

Submission to Transport and Infrastructure Committee on Civil Aviation Bill 61 -1 (2021)
from
Quiet Sky Waiheke

Introduction

There have been dramatic changes in civil aviation in NZ over the last 30 years since the introduction of the Civil Aviation Act in 1990. One significant change has been the arrival of remotely piloted and autonomous aircraft which the Civil Aviation Bill 61-1 (2021) acknowledges and contains provisions to address. Two other significant changes have been in the areas of climate change and helicopter use.

In the 1970s and 80s New Zealand already had a significant number of helicopters but these were principally operating in remote, low population areas for deer hunting and agricultural purposes. In the last three decades there has been an exponential and continuing growth in the use of helicopters for non-essential travel in high population urban and semi-urban areas and for heli-tourism in environmentally significant and sensitive areas. The current Bill contains no new provisions to address these changes and in fact with regards to the provisions related to the establishment of Special Use Air Space it is weaker than the status quo.

In the last three decades the contribution of aircraft emissions to climate change has been increasingly recognised. This Bill has provisions to enable New Zealand to meet its obligations under the International Civil Aviation Organization's Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA). However it contains no measures aimed at addressing the impact of emissions from domestic aviation and in particular for non-essential helicopter travel. We therefore submit that the Civil Aviation Bill 61-1 (2021):

1. Fails to recognise and address the specific issues related to helicopter operations, helipads and heliports
2. Fails to enable the Minister of Transport to take actions to address the emissions from domestic aviation and in particular the emissions resulting from the growing use of helicopters as a means of non-essential transport and the consequent impact on Climate Change
3. Has weakened the status quo by the changing of the wording from the previous Act relating to the Minister's authority to make rules pertaining to Special Use Airspace

Background Information

Quiet Sky Waiheke is a group of Waiheke Island residents who came together in 2021 in response to the huge proliferation of unmonitored and unregulated helicopter activity over Waiheke and the unprecedented number of helipads on the island.

Currently there are over 50 consented helipads on the island and more applications are being considered, this is the highest concentration of helipads in New Zealand and possibly in the world! These helipads are being consented by the Auckland Planning department with no consideration of aviation safety or operational requirements and with no reference to or consultation with the CAA. Within the next 5 years at the present rate there could be over 100 helipads on the island, all permitted to receive multiple aircraft movements, many of them in close proximity to one another and using the same flight paths.

Quiet Sky Waiheke has a membership of over fifty but has the support of many more residents as demonstrated by the petition opposing the uncontrolled increase in the number of helipads signed by over 1700 individuals in July 2021. Quiet Sky works closely with the Waiheke Local Board and is liaising with the Aotea, Great Barrier Island Local Board who are also facing similar helicopter issues.

Key Points

1. Specific issues related to helicopter operations, helipads and heliports (Part 7 Airports)

In the General Policy Statement it is stated that this Bill is intended to introduce ‘a modern registration regime for airports that includes a requirement to consult government agencies on spatial plans’.

It is unclear whether the new Bill specifically includes the use of helipads or heliports in its definition of aerodrome activity and as a consequence their identification as an airport. This should be clarified.

“218 identified aerodrome activity means any of the following:

(c) any activity to enable aircraft to land or take off, including the provision of—

(i) an aerodrome or part of an aerodrome; or

Based on current practice it seems unlikely that the Bill, as worded, will provide provisions that enable the Minister or CAA to have adequate regulatory control over the location of helipads and the monitoring and regulation of their operation. We feel that the approval and operation of helipads should be covered in the Bill and provisions made for the close involvement of CAA in the siting, registration regulation and the monitoring of all helipads. Given the existing excessive concentration of helipads on Waiheke, we further believe that the Bill should have provisions that allow for registration and review of all existing helipads with regard to their appropriateness in terms of safety, environmental and amenity impact.

Currently helipad approvals are being provided by Auckland Council planners who have no aviation safety and operation experience or knowledge. Helipads have been, and continue to be, approved with only one option for approach and departure flight paths and no consideration of their proximity to other helipads. On Aotea Great Barrier Island two helipads have recently been approved on the same property within 2 kilometers of the existing commercial airport at Claris with no consideration of the potential safety issues.

Although the helipads have conditions attached to their consents, since there is no official monitoring of aircraft movements, these conditions are frequently ignored. Helicopters flying into and out of Waiheke regularly turn off their transponders so that it is impossible to identify aircraft that regularly contravene helipad consent conditions and CAA regulations.

Helicopter safety is already recognised by the CAA as a priority issue. The CAA briefing to the Minister of Transport in November 2020 identified it as the only critical safety issue:

Safety and security focus areas

To further improve the overall safety performance of the New Zealand aviation system, the Authority has identified eight safety and security focus areas, based on analysis of safety performance data, sector-based intelligence and international trends and research. These focus areas address particular issues and improve the performance of specific parts of the aviation system, driving the work of the Authority on a day-to-day basis.

The safety and security focus areas are categorised as:

Critical – there is an unacceptable risk to people’s safety and wellbeing; an active work programme is in operation that is prioritised over other work.

1. The helicopter sector: The helicopter sector has a higher accident rate than other aviation sectors, which has the potential to damage New Zealand’s reputation for having safe and secure skies, as well as incurring unnecessary social costs.

In its current form the Bill provides no provisions for regulating or even monitoring the rapid proliferation of helipads and helicopter movements close to residential areas on Waiheke and elsewhere. The resulting implications for the safety of both pilots, passengers and people on the ground are clear and need to be addressed in the Bill.

