

HGI Plan Review: section 32 report for the Commercial 3 (local shops) land unit

1.0 Executive summary

This report summarises the evaluation undertaken by the council of the commercial 3 (local shops) land unit in terms of section 32 of the Resource Management Act.

The main conclusions are that:

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

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

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

2.0 Introduction

2.1 Purpose of this report

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

2.2 Proposed plan provisions

The proposed plan provisions relate to resource management issues, objectives and policies, activity rules and development control rules within the commercial 3 (local shops) land unit.

This is a new land unit which mainly applies to former land unit 13 – retail areas in Waiheke located outside the main commercial locations of Oneroa and Ostend. It has also been applied in locations which have other existing land unit classifications but which operate in a retail capacity. Refer to section 2.5.2 of this report below, for further detail on the sites classified as commercial 3.

These provisions replace the operative plan provisions which are summarised in section 2.4 of this report below.

2.3 Land unit location and character

This land unit applies to the small scale neighbourhood shops on Waiheke at Surfdale, Onetangi, Rocky Bay, Palm Beach, Little Oneroa and Ostend. Land at Beatty Parade which is currently used for a range of semi-industrial uses (and classified as land unit 15 under the operative plan) has been classified as commercial 3 to provide for a more appropriate range of uses in an area surrounded by an island residential land unit.

These shops have a smaller scale than retail activities within the main commercial centres of Oneroa and Ostend, and generally service the retail requirements of the surrounding local community.

These shops play a role as a place where residents of the local community can meet and interact.

2.4 Operative plan provisions

This land is predominantly part of 'land unit 13 – Retailing' within the Operative Hauraki Gulf Islands District Plan 1996 (HGI plan). Land unit 13 is also applied to areas of Ostend, Onetangi and Surfdale in Waiheke.

Specific objectives, policies and rules apply to land unit 13. Subject to compliance with the development controls of the operative plan, new buildings or alterations and additions to existing buildings are permitted activities within this land unit. With the exception of community facilities, education centres, service stations and visitor facilities all activities are permitted within this land unit.

2.5 Consultation

This section of the report briefly outlines the consultation that the council has undertaken to date and identifies any issues raised of particular relevance to the commercial 3 (local shops) land unit.

2.5.1 Consultation to date

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

Initial consultation

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

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

Focus groups

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

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

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

Telephone survey

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

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

Consultation with other stakeholders

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

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

Public notification

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

2.5.2 Issues raised during consultation

The issues raised in consultation included:

- Surfdale shops area needing a tidy up
- commercial operations may be incompatible with residential areas – boundaries, green belts and separation required

Applying of land unit outside existing land unit 13 boundaries

As referenced in section 2.2 and 2.3 above, this land unit is applied to former land unit 13 – retail areas in Waiheke located outside the main commercial locations of Oneroa and Ostend. It includes small scale neighbourhood shops at Surfdale, Onetangi, Rocky Bay, Palm Beach, Little Oneroa and Ostend, some of which have a residential land unit applying to the sites under the operative plan.

Council has reviewed the effects resulting from the existing commercial activities which operate from four sites at 2-12 Beatty Parade, Surfdale. After considering the effects of these

activities on the surrounding island residential land units, the classification of these properties has been changed to commercial 3 (local shops) in the proposed plan.

Council has also applied the land unit to two sites which operate in a retail and restaurant capacity but which do not have a land unit 13 - retail classification under the operative plan. These sites are 2 Eden Terrace, Onetangi (which operates as a dairy) and 1 Fourth Avenue, Onetangi (Onetangi store) which operates as a restaurant and a dairy. Applying the commercial 3 (local shops) land unit to these sites will better reflect the existing activities operating on the site and the character and amenity of the locality.

An assessment, attached as **appendix A**, has been undertaken in regard to these matters.

3.0 Resource management issue and objectives

3.1 Issue

The significant resource management issue relevant to this land unit is:

How to enable small scale retail and restaurant opportunities outside the main commercial areas of Oneroa and Ostend without compromising the character and amenity of the surrounding residential areas.

3.2 Objectives

The objectives relevant to this land unit are:

- *To provide for small scale retail, and certain non retail activities, in close proximity to residential areas, to service the needs of local residents.*
- *To enable a vibrant, varied and safe retail environment within the land unit where the scale, form and location of buildings provides a high level of amenity.*
- *To ensure that any adverse effect of business activity on adjoining residential land units is avoided or mitigated.*

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

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

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

Section 72 states as follows:

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

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

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

The following provisions of section 76 are also relevant:

- (1) A territorial authority may, for the purpose of –
 - (a) Carrying out its functions under this Act; and
 - (b) Achieving the objectives and policies of the plan, - include rules in a district plan.
- ...
- (3) In making a rule, the territorial authority shall have regard to the actual or potential effect on the environment of activities, including, in particular, any adverse effect.

