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## Report and recommendations on submissions to the Auckland City District Plan: Hauraki Gulf Islands Section – Proposed 2006

**Topic: Commercial 4 (visitor facilities)**

**Report to: The council**

**From: The chairperson, hearings panel**

**Date: 27 March 2009**

**Group file: 314/274016-004**

### 1.0 Introduction

This report considers submissions and further submissions ('submissions') that were received by the council in relation to Commercial 4 (visitor facilities) of the Auckland City District Plan: Hauraki Gulf Islands Section - Proposed 2006 ('the Plan').

This report provides an analysis of the decisions requested in submissions and the supporting evidence presented at the hearings on this matter. The report recommends whether each submission should be accepted or rejected (in full or in part) and what amendments (if any) should be made to the Plan to address matters raised in submissions. Further submissions are not specifically addressed but are dealt with in conjunction with the submissions to which they relate.

### 2.0 Statutory framework

This section of the report briefly sets out the statutory framework within which the council must consider the submissions. In preparing this report the submissions and, in particular, the decisions requested in the submissions, together with the supporting evidence presented at the hearing, have been considered in light of the relevant statutory matters. These were summarised by the Environment Court in *Eldamos Investments Limited v Gisborne District Council* W047/05 where the court set out the following measures for evaluating objectives, policies, rules and other methods in district plans:

1. The objectives of the Plan are to be evaluated by the extent to which they:
  - a. Are the most appropriate way to achieve the purpose of the RMA (s32(3)(a)); and
  - b. Assist the council to carry out its functions in order to achieve the purpose of the RMA (s72); and
  - c. Are in accordance with the provisions of part 2 of the RMA (s74(1)).

2. The policies, rules, or other methods in the Plan are to be evaluated by the extent to which they:
  - a. Are the most appropriate way to achieve the objectives of the Plan (s32(3)(b)); and
  - b. Assist the council to carry out its functions in order to achieve the purpose of the RMA (s72); and
  - c. Are in accordance with the provisions of part 2 of the RMA (s74(1)); and
  - d. (If a rule) achieve the objectives and policies of the Plan (s76(1)(b)).

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. Those matters are also relevant when considering submissions.

The Plan must assist the council to carry out its functions under section 31 of the RMA. These functions are:

- “(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, including for the purpose of—
  - (i) the avoidance or mitigation of natural hazards; and
  - (ii) the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances; and
  - (iia) the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land;
  - (iii) the maintenance of indigenous biological diversity:
- (c) ...
- (d) The control of the emission of noise and the mitigation of the effects of noise:
- (e) The control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes.”

In addition to the matters listed above from the Eldamos decision:

1. The Plan must “give effect to” any national policy statement and any New Zealand coastal policy statement (s75(3)(a) and (b)).
2. The Plan must “give effect to” the regional policy statement (made operative after 10 August 2005) (s75(3)(c)).
3. The Plan must be “not inconsistent with” any regional plan (s75(4)).
4. The council must ensure that that the Plan does not conflict with sections 7 and 8 of the Hauraki Gulf Marine Park Act 2000 (“the HGMPA”). Section 10 of the HGMPA requires that sections 7 and 8 of that Act be treated as a New Zealand coastal policy statement under the RMA.

### 3.0 Background

This section of the report sets out background information about the topic under consideration. It identifies how the Plan deals with Commercial 4 (visitor facilities).

“This land unit applies to specific properties in Onetangi, Palm Beach, and Orapiu in Waiheke. The character of the land unit is varied although it is generally located close to the coast and residential areas.

The current activities within the land unit include holiday accommodation, dwelling, hotel, restaurant and bar activities.

Overall, the purpose of the land unit is to provide for larger scale visitor facilities within specific locations on Waiheke.”

“The resource management strategy and purpose for the land unit is to provide for visitor facilities while ensuring that adjoining residential uses and the natural environment are not detrimentally impacted.

The land unit provides for three different forms of visitor facilities or holiday accommodation. These are camping facilities, visitor accommodation and tourist complexes.

These facilities vary in scale and intensity with camping facilities having a generally low intensity (providing for camping and caravan activities), visitor accommodation having a medium intensity (including motels, hotels and backpackers) and larger intensity tourist complexes which allow for visitor accommodation and dining, bar and function facilities.

The purpose of the land unit is to specifically provide for visitor facilities, therefore in order to protect the purpose of the land unit, dwellings are a non-complying activity.”

## 4.0 Analysis of submissions

### 4.1 Introduction

This section of the report discusses the decisions requested in submissions about Commercial 4 (visitor facilities) and recommends how the council should respond to the matters raised and decisions requested in submissions. The submissions are addressed under subject headings. While the relevant statutory matters (identified in section 2.0 of this report) will not necessarily be referred to directly, the discussion and recommendations have given appropriate consideration to these and any other relevant matters.

