
**SECTION 32
EVALUATION REPORT**

Proposed Plan Modification to the Auckland Council District Plan –
Hauraki Gulf Islands Section – Part 13 Transport - Rule 13.8.2 (Helipads).

Contents

1. Introduction.....	3
1.1 The Section 32 Evaluation.....	3
1.2 The evaluation approach	3
2. Background to PM16.....	4
2.1 Planning regime for helipads in the Hauraki Gulf.....	4
2.2 Community and Iwi regarding helipad provisions	6
3. Issues	7
4. The Proposed Plan Modification	7
4.4 Development of Options	9
4.4.1 Local identification of issue	9
4.4.2 Issues investigation.....	10
4.5 Description of options	13
4.6 Evaluation of options.....	17
Appropriateness	17
4.6.1 Evaluations	18
Appropriateness	18
Appropriateness	20
Appropriateness	21
Appropriateness	23
4.9 'Mark-up' of Options 1 to 4 (words added are underlined)	24
5.1 Part II - Purpose and principles of the RMA (s5,6,7,8).....	28
5.2 National and Regional Planning Context	31
5.3 Hauraki Gulf Marine Park Act 2000 (HGMPA)	32
5.4 New Zealand Coastal Policy Statement 2010 (NZCPS)	34
5.5 National Planning Standard 15	44
6. Consultation	51
6.1 Consultation under clause 3 of Schedule 1 of the Act,.....	51
7. Conclusion	56
8. List of Attachments and links	57
D	57
E.....	57

1. Introduction

1. This report is prepared by Auckland Council to fulfil statutory requirements of Section 32 of the Resource Management Act 1991 (**the Act** or **RMA**) for proposed Plan Modification 16 (**PM 16**) to the Auckland Council District Plan - Hauraki Gulf Islands Section (**HGI Plan**).

1.1 The Section 32 Evaluation

2. Section 32 of the Act requires that before adopting any objective, policy, rule or other method, the Council shall examine the extent to which each objective is the most appropriate way to achieve the purpose of the Act, and whether the proposed policies, rules or other methods are the most appropriate for achieving the objectives.
3. A report must be prepared summarising the evaluation and giving reasons for the decisions on proposed provisions evaluation. The evaluation must also take into account:
 - The benefits and costs of policies, rules, or other methods; and
 - The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.

1.2 The evaluation approach

4. In accordance with section 32(6) of the RMA and for the purposes of this report:
 - the 'proposal' means PM16;
 - the 'objectives' means the purpose of the proposal /PM16;
 - the 'provisions' means the policies, rules or other methods that implement or give effect to the objectives of the proposal.
5. No changes are proposed to the objectives in the current regulatory framework. The proposed changes to provisions are the purpose of the plan modification.
6. The proposal / PM16 is provided at Attachment A.
7. This section 32 evaluation report will continue to be refined in response to any consultation feedback provided to the council, and in response to any new information received.

2. Background to PM16

2.1 Planning regime for helipads in the Hauraki Gulf

Regional and district planning provisions

Regional policy statement and Regional coastal policy statement

8. The regional policy statement and regional coastal policy statement are regional level regulations in the Auckland Unitary Plan (AUP). The regional level provisions apply to the whole of the Auckland region including the Hauraki Gulf.

The following is noted:

- The HGI Plan was prepared before the New Zealand Coastal Policy 2010 Statement was released. The HGI Plan was notified in 2006 (decisions released in 2009 and fully operative in 2018) so was developed to give effect to the 1994 New Zealand Coastal Policy Statement (NZCPS) and to sections seven and eight of the Hauraki Gulf Marine Park Act 2000¹. There is a concern that this potentially results in a narrower scope of consideration applied to the listed matters for discretion (noise effects and visual effects) than what is provided for in the NZCPS.
- The operative NZCPS is not specifically referenced in the Restricted Discretionary Activity provisions. The approach is that the provisions subject matter is what gives effect to the NZCPS – rather than by making direct reference.
- Noise from aircraft in flight is specifically excluded from section 326 RMA (excessive noise)², although there is a general duty to avoid unreasonable noise in section 16 of the RMA.

Auckland Council District Plan – Hauraki Gulf Islands section

9. The Auckland Council District Plan – Hauraki Gulf Islands section ('HGI Plan') currently sits outside of the AUP (the AUP district plan provisions do not apply to the Hauraki Gulf). The Hauraki Gulf will be brought fully within the AUP at its next review – scheduled to commence in 2026). The (HGI Plan') became operative in part in on 1 October 2013 and fully operative on 22 March 2018. The provisions for helipads were the subject of

¹ While notified in 2006 the HGI Plan was developed before the current NZCPS was gazetted in 2010. HGI Plan- Part 2 'Resource Management Review' identifies the NZCPS among documents by which the HGI Plan is influenced. It notes:

The degree to which the Plan is influenced by these other documents varies depending on the requirements of the RMA. These requirements are that the Plan must give effect to any national policy statement, any NZ coastal policy statement and any regional policy statement (made operative after 10 August 2005. It must not be inconsistent with any regional plan or any water conservation order.

² RMA 1991 section 16 'excessive noise' does not include any noise emitted by any (a) aircraft being operated during, or immediately before or after, flight'

submissions during the plan making process and were ultimately determined by an Environment Court Consent Order³.

10. The plan provisions regulating helipads and airfields are found under section 13.8 Transport. The provisions provide for helipads⁴ as permitted activities (Rule 13.8.1), restricted discretionary activities (Rule 13.8.2) and discretionary activities (Rule 13.8.3). These are provided as Attachment B to this report.
11. Permitted activities do not require a resource consent (provided they meet all other relevant standards in the HGI Plan); restricted discretionary activities (RDA) require an application for resource consent which can be declined but only for reasons that relate to the matters over which council has restricted its discretion; discretionary activities require a resource consent application which can also be declined. There are no limits on the scope of matters that can be considered when assessing a discretionary activity (provided they are within the scope of the Resource Management Act (RMA)).
12. Most helipad applications are received as RDAs (to qualify as RDA requires compliance with 50dB noise limit) and the matters for discretion are limited to noise effects and visual effects. RDA status enables processing on a non-notified basis, this is not a given however and is determined case by case.

National Planning Standard 15

13. National Planning Standard 15 Noise and Vibration Metrics Standard (NPS15) has relevance to this proposed plan modification. NPS15 (1) contains a mandatory directive that specifies use of New Zealand Standard 6807:1994 – Noise Management and Land Use Planning for Helicopter Landing Areas to exclude 4.3 use of averaging.
14. Resolution PEPCC/2023/48 of the PEP Committee (30 March 2023) acknowledged the AUP review as appropriate for undertaking any comprehensive review of helipad provisions in the HGI Plan. Notwithstanding, it resolved to amend the HGI Plan to adopt the NPS15 early (removing use of the 3-day rolling average for helicopter noise measurement).
15. NPS15 was incorporated into the HGI Plan on 20 April 2023. The effect of the early implementation was strengthening of the HGI Plan's Restricted Discretionary Activity rules, potentially resulting in increases to the number of helipad applications required to be assessed as Discretionary Activities (due to not meeting the pre-requisite noise standard to be considered as a Restricted Discretionary Activity. In other instances, the

³ Consent order to the topic of Air Transport (Topic: ENV-2009-304- 000457) and the following appeals the proposed Auckland Council District Plan (Auckland City Hauraki Gulf Islands Section):

- a) ENV-2009-AKL-000313: appeal by Heletranz Limited;
- b) ENV-2009-AKL-000336: appeal by Thumb Point Station Limited, South Coast Station Limited, Man O'War Station Limited, Man O'War Farm Limited and Huruhe Station Limited; and
- c) ENV-2009-AKL-000344: appeal by Helilink Limited and North Shore Helicopters Limited.

⁴ Helipads are landing areas, for helicopter take-off or landing

result would be an increase to the separation distances to notional boundaries needed to achieve compliance with the noise standards; and /or may reduce flight numbers.

2.2 Community and Iwi regarding helipad provisions

16. There is a view in the community that the scope of consideration of the noise effects under the RDA provisions is not wide enough to consider all noise related effects on the wider environment, and in particular the coastal and natural environment. The concerns are:

- residential amenity values
- ecological sensitivity (rare and threatened species)
- cultural sensitivity (kaitiakitanga responsibilities)
- the provisions at 13.8.2.in relation to helipads lack clarity.
- concern that the scope of the operative NZCPS is not reflected in the helipad RDA assessment provisions

17. The following is noted:

- There is regular media interest and council has received expressions of concern from members of the community and tangata whenua that the consideration of effects is not considered broadly enough in terms of the scope provided by the NZCPS.
- Notices of motion from the Aotea/Great Barrier and Waiheke local boards have highlighted concerns about the level of consideration given to impacts on residential amenity and to sites of cultural significance and ecological significance.
- Tangata whenua have raised concerns about impacts to sites of cultural significance to the Aotea/ Great Barrier Local Board⁵. A letter from the Ngāti Rehua Ngātiwai ki o Aotea Trust outlining concerns about helicopter activity was appended to a notice of motion from the Aotea/ Great Barrier Local Board.

2.2.1 Contributing Information Used to understand the issues leading to development of Proposed Plan modification

18. A summary of the reports, documents, evidence, and plan versions used to develop the plan modification is included in Attachment C. Copies of letters and reports / memorandum and Notices of Motion are included in the Attachment.

⁵ Email to Aotea/Great Barrier Local Board from Ngāti Rehua Ngātiwai ki Aotea Trust) – dated 21 February 2020

19. Notices of Motion from the Waiheke Local Board and Aotea/ Great Barrier Local Board; and Waitemata and Gulf Ward Councillor Mike Lee have advocated for strengthened helipad provisions in the Hauraki Gulf.
20. The local boards' advocacy regarding seeking a plan modification is provided for under section 48K(1)(b) which identifies this as part of the role of the local board

(1) Each local board is responsible and democratically accountable for -(b) identifying and communicating to the unitary authority the interests and preferences of the people in its local board area in relation to the content of the strategies, policies, plans, and bylaws of the unitary authority;

3. Issues

The assessment criteria to the restricted discretionary activity assessment under Rule 13.8.2 has been investigated to identify gaps/ weaknesses that could result in a narrower scope of consideration being applied than is provided for in the rules, and in terms of the scope provided in the NZCPS. It is considered that the provisions do contain a weakness in regard to the consideration of noise effects.

The weakness relates to potential oversight of vibration and of more nuanced noise considerations. This is considered to arise from the Matters for Discretion which references "Noise" without clarification that this includes vibration. In regard to the assessment criterion there is also potential for oversight of noise impacts on ecological and cultural sites due to specific referencing to 'noise sensitive activities' in some criteria – This term is defined in the HGI plan and applies to listed activities. The issue is that ecological sites and cultural sites are not among the listed 'noise sensitive' activities. This does not preclude their assessment – as other assessment criteria provide more generally for all noise related effects to be considered. The concern is that the references to 'noise sensitive activities' create the potential for noise related ecological and cultural impacts to be overlooked as the focus of consideration is being directed away from general considerations to specific considerations.

Clarification to Rule 13.8.2 matters for discretion and assessment criteria through addition of a reference to "vibration"; and to separately provide an assessment criterion for ecology and cultural sites would remove the risk of oversight of these matters.

These issues have implications for Rule 13.8.2. in terms of its performance in the manner intended, in alignment with the scope provided under the NZCPS to the extent of the matters for discretion. The remedy of this situation through a proposed plan modification is considered to be a justified response by the council.

4. The Proposed Plan Modification

4.1 Objective (Purpose) of the proposed plan modification

21. The objective (purpose) of the plan modification is to amend Rule 13.8.2 Restricted Discretionary Activity to explicitly acknowledge the NZCPS 2010 relevance in the

assessment of noise effects and to add clarity to the consideration of noise given by the matters for discretion and assessment criteria by adding “vibration” to the matters for discretion; and separately identifying ecological sites and cultural sites as noise sensitive activities in relation to the assessment of helipads. It aims to ensure that the context and scope for the consideration of noise effects provided by the policy directives of the current NZCPS 2010 are applied to the extent permissible by section 104(c) of the RMA.

4.2 Effect of the proposed plan modification

22. The plan modification will impact tangata whenua, mana whenua, landowners and residents of the Hauraki Gulf Islands; and helicopter operators (private and commercial) seeking to establish helipads in the Hauraki Gulf Islands area. The primary impact will be on resource consents applicants, and for council planning staff assessing applications – by having a clearer regulatory framework.
23. The proposed plan modification does not introduce new standards. The proposed amendments aim only to clarify the existing regulatory framework. The proposed plan modification will have no impact on future applications for helipads as a Restricted Discretionary activity in the Hauraki Gulf.
24. The proposed plan modification will have no impact on the existing consented helipads in the Hauraki Gulf area.

4.3 The scope of the proposed plan modification

In-scope:

25. Previous reports received by the Planning Committee and the Planning, Environment and Parks Committee discuss the helicopter rule framework for the Auckland region (both the HGI Plan and the AUP). These reports identified that the existing rules of the HGI Plan provide for an adequate assessment of a range of effects and can be relied on in the interim period – until the Hauraki Gulf is brought fully within the AUP.
26. The proposed plan modification scope has purposely been kept narrow - focusing on the Restricted Discretionary Activity Rule 13.8.2 to improve its overall performance in the assessment of noise. The focus of the proposal is targeted at clarifying the interpretation of “noise”, and to more clearly identify the particular nuanced considerations of noise impact on ecological sites and cultural sites. These are recognised as nuances of noise effects assessment that are at risk of being overlooked, thereby risking lessening the scope for noise assessment to be less than what is provided by the NZCPS.

Outside of scope:

27. Objectives and policies are outside the scope of the plan modification. This focus recognises that any change to objectives and policies would involve reviewing strategic directions for the Hauraki Gulf Islands which integrate with the transport topic. The specificity of the Planning, Environment and Parks committee resolution to Restricted Discretionary activities (Rule 13.8.2) also responds to timing considerations associated

with the need to bring the Hauraki Gulf Islands fully within the scope of the AUP (recognising the Regional Policy Statement and Regional Planning provisions already apply) and the timing of that review, commencing in 2026.

