

**IN THE MATTER**

of the Resource Management Act  
1991

AND

**PLAN CHANGE 5**

Whenuapai Plan Change to Auckland  
Unitary Plan Operative in part

**DIRECTION 5 OF THE HEARING PANEL OF COMMISSIONERS: PLAN CHANGE 5**

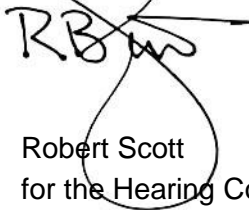
1. The Auckland Council (the Council) has appointed Independent Hearing Commissioners Robert Scott (Chair), Juliane Chetham, Gavin Lister and Councillor Chris Darby pursuant to section 34A of the Resource Management Act 1991 (RMA), to hear and determine submissions to Plan Change 5 (**PC5**).
2. A hearing was held in May 2018 and was adjourned to enable officers to provide more information on several matters including infrastructure funding mechanisms, aircraft engine noise testing, and any implications of a reported planned relocation of the Orion squadron to Ōhakea (Directions 2 and 3). The hearing was scheduled to resume on 24 August 2018 to receive this information and Council officers' closing statement.
3. On 10 August 2018 the scheduled hearing to hear the Council officer's response to our questions and their closing statement on evidence presented at the hearing, as set out in our Direction 2 (June 2018) was deferred and the hearing adjourned to allow for additional time to model noise data received from the New Zealand Defence Force (**NZDF**) (Direction 4). Since this time there has also been declaration proceedings before the Environment Court regarding the issue of whether engine testing by NZDF aircraft at RNZAF Base Whenuapai constituted "aircraft operations" as set out in Condition 1 of Designation 4310, and a subsequent issuing of a certificate under section 4 of the RMA by the Minister of Defence exempting such engine testing noise from the RMA. During the adjournment we were also advised that the Council was progressing a variation to PC5 to address issues arising since the adjournment including new noise contours for aircraft engine testing which had implications for the zoning as initially proposed in PC5.
4. On 21 December 2020 the Commissioners received correspondence from Neil Construction Limited (submitter 46 to PC5) raising concerns regarding the progress of PC5 since the August 2018 adjournment. In response Mr. Eryn Shields - Team Leader, Regional, North, West and Islands Planning, Plans and Places provided a memorandum dated 22 January 2021 summarising the events since the last adjournment and advising that Council proposed to progress a variation and requested a reconvened hearing to present information to assist the Commissioners.

5. The Commissioners agreed that a hearing should be convened as soon as possible to update the Commissioners and a hearing was held on Tuesday 16 March 2021. Evidence was also pre-circulated by Todd Oliver Elder – Policy Planner on behalf of Auckland Council. The statement by Mr. Elder addressed the following matters:
  - a. A brief discussion on the chronology of events since the adjournment of the PC5 hearing in May 2018;
  - b. An outline of the process options available to the Panel in 2021, and the procedure for the Council’s reply;
  - c. Discussion on two matters for which there is previously incomplete evidence before the Panel, being:
    - i. the funding and financing of infrastructure; and
    - ii. the management of the effects of aircraft engine testing noise at RNZAF Whenuapai Airbase; and
  - d. A discussion on the content of a variation to PC5 and the timeframe for a variation, including a draft timetable for the notification of a variation to PC5.
6. Mr Elder’s evidence was supported by recent noise modelling data and assessment prepared by Tonkin and Taylor Limited on engine testing noise at RNZAF Base Whenuapai which we understand well help inform the preparation of the variation.
7. All persons that made submissions were invited to attend and were given an opportunity to speak following the statement by Mr. Elder.
8. Mr Bartlett QC, who is Counsel for several of the affected landowners, informed us that the new noise contours may raise a jurisdictional issue in proceeding with PC5 in its current form. We were also informed by Mr Elder that information on infrastructure funding (including the new Long-Term Plan and Auckland Transport Alignment Project funding) should be available to the Panel by July 2021.
9. At the hearing all submitters in attendance stated that they supported the preparation of a variation and indicated that the draft timetable, being one that was formulated on a tight adherence to the statutory timeframes, was appropriate. We acknowledge that Neil Construction Limited requested the opportunity to view the draft variation and provide comment to the Council within the timelines of the draft timetable and that Council officers have offered to accommodate this. That said, in the interests of fairness, we consider that any consultation on the draft variation should be made available to all submitters
10. Following a brief adjournment, we confirmed to the parties that we were in favour of continuing the adjournment to allow a variation of PC5 to proceed based on the draft timetable and this direction serves to confirm that finding. We also confirm the following timeline for preparation, submissions and hearing of the variation to PC5:

<b>TIMELINE</b>	
<b>Date</b>	<b>Action</b>
April 2021	Provide Iwi and Local Boards with a copy of the draft PC5 Variation 1  Proposal and draft section 32 evaluation report.
By 30 April 2021	Amend draft proposed Variation and section 32 report to reflect feedback received from iwi authorities and local boards. Engage with submitters on draft provisions.
27 May 2021	Public Notification (20 Working Days) of Plan Change 5 Variation 1
25 June 2021	Submission period closes
22 July 2021	Summary of Decisions Requested are notified for 10 Working Days
5 August 2021	Summary of Decisions Requested further submission period closes
12 August 2021	Hearing dates for variation 1 to PC5 are set by the Panel

11. The Commissioners are disappointed that this matter has been delayed for this length of time, especially since the need for housing and urban development areas in Auckland is a national priority. However, we acknowledge that the issues with this particular plan change are complex and it is important to proceed with the best possible information available to make a robust decision that meets the purpose of the Resource Management Act 1991.

12. If the parties have any questions, please direct these to the HPanel through the hearing advisor – Julie McKee, Hearings Advisor, [julie.mckee@aucklandcouncil.govt.nz](mailto:julie.mckee@aucklandcouncil.govt.nz).



Robert Scott  
for the Hearing Commissioners

22 March 2021