

HGI Plan Review: section 32 report for rural 1 (rural amenity).

1.0 Executive summary

This report summarises the evaluation undertaken by the council of rural 1 (rural amenity) in terms of section 32 of the Resource Management Act.

In the operative District Plan land unit 20 – landscape protection is applied to rural areas around the existing villages on western Waiheke. The intent of the land unit is to protect the rural character and amenity of these areas.

The proposed District Plan retains the concept of a land unit for these areas as a land unit of this nature will protect the diversity and amenity of the landscape and the lifestyle options available on western Waiheke. However, a number of changes have been made to the land unit to increase the certainty and effectiveness of the provisions and to recognise the differences between the ‘Onetangi Road’ area of the land unit and the ‘other areas’ of the land unit.

The objective for rural 1 (rural amenity) 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 rural and non-rural activities) and the protection of the environment (namely the rural character and amenity).

The policies and associated rules are the most appropriate means of achieving the objective as they balance the need to provide for the necessary rural and non-rural activities to occur and the protection of the character and amenity of the land unit. In addition, the policies and rules have been shown to have benefits that outweigh the costs and to be necessary in terms of avoiding risks to the environment.

The 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 while protecting the character and amenity of the land unit.

2.0 Introduction

2.1 Purpose of this report

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

2.2 Operative plan provisions

Land unit 20 – landscape protection is applied to 332ha of land lying between the main residential areas on the western end of Waiheke and to rural / residential land on Rakino. The intent of the land unit is to provide for rural activities and protect the open character of the landscape.

A summary of the key provisions of land unit 20 – landscape protection is set out below:

- A description of the land unit including the areas in which it is applied and the activities undertaken (pastoral activities, horticulture, horse grazing and lifestyle residential activities).
- An objective seeking:

“to provide for a diverse range of land use activities compatible with maintaining the special environmental amenity and open rural landscape of Land Unit 20, in order to secure its long term protection as a rural buffer area with potentially productive rural land use capability in some parts”.

- Policies relating to a variety of issues including creating a green belt buffer between residential settlements, protecting wetlands and other water systems, limiting land use activities and subdivision, providing for non-rural land use activities where the character, scale and intensity are appropriate and encouraging farming activities that are not detrimental to the environment.
- A permitted activity standard which requires that all permitted activities within the land unit meet the standards and terms contained in Part 6B (permitted standards).
- A requirement for a controlled activity consent for all new buildings or additions and alterations to existing buildings.
- Permitted standards relating to building height (8m), lot coverage (lesser of 10% or 500m²), front yards (6m), indigenous vegetation clearance (300m²) and earthworks.
- Assessment criteria for new buildings relating to the location, design and external appearance, scale and form (including colour), vegetation removal, earthworks and parking and service areas.
- A requirement for a discretionary activity consent for camping facilities, commercial airstrips, commercial firewood harvesting, community facilities, educational facilities, entertainment facilities, forestry, multiple dwellings, rural industries, visitor facilities, farm airstrips of helipads and rural property management plans.

2.3 Proposed plan provisions

The proposed District Plan retains the concept of a land unit to specifically address the small scale rural areas located between the villages on western Waiheke. This is considered necessary as a land unit of this nature will protect the diversity and amenity of the landscape and the lifestyle options available on western Waiheke. However, a number of changes have been made to the land unit to increase the certainty and effectiveness of the provisions and to recognise the differences between the ‘Onetangi Road’ area of the land unit and the ‘other areas’ of the land unit. These changes are summarised below:

- The objectives and policies have been refined to remove the emphasis on ‘buffer’ and to give the land unit value in its own right. Over emphasis on the ‘buffer’ role is considered to be a weakness as the term ‘buffer’ has multiple meanings and interpretations and as a significant amount of development could occur in these areas and a ‘buffer’ between villages still maintained.
- Amendments have been made to recognise the differences between the ‘Onetangi Road’ area of the land unit as compared to the other areas. In particular, the range of non-productive activities provided for in the ‘Onetangi Road’ area of the land unit is more extensive than the ‘other areas’. This is appropriate as the nature and scale of the

‘other areas’ means that it is unlikely that they can accommodate non-productive activities without adverse effects on the environment whereas the size and nature of the ‘Onetangi Road’ area of the land unit means that it can accommodate such activities provided that they are of an appropriate size and scale. This is important as ‘non-productive’ activities such as wineries and restaurants contribute to the economy and identity of Waiheke and if they are not provided for in these locations the only place for them to occur is within the visitor facilities land unit (in which there is no vacant land). Provision for these activities is also consistent with the findings of the Environment Court in its decision on Isola Estates Limited.