4.4 Development of Options

28. As discussed in section 4.3 above, the development of options is limited to Restricted Discretionary Activity Rule 13.8.2. Options were developed in the context of the following:

4.4.1 Local identification of issue

29. Iwi, resident and local board advocacy highlighted concerns about helicopter noise in the Hauraki Gulf. Details are included at Attachment C to this report. Council implemented National Planning Standard 15 ahead of its required implementation date as an intermediate measure to ensure noise measurement is standardised. This section 32 evaluation is further consideration of the issue: noise generated by helicopters and whether provisions for consideration under Rule 13.8.2 Restricted Discretionary Activities provides adequate consideration of noise effects.

Notices of motion

30. The Notices of Motion from the Waiheke and Aotea/Great Barrier Local Boards on the topic of helicopter management and resolutions of the Planning, Environment and Parks Committee (PEP Committee) are relevant to the development of this Plan Change. For example, the PEP Committee Resolution PEPCC/2023/48 (30 March 2023) directed the early implementation of National Planning Standard 15 in the HGI Plan. This effectively strengthened the helipad provisions for helipads and has relevance to the topic of assessment of helipads under Rule 13.8.2 Restricted Discretionary, and the rules alignment with the NZCPS. Background is provided below, to the extent that it is relevant to the development methodology.
31. This plan modification began with a review of the Notices of Motion from Waiheke and Aotea/Great Barrier Local Boards and from Mike Lee – Councillor for Waitemata and Gulf on Auckland Council concerning helicopter rules and management of helicopter activity; and a review of the responses (Memorandum and reports) from Auckland Council's Planning Unit, Consents Unit, and Compliance and Monitoring Unit to the Local Boards and the Planning, Environment and Parks Committee.
32. The local boards' concerns included the number of helipads in the Hauraki Gulf Islands area and the ability of the rules for Restricted Discretionary Activity (Rule 13.8.2) to fully consider associated adverse amenity, ecology and cultural effects. Stronger management provisions were sought including a moratorium on helipad consents and Prohibited Activity status.
33. A number of reports and memorandum have been provided to the Planning, Environment and Parks Committee (PEP) detailing the rules of the HGI Plan and the AUP and jurisdictional matters (see Table 1 above - *Information used to understand the issues leading to Proposed Plan Modification*). These have verified that the HGI Plan

Rule 13.2.8 is able to consider a wide range of effects and that subject to amendment to apply the National Planning Standard for helicopter noise measurement early (removing use of a 3-day rolling average) the rule is considered to provide an adequate effects assessment. It was also noted that the rules responded to the objectives and policies of the HGI Plan in terms the relative balance of competing outcomes (environmental, social, cultural, and economic).

4.4.2 Issues investigation

Analysis of alignment of NZCPS 2010 and HGMPA

34. s75(3)(b) of the RMA requires plans to give effect to the NZCPS. The following analysis has been undertaken to confirm that the current HGI Plan provisions meet this requirement.
35. This analysis responds to concerns that HGI Plan was not developed under the current NZCPS 2010. Rather, it was developed under NZCPS 1994 and HGMPA policies 7 and 8, (noting these are to be considered as NZ Coastal Policies⁶).
36. As a starting point, the issues covered by the HGMPA policies 7 and 8 require recognition of the relationship between the Hauraki Gulf, its islands, and catchments and the ability of that interrelationship to sustain the life-supporting capacity of the environment of the Hauraki Gulf and its islands are matters of national significance (policy 7) and sets management objectives (policy 8) to protect the life-supporting capacity, protect the natural, historic and physical resources, and those with which tangata whenua have an historic, traditional, cultural and spiritual relationship. The life-supporting capacity includes the capacity to maintain air, soil, water and ecosystems, and for use of the resources of the Gulf by the people and communities of the Gulf and New Zealand for economic activities and recreation.
37. The analysis investigates the directives contained in the NZCPS 2010 and HGMPA to determine the degree of alignment between the two. It concludes that overall, the directives of each broadly cover the same matters, with the HGMPA obviously focused on the Hauraki Gulf.

The full analysis is set out in sections 4.3 and 4.4 of this report. The key findings (summarised) are as follows:

- Although framed differently the policy directives of the NZCPS and HGMPA are generally in alignment. Both include directives for recognition, protection, and use of the natural, physical and heritage resources of the coastal environment; including provision for the health and wellbeing of communities and people; and recognition of tangata whenua relationships (historic, traditional, cultural and spiritual relationships) and role as kaitiaki.

⁶ HGMPA s10(1) (1) states “For the coastal environment of the Hauraki Gulf, sections 7 and 8 must be treated as a New Zealand coastal policy statement issued under the Resource Management Act 1991.”

Natural and Physical resources

- HGMPA directives concerning protection, management and enhancement of natural, historic and physical resources, soil, water, air and ecosystem health correlate to NZCPS Objective 2 Natural Character - “indigenous biodiversity and ecosystems directives” in policies 6 and 11; “natural character, landscapes and features directives” in policies 13, 14, 15, “historic heritage directives” in policy 17 “vehicle access directives” in policy 20.

Tangata whenua

- HGMPA directives to recognise tangata whenua historic, traditional, cultural and spiritual relationships with the Hauraki Gulf and use of its resources, and role as kaitiaki correlate to NZCPS Objective 3 Te Tiriti o Waitangi and policy 2).

Community and social wellbeing

- HGMPA directives for management of the use of resources to provide for community and social wellbeing, health and safety while protecting values of the coastal environment correlate to Objective 6 and strategic planning directives in policy 7 regarding subdivision, use, and development.

Recreation and open space

- HGMPA directive providing for use and enjoyment of resources of the Gulf by the people and communities of the Gulf and New Zealand for economic activities and recreation correlate to Objective 4 “public open space” and recreation opportunities of the coastal environment.

38. Noting the high level of correlation between directives of the NZCPS and the matters contained in HGMPA policies 7 and 8, it is concluded that the provisions of the HGI Plan governing helipads prepared under the HGMPA is consistent with the NZCPS in its current form.

Balance of HGI Plan provisions

39. Given the conclusion that there is relative alignment of the directives in the HGMPA and the NZCPS (discussed above) the balance of provisions adopted in the operative HGI Plan (recognising the provisions are a decision of the Environment Court and considered against the plans wider strategic directions) is considered appropriate to maintain.

4.4.3 Perceived Rule Weaknesses – Rule 13.8.2 Restricted Discretionary Activity (helipads)

40. The concerns raised by the Waiheke and Aotea /Great Barrier Local Boards and tangata whenua indicate there are areas of weakness in the Rule 13.8.2 assessment of particular aspects of noise from helipads, in particular the assessment of impacts to ecological and cultural sites such that these effects are potentially overlooked.

41. Tangata Whenua views from Ngāti Rehua Ngāti Wai ki Aotea Trust (attached to the Aotea /Great Barrier Local Board Notice of Motion) state that the provisions at Rule 13.8. in relation to helipads lack clarity.
42. The interpretation of matters for discretion and assessment criterion at Rule 13.8.2 have been investigated with particular focus given to nuances of noise consideration. The interpretation of the matter of discretion “Noise” and criterion 1, 2 and 4, are considered most relevant to the consideration of noise in terms of the concerns raised.
43. It is considered that the provisions as a whole provide for consideration of all noise impacts including “vibration” and including consideration of noise impacts to ecological and cultural sites. It is however considered that the Matters for Discretion reference of “noise” presumes the readers familiarity with the RMA definition of noise which states “noise includes vibration.” It is also considered that the criterion for consideration of noise impacts is problematic due to the mix of explicit criteria (criterion 1 and 2) with general criteria (criterion 4). It is noted that a mix of general and specific can result in attention being focused to the more explicit provisions. In the case of noise effects, the general criteria is criterion 4, which provides generally for consideration of noise and amenity effects is potentially given less attention than criterion 1 and 2 which refer to the defined term ‘noise sensitive activities’⁷, This risks a narrower scope of consideration inadvertently being applied to noise effects, whereby more nuanced noise effects relative to ecological and cultural sites could be overlooked.
44. Overall, it is noted that the Matters for Discretion identification of “noise” (having no reference to vibration), and the interrelationship of assessment criterions 1, 2 and 4 (a mix of general and focused considerations) potentially results in narrower scope of consideration of noise effects than the scope provided by the NZCPS.
45. Options development has been informed by these concerns and consideration of appropriate trigger points in Rule 13.8.2 to address the perceived gaps in the assessment of effects for helipads as restricted discretionary activities under Rule 13.8.2 and to ensure the provisions are applied in a manner that aligns to the scope given under the NZCPS.

4.4.4 Adequacy of assessment - Rule 13.8.2 Restricted Discretionary Activities

46. Previous reports received by the (former) Planning Committee and Planning, Environment and Parks Committee discuss the helicopter rule framework for the Auckland region (both the HGI Plan and the AUP). These reports identified that the existing rules of the HGI Plan provide for an adequate assessment of a range of effects and can be relied on in the interim period – until the Hauraki Gulf is brought fully within the AUP. The recommendations in the reports and memorandum were that Rule 13.8.2 could be retained until the next review of the AUP subject to early implementation of NPS15. It was identified that the adequacy of the assessment of effects under the existing rule and the high cost of plan changes indicated that use of the AUP review was

⁷ HGI Plan Part 14 definitions ‘noise sensitive activities’: means any of the following activities that are sensitive to air transport noise: dwellings; education facilities, care centres, healthcare services; accommodation for care, accommodation for retired, elderly or disabled people, boarding house or hostel, visitor facilities.

the most effective and efficient process to investigate a comprehensive review of the approach to helipad management in the Hauraki Gulf for the future. This took into consideration that the HGI Plan will not be renewed outside of the AUP. The AUP review must⁸ fully incorporate the Hauraki Gulf into the AUP.

NZCPS

47. The PEP committee noted the New Zealand Coastal Policy Statement as a specific issue to be considered during its consideration the Notice of Motion from Cr M Lee on 14 March 2024 seeking plan changes to the AUP and HGI Plan to introduce Prohibited Activity Status. The Committee recognised that the NZCPS 2010 was gazetted after the HGI Plan had been notified so the HGI Plan was based only on the NZCPS 1994 and HGMPs s7 and 8 (under s10 these are recognised as NZCPS policies). The Committee considered this situation could have a bearing on the assessment of effects and resolved that a plan change to the HGI Plan Rule 13.8.2 Restricted Discretionary Activity be initiated to add the NZCPS to Restricted Discretionary Activities as a matter of discretion.

4.5 Description of options

Four options

48. Having regard to the considerations outlined above at section 4.4, four options have been developed which aim to increase certainty about the influence of the NZCPS on the assessment of effects for helipads as restricted discretionary activities under Rule 13.8.2.
49. The options have the objective of removing uncertainty and providing greater understanding about the scope of effects able to be considered for helipads that are Restricted Discretionary Activities.
50. The clarification of the scope for consideration of noise effects is recognised as a key outcome that would address residents, iwi and community concerns about weaknesses in the existing provisions at Rule 13.8.2 concerning the consideration of noise effects.

Option 1: Do nothing (Status quo)

51. Under Option 1, Council would not introduce any change to the Restricted Discretionary Activity provision - Rule 13.8.2 Restricted Discretionary activities. Restricted Discretionary activities for helipads would be evaluated against existing HGI provisions including NPS 15.
52. This option recognises that the assessment of effects for a resource consent is undertaken in accordance with s104(1)(b)(ii) of the RMA and 104(c) and must have regard to the NZCPS in the consideration of effects. The consideration is limited to the matters over which council has restricted its discretion.

⁸ Legislative provisions enabling the HGI Plan to exist outside of the Auckland Unitary Plan apply only to the first Unitary Plan. The enablement ceases thereafter.

53. This option continues to rely on s104 rather than introducing an 'up front' trigger within Rule 13.8.2 to raise awareness of the NZCPS policy directions that influence the scope of the assessment of effects.
54. This option involved no change to the provisions at Rule 13.8.2. The rules will continue to read as follows:

Rule 13.8.2 "Matters for Discretion"

When considering an application to establish a helipad or airstrip, the council has restricted its discretion to the following matters:

- Noise effects
- The visual effect of any earthworks or retaining structures required to establish a helipad or airstrip.

Option 2: Amendments to Restricted Discretionary Activity Rule 13.8 for Helipads – Matters for Discretion – ADD NZCPS as a NEW line item.

55. This option involves amending the section of the Rule 13.8.2 titled 'Matters for Discretion' to add the NZCPS as a third matter of discretion.
56. There are currently two matters for discretion under Rule 13.8.2. These are noise effects and visual effects. Adding the NZCPS here would result in the provision being amended thus (words added are underlined):

Rule 13.8.2 "Matters for Discretion"

When considering an application to establish a helipad or airstrip, the council has restricted its discretion to the following matters:

- Noise effects
- The visual effect of any earthworks or retaining structures required to establish a helipad or airstrip.
- NZCPS 2010

Option 3: Amendments to Restricted Discretionary Activity Rule 13.8.2 for Helipads – Matters for Discretion – changing "Noise" to read "Noise and Vibration", and adding reference to the NZCPS; AND amending Assessment Criteria by adding a specific noise criterion for Māori heritage sites, ecological sites, and breeding sites/ nesting areas of threatened, endangered, or rare species - particularly indigenous species

57. This option involves amending the Rule 13.8.2 'Matters for Discretion' so the two listed matters (noise effects / visual effects) receive additional text. "Noise" would be amended to read "Noise and Vibration" – and would then transparently show alignment to the interpretation of noise given by the RMA "noise includes vibration"⁹. Additional guidance will also be added referencing the NZCPS to clarify that the scope of consideration of the

⁹ RMA Part 1 Interpretation

listed matters is informed by the policy directives of the NZCPS on ecological, cultural, natural character, amenity and recreational enjoyment values.

