

Resource Management Act 1991

Proposed Selwyn District Plan

Rural & Township Volumes

Report on Submissions relating to

Variation 27

‘Hororata Height Restrictions’

To: Hearing Commissioner - Mr Ken Gimblett

From: Nick Boyes, Consultant Planner

Preliminary Hearing Dates: 16 & 17 July 2007

Attachments

Annexure One	Recommended Amendment to Appendix 19
Appendix One	Amendments to the Proposed District Plan as a result of Variation 27
Appendix Two	Legal Opinion from Buddle Findlay regarding Frequency of Flights
Appendix Three	Civil Aviation Authority Part 157 Aeronautical Study
Appendix Four	Correspondence with Civil Aviation Authority

This report analyses submissions made on Variation 27 to the Proposed District Plan for Selwyn District (Proposed Plan). The report is prepared under section 42A of the Resource Management Act 1991 (the Act). The purpose of the report is to assist the Hearing Commissioner in evaluating and deciding on submissions made on Variation 27 and to assist submitters in understanding how their submission affects the planning process. The report may include recommendations to accept or reject points made in submissions and to make amendments to the Proposed Plan. These recommendations are the opinions of the Reporting Officer only. The Hearing Commissioner will decide on each submission after hearing and considering all relevant submissions, the Officer's Report/s and the Council's functions and duties under the Act.

1. Introduction

- 1.1 My full name is Nicholas (Nick) Brian Boyes. I am an Associate and Planner with Resource Management Group Ltd; a Christchurch based consultant resource and environmental management firm. I hold the qualifications of Bachelor of Science (majoring Plant and Microbial Science and Geography) from the University of Canterbury and a Master of Science (Resource Management) (Honours) from Lincoln University. I have worked in the field of planning/resource management since 1999, including being employed by Selwyn District Council as a Resource Management Planner from 1999 to 2001. Since that time I have been engaged as a Consultant Planner on a frequent basis, including undertaking the role of Acting Senior Regulatory Planner and providing planning assistance to Council Hearing Panels in the role of Hearings Advisor. This experience has provided me with a working knowledge of the relevant planning provisions of Proposed District Plan and an appreciation of the planning issues facing the District.
- 1.2 I have been engaged by Selwyn District Council to prepare and present evidence on submissions made on the Proposed Plan relating to Variation 27 'Hororata Height Restrictions'. The purpose of this report is to consider the substance of the submissions and to make recommendations as to whether such submissions should be accepted or rejected.

2. Report Content

2.1 This report:

- (i) Provides an overview of Variation 27.
- (ii) Outlines the nature of submissions.
- (iii) Provides an assessment of each submission.

2.2 The points made or decisions requested in submissions on the Variation are summarised within Section 5 of the report. The Hearing Commissioner will have a full copy of all submissions. No further submissions were received in relation to this Variation.

3. Overview of Variation 27

3.1 The reasons for undertaking Variation 27 date back to the findings of the original Hearing Panel which considered submissions made to the Proposed Plan. Having heard various evidence relating to the height restrictions included in the Proposed Plan as notified, the Panel concluded:

1. *That height restrictions are required to provide for the safety of aircraft users.*
2. *That the existing restrictions cannot be justified with respect to:*
 - i. *The slope angle of the approach paths; and*
 - ii. *The alignment of the height limits.*
3. *That restrictions which provide for:*
 - *A slope gradient of 1 in 20; and*
 - *The alignment of the lines marking the height limits at right angles to the centrelines of the runways**can be justified as causing minimal interference to adjacent properties. For example these changes would alter the present 8m height restriction at the front boundary of properties on Hororata Road to 12m.*
(D27, paragraph 3.1.1.20, page 19)

3.2 However, the Panel agreed with the opinion expressed by Mr Barber in the section 42A report that both the gradient and the way in which the height restrictions are illustrated on the plans appended to the Proposed Plan could not be amended due to the scope of submissions received. Furthermore, the Panel did not consider that the Proposed Plan could be amended as a correction of an error, because this would “have an effect on the property rights of both the users of the airfield and property owners/occupiers within the approach slopes”. The Panel concluded that the Council should:

Initiate a Variation to the Proposed Plan so as to:

1. *Provide for the designation of R2217 as “Recreation Reserve”.*
2. *Provide for revised height restrictions based on a gradient of 1 in 20 for the aircraft approach paths.*
3. *Provide for the alignment of the lines marking the height limits to be at right angles to the centre lines of the runways.*

- 3.3 The decision made by the Hearing Panel was subsequently appealed to the Environment Court. That appeal was withdrawn at the time of the notification of Variation 27 to amend the height restrictions. It is understood that the appellant will pursue any remaining concerns regarding the height restrictions through this Variation process.
- 3.4 In addition to the matters raised by the previous Hearings Panel, during the course of investigating the matters relating to the Variation, it was identified that the present rules relating to tree height were drafted in a restrictive manner that prevented the planting of any tree/s that would eventually grow higher than the height restrictions allow.
- 3.5 On that basis it was considered that these rules should be amended to not prevent the planting of trees *per se*, but rather ensure that any new trees planted are maintained at a level in compliance with the height restrictions.
- 3.6 In light of the matters above the Council decided that a Variation was necessary to ensure that the objectives, policies and implementation methods (rules) achieve the relevant objectives of the Proposed Plan and Part 2 of the Resource Management Act 1991 (the Act).
- 3.7 The section 32 evaluation attached to the Variation document considered a number of alternatives to achieve the existing objectives of the Proposed Plan. The options included a range of outcomes for leaving the height restrictions as they were, to removing the height restrictions from the Proposed Plan altogether.
- 3.8 Overall, the Council determined that provisions to amend the height restrictions were the most appropriate means to achieve the objectives of the Proposed Plan and that a Variation was necessary in order to implement the proposed amendments.
- 3.9 For ease of reference, the amendments made to the Proposed Plan as a result of the notification of Variation 27 are contained in **Appendix One**.
- 3.10 The changes to the height restrictions can be summarised as follows:
- The change of approach surface slope from 1 in 30 to 1 in 20. This has the effect of making the slope steeper and reducing the effect on adjoining properties.
 - Having the approach surface rise from a displaced threshold perpendicular to the alignment of the runway rather than parallel to the Domain boundary.

- Reducing the area to which the height restrictions apply by shortening the outer boundary from 2000m to 1200m.
- Changing the surface splay outwards from 1 in 5 for the first 1000m and then 1 in 20 for the next 1000m, to being 1 in 20 for the entire 1200m.
- Removing the transitional surfaces applying at the sides of the approach surface.
- Removing the 'general height limits' of 20m, 40m and 60m, which applied at for a distance of 100m, 500m and 1000m from the Hororata Domain respectively.

4. Consultation

- 4.1 The Council undertook pre-notification consultation during the course of promulgating the Variation. This consultation consisted of sending property owners located under the height restrictions a copy of the initial Scoping Report prepared for Selwyn District Councillors, and a subsequent Agricultural Report – Land Use Assessment, which considered the impact of the proposed amended height restrictions on the use of adjoining properties for permitted rural uses.
- 4.2 Feedback and comment on these reports was invited and a 'drop-in' meeting held in the Hororata Community Hall on the evening of 11 October 2006. Various views and opinions were expressed by members of the local community. Much of the comment related to the use of the Domain for gliding per se, and not necessarily the matter of height restrictions.

5. Submissions

- 5.1 A summary of submissions received on the Variation is listed below.

Submission number: 97	
Submitter: Jennifer Wynn Studholme	Position: Oppose
Submission Details:	
<p>97.1 Summary: (Height Restrictions (General)) The submitter does not want height restrictions enforced as this would affect the property that they wish to develop. The submitter argues that the majority of people wish to have an aerodrome free reserve. It is inappropriate to have height restrictions around a reserve. The Reserve Board in 1981 allowed the airfield to be established in good faith and are horrified that it is now invoking such penalties on the community.</p> <p>Decision sought: That the variation not be proceeded with.</p>	
Submission number: 98	
Submitter: The Canterbury Gliding Club (Incorporated)	Position: Oppose
Submission Details:	
<p>98.1 Summary: (Safe Airfield Operation) The submitter opposes the provisions relating to the position of the displaced thresholds and wish them to be amended. That the variation is wrong in fact in law. That the variation could in the future due to the growth of trees or position of new structures cause the airfield to become dangerous for the purpose of a gliding airfield. This may leave the Selwyn District Council open to some degree of liability. That the guidelines in CAA Advisory Circular 07A have not been followed.</p> <p>Decision sought: That the variation be amended to fit into line with the CAA Advisory Circular 07A guidelines</p>	

Submission number: 104	
Submitter: Brian Arnold Fineran	Position: Oppose
Submission Details:	
<p>104.1 Summary: (Height Restrictions (General)) The submitter owns 115 Hororata Road (for 30 years) that has established trees and is opposite the Hororata Domain. The submitter opposes the proposal in relation to height of trees and commercial buildings and deem that it is inappropriate to impose restrictions on property owners that cannot be maintained in law. The submitter argues that the proposal is in breach of Resource Management principles and/or private property rights.</p> <p>Decision sought: That the variation 27 insofar as affects property owners no be proceeded with.</p> <p>104.2 Summary: (Flight frequency) The submitter is concerned that the frequency of gliding activity on the neighbouring property has exceeded the permitted number of flights. That Selwyn District Council has not been enforcing limits but seeks to impinge on property rights.</p> <p>Decision sought: Same as decision sought in 104.1</p> <p>104.3 Summary: (Safety of private property) The submitter has concerns over safety issues. On 27 September 2006 a tow plane with a tow rope attached collided with transmission lines on Hororata Road in the vicinity of the gliding club, causing an electrical arc which set fire to a old specimen Cupressus tree and adjoining roadside pine hedge at 115 Hororata Road. The house on the property was also endangered. The submitter argues that these issues are a matter for the gliding club rather than impacting on the property rights of adjoining property owners.</p> <p>Decision sought: Same as decision sought in 104.1</p>	
Submission number: 105	
Submitter: Robert James Wilson	Position: Oppose
Submission Details:	
<p>105.1 Summary: (Height Restrictions (General)) The submitter owns property on Hororata Road which is affected by height restrictions. The submitter opposes any height restrictions.</p> <p>Decision sought: To remove all height restrictions.</p> <p>105.2 Summary: (Flight Frequency) The submitter argues that gliding club are in breach of conditions of its lease, which Selwyn District Council administer.</p> <p>Decision sought: Same as decision sought in 105.1.</p>	
Submission number: 106	
Submitter: Paul Stevenson Ross	Position: Oppose
Submission Details:	
<p>106.1 Summary: (Height Restrictions (General)) The submitter resides in the area on a property with established trees. The submitter opposes the proposal in relation to height of trees and commercial buildings and deem that it is inappropriate to impose restrictions on property owners that cannot be maintained in law. The submitter argues that the proposal is in breach of Resource Management principles and/or private property rights.</p> <p>Decision sought: That variation 27 insofar as affects property owners not be proceeded with.</p> <p>106.2 Summary: (Flight frequency) The submitter is concerned that the frequency of gliding activity on the neighbouring property has exceeded the permitted number of flights. That Selwyn District Council has not been enforcing limits but seeks to impinge on property rights.</p> <p>Decision sought: Same as decision sought in 106.1</p> <p>106.3 Summary: (Safety of private property) The submitter has concerns over safety issues. On 27 September 2006 a tow plane with a tow rope attached collided with transmission lines on Hororata Road in the vicinity of the gliding club, causing an electrical arc which set fire to resident's trees and endangered a nearby home. These issues are a matter for the gliding club rather than impacting on the property rights of adjoining property owners.</p> <p>Decision sought: Same as decision sought in 106.1</p>	
Submission number: 107	
Submitter: Hororata Concerned Citizens Society Incorporated	Position: Oppose
Submission Details:	
<p>107.1 Summary: (Height Restrictions (General)) The submitter is opposed to the height restrictions on properties surrounding the Hororata Domain. The submitter argues that the Gliding Club should be required to internalise effects associated with take off and landing of gliders. The Gliding Club is relying on airspace above these properties for its own private purposes and adversely impacting on the properties and amenity values in the area.</p> <p>Decision sought: That Variation 27 insofar as it affects property owners not be proceeded with. Delete those additional height restrictions affecting properties surrounding the Domain for reasons associated with the use of the Domain as an airfield.</p> <p>107.2 Summary: (Safe Airfield Operation) The submitter states that there is insufficient evidence to support the need for height restrictions for safe operation of the airfield. Height restrictions are not required by the Civil Aviation Authority and therefore not a matter which should be imposed by the Selwyn District Council.</p>	

