

# Quiet Sky Waiheke

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## **Re: Opposition to helipad application of Michelle Bartlett 345 Gordons Road, Waiheke Island**

Dear Mr. Allen:

Quiet Sky Waiheke urges denial of the aforesaid application for the following reasons:

### **1. Helipads are a non-complying land use, not restricted discretionary**

The unprecedented proliferation of helipads on Waiheke Island resulted from the helicopter industry's success in 2012 in persuading Auckland Council to insert Section 13.8 into the Hauraki Gulf Islands District Plan. This Section, if read in isolation from the remainder of the plan, appears to make helipad approvals a (very) restricted discretionary decision. The only significant restriction is claimed to be the absurdly lax limit of 50 dBA of noise averaged over a 72-hour period, with no limit on the noise of individual helicopter movements.

A closer reading of the HGI District plan contradicts this assumption of restricted discretion. As we have pointed out in connection with the Obsidian Wines application:

#### **A. Non-complying activity**

“According to the structure of the HGI District Plan, helipads and helicopter landing and take-off should be assessed as a Non-Complying Activity in all Land Units where this is not specified in the activity table (including Rural 1 and 2 land units).” This is a summary statement in the memorandum of 3 August 2021 from Nicole Bremner of Planorama Consulting Ltd.

The memorandum also (a) itemizes facts that should be considered in judging an application for a non-complying helipad application, (b) explains in detail why the past practice of making a 50 dbBA average noise as a sole

performance standard is incorrect, and (c) points out that the HGI District Plan requires a layering approach whereby an activity is to be assessed under multiple relevant parts of the plan.

The memorandum is attached.

### **B. Section 10c.5.3 noise limit**

In addition to the noise standard in Section 13.8.2, the HGI District Plan sets an explicit noise limit in Section 10c.5.3 which applies to “all activity,” with certain exceptions among which Waiheke Island helipads are not listed (although Great Barrier helipads are). As noted in 13.8.2, “other land use consents may be required under part 10c.”

Section 10c.5.3 and the accompanying table 10c.1 specify noise limits which are significantly stricter than the acoustical standard of 13.8.2. For example, the limit isn’t averaged over a three-day period. An analysis is required to determine whether the Michelle Bartlett application can comply with 10c.5.3. If it does not, this aspect of the application would be discretionary, subject to assessment of the effect on amenity values of neighbouring properties, assessment of conformity with the intentions of the development controls, and assessment of whether there is sustainable management of the effects of the proposal, per 10c.2 and 10c.3.

### **C. NZS 6807:1994 exception**

District Plan Section 13.8.2 states that NZS 6807:1994 shall be used for assessment of noise impact. Helipad applicants have focused on the Ldn 50 dBA limit shown in table 1 of NZS 6807:1994 and they have alleged that an acoustical modeling which shows compliance with this limit is the only requirement to be met. Unfortunately, this allegation has often been accepted without scrutiny by planners. Yet the following paragraph of NZS 6807:1994 explicitly rejects the idea that Ldn 50 dBA is controlling:

*“4.1.1 The following criteria represent the minimum acceptable degree of protection for public health and the environment. In some cases, controls that provide for a greater degree of protection may be appropriate when taking into account community expectations, local conditions, or the maintenance and enhancement of amenity values.”*

The proposed helipad would violate the community expectations, existing conditions, and amenity values of neighbours living only 230 metres away, and of the general public using Whakanewha Regional Park only 600 metres away. This calls for the “greater degree of protection” suggested by NZS 6807:1994.

## **2. Council should exercise its discretion to deny the application**

Since discretion isn't restricted, there are many considerations which indicate that discretion should be exercised to deny the application:

- A. The application would contradict Objective 13.3.2(6) of the HGI Plan to “not provide for helipads in locations that can adversely affect the amenity of surrounding residents.”
- B. The requests of the unanimous motion of the Waiheke Local Board on 21 July 2021 should be honoured. In the motion, the Board:
  - “Asks Auckland Council’s planning committee to endorse a change in the assessment criteria for new helipad consents on Waiheke Island to:
    - “a. enable public consultation of all helipad consents so those directly affected in the vicinity and on projected flight paths can place submissions
    - “b. include the consideration of the cumulative effects of helicopter movements
    - “c. widen the assessment of the effects of helicopter flights, take offs and landings on the wider community and the amenity values of Waiheke and the rights of residents to the quiet enjoyment of their property.”
- C. The motion of the Local Board was backed up by a petition signed by 1368 Waiheke residents asking Council to “stop permitting more helipads.”
- D. With 48 existing helipads on Waiheke, the cumulative impacts on safety and noise are already intolerable. The addition of any helicopter traffic is therefore unacceptable. The cumulative impact problem is particularly evident for the Michelle Bartlett application, because the proposed helipad would be near four existing helipads: 341 Gordons Road, 511 Gordons Road, 621 Gordons Road, and 205 Awaawaroa Road. One of these – the neighbouring site at 341 Gordons Road – is a registered aerodrome. The Michelle Bartlett helipad would also lie close to the approach and departure paths of Waiheke’s airfield/aerodrome at 171 Carsons Road, creating potential conflict with both fixed-wing and helicopter traffic, especially when pilots choose the northerly approach or departure path described in the application.