58. This option would also amend the Assessment Criteria by adding a specific noise criterion giving clarification that 'Māori heritage sites', and 'Sites of Ecological Significance /sensitive species/habitat' are to be considered as noise sensitive areas. The potential amendments are shown below (words added are underlined):

1. Amend Rule 13.8.2 Matters for Discretion

Matters for Discretion

When considering an application to establish a helipad or airstrip, the council has restricted its discretion to the following matters:*

- *Noise and vibration effects*
- *The visual effect of any earthworks or retaining structures required to establish a helipad or airstrip*

**The scope of consideration for the listed matters includes the policy directives of the NZCPS on ecological values, cultural values, natural character, amenity and recreational enjoyment which can be adversely affected by noise (as relevant).*

2. Amend Rule 13.8.2 - Add new assessment criteria X

Assessment criteria

When considering the above matters of discretion, the council will have regard to the following assessment criteria:

1. *The effects of noise and vibration received or within the notional boundary of the noise sensitive activities;*
2. *The cumulative noise and vibration levels received by any noise sensitive activity; generated by use of the proposed helipad or airstrip along with any other consented or permitted landing area;*
- X *The effects of noise and vibration on natural and historic heritage including:*
 - *māori heritage sites, with particular regard given to NZCPS policy 2*
 - *sites of ecological significance, and breeding sites/ nesting areas of threatened, endangered, or rare species (particularly indigenous species) with particular regard to NZCPS policy 11.*
3. *The adverse visual or amenity effects resulting from the type and size of the facility to be provided.*
4. *Whether the noise and vibration generated by use of the proposed helipad or airstrip can be adequately mitigated so as not to give rise to adverse noise and amenity effects, including appropriate controls over:*
 - *the type of helicopter(s)*
 - *the flight procedure, (flight track / path, ground idling, hovering)*
 - *the hours of operation and frequency of movements*
 - *the location of helipad or airstrip.*
5. *Proposed consent conditions which provide for recording, monitoring, reporting and review.*

Option 4: Amendments to Restricted Discretionary Activity Rule 13.8 for Helipads – Matters for Discretion by changing “Noise” to read “Noise and Vibration”; and adding “ecological effects” and “cultural heritage effects” AND amending Assessment Criteria by adding a specific noise criterion for Māori heritage sites, ecological sites, and breeding sites/ nesting areas of threatened, endangered, or rare species – particularly indigenous species.

59. This option involves amending the Matters for Discretion by adding ‘Ecological effects’ and Cultural heritage effects’; and amending the Assessment Criteria by adding a specific noise giving clarification that ‘Māori heritage sites’, and ‘Sites of Ecological Significance’ and breeding sites/nesting areas of sensitive species – particularly indigenous species’ are to be considered as noise sensitive areas. The potential amendments are shown below (words added are underlined):

1. Amend Rule 13.8.2 Matters for Discretion

Matters for Discretion

When considering an application to establish a helipad or airstrip, the council has restricted its discretion to the following matters:

- *Noise and vibration effects*
- *The visual effect of any earthworks or retaining structures required to establish a helipad or airstrip*
- *Ecological effects*
- *Cultural effects*

2. Amend Rule 13.8.2 – Add new Assessment criteria

When considering the above matters of discretion, the council will have regard to the following assessment criteria:

1. *The effects of noise and vibration received at or within the notional boundary of the noise sensitive activities;*
2. *The cumulative noise and vibration levels received at or within the notional boundary of any noise sensitive activity; generated by use of the proposed helipad or airstrip along with any other consented or permitted landing area;*
- X *The effects of noise and vibration on natural and historic heritage including:*
 - *māori heritage sites, with particular regard given to NZCPS policy 2*
 - *sites of ecological significance, and breeding sites/ nesting areas of threatened, endangered, or rare species (particularly indigenous species) with particular regard to NZCPS policy 11*
3. *The adverse visual or amenity effects resulting from the type and size of the facility to be provided.*
4. *Whether the noise and vibration generated by use of the proposed helipad or airstrip can be adequately mitigated so as not to give rise to adverse noise and amenity effects, including appropriate controls over:*
 - *the type of helicopter(s)*
 - *the flight procedure, (flight track / path, ground idling, hovering)*

- the hours of operation and frequency of movements
- the location of helipad or airstrip.

5. ...

4.6 Evaluation of options

60. The criteria used to evaluate the options include appropriateness, effectiveness, efficiency, and costs (s32(1)(b) of the RMA). A summary of the evaluations is provided in Table 3.

Table 3 Options Evaluation summary: Amendments to Restricted Discretionary Activities Rule 13.8.2 for Helipads

	Option 1 Do Nothing	Option 2 Amend Matters for Discretion – ADD NZCPS as a new (3rd) matter of discretion.	Option 3 Amend Matters for Discretion - Change “Noise” to “Noise and Vibration, ADD clarification reference to NZCPS. Amend Assessment criteria’ to add a specific noise criterion for Māori Heritage Sites and Ecological Sites of Significance / and breeding sites/ nesting areas of threatened, endangered, or rare species – particularly indigenous species	Option 4 Amend Matters for Discretion - Change “Noise” to “Noise and Vibration, ADD ecological and cultural heritage effects as new (3 rd and 4 th) matters for discretion. Amend Assessment criteria to add a specific noise criterion for Māori Heritage Sites and Ecological Sites of Significance / and breeding sites/ nesting areas of threatened, endangered, or rare species- particularly indigenous species
Appropriateness	✓ (technical)	X	✓ +	X
Effectiveness		X	✓ +	X
Efficiency		X		X
Costs (financial)	lowest	high	low	medium/high
Benefits		X		X low

X NO

✓ Yes

4.6.1 Evaluations:

Option 1: Do Nothing

61. Appropriateness/Effectiveness/Efficiency: Doing nothing is technically an appropriate, and efficient solution from a process perspective given that the consents process assessment of effects under s104 of the RMA already requires regard to be had to the NZCPS to the extent that the matters over which discretion has been restricted correspond to the NZCPS provisions. Practice guidelines discuss the assessment of adverse effects and consents planners are aware of the scope of the NZCPS and its influence in the assessment of effects. The practice guideline expressly discusses consideration of effects in relation to sites of cultural significance and sites with ecological values. Notwithstanding, the Do-nothing option misses the opportunity to improve the efficiency and effectiveness of the consents process through amendments to clarify meaning and interpretation of the current provisions.
62. Maintaining the status quo misses the opportunity for resource consent applicants being expressly directed to consider relevant matters in preparing their applications.
63. Benefit: The benefit of doing nothing is the resulting rationalisation of resources for plan modification/plan changes. The Do-Nothing option recognises the timing of the next review of the AUP which includes work to bring the Hauraki Gulf Islands into the AUP and will involve comprehensive reviewing of the regulatory framework for helipads along with integration of local planning matters in resource management issues for the whole region. There is a financial benefit in terms of rationalising costs to one change process (the review of the AUP and its application to the Hauraki Gulf).

Cost: The Do-nothing option has the least direct financial costs to council of the options. This is due to the cost savings associated with the rationalisation of the plan modification/ change process (outlined above under 'benefits').

Appropriateness	✓
Effectiveness	✓
Efficiency	✓
Costs (financial)	lowest
Benefits	✓

Option 2: Amendments to Restricted Discretionary Activity Rule 13.8.2 for Helipads – Matters for Discretion – ADD NZCPS as a NEW line item.

64. Appropriateness: An amendment to the Matters for Discretion to add the NZCPS as an additional matter is not considered to be an appropriate method. Adding the NZCPS would expand the matters for discretion significantly wider than noise and visual effects to include all aspects of amenity including more esoteric consideration of character,

landscape and general amenity. The NZCPS is a comprehensive policy statement traversing a wide range of coastal issues. The expanded matter of discretion would be outside the scope of the current HGI Plans policies which are very closely aligned to noise and visual effects and designed to ensure a balance of environmental and amenity outcomes with economic and transport outcomes. As such there would be no policy backing for the Restricted Discretionary Activity provisions addressing issues unrelated to noise and visual effects.

65. Not acting forgoes the opportunity to expressly reference noise effects on ecological and cultural values. Based on iwi and community feedback and as evidenced by resource consent data, applications for helipads seldom include noise impact assessments on cultural heritage sites or in relation to ecological areas or species despite these being technically relevant and appropriate restricted discretionary activity matters for consideration.
66. Effectiveness: The method would not be an effective tool controlling restricted discretionary activity. The NZCPS in its entirety is too great a scope to be a 'matter of discretion'. It would contradict the key mechanism underpinning Restricted Discretionary activity status, which is to place specified limitations on the matters that can be considered. Potentially any effect on a subject of the NZCPS may be considered, the scope created would be broader and more akin to a discretionary activity. Potentially the Restricted Discretionary activity status may be made redundant – a consent category in name only. This creates an issue of lack of transparency as the balance of the regulatory framework for helipads is significantly changed and is contrary to the requirement for specificity set out in section 77B of the RMA. The option is essentially removing the Restricted Discretionary activity status and replacing it with Discretionary Activity status.
67. Efficiency: This method would not promote efficiency. The lack of specificity regarding limitations on matters for discretion is likely to result in confusion rather than providing the desired degree of clarity and transparency as potentially any effect may be considered relevant and trigger a broad assessment more akin to a Discretionary activity. Uncertainty will open up assessments to include irrelevant matters. The additional breadth of the assessments of effects and reporting evaluations will add to consenting costs for both the applicant and for council.
68. Costs/Benefits: The benefits of the method are questionable in light of the effectiveness and efficiency issues outlined. The costs of the method would include incurring unnecessary consent processing costs including costs associated with consent applications prepared and lodged as a Restricted Discretionary Activity instead of Discretionary Activity. Procedurally, the cost of the plan modification is likely to be high in terms of resourcing. Helicopters are a contentious topic and introduction of an open-ended matter of discretion is likely to result in intense debate with a lengthy hearing and appeals process. Any change will be strongly contested by both supporters and opponents to change. Helicopter flights have positive and negative effects for the Hauraki Gulf Islands, related environments, and people. Given the difficulties outlined the overall benefit of Option 2 is considered to be low.

Appropriateness	X
Effectiveness	X
Efficiency	X
Costs (financial)	high
Benefits	X low

Option 3: Amendments to Restricted Discretionary Activity Rule 13.8 for Helipads – Matters for Discretion – changing “Noise” to “Noise and vibration”, and adding reference to the NZCPS; AND amending Assessment Criteria by adding a specific noise criterion for Māori heritage sites, ecological sites, and breeding sites/ nesting areas of threatened, endangered, or rare species - particularly indigenous taxa

69. This option involves targeted amendments to clarify the existing matters for discretion (noise, visual) by adding reference to “noise and vibration” to align with the RMA meaning given to noise, and by adding a cross reference to the NZCPS noise related policies.
70. Appropriateness: The addition of “vibration” to the existing Matter for Discretion “Noise” ensures transparency of interpretation for all plan users. Importantly, it does not rely on readers of the rule being familiar with the RMA definition of noise to understand that vibration is included. This is important as the HGI Plan and Auckland Unitary Plan rely do not have a general definition of “noise” and rely on the general definition given in the RMA. The proposed cross reference to the NZCPS in the Matters for Discretion signals early on in the Rule 13.8.2 provisions, that the scope of the assessment of these effects is undertaken in the context of the NZCPS. The current approach is less transparent as the statutory requirement to have regard to the NZCPS is not explicitly stated by the HGI Plan. Instead, its application arises by applying s104(c) in the consents assessment under s104 of the RMA. The resulting ‘up front’ awareness of the influence of the NZCPS is considered appropriate. This change would make clear to all plan users the relevance of NZCPS noise related policies to Restricted Discretionary applications for helipads. From a plan administration perspective this option would also assuage concerns that the relevant matters in consent application evaluation may be overlooked.
71. In regards to the noise sensitive activities, Māori heritage sites and ecological sites, and breeding sites/ nesting areas of threatened, endangered, or rare species are noise sensitive receiving areas which may be considered under operative assessment criterion 4 but have the potential to be overlooked – being less obvious examples and potentially obscured by criteria 1 and 2 which focus on ‘noise sensitive activity’ – a defined term in Part 14 Definitions¹⁰ The Pt 14 definition is focused only on people as residents or

¹⁰ HGI Plan -Pt 14 Definitions “Noise sensitive activities: means any of the following activities that are sensitive to air transport noise: dwellings: educational facilities, care centres; healthcare services; accommodation for care: accommodation for retired, elderly or disabled people; boarding house or hostel, visitor facilities.

occupiers of neighbouring properties. Noise effects arising from the establishment and use of helipad are not however confined to these settings. It is noted however, each criterion is separate and the assessment under criterion 4 is not bound by the working of criteria 1 and 2. The proposed amendment is considered to have merit as it brings awareness to less obvious aspects of noise sensitivity.

72. An example of cultural effects from helipads and associated take-off and landing are the potential noise disturbance to the metaphysical extent and aesthetic amenity (including noisescape) of culturally significant and culturally sensitive sites e.g. urupā.
73. An example of ecological effects from helipads and associated take-off and landing is disturbance of habitat amenity (e.g. species not returning to nesting sites as a result of fright from noise and visual stimulus). This is particularly relevant for species whose habitat is in the coastal environment.
74. Noise effects on ecological and cultural sites are within the ambit of what must be considered as a Restricted discretionary activity under Rule 13.8.2. The noise-relevant NZCPS policies are applied under s104(1b), as s104(c) and the matters over which discretion is limited make consideration of the relevant NZCPS policies necessary. A wider consideration of NZCPS policies is not permissible. Section 104C limits the application of section 104.
75. Effective/Efficient: The method is considered effective and efficient because it clarifies the scope of the matters for discretion and removes ambiguity from the assessment criteria regarding noise sensitivity considerations. The proposed amendments provide for ready consideration of more nuanced noise effects, removing the potential for their being overlooked, which could occur if criterion 4 is relied on to capture them (as per Option 1).
76. Costs/Benefits: The benefits of the method are that it improves certainty and transparency for users of the HGI Plan. The plan modification costs of the method are minimised given the s104 assessment of effects already requires regard to be given to the NZCPS to the extent the NZCPS is relevant to the matters over which the council has reserved its discretion; and the amendments to the Matters for Discretion and the Assessment criteria increase transparency of the noise sensitivity considerations.