Decision sought: Same as decision sought in 107.1	
107.3 Summary: (Lease Expiry) The submitter states that the lease which the Gliding Club operate under is due to expire on 1 January 2011. On that basis there will be no justification for height restrictions. If the variation is approved then any rules or requirements should be temporary; until the expiry of the lease. Decision sought: Same as decision sought in 107.1	
Submission number: 108	
Submitter: Vanessa Denise Murray	Position: Oppose
Submission Details:	
108.1 Summary: (Height Restrictions (General)) The submitter objects to the proposed height limitations of trees. Decision sought: That variation 27 insofar as affects property owners not be proceeded with.	
Submission number: 109	
Submitter: Kelvin Arthur Kimber	Position: Oppose
Submission Details:	
109.1 Summary: (Height Restrictions (General)) The submitter resides in the area on a property with established trees and partly under the proposed restrictions. The submitter opposes the proposal in relation to height of trees and deems that it is inappropriate to impose restrictions on property owners that cannot be maintained in law. The submitter argues that the proposal is in breach of Resource Management principles and/or private property rights. Decision sought: That variation 27 insofar as affects property owners not be proceeded with.	
109.2 Summary: (Flight frequency) The submitter is concerned that the frequency of gliding activity on the neighbouring property has exceeded the permitted number of flights. That Selwyn District Council has not been enforcing limits but seeks to impinge on property rights. Decision sought: Same as decision sought in 109.1	
109.3 Summary: (Safety of private property) The submitter has concerns over safety issues. On 27 September 2006 a tow plane with a tow rope attached collided with transmission lines on Hororata Road in the vicinity of the gliding club, causing an electrical arc which set fire to resident's trees and endangered a nearby home. These issues are a matter for the gliding club rather than impacting on the property rights of adjoining property owners. Decision sought: Same as decision sought in 109.1	
Submission number: 110	
Submitter: Janet and Stephen Harris	Position: Oppose
Submission Details:	
110.1 Summary: (Height Restrictions (General)) The submitter is opposed to the height restrictions on properties surrounding the Hororata Domain. The submitter argues that the Gliding Club should be required to internalise effects associated with take off and landing of gliders. The Gliding Club is relying on airspace above these properties for its own private purposes and adversely impacting on the properties and amenity values in the area. Decision sought: Delete those additional height restrictions affecting properties surrounding the Domain for reasons associated with the use of the Domain as an airfield.	
110.2 Summary: (Safe Airfield Operation) The submitter states that there is insufficient evidence to support the need for height restrictions for safe operation of the airfield. Height restrictions are not required by the Civil Aviation Authority and therefore not a matter which should be imposed by the Selwyn District Council. Decision sought: Same as decision sought in 110.1	
110.3 Summary: (Lease Expiry) The submitter states that the lease which the Gliding Club operate under is due to expire on 1 January 2011. On that basis there will be no justification for height restrictions. If the variation is approved then any rules or requirements should be temporary; until the expiry of the lease. Decision sought: Same as decision sought in 110.1	
Submission number: 111	
Submitter: Gregory Arthur Bluck and Anne Elizabeth Bluck	Position: Oppose
Submission Details:	
111.1 Summary: (Height Restrictions (General)) The submitter resides in the area on a property with established trees. The submitter opposes the proposal in relation to height of trees and commercial buildings and deem that it is inappropriate to impose restrictions on property owners that cannot be maintained in law. The submitter argues that the proposal is in breach of Resource Management principles and/or private property rights. Decision sought: That variation 27 insofar as affects property owners not be proceeded with.	
111.2 Summary: (Flight frequency) The submitter is concerned that the frequency of gliding activity on the neighbouring property has exceeded the permitted number of flights. That Selwyn District Council has not been enforcing limits but seeks to impinge on property rights. Decision sought: Same as decision sought in 111.1	
111.3 Summary: (Safety of private property) The submitter has concerns over safety issues. On 27 September 2006 a tow plane with a tow rope attached collided with transmission lines on Hororata Road in the vicinity of the gliding club, causing an electrical arc which set fire to resident's trees and endangered a nearby home. These issues are a matter for	

<p>the gliding club rather than impacting on the property rights of adjoining property owners. Decision sought: Same as decision sought in 111.1</p>	
<p>Submission number: 112</p>	
<p>Submitter: Douglas Charles Oliver and Vicki Anne Ruth Oliver</p>	<p>Position: Oppose</p>
<p>Submission Details:</p>	
<p>112.1 Summary: (Height Restrictions (General)) The submitter resides in the area on a property with established trees and commercial buildings. The submitter opposes the proposal in relation to height of trees and deems that it is inappropriate to impose restrictions on property owners that cannot be maintained in law. The submitter argues that the proposal is in breach of Resource Management principles and/or private property rights. Decision sought: That variation 27 insofar as affects property owners not be proceeded with.</p>	
<p>112.2 Summary: (Flight frequency) The submitter is concerned that the frequency of gliding activity on the neighbouring property has exceeded the permitted number of flights. That Selwyn District Council has not been enforcing limits but seeks to impinge on property rights. Decision sought: Same as decision sought in 112.1</p>	
<p>112.3 Summary: (Safety of private property) The submitter has concerns over safety issues. On 27 September 2006 a tow plane with a tow rope attached collided with transmission lines on Hororata Road in the vicinity of the gliding club, causing an electrical arc which set fire to resident's trees and endangered a nearby home. These issues are a matter for the gliding club rather than impacting on the property rights of adjoining property owners. Decision sought: Same as decision sought in 112.1</p>	
<p>Submission number: 113</p>	
<p>Submitter: Margaret M L Eade, Thomas J Eade and Marion M Turner</p>	<p>Position: Oppose</p>
<p>Submission Details:</p>	
<p>113.1 Summary: (Height Restrictions (General)) The submitter resides in the area on a property with established trees on the NW runway. The submitter opposes the proposal in relation to height of trees and deems that it is inappropriate to impose restrictions on property owners that cannot be maintained in law. The submitter argues that the proposal is in breach of Resource Management principles and/or private property rights. Decision sought: That variation 27 insofar as affects property owners not be proceeded with.</p>	
<p>113.2 Summary: (Flight frequency) The submitter is concerned that the frequency of gliding activity on the neighbouring property has exceeded the permitted number of flights. That Selwyn District Council has not been enforcing limits but seeks to impinge on property rights. Decision sought: Same as decision sought in 113.1</p>	
<p>113.3 Summary: (Safety of private property) The submitter has concerns over safety issues. On 27 September 2006 a tow plane with a tow rope attached collided with transmission lines on Hororata Road in the vicinity of the gliding club, causing an electrical arc which set fire to resident's trees and endangered a nearby home. These issues are a matter for the gliding club rather than impacting on the property rights of adjoining property owners. Decision sought: Same as decision sought in 113.1</p>	
<p>Submission number: 114</p>	
<p>Submitter: David Andrew Oliver</p>	<p>Position: Oppose</p>
<p>Submission Details:</p>	
<p>114.1 Summary: (Height Restrictions (General)) The submitter resides in the area on a property with established trees. The submitter opposes the proposal in relation to height of trees and deems that it is inappropriate to impose restrictions on property owners that cannot be maintained in law. The submitter argues that the proposal is in breach of Resource Management principles and/or private property rights. Decision sought: That variation 27 insofar as affects property owners not be proceeded with.</p>	
<p>114.2 Summary: (Flight frequency) The submitter is concerned that the frequency of gliding activity on the neighbouring property has exceeded the permitted number of flights. That Selwyn District Council has not been enforcing limits but seeks to impinge on property rights. Decision sought: Same as decision sought in 114.1</p>	
<p>114.3 Summary: (Safety of private property) The submitter has concerns over safety issues. On 27 September 2006 a tow plane with a tow rope attached collided with transmission lines on Hororata Road in the vicinity of the gliding club, causing an electrical arc which set fire to resident's trees and endangered a nearby home. These issues are a matter for the gliding club rather than impacting on the property rights of adjoining property owners. Decision sought: Same as decision sought in 114.1</p>	

Submission number: 115	
Submitter: Kelvyn and Janice Buckingham	Position: Oppose
Submission Details:	
<p>115.1 Summary: (Height Restrictions (General)) The submitter resides across the road from the Hororata Domain. The submitter opposes the proposal in relation to height of trees and deems that it is inappropriate to impose restrictions on property owners that cannot be maintained in law. The submitter argues that the proposal is in breach of Resource Management principles and/or private property rights. Decision sought: That variation 27 insofar as affects property owners not be proceeded with.</p> <p>115.2 Summary: (Flight frequency) The submitter is concerned that the frequency of gliding activity on the neighbouring property has exceeded the permitted number of flights. That Selwyn District Council has not been enforcing limits but seeks to impinge on property rights. Decision sought: Same as decision sought in 115.1</p> <p>115.3 Summary: (Safety of private property) The submitter has concerns over safety issues. On 27 September 2006 a tow plane with a tow rope attached collided with transmission lines on Hororata Road in the vicinity of the gliding club, causing an electrical arc which set fire to resident's trees and endangered a nearby home. These issues are a matter for the gliding club rather than impacting on the property rights of adjoining property owners. Decision sought: Same as decision sought in 115.1</p>	
Submission number: 116	
Submitter: Kathryn and Brendan Doherty	Position: Oppose
Submission Details:	
<p>116.1 Summary: (Height Restrictions (General)) The submitter resides within 3km of the Hororata Domain. The submitter opposes the proposal in relation to height of trees and deems that it is inappropriate to impose restrictions on property owners that cannot be maintained in law. The submitter argues that the proposal is in breach of Resource Management principles and/or private property rights. Decision sought: That variation 27 insofar as affects property owners not be proceeded with.</p> <p>116.2 Summary: (Flight frequency) The submitter is concerned that the frequency of gliding activity on the neighbouring property has exceeded the permitted number of flights. That Selwyn District Council has not been enforcing limits but seeks to impinge on property rights. Decision sought: Same as decision sought in 116.1</p> <p>116.3 Summary: (Safety of private property) The submitter has concerns over safety issues. On 27 September 2006 a tow plane with a tow rope attached collided with transmission lines on Hororata Road in the vicinity of the gliding club, causing an electrical arc which set fire to resident's trees and endangered a nearby home. These issues are a matter for the gliding club rather than impacting on the property rights of adjoining property owners. Decision sought: Same as decision sought in 116.1</p>	
Submission number: 117	
Submitter: Henry Channon Studholme and Jennifer Wynn Studholme	Position: Oppose
Submission Details:	
<p>117.1 Summary: (Height Restrictions (General)) The submitter resides in the area on a property with established trees and commercial buildings. They oppose the proposal in relation to height of trees and commercial buildings and deem that it is inappropriate to impose restrictions on property owners that cannot be maintained in law. The submitter argues that the proposal is in breach of Resource Management principles and/or private property rights. Decision sought: That variation 27 insofar as affects property owners not be proceeded with.</p> <p>117.2 Summary: (Flight frequency) The submitter is concerned that the frequency of gliding activity on the neighbouring property has exceeded the permitted number of flights. That Selwyn District Council has not been enforcing limits but seeks to impinge on property rights. Decision sought: Same as decision sought in 117.1</p> <p>117.3 Summary: (Safety of private property) The submitter has concerns over safety issues. On 27 September 2006 a tow plane with a tow rope attached collided with transmission lines on Hororata Road in the vicinity of the gliding club, causing an electrical arc which set fire to resident's trees and endangered a nearby home. These issues are a matter for the gliding club rather than impacting on the property rights of adjoining property owners. Decision sought: Same as decision sought in 117.1</p>	

6. Assessment of Submissions

Introduction

- 6.1 As indicated in the table above, the submissions received have been summarised into five topic areas for consideration:
- a) Height Restrictions (General)
 - b) Flight Frequency
 - c) Safe Airfield Operation
 - d) Safety of Private Property
 - e) Lease Expiry
- 6.2 Two of the matters referred to within the submissions are not considered to be directly relevant to the Variation. These relate to Flight Frequency and the Lease Expiry, on that basis they are addressed first.

