

BEFORE THE ENVIRONMENT COURT

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

AND

IN THE MATTER of an appeal under Clause 14 of the
First Schedule to the Act

BETWEEN DAVID SAUNDERS AND MIKE
SLATER
(ENV-2016-AKL-000082)

Appellant

AND THAMES-COROMANDEL DISTRICT
COUNCIL

Respondent

Environment Judge D A Kirkpatrick sitting alone under section 279 of the Act
In Chambers at Auckland

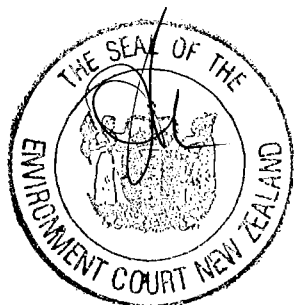
CONSENT ORDER

- [A] Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that the appeal is allowed in part subject to the agreed amendments to the proposed Thames-Coromandel District Plan set out in this order.
- [B] The appeal is otherwise dismissed.
- [C] Under s 285 of the Resource Management Act 1991, there is no order as to costs.



REASONS

- [1] This appeal relates to the proposed Thames-Coromandel District Plan. The appellant appealed the decision on submissions to Section 28 (Airfield Height and Noise Overlay) seeking that the Pauanui Airfield Amenity Yard control be reinstated.
- [2] The parties have now reached an agreement that will resolve this relief sought by the appellants, and this appeal in its entirety.
- [3] In making this order, the Court has read and considered the appeal and the memorandum of the parties dated 9 June 2017.
- [4] The following parties gave notice of intention to become a party under s274 of the Act in relation to this appeal relief:
- (a) Dion Webb;
 - (b) Susan Gregory and Donald Ross Nicholson; and
 - (c) Amanda and Nigel Wallace.
- [5] All of these parties agree with the order sought.
- [6] The Court is making this order under s 279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:
- (a) All parties to the proceedings have executed the memorandum requesting this order.
 - (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act, including in particular Part 2.



Order

[7] Therefore the Court orders, by consent, that the Appeal is allowed to the extent that the Thames-Coromandel District Council is directed to:

- (a) Amend Sections 3 and 28 of the proposed Thames-Coromandel District Plan as shown in **Annexure A** and any consequential numbering changes; and
- (b) Amend the planning maps 29E, 29H and 29M to add a notation depicting the extent of the Pauanui Airfield Amenity Yard as shown in **Annexure B**.

[8] This order resolves the appeal of David Saunders and Mike Slater in its entirety.

[9] There is no order as to costs in relation to this order.

DATED at Auckland this 14th day of June 2017



D A Kirkpatrick
Environment Judge



ANNEXURE "A"

1. Add the following new definition to Section 3 (Definitions) under the subheading "Yard terms" as follows:

Pauanui Airfield Amenity Yard means a 12m yard applying to properties having a contiguous boundary with the northern side of the Pauanui Airfield, between Pauanui Boulevard and Sheppard Avenue.

2. Amend Section 18 (Transport) as follows:

Objective 6

Residential development on the northern side of Pauanui Airfield is setback from the airfield boundary to retain existing amenity values.

Policy 6a

Avoid buildings, structures and vegetation from locating within the Pauanui Airfield Amenity Yard to retain the expansive outlook of open space and views to the ocean from the properties adjoining the northern side of the airfield.

3. Amend Section 28 (Airfield Height and Noise Overlay) as follows:

28.1.1 Airfield use height overlay

The Civil Aviation Authority of New Zealand (CAA) sets standards and requirements to regulate airspace around airfield runways for plane and helicopter safety. These standards are minimum standards and district plans may set stricter standards to protect airfield use and expansion into the future, or for other purposes. However these CAA regulations are not superseded by the Plan the regulations still apply to all airfield use and obstacle limitation surfaces. These are available on their website: www.caa.govt.nz.

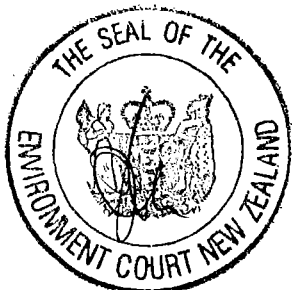
The ~~two~~ three Plan standards that are noted on the Planning Maps, as they have the most relevance to buildings and structures near airfields, are:

- Takeoff climb/approach obstacle limitation gradient, and
- Transitional side obstacle limitation surfaces, and
- Pauanui Airfield Amenity Yard.

Table 1 sets out the criteria used to determine these the first two standards for each airfield within the Plan. These criteria determine the sort of use the community would like for each airfield. It is important to note that the rules and standards for the Pauanui Airfield are not based on the CAA safety requirements for the expected use of the Airfield, but on protection of views and general amenity (see 28.1.23 below).

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28.1.2 Pauanui Airfield obstacle limitation surfaces



The southern and northern boundaries of the Pauanui Airfield have a 1:5 obstacle limitation surface. ~~This is not to provide for future airfield development as set out in Table 1, but instead to act as an amenity setback for houses on the southern and northern side of the airfield so that they retain their views of green open space and the ocean.~~ Buildings at 11–19 Centreway and 1–7 Harvard Court, Pauanui have been exempt from this surface since 1996 provided there is an airplane hangar for each house on the lot and an open space is within 7 m of the Pauanui Airfield boundary.

As well as the Pauanui Airfield northern and southern 1:5 obstacle limitation surfaces shown on Planning Maps 29M, the CAA obstacle limitation requirements still apply from all the edges of the runway strip.

28.1.3 Pauanui Airfield Amenity Yard

A 12m amenity yard applies to properties having a contiguous boundary with the northern side of the Pauanui Airfield, between Pauanui Boulevard and Sheppard Avenue. This is shown on Planning Map 29E and is measured from the airfield boundary.

