

# **HGI Plan Review: section 32 report for the Commercial 1 (Oneroa village) land unit**

## **1.0 Executive summary**

This report summarises the evaluation undertaken by the council of the commercial 1 (Oneroa Village) land unit in terms of section 32 of the Resource Management Act.

The main conclusions are that:

- the objectives are the most appropriate way to achieve the purpose of the Act as set out in section 5, 6, 7 and 8
- overall, the environmental, social and economic benefits of having the proposed objectives, policies and rules within the plan outweighs any costs which may result. Therefore these methods are the most effective and efficient method of addressing the issues within the land unit and consequently are the most appropriate method of achieving the objectives.
- the proposed objectives, policies and rules will allow council to carry out its functions under section 31, 72 and 74(1) of the act.

The methods are consistent with the Hauraki Gulf Marine Park Act, statutory national and regional planning documents and non-statutory documents.

Therefore, it is appropriate to incorporate these objectives, policies and rules within the reviewed district plan.

## **2.0 Introduction**

### **2.1 Purpose of this report**

This report is to meet the section 32 requirements of the Resource Management Act.

### **2.2 Proposed plan provisions**

The proposed plan provisions relate to resource management issues, objectives and policies, rules relating to the status of activities, and development control rules within the commercial 1 (Oneroa village) land unit. The land unit provides one comprehensive set of provisions specific to the commercial area of Oneroa village.

These provisions replace the operative plan provisions which are summarised in section 2.4 of this report below.

### **2.3 Land unit location and character**

This land unit applies to the retail and commercial area of Oneroa village on Waiheke.

The characteristics of the land unit are:

- generally small scale retail and other commercial activities (shops, cafés, restaurants, community facilities and offices) located in one to two storey buildings on small sites.

- a variety of small to medium scale tenancies.
- most buildings are located on or close to Ocean View Road (and often include verandahs and landscaping).
- relatively high volumes of traffic.
- most of the activities within the land unit are connected to, or able to be connected to, the Owhanake wastewater treatment plant.

Oneroa village is a busy shopping centre which is a focal point for local residents, shopping, recreation and socialising. Its location within walking distance of Matiatia and on a major transport route to the eastern parts of the island means that it has a major role in servicing the needs of residents, commuters and visitors.

Oneroa is also situated in a dominant location on a ridge overlooking, and with pedestrian and vehicle connections to, Oneroa beach.

The above characteristics contribute to the high amenity value of the village.

## **2.4 Operative plan provisions**

Oneroa village is part of 'land unit 13-retailing' within the Operative Hauraki Gulf Islands District Plan 1996 (HGI plan). The land unit also applies to areas of Oneroa, Ostend, Onetangi and Surfdales in Waiheke.

Specific objectives, policies and rules apply to land unit 13. Subject to compliance with the development controls of the plan, new buildings or alterations and additions to existing buildings are permitted activities within this land unit. With the exception of community facilities, education centres, service stations and visitor facilities all activities are permitted within this land unit.

A second layer of controls also apply to Oneroa through the Oneroa Policy Area. This policy area applies additional objectives, policies and rules to development within defined parts of Oneroa. Specifically the erection, alteration of or addition to any building or removal of any vegetation and any non retail premises within this policy area is a controlled activity.

The Oneroa policy area map contains a number of existing physical attributes of Oneroa graphically i.e. parking areas and service lanes. The two existing public pedestrian accessways to Oneroa beach are identified, as is the village centre, the policy area boundary, the village boundary and public amenity areas.

## **2.5 Consultation**

This section of the report briefly outlines the consultation that the council has undertaken to date and identifies any issues raised of particular relevance to the commercial 1 (Oneroa village) land unit.

### **2.5.1 Consultation to date**

The council undertook consultation in 2005 in preparation for drafting the proposed Plan.

#### **Initial consultation**

The main consultation period was from April to July 2005. Consultation during that period consisted of:

- public meetings, workshops, nga hui, and one on one meetings
- a photographic exercise on Waiheke
- inviting written feedback on a consultation document which contained issues and options papers on a wide range of topics.

### **Focus groups**

At the close of consultation, the council analysed the feedback forms received. From these, key issues were identified that subsequently became topics for focus groups on Waiheke. The four topics for the focus groups were:

- landscape
- transport
- sustainability
- future planning (including subdivision, growth, and providing for business activity).

An additional workshop was also held on Great Barrier to give a further opportunity to discuss issues raised through the feedback forms.

### **Telephone survey**

The council commissioned an independent research company to undertake a phone survey in late 2005. The survey was of a randomly selected sample of 1002 on-island residents and off-island ratepayers of Waiheke, Great Barrier and Rakino. The questionnaire used for the survey was designed to get responses on the key issues that had emerged from the consultation process and stakeholder feedback.

The survey provided a means of canvassing the views of a wide range of people who may not have been previously involved in the consultation process.

### **Consultation with other stakeholders**

During the preparation of a proposed plan, the council has also consulted with the following parties:

- the Auckland Regional Council ('ARC')
- the Department of Conservation ('DOC')
- tangata whenua
- network utility authorities
- the Ministry for the Environment (MfE)

### **Public notification**

Notification of the Plan provides an opportunity for further public participation through the formal submission and appeal process.

## **2.5.2 Issues raised during consultation**

The issues raised in consultation were wide and varied and included:

- traffic and roading issues
- design of Oneroa
- increase commercial zone up Ocean View Road
- protection of views from public places

## **Extension of existing land unit boundaries**

Council has received feedback as part of this consultation which seek an extension to the existing land unit boundaries up Ocean View Road to the west. In addition, the planning for the future focus group has raised the issue of altering the classification of the block of land bounded by Ocean View Road, Kuaka Road and Oue Road in Oneroa from the existing land unit 11 to a commercial land unit.

An assessment has been undertaken to consider this matter, which is attached as **appendix A**. This assessment has concluded that the commercial 1 (Oneroa village) land unit should be applied to the sites at 131-137 and 102-108 Ocean View Road and numbers 1 and 3 Oue Road, Oneroa.

