

HGI Plan Review: section 32 report for the island residential 1 (traditional residential)

1.0 Executive summary

This report summarises the evaluation undertaken by the council of the island residential 1 (traditional residential) land unit in terms of section 32 of the Resource Management Act.

The main conclusions are that:

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

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

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

2.0 Introduction

2.1 Purpose of this report

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

2.2 Proposed plan provisions

The proposed plan provisions relate to resource management issues, objectives and policies, rules relating to the status of activities, and development control rules within the island residential 1 (traditional residential) land unit.

2.3 Land unit location and character

This land unit is located in western Waiheke adjoining or close to the commercial centre of villages and on four distinct areas in Rakino. It contains the most intensive form of residential development within the islands.

The characteristics of the land unit are:

- low intensity residential development (compared with the Auckland isthmus) containing stand alone dwellings.
- a highly modified, open and spacious landscape (in most of the land unit a large proportion of each site is covered in grass).

- a low proportion of indigenous vegetation.
- flat or a moderate sloped topography.

The land unit also includes coastal terraces adjacent to the more accessible and heavily used beaches on Waiheke.

Overall, the land unit is important as a residential area with an open and spacious character.

2.4 Operative plan provisions

This land unit is titled 'land unit 11 – traditional residential' within the Operative Hauraki Gulf Islands District Plan 1996 (HGI plan).

Single unit residential development is a permitted activity within this land unit subject to being located outside the coastal amenity area and complying with the development controls of the plan.

Any development within the coastal amenity area, identified on the planning maps, is a controlled activity. Issues have been raised by council processing planners about the suitability of the controlled activity status within the coastal amenity area. This is because council has to grant such applications, although they can place conditions on these consents to control adverse effects.

There have been instances where developments have had to be granted by council within the coastal amenity area (as required under this status) when if they were restricted discretionary they may actually have been refused.

2.5 Consultation

This section of the report briefly outlines the consultation that the council has undertaken to date and identifies any issues raised of particular relevance to the island residential 1 (traditional residential) land unit.

2.5.1 Consultation to date

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

Initial consultation

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

- public meetings, workshops, nga hui, and one on one meetings
- a photographic exercise on Waiheke
- inviting written feedback on a consultation document which contained issues and options papers on a wide range of topics.

Focus groups

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

- landscape

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

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

Telephone survey

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

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

Consultation with other stakeholders

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

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

Public notification

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

2.5.2 Issues raised during consultation

The issues raised within this land unit principally concerned subdivision, growth and impervious services. No public feedback proposed that the land unit should be substantially changed.

The minimum lot size within this land unit (2000m²) does not alter as part of this review. The subdivision section (section 12) of the plan provides additional detail on proposed subdivision provisions within this land unit. A separate Section 32 analysis has been undertaken for subdivision.

Extension of existing land unit boundaries

Council has received feedback as part of this consultation which seek an extension to some of the existing land unit boundaries at parts of Ostend, Palm Beach, Oneroa, Thompson's Point and Kennedy Point.

After consideration of the feedback which requested extensions to the land unit at Palm Beach, Thompson's Point and Kennedy Point it has been concluded that the land unit boundaries should not be extended in these locations. The reasons for this are outlined in separate section 32 reports.

An assessment attached as **appendix A** has concluded that an island residential 1 (traditional residential) land unit should be applied to the Tiri Road frontage part of the land at 34 & 36 Tiri Road and Lot 6, DP 53686, CT 5D/65 Ocean View Road, Oneroa, and part of the land at 1a Erua Road southwards to 166 Ostend Road.

3.0 Resource management issues and objectives

3.1 Issues

The significant resource management issues relevant to this land unit are:

1. *How to provide for residential development while maintaining the character and amenity of the area.*
2. *How to ensure that non-residential activities do not adversely impact on the amenity of residential areas.*

3.2 Objectives

The objectives relevant to this land unit are:

To provide for residential development at a scale and intensity which maintains the relatively spacious character, increases the indigenous vegetation cover and allows for effective stormwater and wastewater disposal within the land unit.

To provide for appropriate non residential activities where their scale, intensity and location are compatible with the residential character of the area.

To maintain the amenity and landscape qualities of beach front locations at Oneroa, Palm Beach, Blackpool and Onetangi.

