

HGI Plan Review: section 32 report for the commercial 4 (visitor facilities)

1.0 Executive summary

This report summarises the evaluation undertaken by the council of the commercial 4 (visitor facilities) 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 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 4 (visitor facilities) land unit.

2.3 Land unit location and character

This land unit applies to specific properties in Onetangi, Palm Beach, and Orapiu in Waiheke. The character of the land unit is varied although it is generally located close to the coast and residential areas.

The current activities within the land unit include holiday accommodation, dwellings, hotel, restaurant and bar activities.

Overall, the purpose of the land unit is to provide for larger scale visitor facilities within specific locations on Waiheke.

2.4 Operative Plan Provisions

This land unit is titled 'land unit 14 – visitor facilities' within the Operative Hauraki Gulf Islands District Plan 1996 (HGI plan). Under the land unit 14 provisions, all activities are permitted subject to compliance with development controls and as long they are located outside the Onetangi policy area.

Different height, lot coverage and noise rules are applied between some sites within the land unit. For example for the site at 141 The Strand and described as Onetangi Beach western end in the operative plan the height rule states that *“no part of any building shall infringe the height limit imposed by a line drawn at twelve (12) degrees from the centre line of the road ...”* This rule allows buildings 100 metres from the point of origin to be a maximum height of 21.2 metres.

In contrast, the height rule applied to the sites described as Onetangi Beach eastern end with the Onetangi policy area applying to it states that:

“No part of any building shall infringe the height limitation imposed by a line drawn at an angle of eight (8) degrees from the horizontal and originating at every point 2m above the common boundary between the lots affected and The Strand and extending landward for a horizontal distance of fifty (50) metres at which point the angle shall be reduced to two (2) degrees from the horizontal across the balance of the affected land.”

All other sites within the land unit have an 8 metre height limit applying to them.

The Onetangi policy area applies to land bounded by Third Avenue, Fourth Avenue and The Strand in Onetangi. Within the Onetangi policy area *“the erection, alteration of or addition to any building, removal of any vegetation, and the carrying out of any earthworks within Policy Area 6 is deemed to be a controlled activity.”* The land unit 14 at the eastern end of Onetangi Beach is within this policy area.

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 4 (visitor facilities) 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

A wide range of issues were raised during consultation on the review of the plan. These issues included:

- amend visitor facilities definition to provide strict guidelines
- alter assessment criteria
- amend status and control size of visitor facilities
- introduce intensity provision
- noise issues in Orapiu Bay Resort
- provision for visitor facilities in other land units
- no more commercial development on Onetangi beachfront

A number of submissions also raised issues specific to the Onetangi policy area. These included the provision of public parking and the protection of the Onetangi Hotel.

The issue of the protection of the Onetangi hotel is dealt with in the heritage provisions, while the provision of public parking for Onetangi is not a matter the plan can specifically deal with. The operative plan shows areas for public parking. These have not been carried over to the plan as they can only eventuate if council designates the land for that purpose and / or buys the land.

Council has considered all this feedback and has responded in the proposed plan by:

- creating separate definitions for different types of visitor facilities i.e. camping facilities, visitor accommodation and tourist accommodation which reflect the different scale of activities and potential effects.
- providing for these activities within the visitor facilities land unit and in other land units where appropriate through permitted or discretionary activity statuses.
- controlling the scale of visitor facility buildings
- ensuring dwellings are a non complying activity within the land unit
- reviewing and altering the noise provisions that apply to the land unit
- requiring new buildings and alterations or additions to existing buildings within the land unit to be a restricted discretionary activity to ensure that the scale, form (design), colour and location of buildings are integrated with the character and amenity value of surrounding residential areas and the coastal environment.

3.0 Resource management issues and objectives

3.1 Issues

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

1. *How to provide for a range of visitor facilities while not compromising the character and amenity of surrounding residential areas or the coastal environment.*
2. *How to ensure that development on these sites is restricted to visitor facility activities only and does not include permanent dwellings.*

3.2 Objectives

The objectives relevant to this land unit are:

- *To provide for visitor facilities to service the needs of tourists to Waiheke.*
- *To ensure that any adverse effect of visitor facilities on adjacent island residential or recreational land units or the coast is avoided or mitigated.*

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. The matters of particular relevance to the commercial 4 (Visitor facilities) land unit, are identified below:

Clause		✓
(a)	The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development	✓
(b)	The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development	
(c)	The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna	
(d)	The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers	
(e)	The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga	
(f)	The protection of historic heritage from inappropriate subdivision, use, and development	
(g)	The protection of recognised customary activities	

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 4 (Visitor facilities) 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.14.3.1

To provide for visitor facilities to service the needs of tourists to Waiheke.

