

# **HGI Plan Review: section 32 report for Matiatia (mixed use)**

## **1.0 Executive summary**

This report summarises the evaluation undertaken by the council of Matiatia (mixed use) in terms of section 32 of the Resource Management Act.

In the operative District Plan land unit 25 – wharf is applied to Matiatia. The intent of the land unit is to provide for the development of transport facilities and visitor activities. In 2002, a private plan change (plan change 38) was notified to reclassify the land at Matiatia from land unit 25 – wharf to land unit 27 – Matiatia. The intent of Land unit 27 - Matiatia is to provide for a mixed use development on the valley floor, the further development of the transport facilities and the protection of the wetland.

In March 2005, the Environment Court released an interim decision which made a number of key findings on plan change 38, including the level of mixed use development that is to be provided for. The interim decision identified that the parties to the appeal were to work together to agree amendments to the plan change that were necessary to ‘give effect’ to the key findings in the interim decision. The work between the parties has resulted in a ‘peer review version’ of the amended plan change being submitted to the Environment Court on 16 July 2006. It is expected that the Environment Court will release a final decision on plan change 38 in the near future.

In August 2005, the council purchased the land at Matiatia and is currently running an international search for ideas and designs on how to develop Matiatia. There are cash prizes for finalists and the designer of the final concept chosen by the council will have the opportunity to help develop their design on the site. To guide designers, the council engaged a working party of architects, designers, property developers, councillors and community representatives to develop a design brief for the site.

The proposed District Plan retains the concept of a land unit for Matiatia as this approach is consistent with the approach taken in the plan for Oneroa and Ostend and as this approach was found to be appropriate by the Environment Court. While the land unit essentially ‘rolls over’ the provisions of plan change 38 amendments have been made to increase the clarity of the provisions, to ensure consistency across the plan provisions and to provide flexibility for the outcome on the design process.

The objectives for Matiatia (mixed use) are the most appropriate means of achieving the purpose of the Act because they provide for the social and economic wellbeing of the community (through the provision of transport facilities and the establishment of a mixed use development) while ensuring the protection of the environment (namely the natural features and landscape character of the area)

The policies and associated rules are the most appropriate means of achieving the objective as they provide a balance between providing for the necessary transport activities and the mixed use development to occur and the protection of the environment. 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 proposed land unit provisions also give effect to the relevant national and regional planning documents as the provisions provide for the appropriate use and development of area while protecting the landscape character and natural features of the area.

## **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**

Land unit 25 – Wharf is applied to the areas adjacent to the existing wharfs at Matiatia, and Kennedy’s Point on Waiheke and Sandy Bay on Rakino. The intent of the land unit is to take account of the future planning needs of wharf related activities.

A summary of the key provisions of the existing land unit is set out below:

- A description of the land unit including the identification of the activities to be undertaken; parking, visitor accommodation, freight and other ancillary activities.
- An objective seeking development, which facilitates the efficient integration of water and associated land-based activities in a manner, which caters for the needs of both residents and visitors.
- An objective seeking to ensure that future development within the land unit does not dominate or detract from the natural character or environmental quality of the coastline.
- A permitted activity standard which requires that all permitted activities within the land unit to:
  - (a) be associated with the provision of goods or services which facilitate the movement or accommodation of people and/or freight within or through the area, and
  - (b) maintain public access to the coastline, and
  - (c) conform to the standards and terms contained in Part 6B (permitted standards), and
  - (d) meets the requirements of Rule 6.25.4.1B below (particular rules);
  - (e) except where it has been otherwise provided for in the rules of this land unit as a controlled, discretionary or prohibited activity.
- Particular rules relating to building height, lot coverage, gross dwelling area (Matiatia wharf only), location and nature of activities (Matiatia wharf only), conservation and amenity and hazardous substances.
- A requirement for a controlled activity consent for new buildings
- Assessment criteria for new buildings relating to the location of buildings, design and external appearance, scale and form of buildings (including colour), landscaping and parking and service areas.
- A requirement for discretionary activity consent for marine industry, community facilities and helipads.
- A requirement for discretionary activity consent to vary any of the bulk and location standards for permitted activities by up to 10%.
- A wharf development plan specifically for Matiatia.