## **3.0 Resource management issues and objectives**

### **3.1 Issues**

The significant resource management issues relevant to this land unit are:

1. *How to enable retail and employment opportunities within Oneroa in a manner which protects and enhances the high amenity value and 'village' character of the centre*
2. *How to ensure that commercial activity within Oneroa village does not negatively impact on other activities within the land unit or adversely affect the character and amenity of adjoining island residential land units.*

### **3.2 Objectives**

The objectives relevant to this land unit are:

- *To enable a vibrant, varied and safe retail environment within Oneroa village where the scale, form and location of buildings provides a high level of amenity.*
- *To allow for appropriate commercial growth and development within Oneroa village.*
- *To ensure that any adverse environmental effect of business activity on other activities within the land unit or on adjoining residential or recreational land units is avoided or no more than minor in extent.*

## **4.0 Statutory requirements under Part II, sections 31, 32, 72 and 76 of the Resource Management Act**

Section 31 sets out the council's functions for the purpose of giving effect to the Act. The council's functions include:

- (a) The establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:
- (b) The control of any actual or potential effects of the use, development or protection of land.

Section 72 states as follows:

The purpose of the preparation, implementation, and administration of district plans is to assist territorial authorities to carry out their functions in order to achieve the purpose of this Act.

Section 74(1) of the RMA states as follows:

A territorial authority shall prepare and change its district plan in accordance with its functions under section 31, the provisions of Part 2, a direction given under section 25A(2), its duty under section 32, and any regulations.

The following provisions of section 76 are also relevant:

- (1) A territorial authority may, for the purpose of –
  - (a) Carrying out its functions under this Act; and
  - (b) Achieving the objectives and policies of the plan, - include rules in a district plan.
- ...
- (3) In making a rule, the territorial authority shall have regard to the actual or potential effect on the environment of activities, including, in particular, any adverse effect.

In achieving the purpose of the Act, the council must carry out an evaluation under section 32 of the RMA before publicly notifying a district plan or a plan change. Section 32(3), (3A) and (4) state as follows:

- (3) An evaluation must examine –
  - (a) the extent to which each objective is the most appropriate way to achieve the purpose of the Act; and
  - (b) whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives
- (3A) This subsection applies to a rule that imposes a greater prohibition or restriction on an activity to which a national environmental standard applies than any prohibition or restriction in the standard. The evaluation of such a rule must examine whether the prohibition or restriction it imposes is justified in the circumstances of the region or district.
- (4) For the purposes of the examination referred to in subsections (3) and (3A), an evaluation must take into account –
  - (a) the benefits and costs of policies, rules, or other methods; and
  - (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.

The statutory requirements, including section 32 matters, are assessed below under the following headings:

- The extent to which each objective is the most appropriate way to achieve the purpose of the Act
- Whether the policies, rules, or other methods are the most appropriate for achieving the objectives
  - having regard to their efficiency and effectiveness
  - taking into account the benefits and costs of policies, rules, or other methods

- taking into account the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.

## 4.1 The extent to which each objective is the most appropriate way to achieve the purpose of the Act

### 4.1.1 The purpose of the Act

Section 5 states that the purpose of the Act is ‘to promote the sustainable management of natural and physical resources’. Section 5(2) states:

- (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.

Environment is defined in Section 2 of the RMA as including:

- (a) Ecosystems and their constituent parts, including people and communities; and
- (b) All natural and physical resources; and
- (c) Amenity values; and
- (d) The social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters:

Section 6 of the RMA identifies matters of national importance, which need to be recognised and provided for in achieving the purpose of the Act.

Section 7 deals with ‘other matters’ which, in achieving the purpose of this Act, persons exercising functions and powers under the Act shall have particular regard to. The matters of particular relevance to the commercial 1 (Oneroa village) land unit, are identified below

Clause		✓
(a)	Kaitiakitanga	
(aa)	The ethic of stewardship	
(b)	The efficient use and development of natural and physical resources	✓
(ba)	The efficiency of the end use of energy	
(c)	The maintenance and enhancement of amenity values	✓
(d)	Intrinsic value of ecosystems	
(f)	Maintenance and enhancement of the quality of the environment	✓
(g)	Any finite characteristics of natural and physical resources	
(h)	The protection of the habitat of trout and salmon	
(i)	The effects of climate change	
(j)	The benefits to be derived from the use and development of renewable energy	

Section 8 provides that in achieving the purpose of the Act, all persons exercising functions and powers under it, in relation to managing the use, development and protection of natural

and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti O Waitangi).

#### **4.1.2 Appropriateness in achieving the purpose of the Act**

##### **4.1.2.1 Objective 10a.11.3.1**

*To enable a vibrant, varied and safe retail environment within Oneroa village where the scale, form and location of buildings provides a high level of amenity.*

This objective is the most appropriate way to achieve the purpose of the Act as set out in section 5, 6, 7 and 8.

Specifically in regards to section 5 it enables people and communities to provide for their social and economic wellbeing by allowing for appropriate commercial development within the land unit while avoiding, remedying or mitigating adverse effects on the environment.

There are no matters of national importance as identified in section 6 of the Act with particular relevance to this objective.

The objective meets clause (b) “*the efficient use and development of natural and physical resources*” (c) “*the maintenance and enhancement of amenity values*” and clause (f) “*maintenance and enhancement of the quality of the environment*” of Section 7 ‘Other Matters’ of the Act, because it:

- will maintain and enhance the high amenity value and commercial character of Oneroa village
- will ensure that a wide variety of retail and other commercial land uses are provided for within the land unit.
- will ensure that commercial development provides a high level of pedestrian amenity within the land unit.

The principles of the Treaty of Waitangi (Te Tiriti O Waitangi) have been taken into account in the formulation of this objective and the objective is consistent with these principles.

##### **4.1.2.2 Objective 10a.11.3.2**

*To allow for appropriate commercial growth and development within Oneroa village.*

This objective is the most appropriate way to achieve the purpose of the Act as set out in section 5, 6, 7 and 8.

