

2.0 SIGNIFICANT RESOURCE MANAGEMENT ISSUES, THE DISTRICT PLAN ROLE, METHODS AND ADMINISTRATION

2.1 BACKGROUND

The purpose of this section of the District Plan is to provide a background summary of the:

- ≠ Significant resource management issues in the District.
- ≠ Role that the District Plan has in managing and controlling the effects of activities in order that the objectives and policies can be achieved.
- ≠ Reason for using rules in the District Plan as a method of implementation and other complementary methods.
- ≠ Environmental result that is sought to be achieved.

A fuller description of the above background summary can be found in the accompanying document titled "Hauraki District Plan - Assessment of Alternatives, Methods, Benefits and Costs (Section 32 Analysis)". This document also lists all the discussion papers and research documents that were undertaken.

Part II, along with Sections 31, 74, 75 and the Second Schedule to the Resource Management Act 1991, sets out the matters that must be considered when preparing a district plan.

As the starting point in preparing this District Plan, Council undertook a process of identifying the significant resource management issues of relevance to the District. This process generally followed the format set out below:

1. Information gathering and research, then preparation of a Background Paper on an issue
2. Discussion of the paper with Councillors and Council staff
3. Release of the paper to identified people or organisations with an interest in the issue, as well as release to the public in general
4. Comments and submissions on the paper received
5. Incorporation of these comments and submissions into the Draft District Plan
6. Workshops held to consider comments made to the Draft District Plan
7. Incorporation of some comments into the Proposed District Plan

This process enabled Council to identify the natural and physical resources of the District, an indication of the manner in which those resources should be managed in a sustainable way and what people and communities see as being needed to be provided to allow for their social, economic and cultural wellbeing and for their health and safety.

Set out in Section 2.2, is a summary of the significant resource management issues that were identified, the role that the district plan has in managing and/or controlling those issues (including other alternatives), the principal reasons for adopting the methods in the district plan and the environmental results that those methods are meant to achieve.

2.2 SIGNIFICANT RESOURCE MANAGEMENT ISSUES

The issues set out in this section are all interrelated, but for illustrative and descriptive purposes they are presented as separate issues.

2.2.1 PROTECTION OF PRODUCTIVE CAPACITY OF LAND

Approximately 50% of the land area in Hauraki District is classified as Class 1 - IV (arable land) on the Land Use Capability classification system. In addition, approximately 67% of the District's land area is in primary production (includes grassland, horticulture, crops and forestry). As such, the use of land for productive purposes especially dairying, makes a significant contribution to the economy and society of the district.

Productive land is a resource which should be managed in order that it is available for future generations. A number of threats to maintaining the productive potential of the land exists and these include the following:

- ≠ Failure of the flood protection schemes.
- ≠ Uncontrolled expansion of towns and rural residential developments.
- ≠ Fragmentation of the land into "uneconomic" sizes.
- ≠ Unsustainable or environmentally harmful farm management practices.
- ≠ Loss of servicing infrastructure.

Role of the District Plan

The District Plan has a variable role to play in a number of these matters. For instance, in the area of maintaining the flood protection schemes, the district plan has provided for:

- ≠ The designation of the stopbank works and associated flood protection works; and
- ≠ Water and soil conservation activities as permitted activities in all zones.

Environment Waikato has the responsibility for funding, implementation and maintenance of flood protection works on the major regional river systems of the Waihou and Piako Rivers.

However, the District Plan cannot have a role to play in terms of securing funding for the completion and maintenance of the flood protection works or ensuring that works are provided and maintained.

In order to sustain the productive potential of the land, a long term approach for flood protection must be implemented.

The District Plan has a direct role in protecting the productive potential by controlling subdivision, providing for those activities that are compatible with the objective of protecting the potential of the land for productive purposes and using the zoning technique to contain urban development.

A Rural zone has been included in this District Plan, which covers most of the rural land of the District. The extent and content of the zone are the principal techniques or methods used to achieve the environmental result of protecting the productive potential of the rural land resource for future generations.

2.2.2 MAINTAINING THE TOWNS AND TOWNSHIPS

The main towns and townships of the District represent a significant resource not only in physical terms (roads, buildings, services and amenities), but also in terms of economic, social, historical, amenity and cultural resources.

Approximately 65% of the District's population reside in the urban areas, and most of the administrative, business and commercial activities occur in them. Also, the urban areas act as a focus for cultural and social activities and provide the "sense of place" that people require to give continuity to their lives.

As well as being a resource in themselves, the urban areas are also substantial users of resources, particularly land, energy and materials. In seeking to manage the resources of the District in a sustainable way, the manner in which the "urban resource" is developed, will have either a positive or negative effect on the way and rate that resources are used.

In urban areas, significant issues include controlling the detrimental effects of activities, directing (where feasible) the expansion of the urban areas away from land of high productive potential and protecting the amenity of the residential, town centre and recreation areas (in particular).

Role of the District Plan

The District Plan has a key role in addressing these issues. Methods such as zoning and setting performance standards to be met are all designed with the objective of controlling detrimental effects and protecting amenity.

There are other methods outside the District Plan that can be used to assist in achieving those objectives. These include the rating differentials between different land uses, restricting the availability of public services, providing incentives for activities to locate in particular areas and educating industries and businesses that are creating a detriment to the environment or amenities of ways that they can reduce or eliminate that detriment.

