

**BEFORE THE INDEPENDENT HEARING PANEL FOR THE PROPOSED QUEENSTOWN
LAKES DISTRICT PLAN**

Under

the Resource Management Act 1991

In the Matter

of the Urban intensification
Variation to the Proposed
Queenstown Lakes District Plan

**QUEENSTOWN AIRPORT
CORPORATION LIMITED**

Submitter 822 and Further
Submitter 1355

**Summary of Legal Submissions for
Queenstown Airport Corporation Limited
(Submitter 822 and Further Submitter 1355)**

Dated: 27 August 2025

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MAY IT PLEASE THE PANEL

1. This summary of legal submissions is presented on behalf of Queenstown Airport Corporation Limited (**QAC**).
2. Queenstown Airport (**Airport**) is located at Frankton. It was established at its current location in 1935, when the surrounding area was farmland. The Airport is now located within an urban area and is largely surrounded by urban development.
3. QAC is responsible for managing Queenstown Airport.
4. QAC has submitted and further submitted on the Variation. In general terms, QAC:
 - (a) Largely supports the notified Variation;
 - (b) Opposes submissions that seek to enable new or intensified noise sensitive activities (**ASAN**¹) within the existing aircraft noise boundaries for Queenstown Airport;
 - (c) Opposes submissions that seek to enable building heights that risk encroaching into the obstacle limitations surfaces that apply to the airspace around Queenstown Airport, including during the construction phase.
5. QAC is concerned to ensure that the Variation appropriately recognises and provides for the ongoing operations of the Airport in a safe and efficient manner and ensures that these are not compromised by incompatible, sensitive activities.

DESIGNATIONS

6. QAC is the requiring authority for two designations in the Queenstown Lakes Proposed District Plan (**PDP**)²:
 - (a) **Designation 2** - Aerodrome Purposes, the purpose of which is to protect the operational capability of the Airport, while at the same time minimising

¹ Being an "Activity Sensitive to Aircraft Noise" which the PDP defines as: "...any residential activity, visitor accommodation activity, residential visitor accommodation activity, homestay activity, community activity and day care facility activity as defined in this District Plan including all outdoor spaces associated with any education activity, but excludes activity in police stations, fire stations, courthouses, probation and detention centres, government and local government offices."

² PCP Chapter 37.

adverse environmental effects from aircraft noise on the community until at least 2037. The Aerodrome designation permits:

- (i) Aircraft operations, private aircraft traffic, domestic and international aircraft traffic, rotary wing operations, aircraft servicing, general aviation airport or aircraft training facilities, and associated offices;
- (ii) Runways, taxiways, aprons, and other aircraft movement areas;
- (iii) Terminal buildings, hangars, control towers, rescue facilities, navigation and safety aids, lighting, car parking, maintenance and service facilities, catering facilities, freight facilities, quarantine and incineration facilities, border control and immigration facilities, medical facilities, fuel storage and fuelling facilities, facilities for the handling and storage of hazardous substances, and associated offices;
- (iv) Roads, accessways, stormwater facilities, monitoring activities, site investigation activities, infrastructure and utility activities, landscaping, and all related construction and earthwork activities;
- (v) Vehicle parking and storage, rental vehicle facilities, vehicle valet activities, public transport facilities;
- (vi) Retail activities, commercial and industrial activities provided they are associated with and principally serve, the function and operation of Queenstown Airport, and passengers;
- (vii) Within the General Aviation Precinct located on Part Lot 6 DP 304345:
 - General aviation operations, including private aircraft, rotary wing and helicopter operations, and
 - Hangars, including those for Code C aircraft, and
 - Associated activities, offices aircraft servicing, fuel supply and storage, maintenance, buildings, signage and infrastructure,

navigational aids and lighting, vehicle access, car parking and landscaping.

(viii) The Aerodrome Designation includes conditions which place obligations on QAC in respect of noise management and mitigation.