Flight Frequency

- 6.3 As set out in the Variation document, the Variation is concerned with the consideration of height restrictions that should be imposed on properties in the vicinity of the Hororata Domain in order to provide for peoples health and safety as required by section 5(2) in Part 2 of the Act. The Variation does not consider the use of the Hororata Domain by the Canterbury Gliding Club, that issue is determined by the lease and more broadly by the designation of the Domain for recreational purposes. The latter having been subject to declaration proceedings in the Environment Court.
- 6.4 The submissions of **Brian Fineran (104.2)**, **Robert Wilson (105.2)**, **Paul Ross (106.2)**, **Kelvin Kimber (109.2)**, **Gregory and Anne Bluck (111.2)**, **Douglas and Vicki Oliver (112.2)**, **Margaret and Thomas Eade and Marion Turner (113.2)**, **David Oliver (114.2)**, **Kelvyn and Janice Buckingham (115.2)**, **Kathryn and Brendan Doherty (116.2)**, and **Henry and Jennifer Studholme (117.2)** all refer to the concern that the restrictions *“are to provide for a club which is in breach of its conditions of its lease...”* or relate to *“gliding activity conducted from a neighbouring property with a frequency outside that permitted by the lease on Selwyn District Council and that the Selwyn District Council is not enforcing its lease but seeking to impinge our property rights”*.
- 6.5 The issue of the frequency of flights was canvassed in both the Scoping Report that preceded the Variation and the Variation document itself. The Council determined at that time to not include any restriction on the number of flights; with that matter already being

addressed through the conditions set out in the existing lease. On that basis consideration of flight frequency is considered beyond the scope of the Variation.

- 6.6 Notwithstanding, in response to concerns raised by the Hororata Reserve Management Committee, I am aware that the Council's Asset Manager has obtained a legal opinion regarding the frequency of flights set out therein. This opinion is attached as **Appendix Two**. This is attached for information purposes only and does not otherwise impact on the matter of height restrictions considered as part of this Variation.

Recommendation 1

That the Council:

1. **Rejects** the submissions by **Brian Fineran (104.2), Robert Wilson (105.2), Paul Ross (106.2), Kelvin Kimber (109.2), Gregory and Anne Bluck (111.2), Douglas and Vicki Oliver (112.2), Margaret and Thomas Eade and Marion Turner (113.2), David Oliver (114.2), Kelvyn and Janice Buckingham (115.2), Kathryn and Brendan Doherty (116.2), and Henry and Jennifer Studholme (117.2).**

Amendments to the Proposed Plan

Nil.

Lease Expiry

- 6.7 The submissions of the **Hororata Concerned Citizens Society Incorporated (107.3)** and **Janet and Stephen Harris (110.3)** refer to the expiry of the lease on 1 January 2011. On the basis of the timeframe until the lease expires, the submitters state that there is no need for the height restrictions. Furthermore, if the Variation is approved, then any rules or requirements in respect thereof should be temporary up until the expiry of the lease.
- 6.8 In my view this matter affects the duration of time that any height restrictions should be in effect, as opposed to whether height restrictions should be imposed. However, I can appreciate an element of frustration on behalf of submitters if they feel that the Variation process is a 'waste of time and money', given the upcoming lease expiry. Notwithstanding, it is considered that the future of the lease is not certain one way or the other. Therefore the future of the lease is not considered a reason to cease with the Variation process at this time.
- 6.9 Much of the criticisms raised by submitters regarding the reasoning behind the Variation, and the upcoming lease expiry, appear to overlook the fact that height restrictions are

included in the Proposed Plan at present; having been introduced since the notification of the Proposed Plan in September 2001 (Rural Volume). The primary purpose of the Variation is to reduce the effect of those restrictions on adjoining properties (including reducing the approach slope angle from 1 in 30 to 1 in 20, reducing the length of the approach slope and removing restrictions outside the approach slope boundaries). In order to give effect to the recommendations of the original Hearing Panel that heard submissions on the Proposed Plan, the Council decided to amend the height restrictions contained within the Proposed Plan to make them consistent with the appropriate CAA guidelines. It was on that basis that the Council commenced with the present Variation.

- 6.10 Whilst, the future of the lease is uncertain, it is still considered appropriate to continue with the Variation in order to ensure that the height restrictions imposed are in accordance with the appropriate Civil Aviation Advisory Circular (discussed below).
- 6.11 As an aside, the presence of the Canterbury Gliding Club (the Club) is authorised by the designation over the site and also by the lease to allow access. Should the lease expire and the Club's activities cease, then it would not be possible for any other group to come in and rely on an existing use right to continue gliding activity. Therefore in my view the use of the domain for gliding activity is directly linked to a lease over the Domain. Should the lease expire it would be my recommendation that the Council initiate a Variation at that time to remove the height restrictions.

Recommendation 2

That the Council:

1. **Rejects** the submissions by **Hororata Concerned Citizens Society Incorporated (107.3)** and **Janet and Stephen Harris (110.3)**.

Amendments to the Proposed Plan

Nil.

Height Restrictions (General)

- 6.12 The remaining three submission categories relate directly to matters affecting whether or not height restrictions should be included in the Proposed Plan, and if so, what they should be. The first of these is a general reference to height restrictions which considers comments made by many submitters regarding the legality of height restrictions and matters concerning property rights.

- 6.13 These matters are raised in the submissions of **Jennifer Studholme (97.1)**, **Brian Fineran (104.1)**, **Robert Wilson (105.1)**, **Paul Ross (106.1)**, **Hororata Concerned Citizens (107.1)**, **Vanessa Murray (108.1)**, **Kelvin Kimber (109.1)**, **Janet and Stephen Harris (110.1)**, **Gregory and Anne Bluck (111.1)**, **Douglas and Vicki Oliver (112.1)**, **Margaret and Thomas Eade and Marion Turner (113.1)**, **David Oliver (114.1)**, **Kelvyn and Janice Buckingham (115.1)**, **Kathryn and Brendan Doherty (116.1)**, and **Henry and Jennifer Studholme (117.1)**.
- 6.14 In terms of the legality of height restrictions, it is noted that the use of height restrictions is well established in other planning documents in order to maintain the safe and efficient operation of aircraft. In this regard such provisions are considered to be in accordance with the functions, duties and powers set out in sections 31 and the standards for Plans in sections 74, 75 and 76 of the Act. Furthermore, District Plans include various other restrictions over the use of private land and therefore the inclusion of height restrictions is not considered to be a breach of private property rights any more than other bulk and location requirements included in City and District Plans.
- 6.15 In terms of scope, I have reservations that any decision to remove the height restrictions entirely would be within the scope of the present Variation. As stated above, the Council considered a range of options as part of the section 32 analysis, including removing height restrictions from the Proposed Plan in relation to the Hororata Domain. This option was not adopted, instead the Council decided to proceed with the present Variation to amend the height restrictions to bring them in line with the CAA Advisory Circular. It is my view that any decision to remove the height restrictions is outside the scope of the present process and would require a new Variation. As stated above, to withdraw or not proceed with the Variation as suggested by some submitters would in fact result in the continuation of the more onerous height restrictions included in the Proposed Plan as notified.
- 6.16 The issue of whether height restrictions are in accordance with resource management principles will be discussed further below.

Safe Airfield Operation and Safety of Private Property

- 6.17 Safe airfield operation and safety of private property are considered the primary considerations before determining both whether height restrictions are required, and if so, what they should be. As stated above the starting point for this Variation was the height restrictions included in the Proposed Plan as notified.

- 6.18 Such matters were specifically raised in the submissions of **The Canterbury Gliding Club (Incorporated) 98.1**, **Brian Fineran (104.3)**, **Paul Ross (106.3)**, **Hororata Concerned Citizens (107.2)**, **Kelvin Kimber (109.3)**, **Janet and Stephen Harris (110.2)**, **Gregory and Anne Bluck (111.3)**, **Douglas and Vicki Olliver (112.3)**, **Margaret and Thomas Eade and Marion Turner (113.3)**, **David Oliver (114.3)**, **Kelvyn and Janice Buckingham (115.3)**, **Kathryn and Brendan Doherty (116.3)**, and **Henry and Jennifer Studholme (117.3)**.
- 6.19 The Variation sought to amend the existing height restrictions contained in the Proposed Plan. These existing provisions seek to ensure that the approach paths to the Hororata Domain are free of obstructions for aircraft taking off and landing, by restricting the height of buildings and other structures and trees beneath the approach surfaces. This protection is provided by the use of inclined take off and approach surfaces that extend upwards and outwards from the end of each runway. The restrictions in the Proposed Plan affect land outside the Hororata Domain. In my view any use of land within the Hororata Domain in accordance with the designated 'recreation' purpose is not affected by the height restrictions.
- 6.20 The Civil Aviation Authority (CAA) has a general responsibility for the safety of aircraft and passengers, and has issued an advisory circular that sets out the standards for aerodrome design that all airfields and airfield users must comply with. One of the objectives of these standards is to ensure that the airspace at either end of runways is free of obstacles.
- 6.21 Previously the scale of use at the Hororata Domain fell outside the inspection process of the CAA, and it was up to the airfield users to ensure that they have the appropriate protection surfaces and clear paths and to ensure that these remain clear of obstructions.
- 6.22 To assist with this process the Hororata Gliding Club made a submission on the 1995 Proposed District Plan (withdrawn), asking for height restrictions around the domain to ensure safe take-off and landing, similar to those which apply to West Melton Airfield. The proposed height limits included in the 2000 Proposed Plan were in response to that request. Variation 27 subsequently amended the restrictions to better reflect the advice received from the CAA.
- 6.23 Since the Variation was notified the CAA has undertaken a Part 157 Aeronautical Study in response to a request from the Gliding Club due to the increased usage of the Hororata Domain by the Club. A copy of this Study is attached as **Appendix Three**.

- 6.24 The conclusion of that report is that *“the proposed action will not adversely affect the safe and efficient use of airspace, nor the safety of persons or property on the ground”*. On that basis it could be argued that height restrictions are not required as the use of the Hororata Domain for gliding purposes has been deemed safe by the appropriate authority. However, this report is clear to state that the *“imposition of height restrictions on buildings surrounding the aerodrome by the Selwyn District Council”* is outside the scope of the aeronautical study. The findings of this report are essentially a reflection of the current environment. The purpose of the height restriction contained in the Proposed Plan is to maintain this safe situation and maintain the use of the Domain for gliding purposes.
- 6.25 Many submitters raised the incident which occurred on 27 September 2006 when a tow plane with tow rope attached collided with transmission lines on Hororata Road. This caused an electrical arc which set fire to a hedge on private property. This incident is referred to in the CAA report and it is understood was part of a separate incident investigation and report by the CAA. This procedure is considered to fall outside the scope of the matters considered by the Variation.
- 6.26 During the course of the aeronautical study the CAA were contacted to make the authority aware of the Variation affecting the height restrictions included in the Proposed Plan. A copy of this email correspondence and the response from Mr Max Evans (CAA Aeronautical Services Officer) is attached as **Appendix Four**.
- 6.27 In terms of the affect on the current Variation , the key aspects of this correspondence are as follows:

The CAA does not require that height restrictions are put in place and this is not considered when conducting an aeronautical study. The requirements placed on an aerodrome operator and the aircraft operator are that they have approach and departure fans that are clear of obstacles.

The method used by the aerodrome operator to protect the approach/departure fans is the responsibility of the aerodrome operator. The simplest way of course is to place these height restrictions in the district scheme but some aerodrome operators have put in place agreements with each property owner to restrict building height and tree growth to a certain height. The CAA is not concerned on how the height restrictions are maintained, only that an unobstructed approach/departure fan is in place.