2.2.3 CONSERVATION AND HERITAGE

The Resource Management Act 1991, places a responsibility on the District Council to either recognise, provide or have particular regard to matters of national importance and "other" matters, as set out in Sections 6 and 7 of the Act. These matters are primarily concerned with:

- ⌘ The natural character of the coastal environment, wetlands and lakes and rivers and their margins;
- ⌘ Natural features and landscapes;
- ⌘ Significant indigenous vegetation and significant habitats of indigenous fauna;
- ⌘ Public access to and along the coastal marine area, lakes and rivers;
- ⌘ Intrinsic values of ecosystems; and
- ⌘ Heritage values of sites, buildings, places, or areas.

Within the District there are a number of matters identified above that are of significance. Some of these are set out below as examples:

2.2.3.1 Coastal Environment

There are two main coastal environments in the District, being the Firth of Thames and the Eastern Coast. For the Firth of Thames, the importance of the area for wading birds has been recognised in its status as a Conservation Area by the International Union for Conservation of Natural Resources (IUCN) based on the RAMSAR Convention. The area accordingly has value as a recreation

resource for people involved in ornithology and other "environmental" activities. In addition, the area has value as a fish breeding ground for recreational and commercial fishing in the Firth of Thames. Threats to this environment come from the discharge of sediment and nutrients from the rivers, streams and farmland, and destruction of the environment from wandering stock. These are resource management issues of significance in the District.

The eastern coastline is a mixture of estuary, sand beaches and rocky coastline. The settlement of Whiritoa is the only residential area on this coast. Threats to this coast include severe soil erosion, invasion of domestic goats into areas of native vegetation, damage to the pohutukawa remnants by opossums, pressure for further beach settlements, dune destruction and drainage and modification of the estuary systems.

Role of the District Plan

The District Plan (at the request of the Department of Conservation) contains a Conservation (Indigenous Forest) zone (see Section 5.2), which is placed over land held in the DOC estate. This covers all the reserves and marginal strips. This zone contains strict controls on the removal of vegetation, erection of structures and other developments. The District Council reserves at Whiritoa are zoned Reserve (Passive) and Reserve (Active) and will be managed through those provisions and the management plans being prepared for the area.

The remainder of the two coastal areas is zoned Rural with a Coastal Environment Policy Area (see Section 6.1) providing additional assessment and control for any developments in the area. The taking of esplanade reserves and strips is an additional instrument that Council is using to secure conservation of the coast and access to it (where appropriate).

The provisions in the District Plan complement other methods available to protect the coastal environment, which include ownership by the Crown or the District Council, reserve management plans, covenants over areas of bush or other environments and voluntary fencing of the coastal environment to exclude grazing stock.

2.2.3.2 Lakes, Rivers, Streams and their Margins

The maintenance and enhancement of public access to the margins of rivers, streams and lakes is an issue of some importance in the District, as is the conservation of the natural character of such margins. It must be noted that most of the major rivers and their margins have been substantially modified as a result of the river control works carried out to protect the adjoining farmland. In the case of the Ohinemuri and Waitawheta Rivers, the margins have been altered mainly through the grazing of stock. The District Council has the function of managing the surface of water, maintaining and enhancing public access (to and along margins) through the provision of esplanade reserves and marginal strips, and of preserving the natural character of waterways and the riparian margins.

Role of the District Plan

The Council's policy for the taking of Esplanade Reserves and Strips (Section 10.3) is one of the methods used to protect and conserve the natural character of those rivers and their margins. For the Ohinemuri River where it passes through the Karangahake Gorge, the Karangahake Gorge Scenic Corridor Policy Area (see Section 6.2) imposes additional controls on the effects of activities.

The district plan provisions recognise that the primary responsibility for the management and control of activities in the river environment rests with the regional council (Environment Waikato), although there is an overlap due to the District's responsibility for surface of water activities (see Section 8.10).

2.2.3.3 Wetlands

The largest remaining wetland complex in the District is the Kopuatai Peat Dome which is bounded by the Piako River and the Elstow Canal. The peat dome is recognised as a wetland of international importance under the RAMSAR Convention and has recently become a Government Purpose Reserve (Wetland Management) under the control of DOC. The wetland also performs an essential catchment management function. It is essential that these wetlands be retained in their present natural or regenerating state.

Role of the District Plan

The Peat Dome and adjoining reserves are included in a Conservation (Wetland) zone (see Section 5.3), which is a very restrictive zone designed to protect the flora and fauna, and to ensure the ability of the Peat Dome and adjoining wetland reserves can continue to assist in flood control.

It is recognised that environmental outcomes for this zone will largely be met through the land's ownership by the Crown. However, the Crown's ownership is not guaranteed and the zoning is a means of bringing the management of the wetlands within the provisions of the District Plan and of informing the public of the important ecological and hydrological functions of the area.

2.2.3.4 Outstanding Natural Features and Landscapes

Major features in the District such as the Coromandel and Kaimai-Mamaku Ranges, the coastal environment and wetlands are protected through a combination of ownership by the Crown and/or their zoning as Conservation or Reserve.

A number of other features and landscapes are of district or regional importance and are worthy of some form of protection that is not provided for elsewhere in the District Plan or through other methods.

Role of the District Plan

For some of these features and landscapes, the Karangahake Gorge Scenic Corridor Policy Area is used for identification and additional assessment of activities. Other features and landscapes are identified on the Planning Maps. Any activity that would alter, modify or detrimentally affect the feature or landscape, requires Council approval by means of a resource consent. Particular regard shall be had to protecting such feature or landscape in the consideration of any applications for resource consent on and/or in the vicinity (see Section 7.3).

Methods outside the District Plan that would also assist with the protection of the features or landscapes (eg covenants, purchase, fencing, rates relief and compensation) are not precluded from taking place. The District Plan provisions are complementary.

