

# **HGI Plan Review: section 32 report for the Commercial 5 (Industrial) land unit**

## **1.0 Executive summary**

This report summarises the evaluation undertaken by the council of the commercial 5 (industrial) land unit in terms of section 32 of the Resource Management Act.

The main conclusions are that:

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

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

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

## **2.0 Introduction**

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

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

### **2.2 Proposed plan provisions**

The proposed plan provisions relate to resource management issues, objectives and policies, rules relating to the status of activities, and development control rules within the commercial 5 (industrial) land unit. These provisions replace the operative plan provisions which are summarised in section 2.4 of this report below.

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

This land unit applies to areas of existing industrial activity in western Waiheke and is found in Tahī and Erua Roads in Ostend, and Totara Road in Onetangi. The Tahī and Erua Road industrial area is the largest on the island and contains the majority of the industrial area.

The characteristics of the land unit are:

- a range of low to medium intensity industrial activities on small to medium sized sites.
- high levels of landscape modification and limited vegetation.
- relatively high levels of impervious surfaces on sites (driveways, parking areas and buildings).
- flat or a moderate sloped topography.
- close proximity to residential areas and in some instances recreational and wetland areas.

Overall, the land unit is important as an employment centre and for servicing the industrial needs of Waiheke residents and businesses.

## **2.4 Operative plan provisions**

This land unit is part of 'land unit 15 – Industrial' within the Operative Hauraki Gulf Islands District Plan 1996 (HGI plan). This land unit is applied in Tahī, Ostend and Erua Roads in Ostend, Totara Road in Onetangi and at 2-12 Beatty Parade, Surfdale.

Under the operative land unit 15 provisions any activity is permitted subject to compliance with the development controls of the plan. The Ostend policy area is also applied to the Tahī and Erua Road industrial areas in Ostend. This policy area imposes additional objectives, policies and rules to this part of land unit 15. The following land uses are controlled activities under the policy area:

- the erection, alteration of, or addition to any building
- removal of any vegetation
- the carrying out of any earthworks.

## **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 5 (industrial) 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
- Ministry for the Environment (MfE).

### **Public notification**

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

## **2.5.2 Issues raised during consultation**

The issues raised in consultation related to the land unit included:

- acknowledge Waiheke as a village and rural community, do not allow industrial activity
- need screening of yards, service and storage areas.

The issues raised as part of the planning for the future focus group meeting with relevance to this land unit includes:

- remove Ostend policy area
- minimum lot coverage 45%
- encourage service type industries
- allow for sustainable commercial and mixed use developments
- allow for parking, don't restrict buildings to street front.

These issues have been considered and most of them have been provided for within the proposed objectives, policies and rules of this land unit.

### **Alteration of Existing Land Unit Boundaries**

After reviewing the location of existing industrial areas and their surrounding uses council has reclassified four sites at 2-12 Beatty Parade, Surfdale which currently operate in a semi industrial capacity, to a local shops land unit under the proposed plan.

An assessment of the reason for this change in the existing land unit boundaries has been undertaken in appendix A, of the section 32 report for the local shops land unit.

These reasons are:

- the type of activity able to establish within an industrial land unit is incompatible with, and has potential adverse effects on, the character and amenity of the existing residential uses which operate on surrounding sites. These surrounding sites have a proposed island residential 2 (bush residential) land unit applying to them.

- the existing activities operating on the above sites may have existing use rights as they appear to have been established sites through previous approvals. If this is the case, applying this land unit to this locality will not affect the operation of these businesses.
- the scale and intensity of effects (i.e. noise, traffic generation, visual effects) of the existing activities operating on the site are incompatible with, and have adverse effects on, the character and amenity of the surrounding island residential 2 (bush residential) land units
- the applying of this land unit to these sites will provide a clear message of what council considers as the appropriate future type of development of these sites. The activities listed in the local shops land unit activity table as permitted, restricted discretionary or discretionary are those which are considered as potentially appropriate within these locations.
- the land unit recognises that dwellings can be established on these site but only after the sites identified as contaminated or potentially contaminated on the planning maps are appropriately remediated.