The removal of the height restrictions from the District Scheme would therefore have no impact on the aeronautical study, but long term could have a detrimental effect on the future use of the aerodrome.

- 6.28 Therefore the CAA determination of safety is not dependant on the height restrictions remaining within the Proposed Plan. However, height restrictions protect the current ‘safe’

situation and ensure that future activities on adjoining sites do not have a detrimental effect on the continued future use of the Hororata Domain for gliding. It is my understanding that should any change in adjoining land use effect the approach slope then under CAA requirements the Gliding Club would be required to alter or possibly cease their activity rather than continue in a potentially unsafe manner.

6.29 Submissions by the **Hororata Concerned Citizens** and **Janet and Stephen Harris** refer to this situation as the Gliding Club being required to *"internalise its effects"* rather than having height restrictions on adjoining properties which *"externalises effects and places a burden on surrounding property owners..."*.

6.30 The Council has an obligation under section 5(2) of the Act to ensure that the use, development and protection of natural and physical resources (which includes airfields) is managed in a way which:

"...enables people and communities to provide for their social, economic, and cultural well being and for their health and safety while..." (emphasis added).

6.31 On the basis of the advice received from the CAA in the form of the Aeronautical Study it could be argued that the matter of height restrictions is not necessarily related to safety, but more with the continued operation of the gliding activity. This is because the Gliding Club would be forced to cease activity if the approach slope and take-off surfaces set out in the CAA Advisory Circular AC139-7A were not able to be met (presumably before safety was significantly compromised). In this regard it is considered the continued operation on the social well-being of the gliding community is also a relevant consideration in terms of section 5.

6.32 The imposition of height restrictions will ensure that the existing safe situation is not compromised in the future. Therefore it is considered a balance in the social context is required between providing for the continued safe operation of the gliding club and the affect of height restrictions on the surrounding land owners/occupiers.

Effect on Dwellings

6.33 In terms of height restrictions, the Proposed Plan currently contains height restrictions applying to land within the Rural Outer Plains Zone. At present, in order to be a permitted activity (without the need to obtain the necessary resource consent) a dwelling (building for human occupation) must be less than 8 metres in height. At an approach slope of 1 in 20 as set out in the Variation, the proposed height restrictions would only affect a dwelling located within 160 metres from the beginning of the slope (having allowed for any

displaced threshold). In that circumstance the height restrictions do not affect the establishment of a dwelling on adjoining sites located west of the Domain along Hororata Road.

- 6.34 The establishment of a dwelling on the Harris property would be affected by the amended height restrictions. It is noted that this property is of a size (24.8ha) where a dwelling is permitted by the Proposed Plan density standard. Therefore the development of this property to include a residential use is constrained by the height restrictions.
- 6.35 The properties to the north east of the Domain (Harptree Farm and Hibbs), are also affected by the height restrictions. The location of any future dwelling on the 39.5ha title making up part of Harptree Farm is constrained by the location of the approach slope and height restrictions. The adjoining property to the east (Hibbs) already contains a dwelling with existing use rights, and at 17.9ha any additional dwelling would be non-complying in any case.

Effect on Accessory Buildings and Farming Operations

- 6.36 The maximum permitted height for accessory buildings is 12 metres, except for grain silos which are permitted to be up to 25 metres in height. Along Hororata Road the existing Orion power lines are a maximum of 9.5 to 11 metres tall. As a result it is considered appropriate to apply a displaced threshold to provide for a 12 metre maximum height on the western side of Hororata Road. On that basis the height restrictions do not affect any accessory building proposed to be established by property owners west of the Hororata Domain. The approach slope is above the 12 metre maximum requirement for an accessory building contained in the Proposed Plan at any point over these properties where the front yard setback would otherwise allow an accessory building to be established.
- 6.37 Accessory buildings in excess of 12 metres on the eastern side of the Domain and the erection of grain silos (up to 25 metres in height) under the approach slopes will be affected by the height restrictions. As part of the Variation process the Council commissioned a Land Use Assessment in order to assess the practical implications of the height restrictions on current and future land uses under the rural zoning. The conclusion reached in this assessment was that the proposed height restrictions would have only minor implications for the continued operation of farming activity in the area surrounding Hororata Domain. A copy of this report was included with the Variation. It is noted that height restrictions only affect part of these properties so rather than preventing activity, the height restrictions impact on where buildings can be located.

Effect on Existing Buildings, Structures and Trees

- 6.38 Concerns have been expressed by several submitters over the affect of the proposed height restrictions on existing buildings, structures and trees. In my view structures and trees existing as at September 2001 when the Proposed Plan was notified are not affected by the height restrictions contained in the Proposed Plan. However, existing use rights are dependant on the character, intensity and scale of any effects remaining the same or similar to those which existed before the Proposed Plan was notified.
- 6.39 The presence of existing buildings and structures (including the power poles and power lines along Hororata Road) have been taken into account in fixing the position of the threshold from which the height restrictions have been calculated. The position of the threshold was determined in part by the need to ensure that the power poles and power lines did not intrude into the approach plane. It is noted that should the shelter within the Hororata Domain running along Hororata Road grow to impinge on the approach slope, this will result in moving the displaced threshold further into the Domain. As stated above, as this shelter is located within the designated site of the Domain, it is not subject to the height restrictions.

Effect on Trees

- 6.40 Trees planted since September 2001 are subject to the height restrictions. The previous rules were drafted in a restrictive manner that prevented the planting of any tree/s that would eventually grow higher than the height restrictions. The Variation amended those rules to ensure that any new trees planted are maintained at a level in compliance with the height restrictions, rather than preventing the planting of trees *per se*. This change is considered to better meet the stated intention of the height restrictions.
- 6.41 Having regard to the assessment set out by Mr Brooks in regard to the establishment of shelter, as well as the gradient of the approach surfaces with increasing distance from the airfield, it is considered that the amended height restrictions provide greater scope for the planting and maintenance of shelter belts, firewood production and tree crops than the previous rules.
- 6.42 Notwithstanding, submitters have raised concerns regarding the effect on future trees and shelter plantings. In this regard it is considered that the greatest imposition is to future planting along the eastern boundary of the Domain within the Harris property and the area north of Thwaites Road under the approach slope (Harptree Farm and Hibbs). However,

the increased 1 in 20 gradient of the approach slope means that the effects on future land use within this area are reduced from that notified in the Proposed Plan.

Effect on Property Values

- 6.43 Any resultant decline in property value is not considered to be an environmental effect under the Act. Notwithstanding, the amended height restrictions have less effect than the previous 1 in 30 approach slope so any effect on property value is reduced by adoption of the Variation.

Effect on Gliding Operations

- 6.44 The submission of the **Canterbury Gliding Club (Inc.) (98.1)** states that as a result of the reduced height restrictions the Variation could in the future cause the airfield to become dangerous for gliding due to the growth of trees or position of new structures. Furthermore, the submitter goes on to state that the Council would be “*open to some degree of liability*” should the ‘airfield’ become dangerous for the purpose of gliding. Finally the submission states that the guidelines set out in the CAA Advisory Circular have not been followed.
- 6.45 It is considered that issues of liability are beyond the scope of this Variation. Furthermore, as set out in the CAA Advisory Circular, it is considered the requirements for the safe operation of the gliding activity rest with the Gliding Club.
- 6.46 No details of the manner in which the amended height restrictions differ from the CAA Advisory Circular were provided in the submission, except for a general reference to displaced thresholds. It is acknowledged that the displaced thresholds have been applied to each runway vector, when only those vectors adjacent to Hororata Road are subject to any existing obstacle (being the existing Orion power poles). On that basis it is recommended that the displaced thresholds be removed from the runway vectors at the eastern boundary of the Domain so that the approach slopes commence from the end of the runway for a distance of 1200 metres. This has the effect of lowering the maximum permitted height over the property, whilst reducing the land area within those adjoining properties subject to a height restriction. This change is not considered to result in any change to the assessment undertaken above.
- 6.47 No other inconsistencies with the CAA Advisory Circular are known at the time of writing. It is anticipated that any further inconsistency would be raised in greater detail by the submitter at the hearing. The requirements of the Advisory Circular are set out in Figure One below.

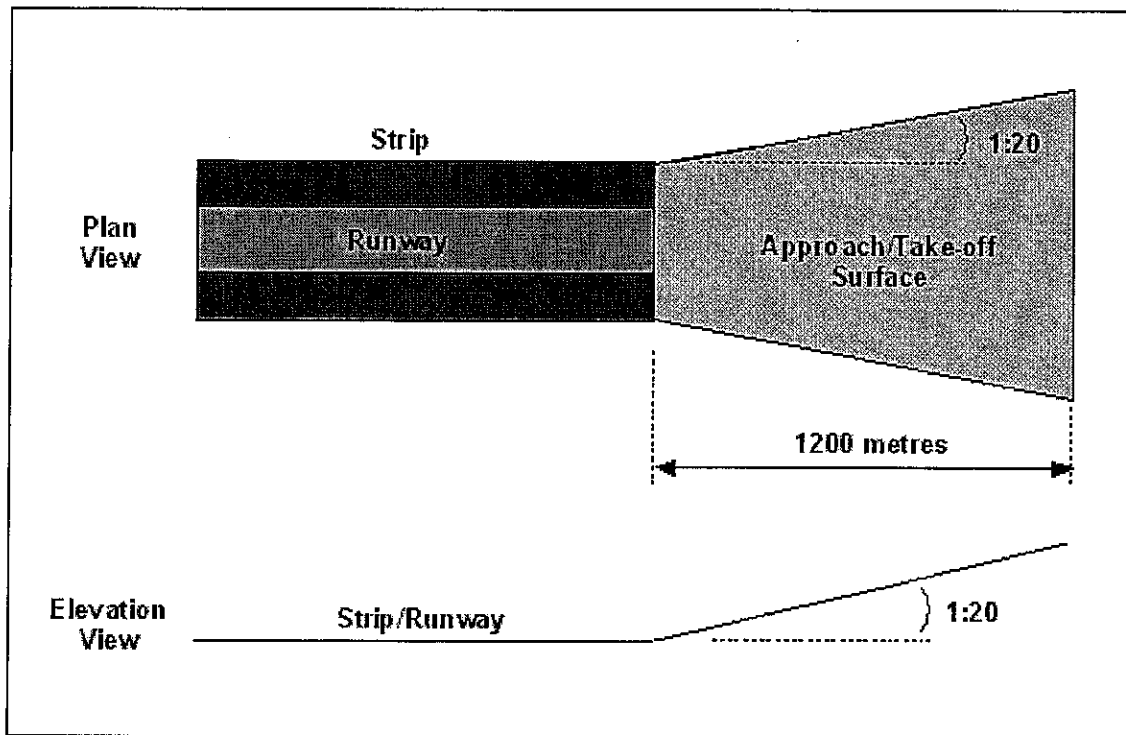


Figure One: Approach and take-off surface for day operations.

Summary & Conclusion

- 6.48 In accordance with Part 2 of the Act, the safety of people and communities is the paramount consideration in this matter. This is heightened by both the increased density of residential development around the airfield (particularly along Hororata Road) and the increased use of the airfield since the existing lease was entered into. The requirement of the height restrictions has been assessed against the frequency of activity provided for under the lease. This assessment does not allow for any increase in activity over the conditions set out therein.
- 6.49 Having considered the relevant matters raised in submissions, it is considered that the inclusion of height restrictions within the Proposed Plan requires a balance between the limitations placed on the further development of land north and east of the Domain and the ability of continued use of the Domain for gliding activities. In the context of the terms expressed in section 5(2) of the Act, this requires balancing the ability of the gliding community to continue a safe recreational (gliding) activity contributing to their social well-being with the ability of those living adjacent to the Hororata Domain to provide for their social and economic well-being.
- 6.50 As described above, the effect of the height restrictions on the use of land adjoining the Domain is restricted mainly to the rural land to the north and east of the Domain. The

report prepared by Mr Robin Brooks concludes that rather than preventing rural activity on that land, the height restrictions represent a limitation and reduce the potential location of accessory building/s and shelter in the proximity of the Domain boundary.