- Inclusion of a 100m setback control for buildings along Onetangi Road.
- A restricted discretionary activity consent is required for all new buildings and additions and alterations to existing buildings as this is a more efficient and effective tool than the existing controlled activity consent requirements.
- The provision for 1000m² lot coverage as a discretionary activity has been removed and a new lot coverage control has been included. This control provides for 500m² of lot coverage with a maximum of 250m² for any one building. The breaking up of building platforms is considered necessary to protect the character and amenity of the land unit.
- The minimum lot size has increased from 3.5 to 5ha so as to protect the amenity and character of these areas.
- The land unit has been renamed “rural amenity” as “landscape protection” implies that activities cannot and should not be able to be undertaken in these areas, which is inconsistent with the activities provided for in both the existing and proposed plan provisions. “Landscape protection” may also be confused with the protection of “outstanding natural landscapes”.
- Amendments to objectives and policies to achieve best planning practice with respect to the drafting of objectives and policies.

Overall, the amendments proposed provide greater certainty for landowners and the wider public and a higher degree of effectiveness in terms of protecting the visual amenity of the land unit. This is demonstrated in the table attached as **appendix a**.

Summary of proposed land unit provisions

A summary of the key provisions of rural 1 (rural amenity) is set out below:

- A description of the characteristics of the land unit, including the visual character and the activities undertaken (small scale farming and horticulture). The description also identifies that the scale of the rural 1 (rural amenity) area on Onetangi Road is significantly larger than the ‘other areas’ of the land unit and as such it can absorb a wider range of activities.
- An objective which states:

“To provide for rural activities and a limited range of non-rural activities while protecting the rural character and visual amenity of the land unit”

- Policies relating to the following:

1. Providing for productive activities such as pastoral farming and horticulture

2. Limiting the non-productive activities that can occur in the ‘other areas’ of the land unit to those which avoid adverse effects on the rural character and on the general and visual amenity of the locality.
 3. Ensuring that non-productive land uses in the ‘Onetangi Road’ area of the land unit will not have adverse effects on the rural character and the general and visual amenity of the land unit when viewed from Onetangi Road and surrounding locations.
 4. By ensuring that the scale, form, colour and location of new buildings will not have adverse effects on the visual amenity and rural character of the land unit.
 5. By requiring new sites to be of a size and nature that ensures that small scale rural activities can occur and which maintains the rural character and visual amenity of the landscape.
- A strategy which identifies that the size and scale of the ‘Onetangi Road’ area of the land unit is such that it can accommodate a wider range of activities than the ‘other areas’ of the land unit.
 - An activity table which identifies that dwellings, home occupations, homestay, horticulture, pastoral farming and visitor accommodation for up to 10 people are permitted activities in all areas of the land unit. There is also provision for activities such as wineries, restaurants and cafes and tourist complexes to establish in the ‘Onetangi Road’ area of the land unit as discretionary activities.
 - Permitted standards which include controls relating to building height (8m), lot coverage (lesser 500m² with a maximum footprint of 250m² for any one building), front yards (6m in ‘other areas’ and 100m for sites with frontage to Onetangi Road), indigenous vegetation clearance (300m²) and earthworks.
 - Assessment criteria for new buildings and to ensure that discretionary activities within the ‘Onetangi Road’ area of the land unit are of an appropriate location, scale and form.

Application of land unit:

Rural 1 (rural amenity) is applied in the same locations as land unit 20 – landscape protection in the existing District Plan except for the following four amendments:

Site	Reason for re-classification
<p>Tiri Road, Oneroa</p> <ul style="list-style-type: none"> • 34 Tiri Road, Oneroa (Lot 7, DP 53686, CT 5D/64) • 36 Tiri Road, Oneroa (Lot 6, DP 53686, CT 5D/63) • Lot 6, DP 53686, CT 5D/65 Ocean View Road (no street address assigned). 	<p>The upper portion of these sites does not contribute to the character, amenity and lifestyle options of the western end of the island in the same way as the land classified rural amenity which is located on the headlands surrounding Oneroa. In particular:</p> <ul style="list-style-type: none"> • The upper portion of land adjacent to Tiri Road is seen in conjunction with the traditional residential land on the other side of the road, and reads as part of the residential environment. • The steepness of the land on the western side of Tiri Road causes the existing land unit 20 area to appear to descend into the valley. The open space value of the land unit 20 land is diminished due to its lack of prominence which in turn is due to its topography. • The land unit 17 and 22 land covering the rolling land to the west is more prominent from Tiri Rd than much