Specifically in regards to section 5 it enables people and communities to provide for their social and economic wellbeing by allowing for appropriate commercial growth within the land unit while avoiding, remedying or mitigating adverse effects on the environment.

There are no matters of national importance as identified in section 6 of the Act with particular relevance to this objective.

The objective meets clause (b) “*the efficient use and development of natural and physical resources*” (c) “*the maintenance and enhancement of amenity values*” and clause (f) “*maintenance and enhancement of the quality of the environment*” of Section 7 ‘Other Matters’ of the Act, because it:

- will allow retail and other commercial activity to continue to operate and grow within Oneroa village while protecting and enhancing the character and amenity of the land unit.
- will service the retail and commercial needs of residents which will reduce the need for them to travel elsewhere in Waiheke or off the island to service these needs. This will potentially save on the use of non renewable energy resources.

The principles of the Treaty of Waitangi (Te Tiriti O Waitangi) have been taken into account in the formulation of this objective and the objective is consistent with these principles.

#### **4.1.2.3            Objective 10a.11.3.3**

*To ensure that any adverse environmental effect of business activity on other activities within the land unit or on adjoining residential or recreational land units is avoided or no more than minor in extent.*

This objective is the most appropriate way to achieve the purpose of the Act as set out in section 5, 6, 7 and 8.

Specifically in regards to section 5 it enables people and communities to provide for their social and economic wellbeing by allowing for appropriate commercial activity within the land unit while avoiding, remedying or mitigating adverse effects on the environment.

There are no matters of national importance as identified in section 6 of the Act with particular relevance to this objective.

The objective meets clause (c) “*the maintenance and enhancement of amenity values*” and clause (f) “*maintenance and enhancement of the quality of the environment*” of Section 7 ‘Other Matters’ of the Act, because it:

- will ensure that commercial development does not compromise the character and visual or acoustic amenity of adjacent island residential or recreation land units or the quality of the environment.

The principles of the Treaty of Waitangi (Te Tiriti O Waitangi) have been taken into account in the formulation of this objective and the objective is consistent with these principles.



## 4.2 Whether the policies, rules, or other methods are the most appropriate for achieving the objectives

The policies for the land unit are:

- *By requiring new buildings or additions and alterations to existing buildings to be assessed to ensure consistency with design guidelines for Oneroa (refer to appendix 12 – Design guides)*
- *By requiring retail activities to locate on the ground floor to ensure an active and continuous retail frontage is maintained.*
- *By requiring, on sites which adjoin Ocean View Road, that new buildings adjoin and face this road, to ensure an active and continuous retail frontage.*
- *By requiring verandahs to be provided as shelter for pedestrians.*
- *By recognising that the scale of development within Oneroa village is no longer constrained by wastewater disposal due to the Owhanake wastewater treatment plant.*
- *By providing for a range of commercial and residential activity within the village.*
- *By requiring noise standards on all activities and internal noise controls for dwellings within the land unit.*
- *By imposing additional controls on the location and size of buildings where they adjoin or face residential or recreational land units.*

These policies and the resulting rules are the most appropriate way of achieving the objectives because they:

- require retail activity to be located at street level adjoining Ocean View Road which will encourage a vibrant and varied retail environment.
- provide for a wide variety of other commercial activities i.e. art galleries, care centre, community facilities, educational facilities, healthcare services, office, restaurants, retail and tavern as permitted activities within the land unit which will allow for commercial growth and development within Oneroa village.
- provide for other commercial activities with greater potential generated effects as discretionary activities for example, boarding house, motor vehicle sales, service station etc, so that these effects can be effectively controlled.
- allow for a dwelling (one per site) as a permitted activity and multiple dwellings as a discretionary activity within the land unit to encourage a mix of activities within the land unit.
- require that all new and relocated buildings and alterations and additions to existing buildings undergo a restricted discretionary resource consent and are assessed against design criteria including the Oneroa village design guidelines (Appendix 12) of the plan, to ensure that a positive streetscape environment and high level of amenity is achieved.  
Council has restricted its discretion to the scale, form (design) and location of buildings.
- impose policies and rules which maintain and enhance the amenity of the Ocean View Road streetscape.
- impose policies and rules which improve the aural and visual amenity of different land uses within the land unit and residential land uses adjoining the land unit.
- recognise that the scale of development within Oneroa village is no longer constrained by wastewater disposal due to the Owhanake wastewater treatment plant.

Specifically within table 10c.2 of the plan it is proposed that building coverage should be 40% within the land unit with the exception that if the site is connected to the Owhanake wastewater treatment plant the building coverage / impervious surface area can be increased to a maximum of 75% of net site area (refer impervious surface rule).

This will allow sites which are connected to the Owhanake wastewater treatment plant to contain buildings which occupy a larger portion of the site than those that are not, which will allow for commercial growth and development.

- extend the commercial 1 (Oneroa village) land unit should be applied to the sites at 131-137 and 102-108 Ocean View Road and 1 and 3 Oue Road, Oneroa. This will extend the land unit boundary westwards to adjoin the Artworks site on both sides of Ocean View Road. A full assessment is contained in **appendix A**. This will provide for the extension of the Oneroa village commercial boundaries which will achieve the objective.

The following options are the main alternatives which the council has considered as a means of achieving the objectives. These options are listed below:

- Option 1 - The use of non RMA methods, including bylaws, voluntary agreement, covenants or education / advocacy as a means of achieving the objectives
- Option 2 - Retaining the operative plans policies and rules as a means of achieving the objectives
- Option 3 - No limitation on type of activities or size of developments within the land unit, as a means of achieving the objectives. This would allow any activity to operate at any scale and would mean that development controls would not apply within the land unit.
- Option 4 - Use of policies and rules which are more restrictive (i.e. requiring discretionary activity resource consent) for all activities and developments within the land unit as a means of achieving the objectives.
- Option 5 - Use of proposed objectives, policies and rules as a method of achieving the objectives

#### **4.2.1 Option 1**

Option 1 is:

*The use of non RMA methods, including bylaws, voluntary agreement, covenants or education / advocacy as a means of achieving the objectives*

#### **General comment**

Section 73(1) of the RMA states:

*There shall at all times be one district plan for each district prepared by the territorial authority in the manner set out in Schedule 1.*

This does not mean that non district plan methods cannot be used as a means of achieving the objectives. If they are a more efficient and effective method of achieving the purpose of the Act than a district plan method then they can and should be used.