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 island residential 1 (traditional residential) 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 island residential 1 (traditional residential) land unit, are identified below:

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

Section 8 provides that in achieving the purpose of the Act, all persons exercising functions and powers under it, in relation to managing the use, development and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti O Waitangi).

4.1.2 Appropriateness in achieving the purpose of the Act

4.1.2.1 Objective 10a.9.3.1

To provide for residential development at a scale and intensity which maintains the relatively spacious character, increases the indigenous vegetation cover and allows for effective stormwater and wastewater disposal within the land unit.

This objective is the most appropriate way to achieve the purpose of the Act as set out in section 5, 6, 7 and 8.

Specifically in regards to section 5 it enables people and communities to provide for their social and cultural wellbeing by providing a land unit where the predominant activity is residential and the character and amenity of the land unit is maintained and enhanced.

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

It also meets clause (b) “*the efficient use and development of natural and physical resources*” (c) “*the maintenance and enhancement of amenity values*” and clause (f) “*maintenance and enhancement of the quality of the environment*” of Section 7 ‘Other Matters’ of the Act because it:

- recognises and protects the existing relatively spacious residential character of the land unit, which comprises low intensity residential development (compared with the Auckland Isthmus) containing stand alone dwellings.
- proposes to enhance the amenity of the land unit through increasing the indigenous vegetation cover along street frontages

- allows for effective on site stormwater and wastewater disposal through the planting of effluent disposal fields

The principles of the Treaty of Waitangi (Te Tiriti O Waitangi) have been taken into account in the formulation of this objective and the objective is consistent with these principles.

4.1.2.2 Objective 10a.9.3.2

To provide for appropriate non residential activities where their scale, intensity and location are compatible with the residential character of the area.

This objective is the most appropriate way to achieve the purpose of the Act as set out in section 5, 6, 7 and 8.

Specifically in regards to section 5, it enables people and communities to provide for their social and economic wellbeing by providing a land unit where the predominate activity is residential, but where appropriate non residential activities, which support this predominantly residential function i.e. dairies, are provided for while ensuring that the adverse effects of the activities on the residential uses within the land unit, and on adjoining land units, are avoided, remedied or mitigated.

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

Specifically it meets clause (b) “*the efficient use and development of natural and physical resources*” (c) “*the maintenance and enhancement of amenity values*” and clause (f) “*maintenance and enhancement of the quality of the environment*” of Section 7 ‘Other Matters’ of the Act for the following reasons.

- it recognises that certain non-residential activities are appropriate within this land unit as long because they support the residential function of the land unit and don’t compromise its residential character and amenity.
An example of an appropriate non residential activity which supports the residential function of the land unit are dairy’s, as they provide produce for the day to day needs of local residents. Under the definition section of the plan a dairy is restricted to an area of less than 50m², this small size means that the intensity of the activity is likely to be complimentary to that of a residential use.
- the establishment of certain appropriate non residential activities within the land unit will reduce the need for residents of the land unit to travel by car to service their needs for everyday groceries, childcare facilities, community facilities etc. This will potentially save on the use of non renewable energy resources.

The principles of the Treaty of Waitangi (Te Tiriti O Waitangi) have been taken into account in the formulation of this objective and the objective is consistent with these principles.

4.1.2.3 Objective 10a.9.3.3

To maintain the amenity and landscape qualities of beach front locations at Oneroa, Palm Beach, Blackpool and Onetangi.

This objective is the most appropriate way to achieve the purpose of the Act as set out in section 5, 6, 7 and 8.

This objective specifically meets clause (a) of Section 6 ‘Matters of national importance’ of the Act:

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.

This objective also meets clause (b) “the efficient use and development of natural and physical resources” (c) “the maintenance and enhancement of amenity values” and clause (f) “maintenance and enhancement of the quality of the environment” of Section 7 ‘Other Matters’ of the Act, for the following reasons:

- it recognises the extra sensitivity of the coastal environment and places additional protection through the identification of a coastal amenity area at Oneroa, Palm Beach, Blackpool and Onetangi where the land unit adjoins these beach front locations.
- allows development within these coastal locations but only where they are sensitive to the character and amenity of the coastal environment.

The principles of the Treaty of Waitangi (Te Tiriti O Waitangi) have been taken into account in the formulation of this objective and the objective is consistent with these principles.

