



Received
19 SEP 2019
Office of Hon Phil Twyford

Application for airport authority status – West Auckland and Great Barrier Island Airports

Reason for this briefing	This paper seeks your authority to issue drafting instructions to the Parliamentary Counsel Office for an Order in Council conferring airport authority status on West Auckland Airport Limited and Auckland Transport, under the Airport Authorities Act 1966.
Action required	Authority to issue drafting instructions to the Parliamentary Counsel Office.
Deadline	Monday 7 October.
Reason for deadline	So that things can progress in a timely manner for the applicants.

Contact for telephone discussion (if required)

Name	Position	Telephone	First contact
Tom Forster	Manager, International Connections	022 066 3875	✓

MINISTER'S COMMENTS:

Date:	19 September 2019	Briefing number:	OC190743
Attention:	Hon Phil Twyford	Security level:	In Confidence

Minister of Transport's office actions

- Noted
- Seen
- Approved
- Needs change
- Referred to
- Withdrawn
- Not seen by Minister
- Overtaken by events

Purpose of report

1. We are seeking your approval to issue drafting instructions to the Parliamentary Counsel Office for an Order in Council conferring airport authority status on:
 - West Auckland Airport Company Limited (with respect to the airport they own and operate in Parakai, north of Auckland)
 - Auckland Transport (with respect to the airports Auckland Council owns on Great Barrier Island).
2. Part A of this briefing provides general information about airport authority status. Part B provides our advice on the application made by West Auckland Airport Company Limited. Part C provides our advice on the application made by Auckland Council (the Council), on behalf of Auckland Transport.

Part A: Airport authority status

3. Airport authority status provides airports with powers, responsibilities and obligations under New Zealand legislation. The powers, responsibilities and obligations of particular note are listed below.

Powers

- Airport authorities are network utility operators under the Resource Management Act 1991 (RMA). This allows them to apply to the Minister for the Environment for approval to become a requiring authority. Among other things, requiring authority status allows an organisation to give notice to a local authority (council) to designate land for a particular use under the district plan.
- Airport authorities have the power to make their own bylaws, subject to government approval.
- Airport authorities are deemed government works for the purposes of the Public Works Act 1981. This allows them to apply to the Minister of Lands for the compulsory acquisition of land.
- Airport authorities have special provision to terminate leases on their land.
- Land vested, in and occupied by, an airport authority is non-rateable under the Local Government (Rating) Act 2002 (except in terms of water supply, sewage disposal and rubbish collection). This only applies to land within the operational area of an airport.

Responsibilities/obligations

- Airport authorities (except those which are local authorities) must consult with substantial customers when setting or altering charges, and within five years of setting or altering a charge.
- Airport authorities (except those which are local authorities) are classed as public entities under the Public Audit Act 2001. The Auditor-General is the auditor of public entities, and public entities are subject to the information-gathering and disclosure of information requirements of that Act.

- Airport authorities are subject to the Ombudsman Act 1975. The Ombudsman has functions under that Act to investigate decisions, acts and recommendations made by individuals and entities subject to that Act.
4. There are over 20 airports in New Zealand operating under airport authority status. These range from large international airports such as Auckland, through to smaller airfields such as Omarama in Southern Canterbury. There is a mixture of private and council-owned airports with airport authority status.

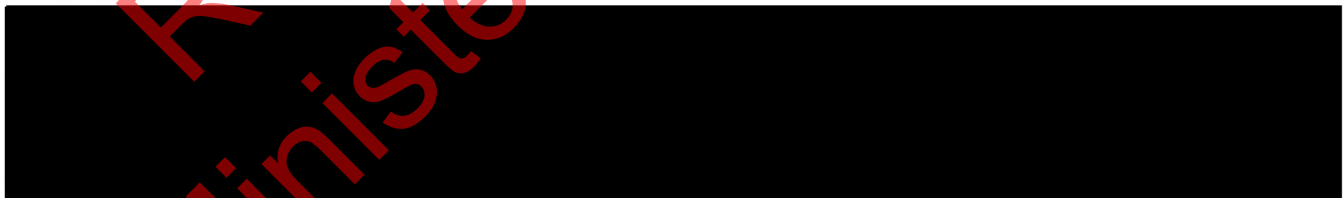
Part B: West Auckland Airport Company Limited


5. West Auckland Airport, Parakai is a small airport located in Auckland's northwest. The airport is predominately used for skydiving, flight training and private recreational flying.
6. The Lockie Family has owned the airport since 2005. They have applied for their company, West Auckland Airport Company Limited (the Airport Company), to hold airport authority status.