Site	Reason for re-classification
	<p>of the land unit 20 due the elevated nature of these land units and the position they occupy in the view to the west. The value of the land unit 20 land is diminished in this particular instance due to the topography, whilst land unit 22 assumes a higher value in terms of landscape character and amenity.</p> <p>These sites have been re-classified traditional residential.</p>
<p>Ostend Road, Oneroa</p> <ul style="list-style-type: none"> • 166 Ostend Road • 1a Erua Road • Land on DP 21867 	<p>The lower portion of these sites does not contribute to the character, amenity and lifestyle options of the western end of the island in the same way as the land on the upper and eastern side of the adjoining ridge which are classified rural 1 (rural amenity). In particular:</p> <ul style="list-style-type: none"> • The land is not used for rural purposes. • The nature of the sites is more akin to the character of traditional residential land than small scale rural land. • The land does not contribute to the openness and amenity associated with rural amenity land. • While the upper portion of the sites do contribute to the landscape character and visual amenity of the area because of their visual prominence the same cannot be said for the lower portions of the site. <p>Consequently, these sites have been re-classified island residential 1 (traditional residential).</p>
<p>Te Toki reserve, Ostend</p>	<p>The inner portion of this reserve was classified land unit 20 – landscape protection while the outer edge was classified land unit 17 – landscape amenity. This is considered inappropriate as the activities provided for in both land unit 20 – landscape protection and rural 1 (rural amenity) are not suitable for land vested as scenic reserve. These classifications also give the impression to the public that the land is in private ownership.</p> <p>The reserve has been re-classified to recreation 1 (local parks and esplanade reserves).</p>
<p>Rakino Island</p>	<p>Rural 1 (rural amenity) is not the most appropriate land unit for the rural land on Rakino as the primary focus of rural 1 (rural amenity) is the rural areas around the villages on Waiheke. Consequently, this land unit is not specific enough to address the particular characteristics of Rakino. In addition, the characteristics of the rural land on Rakino and the land classified rural 1 (rural amenity) differ in the following ways:</p> <ul style="list-style-type: none"> • Productive activities are not undertaken on Rakino to the same degree as on Waiheke. • Rakino does not have a series of villages interspersed with rural land. • The Waiheke land is more complex, whereas the Rakino land is simpler in terms of land cover, use and character.

Site	Reason for re-classification
	<ul style="list-style-type: none"> The desired amenity value for the Rakino land varies from the desired outcomes for Waiheke due to these underlying differences in character. <p>Consequently, the land has been re-classified rural 3 – Rakino which is a land unit specifically prepared for Rakino.</p>

Feedback from the community (as outlined in 2.4.2 below) also sought that the other areas of land unit 20 – landscape protection be re-classified to either bush residential or traditional residential. A table identifying these areas and the reasons why they were not re-classified is set out below:

Site	Reason for not re-classifying the land
Kennedys Point	<p>The land east of Donald Bruce Rd falls into a number of landscape character areas. These include the steeply enclosed bay of the ferry landing, the adjacent steep hill land where the vineyard is located, the open bay north of this, the gently rolling plateau opposite the school, and the gently sloping bay of the Goldwater Vineyard. Each area has different values, different vegetation cover, different scale and different potential for subdivision. Of all these areas, the one most appropriate in terms of more intense residential development is the central plateau.</p> <p>The southern most area is steeply sloping, with large pohutukawa trees spread across the enclosing hillside. It is a transport entry point to the island, and the existing character provides a good example of Waiheke character as a welcoming landscape.</p> <p>The vineyard hillside has limited area for subdivision and is quite visible due to its elevation. The current land use represents the land unit 20 character well, and its elevated position accentuates its desirable character.</p> <p>The bay to the north offers an opportunity for road users to view the beach to the east and appreciate the rural amenity of the land unit, which this area makes a valuable contribution to.</p> <p>The plateau area offers an opportunity for more intense residential development. However, a limited number of houses could be accommodated and they would create an isolated area of residential within an otherwise extensive area of open space. Access points onto Donald Bruce Rd are limited for safety and amenity reasons, so internal roading would be needed which would further limit the land available for housing. The plateau also contributes to the land unit 20 character, and developing it for housing would detract from this character over the wider area Kennedy point area.</p> <p>The vineyard at the northern end of the peninsula has limited area for subdivision and its current land use represents the land unit 20 character well. Development into more intense housing would detract from this character and provide limited scope for additional housing.</p>