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

The policies for the land unit are:

- *By controlling the intensity, bulk, scale and location of buildings on sites in order to retain the character of the land unit.*
- *By requiring the planting of sites for amenity and wastewater disposal purposes.*
- *By providing for activities which have functions which are compatible to, and support residential activities.*
- *By ensuring that the character and scale of buildings used for non residential activities are compatible with the amenities and character of the surrounding residential area.*
- *By restricting the type and intensity of non-residential activities to those which are compatible in visual amenity terms and in other generated effects (e.g. traffic, noise, hours of operation) with surrounding residential uses.*
- *By imposing additional controls on all buildings in the coastal amenity area so they do not compromise the character and amenity of the coast.*
- *By only allowing non-residential activities within coastal areas where they are compatible with the character and amenity of these locations.*

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

- impose development controls i.e. yard, height, height to boundary etc which will ensure that both residential and non residential development within the land unit is of a residential scale and is consistent with the character and amenity of the land unit
- impose the 'planting of front yards' and the 'planting of wastewater disposal areas' rules in order to improve the amenity and character and ensure that wastewater is more effectively disposed of, in the land unit.
- require new buildings and alterations and additions to existing buildings within the coastal amenity area of the land unit to be assessed as part of a restricted discretionary resource consent. This will ensure that a proposed building will be integrated with the character and amenity value of the coastal environment.
- ensure that for the majority of the land unit (outside the coastal amenity area) the establishment of a dwelling (one per site) in compliance with development controls is a permitted activity.
- provide for certain non residential activities i.e. accommodation for care, home occupations and homestay as permitted activities as the effects of these activities are considered to be consistent with a residential activity.
- provide for certain non residential activities through restricted discretionary activity e.g. diary or discretionary activity (for example health care services, offices etc) resource consent within the land unit which recognises that these activities can be appropriate although the effects of these activities needs to be considered to ensure that they are consistent with the dominant residential character of the land unit.

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

- Option 1 - The use of non RMA methods, including bylaws, voluntary agreement, covenants or education / advocacy as a means of achieving the objectives
- Option 2 - Retaining the operative plans policies and rules as a means of achieving the objectives
- Option 3 - No limitation on type of activities or size of developments within the land unit, as a means of achieving the objectives. This would allow any activity to operate at any scale and would mean that development controls would not apply within the land unit.
- Option 4 - Use of policies and rules which are more restrictive (i.e. requiring discretionary activity resource consent) for all activities and developments within the land unit as a means of achieving the objectives.
- Option 5 - Use of proposed objectives, policies and rules as a method of achieving the objectives.

4.2.1 Option 1

Option 1 is:

The use of non RMA methods, including bylaws, voluntary agreement, covenants or education / advocacy as a means of achieving the objectives

General comment

Section 73(1) of the RMA states:

There shall at all times be one district plan for each district prepared by the territorial authority in the manner set out in Schedule 1.

This does not mean that non district plan methods cannot be used as a means of achieving the objectives. If they are a more efficient and effective method of achieving the purpose of the Act than a district plan method then they can and should be used.

Comment on bylaws

Section 145 titled ‘General bylaw-making power for territorial authorities’ of the Local Government Act 2002 sets out the council authority to make bylaws.

This section states:

A territorial authority may make bylaws for its district for 1 or more of the following purposes:

- (a) protecting the public from nuisance:*
- (b) protecting, promoting, and maintaining public health and safety:*
- (c) minimising the potential for offensive behaviour in public places*

Therefore council does not have the statutory authority to make bylaws that would achieve the outcomes of the land unit. This method is discounted as an effective and efficient method of achieving the objectives of the land unit.

General comment on covenants, voluntary agreements, education and advocacy

Covenants and voluntary agreements are dependant on individuals agreeing that a feature should be protected or a development controlled in order to ensure that the objectives of the land unit are achieved.

Education and advocacy are dependant on people receiving, understanding and agreeing with the message and acting to ensure that the objectives of the land unit are achieved.

These methods are therefore likely to be highly variable in when and if they are used and the level of control or protection provided. Therefore their effectiveness in achieving the objectives of the land unit are limited. The assessment of the environmental, social and economic costs of these methods, below assumes that this would be the outcome of option 1.

