

WAIKATO DISTRICT COUNCIL

Hearings of Submissions on the Proposed Waikato District Plan

Report and Decisions of Independent Commissioners

Decision Report 26: Te Kowhai Airpark Zone

17 January 2022

Commissioners

Dr Phil Mitchell (Chair)

Mr Paul Cooney (Deputy Chair)

Councillor Jan Sedgwick

Mr Dynes Fulton

Mr Weo Maag

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Glossary of Terms

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| ANB | Air Noise Boundary |
| Council | Waikato District Council |
| Panel | The Waikato District Plan Hearings Panel |
| PDP | Proposed Waikato District Plan |
| OLS | Obstacle Limitation Surface |

1 Introduction

- 1.1 Hearing 17 concerned all submissions received by Waikato District Council (Council) in relation to the provisions of Te Kowhai Airpark Zone within the Proposed District Plan (PDP). This hearing specially related to the objectives, policies and rules within the aforementioned zone.
- 1.2 Provisions relating to the Airport Noise Boundaries (ANB), Obstacle Limitation Surface (OLS), and Building Setbacks for Noise-Sensitive Activities in the following zones were also considered in this hearing:
 - a) Chapter 16 – Residential Zone;
 - b) Chapter 17 – Business Zone;
 - c) Chapter 20 – Industrial Zone;
 - d) Chapter 22 – Rural Zone;
 - e) Chapter 23 – Country Living Zone;
 - f) Chapter 24 – Village Zone; and
 - g) Chapter 25 – Reserves Zone.
- 1.3 Te Kowhai Airpark Zone is intended to provide for the continued use of the privately-owned (but publicly available) runway strip and associated aerodrome infrastructure, as well as an airpark. In addition to the above, the airpark comprises of four precincts that provide for aviation, commercial and residential activities. Central to the airpark concept is the opportunity for aircraft operators to live or work at the aerodrome, with the ability to taxi aircraft from residential and commercial precincts onto the existing runway.¹
- 1.4 Te Kowhai aerodrome (the site) is situated at 172 Limmer Road, Te Kowhai. The site is approximately 44 hectares (ha) in area and has vehicle access off Limmer Road, otherwise known as State Highway 39. The site is located on the southern periphery of Te Kowhai village.²
- 1.5 Te Kowhai aerodrome has been operating for more than 50 years. The site consists of a grass runway strip which is 983 metres long as well as aircraft hangars, a refuelling facility, clubrooms, office, workshop, coffee cart, car parking area and grass paddocks. Flights currently operate on a non-instrument Visual Flight Rules (VFR) basis.³
- 1.6 The site is owned and operated by NZTE Operations Limited who are a submitter on the PDP and for clarity are not the proponent of the zone. Te Kowhai Airpark Zone was included in the notified PDP by Council.
- 1.7 Land adjacent to the site comprises a mixture of uses including residential activities on small lots, a school, some commercial activities, a retirement village, public recreation

¹ Paragraph 25, Section 42A Report Hearing 17: Te Kowhai Airpark Zone, dated 29 January 2021.

² Paragraph 19, Section 42A Report Hearing 17: Te Kowhai Airpark Zone, dated 29 January 2021.

³ Paragraph 6, Opening Statement of Ms Emma Ensor, Hearing 17: Te Kowhai Airpark, dated 5 March 2021.

reserve, rural-residential activities, and land used for rural purposes. There is also a mixture of indigenous and exotic trees and other vegetation within this locality.⁴

Procedural matters

- 1.8 The proposed Te Kowhai Airpark Zone was included in the PDP as a special purpose zone by Council and notified on 18 July 2018.
- 1.9 Following notification, a discrepancy was identified between the PDP text which describes the Te Kowhai Airport OLS and the planning maps. A variation to the PDP was then notified by Council on 29 June 2020 to resolve this error. The purpose of the OLS is described later in this decision.
- 1.10 Both the provisions of the Te Kowhai Airpark Zone in the PDP and Variation 1 to the PDP formed part of this hearing.

2 Hearing arrangement

- 2.1 The hearing was held on Monday 8 March, 9 April⁵ and Friday 7 May 2021 online via Zoom. All of the relevant information pertaining to this hearing (i.e., section 42A report, legal submissions and evidence) is contained on Council's website.
- 2.2 The Panel heard from the following parties on the Te Kowhai Airpark Zone provisions of the PDP:

| Submitter: | Represented by: |
|------------------------------|--|
| Waikato District Council | Ms Emma Ensor (author of the section 42A report on the provisions of the Te Kowhai Airpark Zone) |
| Vela Holdings Limited | Mr Geoff Burgess |
| SW Ranby and R Ranby | Mr Philip Lang (counsel), L Watson and R Ranby |
| GL and DP McBride | Mr Graham McBride |
| Peter and Sylvia Fowler | Ms Silvia Fowler |
| Sophia Yapp and Simon Barnes | Mrs Sophia Yapp |
| Derek Tate | Mr Derek Tate |
| Vikki Madgwick | Mr Kit Maxwell |
| Kit Maxwell and Rena Maxwell | Mr Kit Maxwell |
| Greig Metcalfe | Dr. Joan Forret (counsel) and Mr Bevan Houlbrooke |
| Marshall and Kristine Stead. | Dr. Joan Forret (counsel) and Mr Marshall Stead |
| Lloyd Davis | Mr Jason Strangwick |

⁴ Paragraph 7, Opening Statement of Ms Emma Ensor, Hearing 17: Te Kowhai Airpark, dated 5 March 2021.

⁵ The hearing was adjourned on 9 April 2021 to 9 May 2021 due to the late filing of reply evidence by NZTE Operations Limited.

| | |
|-------------------------|--|
| NZTE Operations Limited | Dr. Robert Makgill (counsel), Mr Dan Readman, Mr Jonathan Broekhuysen, Mr Dave Park, Ms Laurel Smith, Mr James Armitage and Mr Dave Serjeant |
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3 Overview of issues raised in Submissions

3.1 In the section 42A report, Ms Emma Ensor set out the full list of submissions on Te Kowhai Airpark Zone. In brief, the key matters of relief sought by the submitters included:

- a) The retention of the objectives and policies of Te Kowhai Airpark Zone as notified in the PDP;
- b) The retention of the rules as notified;
- c) Modification to the extent of the OLS and associated requirements;
- d) Modification of the noise provisions and associated requirements; and
- e) Servicing of the proposed subdivisions and development.⁶

3.2 One of the more contentious issues in the hearing was the OLS. The section 42A report included extensive analysis with respect to the OLS and noise provisions included in the PDP. By way of background, as included in the PDP and then modified by Variation 1 to the PDP, the OLS is made up of three different surfaces, being the:

- a) Take off and approach surface;
- b) Inner Horizontal Surface (IHS); and
- c) Transitional surface.

3.3 The purpose of the OLS is to provide a means of controlling obstacles, whether tall buildings, structures, or vegetation around the aerodrome which could affect the safety of aircraft operations.⁷ Each surface includes a different height limit prescribed in the PDP, of which buildings, structures and vegetation require resource consent for intrusions into the respective surface height limit. The inclusion of OLS provisions in district plans is common practice across New Zealand.

