

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

AND

IN THE MATTER the Proposed Waikato District Plan

BETWEEN **NZTE OPERATIONS LIMITED**

Submitter [No. 823]

AND **WAIKATO DISTRICT COUNCIL**

Local Authority

OPENING LEGAL SUBMISSIONS FOR NZTE OPERATIONS LIMITED

Dated: 26th September 2019

Next event: 1 October 2019

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MAY IT PLEASE THE COMMISSIONERS:

1. Counsel acts for NZTE Operations Limited (**NZTE**), a submitter and further submitter on the proposed Waikato District Plan (**pWDP**) and owner of the Te Kowhai Airfield.
2. The Te Kowhai Airfield (**Airfield**) is subject to the Te Kowhai Airpark Zone (**TKAZ**). The TKAZ, along with the operation of the Airfield, allows for the establishment of a complimentary Airpark consisting of commercial and residential precincts (**Airpark**). The hearing of submissions on the TKAZ has been assigned to Hearing No.14 which is to be heard in 2020.
3. In these opening submissions we intend to provide an overview of the Airfield, Airpark and the TKAZ and highlight where interest may exist in other topics in the pWDP. NZTE does not wish to unnecessarily occupy hearing time on other topics, however we wish to provide sufficient context at the outset to inform your decision making on other topics where provisions related to TKAZ arise. These submissions will therefore:
 - (a) summarise the Airfield's operations and its infrastructure importance within the district;
 - (b) introduce the proposed provisions which will enable the continued operation and sustainability of the Airfield and integration with surrounding land uses; and
 - (c) set out the other hearing topics that contain provisions relevant to TKAZ.

Nature of the Airfield

4. The Airfield is located off Limmer Road near the settlement of Te Kowhai. The Airfield is a non-certificated aerodrome and consists of a grass runway 983 metres long and includes a number of hangers that are leased for the storage of aircraft and aviation related commercial activities. The balance of the land surrounding the Airfield consists of paddocks and is also owned by NZTE.

5. The Airfield has been operational for over 50 years in its current location. Since it was first commissioned by the original owner, the Airfield has been an integral part of the Te Kowhai community. It is used by a variety of personal aircraft from Microlights through to Cessna type aeroplanes. As well as a hub for aviation enthusiasts in the Waikato Area, the Airfield also acts as a community space with regular events such as aviation related open days and quiz nights being held there.
6. As a non-certificated aerodrome the Airfield currently operates under Visual Flight Rules and is provided for in the Operative District Plan through an Obstacle Limitation Surface (**OLS**) and Airport Noise Control Boundary. While allowing the Airfield to operate as it does currently, the OLS and Airport Noise Control Boundary in the Operative District Plan do not allow for the utilisation of emerging GPS flight navigation technology, nor do they appropriately reflect best practice noise management under New Zealand Standards. The Airport Noise Control Boundary has been retained in the pWDP and NZTE has sought to replace it with a more appropriate set of provisions, as described below.

Proposed Provisions

Airpark

7. As notified under the pWDP, the Airfield and surrounding land is included in the TKAZ, which will allow the continued operation of the Airfield as well as enabling construction and operation of the Airpark. The establishment of the Airpark will create a unique aviation based community where residents live at the Airfield with hangars attached to dwellings containing their personal aircraft, enabling residents to fly directly to and from home. The Airpark design also incorporates a commercial zone that will provide services to the residents of the Airpark as well as the village of Te Kowhai. Continuity with Te Kowhai village is integral to the Airpark design, with a proposed public walkway and future access plans directly into the village.
8. While the Airpark concept is common in many parts of the United States, Asia and Europe, in New Zealand the coupling of the Airfield with the Airpark concept is unique to the Waikato District and differs from conventional residential development elsewhere in the district. This is the only

development of its kind in the Waikato region. The uniqueness of the Airpark is an important consideration in the context of the Future Proof Strategy, which seeks to limit traditional rural residential development to within a defined urban boundary. The Future Proof strategy currently shows the Te Kowhai indicative urban boundary dissecting the Airpark site. As the Airpark is not a traditional rural residential development, NZTE does not consider that the urban boundary is applicable to this development. Further evidence on this point will be provided at Hearing 14.