Benefits	Costs
<u>Environmental</u>	<u>Environmental</u>
Potential for a small proportion of environmental features i.e. vegetation to be protected through these methods.	Likely that the majority of environmental features would not be protected by these methods which would lead to an overall reduction in environmental quality.
	Decrease in landscaping on sites as people maximise development potential.
	Resultant difficulty to dispose of wastewater and stormwater on sites – negative impact on water quality
	Resultant reduction in flora and fauna within

Benefits	Costs
	the land unit
	Reduction in the character and amenity of the coastal environment
<u>Social and Economic</u>	<u>Social and Economic</u>
Increase in variety of activities that can be undertaken within the land unit	Increase in legal fees for drafting up covenants and voluntary agreements.
Reduction in direct compliance costs for people wanting to undertake development as resource consent would not be required. Benefit to person undertaking development only.	Increase in public uncertainty about what activity could be undertaken within the land unit. Cost borne by the community generally.
Maximising of development potential and therefore potential for maximising profits on development. Benefit to person undertaking development only.	Increase in adverse visual, amenity, noise and traffic effects between different activities within the land unit. Cost borne by the community generally.
	Loss of the land units residential character as other activities develop. Cost borne by the community generally.

Overall, option 1 has only limited environmental benefits and potential significant environmental costs. It has only social and economic benefits to individuals undertaking developments while having social and economic costs to the community at large.

The environmental, social and economic costs of undertaking this option therefore outweigh any benefits to individuals which may result.

Therefore option 1 is not the most effective or efficient method of addressing the issues within the land unit and consequently is not the most appropriate method of achieving the objectives.

The risk of acting or not acting

Council has sufficient information on option 1 to make a decision on its effects.

The risk of acting on option 1 is that the costs identified above will eventuate. The risk of not acting is that either no method or another method will be utilised which will have greater environmental costs and / or greater social and economic costs on the community of the gulf.

4.2.2 Option 2

Option 2 is:

Retaining the operative plans policies and rules as a means of achieving the objectives.

The general direction and intent of the land unit has not altered as part of the district plan review, although there has been a refinement and refocusing of objectives, policies and rules to ensure that they better reflect the character of the land unit.

Benefits	Costs
<u>Environmental</u>	<u>Environmental</u>
Protection of the character and amenity of the coastal environment of most beach front locations by requiring buildings within the coastal amenity area to undergo a controlled activity resource consent process.	Potential for some developments to be granted which may have adverse effects on the coastal environment. This is because controlled activity resource consents have to be granted by council, although conditions can be placed on these applications. Such applications would be refused if the activity status allowed it.
<u>Social and Economic</u>	<u>Social and Economic</u>
Residential development within the majority of the land unit (outside the coastal amenity area) which complies with the development controls of the plan is a permitted activity. Reduction in direct compliance costs for people wanting to undertake development as resource consent would not be required. Benefit to person undertaking development only.	Expectation by the community that the character of the coastal environment can be adequately controlled through the operative coastal amenity area provisions. This is not necessarily the case because controlled activity consents have to be granted by council. Cost to the community generally.
Development controls which are readily understood by the community and ensure the maintenance of the residential character. Benefit to community generally.	Policies and rules which do not clearly relate to or achieve the objectives of the land unit in all instances. Clarity of the plan adversely affected. Costs to all parties using and administering the plan.

Overall, option 2 has only limited environmental, social and economic benefits and greater potential environmental, social and economic costs.

The environmental, social and economic costs of undertaking this option therefore outweigh any benefits to individuals which may result.

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

The risk of acting or not acting

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

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

4.2.3 Option 3

Option 3 is:

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

Benefits	Costs
<u>Environmental</u>	<u>Environmental</u>
None	Decrease in landscaping on sites as people maximise development potential.
	Resultant difficulty to dispose of wastewater and stormwater on sites – negative impact on water quality
	Resultant reduction in flora and fauna within the land unit
	Reduction in the character and amenity of the land unit and the coastal environment
<u>Social and Economic</u>	<u>Social and Economic</u>
Increase in variety of activities that can be undertaken within the land unit	Increase in public uncertainty about what activity could be undertaken within the land unit. Cost borne by the community generally.
Reduction in direct compliance costs for people wanting to undertake development within coastal amenity area as resource consent would not be required. Benefit to person undertaking development only.	Increase in adverse visual, amenity, noise and traffic effects between different activities within the land unit. Cost borne by the community generally.
Maximising of development potential and therefore potential for maximising profits on development. Benefit to person undertaking development only.	Loss of the land units residential character as other activities develop. Cost borne by the community generally.