3.4 The OLS in the PDP differs from the OLS included in the Operative Waikato District Plan. The section 42A report provides a useful summary of the differences between the two OLS, which we have included in a table below:

| Surface | Extent of OLS in the PDP and modified through Variation 1 of the PDP ⁶ | Extent of OLS in the Operative Waikato District Plan |
|--------------------------------|---|--|
| Take off and approach surface | 2,500 m | 1,200 m |
| Inner Horizontal Surface (IHS) | 2,500 m | No IHS |
| Transitional surface | Yes | No transitional surface |

⁶ Paragraph 20 of the Section 42A Report Hearing 17: Te Kowhai Airpark Zone, dated 29 January 2021.

⁷ Paragraph 117, Evidence in Chief of David Park on behalf of NZTE Operations Limited, dated 15 February 2021.

- 3.5 NZTE Operations Limited support the extended OLS, as included in the PDP. NZTE consider that the extended OLS will provide an extra layer of safety for users of the aerodrome and to enable future implementation of Instrument Flight Rules (IFR).
- 3.6 The figure below which was included in the evidence of Mr David Park, an aviation expert on behalf of NZTE Operations Limited. Figure 1 depicts in generic terms, the three different surfaces of an OLS, of the type included in the PDP.

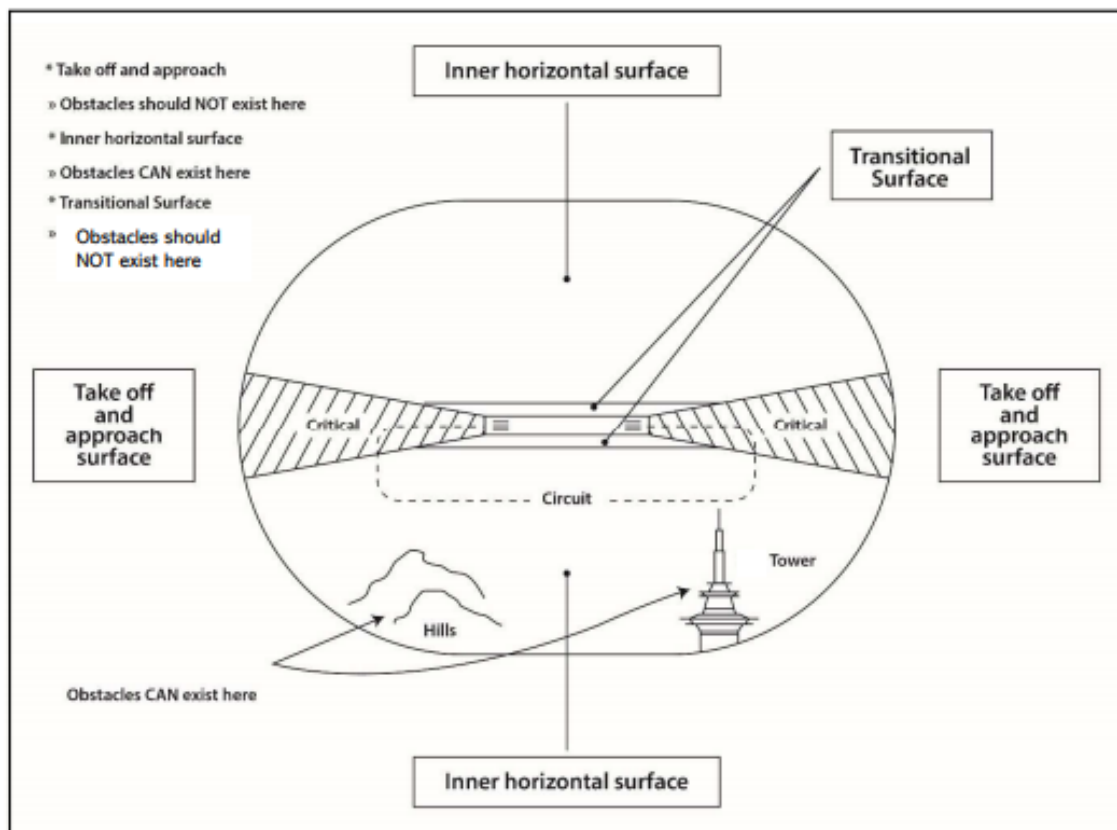


Figure 1: Obstacle Limitation Surfaces

Overview of submissions

- 3.7 Mr Geoff Burgess presented the submission on behalf of Vela Holdings Ltd (VHL). VHL owns 470 ha of land in Te Kowhai which contains 14 houses and an operating dairy farm. The VHL site is located approximately 2 km southwest of Te Kowhai aerodrome. The VHL site intersects the OLS, especially the Inner Horizontal Surface (IHS).⁸
- 3.8 The following matters were raised in VHL's written submission and the oral presentation by Mr Burgess:
- The natural contour of the VHL land, and trees within the IHS exceed the height restriction of 45 m stipulated in the IHS;
 - In particular a trig station is situated above the IHS; and

⁸ The proposed Inner Horizontal surface extends outwards from the runway centre line and ends of the runway strip out to a distance of 2,500 m at a height of 71.6 metres above the Moturiki Datum.

- c) A stand of pine trees projects through the IHS.
 - d) VHL opposed provisions which would compromise its ability to construct buildings, structures and fences; and
 - e) VHL is concerned that it may be required to trim the pine trees on its site at its own expense.
- 3.9 VHL met with NZTE Operations Limited and the submitters discussed existing use rights, case by case assessment of protrusions and land-owner agreements. In summary, VHL seeks that all these matters are specifically stipulated in the PDP.
- 3.10 Mr Philip Lang presented legal submissions on behalf of SW Ranby and R Ranby. Ms Lynette Watson and Mr Roger Ranby also presented their submission. The Ranby site is located at 593 Te Kowhai Road and contains one dwelling. The Ranby site is one property removed to the northeast from the Te Kowhai aerodrome.
- 3.11 In summary, Ms Watson and Mr R Ranby presented the following points from their submission:
- a) Opposition to the Te Kowhai Airpark Zone and the OLS included in Variation 1 of the PDP;
 - b) Sought a carefully considered limit on flight numbers, coupled with limitations on flight times and annual flight limitation;
 - c) Sought limits on the number of flights per week and potentially limitations on the number of flights per day; and
 - d) Sought day-time flights as opposed to early morning, late evening, or night-time flying.
- 3.12 Mr Lang submitted that:
- a) There is no support for an enlarged airfield in the higher order planning documents such as the National Policy Statement for Urban Development 2020 (NPS-UD), or the Waikato Regional Policy Statement (RPS); and
 - b) Waikato 2070 provides little clarity on the future use or expansion for Te Kowhai aerodrome.
- 3.13 Mr Lang submitted that the Ranbys would like the aerodrome to remain as it is currently used, so effects remain the same or similar.
- 3.14 In summary, Ms Watson and Mr Ranby seek reinstatement of the Operative Waikato District Plan version of the OLS and provisions which enable a small-scale airfield as opposed to a commercial operation.
- 3.15 Ms Diane Patricia and Mr Graham McBride presented their submission. Their sites are located at 213, 220 234, 246 and 252 Collie Road and are located west of the Te Kowhai aerodrome.
- 3.16 In summary, Mr McBride highlighted the following points:

- a) Their family settled on their land in 1933. Five generations of the McBride family have lived in the house on 213 Collie Road;
- b) Their family have planted tens of thousands of trees over 40 years;
- c) Concerns regarding the lack of connectivity between the Te Kowhai aerodrome and Te Kowhai village;
- d) Concerns regarding the level of consultation undertaken;
- e) Concerns with regard to potential breaches of Civil Aviation Authority (CAA) regulations by aircraft using Te Kowhai aerodrome;
- f) Concerns regarding noise nuisance effects;
- g) Concerns regarding the requirements of the OLS, and implications on their property and trees;
- h) Concerns regarding safety; and
- i) Potential loss of productive capability of their land.

