

# Memo

30 July 2019

To: Planning Committee  
From: Phill Reid, Auckland-wide Planning Manager

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## **The management of helicopter flights and helicopter landing areas under the Auckland Unitary Plan, operative in part, 2016**

### ***Purpose***

The purpose of this memo is to advise the Planning Committee of the adequacy of the Auckland Unitary Plan to manage the effects of helicopter flights and helipads, particularly in residential zones.

### ***Background***

The Chair of the Planning Committee enquired about provisions regulating helicopters and helipads following media coverage on two high profile resource consent applications for helipads near residential areas. Also, there have been media articles on helicopter flights for private transport<sup>1</sup>. Council wants to ensure that the Auckland Unitary Plan adequately manages helicopter flights and helipads, as well as respond to public concerns around this matter. This memo also considers whether the Auckland Unitary Plan sufficiently anticipates the effects of helicopter use.

### ***What is the issue?***

Helicopters are used for police, emergency services, search and rescue, air force/ military, sight-seeing activities and private transport. Helicopter flights are managed through different layers of rules, including relevant civil aviation rules (e.g. Civil Aviation Act 1990) and the Auckland Unitary Plan.

The crux of the issue is the use of helicopters for private transport and the building of helipads; within urban residential environments.

There is a question of:

- what is the policy intent of the Auckland Unitary Plan for this matter?
- whether the Plan adequately manages the effects of helicopters flights and helipads, in residential environments? and
- if the Plan does not sufficiently manage helicopter flights in residential environments, how can this be addressed?

Given the public interest in this issue, council needs to assess if the Auckland Unitary Plan adequately manages these public concerns, to ensure public confidence in the Plan.

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<sup>1</sup> New Zealand Herald, 30 April 2019, "*The Helipads of Auckland: Who's behind them and, where are they?*"

## ***What is the regulatory framework?***

The Auckland Unitary Plan manages the landing and take-off of helicopters and the building of helipads.

Once a helicopter is airborne (at 1000ft in urban areas), the provisions of the Civil Aviation Act 1990 apply<sup>2</sup>.

The New Zealand Standard for Noise Management and Land Use Planning for Helicopter Landing Areas (NZS 6807:1994) provides guidelines for controlling helicopter landings and take-off noise in the context of the Resource Management Act 1991. NZS 6807:1994 sets out daytime and night-time maximum noise limits for helicopter use, depending on the adjacent land use activities (i.e. industrial, residential, rural)<sup>3</sup>. To be clear this New Zealand Standard is not referenced through either the Auckland Unitary Plan or the Hauraki Gulf Islands District Plan – it has been referenced through consent conditions imposed on consents issued under both of these documents.

There are two parts to this analysis. The first is to determine what the provisions are in the Auckland Unitary Plan, and the second, to ascertain how these provisions are interpreted in resource consent applications.

### Auckland Unitary Plan provisions

It is important to note that the Auckland Unitary Plan has different provisions that apply to the building of helipad structures compared to helicopter landing and take-off<sup>4</sup> as these are considered as two different activities.

Helipad structures have rules around earthwork volumes, the impact of helipads on the physical and visual integrity of the landscape etc. It should be noted that a helipad may not be required, as helicopters may also land in carparks, open grass, or in any large, flat area.

Helicopter landings and take-off is considered an activity and is also subject to noise standards to protect the acoustic amenity of its receiving environment. This means there are two parts to assessing a helicopter landing and take-off.

First is to determine the relevant activity status for the helicopter landing and take-off activity.

Generally, the Auckland Unitary Plan anticipates (i.e. permitted activity) helicopter landing and take-off in hospital areas and for the loading and unloading of cargo at the Port of Auckland and Onehunga<sup>5</sup>. However, in the General Coastal Marine Zone (which is most of the coastal marine area in Auckland<sup>6</sup>), helicopter landing and take-off is a non-complying activity.

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<sup>2</sup> Environment Court: Dome Valley District Residents Society Inc. vs Rodney District Council [EC A000/07] (14 December 2017) found that a council's authority for helicopters and landing pads includes considering the noise of helicopters in the course of landing at the base, on the ground and departing from the base; but it is not intended to extend to effects generated by helicopters (or other aircraft) while airborne or in flight.

