

26th August 2008

Ref No.: RMA/2008/202
Contact: Andrea Griffiths

Thames Community Board
C/O TCDC
515 Mackay St
Thames 3500

Dear Madam/Sir

CERTIFICATE OF COMPLIANCE: DECISION
Re: Thames Community Board - 395 Ngati Maru Highway, SH25, THAMES

I wish to advise you of Council's decision to grant consent to your certificate of compliance Application. Please find the certificate enclosed.

This certificate is deemed to be a land use consent under the terms of Section 139 of the Resource Management Act 1991 and shall expire five years after the date of issue unless acted upon or Council grants a longer time for it to be given effect to.

If you do not act on the proposal and continue to give effect to it, the consent may lapse in five years from the date of approval.

Determination of your application was delegated to officers of Council and signed off by an Independent Commissioner pursuant to the Resource Management Act 1991.

Yours faithfully

.....
Andrea Griffiths
SENIOR RESOURCE CONSENT PLANNER
ENVIRONMENTAL SERVICES



**CERTIFICATE OF COMPLIANCE
SECTION 139 – RESOURCE MANAGEMENT ACT 1991**

Application details:

Applicants:	Thames Community Board	
Application Number:	RMA/2008/202	
Property File:	5305.395	
Proposal:	COC - To confirm if a number of activities are permitted on the site.	
Site:	Legal Description:	Pt Sec 9 Blk VII Thames SO 27184 (Area 18.5163); Pt Sec 7 Blk VII DP Thames SD DP 26269 (Area 26.7207); Maramarahi 5A Block and Maramarahi 5B Block and Maramarahi 5C Block and Maramarahi 5D Block and Parehuia 4A Block and Parehuia 4B Block and Part Parehuia A Block and Part Parehuia B Block and Part Kareremokai Block and Lot 2 DPS 1948 (Area 35.865).
	Site Address:	395 Ngati Maru Highway, SH25, THAMES
Zoning:	District Plan – Operative in Part:	Rural Zone (Airfield Policy Area) & Rural Zone (Outside All Policy Areas) Designation to Thames Coromandel District Council.
Planning framework:	The District Plan was made Operative in Part on the 27 th August 2007. There are no outstanding references to the relevant rules pertaining to this application. No assessment of this application is therefore required under the Transitional District Plan.	

Report for Independent Commissioner:

The applicant seeks a Certificate of Compliance under Section 139 of The Resource Management Act, to undertake the following activities on the site;

1. The landing, take off and taxiing off of aircraft (including helicopters and gliders) outside the legal hours of darkness (other than emergency use).
2. Skydiving from aircraft
3. Accessory buildings for the storage of aircraft and storage and use of associated equipment, spare parts, products for the functioning, repair, maintenance of the aircraft using the airfield.
4. Accessory buildings for the use of storage of goods/products to be carried and distributed by aircraft using the airfield (eg topdressing sprays)
5. Accessory buildings for the use of repairing, maintaining and restoring aircraft and aircraft components
6. Accessory buildings for the use of training purposes associated with aviation
7. Accessory structures and/or buildings for the storage, sale and use of aviation fuel by aircraft using the airfield
8. Accessory buildings for the use of managing and controlling airfield operations including booking facilities, passenger waiting areas, refreshment and toilet facilities
9. Parking and viewing areas for vehicles and people visiting and associated with uses at the airfield
10. Informal children's playground with equipment to educate them on aircraft (as an accessory use)
11. Temporary military training activities

No specific plans have been submitted with the application for approval and therefore this Certificate of Compliance is for the activities only and not for the buildings.

Designation Provisions

The site is covered by a designation to Thames-Coromandel District Council. Under Appendix 1 Volume 2 of the District Plan – Operative in Part the site is designated an Airfield. The designation allows for new airfield development for a runway terminal, carpark and accessory buildings and structures, and refers you to a management plan. The Management Plan is contained within the appendices and includes provision for the airfield to be used for aircraft holding more than 30 passengers and to improve facilities such as runways, taxiing areas, hangars, public facilities and carparking areas. The Management Plan is not specific about what is proposed on the site but rather contains broad objectives about what is to be achieved on the site.

The designation allows for airfield activities and their accessory uses however there are no plans of buildings, parking areas etc, attached to the Management Plan. The designation provides for the activity only and the location and bulk of the activities has not been assessed as part of the designation. Therefore an Outline Plan application would be required for all physical works provided for under the designation in accordance with section 176A(3) of the Resource Management Act 1991.

A broad Outline Plan was granted by Council on the 12th December 1994 under the transitional provisions of the Resource Management Act 1991 and the Transitional District

Plan. This Outline Plan was for taxiways and included three different proposed hangar development areas around the runways.

Works on the site do not appear to have been undertaken as proposed in the approved Outline Plan. Since its approval Section 176A of the Resource Management Act was incorporated in 1997; Thames-Coromandel District Council has a new District Plan which is Operative in Part; the District Plan includes the airfield designations and refers to a Management Plan; and a new longer runway is proposed and included within the District Plan.

There have been a number changes to the relevant legislation and rules since this Outline Plan was granted, that it is no longer relevant to development of the site.