### **Comment on bylaws**

Section 145 titled ‘General bylaw-making power for territorial authorities’ of the Local Government Act 2002 sets out the council authority to make bylaws.

This section states:

*A territorial authority may make bylaws for its district for 1 or more of the following purposes:*

- (a) protecting the public from nuisance:*
- (b) protecting, promoting, and maintaining public health and safety:*
- (c) minimising the potential for offensive behaviour in public places*

Therefore council does not have the statutory authority to make bylaws that would achieve the outcomes of the land unit. This method is discounted as an effective and efficient method of achieving the objectives of the land unit.

### **General comment on covenants, voluntary agreements, education and advocacy**

Covenants and voluntary agreements are dependant on individuals agreeing that a feature should be protected or a development controlled in order to ensure that the objectives of the land unit is achieved.

Education and advocacy are dependant on people receiving, understanding and agreeing with the message and acting to ensure that the objective of the land unit is achieved.

These methods are therefore likely to be highly variable in when and if they are used and the level of control or protection provided. Therefore their effectiveness in achieving the outcomes of the land unit are limited. The assessment of the environmental, social and economic costs of these methods, below assumes that this would be the outcome of option 1.

<b>Benefits</b>	<b>Costs</b>
<u>Environmental</u>	<u>Environmental</u>
Potential for a small proportion of environmental features i.e. indigenous vegetation to be protected through these methods.	Likely that the majority of environmental features would not be protected by these methods which would lead to an overall reduction in environmental quality.
<u>Social and Economic</u>	<u>Social and Economic</u>
Increase in variety of activities that can be undertaken within the land unit. Benefit to person undertaking development only.	Increase in legal fees for drafting up covenants and voluntary agreements.
Reduction in direct compliance costs for people wanting to undertake development as resource consent would not be required. Benefit to person undertaking development only.	Increase in public uncertainty about what activity could be undertaken within the land unit. Cost borne by the community generally.
Maximising of development potential and	Increase in adverse visual, amenity, noise

Benefits	Costs
therefore potential for maximising profits on development. Benefit to person undertaking development only.	and traffic effects between different activities within the land unit. Cost borne by the community generally.
	Decrease in the character and amenity value of Oneroa as buildings and activities could be established contrary to urban design principles

Overall, option 1 has only limited environmental benefits and potential significant environmental costs. It has only social and economic benefits to individuals undertaking developments while having social and economic costs to the community at large.

The environmental, social and economic costs of undertaking this option therefore outweigh any benefits to individuals which may result.

Therefore option 1 is not the most effective or efficient method of addressing the issues within the land unit and consequently is not the most appropriate method of achieving the objectives.

### **The risk of acting or not acting**

Council has sufficient information on option 1 to make a decision on its effects.

The risk of acting on option 1 is that the costs identified above will eventuate. The risk of not acting is that either no method or another method will be utilised which will have greater environmental costs and / or greater social and economic costs on the community of the gulf.

## **4.2.2 Option 2**

Option 2 is:

*Retaining the operative plans policies and rules as a means of achieving the objectives.*

Benefits	Costs
<u>Environmental</u>	<u>Environmental</u>
Protection of the character and amenity of Oneroa by requiring vegetation removal within the Oneroa policy area to undergo a controlled activity resource consent process.	
<u>Social and Economic</u>	<u>Social and Economic</u>
Protection of the built character and amenity of Oneroa by requiring development to be considered against controlled activity resource consent criteria related to the design and form of buildings, pedestrian linkages, shelter, court yards / plazas and landscaping. Benefit to the community generally.	Potential for some developments to be granted which may have adverse effects on the character and amenity of Oneroa. This is because controlled activity resource consents have to be granted by council, although conditions can be placed on these applications. Such applications would be refused if the activity status allowed it. Expectation by the community that the character of Oneroa can be adequately controlled through the operative Oneroa

	<p>policy area and land unit 13 provisions. Cost to the community generally.</p>
Development controls which are generally understood by the community.	<p>The operative plan applies the Oneroa policy area and land unit 13 provisions to Oneroa. These provisions impose a double layer of objectives, policies and rules within Oneroa which is unnecessary and can be more effectively and efficiently managed. It also adversely affects the usability and clarity of the plan. Cost to the community generally in regards to the legibility of the plan.</p>
	<p>Monetary and time cost to people undertaking development because they are required to undergo a controlled activity resource consent. Cost to people undertaking development.</p>
	<p>Non-retail premises are a controlled activity within the Oneroa Policy Area. The intent of this provision is explained in assessment criteria I of section 7.5.3.3 which states <i>“non-retail activities such as banks and service premises should be relocated on rear sites or at the rear of sites, in order to maintain village character, except where their scale, form and design is such that all other assessment criteria herein are met.”</i> This rule and assessment criteria have failed to deliver the intent of the rule because controlled activity applications for non retail premises on site frontages can’t be declined even if they don’t comply with the criteria above. This results in a loss of retail space fronting the street. Cost to community generally.</p>
	<p>Lot coverage control which does not reflect the current reality that a large proportion of business activities within land unit 13 are currently connected to the Owhanake wastewater treatment plant and therefore their development is no longer constrained by the necessity of disposing of wastewater on site. Specifically 17 sites within the land unit are currently connected to the treatment plant, 4 sites are signed up to be connected but are not connected yet and 11 sites are able to be connected to the treatment plant. Development cost to land owners</p>
	<p>The gross dwelling area rule, section 6.13.4.1B(a) is unnecessarily complicated. This rule states: <i>Any dwelling shall not have a gross dwelling area exceeding 10% of the lot</i></p>

	<p>area.</p> <p><i>The gross site area multiplied by the floor area ratio equals the permitted gross dwelling area. The floor area ratio shall be 0.8, provided that the gross dwelling area of any building, all or part of which is used as a dwelling or for residential purposes, and employing an on-site effluent disposal yard shall not exceed 10% of the total lot area.</i></p> <p>There is also no definition of floor area ratio within the plan. Social and economic cost to people using the operative plan.</p>
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Overall, option 2 has only limited environmental, social and economic benefits and potential greater environmental, social and economic costs.

