

HGI Plan Review: section 32 report for Commercial 2 (Ostend village)

1.0 Executive summary

This report summarises the evaluation undertaken by the council of the commercial 2 (Ostend village) in terms of section 32 of the Resource Management Act.

The main land unit conclusions are:

- commercial 2 is to provide for a range of activities by classifying activities that are suitable for the land unit by permitted activity or alternatively requiring resource consent.
- good design outcomes are required for development within commercial 2. This is achieved by requiring resource consent for new buildings and alterations and additions.
- environmental effects need to be controlled within the land unit to protect the amenity of adjacent land units.
- 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.

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 plan provisions provide for a range of activities within the land unit. Specifically, there is a range of commercial, community and residential activities. Construction, additions and external alterations to buildings in the land unit are provided for as restricted discretionary activities. This is in keeping with council's desire to achieve good design outcomes so that the amenity of Ostend is enhanced.

The land unit boundaries for Ostend village are the same as the operative plan with the addition of the property at 84 Ostend Road.

Belgium Street is the main road through Ostend, so rules have been developed which requires retail and commercial activities to front the street and that parking and other activities e.g dwellings are located behind this retail or commercial activity.

Activities must also comply with the noise standards, both for residential units and noise between activities.

A Front yard is required to ensure that buildings can be built up to Belgium Street or alternatively allow for amenity landscaping. Side and rear yards are also required. In addition to yards, landscape amenity controls are also used to ensure that development produces good design outcomes.

Screening provisions apply to outdoor storage, refuse disposal areas, service or parking areas where they adjoin or directly face a road or land that is classified as island residential or recreation land units.

2.2.3 Operative plan provisions

The operative plan provisions provide the following:

- a policy area 7 Ostend-Okahuiti-Tahi which has underlying land units of retailing (LU13), community amenities (LU19), traditional Residential (LU11), bush residential (LU12), industrial (LU15), and outdoor activities (LU18).
- all new buildings, additions and alterations in the policy area require controlled activity assessment.
- the policy area within Ostend includes provisions for building line restrictions along Putiki Road, Belgium Street, a proposed arterial road through Okahuiti reserve, a proposed pedestrian linkage, carparks, and future road closure for Belgium Street and allowing service access only.
- the Tahi Road area includes a future road and road closure.

2.3 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 commercial 2 (Ostend village).

2.3.1 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
- 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.

2.3.2 Issues raised during consultation

The issues raised in consultation relevant to Ostend were wide and varied and included:

1. Avoid ad hoc expansion. Urban strategy for growth and principles of centre based intensification should apply.
2. Nine feedback forms supported the introduction of a concept plan with associated controls and design guidelines.
3. Two feedback forms supported a park and ride facility at Ostend.
4. Protect European built heritage e.g former Ostend post office (Wharf Road).
5. Two feedback forms also wanted to better define Belgium Street as the main route through Ostend with future roading options.
6. Remove ultra vires parts of the policy area.
7. Re-classify 84 Ostend Road for business/commercial purposes.
8. Extend land unit 13 to properties (1 Whakarite Road-Midway Motel) between Sea View Road and Whakarite Road as it is considered not suitable for land unit 11-traditional residential.

In terms of issue 1, the land unit classification of commercial 2 seeks to consolidate the commercial activities based around the centre of Ostend i.e Belgium Street. This is addressed by the range of activities provided for in the land unit. Reclassifying some sites will be considered on a case by case basis.

Feedback on issue 2 raised the possibility of a concept plan approach. This approach has not been adopted in the proposed plan as a custom made land unit for Ostend was considered to achieve the outcomes sought. The proposed provisions address the community concerns with respect to good design outcomes. In addition, they also address potential adverse effects on activities within the land unit and adjacent to commercial 2.

The council received feedback that support the concept of a park and ride facility within Ostend centre. As investigations are currently underway to assess the feasibility of such facilities on Waiheke, one of which is in Ostend, the plan may require to be changed in the future if such facilities are introduced.

Issue 4 sought the protection of European built heritage e.g. former Ostend post office. The “Ostend post office” was assessed by council’s heritage division and based on information available, it did not score enough points to warrant consideration for scheduling. Further details should be referred to the heritage section of the plan and section 32 analysis.