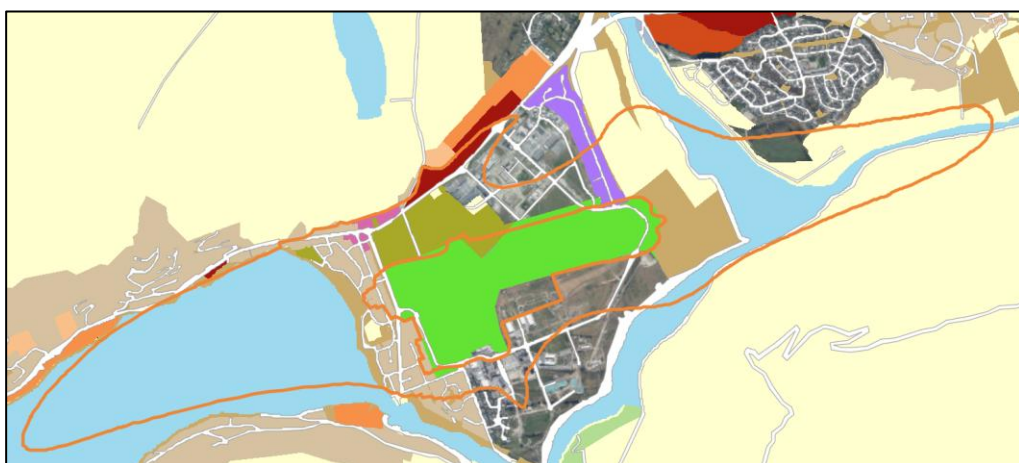
(b) **Designation 4** - Airport Approach and Land Use Controls (Obstacle Limitation Surfaces, or **OLS**), the purpose of which is to provide obstacle limitation surfaces around the Airport to ensure the safe operation of aircraft approaching and departing the Airport.

NOISE BOUNDARIES AND ASAN

7. The PDP contains noise boundaries for Queenstown Airport, namely:

- (a) An 'Outer Control Boundary' (**OCB**), which is based on the day/night sound levels of **55 dBA L_{dn}** from predicted future aircraft operations.
- (b) An 'Air Noise Boundary' (**ANB**), which is based on the day/night sound levels of **65 dBA L_{dn}** from predicted future aircraft operations.

8. The noise boundaries are shown on the PDP planning maps, a snippet of which is below:



9. The ANB applies mostly to QAC owned and designated land and includes (relevantly) some Lower Density Suburban Residential zoned land (**LDSRZ**), west of the Airport. The OCB is larger and includes most of the Frankton LDSRZ, the entirety of the Local Centre Shopping zoned land at Frankton (**LCSZ**) and parts of the Business Mixed Use zoned land (**BMUZ**).

10. The purpose of the noise boundaries is twofold:
 - (a) To define the noise limits within which Queenstown Airport must operate;
 - (b) To define the areas around Queenstown Airport that will be affected by aircraft noise to a degree that a planning response is necessary.
11. The New Zealand Standard for Airport Noise Management and Land Use Planning, NZS6805:1992 (**Standard**) is the basis for the noise boundaries. They were set through a previous planning process - Plan Change 35 to the Operative District Plan (**ODP**), confirmed by the Environment Court in 2013, and have been carried through to the PDP.
12. The New Zealand Standard recommends an approach whereby all activities sensitive to aircraft noise are prohibited within an Airport Noise Boundary and Outer Control Boundary, where this can be practically achieved.
13. The noise boundaries are complemented by a comprehensive policy and rule regime that generally accords with the Standard, to ensure residential amenity (and health) is protected, and reverse sensitivity risks on the Airport are minimised.
14. This regime, and the noise boundaries, were thoroughly evaluated and tested through the council plan change process and several subsequent Environment Court hearings, where the Court was satisfied that the regime promoted and ultimately confirmed was necessary and appropriate to protect the Airport against reverse sensitivity risk, and to ensure a reasonable level of residential amenity is maintained.
15. The PDP regime, as confirmed by the Environment Court, is to prohibit new noise sensitive activities in the ANB and OCB (noise boundaries), except that, in areas where ASAN have been enabled historically, a more moderated approach is applied whereby previous development rights are recognised and grandfathered. This grandfathering approach applies in the LDSRZ and LCSZ.
16. The Airport is not currently operating to the full capacity allowed by the noise boundaries. The noise boundaries allow for the reconfiguration of on airport activities, which could include relocating noise producing activities (such as helicopters) to new locations within the Aerodrome designation, and growth in

aircraft movements and associated noise. The changes can occur as permitted activities.

