

Section 2:

ADMINISTRATION, MONITORING AND CROSS BOUNDARY ISSUES

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2.1 ADMINISTRATION

2.1.1 STATUTORY FRAMEWORK

2.1.1.1 HIERARCHY OF RESPONSIBILITIES

(1) The District Plan does not stand on its own as an isolated plan for resource management. The District Plan sits within a wider resource management framework, where plans, planning documents and regulations have been created at the national, regional and district levels. The District Plan gives effect to the relevant provisions of these documents and has been developed in consideration of the following Acts, plans, planning documents and regulations:

- (a) Resource Management Act 1991;
- (b) Hauraki Gulf Marine Park Act 2000;
- (c) National policy statements on matters of national significance;
- (d) National Environmental Standards (Regulations);
- (e) Conservation Management Strategy;
- (f) Regulations relating to the conservation or management of taiapure or fisheries;
- (g) Water Conservation Orders;
- (h) Regional policy statements and regional plans including regional coastal plans and regional land transport strategies;
- (i) District Reserves Management Plan;
- (j) Hauraki Iwi Environmental Plan (March 2004);
- (k) District plans for adjoining territorial authorities;
- (l) Management plans and strategies prepared under other legislation.

2.1.1.2 RESOURCE MANAGEMENT ACT 1991

- (1) The Resource Management Act 1991 ('RMA') came into effect on 01 October 1991 and provides the framework for resource management in New Zealand. The RMA has been amended subsequently. The purpose of the RMA is to promote the sustainable management of natural and physical resources including land, water, soil, air, plants and animals and structures (Section 5 of the RMA). The central concept of sustainable management encompasses the use, development or protection of any associated natural and physical resources.
- (2) In achieving this purpose, certain matters of national importance (Section 6 of the RMA) are to be recognised and provided for. In addition, the RMA directs that all persons exercising powers and functions under the RMA have particular regard to specified "other matters" as set out in Section 7.
- (3) The RMA also expresses the duty of territorial authorities with respect to the Treaty of Waitangi through a requirement that all persons exercising functions and powers under the

RMA, in relation to managing the use, development and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) (Section 8 of the RMA).

- (4) The purpose and principles of the RMA are expressed in general terms and apply to all districts. They form the basis of environmental planning for each district and need to be interpreted and balanced in ways that are appropriate to the district concerned.
- (5) The Hauraki District Plan has been prepared with its central purpose being the promotion of the sustainable management of the natural and physical resources. Duties with regard to matters of national importance, other matters and the Treaty of Waitangi must also guide the preparation and administration of the District Plan.
- (6) Under the RMA, district plans are mandatory. They are to be prepared by territorial authorities in the manner set out in Schedule 1 to the RMA, having regard to the functions of territorial authorities (Section 31), the purpose of district plans (Section 72), matters to be considered by territorial authorities (Section 74) and the contents of district plans (Section 75).
- (7) Council's duties under Section 32 of the RMA to consider alternatives, assess benefits and costs etc are set out in the report "Hauraki District Plan – Assessment of Alternatives, Methods, Benefits and Costs (Section 32 Analysis)".

2.1.1.3 HAURAKI GULF MARINE PARK ACT 2000

- (1) The Hauraki Gulf Marine Park Act 2000 (HGMPA) came into effect in February 2000, to provide a framework to integrate the management efforts of the different agencies which impact on the Hauraki Gulf.
- (2) Human activities, urban development, the harvesting of fish and shellfish, and climate change have and will continue to have a profound impact on the natural environment of the Hauraki Gulf.
- (3) The HGMPA seeks to protect and enhance the Hauraki Gulf's valuable resources, and recognise the important relationship which tangata whenua have with the area.
- (4) Section 3 of the HGMPA outlines the purpose of the Act. Section 7 of the HGMPA recognises the national significance of the Hauraki Gulf, which is confirmed at Section 10 of the HGMPA which states that Sections 7 and 8 of the HGMPA are to be treated as a New Zealand Coastal Policy Statement.
- (5) Section 8 of the HGMPA addresses the management of the Hauraki Gulf and section 9 addresses the relationship of the HGMPA with the Resource Management Act 1991.
- (6) The HGMPA requires territorial authorities to incorporate the matters in sections 7 and 8 into their planning and decision-making processes. Territorial authorities must ensure that plans give effect to sections 7 and 8, as they have the force of a national policy statement. Additionally, when considering resource consent applications, authorities must have regard to sections 7 and 8.
- (7) The HGMPA is an important document for Hauraki District Council as a large area of the district is within the catchment of the Hauraki Gulf.