Feedback supported support Belgium Street as the predominant route through Ostend. Belgium Street has been classified as the primary road and the current building lines and future road closure for Belgium Street have been removed in the proposed plan to reflect its status as the main route. In addition, the proposed arterial route through Okahuiti-Putiki Road and the associated building line restrictions in the operative plan have been removed in the proposed plan as the Council’s Transport Planning and Traffic and Roading Services have advised that the arterial road will not be constructed.

Issue 6 is supported and is discussed in detail in option 1 under section 4.2 of this report.

Issue 7. As part of the feedback received to the consultation undertaken as part of the district plan review council was asked to ‘*rezone 84 Ostend Road for business/commercial development*’.

The site is located on the intersection of Whakarite and Ostend Roads with Belgium Street and Natzka and Sea View Roads in the near vicinity. A pedestrian refuge is located on Ostend Road directly opposite the site. The site is vacant, grassed and slopes upwards along Whakarite road. The site is currently classified as land unit 11-Traditional residential.

Council has assessed the appropriateness of applying commercial 2 (Ostend village) to this site and has concluded that the site should be re-classified to commercial 2 (Ostend village).

The reasons for this decision are:

- there is little residential amenity afforded to the site due to the adjoining motel site (Midway Motel).
- the confluence of five roads adjacent to the site lowers the residential amenity due to high traffic movements and volumes.
- the site is strongly influenced by the surrounding land uses to the west (commercial use) and to the north and east of the site (commercial-motel) and is more akin to this type of land use rather than residential.
- the amenity of the 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’ 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 lower level of on island jobs per resident. The reason for this appears to be Waiheke’s close proximity to Auckland. The applying of this land unit to this site will have the potential to increase the amount of retail activity and number of jobs in Ostend, which will be an economic and social benefit to Ostend.

Issue 8. Council was also asked to consider ‘*Extend LU13 in Ostend between Sea View Road and Whakarite Road as it is not suitable for LU11*’.

The properties being requested to be re-classified includes 1 Whakarite Road (Midway Motel) and 84 Ostend Road. Re-classifying 84 Ostend Road to commercial 2 has been discussed above. The Midway Motel site is discussed as follows. The site is currently being used as a motel with several buildings located on the site. There are also existing trees and vegetation on the site. The property comprises several certificates of title and is 4546m² in area. The property has a split land unit classification of LU11-traditional residential and LU12-bush residential.

Council has assessed the appropriateness of applying commercial 2 (Ostend village) to this site and has concluded that the site should remain island residential.

The reasons for this decision are:

- the property exhibits a predominantly residential character due to the scale, form and location of the buildings and existing trees and landscaping.
- the adjoining land uses are residential with the exception of 84 Ostend Road which is currently vacant and recommended to be re classified as commercial 2.
- the property, while predominantly residential in character, does exhibit some commercial traits. The council considers that the property while not purely commercial in nature can act as ‘transition land use’ between commercial land units along Whakarite Road and the island residential properties further along Whakarite Road and Sea View Road.

3.0 Resource management issues and objectives

3.1 Issues

In terms of commercial 2 (Ostend), the council has identified the following significant resource management issues which need to be addressed in the plan:

- How to enable and enhance a range of activities within Ostend Village.
- How to facilitate further development in manner that achieves good design outcomes.

3.2 Objectives

- To enable and consolidate commercial and community facilities and residential uses within the existing village.

- To ensure that new development within Ostend village achieves good design and safety outcomes and enhances general amenity values.

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. There are no matters of national importance to the commercial 2 (Ostend village).

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 are of particular relevance to the commercial 2 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

Objective 10a.12.3.1 To enable and consolidate commercial and community facilities and residential uses within the existing village.

Objective 10a.12.3.2 To ensure that new development within Ostend village achieves good design and safety outcomes and enhances general amenity values.

Objective 10a.12.3.3 To ensure that any environmental effect of commercial activity on other activities within the land unit or on adjoining island residential land units is avoided or no more than minor in extent.

Objective 10a.12.3.1 is consistent with section 7(b) because commercial 2 provides for a range of activities which will enable the community to provide for their social, economic and cultural wellbeing. The range of activities are predominantly commercial in nature. However there are also community and residential activities provided for. In effect, the land unit provides a range of uses akin to a ‘mixed use’ land unit with a predominant emphasis on commercial activities.

