

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Proposed Variation 2 – Whitianga Airfield, to the Thames-Coromandel District Plan

DECISION REPORT FROM THE INDEPENDENT HEARINGS COMMISSIONER

1. The Proposed Variation

The proposed variation (**the variation**) seeks to amend two separate tables in Section 28 – Airfield Height and Noise of the Thames-Coromandel District Plan (**district plan**). Specific changes are proposed for the Whitianga Airfield so that the main and subsidiary runway are identified consistently in both tables. The proposed amendments are to amend rules to no longer provide for instrument flying; to lift restrictions on maximum landing weight in Table 1, Section 28.1.1 for aircraft greater than 5700kg maximum certified take-off weight to use Whitianga Airfield; to change the Obstacle Limitation Surface for the main runway to 1:5; and, to amend the planning maps to represent the runway according to reviewed on the ground measurement, to accommodate the 1:40 gradient on both runway ends.

The amendments to Planning Map 17D, Airfield Height Restriction Overlay “Whitianga Airfield” (with consequential amendment to overlay maps 17A and 17B), are proposed to be:

- Amending the Main Transitional Surface, also called the Obstacle Limitation Surface (**OLS**) from a 1:7 gradient to a 1:5 gradient; and
- Showing the main runway strip in its actual location; and
- Amending the main runway strip length to 1265m (04-22); and
- Futureproofing the width of the runway strip at 80m.

The proposed change of gradient to the OLS is expected to better reflect the current and foreseeable future use of the airfield, while not unnecessarily constraining development of adjacent residential sites.

2. Structure of this Decision Report

This report is set out in sections as follows:

- Section 1 The Proposed Variation, which summarizes the proposal.
- Section 2 Structure of this decision report.
- Section 3 Submissions and further submissions.
- Section 4 Statutory framework for the decision on the variation and the submissions.
- Section 5 The hearing.
- Section 6 The issues.
- Section 7 Statutory considerations and plans.
- Section 8 Section 32AA of the Resource Management Act 1991 (**RMA**).
- Section 9 The overall decision.
- Attachment 1 Decisions on the submissions and further submissions.
- Attachment 2 Proposed Variation 2 as approved.
- Attachment 3 Planning map 17D.

3. Submissions and Further Submissions

3.1 Notification

The variation was publicly notified on 11 August 2017 following which 8 submissions were received. These were duly also notified and 25 further submissions received by the closing date of 6 October 2017. Details of the submissions and the further submissions are provided in the Council's section 42A RMA report (**section 42A report**).

The eight submissions received were from David Cranna, Grant Biel, the Mercury Bay Aero Club, Ken Heslin, Jan Kenny, John Stephenson, Keith Vernon and Whitianga Waterways.

3.2 Decisions on submissions

When making the decisions, clause 10 of the First Schedule of the RMA requires reasons to be given for accepting or rejecting any submissions. The decision may also include consequential amendments arising out of submissions and any other matters considered relevant and within the scope of aspects raised in submissions. The decisions are addressed below.

4. Statutory Framework

4.1 Statutory framework

The statutory framework for assessing the variation includes Part 2 of the RMA (purpose and principles), sections 31 and 32 (functions, powers and duties) and sections 73, 74 and 75 (standards, policy statements and plans). These include particularly, the variation aligning with other RMA policy and planning instruments.

Particular regard is to be given to the section 32 report on the notified version of the variation and a further evaluation, under section 32AA of the RMA, is to be completed of the changes that have been made since that report. That includes changes that are made as part of the decision on the variation.

Clause 10 of Schedule 1 of the RMA sets out the requirements of the decisions on the submissions and further submissions. There is the need to give a reasoned decision on the submissions received. It also requires that the decisions include, and have particular regard to, a further evaluation of the variation that is undertaken in accordance with section 32AA.

4.2 Relevant statutory documents

In relation to the relevant statutory documents:

Section 75(3) of the RMA requires that the variation must “give effect to”:

- Any national policy statement; and
- Any New Zealand Coastal Policy Statement;
- A national planning standard; and
- A regional policy statement.

There were no provisions brought to my attention in relation to the above although I accept otherwise, that the variation would not conflict with any regional planning provisions, whether operative or proposed.

Section 75(4) of the RMA also requires that the variation not “be inconsistent with” a water conservation order or regional plan for any matter specified in section 30(1). I am satisfied that I do not need to consider section 75(4) in coming to a decision.

Section 74(2) of the RMA requires that I must “have regard to”:

- Any proposed regional policy statement; or
- Any proposed regional plan; or
- Any management plans or strategies prepared under other acts.

Again, there were no proposed regional policy statements or proposed regional plans brought to my attention and no management plans/strategies identified as being relevant to my considerations.

5.0 The Hearing Process

5.1 The hearing

The hearing associated with the variation and the submissions was held at the Council chambers in Thames 8 December 2017. It was attended by the following:

Council/Applicant

Elisabeth Resl, consultant planner and section 42A report writer
Dave Park, aviation consultant, engineer
Bruce Baker, Council Senior Policy Planner
Anna Somervell, District Plan Co-ordinator

Submitters

Whitianga Waterways

Russell Bartlett, legal counsel
Leigh Hopper, Managing Director, Hopper Developments and Director, Whitianga Waterways
Murray Smith, consultant aviation engineer
David Lamason, consultant planner

Mercury Bay Aero Club

Bill Beard, President
Brian Wigley, Vice President
Philip Hart, Committee member

Not all the submitters and further submitters were in attendance and so, for the record, I confirm that all the submissions and further submissions have been taken into account in my consideration of the variation.