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

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

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

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

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

4.1.1 The purpose of the Act

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

- (2) In this Act, “sustainable management” means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while-
- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
 - (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
 - (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.

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

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

Section 6 of the RMA identifies matters of national importance, which need to be recognised and provided for in achieving the purpose of the Act.

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 particular relevance to the commercial 3 (local shops) land unit, are identified below:

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

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

4.1.2 Appropriateness in achieving the purpose of the Act

4.1.2.1 Objective 10a.13.3.1

To provide for small scale retail, and certain non retail activities, in close proximity to residential areas, to service the needs of local residents.

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

Specifically in regards to section 5 it enables people and communities to provide for their social and economic wellbeing by allowing for small scale neighbourhood shops within the land unit while avoiding, remedying or mitigating adverse effects on the environment.

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

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

- will allow people to provide for their day to day immediate retail and other commercial needs within close proximity to where they live. This will decrease the potential reliance on private motor vehicles to access these services.
- will restrict the type of non retail commercial activities that are provided for within the land to those which are sensitive to and compatible with the surrounding island residential land units.

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

4.1.2.2 Objective 10a.13.3.2

To enable a vibrant, varied and safe retail environment within the land unit where the scale, form and location of buildings provides a high level of amenity.

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

Specifically in regards to section 5 it enables people and communities to provide for their social and economic wellbeing by providing for small scale retail activity within the land unit while avoiding, remedying or mitigating adverse effects on the environment.

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

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

- will allow for a retail environment within the land unit which is easily accessible and has a high amenity value.
- recognises that the character of the land unit is strongly influenced by existing retail activities and is already highly modified.

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

4.1.2.3 Objective 10a.13.3.3

To ensure that any adverse effect of business activity on adjoining residential land units is avoided or mitigated.

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

Specifically in regards to section 5 it enables people and communities to provide for their social and economic wellbeing by allowing for appropriate business activity within the land unit while avoiding, remedying or mitigating adverse effects on the environment.

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

The objective meets clause (c) “*the maintenance and enhancement of amenity values*” and clause (f) “*maintenance and enhancement of the quality of the environment*” of Section 7 ‘Other Matters’ of the Act, because it:

- will ensure that commercial development does not compromise the character and visual or acoustic amenity of adjacent island residential or recreation land units or the quality of the environment.

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

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

The policies for the land unit are:

- *By providing for retail activities as permitted activities in the land unit.*
- *By providing for certain non retail activities, through a resource consent process, when the activity supports the primary retail function of the land unit, and services the needs of local residents.*

- *By requiring retail activities to locate on the ground floor to ensure an active and continuous retail frontage is maintained.*
- *By requiring, on sites which adjoin a road, that new buildings adjoin and face this road, to ensure an active and continuous retail frontage.*
- *By requiring verandahs to be provided as shelter for pedestrians.*
- *By adopting controls which limit development to that of a similar scale and intensity as that of adjacent residential activities.*
- *By requiring appropriate noise standards to be met at the interface between residential and business activity.*
- *By imposing additional controls on the location and size of buildings where they adjoin or face island residential or recreational land units.*

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

- clearly identify that retail activities are the primary uses expected within the land unit.
- identify through a permitted activity status that other specific non retail activities are appropriate within the land unit i.e. dwelling (one per site) (except for sites identified as contaminated land within the Beatty Parade) and educational facilities.
- allow buildings established in compliance with development controls to be constructed ‘as of right’.
- allow for restaurants, café’s and other eating places as restricted discretionary activities where traffic and noise generation effects and hours of operation are compatible with surrounding residential uses.
- provide for other commercial activities with greater potential generated effects as discretionary activities so that these effects can be assessed, for example boarding house, entertainment facilities, health care services, taverns etc.
- impose policies and rules which will maintain and enhance the character and amenity of the streetscape by requiring buildings to be built up to street boundaries, with verandahs and a retail frontage.
- impose policies and rules which improve the aural amenity value of different land uses within the land unit through applying noise controls between different activities within the land unit.
- protect and enhance the character and amenity of neighbouring island residential or recreation land units by:
 - requiring screening by a 1.8 metre high fence, wall or vegetation where an outdoor storage, refuse disposal area, service or parking area adjoins or directly faces a road or land that is classified as island residential or recreation.
 - require through the side and rear yard rule and the building in relation to boundary rule in part 10c of the plan that buildings located on sites which adjoin other sites classified as island residential or recreation to be setback from the boundary and be of a general residential scale.