### 2.2.1 Plan change 38 – Matiatia

In 2002, a private plan change application by Waitemata Infrastructure Limited (WIL) was lodged to re-classify the land at Matiatia from land unit 25 – wharf to land unit 27 – Matiatia. Land unit 27 – Matiatia provides for a mixed use development to occur on the valley floor and also made provision for the development of transport infrastructure and the protection of the wetland area.

Plan Change 38 – Matiatia was heard in the Environment Court in December 2004. In March 2005, the Environment Court released an interim decision which made a number of key findings in relation to the plan change, the key findings are set out below:

- *“The legislative framework for this case is the Act in its form prior to 1 August 2003, the proceedings having been filed before that date.*
- *The s32 analysis has been adequately undertaken.*
- *PC 38 is consistent with the Auckland Regional Policy Statement (a requirement of s75(2)(c)(i).*
- *The existing land unit LU 25, would enable up to approximately 17,000m<sup>2</sup> of GFA of development at Matiatia by way of permitted activities or controlled activity consents (the 5000m<sup>2</sup> capability identified in last year’s decision A 116/04 being confined to the Visitor Facilities Precinct in that zone).*
- *The provisions of the existing LU 25 are outdated and inappropriate in many ways, especially as regards the important “Waiheke gateway” function the land provides.*
- *Noting WIL’s proposal that up to 12,000m<sup>2</sup> of GFA of development be a permitted activity, we find that there will be sufficient water supply for that level of development, based on analysis of appropriately conservative predictions of activities and usages.*
- *It is possible that 12,000m<sup>2</sup> GFA of development would generate more than WIL’s authorised/allocated wastewater discharge of 97m<sup>3</sup>/day to the Owahanake treatment plant. While that could possibly be addressed with recycling of treated effluent for certain purposes, there are some uncertainties presently surrounding that activity that militate in favour of limiting permitted development to 10,000m<sup>2</sup> GFA at the present time.*
- *Many further (if relatively minor) matters require to be addressed before a final decision can be made that servicing (water and wastewater) will be adequate. We anticipate that those matters can be appropriately addressed.*
- *PC 38 adequately provides for parking and the efficient movement of pedestrians, traffic and freight, in general terms.*
- *The existing council carpark near the wharf is an eyesore.*
- *Future construction of any multi-level aboveground carpark building near the wharf should be discouraged for reasons of traffic volumes likely to be attracted to the vicinity and on visual grounds.*
- *PC 38 does not seek to change the several important layers of planning provision in the district plan that surmount the land unit provisions i.e: Resource Management Overview, Issues, Strategies, Outcomes, Means, Vision, and the Strategic Management Area provisions.*
- *The activity status for development up to 10,000m<sup>2</sup> GFA should be permitted (subject to buildings and structures requiring controlled activity consent).*
- *The activity status for consent purposes between aggregate 10,000m<sup>2</sup> and 18,500m<sup>2</sup> GFA levels should be full discretionary.*
- *PC 38 should not espouse or emphasise non-notification of the discretionary activity applications, but instead sections 93 to 94D RMA should be left to play their part.”*

The Environment Court interim decision identified that the parties to the appeal were to work together to agree amendments to the plan change that were necessary to ‘give effect’ to the key findings in the interim decision. The work between the parties has resulted in a ‘peer

review version' of the plan change being submitted to the Environment Court on 16 July 2006. It is expected that the Environment Court will release a final decision on plan change 38 in the near future.

