

# **Attachment C**

## **Contributing Information**

## Contributing Information used to understand the issues leading to development of the proposed plan modification

| Name of document, report, plan   | Contribution to development of the proposed plan modification  |
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| <b>Correspondence</b>  |  |
| Letter to Auckland Council (Aotea Great Barrier Local Board) from Ngāti Rehua Ngāti wai ki Aotea Trust dated 21 February 2020  | Outlines concerns about private helipad effects. Concern that mandates as Kaitiaki to protect sacred sites, wahi tapu and taonga is not given sufficient attention.  |
| Waiheke Local Board <b><u>Notice of Motion</u></b> dated - 21 July 2021  | Requests information about helipad consents statistics, consent conditions, feasibility of applying a moratorium on consents. Seeks amendment of assessment criteria, Seeks Planning Committee endorsement of Special Airspace Use over Waiheke (CAA jurisdiction)   |
| 3 Dec 2021 - Memorandum<br><br>To: Waiheke Local Board and Planning Committee<br>From Plans and Places Unit/Compliance and Monitoring Unit,  | Responds to the Waiheke Local Board's notice of motion dated 21 July 2021<br><br>The memorandum discusses the regulatory framework applicable to helipads (and the associated take-off and landing of helicopters). Also discusses planning mechanisms of moratoriums and Prohibited Activity status   |
| Waiheke Local Board <b><u>Notice of Motion</u></b><br>15 December 2021, WHK /2021/178 (a) to (f)<br><br>Waitematā Local Board <b><u>Notice of Motion</u></b><br>15 December 2021, WTM 2021/298 (a) to (c)<br><br>Aotea Great Barrier Local Board <b><u>Notice of Motion</u></b><br>22 March 2022 GBI/2022/25 | The resolutions outline the local boards' concerns in regard to the adequacy of AUP (Waitemata Local Board; and the HGI Plans Helipad Rules (Waiheke and Aotea Great Barrier Local Boards), consenting and monitoring of consents<br><br>The local boards resolutions identified concerns about the strength of the current regulatory framework for helipads and sought a compliance and monitoring investigation into the levels of compliance and monitoring of helipad consent holders in terms of their adherence to consent conditions.<br><br>The Waiheke and Aotea/Great Barrier local boards seek stronger provisions generally for the Hauraki Gulf Islands Plan, including a requirement for the public notification of all helipad applications. The Aotea/Great Barrier local board also reported concerns raised by mana whenua about the recognition of their role as kaitiaki and for greater input into the resource consents process. A key concern was raised in relation to ensuring the protection of sites of cultural significance to mana whenua.<br><br>A suspension/moratorium on private helipad consent applications was also requested by the Waiheke Local Board and was supported by the Aotea/Great Barrier local board. |

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|  | <p>Attachment A to the Aotea Great Barrier Local Board - Notice of Motion included:</p> <ul style="list-style-type: none"> <li>- Letter to Auckland Council from Ngāti Rehua Ngāti wai ki Aotea Trust dated 21 February 2020 – Expression of concern that mandates as Kaitiaki to protect sacred sites, wahi tapu and taonga is not given sufficient attention.</li> <li>- Petition to Auckland Council Planning Committee for moratorium on helipad consents in the Hauraki Gulf (presented to the PEP Committee at its meeting on 31 March 2022. The petition registers 594 signatures.</li> <li>- Letter from environmental Defence Society – Gary Taylor (CE), 17 March 2022.</li> <li>- Letter from Destination Great Barrier, Derek Bell (Chair) 28 February 2022.</li> </ul>   |
| <p>5 May 2022<br/>Report to Planning Committee</p> <p>From: Plans and Places Unit/Compliance and Monitoring Unit,</p> <p>Title <i>'Resolutions from the Aotea/Great Barrier, Waiheke and Waitematā Local Boards regarding concerns about helicopter activity'</i>.</p> | <p>A report responding to the Local Boards' Notices of Motion was provided to the Planning Committee at its meeting on 5 May 2022.</p> <p>The report discussed the helipad rules (including the context setting of the 2006 review of HGI Plan). It noted that the HGI Plan helicopter provisions thresholds and criteria for Permitted, Restricted and Discretionary Activity were developed to strike a balance with competing outcomes including - to provide access that recognised the separation of the Hauraki Gulf Islands from the mainland by the sea; give support to tourism; and protect residential amenity values.</p> <p>The report acknowledged the concerns from Ngāti Rehua Ngātiwai ki Aotea Trust about the ability of the resource consents process to provide for mana whenua's kaitiaki role, and to give adequate protection of cultural sites and values. The lack of a schedule in the HGI Plan protecting sites and places of archaeological and cultural significance was highlighted. The report noted work on this issue by council's Cultural Heritage team and has been in consultation with Ngāti Rehua Ngātiwai ki Aotea Trust about proposed sites for inclusion in the HGI Plan in a proposed plan change.</p> <p>Mana whenua input into the resource consents process was noted to have a process in place already - that all consent applications received by the Council are provided to mana whenua on a weekly basis, providing an opportunity for mana whenua to review applications and highlight matters of concern. However, it is acknowledged that the current Restricted Discretionary Activity status limits the degree to which concerns raised by mana whenua can be considered.</p> <p>The report noted that a suspension of consent applications (i.e. a moratorium) is not provided for under the RMA. The Council is obliged to receive and process resource consent applications, avoiding unreasonable delay as directed by s21 of the RMA.</p> <p>Planning Committee Resolution PLA2022/40 directed further investigation into helicopter activity in the Auckland region to assist with determination of next steps. Planning Committee Resolution PLA2022/40 (c) noted the commencement of a project to analyse consent conditions from helicopter resource consent holders on</p> |