2.1.1.4 CONSERVATION MANAGEMENT STRATEGY

- (1) Conservation management strategies are required under the Conservation Act 1987 and are developed in accordance with the legislation under which the Department of Conservation operates.
- (2) Conservation management strategies are 10 year regional strategies that provide an overview of conservation issues. They give direction for the management of public conservation land and waters, and the species for which the Department of Conservation has responsibility. There are currently two conservation management strategies that cover the District – Bay of Plenty and Waikato.
- (3) The purpose of these strategies is to implement general policies and establish detailed objectives for:
 - (a) the integrated management of natural and historic resources;
 - (b) recreation;
 - (c) tourism;
 - (d) any other conservation purpose.
- (4) Where there is a high level of activity or several complex issues that cannot be dealt with sufficiently in the conservation management strategy, a conservation management plan will be developed for that particular area. An example of this is that the National Parks Act 1980 requires a conservation management plan to be prepared for each National Park.

2.1.1.5 NATIONAL ENVIRONMENTAL STANDARDS

- (1) National Environmental Standards are regulations issued under Sections 43 and 44 of the RMA. These are national standards that prescribe technical standards, methods and other requirements for environmental matters. As a national standard, each regional, city or district council must enforce the same standard, although Council can impose stricter standards in some circumstances.
- (2) The purpose of these standards is to provide a consistent approach and decision making process for particular issues, and ensure that minimum standards are maintained throughout the different regions and districts in New Zealand.
- (3) At the time of preparing the review of the Hauraki District Plan, the following National Environmental Standards were in force:
 - (a) Air Quality;
 - (b) Sources of Human Drinking Water;
 - (c) Telecommunications Facilities;
 - (d) Existing Electricity Transmission Activities.

2.1.1.6 RELATIONSHIP WITH OTHER HAURAKI DISTRICT COUNCIL PLANS

- (1) The Hauraki District Council Hauraki Long Term Plan ('Hauraki Long Term Plan') sets out the Community Outcomes for the District, how Council proposes to contribute to the community well-being over the life of the Hauraki Long Term Plan and how Council will be involved with other agencies to contribute towards achieving the Community Outcomes. The Hauraki Long Term Plan is required to be prepared under the Local Government Act 2002 and must be reviewed every 3 years.
- (2) The Hauraki Long Term Plan is Council's key planning document. It provides a framework for linking all of Council's other plans, such as the District Plan and Asset Management Plans. It is a way of demonstrating how Council's activities contribute to and support the Community Outcomes identified, and is a method to inform the community what Council is proposing to do over the following 10 years.
- (3) The Annual Plan is the annual budgeting statement for that year only and also provides a forecast of activities for the two years following.
- (4) It is important that the Hauraki Long Term Plan - for the Council's overall goals and objectives for the District, and the District Plan - which will guide the resource management affairs of the District, are not inconsistent with each other. The District Plan is only part of the comprehensive planning framework for local government. By itself it cannot make things happen. Mechanisms proposed in the District Plan to achieve resource management objectives and policies that require District Council resources, or commitment to take certain actions, need to be translated through the Hauraki Community Plan/Annual Plan, which is the implementation mechanism for achieving the Council's overall goals and objectives.