Evidence presented at the hearing is directly referred to in this report where the panel believes it is of particular assistance in understanding the decision requested or the reasons for the panel’s recommendation. These references are not intended to be exhaustive, and some evidence presented at the hearing may not be directly referred to in this report. However in reaching its recommendations the panel has considered all submissions, any written or verbal evidence presented in support of those submissions and the council planner’s report.

A list of the submissions considered in this report together with the related further submissions is contained in **appendix 1** of this report. Any amendments to the Plan recommended in response to submissions are identified in this section of the report and are further detailed in **appendix 2** of this report.

### 4.2 Submission about general matters relating to the Commercial 4 (visitor facilities) land unit

**Submission dealt with in this section:** 2551/1, 3061/88, 3182/1, 3183/1,

#### 4.2.1 Decision requested

Submission 2551/1 seeks that tourist activities be continued as currently allowed for in commercial 4 (visitor facilities).

Submission 3061/88 states that the commercial 4 land unit should not contain provisions which permit development / subdivision that is contrary to maintaining the essential character and heritage of the island and the type, style and scale of buildings recognised within that character and island scale in particular.

Submission 3182/1 supports clause 10a.4.5 which makes all activities other than camping facilities and visitor accommodation as restricted discretionary or discretionary activities.

Submission 3183/1 seeks that the screening provisions used in other commercial land units be included in clause 10a.14.6 Rules – development controls.

## **4.2.2 Panel’s analysis and recommendations**

### **4.2.2.1 Submission 2551/1 – tourist activities**

The panel recommend that submission 2551/1 be accepted so far as it supports the provisions of the commercial 4 land unit.

### **4.2.2.2 Submission 3061/88 – provisions within Commercial 4 land unit**

The panel note that the provisions under clause 10a.14 commercial 4 (visitor facilities) identify the characteristics of the land unit as being specific properties which are generally located close to the coast and residential areas which provide for larger scale visitor facilities. The objectives and policies within this clause seek to ensure that the needs of the tourist population on Waiheke are met and to ensure that any adverse effects from visitor facilities on adjacent land units or the coast are avoided or mitigated.

The key resource management strategies within the land unit are to provide for visitor facilities while ensuring that the adjoining residential uses and the natural environment are not detrimentally impacted. The land unit provides for camping facilities, visitor accommodation and tourist complexes, all of which have varying scales and intensities which need to be catered for within the land unit. Dwellings are considered a non-complying activity within the land unit. This status has been given in order to protect the purpose of the land unit.

The submitter attended the hearing but did not speak on this matter in particular and it is not clear to the panel what amendments are sought by the submitter. It is considered by the panel however, subject to any amendments recommended in this report, that the land unit rules provide for an appropriate level of development. The panel note that buildings are restricted discretionary which allows the Council to consider the scale, form, colour and location of any new buildings.

It is therefore recommended by the panel that the submission be rejected.

### **4.2.2.3 Submission 3182/1 – Activity table**

The panel recommend that submission 3182/1 be accepted in that it specifically supports the content of clause 10a.4.5 Rules – activity table.

### **4.2.2.4 Submission 3183/1 – screening provisions**

The submitter seeks that the screening provisions used in other commercial land units are applied to commercial 4 also. The panel consider that the submitter makes a valid point in

that the activities contained within the commercial 4 land unit can equally contain storage and parking areas which require screening from island residential and recreational land units as commercial activities and other land units.

The panel therefore recommend that the following wording be added to clause 10a.14.6

#### **10a.14.6.1 Screening**

Where any outdoor storage, refuse disposal area, service or parking area adjoins or directly faces a road or land that is in an island residential or recreation land unit, such areas must be screening from the road or the island residential or recreation land by:

1. A solid wall or fence not less than 1.8m in height built of concrete, brick, stone, timber or other solid material; or
2. Densely planted indigenous vegetation which is capable of reaching a minimum of 1.8m in height and will screen the area throughout the year.

#### **Explanation**

Imposing a screening control on common boundaries between these areas can lessen the amount of noise, dust, glare and litter spreading from the generating site. It reduces the visual impact of unsightly areas of storage and parking, and can establish a sense of privacy from visual and physical intrusion.

The submitter came to the hearing and spoke further to the overall submission but did not address this matter specifically. It is recommended by the panel that the submission be accepted and that the above wording be inserted into clause 10a.14.6.