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

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

The risk of acting or not acting

Council has sufficient information on option 3 to make a decision on its effects. The risk of acting on option 3 is that the costs identified above will eventuate. The risk of not acting is that either no method or another method will be utilised which will have greater environmental costs and / or greater social and economic costs on the community of the gulf.

4.2.4 Option 4

Option 4 is:

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

Benefits	Costs
<u>Environmental</u>	<u>Environmental</u>
Rigid control on buildings and activities within the land unit which would ensure that effects on environment could be strictly protected and controlled.	None
<u>Social and Economic</u>	<u>Social and Economic</u>
Control on building design and appearance within all areas of the land unit.	Increase in direct compliance costs in time and money for people wanting to undertake development as resource consent would be required for all development. Cost to all people undertaking any development.
	Increased number of resource consents being processed by council and consequently increasing need for additional resources to meet statutory deadlines.
	Increased number of assessments by council on whether resource consents should be notified or not. A large proportion of these resource consents would have a scale of effects which do not warrant notification. For example, building a dwelling outside the coastal amenity area in compliance with all development controls. This would raise expectations unnecessarily that these applications would be notified. Cost to the public generally.
	Lack of ability to undertake any type or scale of development 'as of right'. Cost to all people undertaking any development.

General comment on Benefits and Costs

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

It will impose unnecessary costs in money and time to a large proportion of residents within the land unit. There are other means which are more efficient and effective in achieving an environmental, social or economic benefit while imposing less of a social or economic cost.

The social and economic costs to residents of this land unit, of undertaking this option, therefore outweighs any benefits which may result.

Therefore option 4 is not the most effective or efficient method of addressing the issues within the land unit and consequently is not the most appropriate method of achieving the objectives.

The risk of acting or not acting

Council has sufficient information on option 4 to make a decision on its effects.

The risk of acting on option 4 is that the costs identified above will eventuate. The risk of not acting is that either no method or another method will be utilised which will have greater environmental costs and / or greater social and economic costs on the community of the gulf.

4.2.5 Option 5

Use of proposed objectives, policies and rules as a method of achieving the objectives.

Benefits	Costs
<u>Environmental</u>	<u>Environmental</u>
Inclusion of the 'planting of front yards' rule will potentially improve the ecological diversity of the land unit by requiring additional plants (eco sourced where practicable) to be established.	None
Inclusion of the 'planting of wastewater disposal areas' rule is a method which will improve the environmental quality of the land unit by maximising the potential for plants to help to absorb wastewater and stormwater through transpiration.	None
Requiring new buildings and alterations and additions to existing buildings within the coastal amenity area to be controlled by a restricted discretionary resource consent recognises the sensitive and unique nature of the coast and the necessity to have additional control within these locations. This will have benefits to the coastal environment.	None
<u>Social and Economic</u>	<u>Social and Economic</u>
Requiring new buildings and alterations and additions to existing buildings within the coastal amenity area of the land unit to be controlled by a restricted discretionary resource consent will ensure that a proposed building will be integrated with the character and amenity value of the coastal environment. Council has restricted its discretion to matters related to the scale, form (design), colour and materials and location of buildings. The opportunity for applications to be refused will give additional impetus for	Requiring new buildings and alterations and additions to existing buildings within the coastal amenity area to be controlled by a restricted discretionary resource consent will place a monetary cost on people to comply. Cost to all people undertaking development within the coastal amenity area.