In addition, Ostend village is existing and it would be an efficient use of natural and physical resources to continue to use the land/buildings for this purpose.

Objectives 10a.12.3.2 and 10a.12.3.3 are consistent with section 7(c)(f) because the provisions within the commercial 2 land unit require development to achieve good design outcomes. In addition, any environmental effect resulting from an activity needs to be managed to ensure that it does not create adverse effects on adjoining activities or land units. This is consistent with the section 7(c)(f).

In terms of section 5, objective 10a.12.3.1, 10a.12.3.2 and 10a.12.3.3 will enable the community to provide will enable the community to provide for their social, economic and cultural wellbeing and for their health and safety while supporting section 5(2)(a)(b)(c). In terms of section 6, there are no matters of national importance specific to the objectives for Ostend village. However overall it is considered that the objective is consistent with sections 5, 6 and 7 of the RMA.

Objective 10a.12.3.1 and 10a.12.3.2 as outlined above assist the council to carry out its functions as stated under s31, 72, 74(1) by providing for a range of uses in Ostend village and ensuring good design outcomes are achieved which is consistent with section 31(1)(a). In addition, objective 10a.12.3.3 also assists the council to carry out its function as required section 31, by requiring the provision for activities to require aural and visual amenity.

In summary, objectives for commercial 2 (Ostend village) of the plan are considered necessary in assisting Auckland city to carry out its functions under section 72, 74(1) in order to achieve the purpose of the act as discussed in section 4.1.2 of this report.

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

Policies and rules

The proposed policy for objective for 10a.12.3.1 is:

1. By providing for a wide range of commercial, residential and community activities throughout the land unit.

It is considered that this policy is the most appropriate means for achieving the objective because they provide a range of uses within commercial 2 which would enable Ostend village to be self sustaining. The range of uses for commercial 2 is predominantly commercial which generate little adverse effects appropriate for a commercial land unit. i.e art galleries, care centre, community facilities, educational facilities, healthcare services, office, restaurants, retail and tavern as permitted activities within the land unit. Where there is the potential for activities to generate greater adverse effects then these activities are classified as discretionary activities e.g example boarding house, motor vehicle sales, service station.

While the land unit is predominantly commercial in nature, the range of activities does extend to residential activities. For example allowing for dwellings (one per site) as a permitted activity and multiple dwellings as a discretionary activity within the land unit. It is considered that if managed correctly the issue of reverse sensitivity on issues such as noise should not arise.

In summary the policies and rules support objective 10a.12.3.1 to the extent that they:

- provides for a wide variety of commercial uses i.e. art galleries, care centre, community facilities, educational facilities, healthcare services, office, restaurants, retail and tavern as permitted activities within the land unit.
- extend the commercial 2 land unit to 84 Ostend Road.

- provides for other commercial activities with greater potential generated effects as discretionary activities for example boarding house, motor vehicle sales, service station.
- allows for a dwelling (one per site) as a permitted activity and multiple dwellings as a discretionary activity within the land unit.

The proposed policies for objective 10a.12.3.2 are:

1. By controlling the construction and alteration of buildings within the land unit so that the design and appearance is integrated in terms of form and location.
2. By using specific bulk and location rules so that built development is integrated in terms of scale and intensity.
3. By requiring new developments to be designed to enable surveillance within and through the area, to provide for clear sightlines, to avoid the creation of potential hiding places, and to encourage use by the public of public and semi-public places.
4. By requiring landscaping to enhance the built environment at the business and residential land unit interface.

Policy one provides for a rule that requires all new and relocated buildings and alterations and additions to existing buildings undergo a restricted discretionary resource to ensure that a positive streetscape environment and high level of amenity is achieved. In this regard, the council has restricted its discretion to the scale, form (design) and location of buildings.

In addition, retail and commercial activity is the predominant activity within the land unit and this is reflected within rule 10a.12.7.1, where these activities are intended to reinforce Belgium Street as the predominant road through Ostend. The intention of the rule is to ensure that non-retail activities (e.g dwellings) are appropriately located to maintain an active commercial ground floor along Belgium Street. This is to enhance the retail character of Ostend village. Furthermore the rule will enhance the vitality, connectiveness and interaction of Ostend while allowing other types of activity in appropriate locations.

