

Section 32 Report

Plan Change 56 to the Auckland Council Operative District Plan: Hauraki Gulf Islands Section

Scheduling of Volcanic Viewshafts

1.0 Executive Summary

The purpose of this report is to summarise the evaluation required by Section 32 of the Resource Management Act 1991 (RMA) which has been undertaken in the preparation of Proposed Plan Change 56 (the 'plan change') to the Auckland Council Operative District Plan (Hauraki Gulf Islands Section) (the 'District Plan').

The purpose of the proposed plan change is to introduce 8 new viewshafts for Rangitoto and 5 new viewshafts for Motukorea (Brown's Island), and new Height Sensitive Areas for the entirety of Rangitoto, Motukorea (Brown's Island) and part of Motutapu. This will give these items the level of protection afforded by the existing heritage provisions.

The main conclusions of this evaluation under Section 32 of the RMA are that:

- The addition of the proposed objective, policies, and rules relating to the protection of volcanic viewshafts to Rangitoto and Brown's Island are the most effective and efficient means to afford protection of the visual integrity of these volcanic features.
- There are no conflicting district plan objectives and policies which suggest that the added viewshafts should not be afforded protection.
- Adding the viewshafts is in accordance with Council's functions and responsibilities under Sections 31, 74 and 75 of the RMA, including the need for the district plan to give effect to the regional policy statement.
- Adding the viewshafts is consistent with Part II of the RMA.
- Having evaluated the alternatives, benefits and costs, the proposed plan change is the most appropriate means for achieving the purpose of the Act because it will help protect views to and between volcanic cones, while enabling people and communities to provide for their social, economic and cultural well-being.

2.0 Background

The Auckland volcanic field covers approximately 100 square kilometres and originally contained 48 explosion craters which gave rise to the landmark scoria cones of Urban Auckland. A number of these features have been lost through quarrying and development. Many of the remainder are of regional or national significance, while others are of local significance, or contribute cumulatively to the volcanic landscape and character of the region. The 35 Regionally Significant Volcanic Features found in Map Series 2a of the Regional Policy Statement contain 13 scoria cones and islands which have volcanic viewshafts or height sensitive areas attributed to the protection of their visual integrity.

The protection of the views to these cones started over 40 years ago through the 1973 Town and Country Planning Appeal Board decision *ARA v Mt Eden Borough Council* (No. 418/73). This decision concluded that was of such value that views to and from the mountain should be protected. The decision considered that the Council was not carrying out its duties under the Town and Country Planning Act by not protecting the visual integrity of Mt Eden.

As a consequence of this decision, councils have sought to impose view protection over multiple volcanic cones throughout the region.

Once established at regional and local level the viewshafts have been reviewed over time. A review in 1996 culminated in the project which led to Change 8 to the Auckland Regional Policy Statement (ARPS).

Change 8 was notified in September 2005. It proposed to add 34 new viewshafts and delete 25 existing viewshafts from the ARPS. The change was the culmination of almost ten years of research and work by the former Auckland Regional Council (ARC) and territorial authorities to jointly review and update their respective ARPS and District Plans. There are three parts to Change 8:

- identifies new viewshafts of regional significance;
- removes viewshafts that are no longer considered to be regionally significant; and
- amends the location of some existing viewshafts.

The ARC's decision on Proposed Change 8 reinstated all 25 deleted viewshafts. A consent order was issued by the Court on 19 October 2010. Change 8 (Volcanic Features) was made operative on 21 March 2012.

Following the decision to make Change 8 operative, the Auckland Council committed to initiating a series of plan changes to the District Plans to ensure consistency between the ARPS and the District Plan. The Regional Development and Operations Committee resolved on 16 August 2012:

“That the Regional Development and Operations Committee directs the Chief Executive to give effect to Change 8 - Volcanic Features to the Auckland Council Regional Policy Statement by notifying a plan change to the District Plan to remove deleted viewshafts and add new and amended viewshafts.”

This section 32 report addresses the above resolution and seeks to form conclusions on the appropriateness of the plan changes to meet the purpose of the Act.

3.0 Consultation undertaken

Pre-notification meetings were held with two groups that have a significant interest in volcanic view shafts, the Auckland Volcanic Cones Protection Society and iwi from the Auckland region.

The first pre-notification meeting was held in November 2012 with the Auckland Volcanic Cones Society, where it was sought to outline the purpose of the proposed district plan changes, and to inform the society of the methods used to determine the local significance of the seven viewshafts to be deleted. A further meeting was held with the Society in February 2013, seeking

their feedback on the map and text changes proposed by the plan changes. The feedback from these meetings was incorporated into the plan changes prior to notification.