Appropriateness	✓
Effectiveness	✓ +
Efficiency	✓ +
Costs (financial)	high
Benefits	✓

Option 4: Amendments to Restricted Discretionary Activity Rule 13.8.2 for Helipads – Matters for Discretion by changing “Noise to “Noise and vibration”; and adding “ecological effects” and “cultural heritage effects “AND amending Assessment Criteria by adding a specific noise criterion for Māori heritage sites, ecological sites, and breeding sites/ nesting areas of threatened, endangered, or rare species - particularly indigenous taxa.

77. Option 4 would amend the Matters for Discretion by amending “Noise” to read “Noise and Vibration” as set out in Option 3; and adding ‘Cultural effects’ and ‘Ecological effects. Amendments are also proposed to Rule 13.8.2 Restricted Discretionary Activity Assessment Criteria as per Option 3 to add a specific noise criterion for ‘Māori heritage sites’ and ‘Sites of Ecological Significance and breeding sites/ nesting areas of threatened, endangered, or rare species – particularly indigenous species).
78. Analysis of the proposed amendments to the matters for discretion and assessment criteria involving clarification of noise and vibration and clarification of ‘noise sensitive activities’ has been undertaken in the analysis for Option 3. The analysis applies to Option 4 too and is not repeated here. This aspect of Option 4 is considered to have merit.
79. Analysis of the proposed addition of ‘ecological effects’ and ‘cultural effects’ is provided below:
80. Appropriateness. The expansion of the matters for discretion to add ecological effects and cultural effects as standalone line items is not considered appropriate. The appropriate limitation applied to the consideration of effects is considered to be noise and visual effects. This scope responds to the broader framework of HGI Plan objectives and policies and the strategic resource management approach of the HGI Plan. The context in which the provisions for helipads as Restricted Discretionary activities were finalised strikes a considered balance of protection outcomes (including maintenance of physical and natural heritage resource, amenity and cultural relationships) with development and use outcomes (including economic and transport outcomes). Noting the current helipad framework is considered to give effect the NZCPS (See conclusion of alignment between the directives of the HGMPA and the NZCPS as detailed in s5.3 and 5.4 of this report), the balance struck is considered appropriate to retain.
81. Effectiveness /Efficiency: The principal effects of helipad activity are considered to be noise and visual effects. A key drawback of the inclusion of ecological effects and particularly cultural effects as matters for discretion would be that it may introduce very open-ended discretion of these matters. This is unsuitable for decision-makers assessing Restricted Discretionary activities in - which should place clear limits on the matters able to be considered (a necessary component of restricted activity status).
82. Also noted is that Rule 13.8.2 Matters for Discretion are vertically aligned to policies which are also noise/visual effects based. As discussed in Option 2 widening the matters for discretion (i.e. not limited to noise and visual effects) would have no policy support.
83. Cost /Benefit: The costs of the method are likely to be medium/high as the method challenges the Restricted Discretionary activity status – which must be based on specified limitations. The introduction of any open-ended matter of discretion is not good

planning practice. Introducing ambiguity to the HGI Plan would likely to result in contested hearing and appeals process. Any change will be strongly contested by both supporters and opponents to change. Pursuing an option that is unlikely to successfully proceed is inefficient and wasteful of all participants resources. A longer plan modification process may overlap into the 2026 AUP review of the AUP. On balance, the cost of the option is considered to outweigh the benefit. The benefit on balance is considered low.

84. Adding ecology effects and cultural effects - and for completeness, social and economic effects as additional categories under the Matters for Discretion has also been considered and ruled out on the basis that this would represent a catchall approach which is inconsistent with a restricted discretionary activity status.

Appropriateness	X
Effectiveness	X
Efficiency	X
Costs (financial)	medium/high
Benefits	X low

4.7 Economic growth and employment effects

85. Section 32(2)(a) and (b) of the Act requires this evaluation to assess effects of the proposed plan modification on employment and economic growth (whether anticipated to be provided or reduced).
86. The proposed amendments clarify the assessment of effects for noise and do not introduce any new considerations. There is no material change in the consenting regime there will be no impact on economic growth or employment opportunity as a consequence.

4.8 Risk of acting or not acting

87. Section 32(2)(c) of the Act requires this evaluation to assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.
88. There is considered to be sufficient information about helicopter noise effects to proceed – in terms of the New Zealand Coastal Policy Statement and Hauraki Gulf Marine Park Act and their relationship to the operative Restricted Discretionary activity Matters for Discretion (noise effects) for helipad activity.

89. The proposed amendments to the Rule 13.8.2 Restricted Discretionary Activity have been subject to an evaluation according to the directives contained in the HGMPA, NZCPS and RPS (refer section 5). It is considered based on the evaluation undertaken, the risks of not acting (i.e. option 1) are that local board's advocacy, iwi and community concerns would not be responded to, and the scope of assessments of helipads as RDA activities may (potentially) be less than what is provided for under the NZCPS and the RMA resource consent decision regime for Restricted Discretionary activities.
90. In contrast, the risk of acting (i.e. Options 2, 3 and 4) is limited, as the amendments proposed will provide further clarity about application of the NZCPS – which is already relevant, in terms of the noise relevant policies. This should however be considered in the context that the HGI provisions for helipads as a Restricted Discretionary Activity were determined through a court order and that the determination took into account the many competing community interests.
91. It should be noted then that Options 2 and 4 by presenting significant departure from the current balance of provisions, risks opposition from other sectors of the community who support the helipad provisions as they stand.
92. Other risks from these options are that council would be breaching its s77B duty under the RMA to restrict its discretion. Knowingly advancing a technically inappropriate planning approach would not enhance the council's reputation.

4.9 'Mark-up' of Options 1 to 4 (words added are underlined)

Option 1

No change

Option 2

1. Amend Rule 13.8.2 Matters for Discretion

Matters for Discretion

When considering an application to establish a helipad or airstrip, the council has restricted its discretion to the following matters:

- *Noise effects*
- *The visual effect of any earthworks or retaining structures required to establish a helipad or airstrip.*
- *New Zealand Coastal Policy Statement 2010*

Option 3

1. Amend Rule 13.8.2 Matters for Discretion

Matters for Discretion

When considering an application to establish a helipad or airstrip, the council has restricted its discretion to the following matters:*

- *Noise and vibration effects*
- *The visual effect of any earthworks or retaining structures required to establish a helipad or airstrip*

**The scope of consideration for the listed matters includes the policy directives of the NZCPS on ecological values, cultural values, natural character, amenity and recreational enjoyment which can be adversely affected by noise (as relevant).*

2. Amend Rule 13.8.2 Add new assessment criteria X

Assessment criteria

When considering the above matters for discretion, the council will have regard to the following assessment criteria:

1. *The effects of noise and vibration received at or within the notional boundary of the noise sensitive activities;*
2. *The cumulative noise and vibration levels received at or within the notional boundary of any noise sensitive activity; generated by use of the proposed helipad or airstrip along with any other consented or permitted landing area;*
- x. *The effects of noise and vibration on natural and historic heritage including:*
 - *māori heritage sites, with particular regard given to NZCPS policy 2*
 - *sites of ecological significance, and breeding sites/ nesting areas of threatened, endangered, or rare species (particularly indigenous taxa) with particular regard to NZCPS policy 11*
3. *The adverse visual or amenity effects resulting from the type and size of the facility to be provided.*
4. *Whether the noise and vibration generated by use of the proposed helipad or airstrip can be adequately mitigated so as not to give rise to adverse noise and amenity effects, including appropriate controls over:*
 - *the type of helicopter(s)*
 - *the flight procedure, (flight track / path, ground idling, hovering)*
 - *the hours of operation and frequency of movements*
 - *the location of helipad or airstrip.*
5. *Proposed consent conditions which provide for recording, monitoring, reporting and review.*

Option 4

1. Amend Rule 13.8.2 Matters for Discretion

Matters for Discretion

When considering an application to establish a helipad or airstrip, the council has restricted its discretion to the following matters:

- *Noise and vibration effects*
- *The visual effect of any earthworks or retaining structures required to establish a helipad or airstrip*
- *Ecological effects*
- *Cultural effects*

2. Amend Rule 13.8.2 Add new assessment criteria X

Assessment criteria

When considering the above matters for discretion, the council will have regard to the following assessment criteria:

1. *The effects of noise and vibration received at or within the notional boundary of noise sensitive activities;*
2. *The cumulative noise and vibration levels received at or within the notional boundary of any noise sensitive activity; generated by use of the proposed helipad or airstrip along with any other consented or permitted landing area;*
- x. *The effects of noise and vibration on natural and historic heritage including:*
 - *māori heritage sites, with particular regard given to NZCPS policy 2*
 - *sites of ecological significance, and breeding sites/ nesting areas of threatened, endangered, or rare species (particularly indigenous species) with particular regard to NZCPS policy 11*
3. *The adverse visual or amenity effects resulting from the type and size of the facility to be provided.*
4. *Whether the noise and vibration generated by use of the proposed helipad or airstrip can be adequately mitigated so as not to give rise to adverse noise and amenity effects, including appropriate controls over:*
 - *the type of helicopter(s)*
 - *the flight procedure, (flight track / path, ground idling, hovering)*
 - *the hours of operation and frequency of movements*
 - *the location of helipad or airstrip.*
5. *Proposed consent conditions which provide for recording, monitoring, reporting and review.*

4.10 Preferred Option Recommendation

93. Having regard to the options assessment, the preferred option recommendation is Option 3.

Option 3: Amendments to Restricted Discretionary Activity Rule 13.8 for Helipads – Matters for Discretion – changing “noise to “noise and vibration” and adding reference to the NZCPS; AND amending Assessment Criteria by adding a specific noise criterion for Māori heritage sites, ecological sites, and breeding sites/ nesting areas of threatened, endangered, or rare species - particularly indigenous species”

94. In regard to subsections 32(1)(a) and (1)(b)(ii) of the RMA, the Option 3 is considered the most appropriate way to achieve the objectives (purpose) of the proposed plan modification and achieve the purpose of the RMA.

95. The addition of a specific noise criterion for Māori heritage sites, Sites of ecological significance, and breeding sites/ nesting areas of threatened, endangered, or rare species as noise sensitive activities is considered the most appropriate, effective and efficient interim measure with highest benefit; least cost and least risk to recognise less obvious aspects of noise effects which are covered by the scope of the NZCPA.

96. Option 3 benefits plan users by explicitly acknowledging the NZCPS' influence in the assessment of the effects of noise, giving pause to think beyond the most obvious impacts. A key benefit will be the greater certainty and transparency of the scope of consideration of noise effects for users of the HGI Plan. Guidelines to the consents process for Helicopter resource consents are also available which provide greater commentary on the assessment of effects and specifically discuss cultural and ecological effects.

97. Option 3 is also consistent with the consent category of Restricted Discretionary Activity as it retains the specified limitations to the matters to be considered, albeit amended to provide greater transparency and clarity.

5. Statutory Evaluation under the RMA

This section of the report evaluates the recommended preferred option (Option 3).

98. Recommended preferred option (Option 3) involves:

Amendments to Restricted Discretionary Activity Rule 13.8 for Helipads – Matters for Discretion – changing “noise to “noise and vibration” and adding reference to the NZCPS; AND amending Assessment Criteria by adding a specific noise criterion for Māori heritage sites, ecological sites, and breeding sites/ nesting areas of threatened, endangered, or rare species - particularly indigenous taxa.

99. The proposed plan modification responds to concerns that the assessment of effects of helipads as a Restricted Discretionary Activity in the HGI Plan may overlook relevant NZCPS policies due in part to the development of the HGI Plan being prior to the gazetting of the NZCPS 2010, with NZCPS policy being delivered under NZCPS 1994 and s10 of the HGMPA, where s7 and s8 are treated as NZCPS policy.

100. The plan modification addresses potential misinterpretation issues and highlights the NZCPS influence on the scope of effects assessment to provide clarity in a manner which is appropriate for the Restricted Discretionary Activity status, and which maintains the plan wide balance of objectives and policies outcomes of the HGI Plan (as a whole).
101. The proposed plan modification has been developed in accordance with the First Schedule procedure in the Resource Management Act 1991 and the relevant statutory matters – listed in Table 4 below.

Table 4 Plan modification – district plan matters under the RMA

Plan change- district plan matters under the RMA Relevant Act/ Policy/ Plan	Section	Matters
Resource Management Act 1991	Part 2	Purpose and intent of the Act
Resource Management Act 1991	Section 31	Functions of territorial authorities in giving effect to the Resource Management Act 1991
Resource Management Act 1991	Section 73	Sets out Schedule 1 of the RMA as the process to change a district plan
Resource Management Act 1991	Section 74	Matters to be considered by a territorial authority when preparing a change to its district plan. This includes its functions under section 31, Part 2 of the RMA, NZCPS, national policy statement, other regulations and other matters
Resource Management Act 1991	Section 75	Outlines the requirements in the contents of a district plan
Resource Management Act 1991	Section 76	Outlines the purpose of district rules, which is to carry out the functions of the RMA and achieve the objective and policies set out in the district plan. A district rule also requires the territorial authority to have regard to the actual or potential effect (including adverse effects), of activities in the proposal, on the environment.

