

HGI Plan Review: section 32 report for Landform 2 – Dune Systems and Sand Flats

1.0 Executive summary

This report summarises the evaluation undertaken by the council of landform 2 (dune systems and sand flats) in terms of section 32 of the Resource Management Act.

In the operative District Plan land unit 2 – dune systems and sand flats is applied to coastal sand systems on both Waiheke and Great Barrier, although the areas are significantly larger on Great Barrier. The intent of the land unit is to protect the natural values, functions and sensitivity of coastal sand systems.

The proposed District Plan, retains the concept of a land unit for coastal sand systems (landform 2 (dune systems and sand flats)) as coastal sand systems are significant landform features which require a specific planning approach. However, in response to matters raised in consultation and good planning practice, the land unit has been modified to recognise the differences between the dune systems area of the land unit as compared to the sand flats area of the land unit.

The objective of landform 2 (dune systems and sand flats) is the most appropriate means of achieving the purpose of the Act because it provides for use and development in appropriate areas of the land unit and as it ensures that the adverse effects of activities and buildings in the dune systems area of the land unit are avoided and that the adverse effects of activities and buildings in the sand flats area of the land unit are mitigated.

The policies and rules of landform 2 (dune systems and sand flats) are the most appropriate means of achieving the objective as they ensure that development is located in the appropriate areas of the land unit and that natural character, ecological and visual amenity value of the land unit is protected.

The provisions of landform 2 (dune systems and sand flats) also gives effect to the relevant national and regional planning documents because it ensures protection of the natural character, ecological and visual amenity value of the land unit and as it protects the landscape character of the areas of “outstanding natural landscape” located within the land unit.

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 Operative plan provisions

In the operative District Plan, land unit 2 – dune systems and sand flats is applied to coastal sand dunes and sand flats on both Great Barrier and Waiheke. A summary of the provisions of land unit 2 is set out below:

- An objective which states:

“To recognise through appropriate rules the sensitivity, natural values and functions of coastal sand systems.”

- Policies addressing the following matters:
 1. Ensuring appropriate vegetation cover consistent with the natural character and intrinsic values of the land unit through restrictions on vegetation removal and disturbance and encouraging indigenous vegetation planting and stabilisation
 2. Controlling access so that:
 - sensitive areas are not detrimentally affected;
 - appropriate public access to the coast is provided for;
 - wildlife habitats are not disturbed; and
 - the natural buffer functions of sand systems are not compromised
 3. Limiting land use activities and buildings to particular locations and to a scale and intensity compatible with the capability and capacity of the land unit.
 4. Recognising that the sand systems (particularly dunes) are hazard prone areas and that land use activities and subdivision should be managed accordingly.
 5. Protecting the unique amenity values of sand systems through controls on the design and location of buildings.
 6. Protecting wildlife habitats through controls on land use activities and subdivision.
 7. Allowing subdivision in Land Unit 2 only where other land units are also contained within each lot in order to facilitate protection of the highly sensitive areas of the land unit.
 8. Carefully managing visitor and recreational activities in the land unit so that detrimental effects are mitigated or avoided.
- All permitted activities must meet the standards of part 6B. These standards include a 8m height limit, 6m front yards, lot coverage of 20% or 250m² which ever is the lesser, indigenous vegetation clearance of 500m² and no provision for earthworks.
- A controlled activity consent is required where the land unit is located in the Tryphena, Medlands and Claris policy areas.
- A discretionary activity consent is required for camping facilities, commercial airstrips, rural property management plans, forestry and visitor facilities.
- A discretionary activity consent may also be applied for a “dwelling comprising separate buildings which does not meet that part of the definition of dwelling which specifies buildings to be clustered and integral to each other in terms of location and layout”.

2.3 Proposed plan provisions

The proposed District Plan, retains the concept of a land unit for coastal sand systems (landform 2 (dune systems and sand flats) as coastal sand systems are significant landform features which require a specific planning approach. The overall intent of the land unit is to protect the ecological and visual amenity value of the dune systems and sand flats from the potential adverse effects of activities and buildings.