Relevant Rules of the District Plan

Pursuant to section 176(2) of the Resource Management Act 1991 the district plan provisions shall only apply to designated land where the use of that land is for a purpose other than the designated purpose. Therefore the District Plan rules only apply when the activity proposed is not in accordance with the designation.

Section 580 of the District Plan - Operative in Part contains rules regarding airfields and activities involving aircraft. Pursuant to section 582.1 of the District Plan *“the following activities are permitted activities provided that they meet the standards set out in Rule 583 for permitted activities:*

- .1 In Airfield Policy Areas in any zone:
 - 1.1 Landing, take off and taxiing of aircraft,*
 - 1.2 Aircraft safety devices,*
 - 1.3 Temporary military training activities,*
 - 1.4 Accessory buildings and structures.**
- .2 Private helicopter landing pads in coastal and rural zones Outside all policy areas only provided that they are purely domestic and the use is accessory to the house on the lot.*
- .3 Top dressing strips that are accessory to agriculture and forestry where these are permitted activities provided that they continue to be used solely for servicing the farm or forest and do not become more widely used.*
- .4 Emergency air ambulance service at the Thames Hospital.”*

There is only one standard in rule 583 of the District Plan which refers you to the airfield height rule in section 493 of the District Plan. This rule is not applicable to this Certificate of Compliance application as no buildings are proposed on the site at this stage.

Assessment of Each Activity

The applicant proposes a number of activities under this Certificate of Compliance application. I have assessed each activity individually by firstly identifying whether the activity would be in accordance with the designation and secondly against the relevant District Plan requirements for permitted activities.

I note that the area designated for Airfield Purposes is located within the Rural Zone (Airfield Policy Area), Rural Zone (Outside All Policy Areas) and the Open Space Zone. There is also an Environment Waikato Designation over the area zoned Open Space. The activities permitted under section 582.1 of the District Plan relate only to those uses within an Airfield Policy Area.

1. The landing, take off and taxiing off of aircraft (including helicopters and gliders) outside the legal hours of darkness (other than emergency use).

This activity is in accordance with the designation on the site. An Outline Plan application would not be required unless any physical works associated with this activity are proposed, for example earthworks.

I note that under section 582.1 of the District Plan that this activity is permitted within the Airfield Policy Area only.

2. Skydiving from aircraft

It is outside Councils jurisdiction to grant approval to skydiving from an aircraft as it is an air based activity. Ground activities associated with skydiving from aircraft would be in accordance with the designation however any physical works, such as buildings, would require an Outline Plan application.

This activity would be a permitted activity under section 582.1 of the District Plan within the Airfield Policy Area only. However the requirements of the designation prevail over the District Plan Rules.

3. Accessory buildings for the storage of aircraft and storage and use of associated equipment, spare parts, products for the functioning, repair, maintenance of the aircraft using the airfield.

This activity is in accordance with the designation on the site. An Outline Plan application would be required for the buildings as the designation does not include details of these works in accordance with section 176A(3) of the Resource Management Act 1991.

The accessory buildings would be permitted under section 582.1 of the District Plan provided they were located within the Airfield Policy Area, and complied with the Airfield Height Rule. However the requirements of the designation prevail over the District Plan Rules.

4. Accessory buildings for the use of storage of goods/products to be carried and distributed by aircraft using the airfield (eg topdressing sprays)

This activity is in accordance with the designation on the site as goods and products carried by an aircraft are a use accessory to the airfield. An Outline Plan application would be required for the buildings as the designation does not include details of these works in accordance with section 176A(3) of the Resource Management Act 1991.

The buildings would be permitted under section 582.1 of the District Plan provided they were located within the Airfield Policy Area and complied with the Airfield Height Rule. The storage of goods such as topdressing sprays would need to be a permitted activity under section 460 of the District Plan for Hazardous Substances and meet the relevant permitted activity standards of that section. The requirements of the designation would prevail over the District Plan Rules.

5. Accessory buildings for the use of repairing, maintaining and restoring aircraft and aircraft components

This activity is in accordance with the designation on the site as repairing, maintaining and restoring aircraft is an accessory use to the airfield. An Outline Plan application would be required for the buildings as the designation does not include details of these works in accordance with section 176A(3) of the Resource Management Act 1991.

The accessory buildings would be permitted under section 582.1 of the District Plan provided they were located within the Airfield Policy Area, and complied with the Airfield Height Rule. However the requirements of the designation prevail over the District Plan Rules.

6. Accessory buildings for the use of training purposes associated with aviation

This activity is in accordance with the designation on the site. An Outline Plan application would be required for the buildings as the designation does not include details of these works in accordance with section 176A(3) of the Resource Management Act 1991.

The accessory buildings would be permitted under section 582.1 of the District Plan provided they were located within the Airfield Policy Area, and complied with the Airfield Height Rule. However the requirements of the designation prevail over the District Plan Rules.

7. Accessory structures and/or buildings for the storage, sale and use of aviation fuel by aircraft using the airfield

This activity is in accordance with the designation on the site. An Outline Plan application would be required for the buildings as the designation does not include details of these works in accordance with section 176A(3) of the Resource Management Act 1991.