Benefits	Costs
<p>applicants undertaking developments to ensure a positive design outcome is achieved.</p> <p>This will have a social benefit for the community generally.</p>	
<p>‘Minor alterations and additions to a building’ are exempt from assessment as a restricted discretionary activity. These are defined in the Plan as:</p> <ul style="list-style-type: none"> • <i>the construction of uncovered decks complying with the permitted standards for the land unit (e.g. colour/reflectivity, building coverage etc.)</i> • <i>changing or putting in windows or doors in an existing building.</i> • <i>changing materials or cladding with other materials or cladding that comply with the permitted standards for the land unit.</i> <p>This will allow certain alterations and additions to be under taken ‘as of right’ while not affecting the character and amenity of the land unit. This is a monetary and time benefit to people undertaking such work as they will not be required to go through a resource consent assessment.</p>	<p>Places a monetary cost on people to source and purchase these plants required for the ‘planting of front yards’ and the ‘planting of wastewater disposal areas’ rules. Cost to all people within land unit.</p>
<p>Allowing new buildings, alterations and additions to existing buildings and dwellings (one per site) outside the coastal amenity area to be permitted activities (subject to compliance with development controls) recognises the varied residential built character of the existing ‘villages’ and that it is not necessary to apply further control to these activities.</p> <p>This will ensure that for most residents within the land unit the construction of, or addition / alteration to, a dwelling will be permitted ‘as of right’.</p>	<p>Providing for certain non residential activities through restricted discretionary activity e.g. diary or discretionary activity (for example heath care services, offices etc) resource consents within the land unit will place a monetary and time cost on people to comply.</p> <p>Cost to all people undertaking such development.</p>
<p>Inclusion of the ‘planting of front yards’ and the ‘planting of wastewater disposal areas’ rules will improve the amenity and character and ensure that wastewater is more effectively disposed of, in the land unit.</p> <p>Benefit to the community generally.</p>	<p>Not providing for visitor accommodation or tourist complexes within the land unit would have a potential monetary / economic cost to people wanting to undertake such development within the land unit.</p>
<p>Providing for certain non residential activities through restricted discretionary e.g. diary or discretionary activity (for example heath care services, offices etc) recognises that these activities can be appropriate within the land unit. Although the effects of these activities needs to be assessed to ensure that</p>	

Benefits	Costs
they do not adversely impact on the dominant residential character of the land unit.	
Increase in public certainty about what activity could be undertaken within the land unit because the activity table lists what are the permitted, restricted discretionary and discretionary activities. Benefit borne by the community generally.	
<p>The land unit does not provide for visitor accommodation or tourist complexes. This is because the scale of effects of such activities i.e. traffic, noise etc would be such that they would compromise the character and amenity of the land unit. Having such activities within the land unit would also compromise the integrity of the visitor facility land unit.</p> <p>Notwithstanding this, the land unit provides for homestay's as permitted activities and boarding house or hostels as discretionary activities as their scale of effects are such that they could be appropriate within the land unit.</p> <p>Benefit borne by the community generally.</p>	
<p>Impose a noise control in table 10c.1 of the plan which is:</p> <ul style="list-style-type: none"> ○ 50dBA Monday to Saturday 7am to 10pm and Sunday 9am to 6pm. ○ 40dBA at all other times including public holidays (night time) <p>This is 5dBA more than the level applied in the operative plan. This was necessary because:</p> <ul style="list-style-type: none"> ○ these noise levels reflect the existing residential character of the land unit ○ the previous levels were onerous and a 'normal' residential use and permitted activities such as home occupations could find it difficult to comply. ○ the proposed levels will provide a level of control which will protect the acoustic amenity of the land unit. <p>Benefit borne by the community generally.</p>	
<p>Proposed development controls, with the exception of the noise, planting of front yards and the planting of wastewater disposal areas rules are the same as those within the operative plan. They are appropriate for such a residential environment and are well understood by the community.</p> <p>Benefit borne by the community generally.</p>	

General comment on Benefits and Costs

In general this option will require residential development within the coastal amenity area to be assessed by council to ensure that it maintains the high amenity and character of the coastal environment while allowing residential development outside these areas which comply with development controls to be able to be built 'as of right' (permitted activity).

This option will have strong environmental, social and economic benefits while having costs to people proposing development. Therefore option 5 is the most effective and efficient method of addressing the issues within the land unit and consequently is the most appropriate method of achieving the objectives.

The risk of acting or not acting

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

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

4.2.6 Conclusion

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

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

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

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

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

- achieve integrated management of the use and development of the land unit
- protect the predominant residential character of the land unit
- adequately control the actual and potential effects of the use and development of land within the land unit
- after assessing other options, and the benefits and costs associated with them, the proposed objectives, policies and rules are the most appropriate way to achieve the purpose of the Act.

