

Hearing Closing Statement

Hearing 17: Te Kowhai Airpark

Prepared by: Emma Ensor

Date: 17/06/2021



I Introduction

I.1 Background and purpose

1. The purpose of this report is to identify the outstanding issues that were discussed at the hearing and advise the Panel whether or not my position on those issues has changed as result of hearing evidence and questioning. I would like to thank all the submitters, representatives and experts who have taken time out of their day to attend the hearing.
2. Appendix 1 attached to this statement is an updated version of Appendix 2 Recommended Amendments taking into account information presented as part of the hearing, which identifies areas of agreement and disagreement between parties. The text in red in Appendix 1 are my recommended amendments. The text in blue in Appendix 1 are amendments recommended by NZTE that I do not support and I recommend they not be adopted.
3. Appendix 2 attached to this statement is a map showing the Operative Waikato District Plan (ODP) Airport Obstacle Limitation Surface (OLS) and the Variation 1 Airport Obstacle Limitation Surface, both on the same map. Note that my recommended OLS is very similar to the ODP OLS.
4. Appendix 3 attached to this statement is a map showing the Operative District Plan Noise boundary (for Te Kowhai), the Proposed District Plan notified version noise boundary (for Te Kowhai) and my recommended noise boundaries.

2 Consideration of evidence

2.1 Matters in contention

5. Having reviewed all of the evidence relating to the Te Kowhai Airpark Zone, I consider the following matters remain in contention, as these are matters where agreement has not been reached by all parties:
 - (a) Obstacle Limitation Surface (OLS) –
 - i. The choice of OLS – the ODP OLS with amendments or the OLS as per Variation 1 – which is most appropriate to meet the objectives and policies of the PDP, and the purpose of the RMA;
 - ii. Assessments of intrusions into the OLS;
 - iii. Existing use rights in relation to trees / vegetation within the VI OLS;
 - iv. OLS rule wording;
 - v. Inclusion of an advice note in the PDP and requirement for Landowner Agreement;
 - vi. Caselaw – Barrett decision;
 - (b) Noise –
 - i. The location of Airport Noise Control Boundaries as referred to in the rules and Appendix 1 Acoustic Insulation – those proposed by Tonkin and Taylor (My recommendation) or those proposed by Marshall Day Acoustics (NZTE position);
 - ii. Noise - Aircraft Operations rule;
 - iii. Permitted activity hours for aircraft engine testing;
 - iv. The activity status for noise-sensitive activities within the Te Kowhai Aerodrome Airport Air Noise Boundary;
 - (c) Hours of Operation for Aircraft Operations rule;

- (d) Aircraft Movements rule;
 - (e) Circuit training – definition and activity status;
 - (f) Flight training school – definition and activity status;
 - (g) Educational facility – activity status in Precinct B;
 - (h) Earthworks rule for earthworks in proximity to a gas transmission line;
 - (i) Temporary event rule regarding site access to a regional arterial road and timing of activities;
 - (j) Servicing as controlled by Subdivision Allotment Size rule; and
 - (k) Wording of TKAZ Policies 9.2.1.1(c) and 9.2.2.1 (a) and (d).
6. Below, I address each of these matters, where I consider further clarification of my position will help the Panel.

3 Obstacle Limitation Surface (OLS)

3.1 Choice of OLS

7. I confirm my recommendation in my S42A report, page 90 paragraphs 349 to 351, that the PDP Variation 1 Obstacle Limitation Surface (VI OLS) should be removed from the Proposed District Plan and that it should be replaced instead with the OLS as detailed in the Operative Waikato District Plan - Waikato Section 2013, with amendments, as detailed in my S42A report, page 90, paragraph 350. This would involve changes to the District Plan maps, as well as changes to the text for the OLS in Appendix 9 – Section 3. This is very similar to what Silvia Fowler and Mark Fowler, Kit Maxwell, Vikki Madgwick, Greig Metcalfe, L Watson and R Ranby, Kristine and Marshall Stead seek.
8. Graham McBride states that *“The relief sought in our collective submissions is the withdrawal of the whole OLS / Variation 1 section of the pDP.”* I am accepting this submission point in part by recommending the ODP OLS be incorporated into the PDP, not the VI OLS. I note that less of Mr McBride’s land would be covered by the ODP OLS, as compared with the VI OLS.
9. However, if the Panel were of a mind that the VI OLS should be included in the District Plan (which is supported by NZTE), then I agree with Mr Serjeant¹, that rules relating to the Inner Horizontal Surface of the VI OLS should be amended, so that they only refer to buildings and structures and do not refer to or control trees and vegetation. This approach would result in trees and vegetation within the Inner Horizontal Surface of the VI OLS being able to be retained, and being able to continue to contribute to amenity values and biodiversity of this locality. This would seem to resolve some concerns of Silvia Fowler, Peter Fowler, Vikki Madgwick, Derek Tate, Sophia Yapp and Simon Barnes.

