SECTION 42A REPORT

Rebuttal Evidence

Hearing 17: Te Kowhai Airpark

Report prepared by: Emma Ensor

Date: 1/03/2021

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1 Introduction

1.1 Background

1. My full name is Emma Harriet Ensor. I am employed by Waikato District Council as a Senior Planner (Consents Team).

2. I am the writer of the original s42A report for Hearing 17: Te Kowhai Airpark.

3. My qualifications and experience are set out in the s42A report in section 1.1, with my agreement to comply with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 set out in section 1.2.

4. In preparing this report I rely on expert advice / opinion sought from:

   - Tompkins Wake with regard to existing use rights, opinion dated 1 March 2021, attached as Appendix 3 to this report.
   - Darran Humpheson (Tonkin & Taylor) with regard to acoustic matters, report dated 26 February 2021, attached as Appendix 4 to this report.

5. I have considered the Hearing 17: Te Kowhai Airpark Section 42A report and appendices, and subsequent submitters evidence. Where such information has informed my thinking on a particular topic / submission, I have specifically referenced that information.

6. Text changes as a result of this rebuttal evidence are set out in Appendix 2. Changes that are a result of the original s42A report are shown in red, with changes arising from this rebuttal evidence shown in blue.

2 Purpose of the report

7. In the directions of the Hearings Panel dated 26 June 2019, paragraph 18, states:

   If the Council wishes to present rebuttal evidence it is to provide it to the Hearings Administrator, in writing, at least 5 working days prior to the commencement of the hearing of that topic.

8. The purpose of this report is to consider the primary evidence and rebuttal evidence filed by submitters.

9. Evidence was filed by the following submitters:

   (a) Fire and Emergency New Zealand

   (b) Greig Metcalfe

   (c) Imogen and Phoebe Barnes

   (d) Kit Maxwell

   (e) Kristine and Marshall Stead

   (f) Lloyd Davis

   (g) Ministry of Education

   (h) NZTE Operations Limited

   (i) Sophia Yapp and Simon Barnes

   (j) Vela Holdings Limited

   (k) R Ranby and L Watson

   (l) Vikki Madgwick

3 Consideration of evidence received

3.1 Evidence in support of the s42A report recommendations

10. Evidence either fully or partially in support of the s42A report recommendations was received from the following parties:

    (a) Fire and Emergency New Zealand

    (b) Greig Metcalfe

    (c) Kit Maxwell

    (d) Kristine and Marshall Stead

    (e) Lloyd Davis

    (f) Ministry of Education

    (g) NZTE Operations Limited

    (h) R Ranby and L Watson

    (i) Vikki Madgwick

3.2 Topics addressed in submitter evidence

11. The main topics raised in evidence from submitters that are in disagreement with the recommendations of the original s42A report for Hearing 17: Te Kowhai Airpark Zone included:

    (a) Obstacle Limitation Surface;

    (b) Noise;

    (c) Hours of operation;

    (d) Aircraft movements;

    (e) Circuit training;

    (f) Flight training school;

    (g) Educational facilities; and

    (h) Servicing.

12. In this rebuttal evidence, I do not address every point raised in the evidence. I respond only to the points where I consider it is necessary to clarify an aspect of my earlier s42A report, Proposed Waikato District Plan Hearing 17: Te Kowhai Airpark Zone, clarify matters raised by submitters or where I am persuaded to change my recommendation. In all other cases I respectfully disagree with the evidence and affirm the recommendations and reasoning in my s42A report.

13. In addition, below I discuss a submission by WEL Networks Limited on Variation 1 that was not discussed in the Hearing 17: Te Kowhai Airpark s42A report. I also respond to further submissions that were also not discussed in the s42A report.

4 NZTE Operations Limited [823]

4.1 Documents referred to

Evidence	Page, Paragraph
OLS	
NZTE – planning evidence	Pages 20 – 25, Paragraphs 59 – 74, Pages 28 – 29, Paragraphs 87-89
NZTE – aviation evidence	Page 17, Paragraph 59, Page 19, Paragraph 68
NZTE – landowner evidence	Pages 9 -10, Paragraphs 34 - 41
s42A report - OLS	Page 91, Paragraph 355
Tompkins Wake	Whole document
Noise	
NZTE – planning evidence	Pages 13 – 16, Paragraphs 37 - 45
NZTE – noise evidence	Page 32 – 33, Paragraphs 100 – 105 Page 33 – 34, Paragraphs 106 -109 Page 34 – 36, Paragraphs 110 - 115
NZTE – landowner evidence	Pages 11 - 12, Paragraphs 42 - 47
s42A report - noise	Page 133, Paragraph 501 Page 168, Paragraphs 632 - 634 Pages 169 - 170, Paragraphs 639 – 642 Page 171, Paragraphs 648 - 652
Tonkin and Taylor evidence	Whole document
Maximum Aircraft Movements	
NZTE – planning evidence	Pages 16 – 17, Paragraphs 46 - 48
NZTE – noise evidence	Pages 28 – 30, Paragraphs 49 - 84
NZTE – landowner evidence	Pages 12 – 13, Paragraphs 48 - 51
s42A report – aircraft movements	Pages 190 – 191, Paragraphs 747 - 760
Circuit training	
NZTE – planning evidence	Page 20, Paragraph 57
NZTE – acoustic evidence	Page 17, Paragraph 45, Page 32, Paragraphs 94 - 99
NZTE – aviation evidence	Pages 29 – 31, Paragraphs 124 – 131, 134 – 135
NZTE – landowner evidence	Page 13, Paragraphs 52 - 54
s42A report – circuit training	Pages 48 – 50, Paragraphs 150 - 161
Flight training	
NZTE – aviation evidence	Page 30, Paragraphs 131 - 132
S42A report – flight training	Pages 50 - 51, Paragraphs 164 - 167
Temporary event	
NZTE – planning evidence	Pages 25 – 26, Paragraphs 75 - 80
s42A report – temporary event	Pages 171 - 172, Paragraph 646
Servicing – water supply	
NZTE – planning evidence	Pages 26 – 28, Paragraphs 81 - 85
NZTE – infrastructure evidence	Pages 8 - 9, Paragraphs 26 – 29
s42A report – water supply	Pages 224 – 228, Paragraphs 982 - 1007

4.2 Analysis

Obstacle Limitation Surface

14. NZTE Operations Limited (NZTE) Aviation evidence by David Park ("Aviation evidence"), page 17, paragraph 59 states the following:

"OLS protrusions are mostly an issue where they occur in the take-off and approach OLS, especially within 3,000m of the runway ends. Terrain or vegetation penetrating through the inner horizontal surface (where established) is less of a concern and can usually be managed."

15. The Aviation evidence, on page 18, paragraph 63, goes on to recommend that the Proposed District Plan OLS rules provide for intrusions into the inner horizontal surface of the OLS as a permitted activity, provided the aerodrome operator has provided written approval.

16. Such a rule would be ultra vires. A permitted activity rule cannot be subject to the approval of a third party. A plan user must be able to determine whether or not their activity is permitted, without further delegation to a third party. However, the evidence quoted indicates a clear difference between risk around the inner horizontal surface compared to the approach and take-off surfaces. This leads to a question of whether district plan non-complying activity / discretionary activity controls on trees penetrating the inner horizontal surface are fully justified, as it appears the risks to aircraft are low and private arrangements might adequately address risks from trees.

17. I still agree with my s42A recommendation that the PDP V1 OLS should be removed from the Proposed District Plan and that it be replaced instead with the OLS as detailed in the Operative Waikato District Plan – Waikato Section 2013 with amendments. However, the following is to assist the Panel, should the Panel favour the PDP V1 OLS.

18. If the Panel were of a mind to determine that the V1 OLS should be in the decisions version of the PDP, then in reliance on the Aviation evidence quoted above, it would be appropriate to distinguish a different activity status for intrusions into the V1 OLS approach and take-off surfaces from the activity status for intrusions into the transitional side surfaces and the inner horizontal surface. In that instance, I would recommend that the PDP notified activity statuses (ranging from restricted discretionary to non-complying activity depending on the particular zone) continue to apply to intrusions into the V1 OLS approach and take-off surfaces and a restricted discretionary activity status be applied to intrusions into the V1 OLS transitional side surfaces and the inner horizontal surface. I recognise that this approach, whilst providing flexibility, does provide an additional level of complexity for plan users. However, in my view the benefits that the flexibility may provide, outweighs the resultant complexity.