This level of protection is necessary in order to retain the high level of natural character value of the land unit and in order to give effect to the provisions of proposed change 8 to the Auckland Regional Policy Statement which identifies the majority of this land unit as “outstanding natural landscape”.

Notwithstanding that a coastal sand systems land unit has been retained, the land unit has been modified to recognise the differences between the dune systems area of the land unit as compared to the sand flats area of the land unit. In particular, the provisions identify that the sand flats area of the land unit is a modified coastal environment and that as such it can accommodate a level of development and activities than cannot be accommodated in the dunes systems area as the natural character value of this area is so high.

A summary of the key provisions of landform 2 (dune systems and sand flats) is set out below:

- A description of the characteristics of the land unit, which include its visual prominence, natural character and undeveloped nature.
- An objective which states:

“To protect the natural character and visual amenity value of the dune systems and sand flats from the potential adverse effects of activities and buildings.”
- Policies:
 1. By protecting the natural character and the ecological and visual amenity value of the dune systems and sand flats from the potential adverse effects of activities and buildings.
 2. By limiting the activities that can occur in the sand flats area of the land unit to those which avoid adverse effects on the natural character and ecological and visual amenity value of the land unit.
 3. By ensuring that the scale, form and location of new buildings in the sand flats area will not have adverse effects on the natural character and the ecological and visual amenity value of the land unit.
 4. By requiring new sites to be of a size and nature that avoids adverse effects on the natural character, and the ecological and visual amenity value of the land unit.
- In the dune systems area of the land unit, an activity table identifies all activities and buildings as non-complying activities.
- In the sand flats area of the land unit, the activity table identifies that dwellings, home occupations, homestays, horticulture and pastoral farming are permitted activities as these activities are smaller in scale and relate to either productive or residential use.
- Discretionary standards are included which relate to the development of multiple dwellings in the sand flats part of the land unit.
- The development controls in part 10c – development controls for land units and settlement areas apply to the sand flats part of the land unit.

Landform 2 (dune systems and sand flats) is generally applied in the same locations as land unit 2 – dune systems and sand flats except that the following amendments have been made:

- The land unit is not applied within the DOC estate as this land is now classified within the conservation land unit.
- The land unit is not applied with settlement areas as these areas contain provisions for managing the adverse effects of activities and buildings on coastal sand systems.

- The land unit is not applied to land which is owned by ACC for the purposes of an esplanade reserve or local park as this land is classified within the recreation 1 land unit.
- Adjustments have been made to the shape of the land unit so that it fits the shape of the natural features as far as practical.
- Adjustments have been made to the shape of the land unit so that it fits the aerial and cadastral land base and the coast as far as practical.
- Adjustments have been made to the shape of the land unit so that it fits alongside adjoining land units in a practical manner.
- New areas have been added where they were identified as having the natural character, ecological and visual amenity value of the land unit. These areas were identified as a result of site visits (by sea, air and foot) and from aerial photography.

2.4 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 landform 2 (dune systems and sand flats).

2.4.1 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).
- Great Barrier Off-Island property owner's questionnaire.

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
- Ministry for the Environment ('MfE')
- network utility authorities.

Public notification

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

2.4.2 Issues raised during consultation

Feedback in response to the Issues and Options document identified the following issues:

General GBI and landform land unit comments:

- Refine the existing land unit structure to better provide for land use and control on Great Barrier Island.
- Recognise and provide for the high degree of naturalness that characterises Great Barrier Island.
- Consider combining some existing land units where the impacts and expected outcomes are similar.
- Consider how buildings and structures are to be provided for within the Great Barrier landscape.
- Heritage matters to be considered in determining the application of land units.
- Protect indigenous forest and vegetation.
- Ensure that land can be used for productive purposes while keeping compliance costs to a minimum.