3.17 In summary, Mr McBride stated their opposition to the development plans at Te Kowhai aerodrome and the inclusion of the OLS in Variation 1 to the PDP.

3.18 Mrs Silvia Fowler presented the submission on behalf of herself and Mr Peter Fowler. Their site is located at 257 Collie Road, west of Te Kowhai aerodrome and within the OLS included in Variation 1 to the PDP.

3.19 In summary, Mrs Fowler presented the following points:

- a) Opposition to the proposed OLS included in Variation 1 to the PDP. This is due to the negative implications this will have on affected properties and also due to the overall lack of consultation and limited information that was issued to affected property owners;
- b) Concerns regarding the OLS being listed on the Land Information Memorandum (LIM);
- c) Concerns regarding who would be responsible for meeting costs of trimming or removing trees which grow into the OLS, and the lack of clarity regarding case-by-case assessments;
- d) Opposition to a flight school and that this should not be listed as a permitted activity;
- e) That engine testing should be undertaken within 0800 hours and 1700 hours; and
- f) Opposition to development which increases the frequency of flights.

3.20 To address the above points, Mrs Fowler sought the following:

- a) Reinstatement of the OLS in the Operative Waikato District Plan;
- b) An annual flight limit which relates to the current and historical flight frequencies;
- c) Limiting flights to daylight hours and no night flying except for emergency services; and

- d) No circuit training, flights with repetitive movements and skydiving.
- 3.21 Mrs Sophia Yapp presented the submission on behalf of Mr Simon Barnes, Miss Imogen Barnes and Miss Phoebe Barnes. Their site is located at 90 Perkins Road, south of Te Kowhai aerodrome, within the OLS included Variation 1 to the PDP.
- 3.22 In summary, Mrs Yapp addressed the following points on behalf of the Barnes family:
- a) Their site contains several hundred Kahikatea trees, which will at some point grow taller than the OLS;
 - b) These trees may potentially be protected as a Significant Natural Area in future, based on criteria in the draft National Policy Statement for Indigenous Biodiversity; and
 - c) Concerns regarding the financial implication of trimming trees on their site and that trimming Kahikatea trees may lead to them dying.
- 3.23 Mrs Yapp sought to keep Te Kowhai aerodrome as it currently operates or else it should be moved to a different location.
- 3.24 Mr Derek Tate presented his submission. His site is located at 219 Woolrich Road, west of the Te Kowhai aerodrome. Mr Tate is a pilot and flies microlights.
- 3.25 In summary, Mr Tate made the following points:
- a) Concerns regarding trees which may protrude into the OLS;
 - b) Opposition to night flights; and
 - c) Questions on the suitability of Te Kowhai aerodrome being upgraded to a commercial airfield.
- 3.26 Mr Tate sought that the OLS be removed from his site at 219 Woolrich Road.
- 3.27 Mr Kit Maxwell presented the submission of Ms Vikki Madgwick. Her site is located at 265 Collie Road, is 17.5 ha in area and situated west of Te Kowhai aerodrome.
- 3.28 Mr Maxwell stressed the following points:
- a) Ms Madgwick's site contains six acres of mature pine trees;
 - b) Concerns regarding the cost to demonstrate compliance with the provisions such as the OLS;
 - c) Concerns regarding the impacts of the OLS on development potential as a consequence of reduced height limits; and
 - d) Concerns regarding the safety of night flights.
- 3.29 In summary Mr Maxwell on behalf of Ms Madgwick supported the recommendations of the section 42A report with regard to:
- a) Retention of the OLS as included in the Operative Waikato District Plan; and
 - b) Limitations on flight schools and circuit training.

- 3.30 Mr Kit Maxwell spoke to the submission lodged by him and his wife Rena Maxwell. Their site is located at 247 Collie Road, approximately 2.4km west of the Te Kowhai aerodrome within the OLS included in the PDP.
- 3.31 In summary, Mr Maxwell made the following points:
- a) The proposed OLS is 33km² in area and covers 75 per cent of Te Kowhai;
 - b) Concerns regarding potential LIM encumbrances;
 - c) Concerns regarding the commercial repair and testing of engines;
 - d) Concerns regarding effects from a flight school and circuit training; and
 - e) Questions regarding the need for IFR at Te Kowhai aerodrome.
- 3.32 Mr and Mrs Maxwell sought adoption of the section 42A report recommendations with respect to their submission points.
- 3.33 Dr. Joan Forret presented legal submissions and Mr Bevan Houlbrooke presented planning evidence on behalf of Mr Greig Metcalfe. Mr Metcalfe owns 702 Horotiu Road, which is 62 ha in area and located to the west of the Te Kowhai aerodrome. His site is subject to the OLS under both the Operative Waikato District Plan and the PDP.
- 3.34 Dr. Forret's legal submissions focused on the following matters:
- a) Lack of certainty on whether IFR will be approved for the Te Kowhai aerodrome;
 - b) Potential to move the runway further south with the NZTE Operations Limited land, to reduce effects on surrounding landowners;
 - c) The OLS in the PDP will reduce development potential, and as a consequence reduce property values;
 - d) Uncertainty regarding existing use rights, which trees may need to be removed or trimmed and who pays for removal or trimming; and
 - e) Noise from airborne aircraft is not an effect that can be managed by the RMA.
- 3.35 In summary, Mr Holbrook's planning evidence focused on the following matters:
- a) Support for the recommendation in the section 42A report which classifies a *flight training school* and *circuit training* as non-complying activities;
 - b) Support for the section 42A report recommendation on deletion of *general aviation* and *recreational flying* as activities and replacement with a single activity *aircraft operations* activity and an associated definition;
 - c) Opposition to an OLS based on Instrument Flight Rules (IFR) and support for the OLS to be changed back to Operative Waikato District Plan version which is based on Visual Flight Rules (VFR);
 - d) Support for the recommendation in the section 42A report to cap aircraft movements to 15,000 per annum and the subsequent adjustment to the Outer Control Boundary (OCB); and
 - e) Support to restrict flying outside of 0700 to 2200 hours.