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 a range of visitor facilities to be established 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 help to meet the demand for short stay visitor accommodation within Waiheke
- will ensure that existing visitor facilities within the land unit will be allowed to continue to operate and grow while protecting and enhancing the character and amenity of 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.14.3.2

To ensure that any adverse effect of visitor facilities on adjacent island residential or recreation land units or the coast is avoided or mitigated.

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 a range of visitor facilities to be established within the land unit while avoiding, remedying or mitigating the adverse effects of these activities on adjoining land units and the coastal environment.

This objective also meets clause (a) “*the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their*

margins, and the protection of them from inappropriate subdivision, use, and development” of Section 6 ‘Matters of national importance’ of the Act, because:

- it recognises that this land unit in some instances is located in close proximity to the coast and ensures that development protects the natural character and amenity of the coastal environment.

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:

- recognises that this land unit is located adjacent to island residential or recreation land units and in close proximity to the coastal environment and requires the amenity and character of these areas to be protected.

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 providing for camping facilities and visitor accommodation as permitted activities in the land unit.*
- *By not providing for dwellings within the land unit.*
- *By controlling buildings in terms of design, bulk and location.*
- *By adopting controls which protect the privacy and amenity of adjacent island residential land units.*

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

- recognise that the potential scale of effects of camping facilities and visitor accommodation activities are such that they are appropriate within the land unit without specific control (with the exception of control on buildings) and therefore have a permitted activity status.
- recognise that while tourist complexes and restaurants may be appropriate within the land unit their potential scale of effects (i.e. traffic generation, noise etc) are potentially greater and therefore should be assessed by council
- require new buildings and alterations and additions to existing buildings within the land unit to be controlled by a restricted discretionary resource consent which ensures that the character and amenity value of surrounding island residential areas and the coastal environment is maintained and enhanced. Council has restricted its discretion to matters related to the scale, form (design and materials), colour and location of buildings.
- impose development controls i.e. height, yards, building coverage etc which will ensure that buildings within the land unit are of a residential scale
- impose development controls which protect the privacy and amenity of adjacent island residential land units.

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 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 are achieved.

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

Benefits	Costs
<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.
	Decrease in indigenous vegetation on sites as people maximise development potential.
	Resultant difficulty to dispose of wastewater and stormwater on sites – negative impact on water quality
	Resultant reduction in flora and fauna within the land unit
	Reduction in the character and amenity of the land unit. Cost borne by the community generally.
<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 therefore potential for maximising profits on development. Benefit to person undertaking development only.	Increase in adverse visual, amenity, noise and traffic effects between different activities within the land unit. Cost borne by the community generally.

Overall, option 1 has only limited environmental benefits and significant potential environmental costs and 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>
The Onetangi Policy Area applies to the sites within the land unit bounded by Third and Fourth Avenue in Onetangi. This policy area requires that the removal of any vegetation and the carrying out of any earthworks requires a controlled activity resource consent. This has the potential be beneficial to the environment of the land unit as all vegetation removal and earthworks will be assessed by Council for it's appropriateness.	Resource consent required for all vegetation removal and earthworks in Onetangi without any consideration of the amenity value of the vegetation proposed to be removed. Cost in time and money for people proposing earthworks or vegetation removal.
<u>Social and Economic</u>	<u>Social and Economic</u>
	The operative plan applies the Onetangi policy area and land unit 14 provisions to the sites bounded by Third and Fourth Avenue in Onetangi. As part of the feedback received to the consultation undertaken as part of the district plan review there was some opposition to the Onetangi policy area provisions. The issues with the Onetangi policy area include: <ul style="list-style-type: none">○ these provisions impose a double layer of objectives, policies and rules within Onetangi which is unnecessary and adversely affects the usability and clarity of the plan.○ the intent of the policy area has been lost.○ the policy area imposes parking areas, pedestrian linkages, road closures and vehicle access points predominantly on private property. Council cannot impose these methods without designating and / or buying the sites.○ potential conflicts between land unit and policy area objectives, policies and rules. Cost to the community generally in regards to the clarity and legibility of the plan.
	Monetary and time costs to people undertaking building work within policy area