Dune systems and sand flats specific comments:

- Significant ecological diversity around many bays in Waiheke and GBI
- Stop vehicles on beaches
- Take land instead of financial contributions when allowing subdivision in coastal areas

Buildings in the landscape comments:

- Support for controls on buildings to ensure that they blend into the landscape and respect the natural environment (particularly the coast and ridgelines).
- Support for further emphasis on design issues (including design guidelines and height) so that buildings have good innovative design and appropriate colours and materials.

- Opposition to further controls on building design issues so that there is freedom of design.
- Support for controls on colour (including the existing T Heath controls) to ensure that buildings blend into the landscape and natural environment.
- Opposition to controls on colour (including removing existing T Heath controls) as colour should be at owner's discretion.
- Support for controlling reflectivity, instead of colour so that buildings blend with the landscape.

3.0 Resource management issues

3.1 Issues

The significant resource management issue that needs to be addressed in landform 2 (dune systems and sand flats) is:

“How to protect the natural character and the ecological and visual amenity value of the dune systems and sand flats from the adverse effects of activities and buildings”

This issue has been addressed by the objectives, policies and rules contained in the proposed land unit which are addressed in detail in section 4.1.2 below.

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

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.

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 landform 2 (dune systems and sand flats) 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 are of particular relevance to the landform 2 (dune systems and sand flats) 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

The objective of landform 2 (dune systems and sand flats) is:

“To protect the natural character and the ecological and visual amenity value of the dune systems and sand flats from the adverse effects of activities and buildings”

The outcomes sought by the objective are the protection of the natural character and the ecological and visual amenity value of the land unit. The objective and the outcomes sought are considered to be the most appropriate for achieving the purpose of the Act for the following reasons:

Section 5 (purpose of the Act) reasons:

1. Protecting the dune systems from the adverse effects of buildings and activities is consistent with section 5 as it “avoids” adverse effects on the environment. Avoiding adverse effects (rather than remedying or mitigating) is considered to be appropriate in this circumstance as the natural character and the ecological and visual amenity values of this area of the land unit are so high, primarily due to the lack of built development and activities. It is also considered appropriate as all areas of the land unit on Great Barrier and the majority of the land unit on Waiheke are located within areas identified as “outstanding natural landscape” in proposed change 8 to the Auckland Regional Policy Statement.
2. While “use and development” is not provided for in the dune systems area of the land unit, it is still considered that the provisions will contribute to the social and economic wellbeing of the communities of the Hauraki Gulf. This is because the protection of these areas is vital to maintaining the coastal character of the Gulf, which in turn is vital to economic and social wellbeing of the community (particularly in terms of tourism and the general character of the islands). It is also noted that this land unit does not generally cover the full extent of a site and consequently development can occur on other areas of the site.
3. Provided that appropriate controls are put in place, buildings, residential and farming activities can be undertaken in the sand flats area of the land unit in a manner which:
 - sustains the potential of natural and physical (excluding minerals) to meet the reasonably foreseeable needs of future generations;
 - safeguards the life-supporting capacity of air, water and soil, and ecosystems; and
 - avoids remedies or mitigates any adverse effects of activities on the environment.

Section 6 (matters of national importance) reasons

4. The protection of the natural character and visual amenity of the land unit is consistent with section 6 as it protects the natural character of the coast from the potential adverse effects of inappropriate subdivision, use and development.
5. Many of the areas within the land unit are located within areas identified as “outstanding natural landscapes” in proposed change 8 to the Auckland Regional Policy Statement. Consequently, the objective is consistent with the section 6 which requires the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development.
6. Many of the areas within the land unit contain significant indigenous vegetation and habitats. Consequently, the objective is consistent with section 6 as it seeks to protect the natural character and ecological value of these areas.
7. During consultation, Iwi identified that coastal locations have important cultural values. Consequently, the protection of these areas from the adverse effects of activities and buildings is consistent with section 6 as it recognises and protects the relationship of Maori to these areas.