Letters were sent to all the iwi authorities that are associated with the Isthmus area. The letters invited the iwi authorities to a choice of two hui being held in the north and south to discuss the plan changes, and give feedback on the maps and text changes. Sixteen iwi authorities responded with six groups attending the hui in the north and two groups attending the hui in the south.

Manukau Hui Attendees:

Ngati Tamaoho
Ngati Rehua
Ngati Te Ata –Waiohua
Ngati Whatua o Orakei
Ngai Tai Ki Tāmaki Tribal Trust
Te Aakitai Waiohua

Orewa Hui Attendees:

Ngati Wai
Ngati Whatua – Nga Rima o Kaipara

Feedback generated by these hui included discussion around the need to ensure rapid protection in district plan rules for the new viewshafts identified in the Regional Policy Statement so that they did not get built out. There was consensus among iwi that the District Plans do not have sufficient understanding of the Maori world view perspective and attempts should be made to protect views from Marae to Maunga, and from Marae to ancestral food gathering areas etc. The concept that local Maunga can form a link for iwi who may be situated away from their ancestral home Maunga was articulated. Another point arising from the hui is that Maunga are of significant value not only to the local iwi but the individuals and groups from areas outside Auckland.

There was significant concern in the south that the proposed deletion of a build out viewshaft to Mt Wellington should be reassessed from a Maori world view perspective.

The concerns raised are considered to be valid, and understanding the Maori world view perspective in relation to Maunga is considered to be important. A preliminary brief of the kind of work required to facilitate the introduction of the Maori World View into the District Plan showed that this work would be extensive, and such a re-evaluation is not required by Change 8 to the ACRPS.

Notification

In addition to the pre-notification consultation described above, public notification will take place in May 2013. In addition to the general public notice and the letters to iwi, letters are also to be sent to all owners and occupiers of the land which is affected by the proposed plan change. The letters are to be consistent throughout the region, and will provide information about the plan change process and a link to Council's webpage where more information will be found regarding specific heights at specific properties. The letters will include a list of frequently asked

questions and provide contact details if the owners/occupiers have further questions or wish to discuss the process or plan changes further. It is considered appropriate and in accordance with recent Environment Court direction that all directly affected landowners are notified in writing about these plan changes.

4.0 Summary of the Purpose of the Plan Change

The purpose of the plan change is to protect views to and from some of the regionally significant volcanic cones of Auckland in order to preserve the visual integrity of the features and the views from the cones across urban, rural and maritime landscapes as part of the local and visitor experience of Auckland.

The Plan Change fulfils the Council's statutory obligation to give effect to the Auckland Regional Policy Statement by including the regionally significant views shown on Map Series 4a into the District Plan.

The Plan Change adds 8 new viewshafts for Rangitoto and 5 new viewshafts for Motukorea (Brown's Island), and new Height Sensitive Areas for the entirety of Rangitoto, Motukorea (Brown's Island) and part of Motutapu to the District Plan, in accordance with the Regional Policy Statement. **Attachment B** shows the map and figures which have been changed or added as a result of the plan change.

It is considered that the new and amended viewshafts are of local and/or regional value and introducing them into the district plan is the most appropriate way of meeting the purpose of the Act.

Methodology

Viewshafts

The coordinates and contours of the viewshafts were taken directly from the Geographic Information System (GIS) data used in the Regional Policy Statement. In this way, the data in the District Plan reflects exactly what is shown in the higher hierarchical document. Maps in the District Plan are shown for indicative purposes only.

Height Sensitive Areas

The Regional Policy Statement does not include height sensitive areas. Method 5.4 states:

"Territorial Authorities are to make provision in their district plans for Height Sensitive Areas around the volcanic cones listed in Appendix I or on intervening landforms where the potential arises for development to intrude into the viewshaft."

Traditionally the District Plan height sensitive areas have reflected the guidance of the Regional Policy Statement in identifying these areas.

The height sensitive areas can be separated into two parts as described in the method above. Firstly the areas around the volcanic cones which are controlled in order that local views to the

cones are protected, and secondly areas between the origin point of the viewshaft and the cones where a landform protrudes so that long range views are protected.

Viewshaft Height Sensitive Areas

Due to the new contour information gathered through the research for Change 8 to the ARPS, the contour information underneath the viewshafts has changed significantly. Thus the height sensitive areas have been altered to reflect the new data. In some cases height sensitive areas have also been altered to reflect the new location of viewshafts which have been moved. In other cases the height sensitive areas have been deleted where a viewshaft has been deleted. Where a viewshaft has been added, new height sensitive areas have been added based on the contour information gathered by Change 8 to the ARPS.