5.1 Part II - Purpose and principles of the RMA (s5,6,7,8)

102. The relevance of the plan modification to sections 5, 6,7,8 of the RMA is outlined in Table 5 below.

Table 5 – Relevance to RMA Part 2 - Purpose and principles

RMA 1991	Relevant section	Relevance to Proposed Plan modification
S5 Purpose	<p>5 Purpose</p> <p>(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.</p> <p>(2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a</p>	<p>High</p> <p>The proposed plan modification will support promotion of the sustainable management of land resources of the Hauraki Gulf Islands by</p>

	<p>rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—</p> <p>(a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and</p> <p>(b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and</p> <p>(c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.</p>	<p>ensuring there is an appropriate consideration (NZCPS) of the cultural well-being of people and communities when considering adverse effects of helicopter activities on the environment including sensitive ecological areas and species.</p>
S 6 Matters of National Importance	<p>6 Matters of national importance</p> <p>In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:</p> <p>(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:</p> <p>(b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:</p> <p>(c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:</p> <p>(e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:</p> <p>(f) the protection of historic heritage from inappropriate subdivision, use, and development:</p>	<p>The proposed plan change responds to a weakness in the regulatory framework for Restricted Discretionary helipads in relation to protection of natural character, ecological and cultural values. The proposed plan modification aims to ensure these effects as related to noise and visual effects are not overlooked.</p>
S7 Other matters	<p>7 Other matters</p> <p>In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—...</p> <p>(a) Kaitiakitanga</p> <p>(aa) The ethic of stewardship</p>	<p>High</p> <p>The proposed plan modification promotes the matters listed under s7 on the basis that the NZCPS responds to these matters in relation to the national coastal environment. The proposed plan</p>

	<p>(b) the efficient use and development of natural and physical resource</p> <p>...</p> <p>(c) the maintenance and enhancement of amenity values</p> <p>(f) maintenance and enhancement of the quality of the environment</p>	<p>modification confirms the scope of the operative NZCPS applies when considering adverse effects of helicopter activities on the environment including values and settings beyond noise sensitive activities defined in Part 14 of the HGI Plan.</p> <p>Kaitiakitanga and stewardship are integrated in the NZCPS directives as is consideration of amenity values and the quality of the coastal environment.</p>
S8 Treaty of Waitangi	<p>8 Treaty of Waitangi</p> <p>In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).</p>	<p>High</p> <p>Kaitiakitanga extends to land and water resources in the coastal environment and taonga with which Māori have a cultural or spiritual relationship.</p> <p>The proposed plan change responds to a weakness in the regulatory framework for Restricted Discretionary helipads in relation to protection of taonga associated with ecological and cultural values. The proposed plan modification aims to ensure these effects as related to noise and visual effects are not overlooked and that tangata whenua are able to action their role as kaitiaki.</p>

103. The approach proposed is in accordance with the purpose and intent of Part 2 of the RMA. It is considered to be aligned with the purpose set out in section 5 and the principles set out in sections 6, 7 and 8.
104. Section 5 – Purpose sets out the purpose of the RMA, which is sustainable management of natural and physical resources. The proposed modification is consistent with the sustainable management purpose by enabling people and communities to provide for their cultural, social and economic wellbeing and health and safety while safeguarding life supporting capacity of the Hauraki Gulf and avoiding adverse effects on the environment. In particular the proposed modification will improve interpretation of the Restricted Discretionary Activity provisions for assessment of the effects of helipads as a Restricted Discretionary activity with heightened awareness of the NZCPS context for that assessment. Ecological effects to ensure alignment with s5(2) matters; and improve awareness and consideration of cultural effects
105. Section 6 – Matters of National Importance: Section 6 of the RMA sets out the matters of national importance which must be recognised and provided for. Of relevance to the proposed plan modification is clause 6(a) and (b) concerning preservation of natural character and protection of natural features; (c) concerning protection of indigenous flora and fauna; and (e) concerning cultural heritage and (f) concerning historic heritage. The proposed plan modification to the matters for discretion to cross reference to the operative NZCPS is consistent with the requirement to recognise and protect heritage and cultural values to achieve an appropriate balance of providing for people and communities social wellbeing, health and safety while maintaining protection of these values.
106. Section 7 – Other Matters, sets out matters which shall be given particular regard to. The proposed plan modification has been developed with particular regard to relevant matters set out in sections 7 concerning management of use, development and protection with regard to kaitiakitanga, efficient use of physical resources, maintenance and enhancement of amenity values and heritage values.
107. Section 8 – Principles of the Treaty of Waitangi: Section 8 of the RMA requires the principles of the Treaty of Waitangi to be taken into account. The development of the proposed plan modification has been in consultation with iwi authorities in a manner that recognises the principles of the Treaty of Waitangi of partnership and participation. Consultation undertaken with iwi authorities is outlined in section 6 of this report.

5.2 National and Regional Planning Context

108. The Hauraki Gulf Marine Park Act 2000, New Zealand Coastal Policy Statement, National Planning Standard 15 and Regional Policy Statement set the National and Regional planning context for the proposed plan modification.
109. In regard to the Hauraki Gulf Marine Park Act and the New Zealand Coastal Policy Statement the key issue driving the proposed plan modification is the difference in how relevant matters are covered by the HGMPA and the NZCPS. The most relevant sections of each are outlined under their respective headings, additionally, the NZCPA section identifies the corresponding provisions to its directives in the HGMPA.

5.3 Hauraki Gulf Marine Park Act 2000 (HGMPA)

110. The entire area covered by the HGI Plan is subject to the provisions of the Hauraki Gulf Marine Park Act 2000 (the 'HGMPA').

111. The purpose of the HGMPA is to:

- a. *" integrate the management of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments:*
- b. *establish the Hauraki Gulf Marine Park:*
- c. *establish objectives for the management of the Hauraki Gulf, its islands, and catchments:*
- d. *recognise the historic, traditional, cultural and spiritual relationship of the Tangata Whenua with the Hauraki Gulf and its islands:*
- e. *establish the Hauraki Gulf Forum."*

112. Under section 75(3) of the RMA a district plan must give effect to any NZCPS. At the time of development of the HGI Plan the NZCPS 2010 had not been gazetted, and in terms of the NZCPS the HGI Plan was prepared under NZCPS 1994, and section 7 and 8 of the HGMPA

10. Creation of New Zealand Coastal Policy Statement by this Act

1. For the coastal environment of the Hauraki Gulf, sections 7 and 8 of this Act must be treated as a New Zealand coastal policy statement issued under the Resource Management Act 1991. section 10 of the HGMPA states sections 7 and 8 of this Act must be treated as a New Zealand Coastal Policy Statement ('NZCPS').

113. Sections 7 and 8 of the HGMPA state:

"7 Recognition of national significance of Hauraki Gulf

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

8. Management of Hauraki Gulf

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

- a. *the protection and, where appropriate, the enhancement of the life-supporting capacity of the environment of the Hauraki Gulf, its islands, and catchments:*

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

114. The HGMPA including s7 and 8 as NZCPS was considered by the council in the section 32 reports prepared for the 2006 HGI Plan review and informed the development of the HGI Plan. The HGMPA is referenced in the following places within the Plan:

- clause 1.3.6 HGMPA 2000 (Pt 1 Introduction, 1.3 Development of the HGI Plan)
- clause 2.3.2 HGMPA 2000 (Part 2 Resource management Overview, 2.3 Statutory Context)
- clause 2.5 Resource Management Issues and Objectives (at clause 2.5.4 Coastal, issue (3); clause 2.5.8 Māori, objective (2))
- clause 11.2(1) Matters to be considered for all resource consent applications
- appendix 10 - The entire Hauraki Gulf Marine Park Act 2000 is attached to the HGI Plan as appendix 10

115. Regarding any conflict with future NZCPS the HGMPMA at Part 1 section 10. 2 states:

"For the coastal environment of the Hauraki Gulf, if there is a conflict between sections 7 and 8 of this Act and the provisions of any New Zealand coastal policy statement issued under the Resource Management Act 1991, the New Zealand coastal policy statement prevails".

Relevance

The HGMPA Part 1 section 10.2 establishes the prevalence of the NZCPS over the HGMPA provisions where there is any conflict. The identification of the NZCPS provisions and corresponding HGMPA provisions (set out below in s 5.4 'New Zealand Coastal Policy Statement') shows general alignment and there is no apparent conflict with s7 and 8 and the content of the operative NZCPS. It is however considered appropriate that plan users when considering adverse effects from helipads as a Restricted Discretionary Activity apply the operative content of the NZCPS to the coastal environment of the Hauraki Gulf to the extent permissible under s104(c) i.e. noise and or visual effects related

5.4 New Zealand Coastal Policy Statement 2010 (NZCPS)

116. The objectives and policies of the New Zealand Coastal Policy Statement with particular relevance to this proposed plan modification are set out below (underlining added for emphasis).
117. A driver of the proposed plan modification is the difference in how relevant matters are covered by the HGMPA and the NZCPS. The NZCPS provides additional policy direction on noise and visual effects relevant to Restricted Discretionary activity helipad assessment to that in the HGI Plan. To clarify the similarities to each NZCPS Objective the equivalent policy in the HGMPA is also given (underlining added for emphasis).

Objectives

Objective 1

To safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, including marine and intertidal areas, estuaries, dunes and land, by:

- *maintaining or enhancing natural biological and physical processes in the coastal environment and recognising their dynamic, complex and interdependent nature;*
- *protecting representative or significant natural ecosystems and sites of biological importance and maintaining the diversity of New Zealand's indigenous coastal flora and fauna; and*
- *maintaining coastal water quality and enhancing it where it has deteriorated from what would otherwise be its natural condition, with significant adverse effects on ecology and habitat, because of discharges associated with human activity.*

Equivalent parts of the HGMPA regarding natural character, features, and landscape

118. HGMPA s7(1) identifies the life-supporting capacity in the Hauraki Gulf as a matter of National Importance. Life supporting capacity includes maintenance of soil, air, water and ecosystems (s7(2)(c))
119. Management objectives (to recognise national significance) 8 (a) and (b) are relevant:
- a) *the protection and, where appropriate, the enhancement of the life-supporting capacity of the environment of the Hauraki Gulf, its islands, and catchments:*
 - b) *the protection and, where appropriate, the enhancement of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments:*

Objective 2

To preserve the natural character of the coastal environment and protect natural features and landscape values through:

- *recognising the characteristics and qualities that contribute to natural character, natural features and landscape values and their location and distribution;*
- *identifying those areas where various forms of subdivision, use, and development would be inappropriate and protecting them from such activities; and*
- *encouraging restoration of the coastal environment.*

Equivalent parts of the HGMPA regarding natural character, features, and landscape

120. Refer to Objective 1.

Objective 3

To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:

- *recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;*
- *promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;*
- *incorporating mātauranga Māori into sustainable management practices; and*
- *recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.*

Equivalent parts of the HGMPA regarding tangata whenua relationship to the Gulf and its islands

121. HGMPA s7(1) identifies the life-supporting capacity in the Hauraki Gulf as a matter of National Importance. Life supporting capacity includes providing for historic, traditional, cultural, and spiritual relationship of the tangata whenua of the Gulf with the Gulf and its islands (s7(2)(c))

122. HGMPA Management objectives (to recognise national significance) 8 (c) and (d) are relevant:

- c) *the protection and, where appropriate, the enhancement of those natural, historic, and physical resources (including kaimoana) of the Hauraki Gulf, its islands, and catchments with which tangata whenua have an historic, traditional, cultural, and spiritual relationship:*
- d) *the protection of the cultural and historic associations of people and communities in and around the Hauraki Gulf with its natural, historic, and physical resources:*

Objective 4

To maintain and enhance the public open space qualities and recreation opportunities of the coastal environment by:

- *recognising that the coastal marine area is an extensive area of public space for the public to use and enjoy;*
- *maintaining and enhancing public walking access to and along the coastal marine area without charge, and where there are exceptional reasons that mean this is not practicable providing alternative linking access close to the coastal marine area; and*
- *recognising the potential for coastal processes, including those likely to be affected by climate change, to restrict access to the coastal environment and the need to ensure that public access is maintained even when the coastal marine area advances inland.*

Equivalent parts of the HGMPA regarding open space and recreation

123. HGMPA s7(1) identifies the life-supporting capacity in the Hauraki Gulf as a matter of National Importance. Life supporting capacity includes providing for recreation and wellbeing (s7(2)(f))

124. Management objective (to recognise national significance) 8 (f) is relevant:

- f) *the maintenance and, where appropriate, the enhancement of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments, which contribute to the recreation and enjoyment of the Hauraki Gulf for the people and communities of the Hauraki Gulf and New Zealand.*

Objective 6

To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:

- *the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits;*
- *some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities;*
- *functionally some uses and developments can only be located on the coast or in the coastal marine area;*
- *historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use, and development.*

Equivalent parts of the HGMPA regarding people and communities' wellbeing and use of resources

125. HGMPA s7(1) identifies the life-supporting capacity in the Hauraki Gulf as a matter of National Importance. Life supporting capacity includes capacity to provide for the social, economic, recreational, and cultural well-being of people and communities ((s7(2)(a)(ii) use the resources of the Gulf by the people and communities of the Gulf and New Zealand for economic activities and recreation (s7(2)(b)

126. Relevant HGMPA Management objectives (to recognise national significance) are 8(c), (f), and (g):

- c) *the protection and, where appropriate, the enhancement of those natural, historic, and physical resources (including kaimoana) of the Hauraki Gulf, its islands, and catchments with which tangata whenua have an historic, traditional, cultural, and spiritual relationship:*
- f) *the maintenance and, where appropriate, the enhancement of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments, which contribute to the recreation and enjoyment of the Hauraki Gulf for the people and communities of the Hauraki Gulf and New Zealand."*
- g) *the maintenance and, where appropriate, the enhancement of the contribution of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments to the social and economic well-being of the people and communities of the Hauraki Gulf and New Zealand:*