19. Based on the V1 planning maps (which have replaced the notified planning maps relating to the Te Kowhai aerodrome), it will be difficult for plan users to easily identify which part of the V1 OLS relates to their land and accordingly which part of the OLS rule and consequently which activity status would apply in their case. This is because the only references to the various parts of the V1 OLS are contained in the text in Appendix 9, Section 3. There is no diagram in Appendix 9 which identifies the parts of the V1 OLS. The PDP notified Planning Maps do not identify the various parts of the V1 OLS. For the rule to be certain and enforceable, the different parts of the V1 OLS must be identified in the plan.

20. Accordingly, if the separate rule approach detailed above is favoured by the Panel for incorporation into the decisions version of the PDP, then I recommend that the Panel require NZTE to provide a diagram appropriate to the Te Kowhai OLS which clearly identifies the parts of the V1 OLS, which could be inserted into Appendix 9, to assist with district plan rule interpretation. My recommendation is for a diagram to be provided in Appendix 9, as I am uncertain if the various V1 OLS parts could be easily identifiable on the district plan maps.

21. If the Variation 1 OLS were to be provided for in the District Plan, then landowners not covered by existing use rights would need to apply for, and bear the costs of, resource consent applications for OLS inner horizontal surface intrusions, even though the NZTE Aviation expert has signalled that such intrusions are likely to be considered acceptable by the aerodrome operator.

22. The Aviation evidence signals that intrusions into the OLS approach and take-off surfaces is less likely to be considered acceptable to the aerodrome operator. Part of Mr Greig Metcalfe's property is located within the Variation 1 OLS approach and take-off surface. Mr Greig Metcalfe in his evidence, page 5, Figure 3, identifies 40 trees on the Metcalfe property which intrude into the Variation 1 OLS.

23. NZTE's Planning evidence by David Serjeant ("Planning evidence") page 29, paragraph 88(a), recommends that Council put a layer on the district planning maps showing the maximum permissible height of new buildings, structures and vegetation on all land under the OLS, as a response to land being LIM encumbered by the Te Kowhai OLS. I have concerns regarding that recommendation. Firstly, people may get confused looking at that overlay, and think that their buildings can be up to 40 metres in height, when those buildings will also be restricted by the relevant Height – Building General rule. Secondly, it is my understanding that the legal District Plan maps (pdfs) only show statutory layers, not non-statutory layers (as proposed by the Planning evidence). So I do not think that the District Plan maps could be amended as the Planning evidence requests. Thirdly, it may be very difficult to represent the height down to an appropriate level, and consequently the information may not be clearly readable and clearly understandable. I also have questions around the accuracy of such information.

24. The Planning evidence page 29, paragraphs 88(b) and 89 state that the V1 OLS does not require the removal of existing vegetation and advises that the writer considers that existing vegetation has existing use rights. He does however acknowledge that this is a legal issue.

25. The Tompkins and Wake opinion provides a comprehensive analysis on the application of existing use rights with respect to trees / vegetation. This includes the date when existing use rights crystalise (many submitters incorrectly believe the date was 18 July 2018) and whether any increase in the size/height of trees since that date is protected by existing use rights. The "summary of legal position arising from the case law" provided on pages 7 and 8 at paragraph 42 of the opinion succinctly sets out the position with regard to trees/vegetation. I repeat the pertinent points of the summary as follows:

    (a) "The relevant date for establishing existing use rights will be the date decisions on the OLS rules are publicly notified. For convenience we will define the date of decision as "September 2021". Until that time, the OLS rules in the PDP, as varied by V1, do not have legal effect. Landowners cannot contravene rules that do not have legal effect.

    (d) Any trees that protrude into the OLS at September 2021 will be protected by existing use rights as the trees will be lawfully established at that date.

    (e) Any increased growth in the size of trees after September 2021 that protrudes (for the first time) or further protrudes into the OLS <u>may</u> constitute a change in character, intensity and scale. If this is established on the particular facts in each case, the additional height will not be protected by existing use rights.

    (g) The onus of establishing any increased growth in the size of trees post September 2021 is protected by existing use rights (on the basis the effects are the same or similar in character, intensity or scale) falls on the landowners and may not be straight forward. Many applications seeking to establish existing use rights fail because the applicants do not provide a proper evidential basis for the comparative analysis of the effects.

26. I agree with the Tompkins Wake's conclusion on page 8, paragraph 43, when it states the following:

"On balance, there is uncertainty for landowners wishing to rely on existing use rights for trees/vegetation that do not maintain a status quo existence but continue to grow beyond the lawfully established date."

27. Accordingly, there is no certainty for landowners that any increase in the size/height of trees post September 2021 will be protected by existing use rights. If s10 does not apply and the trees require trimming back to their lawfully established height at September 2021 which is a possible consequence of the V1 OLS, the cost will fall on the landowners. Alternatively, the landowners will be required to apply for a resource consent to regularise the intrusion (with an uncertain outcome – particularly for trees / vegetation located within the approach and take-off surfaces). The difficulty with this option is any growth above a resource consented maximum height will be in breach and will require trimming.

28. I do not propose any changes to my s42A report recommendations relating to the ODP Obstacle Limitation Surface.

Noise

Noise limits applying inside the TKAZ

29. NZTE Operations Limited – Acoustic evidence by Laurel Smith ("NZTE Acoustic evidence"), on page 34, paragraph 108, recommends that Rule 27.2.7A Noise - Aircraft Operations P1 be amended to read *"These limits do not apply in Precinct A and B of the Te Kowhai Airpark Zone"*. I understand the proposed exclusion seeks to acknowledge potential non-sensitive areas (according to the NZTE acoustic expert) being Precinct A and B, versus the potentially more sensitive residential precincts, being Precincts C and D.

30. As detailed in Tonkin and Taylor Acoustic evidence ("T+T Acoustic evidence"), page 8, paragraph 42, noise-sensitive development is wider than just residential activities, and includes educational facilities, community buildings, care homes, health centres and places of worship. These activities could also potentially be located within Precinct B, not just Precincts C and D.

31. The T+T Acoustic evidence page 8, paragraph 42, notes the following:

"These receiver types [noise-sensitive development] *do have a noise sensitivity unlike typical commercial receivers and as such, a degree of noise protection should be provided, potentially by means of acoustic insulation requirement and / or requiring compliance with the ANB and OCB limits within Precinct B or that non-residential noise sensitive receivers are prohibited in Precinct B."*

32. Taking into account NZTE Acoustic evidence and in reliance on the T+T acoustic evidence, I consider that the 55dB Ldn and 65dB Ldn requirements (OCB and ANB) should only be required to be met in precincts where there may be noise-sensitive development, being Precincts B, C and D, and conversely that those ANB and OCB requirements do not need to be met within Precinct A – runway and aircraft operations (being a non-noise-sensitive area).

33. Accordingly, I am persuaded to change my s42A recommendation in relation to Rule 27.2.7A P1(a) to provide that the 65dB Ldn and the 55dB Ldn limits have to be met in all of the precincts with the exception of Precinct A. Instead of wording similar to that proposed in the NZTE Acoustic evidence, I recommend the amendments below.

Noise from aircraft operations in ALL PRECINCTS, (with the exception of Precinct A),

70 Ldn noise contour

34. NZTE Acoustic evidence, page 33, paragraph 103 states that *"I do not consider dwellings at greater than 70 dB Ldn, is appropriate even for invested receivers* [meaning those who choose to live in the TKAZ]*."*

35. The T+T Acoustic evidence, page 9, paragraphs 45 – 46 discusses and agrees with the above premise. The T+T Acoustic evidence advises that, based on the 19,645 annual aircraft movements it would appear that the 70 Ldn contour would encompass part of Precinct D – residential precinct. The T+T Acoustic evidence further advises: *"Should the panel adopt 19,645 movements then I would recommend that further assessment is required to establish the precise location of the 70 Ldn contour which may require an amendment to the location of Precinct A and Precinct D."* The amendment would adjust the boundaries between Precincts A and D, so that all land receiving 70 Ldn and greater, would be located solely within Precinct A and not within Precinct D.

36. The T+T Acoustic evidence also advises that should the future [airport noise] contours be based on 15,000 movements, the 70 Ldn contours would fall within Precinct A (operational precinct) only.

37. This advice strengthens my recommendation that the Tonkin and Taylor noise contours calculated on 15,000 aircraft movements is the correct approach.

