

## **Proposed Plan Change 5 Whenuapai**

### **Resource Management Act 1991 (RMA) - Section 37 extension of time limit for Proposed Plan Change 5 - Auckland Unitary Plan Operative in part.**

Council publicly notified Proposed Plan Change 5 on 21 September 2017. In May 2018 the hearing of submissions was adjourned to enable further technical work to be undertaken. This technical work was interrupted in 2019 by an Environment Court declaration process relating to engine testing noise at Whenuapai Airbase. The technical work was subsequently completed in March 2021. This technical work will result in proposed planning provisions and zoning applying to land within the Proposed Plan Change area that was not reasonably anticipated when Proposed Plan Change 5 was publicly notified. Consequently a variation is required to enable all those affected to make a submission on the proposed planning provisions and zoning. These two events have meant that the requirements of Clause 10(4)(a) to issue the decision on Proposed Plan Change 5 within two years of the notification date has passed.

As Proposed Plan Change 5 was publicly notified before Clause 10A of the First Schedule of the Resource Management Act came into force, Clause 10A does not apply. Consequently the Minister for the Environment was not required to approve an extension of time in this instance.

Section 37(A) of the RMA gives a local authority the power to double the time period specified, whether or not the time period has expired. In deciding to double the time frame, the council has to consider the interests of directly affected persons (the landowners and submitters), the interests of the community in being able to see an adequate assessment of effects (in due course), and the duty to avoid unreasonable delay.

In this case further time is required to enable the Hearing Commissioners to have all relevant technical material available to them. Submissions may be received from the public in response to the proposed planning provisions and zoning, allowing those affected by the variation to represent their interests. Due to the Council's current financial constraints, the Council and Auckland Transport also have concerns about infrastructure funding implications to the Council and its Council Controlled Organisations arising from the implementation of Proposed Plan Change 5. Council wants to be sure that these matters have been appropriately assessed.

### **Determination**

I hereby exercise the Council's power to extend the time period under sections 37 and 37A of the RMA by doubling the two year time limit for making a decision on a proposed plan change. The original deadline of 21 September 2019 becomes 21 September 2021.

This power is exercised under delegated authority in accordance with section 34A of the RMA and the delegations set out in the document "Auckland Council Delegations: Resource Management Act 1991 and Local Government (Rating) Act 2002" Schedule 2A (updated February 2017).

In exercising this power, the matters set out in Section 37A(1)(a-c) of the RMA have been taken into account. Auckland Council has considered the interests of land owners and the public and in particular the need for the public to have a comprehensive understanding and assessment of the effects of the Proposed Plan Change, and also Council's duty under section 21 of the RMA.



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Date: 21 June 2021