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|  | Waiheke Island and central Auckland to determine the extent of compliance and assist with an evidence-base of effects.   |
| <p>21 Dec 2022 – Report</p> <p>To: Planning, Environment and Parks Committee; and Members of the Waiheke, Aotea/Great Barrier, and Waitematā Local Boards</p> <p>From: Plans and Places Unit/ and Compliance and Monitoring Unit</p> <p>Title: <i>'Update on Helicopter Compliance and Monitoring Project'</i></p> | <p><i>Progress Update - implementation of Planning Committee Resolution PLA2022/40</i></p> <ul style="list-style-type: none"> <li>- resource consents department has issued a new practice guidance note for processing helipad resource consents. This guidance is non-statutory and includes a section on consideration of NZCPS under s104 assessment of effects.</li> <li>- monitoring project update - continuing investigation into the compliance with helipad consent conditions, and into patterns of helicopter activity in the Auckland region</li> </ul>   |
| <p>30 March 2023- Report</p> <p>To: Planning, Environment and Parks Committee; and Members of the Waiheke, Aotea/Great Barrier, and Waitematā Local Boards</p> <p>From: Plans and Places</p> <p>Title: <i>'Helicopter Activity - Compliance and Monitoring update: Findings and Options'</i></p>                   | <p><i>Helicopter Activity - Compliance and Monitoring update: Findings and Options</i></p> <p>Identifies: Low number of complaints, Civil Aviation authority does not consider level of helicopter activity unsafe, Waiheke helicopter activity comparable to other parts of Auckland.</p> <p>Four options outlined:</p> <ol style="list-style-type: none"> <li>1. defer full review to AUP review</li> <li>2. early implementation of NPS15 (National Planning Standard - measurement of helicopter noise)</li> <li>3. HGI Plan modification</li> <li>4. HGI Plan and AUP modification</li> </ol> <p><u>30 March 2023 Resolution: PEPCC/2023/48</u></p> <p>(b) approve implementation of NPS15</p> <p>(c) and (d) request budget for review of HGI Provisions is budgeted for as part of AUP review*.</p> <p>* items (c) and (d) are addressed to the Long Term Plan (LTP) budget.</p> <p>NOTE: The review of the HGI Plan and AUP are included in the LTP budget – Auckland Unitary Plan Review (AUP2). The budget provides for associated workstreams of both the HGI Plan and AUP2 including the directly associated preparatory work being the completion of efficiency and effectiveness (RMA section 35) reporting on the performance of the existing AUP and HGI Plan.</p> |
| <p>29 Dec 2023 – Memo</p> <p>To: Planning, Environment and Parks Committee and members of the Waiheke, Aotea/Great Barrier and Waitemata Local Boards</p> <p>From: Plans and Places</p>  | <p><i>Helicopter Activity - Update on implementation of Resolution PEPCC/2023/48 of the Planning, Environment and Parks Committee (30 March)</i></p> <ul style="list-style-type: none"> <li>- HGI Plan has been updated with National Planning Standard 15 – measurement of helicopter noise</li> <li>- Preliminary investigation - Prohibited Activity Status (Styles Group Ltd – Acoustic Consultants)</li> </ul>  |