17. Contrary to suggestions by some submitters, through its involvement in this Variation, QAC is not concerned with protecting for as yet, unconsented, unauthorised future activities and growth at Queenstown Airport. QAC's interest in the Variation concerns ensuring that its existing permissions, defined by the existing noise boundaries, can be exercised and are not unduly constrained or compromised by encroaching/intensified incompatible activities, and that aircraft safety is not compromised.
18. To this end, QAC
 - (a) **Generally supports** the notified position in relation to the LDSRZ.
 - (b) **Generally supports** the notified position in relation to the LCSZ.
 - (c) **Generally supports** the notified position in relation to the BMUZ, except in relation to the proposed building height increase, which it **opposes** due to the risk of encroaching the OLS (during construction).
 - (d) Is **neutral** on BMUZ rezonings sought by submitters, provided ASAN remain prohibited within the BMUZ OCB.
 - (e) **Opposes** submissions that seek to enable ASAN within the BMUZ OCB.
 - (f) **Opposes** submissions that seek to increase building height in the LCSZ to the extent that this would have the effect of enabling additional ASAN in the OCB.
 - (g) **Opposes** OCB general submissions that seek to further enable or intensify ASAN within the OCB, including in the LDSRZ.
19. In essence, QAC seeks that the existing, much tested PDP regime concerning the provision for (or prohibition of) ASAN within the OCB is not altered by the Variation.
20. QAC is also concerned with ensuring appropriate amenity and health outcomes are maintained under the Variation.

REGIONAL SIGNIFICANCE AND POLICY FRAMEWORK

21. The Airport is a critically important existing strategic asset to the Queenstown Lakes District and Otago Region. It provides essential domestic and international connections, and a crucial element of the tourism industry. It provides substantial direct and indirect benefits to the local and regional economies. It is a fundamental part of and critically important to the ongoing social and economic well-being of the district's community.
22. This year, QAC will pay a total dividend to the Queenstown Lakes District Council, as the majority shareholder, of \$14.1 million, which equates to \$440 per ratepayer across the District. This is undeniably a very significant benefit for the community.
23. The critical importance of Queenstown Airport to community wellbeing is recognised at a strategic policy level. The Airport is nationally significant infrastructure under the National Policy Statement-Urban Development (**NPS-UD**), regionally and nationally significant infrastructure under the Otago Regional Policy Statement 2019 (**ORPS**) and the Proposed Otago Regional Policy Statement 2021 (**PORPS**), and regionally significant infrastructure under the Proposed District Plan (**PDP**).
24. The policy framework in the ORPS and PROPS sets a very strong directive for the protection of Queenstown Airport and mandates a prohibition on new activities that could compromise its effective and efficient operations.
25. This is echoed in the PDP. The PDP objectives and policies recognise the importance of Queenstown Airport and require its protection from compromise by incompatible activities, which is to be achieved through a variety of methods, including zonings, limiting the number of ASAN within the noise boundaries, discouraging the creation of new residential sites and infill within the noise boundaries, and minimising, by not increasing, the reverse sensitivity risk. The PDP scheme is to prohibit new ASAN within the OCB, where they are not already enabled, and where they are already enabled (due to historic planning permissions) to require acoustic treatment to be fitted and to restrict or limit the ability to increase or intensify the ASAN use. This scheme is more liberal than the New Zealand Standard (NZS:6805) recommends, however it strikes a balance between recognising the needs and aspirations of the residential community and protecting the Airport. It ensures that the number of people exposed to the

adverse effects of aircraft noise (incompatible uses), and the reverse sensitivity risk this poses to the Airport, is minimised as far as practicable.

26. The Variation upholds this scheme. This is necessary and appropriate give the clear and strong policy framework that requires protection of the Airport from incompatible uses, and it is supported by QAC.

REVERSE SENSITIVITY

27. Reverse sensitivity risk is entrenched in planning law. It is recognised as a real risk for Airports that must be addressed in planning decisions.

28. The Court has acknowledged that complaints can give rise to reverse sensitivity risk, and they can cause an Airport to change or curtail its operations in response to complaint. Such changes can result in less efficient operations and make the Airport less attractive to airlines, resulting in curtailment of activity over time. In the Queenstown context, curtailment of Airport activity could result in very significant adverse effects for the community, given the core role the Airport plays in the District's economy, and the vital national and international connections it provides for the community

29. The PDP defines reverse sensitivity as:

"...the potential for the operation of an existing lawfully established activity to be constrained or curtailed by the more recent establishment or intensification of other activities which are sensitive to the established activity."

30. While the definition refers to "**existing** lawfully established activities", the concept is not static or fixed in time. The word "existing" clarifies that the activity at risk of a reverse sensitivity effect must be established prior to the new activity that gives rise to the risk. The word "existing" does not constrain the emitting activity to its existing level or operation.³ Indeed, all airports are expected to grow and morph (McElroy).

31. QAC is not required to prove that a reverse sensitivity effect *will* arise if intensification within the OCB is enabled. That there is a risk is enough; the RMA recognises potential effects - which include effects of low probability but high potential impact - as effects that planning decisions must address.

