaller area (2 hectares) of papakainga houses will be developed on the site.</p>
Effect of change	<p>Watercare has been operating the existing wastewater facility at 122 Elstree Avenue, Pt England Reserve since 1995. In February 2014 Watercare (the requiring authority) made a determination on the NoR</p>

	<p>and it was included as a designation into the Auckland Council District Plan (Auckland City Isthmus Section) Notice of Requirement (Plan Modification 173). There were no conditions on the NoR.</p> <p>It was intended the Designation be included in the AUP. This was achieved in part, with Designation 9426 shown on the planning maps. Incorporating the text from Attachment A in Chapter K would complete this process.</p> <p>The consequences of this change:</p> <ul style="list-style-type: none"> • the alteration is to correct a minor error, as Designation 9426 is already shown in the planning maps and has legal effect. • the correction to the AUP is for an existing and ongoing activity. • the Designation is neutral and will not impact on the rights of members of the public. • there will be no change in the environmental effects resulting from the alteration. • Designation 9426 will allow for continued usage of the wastewater facilities and future development of the area. <p>Alternative methods have been reviewed for achieving this outcome including a plan change. However, it is considered that a plan change would not be proportionate to the problem and hence is not appropriate in this instance.</p>
Changes required to be made (text/in-text diagrams)	Amend text re Chapter K Designations, Designations Schedule-Watercare Services Ltd (2/3) central include Attachment A in the Operative in Part version.
Changes required to be made (maps)	No amendment required in relation to in the GIS Viewer
Attachments	<p>Attachment A: Corrected text</p> <p>Attachment B: AUP zoning and Designation 9426 map</p> <p>Attachment C: Correspondence Watercare Decision, Designation 9426</p> <p>Attachment D: Correspondence, Watercare request for designation rollover</p>

<p>Prepared by: Roger Eccles, Central & South, Plans & Places Planner</p>	<p>Text Entered by: Bronnie Styles Planning Technician, Plans & Places</p>
<p>Signature:</p> 	<p>Signature:</p> 
<p>Maps prepared by: Geospatial Analyst n/a</p>	<p>Reviewed by: Marc Dendale Team Leader, Central & South Planning, Plans & Places</p>
<p>Signature:</p>	<p>Signature:</p> 
<p>Decision: I agree/disagree to authorise the Clause 20A modification using my delegated authority</p> <p>Celia Davison Manager Planning -Manager Planning Central & South, Planning Plans & Places Date: 30 September 2022</p>	
<p>Signature:</p> 	

Attachment A
Corrected Text (Watercare Service Ltd) Designation 9426

Designation Schedule - Watercare Services Ltd (2/3)

Central

Number	Purpose	Location
9400	Wastewater purposes - pump station and associated structures	36 Westmere Park Avenue (Westmere Park), Westmere
9401	Wastewater purposes - pump station and associated structures	44-66 West End Road (Cox's Bay Reserve at the end of Nottingham Street), Herne Bay
9402	Wastewater purposes - pump station and associated structures	Farnham Street (road reserve adjoining 106 St Georges Bay Road), Parnell
9403	Withdrawn	
9404	Wastewater purposes - pump station and associated structures	10B Harbour View Road, Point Chevalier
9405	Wastewater purposes - pump station and associated structures	Wainui Avenue (road reserve adjoining No. 76), Point Chevalier
9406	Wastewater purposes - pump station and associated structures	Oliver Street (road reserve across from Lynch Street), Point Chevalier
9407	Wastewater purposes - pump station and associated structures	Wright Road (road reserve adjoining No. 47), Point Chevalier
9408	Water supply purposes - above ground reservoir and associated structures	7 Hereford Street, Freemans Bay
9409	Water supply purposes - reservoirs, pump station and associated structures	230-250 Symonds Street, Grafton
9410	Water supply purposes - reservoir	20 Park Road (Auckland Domain), Grafton
9411	Wastewater purposes - pump station and associated structures	20 Park Road (Auckland Domain), Grafton
9412	Wastewater purposes - pump station and associated structures	2-30 Shore Road (Thomas Bloodworth Park), Remuera
9413	Wastewater purposes - pump station and associated structures	34-40 Reihana Street, Orakei
9414	Wastewater purposes - pump station and associated structures	6 Baddeley Avenue (Madills Farm), Kohimarama
9415	Wastewater purposes - pump station and associated structures	20-22 Roberta Avenue (Roberta Reserve), Glendowie
9416	Wastewater purposes - siphon chamber	32 Saunders Place, Avondale
9417	Water supply purposes - reservoirs and associated structures	250 Mt Eden Road (Mt Eden Domain), Mt Eden
9418	Water supply purposes - reservoirs and associated structures	181-225 Remuera Road (Mt Hobson Domain), Remuera
9419	Water supply purposes - reservoir and associated structures	15-39 College Road, St Johns
9420	Water supply purposes - reservoir and associated structures	27 La Veta Avenue, Mount Albert
9421	Wastewater purposes - pump station and associated structures	La Veta Avenue (road reserve adjoining No. 13 and 15), Mount Albert
9422	Wastewater Purposes - Overflow Apron	End of Morning Star Place and 30-36 Alberton Avenue (near Roy Clement Walkway), Mount Albert