	as resource consent required.
<p>Onetangi policy area requires that the erection of or addition to any building is a controlled activity.</p> <p>Development is considered against criteria related to the design and form of buildings, pedestrian linkages, landscaping, earthworks and the amenity and character of the area.</p> <p>Benefit to the community generally.</p>	<p>Potential for some developments to be granted which may have adverse effects on the character and amenity of Onetangi. 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.</p> <p>Expectation by the community that the character of Onetangi can be adequately controlled through the operative Onetangi policy area and land unit 14 provisions.</p> <p>Cost to the community generally.</p>
<p>With the exception of that part of the land unit contained within the Onetangi policy area the design and appearance of buildings are not controlled within the land unit.</p> <p>This means that subject to compliance with development controls within these areas building can be built 'as of right'.</p> <p>Benefit to individuals undertaking development because people will not have to go through a resource consent process.</p>	<p>With the exception of that part of the land unit contained within the Onetangi policy area the design and appearance of buildings are not controlled within the land unit.</p> <p>This means that subject to compliance with development controls within these areas building can be built 'as of right'.</p> <p>This will have the potential to have adverse character and amenity effects on surrounding areas.</p> <p>Cost to the community generally.</p>
	<p>Development controls which are overly complicated, vary between sites within the land unit and in some instances can create development of a large scale which are inappropriate for the location, character and amenity of the land unit and surrounding areas.</p> <p>For example:</p> <ul style="list-style-type: none"> ○ the operative height control in Onetangi beach west allows buildings to a height of 21 metres ○ maximum permitted lot coverage in Onetangi beach east is 45%, in all other sites within the land unit it is 15%. ○ two levels of noise control, one in Palm Beach and another control for the remainder of the land unit. <p>This creates confusion for people using the plan and is not the most effective or efficient method of achieving the outcome.</p>
	<p>Policies and rules which do not clearly relate to or achieve the objectives of the land unit in all instances.</p> <p>Clarity of the plan adversely affected. Costs to all parties using and administering the plan.</p>

Overall, option 2 has only limited environmental, social and economic benefits and greater potential 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.

Benefits	Costs
<u>Environmental</u>	<u>Environmental</u>
None	Decrease in indigenous bush cover on sites as people maximise development potential.
	Resultant difficulty to dispose of wastewater and stormwater on sites – negative impact on water quality
	Resultant reduction in indigenous flora and fauna within the land unit
	Adverse effects on the character and amenity value of the coastal environment.
<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 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 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. 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 character as other activities develop. Cost borne by the community generally.
	Adverse effects on the character and amenity value of adjoining residential and recreational areas. Cost borne by the community generally.

Overall, option 3 has only social and economic benefits to individuals undertaking developments and 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.

Benefits	Costs
<u>Environmental</u>	<u>Environmental</u>
Rigid control on buildings and activities within the land unit which would ensure that the character of the land unit could be strictly protected and controlled.	None
<u>Social and Economic</u>	<u>Social and Economic</u>
Control on building design, appearance and location within all areas of the land unit. Benefit to community generally.	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 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 extension in compliance with all development controls. This would raise expectations unnecessarily that these applications would be notified. Cost to the public generally.
	Lack of ability to operate certain visitor facilities 'as of right' within the land unit. 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 of residents 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 policies and rules as a method of achieving the objectives.

Benefits	Costs
<u>Environmental</u>	<u>Environmental</u>
Requiring new buildings and alterations and additions to existing buildings within the land unit to be controlled by a restricted discretionary resource consent recognises the sensitive nature of the coastal environment and the necessity to have additional control within these locations in order to protect this character. This will have benefits to the coastal environment of the land unit generally.	None
<u>Social and Economic</u>	<u>Social and Economic</u>
Requiring new buildings and alterations and additions to existing buildings within the land unit to be controlled by a restricted discretionary resource consent will ensure that proposed buildings will be integrated with the coastal environment and surrounding residential land uses (where the land unit is located within the coastal environment). Council has restricted its discretion to matters related to the scale, form (design), colour and location of buildings. The possibility for applications to be refused will give additional impetus for applicants undertaking developments to ensure a positive design outcome is achieved. This will have a social benefit for the community generally.	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 cost on people to comply. Cost to all people undertaking development within the land unit.
'Minor alterations and additions to a building' are exempt from assessment as a restricted discretionary activity. These are defined in the Plan as:	Providing for camping facilities and visitor accommodation as permitted activities will mean that council will be unable to control the generated effects of the activity.