38. I do not propose any changes to my s42A report recommendations relating to the noise contour maps.

Non-Complying Activities for Noise Sensitive Activities in the TKAZ within the ANB

39. NZTE in their submission [823], page 6, paragraph 28(a)(i) states the following: *"These rules will ensure: any new Noise Sensitive Activity within the inner 65dB Ldn ANB is to have a Non-Complying activity status (with the exception of noise sensitive development associated with the Airpark which is otherwise provided for)."* I am not clear from that statement nor elsewhere in the NZTE evidence, what activity status they are seeking for noise-sensitive activities inside the TKAZ.

40. Both NZTE Acoustic evidence and T+T Acoustic evidence agree that residents within the ANB in the TKAZ are likely to be less sensitive to aircraft noise compared with non-aviation individuals outside of the Airpark boundary. Accordingly, NZTE Acoustic evidence considers that new noise-sensitive activities inside the Air Noise Boundary within the Te Kowhai Airpark Zone should not be a non-complying activity. The NZTE Planning evidence also agrees with this.

41. If implemented, this would result in an inconsistent approach, whereby there would be a different activity status for noise-sensitive activities inside the ANB in the TKAZ compared to the activity status for noise-sensitive activities located inside the ANB in other zones.

42. The Planning evidence page 15, paragraph 42, states "*These benefits* [associated with living in the TKAZ] *outweigh the potential for adverse effects on community health and amenity values within the zone.*"

43. My recommendation was to amend TKAZ Rule 27.1.1 to make noise-sensitive activities within the air noise boundary non-complying activities in all precincts. "Noise-sensitive activities" include a range of land uses that people other than TKAZ residents may participate in. The interests of those people are addressed in the recommended rule.

44. I am not persuaded to change my recommendation. As noted in my s42A report, NZS6805:1992 recommends prohibiting noise-sensitive activities inside the ANB. This reflects the potential adverse effects of the noise on people, whether they live there permanently or are visiting.

45. I do not propose any changes to my s42A report recommendations relating to noise-sensitive activities in the ANB within the TKAZ.

Noise contours and monitoring

46. Noise contours and infield monitoring of aircraft noise is required by Rule 27.2.7A. NZTE appear to accept the need for those in the future, but argue noise contours do not need to be produced until aircraft movements exceed 4,500 in any three-month period, substantially above current levels.

47. NZTE Acoustic evidence, on pages 34 – 35, paragraphs 110 – 113, provides justification why a trigger of 4,500 aircraft movements (relating to 70% of the aircraft movements) was proposed by NZTE to be included in the aircraft operations noise rule 27.2.7A. T+T acoustic evidence, page 12, paragraph 63, agrees with the NZTE Acoustic evidence, that noise modelling should only commence after the 70% movement trigger value has been met.

48. T+T Acoustic evidence, on page 12, paragraph 61, advises that should the Panel consider 15,000 aircraft movements are appropriate, rather than the 19,645 proposed by NZTE, the estimated trigger should be 3,150 aircraft movements (rather than 4,500).

49. NZTE Acoustic evidence, on pages 35 – 36, paragraph 114, discusses the recommendation about the frequency of modelling and in-field monitoring, and that they consider in-field monitoring every three years is appropriate.

50. T+T Acoustic evidence, page 12, paragraph 65, recommends a shorter period of two years is appropriate regarding undertaking in-field monitoring, taking account of the following:

(a) Historical movement data at TKA is variable and can fluctuate year on year.

(b) The resources required to undertake this exercise are not excessively prohibitive nor unreasonable.

(c) A more regular regime of monitoring would provide assurance to residents, Council and NZTE that actual noise levels are consistent with modelling. This is beneficial for General Aviation aerodromes for situations where there are marked changes in the types of aircraft operating and where they fly.

51. In reliance on NZTE Acoustic evidence and T+T Acoustic evidence, I am changing from my original recommendation in my s42A report to now recommending that Rule 27.2.7A P1(b) Noise - Aircraft Operations be amended as per the below:

Aircraft movements shall be recorded monthly and once the total aircraft movements in the busiest three month period reaches 3,150 aircraft movements, noise contours for the purpose of assessing compliance with Rule 27.2.7A P1 shall be calculated ~~no later than 12 months of the date when the rule becomes legally operative and thereafter~~ once every two years. When the calculated noise level is within 1 decibel of the 65dB Ldn and / or 55dB Ldn limit/s, noise contours for the purpose of assessing compliance with Rule 27.2.7A shall be calculated annually and verified with infield monitoring once every two years.

52. Upon reflection, I wish to change my previous recommendation regarding proposed Rule 27.2.7A Noise – Aircraft Operations P1(c) which relates to reporting on an annual basis to Waikato District Council. I consider that, the rule as proposed is more about demonstrating compliance with Rule 27.2.7A P1(a) and should not be required as a rule. I now recommend that Rule 27.2.7A P1(c) be deleted.

Hours of operation for aircraft operations

53. The NZTE Acoustic evidence on pages 17 – 19 seeks to provide information proposing that aircraft arrivals during 10pm to 7am the following day should not be restricted and why aircraft departures during 10pm to 7am the following day should be restricted to not more than 40 over any 3 month consecutive period.

54. I do not agree with either of these proposals. Aircraft noise at night (between 10pm and 7am) generated by aircraft arrivals or departures could result in sleep disturbance and other adverse amenity effects for local people.

55. The Notified District Plan did not contain any rule specifying the hours of operation for aircraft operations. The hours of operation for aircraft operation rule as recommended in my s42A report, was as a result of this issue being raised in a limited number of submissions. The community had limited opportunity to have input into this recommended rule. Given this, I consider the most appropriate process for consideration of aircraft movements – arrivals and departures, between 10pm and 7am the following day, to be via the recommended resource consent process – whereby the affected community has an opportunity to provide input into the decision making on this matter.

56. I do not propose any changes to my s42A report recommendations relating to hours of operation for aircraft operations.

57. However, if the Panel were of a mind that a less restrictive approach to aircraft movements at night (being those not provided for in my recommended Rule 27.2.16 Hours of Operation for Aircraft Operations P2) was appropriate, then taking into account the expert evidence provided by Tonkin and Taylor on page 11, paragraph 56, then no more than 3 aircraft movements per week (consecutive 7 days) should be provided for between 10.00pm and 7.00am the following day as a permitted activity. This would equate to 36 movements over a 3-month period.

Engine testing

58. NZTE Acoustic evidence on page 31, paragraphs 90 and 91, propose that restricting engine testing between 10pm and 7am is not necessary, on the basis that it can comply with general noise limits in receiving zones.

59. Tonkin and Taylor have considered this in their evidence, on pages 11 – 12, paragraphs 57 – 60. At paragraph 60 the following is noted:

"Rather than providing a rule package to control engine testing noise, it would be more appropriate to prohibit engine testing at night and for preservation of evening and early morning noise amenity, engine testing should not in my opinion occur during the hours of 8pm to 8am to prevent unreasonable noise disturbance."

60. Objective 9.2.2 Amenity Outcomes seeks to manage adverse effects to ensure acceptable amenity outcomes. One way to do this is to have an engine testing rule that restricts hours that this activity can occur as a permitted activity. Compliance with general noise limits in receiving zones will help. But there may be amenity effects from engine testing between certain hours that need to be managed by a rule about hours.

61. In reliance on the expert evidence on engine testing provided by Tonkin and Taylor, I am persuaded to change my original s42A recommendation on permitted activity engine testing hours to that below:

Rule 27.2.7A Noise Aircraft Operations
P2 (a) Aircraft engine testing and maintenance in all precincts must:
(i) take place only between the hours of ~~7~~ 8.00am and ~~10~~ 8.00pm.

Annual aircraft movements

62. Both the NZTE Acoustic evidence and the NZTE Planning evidence oppose my recommended Rule 27.2.17 Aircraft Movements P1 (a) which proposes to restrict the maximum number of aircraft movements per calendar year to 15,000 (as a permitted activity).

63. Policy 9.2.2.1(a) Airpark standards is about managing adverse airpark effects through application of general and airpark-specific performance standards. One of those standards is an annual aircraft movements rule.

64. My s42A report noted that adverse airpark effects associated with aircraft movements would be amenity effects (not just noise effects but includes other effects as well). While the PDP does not define amenity, the RMA defines amenity values as follows:

"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."

65. The number of annual aircraft movements associated with Te Kowhai aerodrome will contribute to people's appreciation of the pleasantness associated with Te Kowhai and thus the amenity / amenity values associated with the Te Kowhai area.