- 3.36 Dr Joan Forret presented legal submissions on behalf of Mr Marshall Stead and Mrs Kristine Stead. Mr Stead also spoke to the submission lodged by him and his wife. Their site is located at 703b Te Kowhai Road within the OLS in the PDP.
- 3.37 Dr Forret's legal submissions focused on the same matters discussed at paragraph 3.30 of this decision. In summary, Mr Stead presented the following points from the submission lodged by him and his wife in support of the section 42A report recommendation to revert to the OLS in the Operative Waikato District Plan:
- a) That existing hangars on the NZTE site are within the OLS and may need to be moved. The hangars are owned by third parties and the land is leased from NZTE Operations Limited;
 - b) That existing trees on his site (which are up to 35m high) and fence will protrude through the proposed OLS in the PDP;
 - c) Concerns with who will be responsible for the cost for trimming trees;
 - d) Support for the recommendation in the section 42A report to limit annual aircraft movements to 15,000;
 - e) Support for the recommendation in the section 42A report to restrict flying between 0700 hours to 2200 hours;
 - f) Opposition to non-complying activity status for noise sensitive activities within the Air Noise Boundary (ANB); and
 - g) Support for the section 42A report recommendation that *flight training schools* and *circuit training* be included in the PDP as non-complying activities.
- 3.38 Mr Jason Strangwick presented the submission of Mr Lloyd Davis. Mr Davis's site is located at 703a Te Kowhai Road within the OLS and ANB.
- 3.39 In summary, Mr Strangwick made the following points:
- a) Mr Davis supports Te Kowhai aerodrome performing any activities within its boundaries, provided this does not restrict development potential on his land;
 - b) Mr Davis supports retention of the OLS as included in the Operative Waikato District Plan;
 - c) Mr Davis supports the ANBs in the Tonkin and Taylor Report, providing development is permitted within the inner ANB if there is sufficient acoustic insulation; and
 - d) To mitigate the adverse noise effects, NZTE Operations Limited could shift the airstrip southwards so that the inner ANB does not impact on Mr Davis's property.
- 3.40 Mr Peter Gore tabled a letter, on behalf of himself and Mrs Jackie Gore. Their site is located at 255 Collie Road, west of Te Kowhai aerodrome. Mr Gore's letter set out concerns regarding the lack of consultation with regard to the Te Kowhai Airpark Zone provisions.
- 3.41 Mr Gore sought:

- e) That the OLS be rejected, until the threshold for consultation with those directly affected is met;
 - f) Rejection of the proposal until NZTE Operations Limited and the Council can agree on the details and facts at an open day, and can articulate what the proposal means to those directly affected; and
 - g) Rejection of the OLS proposal on the basis that Te Kowhai aerodrome has not provided mitigation of effects that would be due process in any application lodged under the Resource Management Act 1991 (RMA) to intensify land use.⁹
- 3.42 Ms Alec Duncan tabled a letter on behalf of Fire and Emergency New Zealand's (FENZ) which set out their support for recommendations made by the section 42A report in response to FENZ submission points.¹⁰
- 3.43 Ms Alec Duncan tabled a letter on behalf of the Ministry of Education which sought the following amendments:
- a) Replacing the term '*Teaching and Conference Facilities*' with '*Education Facilities*, changes to activity status in precincts A, C and D and inclusion of new matters of discretion;
 - b) Changes to matters of discretion recommended by the section 42A report; and
 - c) Changes to Policy 9.2.1.1.¹¹
- 3.44 On behalf of NZTE Operations Limited:
- a) Dr. Robert Makgill presented legal submissions;
 - b) Mr Dan Readman presented evidence as both a landowner and the Te Kowhai aerodrome operator;
 - c) Mr Jonathan Broekhuysen presented urban design evidence;
 - d) Mr David Park presented aviation evidence;
 - e) Ms Laurel Smith presented acoustic evidence;
 - f) Mr James Armitage presented infrastructure evidence; and
 - g) Mr David Serjeant presented planning evidence.
- 3.45 Dr. Makgill's legal submissions focused on the following matters:
- a) Clarification that the aerodrome has been in operation for 53 years, and not 20 years as asserted in the section 42A report;
 - b) Clarification of the RMA implications of public versus private ownership and that it is not useful or appropriate to assess resource use issues based on ownership;

⁹ Letter from Peter Gore (https://wdcsitefinity.blob.core.windows.net/sitefinity-storage/docs/default-source/your-council/plans-policies-and-bylaws/plans/district-plan-review/hearings/hearing-17/submitter-evidence/hearing-17---te-kowhai-airpark---jackie-gore---evidence.pdf?sfvrsn=74278ec9_2).

¹⁰ Letter from Alec Duncan, re: Fire and Emergency New Zealand – Letter to be tabled at Hearing 17: Te Kowhai Airpark dated 12 February 2021.

¹¹ Letter from Alec Duncan, re: Ministry of Education – Waikato District Plan Review - Letter to be Tabled at Hearing 17: Te Kowhai Airpark dated 12 February 2021.

- c) Relationship between the OLS and existing use rights, particularly for trees. Dr. Makgill agrees with the Tompkins Wake legal opinion, specifically that existing use rights apply from the date of notification of a decision;
- d) Inclusion of an advice note clarifying the responsibilities regarding the removal and/or trimming costs for trees within the OLS; and
- e) Requirement for an evaluation under section 32AA of the RMA if the Panel was minded to amend the OLS included in the PDP.

3.46 Mr Readman's evidence focused on the following matters:

- a) The future vision for Te Kowhai aerodrome which incorporates both residential and commercial precincts, where Airpark residents can live onsite in their own home with their own aeroplanes;¹²
- b) Current operations at Te Kowhai aerodrome which include a wide range of aircraft operations from microlights to small light aeroplanes, police and rescue helicopter operations, vintage and military trainer-type aircraft and even occasionally hot air balloon flights;¹³
- c) Emerging technologies, such as enhancements in GPS navigation and modern flat screen instrumentation for small aeroplanes that gives them the ability to operate under IFR conditions;¹⁴ and
- d) Consultation undertaken.¹⁵

3.47 Mr Readman, verbally responding to earlier questions by submitters, stated that moving the runway south may not be supported by Council. With respect to critical obstacles which breach the OLS, such as trees, Mr Readman stated that these could be managed through notifying the CAA and the critical obstacles being identified on a NOTAM.¹⁶

3.48 Mr Readman also stated that there is no difference between an aircraft's rate of climb on either IFR or VFR.

3.49 Mr Broekhuysen's urban design evidence focused on the following matters:

- a) The master planning exercise undertaken, which was:
- b) A design-led exercise that incorporated the original vision while implementing lessons garnered through extensive international and domestic research into existing airparks;¹⁷ and
- c) Based on urban design principles which informed the development of the four precincts in the PDP.
- d) In relation to the OLS:

¹² Paragraph 5, Summary of Evidence of Dan Readman on behalf of NZTE Operations Limited, dated 3 March 2021.

¹³ Paragraph 7, Summary of Evidence of Dan Readman on behalf of NZTE Operations Limited, dated 3 March 2021.

¹⁴ Paragraph 19, Summary of Evidence of Dan Readman on behalf of NZTE Operations Limited, dated 3 March 2021.

¹⁵ Paragraph 20 - 22, Summary of Evidence of Dan Readman on behalf of NZTE Operations Limited, dated 3 March 2021.

¹⁶ NOTAM means a notice distributed by means of telecommunication containing information concerning the establishment, condition or change in any aeronautical facility, service, procedure or hazard, the timely knowledge of which is essential to personnel concerned with flight operations (<https://www.aviation.govt.nz/rules/rule-part/show/1/1>).

¹⁷ Paragraph 5, Summary of Evidence of Jonathan Broekhuysen on behalf of NZTE Operations Limited, dated 3 March 2021.