### **4.3 Submissions about dwellings and manager's accommodation**

**Submissions dealt with in this section:** 47/1, 81/1, 153/1, 518/20, 753/26, 821/29, 836/17, 1091/1, 1190/25, 1264/1, 1264/2, 1264/3, 1264/4, 2584/1, 3549/1,

#### **4.3.1 Decisions requested**

Submissions 47/1, 81/1, 153/1, 2584/1, 3549/1 seeks that dwellings be provided for as a permitted activity within the land unit

Submission 1264/1 seeks changes to the objectives and policies to provide for dwellings within the land unit

Submissions 1264/2 seeks that the resource management strategy be reworded to provide for dwellings as a controlled activity within the land unit

Submission 1264/3 seeks that dwellings be provided for as a controlled activity within the land unit

Submissions 1091/1 seeks that dwellings be provided for as a restricted discretionary activity within the land unit

Submissions 518/20, 753/26, 821/29, 836/17, 1190/25 seeks that the land unit provide for dwellings or managers accommodation within the land unit

Submission 1264/4 seeks to include a special exemption for dwellings on lots 2-5 (being subdivision of Lot 3 DP 211567, 20 Third Ave, Onetangi) as a controlled activity.

### 4.3.2 Panel's analysis and recommendations

#### 4.3.2.1 Submissions 47/1, 81/1, 153/1, 1091/1, 1264/1, 1264/2, 1264/3, 2584/1, 3549/1 – dwellings as a permitted activity

All of the above submissions seek the inclusion of dwellings within the land unit to a varying degree. Manager's accommodation will be considered later under section 4.3.2.2 below.

The panel acknowledge that the overall purpose of the land unit is to provide for larger scale visitor facilities within specific locations on Waiheke.

The panel notes that only a limited number of sites are classified as commercial 4 (visitor facilities) and the majority of the sites in the land unit are already developed and are used to meet the needs of the tourist population.

Clause 10a.14.2(2) outlines that one of the resource management issues within the land unit is how to ensure that development is restricted to visitor facility activities only and does not include permanent dwellings. The panel note that this issue is recognised through the objectives and policies under clause 10a.14.3.1 which seek to provide for visitor facilities to service the needs of tourists to Waiheke and by not providing for dwellings within the land unit.

While the panel acknowledge that there are several land units within the Proposed Plan which provide for visitor accommodation, it is considered that this land unit specifically recognises the important role that large scale visitor facilities have due to the importance of the income generated through tourism to the island.

A number of the submitters attended the hearings and spoke further on this matter. The panel consider that due to the limited number of sites, and the role that large visitor facilities have on the island, it is not appropriate to provide for dwellings within the land unit. The panel considers that the residential land units on the island adequately provide for residential dwellings, along with the other land units where dwellings are considered appropriate and are provided for. Therefore it is not considered by the panel necessary, to provide for dwellings within the commercial 4 (visitor facilities) land unit.

The panel therefore recommends that the above submission be rejected.

#### 4.3.2.2 Submissions 518/20, 753/26, 821/29, 836/17, 1190/25 – managers accommodation

The above submissions seek that dwellings or managers accommodation be provided for within the land unit.

The panel note that other submissions to the Plan (i.e. submissions 1266/1 and 1266/2) seek alteration to the definitions of visitor accommodation and tourist complex to include manager's accommodation. These submissions are addressed in the decision report on Part 14 – Definitions but the panel notes that the matters raised are relevant to this part of the Plan.

Visitor accommodation is defined in part 14 as follows:

**“Visitor accommodation** means land or buildings used for the day to day accommodation of tourists and short-stay visitors away from their normal place of residence.

It may include shared or centralised services for the tourists or visitors such as kitchen and dining facilities, toilet and washing facilities, and recreational and bar facilities.

It includes any of the following:

- motels and hotels
- backpacker lodges
- serviced rental accommodation for visitors that is offered at a daily tariff or with a pricing structure that is consistent with short stay accommodation
- timeshare accommodation.

It may include premises licensed under the Sale of Liquor Act 1989.

It does not include any of the following:

- the letting of dwellings
- homestays
- boarding houses and hostels
- camping facilities
- taverns
- restaurants, cafes and other eating places except where these are limited to the use of people staying in the accommodation and their guests.

It may form part of a tourist complex.”

In response to submissions 1266/1 and 1266/2 the panel note that the decision report for part 14 – definitions recommends that the definition of visitor accommodation be amended and that a new fourth paragraph is inserted as follows:

“ ...

It may include premises licensed under the Sale of Liquor Act 1989.

Where the visitor accommodation provides for more than 10 people, it may include on site accommodation for a manager and the manager's family. Any on site accommodation for a manager and the manager's family must form an integral part of the visitor accommodation.

It does not include any of the following:

...”

Tourist complex is defined in part 14 as follows:

“**Tourist complex** means land or buildings which are used for the day to day accommodation of tourists and short-stay visitors away from their normal place of residence.

It includes visitor accommodation in association with one or more of the following:

- function facilities
- taverns
- restaurants, cafe and other eating places
- entertainment facilities

without limiting the use of such facilities to people staying in the complex.

It may include premises licensed under the Sale of Liquor Act 1989.

It does not include:

- camping facilities; or
- boarding houses or hostels.”

