

# **HGI Plan Review: section 32 report for landform 7 (forest and bush areas)**

## **1.0 Executive summary**

This report summarises the evaluation undertaken by the council of landform 7 (forest and bush areas) in terms of section 32 of the Resource Management Act.

In the operative District Plan land unit 10 – forest and bush areas is applied to areas of forest and bush on Waiheke, Great Barrier, Ponui and Pahiki Island. The intent of the land unit is to protect the natural character values of these areas of significant vegetation.

The proposed District Plan retains the concept of a land unit for forest and bush areas (landform 7 (forest and bush areas)) as these areas are significant landform features within the Hauraki Gulf and, as such require a specific planning approach. While changes have not been made in terms of the intent of the land unit, amendments have been made to the detail of the provisions to reflect good planning practice and in terms of how the land unit is applied throughout the Gulf.

The objective of landform 7 (forest and bush areas) is the most appropriate means of achieving the purpose of the Act because it provides for use and development in a manner which ensures that the adverse effects of activities and buildings on the natural character, conservation and visual amenity value of the land unit are avoided.

The policies and rules of landform 7 (forest and bush areas) are the most appropriate means of achieving the objective as they provide a clear and effective set of provisions which put in place controls to protect the natural character, conservation, ecological and visual amenity value of the land unit is protected.

The provisions of landform 7 (forest and bush areas) also gives effect to the relevant national and regional planning documents because it ensures protection of the natural character, conservation, ecological and visual amenity value of the land unit and as it protects the landscape character of the areas identified as “outstanding natural landscape” 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 existing District Plan, forest and bush areas are classified as land unit 10 – forest and bush areas. The intent of the land unit is to maintain its importance in terms of its water and soil functions, its recreational and scenic values, its habitat functions and its essential role in providing a sustainable ecological base for the Islands.

The key provisions of the land unit are summarised below:

- An objective which states:  
  
*“To maintain the intrinsic value of the land unit for the protection of ecosystems and the natural environment.”*
- Policies relating to:
  1. Ensuring the conservation and preservation of indigenous vegetation and wildlife as the major function within the land unit.
  2. Maintaining the water and soil conservation functions of the land unit.
  3. Protecting the visual amenity of the land unit.
  4. Recognising the local, regional and national significance of the land unit, in particular its environmental and visual amenity values and managing subdivision and stock movements accordingly.
  5. Encouraging farming activities which achieve sustainable use of resources.
  6. Providing for the conservation and enhancement of the natural resources of the land unit.
  7. Providing for small scale, low impact dwellings, visitor facilities, lifestyle living, recreation facilities and other activities consistent with the preservation and conservation role of the land unit.
- All permitted activities must meet the standards of part 6B. These standards include an 8m height limit for buildings, a maximum of 30m<sup>3</sup> of earthworks and a maximum of 1000m<sup>2</sup> of vegetation clearance.
- Where there is more than one building on a lot only one building may be used wholly or in part as a dwelling.
- A controlled activity consent is required where the land unit is located in the Tryphena, Medlands and Port Fitzroy policy areas, where the rules for those policy areas require that resource consent is obtained.
- A discretionary activity consent is required for rural property management plans, educational facilities, helipads and farm strips, multiple dwellings and visitor facilities.

## **2.3 Proposed plan provisions**

The proposed District Plan retains the concept of a land unit for forest and bush areas - landform 7 (forest and bush areas ) for the following reasons:

- Forest and bush areas are a valuable ecological and material resource that requires a specific planning approach.
- Identifying forest and bush areas is necessary to uphold the integrity of ‘landform based’ land units given that forest and bush areas cover large parts of the Hauraki Gulf Islands and include vegetation with high values in terms of ecology, character, and biodiversity.

A summary of the proposed District Plan provisions is set out below:

- A description of the characteristics of the land unit, which include its natural character, conservation and ecological value and an absence of built structures.
- An objective which states:

*“To protect the natural character and the conservation, ecological and visual amenity values of forest and bush areas from the adverse effects of activities and buildings”*

- Policies relating to the following:
  1. Limiting the activities that can occur to those which avoid adverse effects on the natural character and the conservation, ecological and visual amenity value of the land unit.
  2. Ensuring that the scale, form colour and location of new buildings will not have adverse effects on the natural character, ecological and visual amenity value of the land unit.
  3. Requiring new sites to be of a size and nature that protects the natural character and the conservation, ecological and visual amenity value of the land unit.
- An activity table that identifies that all activities as either permitted, discretionary or restricted discretionary depending on the likely adverse effects associated with them.
- Permitted standards which include controls on height to a maximum of 8m, provide for earthworks of between 50m<sup>2</sup> and 200m<sup>2</sup> depending on the gradient of the land. Maximum vegetation clearance provisions of 250m<sup>2</sup>.