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

#### **3.1 Issues**

The significant resource management issue relevant to this land unit is:

1. *How to provide for a range of industrial activities.*
2. *How to ensure that industrial activities within the land unit do not adversely impact on the environmental quality of surrounding areas.*
3. *How to manage the reverse sensitivity effects which can arise between industrial and other more sensitive land uses.*  
***Note:** Reverse sensitivity is the principle where an existing (and lawful) activity produces effects that a new activity regards as objectionable.*

#### **3.2 Objectives**

The objectives relevant to this land unit are:

- *To provide for and protect low to medium intensity industrial activity.*
- *To ensure that any adverse environmental effect of industrial or other commercial activities within the land unit, on adjoining island residential or recreation land units 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-
- Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
  - Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
  - Avoiding, remedying, or mitigating any adverse effects of activities on the environment.

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

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

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

Section 7 deals with ‘other matters’ which, in achieving the purpose of this Act, persons exercising functions and powers under the Act shall have particular regard to. The matters of particular relevance to the commercial 5 (industrial) 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.15.3.1**

*To provide for and protect low to medium intensity industrial activity.*

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 low to medium intensity industrial activity within the land unit while avoiding, remedying or mitigating adverse effects on the environment.

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

Specifically it meets clause (b) “*the efficient use and development of natural and physical resources*” of Section 7 ‘Other Matters’ of the Act, as it:

- will allow industrial and other commercial activities to continue to operate and grow within the land unit.
- will service the industrial and other commercial needs of residents which will reduce the need for them to travel elsewhere in Waiheke or off the island to service these needs. This will potentially save on the use of non renewable energy resources.

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

- ensures that activities which are sensitive to the potential effects of a complying industrial activity i.e. a residential use are not provided for in the land unit. This will protect the integrity of the land unit as the potential for reverse sensitivity effects are likely to be reduced.
- ensures that the scale and intensity of industrial / commercial activities within the land unit maintain and enhance the existing commercial character 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.

### **4.1.2.3 Objective 10a.15.3.2**

*To ensure that any adverse environmental effect of industrial or other commercial activities within the land unit, on adjoining island residential or recreation areas 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 appropriate industrial activity within the land unit while avoiding, remedying or mitigating adverse effects on the environment.

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

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

- will ensure that industrial and other commercial activities do not compromise the character and visual or acoustic amenity of adjacent island residential or recreation land units.

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 a range of industrial uses as permitted activities in the land unit.*
- *By excluding activities from the land unit that are sensitive to the noise which may be created by complying industrial activities.*
- *By imposing additional controls on the location and size of buildings where they adjoin or face island residential or recreation land units.*
- *By requiring the screening of yards and storage areas where these adjoin or face island residential or recreational land units*

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

- ensure a range of commercial land uses are able to be established within the land unit as permitted activities i.e. industrial, funeral parlour, motor vehicle sales and service, refuse transfer station and retail activities.
- allow buildings in compliance with development controls to be built ‘as of right’.
- apply development controls which appropriately balance the need for industrial activities to operate while protecting the amenity of surrounding land units.
- provide for other commercial activities with greater potential generated effects as restricted discretionary or discretionary activities so that these effects can be assessed, for example boarding kennels and catteries, restaurants, café and other eating places, service station, winery etc.
- exclude activities from the land unit which are sensitive to the noise which may be created from a complying industrial activity, for example residential uses.
- impose acoustic standards for activities within the land unit.
- screen outdoor storage, refuse disposal, service or parking areas where they adjoin or directly face a road or land that is classified as island residential or recreation.
- impose side and rear yard rules within the land unit and building in relation to boundary rules in part 10c of the plan which requires buildings located on sites which adjoin other sites classified as island residential or recreation to be setback from the boundary and be of a general residential scale.

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.

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

Overall, option 1 has only limited environmental benefits and potentially significant 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.*

