

BEFORE the Independent Hearings Panel
IN THE MATTER of the Resource Management Act 1991 (“**RMA**”)
AND
IN THE MATTER of hearing submissions and further submissions in respect of Te Kowhai
Airpark Zone (Hearing 17) of the Waikato District Proposed District Plan
 (“**WPDP**”)

STATEMENT OF EVIDENCE

BY BEVAN RONALD HOULBROOKE

ON BEHALF OF GREIG METCALFE

INTRODUCTION

1. My full name is Bevan Ronald Houlbrooke and I am a Director at CKL Planning | Surveying | Engineering | Environmental ('CKL').
2. I have been employed in resource management and planning related positions in local government and the private sector for 17 years. During this time I have provided technical and project leadership on a number of small and large development proposals. My work is largely focused on greenfield and brownfield land development, subdivision and land use planning, and policy planning. I have been involved in a number of plan review and plan change processes.
3. I hold a Bachelor of Science (Resource & Environmental Planning) from the University of Waikato and a Master of Planning Practice from the University of Auckland.
4. I am a Full Member of the New Zealand Planning Institute (MNZPI).
5. I have read the code of conduct for expert witnesses contained in the Environment Court's Practice Note 2014, and agree to comply with it. I have complied with it when preparing my written statement of evidence.

BACKGROUND AND SCOPE OF EVIDENCE

6. This evidence provides a planning assessment of provisions on which Mr. Greig Metcalfe submitted on and addresses the Section 42A Report provided by the Waikato District Council (WDC) in relation to the Te Kowhai Airpark Zone.
7. Greig Metcalfe has an ownership interest in a property (Lot 2 DP 456538) at 702 Horotiu Road, Te Kowhai. This property is located to the west of the Te Kowhai Airpark and is subject to both the Airport Obstacle Limitation Surface (OLS) and the Outer Control Boundary (OCB). Figure 1 below identifies the Metcalfe property (identified in red) relative to the Te Kowhai Airpark Zone (identified in blue). The figure also shows the extent of the OLS.

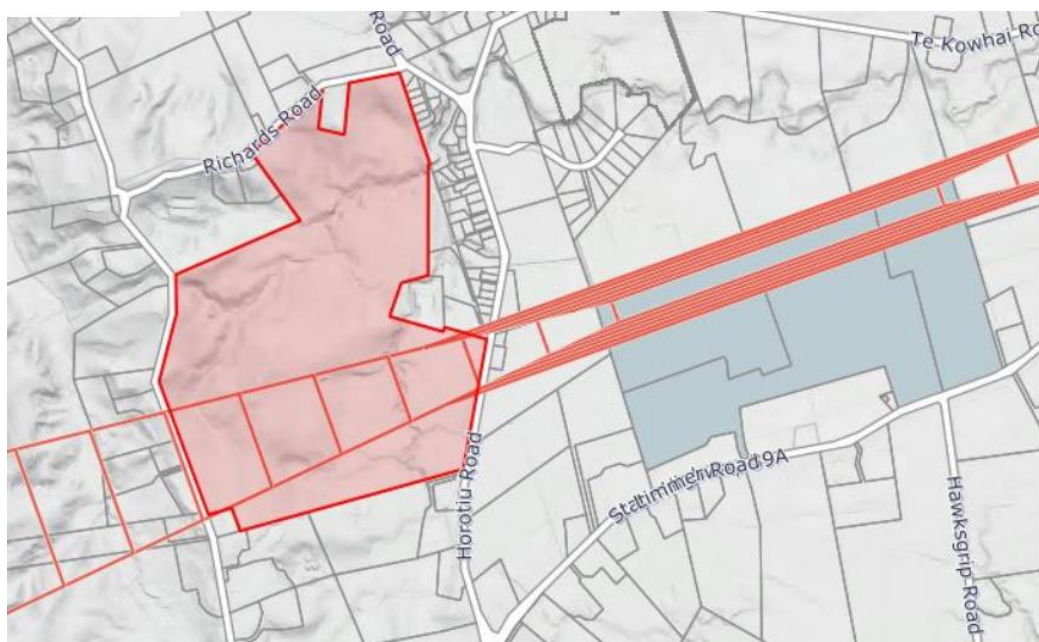


Figure 1: Metcalfe property relative to Te Kowhai Airpark Zone

- 8 The property is currently farmed and contains many mature specimen trees that will breach the proposed OLS. The trees can be seen in Figure 2 below.