- e) Development of five properties in close proximity to the runway will not be unduly affected by the OLS in the PDP; and
 - f) Future development potential of these adjoining landholdings can be appropriately managed.¹⁸
- 3.50 In response to our question, Mr Broekhuysen stated that moving the airstrip south would improve the development prospects for NZTE Operations Limited from an urban design perspective.
- 3.51 Mr Park's aviation evidence focused on the following matters:
- a) Aerodrome runways are required by the CAA to be protected by an OLS, which are intended to prevent obstacles affecting aircraft flight paths. All New Zealand aerodromes that Mr Park is familiar with have their OLS protected in district plans;¹⁹
 - b) Aircraft operating under IFR, where a pilot's ability to see obstacles is reduced, require more extensive and a lower OLS than those operating under VFR where the pilot is flying by visual reference;²⁰
 - c) 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 IHS (where established) is less of a concern and can usually be managed.²¹
- 3.52 In response to questioning by us, Mr Park confirmed that Te Kowhai could continue operating under VFR, with the Operative Waikato District Plan OLS as opposed to the OLS in the PDP.
- 3.53 Ms Laurel Smith's presentation of her acoustic evidence focused on the following matters of disagreement with the section 42A report recommendations, which she did not support:
- a) Alternative noise boundaries based on 15,000 annual movements as modelled by Tonkin and Taylor at the request of the Council;
 - b) A rule limiting the annual aircraft movements to 15,000;
 - c) A rule limiting the operational hours of the Aerodrome between 7 am and 10 pm;
 - d) A rule excluding engine testing between 10 pm and 7 am;
 - e) Non-complying status of circuit training and a flight school;
 - f) Non-complying status of activities sensitive to noise within the ANB; and
 - g) A rule requiring noise from aircraft operations to comply with the 55 and 65 dB L_{dn} limits at the OCB and ANB respectively.²²

¹⁸ Paragraph 12, Summary of Evidence of Jonathan Broekhuysen on behalf of NZTE Operations Limited, dated 3 March 2021.

¹⁹ Paragraphs 9 and 10, Summary of Evidence of David Park on behalf of NZTE Operations Limited, dated 3 March 2021.

²⁰ Paragraphs 11, Summary of Evidence of David Park on behalf of NZTE Operations Limited, dated 3 March 2021.

²¹ Paragraphs 15, Summary of Evidence of David Park on behalf of NZTE Operations Limited, dated 3 March 2021.

²² Paragraphs 13, Summary of Evidence of Laurel Smith on behalf of NZTE Operations Limited, dated 3 March 2021.

- 3.54 Ms Smith did not support the smaller OCB and ANB recommended in the section 42A report as these noise boundaries are based on a 10-year planning horizon which Ms Smith considers too short for an airport, and inadequate for managing the long-term future of the aerodrome and airpark.²³
- 3.55 In response to questioning by us, Ms Smith stated that the assumed number and type of aircraft movements are inputted into the model which produces the noise contours. She advised that if more and/or noisier aircraft movements occurred, compared to those used in the modelling, contours extending further from the airstrip would be required to manage effects.
- 3.56 In summary, Mr James Armitage's infrastructure evidence concluded that:
- a) The proposed wastewater solution is suitable for the airpark's development, meets the requirements of AS/NZS1547:2012, and has the ability to be connected to any future public reticulation system;²⁴
 - b) The water supply solution will provide for adequate firefighting storage (in accordance with SN PAS4509:2008), potable use, and has the ability to be connected to any future public water supply. A private reticulated water system is therefore not required to meet the relevant standards;²⁵ and
 - c) The stormwater solution is deemed feasible for the development.²⁶
- 3.57 Mr Dave Serjeant's presentation of his planning evidence focused on the following matters of disagreement with the section 42A report's recommendations:
- a) He did not support the insertion of definitions and the listing of *circuit training* and *flight training schools* as non-complying activities in the activity table. Mr Serjeant stated that noise generating aspects of these activities are barely distinguishable from general airport operations according to Ms Smith, and there is no other reason for defining or according them a separate status to *aircraft operations*;²⁷
 - b) He did not support non-complying activity status for noise sensitive activities within the Te Kowhai Airpark Zone. Mr Serjeant stated that persons residing within the Te Kowhai Airpark Zone enjoy the benefits that the airpark provides and accept some trade-off in noise levels accordingly;²⁸
 - c) He recommended that the standard in Rule 27.2.1.14 Temporary Events in relation to direct highway access should be deleted on the basis that it is redundant;²⁹
 - d) He recommended the inclusions of the proposed OLS in the PDP, not the Operative Waikato District Plan OLS;³⁰ and
 - e) He did not support a submission by First Gas to insert a new earthworks standard in Rule 27.2.10, such that excavation deeper than 200mm within 12m of the

²³ Paragraphs 14, Summary of Evidence of Laurel Smith on behalf of NZTE Operations Limited, dated 3 March 2021.

²⁴ Paragraph 31, Evidence in Chief of James Armitage on behalf of NZTE Operations Limited, dated 15 February 2021.

²⁵ Paragraph 32, Evidence in Chief of James Armitage on behalf of NZTE Operations Limited, dated 15 February 2021.

²⁶ Paragraph 33, Evidence in Chief of James Armitage on behalf of NZTE Operations Limited, dated 15 February 2021.

²⁷ Paragraph 7, Summary of Evidence of David Serjeant on behalf of NZTE Operations Limited, dated 3 March 2021.

²⁸ Paragraph 8, Summary of Evidence of David Serjeant on behalf of NZTE Operations Limited, dated 3 March 2021.

²⁹ Paragraph 9, Summary of Evidence of David Serjeant on behalf of NZTE Operations Limited, dated 3 March 2021.

³⁰ Paragraph 12, Summary of Evidence of David Serjeant on behalf of NZTE Operations Limited, dated 3 March 2021.

centreline of the gas transmission line through the Te Kowhai Airpark Zone would trigger the need for resource consent.³¹

3.58 Mr Serjeant's supplementary evidence included two amendments with regard to the OLS in response to submitters concerns, namely:

- a) The insertion of an advice note which offers either tree removal or trimming on a one-off basis to achieve compliance with the OLS. If the landowner chose the trimming option, then the ongoing obligation for compliance would become their own;³² and
- b) Removal of the requirement for trees and vegetation to comply with the IHS provisions of the OLS.³³

4 Panel Decisions

4.1 The section 42A report addressed 485 separate submissions points on the PDP and 266 submission points on Variation 1. The section 42A report author analysed these and made a recommendation for each submission to be accepted or rejected by us, along with some changes to the PDP text and planning maps. The author also amended some recommendations in rebuttal and hearing documents.

4.2 It is noted that a number of matters between Council and NZTE Operations Limited were agreed in the provisions supplied in the section 42A report closing statements. As above, where we agree with the recommended changes and reasons, the matter is not revisited in this Decision.

4.3 Given the overlap between submitters and Council on a number of outstanding matters, the following sub-sections have been grouped by issue.

Obstacle Limitation Surface (OLS)

4.4 With respect to the OLS, NZTE Operations Limited supported the inclusion of the OLS in the PDP, as modified by Variation 1 to the PDP. This submission was supported by Mr Park's evidence for the following reasons:³⁴

- a) NZTE Operations Limited intends to upgrade the aerodrome to allow enhanced private aircraft operations of small single or twin-engine propeller powered aircraft during daytime hours, or, under managed circumstances, at night, to navigate under IFR;
- b) When operating under IFR, the pilot can rely on flight instruments and aircraft navigation systems to determine their position with respect to the aerodrome and its runways to safely and accurately position the aircraft for approach and landing, and after take-off;
- c) IFR greatly improves the safety and reliability of aircraft operations. However, it does require a higher standard of aerodrome design to ensure sufficient clear

³¹ Paragraph 14, Summary of Evidence of David Serjeant on behalf of NZTE Operations Limited, dated 3 March 2021.