Policy two provides for rules that control the scale and intensity of buildings which are in keeping with the existing built environment. For example, height, yards, building coverage. It is considered that these controls used in conjunction with the control outlined in policy one, will ensure that the objective is given effect to.

Policy three provides for crime prevention through environmental design (CPTED) principles to be adopted in all new site design and buildings in Ostend. As part of assessing new development and places, the policy and assessment criteria require that they will be designed in manner so that people feel safe when visiting them and that the occurrence of crime is reduced through employing certain design techniques. The safety provisions are also expected to strengthen the relationship between private development and public/semi-public places. As result of the safety provisions, the public awareness of personal safety and the relationship between this to built design and site layout will be increased.

Policy four provides for rules and assessment criteria to enable landscaping to enhance the built environment in Ostend village. This is particularly relevant for the commercial and

island residential land unit interface where there is the potential for conflict to occur. Requiring landscaping provides for the maintenance of adequate amenity between the commercial 2 and the island residential land units fronting Putiki, Waitai, and Whakarite roads. Landscaping also helps mitigate adverse effects by softening the appearance of development, separating pedestrian and vehicle activities and providing form, scale and texture that complement development.

In summary the policies and rules support objective 10a.12.3.2 to the extent that they:

- Require retail/commercial activities fronting Belgium Street.
- Yards are required in the land unit.
- Belgium Street is classified as the primary road.
- Requires that all new and relocated buildings and alterations and additions to existing buildings undergo a restricted discretionary resource 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.
- Imposes policies and rules so that development adopts Crime prevention through environmental design (CPTED) principles and to ensure that there is adequate amenity between the business and residential interface through the use of yards and landscaping.
- Requires landscaping to address residential/business interface issues.

The proposed policies for objective 10a.12.3.3 are:

1. By requiring noise standards on all activities and internal noise controls for dwellings within the land unit.
2. By specifying side and rear yards where the boundary of the site adjoins another land unit.

Policy one provides for rules for acoustic standards for activities within the land unit so that there is no excessive noise which can have an adverse effect on the amenity of the receiving environment.

Where, the noise within commercial 2 affects adjoining land units, the standards in 10c.1 apply. Noise control levels for all areas have been changed from L10 to Leq because of the requirements of NZS6802:1999. Leq levels are typically 2-3 decibels lower than the L10 level for the same noise source.

The noise levels for commercial 2 Ostend village have been increased from 50dBA L10 during day times to 55dBA Leq. The night time levels have been increased from 35dBA L10 to 45dBA Leq. These levels are to be met at the notional boundary of adjacent sites with residential uses. The notional boundary is set at 20 metres from the dwelling or at the boundary of the adjacent site whichever is closer to the dwellings.

The levels of 55/45 respectively are within the guideline noise limits of New Zealand Standard NZS 6802: 1999 : Acoustics - Assessment of environment noise. These levels are more realistic given the close proximity of the commercial 2 properties to island residential

properties. The Lmax level of 75dBA is also consistent with the guideline noise limits of NZS 6802:1999.

Policy two provides for a side and rear yard rule and building in relation to boundary rule in part 10c of the plan. This requires buildings located on sites which adjoin other sites classified as island residential or recreation to be setback from the boundary and of a general residential scale and to provide a degree of separation between activities.

These provisions will protect the acoustic and visual amenity value of adjacent commercial or residential land uses.

In summary the policies and rules support objective 10a.12.3.3 to the extent that they:

- improve the aural and visual amenity of different land uses within the land unit and residential land uses adjoining the land unit.

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

- Option 1 Status quo. Retaining the operative plans policies and rules as a means of achieving the objectives.
- Option 2 Do nothing. 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 3 More restrictive. 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 4 Proposed provisions. Use of proposed objectives, policies and rules as a method of achieving the objectives within the land unit.