66. The NZTE Acoustic evidence, page 9, paragraph 25 identifies that in 2017 there were 6,323 aircraft movements, in 2018 there were 8,061 aircraft movements and in 2019 there were 9,925 aircraft movements. Accordingly, amenity / amenity values associated with the Te Kowhai area (in recent times) include annual aircraft movements associated with Te Kowhai aerodrome which number between 6,000 and 10,000 per year.

67. The NZTE Acoustic evidence on page 26, paragraph 74, clarifies that the Marshall Day noise contours were based on 19,645 annual movements with a 3-month peak factor of 30%. That number of movements would be almost twice the number of aircraft movements experienced in 2019.

68. The T+T Acoustic evidence, page 6 paragraph 33, advises that: "*The T+T [noise] contours I produced were based on 15,000 movements which equates to 50 [aircraft] movements per day during the busy 3-month period. The MDA contours were based on 19,645 movements (70 [aircraft] movements per day).*"

69. The T+T Acoustic evidence, page 7 paragraph 3 advises that a general aviation aerodrome has a much greater movement variability due to its wider 'customer' profile [when compared with a commercial airport]. In addition, I consider that there is some level of uncertainty regarding aircraft movements associated with this airpark concept.

70. Having an annual maximum aircraft movements as a permitted activity provides some certainty for the community. If permitted activity aircraft movements were capped at 15,000 per calendar year as I have recommended, then the community would know that aircraft movements associated with Te Kowhai aerodrome would be able to go beyond that currently experienced (as a permitted activity) but only to a level which is 1.5 times that which was recently experienced (2019). This would also allow for some growth in aircraft movements anticipated by the airpark concept.

71. The 15,000 aircraft movements has its basis in what has been forecasted to be achieved within the 10-year life of a District Plan, and this cap allows for some growth in aircraft movements while taking into account effects on amenity / amenity values (by providing for a level only 1.5 times greater than that currently experienced) and also takes into consideration the uncertainties associated with the variable nature of general aviation and the airpark concept.

72. Aircraft movements beyond 15,000 per calendar year would require a resource consent as a discretionary activity, where adverse effects on amenity can be considered.

73. I do not propose any changes to my s42A report recommendations relating to annual aircraft movements.

Circuit training

74. After reading the Aviation evidence by Mr Park, I can understand that circuit training is an important feature associated with flying. However, I do not understand from Mr Park's evidence why circuit training is a necessary activity to occur at Te Kowhai aerodrome and why it cannot occur instead at other aerodromes such as Hamilton Airport or in association with Hamilton Aero Club, both of which are in proximity to Te Kowhai aerodrome.

75. I have recommended that circuit training be a non-complying activity at Te Kowhai aerodrome so that resource consent is needed for that activity and effects associated with such an activity can be appropriately considered.

76. To be clear, I am not recommending controls on pilots flying all or part of a circuit in order to depart or arrive at the Te Kowhai aerodrome, unless those pilots are undertaking training in circuits (in which case the activity should be controlled).

77. NZTE Acoustic evidence, page 17, paragraph 45 states:

"To provide certainty, NZTE now proposes a rule that disallows circuit training between 10pm and 7am."

78. The Aviation evidence, page 30, paragraph 130 states:

"I am aware that some aerodrome operators restrict circuit training by hours of the day. For example, Ardmore Airport does not allow night circuit training between the hours of 10pm to 7am, and 8pm to 7am on Sunday evenings."

79. The Planning evidence, page 20 paragraph 58 states:

"I agree with the suggestion of Mr Park that repeated circling of the aerodrome during night hours should be avoided, to which I would add Sunday mornings."

80. Accordingly, NZTE seeks a new rule so that circuit training requires resource consent between certain hours. All the comments above signal that controlling circuit training by way of hours (at least) is appropriate and that control of circuit training should not just be left up to compliance with relevant noise rules.

81. The T+T Acoustic evidence, page 10, paragraph 49, agrees with the NZTE Acoustic evidence that circuit training between 10pm and 7am should not be allowed as a permitted activity.

82. The T+T evidence, page 10, paragraph 50, advises that *"Repetitive movements in the circuit are a feature of small aerodromes and as I noted that they are a specific noise feature of General Aviation. The majority of circuit training is carried out by flight schools and it is not uncommon for a trainee to perform multiple circuits over the course of a lesson. This results in more or less constant noise in the vicinity of the aerodrome."*

83. Taking into account the above comments from Tonkin and Taylor, there are amenity / character effects from circuit training during "day hours" that should also be managed.

84. The Notified District Plan did not contain any rule about circuit training associated with Te Kowhai aerodrome. The amendment to Rule 27.1.1 to provide for circuit training as a non-complying activity in all precincts as recommended in my s42A report, was as a result of this issue being raised in a limited number of submissions. The community had limited opportunity to have input into this recommended rule. Given this, to ensure that any hours associated with circuit training associated with Te Kowhai aerodrome are appropriate, I consider that the community should be able to provide their input via a consenting process.

85. My s42A report page 49, paragraphs 154 – 157, details that there may be adverse effects on amenity from circuit training and that the most appropriate way to manage effects associated with circuit training is by way of a non-complying activity resource consent.

86. I do not propose any changes to my s42A report recommendations relating to circuit training.

87. However, if the Panel were of a mind that resource consent should not be necessary for all circuit training, then I recommend that at least a new permitted activity rule for circuit training should provide that circuit training is only permitted between the hours of 7.00am to 10pm Monday to Saturday and between the hours of 11am to 10pm on Sundays, as suggested by NZTE.

Flight training school

88. The Aviation evidence, pages 30 - 31, paragraphs 131 – 132, refers to my recommended definition for flight training school, and considers it inappropriate that checks on aircraft including pre-flight inspections are regarded as flight training.

89. My recommended definition for flight training school contains the words "instruction or training in" in front of the words "aircraft checks and aircraft maintenance". If persons are being instructed or trained in aircraft checks and aircraft maintenance, then they would meet my recommended definition for flight training school.

90. If no person is being "instructed" or "trained" in aircraft checks and aircraft maintenance (i.e. aircraft checks such as the pre-flight inspection are just being undertaken), then people undertaking those activities would not be considered a flight training school.

91. I do not propose any changes to my s42A report recommendations relating to flight training school.

Temporary Events

92. I agree with the Planning evidence, that changes can be made (as below) to Temporary Event Rule 27.2.14 P1(a)(v), so that if a temporary event were to be held a little earlier than the previous year, that it would be provided for as a permitted activity.

(v) An air show event occurs only once per ~~consecutive 12 month period~~ calendar year.

93. I recommend that Temporary Event Rule 27.2.14 P1 (a)(v) be amended as above.

94. To ensure that there is consistency and clarity in the district plan and that it is clear that it is one air show per calendar year, as a consequential amendment in relation to my recommendation above, I recommend that Rule 27.2.7A – Noise - Aircraft Operations P1(a) should be amended as follows:

- Air Show (for one air show per calendar year)

Servicing – potable water supply and water supply for firefighting purposes

95. The Planning evidence, page 27, paragraph 85, considers that subdivision Rule 27.4.2 Subdivision Allotment Size RD1 and RD2 should be amended so that they only require proposed lots to be provided with a potable water supply, sufficient for firefighting purposes (i.e. delete all requirements for the water supplies to be via a private reticulated water supply network).

96. The Hearing 25 Framework Report, dated 19 January 2021, on page 6, paragraph v. and on page 61, paragraphs 296 and 297 notes the following:

"The Waikato District Council does not support the concept of privately owned and operated water infrastructure schemes.

All new residential development that occurs at a density which necessitates reticulated water and wastewater servicing (e.g., residential development at a lot size less than 2,500m²) should be required to connect to a Council or government-owned water and wastewater system.

Private water and wastewater systems servicing multiple dwellings commonly create operational, health, environmental and financial risk to Councils and the general public."

97. Requiring new residential and commercial lots in the TKAZ (less than 2,500m² net site area) to be connected to a public reticulated water supply (as a restricted discretionary activity) would be consistent with relevant Residential Zone and Business Zone rules, as well as consistent with recommended Village Zone rules for lots being a minimum of 800m².

98. Having public reticulation for water supply would also allow for water supply for firefighting purposes to be provided.