Figure 2: Mature trees on Lot 2 DP 456538

9. Under the PDP the property has been zoned Village and has been identified in Waikato 2070 as a future residential growth area for Te Kowhai.
10. Greig Metcalfe is not opposed in principle to the Te Kowhai Airpark, however he is concerned about the potential adverse effects in relation to his property. The main areas of concern detailed in this evidence are:
- The ability for a flight training school to establish and for the airpark to be used for circuit training. Greig Metcalfe **supports** the recommendation in the s42A to provide for these as non-complying in the activity status table 27.1.1;
 - The lack of definitions for aviation and flying terms that could lead to ambiguity and uncertainty. Greig Metcalfe **supports** the recommendation in the s42A to replace these terms with flying and aviation activities and their respective definitions.
 - The implementation of an Obstacle Limitation Surface based on Visual Instrument Rules. Greig Metcalfe **supports** the adoption of the Obstacle Limitation Surface from the WODP in Planning Maps which is based on Visual Flight Rules.
 - Greig Metcalfe **objects** to the impact of the Obstacle Limitation Surface on existing mature trees which potentially benefit from existing use rights and seeks **clarification** on the implications including responsibility for compliance and implications of any breaches on obtaining CAA approval.
 - Noise effects including a lack of control over aircraft movements, hours of operation and adherence to Fly Neighbourly principles. Greig Metcalfe **supports** the recommendation in the s42A to impose a cap on aircraft movements (Rule 27.2.17) and hours of operation to avoid night flying (Rule 27.2.16).
 - Seek **clarification** that the non-complying activity status for noise-sensitive activities does not apply within the Outer Control Boundary (Rules 22.1.5, 24.1.3).

FLIGHT TRAINING SCHOOL AND CIRCUIT TRAINING

11. The submission from Greig Metcalfe requested that flight training schools and circuit training be provided as a non-complying activity in all precincts of the Te Kowhai Airpark Zone. The

reasons relate to noise and neighbour irritation/anxiety, and potential adverse effects on amenity that may result from such activities.

12. The frequency of aircraft undertaking flight training or circuit training has the potential to adversely affect the amenity of nearby residents, due to repeated take-offs and landings. Waharoa Aerodrome is an example of where residents have reportability been adversely affected by repeated circuit training ([Waikato Times 02/12/2019](#)).
13. The s42A report (section 8) has recommended the submission points be accepted and has recommended new definitions for “flight training school” and “circuit training”. Greig Metcalfe supports these recommendations as well as the proposed consequential amendments to Policy 9.2.2.1.

GENERAL AVIATION AND RECREATIONAL FLYING

14. The submission from Greig Metcalfe requested that definitions be provided for “general aviation” and “recreational flying” as these are listed as activities (Table 27.1.1) in the Te Kowhai Airpark but are not defined in the WPDP. The reason was to avoid ambiguity and uncertainty as to what these activities entail.
15. The s42A report (section 8) has recommended general aviation and recreational flying be deleted as activities (in Table 27.1.1) and that they are replaced by a single activity to be called “aircraft operations”. Greig Metcalfe supports these recommendations, provided the recommendation in respect of flight training schools and circuit training is also adopted.

