

**BEFORE THE ENVIRONMENT COURT  
AT AUCKLAND**

**ENV-2022-AKL-000082**

**I MUA I TE KŌTI TAI AO O AOTEAROA  
TĀMAKI MAKĀURAU ROHE**

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

**AND**

**IN THE MATTER** an appeal under Clause 14(1) of the First  
Schedule of the Act

**BETWEEN** **MARSHALL AND KRISTINE STEAD**  
Appellant

**AND** **WAIKATO DISTRICT COUNCIL**  
Respondent

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**NOTICE OF NZTE OPERATIONS LIMITED'S WISH TO BE A PARTY TO  
PROCEEDINGS**

**Dated: 21 March 2021**

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Solicitors on Record

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## NOTICE OF PERSON'S WISH TO BE PARTY TO PROCEEDINGS

*Section 274, Resource Management Act 1991*

**To** The Registrar

Environment Court

Auckland

### **Name of Person who wishes to be Party**

1. NZTE Operations Limited (**NZTE**) wishes to be a party to the following proceedings:
  - a. ENV-2022-AKL-000082- An appeal by Marshall and Kristine Stead (**Stead**), 703B Te Kowhai Road, Te Kowhai, 3288 (**the land**) against decisions of the Waikato District Council (**WDC**) on the Proposed Waikato District Plan (**PWDP**), including the:
    - i. Future Urban Zone – Decision Report 24 (**FUZ decision**);
    - ii. Te Kowhai Airpark Zone – Decision Report 26 (**TKAZ decision**);  
and
    - iii. Zoning (Te Kowhai) – Decision Report 28J (**Zoning decision**).
2. NZTE:
  - a. Is a person with an interest in the proceedings greater than the general public, being:
    - i. The owner and operator of the Te Kowhai Aerodrome (**Aerodrome**) and the Te Kowhai Airpark Zone (**TKAZ**) land affected by the appeal; and
    - ii. An adjacent landowner to the Stead's landholding at 703B Te Kowhai Road.

- b. Made submissions and further submissions on the TKAZ and associated PWDP provisions affected by the appeal.
3. NZTE participated in the District Plan hearing of the TKAZ (Hearing 17). NZTE sought, amongst other things, provision for: (a) Airport noise and obstacle controls to avoid, remedy, or mitigate reverse sensitivity effects that might arise from encroaching residential activities and other sensitive land uses; and (b) residential and commercial airpark precincts to enable aircraft owners to live and work within the TKAZ.
4. The TKAZ decision made provision for the Airport Air Noise Boundaries (**ANB**), Obstacle Limitation Surface (**OLS**), and Noise Controls within the TKAZ and surrounding zones. The TKAZ decision found in respect of the OLS that this would include a Transitional Side Surface (**TSS**) as provided for in the PWDP, albeit with a less restrictive activity status than originally publicly notified.<sup>1</sup> The TKAZ decision found in respect of noise *“that residents of an airpark would have a different expectation of amenity compared with those in rural or residential zones”*.<sup>2</sup> Accordingly, the noise controls within the TKAZ are more permissive than those in surrounding zones.

#### **Trade competition**

5. NZTE is not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991 (**RMA**).

#### **The Proceeding**

6. NZTE is interested in all of the proceedings.

#### **Particular Issues**

7. NZTE is particularly interested in the following issues:
  - a. The provision for the ANB, OLS, and Noise Controls within the TKAZ and surrounding zones;
  - b. The difference between noise controls needed within an Airpark and those required for surrounding noise sensitive land uses;

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<sup>1</sup> Decision Report 26: Te Kowhai Airpark Zone, 17 January 2022, at para. 4.9.

<sup>2</sup> Decision Report 26: Te Kowhai Airpark Zone, 17 January 2022, at para. 4.28.

- c. The need for appropriate control of obstacles which could affect the safe operation of aircraft (e.g., tall buildings, structures, or vegetation);
- d. The need to protect the Aerodrome from encroaching reverse sensitive land uses through noise and obstacle controls;
- e. The appropriateness of zoning of the Stead's land as Future Urban Zone, as opposed to a Village Zone; and
- f. Appropriate subdivision provisions for the Stead's land.

**Relief sought**

- 8. NZTE opposes the relief sought by the Steads at paragraph 13 (Annexure A) of the Notice of Appeal and seeks that the relief sought by the Steads is declined.

**Reasons for relief sought**

- 9. NZTE's reasons for the relief sought include:

*General*

- a. The outcome sought by the Steads:
  - i. Is inconsistent with the sustainable management purpose of the Act; and
  - ii. Would have an adverse effect on an existing physical resource (i.e., the Aerodrome).

*OLS*

- b. The OLS including the TSS will better enable the safe operation of the Aerodrome.
- c. The OLS including the TSS will enable a shift to Instrument Flight Rules operations which are safer than Visual Flight Rule operations (e.g., inclement weather or poor light conditions).

- d. Trees and buildings within the OLS have existing use rights, subject to the height they were at the date of notification of the PWDP decision (s 86B of the RMA). Subsequent growth of existing trees, new trees, or new buildings will not be protected by existing use rights.
- e. It is inappropriate to rely on trees with existing use rights as a basis for justifying the removal of the TSS to facilitate the development of the land for urban purposes and the introduction of buildings that become permanent fixtures adjacent to the Aerodrome runway, especially where such removal would benefit the landowner's aspirations to have the land zoned residential.

#### *Noise*

- f. Rezoning of the Steads' land to Village Zone, or similar zoning enabling urban development, can be distinguished from the TKAZ on the basis that future residents of the Village Zone will have a different expectation of noise amenity as compared to residents of an Airpark. The residents of the Airpark will be engaged in, and associated with, flying pursuits and share common interests in the successful future operation of the Aerodrome. The future occupants of the Village Zone are likely to exert reverse sensitivity pressure on future Aerodrome operations, such that it is appropriate to have noise-sensitive activities subject to control by resource consent in the PWDP.

#### *FUZ and subdivision*

- g. The inclusion of a FUZ within the PWDP is consistent with the National Policy Statement on Urban Development, Waikato Regional Policy Statement, Future Proof Sub-regional Growth Strategy, and the Waikato 2070 Growth and Economic Development Policy (**Waikato 2070**). Waikato 2070, for example, indicates that the Stead land will not be suitable for residential development for more than 10 years.
- h. The application of the FUZ to the Stead land recognises that the land is suitable (in principle) for development for urban purposes, but that structure plans and servicing are not currently available. Further, any future urban zoning of the FUZ will need to protect the Aerodrome from reverse sensitivity effects (e.g., noise and operational safety).

**Dispute resolution**

10. NZTE agrees to participate in mediation or other alternative dispute resolution of the proceedings.



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M J Doesburg

Solicitor for NZTE Operations Limited

Date: 21 March 2022

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