Section 7 (other matters) reasons

8. The land unit has high visual amenity, particularly due to the lack of built development in the land unit and the open, expansive character of the land unit. Protection of these characteristics from adverse effects of use and development will ensure that the amenity values of the land unit are maintained.
9. Not providing for use and development in the dune systems area of the land unit will ensure that the quality of the environment within the land unit will be maintained and may be enhanced if regeneration occurs.

Section 8 Treaty of Waitangi

8. The objective takes account of the principles of the Treaty of Waitangi as it recognises the need to use and protect natural and physical resources in a manner which benefits both Maori and Europeans. In particular, the provisions of landform 2 (dune systems and sand flats) recognise importance of protecting the natural character of these areas to Maori.

Council's functions

In addition to achieving the purpose of the Act, the above objective also assists the council to carry out its functions under Sections 31, 72 and 74(1) of the Act because:

1. The objective identifies the need to ensure natural and physical resources (being the dune systems and sand flats located within the land unit) are protected.

2. The objective identifies the need to control the adverse effects of activities and buildings on the coastal environment, particularly with respect to the natural character, ecological and visual amenity value of the land unit.

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

This section provides an analysis of the efficiency and effectiveness, costs and benefits and risks associated with the policies and rules of landform 2 (dune systems and sand flats).

Policy 1:

“By protecting the natural character, ecological and visual amenity value of the dune systems area of the land unit from modification by activities and buildings.

The rules associated with this policy are:

All activities and buildings are non-complying activities.

Benefits (including efficiency and effectiveness)	Costs
The policy and rules give effect to the provisions of proposed change 8 to the Auckland Regional Policy Statement as they protect the character of areas identified as outstanding natural landscapes.	As activities and buildings are not provided for, land owners will not be able to develop these areas of their land.
The non-complying status of activities and buildings provides a very high level of protection. Therefore the values and characteristics of the land unit will be protected (as required by sections 5, 6 & 7 of the Act).	
The non-complying status of activities and buildings provides a very clear indication that the council does not expect buildings and activities to occur in the area and, as such, provides a high degree of clarity for district plan users.	
The absence of built development and activities may lead to the natural revegetation of the land unit.	

Risk of acting or not acting:

If no such policy and rules were put in place there would be a risk that these areas would be developed and consequently lose their natural character values and visual prominence. This in turn would detract from the overall landscape of the Hauraki Gulf and would decrease the social and economic benefits that landscape brings to the community of the Gulf and New Zealand.

The risk of acting is that activities and buildings that will not be able to occur (unless they obtain consent as a non-complying activity) and as such will not be able to contribute to the social and economic wellbeing of the Hauraki Gulf.

Policy 2:

“By limiting the activities that can occur in the sand flats area of the land unit to those which avoid adverse effects on the natural character, ecological and visual amenity value of the land unit”

The rules associated with this policy are:

Permitted activity status for dwellings, home occupations, homestays, horticulture and pastoral farming.

Benefits (including efficiency and effectiveness)	Costs
Not providing for a wide range of activities means that the natural character, ecological and visual amenity value of the land unit will be maintained.	Limiting the range of activities reduces the options for landowners to achieve a return from their land.
Protection of the landscape character of the land unit will ensure that the provisions of proposed change 8 to the ARPS and section 6 and 7 of the Act are met.	
Protecting the natural character, ecological and visual amenity value of the land unit will protect the character and identity of both Great Barrier and Waiheke.	

Risk of acting or not acting:

The risk of taking this approach is that the potential use of sites within the land unit is limited.

The risk of not taking this approach is that the natural character, ecological and visual amenity of the land unit would be compromised by the scale and intensity of a wide range of activities. This would not only detract from the integrity of the land unit but also the overall character of the islands in the Gulf.