	For these reasons, land units on Kennedy Point were not reclassified.
Cory Road	<p>The current land unit 20 forms a backdrop to the western end of Palm Beach, with its open space character adding to the amenity values of the beach.</p> <p>The land unit 20 land at 61 Cory Road contains a significant ridgeline. The importance of this ridgeline, and the associated planning restrictions that comes with it, relate to views of the ridge from public places such as the Cory Rd lookout and Palm Beach.</p> <p>Maintaining this ridgeline and the area covered by the proposed rural 1 (rural amenity) classification in an undeveloped manner, is important as a means of maintaining amenity values and landscape character of this quite prominent piece of land that contributes to the landscape character of Palm Beach and the immediate area.</p>
Thompsons Point	<p>The extensive rural landscape of Thompsons Point makes a significant contribution to the amenity values of many adjacent areas along the northern coast of Waiheke Island. The landscape values of this peninsular relate to its predominantly natural rather than built character, its prominence, its dramatic coastline and its rolling headland topography. It is important that any development on this peninsular maintains these values.</p> <p>These values can be maintained through a land classification change that requires a comprehensive approach to development such as in rural 2 (western landscape). It will also encourage revegetation of significant areas of land, thus contributing to the natural qualities of the landscape. Large lots sizes will help maintain the predominantly unbuilt character, particularly when planned as part of the required comprehensive approach. Public access to the dramatic coast will be enhanced through the comprehensive approach, thus allowing previously distant appreciation of the peninsular to be enjoyed at close quarters.</p> <p>Overall, the comprehensive development approach of the rural 2 (western landscape) will allow the landscape values to be retained whilst development and public access occur on the peninsula.</p>

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 rural 1 (rural amenity).

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
- the 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

Land unit 20 specifically:

- Restrict more activities so that restaurants, wineries and other commercial activities require resource consent. Retain all existing land unit 20. Rezone some existing land unit 20 or other land units for commercial (visitor facilities, wineries, and restaurant) activities.
- Must be retained as a buffer at all costs. Define and control more activities. Restrict more activities so that restaurants, wineries and other commercial activities require resource consent. Retain all existing land unit 20. Never remove land unit 20 from Waiheke and / or the Plan.
- Support separate land unit 20 for Rakino Island. Land unit 20 in Waiheke identified as 'Waiheke Outdoor Burning Area' which recognises rural nature of land unit 20. Restrict subdivision into 'lifestyle blocks' of land unit 20 to minimise reverse sensitivity from spray drift or outdoor burning.
- Serves useful purpose.
- Maintain restrictive approach to land unit 20, no further subdivision, require commercial activities to get resource consent. Retain all existing land unit 20.
- Protect land unit 20, stop erosion of the green belt
- Maintain rural and bush clad character between settlements. Do not allow incremental development to erode the green belts.
- Need to maintain green belts.
- Do not allow encroachment into the green belt
- Rezone Lot 1 DP 199282 at 166 Ostend Rd from land unit 20 to land unit 12
- Different solutions to stop people subdividing - i.e. rates reduction instead of subdividing, covenants for public benefit
- Green belts should be on hills between villages. Uses only horticultural / agricultural & possibly home stay & limited café / restaurant after notification. Support restriction of activities in land unit 20 - bullet 2 (resource consent for restaurants, wineries, other commercial uses)
- All development in land unit 20 should require resource consent
- Cory Rd property currently land unit 20 should be rezoned Land unit 11.
- Support first bullet point - restrict activities in retain LU 20. Oppose rezoning land unit 20 for commercial activities. Support review of LU 20 on Rakino. Oppose removing land unit 20 from Waiheke.
- Ensure continuation of rural open space
- Retain land unit 20 and restrict activities i.e. disallow commercial development
- Preserve as open space. Non-subdividable. Require resource consents for wineries, restaurants and other large building projects
- No further subdivision. Require resource consents for restaurants, wineries and additional buildings. Green belt. Preserve good soils for growing.
- Restrict more activities so that restaurants, wineries and other commercial activities require resource consent. Retain all existing land unit 20. Do not allow subdivision
- Acceptable in theory as a rural buffer between villages. But not all current land unit 20 zoning fulfils this. Investigate whether land unit 20 suitable for Kennedy Point. Rezone to land unit 11 and 12. Or relax subdivision controls to allow for more intensive residential development. Suitable for large lot residential. Would support existing ferry terminal.
- Preserve predominantly rural character. Restrict more activities so that restaurants and wineries need resource consent. Retain all existing land unit 20. Do not rezone any for commercial activities as this will seriously degrade the buffer.

- Restrict more activities. Resource consents for restaurants, wineries and other commercial activities. Retain existing land unit 20. Don't rezone any land unit 20 or other land units for commercial activities. Don't remove from Waiheke and / or from the Plan.
- Retain all existing land unit 20 land. Remove visitor facility provision from land unit 20. Restrict more activities in land unit 20.
- Shift land unit 20 boundary along Tiri Road so as to turn street frontage into residential.