9423	Water supply purposes - reservoir and associated structures	181-225 Remuera Road (Mt Hobson Domain), Remuera
9424	Wastewater purposes - pump station and associated structures	40 Maybury Street (Maybury Rserve), Point England
9425	Wastewater purposes - pump station and associated structures	192A Riverside Avenue (Riverside Reserve), Point England
9426	Wastewater purposes – storage tank and associated structures.	Point England Reserve, 254 Point England Road, Point England
9427	Water supply purposes - reservoir and associated structures	113A Duke Street (Big King Reserve), Three Kings
9428	Water supply purposes - reservoir and associated structures	670 Manukau Road (One Tree Hill Domain), Epsom
9429	Water supply purposes - reservoir and associated structures	670 Manukau Road (One Tree Hill Domain), Epsom
9430	Water supply purposes - reservoirs, pump station and associated structures	197-211 Green Lane West (Cornwall Park), Epsom
9431	Water supply purposes - reservoir and associated structures	197-211 Green Lane West (Cornwall Park), Epsom
9432	Water supply purposes - reservoirs, pump station and associated structures	197-211 Green Lane West (Cornwall Park), Epsom
9433	Wastewater purposes - pump station and associated structures	100 Ireland Road (Panmure Basin Foreshore), Panmure
9434	Water supply purposes - reservoir and associated structures	32-66 Mountain Road (Mt Wellington Domain), Mount Wellington
9435	Water supply purposes - reservoir and associated structures	32-66 Mountain Road (Mt Wellington Domain), Mount Wellington
9436	Wastewater purposes - pump station and associated structures	32B Miranda Street (Miranda Reserve), Avondale
9437	Water supply purposes - reservoir and associated structures	1109 Dominion Road (Winstone Park), Mount Roskill
9438	Wastewater purposes - pump station and associated structures	20 Bowden Road, Mount Wellington
9439	Wastewater purposes - pump station and associated structures	19 Commodore Drive, Lynfield
9440	Wastewater purposes - pump station and associated structures	39 Fredrick Street, Hillsborough
9441	Wastewater purposes - pump station and associated structures	30 and 30A Alfred Street, Onehunga
9442	Water supply purposes - water treatment plant	2 Spring Street and Rowe Street (road reserve adjacent to 2 Spring Street), Onehunga
9443	Water Supply purposes - supply well, pump station and associated structures	81-87 Church Street (corner Pearce Street and Upper Municipal Place), Onehunga
9444	Water Supply purposes - supply well, pump station and associated structures	26 Upper Municipal Place, Onehunga
9445	Water Supply purposes - supply well, pump station and associated structures	Lower Municipal Place (road reserve adjoining 37-39 Selwyn Street), Onehunga
9447	Withdrawn	
9448	Wastewater purposes - pump station and associated structures	5A Miami Parade, Onehunga

9449	Wastewater purposes - pump station and associated structures	343 Neilson Street, Te Papapa
9450	Wastewater purposes - siphon chamber, pump station and associated structures	1018A-C Great South Road, Mount Wellington
9451	Wastewater purposes - pump station and associated structures	15-21 and 23A -23B Bell Avenue, Mount Wellington
9452	Wastewater purposes - siphon chamber and associated structures	23A-B Saleyards Road, Otahuhu
9453	Wastewater purposes - pump station and associated structures	20 Saleyards Road, Otahuhu
9454	Wastewater purposes - pump station and associated structures	Luke Street East (road reserve adjoining No. 137), Otahuhu
9455	Wastewater purposes - pump station and associated structures	Portage Road (road reserve adjoining No. 4-12), Otahuhu
9456	Water supply purposes - valve chamber and associated structures	13 Cracroft Street, Otahuhu
9457	Wastewater purposes - pump station and associated structures	2 Alten Road and Churchill Street (road reserve) and Constitution Hill (road reserve), Auckland Central
9458	Wastewater purposes - pump station and associated structures	Hardinge Street (road reserve between 120 and 136-142 Fanshaw Street), Auckland Central
9459	Wastewater Purposes, Combined Sewer Overflow (CSO) Collector Sewers.	43 Wingate Street, Avondale
9460	Wastewater Purposes, Combined Sewer Overflow (CSO) Collector Sewers.	11, 11A, 13 and 13A Waterbank Crescent, Waterview(part of) Waterview Reserve
9461	Wastewater Purposes, Combined Sewer Overflow (CSO) Collector Sewers.	Howlett and Waterview Walkway, Waterview (part of) Waterview Reserve
9462	Wastewater Purposes, Combined Sewer Overflow (CSO) Collector Sewers.	Seaside Reserve, Waterview, 21 Seaside Avenue and Seaside Avenue (in part)
9463	Wastewater Purposes, Combined Sewer Overflow (CSO) Collector Sewers.	Alan Wood Reserve, New Windsor
9464	Wastewater Purposes, Combined Sewer Overflow (CSO) Collector Sewers.	Moa Reserve, Point Chevalier
9465	Wastewater purposes - Storage Tank	6 Baddeley Avenue, Kohimarama. Madills Farm Recreation Reserve (in part).
9466	Construction, operation and maintenance of wastewater infrastructure	From Western Springs to Mangere Wastewater Treatment Plan
9467	Wastewater pump station	31-79 Daldy Street, Wynyard and adjacent road reserve of Daldy Street and Pakenham Street West
9468	Grey Lynn Tunnel	44, 46, and 48 Tawariki Street, 183 Richmond Road, and Tawariki Street road reserve, Grey Lynn

9426 Glendowie Branch Storage Tank

Designation Number	9426
Requiring Authority	Watercare Services Limited
Location	Point England Reserve, 254 Point England Road, Point England
Lapse Date	Given effect to and no lapse date