5.0 Existing Provisions of the District Plan

Volcanic viewshafts are not currently identified or addressed in the Operative (1996) Hauraki Gulf Islands Section of the District Plan. This section of the report provides an overview of the existing parts of the district plan that do relate to heritage and volcanic features. These provisions are summarised below.

Resource management issues and outcomes are outlined in Part 3 of the District Plan, and the relevant outcomes relating to the protection of heritage are outlined in 3.4.4 as follows:

:

Part 3 – Resource Management Overview

3.4.4 Outcome - Conservation and Heritage

To ensure that conservation and heritage values are recognised in the District Plan in order to facilitate the conservation, preservation, protection and enhancement of natural environment and heritage features.

Means

- 1. By the protection of identified conservation, historical, cultural, archaeological, heritage and environmental features and values through particular controls in the Plan.*

Part 10 of the plan identifies the type of heritage resources in the Hauraki Gulf Islands that should be considered for further protection. Objective 10.2.1 relates to the protection of heritage areas, as follows:

Part 10 – Heritage

10.2.1 Objective

To recognise and protect the heritage values of sites, buildings, trees, places and areas.

Policies

- *By identifying, assessing, and protecting important heritage buildings, objects and places including landscapes, trees, landforms, historic places and waahi tapu by scheduling such features in the Plan.*
- *By encouraging an awareness that the Hauraki Gulf Islands existing heritage is a finite and sensitive resource.*
- *By increasing public access to heritage features so they can be appreciated, understood and thereby add to the richness of the urban fabric of the Hauraki Gulf Islands.*

6.0 Changes to the District Plan

This plan change seeks to recognise volcanic viewshafts in the Hauraki Gulf Islands Section of the District Plan, and introduce objectives, policies and rules that will better protect volcanic viewshafts. This section of the report provides an overview of the proposed parts of the District Plan that relate to protection of views to and between volcanic features. These provisions are summarised below.

6.1 Text Amendments

All proposed text is shown as underlined and nay text that is to be deleted is shown with ~~strikethrough~~.

6.1.1 – Add new section to *Part 10 - Heritage*

10.8 Volcanic Viewshafts

Views of the Rangitoto and Motukorea (Browns Island) volcanic cones are valued by residents and visitors to the Hauraki Gulf, and their scenic amenity and heritage value contributes much to the character of Auckland. Geological items and landforms are protected by the Plan, but views to and from these features also need protection.

The maximum height for a particular site is usually below the height permitted by the volcanic viewshaft protection. Where viewshafts are below the maximum height, it may be necessary to impose special height limits. Height Sensitive Areas (HSA) are areas of land beneath volcanic viewshafts where the height of the development permitted by the underlying zone breaches the floor of the viewshaft, or land located on the slopes and surrounds of volcanic cones where height is controlled to protect the visual integrity of the cone.

Height Sensitive Areas have been applied to the slopes of Rangitoto and Browns Island to protect the visual integrity of these volcanic cones. The height sensitive areas have been set at 6.5m, the same as the maximum height limit for the Conservation Land Unit.

6.1.2 – Add new issue to *Part 10 - Heritage*

10.8.1 Resource management issue

The potential loss of views to and between volcanic landmarks within the Hauraki Gulf Islands.

6.1.3 – Add new objective and policies to *Part 10 - Heritage*

10.8.2 Objective

To protect the visual and physical integrity and values of the volcanic features of the Hauraki Gulf Islands, and to protect significant views to and between volcanic cones

Policies

1. Ensure that the overall contribution of the Hauraki Gulf's volcanic features to the landscape character of Auckland is maintained, including physical and visual connections to, and views between, the volcanic cones.
2. Avoid the introduction of buildings or structures within viewshafts defined on the planning maps and above the specified building heights in the Height Sensitive Areas to protect views to and between the maunga/volcanic cones.

6.1.4 – Add new rules to *Part 10 - Heritage*

10.8.3 Rules: Volcanic view shafts

10.8.3.1 Permitted activities

1. Buildings and structures located within a volcanic viewshaft which breach the floor of the viewshaft but do not exceed the height of the HSA.
2. Additions or alterations to existing buildings or structures within a volcanic viewshaft, which breaches the floor of the viewshaft but does not exceed the height of the HSA.

10.8.3.2 Non-complying activities

1. Buildings and structures or any additions or alterations to existing buildings or structures within an HSA which exceeds the height of the HSA.