- 6.51 The determination between these two considerations is finely balanced. However, in my view a recommendation on which should be given greater weight is not required in the context of this Variation given it is considered that the scope is limited to considering the appropriateness of the amendments included therein, as opposed to whether height restrictions should apply. It is considered that height restrictions should be the minimum required in order to provide for continuation of gliding activity in accordance with health and safety considerations and wider social considerations for the gliding community, therefore preventing any unnecessary constraint on adjoining land. The amendments to make the height restrictions in accordance with the Advisory Circular issued by the CAA reduce the potential impact on adjoining land use. Based on the assessment of the height restrictions in the context of the other maximum height requirements already included in the Proposed Plan described above, it is considered that the amended height restrictions introduced by the Variation will have minimal effect on the further development of adjoining property.

Recommendation 3

That the Council:

1. **Rejects** the submissions by of Jennifer Studholme (97.1), Brian Fineran (104.1), Robert Wilson (105.1), Paul Ross (106.1), Hororata Concerned Citizens (107.1), Vanessa Murray (108.1), Kelvin Kimber (109.1), Janet and Stephen Harris (110.1), Gregory and Anne Bluck (111.1), Douglas and Vicki Oliver (112.1), Margaret and Thomas Eade and Marion Turner (113.1), David Oliver (114.1), Kelvyn and Janice Buckingham (115.1), Kathryn and Brendan Doherty (116.1), and Henry and Jennifer Studholme (117.1).

Amendments to the Proposed Plan

Nil.

Recommendation 4

That the Council:

1. **Accepts in part** the submission by **The Canterbury Gliding Club (Incorporated) (98.1)**.

Amendments to the Proposed Plan

That the displaced thresholds shown on the runways on the eastern boundary of the Hororata Domain be removed as shown in the amended Appendix 19 attached as Annexure One to this report.

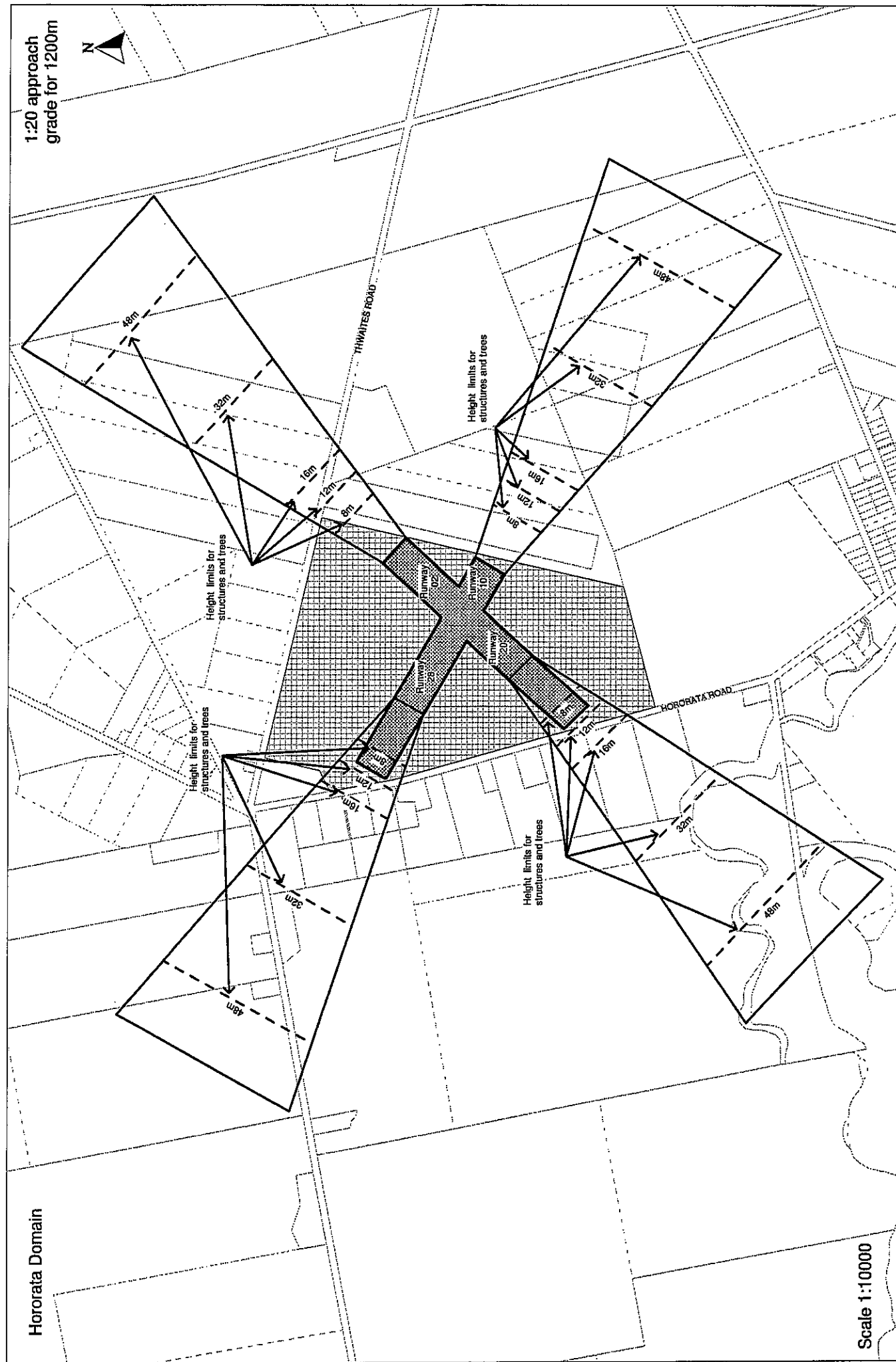
Nick Boyes

Resource Management Group Ltd

ANNEXURE ONE

Recommended Amendment to Appendix 19 Hororata Height Restrictions

APPENDIX 19 - HEIGHT LIMITS FOR WEST MELTON AIRFIELD AND HORORATA DOMAIN



APPENDIX ONE

Amendments to the Proposed District Plan as a result of Variation 27

The changes proposed as part of this Variation are as follows:

Insertions are set out in **bold underlined** and deletions in ~~**bold strikethrough**~~.

Proposed Selwyn District Plan Township Volume

- 1) Amend, Part 2, Section 2.1 – ‘Transport Networks – Road, Rail and Airfields’, policy 16 explanation and reasons, as follows:

Part of Hororata Domain is leased for recreational gliding. West Melton airfield is a public airfield. Land under the approach paths to both airfields needs to be kept clear of very high structures to ensure the airfields can operate safely and within Civil Aviation Authority **regulations guidelines**. West Melton airfield is located in Selwyn District, as is land affected by the height restrictions of the airfield.

Hororata and West Melton townships are not currently affected by the respective approach surfaces of West Melton Airfield and Hororata Domain Airfield. The issue of structures and plantings beneath the approach surfaces of these airfields is therefore likely to become more of an issue for West Melton and Hororata townships if either township expands in the direction of the respective airfield. This is a matter which shall be considered if the Council receives a plan change for new residential or business development at West Melton or Hororata. [R27.2]

Proposed Selwyn District Plan Rural Volume

- 1) Amend, Part 2, Section 2.1 – ‘Transport Networks – Road, Rail and Airfields’, policy 16, as follows:

~~16. Maintain height restrictions around West Melton airfield and Hororata Domain.~~

16. Ensure structures and activities do not adversely affect the safety of aircraft approaches to Hororata Domain or West Melton airfield.

- 2) Amend the description of Part 3, Appendix 19, as follows:

APPENDIX 19 – HEIGHT LIMITS FOR WEST MELTON AIRFIELD AND HORORATA AIRFIELDS DOMAIN

- 3) Amend the notes set out in Part 3, Appendix 19 applying to the Hororata Domain, as follows:

Hororata Airfield Domain

- (a) Take off and approach surfaces rise at a gradient of 1 in ~~30~~ **20** from the end of both runways 02/20 and 10/28 for a distance of ~~2000~~ **1200** metres. This gradient starts from a displaced threshold which **commences within the Domain at a point is parallel to the airfield boundary**, 220 metres back from ~~this boundary at the end of each vector runway~~ **this boundary at the end of each vector runway**. ~~This 220 metres is measured along the axis of both runway 02/20 and 10/28~~ (for clarification: this allows for a height limit of ~~8~~ **12** metres at a distance of 20 metres outside of the airfield boundary at each end of 02/20 and 10/28);
- (b) Approach surfaces splay outwards at a gradient of 1 in ~~20~~ **5** ~~for the first 1000 metres from the displaced threshold in (a), and then 1 in 20 for the next 1000 metres;~~
- ~~(c) Transitional surfaces for runway 02/20 and 10/28 slope upwards and outwards at a gradient of 1 in 4 from the edge of the runway and approach fans in (a) and (b) to a height of 10 metres, then rise vertically;~~
- ~~(d) General height limits apply from all boundaries of the airfield. They are:~~
 - ~~(i) 20 metres within 100 metres;~~
 - ~~(ii) 40 metres within 500 metres;~~
 - ~~(iii) 60 metres within 1000 metres.~~

Note:

The mean average airfield height defines the height at which all height limits for structures and trees are measured from.

- 4) Replace the existing Hororata Domain height restriction diagrams provided in Appendix 19 with those attached as **Appendix Two**.

- 5) Amend, Part 3, Rule II – Tree Planting, 1.7 'Shelter and Amenity Trees', as follows:

Any ~~No~~ tree is planted **and maintained** so that ~~on-maturity~~ it **does not** encroaches within the height restrictions for West Melton Airfield or Hororata Domain, as shown in Appendix 19;

- 6) Amend, Part 3, Rule II – Tree Planting, 8.7 'Plantations', as follows:

Any ~~No tree of the~~ plantation is planted **and maintained** so that ~~on-maturity~~ it **does not** encroaches within the height restrictions for West Melton Airfield or Hororata Domain, as shown in Appendix 19;

- 7) Amend, Part 3, Rule III - Buildings, 1.9 'West Melton and Hororata Airfields', as follows:

West Melton **Airfield** and Hororata **Domain Airfields**

The building complies with the maximum height requirements in the approach paths to the runways at West Melton Aerodrome and Hororata Domain, as shown in Appendix 19.

For Rule 1.9, the maximum height of any building is measured from ground level at the base of the building, to the highest point on the building. It includes any chimney, aerial, mast, satellite dish or other structure which is attached to and protrudes above the roof height of the building.

- 8) Amend, Part 3, Rule V - Utilities, 5.9 'West Melton and Hororata Airfields – Utility Buildings and Utility Structures', as follows:

5.9 West Melton **Airfield** and Hororata **Domain Airfields** – Utility Buildings and Utility Structures
Utility Buildings – Permitted Activities

5.9.1 The building complies with the maximum height requirements in the approach paths to the runways at West Melton Aerodrome and Hororata Domain, as shown in Appendix 19.

For Rule 5.9.1, the maximum height of any building is measured from ground level at the base of the building, to the highest point on the building. It includes any chimney, aerial, mast, satellite dish or other structure which is attached to and protrudes above the roof height of the building.

Utility Buildings – Other Activities

5.9.2 Erecting any building or any part of any building, which will protrude into the height restricted areas shown in Appendix 19 shall be a non-complying activity.