A summary of the 'peer review version' of plan change 38 – Matiatia is set out below:

- A description of Matiatia and the issues associated with the area
- Objectives and policies relating to the “gateway” function of the area, protecting the wetland area, creating a mixed use development and providing for the transport infrastructure of the area.
- A precinct plan which identifies five precincts (one relating to the wetland, two for the mixed use development and two for parking and transport).
- An activity table which provides for a range of activities and specifies the status of activities in each precinct.
- Development controls relating to building location, building height, building coverage, permeable area, activities abutting open space, open space, noise, parking and loading standards, earthworks, signage, minimum residential unit size and water and wastewater.
- Threshold controls are also included in the development controls. These controls relate to controlling the overall level of activities (10,000m<sup>2</sup> gross floor area (gfa) as a permitted activity and 12,000m<sup>2</sup> gfa as a discretionary activity) and the mix of activities.
- Assessment criteria which address a range of issues including criteria relating to the design of buildings and environmental matters.
- Subdivision provisions which provide for up to 6 lots with a minimum size of 2000m<sup>2</sup>.
- Temporary activity provisions
- Financial contribution provisions which identify that for the purpose of meeting all financial contributions up to 12,000m<sup>2</sup> the wetland area will be retained in public ownership and that an area by the esplanade reserve will be subject to a covenant.

In August 2005, the council purchased WIL (including the land at Matiatia). Following the purchase of WIL the council put forward a number of amendments to the plan change to better reflect its intentions for the development of the land including:

- Reduction in the amount of gross floor area proposed for the site as follows:

Gross Floor Area	Activity Status
Up to 10,000m <sup>2</sup>	Permitted
Between 10,000m <sup>2</sup> and 12,000m <sup>2</sup>	Restricted Discretionary (assessment relating to water and wastewater)
Above 12,000m <sup>2</sup>	Non-complying

- Amendments to the threshold controls so that the maximum amount of gross floor area for residential, conference and events and visitor facilities is 7000m<sup>2</sup> and that of that 7000m<sup>2</sup> no more than 5000m<sup>2</sup> may be residential.

- Removal of the defined areas of open space and pedestrian linkages but inclusion of a requirement for 35% of Precinct 1 to be open space and that 4000m<sup>2</sup> of the 35% must be located adjoining the foreshore reserve.
- New buildings are a restricted discretionary activity as opposed to a controlled activity
- A new objective and associated policies relating to environmental protection and sustainability
- A new policy indicating possible road stopping in the future with an indication of the process which will be followed.
- Remove requirement for continuous building form
- Amendments to the minimum apartment size control
- Remove requirement for a walkway from the financial contributions controls and lower the threshold to 12,000m<sup>2</sup>
- Inclusion of a limit on the amount of public open space that can be occupied by a temporary activity

These amendments are incorporated in the peer review version of the plan change that is summarised above.

### **2.2.2 Good ideas search**

As identified above, council now owns the land at Matiatia. In order to determine the final form of development for Matiatia, Auckland City has launched an international search for creative and innovative ideas to develop Matiatia.

There are cash prizes for finalists and the designer of the final concept chosen by the council will have the opportunity to help develop their design on the site. To guide designers, the council engaged a working party of architects, designers, property developers, councillors and community representatives to develop a design brief for the site.

The brief, 'A vision for Matiatia' incorporated the design principles established by the Waiheke community and the elements Auckland City wants to see included any development. Design concepts from 75 entrants were received and went on public display.

Five finalists have been selected and they have been invited to participate in stage two of the process which involves the development of more detailed designs.

## **2.3 Proposed plan provisions**

The proposed District Plan retains the concept of a land unit at Matiatia (Matiatia (mixed use). This is appropriate given that the approach was approved in the Environment Court decision on plan change 38 and as it is consistent with the approach adopted within the plan for Oneroa and Ostend.