Buildings in the landscape:

- Support for controls on buildings to ensure that they blend into the landscape and respect the natural environment (particularly the coast and ridgelines).
- Support for further emphasis on design issues (including design guidelines and height) so that buildings have good innovative design and appropriate colours and materials.
- Opposition to further controls on building design issues so that there is freedom of design.
- Support for controls on colour (including the existing T Heath controls) to ensure that buildings blend into the landscape and natural environment.
- Opposition to controls on colour (including removing existing T Heath controls) as colour should be at owner's discretion.
- Support for controlling reflectivity, instead of colour so that buildings blend with the landscape.

3.0 Resource management issues

3.1 Issues

The significant resource management issues that need to be addressed in rural 1 (rural amenity) are:

1. How to recognise the differences in scale between the 'Onetangi Road' area of the land unit and the 'other areas' of the land unit such as the Kennedy's Point, Palm Beach and Oneroa.
2. How to protect the rural landscape and visual amenity of the land unit from the potential adverse effects of buildings and activities.
3. How to protect the general amenity of the land unit, particularly in the 'other areas'.
4. How to provide for small scale rural activities, such as farming and horticulture, to establish and operate within the land unit.
5. How to acknowledge that non-rural activities such as restaurants, wineries and tourist complexes may be appropriate and in fact beneficial in the right locations.
6. How to control the size and nature of non-rural activities so that the rural character and visual amenity of the land unit is maintained.

These issues have been addressed by the objectives, policies and rules contained in rural 1 (rural amenity) 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 rural 1 (rural amenity) 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 rural 1 (rural amenity) are identified below:

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

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

4.1.2 Appropriateness in achieving the purpose of the Act

The objective of the rural 1 (rural amenity) is:

To provide for rural activities and a limited range of non-rural activities while protecting the rural character and visual amenity of the land unit.

The objective seeks to achieve two outcomes, namely providing for rural and non-rural activities and protecting the rural character and visual amenity of the land unit. The objective 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 rural and non-rural activities provided for contribute to the economic wellbeing of landowners and the economy of Waiheke in general, particularly as the non-rural activities provided for contribute to the tourist economy of the island.

2. Protecting the character and amenity of the land unit contributes to the social wellbeing of Waiheke residents as it will protect the character and identity of the island.
3. Provided that appropriate controls are put in place, rural and non-rural activities 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. Protecting the rural character and amenity of the land unit will ensure that the character of the coast is protected where the land unit is located in coastal areas such as Kennedys Point and Oneroa.

Section 7 (other matters) reasons:

5. Protecting the rural character and amenity of the land unit will maintain amenity values and the quality of the western Waiheke environment, particularly as the open and rural character of the land unit makes a significant contribution to the character and identity of Waiheke.

Section 8 (Treaty of Waitangi) reasons:

6. The objectives take account of the principles of the Treaty of Waitangi as it recognises the need to use and protect natural and physical resources in a manner which benefits both Maori and Europeans.

In 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 rural 1 (provision for rural and non-rural and protection of the character and amenity of the land unit) and consequently provides 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 rural and non-rural activities on the character and amenity of the land unit.

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

This section provides an analysis of the efficiency and effectiveness, costs and benefits and risks associated with the policies and rules of rural 1 (rural amenity).

Policy 1:

“By providing for productive activities, such as pastoral farming and horticulture to establish and operate within the land unit”

The rules associated with this policy are:

Permitted activity status for horticulture and pastoral farming.

Benefits (including efficiency and effectiveness)	Costs
The policy and rules provide for the activities that are necessary to maintain the rural character and amenity of the land unit.	The land could be used more intensive residential development.
Provision for these activities increases the lifestyle options available on the western end of the island.	
The permitted activity status for these activities is efficient and effective as it provides for these activities to occur ‘as or right’ and as such avoids unnecessary resource consents.	
Provisions for these activities allow landowners to achieve a return from their land.	

Risk of acting or not acting:

The risk of taking this approach is that the land within the land unit will not be able to be used for other activities such as intensive residential development.

The risk of not taking this approach is that the character and amenity of the land unit will not be able to be maintained and that landowners will not be able to achieve a return from their land.

Policy 2:

“By limiting the non-productive activities that can occur in the ‘other areas’ of the land unit to those which avoid the adverse effects on the rural character and on the general and visual amenity of the locality”

The rules associated with this policy are:

Provision for dwellings, home occupations, homestay, horticulture, pastoral farming and visitor accommodation for up to 10 people in the ‘other areas’ of the land unit.

Benefits (including efficiency and effectiveness)	Costs
The limited range of activities means that the character and amenity of these areas is protected from the potential visual, traffic and noise effects of larger scale non-productive activities.	Landowners in these areas will not be able to establish other activities such as restaurants and cafes.