5.0 National planning documents

5.1 National and NZ coastal policy statements

Section 75(3) of the RMA states:

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

The objectives, policies and rules of the land unit give effect to policies 1.1.1, 3.2.2, 3.2.7 and 3.2.10, of the New Zealand Coastal policy Statement (1994), attached as **appendix B** by:

- controlling development within the coastal amenity area to ensure it is compatible with the coastal environment
- requiring development to be of a scale and intensity which is consistent with the residential character of the land unit
- recognising that this land unit is already highly modified
- requiring planting of front yards and wastewater disposal areas for amenity and wastewater / stormwater disposal purposes.

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 C**.

The objectives, policies and rules of the land unit give effect to sections 7 and 8 of the HGMPA for the reasons identified in section 5.1 above and because they:

- protect and enhance the life-supporting capacity of the land unit;
- protect and enhance the natural and physical resources of the land unit;
- will improve the amenity and the environmental quality of the land unit through required planting;
- will provide for certain appropriate non residential activities where they support the primary residential function of the land unit which will provide for the social and economic wellbeing of the community.

6.0 Regional planning documents

6.1 Regional policy statement

Section 75(3) of the RMA states:

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

The objectives, policies and rules of the land unit give effect to objectives 7.3.(1) and (3) and policies and methods 7.4.4, 7.4.5, and 7.4.10, of the coastal environment section of the Auckland Regional Policy Statement for the reasons identified in section 5.1 above and because:

- the natural character of the coastal environment will be protected and enhanced, and
- appropriate use and development of the coastal environment will be achieved, by controlling buildings within the coastal amenity area to ensure that they are integrated with the character and amenity value of the coastal environment.

These relevant sections are attached as **appendix D**.

6.2 Regional plan

Section 75 (4) of the RMA states:

- (4) A district plan must not be inconsistent with –
...
(c) a regional plan for any matter specified in section 30(1).

The objectives, policies and rules of the land unit give effect to objectives 10.3.1 and policies 10.4.3 and 10.4.4 and 10.4.5 of the Auckland Regional Plan: Coastal for the reasons identified in section 5.1 and section 6.1 above and because:

- the coastal marine area will be protected from inappropriate use and development by controlling building development within the coastal amenity area.

These relevant sections are attached as **appendix E**. These methods are also consistent with other provisions of the Auckland Regional Plan: Coastal.

7.0 Other documents

7.1 Essentially Waiheke

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

The five central principles of Essentially Waiheke are:

- principles of environmental protection

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

The objectives, policies and rules of the land unit are consistent with these five central principles and the underlying aims, strategies and actions within the document for the reasons identified in section 5.1 and section 6.1 above. They will also ensure the retention and enhancement of the residential character of the land unit and will require that any development within the coastal amenity area is integrated with the character and amenity value of the coastal environment of the land unit.

7.2 The Rakino Way

The Rakino Way – An island community's strategy was adopted by council in 2003. It is a non statutory document for managing future growth and development on the island.

The three central principles of the Rakino Way are:

- environmental protection
- development and maintenance of strong communities
- protection and enhancement of Rakino's natural coastal character

The objectives, policies and rules of the land unit are consistent with these three central principles and the underlying aims, strategies and actions within the document for the reasons identified in section 5.1 and section 6.1 above and because they will:

- ensure the protection and enhancement of the environment and of Rakino's natural character through required planting
- ensure the development and maintenance of strong communities by allowing residential development in compliance with development controls to be established as a permitted activity.

8.0 Procedures for monitoring

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

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

9.0 Conclusions

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

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

- the objectives are the most appropriate way to achieve the purpose of the Act as set out in section 5, 6, 7 and 8
- overall, the environmental, social and economic benefits of having the proposed objectives, policies and rules within the plan outweighs any costs which may result. Therefore these methods are the most effective and efficient method of addressing the issues within the land unit and consequently are the most appropriate method of achieving the objectives.
- the proposed objectives, policies and rules will allow council to carry out its functions under section 31, 72 and 74(1) of the act.
- the methods are consistent with the statutory national and regional planning documents, other acts and non statutory documents including:
 - New Zealand Coastal policy Statement
 - Hauraki Gulf Marine Park Act 2000
 - Auckland Regional Policy Statement
 - Auckland Regional Plan: Coastal
 - Essentially Waiheke – A Village and Rural Communities Strategy
 - The Rakino Way.

Appendix A
Extension of Existing Land Unit Boundaries

Appendix B

New Zealand Coastal Policy Statement (1994)

Appendix C

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 D

Regional Policy Statement

Appendix E

Regional Plan