In essence the Matiatia (mixed use) provisions 'roll over' the provisions of plan change 38 given that these provisions have only recently been the subject of an Environment Court decision. However, some changes have been made to increase the clarity of the plan change, to ensure that the provisions in the land unit are consistent with the remainder of the District Plan provisions and to provide flexibility for the 'good ideas search' that the council is running to determine the final form of development for Matiatia. In particular, the following changes have been made:

- The five precincts in plan change 38 have become three areas in mixed use (matiatia). This is because it is not necessary to have two areas relating to mixed use development as the provisions for each were essentially the same. The transport and parking precincts have been rolled into one area but the differences between the two areas are recognised through different activity tables and development controls.
- The mixed use area has been extended over Ocean View Road. This amendment will provide more flexibility for the location of buildings.
- A development control has been incorporated to ensure that carparking buildings will not be located within 100m of mean high water springs. This gives effect to the Environment Courts finding that carparking buildings in this area should be discouraged for parking and visual reasons.
- The subdivision and financial contribution provisions are now contained in the subdivision and financial contribution sections of the plan.
- The noise provisions are consistent with the approach taken in Ostend and Oneroa.
- The standard development controls are contained in the development controls section along with the standard development controls of the other land units.
- General re-wording and formatting for clarity and consistency reasons, particularly in the activity table.
- The vegetation clearance and earthworks controls are now consistent with the provisions in the other land units.
- The assessment criteria for new buildings have been amended to be more targeted and to ensure good design outcomes and that sustainability principles are given effect to.
- The 500m<sup>2</sup> limit on activities that was contained in the activity table in plan change 38 has become a development control for clarity reasons.

## **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 Matiatia (mixed use).

### **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).

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 the transport focus group raised the following issues:

### **General comments:**

- On a general level, the Auckland Regional Transport Authority (ARTA) supports all provisions that increase the efficiency of loading and unloading ferries, provide pedestrian access separate from vehicles and opposed any development adjacent to the wharf that reduce/limit space for stacking vehicles waiting for the ferry and for manoeuvring vehicles coming off the ferry.
- Include provisions that increase efficiency of ferry loading / unloading.
- Oppose developments that reduce / limit space for stacking vehicles waiting for ferry and for manoeuvring vehicles coming off ferry.

### **Matiatia specific comments:**

- Supports recent decision on Matiatia proposal - promotes ferry use and terminal areas as a destination, encourages walking, reduces car trips. Given that Auckland City has purchased Matiatia, this could be considered as the location for a new urban village on

Waiheke. Precinct 4 adjoining wharf - more permissive range of activities if the wharf requires infringement onto this. Provide for community and commercial activities (including kiosks, restaurant, bars / taverns, and retail) as permitted or discretionary. Supportive of urban activities in close proximity to the wharf if they do not interfere with transportation function. Resolving parking issues at Matiatia are central to ensuring sustainable transport system. If provisions are too liberal, this will encourage private vehicle use. Consider proposals for park and ride facilities linked by bus to Matiatia ferry terminal.

- Have a bus stop at council carpark midway along Matiatia Road for rental cars. Council to buy back Waitemata Infrastructure limited carpark for public use. Relocate rental car parking at Matiatia council carpark to current council parking up Matiatia Rd and return Matiatia carpark to public carpark.
- Notify all applications. Maximum gfa of 5000m<sup>2</sup>. Limit use - no residential apartments, small souvenir / gift shop, conference and restaurant only. No reticulated water or sewerage except for Oneroa business area. Rental cars (and other commercial operations) should not be able to parking in the park and ride facility at Matiatia. Pick up at Matiatia and take to their yard for processing.
- Provide park and ride for ferry
- Opposes
- No development other than transport hub. Council to purchase Waitemata Infrastructure Limited land.
- Too congested for boats
- Dislikes roadside parking on road to Matiatia. Likes free off-street parks at Matiatia.
- Council should purchase Matiatia and turn into a reserve
- Should be purchased by Council. Parking problems need to be sorted out. Parking interspersed with planting. Wetlands preserved and enhanced with boardwalks. Land subdivided to prevent large development. Kayaking, biking, car-hire, other adventure and tourist businesses, cafes and restaurants and perhaps some accommodation situated there. Carved maori and pakeha gateway.
- Purchase Matiatia - for parking and open air venue. Let Ross Kayaks stay at Matiatia
- Limit ferries to Matiatia to hourly. Decentralise with ferries going to a number of local wharf's in Waiheke. Retain as LU 25 - allow development applicable to terminus conference centre, doctors & apartments not appropriate. Take land under public works & develop decent traffic plan.
- Avoid precedent effect in Matiatia
- Ensure notification of discretionary activities in plan change 38.
- Provide additional parking. Develop esplanade idea further.
- No shops, apartments. Maximum development possible in Matiatia 12000m<sup>2</sup>
- Bring Matiatia into public ownership
- Protect European built heritage eg Matiatia kayak boatsheds
- Land Unit 25 to remain
- Allowed continued use of foreshore at Matiatia for recreation marine activities
- Provide commuter parking. Larger area for traffic, collecting and delivering passengers.
- Supports Environment Court statement that plan change 38 should not espouse non-notification of discretionary activities.
- Needs to be a long term parking plan implemented. Don't price the opportunity out of existence.
- Address parking shortage