Why the Airport Company wants airport authority status

7. In its application, the Airport Company notes concerns that its land is currently zoned as rural, with consent by way of a specified departure to operate as an airport. It mentions that this has caused complexity for both the Airport Company and the Council when managing and planning for the airport's future needs, such as obtaining consent from the Council for airport buildings on its land.
8. The Airport Company's application does not provide any detail about how it thinks airport authority status will help this situation. However, through informal conversations, the Airport Company has mentioned that airport authority status may provide the recognition required for it to be in a better position to negotiate zoning and land use with the Council.
9. We consider on its own, airport authority status is unlikely to affect this situation. However, it would allow the Airport Company to apply for requiring authority status from the Minister for the Environment. If granted, requiring authority status may provide the Airport Company with greater ability to use the land as it sees fit, as it would allow the airport to seek a designation providing for airport activities and associated building development.

10.



11. From a statutory viewpoint, airport authority status is not needed to develop the airport . However, we recognise that the additional powers (in particular, the ability to apply for requiring authority status) may support development at the airport.

Consultation

12. We consulted on the Airport Company's application in May 2019. We sent out over 600 letters seeking submissions from local residents, placed ads in local newspapers and ran a community meeting regarding the proposal.

13. The majority of the 81 submissions we received supported granting airport authority status to the Airport Company. These submissions came from a range of stakeholders both within, and outside of, the Parakai community, and included support from the aviation industry (airport users, airports, and the NZ Airports Association). The submissions in support of the application noted the points below.
- The airport is an asset to the community and deserves to operate under a regulatory framework designed for airports.
 - The airport does (or could) provide transport links and economic benefits for the region.
 - Current rural zoning is not appropriate for the airport.
 - Airport authority status is important for protecting the airport for use into the future.
14. We received roughly 20 submissions opposing the application from the Airport Company. Most of these submissions came from residents who live in and around Parakai. Those opposed raised the following concerns.

Aircraft Noise

15. Some residents are currently affected by aircraft noise generated by the airport, and oppose the application on the basis that airport authority status may mean more aircraft, or larger aircraft, will start using the airport.
16. We note that airport authority status does not directly affect the number or size of aircraft permitted to use the airport. The size of aircraft permitted to use the airport is determined by civil aviation safety regulation, while the RMA provides mechanisms for placing limits on activities causing noise, including at airports.
17. If noise was, or became, a problem at the airport, it is the responsibility of the Council and the Airport Company to work with the community to resolve these issues, part of which could include imposing noise restrictions.

Community engagement

18. Some residents felt there had been a lack of engagement and insufficient information provided to the community about the Airport Company's plans, making it difficult for the community to make an informed submission on the proposal.

19. [REDACTED] we note there are existing mechanisms under the RMA requiring the Airport Company or Council to consult with the community on matters such as consent for building a new runway.

Airport authority powers

20. Some stakeholders were concerned that airport authority status will provide powers beyond what a private company should have. The Council were concerned the rights associated with airport authority status transfer the power to determine the future of the airport, and its surrounds, to the Airport Company itself and away from the wider community in the form of the Council.

21. We consider that the core powers available to an airport authority are sufficiently restrained through further ministerial or government decision-making to prevent misuse. For instance, acquisition of land under the Public Works Act can only happen through the Minister of Lands, while the making of by-laws requires approval of the Governor-General by Order in Council.
22. Airport authorities are a type of network utility operator under the RMA and can therefore apply to become requiring authorities under that Act. Some stakeholders, [REDACTED] were concerned about the powers available to the Airport Company should it gain requiring authority status.
23. Although many airport authorities hold requiring authority status, it is not provided as a matter of course, as the Airport Company would need to apply to the Minister for the Environment. Among other things, an applicant for requiring authority status will need to satisfy the Minister that it can give proper regard to the interests of those affected, and would satisfactorily carry out the responsibilities of a requiring authority.

