

HGI Plan Review: section 32 report for the recreation 2 land unit – community facilities and sports parks

1.0 Executive summary

This report summarises the evaluation undertaken by the council of proposed district plan provisions relating to the recreation 2 land unit, which includes community facilities and sports parks on Rakino, Waiheke and Great Barrier, in terms of section 32 of the Resource Management Act.

The main conclusions are:

- Community facilities and sports parks play an important role in providing for the recreational and social needs of the communities on Rakino, Waiheke and Great Barrier Island;
- Community facilities include halls, marae, clubrooms and skateboard parks;
- The rules will allow active recreation and community activities to be established and operate in the land unit;
- Controls on new buildings and additions or alterations to existing buildings will be controlled to protect the visual amenity of the land unit.
- The proposed objective, policies and rules are the best means of achieving the purposes of the Act.

2.0 Introduction

2.1 Purpose of this report

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

2.2 Proposed plan provisions

The proposed plan provisions seek to facilitate the use of community facilities and sports parks for active recreation, while protecting the visual amenity of the land unit. The protection of amenity will be achieved by controlling the scale form, colour and location of buildings on the land unit and by controlling the intensity of artificial lighting. The construction of boat launching ramps, jetties and associated trailer parks are proposed to be a discretionary activity as is the construction and operation of care centre.

2.3 Consultation

This section of the report briefly outlines the consultation that the council has undertaken to date and identifies any issues raised of particular relevance to the recreation 2 land unit.

2.3.1 Consultation to date

The council undertook consultation in 2005 in preparation for drafting the proposed Plan.

Initial consultation

The main consultation period was from April to July 2005. Consultation during that period consisted of:

- public meetings, workshops, nga hui, and one on one meetings;

- a photographic exercise on Waiheke
- inviting written feedback on a consultation document which contained issues and options papers on a wide range of topics.

Focus groups

At the close of consultation, the council analysed the feedback forms received. From these, key issues were identified that subsequently became topics for focus groups on Waiheke. The four topics for the focus groups were:

- landscape
- transport
- sustainability
- future planning (including subdivision, growth, and providing for business activity).

An additional workshop was also held on Great Barrier to give a further opportunity to discuss issues raised through the feedback forms.

Telephone survey

The council commissioned an independent research company to undertake a phone survey in late 2005. The survey was of a randomly selected sample of 1002 on-island residents and off-island ratepayers of Waiheke, Great Barrier and Rakino. The questionnaire used for the survey was designed to get responses on the key issues that had emerged from the consultation process and stakeholder feedback.

The survey provided a means of canvassing the views of a wide range of people who may not have been previously involved in the consultation process.

Consultation with other stakeholders

During the preparation of a proposed plan, the council has also consulted with the following parties:

- the Auckland Regional Council ('ARC')
- the Department of Conservation ('DOC')
- tangata whenua
- network utility authorities
- Ministry for the Environment (MfE).

Public notification

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

2.3.2 Issues raised during consultation

Forty eight people/groups gave feedback on the issues and options paper titled "Department of Conservation / Public Land. The feedback covered a wide variety of subjects, some of which will be addressed as part of the recreation 2 land unit and others as part of the conservation land unit. The feedback is included as Appendix B.

3.0 Resource management issues and objectives

3.1 Issues

The significant resource management issues addressed here are:

- How to facilitate the use and enjoyment of community facilities and sports parks for active recreation and community activities.
- How to protect the visual amenity of the land unit from the adverse effect of new buildings.

Section 31 of the Act sets out as a Council function, the establishment of objectives, policies and methods to protect land and associated natural and physical resources of the district. The proposed objective, policies and rules are consistent with protecting the natural and physical resources of Rakino, Waiheke and Great Barrier.

3.2 Objective

The objective is:

“To facilitate the use and enjoyment of community facilities and sports parks for active recreation and community activities while protecting the visual amenity of the land unit.”

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

Section 31 sets out the council’s functions for the purpose of giving effect to the Act. The council’s functions include:

- (a) The establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:
- (b) The control of any actual or potential effects of the use, development or protection of land...

Section 72 states as follows:

The purpose of the preparation, implementation, and administration of district plans is to assist territorial authorities to carry out their functions in order to achieve the purpose of this Act.

Section 74(1) of the RMA states as follows:

A territorial authority shall prepare and change its district plan in accordance with its functions under section 31, the provisions of Part 2, a direction given under section 25A(2), its duty under section 32, and any regulations.