Policies

Policy 1 Extent and characteristics of the coastal environment

- (1) *Recognise that the extent and characteristics of the coastal environment vary from region to region and locality to locality; and the issues that arise may have different effects in different localities.*
- (2) Recognise that the coastal environment includes:
 - (a) *the coastal marine area;*
 - (b) islands within the coastal marine area;
 - (c) *areas where coastal processes, influences or qualities are significant, including coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands, and the margins of these;*
 - (d) *areas at risk from coastal hazards;*
 - (e) coastal vegetation and the habitat of indigenous coastal species including migratory birds;
 - (f) elements and features that contribute to the natural character, landscape, visual qualities or amenity values;
 - (g) items of cultural and historic heritage in the coastal marine area or on the coast;
 - (h) *inter-related coastal marine and terrestrial systems, including the intertidal zone; and*
 - (i) *physical resources and built facilities, including infrastructure, that have modified the coastal environment.*

Equivalent parts of the HGMPA regarding extent and characteristic of the coastal environment

127. Refer to HGMPA directives identified for NZCPS Objective 2

Policy 2 The Treaty of Waitangi, tangata whenua and Māori heritage

In taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), and kaitiakitanga, in relation to the coastal environment:

- (a) recognise that tangata whenua have traditional and continuing cultural relationships with areas of the coastal environment, including places where they have lived and fished for generations;
- (b) involve iwi authorities or hapū on behalf of tangata whenua in the preparation of regional policy statements, and plans, by undertaking effective consultation with tangata whenua; with such consultation to be early, meaningful, and as far as practicable in accordance with tikanga Māori;
- (c) with the consent of tangata whenua and as far as practicable in accordance with tikanga Māori, incorporate mātauranga Māori, in regional policy statements, in plans, and in the consideration of applications for resource consents, notices of requirement for designation and private plan changes;
- (d) provide opportunities in appropriate circumstances for Māori involvement in decision making, for example when a consent application or notice of requirement is dealing with cultural localities or issues of cultural significance, and Māori experts, including pūkenga, may have knowledge not otherwise available;
- (e) take into account any relevant iwi resource management plan and any other relevant planning document recognised by the appropriate iwi authority or hapū and lodged with the council, to the extent that its content has a bearing on resource management issues in the region or district; and
 - (i) *where appropriate incorporate references to, or material from, iwi resource management plans in regional policy statements and in plans; and*

- (ii) *consider providing practical assistance to iwi or hapū who have indicated a wish to develop iwi resource management plans;*
- (f) *provide for opportunities for tangata whenua to exercise kaitiakitanga over waters, forests, lands, and fisheries in the coastal environment through such measures as:*
 - (i) *bringing cultural understanding to monitoring of natural resources;*
 - (ii) *providing appropriate methods for the management, maintenance and protection of the taonga of tangata whenua;*
 - (iii) *having regard to regulations, rules or bylaws relating to ensuring sustainability of fisheries resources such as taiāpure, mahinga mātaītai or other non-commercial Māori customary fishing; and*
- (g) *in consultation and collaboration with tangata whenua, working as far as practicable in accordance with tikanga Māori, and recognising that tangata whenua have the right to choose not to identify places or values of historic, cultural or spiritual significance or special value:*
 - (i) *recognise the importance of Māori cultural and heritage values through such methods as historic heritage, landscape and cultural impact assessments; and*
 - (ii) *provide for the identification, assessment, protection and management of areas or sites of significance or special value to Māori, including by historic analysis and archaeological survey and the development of methods such as alert layers and predictive methodologies for identifying areas of high potential for undiscovered Māori heritage, for example coastal pā or fishing villages.*

Equivalent parts of the HGMPA regarding Te Tiriti o Waitangi, Tangata whenua and Māori heritage

128. Refer to HGMPA directives identified above in relation to NZCPS Objective 3

Policy 3 Precautionary approach

- (1) *Adopt a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse.*
- (2) *In particular, adopt a precautionary approach to use and management of coastal resources potentially vulnerable to effects from climate change, so that:*
 - (a) *avoidable social and economic loss and harm to communities does not occur;*
 - (b) *natural adjustments for coastal processes, natural defences, ecosystems, habitat and species are allowed to occur; and*
 - (c) *the natural character, public access, amenity and other values of the coastal environment meet the needs of future generations.*

Equivalent parts of the HGMPA regarding precautionary approach

129. S7 and s8 of the HGMPA in its entirety. In particular, the HGMPA assigns national significance to the natural and physical environment of the Hauraki Gulf and its islands, and its life supporting capacity of the resource, ecosystems, relationships of tangata whenua and well-being of people and communities.

Policy 4 Integration

Provide for the integrated management of natural and physical resources in the coastal environment, and activities that affect the coastal environment. This requires:

- (a) co-ordinated management or control of activities within the coastal environment, and which could cross administrative boundaries, particularly:*
 - (i) the local authority boundary between the coastal marine area and land;*
 - (ii) local authority boundaries within the coastal environment, both within the coastal marine area and on land; and*
 - (iii) where hapū or iwi boundaries or rohe cross local authority boundaries;*
- (b) working collaboratively with other bodies and agencies with responsibilities and functions relevant to resource management, such as where land or waters are held or managed for conservation purposes; and*
- (c) particular consideration of situations where:*
 - (i) subdivision, use, or development and its effects above or below the line of mean high water springs will require, or is likely to result in, associated use or development that crosses the line of mean high water springs; or*
 - (ii) public use and enjoyment of public space in the coastal environment is affected,*
 - (iii) or is likely to be affected; or*
 - (iv) development or land management practices may be affected by physical changes to the coastal environment or potential inundation from coastal hazards, including as a result of climate change; or*
 - (v) land use activities affect, or are likely to affect, water quality in the coastal environment and marine ecosystems through increasing sedimentation; or*
 - (vi) significant adverse cumulative effects are occurring or can be anticipated.*

Equivalent parts of the HGMPA regarding tangata whenua relationship to the Gulf and its islands

130. S7 and s8 of the HGMPA in its entirety. In particular, the HGMPA assigns national significance to the natural and physical environment of the Hauraki Gulf and its islands, and its life supporting capacity of the resource, ecosystems, relationships of tangata whenua and well-being of people and communities.

Policy 6 Activities in the coastal environment

(1) In relation to the coastal environment:

...

- (h) consider how adverse visual impacts of development can be avoided in areas sensitive to such effects, such as headlands and prominent ridgelines, and as far as practicable and reasonable apply controls or conditions to avoid those effects;*
- j) where appropriate, buffer areas and sites of significant indigenous biological diversity, or historic heritage value.*

Equivalent parts of the HGMPA regarding activities in the coastal environment

131. Refer to HGMPA directives identified above in relation to NZCPS Objective 2

Policy 7 Strategic planning

(1) *In preparing regional policy statements, and plans:*

- (a) consider where, how and when to provide for future residential, rural residential, settlement, urban development and other activities in the coastal environment at a regional and district level, and:
- (b) identify areas of the coastal environment where particular activities and forms of subdivision, use and development:
 - (i) are inappropriate; and
 - (ii) may be inappropriate without the consideration of effects through a resource consent application, notice of requirement for designation or Schedule 1 of the Act process; and provide protection from inappropriate subdivision, use, and development in these areas through objectives, policies and rules

(2) *Identify in regional policy statements, and plans, coastal processes, resources or values that are under threat or at significant risk from adverse cumulative effects. Include provisions in plans to manage these effects. Where practicable, in plans, set thresholds (including zones, standards or targets), or specify acceptable limits to change, to assist in determining when activities causing adverse cumulative effects are to be avoided.*

Equivalent parts of the HGMPA regarding strategic planning

132. S7 and s8 of the HGMPA in its entirety. In particular, the HGMPA assigns national significance to the natural and physical environment of the Hauraki Gulf and its islands, and its life supporting capacity of the resource, ecosystems, relationships of tangata whenua and well-being of people and communities.

Policy 11 Indigenous biological diversity (biodiversity)

To protect indigenous biological diversity in the coastal environment:

- (c) avoid adverse effects of activities on:
 - (i) *indigenous taxa⁴ that are listed as threatened⁵ or at risk in the New Zealand Threat Classification System lists;*
 - (ii) *taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;*
 - (iii) *indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare⁶;*
 - (iv) *habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;*
 - (v) *areas containing nationally significant examples of indigenous community types; and*
 - (vi) *areas set aside for full or partial protection of indigenous biological diversity under other legislation; and*
- (d) avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:
 - (i) *areas of predominantly indigenous vegetation in the coastal environment;*

- (ii) *habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;*
- (iii) *indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;*
- (iv) *habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;*
- (v) *habitats, including areas and routes, important to migratory species; and*
- (vi) *ecological corridors, and areas important for linking or maintaining biological values identified under this policy.*

Equivalent parts of the HGMPA regarding biodiversity

133. Refer to HGMPA directives identified above in relation to NZCPS Objective 2.

Policy 13 Preservation of natural character

- (1) *To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use, and development:*
 - (a) *avoid adverse effects of activities on natural character in areas of the coastal environment with outstanding natural character; and*
 - (b) *avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment; including by:*
 - (c) *assessing the natural character of the coastal environment of the region or district, by mapping or otherwise identifying at least areas of high natural character; and*
 - (d) *ensuring that regional policy statements, and plans, identify areas where preserving natural character requires objectives, policies and rules, and include those provisions.*
- (2) *Recognise that natural character is not the same as natural features and landscapes or amenity values and may include matters such as:*
 - (a) *natural elements, processes and patterns;*
 - (b) *biophysical, ecological, geological and geomorphological aspects;*
 - (c) *natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, reefs, freshwater springs and surf breaks;*
 - (d) *the natural movement of water and sediment;*
 - (e) *the natural darkness of the night sky;*
 - (f) *places or areas that are wild or scenic;*
 - (g) *a range of natural character from pristine to modified; and*
 - (h) *experiential attributes, including the sounds and smell of the sea; and their context or setting.*

Equivalent parts of the HGMPA regarding natural character

134. Refer to HGMPA directives identified above in relation to NZCPS Objective 2

Policy 15 Natural features and natural landscapes

To protect the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use, and development:

- (a) avoid adverse effects of activities on outstanding natural features and outstanding natural landscapes in the coastal environment; and
- (b) avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects of activities on other natural features and natural landscapes in the coastal environment; including by:
- (c) identifying and assessing the natural features and natural landscapes of the coastal environment of the region or district, at minimum by land typing, soil characterisation and landscape characterisation and having regard to:
 - (i) natural science factors, including geological, topographical, ecological and dynamic components;
 - (ii) the presence of water including in seas, lakes, rivers and streams;
 - (iii) legibility or expressiveness—how obviously the feature or landscape demonstrates its formative processes;
 - (iv) aesthetic values including memorability and naturalness;
 - (v) vegetation (native and exotic);
 - (vi) transient values, including presence of wildlife or other values at certain times of the day or year;
 - (vii) whether the values are shared and recognised;
 - (viii) cultural and spiritual values for tangata whenua, identified by working, as far as practicable, in accordance with tikanga Māori; including their expression as cultural landscapes and features;
- (d) historical and heritage associations; and
- (e) wild or scenic values;
- (f) ensuring that regional policy statements, and plans, map or otherwise identify areas where the protection of natural features and natural landscapes requires objectives, policies and rules; and including the objectives, policies and rules required by (d) in plans.

Equivalent parts of the HGMPA regarding extent and characteristic of the coastal environment

135. Refer to HGMPA directives identified above in relation to NZCPS Objective 2

Policy 17 Historic heritage identification and protection

Protect historic heritage in the coastal environment from inappropriate subdivision, use, and development by:

- (a) identification, assessment and recording of historic heritage, including archaeological sites;
- (b) providing for the integrated management of such sites in collaboration with relevant councils, heritage agencies, iwi authorities and kaitiaki;
- (c) initiating assessment and management of historic heritage in the context of historic landscapes;
- (d) recognising that heritage to be protected may need conservation;
- (e) facilitating and integrating management of historic heritage that spans the line of mean high water springs;

(f) including policies, rules and other methods relating to (a) to (e) above in regional policy statements, and plans;

(g) imposing or reviewing conditions on resource consents and designations, including for the continuation of activities;

(h) requiring, where practicable, conservation conditions; and

(i) considering provision for methods that would enhance owners' opportunities for conservation of listed heritage structures, such as relief grants or rates relief.

Equivalent parts of the HGMPA regarding extent and characteristic of the coastal environment

136. Refer to HGMPA directives identified above in relation to NZCPS objectives 2 and 3

Policy 20 Vehicle access

(1) Control use of vehicles, apart from emergency vehicles, on beaches, foreshore, seabed and adjacent public land where:

(a) damage to dune or other geological systems and processes; or

(b) harm to ecological systems or to indigenous flora and fauna, for example marine mammal and bird habitats or breeding areas and shellfish beds; or

(c) danger to other beach users; or

(d) disturbance of the peaceful enjoyment of the beach environment; or

(e) damage to historic heritage; or

(f) damage to the habitats of fisheries resources of significance to customary, commercial or recreational users; or

(g) damage to sites of significance to tangata whenua might result.

(2) Identify the locations where vehicular access is required for boat launching, or as the only practicable means of access to private property or public facilities, or for the operation of existing commercial activities, and make appropriate provision for such access.

(3) Identify any areas where and times when recreational vehicular use on beaches, foreshore and seabed may be permitted, with or without restriction as to type of vehicle, without a likelihood of any of (1)(a) to (g) occurring.

Equivalent parts of the HGMPA regarding extent and characteristic of the coastal environment

137. Refer to HGMPA directives identified above in relation to NZCPS objectives 2 and 3

Relevance

138. Having regard to the comparison of relevant objectives and policies of the NZCPS and the HGMPA that there is a high degree of alignment in the content and scope provided for assessment of effects relative to applications for helipads as a Restricted Discretionary Activity. It is noted that the NZCPS goes into more detail, however the HGMPA in being less prescriptive has equally broad scope.