¹ Supplementary Evidence, David Serjeant, dated 29 April 2021, paragraphs 12 to 14

3.2 Assessment of intrusions into the OLS

10. Silvia Fowler raised the uncertainty for property owners about protrusions now and in the future into the OLS and mentioned the flexible case-by-case basis proposed by Mr Park² for accommodating existing and possible future protrusions of existing trees into the inner horizontal surfaces of the VI OLS. Vela Holdings Limited also stated that a case by case assessment of existing or future protrusions should also be captured by Variation I. The case by case assessment would be undertaken either through a landuse resource consent application or an existing use rights application. I consider that, for certainty, OLS rules are required that states the height of buildings, structures, trees and vegetation permitted in the OLS without the need for a resource consent. My recommended OLS rule wording is in Appendix 1, Rules 27.3.1, 16.3.3.3, 17.3.1.2, 19.3.2, 20.3.3, 22.3.4.3, 23.3.4.2, 24.3.3.2 and 25.3.1.2.
11. In reliance on the information provided by Mr Park³, I agree with Mr Park, that if the Panel were of a mind that the VI OLS should be included in the District Plan, then flexibility should be provided for intrusions of buildings and structures into the Inner Horizontal Surface of the VI OLS (as a restricted discretionary activity), but that all intrusions into the Transitional Side Surface of the VI OLS should retain their activity status as stated in the PDP as notified.

3.3 Existing Use Rights

12. Vela Holdings Limited seeks that existing use / property rights should be captured by Variation I. I do not agree. I refer the Panel to my commentary on existing use rights within my rebuttal evidence,⁴ and I do not wish to change any of my recommendations relating to existing use rights.

3.4 OLS Rule wording

13. In my S42a report and my rebuttal evidence, my recommended OLS rule wording was based on the premise that, where there is the same rule in multiple zones, it is important to ensure that the rule wording is the same, unless there is a specific reason why the rule wording should be different.

ODP OLS Rules

14. My recommended permitted activity OLS rule for zones outside the TKAZ has consistent wording. However, the TKAZ notified OLS rule is different to the other zone OLS rules in two respects:
- (a) The notified TKAZ zone OLS rule contained two permitted activity rules - one referring to Precincts A and B and the other permitted activity rule referring to Precincts C and D.
 - (b) Those rules specifically only referred to the OLS for Te Kowhai Airfield in Appendix 9.
15. I recommend changing my recommended permitted activity OLS rule wording for Rule 27.3.1 in the TKAZ in two ways.

² Evidence in Chief, David Park, dated 3 March 2021, paragraph 15

³ Evidence In Reply, David Park, dated 8 April 2021, paragraphs 6 and 7

⁴ WDC S42A Report Rebuttal Evidence, dated 1/03/2021, paragraphs 24 to 27

16. My previous recommendation for TKAZ OLS Rule 27.3.1 included reference to Section E - Designation N – Waikato Regional Airport, as I was trying to ensure consistency of rule wording in the District Plan. However, the TKAZ will never be located within the Waikato Regional Airport designation, unlike other zones. Therefore, any reference to Section E – Designation N – Waikato Regional Airport can be removed from the TKAZ OLS rule.
17. In addition, there is no reason to retain two separate ODP OLS permitted activity rules. Therefore, I have recommended that Rule 27.3.1 P2 be deleted and that Rule 27.3.1 P1 be amended to refer to all precincts.
18. My new recommended TKAZ permitted activity OLS rule wording is as follows:

Rule for ODP OLS

27.3.1 – Height - Buildings, structures, trees, and vegetation within an airport obstacle limitation surface

PI	(a) The construction or alteration of any building or structure in PRECINCT A OR B must not exceed a height of 10m, and (a) Any building, structure, tree or other vegetation in PRECINCTS A, OR B, C OR D must not protrude through the <u>Airport</u> Obstacle Limitation Surfaces defined in Appendix 9 (Te Kowhai Airfield and Obstacle Limitation Surface) for Te Kowhai Aerodrome as identified on the planning maps and defined in Appendix 9 – Te Kowhai Aerodrome and defined in Section E Designation N – Waikato Regional Airport.
P2	(a) The construction or alteration of any building or structure in PRECINCT C OR D must not exceed a height of 7.5m, and (a) Any building, structure, tree or other vegetation in PRECINCTS C OR D must not protrude through the Airport Obstacle Limitation Surfaces defined in Appendix 9 (Te Kowhai Airfield and Obstacle Limitation Surface) as identified on the planning maps and defined in Appendix 9 – Te Kowhai Aerodrome and defined in Section E Designation N – Waikato Regional Airport.
RDI	(a) Any building, structure, tree or other vegetation that does not comply with Rule 27.3.1. PI or P2.