The environmental, social and economic costs of undertaking this option therefore outweigh any benefits to individuals which may result.

Therefore option 2 is not the most effective or efficient method of addressing the issues within the land unit and consequently is not the most appropriate method of achieving the objectives.

### **The risk of acting or not acting**

Council has sufficient information on option 2 to make a decision on its effects.

The risk of acting on option 2 is that the costs identified above will eventuate. The risk of not acting is that either no method or another method will be utilised which will have greater environmental costs and / or greater social and economic costs on the community of the gulf.

### **4.2.3 Option 3**

Option 3 is:

***No limitation on type of activities or size of developments within the land unit, as a means of achieving the objectives. This would allow any activity to operate at any scale and would mean that development controls would not apply within the land unit.***

<b>Benefits</b>	<b>Costs</b>
<u>Environmental</u>	<u>Environmental</u>
None	Maximising of development potential which could result in difficulty to dispose of stormwater and wastewater where sites not connected to Owhanake wastewater treatment plant. Potential negative impacts on water quality.
<u>Social and Economic</u>	<u>Social and Economic</u>
Maximising of development potential and therefore potential for maximising profits on development. Benefit to person undertaking development only.	Difficulty to dispose of stormwater and wastewater, where sites not connected to Owhanake wastewater treatment plant could have potential negative human health effects.

Increase in variety of activities that can be undertaken within the land unit.	Increase in public uncertainty about what activity could be undertaken within the land unit. Cost borne by the community generally.
Reduction in direct compliance costs for people wanting to undertake development within Oneroa as resource consent would not be required. Benefit to person undertaking development only.	Increase in adverse visual, amenity, noise and traffic effects between different activities within the land unit and between residential uses on other adjoining land units. Cost borne by the community generally.
	Loss of the land units retail / commercial character as other activities develop. Cost borne by the community generally.

Overall, option 3 has only social and economic benefits to individuals undertaking developments and significant costs to the community and environment at large. Therefore the environmental, social and economic costs of undertaking this option outweigh any benefits to individuals which may result.

Therefore option 3 is not the most effective or efficient method of addressing the issues within the land unit and consequently is not the most appropriate method of achieving the objectives.

### **The risk of acting or not acting**

Council has sufficient information on option 3 to make a decision on its effects.

The risk of acting on option 3 is that the costs identified above will eventuate. The risk of not acting is that either no method or another method will be utilised which will have greater environmental costs and / or greater social and economic costs on the community of the gulf.

#### **4.2.4 Option 4**

Option 4 is:

*Use of policies and rules which are more restrictive (i.e. requiring discretionary activity resource consent) for all activities and developments within the land unit as a means of achieving the objectives.*

<b>Benefits</b>	<b>Costs</b>
<u>Environmental</u>	<u>Environmental</u>
Rigid control on buildings and activities within the land unit which would ensure that effects on environment could be strictly protected and controlled.	None
<u>Social and Economic</u>	<u>Social and Economic</u>
Control on building design and appearance within all areas of the land unit.	Increase in direct compliance costs in time and money for people wanting to undertake development as resource consent would be required for all development. Cost to all people undertaking any development.
	Increased number of resource consents being processed by council and consequently increasing need for additional resources to

Benefits	Costs
	meet statutory deadlines.
	Increased number of assessments by council on whether resource consents should be notified or not. A large proportion of these resource consents would have a scale of effects which do not warrant notification. For example, building addition in compliance with development controls. This would raise expectations unnecessarily that these applications would be notified. Cost to the public generally.
	Lack of ability to undertake any type or scale of development 'as of right'. Cost to all people undertaking any development.

### General comment on Benefits and Costs

In general this option would impose rigid control on buildings and activities within the entire land unit while having a limited environmental, social or economic benefit.

In contrast this option will impose unnecessary costs in money and time to a large proportion land owners within the land unit. There are other means which are more efficient and effective in achieving an environmental, social or economic benefit while imposing less of a social or economic cost.

The social and economic costs to residents of this land unit, of undertaking this option, therefore outweighs any benefits which may result.

Therefore option 4 is not the most effective or efficient method of addressing the issues within the land unit and consequently is not the most appropriate method of achieving the objectives.

### The risk of acting or not acting

Council has sufficient information on option 4 to make a decision on its effects.

The risk of acting on option 4 is that the costs identified above will eventuate. The risk of not acting is that either no method or another method will be utilised which will have greater environmental costs and / or greater social and economic costs on the community of the gulf.

## 4.2.5 Option 5

### *Use of proposed objectives, policies and rules as a method of achieving the objectives*

Benefits	Costs
<u>Environmental</u>	<u>Environmental</u>
The building location rule which requires buildings to be built up to the boundary of Ocean View Road will maximise development of the Ocean View Road frontage of sites. This will provide an	Requiring buildings to adjoin the Ocean View Road frontage will remove the potential for landscaping of the front yard which will have a potential environmental cost and a potential negative impact on