| <b>Benefits</b>  | <b>Costs</b>   |
|--|--|
| <u>Environmental</u>   | <u>Environmental</u>   |
| Protection of the character and amenity of Ostend by requiring vegetation removal and earthworks within the Ostend policy area to undergo a controlled activity resource consent process.  | Resource consent required for all vegetation removal in Ostend without any consideration of the amenity value of the vegetation proposed to be removed.  |
| <u>Social and Economic</u>   | <u>Social and Economic</u>   |
| Protection of the built character and amenity of Ostend by requiring development to be considered against controlled activity criteria related to the design and appearance of buildings, provision of public amenity areas, and landscaping.<br>Benefit to the community generally.                 | Monetary and time cost to people undertaking development because they are required to undergo a controlled activity resource consent.<br>Cost to people undertaking development.   |
| Under the operative land unit 15 provisions, outside the Ostend policy area, any activity is permitted subject to compliance with the development controls of the plan.<br>Monetary and time benefit to people undertaking development within these areas as resource consent would not be required. | The operative plan applies the Ostend policy area and the land unit 15 provisions to the industrial area in Tahī and Erua Road. 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.<br>Cost to the community generally in regards to the legibility of the plan.   |
| Development controls which protect the character and amenity of surrounding residential and recreational land units.<br>Benefit to the community generally.  | The objectives, policies and rules are unclear about what activities are appropriate within the land unit. This has the potential for activities to be established within the land unit which do not achieve the intent of the land unit and have adverse effects. For example a residential use is a permitted activity in the land unit and could potentially have reverse sensitivity effect on existing industrial activities.<br>Social and economic cost to owners of land within the land unit. |
| Lack of clarity in objectives, policies and rules about what activities are appropriate within the land unit. This allows a wide range of activities to be established.<br>Benefit to people wanting to undertake development.   | Maximum front yard and rear yard controls of 7.5 metres and 10 metres respectively within the land unit. This is the most onerous yard provisions within the operative plan and imposes a significant restriction on the area of a site able to be developed.<br>Cost to owners of industrial land units.  |
|  | Yard control within land unit 15 which is overly long winded and can be more efficiently and effectively written.<br>Cost to the community generally in regards to the legibility of the plan.   |

Overall, option 2 has limited environmental, social or economic benefits and more potential environmental, social and economic costs.

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

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

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

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

### **4.2.3 Option 3**

Option 3 is:

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

| <b>Benefits</b>   | <b>Costs</b>   |
|---|--|
| <u>Environmental</u>  | <u>Environmental</u>   |
| None  | Decrease in landscaping on sites as people maximise development potential.   |
|   | Resultant difficulty to dispose of stormwater and wastewater where sites which will have a negative impact on water quality  |
|   | Resultant reduction in flora and fauna within the land unit  |
| <u>Social and Economic</u>  | <u>Social and Economic</u>   |
| 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 the area as resource consent would not be required. Benefit to person undertaking development only. | Increase in adverse visual, amenity, noise, traffic and reverse sensitivity 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 industrial character as other activities develop. Cost borne by the community generally.  |

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

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

## The risk of acting or not acting

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

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

### 4.2.4 Option 4

Option 4 is:

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

| <b>Benefits</b>   | <b>Costs</b>  |
|---|---|
| <u>Environmental</u>  | <u>Environmental</u>  |
| Rigid control on buildings and activities within the land unit which would ensure that effects on environment could be strictly protected and controlled. | None  |
|   |   |
| <u>Social and Economic</u>  | <u>Social and Economic</u>  |
| Control on building design and appearance within all areas of the land unit.<br>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 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.<br>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.<br>This would raise expectations unnecessarily that these applications would be notified.<br>Cost to the public generally. |
|   | Lack of ability to undertake any type or scale of development 'as of right'. Cost to all people undertaking any development.  |

### General comment on Benefits and Costs

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

This option will impose unnecessary costs in money and time to a large proportion of 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 land owners 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 or undertaking 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*

| <b>Benefits</b>  | <b>Costs</b>  |
|--|---|
| <u>Environmental</u>   | <u>Environmental</u>  |
| The proposed 40% building coverage rule will ensure there is sufficient area on site for industrial activities to dispose of their wastewater on site.   | Allowing buildings to be established up to site frontages will remove the potential for landscaping of the front yard which will have a potential environmental cost.                                       |
| Front, side and rear yard rules require a 3 metre landscaped yard where a commercial 5 land unit faces or adjoins an island residential or a recreational land unit. This will improve the environmental quality of the land unit where the commercial 5 land unit adjoin or face these other land units.  |   |
| <u>Social and Economic</u>   | <u>Social and Economic</u>  |
| Allowing buildings to adjoin the front, side or rear boundary of a commercial 5 site when that site adjoins another site with a commercial 5 land unit or faces a commercial 5 land unit across a road will allow a maximisation of the development potential of the site.   | Allowing buildings to be established up to site frontages will remove the potential for landscaping of the front yard which will have the potential to adversely affect the streetscape character of roads. |
| Imposing yard, height to boundary and screening controls within the land unit where commercial 5 land units adjoin or face an island residential or recreational land unit will protect the character and amenity of the island residential or recreational land unit from the effects of complying industrial development.<br>Benefit to community generally. | Imposing yard, height to boundary and screening controls will impact on the development potential of commercial 5 land units. Potential cost to owner of commercial 5 land unit.                            |
| Impose a noise control in table 10c.2 of the plan which is:<br>o 55dBA Monday to Saturday 7am to 10pm and Sunday 9am to 6pm.   | These noise controls will place a financial / economic cost on developers to ensure compliance.<br>Economic and time cost to land owner   |