- Development should not impact on the commercial viability of Oneroa. Protect Harbourmaster's building and open space. Investigate underground or other less expansive and visibly dominant parking options. Include public open space areas

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

#### **3.1 Issues**

The significant resource management issues that need to be addressed at Matiatia are:

1. How to develop a safe and efficient transport network at Matiatia, including provision for passenger transport and carparking activities.
2. How to develop Matiatia so that it provides activities and services that will better meets the needs of the residents and visitors that use Matiatia.
3. How to ensure that the built environment at Matiatia is attractive and safe and will not have adverse effects on the landscape character of Matiatia Bay.
4. How to ensure that development at Matiatia is of a scale and intensity that can be serviced in terms of water supply and wastewater disposal without creating adverse effects on the environment.
5. How to protect the wetland area from the adverse effects of use and development.
6. How to ensure that there will be open space and public areas included within any future development at Matiatia.

These issues have been addressed by the objectives, policies and rules contained in Matiatia (mixed use) and are discussed 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 Matiatia (mixed use) 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 Matiatia (mixed use) 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 objectives of the Matiatia (mixed use) are:

*To develop a safe and efficient transport network while maintaining the landscape character of Matiatia.*

*To create a safe and attractive mixed use development that will meet the needs of the residents and visitors using the area while maintaining the landscape character of Matiatia.*

*To ensure development at Matiatia does not have adverse effects on natural features and resources and gives effect to environmental sustainability principles.*

The objectives seeks to achieve three outcomes, namely a safe and efficient transport network, a safe and attractive mixed use development and the protection landscape character and natural features of Matiatia (including sustainability principles). The objectives and the outcomes sought are the most appropriate for achieving the purpose of the Act for the following reasons:

#### Section 5 (purpose of the Act) reasons:

1. The transport objective provides for the transport facilities which are essential for the movement of people, freight and traffic on and off the islands. Consequently, the objective provides for the economic and social wellbeing of Waiheke residents and visitors.
2. The mixed use development will provide for the economic and social wellbeing of Waiheke residents as it will provide a place to live, socialise and work.
3. Provided that appropriate controls are in place, transport activities and a mixed use development can be undertaken 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:**

4. The objectives seek to ensure that the mixed use development and transport activities will not detract from the landscape character of Matiatia. Consequently, the objectives are consistent with section 6 as they protect the character of the adjoining coastal environment (including the coastal marine area) from inappropriate subdivision, use and development.
5. The mixed use development and the transport activities provided for by the objectives will provide public access to and along the coastal marine area, particularly through the provision of open spaces adjoining the esplanade reserve.
6. The objective relating to the protection of natural features and giving effect to sustainability principles will ensure that the natural character of the wetland and other natural resources are protected.

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

7. Matiatia is already developed for transport and visitor activities, however the evidence presented to the Environment Court identified that further development can occur without adverse effects on the environment. As such, the further development of Matiatia represents an efficient use of land and resources.
8. The objective seeks to protect the landscape character of Matiatia and to create a safe and attractive built environment. Consequently, the objective will maintain the character and amenity values of the area, particularly if carparking areas are re-located.