VI OLS Rules

19. NZTE has proposed an alternative approach, appropriate for the VI OLS. This is not my recommended approach.
20. With the exception of the TKAZ (for reasons discussed above), NZTE propose the first permitted activity OLS rule in the other zones, only specifically relate to the OLS associated with the Waikato Regional Airport.
21. Next, NZTE seek to provide for the exemption discussed in paragraph 9 of this document, so that trees and vegetation in the Inner Horizontal Surface are not controlled by District Plan rules. They seek to do this by providing either an additional one or two permitted activity rules (dependant on the zone), so that there is one permitted activity OLS rule relating to the Approach and Take-off Surfaces and Transitional Side Surfaces and there is a second permitted activity OLS rule relating to the Inner Horizontal Surface.
22. NZTE proposed OLS Rural Zone wording is provided below as an example, for completeness.

Rule for VI OLS

Rule 22.3.4.3 Height - Buildings, structures, trees, and vegetation within an airport obstacle limitation surface

PI	Any building, structure, tree or other vegetation must not protrude through the Airport Obstacle Limitation Surface for the Waikato Regional Airport as identified on the planning maps and defined in Section E Designation N – Waikato Regional Airport.
P2	Any building, structure, tree or other vegetation must not protrude through the Approach and Take-Off Surfaces and related Transitional Side Surfaces of the Airport Obstacle Limitation Surface for the Te Kowhai Aerodrome as identified on the relevant planning maps and defined in Appendix 9 – Te Kowhai Aerodrome.
P3	Any building or structure must not protrude through the Inner Horizontal Surface of the Airport Obstacle Limitation Surface for the Te Kowhai Aerodrome as identified on the relevant planning maps and defined in Appendix 9 – Te Kowhai Aerodrome.
NCI	Any building, structure, tree or other vegetation that does not comply with Rule 22.3.4.3 P1, P2 or P3.

23. NZTE do not consider it necessary to provide rules P2 and P3 above in the Business Zone, as they say no current Business Zoning is affected by the Te Kowhai aerodrome VI OLS and they do not consider any Business Zoning is likely to be affected by the Te Kowhai aerodrome VI OLS within the life of the PDP.
24. NZTE do not consider it necessary to provide rule P2 above in the Industrial Zone (relating to the Approach and Take-off Surfaces and Transitional Side Surfaces), as they say no current Industrial Zoning is affected by those areas and they do not consider any Industrial Zoning is likely to be affected by those areas within the life of the PDP.

3.5 Advice Note / Landowner Agreement

25. Mr Serjeant provided supplementary evidence on behalf of NZTE dated 29 April 2021. Section A of that evidence discusses an OLS advice note, with the reasons behind the advice note being to update the s32 evaluation survey of existing trees affected by the Approach and Take-off Surfaces and Transitional Side Surfaces of the VI OLS. Trees and vegetation in the Inner Horizontal Surface are exempted from the OLS rules (as discussed earlier). Proposed wording for their requested advice note is provided below.

Advice note:

The Operator of Te Kowhai Aerodrome will undertake an updated survey of “existing trees” as at the date that the OLS rule becomes operative.

Where the owner consents, either:

- (i) removal of existing trees required to comply with the OLS; or*
- (ii) trimming of existing trees required to comply with the OLS on a one-off basis*

will be undertaken at the instruction of and paid for by the Operator of Te Kowhai Aerodrome.

For the avoidance of doubt, the term “existing trees” means any tree or vegetation that existed within the Approach and Take-Off Surface and the Transitional Side Surfaces of the OLS on 7 May 2021.

26. I have concerns that the advice note as proposed by NZTE is not enforceable, as it has no legal status. It would be for guidance only. An advice note should only be included in the District Plan where necessary. In this situation, I consider the advice note above proposed by NZTE is not necessary.
27. NZTE could instead enter into their own private agreements with landowners (and Council would not be a party to those private agreements). Those agreements could record offers to undertake an updated survey of trees and vegetation at the time existing use rights crystallise (when decisions on the PDP issue), which would establish the lawful height of trees and vegetation at the relevant time, and can include offers to remove or trim trees.
28. Vela Holdings Limited also seeks that if tree / vegetation trimming / removal works are required, that such works should be dealt with by land owner agreements and that this should also be captured by Variation 1. I consider that reference to private landowner agreements regarding tree / vegetation trimming / removal within a rule in the District Plan is inappropriate as Council cannot enforce an agreement between third parties via a District Plan Rule.