The panel recognise that the definition of tourist complex is directly related to the definition of visitor accommodation. Therefore manager's accommodation will also be provided for as part of a tourist complex as a result of the above recommended amendments.

The panel consider that the alterations to the definition of visitor accommodation will address part of the request of submissions 518/20, 753/26, 821/29, 836/17, 1190/25 as it provides for manager's accommodation within the definition of visitor accommodation.

As discussed in Section 4.3.1 above, the panel consider that dwellings should not be provided for in the land unit.

It is therefore recommended by the panel that the submission above be accepted in part to the extent that it is met by providing for manager's accommodation within the definition of visitor accommodation. The panel consider that this change satisfactorily provides for managers accommodation and therefore no other alterations are necessary to give effect to this part of the submission.

#### **4.3.2.3 Submission 1264/4 – exemption for dwellings at 20 Third Ave, Onetangi**

The submission seeks a special exemption for dwellings on lots 2-5 (being subdivision of lot 3 DP 211567, 20 Third Ave, Onetangi) as a controlled activity.

As discussed in sections 4.3.2 and 4.3.2.2 above, the panel consider that dwellings are not considered suitable for inclusion within the commercial 4 (visitor facilities) land unit as the primarily focus is to provide for larger scale visitor facilities to service the needs of the tourist population who visit Waiheke.

The submitter attended the hearing and spoke further on this matter. The panel consider that allowing a special exemption for the only part of the land unit which is yet to be developed does not meet with the objectives and policies outlined in the land unit which aim to provide for visitor accommodation for tourists and not permanent accommodation such as dwellings.

It is therefore recommended that the submission is rejected and that no special exception for dwellings be made within the land unit.

## **4.4 Submissions about the activity status for visitor accommodation**

**Submissions dealt with in this section:** 2631/2, 2631/3, 2631/5

### **4.4.1 Decisions requested**

Submission 2631/2 requests amendment to the land unit to state that visitor accommodation is a discretionary activity.

Submission 2631/3 seeks that visitor accommodation within the commercial 4 land unit be subject to the usual requirements for public notification under sections 93 and 94 of the RMA.

Submission 2631/5 seeks to amend clause 10a.14.3 to state that the visitor accommodation and tourist complexes are a discretionary activity in commercial 4 to ensure that the adverse effects of such activities, particularly effects on residential neighbours, can be appropriately avoided, remedied or mitigated.

### **4.4.2 Panel's analysis and recommendations**

The Plan currently allows visitor accommodation within the land unit as a permitted activity. The panel notes that the majority of buildings existing within the land unit are used for visitor accommodation and activities associated with a tourist complex with the exception of 2 dwellings and an area of vacant land.



The submitter attended the hearing and spoke further to the submission. The submitter was concerned that the potential effects of visitor accommodation were not addressed through the permitted status of the activity. The panel note that the overall purpose of the land unit is to provide for larger scale visitor facilities and therefore the panel consider that the permitted activity status of visitor accommodation reflects the purpose of the land unit.

The panel note that the construction of a new building and the exterior additions and alterations to an existing building are activities which have been provided for as restricted discretionary within the Plan.

Therefore the panel consider that the alteration of any of the buildings currently existing within the land unit to visitor accommodation is unlikely to result in adverse effects on the neighbouring properties as the buildings already exist.

The panel consider that if external additions and alterations to existing buildings were proposed, any adverse effects of these alterations would be addressed in the required restricted discretionary resource consent application.

Likewise, any construction of new buildings on the vacant land is subject also to a restricted discretionary resource consent and adverse effects of the construction would be addressed here. Intensity and scale, traffic generation, noise, cumulative effects and infrastructure constraints etc are all matters for which Council has reserved its discretion.

Development controls contained within Part 10c of the Plan apply to all activities, regardless of their activities status and relate to the scale, form and intensity of buildings and the resulting effects on the environment, as well as conservation and amenity issues. The infringement to one or more development controls is a discretionary activity and would therefore require resource consent.

The panel therefore considers that as there has been no inclusion of new areas within the land unit and that all new buildings and external additions and alterations require resource consent, allowing for visitor accommodation as a permitted activity within the land unit is acceptable and changing the status of the activity to discretionary is not required.

It is therefore recommended by the panel that submissions 2631/2, 2631/3 and 2631/5 be rejected

## **4.5 Submissions about the Isola Estate development**

**Submissions dealt with in this section:** 1150/1, 1250/51, 1250/57, 3805/3

### **4.5.1 Decisions requested**

Submission 1150/1 seeks to ring fence the Isola property and re classify it as Commercial 4

Submission 1250/51 seeks that there be no new commercial 4 sites designated from that which already exist in the Operative Plan and that there is no expansion of the current boundaries of the land unit with the exception that land where the Isola development is located be included.