Purpose

Wastewater purposes – storage tank and associated structures

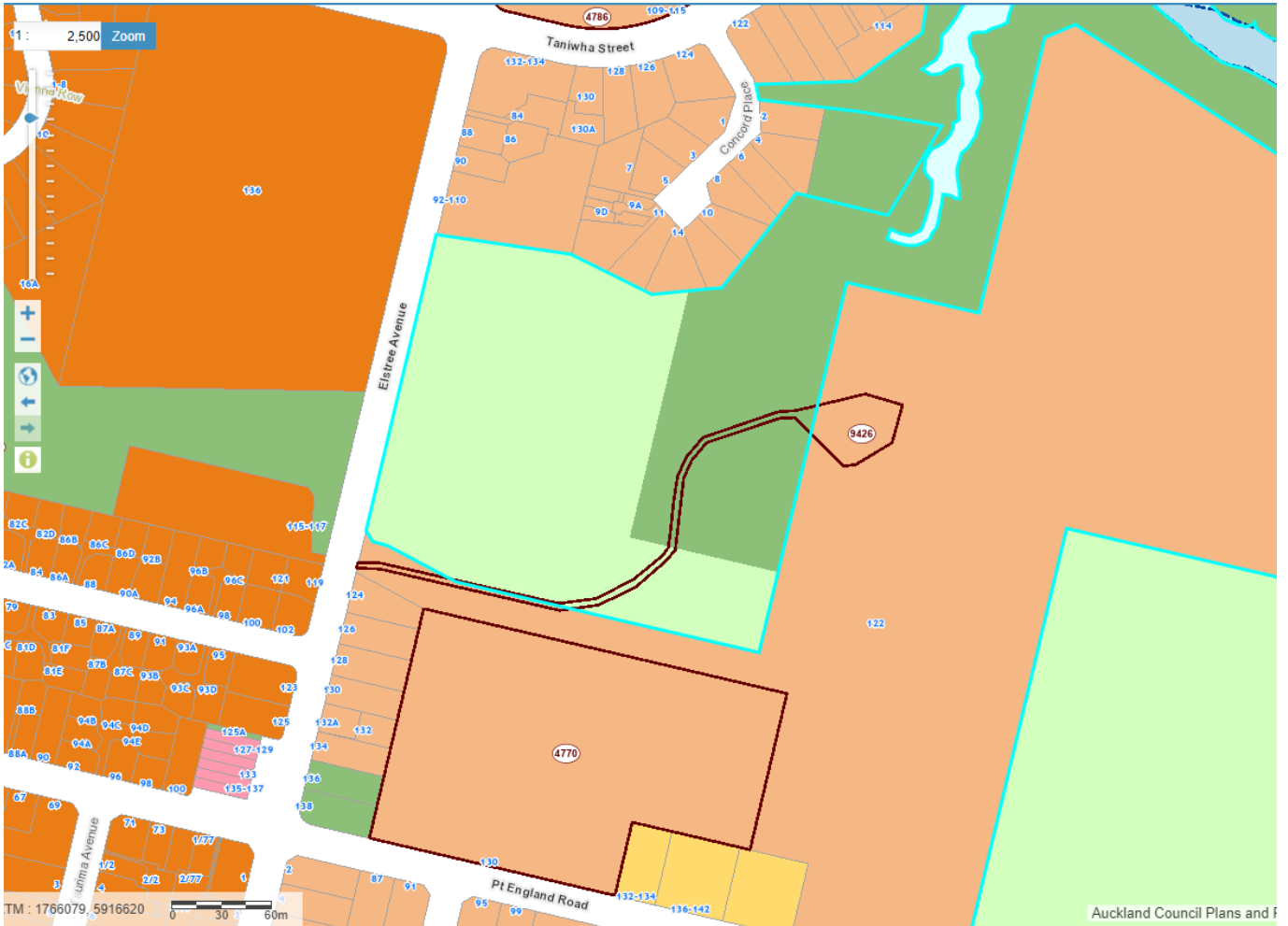
Conditions

No conditions.

Attachments

No attachments.

Attachment B
AUP zoning and Designation 9426 map



Map 1: Designation 9426 at 254 Point England Road, Point England and 122 Elstree Avenue, Point England

Attachment C
Correspondence - Watercare Decision on Designation 9426

3 March 2014

Parks & Open Space Specialists Manager
Parks, Sports & Recreation
Auckland Council
8 Hereford Street,
Auckland Central 1011

Attention: Sophie Bell

Dear Sophie,

AUCKLAND COUNCIL DISTRICT PLAN (AUCKLAND CITY ISTHMUS SECTION)

Decision Notice – Notice of Requirement (Plan Modification 173) to designate an area of land within the Point England Reserve (122 Elstree Avenue, Pt England) for existing wastewater facilities under the Resource Management Act 1991

A decision from Watercare Services Limited on the above Notice of Requirement for a Designation has been received by Auckland Council. This is a decision on Auckland Council's recommendation. As an owner of land directly affected by this Notice of Requirement, the Council is notifying you of this decision, in accordance with Section 173(1) of the Resource Management Act 1991.

The Notice of Requirement was lodged on 6 June 1997 and was publicly notified in August 1997. At the close of the submission period on 1 September 1997, no submissions had been received and, therefore, no hearing was held. Auckland Council's recommendation (made by an independent commissioner), dated 6 December 2013 was forwarded to Watercare Services Limited and their decision was received on 11 February 2014.

The decision confirmed the Notice of Requirement without conditions.

Please note that this letter is to let you know the outcome of this Notice of Requirement. Please find attached a copy of Auckland Council's recommendation report and Watercare's decision, for your information and records.

Should you require any further information, please contact me on 3653 628.

Yours faithfully



Jane Price
Principal Planner, Planning - Central and Islands

11 February 2014

Auckland Council
Private Bag 92300
AUCKLAND 1142

Attention: Jane Price
Principal Planner

Dear Jane

Decision on Notice of Requirement for Designation of Land for Wastewater Purposes

Auckland Council District Plan (Auckland City Isthmus Section) Designation E16-05 (Plan Modification 173), Point England

We write in respect of the recommendation of the Independent Hearing Commissioner for the Auckland Council in relation to a Notice of Requirement ("NoR") by Watercare Services Limited ("Watercare") for the designation of land for wastewater purposes.

The Commissioner's recommendation is dated 6 December 2013 and was received by Watercare on 6 December 2013. The Commissioner recommended that the NoR be confirmed and one condition imposed.

A copy of the Commissioner's recommendation is included as **Attachment 1** of this letter.

Watercare Decision

In accordance with Section 172 of the Resource Management Act 1991 ("RMA"), Watercare advises the Auckland Council of its decision to:

1. Accept the Commissioners recommendation that the NoR be confirmed; and
2. Reject the Commissioners recommended Condition 1.

Reasons

The recommended Condition 1 is:

1. Development to be in accordance with the following -

1. All activities, works and buildings not fully described in the notice of requirement shall be the subject of either:

(a) a new notice of requirement, which shall be publicly notified, pursuant to Section 168 or 168A of the Resource Management Act; or

(b) a notice to alter the designation, pursuant to Section 181 of the Resource Management Act, which notice shall be publicly notified unless the alteration is minor and affected persons agree in accordance with the provisions of Section 181(3) of the Act.

The wording recommended by the Commissioner is the same as a condition which is included on some Watercare designations in the operative Auckland Council District Plan (Auckland City Isthmus Section). As part of the rollover of designations in the Proposed Auckland Unitary Plan, Watercare requested, and the Council accepted, that these conditions would be removed as it is unnecessary to restate provisions of the RMA.

Changes have also been made to notification provisions in the RMA since the condition was included in the legacy plan, and there is no longer an automatic requirement for new NoRs to be publicly notified.

The Commissioners recommended Condition 1 has therefore been rejected as it is unnecessary to restate provisions of the RMA, and in addition, the wording does not reflect current provisions of the RMA.

If you require further information, please contact me on 09 539 7477.