139. While there is no apparent conflict or omission of issues from the scope given under the s7 and 8 as measured against the content of the operative NZCPS, it is considered

appropriate to raise awareness of plan users to the operative content of the NZCPS when considering adverse effects to the environment in the Hauraki Gulf.

5.5 National Planning Standard 15

140. National Planning Standard 15 Noise and Vibration Metrics Standard (NPS15) has relevance to this proposed plan modification. NPS 15 was included in the plan from 20 April 2023A copy of NPS 15 (helipads) is provided at Attachment E.

141. NPS15 (1) contains a mandatory directive that specifies use of New Zealand Standard 6807:1994 – Noise Management and Land Use Planning for Helicopter Landing Areas to exclude 4.3 use of averaging.

142. Although the standard is not required to be implemented until 2029 however it was implemented early to provide clarification about the noise measurement method required. Rule 13.8.2 Restricted Discretionary Activities was amended by deleting use of averaging (three-day rolling average) for the measurement of helicopter noise.

143. The effect of the early implementation was strengthening of the HGI Plan's Restricted Discretionary Activities rules, potentially resulting in increases to the number of helipad applications required to be assessed as Discretionary Activities (due to not meeting the pre-requisite noise standard to be considered as a Restricted Discretionary Activity). Other outcomes required to comply with the strengthened noise standard include separation distances from helipads, increases to notional boundaries, and/or reduction in flight numbers.

Relevance:

144. The NPS15 amendment to noise measurement (removing averaging) is indirectly relevant to this plan modification. The council has already amended the plan to include NPS15; this proposed plan modification is complementary. Noise is a key consideration for the assessment of adverse effects from helipads in the coastal environment and the Hauraki Gulf Islands are a 'coastal environment' under NZCPS Policy 1 clause 2(b). The early implementation of NPS15 addresses noise effects as it changed noise measurement methodology. It potentially reduces the number of helipad applications eligible to be processed as Restricted Discretionary Activities under Rule 13.8.2. This tightening of eligibility is an outcome aligned to ensuring noise thresholds for Restricted Discretionary Activity are commensurate with effects levels appropriate for RDA activity and in turn are able to be managed as anticipated by the matters for discretion (noise and visual effects) to which council has limited its assessment.

145. The proposed plan modification is not in conflict with the NPS15.

5.6 Regional Policy Statement

146. The Auckland Unitary Plan (Operative in Part) Regional Policy Statement objectives and policies of most relevance to the proposed plan modification are set out in Table 6.

Table 6 Regional policy statement - most relevant objectives and policies

RPS objectives / policies

B2 Tāhuhu whakaruruhau ā-taone - Urban growth and form

B2.3. A quality built environment

2.3.2 Objectives

- (1) A quality built environment where subdivision, use and development do all of the following:
 - a) respond to the intrinsic qualities and physical characteristics of the site and area, including its setting;
 - c) contribute to a diverse mix of choice and opportunity for people and communities;
- (3) The health and safety of people and communities are promoted.

B2.3.2 policies

- (1) Manage the form and design of subdivision, use and development so that it does all of the following:
 - a) supports the planned future environment, including its shape, landform, outlook, location and relationship to its surroundings, including landscape and heritage;

B2.4. Residential growth

B2.4.1. Objectives

- (2) Residential areas are attractive, healthy and safe with quality development that is in keeping with the planned built character of the area.
- (5) Non-residential activities are provided in residential areas to support the needs of people and communities.

B2.4.2 Policies

Residential neighbourhood and character

- (8) Recognise and provide for existing and planned neighbourhood character through the use of place-based planning tools.
- (9) Manage built form, design and development to achieve an attractive, healthy and safe environment that is in keeping with the descriptions set out in placed-based plan provisions.
- (10) Require non-residential activities to be of a scale and form that are in keeping with the existing and planned built character of the area.

B3 Ngā pūnaha hanganga, kawekawe me ngā pūngao - Infrastructure, transport and energy

B3.3. Transport

B3.3.1. Objectives

- (1) Effective, efficient and safe transport that:
 - (a) supports the movement of people, goods and services;
 - (d) avoids, remedies or mitigates adverse effects on the quality of the environment and amenity values and the health and safety of people and communities; and
 - (e) facilitates transport choices, recognises different trip characteristics and enables accessibility and mobility for all sectors of the community.

B4.2. Outstanding natural features and landscapes

B4.2.1. Objectives

- (1) Outstanding natural features and landscapes are identified and protected from inappropriate subdivision, use and development.
- (2) The ancestral relationships of Mana Whenua and their culture and traditions with the landscapes and natural features of Auckland are recognised and provided for

B6.2. Recognition of Treaty of Waitangi/Te Tiriti o Waitangi partnerships and participation

B6.2.1. Objectives

- (1) The principles of the Treaty of Waitangi/Te Tiriti o Waitangi are recognised and provided for in the sustainable management of natural and physical resources including ancestral lands, water, air, coastal sites, wāhi tapu and other taonga.
- (2) The principles of the Treaty of Waitangi/Te Tiriti o Waitangi are recognised through Mana Whenua participation in resource management processes.

B7 Toitū te whenua, toitū te taiao – Natural resources

B7.2. Indigenous biodiversity

B7.2.1. Objectives

- (1) Areas of significant indigenous biodiversity value in terrestrial, freshwater, and coastal marine areas are protected from the adverse effects of subdivision use and development.

B7.2.2 Policies

5) Avoid adverse effects on areas listed in the Schedule 3* of Significant Ecological Areas – Terrestrial Schedule and Schedule 4* Significant Ecological Areas – Marine Schedule.

***Note: AUP - Schedule 3 Significant Ecological Areas (Terrestrial) does not cover the Hauraki Gulf Islands. The HGI Plan equivalent is found in Appendices 1d and 2d - Schedule of sites of ecological significance.**

B8 Toitū te taiwhenua - Coastal environment

B8.2. Natural character

B8.2.1. Objectives

- (1) Areas of the coastal environment with outstanding and high natural character are preserved and protected from inappropriate subdivision, use and development.
- (2) Subdivision, use and development in the coastal environment are designed, located and managed to preserve the characteristics and qualities that contribute to the natural character of the coastal environment.

B8.3. Subdivision, use and development

B8.3.1. Objectives

- (1) Subdivision, use and development in the coastal environment are located in appropriate places and are of an appropriate form and within appropriate limits, taking into account the range of uses and values of the coastal environment.
- (2) The adverse effects of subdivision, use and development on the values of the coastal environment are avoided, remedied or mitigated.
- (3) The natural and physical resources of the coastal environment are used efficiently and activities that depend on the use of the natural and physical resources of the coastal environment are provided for in appropriate locations.

B8.5. Managing the Hauraki Gulf/Te Moana Nui o Toi/Tikapa Moana

B8.5.1. Objectives

(1) The management of the Hauraki Gulf gives effect to sections 7 and 8 of the Hauraki Gulf Marine Park Act 2000.

(2) Use and development supports the social and economic well-being of the resident communities of Waiheke and Great Barrier islands, while maintaining or, where appropriate, enhancing the natural and physical resources of the islands.

(3) Economic well-being is enabled from the use of the Hauraki Gulf's natural and physical resources without resulting in further degradation of environmental quality or adversely affecting the life-supporting capacity of marine ecosystems.

147. The objective (purpose) of the plan modification is to amend Rule 13.8.2 Restricted Discretionary Activity to explicitly acknowledge the NZCPS 2010 relevance in the assessment of noise effects and to add clarity to the consideration of noise given in the assessment criteria by adding ecological sites and cultural sites as noise sensitive activities in relation to the assessment of helipads. It aims to ensure the context and scope for the consideration of noise effects provided by the policy directives of the current NZCPS are applied to the extent permissible by section 104(c) of the RMA.

148. Unlike the HGI Plan the AUP Regional Policy Statement was informed by the NZCPS 2010. The degree of similarity in the provisions and implications are examined below.

149. While the identification of corresponding directives of the NZCPS and HGMPA (refer to section headings above) shows that the matters covered under HGMPA s7 and 8 broadly align to those in the operative NZCPS there is some concern that the assessment of effects of helipads as a restricted discretionary activity (Rule 13.8.2) may overlook the scope given under the operative NZCPS to consider impacts on aspects of amenity, cultural and ecological matters from, thereby allowing potential for the HGI Plan rules to be interpreted more narrowly. In this regard there is potential for assessment outcomes to be out of alignment with the outcomes sought in the relevant AUP RPS objectives and policies.

150. The proposed plan modification clarifies the assessment of effects in light of the operative NZCPS and in doing so supports a closer alignment of the HGI Plan Restricted Discretionary Rule (Rule 13.8.2) to the RPS objectives and policies.

151. The relevance of the proposed plan modification to the above objectives and policies of the Regional Policy Statement is discussed below. Overall, the proposed plan modification is considered to be consistent with the relevant objectives and policies of the RPS and directives for transport given in B3, directives for natural heritage and natural resources at B4 and B8, directives for Mana Whenua recognition at B6, and directives concerning the management of the coastal environment at B8.

B3 Ngā pūnaha hanganga, kawekawe me ngā pūngao Infrastructure, transport and energy

Objective B3.3.1- Transport

152. The proposed plan modification to Rule 13.8.2 Restricted Discretionary Activities (Helipads) will support the HGI Plans helipad rules alignment with the RPS transport

objectives (B3.3.1). The proposed modification will support a broadening of general awareness of the scope of consideration of effects provided by the operative NZCPS (range of issues and context) – including environment and amenity values, accessibility, transport choice and economic aspects of helicopter activity when considering effects of Restricted Discretionary helipad applications.

B4. Te tiaki taonga tuku iho - Natural heritage

Objective B4.2. Outstanding natural features and landscapes

153. The proposed modification will support consideration of Restricted Discretionary helipad applications and their potential visual effects in alignment with Policy B4.2 by broadening the general awareness of the scope of consideration provided by the operative NZCPS (range of issues and context) - including on outstanding natural features and landscapes (B4.2)

B6 Mana Whenua

Objective B6.2. Recognition of Treaty of Waitangi/Te Tiriti o Waitangi partnerships and participation

154. The proposed plan modification by adding reference to the NZCPS and amendment to noise sensitive activities to include heritage sites will support alignment with Policy B6.2 by broadening the general awareness of the scope of consideration provided by the operative NZCPS (range of issues and context) for recognising Te Tiriti o Waitangi.
155. While the directives under HGMPA s 7 and 8 are closely aligned to the NZCPS directives, with both requiring recognition of mana whenua and tangata whenua and their relationships with ancestral lands, water, sites, wahi tapu and other taonga; and the practical expression of the role kaitiaki, there is merit to improving awareness of the operative NZCPS directives on matters of significance to tangata whenua and Manawhenua.

B7 Toitū te whenua, toitū te taiao – Natural resources

Objective B7.2 Indigenous biodiversity

156. The proposed plan modification will support the alignment of the HGI Plan provisions to the RPS Indigenous Biodiversity objectives (B7.2) by assisting assessments to be undertaken with improved awareness of the scope of NZCPS relevant directives when considering potential effects on indigenous biodiversity.
157. Of particular relevance is the proposed referencing of ecological sites and species as “noise sensitive activities” in association with assessment of helipads as Restricted Discretionary Activity under Rule 13.8.2. This will ensure that ecologically related sensitivity to noise is recognised.

B8 Toitū te taiwhenua - Coastal Environment

Objective B8.2. Natural character

158. The proposed plan modification supports the HGI Plans helipad rules alignment with the RPS Coastal Environment objectives (B8.2) and supporting policies concerning managing the Hauraki Gulf by improving awareness of the scope of consideration provided by the NZCPS (range of issues and context) when considering Restricted Discretionary helipad applications and their potential effects on the natural and physical resources of the Hauraki Gulf.

B8.3. Subdivision, use and development

B8.3.1 Objectives

159. The RPS objectives and policies for subdivision, use and development proposals within the coastal environment (B8.3.1) direct these activities to occur in appropriate locations, with appropriate form, and limitations reflecting environmental limits and community and cultural wellbeing - and having regard to the intrinsic and social and cultural values of and within the coastal environment, commensurate with the protection directives outlined in the objectives and policies of the NZCPS and HGGMPA. The objectives and policies are relevant to protection of intrinsic values and amenity values. The proposed plan modification supports the HGI Plans helipad rules alignment with the RPS Coastal Environment objectives concerning use and development (B8.3) by improving awareness of the scope of consideration provided by the NZCPS (range of issues and context) when considering Restricted Discretionary helipad applications and their potential effects.
160. The proposed addition of heritage sites (Māori heritage sites and ecological sites and species as “noise sensitive activities” in addition to those listed in Pt 14 Definition - for the purposes of the Rule 13.8.2 restricted discretionary activity assessment criteria, will ensure the sensitivity to noise of these areas is recognised – commensurate with the scope given in the HGMPA and the NZCPS.

B8.5. Managing the Hauraki Gulf/Te Moana Nui o Toi/Tikapa Moana

B8.5.1. Objectives

161. The proposed plan modification supports the HGI Plans helipad rules alignment with the RPS Coastal Environment objectives (B8.5.1) and supporting policies concerning managing the Hauraki Gulf by improving awareness of the scope of consideration provided by the NZCPS (range of issues and context) when considering Restricted Discretionary helipad applications and their potential effects on the natural and physical resources of the Hauraki Gulf.
162. The proposed addition of heritage sites (Māori heritage sites and ecological sites and species) as “noise sensitive activities” is consistent with RPS objective B8.5.1 and supporting policies directives for integrated resource management that supports sustainable resource use that protects the character, amenity and biodiversity values and wellbeing of communities and Mana Whenua.

