

Decision on notification of an application for resource consent under the Resource Management Act 1991



Non-complying activity

Application number(s): LUC60389929 (s9 land use consent)
Applicant: Alexander James Williams
Site address: 38 Rawene Avenue, Westmere
Legal description: Lot 55 DP 10231, Lot 56 DP 10231 held in Record of Title NA89D/452

Proposal:

To use a residential site in the Residential – Mixed Housing Suburban zone for helicopter take-off and landing, and to exceed noise standards.

Resource consents are required for the following reasons:

Land use consent (s9) – LUC60389929

Auckland Unitary Plan (Operative in part)

District land use (operative plan provisions)

Residential – Mixed Housing Suburban Zone

- The applicant proposes to establish a helicopter pad on their property. Use of a residential site for the take-off and landing of helicopters is not provided for as part of the use of the site for residential purposes, and as such is not an activity provided for in Activity Table H4.4.1, and therefore requires consent as a **non-complying** activity pursuant to rule H4.4.1(A1).

It is noted that the Mitchell Daysh AEE outlines that *helicopter take offs and landings would be a permitted activity if they comply with all applicable standards in the Unitary Plan*, noting this is based on a ‘decision made by Auckland Council in which helicopter take-offs and landings were considered “residential activities” associated with the “use” of a residential dwelling’¹. On this basis, the applicant has applied for resource consent as a *restricted discretionary activity*, where this proposal does not comply with Standard E25.6.32 Noise levels for helicopter take-offs and landing at two adjacent properties (34 and 36 Rawene Avenue). I do not agree with this interpretation of the helicopter activities being considered a residential activity, as helicopter landing areas are not referred to in the activity table for the Residential – Housing Suburban Zone, and as such are an activity not provided for in the zone.

Noise and Vibration

¹ Refer to decision LUC60134603-A, dated 9 March 2022.

- The proposed helicopter take-off and landing activity is predicted to exceed the noise standards of E25.6.32, and as such is a **restricted discretionary** activity under Rule E25.4.1(A2).

Specifically, standard E25.6.32(1) requires the take-off or landing of a helicopter on any site except for emergency services must not exceed L_{dn} 50dB or 85dB L_{AFmax} measured within the boundary or the notional boundary of any adjacent site containing activities sensitive to noise and L_{dn} 60dBA within the boundary of any other site.

The proposed helicopter take-off and landing activity is expected to result in exceedances of noise standards at the following properties:

Receiver address	Predicted one-day helicopter noise (L_{dn})	Predicted noise level (L_{AFMax})
36 Rawene Avenue	56 dB	91 dB
34 Rawene Avenue*	53 dB	89 dB
32 Rawene Avenue*	52 dB	87 dB
29 Rawene Avenue*	51 dB	85 dB

*It is noted that the helipad location as currently proposed on the plan dated 13 June 2024 is located approximately 10-15m further to the south than appears to have been assessed in the applicant's acoustic report. Council's acoustic specialist has assessed this as resulting in infringements in the order of 1 or 2 dB at 29 and 32 Rawene Avenue, and 2-4 dB at 34 Rawene Avenue. The flight sector also appears to be smaller in this latest plan. For the avoidance of doubt, a conservative approach has been taken in identifying all potential and maximum exceedances of noise standards, as identified by Council's acoustic specialist and set out above.

The reasons for consent are considered together as a **non-complying** activity overall.

Decision

I have read the application, carefully reviewed the supporting One Drive files², and the section 42A Report prepared by Ms Adonica Giborees³ with her recommendations on the notification of the application for resource consent. I have a very good understanding of the local area having been brought up in Herne Bay. I am satisfied that I have sufficient information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on notification.

Public notification

Under section 95A of the RMA, this application shall be **PUBLICLY NOTIFIED** because:

² Including the applicant's application material; 2 AAES; community correspondence; council specialists' inputs; the Waitemata Local Board comments and the section 92 responses.

³ Reporting Planner, Premium Resources Consents, Auckland Council

1. Public Notification is neither mandatory nor precluded under steps 1 and 2.
2. However, under step 3, public notification is required as:
 - a. while the application is for activities that are not subject to a plan rule or regulation in an NES that specifically requires public notification;
 - b. the adverse effects on the environment will be more than minor. This is because:
 - The proposal to include a deviation clause in the flight path to cater for emergency scenarios would potentially allow flights to occur over valuable foraging habitat during emergency scenarios. No assessment has been provided on how allowing this would impact birds as the emergency flight path has not been provided and are likely to be selected case by case. The extent of effects on habitats and ecological values is therefore unknown.
 - The proposal to allow flights to include "immediately adjacent times when avifauna are absent" increases the risk of accidental flights while birds are on the roost, which in turn could lead to birds abandoning the roost altogether. There is no detail on how this would work in practice or be monitored or enforced.
 - Lighting from the helicopter and landing area, along with associated noise, can induce stress for birds attempting to roost and sleep in the surrounding habitat. Birds can be impacted by light and noise, affecting not only the amount of sleep, but also the structure, timing, and regulation of their sleep. The application as proposed would allow helicopter operations to continue when the sun is down could disrupt critical parts of their lifecycle, such as breeding. Lighting from the helicopter may also startle roosting birds, increasing the likelihood of fly strike.
 - While the noise events from the helicopter operations may be short and [only] up to four times in a day, the impacts of noise on wildlife would be continuous rather than isolated events, and this continuous disturbance could lead to a whole area becoming inhospitable to some species. Causing birds to vacate an area during noise events would affect energy expenditure and foraging efficiency, which in turn, can lower survival and reproduction rates.
 - There are trees on and around the perimeter of the subject site (both existing and proposed under the seawall consent) that are very close to the proposed helipad and flight path. It is not clear on how the proposed helicopter operations will impact on the health and longevity of the coastal Pohutukawa trees on both sides of the cliff at north-west and north-east coasts, nor of the new trees to be planted along the coast in accordance with the seawall consent. It is also noted that any alteration of the Pohutukawa trees necessitated by the proposed helicopter operations would require resource consent, the effects of which have not been and are not able to be) adequately assessed.
 - Following on from the point above, the damage to or demise of trees has the potential to result in a significant consequential adverse effect on character and amenity values of the surrounding coastal area.
 - There is the potential for the proposal to have more than minor adverse effects on character and amenity values of the locality. The degree to which these adverse

effects impact on people will depend on a person's location relative to the site and activity, alongside whether or not a direct view of the helicopter arrival and departure is apparent (in combination with the noise impacts of the activity).

- The perception of recreational users of public places can differ, depending on the extent, period and frequency of use of public space such as Coxs Bay and the coastal environment. The varied extent of adverse nuisance effects on recreational activities by the general public as a result of disruption caused by helicopter operations has the potential to be more than minor.
- The proposal would have potentially repetitive (cumulative) adverse effects on the environment.

3. Consideration of step 4 is not required given the finding of step 3.

A handwritten signature in black ink, appearing to read 'Mark Farnsworth', with a stylized flourish at the end.

Mark C Farnsworth MNZM

Duty Commissioner

4 October 2024