Submissions 1250/57 and 3805/3 seek to reclassify the land on which the Isola development is situated as commercial 4 with no additional development opportunity

## 4.5.2 Panel's analysis and recommendations

The submissions seek that the Isola property be removed from its current classification within the rural 1 land unit and that it be included in the commercial 4 (visitor facilities) land unit.

The panel notes that resource consent has been granted on the Isola property (located at 74 and 78 Onetangi Rd) for a 400-seat theatre ('events centre') and visitor accommodation in the form of a boutique hotel of 52 units. The development as a whole would fit within the definition of "tourist complex". The proposal was initially declined by the Council but received consent on appeal to the Environment Court on 1st June 2006.

The rural 1 land unit includes special provision for the 'Onetangi Road area' stretching north along a portion of Onetangi Rd (shown on figure 10a.2 in the Plan). It is recognised that this area of the land unit differs in that it contains activities that may be considered 'non-rural' in their character, such as tourist complexes. The Isola property is located within this defined area.

Within the 'Onetangi Road area', provision has been made for certain activities that are not considered appropriate in the rest of the land unit, including:

- Entertainment facilities
- Function facilities
- Restaurant, café and other eating places
- Tourist complex
- Winery

The panel notes that there is a requirement for all buildings within the 'Onetangi Road area' to be set back at least 100m from the road boundary.

All the above activities have been given a discretionary activity status within the 'Onetangi Road' area.

The submissions suggest that the Isola Estate properties would be more suitably classified if they were included within the commercial 4 (visitor facilities) land unit. It is recognised that the sites could be considered for inclusion in the commercial 4 land unit as this land unit specifically provides for larger scale visitor facilities within specific locations on Waiheke. Other sites that are included within the commercial 4 land unit include properties at Onetangi, Palm Beach and Orapiu. The properties at Orapiu and Palm Beach are established visitor facilities while the sites in Onetangi are yet to be development.

The 'Onetangi Road' area of the Proposed Plan is recognised by the panel to provide for activities which are potentially higher in intensity than other activities within the land unit. There have been no additional sites provided in the commercial 4 (visitor facilities) land unit from what was contained in the Operative Plan and therefore the panel recognise that the activities provided for within the 'Onetangi Road' area, play a key role in providing for the growing tourism demands of the island and have not been provided for elsewhere in the Plan.

It is considered that horticulture and other rural activities undertaken are key to ensuring the rural character of the rural 1 land unit is maintained and protected and the 'Onetangi Road' area of the land unit is no exception to this. The panel acknowledge that the Plan has recognised that the 'Onetangi Road' area can support more intensive, non-rural use of the land, due to the larger scale of the properties, while maintaining the open nature and rural character of the land unit.

The panel do not consider that the Isola Estate development should be included in the commercial 4 (visitor facilities) land unit and therefore it is recommended that the submission be rejected.

## **4.6 Submission about reclassification of 15 Anzac Road, Orapiu**

**Submission dealt with in this section:** 1091/2

### **4.6.1 Decisions requested**

Submission 1091/2 seeks to reclassify the flat land and lower adjoining slope parts of 15 Anzac Road, Orapiu (Orapiu lodge) from landform 5 (productive land) to commercial 4 (visitor facilities)

### **4.6.2 Panel's analysis and recommendations**

Currently the property known as 15 Anzac Road, Orapiu is classified as commercial 4 (visitor facilities), landform 5 (productive land) and landform 7 (forest and bush areas).

The panel note that the property has an established use as a self-catering holiday lodge within the area classified in the commercial 4 (visitor facilities) land unit. The submission is seeking to reclassify the flat land and lower slope parts of the property within the commercial 4 land unit to provide for the extension of the tourist accommodation.

The reclassification on the site involves land currently classified as landform 5 (productive land). It is noted by the panel that visitor accommodation is provided for as a permitted activity within landform 5 (productive land) for up to 10 people and as a discretionary activity for more than 10 people.

The panel recognise that should the owners of the property wish to extend their current visitor accommodation facilities into the area currently classified as landform 5, they could do so through the resource consent process. The panel also note that if the land was reclassified to commercial 4, visitor accommodation would be a permitted activity for any number of guests.

The purpose of commercial 4 (land unit) is to provide for larger scale visitor facilities. It is not clear whether larger scale visitor facilities would be appropriate on the land at 15 Anzac Road, which is currently classified as landform 5. The submitter did not attend the hearing but the panel note that the council has received an application for proposed development of the site, including development and subdivision of the area subject to this submission.

The panel consider that the landform 5 classification is more appropriate as it accurately represents the current characteristics of the land and it provides for further low level visitor accommodation (for up to 10 people) as a permitted activity and for more than ten people as a discretionary activity. This enables the council to assess any application on its merits. Accordingly, the panel recommend that the submission be rejected.