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

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

4.2.1 Option 1

Option 1 is:

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

General comment

Section 73(1) of the RMA states:

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

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

Comment on bylaws

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

This section states:

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

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

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

General comment on covenants, voluntary agreements, education and advocacy

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

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

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

Benefits	Costs
<u>Environmental</u>	<u>Environmental</u>
Potential for a small proportion of environmental features i.e. indigenous vegetation to be protected through these methods.	Likely that the majority of environmental features would not be protected by these methods which would lead to an overall reduction in environmental quality.
<u>Social and Economic</u>	<u>Social and Economic</u>
Increase in variety of activities that can be undertaken within the land unit. Benefit to person undertaking development only.	Increase in legal fees for drafting up covenants and voluntary agreements.
Reduction in direct compliance costs for people wanting to undertake development as resource consent would not be required. Benefit to person undertaking development only.	Increase in public uncertainty about what activity could be undertaken within the land unit. Cost borne by the community generally.
Maximising of development potential and therefore potential for maximising profits on development. Benefit to person undertaking development only.	Increase in adverse visual, amenity, noise and traffic effects between different activities within the land unit. Cost borne by the community generally.
	Decrease in the character and amenity value of these areas as buildings and activities could be established contrary to urban design principles

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

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

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

The risk of acting or not acting

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

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

4.2.2 Option 2

Option 2 is:

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

Benefits	Costs
<u>Environmental</u>	<u>Environmental</u>
None	None
<u>Social and Economic</u>	<u>Social and Economic</u>
No resource consent required for any activity within the land unit with the exception of community facilities, education centres, service stations and visitor facilities which are listed discretionary activities. Time and monetary benefit to person proposing development as resource consent not required in most circumstances.	The policies and rules do not reflect the role of these areas as small scale local shops which service the surrounding local resident community.
Development controls which are generally understood by the community.	Activities which can produce adverse environmental effects on surrounding island residential areas i.e. taverns could be established 'as of right' within the land unit. Social cost to community generally.
	The policies and rules are unclear about the relationship of the land unit with adjoining island residential land units.
	The gross dwelling area rule, section 6.13.4.1B(a) is unnecessarily complicated and could be more clearly drafted. This rule states: <i>Any dwelling shall not have a gross dwelling area exceeding 10% of the lot area. The gross site area multiplied by the floor area ratio equals the permitted gross dwelling area. The floor area ratio shall be 0.8, provided that the gross dwelling area of any building, all or part of which is used as a dwelling or for residential purposes, and employing an on-site effluent disposal yard shall not exceed 10% of the total lot area.</i> There is also no definition of floor area ratio within the plan. Social and economic cost to people using the operative plan as meaning of rule unclear.

Overall, option 2 has no environmental, social or economic benefits and potential social and economic costs.

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

The risk of acting or not acting

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

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

4.2.3 Option 3

Option 3 is:

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

Benefits	Costs
<u>Environmental</u>	<u>Environmental</u>
	Maximising of development potential which could result in difficulty to dispose of stormwater and wastewater. Potential negative impacts on water quality and amenity.
<u>Social and Economic</u>	<u>Social and Economic</u>
Increase in variety of activities that can be undertaken within the land unit	Increase in public uncertainty about what activity could be undertaken within the land unit. Cost borne by the community generally.
Reduction in direct compliance costs for people wanting to undertake development within the area as resource consent would not be required. Benefit to person undertaking development only.	Increase in adverse visual, amenity, noise and traffic effects between different activities within the land unit and between residential uses on other adjoining land units. Cost borne by the community generally.
Maximising of development potential and therefore potential for maximising profits on development. Benefit to person undertaking development only.	Loss of the land units retail / commercial character as other activities develop. Cost borne by the community generally.

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

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

The risk of acting or not acting

Council has sufficient information on option 3 to make a decision on its effects.

The risk of acting on option 3 is that the costs identified above will eventuate. The risk of not acting is that either no method or another method will be utilised which will have greater environmental costs and / or greater social and economic costs on the community of the gulf.