The non-complying status of non-productive activities is an effective and efficient rule as it is clear to landowners and the wider public that these activities are not expected to locate in these areas.	
The provision for visitor accommodation up to 10 people is appropriate as it provides an alternative income for landowners but is of a size and scale which will not have adverse effects on the surrounding properties.	

Risk of acting or not acting:

The risk of taking this approach is that landowners will not be able to establish a wide range of activities on their land.

The risk of not taking this approach is that a wide range of activities will establish and the visual and general amenity of these areas will be eroded.

Policy 3:

“By ensuring that the non-productive activities in the ‘Onetangi Road’ area will not have adverse effects on the rural character and the general and visual amenity of the land unit when viewed from Onetangi road and surrounding locations”

The rules associated with this policy are:

Discretionary activity status for non-productive activities such tourist complexes and restaurants, assessment criteria for discretionary activities and controls on scale, form, colour and location of buildings (the controls on buildings are assessed under policy 4 below).

Benefits (including efficiency and effectiveness)	Costs
Controlling the scale and intensity of non-productive activities ensures that the character and amenity of the land unit is maintained while providing landowners with the opportunity to establish a wider range of activities.	A limit on the scale and intensity of non-productive activities limits the options and returns for landowners.
Gives effect to the Environment Court decision on Isloa Estates Limited in that the key factor in that decision was the size, scale and intensity of the activities.	

Risk of acting or not acting:

The risk of taking this approach is that the options and returns for landowners will also be limited, but nonetheless will be wider than that if these activities were not provided for at all.

The risk of not taking this approach is that the character and amenity of the land unit will not be protected and that an alternative approach may not be able to be defended in the Environment Court.

Policy 4:

“By ensuring that the scale, form, colour and location of new buildings will not have adverse effects on the visual amenity and rural character of the land unit”

The rules associated with this policy are:

Restricted discretionary activity status for new buildings and additions and alterations to existing buildings, 100m setback along Onetangi Road, assessment criteria relating to the scale, form, colour and location of buildings, building coverage control (particularly the 250m² limit on any one building) and the non-complying status of non-productive activities in the ‘other areas’.

Benefits (including efficiency and effectiveness)	Costs
The restricted discretionary activity status for new buildings is an efficient and effective tool as provides the Council with the ability to decline the application if it does not meet the assessment criteria. It is also efficient as it will be processed on a non-notified basis which will avoid unnecessary costs and delays.	Landowners will need to obtain resource consent for each new buildings and addition and alteration to the building.
The 100m setback and building coverage permitted standards will maintain the open rural character of the Onetangi Road area of the land unit and are clear and effective controls.	The controls on the scale, form, colour and location of buildings will limit the design freedom of landowners.
Singularly and cumulatively these controls will ensure that the visual character and amenity of the land unit is maintained.	

Risk of acting or not acting:

The risk of taking this approach is that landowners will need to obtain a resource consent for new buildings and that the design of such buildings will be assessed for its appropriateness.

The risk of not taking this approach is that the rural character and amenity of the land unit will not be maintained.

Policy 4:

“By requiring new sites to be of a size and nature that ensures small scale rural activities can occur and which maintains the rural character and visual amenity of the landscape”

The rules associated with this policy are:

5ha site size for new sites within the land unit.

Benefits (including efficiency and effectiveness)	Costs
The site size will ensure that the open character and amenity of the land unit is maintained.	Landowners will not be able to subdivide their land into smaller sites.
The larger site size means that a wider range of non-productive activities can be accommodated in the 'Onetangi Road' area of the land unit.	

Risk of acting or not acting:

The risk of taking this approach is that more sites will not be able to be created.

The risk of not taking this approach is that the character and amenity of the land unit will not be maintained.

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 20 – landscape protection with no amendments
- Provide for 'non-rural' activities in every area of the land unit.
- Not provide for 'non-rural' activities in every area of the land unit.

4.3.1 Option 1

The provisions of land unit 20 – landscape protection 'rolled over' with no amendments.

Benefits	Costs
The community is familiar with these provisions.	It is unlikely that the character and amenity of the 'other areas' would have been protected given the wide range of activities provided for.
The objectives and policies identify the need to protect the character and amenity of the land unit.	The controlled activity status for new buildings is not an effective means of protecting the character and amenity of the land unit.
	The lack of a building setback and the provision for 1000m ² building coverage as a discretionary activity is unlikely to protect the character and amenity of the land unit.
	The small site size of 3.5ha means that the character and amenity of the land unit may be compromised and that non-productive activities may not be able to be absorbed into the landscape.