99. For lots with a minimum net site area of 2,500m² or more, then those lots are of a size which can manage potable water supplies on-site. Therefore, Subdivision Rule 27.4.2 RD1 and RD2 can be amended so that lots of that size or greater do not require connection to a public reticulated potable water supply. This approach would be consistent with Infrastructure Rule 14.3.1.8 (4) for Rural, Country Living and Village zones. However, the relevant rules in 27.4.2 RD1 and RD2 must still provide that those large lots have water supply sufficient for firefighting purposes.

100. I have also considered the matters raised in the NZTE Infrastructure report evidence, page 8, paragraph 28.

101. I am changing from my previous recommendation, to recommend instead that Subdivision Rule 27.4.2 RD1 – relating to subdivision in Precinct B and Rule 27.4.2 RD2 – relating to subdivisions in Precincts C and D, should be amended, so that lots under 2,500m² net site area must be connected to a public reticulated water supply network, which is sufficient for firefighting purposes. Also, that lots with a minimum net site area of 2,500m² or more must have water supply that is sufficient for firefighting purposes.

4.3 Recommendations

102. That the Panel accept in part NZTE's evidence such that connection to a private reticulated TKAZ water supply is not required, but that Rules 27.4.2 RD1 and RD2 are amended as per the paragraph above.

4.4 Recommended Amendments

The full rule text is not shown below. I have only shown that text which is required to understand the recommended changes. The red text below were recommendations as per my S42a report. Changes arising from this rebuttal evidence are shown in blue below.

Rule 27.2.14 Temporary Events

P1	(a) In ALL PRECINCTS, a temporary event must comply with all of the following conditions: (v) An air show event occurs only once per ~~consecutive 12 month period~~ calendar year.

Rule 27.2.7A – Noise – Aircraft Operations

P1	(a) Noise from aircraft operations in ALL PRECINCTS except Precinct A, including aircraft movements on taxiways, shall not exceed 65dB Ldn outside the Air Noise Boundary and 55dB Ldn outside the Outer Control Boundary as shown in the Planning Maps. For the purpose of this rule aircraft noise shall be assessed in accordance with NZS6805:1992 "Airport Noise Management and Land Use Planning" and logarithmically averaged over a three month period. The following operations are excluded from the calculation of noise for compliance with noise limits: • Air Show (for one air show per calendar year) (b) Aircraft movements shall be recorded monthly and once the total aircraft movements in the busiest three month period reaches 3,150 aircraft movements, noise contours for the purpose of assessing compliance with Rule 27.2.7A P1 shall be calculated ~~no later than 12 months of the date when the rule becomes legally operative and thereafter~~ once every two years. When the calculated noise level is within 1 decibel of the 65dB Ldn and / or 55dB Ldn limit/s, noise contours for the purpose of assessing compliance with Rule 27.2.7A shall be calculated annually and verified with infield monitoring once every two years. ~~(c) A report detailing the noise contours and calculations and the in-field noise levels in the years that those are monitored, shall be prepared and forwarded to the Council on an annual basis by the Aerodrome Operator.~~
P2	a) Aircraft engine testing and maintenance in all precincts must: (i) take place only between the hours of ~~7~~ 8.00am and ~~10~~ 8.00pm.

27.4.2 Subdivision Allotment Size

RD1	(a)Subdivision within PRECINCT B. (i) Proposed lots must be connected to a private reticulated wastewater network. (ii) Proposed lots less than 2,500m^2 net site area must be connected to a ~~private~~ public reticulated potable water supply network that is also sufficient for firefighting purposes. (iii) Proposed Lots 2,500m^2 net site area or more must have water supply sufficient for firefighting purposes. (b) Council's discretion is restricted to the following matters: (ii) The ability to connect with reticulated services outside of the Te Kowhai Airpark private reticulated wastewater and public water supply networks, as and when these become available;
RD2	(a) Subdivision within PRECINCT C AND D where: (i) It is in accordance with Appendix 9 - the Te Kowhai Airpark Framework Plan; and (ii) Every allotment within PRECINCT C, other than a utility allotment, has a net site area of at least: A. 450 m² if connected to the Te Kowhai Airpark private reticulated wastewater network and connected to a ~~private~~ public reticulated potable water supply network that must also be sufficient for firefighting purposes and not bordering the 25m building setback perimeter; or B. 1000 m² if connected to the Te Kowhai Airpark private reticulated wastewater network, and connected to a ~~private~~ public reticulated water supply network that must also be sufficient for firefighting purposes and borders the 25m building setback perimeter; or C. 2500 m² in the case of any allotment not connected to the Te Kowhai Airpark private reticulated wastewater network ~~and connected to a private reticulated water supply network that must be~~ and must have water supply sufficient for firefighting purposes; or (iii) Every allotment within the 'Airside Overlay' of PRECINCT D has a net site area of at least 800m² and is connected to the Te Kowhai Airpark private reticulated wastewater network and connected to a ~~private~~ public reticulated water supply network that must be sufficient for firefighting purposes; or

	(iv) Every allotment within PRECINCT D outside of the 'Airside Overlay' has a net site area of at least 2,500m², ~~and is connected to a private reticulated water supply network that~~ and must have water supply sufficient for firefighting purposes except: (v) The net site area may be reduced to no less than 1,000m² providing it is connected to a private reticulated wastewater network and connected to a ~~private~~ public reticulated water supply network that must be sufficient for firefighting purposes and is not bordering the perimeter 25m building setback.

4.5 Section 32AA evaluation – Rule 27.2.7A – Noise – Aircraft Operations

Other reasonably-practicable options

103. One option is to "do nothing" and to retain the provisions as notified.

104. Another option is to retain the rules as was recommended in the s42A report.

105. Another option is to only amend Rule 27.2.7A P1(a), (b) and (c) and for Rule 27.2.7A P2 to remain as was recommended in the s42A report.

106. A fourth option is to amend Rule 27.2.7A P2 and for Rule 27.2.7A P1 to remain as was recommended in the s42A report.

107. A fifth option is to only amend Rule 27.2.7A P1(a), and all other parts of Rule 27.2.7A P1 and P2 to remain as was recommended in the s42A report.

108. A sixth option is to only amend Rule 27.2.7A P1(b), and all other parts of Rule 27.2.7A P1 and P2 to remain as was recommended in the s42A report.

109. A seventh option is to only amend Rule 27.2.7A P1(c), and all other parts of Rule 27.2.7A P1 and P2 to remain as was recommended in the s42A report.

Effectiveness and efficiency

110. While Precinct A will no longer need to comply with the 65dB Ldn and 55dB Ldn noise limits under Rule 27.2.7A P1(a), this will still be efficient and effective, as the precincts which may contain noise-sensitive activities within them, will still have the appropriate acoustic protections in amended Rule 27.2.7A, and conversely the less noise-sensitive area does not have those noise protections.

111. The amendment to Rule 27.2.7A P1(a) about air shows will be efficient and effective, as it will be clearer that the reference to air show is one per calendar year.

112. I understand from the acoustic experts that a trigger value which is 70% of the aircraft movements, is an appropriate trigger for when noise contours should be produced, as required by Rule 27.2.7A P1(b). Prior to that trigger value, it is my understanding from the acoustic experts, that noise associated with aircraft operations at Te Kowhai aerodrome would most likely comply with Rule 27.2.7A P1(a). The addition of a trigger value to Rule 27.2.7A P1(b) will help ensure that, that rule is effective and efficient.

113. Deleting Rule 27.2.7A P1(c) will be effective, as that rule as proposed was more about demonstrating compliance with Rule 27.2.7A P1(a) and should not be required as a rule.

114. The amendments proposed to the permitted hours for engine testing (Rule 27.2.7A P2), will be effective, in that they will help ensure that amenity for persons in the surrounding area is maintained, by helping to prevent unreasonable noise disturbance.

115. The recommended amendments to Rule 27.2.7A P1 & P2 achieve Objective 9.2.2 to ensure that the adverse effects of airpark activities are managed to ensure acceptable amenity outcomes. I consider that the recommended amendments would improve the effectiveness of Rules 27.2.7A P1 and P2 in achieving Objective 9.2.2 – Amenity Outcomes.

Costs and benefits

116. The changes to Rule 27.2.7A P1(a), result in reduced costs, as the Airport Noise Control Boundary noise limits are now not required to be complied with in respect of Precinct A.

117. The changes to Rule 27.2.7A P1(b), result in reduced costs, as the noise contours are not now required to be calculated until a specified trigger value (number of aircraft movements) is reached.

118. The costs associated with the deletion of Rule 27.2.7A P1(c), may be similar, in that the requirement to provide an annual report may still be required by Council despite the deletion of the rule.