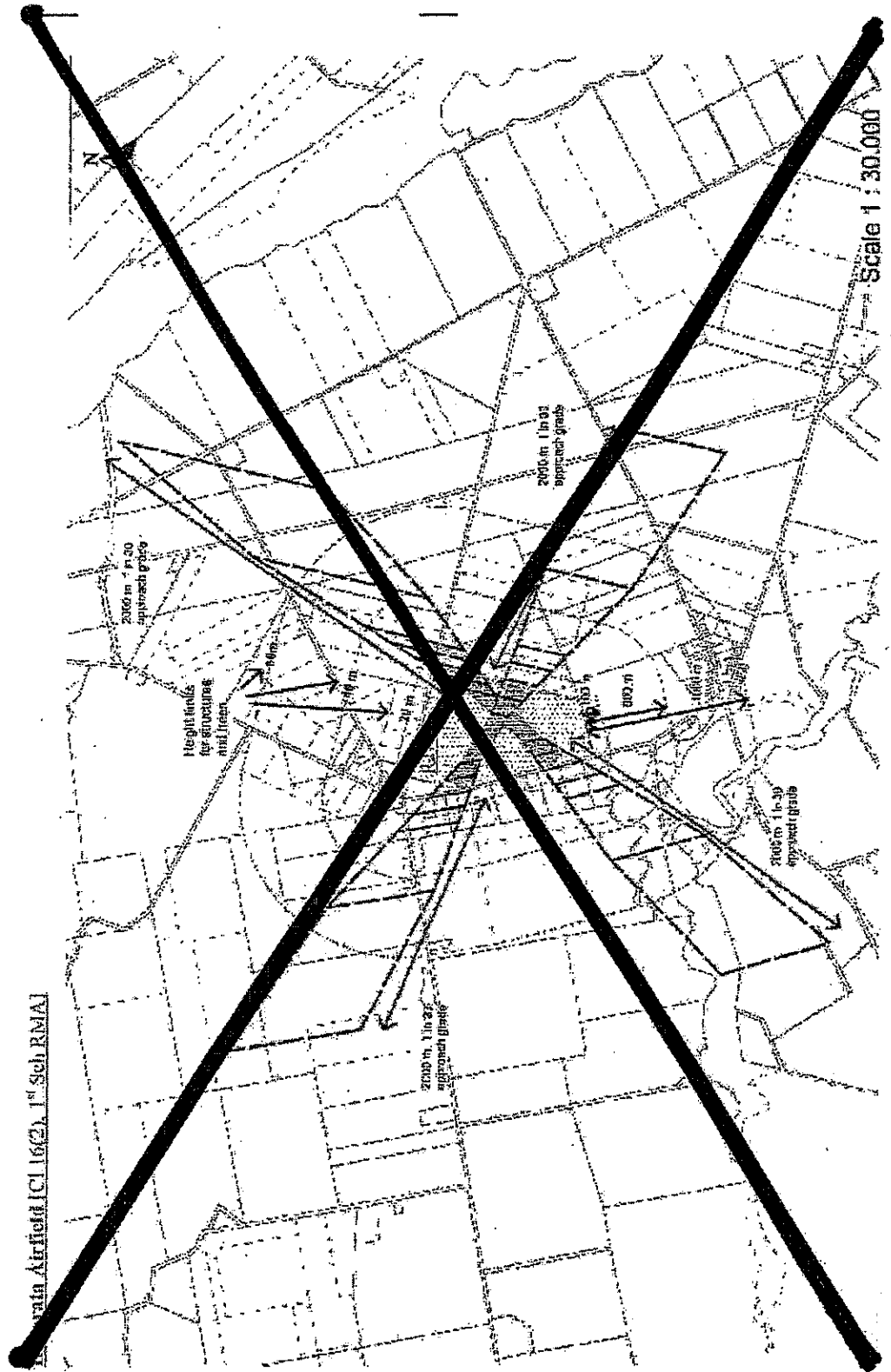
Utility Structures – Permitted Activities

5.9.3 Any utility structure does not exceed the height requirements in the approach paths to the runways at West Melton Aerodrome and Hororata Domain, as shown in Appendix 19;

Utility Structures – Other Activities

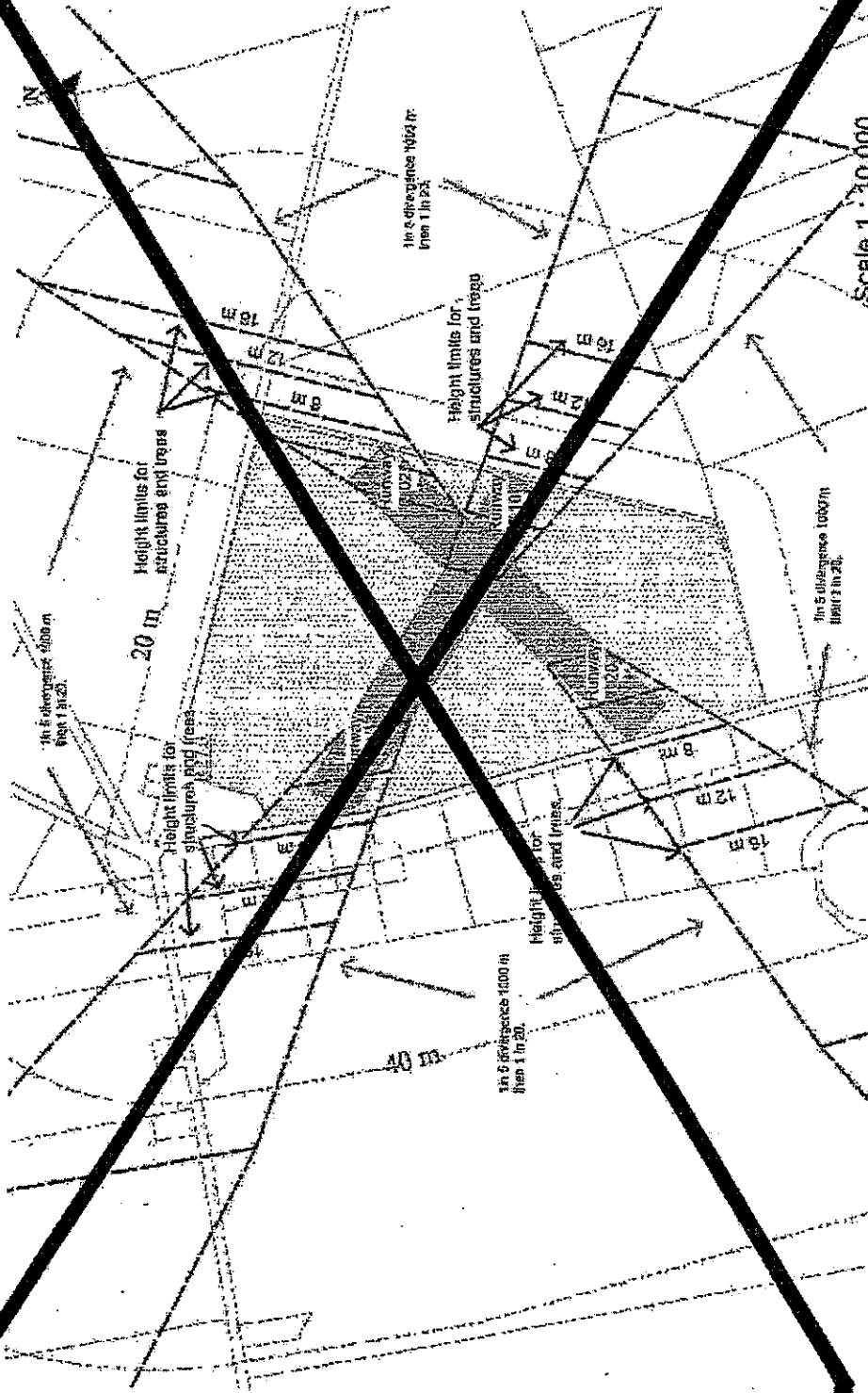
5.9.4 Any utility structure which protrudes into the height restricted areas shown in Appendix 19 shall be a non-complying activity.

APPENDIX 1943 – HEIGHT LIMITS FOR WEST MELTON AND HORORATA AIRFIELDS



APPENDIX 1943 - HEIGHT LIMITS FOR WEST MELTON AND HORORATA AIRFIELDS

Hororata Airfield ICL 16(2), 1st Sch RMA



Rural Volume of Proposed District Plan: Notified September 2001

APPENDIX TWO

Legal Opinion from Buddle Findlay regarding Frequency of Flights



DION
28/12

To
Selwyn District Council
Private Bag 1
Leeston

For
Ray Anderson

From
Rachel Dunningham

By
Post

Date
14 November 2006

Dear Ray

Canterbury Gliding Club Incorporated

1. You have asked us to address several legal issues which arise in relation to the use of the Hororata Reserve by the Canterbury Gliding Club ("the Gliding Club").

Interpretation of lease

2. The first issue concerns whether the Gliding Club is in breach of its lease, which grants the Gliding Club *"the exclusive use and possession of the said land on not more than 80 days each year"*.
3. This query arises because of correspondence received from opponents of the Gliding Club. They say that the Gliding Club is in breach of its lease because it operates on more than 100 days a year, and urge the Council to take steps to enforce the terms of the lease.
4. The deed of lease was entered into in 1981. At that time the land was owned by the Crown and the lease was entered into with the Minister of Lands. The land was subsequently vested in the Selwyn District Council and, on 21 February 1992, a deed was entered into confirming that the Council was now the lessor of the land, but in all other respects the lease was to apply to the expiry of the present term. That lease was for a term of 30 years from the first day of January 1981.
5. The lease allows the Gliding Club to use the land *"at all times during the said term as a gliding field and for providing hanger and pavilion facilities"* and for no other purpose except that subleasing for grazing purposes as permitted under clause 2.
6. The clause which it has been suggested the Gliding Club is in breach of, is clause 4(b). That reads:

"That the lessee shall be entitled to the exclusive use and possession of the said land on not more than eighty (80) days each year for the purpose of gliding or competition or days for members only but in any such case for not

LAWYERS

CHRISTCHURCH

Clarendon Tower
78 Worcester Street
PO Box 322
DX WP20307
Christchurch
New Zealand
Tel 64-3-379 1747
Fax 64-3-379 5659

AUCKLAND

PricewaterhouseCoopers Tower
188 Quay Street
PO Box 1433
DX CP24024
Auckland
New Zealand
Tel 64-9-358 2555
Fax 64-9-358 2055

WELLINGTON

State Insurance Tower
BNZ Centre
1 Willis Street
PO Box 2694
DX SP20201
Wellington
New Zealand
Tel 64-4-499 4242
Fax 64-4-499 4141

more than six (6) days consecutively and with the prior approval of the Board the lessee may make charges for admission to the said land during the holding of gliding tournaments or competitions for up to forty (40) days of the said eighty (80) days of exclusive use and further that the lessee may with the consent of the Board close all or any part of the land for such time as may be necessary for the purpose of planting, cultivating, preserving or top dressing the same."

7. As already indicated, it has been suggested to Council that, if the Gliding Club uses the land for gliding on more than 80 days each year for the purpose of gliding, or for more than six days consecutively, it is in breach of the lease.
8. We do not consider that view is correct. Firstly, on a plain English reading of the words of section 4(b), they do not suggest that the lease is limited to 80 days only, simply that the Gliding Club can only exercise "exclusive use" of the land on up to 80 days. Had it been intended otherwise, the word "exclusive" would be redundant. So long as there is no attempt to prevent the public from having access, or using the land for the purpose of gliding on the balance of the days of the year, there is no breach. In our view, also, it does not matter if other parties do not avail themselves of the right to use the field, the important issue is whether the Gliding Club seeks to exclude the public on more than 80 days in a year, or on six consecutive days.
9. We also believe the ordinary meaning of clause 4(b) identified above is supported by looking at this clause in the context of the agreement as a whole. In our view the agreement makes it clear that the Gliding Club is granted continuous rights of use and occupation throughout the year, but, also, the ability to exclude other users (i.e. have exclusive use) for up to 80 days in a year. These supporting clauses include:
 - (a) Clause 4(a) which refers to the Gliding Club's obligation to maintain the land as a "public" gliding field and to allow all persons have the right to use the land for the purpose of gliding whenever the field is open for such purpose. This makes it clear that, normally, both the Gliding Club and the general public can use the land for the purpose of gliding.
 - (b) Clauses 4(b) and (c) which set out the right to exclusive use of the land *"for the purpose of gliding or competitions or days for members only"*. Clearly, those would be days when the Gliding Club was not making the land available as a "public" gliding field in accordance with clause 4(a). There is nothing in this to suggest that the Gliding Club can't also be flying gliders on these days when the field is also open for public use.
 - (c) Clause 4(d) which makes it even clearer that the Gliding Club is allowed to be operating at times when the gliding field is also being used by the public, as it requires the other persons using the field to have *"equal facilities and opportunities for using the said gliding field"* and that *"no preference or privilege"* is to be given to any member of the lessee Club. This clearly envisages that Club members and other users will be operating side by side,

except on the days under 4(b) which are reserved for the exclusive use of the Gliding Club.