## **4.7 Submission about landscaping**

**Submission dealt with in this section:** 1250/52

### **4.7.1 Decision requested**

Submission 1250/52 seeks that the land unit include a reference to landscaping requirements.

## 4.7.2 Panel's analysis and recommendations

The submitter seeks that the land unit include reference to landscaping requirements. It is not clear from the submission exactly what landscaping requirements the submitter is requesting.

The panel note that the development controls for the land unit do not require landscaping and that most of the land unit is already developed for visitor facilities because the land unit is applied to specific properties on Waiheke that are currently provide for visitors.

The panel recognise that landscaping may be desirable in the front yards of new development within the commercial 4 (visitor facilities) land unit and it is noted that this can be achieved when assessing proposed new buildings as restricted discretionary activities or as resource consent conditions when restaurants and tourist complexes are established as discretionary activities.

Therefore, due to the limited potential for development within the land unit, and the requirements for all new buildings to obtain resource consent, the panel consider that it is unnecessary to include specific landscaping requirements within the land unit and it is recommended that the submission be rejected.

## 5.0 Conclusion

This report has considered the decisions requested in submissions lodged regarding Commercial 4 (visitor facilities) of the Proposed Auckland City District Plan: Hauraki Gulf Islands Section 2006. The report recommends whether submissions should be accepted or rejected and how associated further submissions should be dealt with, and how the Plan should be modified as a result. It is concluded that the recommendations set out in section 6.0 below should be implemented for the reasons set out in section 4.0 of this report. This includes amendments to the Plan as outlined in **appendix 2** of this report.

## 6.0 Recommendations

For the reasons set out in section 4.0 of this report:

1. Reject submissions 47/1, 81/1, 153/1, 1091/1, 1091/2, 1150/1, 1250/51, 1250/52, 1250/57, 1264/1, 1264/2, 1264/3, 1264/4, 2584/1, 2631/2, 2631/3, 2631/5, 3061/88, 3549/1 and 3805/3.
2. Accept submissions 518/20, 753/26, 821/29, 836/17, 1190/25 and amend the Plan accordingly as set out in **appendix 2** of this report.
3. Accept submissions 2551/1, 3182/1 and 3183/1 and amend the Plan accordingly as set out in **appendix 2** of this report.
4. Accept in full or in part, or reject accordingly further submissions made in support or opposition to the primary submissions listed above.

5. Amend the Proposed Auckland City District Plan: Hauraki Gulf Islands Section as set out in **appendix 2** of this report.

Name and title of signatories	Signature
Councillor Graeme Mulholland Chairperson, hearings panel	



# Appendix 1

## List of submissions and further submissions





## List of submissions and further submissions for commercial 4 (314/274016-004)

Submission/ Sub Part	Submitter	Further Submission	Support/Oppose	Further Submitter Name
47/1	Strand Holdings	2892	Oppose	Peter Dew
		2891	Oppose	Iain Bremner, Joanne Bremner and The Bremner Family Trust
		389	Support	DM and RM Dominikovich
		2907	Oppose	John S Morton
		2895	Oppose	Richard Wedekind and Sharon Adrichem
		2894	Oppose	Scott and Kelly Diener
81/1	John and Adrienne Darling	397	Support	DM and RM Dominikovich
153/1	Denis J Clark	550	Support	DM and RM Dominikovich
518/20	Garth Spencer	2892	Oppose In Part	Peter Dew
		2891	Oppose In Part	Iain Bremner, Joanne Bremner and The Bremner Family Trust
		2907	Oppose In Part	John S Morton
		2895	Oppose In Part	Richard Wedekind and Sharon Adrichem
		2894	Oppose In Part	Scott and Kelly Diener
753/26	Robyn Ann Jones	1132	Support	DM and RM Dominikovich
821/29	Waiheke Island Practice Support Group			
836/17	Jeffery A LePoidevin	1134	Support	DM and RM Dominikovich
1091/1	Orapiu Lodge Limited	2892	Oppose In Part	Peter Dew
		2891	Oppose In Part	Iain Bremner, Joanne Bremner and The Bremner Family Trust
		1305	Oppose	D and J Grayson
		1304	Oppose	Mike Brennan and Jennifer Town
		2907	Oppose In Part	John S Morton
		2895	Oppose In Part	Richard Wedekind and Sharon Adrichem
		2894	Oppose In Part	Scott and Kelly Diener
1091/2	Orapiu Lodge LimitedMetro Planning Limited	2892	Oppose	Peter Dew
		2891	Oppose	Iain Bremner, Joanne Bremner and The Bremner Family Trust
		1305	Oppose	D and J Grayson
		1304	Oppose	Mike Brennan and Jennifer Town
		2907	Oppose	John S Morton
		2895	Oppose	Richard Wedekind and Sharon Adrichem
		2894	Oppose	Scott and Kelly Diener
1150/1	Gulf District Plan Association Incorporated	2885	Support	The Waiheke Island Community Planning Group Incorporated
		2850	Oppose	Santa Monica Investments Limited
1190/25	Lapp and Toft Architecture	1433	Support	Flora South Holdings Limited
		1434	Support	DM and RM Dominikovich
1250/51	Kristin Lewis	1583	Oppose	Santa Monica Investments Limited
		1582	Oppose	Mary Evans
1250/52	Kristin Lewis	1583	Oppose	Santa Monica Investments Limited