Yours faithfully,



Belinda Petersen
Resource Consents Manager
Watercare Services Limited

Attachments

- 1 Recommendation of the Independent Commissioner

RECOMMENATION REPORT FOR A NOTICE OF REQUIREMENT BY WATERCARE SERVICES LIMITED TO DESIGNATE AN AREA OF LAND AT PT ENGLAND RESERVE FOR EXISTING WASTEWATER FACILITIES UNDER THE RESOURCE MANAGEMENT ACT 1991



1. APPLICATION DESCRIPTION

1.1. Application and Property Details

Application Numbers:	PM 173 (Auckland Council District Plan: Isthmus Section)
Reporting Planner / Advisor:	Jane Price, Principal Planner, Planning - Central & Islands
Site Address:	Pt England Reserve, 122 Elstree Avenue, Pt England
Applicant's Name:	Watercare Services Limited
Applicant's Details:	Private Bag 92521 Wellesley Street Auckland 1141 Attn: Alistair Shanks
Lodgement Date:	6 June 1997
Legal Description:	Lot 1 DP 44920
Site Area:	454,260m ²
Relevant Plans:	Auckland Council District Plan - Isthmus Section (ACDP:IS) Proposed Auckland Unitary Plan (PAUP)
Plan Provisions/Zonings:	ACDP:IS – Open Space 2 PAUP: Public Open Space – Informal Recreation
Designations/ Notices of Requirement:	ACDP:IS Designation E16-05 (PM173) for Wastewater Purposes
Other Acts or National Environmental Standards:	N/A

LIST OF APPENDICES

- Appendix 1: Location Plan for the Notice of Requirement
- Appendix 2: Technical Inputs (Parks and Opens Space)

1.2. Locality Map



Map showing the location of the subject site, Pt England Reserve
Source: Auckland Council GIS

1.3. Description of the Notice of Requirement

In June 1997, Watercare Services Limited ('Watercare') lodged a Notice of Requirement (NoR) to establish a new designation to protect the existing wastewater treatment facility at Pt England Reserve, Elstree Avenue. The purpose of the designation is to enable Watercare Services Ltd ('Watercare'), as the Requiring Authority, to operate and maintain its existing wastewater assets on the site.

The existing wastewater facility at Pt England Reserve is an emergency storage tank with associated equipment and structures. The facility was constructed on the site in 1996. Its purpose is to store sewage in emergencies in the event of pump station failure and excessive flows. Watercare accesses the site to undertake routine maintenance approximately three times per year.

This NoR does not seek to undertake any physical works that would change the physical environment or the way this existing facility is accessed or operated.

1.4. Background

Resource consent (for a restricted discretionary activity) was approved on 14th December 1995 to construct the existing underground wastewater storage tank facility on the site.

As previously noted, the NoR to designate this consented facility was lodged in June 1997. This was publicly notified in August 1997. At the close of the submission period on 1st September 1997, no submissions had been received.

As part of the processing of the NoR, the legacy Auckland City Council received a legal opinion from Simpson Grierson (dated 19 September 1997) to determine the lawfulness of establishing a designation on the Reserve. With consideration given to both the RMA and the Reserves Act, the legal opinion confirmed that *'the proposed designation of the [wastewater] structures on the land are likely not to conflict with the Council's obligations to make recreation reserves available to the public'*.

However, the NoR documents originally lodged required that the designation include access to the wastewater treatment facility over the Pt England Reserve. In relation to this part of the NoR, the legal opinion noted that *'the accessway cannot be the subject of the designation, since it is not part of the public work itself.'* The legal opinion advised that *'Council could negotiate an easement with Watercare [as per the Reserves Act].'*

In light of this legal advice, it was determined that establishing the designation for the wastewater facility itself was appropriate within the Pt England Reserve. However, providing an accessway as part of the designation was not appropriate. The processing of the NoR was placed on hold to give Watercare the opportunity to amend the lodged NoR and to make a decision on how to deal with the issue of access to the facility.

During the process of rolling over existing designations from the Auckland Council District Plan: Isthmus Section ('ACDP: IS') to the Proposed Auckland Unitary Plan (PAUP), it was identified that the processing of the NoR had not been finalised.

Watercare have requested that the processing of the NoR resumes and that Auckland Council make recommendations for the NoR. On 3rd September 2013, Watercare withdrew their request for the designation to include the accessway to the facility, noting that access to the site would be formalised with an agreement with Auckland Council (as the land owner) at a later date. It is noted that access to the facility is not part of the assessment of this NoR. On 20th September 2013, Watercare provided updated plans to show the required designation area to be included in the District Plan. These are attached as Appendix 1.

1.5. Description of the Site and Environment

The Pt England Reserve is approximately 45ha in area, located on the west bank of the Tamaki River. The residential areas of Glen Innes and Pt England surround the Reserve – to the south it is bordered by Pt England Road and to the west, by Elstree Avenue. Point England Primary School adjoins the Reserve at its south-western corner.

The Reserve is a mix of Open Space 2 (Informal Recreation), Open Space 3 (Organised Recreation) and Open Space 4 (Community) zoning and is classified for recreation purposes under the Reserves Act. The area subject to the NoR is zoned Open Space 2 and currently contains the wastewater treatment facilities that are the subject of this NoR.

1.6. Adequacy of Information

The project does not involve any physical works and is to formalise an existing situation. Taking this into account, it is considered that the information lodged is sufficient to enable the consideration of the notice of requirement on an informed basis, including:

- (a) The nature and scope of the proposed activity as it relates to the relevant statutory documents.
- (b) The extent and scale of any adverse effects on the environment.

(c) Persons who may be adversely affected.

A request for further information under Section 92 of the RMA was made on 24th June 1997 and 4th July 1997. The applicant provided all of the information requested on 20 September 2013.

1.7. Report and Assessment Methodology

1.7.1 Notification:

While Watercare has not made a decision on the issue of access, for the purposes of processing this NoR, Watercare has requested that the accessway is removed from the project. It is my opinion that this change to the project is not significant and does not warrant re-notification. In addition, the following is noted:

- The wastewater treatment facility is existing (established on the site in 1996) and no works are proposed. The facility will continue to operate on the site in the same way as it has since it was established;
- The nearest residential dwelling is approximately 115m from the facility and is separated by large trees and open space;
- No submissions were received during the previous notification process and there are no records on the Council's files of anyone taking an interest in the NoR or the existing facilities.
- The District Plan planning maps already shows the designation as if it had been confirmed, thereby alerting any interested parties of the presence of the wastewater facilities on the site; and
- Council's legal team have confirmed that despite the significant time-lapse, the RMA does not require the NoR to be re-notified.

1.7.2 Processing and Legal Considerations:

Council's legal team have confirmed that Section 171 of the RMA does not set a statutory timeframe for Council to provide its recommendations. Rather, the onus is on the Requiring Authority (Watercare) to either accept or reject the recommendations within 30 working days of receipt.