<sup>3</sup> This does not apply to infrequent use for police and emergency services.

<sup>4</sup> The Auckland Unitary Plan does not manage helicopter 'flights' but helicopter landing and take-off.

<sup>5</sup> Activity A16 in Activity table F3.4.2

<sup>6</sup> Chapter F2 in the Auckland Unitary Plan, the General Coastal Marine Zone applies to majority of the coastal marine area, that is outside of the Mooring Zone, Marina Zone, Minor Port Zone, Ferry Terminal Zone or the Defense Zone

For the residential zones helicopter landings and take-offs are considered a non-complying activity in the Auckland Unitary Plan<sup>7</sup>.

Secondly, it is an assessment of the noise created by the aircraft landing and take-off itself, which is assessed against the noise Standard E25.6.32. That is, the noise created should not be above the maximums set out in the Standard. If the noise generated by helicopters exceeds the Standard, then the noise aspect of the application is considered a restricted discretionary activity<sup>8</sup>.

To consider a scenario, the use of helicopters for private transport, in a residential zone in Auckland would be subject to the following provisions:

- it would be a non-complying activity status for the helicopter landing and take-off as the activity is not provided for;
- the noise created by the aircraft for landing and take-off, will be subject to Standard E25.6.32 in the Auckland Unitary Plan; and
- the building of the helipad would be subject to provisions for building activities in a residential zone.

#### Resource consents for helicopter flights

The second arm of this assessment is to determine how the Auckland Unitary Plan provisions are applied in practice. Resource consents were assessed for:

1. how the activity status for helicopter landings and take-offs were determined; and
2. the environmental effects of helicopter landings and take off that were assessed.

#### *1) Activity status for helicopter take off and landings*

To carry out this assessment, 14 resource consent applications for helicopter activities (i.e. landing and take-off and helipads), were examined. The second arm of this exercise was a little problematic, as staff could not fully test the implementation of these helicopter flight and helipad provisions for residential zones. Of the 14 consents considered:

- four were assessed under the provisions of the Auckland Unitary Plan (the remainder were under the Hauraki Gulf Islands District Plan);
- of these four, only one was within a residential zone, even in that case the helicopter landing and take-off was for a temporary event to test its acoustic output.

As such, there isn't a resource consent that illustrates fully how the Auckland Unitary Plan provisions would be interpreted for a residential zone.

Despite these challenges, the exercise was useful in identifying some broader learnings. These are:

- that some clarity around the policy intent of the Auckland Unitary Plan around helipads and helicopter landing and take-offs would be helpful, as the activity statuses for these are not immediately apparent;

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<sup>7</sup> Helicopter flights, including landing and take-off are not included in the activity tables for most residential zones. Therefore, Rule (A1) of each residential zones activity table applies, which is that 'activities not provided for' are considered non-complying activities.

<sup>8</sup> C1.9(2) in the Auckland Unitary Plan states that where an activity does not comply with a standard, the activity is considered

- that the permanence of the helipad structure meant that much of the consent application assessments focused on the environmental effects of helipads rather than the helicopter landing and take-off;
- the environmental assessment of the helicopter landing and take-off was narrowly focused on its acoustic amenity; and
- consent conditions for flight restrictions are applicant-led not initially sought by officers, i.e. most flight times and approaches proposed in the consent were accepted.

This examination of the resource consents identified that there could be additional clarity in the policy intent of the Auckland Unitary Plan for helicopter use, because:

- it was not immediately apparent that helicopter landing and take-off were identified as an activity in their own right, and is usually considered alongside the helipad structure;
- the helicopter landing and take-off was always assessed for its noise impacts rather than whether the activity is provided for in the zone;
- under the Auckland Unitary Plan, the activity status of helicopter landing and take-off is not apparent; and
- the permanence of the helipad structure meant that consenting planners focused on the environmental effects of this and less on the impact of the helicopter landing and take-off.

## 2) *Assessment of effects for helicopter use*

This part of the assessment is to determine the types of matters that are considered in consent applications for helipads and helicopter landing and take-off.