2.2.3.5 Significant Indigenous Vegetation And Habitats of Indigenous Fauna

As with Outstanding Natural Features and Landscapes, there are areas of vegetation and habitats that do not have the protection afforded to them through ownership by the Crown or territorial authority, or by a protection zone. Council considers these areas of indigenous vegetation and habitat areas are significant resources and it is important they remain features of the landscape.

Role of the District Plan

The strength of the statutory language in Section 6(c) of the Act means that methods are required to achieve protection. Council has chosen to combine a regulatory approach with other means to achieve this.

The sites are identified on the Planning Maps and the clearance of vegetation, the excavation or placement of fill, the construction of buildings all require a discretionary activity consent (generally non notified) from Council. (Refer to Section 7.2).

Because this approach provides Council with a considerable measure of control over private property rights, then the District Plan approach also needs to be supported by other methods such as rates relief, grants for materials, assistance in carrying out the protection works and compensation.

2.2.3.6 Sites, Buildings, Places or Areas of Historic, Heritage and Archaeological Value

Council is concerned to ensure that the heritage of the District is recognised and protected.

Role of the District Plan

While recognising that the Historic Places Trust has a significant role to play in the protection of the above, the provisions in the District Plan are designed to protect those sites etc that although they are of local or regional significance, are not offered any protection as a **registered** site under the Historic Places Act 1993.

All sites etc are recorded on the Planning Maps and the destruction, damage, removal or modification requires Council's resource consent. In the case of Category I items, a non complying activity consent is required (publicly notified) and in the case of Category II items either a controlled or discretionary activity consent is required (non notified). (Refer to Section 7.1).

As with other forms of protection, the provisions in the District Plan are supported and complementary to other methods such as education, purchase, compensation and information.

2.2.3.7 Maori Culture, Traditions, Ancestral Lands, Water, Sites, Waahi Tapu, and Other Taonga

The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga is a matter of national importance which shall be recognised and provided for in managing the use, development and protection of natural and physical resources.

Role of the District Plan

Due to the swamp nature of a significant part of the District's area, the land was not densely populated by Maori people and many physical signs of their occupation are not evident today. However, there are several ways in which the District Plan has attempted to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga. These are as follows:

A. Reservations and Urupa

Maori reservations and urupa will be identified on the Planning Maps to enable their recognition and protection from activities that may have an adverse physical and/or cultural effect on them.

B. Marae Development Zone (Refer to Section 5.7)

This zone recognises that in some instances the management and control of activities in the zone should be carried out by Maori people themselves. A wide range of activities are provided in the zone, which reflects the changing and evolving role that the marae is required to provide. Accordingly, the performance standards for the zone mainly relate to managing and controlling the adverse effects that may occur outside the zone.

C. Waahi Tapu

Ongoing consultation with the tangata whenua is sought by Council to ensure that waahi tapu and other sites are recorded or recognised in a culturally appropriate manner and that acceptable mechanisms are put in place for their protection. Council accepts that there is an inherent conflict between the identification of waahi tapu and their protection. The role of the District Plan may be limited as it is a public document and that due to the process of placing on and taking off of information, only some "types" of waahi tapu can be included.

D. Whanau Marae

Depending on the objectives and policies for the individual zone, whanau marae and associated activities are provided for.

2.2.4 PROTECTION OF WATER SUPPLY CATCHMENTS

The provision of a potable water supply to residences of the District is often taken for granted. However, the catchments from which these water supplies originate are vulnerable to the adverse effects of activities (eg pollution, over extraction). Nature through the filtration of water by vegetation and the ground has the ability to remove many impurities from the water supplies. The chemical "cleaning" of water supplies can be kept to a minimum if the natural environment can carry out that function.

The evidence of a clean water supply is also evidence that the life-supporting capacity of the water catchment is also safeguarded. (Section 5 (2) (b) of the Act).

Role of the District Plan

Section 30 (1) (c) gives the function of:

"The control of the use of land for the purpose of:

- (i) The maintenance and enhancement of the quality of water in water bodies and coastal water
- (ii) The maintenance of the quality of water in water bodies and coastal water"

to the regional councils. However, this does not preclude the district councils from including matters in the district plans to achieve the same function.

In this District Plan, a range of methods have been used to protect the water supply catchments. These include:

- ☞ zoning as Conservation (Indigenous Forest) the hill areas of the Conservation Estate. This zone has strict controls on the removal of vegetation, thereby protecting the water filtering function of this forested area.
- ☞ designating those areas of water catchments that are under the ownership of the Hauraki District Council.
- ☞ creating esplanade reserves along the margins of rivers and streams.
- ☞ rules relating to the setback of effluent treatment systems from water bodies.

2.2.5

EXTRACTIVE INDUSTRIES (REFER TO SECTION 8.3)

Minerals are included in the definition of natural and physical resources, although the non-renewable character of minerals is also recognised. The key resource management issue in this respect is to recognise and provide for mineral resource use and development, yet at the same time, ensure that the effects of mineral utilisation are managed in a way that provides an appropriate level of protection for the District's other resources, amenities and ecosystems.

The District has a range of existing and potential extractive industries operating, based on minerals (gold, silver etc), metal for roading and foundations, sand extraction for industry and building and peat for garden supplies. The established extractive industries range in size from single operators to open cast mines (Martha Mine and Golden Cross).

These extractive industries provide products that are important to the district, region and nation. The activities associated with mineral resource utilisation constitute an important component of the district's economic base, through employment generation and the use of local goods and services.

In the same manner as many other resources, minerals can only be utilised where they are found. Restriction of access to minerals as a consequence of other activities locating above or in close proximity to minerals is a potential negative effect that may need to be safeguarded against by appropriate resource management techniques.