4.2.4 Option 4

Option 4 is:

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

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

General comment on Benefits and Costs

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

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

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

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

The risk of acting or not acting

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

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

4.2.5 Option 5

Option 5 is:

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

Benefits	Costs
<u>Environmental</u>	<u>Environmental</u>
The building location rule which requires buildings to be built up to the street boundary will maximise development of street frontages of sites. This will provide an environmental benefit by encouraging walking through: <ul style="list-style-type: none"> o providing shelter to pedestrians o avoiding pedestrian and vehicle conflict o ensuring cars park at rear of sites 	Requiring buildings to adjoin the street frontage will remove the potential for landscaping of the front yard which will have a potential environmental cost and a potential negative impact on amenity.
<u>Social and Economic</u>	<u>Social and Economic</u>
The building location and retail frontage controls will have a social benefit to the community generally by: <ul style="list-style-type: none"> o providing shelter for pedestrians o providing visual interest and a vibrant and varied retail service area through requiring retail or restaurant activities at ground floor street frontage level and requiring 75% of frontage to contain display areas or windows 	The building location and retail frontage controls will impose a cost on land owners who wish to setback buildings from the street frontage as a resource consent would be required. Economic and time cost to land owner wishing to undertake development.
The screening rule will have a visual / amenity benefit to the community generally by requiring screening of any outdoor storage, refuse disposal area, service or parking area, where they adjoin or directly	The screening control will impose a monetary / economic cost to comply. Cost to developer / land owner.

Benefits	Costs
face a road or land classified as island residential or recreation, by a wall / fence or vegetation to a height of 1.8m.	
Buildings established in compliance with development controls can be constructed 'as of right'. Economic benefit to developers.	None
Providing for a wide variety of commercial uses as permitted activities encourages a vibrant and varied commercial environment. It also provides clarity about what development is considered as appropriate within the land unit. There is an economic and social benefit to people undertaking development and a social benefit to the community generally.	None
Providing for restaurants, café's and other eating places as a restricted discretionary activity allows them to be established within the land unit while ensuring that the traffic and noise generation effects and hours of operation are compatible with surrounding residential uses. Economic and social benefit to developers and community generally.	Imposes a monetary and time cost on people undertaking development.
Providing for other commercial uses as discretionary activities within the land unit allows these type of activities which generally generate greater effects to be carefully considered by council and potentially the community. Social benefit to community generally.	Imposes a monetary and time cost on people undertaking development.
Impose a noise control in table 10c.2 of the plan which is: <ul style="list-style-type: none"> ○ 55dBA Monday to Saturday 7am to 10pm and Sunday 9am to 6pm. ○ 45dBA at all other times including public holidays (night time) This is 5dBA more than the level applied during the day and 10dBA more than the level applied at night in the operative plan. This was necessary because: <ul style="list-style-type: none"> ○ these noise levels reflect the existing noise environment for commercial activities within the land unit ○ the previous levels were onerous and a permitted activity within the land unit could have found it difficult to comply. ○ the proposed levels will provide a level of control which will protect the acoustic amenity of adjacent island residential land units. This noise control will allow for commercial	These noise controls will place a financial / economic cost on developers to ensure compliance. Economic and time cost to land owner wishing to undertake development.

Benefits	Costs
activities to operate within the land unit without compromising the acoustic amenity of other activities within the land unit or adjoining residential activity in adjoining land units. Benefit to the community generally.	
Development controls within table 10c.2 of the plan are consistent with the table 1 – standards for permitted activities within part 6b of the operative plan. Therefore these controls are readily understood by the community. Benefit to the community generally.	None

General comment on Benefits and Costs

This option will have strong environmental, social and economic benefits while having limited costs to people proposing development. Therefore option 5 is the most effective or efficient method of addressing the issues within the land unit and consequently is not the most appropriate method of achieving the objectives.

The risk of acting or not acting

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

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

4.2.6 Conclusion

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

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

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

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

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

- o achieve integrated management of the use and development of the land unit

- provide for retail and employment opportunities within these areas in a manner which protects the character and amenity of adjoining island residential land units.
- adequately control the actual and potential effects of the use and development of land within the land unit
- after assessing other options, and the benefits and costs associated with them, the proposed objectives, policies and rules are the most appropriate way to achieve the purpose of the Act.