³² Paragraph 8, Supplementary Evidence of David Serjeant for NZTE Operations Limited, dated 29 April 2021.

³³ Paragraph 12, Supplementary Evidence of David Serjeant for NZTE Operations Limited, dated 29 April 2021.

³⁴ Paragraph 47, Evidence in Chief of David Park on behalf of NZTE Operations Limited, 15 February 2021.

ground and airspace exists for safe operations in the reduced visibility conditions of IFR; and

- d) There are minimum CAA requirements for an OLS to be protected for night and IFR operations by small aircraft.

4.5 The section 42A report included a detailed analysis of both the OLS in the PDP and the Operative Waikato District Plan OLS and recommended that the OLS in the PDP be replaced with the OLS in the Operative Waikato District Plan. A summary of the section 42A report reasons for this recommendation is as follows:³⁵

- a) There are nine properties in the Rural Zone and two properties in the Village Zone where the PDP OLS will impose building height restrictions that would otherwise be permitted by the general building height rules for the respective zones;
- b) For some properties, the PDP OLS height is between 0m and 6m, which also results in a restriction on built development in those areas;
- c) Some 42 trees³⁶ already intrude into the PDP OLS, by between 0.4m and 24.2m. That number only relates to trees within the western approach and take-off surface, and there may also be trees/vegetation within the IHS which may also breach the PDP OLS;
- d) The costs of compliance would fall on landowners and not the aerodrome operator, thus creating an unfair financial burden on landowners;
- e) Requiring landowners to chop or trim trees and vegetation that encroached into the PDP OLS would not maintain amenity values of Te Kowhai, as required by section 7(c) of the RMA;
- f) Kahikatea trees have ecological value, are potential habitat for endemic bats and provide stepping stones for native birds across the landscape; and
- g) The PDP OLS does not adjust for the land form underneath it, unlike other OLS in other district plans (such as Wanaka and Napier).

4.6 Submitters, particularly Vikki Madgwick; Greig Metcalfe; Kit Maxwell and Mr and Mrs McBride specifically supported the section 42A report recommendation in their submission and oral presentations for the same reasons set out in the section 42A report.

4.7 Ms Ensor's section 42A rebuttal evidence stated that if we were of a mind to include the PDP OLS, rather than the Operative Waikato District Plan OLS, it would be appropriate to assign a different activity status for intrusions into the approach and take-off surfaces from the activity status for intrusions into the transitional side surfaces and the IHS.³⁷ Ms Ensor recommended that a restricted discretionary activity status be applied to intrusions into the transitional side surfaces and the IHS. Mr Park agreed with providing

³⁵ Paragraph 355, Section 42A Report Hearing 17: Te Kowhai Airpark Zone, dated 29 January 2021.

³⁶ As at 16 April 2018.

³⁷ Paragraph 18, Section 42A Rebuttal Evidence, Hearing 17: Te Kowhai Airpark, 1 March 2021.

flexibility, as described in Ms Ensor's alternative tiered activity status approach for intrusions into the PDP OLS.³⁸

- 4.8 In addition to the above, Mr Serjeant's supplementary evidence recommended a further change to the provisions, so that trees and vegetation need not to comply with the IHS OLS height limit.³⁹
- 4.9 After careful consideration of this issue, we accept the submission of NZTE Operations Limited to retain the OLS as notified on the planning maps, subject to implementing the alternative tiered activity status approach for intrusions as suggested by Ms Ensor and removing the requirement for trees and vegetation to comply with the IHS height limit.
- 4.10 We find with respect to the PDP OLS:
- a) It will enable NZTE Operations Limited to upgrade to IFR, which in turn will improve the safety of the aerodrome;
 - b) Submitter concerns regarding intrusions into the OLS are largely addressed by inclusion of the proposed advice note, a more restrictive activity status for protrusions into the OLS and removal of the requirement for trees and vegetation to comply with the IHS height limit;
 - c) Existing trees have existing use rights from the date of notification of this Decision; and
 - d) The inclusion of an advice note, as recommended by Mr Serjeant, addresses concerns regarding the costs and responsibility for tree trimming within the approach and take-off surfaces.
- 4.11 Regarding NZTE Operations Limited's aspirations to accommodate night flights, through implementation of IFR, we address this in subsequent sections on noise. However, in summary, we find that the hours of operation of the aerodrome should be limited and night flights should not be provided for as a permitted activity.
- 4.12 For the above reasons, the notified OLS has been retained and the PDP has been amended to include tiered activity statuses for intrusions into the OLS, the recommended advice note and removal of the requirement for trees and vegetation to comply with the IHS height limit.

Air Noise Boundaries

- 4.13 The section 42A report recommended the inclusion of Airport Noise Control Boundaries in the PDP, namely the Airport Air Noise Boundary (65 dB L_{dn}) and the Airport Outer Control Boundary (55 dB L_{dn}) modelled by Tonkin and Taylor.
- 4.14 In summary, the Tonkin and Taylor modelling was based on the following assumptions as recommended by the section 42A report author:
- a) An operational scenario of 15,000 aircraft movements per year;
 - b) No flights between 10 pm and 7 am; and

³⁸ Paragraph 17, Evidence in Reply of David Park for NZTE Operation Limited, 8 April 2021.

³⁹ Paragraph 12, Supplementary Evidence of David Serjeant for NZTE Operations Limited, dated 29 April 2021.

- c) No flight training school or circuit training flights.⁴⁰
- 4.15 The section 42A report stated that the scenario of 15,000 movements is based on forecasting included in Appendix 13 of the section 32 report. This number is the predicted annual movements in the year 2031, a 10-year timeframe after the release of Council decisions on the PDP,⁴¹ and considered to be the lifespan of a district plan.
- 4.16 NZTE Operations Limited sought that the Marshall Day Acoustics modelled Airport Noise Control Boundaries, being the Air Noise Boundary (65dB L_{dn}) and the Outer Control Boundary (55dB L_{dn}) be included in the PDP.
- 4.17 Ms Smith's evidence stated that the Marshall Day Acoustics modelling was based on a future forecast of 19,645 annual aircraft movements which is approximately a doubling of the 2019 number of aircraft movements and a 35 per cent increase on 2008 aircraft movements.⁴² It is noted that 2008 was the busiest year since recording began, with 14,537 aircraft movements.⁴³ We have more to say on this issue later in the decision.
- 4.18 We consider that the purpose of the contours is twofold: to manage noise at properties near the boundary of the aerodrome; and to manage reverse sensitivity effects on the aerodrome.
- 4.19 Furthermore, we consider that if aerodrome operations do grow as forecasted, and if boundaries based on a 10-year forecast are included in the PDP, then buildings containing noise sensitive activities currently outside the boundary may be affected by lawfully expanded aerodrome operations without appropriate noise mitigation being in place.
- 4.20 Given the above, we agree with the recommendations of Ms Smith and Mr Serjeant. We find that the contours should address forecasted aircraft movements beyond the 10-year lifespan of the PDP, as the contrary may lead to development close to the airstrip not having the necessary noise mitigation measures in place.