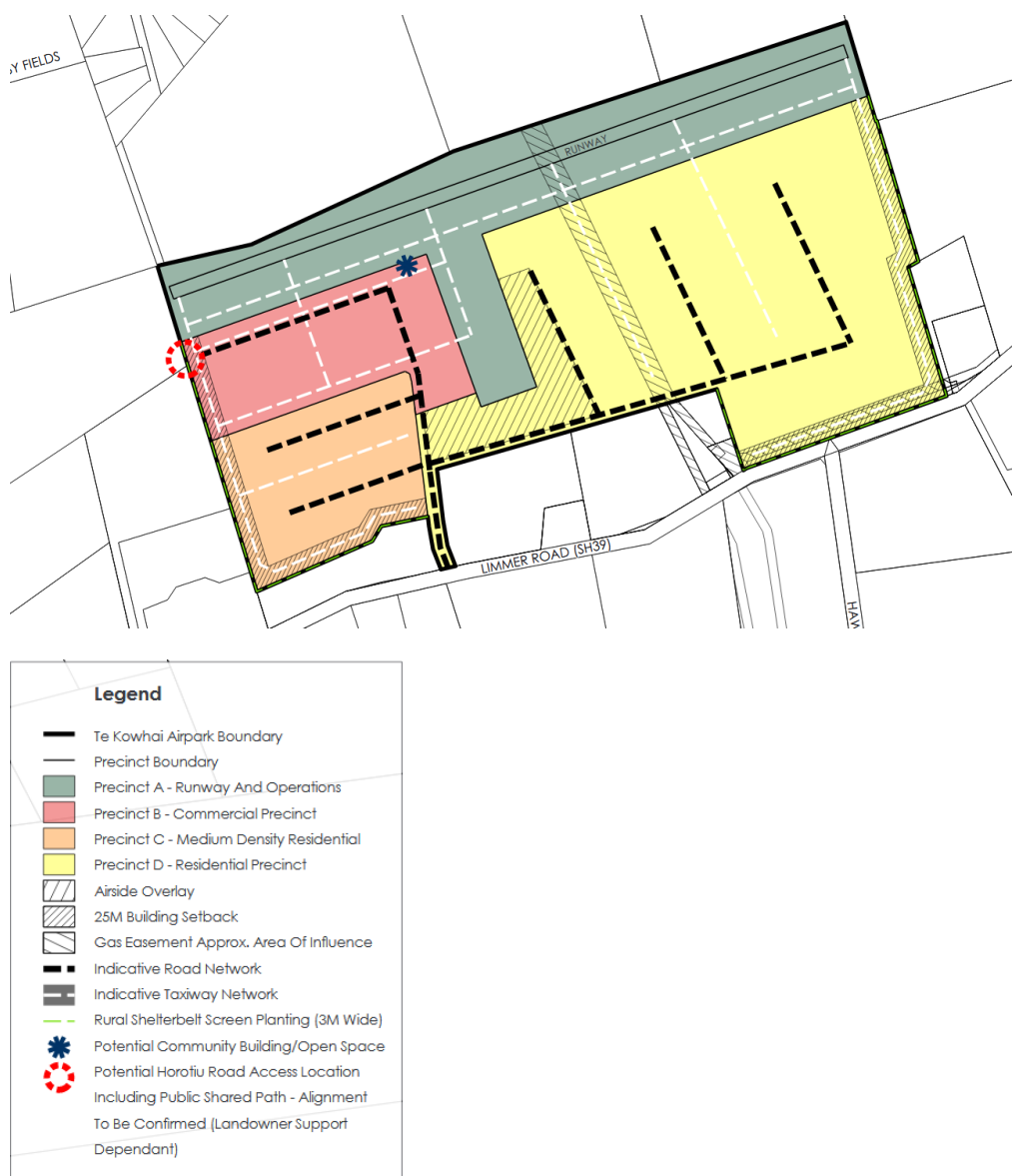


Figure 1: Te Kowhai Airpark Framework Plan

9. The Airpark will be divided into four precincts:

- (a) Precinct A – Runway and Operations.
 - (b) Precinct B – Commercial.
 - (c) Precinct C – Medium Density Residential.
 - (d) Precinct D – Residential.
10. All precincts within the Airpark will be connected to Precinct A via a system of taxiways, allowing residents to access the runway in their personal aircraft from their residence. Figure 1 above is the Te Kowhai Airpark Framework Plan which shows the locations of the precincts and taxiways.
11. The Airpark has been designed to be self sufficient in regards to infrastructure, with the on-site treatment and disposal of wastewater provided for in the Airpark design to meet the relevant Waikato Regional Council Standards.