119. There may be additional costs if resource consent was sought for engine testing between 8.00pm to 10.00pm and between 7.00am to 8.00am.

120. One benefit to the environment is that this would ensure that noise from aircraft operations and engine testing will be appropriately managed. Other benefits are clearer guidance to plan users regarding how noise from aircraft operations and engine testing will be managed. There is wider benefit to the local community from managing noise from aircraft operations and engine testing associated with this aerodrome.

Risk of acting or not acting

121. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendments to Rule 27.2.7A P1 and P2.

Decision about most appropriate option

122. I have concluded that the amendments to Rules 27.2.7A P1 and P2 are considered to be the most appropriate way to achieve Te Kowhai Airpark Objective 9.2.2 – Amenity Outcomes.

4.6 Section 32AA evaluation – Rule 27.4.2 RD1 and RD2

Other reasonably-practicable options

123. One option is to "do nothing" and to retain the provisions as notified.

124. Another option is to retain the rules as were recommended in the s42A report.

125. A third option is to require all lots in Precinct B no matter the size to connect to a public reticulated water supply for potable water only.

126. A fourth option is to require all lots in Precinct B no matter the size to connect to a public reticulated water supply for potable water and water supply for firefighting purposes.

127. A fifth option is to require all lots in Precincts C and D no matter the size to connect to a public reticulated water supply for potable water only.

128. A sixth option is to require all lots in Precincts C and D no matter the size to connect to a public reticulated water supply for potable water and water supply for firefighting purposes.

Effectiveness and efficiency

129. Rules 27.4.2 RD1 and RD2 are clearer and somewhat effective and efficient, in regard to the infrastructure implications for development within Precincts B, C and D. While Rules 27.4.2 RD1 and RD2 no longer require a reticulated water supply for lots 2,500m^2 or greater, Infrastructure Rule 14.3.1.8 requires service connections up to the boundary for water supply with any failure to comply considered as a restricted discretionary activity.

130. The recommended amendments to Rule 27.4.2 RD1 & RD2 achieve Objective 9.2.1 to ensure that the TKAZ is a safe, economically-sustainable airpark. I consider that the recommended amendments would improve the effectiveness of Rule 27.4.2 RD1 and RD2 in achieving Objective 9.2.1.

131. Furthermore, requiring lots less than 2,500m^2 in Precincts B, C and D, to be connected to a public reticulated water supply, including for firefighting purposes, would be consistent with the Business Zone, Residential Zone and Village Zone rules and will therefore result in a consistent approach within the district plan.

Costs and benefits

132. While notified Rule 27.4.2 RD1(b)(i) may be read as:
potable water supply and water supply which includes capacity for firefighting purposes;

there is some lack of clarity regarding this matter. Accordingly, there may not be additional costs associated with the amendments to Rule 27.4.2 RD1, relating to potable water supply and water supply for firefighting purposes.

133. The recommended amendments to Rule 27.4.2 RD2 change the associated costs, in that only lots less than 2,500m^2 need to be connected to a public reticulated system, and lots larger than that can manage potable water supplies and firefighting water supplies on-site. There is also change in costs associated with the change in recommendation from connection to a private reticulated water supply to connection to a public reticulated water supply.

134. There may be additional costs associated with information that may need to be included in a subdivision application.

135. One benefit to the environment is that development is appropriately serviced with respect to potable water supply, and water supply for firefighting purposes. There is wider benefit to the local community from ensuring that development in the TKAZ is appropriately serviced with respect to potable water supply, and water supply for firefighting purposes.

Risk of acting or not acting

136. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendments to Rule 27.4.2 RD1 and RD2.

Decision about most appropriate option

137. I have concluded that the amendments to Rule 27.4.2 RD1 and RD2 are considered to be the most appropriate way to achieve Te Kowhai Airpark Objective 9.2.1 – Te Kowhai Airpark.

5 WEL NETWORKS LIMITED [V26]

5.1 Analysis

138. On 3 February 2021, WDC were advised by WEL that they had made a submission on Variation 1 but that their submission did not seem to be addressed within the s42A report for Te Kowhai Airpark (which also addressed Variation 1 submissions). It was subsequently determined that WEL did lodge a submission with WDC on Variation 1 within the timeframe [V26.1].

139. On 11 February 2021, WDC notified the summary of decision requested by the WEL submission and provided for further submissions until Wednesday the 17th of February 2021. No further submissions were received with respect to the original submission by WEL.

140. WEL sought that Appendix 9: Te Kowhai Airfield, Section 1 be amended so that the following text would be added.

Note that this appendix does not apply to lawfully established electricity distribution network poles and equipment [as at the date of notification of this variation].

141. As noted earlier, the relevant date for establishing existing use rights will be the date decisions on the OLS rules are publicly notified (which is anticipated to be September 2021).

142. WEL requested that the Te Kowhai Airport Obstacle Limitation Surface (OLS) height rules apply to new buildings and structures only, so that routine maintenance and replacement of existing electricity distribution poles would not be covered by the OLS height rules.

143. The electricity distribution network meets the PDP definition for Infrastructure.

144. The PDP Chapter 14: Infrastructure and Energy Section 14.1 Introduction states the following:

(1) The provisions within this Infrastructure and Energy chapter of the district plan shall apply across the district in all the zones and overlays in the district plan. The zone chapters and their associated overlays, objectives, policies and rules do not apply to infrastructure and energy activities unless specifically referred to within this Infrastructure and Energy chapter.

145. Accordingly, the Te Kowhai Airport Obstacle Limitation Surface and associated zone rules do not apply to the WEL Networks electricity distribution poles and associated infrastructure.

146. Instead, the following provisions will apply to WEL infrastructure - Infrastructure and Energy Rules in Chapter 14.2 Rules applying to all infrastructure, Chapter 14.3 General infrastructure and Chapter 14.5 Electrical distribution.

147. If WEL Networks Limited requires confirmation from WDC that works they propose have existing use rights, then after decisions on the PDP OLS rules are publicly notified, they may submit an application to WDC to request that WDC issue an existing use certificate pursuant to Section 139A of the RMA. I do not support the requested wording by WEL as it does nothing more than restate the intent of s10.

148. I consider that the PDP Chapter 14 Infrastructure and Energy Section 14.1 Introduction as stated above provides clear guidance for plan users that the Te Kowhai Airport OLS does not apply to infrastructure. However, to further reduce confusion for plan users, Appendix 9 Section 1 Introduction could be amended to advise that rules relating to the Obstacle Limitation Surface do not apply to infrastructure in accordance with Chapter 14 Infrastructure and Energy Section 14.1 Introduction (1).

5.2 Recommendations

149. My recommendation is that the Hearings Panel should accept in part WEL Networks Limited [V26.1]; to the extent that Appendix 9 – Te Kowhai Airfield, Section 1 is varied as noted below.

5.3 Recommended Amendments

150. The following amendments are recommended.

Appendix 9: Te Kowhai Airfield, Section 1.

These surfaces are known as obstacle limitation surfaces and are defined in terms of distances from the runway and heights relative to the runway~~s~~ for protection of aircraft in the vicinity of the aerodrome. The Te Kowhai Airport Obstacle Limitation Surface and associated rules do not apply to infrastructure and energy activities, as noted in Chapter 14: Infrastructure and Energy, Section 14.1, Introduction (1).

Section 32AA evaluation

151. The recommended amendments clarify the situation, and do not change planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

6 Gabrielle Parson [831]

6.1 Analysis and Recommendations

152. This submission was unintentionally left out of the S42A report.

153. Gabrielle Parson on behalf of Raglan Naturally [831.22] requested that Residential Zone rule 16.2.1.1 P2 Noise be amended to apply noise limits and time limits to activities affecting residential zones such as airfields. Her reason given related to aircraft noise.

154. There is insufficient information in the submission to understand what noise limits are being requested in relation to airfields and what specific airfield activities they want the noise limits to cover. There is insufficient information in the submission to understand what specific time limits are being requested. Given this, I recommend that the Panel reject Gabrielle Parson on behalf of Raglan Naturally [831.22] and accept NZTE Operations Limited *[FS1339.90]*.