The risk of acting or not acting

The risk of taking this approach is that the character and amenity of the land unit may not be maintained.

There are no risks to not taking this approach as the provisions are not effective.

4.3.2 Option 2

Providing for non-rural activities in every area of the land unit.

Benefits	Costs
Landowners in all areas of the land unit may be able to establish rural and non-rural activities which will contribute to the economy of the island.	It is unlikely that the amenity of the 'other areas' of the land unit would be maintained as the non-rural uses would generate adverse effects in terms of visual amenity and general amenity.
More restaurants and cafes would serve tourist needs.	The visual amenity of western Waiheke may be adversely affected which may have adverse effects on character, social wellbeing and tourist economy of the island.

The risk of acting or not acting

The risk of taking this approach is that the character and amenity of the 'other areas' of the land unit may be eroded and that the overall character of western Waiheke may not be maintained.

The risk on not taking this approach is that fewer non-rural activities may establish and as such fewer businesses will contribute to the economy of the island.

4.3.3 Option 3

No provision for non-rural activities in all areas of the land unit.

Benefits	Costs
The rural character and amenity of the land unit would be protected.	May not be able to be supported in the Environment Court given the Courts findings in relation to Isola Estates Limited. In particular, the Court found that non-rural activities were appropriate for this area provided that they were of an appropriate size and scale.
	Non-rural activities would have very limited locations in which to establish. This would detract from the economic wellbeing of the island as these activities contribute to the tourist economy.

The risk of acting or not acting

The risk of taking this approach is that it is unlikely to be supported in the Environment Court and that the economic wellbeing of the island may not be maintained.

The risk of not taking this approach is that the character and amenity of the land unit may not be protected.

4.3.4 Conclusion

Having analysed the policies and rules of rural 1 (rural amenity) and considered the alternatives, it is concluded that the provisions of rural 1 (rural amenity) are the most appropriate means of achieving the objective as the policies provide a balance between providing for rural and non-rural activities while protecting the character and amenity of the land unit. In addition, these policies and rules have been shown to have benefits that outweigh the costs and to be necessary in terms of avoiding risks to the environment.

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

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

- The policies and associated rules manage the adverse effects of rural and non-rural activities on the character and amenity of the land unit. In particular, the proposed policies and rules ensure that buildings are of a size and scale, will not have adverse effects of activities and buildings on the character of the environment.

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 provisions of the NZ coastal policy statement that are relevant to the rural 1 (rural amenity) are attached as **appendix b**. The key provisions that are most relevant are outlined below:

The following are matters of national importance:

- “The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, lakes and rivers and their margins, and protection of them from inappropriate subdivision, use and development.

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

- a. encouraging appropriate subdivision, use or development in areas where the natural character has already been compromised and avoiding sprawling or sporadic subdivision, use or development in the coastal environment;

- b. taking into account the potential effects of subdivision, use, or development on the values relating to the natural character of the coastal environment, both within and outside the immediate location; and
- c. Avoiding cumulative adverse effects of subdivision, use and development in the coastal environment”.

The provisions of rural 1 (rural amenity) give effect to the NZ coastal policy statement because the provisions contain specific and effective controls which will ensure that only appropriate use and development will occur in the areas of the land unit which adjoin the coastal environment.

5.2 Hauraki Gulf Marine Park Act 2000

Section 9(3) of the Hauraki Gulf Marine Park Act 2000, requires the council to ensure that:

... any part of a district plan that applies to the Hauraki Gulf, its islands, and catchments, does not conflict with sections 7 and 8 of this Act.

Section 7 recognises the national significance of the Hauraki Gulf and Section 8 provides management direction for the Gulf. Section 10 of the Act requires that sections 7 and 8 be treated as a New Zealand coastal policy statement under the RMA. Sections 7 and 8 are attached as **appendix c**.

The provisions of rural 1 (rural amenity) recognise the national significance of the Hauraki Gulf (section 7 of the HGMPA) by:

- Recognising the interrelationship between development in rural areas and the adjoining coastal environment.
- Providing for the economic and social wellbeing of people and communities in the Gulf and New Zealand by providing for rural and non-rural activities which contribute to the economy (particularly the tourist economy) and overall character of the island.

The provisions of rural 1 (rural amenity) give effect to the management direction for the Hauraki Gulf (section 8 of the HGMPA) by:

- Maintaining the economic wellbeing of people and communities by providing for rural and non-rural activities which contribute to the economy of the island.
- Protecting the coastal character and amenity of the areas of the land unit that are located adjoining the coastal environment.