2.1.2 HOW TO USE THE DISTRICT PLAN

- (1) There are generally two situations that need to be covered in describing how to use this District Plan, as follows:
 - (a) **Situation 1:** A developer, prospective property purchaser or property owner wishes to know what activities can or cannot be carried out on a particular property(s) or in a particular area.
 - (b) **Situation 2:** A developer, prospective property purchaser or property owner has a specific development or activity that they wish to undertake, and wants to know where the development or activity can be established.
- (2) In **Situation 1**, the Planning maps would be used to identify the property(s) and confirm the zone applicable. The Planning Maps also show additional information that may have a bearing on what activities can or cannot be carried out on the property(s). Additional information could include:
 - (a) Items of Heritage Value;
 - (b) Archaeological Sites;
 - (c) Outstanding Natural Features and Landscapes;
 - (d) Significant Natural Areas (SNAs);

- (e) Designations;
 - (f) Defined Pedestrian Frontage;
 - (g) Amenity Protection Area (for the Industrial Zone only).
- (3) The zones and additional information are cross referenced to sections of the District Plan text.
- (4) In **Situation 2**, it is more likely that from the description of what was being proposed, reference would be made directly to the District Plan text under the zone section that appeared as likely to accommodate the proposal (eg if an office development was proposed, then the most likely zone would be Town Centre). Once the appropriate zone(s) were confirmed, the location of the zone(s) could be found on the Planning Maps.
- (5) For both **Situations 1 and 2**, the use of the District Plan text is the same, and would follow the procedure outlined below:
- (a) The zones include a section headed “Activity Status” which specifies the type of activities that are provided for as either permitted, controlled, restricted discretionary, discretionary, non complying, or prohibited. Activities that are specific to that zone are listed there, with activities that need to be provided for throughout the District referenced to other sections of the text (eg Section 6.0 – Conservation and Heritage).
 - (b) Many activities and terms have a “common” or general meaning that does not require explanation. However, for those activities and terms that are defined in the Resource Management Act 1991 or require definition, reference to Section 4.0 – Definitions is needed. Words that are defined in Section 4.0 are noted in italics within the rules, assessment criteria and designation schedule parts of the text. The definition of an activity can restrict the nature of the activity.
 - (c) An activity may also be restricted by the Zone Development Standards that are applicable to a zone and these are set out in the zone.
 - (d) Where a subdivision is proposed (including a cross-lease, company lease or unit title), reference needs to be made to Section 9.0 – Subdivision.
- (6) This is a brief précis of how to use the District Plan. Further details may be obtained from staff at the District Council.

2.1.3 DISTRICT PLAN RULES

- (1) All rules in the District Plan have the force and effect of regulations. The Council is empowered to include rules in the District Plan to enable it to carry out its functions under the Act, and to enable it to achieve the objectives and policies of this District Plan. Accordingly, rules have been included for the following purposes:
- (a) Generally to achieve the integrated management of land use and development, and in particular, to implement the objectives and policies of the Plan.
 - (b) To control and mitigate the effects of land use and development (ie development standards).

- (c) To protect land use and the associated natural and physical resources of the District.
 - (d) To avoid or mitigate natural hazards.
 - (e) To prevent and mitigate adverse effects associated with hazardous substances.
 - (f) To control the subdivision of land.
 - (g) To control the emission of noise and the mitigation of the effects of noise.
- (2) Activities will be regulated, prohibited or allowed, as appropriate, to ensure that any actual or potential adverse effects on the environment are avoided, remedied or mitigated. In considering the effects of any activity, the Council will take into account positive and adverse effects, temporary and permanent effects, any past, present or future effects of high probability and any potential effect of low probability which has a high potential impact will also be considered.

2.1.4 RESOURCE CONSENTS

- (1) For the purposes of administering the Plan, activities are classified into six groups. These are:
- (a) Permitted
 - (b) Controlled
 - (c) Restricted Discretionary
 - (d) Discretionary
 - (e) Non Complying
 - (f) Prohibited
- (Refer to Section 4 for definitions).
- (2) A permitted activity does not require resource consent provided the activity complies in all respects with the relevant rules of the District Plan.
- (3) The RMA provides for resource consents to be obtained for activities, other than permitted activities, in accordance with rules and criteria specified in the District Plan. These activities are controlled, restricted discretionary and discretionary activities. The RMA also empowers the Council to require that resource consent be obtained for an activity which either contravenes a rule in a plan or is specified as a non-complying activity. No application may be made for, nor may the Council grant resource consent for a prohibited activity. The RMA provides for the amendment of a prohibited activity status through the plan change process (either Council or privately initiated).
- (4) The Council is empowered to grant two types of resource consents, namely:
- (a) a land use consent, and
 - (b) a subdivision consent.