7.0 Statutory Evaluation under Part II, sections 31, 32, 72, 75 and 76 of the Resource Management Act

7.1 Part 2 of the RMA

The purpose of the RMA is “to promote the sustainable management of natural and physical resources”, and “sustainable management” is defined in section 5(2) as meaning:

“... 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.”*

Along with section 5, Part 2 of the RMA includes sections 6 (matters of national importance), 7 (other matters) and 8 (Treaty of Waitangi), which set out a range of matters that the Council needs to recognise and provide for in achieving the purpose of the RMA. It is considered that Section 6 of the RMA is relevant when considering the Council’s role in the protection of volcanic viewshafts. In particular, section 6 states:

“In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

....

- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (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.”*

In terms of section 6 of the Act, the protection of historic heritage is currently addressed through the outcomes anticipated in 3.4.4, which seek to facilitate the conversation and enhancement of the natural environment and heritage features. Objective 10.2.1 seeks to recognise protect heritage values, and the policies under 10.2.1 seek to identify heritage landscapes, including landforms and waahi tapu. This plan change proposes to add Objective 10.8.2 to specifically address the protection of the visual integrity of the cones as outstanding natural features, and to

protect outstanding features, including views to and between volcanic cones and their heritage values.

The consultation carried out with iwi did not result in any changes to the plan change. As owners and guardians of some of the volcanic cones, Mana Whenua will continue to take a lead role in the management of these features and will be able to protect their relationship with their ancestral lands.

In respect of section 7, the following sub-clauses are considered relevant:

- (b) the efficient use and development of natural and physical resources*
- (c) The maintenance and enhancement of amenity values*
- (f) Maintenance and enhancement of the quality of the environment*
- (g) Any finite characteristics of natural and physical resources*

With regard to section 7, the current Objective 3.4.4 of the district plan seeks to maintain conversation values, and maintenance, preservation and enhancement of the natural environment.

Section 8 - Treaty of Waitangi recognises the rangatiritanga of Mana Whenua over their ancestral lands and taonga. The volcanic cones of Auckland are currently undergoing a Treaty of Waitangi settlement process whereby ownership of some of the cones passes back to iwi groups from the Crown. Some of the cones are regarded as taonga, and all of the cones occupied by Maori historically have considerable cultural value and significance to iwi. The Treaty Settlement documents have been initialed on 29 May 2012 and are due to be signed later after ratification. Consultation with Maori regarding this plan change is essential and is discussed above in this report.

The current Objective 10.2.1 recognises the need to identify, assess and protect waahi tapu items in the Plan. The proposed Objective 10.8.2 seeks to protect significant views to and between the volcanic cones of Motukorea (Brown's Island) and Rangitoto, which in addition to protecting these culturally significant resources, will also ensure that they remain visible.

As owners and guardians of some the volcanic cones, Mana Whenua will continue to take a lead role in the management of these features and will be able to protect their relationship with their ancestral lands. Therefore, it is considered that Plan Change 56 has taken into account the principles of the Treaty of Waitangi.

It is considered that Plan Change 56 is consistent with Part 2 of the Resource Management Act and, in particular, with the purpose of the Act as it seeks to provide for the sustainable management of volcanic viewshafts in the Hauraki Gulf Islands area in a regionally consistent manner. The addition of 13 new viewshafts and new Height Sensitive Areas which have been assessed as being regionally significant, will allow for people and communities to provide for their wellbeing while ensuring that views of the iconic volcanic landscape of the region will continue to be available for future generations. The viewshafts only affect buildings over 6.5m, and will therefore allow for the continued use and enjoyed of both historic Rangitoto bach owners and recreational users of the islands. Auckland's volcanic cones are part of Auckland's own identity and give a sense of place as well as orientation.

With regard to the above, it is considered that the proposed plan change gives effect to the purpose and principles within Part 2 of the RMA.

7.2 Section 31 of the RMA

Section 31 sets out the Council's functions for the purpose of giving effect to the RMA. The Council's functions include *"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", and "The control of any actual or potential effects of the use, development or protection of land..."*

Section 72 states that *"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 that *"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 of the RMA states that a function of Council is to control any actual or potential effects of the use, development, or protection of land and associated natural and physical resources of the district. As a means for carrying out these functions, the district plan provides for the technique of including view protection planes, which impose additional height restrictions on areas within defined viewshafts. Change 8 to the ARPS directed territorial authorities to apply appropriate methods through their district plans to protect regionally significant viewshafts.

The control of the actual or potential effects in this context is achieved through the requirement for a resource consent for development which breaches a viewshaft. As the proposed plan variation seeks to add 8 new viewshafts for Rangitoto and 5 new viewshafts for Motukorea (Brown's Island), and new Height Sensitive Areas for the entirety of Rangitoto, Motukorea (Brown's Island) and part of Motutapu to the district plan, it is considered that additional protection will be afforded to identified viewshafts to both of these volcanic cones.