- (d) Clause 5 which states that members of the public can have access to the land *"without payment of any fee unless gliding"* except on those days when entry to the field is restricted pursuant to clause 4(b). Again, this reinforces the fact that gliding (whether by Gliding Club members or others) can normally take place on any day, and differentiates those days from the days where the Gliding Club has exclusive use, and can exclude the public, under clause 4(b).
 - (e) The words in clause 2 which say that the lessee will *"at all times"* maintain the said land as a gliding field. This militates against the suggestion that the gliding field can only be used for this purpose intermittently by the lessee.
 - (f) All other aspects of the lease suggest the Gliding Club has continuous rights and obligations in respect of the land, and it would be entirely inconsistent with that, unless expressed in the clearest of terms, for the Gliding Club's use to be limited to 80 days only.
10. In short, we are satisfied that it is abundantly clear from the terms of the lease that the right to exclusive use for 80 days does not mean the Gliding Club may only use the field for a maximum of 80 days.
 11. In a related query, you asked whether the words of clause 6(b) which say *"but in any such case for not more than six days consecutively"*, are intended to act as a restriction on the Gliding Club's activities, by requiring them never to operate for more than six days in a row, whether they are using the field exclusively or not.
 12. In our view, relying on the ordinary meaning of this clause, the reference to the six consecutive days is intended to refer to the rights of the exclusive use, and not the use in general. The reference to the six day restriction is found in the same sentence as the reference to the 80 day restriction. If it were not intended to refer to the right of exclusive use, one would expect the language to clearly disassociate the six day restriction from the 80 day restriction to make it clear that the six day restriction was an overriding restriction. However no such distinction is made. The introductory words to the reference to the six day restriction are *"but in any such case"*. These words invite the reader to look to what *"such case"* is. The only logical reference for this is the preceding part of the sentence referring to the right of exclusive use.
 13. Had it been intended that the six day restriction was an overriding restriction, different language would need to have been used. For example the sentence could have read *"but in any event, the Club may not use the land, for exclusive use or otherwise, for more than six days consecutively."* However, as we have discussed above, it would seem to us pointless to place a separate restriction on the number of days the Gliding Club could use the field, when the public would still have the right to use it for gliding purposes. The restriction only really makes sense when it is understood as a further restriction on exclusive use, as it means that the general public is not prevented from using the reserve as a gliding field for extended periods of time.

Is use of a Tow Plane part of the designated recreational use?

14. In answering this question, it is difficult to go beyond the finding of the Environment Court in the application for a declaration initiated by Hororata Concerned Citizens¹. That decision discussed in some detail the use of tow planes for launching gliders. While it does not expressly address the issue of whether the use of tow planes comes within the scope of recreation activities which are able to be carried out on the reserve pursuant to the designation, it is implicit in the discussion, that the Court accepts that the use of tow planes is a necessary incident of conducting the activity of operating a gliding club. The only issue in dispute is whether the noise created by the gliders is of such a level that there is the ability to restrict it, notwithstanding that it is an integral aspect of the recreational gliding activity which is permitted pursuant to the designation.
15. In our view, it would be difficult to argue differently. A glider can only be launched by use of a winch or tow plane. It would be impossible to operate a gliding club without having one or both of these standard methods of launching gliders. In our view, given that gliding was accepted by the Environment Court decision as a recreational use, the logical corollary of that finding is that the use of a tow plane to launch the gliders is similarly covered.

Issues relating to noise

16. You have asked for our views on whether the noise generated by the activities on the reserve could constitute a "nuisance" which the Council could or should take steps to stop.
17. Again, the starting point for commentary on this is the decision on the Hororata Concerned Citizens declaration proceedings. In it the Court discusses evidence on noise and comes to the conclusion that *"the current noise is not in breach of District Plan provisions and those are the most onerous provisions which could be applied having regard to designation and the existing use status. For this reason, the Court concludes there is no basis for deciding there has been a breach of section 17 (duty to avoid adverse effects) or 16 (duty to avoid unreasonable noise)"*.
18. In law, an actionable nuisance only occurs when the interference with the plaintiff's use and enjoyment of the land is "substantial and unreasonable". In setting this threshold, the law seeks to strike a fair and workable balance between the conflicting claims of neighbouring occupiers of land. Unless there was a dramatic alteration in the extent of the activities being carried out on the airfield, and therefore the noise generated by the land use activity (as opposed to over flying aircraft), we cannot see how, in light of the Environment Court's findings, the Council could reasonably conclude that the noise was "unreasonable" and therefore "a nuisance".
19. However should circumstances change, so that this issue had to be revisited, you want to know what powers Council would have to address that issue.

¹ *Hororata Concerned Citizens v The Christchurch Gliding Club* [2005] NZ RMA 393

RMA options

20. Assuming, as we have concluded above, the noise of the tow plane is an integral part of the recreation activity which falls within the scope of the designated purpose of the Reserve, then it could only be addressed by way of enforcement order if *"the adverse effects in respect of which the order is sought"* were not *"expressly recognised by the person who approved the designation"* (see section 319(2)). In other words, normally, there is no scope to seek an enforcement order for an effect which is expressly recognised as arising from the scope of the designation. However, because of the generality of the designation, we think it unlikely that the issue of tow plane noise was expressly addressed when this designation was approved, so an enforcement order requiring the Gliding Club to take such practicable steps as are open to it to reduce the noise of its land based activities would be possible.
21. Potentially too, an abatement notice could be served if the noise reached a level where it was considered to breach section 16. However again that would only require the Gliding Club to adopt the best practicable option to reduce that noise.
22. It must also be remembered that the only relevant noise from the Council's perspective is the noise associated with the land based activity, that is, ground manoeuvring and the immediate take off and landing noise. It is not the noise of aircraft flying overhead, which comes within the jurisdiction of the Civil Aviation Authority. It is also important to remember that, while the noise of the land use associated activities is within the levels specified as acceptable in the District Plan, it would be extremely difficult to advance an argument that this was *"unreasonable"* noise.

Options under the lease

23. The Council also controls the Gliding Club's activities in another capacity, as the lessor of the land used by the Club. The lease specifies, at clause 13, that the lessee *"will refrain from causing any noise or other disturbance likely to disturb adjoining occupiers or land whether they belong to the lessor or not"*. This opens up the possibility of Council having a contractual ability to control noise, even if its statutory powers do not go that far.
24. This clause is found in the general conditions of the lease and reflects standard terms and conditions which can be found in most lease agreements. In our view however, it would be inappropriate to read it in a way which would undermine the primary grant in the lease, which is to use the land for a public gliding field. It is an implied obligation in any lease agreement that the lessor will not act in a way which *"derogates"* from, or frustrates, the grant of a lease. Thus we do not believe that the general wording of this clause can be read as intending to give powers to Council to stop the Gliding Club's activities if the level of noise is no more than what could reasonably be expected to be generated by normal gliding activities. However, any noise that is not reasonably incident to the carrying out of the activity for which the land is leased, would be able to be treated as a breach of the lease and either the

lessee could be required to stop it, or in more extreme cases, justify the termination of the lease.

Conclusion

25. We trust these comments address the issues of concern in sufficient depth. As always, if you require further analysis please let us know.

Yours faithfully
BUDDLE FINDLAY



Rachel Dunningham
Partner

Direct dial: 0-3-371 3535
Email: rachel.dunningham@buddlefindlay.com

APPENDIX THREE

Civil Aviation Authority Part 157 Aeronautical Study

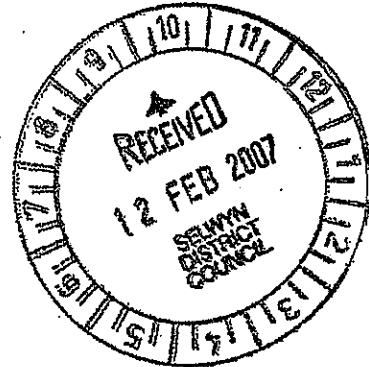
S-A225 (DW1132211-0.doc) 7/157/6



CIVIL AVIATION AUTHORITY
OF NEW ZEALAND

9 February 2007

Malvern Community Board
C/- Judith Pascoe
Selwyn District Council
Private Bag 1
LEESTON



Dear Malvern Community Board

Aerodrome Determination – Hororata Aerodrome

Please find enclosed the Unobjectionable Determination and the Part 157 Aeronautical Study for the increased usage of Hororata Aerodrome Proposal by Canterbury Gliding Club (Inc).

Yours faithfully

A handwritten signature in dark ink, appearing to be 'DP'.

Dianne Parker (Mrs)
Group Executive Officer
Personnel Licensing and Aviation Services

S-A225-02 7/157/0006 (DW1129045-0)

07 February 2007



Aerodrome Determination

Aerodrome Proposal, Hororata

Pursuant to Rule Part 157 of the Civil Aviation Rules I, Mark Clifford Hingston, Manager Aeronautical Services, having received from the Canterbury Gliding Club (Inc), a Notice of Aerodrome Proposal to to increase the utilisation of ther Hororata aerodrome, conducted an aeronautical study in consultation with such persons, representative groups and organisations as I considered appropriate.

After completing the study, I am satisfied that the proposed action will not adversely affect the safe and efficient use of airspace, nor the safety of persons or property on the ground.

Therefore I hereby issue an **Unobjectionable determination** in respect of the Notice of Proposal.

The determination void date in respect of this **unobjectional** determination is the 7th. day of February 2009.

Dated at Petone this 7th day of February 2007.

A handwritten signature in black ink, appearing to read 'Mark Clifford Hingston', is located below the text 'Dated at Petone this 7th day of February 2007.'.

Mark Clifford Hingston
Manager Aeronautical Service

The provisions of this determination are in addition to and not in derogation of the provisions of any other Act, or any orders or regulations made thereunder

Part 157 Aeronautical Study

Hororata Aerodrome

Table of Contents

Introduction	
Aeronautical study	1
Study procedure	2
Submissions	2
Analysis of submissions	3
1. Effect on aerodrome traffic circuits	3
2. Effect on airspace uses	3
3. Effect on safety of persons and property	4
4. Effect of objects	5
Determination	5
Appendix 1 — Operators and organisations invited to make submissions	6
Appendix 2 — Issues raised in submissions	7

Introduction

In October 2006 the Canterbury Gliding Club (Inc) submitted, under the provisions of Civil Aviation Rule Part 157, a notice in relation to an aerodrome for recreational use for gliding on part of the property known as the Hororata Reserve.

The gliding club has held a lease on 18.6 ha of the 77 ha reserve since about 1969 but until recently its utilisation of the aerodrome was low. However, with the loss of Wigram aerodrome to the club, it moved its operations base to Hororata.

A decision was made by CAA to proceed with an aeronautical study because the information provided by the proponent indicated the number of aircraft movements were above the level that required the study to be made.

Advice of the submission was made to a variety of aviation organisations with interests in the area, the local authority and the public were asked for submissions on the proposal.

Aeronautical study

Note: This information is a summary of the key requirements of Civil Aviation Rule Part 157. Reference should be made to the Rule Part for complete details of requirements.

When conducting an aeronautical study the Director is required to consider the effects that the proposed action would have on the safe and efficient use of airspace by aircraft, and on the safety of persons and property on the ground. In particular, the aeronautical study is required to consider the following:

- (a) the effect the proposed action would have on existing or contemplated aerodrome traffic circuits of neighbouring aerodromes:
- (b) the effect the proposed action would have on existing and projected airspace uses:
- (c) the effect the proposed action would have on the safety of persons and property on the ground: and
- (d) The effect the existing or proposed man-made objects and natural objects within the affected area would have on the proposed action.

The Director is required to consult with such persons, representative groups, and organisations as the Director considers appropriate when carrying out the study.

The scope of the aeronautical study does not cover environmental or noise pollution considerations.

On completion of the aeronautical study the Director is required to issue a determination which shall be one of the following:

- (a) **Unobjectionable** when the Director is satisfied that the proposed action will not adversely affect the safe and efficient use of airspace by aircraft nor the safety of persons or property on the ground..