Overall, the **acoustic amenity** was the key environmental effect considered for helicopter landings and take-off. In considering acoustic amenity, consent planners assessed:

- type of aircraft and its noise production
- flight paths – i.e. if it is over residential areas
- flight times – i.e. restrictions on flight landing and take-off
- flight movement restrictions – i.e. number of trips allowed.

These three matters helped mitigate the acoustic effects of helicopter landing and take-off.

However, the flight time and flight movement restrictions were applicant-led with the absence of an assessment framework. The NZS 6087:1994 was referenced in some consents as a guidance. Also, the Fly Neighbourly Guide was referenced to further reduce impacts on the receiving environment. In most cases, the times proposed by the applicant were adopted by processing planners. Therefore, there is wide variation in the flight restrictions.

Also, there are other environmental impacts from helicopter landing and take-off that can be considered. For instance, sand disturbance (in coastal marine zone), landscape effects from an aircraft landing and taking off, or impacts on the character of the adjacent residential landscape etc that can be considered alongside its acoustic amenity.

Another key matter that planners considered is the **cumulative effect** of helicopter landing and take-off on the receiving environment. In most cases, this was assessed in terms of distance from each helipad/ helicopter landing and take-off area. Cumulative effect is mostly considered in terms of the impacts on the acoustic environment. However, there are other impacts from cumulative effects, for instance if there are several properties that build helipads, over time the permitted baseline for the neighbourhood changes.

### ***How well does the Auckland Unitary Plan manage helicopter flights?***

There are enough provisions in the Auckland Unitary Plan to manage helicopter landing and take-off, and helipads in residential environments.

Helicopter flights and helipads are generally not provided for in residential environments<sup>9</sup> as the Auckland Unitary Plan does not specifically anticipate these activities in residential zones. Activities not provided for in these zone are considered non-complying activities under Rule (A1) within each of the residential zone activity tables.

As a non-complying activity the applications will be assessed both in terms of effects and the extent to which the proposals are contrary to Auckland Unitary Plan **objectives and policies**. Depending on location the **amenity values** (which by definition means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes) associated with adjoining zones such as Open Space or the General Coastal Marine zone are within the Unitary Plan and will be of relevance for assessment.

There were no resource consents that fully tested the provisions for helicopters in residential zones in the Auckland Unitary Plan. Regardless, an assessment of resource consents revealed the following gaps:

- there could be more clarity and understanding in the policy intent around helicopter landing and take-off to guide consent planners
- much of the assessment of effects for helicopter flights are focused on the acoustic effects and could be wider
- the cumulative effect should be wider in its assessment of potential impacts rather than just a measure of distance between helipads and resultant acoustic impacts
- there can be more guidance on the use of NZS 6087:1994 and the Fly Neighbourly Guide as a framework for flight restrictions through conditioning on consents.

### ***What are the potential options to fill these gaps?***

#### Description of options

There are three options that could be pursued to address the gaps identified above. These are:

**Option 1**, staff adopt a 'wait and see' approach. That is, the policy team would wait to see how the existing provisions play out in land use consent applications, particularly for ones in the residential zones. Staff would periodically check in with the consents department for any resource consents for helicopter flights and helipads and assess these for consistency.

**Option 2**, staff would proactively prepare a practice note and/or interpretation guidance, to clarify the policy intent of helicopter landing and take-off as contained in the Auckland Unitary Plan and Hauraki Gulf Islands District Plan. This would also address conditioning of consents and best use of NZS 6087:1994 and the Fly Neighbourly Guide. This would be circulated among consent planners and drafted for external release. Also, a monitoring plan would be prepared to help assess the impact of these existing provisions and whether these are fit for purpose.

**Option 3**, staff would add specific helicopter provisions in the Auckland Unitary Plan, through a plan change. This would include, specific rules within activity tables and specific objectives and policies within the residential zones related to helicopters.

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<sup>9</sup> These are not referred to in the activity table for residential zones which therefore renders this use a non-complying activity pursuant to rule (A1) within each of the residential zones activity tables.