Mining, like many other land uses, has the potential to generate significant environmental effects. Some of these effects are generally positive (eg employment, income) while others have the potential to create adverse environmental conditions. These effects must be managed by the application of performance standards and with regard to the objectives and policies of the relevant portions of the District Plan.

The identification and extraction of minerals and integrating their management with other resources, is a significant resource management issue for the district. Recognition must be made in the Plan of the fixed nature of mineral deposits, the limited ability to modify the method of their extraction and that other activities can adversely affect their use.

Role of the District Plan

The District Plan has a role in:

- ☞ recognising the existence and location of mineral resources.
- ☞ providing an appropriate framework for the utilisation of those minerals.
- ☞ balancing the conflict between access to minerals, and utilisation, development and protection of resources on the surface.
- ☞ avoiding, remedying or mitigating the effects of extractive industry operations.
- ☞ integrating the provisions of the District Plan with other Plans under the Resource Management Act 1991 (eg regional plans, coastal plans) and the provisions of other legislation (eg Crown Minerals Act 1991).

This role is carried out in the District Plan by:

- ☞ establishing the appropriate activity status for exploration, prospecting and mining in the different parts of the district.
- ☞ requiring mining activities to conform to the appropriate performance standards.
- ☞ establishing two specific zones for operating mines established under the Mining Act 1971.
- ☞☞ providing a mechanism whereby the zoning of land which is the subject of approved surface mining operations can be changed to reflect that activity.

The effects of prospecting and exploration activities are generally minor because the amount of work to be undertaken only involves limited sampling and information gathering. This limited activity is provided for in the zones, generally as permitted activities, outside specific identified features (waahi tapu, archaeological sites). Where the purpose of the zone may not be compatible with some

prospecting and exploration activities, (especially the Conservation zones), then a resource consent may be required to be obtained in order that an assessment of the potential effects can be undertaken.

The effects of mining and excavations have the potential to not only have a significant effect on the environment, but also on the objectives and policies of the zone and/or the District. Accordingly, mining and extractive industries require assessment through the resource consent process.

For the Martha Hill and Golden Cross mines, the area covered by the mining licence is identified in the District Plan by separate zones. These are the Martha Mineral Zone (refer Section 5.17) and the Golden Cross Mineral Zone (refer Section 5.18). These zones provide that the activities that are currently able to occur in the licence area can be undertaken without resource consents. The District Plan does not need to place additional control over the site other than that which is provided by the conditions of the mining licence. In respect of the proposed extension to the Martha Mine, the District Plan has provided for this proposed extension as a discretionary activity in the relevant zones and the proposed extension will be assessed through the resource consent process. Areas outside the Martha Mine extension that are to be mined using the open cast method may also be most appropriately provided for in the District Plan by a specific zone. The introduction of such a new zone would be achieved through the plan change process.

Minor excavations and fill associated with some activities, roading, building or subdivision can be handled as part of the activity, designation, building consent or subdivision status or consent process. As such, the District Plan has a role to play in controlling or managing the effects of those activities that cannot be adequately handled as part of another consent process. (Refer to Section 8.4).

In the urban zones, surface mining has been given a prohibited activity status. This is an option available under the Resource Management Act 1991 which prevents resource consent applications being made for the activity so prohibited.

However the allocation of prohibited activity status does not mean that surface mining will be prevented from taking place in these zones if a privately initiated plan change is upheld. In effect, the Council has adopted a policy direction that any surface mining proposal in the urban zones is to be processed and assessed by means of a private request for a plan change.

Given this approach in the event of a plan change request being approved by Council, any proposed surface mining would take place within a tailor-made mineral zone incorporating the appropriate objectives, policies, methods, rules and anticipated environmental results.

Concerns that surface mining in an urban zone would result in long-term (if not permanent) removal of land for urban activity purposes, or be inappropriate in the context of overall planning for the district, are anticipated to be suitably considered through the plan change process.

It is envisaged that a private request for a plan change for surface mining in the urban zones would contain (but not be confined to) the following information:

- ?? The area of land proposed to be rezoned.
- ?? A description of the activities to be undertaken within the rezoned land as permitted activities. (It is intended that sufficient information will be provided so that there will be no need once the rezoning is confirmed, for the activity in the new zone to require further assessment by way of a resource consent application.)
- ?? A comprehensive assessment of effects of the proposed activities including effects on zoning patterns.
- ?? A description of possible alternative locations or methods.
- ?? Mitigation measures proposed including, if appropriate, the rezoning of other land to compensate for the removal of the subject land from the particular zone.
- ?? Monitoring proposed.
- ?? Proposed mineral zone objectives, policies, rules, including standards and terms that the activities shall comply with, and anticipated environmental results.

It is the intention of the council in being at the time of the plan's introduction that any request for a private plan change under Part II of the First Schedule to the Resource Management Act 1991 will, unless the request is frivolous or vexatious, be processed by the council who will not seek to reject that request on any of the other grounds set out in clause 25(4) of Part II of the First Schedule. Council has made this commitment to process a request for a plan change with respect to surface mining in an urban zone, so that the proposal can be considered on its merits and assessed against the purpose and principles of the Act set forth in Part II of the main body thereof. If a later council should wish to change this approach it is expected that it would do so by way of a plan change.

2.2.6 AMENITY

Protecting and safeguarding the amenity and environmental quality of the District is an issue of resource management significance in the District.

Role of the District Plan

The District Plan is the key document in seeking to ensure the amenities of the District and its environmental quality are protected.

The methods used include the range of activities permitted in each zone and the consent status those activities are given, the objectives and policies and the performance standards. The District Plan provisions recognise that other legislation may have a focus that excludes the matter of amenity, and that the provisions represent a "bottom line" that is required to be protected. Such protection is immediately afforded by the rules. Amenity levels greater than that required by the performance standard can still be achieved through non statutory methods such as promotion, advocacy, financial incentives and education.