<b>Benefits</b>	<b>Costs</b>
<p>environmental benefit by encouraging walking through:</p> <ul style="list-style-type: none"> <li>o providing shelter to pedestrians</li> <li>o avoiding pedestrian and vehicle conflict</li> <li>o ensuring cars park at rear of sites</li> </ul>	amenity.
<p>The building coverage rule in table 10c.2 refers to the impervious surface area rule which allows a maximum building coverage / and or impervious surface area of 75% of net site area if the site is connected to the Owhanake wastewater treatment plant. This will provide an environmental benefit by allowing a more efficient utilisation of a commercial site.</p>	
<u><b>Social and Economic</b></u>	<u><b>Social and Economic</b></u>
<p>The building location and retail frontage controls will have a social benefit to the community generally by:</p> <ul style="list-style-type: none"> <li>o providing shelter for pedestrians</li> <li>o providing visual interest and a vibrant and varied town centre through requiring retail or restaurant activities at ground floor street frontage level and requiring 75% of frontage to contain display areas or windows</li> </ul>	<p>The building location and retail frontage controls will impose a cost on land owners who wish to setback buildings from the Ocean View Road frontage as a resource consent would be required. Economic and time cost to land owner wishing to undertake development.</p>
<p>Allowing building coverage to a maximum of 75% of site area if the site is connected to the Owhanake wastewater treatment plant recognises that sites that are connected to the treatment plant are no longer constrained by wastewater disposal, and allows additional development potential as a result. Economic and social benefit to land owner of site.</p>	None
<p>The noise controls within the plan will have a social benefit to residential and commercial uses within the land unit as they establish an appropriate level of acoustic amenity within the land unit and protect the acoustic amenity of adjoining residential land units. Social benefit to community generally.</p>	<p>These noise controls will place a financial / economic cost on developers to ensure compliance. Economic and time cost to land owner wishing to undertake development.</p>
<p>For sites on the northern side of Ocean View Road the height rule will allow an appropriate balance between maintaining the character and amenity of the land unit while allowing additional development potential (9m height) where the ground level is greater than 3m below that at the Ocean View Road frontage. This will have economic benefits to developers.</p>	None
<p>The screening rule will have a visual / amenity benefit to the community generally by requiring screening of any outdoor</p>	<p>The screening control will impose a monetary / economic cost to comply. Cost to developer / land owner.</p>

Benefits	Costs
storage, refuse disposal area, service or parking area, where they adjoin or directly face a road or land classified as island residential or recreation, by a wall / fence or vegetation to a height of 1.8m.	
<p>Requiring new buildings and alterations and additions to existing buildings within the land unit to be controlled by a restricted discretionary resource consent ensures that the character and amenity value of Oneroa village generally and the Ocean View Road streetscape specifically is maintained and enhanced.</p> <p>Council has restricted its discretion to matters related to the scale, form (design), and location of buildings.</p> <p>Specific assessment criteria will ensure a quality design outcome and include adherence to the principals of the Oneroa Village Design Guidelines.</p> <p>The opportunity for applications to be refused will give additional impetus for applicants undertaking developments to ensure a positive design outcome is achieved.</p> <p>This will have a social benefit for the community generally.</p>	<p>Requiring new buildings and alterations and additions to existing buildings within the land unit to be controlled by a restricted discretionary resource consent will place a monetary and time cost on people to comply. Cost to all people undertaking development within the land unit.</p>
<p>‘Minor alterations and additions to a building’ are exempt from assessment as a restricted discretionary activity. These are defined in the Plan as:</p> <ul style="list-style-type: none"> <li>• <i>the construction of uncovered decks complying with the permitted standards for the land unit (e.g. colour/reflectivity, building coverage etc.)</i></li> <li>• <i>changing or putting in windows or doors in an existing building.</i></li> <li>• <i>changing materials or cladding with other materials or cladding that comply with the permitted standards for the land unit.</i></li> </ul> <p>This will allow certain alterations and additions to be under taken ‘as of right’ while not affecting the character and amenity of the land unit. This is a monetary and time benefit to people undertaking such work as they will not be required to go through a resource consent assessment.</p>	None
Providing for a wide variety of commercial uses as permitted activities encourages a vibrant and varied commercial environment within Oneroa village without imposing	None

Benefits	Costs
<p>unnecessary restrictions. It also provides clarity about what development is considered as appropriate within the land unit. There is an economic and social benefit to people undertaking development and a social benefit to the community generally.</p>	
<p>Providing for other commercial uses as discretionary activities within the land unit allows these type of activities which generally generate greater effects to be carefully assessed by council and potentially the community. Social benefit to community generally.</p>	<p>Imposes a monetary and time cost on people undertaking development.</p>
<p>Impose a noise control in table 10c.2 of the plan which is:</p> <ul style="list-style-type: none"> <li>○ 55dBA Monday to Saturday 7am to 10pm and Sunday 9am to 6pm.</li> <li>○ 45dBA at all other times including public holidays (night time)</li> </ul> <p>This is 5dBA more than the level applied during the day and 10dBA more than the level applied at night in the operative plan. This was necessary because:</p> <ul style="list-style-type: none"> <li>○ these noise levels reflect the existing noise environment for commercial activities within the land unit</li> <li>○ the previous levels were onerous and a permitted activity within the land unit could have found it difficult to comply.</li> <li>○ the proposed levels will provide a level of control which will protect the acoustic amenity of adjacent residential land units.</li> </ul> <p>This noise control will allow for commercial activities to operate within the land unit without compromising the acoustic amenity of other activities within the land unit or adjoining residential activity in adjoining land units. Benefit borne by the community generally.</p>	
<p>Development controls within table 10c.2 of the plan are consistent with the table 1 – standards for permitted activities within part 6b of the operative plan. Therefore these controls are readily understood by the community. Benefit to the community generally.</p>	<p>None</p>

## **General comment on Benefits and Costs**

In general this option will require new buildings and additions and alterations to existing buildings to be assessed by council to ensure that a positive streetscape environment and a high level of amenity is achieved. Development controls will allow for commercial growth and development while ensuring that the high amenity value of Oneroa village is maintained.

This option will have strong environmental, social and economic benefits while having limited costs to people proposing development. Therefore option 5 is the most effective or efficient method of addressing the issues within the land unit and consequently is not the most appropriate method of achieving the objectives.

### **The risk of acting or not acting**

Council has sufficient information on option 5 to make a decision on its effects.

The risk of acting on option 5 is that the costs identified above will eventuate. The risk of not acting is that either no method or another method will be utilised which will have greater environmental costs and / or greater social and economic costs on the community of the gulf.