Therefore, it is appropriate that the NoR continues to be processed from the point at which processing ceased in late 1997, with the removal of the accessway from the NoR. Council's legal team also note that *'although the matter might be assessed differently under the current provisions, the NoR should be considered under the provisions in place at the time it was lodged.'*

2 REASONS FOR THE NOTICE OF REQUIREMENT

Watercare is responsible for the main sewerage system in Auckland. The facilities at the Pt England Reserve include an existing emergency storage tank and associated equipment. Its purpose is to store sewage in emergencies in the event of pump station failure and excessive flows. In such an event, the sewage is pumped back into the system after the pump station is reinstated or the flows reduce in volume.

The designation is to protect Watercare's existing wastewater treatment infrastructure by providing for ongoing inspection and maintenance. The maintenance requirements include the periodic cleaning of the equipment (approximately three times per year). The cleaning process involves grit being removed from the silt chamber and taken off site and disposed of in an appropriate landfill.

As previously noted, no physical works are required as part of this NoR. It is confirmed that the proposal does not trigger the need for any resource consents.

The proposed new designation would include the existing facilities only, as shown on the plans included in Appendix 1.

3. RELEVANT STATUTORY PROVISIONS

3.1 Specific Provisions for Designations

Part 8 of the Resource Management Act 1991 (RMA) makes provision for designations. A designation authorises a 'requiring authority' (in this case, Watercare) to use land for a particular work or project. The requiring authority may do anything that is in accordance with the scope of the designation and the usual provisions of the District Plan do not apply to the designated area. The work or project may proceed as if it is permitted by the District Plan.

Once included in the District Plan, a designation also places restrictions on what anyone other than the requiring authority can do on the designated land without the requiring authority's consent. No person may do anything that would prevent or hinder the work or project to which the designation relates without such consent.

3.2 Designation Process

While the general principles for designations included in the RMA remain the same as when this NoR was lodged in 1997, there have been several amendments to the RMA that have changed some of the sections included in Part 8. As previously noted, the Council's legal team has advised that this NoR should be considered under the provisions in place at the time it was lodged. The following is a summary of the relevant sections of the RMA in 1997.

Section 168(2) of the RMA states that a requiring authority may, at any time, give notice to a territorial authority of its requirement for a designation:

- (a) for a project or work; or*
- (b) in respect of any land, water, subsoil, or airspace where a restriction is reasonably necessary for the safe or efficient functioning or operation of such a project or work.*

Section 169 sets out the relevant sections of the RMA that apply when processing a NoR. While the RMA provides that the procedures adopted in processing a notice of requirement are generally the same as for processing a resource consent application, it is noted that in 1997, s169 did not include the (now repealed) notification sections of the RMA. Rather, as provided for in Section 169(2), the RMA previously required 'a territorial authority [to] notify the requirement in accordance with Section 93(2)' of the RMA.

The NoR was publicly notified in 1997. At the close of the notification period no submissions had been received.

Section 171 of the RMA sets out the matters that a territorial authority must have particular regard to when considering a requirement and making recommendations to the requiring authority. Section 171 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.

(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.

(3) The territorial authority must give reasons for its recommendation under subsection (2).

This report considers the NoR in light of the matters identified in Section 171 of the RMA and recommends that Watercare confirm the requirement. In terms of s171(2)(c), it is appropriate to include a condition requiring that all activities, works and buildings are in accordance with this notice of requirement.

Section 172 of the RMA states that within 30 working days of receiving the territorial authority's recommendation under Section 171, the requiring authority shall advise whether it accepts or rejects the recommendation in whole or in part.

The territorial authority then has 15 working days to lodge a notice of the decision and a timeframe for appealing the decision under **Section 173(1)** of the RMA. The notice must be served on all submitters, and land owners and occupiers directly affected by the decision.

Section 173(2) of the RMA allows the notice to be in summary form, with the full decision available for public inspection.

Section 174 of the RMA provides rights to the territorial authority and any person who has made a submission on the requirement to appeal the decision of the requiring authority to the Environment Court.

4. ASSESSMENT OF NOTICE OF REQUIREMENT

As previously discussed, Section 171 of the Act requires a territorial authority, subject to Part 2, to consider the effects on the environment of allowing the requirement. This section of the report addresses each of the considerations identified in Section 171 of the RMA in relation to Watercare's notice of requirement.

4.1. RMA Part 2 Matters

Section 171 is subject to Part 2 of the RMA. Part 2 contains the purpose and principles (Sections 5-8) of the RMA.

Section 5 of Part 2 sets out the purpose of the RMA as follows:

(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.

(2) In this Act, “sustainable management” means 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.

The purpose of the RMA is to achieve a balance of enabling people and communities to provide for their wellbeing while appropriately addressing the environmental effects of activities taking into account both current and future generations.

Section 6 of the RMA identifies matters of national importance that need to be recognised and provided for. In the case of this project, the following matter is relevant:

(e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga...

Section 7 relates to “Other Matters” and requires consideration be given to various matters, such as:

(b) the efficient use and development of natural and physical resources;

(c) the maintenance and enhancement of amenity values;

(f) maintenance and enhancement of the quality of the environment.

The proposal is not inconsistent with the matters outlined above. Taking into consideration that the notice of requirement does not involve any physical changes to the existing environment, it is determined that existing amenity values and the quality of the environment will be maintained and will provide for the ongoing efficient use of the existing wastewater infrastructure.

Section 8 of the RMA relates to the principles of the Treaty of Waitangi. This section of the RMA recognises the relationship of Tangata Whenua with natural and physical resources and encourages active participation and consultation with Tangata Whenua. It is my opinion that the proposal is consistent with the principles of the Treaty of Waitangi. It is noted that as part of the public notification process, Ngati Whatua O Orakei Maori Trust Board, Te Kawerau A Maki Trust, Ngati Te Ata (Awaroa Environment), Ngati Rehua Ngati Wai Ki Aotea, Ngati Paoa Whanau Trust, Huakina Development Trust, Ngati Maru Runanga were notified of the proposal as part of the public notification process in 1997. No submissions were received. Overall, it is considered that the proposal is consistent with Sections 8 and 6(e) of the RMA.

4.2. Relevant Policies and Plans

4.2.1 Auckland Council Regional Policy Statement (ACRPS)

Section 171(1)(a)(iii) of the Act requires territorial authorities to have particular regard to a regional policy statement or proposed regional policy statement in the assessment of a notice of requirement.

The Auckland Council Regional Policy Statement (ACRPS) is a statement about the use, development and protection of Auckland's natural and physical resources. It sets in place the policy for promoting the sustainable management of these resources, as envisaged under the RMA. It identifies the need to ensure the safe and efficient operation of existing regional infrastructure, which is necessary for the social and economic wellbeing of the region's people.

