

Report for a certificate of compliance application under section 139 of the Resource Management Act 1991 (RMA)



CENTRAL HAWKE'S BAY
DISTRICT COUNCIL

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RC Number RM180139
Applicant's name: Josh & Susan Calder
Site address: 241 Elsthorpe Road, Otane
Legal description: Lot 2 DP 397944 (CFR: 391113) AND Lot 1 DP 28446
Valuation Number: 1092004800
Site area: 12.7670 ha
Operative plan(s): Central Hawke's Bay District Plan
Zoning: Rural
Date further information requested: N/A
Date further information received: N/A

Locality Plan



Application documents (plans and reference documents)

The following information has been provided:

- Application Form, and analysis prepared by Josh Calder, dated November 2018.

1. THE PROPOSED PERMITTED ACTIVITY

Proposal

Aircraft Airstrip 450m long and 12m wide.

Background

The applicant has applied for a Certificate of Compliance for the airstrip which is a permitted activity under the Central Hawke's Bay District Plan.

Note: This is an updated Certificate of Compliance issued to correct the omission of the second lot over which this activity relates.

2. REASONS FOR THE APPLICATION

The applicant has requested a certificate of compliance under the following rule(s) for the activity described above:

Central Hawke's Bay District Plan (Section 2.2 Definitions)

- **Aircraft** means any machine that can derive support in the atmosphere from the reactions of the air otherwise than by reactions of the air against the surface of the earth.
- **Aerodrome** means any defined area of land or water intended or designed to be used whether wholly or partly for the landing, departure, movement or servicing of aircraft.
- **Recreational Activity** means the use of land and/or buildings for the primary purpose of recreation and/or entertainment. It includes the sale of food and beverage for consumption on the site provided it is ancillary to the recreational activity. Recreational activities includes sport clubs, art, craft and hobby clubs (i.e. painting, pottery, bridge, chess, photography clubs), aerodromes, and outdoor recreation pursuits, but excludes any recreational activity within the meaning of residential activity.
- **Commercial Activity** Means the use of land and buildings for the display, offering, provision, sale or hire of goods, equipment, or services, and includes shops, markets, showrooms, restaurants, takeaway food bars, professional, commercial and administrative offices, service stations, motor vehicle sales, the sale of liquor and associated parking areas; but excludes recreation, community and service activities, home occupations or visitor accommodation.

Central Hawke's Bay District Plan (Section 4 Rural Zone)

- **4.8.1 Permitted Activities:**
 - g. Recreational Activities (other than on the surface of rivers and lakes)
 - f. Commercial Activities
- **4.9.11 Noise:** On any site, activities, shall be conducted such that the following noise levels are not exceeded at nor within the notional boundary of any residential unit, other than residential units on the same site as the activity:
 - 55dBA L10 – 6.00am – 11.00pm Monday to Saturday
 - 45dBA L10 – at all other times

- 75dBA L10 – at all other times

Central Hawke's Bay District Plan (Section 8 Transport)

- **8.5.1 Parking and Loading:** There is sufficient space for parking available.
- **8.5.2 Vehicle Access:** The activity utilises the existing vehicle access to the site.

Central Hawke's Bay District Plan (Section 11 Signs)

- **11.4.6 Signs in the Rural Zone:** a. The total area of signs on any site shall not exceed 3.0m² in the Rural Zone.
b. Signs shall not exceed the highest point of the roof and the height of a free standing sign shall not exceed 10m in the Rural Zone.
c. Maximum number of signs on any site shall not exceed 2; except that:

this does not apply to:

- Traffic directional signs, provided that each individual sign does not exceed 1m²; and does not advertise any activity;
- Signs that are not visible from a public road or place.

Central Hawke's Bay District Plan (Section 13 Hazardous Substances)

- **13.5.1 Permitted Activities:** The following activities shall be Permitted Activities, provided that they comply with all of the Performance Standards specified below.
b. The use and/or storage of hazardous substances identified in quantities not exceeding those specified in Column A of Table 1 for the relevant zone.