- (5) Other resource consents such as water permits, discharge permits or coastal permits are issued by the Waikato Regional Council. Where more than one resource consent is required for an activity, this must be stated in the application.

2.1.5 GENERAL RULES APPLYING THROUGHOUT THE DISTRICT

2.1.5.1 ZONING AND ACTIVITY STATUS IN RELATION TO ROADS

- (1) Where the proposed land use activity is not in conformity with the *road designation*, roads shall take on the zoning as shown on the planning maps in accordance with the provisions of either Rule 2.1.5.1(2) or (3) below. The activity status of the proposed land use activity in the respective *zone* (refer to Section 5: Zones) will apply, or for Network Utilities and Energy Generation the activity status in Rule 7.4.5 will apply.
- (2) Where the *zoning* is the same on both sides of the *road*, the *road* has that *zoning* also.
- (3) Where the *zoning* is not the same on both sides of the *road*, the *zoning* shall be the more intensive of whichever *zonings* apply to the adjacent land. To avoid uncertainty, the *zones* in the District Plan are set in the following order in terms of intensity of development permitted:
- (a) Town Centre
 - (b) Industrial
 - (c) Martha Mineral and Golden Cross Mineral
 - (d) Township
 - (e) Marae Development
 - (f) Residential
 - (g) Low Density Residential
 - (h) Reserve (Active)
 - (i) Rural
 - (j) Karangahake Gorge
 - (k) Coastal
 - (l) Paeroa Flood Ponding
 - (m) Reserve (Passive)
 - (n) Conservation (Indigenous Forest)
 - (o) Conservation (Wetland)

2.1.5.2 ZONING AND ACTIVITY STATUS IN RELATION TO THE SURFACE OF WATER

(1) ZONING

- (a) Where the following *zones* immediately surround any lakes or apply to both sides of rivers and streams, then the surface of the lake, river or stream shall have the same respective *zoning* as the surrounding land *zoning*:
- (i) Conservation (Indigenous Forest)
 - (ii) Conservation (Wetland)
 - (iii) Reserve (Passive)
 - (iv) Reserve (Active)
- (b) The surface of water of the Ramarama Stream at Whiritoa shall be *zoned* Reserve (Passive).
- (c) Lakes, rivers and streams not covered under Rule 2.1.5.2(1)(a) & (b) above shall be *zoned* Rural.

(2) PERMITTED ACTIVITIES

- (a) In addition to the *permitted activities* in the *zones* specified in Rule 2.1.5.2(1) above, the following are also *permitted activities* on the surface of the water in all *zones*, where they comply with the *Zone Development Standards* specified for land use activities in the *zone* in which the water body is located:
- (i) *Motorised* and non-motorised private *recreation*, including maimai.
 - (ii) Any navigation *structure* or activity essential for the preservation of safety.
 - (iii) Scientific, historic, recreation, nature conservation or water and soil conservation activities in accordance with the Wildlife Act 1953, Te Ture Whenua Maori Act 1993 (Maori Land Act 1993), Conservation Act 1987, Queen Elizabeth II National Trust Act 1977 or Reserves Act 1977.

(3) CONTROLLED ACTIVITIES

- (a) In addition to *controlled activities* provided in the respective *zones* specified in Rule 2.1.5.2(1) above, the following are *controlled activities* where they comply with the *Zone Development Standards* specified for land use activities in the *zone* in which the water body is located, and shall be assessed in relation to the criteria specified in Rule 2.1.5.2(3)(b) below:
- (i) Social, sporting, recreation and cultural events of a temporary nature (ie not lasting longer than four days for each event).
- (b) *Conditions* may be imposed in relation to the matters over which control has been reserved, as specified below:
- (i) The amount of damage the event is likely to cause to the local flora and fauna of the water and adjoining land *environment*.
 - (ii) The amount of damage likely to be caused to the banks and margins of the water body and whether the actions that can be taken to reduce the effects on these water margins are adequate.