#### **Section 8 (Treaty of Waitangi)**

9. The objectives take account of the principles of the Treaty of Waitangi as they recognises the need to use and protect natural and physical resources in a manner which benefits both Maori and Europeans and as the objectives take account of the relationship of Maori with coastal and wetland areas.

#### **Council 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 objectives relate to each of the key issues facing Matiatia (transport, mixed use and natural features) and consequently provide a framework for the integrated management of the effects of these activities (integrated management is one of council's functions set out in section 31 of the Act).

2. The objectives identify the need for the control of any actual or potential effects of transport activities and the mixed use development. In particular, the objectives identifies the need to protect the landscape character of Matiatia and to protect natural features such as the wetland and water resources.

#### **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 Matiatia (mixed use).

##### **Policies associated with objective 1:**

1. *“By identifying a specific area for the safe and efficient operation of wharf-associated activities, passenger transport and other multiple occupancy vehicles so that these activities have priority over single occupancy vehicles.*
2. *By providing for the further development of carparking areas and buildings and other transport infrastructure where such development will enhance the safety and efficiency of the transport network at Matiatia.*
3. *By requiring carparking areas and buildings and other transport infrastructure to be integrated with the proposed mixed use development.*
4. *By providing for the relocation of Ocean View Road (following road stopping procedures) if that is necessary to achieve a safe and efficient road layout.*
5. *By requiring safe and convenient pedestrian walkways between the wharf and the mixed use development and carparking areas and buildings.*
6. *By ensuring that medium to large scale carparking areas and buildings are not located adjoining the esplanade reserve nor are highly visible to those arriving at Matiatia, in order to avoid adverse effects on the landscape character of Matiatia”*

The rules associated with this policy are:

Permitted activity status for carparking, passenger transport etc, the setback for carparking, the buildings and areas from MHWS, the location of the mixed use area over Ocean View Road, requiring pedestrian walkways to be assessed as part of the assessment of new buildings and assessing the location and form of new carparking areas and buildings.

Benefits (including efficiency and effectiveness)	Costs
Providing for transport activities ensures that the transport needs of the residents and visitors using the area can be met.	Providing for carparking areas and buildings encourages the use of private vehicle trips to Matiatia which has adverse effects on the road network.
The priority given to passenger transport will improve the viability of passenger transport services on the island and will reduce the adverse effects of single occupancy cars.	Limiting the location of carparking buildings and areas will reduce the amount of carparking that can occur in the area and therefore may result in residents and visitors will have to use other means of getting to Matiatia.
The integration of the transport infrastructure with the mixed use development will improve the visual amenity and use ability of the area.	
Ensuring that carparking buildings and activities are not located within 100m of MHWS will protect the visual amenity of the area and avoid the adverse effects of traffic congestion.	
Providing for the relocation of Ocean View Road means that the optimum road layout can be achieved.	

### **Risk of acting or not acting:**

The risk of taking this approach is that providing for carparking will encourage private vehicle trips to Matiatia which has adverse effects on the road network.

The risk of not taking this approach is that passenger transport will not be given priority, that the optimum road network will not be achieved and that there will be adverse effects on the visual amenity of the area.

### **Policies associated with objective 2:**

1. *“By requiring a mix of activities to occur on the site, to both meet the needs of residents (eg retail, offices and restaurants and cafes) and visitors (eg visitor accommodation and function facilities).*
2. *By providing for residential activity so that there are people in the area during both the day and night.*
3. *By ensuring that the built environment is designed to be safe and attractive and does not have adverse effects on the landscape character of Matiatia.*
4. *By requiring areas of open space to be developed for public use, both within the mixed use development and adjoining the esplanade reserve, adjacent to the Matiatia Bay foreshore.*
5. *By ensuring that the layout of buildings and walkways on the site is clear and legible to pedestrians and vehicles and is integrated with the carparking areas and buildings and other transport infrastructure.”*

The rules associated with this policy are:

The provision for a range of activities in the activity table for the mixed use area, requiring a restricted discretionary consent for new buildings and the permitted activity standards for the mixed use area.