The buildings would be permitted under section 582.1 of the District Plan provided they were located within the Airfield Policy Area and complied with the Airfield Height Rule. The storage of fuel would need to be a permitted activity under section 460 of the District Plan for Hazardous Substances and meet the relevant permitted activity standards of that section. The requirements of the designation would prevail over the District Plan Rules.

8. Accessory buildings for the use of managing and controlling airfield operations including booking facilities, passenger waiting areas, refreshment and toilet facilities

This activity is in accordance with the designation on the site. An Outline Plan application would be required for the buildings as the designation does not include details of these works in accordance with section 176A(3) of the Resource Management Act 1991.

The accessory buildings would be permitted under section 582.1 of the District Plan provided they were located within the Airfield Policy Area, and complied with the Airfield Height Rule. However the requirements of the designation prevail over the District Plan Rules.

9. Parking and viewing areas for vehicles and people visiting and associated with uses at the airfield

This activity is in accordance with the designation on the site as public facilities and carparking areas are included within the Airfield Management Plan. An Outline Plan application would be required to show these areas on a plan as the designation does not include details regarding vehicular access, circulation and parking on the site in accordance with section 176A(3) of the Resource Management Act 1991.

Parking and viewing areas are not a permitted activity as they are not specified as being permitted in sections 470 and 580 of the District Plan. Depending on the reason for the parking area it could be considered a festival / event or outdoor recreation activity. However the requirements of the designation would prevail over the District Plan Rules.

10. Informal children's playground with equipment to educate them on aircraft (as an accessory use)

A children's playground is not provided for in the designation and must therefore be assessed against the rules of the District Plan.

Section 582.1.1.1.4 of the District Plan allows accessory buildings and structures to an airfield and activities involving aircraft as a permitted activity. Not enough information has been provided in the application to determine if this activity is an accessory use to an airfield.

A children's playground can be considered a non-residential service and facility or an outdoor recreation activity which both require resource consent as a discretionary or non-complying activity within the Rural Zone (Outside All Policy Areas) and the (Airfield Policy Area).

Pursuant to section 6.5.6.1.1 of the District Plan it is a permitted activity for informal recreation activities to be established within the Open Space Zone, provided permission is obtained from the relevant requiring authorities. A children's playground is an informal recreation activity.

Therefore this activity is a permitted activity but only in the Open Space Zone.

11. Temporary Military Training activities

Temporary Military Training activities are not provided for in the designation and must therefore be assessed against the rules of the District Plan.

This is a permitted activity on the site under sections 520, 580 and 6.5 of the District Plan provided they comply with the relevant standards for the zone in which the activity will be located.

Conclusion

Based on the level of information provided with the application all the activities referred to in the application are either provided for under the designation or are a permitted activity in the District Plan. The majority of the activities will require an Outline Plan application to be made to Council. Noise from airfields is required to comply with the relevant parts of section 491.2 of the District Plan – Operative in Part.

Decision:

Pursuant to Section 139 of the Resource Management Act 1991, it is hereby certified that at the date of the request for this certificate, being 15 July 2008, the following activities, as described in the C and M Planning "Thames Airfield Certificate of Compliance Request" report dated July 2008 and prepared by Gillian Cockerell, may be lawfully carried out without a resource consent on the property at 395 Ngati Maru Highway, SH25, Thames:

1. The landing, take off and taxiing off of aircraft (including helicopters and gliders) outside the legal hours of darkness (other than emergency use).
2. Ground activities associated with skydiving from aircraft
3. Accessory buildings for the storage of aircraft and storage and use of associated equipment, spare parts, products for the functioning, repair, maintenance of the aircraft using the airfield.
4. Accessory buildings for the use of storage of goods/products to be carried and distributed by aircraft using the airfield (eg topdressing sprays)
5. Accessory buildings for the use of repairing, maintaining and restoring aircraft and aircraft components
6. Accessory buildings for the use of training purposes associated with aviation
7. Accessory structures and/or buildings for the storage, sale and use of aviation fuel by aircraft using the airfield
8. Accessory buildings for the use of managing and controlling airfield operations including booking facilities, passenger waiting areas, refreshment and toilet facilities
9. Parking and viewing areas for vehicles and people visiting and associated with uses at the airfield
10. Informal children's playground with equipment to educate them on aircraft (as an accessory use), permitted only in the area zoned Open Space.
11. Temporary military training activities

Advice Notes:

1. This Certificate of Compliance decision does not negate the need to comply with the requirements of RMA section 176A in respect of Outline Plans for works on designated land, in particular works associated with listed activities 1-9.
2. Any activity on the site must comply with the relevant permitted Noise Standards as set out within section 491.2 of the District Plan-Operative in Part.
3. This certificate does not confer any existing use rights under section 10 of the RMA.

Report prepared by:

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Andrea Griffiths
SENIOR RESOURCE CONSENT PLANNER
ENVIRONMENTAL SERVICES

Signed for and On Behalf of the
Thames-Coromandel District Council:

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Independent Commissioner

Dated at Thames this day of 2008.