2.2.7 INFRASTRUCTURE AND SERVICES

Management and control of the effects of network utilities and public works needs to be provided in a manner that while protecting the environment, does not unduly compromise the operational requirements of the service or infrastructure. In addition, the effects of other activities on the efficient and effective operation of infrastructure and services also needs to be considered. In addition, the adverse effects of other activities on the operational requirements of the network utility needs to be balanced.

Role of the District Plan

The District Plan has specifically provided for network utility operations and public works. (Refer to Section 2.3.5.1, 2.3.5.2, 8.1 and 8.2). The status of these activities has been determined for each zone, based on the objectives and policies of the zone and the potential positive and negative effects of the provision of the service or facility on the environment in the zone. These provisions have gone beyond the definition of network utility and public work contained in the Resource Management Act 1991, by giving "Automatic Weather Stations and Marine Navigation Devices" the same status as network utilities. "River Control Works" are also given the same status as public works. Both these methods have been adopted as it recognises the importance of those services and facilities to the functioning of the District, and that the effects are similar to those of network utilities and public works. The need for assessment and resource consent cannot be justified.

2.2.8 TREATY OF WAITANGI (Te Tiriti o Waitangi)

In the Resource Management Act 1991, as with other recent legislation, the Government has devolved many of its former responsibilities and undertakings between the Crown and Maori people to the regional and district councils. One of those responsibilities is to recognise and take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) in resource management (as well as other) matters.

The District Plan is the key resource management document for the District and thus has an important role in recognising and providing for the implementation of the Treaty of Waitangi.

However, implementation of all Council's responsibilities are to a large extent outside the District Plan. The preparation of the District Plan is only one of the first steps undertaken in this process.

Role of the District Plan

Both in terms of preparing and the provisions of this District Plan, Council has endeavoured to give effect to the following principles:

- ≪ That there must be **active** protection of the **partnership** between the two parties.
- ≪ That there be compromise by both parties **under an obligation to act with reasonableness and good faith**.
- ≪ That the bargain which allows the Crown (territorial authorities) to make laws (in this case the District Plan) for all people in Aotearoa, must be exchanged for the recognition and protection of **rangitiratanga** (ie the ability for Maori people to fully govern within those laws).
- ≪ That **continual dialogue and consultation** will be the main way in which to give effect to the three principles outlined above.

Given the continually evolving nature of the relationship between the two parties, no evaluation is or needs to be given as to whether the two parties have successfully given effect to those principles.

With respect to process matters, many of those are outside the District Plan, but relate to the way in which the District Plan is administered. For example, the discussion and consultation in preparing the District Plan was undertaken at venues and in a manner that was comfortable and acceptable to both parties. Subsequent hearings on resource consents should be attempted to be undertaken in a similar approach.

With respect to content matters, a number of provisions have been included in the District Plan, which are of particular significance to Maori people. Some of these are in the Marae Development zone to recognise that the management and control of activities within the zone is the responsibility of the Maori people.

Smaller marae development is provided for as an activity in other zones as is appropriate to the objectives and policies of the zone.

The recognition and protection of ancestral lands, water, sites, waahi tapu and other taonga has been attempted through the zoning of sites as Conservation or Reserve, the identification of waahi tapu, the Coastal Environment Policy Area and the requirement that activities that could have a detrimental effect on matters of interest to Maori require a resource consent, the process of which provides for consultation and involvement of the Tangata Whenua.

There are many matters outside the District Plan that need to be in place in order that the principles of Te Tiriti o Waitangi are given greater effect to. Some of these matters include funding for consultation and involvement in the Resource Management process, Tangata Whenua representation at the political level, disposal of effluent into waterways (a regional responsibility), return of Maori land, rating of Maori land and naming of things such as creeks, rivers, features and roads to be in Maori.

2.2.9 CROSS BOUNDARY ISSUES

It is essential that resource management issues which naturally straddle administrative boundaries are treated in a coordinated fashion by the authorities involved.

Role of the District Plan

There is a difference between dealing with an issue in different ways between territorial authorities, and dealing with an issue that crosses a territorial boundary.

For example, rural housing is an issue that is common to territorial authorities, yet each authority is able to deal with the issue in the manner that its community sees as appropriate. This is the same as a territorial authority dealing with rural housing in different ways in different parts of the District.

A cross boundary issue relates more to a resource that is common to more than one territorial authority. In the Hauraki District situation, the following are considered to be the cross boundary issues that need to be addressed in the District Plan.

2.2.9.1 Kopuatai Peat Dome

This resource is partly located in Hauraki District and partly in the Matamata Piako District.

2.2.9.2 Coromandel and Kaimai-Mamaku Ranges

This resource is also located within the Thames Coromandel and the Matamata Piako District Councils.

2.2.9.3 Air Quality (Refer to Section 8.5)

There are activities that have the potential to create a detriment to air quality, which can traverse the Hauraki District boundary. As such, the matter has a cross-boundary component. For this and other reasons, air quality is a responsibility of the Waikato Regional Council.

2.2.9.4 Surface of Water (Refer to Section 8.10)

The boundary between Hauraki and Thames Coromandel Districts follows the centre of the Hikutaia Stream, the Otahu River and the Waihou River. There needs to be coordination to ensure that the resource management approach to the water resource is complementary on both sides of the river. In addition, the surface of water activities need to be developed with due regard to the land based activities on the adjoining land.

2.2.9.5 Esplanade Reserves and Strips (Refer to Section 10.3)

The need for esplanade reserves or strips may be due to a demand being generated from outside the District. Also, in a similar manner to surface of water activities, there needs to be coordination where the District boundary is in the centre of a water body.