Benefits (including efficiency and effectiveness)	Costs
That Matiatia will be developed in a manner which meets the needs of both residents and visitors using the area.	Further development will change the character of the area.
That the form of built development will be safe vital and attractive and will therefore be an appropriate 'gateway' to Waiheke.	Built development and activities may result in adverse effects on the environment unless appropriate controls are put in place.
The mixed use development will be a place to meet and socialise and will therefore contribute to the social wellbeing of residents and visitors.	A mixed use development will mean that the whole area cannot be used for transport activities.
The mixed use development will be a place where local businesses can establish and will therefore contribute to the economic wellbeing of island residents.	
Residents living in the area will increase the safety of the 'gateway' to Waiheke.	
The mixed use development will be an efficient use of land given that the area can accommodate substantially more development without adverse effects on the environment.	
The mixed use development will complement the transport role of the area and will have benefits in reducing car movements as people will be able to meet multiple needs in one area.	

### **Risk of acting or not acting:**

The risk of taking this approach is that the area will not be able to be used entirely for transport activities and may result in adverse effects on the environment if appropriate controls are not put in place.

The risk of not taking this approach is that the land at Matiatia will not be developed in an efficient manner and will not meet the needs of residents and visitors using the area.

### **Policies associated with objective 3:**

1. *"By limiting the use and development that can occur in the wetland area to public recreation activities and associated structures.*
2. *By ensuring that the level and nature of activities provided for can be serviced in terms of water supply and wastewater disposal without resulting in adverse effects on the environment.*
3. *By requiring buildings to have a 'low impact' on the environment through the use of 'green building' methods and 'environmentally sustainable design' principles."*

The rules associated with this policy are:



The permitted activity standards associated with water and wastewater, the assessment criteria relating to sustainability (including the sustainability appendix) and identifying and protecting the wetland area.

<b>Benefits (including efficiency and effectiveness)</b>	<b>Costs</b>
The protection of the wetland area will ensure that the natural character of the wetland is maintained and is therefore consistent with section 6 of the Act.	The limit on the amount of development that can occur (for water and wastewater reasons) limits the returns than can accrue from the mixed use development.
The requirements for sustainable design principles will ensure that the development of Matiatia will reflect the community desire for a 'sustainable gateway' to Waiheke.	Protection of the wetland means that economic returns cannot accrue from this area.
The limits on the level of development will ensure that natural resources such as the water aquifer at Matiatia are protected.	Possibility of additional design and construction costs as a result of the cost of 'green buildings'.

#### **Risk of acting or not acting:**

The risk of taking this approach is that there will be a lower return on investment as a result of the limits on the level of built development and using sustainable building practices.

The risk of not taking this approach is that there could be adverse effects on the environment as a result of their not being limits on the extent and nature of built development.

### **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' by retaining the provisions of land unit 25 – wharf
- 'Roll over' the provisions of plan change 38 – Matiatia with no modifications
- Develop Matiatia as a park

#### **4.3.1 Option 1**

Instead of the Matiatia land unit, the provisions of land unit 25 – wharf could have been retained (as outlined in section 2.2 above).

<b>Benefits</b>	<b>Costs</b>
The community is familiar with the provisions.	The Environment Court has identified that these provisions are outdated and inappropriate for Matiatia. As such, they would not be defensible in the Environment Court.
The provisions recognise the need for the further development of the transport network.	The provisions do not provide for the further development of the transport network in a visually appropriate manner.

All wharf areas would have the same land unit classification.	The provisions do not provide for the establishment of a mixed use development which the Environment Court has found to be appropriate for the site.
	The development controls and precinct plan do not provide for a form of built development which is appropriate for the 'gateway to the island'.

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

The risk of taking this approach is that the provisions are outdated and inappropriate and as such would not result in a form of development which is appropriate for the gateway to Waiheke and would therefore not be able to be defended in the Environment Court.

The risk of not taking this approach is that all wharf area within the District Plan would not have the same classification and that the need for the further development of transport infrastructure may not be recognised.