It is therefore considered that the proposed plan change will assist the Council in carrying out its functions under sections 31, 72 and 74 of the RMA.

7.3 Section 75(3) of the RMA

Section 75(3) of the RMA states:

"A district plan must give effect to—

- (a) any national policy statement; and*
- (b) any New Zealand coastal policy statement; and*
- (c) any regional policy statement."*

The Auckland Regional Policy Statement is a key document giving rise to this plan change. The ARPS was amended by Change 8 by a consent order dated 19 October 2010 and made operative on 21 March 2012. Plan Change 56 aims to give effect to the changes to the ARPS generated by Change 8. Currently the District Plan is not giving effect to the higher regional document as amended by Change 8 and it is the statutory obligation of the Council to correct this as soon as possible.

The volcanic viewshafts provisions, which Change 8 introduced into the ARPS, have already been the subject of a full RMA process, including public submissions, and a hearing. The appeals to Change 8 were eventually resolved following extensive negotiations and meetings between those persons and organisations who were sufficiently interested in the topic to participate in that process.

Proposed plan change 56 aims to give effect to the ARPS through the introduction of 13 new viewshafts and Height Sensitive Areas over Rangitoto and Browns Island.

7.4 Section 76 of the RMA

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”.*

Controlling development within the volcanic viewshafts in the District Plan would have positive environmental effects in terms of the protection of outstanding natural features. Imposing additional height restrictions through the proposed view protection planes may restrict the development potential on some sites. The potential adverse effects of not including the new and amended viewshafts in the district plan could result in views to Rangitoto and Brown’s island, through or from the Central Area and Isthmus, being diminished or obscured from some vantage points. As such, this warrants the inclusion of viewshafts to the district plan. A more comprehensive discussion of the costs and benefits can be found in sections 6.4.1 and 6.4.2 of this report.

7.5 Statutory Evaluation under section 86 of the Resource Management Act

7.5.1 Immediate effect.

When deciding the date a plan change takes effect, the Act provides in section 86B that

“A rule in a proposed plan has legal effect only once a decision on submissions relating to the rule is made and publicly notified”

Exceptions are provided for in 86B(3) where:

“A rule in a proposed plan has immediate legal effect if the rule—
(a) protects or relates to water, air, or soil (for soil conservation); or
(b) protects areas of significant indigenous vegetation; or
(c) protects areas of significant habitats of indigenous fauna; or
(d) protects historic heritage; or
(e) provides for or relates to aquaculture activities”

It is my view that the plan variation 11 does not protect or provide for the issues contained in s86B(3) and therefore the default date for the plan change to take effect would be once a decision is made and has been notified in accordance with Schedule 1 of the Act.

By way of their archaeological, cultural, historic and scientific qualities, volcanic cones could be considered as historic heritage under the definition provided for in the Act:

“historic heritage—
(a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:
(i) archaeological;
(ii) architectural;
(iii) cultural;
(iv) historic;
(v) scientific;
(vi) technological; and

(b) includes—
(i) historic sites, structures, places, and areas; and
(ii) archaeological sites; and
(iii) sites of significance to Māori, including wāhi tapu; and
(iv) surroundings associated with the natural and physical resources

It is my view that the areas covered by volcanic viewshafts and height sensitive areas, while potentially being surroundings associated with the natural and physical resources, are not sufficiently defined as such to warrant inclusion as taking immediate legal effect under section 86.

7.6 Section 32 of the RMA

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

(3) *“An evaluation must examine-*

- (a) the extent to which each objective is the most appropriate way to achieve the purpose of this 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 and 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.

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

In this particular case, one new objective and two new policies are proposed in order to protect the visual integrity of volcanic features through volcanic viewshafts. These must be considered under the Section 32 evaluation. The introduction of new district plan rules relating to the height sensitive areas within these volcanic viewshafts is the second key decision to be considered under the Section 32 evaluation. It is noted that this matter has been covered to an extent by the Environment Court decision on Change 8 to the Regional Policy Statement.

The purpose of the Act is to promote the sustainable management of natural and physical resources. The views to volcanic cones subject to this plan change and the cones themselves are natural heritage resources that are also of cultural significance.

Adding an objective relating specifically to viewshafts that compliments the existing district plan objectives have been assessed to be the most appropriate way to achieve the purpose of the Act.