5.0 National planning documents

5.1 National and NZ coastal policy statements

Section 75(3) of the RMA states:

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

The objectives, policies and rules of the land unit give effect to policies 3.2.2, 3.2.4 and 3.2.5, of the New Zealand Coastal policy Statement (1994), attached as **appendix B** by:

- requiring development to be of a scale, form and location which will ensure a positive streetscape and a high level of amenity is achieved.
- recognising that this land unit is already highly modified and has a strong commercial character
- recognising this land unit in Surfdale, Rocky Bay, Palm Beach and Little Oneroa is located in close proximity to 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 objectives, policies and rules of the land unit give effect to sections 7 and 8 of the HGMPA for the reasons identified in section 5.1 above and because they:

- provide for the social, economic and recreational, and cultural well-being of the people of Waiheke
- use the resources of the Gulf by the people and communities of the Gulf and New Zealand for economic activities and recreation:

6.0 Regional planning documents

6.1 Regional policy statement

Section 75(3) of the RMA states:

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

The objectives, policies and rules of the land unit give effect to objectives 7.3.(1) and (3) and policies and methods 7.4.10 and 7.4.25 in the coastal environment section of the Auckland Regional Policy Statement for the reasons identified in section 5.1 above and because:

- they recognise that the land unit is already highly modified
- they do not compromise the character or amenity of the coastal environment

In addition, it gives effect to objective 4.3(1) of the transport section and objective 5.3 of the energy section of the Auckland Regional Policy Statement because applying this land unit in Waiheke will mean that residents of Waiheke will be able to provide for their immediate retail and other commercial needs i.e. shopping, restaurant etc without travelling to the main retail centres in Oneroa or Ostend or off the island. It also provides employment opportunities on the islands which reduces the potential for commuting into Auckland for work.

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

6.2 Regional plan

Section 75 (4) of the RMA states:

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

The objectives, policies and rules of the land unit are not relevant to, and not inconsistent with, the:

- Auckland Regional Plan: Coastal,
- Auckland Regional Plan: Air, Land and Water,
- Auckland Regional Plan: Sediment Control
- Auckland Regional Plan: Farm, Dairy Discharges

This is because:

- the land unit is generally located removed from the coastal environment. Where the land unit is located within the coastal environment rules will ensure that the character and amenity of the coastal environment is protected.
- any potential effects of business activity within the land unit associated with the air, land and water plan are controlled by the Auckland Regional Council
- there are separate earthworks controls within part 10c of the plan
- the land unit does not apply to farms or dairy discharges

7.0 Other documents

7.1 Essentially Waiheke

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

The five central principles of Essentially Waiheke are:

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

The objectives, policies and rules of the land unit are consistent with these five central principles and the underlying aims, strategies and actions within the document. Most specifically the principles of economic development and employment apply as this land unit allows for a variety of business to operate and employs residents of Waiheke.

8.0 Procedures for monitoring

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

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

9.0 Conclusions

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

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

- the objectives are the most appropriate way to achieve the purpose of the Act as set out in section 5, 6, 7 and 8
- overall, the environmental, social and economic benefits of having the proposed objectives, policies and rules within the plan outweighs any costs which may result. Therefore these methods are the most effective and efficient method of addressing the issues within the land unit and consequently are the most appropriate method of achieving the objectives.

- the proposed objectives, policies and rules will allow council to carry out its functions under section 31, 72 and 74(1) of the act.
- the methods are consistent with the statutory national and regional planning documents, other acts and non statutory documents including:
 - New Zealand Coastal policy Statement
 - Hauraki Gulf Marine Park Act 2000
 - Auckland Regional Policy Statement
 - Essentially Waiheke – A Village and Rural Communities Strategy
- the methods are not relevant to, and not inconsistent with any Auckland Regional Plan.

Appendix A

Land unit boundaries

Applying Commercial 3 (Local Shops) Land Unit to parts of Beatty Parade, Surfdale

1.0 Introduction

Council has reviewed the effects resulting from the existing commercial activities which operate from four sites at 2-12 Beatty Parade, Surfdale. After considering the effects of these activities on the surrounding island residential land units, these properties have been reclassified to commercial 3 (local shops) under the proposed plan.