Noise provisions

12. The current Air Noise Control Boundaries in the Operative District Plan have been rolled over into the pWDP. This boundary only sought to impose acoustic insulation standards on new noise sensitive development but did not impose any noise restrictions on aircraft.
13. NZTE has sought in its submission to replace these rules with a rule that is consistent with the relevant New Zealand Standard (**Noise Standard**). The scope of the Noise Standard ensures that communities living close to the Airfield are properly protected from the effects of aircraft noise whilst recognising the need to operate an airport efficiently.
14. Marshall Day Acoustics undertook modelling to produce a new Outer Control Boundary (**OCB**) and new Air Noise Boundary (**ANB**), as shown at Appendix C. These new Air Noise Control Boundaries have been developed to safeguard the operational needs of the Airfield into the future while also setting acoustic limits that the Airfield will need to operate within. Doing so ensures a level of amenity protection for surrounding land owners that did not previously exist.
15. The ANB and OCB restrict total aircraft noise measured over the busiest three months annually which in turn restricts the number of aircraft

movements. The three month noise allowance is designed to allow for operational flexibility and the variation of daily movements and type of aircraft used. The proposed new rules reflect best practice and industry standard for an aerodrome of this nature.

16. The new OCB and new ANB will:
 - (a) ensure that any new noise sensitive activity within the inner 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); and
 - (b) restrict the establishment of new Noise Sensitive Activities or alterations to existing Noise Sensitive Activities within the OCB to those with appropriate sound insulation and ventilation installed in accordance with the standards in Chapter 29 Appendix 1.
17. Existing Noise Sensitive Activities will not have to be acoustically insulated in accordance with the Noise Standard, however any new or altered habitable room or Noise Sensitive Activity would.
18. Including the proposed noise rules, OCB and ACB sought by NZTE in its submission will result in amendments to the Residential, Rural, Village and TKAZ Zones along with Appendix 1 and the Planning Maps.

Obstacle Limitation Surface

19. An OLS serves to protect a volume of airspace for approach, take-off and landing for the safe manoeuvring of aircraft from intrusions of obstacles such as buildings, trees, and other objects around the Airfield.
20. An expanded OLS has been notified in the pWDP to ensure compliance with civil aviation standards and requirements. This amended OLS will allow all Airfield users to utilise GPS based navigation technology while improving safety for aircraft operating in inclement weather.
21. The OLS extends and rises from the ends of the runway strip for a horizontal distance of 2500 metres and from the sides of the runway strip to a distance of 2500 metres. No obstacle or trees can protrude through any part of the approach or transitional side surface and obstacles within the inner

horizontal surface may need to be restricted or marked. An image of the OLS is attached to these submissions as Appendix B.

22. As notified in the pWDP, the rules that relate to the OLS in the Residential, Business, Industrial, Rural, Country Living, Village and Reserve Zones are not consistent with the provisions in the TKAZ and do not extend to height limits on trees to ensure they do not protrude through the OLS. NZTE has sought to amend the relevant rules. The inclusion of trees specifically as a height controlled object within an OLS is best practice and is found in the majority of District Plans around New Zealand.