- E. The Michelle Bartlett helipad would be only 600 metres away from the Whakanewha Regional Park, which is an important bird sanctuary that has been established at great expense and effort by the former Regional Council and the Waiheke Community. Helicopter noise is known to be a major threat to bird life. It would be unconscionable to harm this sanctuary by increasing the impact of helicopter noise.
- F. The Civil Aviation Authority has criticized the helipad consenting practices of Auckland Council because the cumulative safety dangers have been ignored. Waiheke Island is uncontrolled airspace, dependent on pilots' visual observations to prevent collisions during periods of peak activity. With each additional helipad, the danger increases. Consultation with CAA should precede any approval of additional helipads.
- G. This application, like almost all Waiheke helipad consents, relies on proposed conditions to lessen noise and safety impacts.

The applicant proposes conditions to:

- Restrict flights to daylight hours
- Limit flights to 8 movements per day from single-engine helicopters
- Limit flights to 4 movements per day from twin-engine helicopters
- Use only a specific approach and departure vector "where practicable."
- Prohibit helicopter idling while on the ground
- Keep a flight log maintained by the applicant

There is no reason to expect these conditions to be observed. Council has admitted it has no ability to proactively monitor or enforce conditions and there is substantial evidence that such conditions are routinely ignored by helipad operators.

In 2015, Auckland Council resource consents compliance manager Steve Pearce admitted that "Without co-operation from the nearby residents, it would have been very hard for us to get the evidence required for us to put a stop to this," referring to Cable Bay Vineyard operating more than four times the permitted number of helicopter flights.

Councillor Chris Darby is quoted in the *Gulf News* as stating that the Council "just doesn't have the resources to ensure compliance."

Residents have made numerous complaints about excessive flights, deviation from consented flight paths, engines running while landed, and other problems. Council enforcement has been essentially non-existent. The Cable Bay fines were an exception resulting from unusual persistence and

documentation from aggrieved neighbours whose lives had been shattered by the violations.

In the absence of any enforcement, pilots have shown that they will disregard restrictions. A survey by the Civil Aviation Authority in 2016 found that only 11% of helicopter pilots say that they wouldn't "take shortcuts." The survey prompted the head of the New Zealand Helicopter Association to denounce the "wild west" culture that prevails in sectors of the industry.

With no effective regulation, pilots will take shortcuts and overfly residential areas instead of adhering to consented flight paths. They will meander over the Island to give passengers a sightseeing tour. They will fly at less than the 1000-foot minimum. They will keep engines running when landed. They will land at helipads as often as paying customers request it. Conditions would be ineffective, like the conditions on other helipads on Waiheke.

It is important to realise that technical and legal measures could be employed to make conditions meaningful. CAA could approve the current application to make Waiheke Island a "special use airspace" with its own regulations, and allow tracking of helicopters through ADS-B transponders. CAA has the ability to levy large fines or even revoke pilot licenses for violations of special use airspace regulations. But until and unless CAA creates such an airspace, or some other equivalent means of monitoring and enforcement is devised, the consent conditions are worthless and must be assumed not to exist. Only once a special use airspace has been created, with mandatory ADS-B transponder use, could there be any realistic expectation that such conditions would be able to be monitored or enforced.

G. On 11 June 2019, Auckland Council promised to bring a new metric to all decisions when it resolved to "robustly and visibly incorporate climate change considerations, in practical terms, into council work programmes and decisions." Presumably this declaration affects the application of discretion by Council with a helipad application. The salient facts are these:

1. Helicopters are the least fuel-efficient mode of all common modes of transportation.
2. Non-essential helicopter flights serve only a tiny number of passengers.
3. Less polluting transportation alternatives are readily-available to Waiheke Island including ferries and fixed-wing aircraft.

It has been argued that RMA section 70A and section 104E prevent climate change from being considered. However, section 70A pertains to a Council

“making a rule” and section 104E pertains to “an application for a discharge permit or coastal permit.” If the 345 Gordons Road helipad is indeed a non-complying or discretionary activity, there is no prohibition on Council including climate change along with all the other factors it takes into consideration.

Respectfully submitted,

QUIET SKY WAIHEKE

By: Michael Sweeney

Attached: “Helicopters, Hauraki Gulf Islands  
Planning opinion,” Planorama, 3 August 2021

Cc: Waiheke Local Board  
Councillor Pippa Coom  
Councillor Chris Darby  
Craig Hobbs, Director, Regulatory Services, Auckland Council  
Ian Smallburn, General Manager, Resource Consents, Auckland Council