3.6 Caselaw – Barrett Decision

29. Dr Makgill, in his synopsis of oral submissions, page 6, paragraph 31, states: “*The Shepherd and Barrett decision indicate that Court tend to evaluate air safety as being of higher value than existing residential amenity under s32AA.*” However, this statement needs to be read in the context of the issues being considered by the court, particularly in Barrett. The Barrett decision concerned an appeal against the provisions in the Thames Coromandel District Plan relating to the Pauanui airfield.
30. In determining the appropriateness of the plan provisions put forward by Mr. Barrett and Council respectively, the court under s32, looked at the purpose of the plan’s objectives. It found that the primary purpose of the objectives was to provide for the safe operation of the transport infrastructure, which included airfields in the district. However, the Thames Coromandel OLS provisions focused only on amenity, and did not address safety in any way. Therefore, the Court concluded that under s32, the provisions needed to be amended to reflect the safety purposes of the plan rather than amenity. I conclude that Barrett case is distinguishable from the Te Kowhai situation because safety and amenity are set equally in the PDP TKAZ Objectives 9.2.1 and 9.2.2 and related policies and rules.

4 Noise

4.1 The location of Airport Noise Control Boundaries

31. NZTE request that the Marshall Day Acoustics modelled Airport Noise Control Boundaries (ANCB’s) – being the Air Noise Boundary (65dB Ldn) and the Outer Control Boundary (55dB Ldn), as provided in Appendix 9B to my S42A report, be shown on the Planning Maps. They also recommended all associated rules and Appendix I - Acoustic Insulation, to be based on the Marshall Day Acoustics noise boundary modelling. Those ANCB’s are based in part on 19,645 annual aircraft movements.
32. Instead, I recommend two airport noise control boundaries as modelled by Tonkin and Taylor, based on 15,000 annual aircraft movements. This aircraft movements cap allows for some growth in aircraft movements (compared with that recently experienced) while taking into account effects on amenity / amenity values. In addition, the T & T noise contours based on 15,000 aircraft movements will help to constrain the overall noise generated from Te Kowhai

aerodrome and assist with health and amenity outcomes in the vicinity. Furthermore, 33 fewer properties would be included within the T & T modelled Outer Control Boundary, as compared to the MDA modelled Outer Control Boundary.

33. I confirm my recommended amendments in my S42A report, page 141, paragraphs 531 and 532, which recommend replacing the PDP notified Airport Outer Control Boundary with the Air Noise Boundary and the Outer Control Boundary as modelled by Tonkin and Taylor, which is provided in Appendix 9C to my S42A report. Greig Metcalfe supports the T and T ANCB's.
34. NZTE request that the Appendix I - Acoustic Insulation, Section 3, Figure 2 be replaced with a new figure showing noise contours for acoustic insulation in 2dB increments based on Marshall Day noise modelling. I do not support this, as this is based on different assumptions from the T and T recommended noise contours.
35. Instead, I recommend that Appendix I - Acoustic Insulation, Section 3, Figure 2 be replaced with a new figure showing noise contours for acoustic insulation in 2dB increments based on T and T noise modelling⁵. This is consistent with my recommendation referred to above, to replace the PDP notified Airport Outer Control Boundary with the Air Noise Boundary and the Outer Control Boundary as modelled by Tonkin and Taylor.

4.2 Noise - Aircraft Operations rule

36. In relation to Rule 27.2.7A Noise – Aircraft Operations, NZTE seeks that the noise is assessed in Precincts C and D and outside of the Te Kowhai Airpark Zone.⁶ Ms Smith advocates for noise limits not to apply within Precincts A and B, to provide in her view a balance between flexibility for aerodrome operations (with respect to non-noise-sensitive areas) and noise management for residents.
37. I do not support this. Noise-sensitive activities may also seek to establish in Precinct B (as recognised in the evidence of Darran Humpheson, page 8, paragraph 42). Mr Humpheson states:

“Noise sensitive development does include uses other than residential, such as educational facilities, community buildings, care homes, health centres and places of worship. These receivers could be located in Precinct B as I consider them to be more commercial rather than residential. However, these receiver types 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.”
38. In reliance on Ms Smith and Mr Humpheson, I recommend that noise from aircraft operations should not exceed 65dB Ldn outside the Air Noise Boundary and 55dB Ldn outside the Outer Control Boundary as shown on the Planning Maps, when assessed in Precincts B, C and D and on receiving sites outside of the Te Kowhai Airpark Zone.