Existing Objectives

Part 3 - Resource Management Overview sets out the statutory context of the plan. Objective 3.4.4 seeks:

“To ensure that conservation and heritage values are recognised in the District Plan in order to facilitate the conservation, preservation, protection and enhancement of natural environment and heritage features”

Strategic Management Areas provide the strategic direction for resource management in the Hauraki Gulf. Objective 3.4.3 relates to the protection of historic heritage and the natural character of the landscape, which includes volcanic features.

Landscapes are recognised as heritage items in Part 10 (Heritage), providing several overarching objectives that are of particular relevance to the protection of viewshafts. Objective 10.2.1 *‘To recognise and protect the heritage values of sites, buildings, trees, places and areas’* relates to the protection of volcanic viewshafts, as they relate to maintaining landscape value and the protection of heritage landscapes.

Overall, the current objectives of the Plan address the protection of heritage landscapes and landscape values, but do not directly address volcanic viewshafts.

Proposed Objective

The plan change seeks to add Objective 10.8.2 to the existing objectives contained in Part 10 (Heritage).

“To protect the visual and physical integrity and values of the volcanic features of the Hauraki Gulf Islands, and to protect significant views to and between the volcanic cones of Motukorea (Brown’s Island) and Rangitoto.”

While protecting geological landforms such as Browns Island and Rangitoto is already identified as an objective in the parts of the plan outlined above, the proposed Objective 10.8.2 specifically relates to the protection of viewshafts.

The policies for achieving the objectives of recognising and protecting heritage resources are generally by adopting measures in the district plan which prevent the intrusion of buildings and structures into viewshafts from selected publicly accessible vantage points. It is considered that recognising and protecting these natural heritage resources, by imposing a rule that requires resource consent to be obtained (as a non-complying activity for any structure that breaches a Height Sensitive Area), promotes sustainable management for the following reasons:

- It enables people and communities to provide for their social, economic and cultural well-being by protecting views to and between valuable natural heritage resources, whilst still allowing for buildings up to 6.5m in height.
- It triggers the need for resource consent for buildings and structures that exceed the height limits within areas identified as being subject to view protection planes that could otherwise have potential adverse effects on these heritage resources.
- There are benefits from sustaining heritage resources, in this case views to volcanic cones, by increasing the attractiveness and amenity of the areas in which they are viewed from, which helps provide for people and communities' wellbeing.
- It also meets the reasonably foreseeable needs of future generations by sustaining heritage resources, and seeks to avoid, remedy or mitigate adverse effects on these heritage resources by requiring an assessment of the effects on the heritage resource through the resource consent process.

A table below sets out a summary of two options; Option A – to use the existing objectives and Option B – to develop alternative objectives and an assessment whether which option is the most appropriate way of achieving the purpose of the Act.

It is considered that there are two options for the objectives:

- A. To use the existing objectives
- B. To develop alternative objectives.

Option	Is the objective the most appropriate way of achieving the purpose of the Act?
Option A – Status Quo	<ul style="list-style-type: none"> • The existing objectives in the District Plan already provide protection to Browns Island and Rangitoto, with regard to landscape and visual amenity values, protection of historic heritage, and resources of cultural value. • The existing objectives are generally in accordance with Section 6 matters of national importance, in particular sections 6(b) and (f), which require the protection of outstanding natural features and historic heritage from inappropriate subdivision, use and development and section 6(e).
Option B – Develop New Objectives	<ul style="list-style-type: none"> • There will be associated costs to re-examine the objectives and policies of the Hauraki Gulf Islands. • The existing objectives have particular regard to section 7 (other matters) which require the efficient use of natural resources, maintenance and enhancement of amenity values and the quality of the environment. The addition of the new Objective 10.8.2 regarding viewshafts will ensure that

	<p>the volcanic cones remain visible when viewed from the surrounding environment, maintaining visual amenity values.</p> <ul style="list-style-type: none"> • The existing objectives accord with Section 6 matters of national importance, in particular sections 6(b) and (f), which require the protection of outstanding natural features and historic heritage from inappropriate subdivision, use and development and section 6(e). The addition of new Objective 10.8.2 regarding viewshafts will further protect Browns Island and Rangitoto from inappropriate development. • The objectives of the District Plan, including new Objective 10.8.2, will be consistent with Change 8 and regional documents, retaining the integrity and public confidence in the District Plan.
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RMA

Overall, it is concluded that Option B, developing a new objective to compliment the existing objectives of the District Plan would be the most appropriate way to achieve the purpose of the RMA.

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

On the basis that the proposed objective, policies and rule are the most appropriate way to achieve the purpose of the RMA, these have been used for assessment of whether the policies, rules and methods are the most appropriate –

- 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.

