

**IN THE ENVIRONMENT COURT OF NEW ZEALAND
AUCKLAND REGISTRY**

**I TE KŌTI TAIAO O AOTEAROA
TĀMAKI MAKAURAU ROHE**

Court No ENV-2022-AKL-000085

IN THE MATTER of the Resource Management Act 1991 (RMA)

AND

IN THE MATTER of an appeal under Clause 14 of Schedule 1 of the RMA
against the decision of Waikato District Council on the
Waikato Proposed District Plan

BETWEEN **NZTE OPERATIONS LIMITED**

Appellant

AND **WAIKATO DISTRICT COUNCIL**

Respondent

**NOTICE OF WISH TO BE PARTY TO PROCEEDINGS BY MARSHALL AND
KRISTINE STEAD
21 March 2022**

Harkness Henry
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Counsel Acting:
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NOTICE OF PERSON'S WISH TO BE PARTY TO PROCEEDINGS

Section 274, Resource Management Act 1991

To The Registrar
Environment Court
PO Box 7147
Wellesley Street
Auckland

Name of Person who wishes to be Party

- 1 MARSHALL and KRISTINE STEAD (**s 274 party**) wish to be a party to the following proceedings: Clause 14(1) of First Schedule, RMA 1991, NZTE OPERATIONS LIMITED'S appeal (**the NZTE Appeal**) against part of the decision of Waikato District Council on the following plan:
 - (a) Waikato Proposed District Plan (**PDP**).
- 2 The s 274 party has made a submission about the subject matter of the proceedings.

Trade Competition

- 3 The s 274 party is not a trade competitor for the purposes of ss 308C or 308CA of the RMA 1991.

The Proceedings

- 4 The s 274 party is interested in all of the NZTE Appeal, and in particular in relation to Rule ANOC-R3 of the PDP.
- 5 The s 274 party made a submission on the OLS and the Transitional Side Surfaces, to which ANOC-R3 relates. The s 274 party has also lodged a Notice of Appeal (**s 274 Appeal**) on ANOC-R3.
- 6 Rule ANOC-R3(1)(a) states that in order to be a **permitted activity**, any new building, structure, tree or other vegetation must not protrude through the Transitional Side Surfaces of the Airport Obstacle Limitation Surface (**OLS**) for the Te Kowhai Aerodrome (**the Aerodrome**).

- 7 Rule ANOC-R3(2)(a) states that if Rule ANOC-R3(1)(a) is not complied with then the relevant activity will have a **restricted discretionary activity** status.

Particular issues

- 8 Paragraph 16(b) of the NZTE Appeal seeks that Rule ANOC-R3(2)(a) is amended to make provision for non-compliance with ANOC-R3(1)(a) as a **non-complying activity**.

Relief Sought

- 9 The s 274 party opposes the relief sought because:
- (a) the s 274 party has many trees (many of which are 35m high) which protrude through the Transitional Side Surfaces. The s 274 party considers that these trees have existing use rights and therefore they cannot be made to remove/trim these trees to comply with the OLS/Rule ANOC-R3;
 - (b) there are existing objects which protrude through the Transitional Side Surfaces. The s 274 party understands that the Aerodrome cannot operate under Instrumental Flight Rules (**IFR**) and it is therefore unreasonable to restrict new buildings or objects from protruding through those surfaces;
 - (c) the s 274 party considers that the inclusion of ANOC-R3 is redundant given:
 - (i) the purpose of the rule is to allow the Aerodrome to operate under IFR; and
 - (ii) there is no certainty that the Aerodrome can operate under IFR given there is nothing to compel landowners to remove/trim trees which protrude into the Transitional Side Surfaces.
 - (d) the s 274 party considers that NZTE can operate the Aerodrome without IFR certification and without the need to restrict the development potential on neighbouring land;
 - (e) having a non-complying activity status apply to structures and vegetation that is captured by rule ANOC-R3 is an unwarranted and unfair restriction on landowner property rights; and

- (f) on this basis, the s 274 party has sought the deletion of rule ANOC-R3 in the s 274 appeal.

Dispute resolution

- 10 The s 274 party agrees to participate in mediation or other alternative dispute resolution of the proceedings.



J Rajendram

Counsel for s 274 party

Date: 21 March 2022

Address for service of Person wishing to be a Party

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Note to person wishing to be a party

You must lodge the original and 1 copy of this notice with the Environment Court within 15 working days after–

- the period for lodging a notice of appeal ends, if the proceedings are an appeal; or
- the decision to hold an inquiry, if the proceedings are an inquiry; or
- the proceedings are commenced, in any other case.

Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991. The notice must be signed by you or on your behalf.

You must serve a copy of this notice on the relevant local authority and the person who commenced the proceedings within the same 15 working day period and serve copies of this notice on all other parties within 5 working days after that period ends.

However, you may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.