⁵ WDC S42A report, page 158, paragraph 604

⁶ Evidence in Chief, Laurel Smith, page 34, paragraphs 107 and 108

4.3 Permitted activity hours for aircraft engine testing

39. Silvia Fowler requested that engine testing be restricted to weekdays Monday – Friday between 8am and 5pm. She did not provide any more detail as to why those days and times should be considered appropriate. Engine testing was discussed in my rebuttal evidence at paragraphs 58 to 61. I rely on the information in those paragraphs and I have not heard evidence that has caused me to change my recommendation on engine testing in paragraph 61 of my rebuttal evidence.

4.4 Noise-sensitive activities within the Te Kowhai Aerodrome Airport Air Noise Boundary

40. One matter raised was the activity status for noise-sensitive activities within the Airport Air Noise Boundary (65dB Ldn). NZTE proposes that two different noise-sensitive activities should be provided for within TKAZ Activity Status Table 27.1.1, as shown below, in the evidence of their noise expert Laurel Smith, at the following;
- (a) Evidence in Chief, page 33, paragraph 101, which related to not recommending hangar homes be built in areas exposed to greater than 70dB Ldn.
 - (b) Evidence in Reply, page 2, paragraphs 7 – 10, which related to not permitting dwellings inside the 70dB Ldn noise contour.

Activity	Precinct A Runway & Operations	Precinct B Commercial	Precinct C Medium Density Residential	Precinct D Residential
<u>Noise-sensitive activities outside the 70 dB Ldn contour as shown in Appendix 1 – Acoustic Insulation Rule 3 Figure 2</u>	<u>P53</u>	<u>P54</u>	<u>P55</u>	<u>P56</u>
<u>Noise-sensitive activities inside the 70 dB Ldn contour as shown in Appendix 1 – Acoustic Insulation Rule 3 Figure 2</u>	<u>NC27</u>	<u>NC28</u>	<u>NC29</u>	<u>NC30</u>

41. In order to implement the above NZTE rules, the noise contours shown in Appendix 1 - Acoustic Insulation, Rule 3, Figure 2 would need to include those noise contours for 70dB Ldn.
42. The NZTE recommended approach above only requires resource consent for noise-sensitive activities within the 70dB Ldn. However, I am also concerned about noise-sensitive activities inside the Air Noise Boundary (65dB Ldn), located between the 65dB Ldn and the 70dB Ldn noise contours.
43. I refer the Panel to my S42A report, page 133, paragraphs 500 and 501. I consider that the District Plan needs to provide for community health of all people using land outside of buildings within the Air Noise Boundary (as I understand, an outcome of NZS6805:1991). I confirm my recommended TKAZ rule, for noise-sensitive activities located within the Te Kowhai aerodrome Airport Air Noise Boundary (ANB) to be a non-complying activity in all precincts, as this would allow for consideration of community health of all people using land in the ANB, through a resource consent process. This includes consideration of noise effects on people using land outside of buildings within the ANB, within the TKAZ.

4.5 Community Liaison Group

44. I do not consider a liaison group as discussed by Graham McBride is an appropriate mechanism to put into any permitted activity rule, due to uncertainties associated with this. In particular, conditions attached to a permitted activity rule must be clearly specified and capable of objective attainment: *Macleans v Thames-Coromandel District Council A046/03*.
45. I also consider that a community and airfield future meetings concept as requested by Vikki Madgwick, is not an appropriate mechanism to put into any permitted activity rule, due to uncertainties associated with this, for the reasons set out in the paragraph above. This also would require the involvement of third parties – which should not be managed by a permitted activity rule.
46. I do see value in ongoing engagement between the airpark and the wider Te Kowhai community, but consider this needs to be arranged privately, and cannot be mandated through the district plan.

5 Hours of Operation for Aircraft Operations rule

47. I recommended that aircraft operations are not permitted between 2200 hours and 0700 hours the following day. I included exceptions (largely for emergencies), but other operations during those hours would require resource consent.
48. NZTE sought that the Hours of Operation for Aircraft Operations Rule 27.2.16 PI be amended to read as below:

PI	<p>(a) <u>In ALL PRECINCTS, Aircraft Operations are permitted at any time except:</u></p> <p>(i) <u>Aircraft take-offs are limited between the hours of 2200 hours to 0700 hours to 40 take-offs over a 3-month period;⁷ and</u></p>
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49. Ms Smith provides the reasoning behind Rule 27.2.16 PI(a)(i), as being, that it is an additional night-time control to manage sleep disturbance effects to a reasonable level⁸.
50. Mr Humpheson provides reasons why the NZTE approach above (Rule 27.2.16 PI(a)(i)) is not appropriate⁹. I agree with Mr Humpheson.
51. My preferred approach is that aircraft operations are not permitted between 2200 hours and 0700 hours the following day. Greig Metcalfe supports this.
52. However, if the Panel were of a mind that some aircraft operations should be permitted between 2200 hours and 0700 hours the following day, then I recommend that those aircraft movements be limited to 3 aircraft movements per week (consecutive 7 days), as proposed by Mr Humpheson, page 11, paragraph 56.