The purpose of the amenity yard is not to provide for future airfield development as set out in Table 1, but instead to retain the established residential amenity values derived from the open character and general continuity of building setback from the airfield boundary. The absence of buildings, structures and vegetation within the amenity yard provides residents an expansive outlook of open space and views to the ocean.

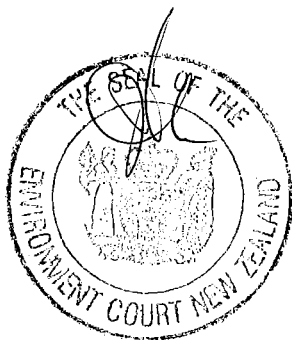
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28.3 AIRFIELD HEIGHT

...

RULE 2 Activities in Pauanui Airfield Amenity Yard

1. All activities in the Pauanui Airfield Amenity Yard retain their activity status in the underlying zone and districtwide rules provided:
 - a) No building is established within the Pauanui Airfield Amenity Yard; and
 - b) No fence, plant or structure within the Pauanui Airfield Amenity Yard is greater than 1.2 m in height.
2. An activity that is not permitted under Rule 2.1 is a non-complying activity.



Annexure "B"

(Amendment to planning maps 29E, 29H and 29M)



29E

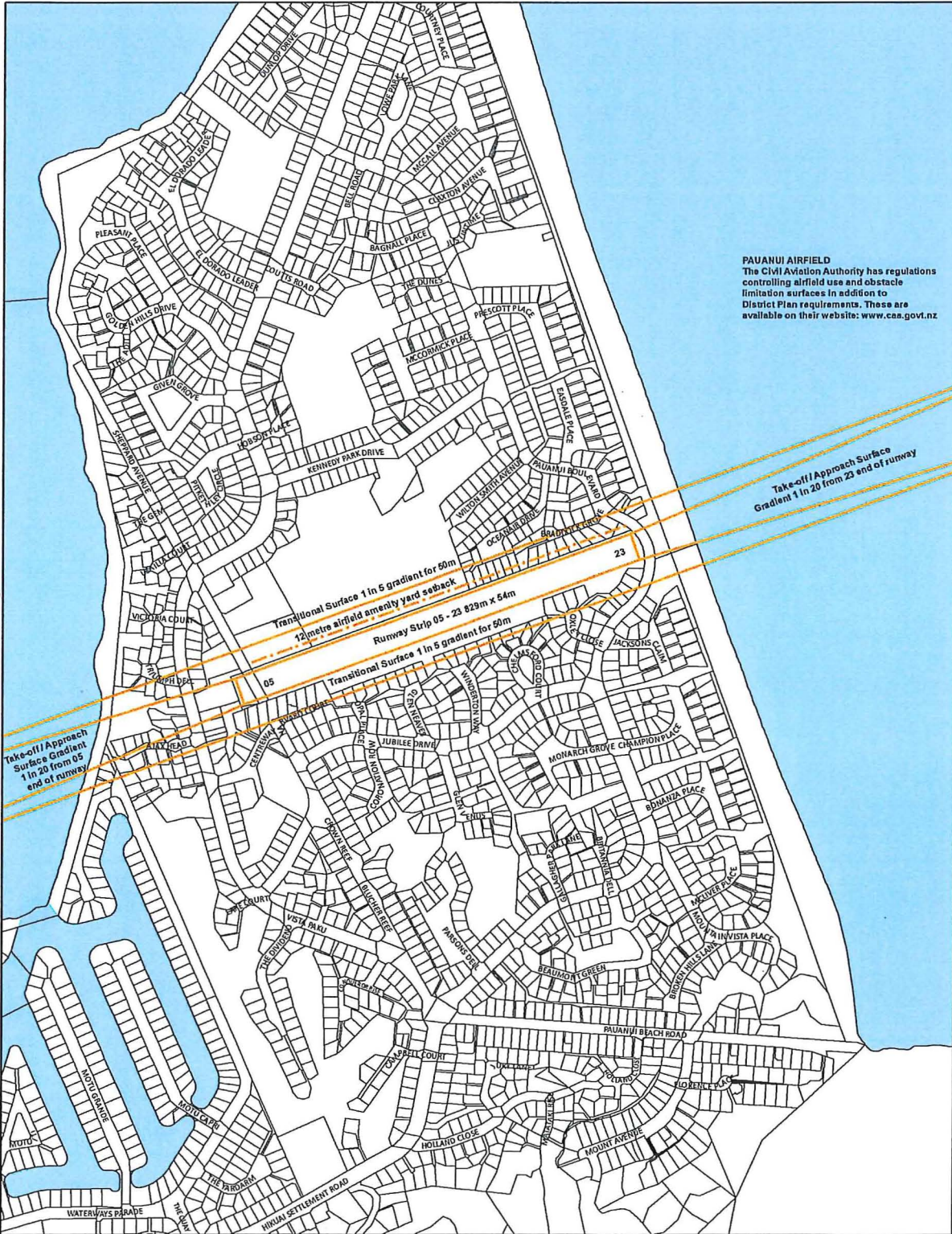
MAP 29M

N

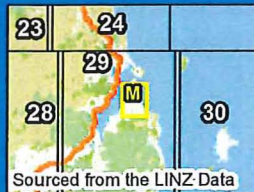
29G

29

29H



PAUANUI AIRFIELD
 The Civil Aviation Authority has regulations controlling airfield use and obstacle limitation surfaces in addition to District Plan requirements. These are available on their website: www.caa.govt.nz



MAP 29M AIRFIELD HEIGHT RESTRICTION OVERLAY
PAUANUI AIRFIELD
 PROPOSED DISTRICT PLAN - Appeals Version
 Scale 1:10,000 at A4 Paper Size



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