Benefits	Costs
<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 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>	<p>Potential cost to community generally.</p>
<p>Providing for camping facilities and visitor accommodation as permitted activities recognises that the scale of effects of these activities are likely to be appropriate to the residential and coastal character of the land unit.</p> <p>It will allow certain activities to be established ‘as of right’ which is an economic benefit to people undertaking such activities as they would not need to undertake a resource consent process.</p>	<p>Providing for restaurants, cafes and other eating places and tourist complexes as discretionary activities within the land unit will place a monetary cost on people to comply.</p> <p>Cost to all people undertaking such development.</p>
<p>Providing for restaurants, cafes and other eating places and tourist complexes as discretionary activities within the land unit recognises that these activities can be appropriate within the land unit, although their effects need to be considered to ensure that they are consistent with the character and amenity of the land unit and surrounding areas.</p>	
<p>Increase in public certainty about what activity could be undertaken within the land unit. Benefit borne by the community generally.</p>	
<p>Impose a noise control in table 10c.2 of the plan which is:</p> <ul style="list-style-type: none"> 55dBA Monday to Saturday 7am to 10pm and Sunday 9am to 6pm. 45dBA at all other times including public holidays (night time) <p>This is 10dBA more than the noise control applied to Palm Beach and 5dBA more than the level applied to all other parts of the land unit during the day in the operative plan. It is 5dBA more than the level applied at night in the operative plan. This was necessary because:</p> <ul style="list-style-type: none"> these noise levels reflect the existing 	

Benefits	Costs
<p>noise environment for visitor facilities within the land unit</p> <ul style="list-style-type: none"> ○ the previous levels were onerous and a visitor facilities activity within the land unit could find it difficult to comply. ○ the proposed levels will provide a level of control which will protect the acoustic amenity of adjacent island residential land units. <p>Benefit borne by the community generally.</p>	
<p>Development controls in table 10c.2 of the proposed plan which are easily understood and ensure that buildings are of a residential scale.</p> <p>Benefit borne by the community generally.</p>	

General comment on Benefits and Costs

This option will require all new buildings and additions and alterations to existing buildings (with the exception of minor works) within the land unit to be assessed by council by way of a restricted discretionary resource consent to ensure that they are integrated with the character and amenity of the surrounding residential areas and the coastal environment.

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 and efficient method of addressing the issues within the land unit and consequently is 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 visitor facilities while protecting the predominant character and amenity value of surrounding residential areas and the coastal environment of the land unit
- 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 A** by:

- requiring development to be of a scale, intensity and location which is consistent with the character of the coastal environment.

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 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:

- protect and enhance the life-supporting capacity of the land unit, and
- protect and enhance the natural and physical resources of the 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 7.3.(1) and (3) and policies and methods 7.4.4, 7.4.5, and 7.4.10, of the coastal environment section of the Auckland Regional Policy Statement for the reasons identified in section 5.1 above and because:

- the natural character of the coastal environment will be protected and enhanced, and
- the appropriate use and development of the coastal environment will be achieved

by controlling the scale, form, colour and location of buildings within the land unit through a restricted discretionary resource consent process to development which is integrated with the character and amenity value of the coastal environment.

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 give effect to objectives 10.3.1 and policies 10.4.3 and 10.4.4 and 10.4.5 of the Auckland Regional Plan: Coastal for the reasons identified in section 5.1 and section 6.1 above and because:

- the coastal environment will be protected from inappropriate use and development through controlling the scale and appearance of buildings within the land unit to those which are complimentary in character and amenity to this environment.
- the land unit and surrounding land units are already modified and contain existing buildings with limited indigenous vegetation. The provisions within this plan unit will ensure that development is consistent with, and will improve, this character.

These relevant sections are attached as **appendix D**. These methods are also not inconsistent with any other provisions of the Auckland Regional Plan: Coastal.

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 for the reasons identified in section 5.1 and section 6.1 above. They will also ensure the retention and enhancement of the character of the land unit and will require that any development near the coast is integrated with the character and amenity value of the coastal environment of the land unit.

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 e.g. Waiheke residential landuse survey,
- 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
 - Auckland Regional Plan: Coastal
 - Essentially Waiheke – A Village and Rural Communities Strategy

Appendix A

New Zealand Coastal Policy Statement (1994)

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

Regional Policy Statement

Appendix D

Regional Plan