The following provisions of section 76 are also relevant:

- (1) A territorial authority may, for the purpose of –
 - (a) Carrying out its functions under this Act; and
 - (b) Achieving the objectives and policies of the plan, - include rules in a district plan.

...

- (3) In making a rule, the territorial authority shall have regard to the actual or potential effect on the environment of activities, including, in particular, any adverse effect.

In achieving the purpose of the Act, the council must carry out an evaluation under section 32 of the RMA before publicly notifying a district plan or a plan change. Section 32(3), (3A) and (4) state as follows:

- (3) An evaluation must examine –
- (a) the extent to which each objective is the most appropriate way to achieve the purpose of the Act; and
 - (b) whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives
- (3A) This subsection applies to a rule that imposes a greater prohibition or restriction on an activity to which a national environmental standard applies than any prohibition or restriction in the standard. The evaluation of such a rule must examine whether the prohibition or restriction it imposes is justified in the circumstances of the region or district.
- (4) For the purposes of the examination referred to in subsections (3) and (3A), an evaluation must take into account –
- (a) the benefits and costs of policies, rules, or other methods; and
 - (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.

The statutory requirements, including section 32 matters, are assessed below under the following headings:

- The extent to which each objective is the most appropriate way to achieve the purpose of the Act
- Whether the policies, rules, or other methods are the most appropriate for achieving the objectives
 - having regard to their efficiency and effectiveness
 - taking into account the benefits and costs of policies, rules, or other methods
 - taking into account the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.

4.1 The extent to which each objective is the most appropriate way to achieve the purpose of the Act

4.1.1 The purpose of the Act

Section 5 states that the purpose of the Act is ‘to promote the sustainable management of natural and physical resources’. Section 5(2) states:

- (2) In this Act, “sustainable management” means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while-
- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

- (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.

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

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

Section 6 of the RMA identifies matters of national importance, which need to be recognised and provided for in achieving the purpose of the Act. The matters of particular relevance to the proposed recreation 2 land unit are identified below:

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

Section 7 deals with ‘other matters’ which, in achieving the purpose of this Act, persons exercising functions and powers under the Act shall have particular regard to. The matters of are of particular relevance to the proposed recreation 2 land unit are identified below:

Clause		
(a)	Kaitiakitanga	
(aa)	The ethic of stewardship	✓
(b)	The efficient use and development of natural and physical resources	✓
(ba)	The efficiency of the end use of energy	
(c)	The maintenance and enhancement of amenity values	✓
(d)	Intrinsic value of ecosystems	
(f)	Maintenance and enhancement of the quality of the environment	✓
(g)	Any finite characteristics of natural and physical resources	
(h)	The protection of the habitat of trout and salmon	
(i)	The effects of climate change	
(j)	The benefits to be derived from the use and development of renewable energy	

Section 8 provides that in achieving the purpose of the Act, all persons exercising functions and powers under it, in relation to managing the use, development and protection of natural

and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti O Waitangi).

4.1.2 Appropriateness in achieving the purpose of the Act

Objective: To facilitate the use and enjoyment of community facilities and sports parks for active recreation and community activities while protecting the visual amenity of the land unit.

The objective is consistent with section 5(2) of the Act because the protection of community facilities and sports parks, is consistent with managing the protection of natural and physical resources to meet the reasonable foreseeable needs of future generations, while safeguarding the life-supporting capacity of ecosystems.

The objective is also consistent with the maintenance and enhancement of amenity values, having regard to the intrinsic values of ecosystems and the maintenance and enhancement of the quality of the environment as required by section 7 of the Act.

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

Policies for the objective are:

1. By providing for recreation and community activities to establish and operate in the land unit.
2. By ensuring that the scale, form, colour and location of new buildings will not have adverse effects on the visual amenity of the land unit.

The proposed policies are the most appropriate means of achieving the objective because they allow for active recreation opportunities to occur whilst avoiding any adverse effects of those activities on the visual amenity of the particular park or community facility. Controls on the scale, form, colour and location of new buildings and exterior additions and alterations to existing buildings will ensure that they do not adversely affect the amenity or the ecological values of the location on which they are proposed to be located.