The relevant provisions of the ACRPS have all been generally adopted within the Auckland Council District Plan: Isthmus Section and these are assessed below. Accordingly, a detailed assessment of this document is not considered necessary for this notice of requirement. Overall, this notice of requirement is consistent with the objectives and policies of the ACRPS.

4.2.2 Auckland Council District Plan: Isthmus Section (ACDP:IS)

Section 171(1)(a)(iv) of the Act requires territorial authorities to have particular regard to a plan or proposed plan when considering a notice of requirement. While the notice of requirement lodged with the (legacy) Auckland City Council does not include an assessment of the proposal against the relevant objectives and policies of the Auckland Council District Plan: Isthmus Section (ACDP:IS), the following matters included in the objectives and policies are relevant:

- Issues 2.1: The need to protect and maintain elements of the natural environment and open space, while providing for essential community needs and infrastructure.
- Objectives 2.3.1, 2.3.5, 4A.4.2, 9.3.1: These objectives relate to providing for a quality built environment, public open space and the natural environment and significant infrastructure.
- Policies: 4A.4.3, 9.3.1
- Comment:
 - The purpose of the designation is to provide ongoing certainty for maintenance and upgrades to existing wastewater infrastructure at Pt England Reserve. This aligns with the District Plan objectives and policies because the designation will enable the ongoing provision of Watercare's network utility services.
 - In addition, given that no physical works will be carried out as part of this designation, there will not be any adverse environmental effects from the project that could impact the existing open space environment. Therefore, there will be no impact on peoples' access or use of open space.

Accordingly, the proposed works would not be contrary to the relevant objectives and policies of the District Plan. It is confirmed that the project meets the requirements of Rule 4A.3 of the District Plan.

4.2.3 Proposed Auckland Unitary Plan (PAUP)

Section 171(1)(a)(iii) and (iv) of the RMA requires territorial authorities to have particular regard to a plan or proposed plan when considering a notice of requirement. Although the PAUP is at an early stage (having been notified on 30 September 2013), and therefore, has little weight in terms of the overall decision, the Project is not inconsistent with its objectives and policies. The relevant objectives and policies of the PAUP recognise the need to access, maintain and provide for the ongoing use of existing wastewater infrastructure and the benefits of this for the wider community, which is in line with this notice of requirement. The following is a summary of the themes associated with the PAUP's objectives and policies.

Part 1: Chapter B – Regional Policy Statement - Kupu Kaupapa ā-Rohe

The Regional Policy Statement chapter in the PAUP identifies key issues, objectives and policies of regional significance. Relevant to this notice of requirement is the following issue, objectives and policies:

- Issues 1.1 and 1.2: Enabling quality urban growth, economic well-being and addressing issues of significance to Mana Whenua.
- Objectives 2.2.1; 2.6.2; 3.2.1; 3.2.3; 5.1.1 and 5.1.2: These objectives relate to providing for a quality built environment, public open space and recreation facilities, significant infrastructure and energy and to addressing issues of significance to Mana Whenua.
- Policies: 2.2.1; 2.6.5; 2.6.9; 2.6.12; 3.2.1; 3.2.2; 5.1.1

- Comment:
 - The purpose of the designation is to provide ongoing certainty for maintenance and upgrades to existing wastewater infrastructure at Pt England Reserve. This, in turn, will reduce the risk of asset failure and will mean that the wastewater network can continue to operate effectively and efficiently at this location, thereby enabling quality urban growth.
 - Since the designation relates to existing (predominantly underground) essential wastewater treatment facilities and no physical works are proposed, there will be no increase in the amount of open space required for the facility. Therefore, there will be no impact on peoples' access or use of open space.
 - The health, safety and well-being of the surrounding area is dependent on the availability and efficient operation of wastewater infrastructure. Providing Watercare, as the requiring authority, with certainty for ongoing maintenance and upgrades to existing wastewater infrastructure at Pt England Reserve will provide a more robust and secure wastewater network.
 - The proposal is consistent with the principles of the Treaty of Waitangi. Mana Whenua were notified as part of the public notification process in 1997, and taking into account that no submissions were received and that no physical works are proposed as part of this notice of requirement, it is considered that the project is not inconsistent with these objectives and policies.

Part 2: Chapter C – Regional and District Objectives and Policies: Auckland wide Objectives and Policies

The Regional and District Objectives and Policies part of the PAUP identifies Auckland-wide objectives and policies. Relevant to this notice of requirement is the following:

- Objectives 1.1.1; 1.1.3; 1.1.4: These objectives relate to providing for the development, operation, repair, maintenance and upgrading of infrastructure.
- Policies: 1.1.3; 1.1.4
- Comment:
 - The Project is to formally recognize and provide for the ongoing efficient operation of existing physical wastewater infrastructure at Pt England Reserve. It represents a physical resource that contributes to the health and wellbeing of residents, and its recognition through a designation will enable Watercare to continue this operation.

Part 2: Chapter D – Regional and District Objectives and Policies: Zone Objectives and Policies

The Regional and District Objectives and Policies part of the PAUP also identifies Zone-specific objectives and policies. Relevant to this notice of requirement are the objectives and policies included in the Public Open Space Informal Recreation zone:

- Objective 2.2.2: This objective relates to protecting and maintaining the public open space.
- Policies: 2.2.5 and 2.2.9
- Comment:
 - The Project does not involve any physical works and will not result in any changes to the current use of the Pt England Reserve. The proposal is consistent with this objective and policy.

4.3. Consideration of Alternatives

Section 171(1)(b) of the Act requires a territorial authority to have particular regard to whether adequate consideration has been given to alternative sites, routes or methods when assessing a notice of requirement 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;*

Watercare has given effect to a granted resource consent for the existing wastewater facility on the Pt England Reserve. In addition, landowner approval to site the water tanks within the Reserve was given by the (former) Auckland City Council Parks Manager on 29 December 1994. Therefore, Watercare has existing use rights for the existing wastewater facilities on the site and since no further physical works are proposed, it is considered that Watercare's interest in the land is sufficient for this notice of requirement, as per Section 171(1)(b)(i) of the RMA.

In relation to Section 171(1)(b)(ii), it is noted that no physical works are proposed as part of this notice of requirement. Therefore, it is likely that the work will not have '*any significant adverse effects on the environment*' if the notice of requirement is confirmed.