- (b) **Conditional** when the Director identifies objectionable aspects of the proposed action but specifies conditions which, if complied with, will satisfy the Director that the proposed action will not adversely affect the safe and efficient use of airspace by aircraft nor the safety of persons or property on the ground.
- (c) **Objectionable** when the Director identifies objectionable aspects of the proposed action.

Interested persons may petition the Director to revise a determination based on new facts that change the basis on which the determination was made.

Study procedure

Submissions and comments on the proposal were sought by:

- (a) Advertisements in the Christchurch Press, Central Canterbury News, Malvern News, and Canterbury times; and
- (b) Writing to the Canterbury Regional Council and the Christchurch City Council; and
- (c) Writing to all aircraft and aerodrome operators and aviation recreation organisations identified in the CAA database as being involved in aviation in the Canterbury area. These are listed in Appendix 1.

Submissions were analysed against the requirements of Rule Part 157, and conclusions regarding the proposal and recommendations regarding the determination were made.

This report was prepared, and copies of the determination and this report will be provided to the Canterbury Regional council and the Christchurch City Council, the proponent, and all persons who made submissions.

Submissions

42 submissions were received. These are listed in Appendix 2, together with details of the issues raised. Many of the submissions contained a number of concerns supporting the position of the person or organisation making the submission.

Of the total of 12 concerns raised, 5 were related to concerns outside the scope of this study. These areas included:

- the period of time that elapsed between the Canterbury Gliding Club relocating their operation from Wigram to Hororata and their submitting the notice under CAR 157,
- alleged infringements of the Civil Aviation Rules and the provisions of the Gliding New Zealand manuals by the club and members of the club,
- the distance between Hororata and the nearest emergency services,
- the condition of the glider landing area, and
- the imposition of height restrictions on buildings surrounding the aerodrome by the Selwyn District council.

Submissions identified a total of 7 concerns relating directly to the scope of the study, and the study considered only those concerns.

There were no submissions relating to the first study item, the effect on the circuits of adjacent airports.

One submission contained a concern given in respect to airspace use.

36 submissions contained a total of 4 concerns given in respect to safety of persons or property on the ground.

32 submissions contained a total of 2 concerns given in respect to the effect of objects on the proposal.

Analysis of submissions

1. Effect on aerodrome traffic circuits

Rule 157.9(c) (1)

No submissions were received expressing a concern in relation to adjacent aerodrome circuits.

There are no other aerodromes in the vicinity

Conclusion

There will be no effect on the traffic circuits at any other aerodromes..

2. Effect on airspace uses

Rule 157.9(c) (2)

There was one concern regarding airspace impacts. An airline expressed a concern that an escalation of gliding activity in the vicinity could result in an increase in the upper limit of the glider flying area, and this would result in increased flight time and increased costs to trans-Tasman traffic.

There is no proposal at present to raise the upper level of the glider flying area, and the relocation of the base of the Canterbury Glider Club from Wigram to Hororata would not be a factor in any future changes to the dimensions of the glider flying area.

The Airways Corporation has advised that the relocation of the aerodrome has had no effect on their air traffic management operations

Conclusion

The increased glider flying activity at Hororata will not have any effect on airspace uses.

3. Effect on safety of persons and property

Rule 157.9(c) (3)

36 submissions related to concerns of people in the neighbourhood regarding the effect the gliding operations would have on the safety of people on the ground. They raised four issues;

- The aerodrome is 480 metres from the township of Hororata and 380 metres from the community hall, the play centre, and the childcare centre.
- There is a high level of population density with intensive subdivision along Hororata Road across the road from the aerodrome.
- The aerodrome is on a public reserve and the lease agreement does not give the Gliding club exclusive rights to the area. Other users of the reserve may be endangered by gliding activity
- An incident involving a tow-plane making a low approach and allowing the end of the tow-rope to hit a power line, resulting in a fire ball that set fire to a hedge as evidence of danger to locals.

To respond to each of these concerns in turn:

- *The township is very small and it is nowhere near the centreline of any runway. The risk to it from gliding activity is insignificant.*
- *There are several houses on Hororata Road opposite the ends of the grass vectors. The area is "rural residential" so even if the "intensive subdivision" takes place it will remain relatively low density. It is not considered that residents in the area will be exposed to an unacceptable risk with glider operations at the aerodrome.*
- *The courts have ruled that gliding is a recreational activity and the lease of the reserve for gliding purposes is legitimate.*

The populace is aware that gliding operations take place on that part of the reserve, and there are clear signs at the entrance of the aerodrome to advise the public of the gliding operations.

When gliding takes place there will always be people on the ground. It is unlikely that any inadvertent intrusion onto the operational area of the aerodrome will be unobserved.

- *The event involving an aircraft tow-rope referred to in the submissions is still under investigation. Until the investigation is completed the specific circumstances that allowed it to happen are not known. It cannot be assumed that all glider operations will expose people on the ground to an unacceptable level of risk because this event occurred.*

Incidents involving tow-ropes are very rare and, until there is evidence to the contrary the event at Hororata must be regarded as an isolated event.

The Civil Aviation Rules and standard operating procedures are intended to ensure that events such as this do not occur. Any recommendations from the incident report will be considered and, if appropriate, changes will be made to minimise the possibility of any re-occurrence.

Conclusion

Glider flying operations will have a negligible effect on the safety of persons in the neighbourhood.

4. Effect of objects

Rule 157.9(c) (4)

2 concerns were raised in respect to the impact of objects on the proposal.

These involved the danger to gliders posed by the transmission lines in the vicinity and by the rising terrain to the north-west of the aerodrome

The aerodrome has been inspected by CAA officers and they have advised that the aerodrome has physical characteristics appropriate to the type of aircraft being operated. The transmission lines and rising terrain do not present an undue risk to operations at the aerodrome.

Conclusion

There are no objects in the vicinity of the aerodrome that would create undue hazard to gliding operations.

Determination

It is recommended that an Unobjectionable determination be made in respect of the Notice of Proposal

Appendix 1 — Operators and organisations invited to make submissions

Canterbury Aero Club (INC)
Canterbury aviation Limited
Canterbury Rural Airwork Ltd
Christchurch Flying School (2005) Ltd
Christchurch Helicopters
Christchurch Parachute School (1989) Ltd
Pudding Hill Lodge Limited
NZ Flying Doctor Service
Robbie Wilson
Judith Pascoe

P O Box 14-006, Christchurch Airport
P O Box 14-235, Christchurch Airport
3 Glasnevin Road, Amberly
P O Box 11-390 Christchurch
P O Box 36450, Merivale
P O Box 16-625, Hornby
State Highway 72, Methven
P O Box 14-147, Christchurch Airport
Downs Road, RD2, Darfield
judith.pascoe@selwn.govt.nz

Appendix 2 — Issues raised in submissions

42 submissions raised 12 concerns. These were:

1. The aerodrome site is 480 metres from the township and 380 metres from the community hall, play centre, and childcare centre.
2. There is a high level of population density along Hororata road across the road from the aerodrome.
3. The aerodrome is on a public reserve and the lease agreement does not give the Gliding club exclusive rights to the area. Other users of the reserve may be endangered by gliding activity.
4. An incident involving a tow-plane making a low approach and allowing the end of the tow-rope to hit a power line, resulting in a fire ball that set fire to a hedge as evidence of danger to locals.
5. The transmission lines along Hororata and Thwaites Roads pose an obstruction to aircraft.
6. The rising terrain to the north west of the aerodrome poses a hazard to aircraft.
7. The possibility that the increase in glider traffic in the area would result in the upper level of the area being raised, affecting the trans Tasman traffic.
8. The period of time that elapsed between the Canterbury Gliding Club relocating their operation from Wigram to Hororata and their submitting the notice under CAR 157.
9. Alleged infringements of the Civil Aviation Rules and the provisions of the Gliding New Zealand manuals by the club and members of the club.
10. the distance between Hororata and the availability of emergency services,
11. the condition of the glider landing area.
12. the imposition of height restrictions on buildings surrounding the aerodrome by the Selwyn District council.

S-A225-02 7/157/0006 (DW1128618-0)

APPENDIX FOUR

Correspondence with Civil Aviation Authority

Nick Boyes

From: Max Evans [EvansM@caa.govt.nz]
Sent: Friday, 8 December 2006 9:39 a.m.
To: nick boyes
Subject: RE: Canterbury Gliding Club - Hororata Domain

Nick

The CAA does not require that height restrictions are put in place and this is not considered when conducting an aeronautical study. The requirements placed on an aerodrome operator and the aircraft operator are that they have approach and departure fans that are clear of obstacles. If there are obstacles within these fans, then the obstacles should either be removed, or the inner edge of these fans should be relocated to a point down the runway where an obstacle free approach/departure fan is available.

If an obstacle is permitted to be constructed that penetrates the approach/departure fan and this requires the relocation of the inner edge, then the operational distances (the take off length or landing length) for that particular runway would need to be recalculated. A reduction in the operational distances may, of course, impose limitations on the use of that runway and in some cases may reduce these lengths to the extent that the runway is no longer usable.

The method used by the aerodrome operator to protect the approach/departure fans is the responsibility of the aerodrome operator. The simplest way of course is to place these height restrictions in the district scheme but some aerodrome operators have put in place agreements with each property owner to restrict building height and tree growth to a certain height. The CAA is not concerned on how the height restrictions are maintained, only that an unobstructed approach/departure fan is in place.

The removal of the height restrictions from the District Scheme would therefore have no impact on the aeronautical study, but long term could have a detrimental effect on the future use of the aerodrome.

*Max W Evans
 Aeronautical Services Officer
 New Zealand Civil Aviation Authority
 P O Box 31 441
 Lower Hutt
 New Zealand*

*DDI: +64 4 560 9566
 Fax: +64 4 569 2024*

From: nick boyes [mailto:nick@rmgroup.co.nz]
Sent: Thursday, 7 December 2006 5:04 p.m.
To: Max Evans; Dianne Parker
Cc: 'Dion Douglas'
Subject: Canterbury Gliding Club - Hororata Domain
Importance: High

Hi Max

I understand that the CAA is currently undertaking an aeronautical study as part of the Gliding Club's proposal to establish a formal aerodrome at the Hororata Domain.

I have been engaged by the Selwyn District Council (who administers the Domain under the Reserves Act) to

6/07/2007

undertake a Variation to the Proposed Selwyn District Plan regarding the current height restrictions imposed on adjoining properties. Height restrictions were imposed on adjoining sites due to the use of the Domain as a gliding field and to ensure the health and safety of both those undertaking gliding and also those living in the vicinity. The issue of height restrictions has drawn strong opposition from those affected property owners who do not want their property affected by any such restrictions.

The Variation is essentially re-visiting the whole issue of height restrictions. Submissions have been received and early next year the Council will conduct a hearing of the submissions and decide on what changes, if any should be made to the height restrictions. On that basis the height restrictions contained in the Proposed Plan are in a state of flux.

Given that uncertainty I have discussed this matter with the Council's District Planner, Mr Dion Douglas, and we thought it appropriate to make CAA aware of this situation. It would be very helpful for the Council moving forward if the aeronautical study addressed the safety of the Hororata Domain for gliding both with and without height restrictions. This would provide the Council with a clear understanding of the need for any height restrictions in the District Plan. Furthermore, should the Council decide to remove the height restrictions following the hearing of the Variation next year, it may make the findings of the CAA study somewhat out of date should they rely on height restrictions.

I would welcome the opportunity to discuss these matters with you further, my contact details are set out below.

Regards
Nick



Nick Boyes
Associate
Resource Management Group Ltd

PO Box 13 792 | Level 5 SBS House
180 Manchester Street
Christchurch
DDI 03 962 1732 | Fax 03 365 7059

This email and its accompanying attachments is intended for the named recipient only and may contain information that is confidential and subject to legal privilege. If you are not the intended recipient please inform the sender and destroy the message. If you have received this message in error you must not distribute or copy this email or its attachments. The Civil Aviation Authority accepts no responsibility for any changes made to this message after transmission from the Civil Aviation Authority. Before opening or using attachments, check them for viruses and other effects.

6/07/2007