³ See for example, *Ngatarawa Development Trust Limited*, n30 and para 85 above, which identifies the "stifling of growth" as a reverse sensitivity effect.

32. The Courts have recognised a there is direct correlation between a risk of complaint and a reverse sensitivity effect: *“Reverse sensitivity is sensitivity not to environmental impact, but to **complaint** about environmental impact. Reverse sensitivity exists where an established use produces adverse effects and a new use is proposed for nearby land. It is the legal vulnerability of the established activity to **objection** from the new use.”*
33. As a matter of logic, it is inevitable that if additional ASAN are enabled within the noise boundaries for Queenstown Airport through this Variation, more people will be exposed to noise from airport operations, and the likelihood of complaint will increase, as will the reverse sensitivity risk. It is this risk with which QAC is concerned and which the strategic policy framework directs must be avoided.

AMENITY AND HEALTH EFFECTS

34. The daytime noise limits in the PDP are 50dB $L_{Aeq(15min)}$ for all residential zones, to preserve a reasonable level of amenity. Noise within the OCB is at least 5dB higher than what the PDP indicates is reasonable for a residential area. Noise at this level will undoubtedly affect amenity, causing annoyance. Effects are not limited to amenity/annoyance, however. Annoyance from exposure to aircraft noise at OCB levels can cause adverse health effects, triggering a chronic stress response with measurable health consequences. Allowing a large number of people to move into an area where their health may be adversely affected runs counter to the purpose of the RMA.
35. There is no sound logic or planning basis to allow more ASAN/people in an area where it is known that their amenity will be compromised by aircraft noise, particularly where there are better options elsewhere (a point elaborated on later).

MITIGATION OPTIONS

36. Some submitters have suggested that intensification within the OCB is appropriate, provided suitable indoor noise levels can be achieved, through acoustic insulation and the use of no-complaints covenants.
37. Sound insulation is on its own insufficient to mitigate the effects aircraft noise. Extensive research shows that even where satisfactory internal noise levels are achieved, between a quarter and one half of the ordinary population still will be

“highly annoyed” by aircraft noise nonetheless.⁴ This high level of annoyance inevitably gives rise to a risk of complaint. The greater the number of highly annoyed people, the greater the risk of complaint.

38. For acoustic insulation to be effective at achieving a satisfactory internal noise environment, windows must be kept closed. This limits access to fresh air, causing residents to open windows, resulting in an unsatisfactory internal noise environment. This can impact their amenity, and lead to an increased risk of complaint.
39. Sound insulation does not deal with the outdoor noise environment which is integral to the New Zealand lifestyle and broader wellbeing.
40. No-complaints covenants are often touted as part of the answer to mitigating the effects of aircraft noise on sensitive receivers and reverse sensitivity risk, and they have been promoted by some submitters as a suitable method to do so while enabling additional ASAN within the OCB.
41. Covenants have many significant limitations and are not an appropriate planning method by which to allow increased residential densities within the Airport’s noise boundaries, however.
42. No-complaints covenants are ineffective at avoiding, remedying or mitigating adverse effects. Nothing becomes quieter, less smelly, or otherwise less unpleasant simply because a covenant exists.⁵
43. They are ineffective at preventing the community from becoming annoyed about aircraft noise and protecting the community’s amenity and wellbeing.
44. They do not address health effects.
45. It would be difficult for the Council to ignore any complaints made in contravention of a no-complaints covenant in favour of the Airport, given its responsibilities under the RMA.

⁴ Evidence of Chris Day, 4 July 2025, para 90

⁵ Supra, n30, at [27]

46. It is difficult to conceive of how a requirement for a no complaints covenant – which must be entered into voluntarily by a homeowner, could be regulated by the PDP.
47. QAC's experience is that despite no-complaints covenants residents, will complain if they want to.
48. No-complaints covenants are an available tool, but they are not a panacea for reverse sensitivity risk. Nor is acoustic treatment of buildings. These measures have been applied to deal with historic ASAN use within the OCB, but they are not an appropriate basis upon which to make forward looking planning decisions.
49. All of the limitations just outlined have been recognised by the High Court, who has found that acoustic treatment and covenants do not adequately deal with reverse sensitivity risk for an airport (*Auckland International Airport Ltd v Auckland Council* – the Osterley Way Decision).
50. The more appropriate way to deal with this risk, and to minimise it, is to not enable new or intensified ASAN within the noise boundaries. This is consistent with and upholds the higher order and strategic policy regime.