We believe the Airport Company should be granted airport authority status

24. The Airport Authorities Act contains no specific process or criteria for approving or denying applications for airport authority status. On reviewing the Airport Company's application, we could see no reason why it should not be granted airport authority status. The Airport would likely benefit from the limited powers available to it under the Act, particularly if it was to grow in future.
25. As previously discussed, the key powers available to an airport authority are sufficiently restrained through further ministerial or government decision-making to ensure that they are not misused. In particular, any substantial development at the airport (which underlies concerns from residents and the Council) would be subject to RMA processes, which would likely require consultation with the community¹. We also have no evidence to suggest that the Airport will not be able to satisfactorily carry out the responsibilities of an airport authority.

Risks

26. Some members of the community around the airport have been vocal in their opposition to the application for airport authority status. Their concerns, which focused mostly on noise and the lack of engagement by the Airport Company, were reported in the media. Some members of the community are likely to reiterate these concerns, in the event that airport authority status is granted.

Part C: Great Barrier Islands

27. Auckland Council (the Council) owns and operates two airports on Great Barrier Island, Claris and Okiwi. Claris has regular commuter flights operating to and from the mainland, with (on average) eight daily scheduled flights to and from Auckland Airport. Okiwi airfield is more remote, but provides access to the northern part of the island, and is a useful alternate airport in the event Claris is closed.

¹ When assessing an application for resource consent, a council can decide to notify the application to the public and take submissions. Applications that are likely to have adverse effects on the environment are often publicly notified, so too are applications to designate land made by requiring authorities, including rights of appeal to the Environment Court.

The Council would like Auckland Transport to have formal operation and control of the airports on Great Barrier Island

28. Responsibility for the management of the various Great Barrier airport facilities and operational activities is currently fragmented and is spread between Auckland Council Community Facilities Department and Panuku Development Auckland Limited (a council controlled organisation). An Auckland Transport staff member is currently seconded to the Council to manage the operation of these airports and ensure compliance with relevant aviation standards.
29. Rather than continue with this fragmented approach, the Council would like to consolidate responsibility for operating and managing the airports, and place this responsibility with Auckland Transport. It considers that Auckland Transport has the operational capacity and expertise to manage the airports, and that this role aligns with Auckland Transport's general role in the region of ensuring efficient and effective movement of people and freight.

The Council would like Auckland Transport to have airport authority status

30. The Council would like Auckland Transport to hold airport authority status before it is delegated responsibility for the operation and management of the Great Barrier airports. This would shift the powers and responsibilities of airport authority status from the Council, to Auckland Transport.

We believe Auckland Transport should be granted airport authority status

31. The Ministry has assessed the Council's submission and considers there is no reason why Auckland Transport should not hold airport authority status. As the Council currently holds airport authority status with respect to the Great Barrier airports, transferring this status to Auckland Transport is essentially an administrative decision, reflecting the new operational and management arrangements.
32. Given the administrative nature of the decision, we consider that the community and airport customers do not need to be consulted on this decision.
33. We consider that it is inappropriate for two entities to hold airport authority status with respect to the same airports. We therefore propose that any Order in Council conferring airport authority status on Auckland Transport should at the same time revoke the Council's existing airport authority status with respect to the Great Barrier airports.

Next steps

34. Should you agree:
 - we will issue drafting instructions to the Parliamentary Council Office for Orders in Council conferring airport authority status on West Auckland Airport Company Limited and Auckland Transport (and revoking airport authority status for Auckland Council for the Great Barrier airports)
 - we will draft a Cabinet paper for you to take to the Cabinet Legislation Committee, seeking authorisation to submit the Orders in Council to Cabinet.

Recommendations

35. The recommendations are that you:

West Auckland Airport Company Limited

- (a) **agree** that airport authority status should be conferred on West Auckland Airport Company Limited Yes/~~No~~
- (b) **authorise** the Ministry to issue drafting instructions to the Parliamentary Counsel Office for an Order in Council conferring airport authority status on West Auckland Airport Company Limited Yes/~~No~~

Auckland Transport

- (c) **agree** that airport authority status should be conferred on Auckland Transport Yes/~~No~~
- (d) **authorise** the Ministry to issue drafting instructions to the Parliamentary Counsel Office for an Order in Council conferring airport authority status on Auckland Transport (and revoking airport authority status for Auckland Council for the Great Barrier airports). Yes/~~No~~



Tom Forster
Manager, International Connections

MINISTER'S SIGNATURE:



DATE: 22.9.19

Released by the Minister of Transport

Released by the
Minister of Transport