- (iii) The extent to which the event will disrupt the other users of the water, or severely restrict them from carrying out their activities.
- (iv) The nature and duration of noise (ie is the noise intermittent, continuous, early in the morning or late at night) and whether there are activities nearby that would be significantly affected by the noise.

(4) DISCRETIONARY ACTIVITIES

- (a) In addition to the *discretionary activities* provided in the respective *zones* specified in Rule 2.1.5.2(1) above, the following are also *discretionary activities* on the surface of water anywhere in the District and shall be assessed in relation to the criteria specified in Rule 2.1.5.2(4)(b) below:
 - (i) Commercial *motorised recreation* and transport.
 - (ii) *Structures* and activities not provided for under Rule 2.1.5.2(2)(a) and 2.1.5.2(3)(a) above.
 - (iii) Jetties, moorings, wharves, marinas, ramps, slipways or other facilities associated with obtaining access to and from the water.
 - (iv) Rafts, houseboats and other floating *structures*.
 - (v) Social, sporting, recreation and cultural events not provided for under 2.1.5.2(3)(a) above.
 - (vi) Any *permitted* or *controlled activity* that does not meet the *Zone Development Standards* specified in the respective *zones*.
- (b) The following assessment criteria will be used to assess a *discretionary activity*:
 - (i) The assessment criteria for *controlled activities* set out in Rule 2.1.5.2(3)(b) above.
 - (ii) The degree to which the activity will limit public access to the water body.
 - (iii) The effect the activity will have on the implementation of the esplanade reserve policy.

(5) NON COMPLYING ACTIVITIES

- (a) Any activity not provided as a *permitted, controlled* or *discretionary activity*.

2.2 MONITORING

2.2.1 BACKGROUND

- (1) The RMA establishes a statutory obligation for the Hauraki District Council to undertake a range of specific monitoring functions. The requirement is not just to gather information about compliance with the provisions of the RMA and relevant plans and policy documents, but also to monitor the “State of the Environment” in the District. The obligation includes a requirement to take appropriate remedial actions and to provide information to the general public. These requirements are detailed in Section 35 of the RMA.
- (2) Council has developed a monitoring strategy which deals not only with issues in a Resource Management context, but also other contexts relating to Council’s responsibilities under other legislative provisions.
- (3) The strategy for the monitoring activity is related to the effects of activities. The effect of a land use or other activity can be gauged by a range of techniques each with its own aspects. The evaluation of the data gathered is an ongoing undertaking which leads to both formal and informal review of policies, plans and the like. This review leads to changes in policies, plans or methods of controls adopted for specific environmental effects.
- (4) The costs associated with monitoring can be met from a number of sources, including:
 - (a) holders of resource consents, where the conditions relating to monitoring are contained in the consent
 - (b) Council funding through the Annual Plan
 - (c) funding from government agencies (eg Ministry for the Environment)
 - (d) “Indirect funding” by obtaining information from industry organisations, community groups, environmental organisations, government agencies and other sources.
- (5) There are essentially four action elements to the monitoring activity as follows:
 - (a) **Complaint Investigations**
 - (i) The investigation of complaints relating to the effects of a specific activity. The action elements include response, investigation and remedial action including, if required, enforcement actions. The Council will investigate and act upon (where justified) all complaints relating to environmental effects which are within its responsibility pursuant to Section 31 of the RMA. A register and summaries as required pursuant to Section 35 will be kept.
 - (b) **Monitoring Conditions of Consent**
 - (i) This includes investigation during and post development, and remedial action including (if required) enforcement actions relating to specific applications (building consents, resource consents and subdivision consents).
 - (c) **State of the Environment Monitoring**
 - (i) Council is required under the RMA to monitor the whole or any part of the District, with particular attention given to the state of the environment, the effectiveness of

the District Plan, the exercise of resource consents and any of Council's functions, powers and duties. On the basis of this monitoring, Council is required to take action as appropriate and necessary and to keep information relevant to such monitoring and action. Specific research activities include land use surveys, and statistical analysis of data gained from enforcement activities and from records of building, subdivision and other consents. The results of the analysis will be used by Council in considering the appropriateness of the provisions of this Plan and the nature and type of conditions being imposed on consents.