Submission/ Sub Part	Submitter	Further Submission	Support/Oppose	Further Submitter Name
		1582	Oppose	Mary Evans
1250/57	Kristin Lewis	1583	Oppose	Santa Monica Investments Limited
		1582	Oppose	Mary Evans
1264/1	DM and RM Dominikovich	2508	Support	Orapiu Lodge Limited
		2892	Oppose	Peter Dew
		2891	Oppose	Iain Bremner, Joanne Bremner and The Bremner Family Trust
		2907	Oppose	John S Morton
		2895	Oppose	Richard Wedekind and Sharon Adrichem
		2894	Oppose	Scott and Kelly Diener
1264/2	DM and RM Dominikovich	2508	Support	Orapiu Lodge Limited
		2892	Oppose	Peter Dew
		2891	Oppose	Iain Bremner, Joanne Bremner and The Bremner Family Trust
		2907	Oppose	John S Morton
		2895	Oppose	Richard Wedekind and Sharon Adrichem
		2894	Oppose	Scott and Kelly Diener
1264/3	DM and RM Dominikovich	2508	Support	Orapiu Lodge Limited
		2892	Oppose In Part	Peter Dew
		2891	Oppose In Part	Iain Bremner, Joanne Bremner and The Bremner Family Trust
		2907	Oppose In Part	John S Morton
		2895	Oppose In Part	Richard Wedekind and Sharon Adrichem
		2894	Oppose In Part	Scott and Kelly Diener
1264/4	DM and RM Dominikovich			
2551/1	Strand Holdings	2891	Oppose In Part	Iain Bremner, Joanne Bremner and The Bremner Family Trust
		2892	Oppose In Part	Peter Dew
		2894	Oppose In Part	Scott and Kelly Diener
		2895	Oppose In Part	Richard Wedekind and Sharon Adrichem
		2907	Oppose In Part	John S Morton
2584/1	Gary and Raewyn Thomas			
2631/2	Iain Bremner, Joanne Bremner and The Bremner Family Trust			
2631/3	Iain Bremner, Joanne Bremner and The Bremner Family Trust			
2631/5	Iain Bremner, Joanne Bremner and The Bremner Family Trust	562	Oppose	DM and RM Dominikovich
3061/88	The Waiheke Island Community Planning Group Incorporated	1613	Support	Leith Duncan
		1698	Support	Grey Power Waiheke and Gulf Islands Association Incorporated
		1700	Oppose	Thomas de Vere Hunt
		2895	Support	Richard Wedekind and Sharon Adrichem
		2891	Support	Iain Bremner, Joanne Bremner and The Bremner Family Trust
		2892	Support	Peter Dew
		2894	Support	Scott and Kelly Diener
3182/1	Richard Wedekind	2907	Support	John S Morton

Submission/ Sub Part	Submitter	Further Submission	Support/Oppose	Further Submitter Name
		2891	Support	Iain Bremner, Joanne Bremner and The Bremner Family Trust
		2892	Oppose	Peter Dew
3183/1	Richard Wedekind	2907	Support	John S Morton
		2894	Support	Scott and Kelly Diener
		2891	Support	Iain Bremner, Joanne Bremner and The Bremner Family Trust
		2892	Support	Peter Dew
3549/1	Stewart Hunt			
3805/3	Ngaio Lewis	2426	Oppose	Santa Monica Investments Limited

## **Appendix 2**

### **Amendments to the Plan**

**This marked up copy of part 10a.14 shows the amendments resulting from the council's decision on submissions to part 10a.14 (decision report no.16-4)**

Insertions are shown with underlining and deletions with ~~strikethrough~~.

## **10a.14 Land unit - Commercial 4 (visitor facilities)**

### **10a.14.1 Introduction**

This land unit applies to specific properties in Onetangi, Palm Beach, and Orapiu ~~in~~ on Waiheke. The character of the land unit is varied although it is generally located close to the coast and residential areas.

The current activities within the land unit include holiday accommodation, dwelling, hotel, restaurant and bar activities.

Overall, the purpose of the land unit is to provide for larger scale visitor facilities within specific locations on Waiheke.