CONSIDERATION OF THE APPLICATION

3. STATUTORY CONSIDERATIONS

Section 139 of the Resource Management Act 1991 (RMA) sets out the circumstances under which a consent authority may issue a certificate of compliance.

A certificate must be issued if the activity referred to in the application can be done lawfully in a particular location without a resource consent, and the applicant pays the appropriate administrative charge.

Any certificate which is issued must describe the activity and the location, and state that the activity can be done lawfully in the particular location without a resource consent, as at the date on which the consent authority received the request (section 139(7)).

Under section 139(8), a consent authority must not issue a certificate if the request has been made after a proposed plan has been notified, and the activity referred to in the application could not be done lawfully in a particular location without a resource consent, under the proposed plan.

4. ANALYSIS OF PLAN PROVISIONS

The proposal has been described in the application material. The information submitted by the applicant is considered against the permitted activity rules of the relevant plan below.

Provision / rule	Analysis / Conclusion
4.8.1 Permitted Activity: g. Recreational Activities (other than on the surface of rivers or lakes) f. Commercial activity	The definition of Recreational Activity includes aerodromes.
4.9.11 Noise:	The activity will not exceed the noise requirements of the District Plan.
11.4.6 Signs in the Rural Zone:	The activity does not have a sign that the total area is of greater than 3.0m ² . Nor does the activity have a sign that exceeds the highest point of the roof and any height of a free standing sign does not exceed 10m. The number of signs on the site does not exceed 2.
11.4.2 Signs in the Zones:	The activity will not exceed any of the performance standards outlined in this rule.
13.5.1 Permitted Activities: b. The use and/or storage of hazardous substances identified in quantities not exceeding those specified in Column A of Table 1 for the relevant zone.	The activity will store no more than the permitted amount of hazardous substances (as identified in Column A of Table 1) on site.

5. CONCLUSION

Overall the proposal is compliant with all relevant Rules in the Rural Zone.

6. RECOMMENDATION

Under s139 of the RMA, I recommend that the Council issue a certificate of compliance as:

- a) The activity complies with all relevant Rules in the Rural Zone.

This report and recommendation prepared by:

Name:

Title: Resource Consents Planner

Signed:

Date:

**Certificate of compliance issued
under section 139 of the
Resource Management Act 1991**

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To operate an airstrip, considered to be a recreational/commercial activity in the Rural Zone.

I have read the application, supporting documents, and the report and recommendations on the application for certificate of compliance. I am satisfied that I have sufficient information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on the application.

The activity is permitted under the relevant rules of the Central Hawke's Bay District Plan Rule 4.8.1 permitting the use of the land for a Recreational Activity and/or Commercial Activity and Rule 4.9.11 permitting an activity that does not exceed the noise levels of the Rural Zone.

Acting under delegated authority, I certify that the proposal described above and at the above location can be done lawfully without a resource consent as of 31 January 2019.

Delegated decision maker:

Name: Alison Francis
Title: Customer and Consent Manager
Signed:

A rectangular box containing a handwritten signature in black ink that reads "A Francis".

Date: 31/01/2019

Advice notes

1. *This certificate is deemed a resource consent under section 139(10) of the Resource Management Act 1991 (RMA) and is issued subject to on-going compliance with any conditions or performance standards specified in the relevant plans referred to above. It is issued without erasure or alteration.*

2. *Section 125 of the RMA applies to this deemed resource consent (refer section 139(12)). Accordingly, this consent will expire five years after the date of the commencement of this deemed consent unless, before the deemed consent lapses:*
 - a) *It is given effect to; or*
 - b) *An application is made to the council to extend the period of the deemed consent, and the council decides to grant an extension after taking into account the statutory considerations set out in section 125(1A)(b) of the RMA.*
3. *The activity must comply with all relevant council bylaws, the Building Act 2004 and any other relevant laws and regulations. This certificate does not constitute building consent approval. All necessary consents under other legislation must be obtained.*