2.2.9.6 Railways

The long term future of the Thames Branch Railway is an issue of concern to Hauraki District and adjoining authorities.

2.2.9.7 Road Transport

Main roading networks and in particular the State Highways cross district boundaries and are impacted by activities beyond the Hauraki District area (eg movement of forestry products, tourists traffic, agricultural produce).

2.2.9.8 Monitoring (Refer Section 3.0)

Land use trends and the effects of activities in adjoining local authority areas will have implications for the Hauraki District and visa versa. It is essential that in conducting monitoring activity, the Council and adjoining authorities and the Waikato Regional Council ensure a consistency of approach in monitoring and that information sharing is facilitated.

2.2.9.9 Headwaters of the Waitakaruru River

The catchment of the Waitakaruru River is located in both the Waikato and Hauraki Districts. Liaison between the two authorities is required in order to protect this water catchment from the effects of activities that may damage the use of the river as a water supply source.

2.3 DISTRICT PLAN METHODS AND PROCESSES

The significant resource management issues identified are addressed in the Plan by a range of methods. Methods outside the District Plan are also referred to.

It is important to note that Council has adopted an approach in the District Plan to regulate the conduct of activities, only where necessary to achieve the purpose of the Act. However, in order to avoid, remedy or mitigate the adverse effects of activities, various control measures have been put in place. The general approach taken in the Plan with regard to these controls is set out not only in this Section but throughout the Plan (eg anticipated environmental results, zones, performance standards are specified).

The District Plan methods and processes employed are generally as follows:

2.3.1 ZONES AND LISTING OF ACTIVITIES

Although not a requirement of either the 1953 or 1977 Town and Country Planning Acts, zoning has developed as a useful and legitimate planning tool.

The basis of the zoning technique under the 1977 Act, was to group together activities which had similar effects on the environment and to separate out those activities that had effects which were incompatible with the environment they were located in. This had usually been achieved by listing a number of activities (eg houses, units, home occupations and motels in residential zones), which were known to have certain effects. Performance standards (eg noise, height of buildings) were included to ensure that those effects were maintained within certain limits that were appropriate to the environment and amenity of the neighbourhood. Activities that were generally suitable in the zone, but not on every site, were able to be assessed as to the effects of those activities through the conditional use (discretionary activity) procedure (eg preschool centres in residential cul-de-sacs required assessment of the additional traffic effects).

For activities that were known to create significant effects on the environment or amenity of an area, a zone with appropriate performance standards could be specifically provided, which would allow them to operate without undue or unrealistic restrictions. The industrial zones for "heavy" activities recognised that due to factors such as noise, odour and hours of use, the activity could never satisfactorily operate in a residential area.

Zoning has been criticised as being too rigid, but this has usually been due to the way in which the zone had been written, rather than the technique itself. With the focus of the Resource Management Act 1991 on the effects of activities, the traditional listing of activities approach is no longer appropriate.

This is because the listing approach has the following main disadvantages:

- ⚡ Means all activities not listed as permitted, are required to obtain a resource consent as a non complying activity.
- ⚡ No opportunity for inoffensive activities not listed to avoid becoming non complying.

Due to these main disadvantages, unnecessary time and costs were imposed on developers in seeking and obtaining resource consents for no compensatory benefit to the environment or the amenity of the area.

A "pure" effects based approach to managing the effects of activities is in accordance with the spirit of the Act, as it can show a direct link between the performance standard and the anticipated

environmental result for the area and is a "consistent" way in which to deal with adverse effects. However there are a number of disadvantages to this approach and the main ones are set out as follows:

- ⚡ Performance standards must be developed to ensure that every possible adverse effect is covered to avoid the possibility of an offensive activity "slipping through" as a permitted activity.
- ⚡ Specifying standards to cover every possible adverse effect is difficult where knowledge or technical expertise is limited, or a new activity or process comes into existence.
- ⚡ Performance standards can only be used where the standard is "measurable". Where there is any element of discretion or assessment involved in the measurement of the standard then some form of resource consent is required.
- ⚡ From an administrative point of view the process of working through a substantial list of performance standards to work out the status of an activity would be difficult for Council staff to administer and difficult for the general public to understand. The District Plan is a public document that should be readily accessible to the public.
- ⚡ Relying solely on an effects based approach to determining where development occurs, ignores one of the major outcomes that can be achieved through the zoning technique (in conjunction with other methods). In particular, zoning has enabled a servicing infrastructure to be developed around the needs of various activities within each zone. The servicing needs for a residential area is different to that for a commercial area in terms of stormwater, sewerage, telephone, power, roading, parking and other services. Zoning in conjunction with the annual planning process allows for forward planning to meet the needs of increased or new demands. It also ensures that existing infrastructure is being or will be used to its optimum potential before additional infrastructure is developed. This process is considered to be in conformity with Section 5(2)(a) of the Act.

To overcome the disadvantages (costs) of these two techniques, an amalgam of the listing and performance standards approach has been used in this District Plan.

The basis of the zoning technique used in this Plan under the Resource Management Act 1991, is to focus on the desired environmental characteristics or outcomes sought in each zone and identify aspects of resource use that may adversely impact on them. This enables the Council to control the adverse effects that may prevent the achievement of the outcomes sought.

Listing is used to identify the activities considered to be generally appropriate in the zone in terms of their potential effects on the environment and amenity of the zone, as well as the activity's use of infrastructural services. The listing of activities is done by grouping them into generic activities (eg instead of listing all the different types of residential accommodation, a generic term of "Residential Activities" is used to include all forms). This avoids the problem of missing out specific activities and also allows for new activities not thought of and that fit into the generic term to be provided for without the need for a resource consent or change to the plan.