The rules will make alterations or additions to the exterior of existing buildings and the construction and relocation of building over 50m² a restricted discretionary activity. The use of artificial lighting over 150 lux, boat launching ramps, jetties, boat trailer parks and care centres are proposed to be a discretionary activity. The following are proposed to be permitted activities:

- Artificial Lighting under 150 lux
- Artworks, monuments and sculptured
- Car parking areas
- Clubrooms
- Community facilities
- Information centres
- Marae
- Observation areas, viewing platforms and related structures
- Organised sports and recreation and associated grounds and playing fields

- Park furniture (including seats, rubbish bins, lighting, signs, BBQ's and picnic facilities)
- Planted areas
- Play grounds (including play ground apparatus)
- Stormwater retention ponds
- Toilets and changing facilities
- Walking, jogging, fitness and riding trials (bridle and bicycle)

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

4.2.1 Option 1

Make all buildings and addition and alterations to buildings on recreation 2 land a discretionary activity.

Benefits	Costs
Improvement of amenity to land unit as scale, form, colour and location of building would be better controlled.	Cost to obtain resource consents for even the smallest buildings or alteration/addition.
	Buildings or additions and alterations to buildings on some sites may have very little effect on existing amenity.

The risk of acting or not acting

The risk of acting on this option is the cost in obtaining a resource consent even for minor alterations or additions to buildings or for the construction of any size of building. The risk of not acting on this option is that even small buildings if provided for as a permitted activity may have, in some circumstances, an adverse effect on the amenity of some recreation 2 sites.

4.2.2 Option 2

Provide for more development and use of proposed community facilities and sports parks

Benefits	Costs
More flexible use of parks and facilities for a greater number of activities	Possible loss of amenity values if more buildings or bigger buildings allowed within the land unit
Would avoid the cost of resource consent for building or additions or alterations	

The risk of acting or not acting

The risk of acting on this option is a possible conflict between the amenity within some parks (including parks containing community facilities) and a more intensive use of those areas especially if more buildings or larger buildings were allowed.

The risk of not acting on this option is some loss in the possible uses or intensity of use that could be applied to some parks.

4.2.3 Option 3

Use of the proposed objective, policies and rules

Benefits	Costs
Protects the amenity values of reserves and community facilities, whilst allowing public access for active recreation.	Possible cost to council in requiring consents for their own work on their own land.
	Council will still be required to obtain resource consents from the Auckland Regional Council for boats ramps and jetties because they extend into the coastal marine area.
Allows public input into objective, policies and rules for land unit, and to be involved in notified resource consent applications.	May prevent buildings on parks or reserves with little amenity values.

The risk of acting or not acting

The risk of not acting on this option would be the lack of suitable protection for areas of high amenity value from inappropriate use and development.

The risk of acting on this option is that Council may have to apply for resource consents to undertake work or construct large buildings on its own land.

4.2.4 Conclusion

Option 3, which supports the use of the proposed objective, policies and rules is considered the best option to permit active recreation whilst protecting the amenity of sports parks and community facilities.

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

The proposed rules provide for the integrated management of the effects of the use, development and protection of important natural and physical resources on Rakino, Waiheke and Great Barrier. They will assist council to protect the amenity of sports parks and community facilities, and control its use or development to maintain this amenity.

Rules that control the construction and alteration of buildings, the intensity of artificial lighting that can be used, the construction of boat launching ramps and jetties and associated parking areas, and the establishment of care centre facilities will protect the amenity values of land within the recreation 2 land unit.

5.0 National planning documents

5.1 National and NZ coastal policy statements

Section 75(3) of the RMA states:

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

The New Zealand Coastal Policy Statement states that regard should be had to a number of general principles including:

1. Some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural well being of people and communities. Functionally, certain activities can only be located on the coast or in the coastal marine area.
2. The protection of the values of the coastal environment need not preclude appropriate use and development in appropriate places.
12. The ability to manage activities in the coastal environment sustainably is hindered by the lack of understanding about coastal processes and the effects of activities. Therefore an approach which is precautionary but responsive to increased knowledge is required for coastal management.

The proposal to make boat launching ramps, jetties and boat trailer parks a discretionary activity in the recreation 2 land unit is consistent with the above principles.

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 proposed objective, policies and rules give effect to section 7 of the Hauraki Gulf Marine Park Act 2000 by providing for the recreational well-being of people and communities on Rakino, Waiheke and Great Barrier Island and by maintaining ecosystems of the Gulf. The proposed objective, policies and rules also give effect to section 8, by protecting the natural and physical resources of the Hauraki Gulf, its islands and catchments.

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.