| <b>Benefits</b>   | <b>Costs</b>  |
|---|---|
| <ul style="list-style-type: none"> <li>○ 45dBA at all other times including public holidays (night time)</li> </ul> <p>This is 5dBA more than the level applied during the day and night in the operative plan. This was necessary because:</p> <ul style="list-style-type: none"> <li>○ these noise levels reflect the existing noise environment for commercial activities within the land unit</li> <li>○ the previous levels were onerous and a permitted activity within the land unit could have found it difficult to comply.</li> <li>○ the proposed levels will provide a level of control which will protect the acoustic amenity of adjacent island residential land units.</li> </ul> <p>This noise control will allow for industrial and other commercial activities to operate within the land unit without compromising the acoustic amenity of other activities within the land unit or adjoining residential activity in adjoining land units.</p> <p><b>Benefit to the community generally.</b></p> | <p>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.<br/>Cost to developer / land owner.</p>  |
| <p>Buildings established in compliance with development controls can be constructed ‘as of right’.<br/>Economic benefit to developers.</p>  | <p>Requiring certain activities within the land unit to undergo a restricted discretionary or discretionary activity resource consent imposes a monetary and time cost on people undertaking development.</p> |
| <p>Providing for a wide variety of commercial uses as permitted activities encourages a vibrant and varied industrial environment. It also provides clarity about what development is considered as appropriate within the land unit.<br/>There is an economic and social benefit to people undertaking development and a social benefit to the community generally.</p>  |   |
| <p>Providing for restaurants, café’s and other eating places as a restricted discretionary activity allows them to be established within the land unit while ensuring that the traffic generation and reverse sensitivity effects and hours of operation are compatible with predominant industrial usage of the land unit.<br/>Economic and social benefit to developers and community generally.</p>  |   |
| <p>Providing for other commercial uses as discretionary activities within the land unit</p>   |   |

| Benefits  | Costs |
|---|-------|
| allows these type of activities which generally generate greater effects to be carefully considered by council and potentially the community.<br>Social benefit to community generally. |       |

### General comment on Benefits and Costs

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

### The risk of acting or not acting

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

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

### 4.2.6 Conclusion

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

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

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

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

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

- achieve integrated management of the use and development of the land unit
- provide for retail and employment opportunities within these areas in a manner which protects the character and amenity of adjoining island residential land units.
- adequately control the actual and potential effects of the use and development of land within the land unit
- after assessing other options, and the benefits and costs associated with them, the proposed objectives, policies and rules are the most appropriate way to achieve the purpose of the Act.

## 5.0 National planning documents

### 5.1 National and NZ coastal policy statements

Section 75(3) of the RMA states:

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

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

- ensuring that industrial activities are restricted to those areas which have an existing industrial classification.
- recognising that the land unit is generally located some distance from the coastal environment and on parts of Waiheke which do not adversely affect the coastal environment.
- recognising that this land unit is already highly modified and has a strong 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 of the land unit give effect to sections 7 and 8 of the HGMPA for the reasons identified in section 5.1 above and because they:

- provide for the social and economic well being of the Waiheke community
- do not adversely affect the life supporting capacity of the soil, air, water and ecosystems of the gulf.

## 6.0 Regional planning documents

### 6.1 Regional policy statement

Section 75(3) of the RMA states:

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

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

In addition, it gives effect to objective 4.3(1) of the transport section and objective 5.3 of the energy section of the Auckland Regional Policy Statement because applying this land unit in Waiheke will enable residents of Waiheke to be able to provide for their industrial needs i.e. repair of vehicles etc without travelling off the island. It also allow the continuation of employment opportunities for some residents on Waiheke which reduces the potential for commuting into Auckland for work.

These relevent 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 relevent to, and not inconsistent with, the:

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

This is because:

- the land unit is located removed from the coastal environment,
- the potential effects of industrial activity associated with the air, land and water plan are controlled by the Auckland Regional Council
- there are separate earthworks controls within part 10c of the plan
- the land unit does not apply to farms or dairy discharges.

## **7.0 Other documents**

### **7.1 Essentially Waiheke**

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

The five central principles of Essentially Waiheke are:

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

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

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

## **8.0 Procedures for monitoring**

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

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

## **9.0 Conclusions**

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

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

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

**Appendix A**  
**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**