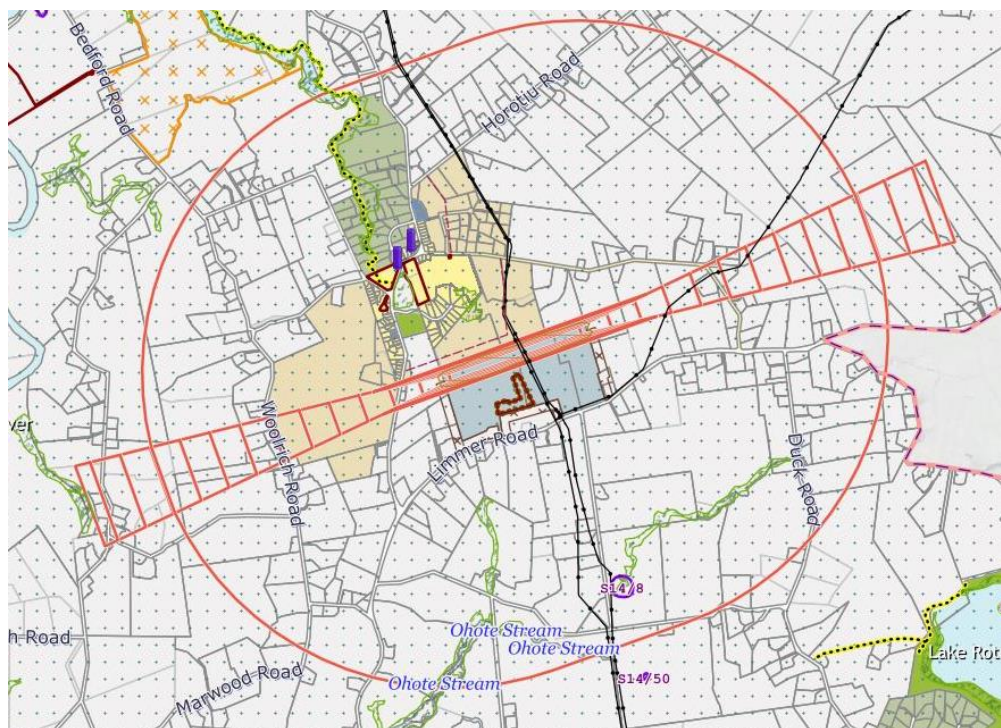


Figure 2: Obstacle Limitation Surface for Te Kowhai Airfield

Other Topics

23. In order for the Airfield and Airpark to operate effectively in the TKAZ there are a number of consequential amendments that have to occur throughout the pWDP. The chapters, with relevant topics, that are potentially affected are:
- (a) Chapter 9 – Objectives and Policies:
 - (i) Objectives and Policies in Chapter 9.2.
 - (ii) New Objective 9.2.3 and Policy 9.2.3.1 to be inserted to appropriately address reverse sensitivity.

- (iii) Provision of education facilities in specific zones.
 - (iv) Future Proof settlement pattern.
 - (v) Provision of the OLS.
 - (vi) Firefighting water supply.
- (b) Definitions:
- (i) Amendment of definition of Airfield and Noise Sensitive Activities.
 - (ii) Addition of definitions of Wastewater Treatment Plant, General Aviation, Recreational Flying, Flight Training School and Circuit Training.
- (c) Chapter 14 – Infrastructure and Energy:
- (i) Provision of on-site wastewater treatment and disposal.
 - (ii) Trip generation, internal road layout and access to the Airpark.
 - (iii) Water supply.
- (d) Chapter 16 – Residential:
- (i) Air Noise Control Boundaries.
 - (ii) Provision of the OLS and its associated height restriction.
- (e) Chapter 17 – Business:
- (i) Air Noise Control Boundaries.
 - (ii) Provision of the OLS and its associated height restriction.
- (f) Chapter 20 – Industrial:
- (i) Provision of the OLS and its associated height restriction.
- (g) Chapter 22 – Rural:

- (i) Air Noise Control Boundaries.
 - (ii) Provision of the OLS and its associated height restriction.
 - (iii) Building setbacks for Noise Sensitive Activities.
 - (h) Chapter 23 – Country Living:
 - (i) Air Noise Control Boundaries.
 - (ii) Provision of the OLS and its associated height restriction.
 - (i) Chapter 24 – Village:
 - (i) Air Noise Control Boundaries.
 - (ii) Provision of the OLS and its associated height restriction.
 - (j) Chapter 25 – Reserve:
 - (i) Provision of the OLS and its associated height restriction.
 - (k) Appendix 1:
 - (i) Acoustic insulation standards.
 - (ii) New Air Noise Control Boundaries and associated standards.
 - (l) Appendix 9:
 - (i) Provision of the OLS and its associated height restrictions.
 - (m) The Planning Maps:
 - (i) TKAZ of the Airfield and Airpark.
 - (ii) Provision of the OLS and its associated height restrictions.
 - (iii) New Air Noise Control Boundaries and deletion of old ones.
24. The objectives and policies that relate to TKAZ in Chapter 9 and the provisions in Chapter 27 - TKAZ will be dealt with in Hearing 14, which is set down to determine the zone-specific objectives and policies, land use activity, building and subdivision. NZTE will decide on a hearing by hearing

basis whether an appearance is required to present evidence on any of the relevant matters; however it is our intention to confine our involvement as much as possible to the TKAZ hearing topic. Additionally, should the Commissioners have any questions of NZTE, Counsel can make themselves available to answer them at short notice.

25. We would be grateful to be notified of progress on these hearing topics set out above in order to address any issues arising relevant to the TKAZ.

Dated 26th September 2019



R A Makgill / S D W Hutchings

Counsel for

NZTE Operations Limited