MS HILL'S MEMO FOR SUBMITTERS 775 AND 776 (22 AUGUST 2025) – ENABLEMENT OF ASAN WITHIN THE OCB

51. Having presented to the panel on 7 August, on 22 August, Ms Hill on behalf of submitters 775 and 776, quite unusually filed very lengthy submissions (albeit under the guise of a 'memo') on reverse sensitivity matters in relation to the Airport and the appropriateness of enabling ASAN within the BMUZ OCB, addressing a raft of new matters that were not addressed in her earlier presentation.
52. To the extent it is understood, the nub of her argument appears to be that when considering the reverse sensitivity risk for the Airport if ASAN are enabled within the BMUZ OCB (of interest to her clients), the Panel must consider the Airport and Airport operations *as they exist at the date of the Panel's decision*.
53. Ms Hill's argument is not accepted by QAC, and frankly put, is wrong. It is not supported by any relevant judicial authority, or, on any proper interpretation, any policy, despite there being a long line of judicial authority on reverse sensitivity

risk, and directive higher order policy on the need to avoid it for current and future infrastructure activities.

54. The correct interpretation of the law and policy is set out in the full legal submissions pre-filed for QAC, and in the evidence of Ms Kealey (on policy). Indeed, all the arguments raised by Ms Hill area addressed in the full legal submissions pre-filed, supported by QAC's evidence. I urge the Panel to read those pre-filed submissions carefully, as against Ms Hill's submissions.
55. For completeness, I briefly address Ms Hill's arguments below. I am happy to prepare and file a further, detailed written response, if the Panel requires it.
56. In support of her argument, Ms Hill cites a case concerning the interpretation of RMA section 10 and 20A, which is an entirely different legal enquiry that has no application presently.
57. While she cites the *Ngatarawa* case, she ignores the acknowledgement by the Court in that case that reverse sensitivity can have the effect of *stifling the growth of* an emitting activity – despite citing the relevant paragraph in her submissions.
58. Ms Hill's argument that Airport operations are 'locked in' at today's date contradicts the entire point of the noise boundaries - to provide a noise footprint for the Airport that includes growth - and it fails to properly engage the associated policy and methods scheme. She pays no regard whatsoever the higher order, regional policy framework, which decisions on the Variation must give effect to.
59. Ms Hill cherry picks PDP policies, and words from policies, to support her argument in a way that presents as highly contrived. She cites PDP Policy 4.2.2.14 in support of her argument that the reverse sensitivity provisions in the PDP do not anticipate the future development, growth or change in operations at Queenstown Airport, when the policy does exactly that :

*4.2.2.14 Ensure appropriate noise boundaries are established and maintained **to enable operations at Queenstown Airport to continue and to expand over time.***

60. She ignores ORPS Policy 4.3.5 which similarly requires protection of the Airport and land within the noise boundaries (an infrastructure corridor), including as the Airport may develop and grow in the future:

4.3.5 Protect infrastructure with national or regional significance, by all of the following:

*(d) ... Protecting infrastructure corridors from activities that are incompatible with the anticipated effects of that infrastructure, **now and for the future.***

61. She references the LSCZ and LDSRZ as examples of where ASAN are enabled, but fails to acknowledge, as Mr Kealey has explained in detail in her evidence, that this is due to historical planning permissions, and she does not acknowledge that both zones limit the level of ASAN enablement through density controls (the LDSRZ) and building heights and ASAN numbers (the LCSZ).
62. Mr Hill asserts there is no evidence for the Airport that reverse sensitivity effects will arise if ASAN are enabled within the OCB BMUZ, yet Mr Day has given extensive and detailed evidence on the rationale for the existing prohibition in the zone, and how reverse sensitivity can manifest at airports.
63. Mr Day has also given extensive evidence on why acoustic treatment is does not adequately deal with reverse sensitivity risk, or amenity and health effects, which Ms Hill does not address.
64. Ms Hill says that she is unaware of any unimplemented consents the Airport holds, and references *Hawthorne*. *Hawthorne* has no application in a plan making context. Ms Brook has given evidence that the Airport can and will make changes to its current operations as a permitted activity, which may result in different or increased noise effects for some receivers (including possibly Ms Hill's clients' land), which could give rises to an increased risk of complaint.
65. Fundamentally, Ms Hill's submissions fail to apprehend that the Airport, through its submission on the PDP, is not seeking to protect some future unknown state of Airport operations, but the PDP status quo. The Airport activity that QAC is concerned with is both anticipated by and lawful under the PDP.
66. Ironically, Ms Hill has also filed further submissions for her Arrowtown clients, where she argues that *amenity effects* provide a legitimate basis *not* to intensify in a particular area (the area she addresses in her memo is Arrowtown). Amenity effects are a relevant consideration within the OCB and *one* of the reasons that enablement of new ASAN there is not appropriate. Potential reverse sensitivity risk for regionally and nationally significant infrastructure (a Qualifying Matter under the NPS-UD), wider community disbenefits, and health effects are others, none of which are addressed by Ms Hill. There are inconsistencies that cannot be