The performance standards can be used in the assessment of activities not listed to determine whether they should be provided for as permitted, controlled, discretionary or non complying activities. The existing listing of activities in the controlled, discretionary and non complying categories can also be used as a guide in the determination of an activity's status. This ensures that activities that are not listed do not automatically fall into the non complying activity status. In addition, this combined approach also seeks to avoid the situation of activities that are not listed, but have detrimental effects "slipping through" the system.

2.3.2 OBJECTIVES AND POLICIES AND ANTICIPATED ENVIRONMENTAL RESULTS

There needs to be a link between the resource management issues and the rules used in the district plan to achieve them. The objectives, policies and outcomes are designed to provide that link as well as focusing the intent of the zone, policy area, performance standard or other provision.

The objectives, policies and outcomes are an important technique that can be used to assist in determining the acceptability of the effects of activities through the resource consent process (Sections 104, 105, 108 and 220 of the Act). This is particularly useful when there is no or little guidance in the District Plan in terms of performance standards or activity listing.

There are policies that have been included in the District Plan that relate to actions or controls that are outside of the District Plan. These have been included in order to demonstrate the interrelatedness of methods that are available and the role that the District Plan can have in achieving the objective. The District Plan has the function of integrating the management of the effects of the use, development or protection of land.

Objectives should relate to a specified issue, they should state the resource or environmental outcome sought and state what the Council wishes to see from the resolution of the issue. Policies should relate to an objective, focus on an effect to be managed and state how the effect is to be dealt with in order to achieve the objective.

2.3.3 POLICY AREAS (Refer to Section 6.0)

The District Plan seeks to recognise that there are areas within zones that are of particular significance, from a resource management perspective and that warrant more specific management and control than the general surrounding zone. The technique employed to achieve this specific control is the use of Policy Areas.

Policy Areas operate in the manner of an overlay zone, with additional objectives, policies and rules integrated into the control process in order that the effects of land use activities are carefully managed to achieve an identified environmental result.

The two policy areas proposed are the Coastal Environment (Section 6.1) and Karangahake Gorge Scenic Corridor (Section 6.2) Policy Areas. Both these areas have scenic, recreational and/or environmental values that need to be recognised in any development. In particular, the clearance of vegetation, construction of buildings (siting, colour), commercial forestry, protection of views, prospecting, exploration and mining and other activities require assessment through either the controlled, discretionary or non complying activity consent process. Criteria specific to each policy area have been provided to form the basis of the assessment.

Any application for a resource consent within a policy area must be assessed against the objectives and policies for both the zone and the policy area. The rules and assessment criteria for the policy area take precedence over those for the zone.

There are a number of benefits in using the policy area technique, including the following:

- ☞ The benefits of a separate zone can be achieved without the necessity of creating such a zone.
- ☞ Means that all activities do not need to go through an additional assessment process.
- ☞ Makes the District Plan a more honest document in terms of clearly identifying those areas of special value.
- ☞ Additional policy areas can be included into the District Plan through either the plan change or review process.
- ☞ The technique is not limited to only those areas of scenic, visual or other similar value, but can be used to assess development, for example, in areas adjoining a town or township, marae areas, or residential enclaves in the rural areas.

The main outcome of using the policy area technique is to assess resource consent applications against additional criteria so that the objectives for both the policy area and the zone are achieved.

2.3.4 PERFORMANCE STANDARDS (Refer to Section 9.0)

Performance standards are considered to be an effective way of dealing with the management and control of effects, which forms the basis of the Resource Management Act 1991. Performance standards have been developed into this District Plan in such a way as to provide for certainty while at the same time facilitating flexibility.

A choice of two paths has been developed as follows:

1. One path allows for certainty by providing a standard to be complied with. By meeting this standard, no further consent is required to be sought or obtained from Council.
2. For those situations where compliance with the standard cannot be met or the developer wishes to do something different, then the second path provides flexibility through the discretionary activity consent process (generally non notified where affected parties consent is obtained), using the assessment criteria set out within each performance standard.

The performance standards recognise that methods outside the District Plan have been developed to manage and control the effects of activities. In particular, there are the New Zealand Standards published by the Standards Association of New Zealand and numerous guidelines published by industry and Government departments. Accordingly, these standards and guidelines provide a means to implement management and control measures without the need to incorporate and continually update a great deal of technical or scientific information through the District Plan. These standards and guidelines have been developed on a national basis.

Some performance standards in this Plan are based on or adopt NZ Standards or other recognised (and specified) guidelines. This applies particularly with regard to infrastructure matters. Performance standards on other matters such as building bulk and location, noise and vibration have been developed by the Council to manage particular effects of activities.

In this District Plan, the performance standards also serve:

Firstly, to define the status of an activity (eg compliance with the noise performance standard may place an activity into the permitted activity status); and

Secondly, to provide a guide for consideration of controlled, discretionary or non complying activities, where the developer wishes to meet the environmental outcome of the standard through a method other than the performance standard provided in the District Plan.

Other methods to manage and control the effects of activities are considered to be in addition to, rather than in place of the performance standards. This approach is based upon the language of the legislation, which refers in Section 31 of the Act to the "control of" various matters within the subsections. The negative effects that most of the performance standards are designed to manage or control are such, that in situations where compliance with the standard is not observed, there needs to be some reliable enforcement mechanism available to achieve compliance in an effective and immediate way. In most situations, Council seeks to achieve compliance through discussion and negotiation as a "first step". This has in many situations enabled the resolution of a problem.