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| Title: 'Update on implementation of Resolution PEPCC/2023/48 of the Planning, Environment and Parks Committee (30 March 2023'                                       | <ul style="list-style-type: none"> <li>- Helicopter Complaints process updated (webpage)</li> <li>- Noted: CAA scheduled review of Auckland Regional airspace (scheduled Dec 2023)</li> </ul>  |
| <b>14 Dec.2023</b><br><b>Notice of Motion –</b><br>Auckland Council Councillor M Lee – Activity Status of Helipads<br>To: Planning, Environment and Parks Committee | Notice of Motion from Cr M Lee seeking AUP and HGI Plan change to introduce Prohibited Activity status<br><br>On the 14 March 2024 the Planning, Environment and Parks Committee of Auckland Council (PEP) resolved:<br><i>PEPCC/2024/14</i><br><br><i>That the Planning, Environment and Parks Committee:</i><br><br>...<br><br><i>e) noting the need to integrate the Hauraki Gulf Islands District Plan with the Auckland Unitary Plan, at a later date, but in the interim:</i><br><br><i>i) Direct staff to prepare a plan modification to amend Rule 13.8.2 of the Hauraki Gulf Islands District Plan to add the NZ Coastal Policy Statement as a matter of discretion to be considered in helipad consent applications;</i> |
| <b>RMA planning instruments</b>   |  |
| Auckland Unitary Plan (Operative in Part)   | AUP Objectives of particular relevance to the proposed plan modification are:<br>B2 Urban Growth and form<br>B3 Infrastructure, transport and energy<br>B3.3 Transport<br>B4 Te tiaki taonga tuku iho - Natural heritage<br>B6 Mana Whenua<br>B5 Ngā rawa tuku iho me te āhua - Historic heritage and special character<br>B7 Toitū te whenua, toitū te taiao - Natural resources<br>B8 Toitū te taiwhenua - Coastal environment   |
| Auckland Council District Plan (Hauraki Gulf Islands Section)   | HGI Plan Part 2 Resource Management<br>2.5.2 Sustainable Management objectives<br>2.5.3 Environment objectives<br>2.5.5. Landscape objectives<br>2.5.4. Coastal objectives<br>2.5.5. Landscape objectives<br>2.5.7 Community objective<br>2.5.8 Māori Objectives<br><br>HGI Plan Part 13 -Transport -13.2 Helipads and Airfields   |

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|   | <p>13.3.2 Objective- airstrips and helipads</p> <p>The Auckland Council District Plan (Hauraki Gulf Islands Section) Pt 13 Transport Rule 13-8 Helipads and Airports provides a means in which to insert a reference to the NZCPS.</p>  |
| Auckland Council District Plan (Hauraki Gulf Islands Section) 2006 Review | Hearing Report and Decisions  |
| New Zealand Coastal Policy Statement 2010                                 | <p>Objective 1 - Ecosystems</p> <p>Objective 2 – Natural character, natural features and landscape values</p> <p>Objective 3 – Te Tiriti o Waitangi</p> <p>Objective 4 – Public Open Space</p> <p>Objective 6 – Social economic and cultural wellbeing</p>  |
| <b>Legislation and case law</b>   |   |
| Hauraki Gulf Marine Park Act 2000   | ALL   |
| Resource Management Act 1991  | <ul style="list-style-type: none"> <li>- Part 2 - Purpose and intent of the Act</li> <li>- Section 31 - Functions of territorial authorities in giving effect to the Resource Management Act 1991</li> <li>- S73 - Sets out Schedule 1 of the RMA as the process to prepare or change a district plan</li> <li>- S74 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, national policy statement, other regulations and other matter</li> <li>- S75 Outlines the requirements in the contents of a district plan</li> <li>- S76 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.</li> <li>-</li> </ul> |

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| <p>Civil Aviation Act 2023</p> <p>Case law:</p> <p><i>Dome Valley District Residents Society Inc v Rodney District Council</i>, Environment Court, Auckland 14/12/2007, Sheppard Judge, A099/07, and <i>Dome Valley District Residents Society Inc v Rodney District Council</i>, High Court, Auckland, 1/8/2008, Priestly J CIV-2008-404-587, <i>Saville v Queenstown Lakes District Council</i> [2019] NZEnvC 94</p> | <p>Note: the RMA does not allow the council to consider the effects that arise from the broader overflying activity of helicopters, or to regulate health and safety matters for helicopter activity. These matters fall under the control of the Civil Aviation Authority (CAA).</p> <p>The Civil Aviation Act 2023, section 9(5) of the RMA and Dome Valley case law outline jurisdictional considerations:</p> <p>Jurisdiction</p> <ul style="list-style-type: none"> <li>- the council's jurisdiction under the RMA to consider helicopter effects is limited to the effects that arise in relation to the taking off and landing of the helicopter, not those effects that arise from the broader overflying activity. The implications of this are that council does not have jurisdiction to consider effects that arise from the broader overflying activity. This falls under the jurisdiction of the CAA.</li> <li>- In terms of identifying the cut-off height for an effects assessment, the RMA does not provide a specific reference to helicopter elevation. However, in the Dome Valley case, the Environment Court referred to the relevant CAA rules to make its determination. The relevant rule is <u>CAA Rule 91.311 (A0(2))</u>, which identifies requirements for aircraft to be above 1000ft at the line of more intensive residential development or 500ft in the case of rural use land.</li> <li>- The court considered that these elevations indicated a cut-off elevation to apply when considering effects of taking off and landing: <ul style="list-style-type: none"> <li><i>...after take-off or landing, and in particular where an aircraft is operating above 500ft over a rural area or above a thousand feet over a congested area, such aircraft and its effects, in my judgment lie outside the ambit of the Act and the resource consent process.</i></li> </ul> </li> </ul> |
| <p><b>National Planning Standard 15</b></p>  | <p>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.</p> <p>The standard is not required to be implemented until 2029 however an early implementation was made to Part 13 Transport of the HGI Plan at the direction of the 20 April 2023 PEP Committee Resolution PEPCC/2023/48</p>  |