Landform 7 (forest and bush areas) is generally applied in the same locations as land unit 10 – forest and bush areas in the operative plan. However, the following changes 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 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 coast as far as practical.
- Adjustments have been made to reflect the passing of vegetation from the regenerating to forest and bush in order to allow a greater level of protection to established or valuable stands of trees.
- Adjustments have been made to the shape of the land unit so that it fits the aerial and cadastral land base 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, conservation, ecological and visual amenity values 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 7 (forest and bush areas).

### **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 and public meetings identified the following issues:

### **General Great Barrier 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.
- To consider combining some existing land units where the impacts and expected outcomes are similar.
- To consider how buildings and structures are to be provided for within the Great Barrier landscape.
- For 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.

### **Forest and bush specific comments:**

- Great Barrier has extensive indigenous vegetation, endemic & threatened plant & animal species
- Claris / Kaitoke Valley important nesting area for brown teal
- Building scale colour and form should blend in to bush
- Protect and enhance natural habitats trees and forests
- Incremental development should not encroach on bush
- Land owners should be able to choose to bring areas of bush or wetland into production
- There is a lack of enforcement for bush removal
- Consider cumulative effects of development on native vegetation
- Protected bush should count as mitigation
- Preserve at risk bush through council land swaps
- reduce amount of bush clearance
- Increase clearance for firewood harvesting
- Grazing should not be permitted in bush areas
- Major rates rebates should be given to property owners with large areas of property in bush
- Remove vegetation controls (all trees over particular height and girth) and increase scheduled trees, and ecological protection through heritage controls.
- Don't control works within the dripline.
- Allow property owners to trim or remove trees that they have planted, unless covenanted. Existing rules discourage tree planting because they can't be removed in future.
- A regulation so that trees can't be planted in a way that blocks neighbour's sun.
- Provide for continuous cover forestry with native species and selective logging
- Need to provide for bush clearance to remove fire hazard

### **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 7 (forest and bush areas) is:

*“How to protect the natural character and the conservation, ecological and visual amenity value of forest and bush areas 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 landform 7 (forest and bush areas) 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 landform 7 (forest and bush areas) 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 7 (forest and bush areas) is:

*“To protect the natural character and the conservation, ecological and visual amenity value of forest and bush areas from the adverse effects of activities and buildings”*

The outcomes sought by the objective are the protection of the natural character and the conservation, 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. The activities and buildings provided for in the land unit provide for the “use and development” of forest and bush areas and therefore provide for the social and economic wellbeing of landowners.
2. Provided that appropriate controls are put in place, buildings and activities can be undertaken in landform 7 (forest and bush areas) in a manner which:
  - sustains the potential of natural and physical (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
  - 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**

3. 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 coastal areas within the land unit from the potential adverse effects of inappropriate subdivision, use and development.

4. 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. The objective identifies the need to protect the natural character of the land unit and as such is consistent with section 6 of the Act which requires the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development is required by section 6.
5. 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, conservation and ecological value of these areas.

#### **Section 7 (other matters) reasons**

6. The land unit has high visual amenity, due to the natural character and expansive nature of the forest and bush areas. Protection of these characteristics from adverse effects of use and development will ensure that the amenity values of the land unit and Gulf Islands in general are maintained.
7. Limiting the use and development within the forest and bush areas will ensure that the quality of the environment within the land unit will be maintained and may be enhanced if regeneration occurs.
8. The objective recognises the heritage, economic and ecological significance of these areas to Maori.

#### **Section 8 Treaty of Waitangi**

9. 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.

#### **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 forest and bush areas) are protected.
2. The objective identifies the need to control the adverse effects of activities and buildings on the forest and bush areas, particularly with respect to the natural character, conservation, 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 7 (forest and bush areas).

### Policy 1:

*“By limiting the activities that can occur to those which avoid adverse effects on the natural character, conservation, ecological and visual amenity value of the land unit”.*

The rules associated with this policy are:

Permitted activity status for dwellings, home occupations, home stay and visitor accommodation for up to 10 people.

Benefits (including efficiency and effectiveness)	Costs
Not providing for a wide range of activities means that the natural character, conservation, 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 Waiheke and Ponui.	