Issue 7.2.6 of the Auckland Regional Policy Statement notes:

In some parts of the coastal environment recreation is a particularly important use which needs to be provided for in appropriate forms and locations.

The objectives in 7.3.1 seek:

To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use and development.

To enable an appropriate range of recreational opportunities to be undertaken in the coastal environment.

Policy 7.4.16(1) states:

Recreational activities shall be provided for in appropriate locations and forms having regard to the provisions of policy 7.4.10 (subdivision, use and development) and ensuring that the adverse effects on the environment are avoided, remedied or mitigated.

The proposal to make boat launching ramps, jetties and boat trailer parks a discretionary activity in the recreation 2 land unit is consistent with the above issue, objective and policy.

The proposed objectives, policies and rules are not inconsistent with the regional plan.

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).

Chapter 7 of the Auckland Regional Plan: Coastal deals with public access. Section 7.4.1 states that subdivision, use, development and protection should ensure that public access to, along and within the coastal marine area is maintained or enhanced, except where it is necessary to restrict access for a number of reasons. These reasons include protecting areas of significant indigenous vegetation, significant habitats of indigenous fauna or natural features, and areas identified by Tangata Whenua as being of special spiritual, cultural or historic significance.

Chapter 12 of the Plan addresses structures. The stated objective of chapter 12 is to provide for appropriate structures in the coastal marine area, while avoiding, remedying or mitigating adverse effects on the environment.

7.0 Other documents

Essentially Waiheke

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

The five central principles of Essentially Waiheke are:

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

The objective, policies and rules for the recreation 2 land unit are consistent with the principle of environmental protection and the principle to protect and enhance Waiheke's character. In particular, they are consistent with part 3.2.1 – Open Space Network, which aims to have a network of open space and public reserves across the Island, which satisfy and complement the leisure needs and amenity values of the community. Part 3.2.2 aims for the provision of appropriate facilities to meet the recreational, community, cultural and social service needs of Waiheke's resident and visitor population to the year 2050. It also aims that the existing recreational areas and community facilities are used to their optimum potential by a range of community groups and networks.

Part 3.2.2 notes that the city will:

- Facilitate access to recreation and community resources for community groups and individuals;
- will provide parks and open space for a range of active and passive recreation activities
- provide community halls for a range of community groups and activities.

The Rakino Way

The Rakino Way is the community's strategy for Rakino Island. It establishes a community approved framework for Rakino's development and to signpost the direction towards a sustainable future, where opportunities for development are facilitated and the Island's community values and outstanding natural environment are respected and nurtured. The strategy provides a framework for managing the effects of future development. The objective, policies and rules for recreation 2 are consistent with a key community issue noted in the Rakino Way, which seek the protection and enhancement of the island's natural character and environment.

Recreation Waiheke (Waiheke's Open Space Strategy 2005)

The Strategy is in two parts. Part I describes the background, history and issues of open space on Waiheke Island, and the guiding principles for setting in motion a vision for the future. Part II details how the vision will be implemented in a practical sense. Part I will remain a static document for the next 20 years, but Part II will be updated on a regular basis as the strategy is implemented through the Annual Plan process.

The Strategy sets guiding principle objectives including:

- To develop structures and facilities catering for a range of recreational activities to a standard appropriate to the use, environment and locality.
- To achieve 14% of the total land area of the island in reserve land within a 10-year time frame through purchase or reserve contribution in subdivision. This objective recognises that reserves are needed for a spectrum of uses including playgrounds, sports fields, indoor facilities; a public domain; access to the coastline, streams and

wetlands; access to historic sites; protection of ecological, archaeological, scientific and other features.

The proposed policy, objectives and rules are consistent with the guiding principles of Recreation Waiheke.

8.0 Procedures for monitoring

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

- monitoring resource consents including the number of applications granted consent, compliance with consent conditions, and the effectiveness of those conditions
- undertaking surveys of users of community facilities and sports parks, to establish whether users are satisfied with the controls on those facilities and parks.

9.0 Conclusions

Community facilities and sports parks play an important role in providing for the recreational and social needs of the communities on Rakino, Waiheke and Great Barrier Island. Community facilities include halls, marae, clubrooms and skateboard park. The proposed rules will allow active recreation and community activities to be established and operate in the land unit. Controls on new buildings and additions or alterations to existing buildings and the intensity of artificial lighting will be controlled to protect the visual amenity of the land unit.

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: Feedback on issues and options paper “Department of Conservation / Public land