Where the effects on the environment or the amenity of an area do not require "immediate" compliance, other methods such as education, provision of information, encouragement, provision of works or services and taking no action may be appropriate. Hauraki District Council already has a number of education, liaison, information and encouragement programmes in place. In most instances, these methods are designed to avoid the need for enforcement and litigation.

2.3.5 SPECIFIC ACTIVITIES OR MATTERS (Refer to Section 8.0)

A number of specific activities or matters have been identified in the District Plan. The reasons and justification for separating these activities out from the general activities, differs depending on the activity.

2.3.5.1 Network Utilities (Refer to Section 8.1)

Network utilities have been separately identified as they represent essential services that contribute to the health, safety and wellbeing of the community. In providing for these utilities in the District Plan, Council seeks to promote a coordinated approach to their installation and maintenance. By doing so, Council anticipates that natural and physical resources will be sustained for future generations. In addition, the adverse effects of installing and maintaining utilities need to be avoided, remedied or mitigated to protect the environment and amenity of an area.

Although the Resource Management Act 1991 provides for designations by requiring authorities, it does not provide this method for other organisations that also provide public services. The environmental effects of installing and maintaining a utility are the same regardless of who provides them.

The District Plan has provided for network utilities in each of the zones, with an activity status that is appropriate to the environment and amenity of the zone. The provision does not differentiate between utilities provided by requiring or "non requiring" bodies.

The definition of network utilities has been extended from that in the Resource Management Act 1991, by including "automatic weather stations and marine navigation devices". These activities are also essential services to the public that have similar effects to those utilities provided for in the Act.

2.3.5.2 Public works (Refer to Section 8.2)

The term "public works" may include some "network utilities", but the works are generally of a larger nature, usually on their own site, may include more substantial buildings such as electrical substations, sewerage treatment plants and the like. Public works are undertaken by the Crown, regional and district councils, and generally for the larger works there would only be one or a few in the District. Public works can be provided for in the District Plan by any of the following means:

- ✍ Designation.
- ✍ Rules in the Plan as permitted activities in the zone.
- ✍ Resource Consent where not a permitted activity.
- ✍ Existing Use Rights.
- ✍ A specific Public Works zone.

The District Plan has used the techniques of designation, rules in the Plan, resource consent and existing use rights. This recognises that the effects of the public works vary depending on the scale and character of the work. The range of techniques is required to meet the varying needs of public work authorities.

River control works are of such importance to the livelihood of the District, that both the designation and discretionary activity consent process has been provided for them.

2.3.5.3 Extractive Industries (Refer to Section 8.3)

Extractive Industries have the potential to have both significant positive and adverse effects on the environment and amenities of an area. This has been taken into account in the District Plan when making provision for operations involving open cast mining and quarrying in particular.

Recognition also needs to be given to the excavations and fill (refer to Section 8.4) that are part of either subdivision works (therefore controlled by the conditions of subdivision consent), construction of buildings (therefore controlled through the conditions of building consent) and the small scale or "internal" cut and fill that is part of normal farming, road works or other activities. In the urban zones, surface mining will be assessed through the private request for a plan change process.

The District Plan provides for all these situations through a range of techniques. A "volume over time" limit is included, below which a resource consent is not required (ie is a permitted activity). In other zones, a resource consent is required.

In the Conservation (Wetland) Zone, extractive industries are excluded because of the rule making the large scale clearance of indigenous vegetation and ground surface disturbance a prohibited activity.

2.3.5.4 Other Matters

In a similar way to the matters in 2.3.5.1 - 2.3.5.3 above, other activities have been identified separately, including:

- ✍ Air Quality (refer to Sections 2.2.9.3 and 8.5).
- ✍ Excavation and Placement Fill (refer to section 8.4).
- ✍ Signs (refer to Section 8.7).
- ✍ Hazardous Substances and Facilities (refer to Section 8.8).
- ✍ Road and Streets (refer to Section 8.9).
- ✍ Surface of Water in Rivers and Streams (refer to Section 8.10).

2.4 DISTRICT PLAN ADMINISTRATION

2.4.1 GENERAL RULES APPLYING THROUGHOUT THE DISTRICT

2.4.1.1 Temporary Uses and Buildings (Refer to Definition in Section 4.0)

Temporary uses and buildings (including Temporary Military Training) are permitted activities in all zones within the provisions of the definition in Section 4.0.

Temporary uses that do not comply with the definition shall require consent as a discretionary activity in all zones, unless the activity is provided for as a permitted or controlled activity in the zone.

2.4.1.2 Non Complying Activities

As provided for under Section 76(4)(e) of the Resource Management Act 1991, in all zones, any activity which is not specifically referred to by either a specific rule(s) or an activity status in this District Plan, shall require a resource consent for a non complying activity to be obtained.

2.4.1.3 Removal and Demolition of Buildings and Structures

The removal or demolition of buildings and structures is a permitted activity in all zones in the District, except for buildings identified as a Heritage Feature in Section 7.1, where the activity status of the building is determined by the rules set out in Rule 7.1.6 - Activities.

Irrespective of this rule, it is still necessary to obtain the appropriate consents from the District Council under the Building Act 1993 and Council Bylaws (eg services permits, demolition permits and footpath and crossing permits).

2.4.1.4 Deposition of Water onto Land

The deposition of water onto land (including the surface of water in any lake, river or stream) is a permitted activity in all zones, provided the deposition is:

1. expressly allowed by a resource consent granted by the Waikato Regional Council; or
2. allowed by Section 20 (certain existing lawful uses allowed); or
3. allowed by a rule in the Waikato Transitional Regional Plan, the Proposed Waikato Regional Plan or the Operative Waikato Regional Plan

(ie no land use resource consent is required from the Hauraki District Council).