2.0 Assessment

These sites are:

- 2-6 Beatty Parade – owned by Subritzky Limited – use: garage and truck storage
- 8 Beatty Parade – owned by Florasouth Holdings Limited – use: timber products
- 10 Beatty Parade – owned by Davies and Dudding – use: concrete manufacture and office
- 12 Beatty Parade – owned by Poppelwell – use: Surfdale Motors

Council considers that it is appropriate to apply a commercial 3 (local shops) land unit to these sites for the following reasons:

- the type of activity able to establish within an industrial land unit is incompatible with, and has potential adverse effects on, the character and amenity of the existing residential uses which operate on surrounding sites. These surrounding sites have a proposed island residential 2 (bush residential) land unit applying to them.
- the scale and intensity of effects (i.e. noise, traffic generation, visual effects) of the existing activities operating on the site are incompatible with, and have adverse effects on, the character and amenity of the surrounding island residential 2 (bush residential) land unit.
- applying this land unit to these sites will provide direction for what council considers as the appropriate future type of development of these sites. The activities listed in the activity table as permitted, restricted discretionary or discretionary are those which are considered as potentially appropriate within these locations.
- the land unit recognises that dwellings can be established on these sites but only after the sites identified as contaminated or potentially contaminated on the planning maps are appropriately remediated.

Aerial of 2-12 Beatty Parade



Photograph of Beatty Parade sites



Beatty Parade streetscape



Beatty Parade streetscape



Applying Commercial 3 (Local Shops) Land Unit to two sites in Onetangi

1.0 Introduction

Council has assessed the appropriateness of applying the commercial 3 (local shops) land unit to the sites at 2 Eden Terrace, Onetangi and 1 Fourth Avenue, Onetangi and has concluded that these sites should have this land unit classification.

Aerials and photographs of these sites are attached as part 3 of this assessment below.

2.0 Assessment

The reasons for applying a commercial 3 (local shops) land unit to the sites at 2 Eden Terrace, Onetangi and 1 Fourth Avenue, Onetangi are that:

- the sites currently operate businesses which are consistent with this land unit classification.
 - 1 Fourth Avenue (Onetangi Store) operates a restaurant and a dairy
 - 2 Eden Terrace operates as a dairy
- these activities are consistent with and complimentary to existing activities on neighbouring sites. For example the Onetangi service station at 24 Onetangi Road is located diagonally opposite 2 Eden Terrace.
- both sites are located adjoining busy roads which contain relatively high traffic volumes. Passing traffic will support and be complimentary to commercial activity within these sites because they are potential customers for existing and proposed retail / commercial activities.
- these activities will service the retail requirements of residents and visitors to Onetangi.
- the amenity of adjoining island residential land units will be protected by yard, building in relation to boundary, screening and noise controls within the plan.

3.0 Photographs

Aerial - 2 Eden Terrace, Onetangi, Waiheke



Aerial - the Onetangi Store - 1 Fourth Avenue, Onetangi



Photograph - the Onetangi Store - 1 Fourth Avenue, Onetangi



Appendix B

New Zealand Coastal Policy Statement (1994)

Appendix C

Hauraki Gulf Marine Park Act 2000

Section 7 states as follows:

Recognition of national significance of Hauraki Gulf

- (1) The interrelationship between the Hauraki Gulf, its islands, and catchments and the ability of that interrelationship to sustain the life-supporting capacity of the environment of the Hauraki Gulf and its islands are matters of national significance.
- (2) The life-supporting capacity of the environment of the Gulf and its islands includes the capacity—
 - (a) to provide for—
 - (i) the historic, traditional, cultural, and spiritual relationship of the tangata whenua of the Gulf with the Gulf and its islands; and
 - (ii) the social, economic, recreational, and cultural well-being of people and communities:
 - (b) to use the resources of the Gulf by the people and communities of the Gulf and New Zealand for economic activities and recreation:
 - (c) to maintain the soil, air, water, and ecosystems of the Gulf

Section 8 states as follows:

Management of Hauraki Gulf

To recognise the national significance of the Hauraki Gulf, its islands, and catchments, the objectives of the management of the Hauraki Gulf, its islands, and catchments are—

- (a) the protection and, where appropriate, the enhancement of the life-supporting capacity of the environment of the Hauraki Gulf, its islands, and catchments:
- (b) the protection and, where appropriate, the enhancement of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments:
- (c) the protection and, where appropriate, the enhancement of those natural, historic, and physical resources (including kaimoana) of the Hauraki Gulf, its islands, and catchments with which tangata whenua have an historic, traditional, cultural, and spiritual relationship:
- (d) the protection of the cultural and historic associations of people and communities in and around the Hauraki Gulf with its natural, historic, and physical resources:
- (e) the maintenance and, where appropriate, the enhancement of the contribution of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments to the social and economic well-being of the people and communities of the Hauraki Gulf and New Zealand:
- (f) the maintenance and, where appropriate, the enhancement of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments, which contribute to the recreation and enjoyment of the Hauraki Gulf for the people and communities of the Hauraki Gulf and New Zealand.

Appendix D

Regional Policy Statement