### **4.3.2 Option 2**

The provisions of plan change 38 could be 'rolled over' without modification.

<b>Benefits</b>	<b>Costs</b>
The provisions have been subject to consideration by the Environment court.	The provisions of the land unit would not 'integrate' with the remainder of the District Plan and would therefore lower the integrity of the document.
The provisions provide for the further development of transport infrastructure.	The land unit would not provide for the relocation of Ocean View Road and therefore would not provide the opportunity to achieve the most efficient and effective road layout.
The provisions provide for the establishment of a mixed use development.	The land unit would not refer to the sustainability appendix.
The provisions protect the natural features of the area (including the wetland) and the landscape character of Matiatia.	There would not be an improvement in the overall clarity and workability of the provisions.

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

The risk of taking this approach is that the integrity of the District Plan will be lowered and that the provisions will not provide for the relocation of Ocean View Road, refer to the sustainability index and will have lower clarity and workability.

The risk of not taking this approach is that the amendments made will not have been subject to consideration by the Environment Court.

### **4.3.3 Option 3**

Develop Matiatia as a park.

<b>Benefits</b>	<b>Costs</b>
More land for use as open space by the residents and visitors to Waiheke.	There will be no return on investment for the Council and as such the cost of the purchase of Matiatia will be borne by ratepayers.
Open space areas have higher visual amenity value.	Inefficient use of land as it has been demonstrated that this area can accommodate significantly more development without adverse effects on the environment.
The wetland area will be protected from the adverse effects of development.	The needs of residents and visitors using the area will not be met as there will be no activities. This means that the area will not function as an effective 'gateway' to the island.
	Inefficient use of resources as open space of this nature is not required to meet the recreation needs of Waiheke residents.
	Low visual amenity due to the ad-hoc parking activities.
	With no return on investment from this site it will mean that other services and land purchases may not be able to occur.
	The benefits of locating activities near transport facilities will not eventuate.

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

The risks of taking this approach is that Matiatia will not be developed into an effective 'gateway' to the island as it will not meet the needs of the residents and visitors using the area and as the council as landowner will not achieve a return on investment.

The risk of not taking this approach is that there will not be an increase in open space areas on the island and that the visual amenity and wetland will not be protected.

### **4.3.4 Conclusion**

Having analysed the policies and rules of Matiatia (mixed use) and considered the alternatives, it is concluded that the provisions of Matiatia (mixed use) are the most appropriate means of achieving the objective as these objectives and policies provide a balance between providing for transport activities, the mixed use development and the protection of the landscape character and natural features of the area. 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 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 transport activities and the mixed use development on the landscape character and natural features of the area.
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 the level and form of development at Matiatia will not have adverse effects on the landscape character and natural features of the area.

## **5.0 National and regional planning documents and other documents**

In the hearing in the Environment Court, plan change 38 was subject to full section 32 analysis and an assessment as to its consistency with the relevant national and regional planning documents and other non-statutory documents such as Essentially Waiheke. A copy of the evidence presented on behalf of WIL and the council on these matters and the decision of the Environment Court is attached as **appendix a**.

As the Environment Court decision identified that this assessment was thorough and comprehensive and as the provisions of plan change 38 have essentially been ‘rolled over’ the assessment has not be repeated.

## **6.0 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 eg user satisfaction surveys, land use surveys, ecological surveys

## **7.0 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 provide for transport activities, the establishment of a mixed use development and the protection of the landscape character and natural features of the area.

The objective is the most appropriate means of achieving the purpose of the Act because it provides for the social and economic wellbeing of the community (through the provision of the mixed use development and transport facilities) while ensuring the protection of the environment (namely the wetland area, the natural features and the landscape character of the area).

The policies and associated rules are the most appropriate means of achieving the objective as they provide a balance between providing for the necessary transport activities and the mixed use development to occur and the protection of the environment. 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 proposed land unit provisions also give effect to the relevant national and regional planning documents as the provisions provide for the appropriate use and development of area while protecting the landscape character and natural features of the area.