Options 1 to 3 were assessed against benefits, costs, timeliness and risks. These are summarised below:

	<b>Option 1: Status Quo – ‘Adopt a wait and see’ approach</b>	<b>Option 2: Develop practice note/ policy guidance and monitor provisions</b>	<b>Option 3: Plan Change to add provisions to manage helicopter flights</b>
<b>Benefits</b>	<ul style="list-style-type: none"> <li>As the scale of the issue is unclear, the status quo provides some time to assess the issue</li> <li>This option is least costly to council</li> </ul>	<ul style="list-style-type: none"> <li>This option clarifies the policy intent of the Auckland Unitary Plan for helicopter flights in residential areas.</li> <li>It enables the existing provisions in the Auckland Unitary Plan to embed properly</li> <li>It enables a specific monitoring plan for this issue will help check the robustness of the existing provisions</li> <li>It encourages consistency in the assessment of consents for this matter</li> <li>It would cost less than Option 3.</li> </ul>	<ul style="list-style-type: none"> <li>Would enable a more nuanced approach to managing helicopter flights in different zones</li> <li>The specific issue- i.e. helicopter flights in residential areas, will have a clear policy direction in the Auckland Unitary Plan.</li> <li>Specific policies may have a very minor benefit in assisting assessments of non-complying consent applications compared to current policies related to character and amenity.</li> </ul>
<b>Costs</b>	<ul style="list-style-type: none"> <li>This option does not proactively manage the issue of helicopter use in residential areas</li> <li>Does not adequately allay public and political concerns about helicopter flights in residential areas</li> <li>Does not clarify the policy direction of the helicopter provisions in the AUP</li> </ul>	<ul style="list-style-type: none"> <li>This option would cost more than Option 1, where staff will be allocated to develop a practice note</li> <li>There will be a need to update the practice note as NZS 6807:1994 is updated or changed</li> </ul>	<ul style="list-style-type: none"> <li>Plan changes are costly to the organisation and there will be trade off with other planning issues that need staff attention</li> <li>The scale of the issue for this specific matter is small. So far there have been 4 consent applications for this activity in 3 years assessed under the AUP. It does not warrant the allocation of staff resources for a plan change</li> </ul>
<b>Timeliness</b>	<ul style="list-style-type: none"> <li>Least timely, because this issue seeks to determine if there is an issue with the provisions and then deal with it.</li> </ul>	<ul style="list-style-type: none"> <li>Much speedier response as compared to a plan change, as the processes for sharing of information between departments is in place</li> </ul>	<ul style="list-style-type: none"> <li>Plan changes typically take 1-2 years, subject to appeals. A plan change is not nimble to react to an issue quickly</li> </ul>

<b>Risks</b>	<ul style="list-style-type: none"> <li>• Current resource consents that have been granted sets precedence on the flight restrictions for different zones, residential zones. It would be difficult to change these conditions as more consent applications are made</li> </ul>	<ul style="list-style-type: none"> <li>• An interpretation guidance or practice note is not a statutory document and planners may still interpret the existing provisions differentially</li> </ul>	<ul style="list-style-type: none"> <li>• It would open a public and political debate on the merits of helicopter flights in Auckland</li> <li>• There is a risk of appeals to the plan change which can move potential solution further away to what is originally intended</li> <li>• It can be seen to undermine the position of the Independent Hearings Panel and original policy direction in the Auckland Unitary Plan</li> </ul>
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### ***Conclusion/ Recommended option***

The existing provisions in the Auckland Unitary Plan adequately manage helicopter landings and take-off in residential areas. An assessment of consent applications suggests a very small number of consent applications for this activity. However, the assessment also shows that staff could be proactive in the development of guidance to support the assessment of these applications.

A practice note/ interpretation guidance to consent planners to clarify the policy intent would be a proactive and quick way to manage this issue. If there are more resource consent applications for this activity, the guidance document will help clarify the activity status and relevant matters for assessment. Also, it will enable the Auckland Unitary Plan to embed itself further, while monitoring these provisions will improve the ongoing evaluation of both environmental outcomes and this guidance.

Therefore Option 2 is the most prudent way to manage this issue, while maintaining the integrity of the policy direction in the Auckland Unitary Plan.