6.2 Section 32AA evaluation

155. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

7 Greig Metcalfe [602]

7.1 Documents referred to

Evidence	Page, Paragraph	Relevant Submissions
Greig Metcalfe	Page 6, Paragraph 23 Page 7, Paragraph 27	
s42A report - OLS	Pages 84 – 85, Paragraphs 305 - 306, 308 Page 80, Paragraph 293 Page 91, Paragraph 355 Page 113, Paragraph 389	Multiple
s42A report – noise-sensitive activities	Pages 132 – 135, Paragraphs 494 - 509	NZTE Operations Limited [823.17 and 823.19]

7.2 Analysis

156. Mr Metcalf was unclear about where the responsibility lay, to ensure compliance with the Obstacle Limitation Surface rules, by way of trimming or removal of trees. Mr Metcalf also suggested that Rules 22.1.5 and 24.1.3 be amended to refer to 65dB Ldn and the deletion of the words "to be" from those rules.

157. The responsibility to comply with District Plan OLS rules and trim and / or remove trees / vegetation (or seek resource consent), lies with the person using the land (refer RMA, Section 9(3)), which would largely be landowners under the Te Kowhai OLS. The Te Kowhai Aerodrome operators would not be responsible to pay for trimming / removal of trees / vegetation, nor would they be responsible to pay for any resource consent applications for OLS rule breaches. However, there is nothing preventing NZTE and landowners from entering into an agreement whereby NZTE, with the consent of landowners, contribute towards the cost of trimming the trees of most concern to airport operations.

158. As noted earlier, the relevant date for establishing existing use rights will be the date decisions on the OLS rules are publicly notified (which is anticipated to be September 2021). If landowners require confirmation from WDC that trees / vegetation on their property have existing use rights, then after decisions on the PDP OLS rules are publicly notified, they may submit an application to WDC to request that WDC issue an existing use certificate pursuant to Section 139A of the RMA. WDC would then undertake the appropriate assessments.

159. If the Panel accept my recommendations about the Airport Noise Control Boundaries, then the notified Proposed District Plan maps would be amended to clearly show the locations of both the Airport Air Noise Boundary (ANB) and the Airport Outer Control Boundary (OCB).

160. District Plan rules referring to the "Te Kowhai aerodrome Airport Air Noise Boundary" would only relate to those properties shown within the Te Kowhai aerodrome Airport Air Noise Boundaries on the District Plan maps.

161. However, I agree with Mr Metcalf that to provide additional clarity, my recommended Non-Complying Activity Rules 22.1.5 and 24.1.3 can be amended to also refer to 65dB Ldn and the words "to be" can be deleted.

7.3 Recommendations

162. I recommend that Rural Zone Rule 22.1.5 Non-Complying Activities and Village Zone Rule 24.1.3 Non-Complying Activities be amended to refer to 65dB Ldn and the words "to be" can be deleted.

7.4 Recommended Amendments

Rural Zone

Rule 22.1.5 Non-Complying Activities

NC5	Noise-sensitive activities ~~to be~~ located within the Te Kowhai aerodrome Airport Air Noise Boundary (65dB Ldn).

Village Zone

Rule 24.1.3 Non-Complying Activities

NC1	Noise-sensitive activities ~~to be~~ located within the Te Kowhai aerodrome Airport Air Noise Boundary (65dB Ldn).

7.5 Section 32AA evaluation

163. The recommended amendments are grammatical changes to clarify the plan text, without changing planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

8 Kristine Stead [FS1178]

8.1 Documents referred to

Evidence	Page, Paragraph	Relevant Submissions
s42A report (for FS1178.9)	Page 112, Paragraphs 383 – 386 Pages 116 -117, Paragraphs 412 - 414	NZTE Operations Limited – 823.9
S42A report (for FS1178.15)	Pages 153 – 154, Paragraphs 571 - 577	NZTE Operations Limited – 823.15

8.2 Analysis and Recommendation

164. These submissions were unintentionally left out of the s42A report.

165. Kristine Stead on behalf of Marshall & Kristine Stead, Lloyd Davis, Kylie Davis Strongwick, Jason Strongwick, Nicola and Kerry Thompson made a further submission *[FS1178.1, FS1178.9 and FS1178.15]* in opposition of NZTE [823.1, 823.9 and 823.15]. My recommendation is to accept in part all of those original submissions. If the Panel accepts that recommendation, then the Panel should accept in part *[FS1178.1, FS1178.9 and FS1178.15]*. My recommendations in the s42A report on the further submissions did not correctly reflect those outcomes. If the Panel accepts my recommendations, then the further submissions should be accepted in part accordingly.

8.3 Section 32AA evaluation

166. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

9 Lloyd Davis [V17]

9.1 Documents referred to

Evidence	Page, Paragraph,	Relevant Submissions
Lloyd Davis	Page 5, Paragraph 15	
s42A report - OLS	Pages 84 – 85, Paragraphs 305 - 306, 308	Multiple

9.2 Analysis and Recommendations

167. Mr Davis was unclear about where the responsibility lay, to ensure compliance with the Obstacle Limitation Surface rules, by way of trimming or removal of trees. Mr Davis does not believe that he should have to pay to maintain trees on his property.

168. The responsibility to comply with District Plan OLS rules and trim and / or remove trees and or vegetation (or seek resource consent), lies with the person using the land (refer RMA, Section 9(3)), which would largely be landowners under the Te Kowhai OLS. The Te Kowhai Aerodrome operators would not be responsible to pay for trimming / removal of trees / vegetation, nor would they be responsible to pay for any resource consent applications for OLS rule breaches. However, there is nothing preventing NZTE and landowners from entering into an agreement whereby NZTE, with the consent of landowners, contribute towards the cost of trimming of the trees of most concern to airport operations.

169. Mr Davis is of the understanding that the ANCB's have been introduced as a result of the need for IFR. Airport Noise Controls Boundaries (ANCB's) are separate to and not interrelated to the OLS. Airport Noise Controls Boundaries at Te Kowhai aerodrome would be the same, no matter whether flights associated with Te Kowhai aerodrome were by way of Visual Flight Rules or Instrument Flight Rules.

170. I do not propose any changes to my s42A report recommendations relating to the OLS and the ANCB's.

9.3 Section 32AA evaluation

171. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

10 Mercer Airport [FS1302]

10.1 Documents referred to

Evidence	Page, Paragraph,	Relevant Submissions
s42A report	Page 111, Paragraph 379 Page 112, Paragraph 382 Page 114, Paragraph 402	WDC – 697.802
s42A report	Page 117, Paragraph 417 Page 118, Paragraph 427	WDC – 697.803

10.2 Analysis and Recommendations

172. These submissions were unintentionally left out of the s42A report.

173. Mercer Airport made further submission *[FS1302.6]* opposing WDC [697.802], as they were requesting that reference to Mercer Airport also be included within Rural Zone OLS Rule 22.3.4.3. It is appropriate that this is dealt with in the Mercer Airport re-zoning hearing instead.

174. Mercer Airport made further submission *[FS1302.7]* supporting WDC [697.803]. My recommendation was that the Panel should accept and reject WDC [697.803]. Accordingly, the Panel should also accept and reject Mercer Airport *[FS1302.7]*.

10.3 Section 32AA evaluation

175. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

11 Ministry of Education [781]

11.1 Documents referred to

Evidence	Page, Paragraph	Relevant Submissions
Ministry of Education	Pages 3, 4 and 5	Ministry of Education [781.19]
NZTE Operations Limited - Planning	Pages 18 and 19, paragraphs 50 - 55	Ministry of Education [781.19]
WDC rebuttal – hearing 6 Village Zone – landuse	Pages 12 and 13, Paragraphs 41	
s42A report	Pages 54 - 55, Paragraphs 195 -198,	Ministry of Education [781.19]

11.2 Analysis

176. I agree with the Ministry of Education that assessment criteria in Rule 27.1.2 Matters of Discretion, being (f), (g), (h), (i) and (j) can be deleted and instead replaced with the following amendment to Rule 27.1.2 (d).

177. I have recommended the words "and character" be added, so that it is clear that impacts on character can also be considered, and which would also align the assessment criteria with recommended Policy 9.2.2.1(e).

> (d) The extent to which the activity may adversely impact on the streetscape and the amenity and character of the neighbourhood, with particular regard to the bulk of the buildings.

178. The amendments above would resolve my concerns and would also be generally consistent with that recommended by the Hearing 6: Village Zone – landuse s42A report author by way of rebuttal. The amendments (including the broader reference to amenity and character) also address NZTE planning concerns about the level of assessment required.

179. I disagree with the Ministry of Education regarding their amendments to recommend policies relating to educational facilities (Policies 9.2.1.1(c) and 9.2.2.1(e)). I find their evidence is confusing in this matter. They express support for Policy 9.2.2.1(e) – Airpark Standards, but also say it is excessive. They then seek to amend another Policy 9.2.1.1 – Development, to refer to adverse effects.