Policy 3:

“By ensuring that the scale, form, colour and location of new buildings in the sand flats area will not have adverse effects on the natural character, ecological and visual amenity of the land unit”

The rules associated with this policy are:

Restricted discretionary activity status for new buildings and additions and alterations to existing buildings, assessment criteria relating to the scale, form, colour and location of buildings, building coverage control and height control (8m) and vegetation clearance control.

Benefits (including efficiency and effectiveness)	Costs
The restricted discretionary activity status for new buildings is an efficient and effective tool as provides the Council with the ability to decline the application if it does not meet the assessment	Landowners will need to obtain resource consent for each new buildings and addition and alteration to the building.

criteria. It is also efficient as it will be processed on a non-notified basis which will avoid unnecessary costs and delays.	
The height and building coverage permitted standards provide a clear indication to all parties of the building form expected and will maintain the natural character, ecological and visual amenity value of the land unit.	The controls on the scale, form, colour and location of buildings will limit the design freedom of landowners.
Both singularly and cumulatively the controls will ensure that the landscape values and natural character of the land unit is maintained.	
The provisions which control building location, scale, form and colour give effect to the provisions of proposed change 8 to the ARPS as they ensure that buildings within the landscape are appropriate.	

Risk of acting or not acting:

The risk of taking this approach is that the landowner will have to cover the additional costs which result from the resource consent process.

The risk of not taking this approach is that the natural character, ecological and visual amenity value of the land unit will not be protected from the adverse effects of buildings. This is significant as it will mean that the provisions of the land unit will not be consistent with section 6 of the Act as the natural character of the coast and of “outstanding natural landscape” will not be protected.

Policy 4:

“By requiring new sites to be of a size and nature that avoids adverse effects on the natural character and the visual prominence of the land unit”

The rules associated with this policy are:
25ha site size in subdivision rules

Benefits (including efficiency and effectiveness)	Costs
The policy and rules give effect to the provisions of proposed change 8 to the Auckland Regional Policy Statement as they protect the character of areas identified as outstanding natural landscapes.	The large lot size means that there is limited potential for landowners to subdivide within the land unit.
The large site size will ensure that the land unit is not divided up in a manner which detracts from the characteristics of the land unit (as required by sections 5, 6 & 7 of the Act).	

Risk of acting or not acting:

If no such policy and rules were put in place there would be a risk that these areas would be subdivided into small sites and would consequently lose their natural character, ecological and visual amenity value. This in turn would detract from the overall landscape of the

Hauraki Gulf and would decrease the social and economic benefits that landscape brings to the community of the Gulf and New Zealand.

The risk of acting is that the land unit will not be able to be subdivided into small sites (unless consent is obtained as a non-complying activity or an SEF submission) and as such will not be able to contribute to the social and economic wellbeing of the Hauraki Gulf.

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

- “Rolling over” the provisions of land unit 2 – dune systems and sand flats without modification.
- Not recognising the differences between the “sand flats area” and the “dune systems area” of the land unit.
- A more permissive approach to activities and development in all areas of the land unit.

4.2.1 Option 1

“Rolling over” the provisions of land unit 2 – dune systems and sand flats without modification.

Benefits	Costs
Landowners could establish building and activities in all areas of the land unit provided that permitted standards are met.	The existing provisions provide for buildings and activities to occur in all areas of the land unit. This could significantly detract from the natural character, ecological and visual amenity value of buildings.
The community is familiar with the existing land unit provisions.	The provisions of the land unit are conflicting in that they identify the need to protect natural character but also provide for buildings and activities to occur in places which would not maintain natural character.
The existing provisions identify the need to protect the natural character of the land unit.	The lack of control on the location, scale and form of buildings means that adverse effects on the natural character, ecological and visual amenity value may occur.
	The provisions would not give effect to the proposed change 8 to the ARPS or section 6 of the Act as there is not sufficient control on the adverse effects of activities and buildings.
	Activities such as forestry can occur which would have significant adverse effects on the natural character, ecological and visual amenity value of the land unit.