4.2.1 Option 1

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

Benefits	Costs
Protection of the character and amenity of Ostend by requiring building development or vegetation removal within the Ostend policy area to undergo a controlled activity resource consent process.	Potential for some developments to be granted which may have adverse effects on the character and amenity of Ostend. 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 a more restrictive activity status allowed it.
Protection of the built character and amenity of Ostend by requiring development to be considered against criteria related to the design and form of buildings, pedestrian linkages, shelter, court yards / plazas and	Expectation by the community that the character of Ostend can be adequately controlled through the operative Ostend policy area and land unit 13 provisions. This is not necessarily the case because these

landscaping. Benefit to the community generally.	applications have to be granted. Cost to the community generally.
Development controls which are generally understood by the community.	The operative plan applies the Ostend policy area and land unit 13 provisions to Ostend. These provisions impose a double layer of objectives, policies and rules within Ostend which is unnecessary and can be more effectively and efficiently managed. It also affects the usability and clarity of the plan. Cost to the community generally in regards to the legibility of the plan.
	Monetary and time cost to people undertaking development because they are required to undergo a controlled activity resource consent. Cost to people undertaking development.
	There are building line setbacks, carparks, pedestrian linkage, proposed arterial route, service access and future road closure controls depicted on the policy area map. In effect, the council would have to designate or acquire the land to implement these denotations. The denotations are currently not designated, so it is also a cost to the owners of the properties affected, because their property rights are constrained by the denotations. The denotations are ultra vires in that the council cannot impose these controls, as designations or the purchase of that land are the appropriate mechanism.

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.

Overall, option 1 has only limited environmental, social and economic benefits and potentially 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 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.

4.2.2 Option 2

Do nothing. 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.

Benefits	Costs
None	Decrease in landscaping on sites as people maximise development potential.
	Resultant difficulty to dispose of stormwater and wastewater – negative impact on water quality.
	Resultant reduction in flora and fauna within the land unit
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 Ostend 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
Maximising of development potential and therefore potential for maximising profits on development. Benefit to person undertaking development only.	Loss of the land units retail / commercial character as other activities develop. Cost borne by the community generally.

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.

Overall, option 2 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 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.

4.2.3 Option 3

More restrictive. 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.

Benefits	Costs
Rigid control on buildings and activities within the land unit which would ensure that effects on environment could be strictly	None

Benefits	Costs
protected and controlled.	
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.
Increase in public certainty about what activity could be undertaken within the land unit. Benefit to the community generally.	Increased number of resource consents being processed by council and consequently increasing need for additional resources to 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. Depending on the wording of a rule, this could 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.

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.

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 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.

4.2.4 Option 4

Proposed provisions. Use of proposed objectives, policies and rules as a method of addressing the issues within the land unit.

Benefits	Costs
<p>The building location rule which requires retail or commercial activity on the ground floor along Belgium Street. This will provide a benefit by:</p> <ul style="list-style-type: none"> reinforcing Belgium Street as the predominant road through Ostend. maintaining an active commercial/retail ground floor for developments along Belgium Street to enhance the retail character of Ostend village. allowing other activities (e.g dwellings) and carparking areas at more appropriate locations i.e at the rear of sites or on upper levels of buildings. 	<p>Requiring commercial/retail activities on the ground floor along Belgium Street will remove the potential of other activities (e.g dwellings) to be located on the ground floor.</p>
<p>The front yards and landscape amenity controls provide benefits to the community by:</p> <ul style="list-style-type: none"> reinforcing Belgium Street as the main retail/commercial area in Ostend. requiring landscaping to enhance amenity. ensuring a business/residential interface buffer between these land units so that adequate amenity is maintained. softening the appearance of development. separating pedestrian and vehicle activities taking place on the site from those taking place on the street. providing form, scale and texture that complement development. 	<p>The costs of this rule would be borne by the developer in terms of further development costs. In addition, an economic cost to the developer due to the loss of further development rights in terms of the front yard requirement associated with commercial 2.</p>
<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 adjacent island 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>The screening rule will have a visual / amenity benefit to the community generally by requiring screening of any outdoor 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>	<p>The screening control will impose a monetary / economic cost to comply. Cost to developer / land owner</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 ensures that the character and amenity value of Ostend village generally, and the Belgium Street streetscape specifically, is maintained and enhanced. Council has restricted its discretion to matters related to the scale, form (design), and location of buildings.</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.</p> <p>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"> • <i>the construction of uncovered decks complying with the permitted standards for the land unit (e.g. colour/reflectivity, building coverage etc.)</i> • <i>changing or putting in windows or doors in an existing building.</i> • <i>changing materials or cladding with other materials or cladding that comply with the permitted standards for the land unit.</i> <p>This will allow certain alterations and additions to be undertaken ‘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 process.</p>	<p>None</p>
<p>Providing for a wide variety of commercial uses as permitted activities encourages a vibrant and varied commercial environment within Ostend village without imposing unnecessary restrictions.</p> <p>It also provides clarity about what development is considered as appropriate within the land unit.</p> <p>There is an economic and social benefit to people undertaking development and a social benefit to the community generally.</p>	<p>None</p>
<p>Providing for other commercial uses as discretionary activities within the land unit allows these type of activities which generally generate adverse effects to be carefully considered by council and potentially the</p>	<p>Imposes a monetary and time cost on people undertaking development.</p>