180. The objective which discusses adverse effects is Objective 9.2.2 Amenity Outcomes. Therefore, when seeking to manage adverse effects associated with educational facilities, it is appropriate that there is a policy associated with Objective 9.2.2 which deals with that issue (and not amending Policy 9.2.1.1 Development, as requested by Ministry of Education).

181. It is also not appropriate to rely on Policy 9.2.2.1(a) (as suggested by NZTE planning evidence), as that policy refers to "performance standards", which then does not fit with the assessment criteria in Rule 27.1.2.

182. Taking Ministry of Educations and NZTE – planning concerns into account, I recommend the following amendments to Policy 9.2.2.1 Airpark Standards.

(e) Ensure adverse effects of educational facilities, ~~created by excessive building scale, overshadowing, building bulk, excessive site coverage, loss of privacy, noise, and,~~ including adverse effects on land transport networks, are minimised to maintain amenity and character in the Te Kowhai Airpark Zone and ~~to be~~ are in keeping with the primary use of the precincts.

11.3 Recommendations

183. I recommend that Policy 9.2.2.1(e) and Rule 27.1.2(d) be amended as set out below.

11.4 Recommended Amendments

Policy 9.2.2.1 Airpark Standards

(e) Ensure adverse effects of educational facilities, ~~created by excessive building scale, overshadowing, building bulk, excessive site coverage, loss of privacy, noise, and,~~ including adverse effects on land transport networks, are minimised to maintain amenity and character in the Te Kowhai Airpark Zone and ~~to be~~ are in keeping with the primary use of the precincts.

Rule 27.1.2 Matters of Discretion

Activity		Matters of Discretion
RD1 & RD2	Educational facility	(a) The extent to which it is necessary to locate the activity in the Te Kowhai Airpark Zone. (b) Reverse sensitivity effects of adjacent activities. (c) The extent to which the activity may adversely impact on the transport network. (d) The extent to which the activity may adversely impact on the streetscape and the amenity and character of the neighbourhood, with particular regard to the bulk of the buildings. (e) The extent to which the activity may adversely impact on the noise environment. ~~(f) Effects on amenity~~ ~~(g) Effects on character~~ ~~(h) Building form, bulk and location~~ ~~(i) Site layout and design~~ ~~(j) Privacy on other sites~~

11.5 Section 32AA evaluation - Educational facility policy and rule

Other reasonably-practicable options

184. One option is to "do nothing" and to retain the provisions as notified.

185. Another option is to retain the policy as was recommended in the s42A report.

186. A third option is to retain the rule as was recommended in the s42A report.

187. A fourth option is to retain the policy and rule as was recommended in the s42A report.

Effectiveness and efficiency

188. The recommended amendments to Rule 27.1.2 RD1 and RD2 (d) give effect to amended Policy 9.2.2.1(e) by minimising adverse effects associated with educational facilities. The amendments improve the efficiency and effectiveness of Rule 27.2.7 RD1 and RD2 (d) in achieving Objective 9.2.2(a) - Amenity Outcomes. Furthermore, the amendments to Rule 27.2.7 RD1 and RD2 (d) are generally consistent with that recommended by the Hearing 6: Village Zone – landuse s42A report author by way of rebuttal and will therefore result in an almost consistent approach within the District Plan.

189. The recommended amendments to Policy 9.2.2.1(e), improve its effectiveness and efficiency in achieving Objective 9.2.2(a) - Amenity Outcomes.

Costs and benefits

190. There are no additional costs, as both the s42A recommended rule and policy and this amended rule and policy provide for consideration of the same matters.

191. One benefit is clear guidance for plan users about how educational facilities will be managed within the TKAZ. Another benefit for plan users is that the amended rule reduces the number of different assessment criteria that need to be looked at. There is wider benefit to the local community in understanding how educational facilities in the TKAZ will be managed.

Risk of acting or not acting

192. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendments to Rule 27.1.2 RD1 and RD2 (d) and to Policy 9.2.2.1 (e).

Decision about most appropriate option

193. I have concluded that the amendments to Rule 27.4.2 RD2 and Policy 9.2.2.1(e) are considered to be the most appropriate way to achieve Te Kowhai Airpark Objective 9.2.2 (a) – Amenity Outcomes.

12 R Ranby and L Watson [V14]

12.1 Documents referred to

Evidence	Paragraph, Page	Relevant Submissions
R Ranby and L Watson	Page 1, paragraphs 5 and 6, page 2 paragraph 7,	
s42A report – maximum aircraft movements	Pages 189 -191, Paragraphs 747 - 760	Greig Metcalf [602.10]
s42A report – hours of operation	Pages 186 – 189, Paragraphs 725 – 746	Greig Metcalf [602.10]

12.2 Analysis and Recommendations

194. These submitters did not provide sufficient detail to understand their request for limits on the number of flights per week and limits on the number of flights per day.

195. These submitters did not provide sufficient detail to understand their request regarding limits on flying times.

196. The extent of the Te Kowhai Airpark and land to be used for aerodrome operations, including the extent of the area for runway operations, is shown on the PDP maps as notified. Land immediately adjoining the eastern end of the runway owned by G Gatenby is not proposed to be used for runway purposes under the Proposed District Plan.

197. I do not propose any changes to my s42A report recommendations relating to maximum aircraft movements and hours of operation for aircraft operations.

12.3 Section 32AA evaluation

198. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

13 Sylvia Fowler [FS1125]

13.1 Documents referred to

Evidence	Page, Paragraph	Relevant Submissions
s42A report	Page 129, Paragraphs 473 - 478	NZTE Operations Limited - 823.1

13.2 Analysis and Recommendation

199. This submission was unintentionally left out of the s42A report.

200. Sylvia Fowler made a further submission *[FS1125.1]* in opposition of NZTE [823.1]. My recommendation was that the Panel should accept in part NZTE [823.1]. If the Panel accepts that recommendation, then the Panel should accept in part *[FS1125.1]*.

13.3 Section 32AA evaluation

201. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

14 Waikato District Council [697]

14.1 Documents referred to

Evidence	Page, Paragraph	Relevant Submissions
s42A report – Te Kowhai Noise Buffer	Page 156, Paragraphs 585 - 591	WDC – 697.907
s42A report – Noise Sensitive Activities	Pages 154 – 155, Paragraphs 578 – 583	NZTE Operations Limited - 823.18

14.2 Analysis and Recommendations

202. This submission was unintentionally left out of the s42A report.

203. Waikato District Council [697.808] sought that Rural Zone Rule 22.3.7 Building Setbacks be amended to include reference to Rule 22.3.7.3 – Building - Te Kowhai Noise Buffer and Rule 22.3.7.4 – Building - Noise Sensitive Activities. NZTE *[FS1339.94]* opposed this.

204. My recommendation is for Rule 22.3.7.3 Building – Te Kowhai Noise Buffer to be deleted. If the Panel accept that recommendation, then it should accept in part WDC [697.808] and accept in part NZTE *[FS1339.94]*.

205. My recommendation is for Rule 22.3.7.4 Building – Noise Sensitive Activities to remain with amendments. The recommendations in the s42A report did not correctly reflect that outcome. If the Panel accept my recommendation then it should accept in part [697.808] and NZTE *[FS1339.94]* accordingly.

14.3 Recommended Amendments

Rural Zone

22.3.7 Building setbacks
(a)Rules 22.3.7.1 to 22.3.7.4 provide the permitted building setback distances for buildings from site boundaries, specific land use activities and environmental features.
(b)Rule 22.3.7.1 Building setbacks – all boundaries provides permitted building setback distances from all boundaries on any site within the Rural Zone. Different setback distances are applied based on the type of building and the site area.
(c)Rule 22.3.7.2 Building setback - sensitive land use provides permitted setback distances for any building containing a sensitive land use from specified land use activities.
(d) Rule 22.3.7.4 Noise Sensitive Activities provides setbacks for Noise Sensitive Activities.
(~~d~~ e)Rule 22.3.7.3 Building setback – water bodies provides permitted setback distances from lakes, wetlands, rivers and the coast.
(~~e~~ *f*)Rule 22.3.7.4 Building setback - Environmental Protection Area provide specific setback distances from specified environmental features.

14.4 Section 32AA evaluation

206. The recommended amendments are grammatical changes to clarify the plan text, without changing planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.