### **4.2.6 Conclusion**

The above analysis of Options 1 - 4 has concluded that the costs of undertaking these options outweighs any benefits. Therefore they are not the most effective or efficient method of addressing the issues within the land unit and consequently are not the most appropriate method of achieving the objectives.

Overall, the environmental, social and economic benefits of undertaking option 5 outweighs any costs which may result.

Therefore option 5 is the most effective and efficient method of addressing the issues within the land unit and consequently is the most appropriate method of achieving the objectives.

## **4.3 Whether the proposed rules assist the council to carry out its function of control of actual or potential effects of the use, development or protection of land**

The proposed objectives, policies and rules will allow council to carry out its functions under section 31, 72 and 74(1) of the act, because they:

- achieve integrated management of the use and development of the land unit
- provide for retail and employment opportunities within Oneroa in a manner which protects and enhances the high amenity value and 'village' character of the centre
- ensure that commercial activity within Oneroa village does not negatively impact on other activities within the land unit or adversely affect the character and amenity of adjoining island residential land units.
- adequately control the actual and potential effects of the use and development of land within the land unit
- after assessing other options, and the benefits and costs associated with them, the proposed objectives, policies and rules are the most appropriate way to achieve the purpose of the Act.

## 5.0 National planning documents

### 5.1 National and NZ coastal policy statements

Section 75(3) of the RMA states:

- (3) A district plan must give effect to –
  - (a) any national policy statement; and
  - (b) and any New Zealand coastal policy statement; and
- ...

The objectives, policies and rules of the land unit give effect to policies 3.2.2, 3.2.4 and 3.2.5, of the New Zealand Coastal Policy Statement (1994), attached as **appendix B** by:

- requiring development to be of a scale, form and location which will ensure a positive streetscape and a high level of amenity is achieved.
- recognising that this land unit is already highly modified and has a strong commercial character
- recognising this land units close proximity to Oneroa beach

### 5.2 Hauraki Gulf Marine Park Act 2000

Section 9(3) of the Hauraki Gulf Marine Park Act 2000, requires the council to ensure that:

... any part of a district plan that applies to the Hauraki Gulf, its islands, and catchments, does not conflict with sections 7 and 8 of this Act.

Section 7 recognises the national significance of the Hauraki Gulf and Section 8 provides management direction for the Gulf. Section 10 of the Act requires that sections 7 and 8 be treated as a New Zealand coastal policy statement under the RMA. Sections 7 and 8 are attached as **appendix C**.

The objectives, policies and rules of the land unit give effect to sections 7 and 8 of the HGMPA for the reasons identified in section 5.1 above and because they:

- provide for the social, economic and recreational, and cultural well-being of the people of Waiheke
- use the resources of the Gulf by the people and communities of the Gulf and New Zealand for economic activities and recreation:

## 6.0 Regional planning documents

### 6.1 Regional policy statement

Section 75(3) of the RMA states:

- (3) A district plan must give effect to –
  - ...
  - (c) any regional policy statement.

The objectives, policies and rules of the land unit give effect to objectives 7.3.(1) and (3) and policies and methods 7.4.10 and 7.4.25 in the coastal environment section of the Auckland Regional Policy Statement for the reasons identified in section 5.1 above and because:

- they recognise that the land unit is already highly modified
- they do not compromise the character or amenity of the coastal environment

In addition, it gives effect to objective 4.3(1) of the transport section and objective 5.3 of the energy section of the Auckland Regional Policy Statement because applying this land unit in Waiheke will mean that residents of Waiheke will be able to provide for their retail and other commercial needs i.e. shopping, restaurant etc without travelling off the island. It also provides employment opportunities on the islands which reduces the potential for commuting into Auckland for work.

These relevant sections are attached as **appendix D**.

## **6.2 Regional plan**

Section 75 (4) of the RMA states:

- (4) A district plan must not be inconsistent with –
  - ...
  - (c) a regional plan for any matter specified in section 30(1).

The objectives, policies and rules of the land unit are not relevant to, and not inconsistent with, the:

- Auckland Regional Plan: Coastal,
- Auckland Regional Plan: Air, Land and Water,
- Auckland Regional Plan: Sediment Control
- Auckland Regional Plan: Farm, Dairy Discharges

## **7.0 Other documents**

### **7.1 Essentially Waiheke**

Essentially Waiheke – A Village and Rural Communities Strategy is a non statutory strategic document which sets out a community approved framework for Waiheke's development. It was adopted by council in 2000 after extensive consultation with the Waiheke community.

The five central principles of Essentially Waiheke are:

- principles of environmental protection
- principles of economic development and employment
- principles of strong communities
- principles to protect and enhance Waiheke's character
- principles of location

The objectives, policies and rules of the land unit are consistent with these five central principles and the underlying aims, strategies and actions within the document.

Most specifically the principles of economic development and employment apply as this land unit allows for a variety of business to operate and employs residents of Waiheke.

## **8.0 Procedures for monitoring**

The council will monitor the effectiveness of the proposed provisions as a means of achieving the objectives and policies by:

- monitoring resource consents including the number of applications granted consent, compliance with consent conditions, and the effectiveness of those conditions
- monitoring complaints and enforcement actions
- monitoring trends through analysing statistics (e.g. census, accident statistics, building consents)

## **9.0 Conclusions**

Council has carefully considered all consultation received related to this land unit and has incorporated alterations to the plan where it was considered necessary.

Assessment of the objectives, policies and rules within the land unit against the statutory requirements of Section 32 of the Act has established that:

- the objectives are the most appropriate way to achieve the purpose of the Act as set out in section 5, 6, 7 and 8
- overall, the environmental, social and economic benefits of having the proposed objectives, policies and rules within the plan outweighs any costs which may result. Therefore these methods are the most effective and efficient method of addressing the issues within the land unit and consequently are the most appropriate method of achieving the objectives.
- the proposed objectives, policies and rules will allow council to carry out its functions under section 31, 72 and 74(1) of the act.
- the methods are consistent with the statutory national and regional planning documents, other acts and non statutory documents including:
  - New Zealand Coastal policy Statement
  - Hauraki Gulf Marine Park Act 2000
  - Auckland Regional Policy Statement
  - Essentially Waiheke – A Village and Rural Communities Strategy
- the methods are not relevant to, and not inconsistent with any Auckland Regional Plan.