AIRPORT OBSTACLE LIMITATION SURFACE

16. The submission from Greig Metcalfe opposed the introduction of an Obstacle Limitation Surface based on Instrument Flight Rules (IFR). The relief sought is to revert to the OLS from the Waikato Operative District Plan (WODP) which is based on Visual Flight Rules (VFR). The reasons for the submission primarily relate to the impact of lowering the OLS on mature trees on the Metcalfe property and the potential for night flying to occur under IFR.
17. As outlined in paragraph 8, the Metcalfe property contains many large specimen trees including mature Oaks and London Planes. Figure 3 is a copy of a plan provided by NZTE that has identified 40 trees (in yellow) on the Metcalfe property that already breach the proposed OLS. The bolded contour lines on Figure 3 also show where existing ground levels are between 5m to 10m of the proposed OLS and is where the height of future buildings in the Village Zone may need to be restricted in order to comply.

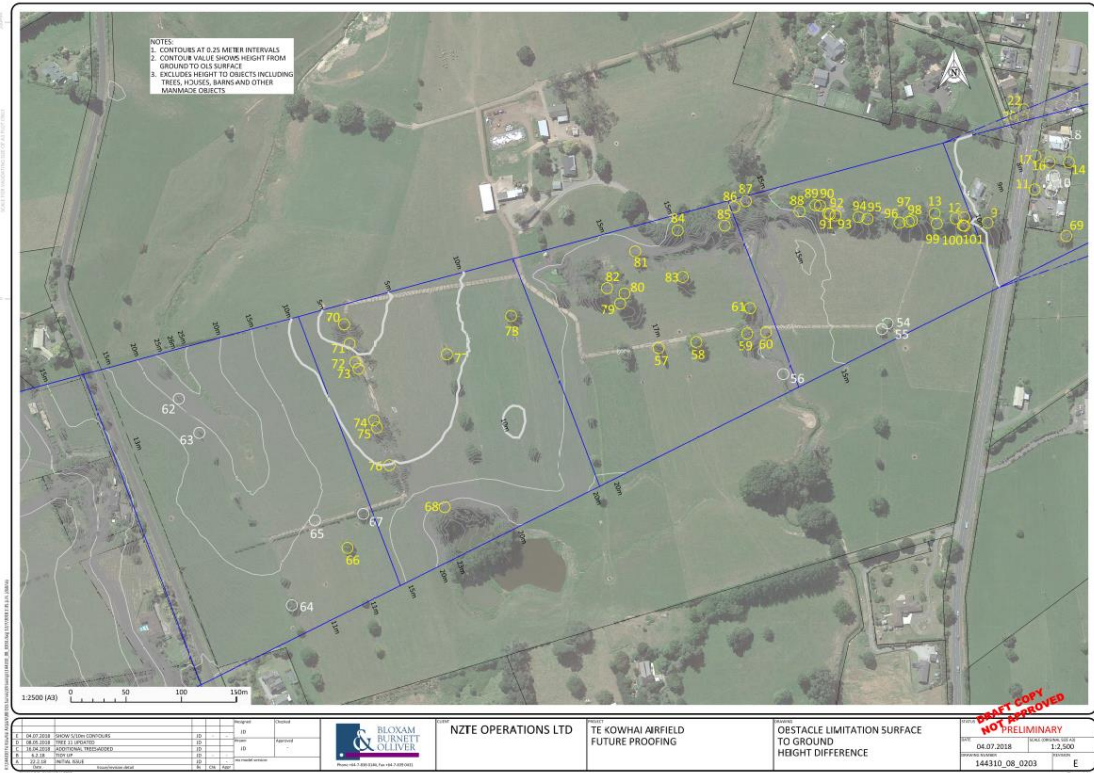


Figure 3 – Impacts of proposed OLS on Metcalfe property

18. It is important to note that the WODP does not currently control the height of trees or vegetation in the OLS. The relevant rule (25.49.1) only controls the height of buildings or structures, and notably not trees or vegetation, as set out below (emphasis given):

25.49.1 Construction or alteration of a building or structure is a permitted activity if:

(a) ...