⁷ Evidence in Chief, Laurel Smith, page 30, paragraphs 86 and 87

⁸ Summary of Evidence, Laurel Smith, page 3, paragraph 9

⁹ Evidence, Mr Humpheson, page 10, paragraph 53 and page 11, paragraph 55

53. Linnet Watson requested that hours of operation for aircraft operations be restricted to daylight hours. Silvia Fowler also requested that flights be restricted to daylight hours, with no night flying except for emergency services. I rely on information on this subject which is outlined in my S42A report (pages 186 -189, paragraphs 725 – 746) and my rebuttal evidence (page 11, paragraphs 53 – 57) and accordingly I make no changes to my recommended rule (Rule 27.2.16 Hours of Operation for Aircraft Operations) permitting aircraft operations between 0700 hours and 2200 hours.

6 Aircraft Movements rule

54. NZTE opposed inclusion of a rule limiting aircraft movements. I still consider that an aircraft movements rule is necessary and I retain my recommended wording for Rule 27.2.17 Aircraft Movements. Greig Metcalfe, L Watson and R Ranby, and Kristine and Marshall Stead support an annual aircraft movements rule.
55. While Silvia Fowler has requested there be an annual limit on aircraft movements which more closely relates to current and historical figures, I confirm my recommendation for a maximum aircraft movements of 15,000 per calendar year as a permitted activity for the reasons in my rebuttal evidence, page 12, paragraphs 62 to 73.
56. Kit Maxwell and Vikki Madgwick seek that for the annual [aircraft] movements total, that a counting system with shorter reporting periods like 3 / 4 monthly rather than 3 yearly be required. My recommended aircraft movements rule is for a maximum permitted number of aircraft movements per calendar year. I consider that counting aircraft movements over a shorter period would be inappropriate.
57. As identified by Mr Humpheson, aircraft movements numbers at general aviation aerodromes can fluctuate considerably¹⁰. Ms Smith's evidence in reply further details the fluctuation of general aviation activity, as it is weather dependant and has a seasonal fluctuation¹¹. My S42A report, page 79, paragraph 280, further details the seasonal aspect to aircraft movements at Te Kowhai aerodrome. Given the fluctuations in aircraft movements at Te Kowhai aerodrome, I do not see how reporting aircraft movements on a 3 / 4 monthly basis would be of any use.
58. I consider that controlling yearly aircraft movements via a District Plan rule is important, for the reasons provided in my rebuttal evidence, page 12, paragraphs 62 to 72, and my opening statement, page 5, paragraph 36. I retain my recommended wording for Rule 27.2.17 Aircraft Movements.

¹⁰ Evidence, Mr Humpheson, page 13, paragraph 68

¹¹ Evidence in Reply, Laurel Smith, page 6, paragraph 29

7 Circuit training

59. NZTE consider that circuit training forms part of aircraft operations and as such consider that a separate circuit training activity in Activity Status Table 27.1.1 is not required. I consider that circuit training should have its own definition, as I have proposed, and that circuit training should be a separately listed activity in the Activity Status Table 27.1.1 – regardless of what activity status it has. Circuit training has different environmental effects, compared with aircraft operations. NZTE appear to agree on this, with their proposed rule to restrict circuit training to certain times.
60. NZTE propose that circuit training be a permitted activity, and that it be managed by way of a new rule, as follows:
- Rule 27.2.16 – Hours of Operation for Aircraft Operations PI(a) (iii)
- Circuit training is limited between the hours of 0700 hours and 2200 hours on Monday to Saturday and between 1000 hours and 2100 hours on Sunday.
61. I still consider that circuit training should be provided for as a non-complying activity in all precincts (due to serious impacts on local amenity), with no rule specifying permitted hours for circuit training. This would then leave it to the resource consent process to determine appropriate hours for this activity, should consent be granted. This is supported by Greig Metcalfe and Kristine and Marshall Stead.
62. Rather than the approach proposed by NZTE above, I recommend a new separate rule, being new Rule 27.2.18 Circuit training. I also recommend that circuit training be separately defined in the District Plan, and therefore it is not appropriate to put circuit training restrictions under a rule about aircraft operations – which has a separate definition. My recommended permitted activity rule (Appendix I page 16) is similar to NZTE timings above, but instead I recommend on Sundays circuit training only be permitted from 11.00am rather than the 10.00am recommended by NZTE. The 11.00am start on Sunday mornings would go some way to assist with managing adverse effects on amenity from circuit training, at a time when amenity may be considered more important.