**Appendix A**  
**Extension of Existing Land Unit Boundaries**



## **Extension of Land Unit Boundaries along Ocean View Road, Oneroa**

### **1.0 Introduction**

As part of the feedback received to the consultation undertaken as part of the district plan the following was stated as an issue *“to increase the size of commercial zone up Ocean View Road.”*

In addition, the planning for the future focus group has raised the issue of altering the land unit classification of the block of land bounded by Ocean View Road, Kuaka Road and Oue Road in Oneroa from the existing land unit 11 to a commercial land unit.

### **2.0 Assessment**

Council has assessed the appropriateness of applying the commercial 1 (Oneroa village) land unit to these sites and has concluded that the sites on 131-137 Ocean View Road (northern side), 102-108 Ocean View Road (southern side) and 1 & 3 Oue Road should have a commercial 1 (Oneroa village) land unit.

An aerial and photographs of these sites are attached as part 3 of this assessment below.

The reasons for this decision are:

- Ocean View Road is a busy road which carries major traffic volumes through Oneroa and has a primary road classification under the proposed plan. These high traffic volumes will support and be complimentary to commercial activity within these sites. This is because the passing motorists are potential customers for existing and proposed retail / commercial activities.
- these sites have an existing mix of commercial and residential character. The character of those sites in a residential use are compromised by the high traffic volumes and the surrounding commercial activities.
- some of the existing activities within these sites operate in a commercial or a non residential capacity, i.e.:
  - 102 Ocean View Road - Butchers & Deli – the Humble Pie Co
  - 102A Ocean View Rd - Oasis Landscapes
  - 104 Ocean View Road - Police Station
  - 108 Ocean View Road - Optometrist
  - 131 Ocean View Road - Church
- the land unit is proposed to be applied in a pattern which is logical, fair and reasonable:
  - on the northern side of Ocean View Road the land unit is applied to sites which will connect the two existing commercial areas of 139 Ocean View Road (café) and the Art works site at 2 Korora Road (which contains retail and theatre activities and the library) to ensure a continuous commercial road frontage.
  - on the southern side of Ocean View Road it will mean a consistent pattern of commercial activity from 3 Oue Road to 102 Ocean View Road.
- the sites at 1 & 3 Oue Road are strongly influenced and affected by the existing commercial activity which operates on adjoining and adjacent sites at 110 & 112 Ocean View Road and 2 Oue Road.
- the amenity of adjoining island residential land units will be protected by yard, building in relation to boundary, screening and noise controls within the plan.

- an economic assessment by Strateg.Ease titled ‘Notes on the population and economy of Waiheke Island’ (attached as part of appendix A) dated 12 November 2005 concludes that Waiheke has a much lower ratio of retail floorspace per resident than other coastal locations in New Zealand and a low level of on island jobs per resident.

The reason for this appears to be Waiheke’s close proximity to Auckland. Applying the land unit to these sites will have the potential to increase the amount of commercial / retail activity and subsequent employment opportunities in Oneroa, which will have a positive economic and social effect for Oneroa.

This land unit should not be applied to the land located to the south (2-16 Kuaka Road and 5-7 Oue Road) and north (2-18 Waikare Road and 4-14 Korora Road) of these sites because they have a distinct residential character, which would be compromised if this land unit was applied.

## 2.0 Photographs

### Aerial of 131-137 and 102-108 Ocean View Road and 1 and 3 Oue Road, Oneroa





**106-110 Ocean View Road**



**102-104 Ocean View Road**





**131-135 Ocean View Road**



**137-139 Ocean View Road**



## **Appendix B**

### **New Zealand Coastal Policy Statement (1994)**

## **Appendix C**

### **Hauraki Gulf Marine Park Act 2000**

Section 7 states as follows:

#### **Recognition of national significance of Hauraki Gulf**

- (1) The interrelationship between the Hauraki Gulf, its islands, and catchments and the ability of that interrelationship to sustain the life-supporting capacity of the environment of the Hauraki Gulf and its islands are matters of national significance.
- (2) The life-supporting capacity of the environment of the Gulf and its islands includes the capacity—
  - (a) to provide for—
    - (i) the historic, traditional, cultural, and spiritual relationship of the tangata whenua of the Gulf with the Gulf and its islands; and
    - (ii) the social, economic, recreational, and cultural well-being of people and communities:
  - (b) to use the resources of the Gulf by the people and communities of the Gulf and New Zealand for economic activities and recreation:
  - (c) to maintain the soil, air, water, and ecosystems of the Gulf

Section 8 states as follows:

#### **Management of Hauraki Gulf**

To recognise the national significance of the Hauraki Gulf, its islands, and catchments, the objectives of the management of the Hauraki Gulf, its islands, and catchments are—

- (a) the protection and, where appropriate, the enhancement of the life-supporting capacity of the environment of the Hauraki Gulf, its islands, and catchments:
- (b) the protection and, where appropriate, the enhancement of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments:
- (c) the protection and, where appropriate, the enhancement of those natural, historic, and physical resources (including kaimoana) of the Hauraki Gulf, its islands, and catchments with which tangata whenua have an historic, traditional, cultural, and spiritual relationship:
- (d) the protection of the cultural and historic associations of people and communities in and around the Hauraki Gulf with its natural, historic, and physical resources:
- (e) the maintenance and, where appropriate, the enhancement of the contribution of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments to the social and economic well-being of the people and communities of the Hauraki Gulf and New Zealand:
- (f) the maintenance and, where appropriate, the enhancement of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments, which contribute to the recreation and enjoyment of the Hauraki Gulf for the people and communities of the Hauraki Gulf and New Zealand.

**Appendix D**

**Regional Policy Statement**