The risk of acting or not acting

The risk of taking this approach is that activities and buildings are likely to occur and that these activities and buildings would detract from the natural character, ecological and visual amenity value of the land unit. In particular, activities and buildings may become the norm in these areas rather than the exception.

The risk of not acting is that landowners are not be able to locate buildings and activities in the land unit and therefore may not accrue an economic return from this area of their property.

4.2.2 Option 2

Not recognising the differences between the “sand flats area” and the “dune systems area” of the land unit by making activities and buildings in all areas of the land unit non-complying.

Benefits	Costs
Greater simplicity of rules as activities and buildings would have the same status in all areas of the land unit.	Existing buildings and activities in the land unit would have to operate under “existing use rights” and therefore would have to obtain resource consent to modify existing buildings or when activities change.
Non-complying status gives a very clear indication that the council does not intend buildings and activities to be located in this land unit.	Landowners would not be able to obtain a return from all areas of their land within the land unit.
The natural character, ecological and visual amenity value of the land unit would be protected.	Inefficient use of land as the sand flats areas of the land unit have already been significantly modified and as such can absorb a level of development but this would not be provided for by the non-complying status of activities and buildings.
The provisions would give effect to the provisions of proposed change 8 to the ARPS and section 6 as the natural character of the coast and areas of “outstanding natural landscape” would be protected.	

The risk of acting or not acting

The risk of taking this approach is that it would result in an inefficient use of land and would require all existing buildings and activities within the land unit to operate under existing use rights.

The risk of not taking this approach is that activities and buildings may establish which could detract from the natural character, ecological and visual amenity value of the land unit.

4.2.3 Option 3

A more permissive activity status for activities and buildings could have been put in place, for example buildings could have required restricted discretionary activity consent in the “dune systems area” and they could have been permitted in the “sand flats area”.

Benefits (including efficiency and effectiveness)	Costs
Landowners would have been able to undertake activities and construct buildings within all areas of the land unit (if resource consent had been obtained for buildings in the “dune systems area”).	It is likely that the natural character, ecological and visual amenity value of the land unit would be compromised by the structures and activities occurring in an undeveloped landscape.

Benefits (including efficiency and effectiveness)	Costs
	A loss of natural character values may have an effect on the overall character and amenity of the islands, which in turn may have roll on effects to activities such as tourism that rely on the natural character values.
	The adverse effects of buildings in the “dune systems area” and activities would have to be controlled through the use of resource consents which can be costly and can cause delays.

The risk of acting or not acting

The risk of taking this approach is that activities and buildings are likely to occur and that these activities and buildings would detract from the natural character, ecological and visual amenity of the land unit. In particular, activities and buildings may become the norm in these areas rather than the exception.

The risk of not acting is that landowners are not be able to locate buildings and activities in the land unit and therefore may not accrue an economic return from this area of their property.

4.2.4 Conclusion

Having analysed the policies and rules of landform 2 (dune systems and sand flats) and considered the alternatives, it is concluded that the provisions of landform 2 (dune systems and sand flats) are the most appropriate means of achieving the objective as the policies provide a balance between providing for activities and buildings while protecting the natural character, ecological and visual amenity value of the land unit. In addition, these policies and rules have been shown to have benefits that outweigh the costs and to be necessary in terms of avoiding risks to the environment.

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 policies and rules assist council to carry out its functions under Sections 31, 72 and 74(1) of the Act because:

1. The policies and associated rules provide a framework for the integrated management of the effects of the use and development as required by section 31 of the Act. In particular, the policies and associated rules manage the adverse effects of activities and buildings on the natural character, ecological and visual amenity values of the land unit.
2. The policies and associated rules provide a framework for the control of any actual or potential effects of the use or development of land as set out in section 31 of the Act. In particular, the proposed policies and rules ensure that activities and buildings are appropriately located and are of an appropriate intensity, scale, colour

and form so that adverse effects on the natural character, ecological and visual amenity value of the dune systems and sand flats.