### 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 2:

*“By ensuring that the scale, form, colour and location of new buildings will not have adverse effects on the natural character and the conservation, ecological and visual amenity value 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	Landowners will need to obtain resource consent for each new buildings and addition

provides the Council with the ability to decline the application if it does not meet the assessment criteria. It is also efficient as it will be processed on a non-notified basis which will avoid unnecessary costs and delays.	and alteration to the building.
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, conservation, 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, conservation, 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 3:**

*“By requiring new sites to be of a size and nature that protects the natural character, conservation, ecological and visual amenity of the land unit”*

The rules associated with this policy are:

25ha minimum site size.

<b>Benefits (including efficiency and effectiveness)</b>	<b>Costs</b>
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, conservation, 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) and as such will not be able to contribute to the social and economic wellbeing of the Hauraki Gulf.

### 4.3 Alternative options

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

- “Do nothing” and roll over the provisions of land unit 10 – forest and bush areas with no modifications.
- Less restrictive provisions could be applied.
- More restrictive provisions could be applied.

#### 4.3.1 Option 1

The provisions of land unit 10 – forest and bush areas could have simply been “rolled over” without modification to the wording.

Benefits	Costs
The community is familiar with these provisions.	There is no control on the location, scale, form or colour of buildings and as such the natural character of the forest and bush areas may not have been protected.
The objective and policies identify the need to ensure that the natural character of the land unit is protected.	The lack of protection for the natural character of the forest and bush areas and the coast would not be consistent with section 6 which requires the protection of the natural character of the coast and areas of “outstanding natural landscape”.
	The drafting of the land unit would not have been in line with current best practice or the approach taken in the remainder of the land unit.
The permitted standards relating to building height, vegetation clearance etc is appropriate.	Activities which could have an adverse effect on the natural character and the ecological value of the land unit are provided for i.e. industry and forestry.
Landowners can locate buildings and activities in this area of their land.	

#### The risk of acting or not acting

The risk of taking this approach is that the natural character and other values of the land unit may not be protected due to the absence of effective controls on buildings and activities.

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 properties.

#### 4.3.2 Option 2

Instead of limiting the range of activities that could be undertaken and the location, scale, form and colour of buildings, a less restrictive approach could have been taken where a range of activities and all buildings are permitted (provided that they comply with the relevant development controls).

Benefits	Costs
Landowners would have design freedom with respect to the location, scale, form and colour of buildings.	The natural character, conservation, ecological and visual amenity value of the land unit may not be protected due to the lack of controls.
Landowners could undertake a range of activities which could contribute to their economic wellbeing and the economy of the Gulf.	The lack of protection for the natural character values would not give effect to the NZCPS or proposed change 8 to the ARPS as required by section 6 of the Act.
	The loss of natural character would detract from the character of the Gulf overall which may impact upon social wellbeing and the economy due to the importance of natural character to the tourism industry in the Gulf.

#### The risk of acting or not acting

The risk of taking this approach is that activities and buildings are likely to occur which would detract from the natural character, conservation, ecological and visual amenity of the land unit. Such adverse effects are contrary to the provisions of section 6 of the Act which require the protection of the natural character of the coast and areas of “outstanding natural landscapes”

The risk of not acting is that landowners will have a limited range of options when it comes to the use of their land and the construction of buildings.

#### 4.3.3 Option 3

Instead of provision for activities and buildings to occur, a more restrictive approach could have been taken, for example buildings and activities could be non-complying activities.

Benefits	Costs
The natural character, conservation, ecological and visual amenity values of the land unit would be protected.	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.
The provisions of section 6 of the Act would be met as the natural character of the coast and areas of “outstanding natural landscapes” would be protected.	Landowners would not be able to obtain a return from all areas of their land within the land unit.
The natural character and general identity of	Inefficient use of land as the sand flats areas

Benefits	Costs
the Gulf would be protected. This is important for both social and economic wellbeing.	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 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, conservation, ecological and visual amenity value of the land unit.

### **4.3.4 Conclusion**

Having analysed the policies and rules of landform 7 (forest and bush areas) and considered the alternatives, it is concluded that the provisions of landform 7 (forest and bush areas) 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, conservation, 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.

## **4.4 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, conservation, ecological and visual amenity values of the land unit in an integrated manner.
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, and colour and form so that adverse effects on the natural character, conservation, ecological and visual amenity value of the forest and bush areas.