6.0 Regional planning documents

6.1 Regional policy statement

Section 75(3) of the RMA states:

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

The parts of the regional policy statement (RPS) that are relevant to rural 1 (rural amenity) are attached as an **appendix b**. The provisions that are most relevant are outlined below:

- Subdivision, use and development in the coastal environment need to be of an appropriate location, and of an appropriate form, which meets the purpose of the Act.
- Subdivision, use and development in the coastal environment have the potential to enhance or inhibit public access to and along the coastal marine area.
- To protect the landscape values and character of rural areas from the regionally significant effects of inappropriate subdivision, use and development.
- To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use and development.

The provisions of rural 1 (rural amenity) give effect to the provisions of the RPS as they protect the character of the adjoining coastal environment and the landscape values and character of rural areas.

- The provisions are also consistent with the Metropolitan Urban Limits as set out in maps to the ARPS. Pages 15 – 17 of Chapter 2 of the Regional Policy Statement discuss the issue of growth in rural and rural residential areas. Metropolitan urban limits are set out in Map Series 1.

“The Hauraki Gulf, for example, has many qualities that require an integrated management approach which

- *.....recognises that, on Waiheke, urban development is limited to the western end of the island in recognition of the significant landscape values and natural environment of eastern Waiheke;*
- *Recognises the need to relate rural living and settlement to environmental constraints and capacity;....”*

6.2 Regional plan

Section 75 (4) of the RMA states:

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

The parts of the Auckland Regional Plan: Coastal that are relevant rural 1 (rural amenity) are attached as **appendix b**. The provisions that are of key relevance to rural 1 (rural amenity) are set out below:

- To preserve the natural character of the coastal environment by protection the coastal marine area from inappropriate subdivision, use and development.
- To maintain and enhance the diversity, integrity and landscape quality of the coastal environment.

The provisions of rural 1 (rural amenity) give effect to Auckland Regional Plan: Coastal because the provisions put in place controls to provide for appropriate use and development in the coastal areas of the land unit such as Oneroa and Kennedys Point.

7.0 Other documents

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

The principles of environmental protection that are relevant to rural 1 (rural amenity) are:

Aim:

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

Central principles:

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

The provisions of rural 1 (rural amenity) are consistent with the above aims and principles as the provisions of the land unit recognise environmental constraints by putting appropriate controls in place to ensure that non-productive activities do not have adverse effects on the rural character and amenity of the environment.

In addition to the principles of environmental protection, the principles to protect and enhance Waiheke's character are also relevant to rural 1 (rural amenity). These aims and principles are:

Aim:

To maintain the existing land use pattern of discrete villages surrounded by areas of rural land, and to maintain a clear distinction between rural and village environments.

The central principles:

- 1. Areas of rural land between and around existing residential villages is maintained.*
- 2. The green, bush clad character of the Island is maintained and enhanced.*
- 3. The unique identity of each village is fostered by concentrating shops and community facilities to create village centres and places for residents to meet and interact.*

4. *A wide range of activities in keeping with the character of each centre is encouraged.*
5. *An active, attractive, accessible and safe pedestrian environment is maintained and enhanced.*
6. *Significant archaeological and heritage features (including significant ridges and geological feature) and waahi tapu sites are identified and protected from inappropriate development, where preservation can be ensured and disclosure will not put the items at risk.*
7. *Indigenous vegetation on Waiheke is protected and enhanced through the District Plan provisions, particularly the remaining semi-mature and mature indigenous vegetation in western Waiheke which contributes to the physical and visual separation of villages. Establishment of trees in the village landscape is encouraged through education and promotion.*
8. *Coastal waters, bridle trails and walkways, access to beaches and the coastline are protected.*
9. *Land is maintained for productive rural uses.*

The provisions of rural 1 (rural amenity) are consistent with the principles to protect and enhance Waiheke's character as rural land is maintained around the existing villages for productive rural purposes.

8.0 Procedures for monitoring

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

- monitoring resource consents including the number of applications granted consent, compliance with consent conditions, and the effectiveness of those conditions
- monitoring complaints and enforcement actions
- undertaking surveys e.g. user satisfaction surveys, land use surveys, ecological surveys.

9.0 Conclusions

The analysis undertaken in this report has demonstrated that the proposed land unit provisions are a comprehensive set of objectives, policies and rules that provide for productive and non-productive activities and the protection of the rural character and amenity 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 productive and non-productive activities) while ensuring the protection of the environment (namely the rural character and amenity 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 productive and non-productive activities 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 gives effect to the relevant national and regional planning documents as the provisions provide for the appropriate use and development of area while protecting the rural character and amenity of the land unit.

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 B

Relevant provisions from national and regional planning documents

Appendix A

Comparison Table