In undertaking this analysis, “benefits” and “costs” are required to be considered. These benefits and costs can relate to economic, social or environmental benefits and costs. For example, in the case of “environmental” parameters, environmental benefits are positive environmental outcomes and environmental costs are adverse effects. Benefits and costs can be quantifiable or non-quantifiable. Benefits and costs of district plan provisions can be assigned to particular groups (e.g. private costs, public benefits) or shared. The evaluation of Section 32 matters must also examine the “efficiency” and effectiveness” of the methods of implementing the proposed plan change (i.e. how well the policies, rules and other methods work). Efficiency means the ease in which a mechanism can be implemented. Effectiveness means the ability of the mechanism to achieve the desired outcomes. The weighting of these factors is important in decision making during the section 32 process.

A combination of the existing and proposed policies, rules and methods are considered the most appropriate way to achieve the objectives, for the following reasons:

- Objective 3.4.4 for 'strategic management areas' relates to the protection of natural features and protecting the natural character of the landscape.
- The over-arching policies under Objective 10.2.1 in Part 10 – Heritage relate to identifying heritage resources and controlling development to preserve and protect heritage resources.

The plan seeks to add two new policies and rules for volcanic viewshafts, as follows:

Policies 10.8.2(1) & 7.14.2(2)

1. *Ensure that the overall contribution of the Hauraki Gulf's volcanic features to the landscape character of Auckland is maintained, including physical and visual connections to, and views between, the volcanic cones.*
2. *Avoid the introduction of buildings or structures within viewshafts defined on the planning maps and above the specified building heights in the Height Sensitive Areas to protect views to and between the maunga/volcanic cones.*

10.8.3 Rules for Volcanic viewshafts

10.8.3.1 Permitted activities

1. *Buildings and structures located within a volcanic viewshaft which breach the floor of the viewshaft but do not exceed the height of the HSA.*
2. *Additions or alterations to increase the height of existing buildings or structures within a volcanic viewshaft, which breaches the floor of the viewshaft but does not exceed the height of the HSA*

10.8.3.2 Non-complying activities

1. *Buildings and structures or any additions or alterations to existing buildings or structures within an HSA which exceeds the height of the HSA.*

Policy 10.8.2(1) recognises the importance of the Browns Island and Rangitoto to the Auckland landscape, and the importance of maintaining views to and between these features. Policy 10.8.2(2) outlines how this will be achieved through the introduction of volcanic viewshafts and Height Sensitive Areas. It is noted that any new structure on Rangitoto or Browns Island requires resource consent as a controlled activity under Rule 6.23.4.2 for additions, alterations and new buildings in the Conservation land Unit. Rule 10.8.3.2(1) proposes that any structure exceeding the height of a Height Sensitive Area is a Non-complying activity. It is noted that the

proposed Height Sensitive Area up to 6.5m underneath the proposed viewshafts will allow for additions and alterations to historic baches or DoC buildings, and for new buildings up to 6.5m as a permitted activity. This allows for a development within the viewshafts, whilst also retaining the landscape integrity and maintaining views to and between these features.

Overall, it is considered that the introduction of two new policies, identification of new permitted activities, and a new rule will compliment the existing district plan policies and rules to appropriately manage adverse effects on the viewshafts. These proposed provisions are the most efficient and effective means to achieve the district plan objectives and give effect to Change 8.

In order to evaluate whether the proposed modifications to the rules and methods (namely to introduce 8 new viewshafts for Rangitoto and 5 new viewshafts for Motukorea (Brown's Island), and new Height Sensitive Areas for the entirety of Rangitoto, Motukorea (Brown's Island) and part of Motutapu are the most appropriate, three options have been examined below:

- A. Do Nothing - do not afford protection to the new and amended viewshafts
- B. Change the policies, rules or methods and update the maps to reflect the new and amended viewshafts in the ARPS
- C. Other non-regulatory methods

Option	Benefits	Costs
Option A – Do Nothing	<ul style="list-style-type: none"> - There is no financial burden on Council to undertake a public plan change. - No additional controls and associated costs to owners and occupiers of properties located within the new or amended viewshafts. - The maximum building height for the Conservation Land Unit is set at 8. However, the height for the HGI Proposed Plan is set at 6.5m for the Conservation Land Unit, and this section of the plan is beyond challenge. This maximum height is the same as the proposed 6.5m Height Sensitive Area. 	<ul style="list-style-type: none"> - Not responding to the changes made by Change 8 to the ARPS would be contrary to section 75 of the Act which states that the district plan must give effect to the ARPS. - Although the Conservation Land Unit already has a 8m maximum building height (effectively 6.5m as the as the height limits for the Conservation Land Unit in the HGI Proposed Plan are have been through the appeals process and are now beyond challenge), not recognising the importance of regionally significant viewshafts in the district plan could increase the potential for these to be built out without regard to views to and between the volcanic cones. - Not protecting the outstanding natural features using the methods prescribed in the ARPS would be contrary to Part 2 and section 6 of the Act.
Option B – Change the policies,	<ul style="list-style-type: none"> - Increased protection to the Rangitoto and Browns Island volcanic cones through including 	<ul style="list-style-type: none"> - Costs associated with undertaking the plan changes and engaging in the public submissions and hearing