## 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) any New Zealand coastal policy statement; and
- ...

The parts of the NZ coastal policy statement that are relevant to landform 7 (forest and bush areas) 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 proposed provisions of the land unit give effect to the NZ coastal policy statement by:

- Protecting the natural character of the forest and bush areas that adjoin the coast through the use of vegetation clearance controls, limiting the activities that can be undertaken and by ensuring that new buildings are of a location, scale, form and colour which does not detract from the natural character of the forest and bush area or any adjoining coastline.



- Protecting the ecosystems within the land unit through vegetation clearance controls, limiting the activities that can be undertaken and ensuring that buildings are appropriately located.
- Accurately mapping the extent of the land unit on the planning maps.
- Recognising the heritage, economic and ecological significance of these areas to Maori.
- Recognising the interconnection between ecosystems and ensuring that activity in one does not adversely affect the quality of another. This is particularly relevant in the coastal environment where activity in forest and bush areas impacts on coastal water quality and therefore food gathering grounds.
- Ensuring 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.

## 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 7 (forest and bush areas) recognise the national significance of the Hauraki Gulf (section 7 of the HGMPA) by:

- Recognising the interrelationship between development in forest and bush areas and the adjoining coastal environment.
- Protecting the conservation and ecological value of ecosystems in the Gulf.
- Providing for the economic and social wellbeing of people and communities in the Gulf and New Zealand by protecting the character and identity of the islands.

The provisions of landform 7 (forest and bush areas) give effect to the management direction for the Hauraki Gulf (section 8 of the HGMPA) by:

- Maintaining the economic and social wellbeing of people and communities by providing activities to occur in the forest and bush areas.
- Protecting the coastal character and amenity of the areas of the land unit that are located adjoining the coastal environment.

## 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 7 (forest and bush areas) are attached as **appendix B**. The principles of key relevance to landform 7 (forest and bush areas) are:

- 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 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 region's soil resource.
- To avoid remedy or mitigate adverse effects of activities that result in soil degradation. To minimise the effects of soil degradation on the water quality of receiving environments.
- To maintain water quality in water bodies and coastal waters which have good water quality, and to enhance water quality which is degraded particularly for the following purposes:
  - (i) Estuaries and harbours: protection of aquatic ecosystems, recreation, fishing and shellfish gathering, cultural and aesthetic purposes.

In addition to the provisions identified above, proposed change 8 to the Auckland Regional Policy Statement identifies the majority of the areas of landform 7 (forest and bush areas) as areas of "outstanding natural landscape".

Overall the proposed plan gives effect to the regional policy statement by putting in place controls to ensure that only appropriate subdivision, use and development can occur in the forest and bush areas. The provisions also recognise the ecological and conservation values of the forest and bush areas.

The provisions of landform 7 (forest and bush areas) also gives effect to proposed change 8 as the objectives, policies and rules for the forest and bush areas limit the activities that can be undertaken and also ensure that new buildings are of an appropriate location, scale, form and colour.

## 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 7 (forest and bush) are attached as **appendix B**. The provisions that are of key relevance 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 protect the dynamic functioning of physical coastal processes.
- To protect the integrity, functioning and resilience of ecosystems within the coastal environment.

The proposed provisions for the landform 7 (forest and bush) give effect to the Auckland Regional Plan: Coastal by protecting the natural character of the forest and bush areas that adjoin the coast through the use of vegetation clearance controls, limiting the activities that can be undertaken and by ensuring that new buildings are of a location, scale, form and colour which does not detract from the natural character of the forest and bush area or any adjoining coastline.

## 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 7 (forest and bush areas) 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.*
- 4. Waiheke's coastal environment (including the coastal marine area) is protected and enhanced.*
- 5. High standards of air and water quality are achieved and maintained.*
- 6. Regeneration of native forest is encouraged, as is the enhancement of natural habitats for native bird species present on the island.*
- 7. Pests and noxious weeds that are harmful to the island's ecology are managed to safeguard ecosystems.*
- 8. Retention of native species biodiversity is encouraged.*
- 9. 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 7 (forest and bush areas) are consistent with the above aims and principles as the provisions retain native species biodiversity and encourage the regeneration of native forest by controlling the adverse effects of activities and buildings. The provisions also ensure that the natural character of the coast is protected.

## **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 forest and bush areas.

The objective of landform 7 (forest and bush areas) is the most appropriate means of achieving the purpose of the Act because it requires the protection of the natural character, conservation, ecological and visual amenity of the land unit.

The policies and rules of landform 7 (forest and bush areas) 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, conservation, 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 7 (forest and bush areas) also give effect to the relevant national and regional planning documents as they ensure the protection of the natural character of the coastal environment, significant vegetation and ecosystems 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**