(d) Self Monitoring

- (i) Self monitoring by resource users can assist with complaint investigations, monitoring of consent conditions and state of environment monitoring. There are a range of methods available and used by resource users to carry out self monitoring (eg compliance with industry standards). The advantage of self monitoring is that, as the responsibility rests with the individual resource user, they have a vested interest in ensuring compliance at all times.

2.3 CROSS BOUNDARY ISSUES

- (1) It is essential that resource management issues which naturally straddle administrative boundaries are treated in a coordinated fashion by the authorities involved.
- (2) 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.
- (3) 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 also the same as a territorial authority dealing with rural housing in different ways in different parts of the District.
- (4) 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:
 - (a) **Kopuatai Peat Dome:** This resource is partly located in Hauraki District and partly in the Matamata-Piako District. A similar approach is taken by both Councils with respect to the protection of this internationally important wetland.
 - (b) **Coromandel and Kaimai-Mamaku Ranges:** This resource is also located within the Thames-Coromandel and Matamata-Piako Districts. A similar approach is taken by all three Councils with respect to the management of this feature in consultation with the Department of Conservation which has primary responsibility.
 - (c) **Surface of Water (Refer to Rule 2.1.5.2):** 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 controls for surface of water activities need to be managed with regard to the land based activities on the adjoining land, including provision for the Hauraki Rail Trail (cycleway/walkway).
 - (d) **Riparian Areas & Esplanades (Refer to Section 7.3):** The need to provide 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 and where provision for the Hauraki Rail Trail (cycleway/walkway) is proposed.
 - (e) **Railways:** The long term future of the Thames Branch Railway is an issue of concern to Hauraki District and adjoining authorities, in particular Thames-Coromandel District Council and Matamata-Piako District Council, and the Waikato Regional Council.
 - (f) **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, tourist traffic and agricultural produce). Integration between land use and transport management is required to deliver sustainable transport outcomes, particularly with respect to maximising the use of existing transport networks and ensuring connection between active and shared transport modes.

- (g) **Monitoring (Refer to Section 2.2):** Land use trends and the effects of activities in adjoining local authority areas will have implications for the Hauraki District and vice versa. It is essential that in conducting monitoring activities, the Council and adjoining authorities and the Waikato Regional Council ensure a consistency of approach in monitoring, and that information sharing is facilitated.
- (h) **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.
- (i) **Landscape:** Both Thames-Coromandel District Council and Hauraki District Council have recently had a landscape evaluation undertaken. Complementary provisions for landscape protection between the Hauraki, Matamata-Piako and Thames-Coromandel District Councils would enhance the protection of this landscape.
- (j) **Coastal:** The coastline in the Hauraki District adjoins the Thames-Coromandel District to the north and Western Bay of Plenty to the south. Additionally, there is a small area of common boundary at Miranda with the Waikato District. An integrated approach between the Hauraki District Council, the adjoining territorial authorities and Waikato Regional Council is necessary to ensure that the manner in which development is managed is complementary between the districts and also across the land/water boundary and the broader coastal environment, including provision for the Hauraki Rail Trail (cycleway/walkway).
- (k) **Indigenous Biodiversity:** The management of the indigenous biodiversity located within the Hauraki District needs to be complementary to the approaches adopted by the adjoining territorial authorities and the Waikato Regional Council, in order to achieve the most desirable outcomes.
- (l) **Smythes Quarry:** Smythes Quarry is currently largely located within the Waikato District, near the boundary with the Hauraki District. Land use consent has been obtained to expand into Hauraki District, therefore appropriate and complementary provisions need to be incorporated into the District Plan to address this issue.