Overall, in the case of this notice of requirement, it has been determined that Watercare has satisfied the provisions of Section 171(1)(b) of the RMA for this notice of requirement.

4.4. Watercare's Objectives

Section 171(1)(c) of the Act requires an assessment of whether the proposed works are 'reasonably necessary' for achieving the objectives of the requiring authority.

Watercare's objectives as a requiring authority (as approved under Section 167 of the RMA) is for the 'operation, maintenance and improvement of all existing pipelines, structures and equipment... necessary for the purposes of supply and distribution of water and owned by Watercare Services Limited'. It is considered that the proposal is consistent with Watercare's objectives.

4.5. Other Matters

Section 171(1)(d) requires a territorial authority to give consideration to any other matter reasonably necessary in order to make a recommendation on the requirement.

4.5.4 Assessment of Environmental Effects

In the context of the above statutory assessment and the lawfully established existing environment, I consider any actual or potential adverse effects on the wider environment to be less than minor for the following reasons:

Visual and amenity effects

- The notice of requirement is to establish a designation on the subject site to formally provide for Watercare's ongoing maintenance and necessary upgrades to the existing wastewater treatment facilities at Pt England Reserve. No physical works are proposed as part of the project, and therefore, the site's existing levels of visual amenity will remain.
- The existing facilities on the site have been lawfully established by way of an implemented resource consent. No additional works or activities relating to the wastewater facility are proposed.

Public open space and accessibility effects

- While the designation affects existing Open Space zoned land, it will not change peoples' access or use of this public open space.
- The notice of requirement was publicly notified in 1997 and no submissions were received. Following this, the designation was included in the planning maps of the District Plan (despite not having been finalised), thereby alerting potentially interested parties to the existing wastewater facilities within the Pt England Reserve site. Overall, the designation will not change peoples' ability to access and use the Pt England Reserve.

- The notice of requirement has been reviewed by the (legacy) Auckland City Council's Parks and Open Space team.

Positive effects

- The designation will formally provide for Watercare's ongoing maintenance and ability to carry out network upgrades to the existing wastewater treatment facilities at Pt England Reserve. This will reduce the risk of asset failure and will mean that the wastewater network can continue to operate effectively and efficiently at this location.

5. CONCLUSION

The assessment in this report has concluded the following:

- The proposed designation will generate less than minor adverse effects on the environment;
- The proposed designation is reasonably necessary for achieving Watercare's objectives.
- The proposed designation is consistent with the relevant statutory documents, as assessed in Sections 3 and 4 of this report.

6. RECOMMENDATIONS

6.1. Recommendation on Notice of Requirement

It is recommended that pursuant to Sections 171(2) of the Resource Management Act 1991 that Auckland Council **confirm**, subject to Condition 1, the notice of requirement by Watercare Services Limited for Plan Modification 173 to the Auckland Council District Plan: Isthmus Section to establish a designation for 'wastewater purposes' within the Pt England Reserve, 122 Elstree Avenue, Pt England, as shown on the plans included in Appendix 1 of this report.

It is recommended that the following condition be included as an amendment to the Auckland Council District Plan: Isthmus Section:

1. Development to be in accordance with the following -

1. All activities, works and buildings not fully described in the notice of requirement shall be the subject of either:

(a) a new notice of requirement, which shall be publicly notified, pursuant to Section 168 or 168A of the Resource Management Act; or

(b) a notice to alter the designation, pursuant to Section 181 of the Resource Management Act, which notice shall be publicly notified unless the alteration is minor and affected persons agree in accordance with the provisions of Section 181(3) of the Act.

Pursuant to Section 171(3) of the Resource Management Act 1991, the reasons for this recommendation are as follows:

- Subject to Condition 1, the proposed designation is consistent with promoting the purpose and principles of the RMA. The designation will allow for Watercare to

provide for communities' social, economic and cultural wellbeing, as well as their health and safety, by providing for ongoing maintenance to existing wastewater facilities.

- In terms of Section 171(1)(a) of the RMA, the requirement is consistent with and gives effect to the relevant provisions of policy statements, plans and proposed plans prepared under the RMA.
- In terms of Section 171(1)(b) of the RMA, adequate consideration has been given to alternative sites, routes and methods for maintaining this existing wastewater facility.
- In terms of Section 171(1)(c) of the RMA, the designation is reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought.
- Overall, the notice of requirement is consistent with Part 8 of the Resource Management Act 1991.

AUTHOR



Jane Price
PRINCIPAL PLANNER

DATE: 13 November 2013

REVIEWER



Celia Davison
TEAM LEADER

DATE: 13 November 2013

DETERMINATION

Acting under delegated authority, and having considered the submitted application material and all relevant statutory considerations, I concur with the foregoing assessment. As such, Auckland Council **confirms**, subject to Condition 1, the notice of requirement by Watercare Services Limited for Plan Modification 173 to the Auckland Council District Plan: Isthmus

Section to establish a designation for 'wastewater purposes' within the Pt England Reserve, 122 Elstree Avenue, Pt England, as shown on the plans as it meets the statutory tests of Section 171 of the Resource Management Act 1991.



Rebecca Macky
COMMISSIONER

DATE: 6 December 2013

APPENDIX 1
LOCATION PLAN FOR THE NOTICE OF REQUIREMENT

APPENDIX 2
TECHNICAL INPUTS (PARKS AND OPEN SPACE)



Memorandum

To	Christina Robertson
Unit/Dept	City Planning
cc	
From	Catherine Wilson
Subject	Watercare Designation Pt England

Please accept this memo as my comments concerning the proposed designation by Watercare Services Ltd for a storage tank facility on Point England Reserve.

I have visited the site and made an assessment based on the open space and reserves considerations of the proposal. I have taken into account the fact that the tank is already in existence, having been a recent addition to the park. In view of this I have no problem with the designation being fulfilled for the location of the storage tank and the immediately surrounding area. However I do have some issues in terms of access to the tank.

The tank is located towards the middle of the reserve, in terms of both depth and width. Present access to the tank is by a gravel track which curves through the middle of the site. This access has a locked gate obstructing general vehicular access to the tank itself. In terms of the future development of Point England reserve the access track is important in order to provide access to the interior of the reserve. If the current access to the tank is allowed to be designated future development of the reserve could be constrained or prevented. Whilst the management plan provides for the development of the access road along its present path future plans for the reserve may not do so. If the access route is designated and under Watercare's control Council will be unable to alter access to the reserve, or if it wishes to do so, will have to provide another access which would be a duplication and definitely not in the interests of the reserve. Therefore it is my recommendation that :

- i) the storage tank and immediately surrounding area, possibly including room for a vehicle turning track, be designated for wastewater purposes;
- ii) Council enter into an agreement with Watercare which recognises that Council would allow Watercare access to their facility on the reserve and that any future



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development of the reserve would take into account Watercare's need for access to this facility. Also included in the agreement would be a provision that the access route does not always have to be the same (ie Council could change the access road to enter in off Point England Rd should future plans for the reserve necessitate it) but there will be continued access to the facility. Council will provide and maintain the access in the form of a formed carriageway in return for Watercare not having any specific control over it.