(b) it does not protrude through the obstacle limitation surfaces defined in Appendix K (Te Kowhai Airfield), and

(c) ...

19. The relevance of the WODP not controlling the height trees or vegetation relates to the assertion that existing use rights (pursuant to s10 RMA) could potentially apply to those trees found breaching the OLS under the WPDP, including the 40+ trees on the Metcalfe property. Under s10 land may be used in a manner that contravenes a rule in a district plan or proposed district plan if both:

- the use was lawfully established before the rule became operative or the proposed plan was notified; and
- the effects of the use are the same or similar in character, intensity and scale.

20. In respect of the first test of s10, the trees on the Metcalfe property were lawfully established prior to notification of the WPDP in July 2018 and Variation 1 in June 2020. As outlined above, the WODP does not control the height of trees or vegetation in the OLS, only buildings or structures.

21. In respect of the second test of s10, the trees would need to be maintained such that their effects are the same or similar in terms of character, intensity, and scale. While this would obviously be dynamic for a tree that is growing, it would not be impossible to monitor and comply by trimming and modification to the tree.
22. The case for existing use rights has been further outlined in the legal submissions by Dr Forret. The application of existing use rights brings inevitable uncertainty about the ability for an OLS to be practically implemented should the 40+ trees on the Metcalfe property remain in situ and clearly in breach of the proposed OLS.
23. Notwithstanding the potential case for existing use rights, as a landowner, Greig Metcalfe is unclear whether the initial and on-going responsibility (and cost) to trim or fell trees sits with him, or with NZTE as operator of the airpark. It would be helpful to have this clarified. It would also be helpful to understand whether intrusions into an OLS are possible (or not) in terms of obtaining approval from CAA.
24. The s42A report (section 9.2) has recommended that the OLS from the WODP is adopted which is based on VFR rather than IFR. This position is supported by Greig Metcalfe, however his concerns remain over the issue of intruding trees (albeit fewer than with IFR due to the OLS being higher).

AIRCRAFT MOVEMENTS, HOURS AND FLY NEIGHBOURLY

24. The submission from Greig Metcalfe requested best practicable options to control the emission of noise from the operation of the airpark. Requested controls include:
 - Maximum of 21,000 aircraft movements (a number originating from the s32A)
 - Hours of operation to exclude night flying (which is enabled by IFR, but requires lighting infrastructure)
 - Preparation of an Airpark Management Plan and a Comprehensive Noise Management Plan prepared through consultation with affected landowners and taking into account Fly Neighbourly Principles which include opportunities for aircraft operators to vary their operations to reduce disturbance.
25. The s42A report (Section 14) has suggested that providing for 15,000 annual maximum aircraft movements would signal an appropriate scale of effects and that it would be appropriate to restrict flying outside of 0700 hours to 2200 hours. Greig Metcalfe is supportive of these amendments.
26. The s42A report states that inclusion of an Airpark Management Plan and Comprehensive Noise Management Plan is not required due to the proposed inclusion of noise standards, a cap on annual aircraft movements, and a restriction on night flying. Should this recommendation be accepted, Greig Metcalfe would still like to engage with NZTE on these matters outside of the District Plan framework. NZTE has previously indicated their intention to implement fly neighbourly principles at the Airpark.