5.2 The process of the hearing

Presentations were made by the respective parties (Whitianga Waterways, the Aero Club and Council) and I provided the opportunity for discussion between the parties and myself on the points of interest. It was apparent that whilst each party expressed differing views that they had a common interest in achieving the best outcome for the future of the airfield in the interests of the Whitianga community. I discussed with the parties, and we agreed upon, an adjournment of the hearing to provide for further consultation, particularly to allow

consideration of what options may be available to the parties to meet the aims of the variation and their concerns.

Directions dated 11 December 2017 were then issued by me with the date 31 January 2018 set for advising me regarding the outcome of further consultation, or progress to date. A further Memorandum was later issued on 12 February 2018 advising that I considered there was a need to extend that date to await a further plan being prepared by the Council, that plan not being available before 19 February 2018.

Some time elapsed from that date for confirmation and agreement being received. That lapsing of time is not desirable in terms of making resource management decisions in a timely manner. However, interim advice during that period was positive in terms of an agreed position being likely to be reached. Written advice regarding the agreement subsequently reached was received from Whitianga Waterways on 25 January and 18 May 2018, from Council on 2 February 2018 and from the Aero Club on 18 May 2018.

The hearing was closed on 15 June 2018 when I had considered all the information and was of the view that it was not necessary for the hearing to be reconvened in order for me to complete this decision report.

6.0 The Issues

6.1 Introductory

It is appropriate to record at the outset that the issues for consideration were reduced given the approach of the parties to resolving differences and accommodating others' points of view, all in the best interests of the airfield and the community's interest in it, including any potential impacts from its operation.

The issues to be resolved included:

- Showing the actual ground layout of the airfield runway.
- Resolving the OLS, it being claimed that 1:7 is an unnecessary constraint.
- Recognising the airfield as an important existing and future air transport facility, both locally and regionally.
- A desire to attract quality air transport services, charter and scheduled, based on small commuter type aircraft (typically less than 20 seats).
- Using the OLS specifications to protect the airfield's operations from potentially encroaching development and reverse sensitivity.
- Recognising the positive contribution made by the airfield to the local community, including the business community, and the need to protect and enhance its operation.

6.2 The adjournment

The adjournment saw the opportunity for some conferring between the parties. The agreed position sees the following:

- The planning map to show a 4.5m clearance at the centreline of the proposed road at the northern corner of the runway.

Comment

I find agreement with that notation.

- The planning map to show the 1:5 Obstacle Limitation Surface on the main runway.

Comment

I find agreement with that notation.

- The 4.5m clearance to be specifically stated on the planning map, at both ends of the runway.

Comment

This can be notated on the planning map and supported by an explanatory note in Section 28.3, Rule 1, Table 1 in the row for Whitianga to state, after 1:40,

“At both ends of the runway a minimum 4.5m clearance shall be achieved in the location shown on planning map 17D Whitianga Airfield”.

- The inner edge is shown on the planning map.

Comment

This is the point where the take-off gradient starts from. However, it is not a surveyed point and thus difficult to write a rule for the inner edge. The best I understand the Council can do is to show it on the Smart Maps Planning module, where someone can zoom in to measure the distance between where the gradient starts and their proposed building and thus determine the building height and check compliance. Smart Maps is not part of the District Plan but has all the information that is shown on the District Plan planning maps.

7.0 Statutory Considerations and Plans

The various provisions of the RMA were addressed in the variation as it was lodged and in the evidence from the at the hearing. I find those provisions have been satisfactorily addressed. In relation to the relevant statutory documents, I find similarly that the variation as lodged and the evidence for the applicant at the hearing satisfactorily addressed these documents and plans. These documents were further considered in the section 42A report.

The matters raised in the submissions were all considered and consequently, the matters that were raised in the further submissions.

8.0 Section 32AA RMA

Section 32AA requires a further evaluation of any changes that have been made to or are proposed to the variation since the evaluation report for the original variation proposal was completed. This further evaluation is to be undertaken at a level of detail that corresponds to the scale and significance of the changes and be published in an evaluation report that is made available for public inspection at the same time as the decision on the proposal is released or, be referred to in the decision-making record in sufficient detail to demonstrate that the evaluation was undertaken in accordance with this section.

The variation as lodged with the Council by the applicant included an analysis as required by section 32 of the RMA and covered the provisions as proposed in the variation. I have no issues with that analysis.

Following notification and public participation by way of submissions and further submissions, the variation has been amended, largely to reflect the matters covered in the further consultation between the parties to the hearing. The amendments are in accord with the submissions and also generally, with what was sought by the Council in the variation as it was notified.

On that basis, I consider there has been sufficient evaluation of these amendments which, as stated, are in line with the variation as notified. Further, the amendments are also in accord with the position that was agreed by the submitters and Council following the adjournment of the hearing.

9.0 Overall Decision

Pursuant to Clause 10 of the First Schedule of the Resource Management Act 1991, I have determined, for all the reasons above, that:

- a. Variation 2 is approved, with amendments to the notified version, as per Attachment 2.
- b. The submissions that support Variation 2 are accepted in part to the extent that changes are made to the notified version, as per Attachment 2.
- c. The submissions that are neutral, opposed in part and opposed are accepted in part and to the extent that Variation 2 is approved, with amendments to the notified version, as per Attachment 2.
- d. The further submissions are similarly accepted in part to the extent that amendments are made to the notified version of Variation 2, as per Attachment 2.

A handwritten signature in black ink, appearing to read 'AR Watson', with a stylized, cursive script.

AR Watson

Independent Hearings Commissioner

21 June 2018

Attachment 1 Decisions on the Submissions and Further Submissions

Attachment 2 Proposed Variation 2 as Approved (tracked version)

Attachment 3 Planning Map 17D.