### **10a.14.2 Resource management issues**

The significant resource management issues which need to be addressed in the Plan are:

1. How to provide for a range of visitor facilities while not compromising the character and amenity of surrounding residential areas or the coastal environment.
2. How to ensure that development on these sites is restricted to visitor facility activities only and does not include permanent dwellings.

### **10a.14.3 Objectives and policies**

#### **10a.14.3.1 Objective**

To provide for visitor facilities to service the needs of tourists to Waiheke.

#### **Policies**

1. By providing for camping facilities and visitor accommodation as permitted activities in the land unit.
2. By not providing for dwellings within the land unit.

#### **10a.14.3.2 Objective**

To ensure that any adverse effect of visitor facilities on adjacent island residential or recreation land units or the coast is avoided or mitigated.

#### **Policies**

1. By controlling buildings in terms of design, bulk and location.
2. By adopting controls which protect the privacy and amenity of adjacent island residential and recreation land units.

### **10a.14.4 Resource management strategy**

The resource management strategy and purpose for the land unit is to provide for visitor facilities while ensuring that adjoining residential uses and the natural environment are not detrimentally impacted.

The land unit provides for three different forms of visitor facilities or holiday accommodation. These are camping facilities, visitor accommodation and tourist complexes.

These facilities vary in scale and intensity with camping facilities having a generally low intensity

(providing for camping and caravan activities), visitor accommodation having a medium intensity (including motels, hotels and backpackers) and larger intensity tourist complexes which allow for visitor accommodation and dining, bar and function facilities.

The purpose of the land unit is to specifically provide for visitor facilities, therefore in order to protect the purpose of the land unit, dwellings are a non-complying activity.

### 10a.14.5 Rules - activity table

Activities	Status
The construction and relocation of buildings, including buildings used for any of the other activities listed in this table <sup>1</sup>	RD
Alterations and additions to the exterior of existing buildings including buildings used for any of the other activities listed in this table. However this does not apply to minor alterations and additions as defined in <a href="#">part 14 - Definitions</a> <sup>1</sup>	RD
Camping facilities	P
Restaurant, café and other eating places	D
Tourist complex	D
Visitor accommodation	P

#### Legend

P = Permitted

RD= Restricted discretionary

D = Discretionary

#### Notes:

1. In this land unit, the activities of constructing or relocating buildings, or undertaking exterior alterations and additions to existing buildings, are to be treated as separate from the activity of using buildings for any of the permitted activities listed in the table. Therefore, even when an activity is permitted in this table, a resource consent may still be required for any construction or relocation of, or any exterior alteration or addition to, the building used for the activity. The relationship between buildings and other activities listed in activity tables is explained further in [clause 4.3](#).
2. The activities of earthworks and vegetation clearance are treated as development controls and are therefore not listed in this table.

### 10a.14.6 Rules - development controls

~~Refer to [part 10c - Development controls for land units and settlement areas](#) for the controls applying in this land unit.~~ The development controls listed ~~in that part below~~ apply to all activities, whether or not those activities are otherwise permitted, restricted discretionary, discretionary or non-complying. Infringements to these development controls will be considered as development control modifications as set out in [clause 10c.3](#).

As well as the specific controls set out below, there are additional controls set out in [part 10c - Development controls for land units and settlement areas](#) which also apply to this land unit.

#### 10a.14.6.1 Screening

Where any outdoor storage, refuse disposal area, service or parking area adjoins or directly faces a road or land that is in an island residential or open space land unit, such areas must be screened from the road or the island residential or open space land by:

1. A solid wall or fence not less than 1.8m in height built of concrete, brick, stone, timber or other solid material; or
2. Densely planted indigenous vegetation which is capable of reaching a minimum of 1.8m in height and will screen the area throughout the year.

### **Explanation**

Imposing a screening control on common boundaries between these areas can lessen the amount of noise, dust, glare and litter spreading from the generating site. It reduces the visual impact of unsightly areas of storage and parking, and can establish a sense of privacy from visual and physical intrusion.

#### **10a.14.7 Assessment matters**

For applications for resource consent refer to [part 11 - Assessment matters](#) for:

- Matters of discretion and notification requirements applying to the construction and relocation of buildings and to exterior alterations and additions to existing buildings.
- Assessment criteria for discretionary activities.

#### **10a.14.8 Relationship with rules in other parts of the Plan**

[Part 14 - Definitions](#) must be referred to as it is likely to contain definitions of terms used in this part of the Plan.

The following parts of the Plan should also be referred to as they may contain rules which apply to a particular site or proposal:

[Part 4 - General rules](#)

[Part 5 - Network utility services](#)

[Part 6 - Financial contributions](#)

[Part 7 - Heritage](#)

[Part 8 - Natural hazards](#)

[Part 9 - Hazardous facilities and contaminated land](#)

[Part 10c - Development controls for land units and settlement areas](#)

[Part 12 - Subdivision](#)

[Part 13 - Connectivity and linkages](#)