8 Flight training school

8.1 Flight Training School activity

63. NZTE advocate that flight training schools should be provided for specifically within TKAZ Activity Status Table 27.1.1, as a separate activity from educational facility, which is what I also recommend.
64. NZTE have requested that the activity status for flight training school be the same as conference facilities, commercial activities and clubrooms, being a Non-Complying Activity in Precinct A, Permitted Activity in Precinct B and Discretionary Activity in Precincts C and D. I still retain my original recommendation for flight training school to be a Non-Complying Activity in all precincts. This would take into account matters raised by Silvia Fowler and Mark Fowler, and is consistent with their request (and Kit Maxwell's) for this activity not to be a permitted activity. Greig Metcalfe and Kristine and Marshall Stead also support flight training schools as a non-complying activity in all precincts.

8.2 Flight Training School definition

65. My recommended definition for flight training school was as follows¹²:

“Means land, and / or buildings used for the instruction or training in the control of aircraft in basic and advanced flight manoeuvres, as well as instruction or training in aircraft checks and aircraft maintenance.”

66. NZTE sought additions to my recommended definition (Appendix I, page 24) for flight training school, as follows (NZTE additional words underlined):

“Means land, and / or buildings used for the instruction or training in the control of aircraft in basic and advanced flight manoeuvres, aeronautical theory, airmanship, aircraft maintenance and maintenance procedures, including instruction or training in a certified flight training device.”

67. I agree to the addition of the words “aeronautical theory, airmanship and including instruction or training in a certified flight training device”. All of those terms relate to the flying of aircraft and could reasonably be expected to occur at a flight training school.

68. However, the way the definition is proposed by NZTE above, it may not be clear that it is the instruction or training in aircraft maintenance and maintenance procedures, which needs to be controlled. In addition, they have removed the words “aircraft checks”, which I consider it is important to leave in, as there may be effects associated with “checks” of aircraft, that should be managed by the District Plan.

69. Taking into account the above, I recommend that the definition for flight training school be revised to read as follows:

Flight Training School

“Means land, and / or buildings used for the instruction or training in the following:

- (a) the control of aircraft in basic and advanced flight manoeuvres,*
- (b) aeronautical theory,*
- (c) airmanship,*
- (d) aircraft checks,*
- (e) aircraft maintenance and maintenance procedures,*
- (f) a certified flight training device.*

9 Educational facility

70. NZTE seeks that educational facilities within Precinct B should be a restricted discretionary activity¹³, on the basis that they are noise-sensitive activities, that may occur within the Airport Air Noise Boundary (ANB) and those activities cannot fully be undertaken within buildings¹⁴. I am also concerned about protection for noise-sensitive activities with an outdoors component, which may occur within the ANB.

¹² WDC S42A Report Rebuttal Evidence, Appendix 2, page 23

¹³ Evidence in reply, Mr Serjeant, page 4, paragraph 14

¹⁴ Evidence in reply, Laurel Smith, page 3, paragraph 12

71. To further support this change, NZTE has proposed that Rule 27.1.2 Matter of Discretion (e) be amended to allow consideration of the extent to which the activity may be affected by the noise environment.
72. Originally my recommendation for educational facilities in Precinct B was a permitted activity. However, I now recommend educational facilities within Precinct B are a Restricted Discretionary Activity. I also support the changes to the matter of discretion as suggested by NZTE as stated below. This new activity status, whereby consent is now required, will ensure that noise can be appropriately taken into account in relation to educational facilities in Precinct B, which may seek to establish within a higher noise area, being the Air Noise Boundary.

27.1.2 Matters of Discretion

Activity		Matters of Discretion
RD1 & RD2 & RD3	Educational facility	(d) The extent to which the activity may adversely impact <u>affect or be affected by</u> on the noise environment.

10 Earthworks in proximity to a gas transmission line

73. I retain my recommendation that there be a new rule, being Rule 27.2.10 P1(a)(viii) relating to earthworks in close locations to a gas transmission line. The need for this was disputed by NZTE¹⁵.