OUTER CONTROL BOUNDARY (55 dB Ldn)

24. The Metcalfe property is subject to the Outer Control Boundary (55 dB), the extent of which shown in Figure 4 below:

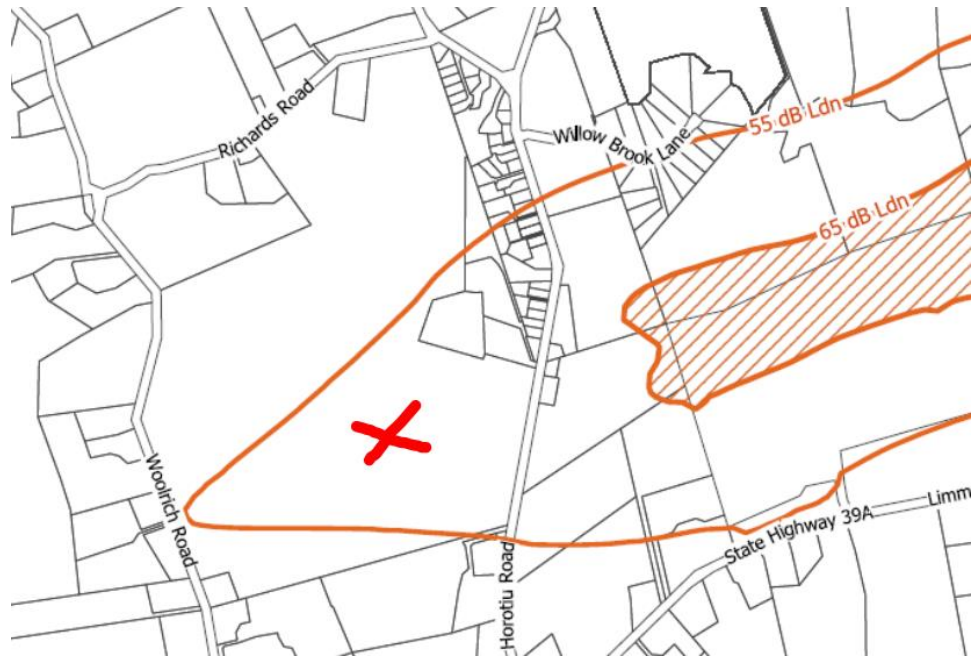


Figure 4: OCB relative to Metcalfe property (as notified)

25. The s42A report has recommended several changes relating to the management of noise associated with the Airpark. This includes modification to the extent of both the Outer Control Boundary (55 dB Ldn) and the Airport Air Noise Boundary (65 dB Ldn), as well as amended policies and new rules.
26. New rules 22.1.5 and 24.1.3 (Pages 141 and 142) provide for noise-sensitive activities located within the “Te Kowhai aerodrome Air Noise Boundary” as Non-Complying activities. The new rules are in response to a submission from NZTE (823.17 and 823.19) and their relief is specific to land within the “Te Kowhai Airpark Air Noise Boundary (65 dB Ldn)”. This submission has been opposed by affected neighbours (FS1178).
27. While I have not considered in any detail the appropriateness of these rules, it is important that should the recommendation in the s42A report be adopted, the wording should explicitly refer to 65 dB Ldn to avoid any confusion that it applies to land within the 55 dB Ldn (and therefore the Metcalfe property). The following amendments would suffice:

22.1.5 Non-Complying Activities

24.1.3 Non-Complying Activities

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

30. In conclusion, Greig Metcalfe **supports** recommendations in the s42A report relating to:
 - Providing Flight Training Schools and Circuit Training as Non-Complying activities in the activity status table 27.1.1

- Adopting the Obstacle Limitation Surface from the WODP in Planning Maps which is based on Visual Flight Rules (opposed to Instrument Flight Rules)
 - Proposed definitions relating to flying and aviation activities; and
 - Imposing a cap on aircraft movements (Rule 27.2.17) and hours of operation to avoid night flying (Rule 27.2.16)
31. Greig Metcalfe also seeks **clarity** on the implications the proposed Obstacle Limitation Surface will have on mature trees, including potential existing use rights, the responsibility for making trees comply (initially and ongoing) and the implications of any breaches on obtaining CAA approval.
32. **Amendments** have been suggested to avoid confusion on the activity status of noise sensitive activities in the Air Noise Boundaries (Rules 22.1.5, 24.1.3).

Bevan Houlbrooke

February 2020