community. Social benefit to community generally.	
With the exception of rules detailed above, the development controls within table 10c.2 of the plan are consistent with table 1 – standards for permitted activities within part 6b of the operative plan. Therefore these controls are readily understood by the community. Benefit borne by the community generally.	
The removal of the Okahuiti-Ostend-Tahi policy area to the area brings benefits to the community by: <ul style="list-style-type: none"> • reduction in costs to the community. These provisions impose a double layer of objectives, policies and rules within Ostend which is unnecessary and can be more effectively and efficiently managed by a custom made land unit. It also affects the usability and clarity of the plan. • The removal of the policy area and its replacement with a custom made land unit provides for better integrated management of the issues relating to the specific area without the associated cost of additional layers of control under the policy area provisions. 	None.

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.

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 amenity value of Ostend village is enhanced.

This option will have strong environmental, social and economic benefits while having limited costs to people proposing development. Therefore option 4 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.

4.2.5 Conclusion

The above analysis of Options 1 - 3 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 4 outweighs any costs which may result.

Therefore option 4 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, 74(1) and 76 of the act, because they:

- achieve integrated management of the use and development of the land unit.
- provide for retail and employment opportunities within Ostend in a manner which enhances the amenity value and ‘village’ character of the centre.
- ensure that commercial activity within Ostend 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.
- 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 A** 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 modified and has a predominant commercial character.

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 B**.

The objectives, policies and rules for commercial 2 (Ostend village) give effect to sections 7 and 8 of the HGMPA in that they are consistent with section 7(1)(2). In particular, the provisions for commercial 2 (Ostend village) allow the community to provide for their social, economic, recreational and cultural well-being, while at the same time ensuring that the soil, air, water and ecosystems of the gulf are not compromised.

The provisions are also consistent with section 8(b)(e)(f). The provisions enable the enhancement of the physical resources of Ostend by:

- reinforcing the retail character
- enhancing the appearance and design of buildings
- providing economic, social and recreational opportunities within the commercial 2 land unit.

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 2.5.1.(2), 7.3.(1) and (3) and policies and methods 2.5.2(1), and 7.4.1 of the Auckland Regional Policy 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 modified and has a predominant commercial character
- reinforcing the retail character
- enhancing the appearance and design of buildings
- providing economic, social and recreational opportunities within the commercial 2 land unit.

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

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 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

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 principles and the underlying aims, strategies and actions within the document because the provisions:

- requires development to be of a scale, form and location which will ensure a positive streetscape and a high level of amenity is achieved for Ostend.
- recognises that this land unit is modified and has a predominant commercial character and provides a range of uses to further reinforce this character.
- enhance the appearance and design of buildings through the resource consent process.
- providing economic, social and recreational opportunities within the commercial 2 land unit.
- ensure that land use adverse effects are avoided, remedied or mitigated and do not impinge on other activities within the commercial 2 or adjacent land units.

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
- undertaking surveys eg user satisfaction surveys, land use surveys
- monitoring trends through analysing statistics (eg 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 and non statutory documents and other acts including:
 - New Zealand Coastal policy Statement
 - Hauraki Gulf Marine Park Act
 - 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 B

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 C

Relevant provisions from national and regional planning documents