11 Temporary Events rule

11.1 Vehicle Access

74. NZTE sought changes to Temporary Events Rule 27.2.14 P1(d) as follows:
Where there is no direct site access from a national route or regional arterial road, the event is undertaken in accordance with a Traffic Management Plan (if required) authorised by the relevant Road Controlling Authority.
75. I disagree with Mr Serjeant, when he says that this standard (i.e. Rule 27.2.14 P1(d)) is only relevant when a temporary event requires a temporary access from a state highway¹⁶.
76. An existing vehicle crossing onto State Highway 39 may be currently used by a certain activity with associated traffic movements. A temporary event may result in a substantial change in traffic making use of that existing crossing onto the State Highway. The opportunity to assess whether that existing crossing is suitable to cater for the increase volume of traffic movements is through the consenting process, as provided for, by the rule as notified.
77. Furthermore, the amendments proposed by NZTE seek authorisation potentially by a third party (i.e. Waka Kotahi NZ Transport Agency). Third party approvals cannot form part of a permitted activity rule.
78. Taking into account the above, I recommend that Rule 27.2.17 P1(d) be retained as notified.

¹⁵ Summary of evidence, David Serjeant, page 5, paragraphs 14 and 15

¹⁶ Summary of evidence, Mr Serjeant, page 4, paragraph 9

11.2 Timing of activities

79. I wish to draw the Panel's attention to TKAZ Temporary Events Rules 27.2.14 PI (a) (i) and (v). Rule 27.2.14 PI(a)(i) refers permits temporary events to be held up to 3 times per consecutive 12 month period, while TKAZ Rule 27.2.14 PI(a)(v) refers to once per calendar year.
80. The planning evidence of Mr Serjeant, page 26, paragraph 80, proposes changing this (from per consecutive 12 month period) to calendar year, to address the instance where an annual event was held a few days earlier than the previous year, thus making it non-compliant with the rule, but that is not the intent of the restriction. I also note that it may be easier to recall how many times an activity has occurred per calendar year, as opposed to trying to recall how many times an activity has occurred over some unspecified 12 month period.
81. In my rebuttal, I agreed with Mr Serjeant that Rule 27.2.14 PI(a)(v) should be changed to refer to calendar year. Mr Serjeant also recommended (at that same reference) that Rule 27.2.14 PI(a)(i) also be similarly changed.
82. I note that the Proposed Plan has multiple references in similar rules in other zones, that the S42A authors may have dealt with this issue differently and that consistency of rule wording should be sought if possible. Therefore, if the Panel considers there is scope, then they might consider also amending the wording of Rule 27.2.14 PI(a)(i) to refer to 3 times per calendar year.

12 Servicing - Subdivision Allotment Size Rule

83. NZTE advocate for all lots to be required to have their own on-lot potable water supply, as a restricted discretionary activity, under Subdivision Allotment Size Rules 27.4.2 RD1 and RD2¹⁷. However, I still retain my recommendation that some lots within the TKAZ depending on lot size, should be required to be connected to a public reticulated potable water supply system as a restricted discretionary activity under Subdivision Allotment Size Rules 27.4.2 RD1 and RD2¹⁸.

13 Wording of TKAZ Policies 9.2.1.1(c) and 9.2.2.1 (a), and (d);

84. I do not consider the amendment to Policy 9.2.1.1(c) as proposed by NZTE is necessary. The amendment relates to adverse effects, which are already dealt with under Policies 9.2.2.1 (a) to (e) inclusive.
85. If the Panel decide to include a rule for aircraft movements in the TKAZ, then I retain my recommendation to refer to aircraft movements in Policy 9.2.2.1(a)¹⁹. This would be appropriate to ensure alignment between the policy and rule.
86. NZTE sought the deletion of Policy 9.2.2.1(d). I continue to recommend that Policy 9.2.2.1(d) be included²⁰. I consider that the retention of Policy 9.2.2.1(d) regarding circuit training would be consistent with a separate non-complying rule for circuit training in Activity Status Table

¹⁷ Evidence in Chief, David Serjeant, page 27 - 28, paragraph 85

¹⁸ Opening Statement, WDC, page 6 paragraphs 45 - 50

¹⁹ WDC S42A Report Rebuttal Evidence, Appendix 2, Page 6

²⁰ WDC S42A Report Rebuttal Evidence, Appendix 2, Page 6

27.1.1. In addition, proposed rules providing limits on circuit training would also be consistent with Policy 9.2.2.1(d).

87. However, if the Panel were of a mind to provide for circuit training as a permitted activity, then my recommended wording for Policy 9.2.2.1(d), may not be appropriate.

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Senior Planner