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 parts of the NZ coastal policy statement that are relevant to landform 2 (dune systems and sand flats) are attached as **appendix B**. The key principles of the most relevant parts are outlined below:

The following are matters of national importance:

- The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, lakes and rivers and their margins, and protection of them from inappropriate subdivision, use and development.
- The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;
- The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

“It is a national priority to preserve the natural character of the coastal environment by:

- a. encouraging appropriate subdivision, use or development in areas where the natural character has already been compromised and avoiding sprawling or sporadic subdivision, use or development in the coastal environment;
- b. taking into account the potential effects of subdivision, use, or development on the values relating to the natural character of the coastal environment, both within and outside the immediate location; and
- c. avoiding cumulative adverse effects of subdivision, use and development in the coastal environment”.

It is a national priority for the preservation of the natural character of the coastal environment to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna in that environment by:

.....

- (c) protecting ecosystems which are unique to the coastal environment and vulnerable to modification including estuaries, coastal wetlands, mangroves and dunes and their margins:

The provisions of landform 2 (dune systems and sand flats) give effect to the National Coastal Policy Statement by avoiding or mitigating the adverse effects of use and development on the natural character, ecological and visual amenity value of the coastal environment. The adverse effects are avoided by not specifically providing for activities and

buildings to occur in the dune systems area of the land unit and are mitigated by putting controls in place on activities and buildings in the sand flats area of the land unit.

The provisions also give effect to the National Coastal Policy Statement as the provisions ensure that any subdivision that occurs in the land unit is of a size and nature that will avoid adverse effect on the natural character of the coastal environment.

Maori interests are protected by ensuring that activities provided for in the land unit do not adversely impact ecosystems, landforms and landscapes valued by Maori.

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 A**.

The provisions of landform 2 recognise the national significance of the Hauraki Gulf (section 7 of the HGMPA) by:

- Protecting the life supporting capacity of the land unit from adverse effects by not specifically providing for activities and buildings to occur in the dune systems area of the land unit and by putting controls in place in the sand flats area of the land unit.
- Providing for the economic and social wellbeing of people and communities in the Gulf and New Zealand by ensuring that these important coastal areas retain their natural character.

The proposed land unit provisions give effect to the management direction for the Hauraki Gulf (section 8 of the HGMPA) by:

- Protecting and enhancing the life-supporting capacity of these important coastal areas.
- Protecting the cultural and spiritual relationship of tangata whenua with these important coastal areas.
- Maintaining the contribution of these areas to the economic and social wellbeing of these areas to the people and communities of the Hauraki Gulf and New Zealand.

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 parts of the regional policy statement that are relevant to landform 2 (dune systems and sand flats) are attached as an **appendix B**. The principles of key relevance to landform 2 (dune systems and sand flats) are:

- That Auckland's coastal environment is a fundamental part of its heritage and is sensitive to the adverse effects of subdivision, use and development.
- Subdivision, use and development in the coastal environment need to be in an appropriate location, and of an appropriate form, which meets the purpose of the Act.
- Subdivision, use and development in the coastal environment have the potential to enhance or inhibit public access to and along the coastal marine area.
- To protect the landscape values and character of rural areas from the regionally significant effects of inappropriate subdivision, use and development.
- To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use and development.
- To enable appropriate subdivision use and development to be undertaken in the coastal environment.
- The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.
- To protect the versatility and productive potential of the regions soil resource.

In addition to the provisions identified above, proposed change 8 to the Auckland Regional Policy Statement identifies the majority of the areas of landform 2 (dune systems and sand flats) as areas of "outstanding natural landscape".

The provisions of landform 2 (dune systems and sand flats) give effect to the regional policy statement by avoiding or mitigating the effects of activities and buildings that will have an adverse effect on the natural character, ecological and visual amenity of the coastal environment and by ensuring that the any subdivision that does occur is of a size and nature that protects the characteristics of the land unit.