Option	Benefits	Costs
rules or methods and update the maps	<p>additional viewshafts gives greater certainty that the values of these cones will be recognised, conserved and enhanced.</p> <ul style="list-style-type: none"> - Increased protection could lead to economic and visitor benefits that could better enhance and maintain Auckland's iconic volcanic landscape. - The council aims to achieve World Heritage Status for the Auckland Volcanic field by 2020 (as set out in the Auckland Plan). Additional protection measures in the district plan would strengthen the chance of achieving this status. 	<p>process after notification, for the Council, land owners, other authorities and the wider public. Costs may also extend to appeals to the Environment Court.</p> <ul style="list-style-type: none"> - Landowners (in this case, either Doc or bach leasees) .would need to apply for resource consent for any works proposed to breach the volcanic view protection planes. Consent is already required for buildings in the Conservation Land Unit, and breaching the Height Sensitive Area and viewshaft would be considered as an additional reason for resource consent. - Rewriting the provisions may lead to confusion for plan users and applicants. - Baches being refurbished would be unable to exceed a height of 6.5m without resource consent as a non-complying activity.
Option C – Non regulatory methods	<ul style="list-style-type: none"> - Non-regulatory methods could include research, education, training, providing information and brochures to landowners. - The provision of information to property owners would allow them to make informed decisions and understand the nature and extent of views to the volcanic cones, which need to be preserved such that they voluntarily do not build out views of the cones. - Legal mechanisms such as land covenants could be employed to protect land underneath the volcanic viewshafts. - Land affected by the viewshafts is either in full control of DoC, or partial control through lease agreements with bach owners. Separate agreements could be entered into between Council and DoC to manage adverse effects of development, and to limit the height of buildings. 	<ul style="list-style-type: none"> - Consideration of such information would be at the owner's discretion and would not provide certainty of protection. - Legal mechanisms such as covenants on titles do not give a clear picture to the public as to the requirements and obligations of such an approach and are therefore less transparent.

Overall, it is concluded that Option B is the most appropriate way to achieve the objectives of the Plan and the purpose of the Act.

7.0 Conclusion

The purpose of Plan Change 56 is to introduce 8 new viewshafts for Rangitoto and 5 new viewshafts for Motukorea (Brown's Island), and new Height Sensitive Areas for the entirety of Rangitoto, Motukorea (Brown's Island) and part of Motutapu, as shown on planning map. The land beneath these viewshafts will be protected by the new objective and policies discussed in this report, and by Rule 10.8.3.2, which requires non-complying activity consent for new development exceeding 6.5m in height within the identified view protection planes.

The main conclusions of this evaluation under Part 2 and sections 31, 32, 72, 74, 75 and 76 of the RMA are summarised below:

- (a) Proposed plan change 56 is consistent with the purpose of the RMA in Part 5, namely to promote the sustainable management of natural and physical resources, and with the principles in sections 6, 7 and 8, within Part 2.
- (b) Plan change 56 assists the Council in carrying out its functions set out in section 31 of the RMA.
- (c) Plan change 56 gives effect to the objectives and policies of the Auckland Regional Policy Statement in accordance with section 75(3) of the RMA.
- (d) The evaluation undertaken in accordance with section 32 of the RMA concluded that:
 - (i) The introduction of a new objective relating to volcanic viewshafts to Part 10 – Heritage of the District Plan set out in Part 5 of this report is the most appropriate way to achieve the purpose of the RMA.
 - (ii) The proposed policies and rules (including changes to Planning Maps 26, 27, and 28 as set out in **Attachment B**) are the most appropriate means of achieving the objectives.
 - (iii) Having evaluated the alternatives, benefits and costs, the proposed plan change is the most appropriate means for achieving the purpose of the RMA, as it will help protect views of volcanic cones which a part of the Auckland area's iconic heritage landscape, while enabling people and communities to provide for their social, economic and cultural well-being.

Attachment A: Environment Court Consent Order for Change 8 to the Auckland Regional Policy Statement.

Attachment B: Proposed Plan Change 1 – Maps and text