Activity status for noise sensitive activities within the Air Noise Boundary (65dB L_{dn})

- 4.21 Mr Metcalfe and Mr Stead raised concerns regarding the non-complying activity status for activities and development within the Air Noise Boundary (65dB L_{dn}). In response to questions from the Panel, Mr Serjeant conceded that a less restrictive activity status may be appropriate given the concerns of Mr Davis, Mr Stead and Mr Strangwick. Dr. Makgill also agreed that this approach may be appropriate but did not provide any further submissions on this.
- 4.22 We have given careful consideration to this matter, and the analysis in the section 42A report. We agree with Mr Serjeant that a restricted discretionary activity status is appropriate, supported by a suite of matters of discretion which includes the need to comply with the criteria in Appendix 1 of the PDP.

⁴⁰ Page 1, Te Kowhai Airfield air noise contours memorandum, Tonkin and Taylor, 3 December 2018.

⁴¹ Paragraph 754, Section 42A Report Hearing 17: Te Kowhai Airpark Zone, dated 29 January 2021.

⁴² Paragraph 34, Evidence in Chief of Laurel Smith on behalf of NZTE Operations Limited, 15 February 2021.

⁴³ Paragraph 34, Evidence in Chief of Laurel Smith on behalf of NZTE Operations Limited, 15 February 2021.

4.23 In relation to the points raised by the section 42A report author, we note that applications for resource consent for a restricted discretionary activity may still be declined if proposed mitigation is not acceptable. We have also made amendments to the subdivision rules with regard to the location of building platforms in relation to the airstrip and Air Noise Boundary (65dB L_{dn}).

Activity status for noise sensitive activities within the Te Kowhai Airpark Zone

4.24 With respect to noise sensitive activities within the Te Kowhai Airpark Zone, Ms Smith recommended the inclusion of a 70dB L_{dn} Air Noise Boundary in addition to the 65dB L_{dn} Air Noise Boundary in the PDP. The proposed 70dB L_{dn} Air Noise Boundary is fully contained within the Te Kowhai airpark site (refer Figure 2).

4.25 Ms Smith's evidence concluded that it is appropriate for residential activities to occur between the 65dB L_{dn} and 70dB L_{dn} Air Noise Boundaries⁴⁴ at Te Kowhai airpark. Ms Smith noted that residents of an airpark would have a different expectation of amenity compared with those in rural or residential zones.

4.26 Mr Serjeant's evidence recommended including a permitted activity rule for noise sensitive activities within the Te Kowhai Airpark Zone and between the 65dB L_{dn} and 70dB L_{dn} Air Noise Boundaries based on Ms Smith's evidence. Mr Serjeant recommended retaining non-complying activity status for noise sensitive activities within the 70dB L_{dn} Air Noise Boundary.⁴⁵

4.27 The section 42A report recommended that all noise sensitive activities within the 65dB L_{dn} Air Noise Boundary be a non-complying activity.⁴⁶ Ms Ensor stated that the PDP needs to provide for community health of all people using land outside of buildings within the Air Noise Boundary, including people within the Te Kowhai Airpark Zone.

4.28 We agree with the evidence and reasons of Ms Smith and Mr Serjeant. We find that residents of an airpark would have a different expectation of amenity compared with those in rural or residential zones. Given this, we have amended the PDP to include a permitted activity rule for noise sensitive activities outside of the 70dB L_{dn} Air Noise Boundary,⁴⁷ but within the Te Kowhai Airpark Zone. We have also included Ms Smith's recommended Air Noise Boundaries on the PDP planning maps.

⁴⁴ Paragraph 7, Evidence in Reply of Laurel Smith for NZTE Operations Limited, dated 8 April 2021.

⁴⁵ Paragraph 13, Evidence in Reply of David Serjeant for NZTE Operations Limited, 8 April 2021.

⁴⁶ Paragraph 43, Hearing Closing Statement Hearing 17: Te Kowhai Airpark, 17 June 2021.

⁴⁷ Paragraph 13, Evidence in Reply of David Serjeant for NZTE Operations Limited, 8 April 2021.



Figure 2: Marshall Day Noise Contours

Hours of operation

- 4.29 With respect to hours of operation, the section 42A report recommended that aircraft operations are not permitted between 10 pm and 7 am. Exceptions largely for emergencies are recommended, but other operations during those hours would require resource consent.⁴⁸
- 4.30 Ms Smith’s evidence considered that there was potential for unreasonable sleep disturbance effects as a result of night-time aircraft operations, however stated that the rule recommended in the section 42A report was unnecessary and overly restrictive. Ms Smith’s evidence considered that rather than having a night-time curfew, it was possible to manage the effects of occasional night-time movements by controlling the number of night-time departures and restricting circuit training at night.⁴⁹
- 4.31 A number of submitters in their oral presentations raised concerns around the hours of operation including, for example Mrs Fowler and Mr Metcalfe. Mrs Fowler sought that flights be limited to daylight hours.
- 4.32 We consider there is merit in Mrs Fowler’s proposal of limiting aircraft operations to daylight hours and we accept the reasons of the section 42A report author. Given this, we find that flight operations should be limited to between 7 am and 10 pm for six months over “summer” and between 7 am and 7 pm for six months over “winter”. Two new

⁴⁸ Hearing Closing Statement, Section 42A Report Hearing 17: Te Kowhai Airpark Zone.

⁴⁹ Paragraph 87, Evidence in Chief of Laurel Smith on behalf of NZTE Operations Limited.

definitions have been included in the PDP to specify that the summer and winter periods are based on three months either side of the summer and winter solstices, respectively.

Aircraft movement threshold

- 4.33 The section 42A report recommended the inclusion of a rule permitting a maximum of 15,000 aircraft movements per calendar year.⁵⁰ This was in response to the submissions of Greig Metcalfe, Marshall Stead on behalf of Lloyd Davis, Jason Strangwick, Kylie Davis-Strangwick, Nicola Thompson and Kerry Thompson, Marshall Stead, Kristine Stead.⁵¹
- 4.34 The section 42A report recommended the inclusion of this rule to address amenity effects⁵² and based it on the forecasting included in Appendix 13 of the section 32 report. As noted earlier, this number was the predicted annual movements in the year 2031, a 10-year timeframe after the release of Council decisions on the PDP,⁵³ the lifespan of a district plan.
- 4.35 We asked questions during the hearing regarding the aircraft movement threshold, particularly focusing on how annual frequency of flights had already been considered in the modelling which produced the aircraft noise boundaries.
- 4.36 In response, Ms Smith stated she did not see a need for the threshold, given that modelling had already taken aircraft movements into account when developing the boundaries. Ms Smith's evidence also set out the following reasons for deleting this threshold:
- a) There is no noise effects basis for limiting the number of aircraft movements to 15,000 annually;
 - b) NZS 6805 does not promote controlling aircraft operations by the number of movements. Rather, the standard promotes the noise exposure approach which requires airport operators to manage average noise exposure levels within given limits;
 - c) The noise exposure method set out in NZS 6805 is appropriate for managing aircraft noise at smaller airports and has been implemented at several New Zealand airports similar to Te Kowhai without capping annual movements; and
 - d) Restricting annual movement numbers does not allow the airport operator the flexibility to manage aircraft operations to comply with the defined noise boundaries (e.g., encouraging quieter aircraft, restricting night flying).⁵⁴
- 4.37 We find that a threshold rule is not required and we agree with the reasons set out in Ms Smith's evidence and stated above. Given this, Rule 27.2.17 has been deleted from the PDP.