The provisions of landform 2 (dune systems and sand flats) also gives effect to proposed change 8 as the objectives, policies and rules for the dune systems area of the land unit specifically seek to "avoid" adverse effects on the natural character of the land unit. The approach of "avoiding" adverse effects is necessary for this particular area of the land unit as any form of development has the potential to have adverse effects as the natural character, ecological and visual amenity value of this area of the land unit are so high.

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 parts of the Auckland Regional Plan: Coastal that are relevant to Landform 2 (dune systems and sand flats) are attached as **appendix B**. The provisions that are of key relevance to Landform 2 (dune systems and sand flats) are set out below:

- To preserve the natural character of the coastal environment by protecting the coastal marine area from inappropriate subdivision use and development.
- To maintain and enhance the diversity, integrity and landscape quality of the coastal environment.
- To maintain and enhance public access to, along and within the coastal marine area.
- To protect the dynamic functioning of physical coastal processes.
- To protect the integrity, functioning and resilience of ecosystems within the coastal environment.

The provisions of landform 2 (dune systems and sand flats) give effect to the Regional Plan: Coastal by avoiding or mitigating the adverse effects of use and development on the natural character, ecological and visual amenity value of the coastal environment. The adverse effects are avoided by not specifically providing for activities and buildings to occur in the dune systems area of the land unit and are mitigated by putting controls in place on activities and buildings in the sand flats area of the land unit.

The provisions also give effect to the Regional Plan : Coastal as they protect the ecological value and the functioning of coastal processes by avoiding activities and buildings in the dune systems area of the land unit.

7.0 Other documents

Essentially Waiheke is a village and rural communities' strategy which establishes a community approved framework for Waiheke's development. The strategy contains a number of principles relating to environmental protection, economic development and employment, strong communities, character and the location of development.

The principles of environmental protection that are relevant to landform 2 (dune systems and sand flats) are:

Aim:

“Development will be restricted where there are identified environmental and amenity constraints in order to protect essential and valued resources and to maintain public health and safety”.

Central principles:

- 1. The island's features of high environmental quality are identified, protected and enhanced.*
- 5. Waiheke's coastal environment (including the coastal marine area) is protected and enhanced.*
- 6. High standards of air and water quality are achieved and maintained.*
- 7. Regeneration of native forest is encouraged, as is the enhancement of natural habitats for native bird species present on the island.*
- 8. Pests and noxious weeds that are harmful to the island's ecology are managed to safeguard ecosystems.*
- 9. Retention of native species biodiversity is encouraged.*
- 10. The principles of the Treaty of Waitangi are taken into account when managing the use, development and protection of the natural and physical resources of the island.”*

The provisions of landform 2 (dune systems and sand flats) are consistent with the above aims and principles as the provisions ensure that the natural character of the coastal environment is protected. The provisions may also result in enhancement of the landscape where natural regeneration occurs as a result of the absence of built development.

8.0 Procedures for monitoring

The council may 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. user satisfaction surveys, land use surveys, ecological survey.

9.0 Conclusions

The analysis undertaken in this report has demonstrated that the proposed land unit provisions are a comprehensive set of objectives, policies and rules that ensure the protection of the natural character, ecological and visual amenity value of the dune systems and sand flats.

The objective of landform 2 (dune systems and sand flats) is the most appropriate means of achieving the purpose of the Act because it requires the protection of the natural character, ecological and visual amenity of the land unit.

The policies and rules of landform 2 (dune systems and sand flats) are the most appropriate means of achieving the objective as they provide a clear and effective set of provisions which ensure the protection of the natural character, ecological and visual amenity value of the land unit. In addition, the policies and rules have been shown to have benefits that outweigh the costs and to be necessary in terms of avoiding risks to the environment.

The provisions of landform 2 (dune systems and sand flats) also give effect to the relevant national and regional planning documents as they ensure the protection of the natural character of the coastal environment and areas of “outstanding natural landscape”. Both of these matters are matters of national importance.

Appendix A

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 B

Relevant provisions from national and regional planning documents