reconciled between the position she advances for her Arrowtown clients and those in respect to the BMUZ.

67. In my submission, Ms Hill's further submissions offer little or no assistance to the Panel's inquiry and should be given no weight.

CHANGE TO THE OCB STATUS QUO

68. The Variation is the wrong forum to call into question the appropriateness of the OCB status quo or to dilute the protection the existing PDP regime affords to the Airport.
69. The higher order policy framework requires protection of the Airport, through avoiding (or minimising) reverse sensitivity risk. This is a very clear, very strong directive, which, at a methods level, most appropriately requires prohibition of new noise sensitive activities (ASAN) that give risk to the risk. Other methods of mitigation are not adequate to minimise or avoid the risk, as I have touched on earlier.
70. The protection is afforded due to the recognised significance of the Airport to community wellbeing, including the critical connections the Airport provides for the community, as well as the substantial economic benefits. These benefits, and the Airport's regional and national significance, are not in dispute.
71. If the existing regime is to be changed, to dilute the protections it affords the Airport, there must first be a comprehensive analysis and evaluation of the disbenefits that could consequently arise for the district's community, as compared with any benefits. No submitter that seeks to dilute the current protections by enabling ASAN within the OCB has presented any analysis of or evidence on these matters.
72. It is not appropriate to make site or zone specific compromises or allowances for ASAN within the OCB through this process. That would contradict the clear strategic and higher order policy directives to avoid incompatible activities (ASAN) in areas where they could compromise the Airport infrastructure, and would inevitably be the *thin end of the wedge* for the Airport: if unlimited ASAN are allowed in the BMUZ, then why not everywhere in the OCB? The Airport's ongoing ability to operate efficiently and effectivity could be imperilled. This could have

significant flow on consequences for the economic and social well being of the community.

73. The Variation does not apply to any ODP zones, such as the Frankton Flats Zones (**FFZ**) and the Remarkables Park Zone (**RPZ**). These areas are identified in the Council's reporting as highly accessible, and the Frankton area, which includes the RPZ and FFFZ, is otherwise generally supported for intensification in the reporting. Dilution of the existing protections afforded to Queenstown Airport by the current regime should not be entertained at any time (given the Airport's regional and national significance), but certainly not when the appropriateness of intensifying has not been addressed for the entire District (or even the entire Frankton area).

WRAP UP

74. For decades, the planning policy of the Council, supported by QAC, has been crafted to carefully prevent intensification of residential activity within the aircraft noise boundaries due to the known adverse effects of the noise and the risk of reverse sensitivity effects. The importance of doing so is recognised in the strategic policies of the PDP and required by the higher order provisions of the ORPS 2019 and the PORPS 2021, as summarised earlier.
75. The grandfathering of existing development rights does not provide a valid basis to depart from the "avoidance" approach enshrined in the PDP for new ASAN. The grandfathering is applied in the PDP on a zone-by-zone basis in a strategic and coordinated manner.
76. Allowing submissions that seek to enable new ASAN within the noise boundaries where previously these have been prohibited or limited will cut across the established policy and could result in perverse outcomes for the Airport and, given its reliance on the Airport, the community.
77. The reverse sensitivity risk that arises from enabling new or intensified ASAN within the noise boundaries cannot be addressed adequately by mitigation measures, such as acoustic treatment for buildings, and/or no-complaints covenants. These measures have major limitations which have been recognised by the High Court. They would not satisfy the clear policy directive at a PDP and higher level that requires protection of the Airport from the adverse effects of incompatible uses.

78. The Airport cannot internalise all its noise effects, and nor does the law require it to; the PDP and higher order policies recognise that noise will be emitted beyond the Airport's bounds. The aircraft noise boundaries themselves are evidence of this. It would be a poor planning decision to allow new sensitive uses (residential) to establish in an area where it is known their amenity and health will be compromised.

R Wolt

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