Flight training school and circuit training

⁵⁰ Paragraph 755, Section 42A Report Hearing 17: Te Kowhai Airpark Zone, dated 29 January 2021.

⁵¹ Paragraph 758, Section 42A Report Hearing 17: Te Kowhai Airpark Zone, dated 29 January 2021.

⁵² Paragraph 752, Section 42A Report Hearing 17: Te Kowhai Airpark Zone, dated 29 January 2021.

⁵³ Paragraph 754, Section 42A Report Hearing 17: Te Kowhai Airpark Zone, dated 29 January 2021.

⁵⁴ Paragraph 84, Evidence in Chief of Laurel Smith on behalf of NZTE Operations Limited.

- 4.38 The section 42A report recommended specifying flight training schools and circuit training as non-complying in the activity table and considered that circuit training had different environmental effects, compared with aircraft operations.⁵⁵
- 4.39 A number of submitters supported the section 42A report recommendations, namely Mrs Fowler, Mr Kit Maxwell, Mrs Rina Maxwell, Mr Greig Metcalfe and Mr Marshall Stead. In summary, their reasons included noise and annoyance issues from repetitive aircraft movements.
- 4.40 Ms Smith's evidence did not support this recommendation and noted that the modelled noise contours included approximately 23 per cent of movements using circuit flight tracks and the location of the 55 dB L_{dn} contour was barely affected by these movements, thus demonstrating that noise from circuiting aircraft is not significant.⁵⁶
- 4.41 Mr Serjeant's evidence stated that the noise generating aspects of a flight training school and circuit training were barely distinguishable from general airport operations according to Ms Smith, and there was no other reason for defining them or according them a separate status to aircraft operations.⁵⁷
- 4.42 We agree with the section 42A report and submitters that a flight training school and circuit training have different adverse effects from general flight-related activities, as a consequence of the repetitive nature of aircraft movements and procedures. However, we find that discretionary activity status, as opposed to non-complying activity is more appropriate in recognition of the functional need for these activities to be undertaken at an aerodrome.
- 4.43 We have amended the PDP to include a flight training school and circuit training as separate discretionary activities.

Gas transmission line

- 4.44 In response to a submission by First Gas, the section 42A report recommended the inclusion of a standard in Rule 27.2.10, where excavation deeper than 200mm within 12m of the centreline of the gas transmission line through the Te Kowhai Airpark Zone would require resource consent.⁵⁸
- 4.45 The section 42A report author agreed with First Gas's submission and cited the following reasons:
- a) First Gas is the Requiring Authority over some gas pipelines (part of the gas transmission network) within the Waikato District (Designation R1). However, the gas transmission pipeline location through the proposed Te Kowhai Airpark Zone is not designated in the PDP;⁵⁹
 - b) The standard would give effect to Objective 3.12 and Policy 6.6 of the RPS,⁶⁰ which requires management of the built environment ensures particular regard is

⁵⁵ Paragraph 69, Hearing Closing Statement, Section 42A Report Hearing 17: Te Kowhai Airpark Zone.

⁵⁶ Paragraph 95, Evidence in Chief of Laurel Smith on behalf of NZTE Operations Limited, dated 15 February 2021.

⁵⁷ Paragraph 7, Summary of Evidence of David Serjeant on behalf of NZTE Operations Limited, dated 3 March 2021.

⁵⁸ Paragraph 803, Section 42A Report Hearing 17: Te Kowhai Airpark Zone, dated 29 January 2021.

⁵⁹ Paragraph 804, Section 42A Report Hearing 17: Te Kowhai Airpark Zone, dated 29 January 2021.

⁶⁰ Paragraph 805, Section 42A Report Hearing 17: Te Kowhai Airpark Zone, dated 29 January 2021.

given to: (b) that the effectiveness and efficiency of existing and planned regionally significant infrastructure is protected;⁶¹ and

- c) The standard would implement a new recommended Policy 6.1.17 in Chapter 6 of the PDP on regionally significant infrastructure.⁶²

4.46 Mr Serjeant's evidence recommended the deletion of the earthworks standard.⁶³ Mr Serjeant stated that the First Gas pipeline was covered by an easement and the legal requirements of the easement would need to be met before earthworks could be undertaken.⁶⁴

4.47 We agree with the evidence of Mr Serjeant that the pipeline is already protected by another legal mechanism. Given this, we have amended the PDP to delete the respective standard in Rule 27.2.10.

Temporary events

4.48 In respect to temporary events, NZTE Operations Limited sought the deletion of Rule 27.2.14(d) which requires that the permitted activity rule not allow direct site access from a national route or regional arterial road.⁶⁵ Mr Serjeant's evidence supported this submission and sought its deletion, stating that the clause is redundant for the zone, and has been carried over as from a similar rule for the Rural Zone in the ODP.⁶⁶

4.49 The section 42A report recommended retention of this rule, stating that a temporary event may result in a substantial change in traffic making use of that existing crossing onto the State Highway.⁶⁷ Furthermore, the section 42A report stated that the consenting process provided the opportunity to assess whether the existing crossing was suitable to cater for the increase volume of traffic movements, as provided for by the rule as notified.⁶⁸

4.50 We agree with the recommendation and reasons in the section 42A report. We find that an increase in traffic movements, albeit temporary, should be assessed as part of a resource consent process. Given this, Rule 27.2.14(d) is to be retained as notified.

5 Conclusion

5.1 We have carefully considered the evidence and submissions of NZTE Operations Limited, the concerns raised by neighbouring submitters and the section 42A report author. Some of those concerns we accept need to be closely managed through a consenting process and others such as night-time flying or requiring the removal of trees in the extended IHS area would be inappropriate in this locality.

5.2 Overall, we are satisfied that the Te Kowhai Airpark Zone provisions as amended will provide a suitable framework for managing the effects of the aerodrome operations while

⁶¹ Policy 6.6 of the Waikato Regional Policy Statement.

⁶² Paragraph 17, Section 42A Report Infrastructure, dated 20 October 2020.

⁶³ Paragraph 14, Summary of Evidence of David Serjeant on behalf of NZTE Operations Limited, dated 3 March 2021.

⁶⁴ Paragraph 14, Summary of Evidence of David Serjeant on behalf of NZTE Operations Limited, dated 3 March 2021.

⁶⁵ Paragraph 892, Section 42A Report Hearing 17: Te Kowhai Airpark Zone, dated 29 January 2021.

⁶⁶ Paragraph 77, Evidence in Chief of David Serjeant on behalf of NZTE Operations Limited, 15 February 2021.

⁶⁷ Paragraph 17, Hearing Closing Statement, Section 42A Report Hearing 17: Te Kowhai Airpark Zone.

⁶⁸ Paragraph 17, Hearing Closing Statement, Section 42A Report Hearing 17: Te Kowhai Airpark Zone.

providing for its future development within appropriate environmental and safety constraints.

- 5.3 We accept the section 42A report and the evidence filed by the submitters collectively forming the section 32AA assessment informing this Decision. The final provisions of the Te Kowhai Airpark Zone are set out in **Attachment 1**.

For the Hearings Panel



Dr Phil Mitchell, Chair

Dated: 17 January 2022