Airspace congestion over Waiheke is compounded by:

- the large number of non-essential helicopter movements created by the promotion of heli-tourism to many of the island's vineyards and other tourist locations,
- the growth of helicopter use for private transportation,
- overflying by aircraft transiting between the Coromandel Peninsula and north Auckland, and
- the use of helicopters for essential medical transportation to hospitals in Auckland (Quiet Sky Waiheke strongly supports essential medical use and is concerned that other airspace uses don't adversely impact upon it).

These issues need to be recognised and addressed in the provisions of the Bill .

2. Emissions from domestic aviation and in particular the emissions resulting from the growing use of helicopters as a means of non-essential transport and the consequent impact on Climate Change (Part 6 Sub-part 3)

Whilst the Bill has provisions to enable New Zealand to meet its obligations under the International Civil Aviation Organization's Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) we feel that it should also provide the Minister with powers to enact policy to address the emission impact of domestic aircraft use.

Helicopters are increasingly being used in NZ for non-essential transportation when other less climate damaging options are easily available. Helicopter emissions are extremely difficult to assess because their engine emissions data are usually not publicly available and there is no generally accepted methodology on how to calculate helicopter emissions. However, it is generally agreed that they generate the greatest emissions per capita of any transport vehicle.

It is noted that helicopters were not addressed at all in the Auckland Regional Land Transport Plan 2021-2031, despite the primary focus of the plan being to reduce transport associated emissions, and despite helicopter travel being a discretionary alternative to other means of transportation. Despite also both central and local governments declaring climate emergencies and pursuing policies to reduce GHG emissions. This present Bill must therefore provide avenues for the Minister to investigate the impact of helicopter use for non-essential travel and the ability to introduce measures to reduce their contribution to climate change.

3. The changing of the wording from the previous Act related to the Minister's authority to make rules-related Special Use Airspace (Part 3 Subpart 1 Clause 52)

In the existing Civil Aviation Act (1990), the Minister is specifically authorised to make rules for a special use airspace for "any other reason in the public interest." (Section 29A).

In the new proposed bill, this language is missing. The new language gives the Minister the power to make a special airspace for the purpose of "*regulating people, activities, and things in relation to the safety and security of civil aviation or any other effect or potential effect on civil aviation.*" (Section 52).

This is very general and opens the door to an argument that only the effects on aircraft can justify a Special Use Airspace. The "public interest" language should be kept because a special use airspace is an essential tool for situations where aviation is causing impacts on the general public. An example is the intense, excessive and unregulated helicopter traffic over Waiheke Island.

It is further suggested that specific terminology should be introduced to this section, which explicitly provides for the Minister, at their discretion, to address public amenity impacts and climate/emissions impacts.

For context, we note that Quiet Sky Waiheke has already submitted an application for a Special Use Airspace to be created over Waiheke Island, under the current Act.

Recommendations:

The Bill should contain provisions that enable the following:

1. All existing and future helipad (or heliport) consents should require CAA approval, registration and monitoring, with reference to a list of safety, environmental, and amenity considerations. For example:
 - a. location of existing helipads and their flight paths
 - b. intended flight paths and their implications for safety for both aircraft and people on the ground
 - c. the impact on the environment and amenity value of properties both in the proximity of the helipads and under the intended flight paths with particular reference to noise levels, including cumulative effects on a particular location, area, or region, which should be assessed in association with the local board of that area, with reference to the local board plans

- d. health and safety considerations for people working or living in close proximity to the proposed helipad location
 - e. the existence of alternative means of transport and airports
 - f. emissions targets, climate plans, current policy documents
(A full detailed list will need to be developed - this is just indicative)
2. The Minister should have the power to modify the list in order to set (or remove) safety, environmental, or amenity considerations. And the Minister should have the power to review, modify or cancel any existing helipad (or heliport) approvals, in order to meet these safety, environmental, or amenity considerations.
 3. Re-registration of helipads (or heliports) should be periodically required and the current list of considerations should apply during the re-registration process. Registered helipads (or heliports) seeking re-registration should be assessed against any changes to the list, as if it was a new application.
 4. Operation without approval and current registration should be an offense.
 5. The CAA should impose the conditions for the operation of existing and future helipads (or heliports) including mandatory transponder use for all aircraft (e.g. ADS-B) and the CAA should be responsible for ensuring these conditions are followed.
 6. The Bill should enable the Minister through the CAA to establish and regulate Special Use Airspaces for the purposes of public interest and protection of environmental and public amenity value. That is to say, Special Use Airspaces must continue to be a tool which may be used to benefit the area and the people within the area, and not become narrowed to be a tool which may only benefit aircraft operations within that area.

Conclusion:

We feel very strongly that the above recommendations need to be addressed in the provisions of Civil Aviation Bill (2021) if it is to meet its stated intention of benefitting the operation of the New Zealand aviation sector in terms of safety and emissions. The Bill recognises the changed situation since the passing of the Civil Aviation Act in 1990 with regards to remotely piloted or autonomous aircraft but is inadequate in addressing the very different and rapidly changing situation with regards to the increased use of helicopters and helipads in urban and semi-urban areas of NZ, with their implications for public amenity and within the context of New Zealand's international obligations to address the climate emergency.

The unregulated and unmonitored growth in helicopter movements, for non-essential purposes, is already having (and will increasingly have) serious negative impacts in terms of aviation safety, climate change and the amenity value of areas of importance both environmentally and for tourism. It is important that this Bill contains provisions that will provide the Minister of Transport and the CAA with the means to address these issues.