The primary reason for not designating the access strip is that Council plans for the reserve may change in the future and a designation would severely limit the possibilities for the development of the reserve. Although the current plans for the reserve, as outlined in the draft management plan, utilise the existing situation this may not always be so and measures need to be taken to account for this. Once the land is designated Council will lose control of it and because the route meanders through the middle of the reserve the loss of control could amount to a significant impact on the future potential of the reserve.

If the access route is not designated and Council prepares and maintains it there is no need for a condition to be placed on the designation. Watercare would be allowed to place a locked gate at the immediate entrance of the drive to the tank (location marked in attached plan) in order to protect their facility from interference.

I do not feel an easement (an alternative method for Watercare to secure access to their facility) would be appropriate in this situation because it would have the same effect of removing Council control over that portion of the reserve and could therefore compromise any future plans.

Aside from the access issue there should be a condition in the designation that the tank be screened using planting. There are two methods to do this; Watercare provides and maintains the planting or else Watercare pays an annual fee for Council to provide and maintain the planting which screen the tank. The latter is the preferable option because the whole of the reserve can be maintained by the same contractor and the standard of maintenance will be the same throughout the entire reserve.

Should you require any further information please contact me on x7512.

Catherine Wilson

Attachment D
Correspondence – Watercare request for designation rollover



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8 July 2013

Auckland Council
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Attention Alastair Lovell
Regional and Local Planning
Operative Plans – Area Planning and Policy North

Dear Alastair

AUCKLAND UNITARY PLAN – WRITTEN NOTICE OF ROLLOVER DESIGNATIONS FOR WATERCARE SERVICES LTD

This letter and associated attachments should be read in conjunction with our letter dated 5 July 2013. The earlier letter explains our approach to reviewing and responding to our designations as shown in the 15 March 2013 draft Unitary Plan. It is imperative that our approach is understood before embarking on a review of this letter and associated attachments.

Collectively, our letters dated 5 and 8 July 2013 (and earlier correspondence not altered by our July 2013 documentation) provide Watercare's response to the rollover of its designations in the legacy Auckland Council District Plans into the Auckland Unitary Plan.

Although the Unitary Plan has not yet been notified and therefore does not yet exist in a statutory sense, our comments herein are made in relation to how our designations have been rolled over into the 15 March 2013 draft Unitary Plan—including one that was omitted.

We respond to the matters identified during our review of the draft Unitary Plan designations and to those raised in Attachment 1 of your letter dated 14 March 2013 (in accordance with the further extended date of 8 July 2013).

This letter deals only with the designations located within the former Auckland City Council boundaries.

Statutory Notice

Watercare gives notice of its request to rollover its designations in the legacy Auckland Council District Plans into the Auckland Unitary Plan, pursuant to Schedule 1, clause 4(1) of the Resource Management Act 1991 (the 'Act').

Except where modified by this letter and associated attachments, Watercare maintains the notice to rollover the legacy designations as described in earlier correspondence in

the period July 2012 – January 2013 (please refer to our letter dated 25 January 2013 for a breakdown).

Response to Draft Unitary Plan and Council Feedback

We respond to our designations in a comprehensive spreadsheet at appendix A. A summary of the results of our review is shown in column G, with detailed findings provided in columns H to K.

Where our review has identified that changes or corrections are necessary and this requires the provision of supporting documentation such as updated shapefiles, coversheets and/or statutory forms this is identified in the spreadsheet. The supporting documentation is then provided at appendix B. In general the necessary changes we have identified herein stem from seemingly unexplained changes made by the Council (either in review or perhaps Unitary Plan editing) or outdated/irrelevant aspects of a designation (either as they appear in the legacy District Plan chapter or as they have been introduced into the draft Unitary Plan). In general we have sought to accept the Council's changes or suggestions (often with refinement) or requests for further changes throughout our designations where they are practical. However, we have also identified instances where errors exist (i.e. snap to boundary issues, irrelevant conditions or inconsistencies within the legacy District Plan provisions) or the designation content itself is no longer relevant.

There are instances where we have left some conditions that refer to legacy zone or District Plan chapter provisions as it is not apparently obvious what replacement Unitary Plan provisions would be most appropriate e.g. condition 1 of Auckland City Council legacy reference H10-31 (Unitary Plan reference 9446). However, where these can be readily updated or deleted with nil to negligible effect we have done so.

Affected Parties

Attachment 1 of the letter dated 14 March 2013 requests that Watercare provide a list of persons directly affected by the rollover of our designations. The following is our response to this request.

Watercare does not consider there are any persons (owner or occupier) directly affected by the rollover of our existing designations into the Auckland Unitary Plan. Specifically, all the structures/activities enabled by the designations (or restrictions imposed in the case of buffer and dwelling exclusion zones) exist or the ability to exercise these designations exists in the legacy chapters of the Operative Auckland District Plan. Even with the accommodation (where practical) of the Council's requests to rename/further clarify addresses/correct boundary snapping within the Unitary Plan mapping, the effects of the rolled over designations are the same on the existing environment.

With specific regard to the conditions proposed to be deleted or altered, there will be a nil to negligible reduction in the level/extent of compliance required of Watercare as the requiring authority. This is because either one or a combination of the following apply (a) Part 8 of the Act already imposes the same or greater compliance requirements and (b) the lapse date is no longer applicable. Accordingly, there are nil to negligible adverse effects arising from the rollover of Watercare designations into the Auckland Unitary Plan (and there are no adversely affected persons).

Notwithstanding our conclusion above regarding Clause 5(1B) effects, Watercare acknowledges the separate matter of landowner approval for any varied occupation/access via sites owned by third parties. These approvals sit outside the Resource Management Act processes.

Please contact us if you have any questions or require further information.

Yours sincerely

Watercare Services Limited



Garry Maskill
Manager Statutory Planning

Encl:

Appendix A: Designations Spreadsheet

Appendix B: Supporting Documentation