4.7 District Plan Context

163. The proposed amendment to the matters for discretion and assessment criteria for helicopters as a Restricted Discretionary Activity will assist in the implementation of objectives and policies in the HGI Plan.
164. It will assist council to carry out its functions under sections 30 and 31 of the RMA which include management of the effects of development, use and protection of natural and physical resources in an integrated way.
165. The proposed plan modification is consistent with section 76 of the RMA to the extent that it amends district plan provisions that will assist the council's functions relating to the management of the Hauraki Gulf resource. In particular it will assist with achieving sustainable management outcomes aligned to the directives set in the HGMPA and the operative NZCPS.
166. The proposed plan modification is consistent with the following objectives in Pt 2 Resource Management Overview and Transport objectives in Part 13 Transport of the HGI Plan

HGI Plan - Part 2 - Resource Management

2.5.2 Sustainable Management objectives

1. *To encourage the current use of natural and physical resources (excluding minerals) at a rate which allows future generations to meet their reasonably foreseeable needs.*
2. *To promote the safeguarding of the life-supporting capacity of air, water, soil, and ecosystems.*
3. *To manage land use activities to ensure that adverse effects are avoided, remedied, or mitigated.*
4. *To manage subdivision and land use to a scale that is appropriate to the different characteristics of various island environments.*
5. *To promote more sustainable transport options such as walkways and cycleways as an alternative to use of the private motor vehicle.*
6. *To enable the investment in and growth of the local economy, including business and employment.*
7. *To encourage low impact methods of resource use and development including more sustainable building practices and cleaner production techniques.*

2.5.3 Environment objectives

1. *To protect the significant elements of the natural environment.*
2. *To protect and preserve areas of significant ecological value.*

2.5.4. Coastal objectives

3. *To limit the intensity of land use and subdivision to a level which is appropriate to the natural character of the coastal environments.*

2.5.5. Landscape objectives

1. *To ensure that buildings and structures in areas of high natural character and/or significant landscape value are sited and designed in a manner that maintains the dominance of the natural environment.*
2. *To protect regionally and locally significant geological landforms, significant ecological systems (SES) and ecosystems from being destroyed or degraded*

through alteration or other means.

2.5.7 Community objective

2. *To ensure that the requirements of the RMA, Hauraki Gulf Marine Park Act 2000 and other relevant legislation are adhered to within the Plan while appropriately and fairly applying the costs of this administration.*
3. *To appropriately balance the varying requirements and aspirations of residents and visitors to the islands while recognising and protecting its unique character and amenity.*
4. *To appropriately manage and protect historic heritage items within the islands.*

2.5.8 Māori Objectives

2. *To recognise and provide for the protection of the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.*
3. *To recognise and have particular regard to the kaitiakitanga role of mana whenua.*

HGI Plan Part 13 -Transport

13.2 Helipads and Airfields

167. The proposed plan modification assists also assists with achieving the outcomes of the following transport objectives set out in Part 13 -Transport of the HGI Plan

13.3.2 Objective- airstrips and helipads

To sustainably manage the use of the islands' airstrips and helipads and associated infrastructure, while protecting the character and amenity values of the islands.

Policies

3. *By recognising the need for helipads in remote locations, which may be difficult to access by other modes of transport.*
4. *By recognising that airstrips or helipads may be required for farming activities in the landform and rural land units.*
5. *By acknowledging that the gulf islands are a popular tourist destination and that air travel to, from and around the gulf islands is a recognised component of the tourist industry.*
6. *By not providing for helipads in locations that can adversely affect the amenity of surrounding residents.*

6. Consultation

6.1 Consultation under clause 3 of Schedule 1 of the Act,

168. In accordance with clause 3 of Schedule 1 of the Act, during the preparation of a proposed policy statement or plan, the local authority shall consult with:

- a) *the Minister for the Environment; and*
- b) *those other Ministers of the Crown who may be affected by the policy statement or*
- c) *plan; and*
- d) *local authorities who may be so affected; and*
- e) *the tangata whenua of the area who may be so affected, through iwi authorities; and*
- f) *any customary marine title group in the area.*

169. A local authority may consult anyone else during the preparation of a proposed policy

- Clause 3 consultation has also been extended to the Civil Aviation Authority (CAA)

170. An overview of the clause 3 consultation list and feedback status is shown in the Table 7 below.

Table 7- Clause 3 consultation overview and Feedback Status

Consultation (per RMA requirements)	Organisation name	Feedback status
Statutory Body	Department of Conservation	Email Letter (17 June 2024) outlining views on NZCPS (copy provided as part of Attachment D to this report)
Statutory Body	Ministry for the Environment	No formal comment received
Iwi / Mana Whenua	Iwi with interest in area Ngāti Wai Ngāti Manuhiri Ngāti Rehua Ngāi Tai ki Tamaki Ngāti Tamaoho Ngāti Te Ata – Waiohū Ngāti Paoa Iwi Ngaati Whanaunga Ngāti Maru Ngāti Tamaterā Te Patukirikiri	Feedback has been ongoing on the subject of helipad consents; <u>3.1.d consultation:</u> Reply received from Ngāi Tai ki Tamaki – reserve comment to next consultation phase.
Local Boards in the Hauraki Gulf	Waiheke Local Board Aotea/Great Barrier Local Board	Resolution from Waiheke Local Board Feedback from Aotea/Great Barrier Local Board (copies are provided as part of Attachment D to this report)

Where feedback has been received, this is expanded upon below.

Department of Conservation

171. Comments received from the Department of Conservation highlight that the NZCPS has policies that would not be applicable for helipad applications and notes that the scope of the NZCPS as a matter of discretion would be overly broad -

"The NZCPS has policies that would not be applicable for this type of application. Adding the entirety of the NZCPS may make the condition more in line with a 'Discretionary' rule in comparison to a 'Restricted Discretionary' rule.

Instead, we recommend adding specific topics that are covered in the NZCPS that would be relevant. We consider these include "cultural effects" in pol 2, "reclamation" in pol 10, "indigenous biodiversity and ecosystems" in pol 11, "natural character, landscapes and features" in pol 13, 14, 15, and "historic heritage" in pol 17 and "natural hazards" in policies 24 – 27 as matters of discretion".

172. The Department of Conservation suggests that Rule 13.8.2 Matters for Discretion could be amended to include the following matters:

"When considering an application to establish a helipad or airstrip, the council has restricted its discretion to the following matters (additions are underlined, deletions are struck through)

- Noise effects
- The visual effect of any earthworks or retaining structures required to establish a helipad or airstrip.
- ~~NZ Coastal Policy Statement~~
- Indigenous Biodiversity and Ecosystems
- Natural Character and Features
- Historic Heritage
- Cultural Effects
- Reclamation and declamation
- Natural hazards

173. The feedback is that Option 2 is not supported by the Department of Conservation. The suggested amendments indicate that a more targeted amendment (such as proposed in Option 3) is supported.

Mana whenua

Clause 3 consultation

174. Consultation with Mana whenua / iwi authorities at the clause 3 stage involved three separate consultations. The first under section 3.1.(d) of the RMA sought input at development stage of the plan modification. Letters were sent to those iwi with land interests in the Hauraki Gulf area (based on rohe maps) outlining the background to the plan modification and inviting input to the development phase.

175. A response was received from Ngai tai ki Tamaki and a meeting was subsequently held. Ngai tai ki Tamaki advised they would await receiving a draft plan modification before commenting.
176. The second consultation under Schedule 1, clause 4A of the RMA sought the views of Mana whenua on the proposed draft plan modification prior to it being taken to the Policy and Planning Committee (10 April 2025 meeting) for consideration to publicly notify. No views were received from Mana whenua in relation to the second consultation under clause 4A of the RMA.
177. A third consultation was undertaken, under Schedule 1, clause 4A of the RMA following the Policy and Planning Committee resolution PEPCC/2025/29 from its meeting on 10 April 2025 which directed staff to amend the proposed plan modification to enable consideration of “noise and vibration”.

That the Policy and Planning Committee:

- a) **whakaae / approve the notification of proposed Plan Change ‘Helipads – Restricted Discretionary Activities to the Hauraki Gulf Islands section of the Auckland Council District Plan – as outlined in Attachment B of the agenda report, subject to amending the plan change to enable the consideration of both noise and vibration.**

178. The proposed plan modification and s32 report were amended to reflect the resolution; the views of mana whenua were subsequently sought on the changes made.
179. No views have been received from Mana whenua in relation to the consultation under clause 4A of the RMA.
180. Previously expressed views
181. In addition to the views provided in the clause 3 consultation process, previously expressed views of Ngāti Rehua Ngāti wai ki Aotea Trust in a letter to Local Board, dated 21 February 2020, and attached to the Aotea /Great Barrier Local Board Notice of Motion of 22 March 2022 GBI/2022/25 are noted. This has been included as feedback for the purposes of the s32 analysis.

Local Boards

182. A memorandum was provided to the Waiheke Local Board and the Aotea Great Barrier Local Board advising on the commencement of the plan modification process and to seek the local boards’ views on the development of the proposed plan modification. The local boards’ views are provided in Attachment D. A summary is provided below:

Waiheke Local Board Resolution WHK/2024/50 12 June 2024 (summarised)

- The Waiheke Local Board supports the addition of the NZCPS and cites the following policies as especially relevant to helipads
- Policy 2d (opportunities for Māori involvement in decision making),

- Policy 3 (proof of no harmful effects),
- Policy 7.1.d (identification of inappropriate areas),
- Policy 7.2 Cumulative effects
- Policy 11 (protection of indigenous biological diversity),
- Policy 11.2 (effect on habitats during vulnerable life stages of indigenous species)
- Policy 13.2 (natural character may include experiential attributes)

Aotea/ Great Barrier Local Board - feedback dated 19 June 2024 (summarised):

- The Aotea/ Great Barrier Local Board supports the addition of the NZCPS
- Seeks consideration of gaps in protection of sites and places of significance to mana whenua when creating options for the plan modification;
- Acknowledge that amenity values for Waiheke and Aotea are different and unique and different considerations may be required.

Civil Aviation Authority

183. Clause 3 consultation has also been extended to the Civil Aviation Authority (CAA).

No comments were received by council.

184. In association with Notices of Requirement, Council staff have had several discussions with representatives from the Civil Aviation Authority to discuss the concerns of the Waiheke and Aotea/Great Barrier Local Boards regarding helicopter activity on/over Waiheke Island and Aotea Great Barrier Island. Flight patterns and numbers, safety matters, and jurisdictional matters were also discussed. The CAA identified that they held no concerns with safety.

6.2 Other

Subject Matter Experts – Council

185. Subject matter experts from units/departments across council including planning, cultural heritage, heritage, resource consents, compliance and monitoring assisted in the development of this plan modification.

Community engagement

186. No community engagement has been undertaken on the draft plan modification. The proposed plan modification does not introduce or expand matters of consideration or change any standards. The plan modification does not propose a policy shift. Rather, it makes the current scope of assessment (including consideration of the NZCPS) more transparent.

187. The plan modification process itself, which includes submissions and hearing of submissions, will ensure equal opportunity for all views to be expressed. Council is aware of the following views in the community:

Quiet Skies Waiheke who has engaged with the Waiheke Local Board and Aotea Great Barrier Local Board expressing opposition to helicopter activity.

- (a) A letter from 'Destination Great Barrier' (attached to the Aotea Great Barrier Notice Of Motion) also expresses opposition to helicopter activity.
- (b) A letter from the Environmental Defence Society (17 March 2022) to Phil Goff, Auckland Mayor and Auckland Council (attached to the Aotea Great Barrier Notice Of Motion) also expresses concern with the scope of effects able to be considered, particularly noise effects
- (c) A petition to council (attached to the Aotea Great Barrier Notice Of Motion) presented at the meeting considering the NOMs expressing opposition to helipads was lodged with the Council's Planning Committee at its 30 March 2023 meeting seeking a moratorium on helipads.

188. It is noted that the topic of helicopters is often in the local news. The nature of local news items, petitions and community groups is that they do not express all views. As noted above, the plan change process which includes submissions and hearing of submissions will ensure all interested parties have equal opportunity to participate in a democratic process.

7. Conclusion

189. The objective (purpose) of the plan modification is ensuring the provisions for helicopters as a Restricted Discretionary Activity (RDA) align to the relevant policy directives in the NZCPS and that assessment of effects is undertaken in the context and scope given by the NZCPS. It aims to clarify the scope of interpretation of the HGI Plan restricted discretionary rules for helipads (Rule 13.8.2) to articulate that the scope of the assessment of effects includes the context and scope provided by the policy directives of the current NZCPS.

190. The pathway to ensuring that the scope of the NZCPS is fully considered in relation to Rule 13.8.2 (helipads as a Restricted Discretionary Activity) must remove ambiguity in the current rule and appropriately alert plan users to the context given to assessment of effects by the operative NZCPS.

191. The proposed plan modification removes ambiguity through amendments to Rule 13.8.2 under section headings 'Matters for Discretion', and 'Assessment Criteria' - to clarify the NZCPS context (for the existing matters for discretion) and to more transparently provide for consideration of noise and vibration, particularly for sites sensitive to noise which are not captured by the Pt 14 definition of "noise sensitive activities".

192. The proposed approach amends Rule 13.8.2 in such a way that the integrated balance of the HGI Plans objectives and policies for environmental, economic, social and cultural outcomes are fully considered against the scope of the policies of the NZCPS

and HGMPA while retaining the balance of outcomes across the plan as a whole. The evaluations undertaken show the proposed plan modification achieves its purpose and assures the restricted discretionary activity provisions for assessment of helipads reflect requirements of the NZCPS and HGMPA to which the HGI Plan must give effect. The method achieves the purpose of Part 2 of the RMA and is consistent with directives in the RPS. The proposed amendments are considered the most appropriate method of ensuring assessment outcomes consistent with achieving the relevant objectives and policies of the RPS and the District Plan.

8. List of Attachments and links

Table 8 – List of Attachments

Attachment	Name of Attachment
A	Proposed Plan Modification (Helipads) (PPM Helipads)
B	HGI Plan Helipad rules
C	Information Used (reports, letters, notices of motion) to understand the issues leading to development of Proposed Plan Modification
D	Clause 3 consultation LB views on development of plan modification Department of Conservation
E	NPS 15 Noise and vibration metrics standard

