

The CAA defines a 'congested area' as follows, in Part 1 of the Civil Aviation Rules:

Congested area in relation to a city, town, or settlement means any area which is substantially in use for residential, industrial, commercial, or recreational purposes

The CAA Legal Services Unit have stated the following:

"City, town or settlement are to be given their day to day meaning, and accordingly the word 'settlement' in the Concise Oxford Dictionary is given the following meaning:

An area of habitation comprising dwellings and associated private and communal facilities, perhaps surrounded by associated closes, fields, paddocks, approach ways, and other features, which together constitute a living space for the inhabitants of the settlement."

"[66] As in so many areas of the law, arbitrary lines have to be drawn. The issue of whether land can be used for an airport, aerodrome or heliport is a resource consent issue. So too, clearly in terms of s9(8) and other provisions, is the issue of control of noise emission generated by an airport. But after take-off or landing, and in particular where an aircraft is operating above 500 ft over a rural area or **above 1000 ft over a congested area**, such aircraft and its effects in my judgment lie outside the ambit of the Act and the resource consent process."

**Priestly J. Auckland High Court. CIV 2008-404-587.
Dome Valley District Residents Society Inc v
Rodney District Council.**

Western Waiheke is an *"area which is substantially in use for residential, industrial, commercial, or recreational purposes"* and which has a mixture of residential, industrial, commercial and recreational use *"comprising dwellings and associated private and communal facilities, fields, paddocks, approach ways, and other features"*. Western Waiheke is therefore a **congested area** according to the CAA definition.

91.311 - Minimum heights for VFR flights

(a) A pilot-in-command of an aircraft must not operate the aircraft under VFR—

(1) over any congested area of a city, town, or settlement, or over any open air assembly of persons at a height of less than **1000 feet above the surface or any obstacle that is within a horizontal radius of 600 metres from the point immediately below the aircraft**

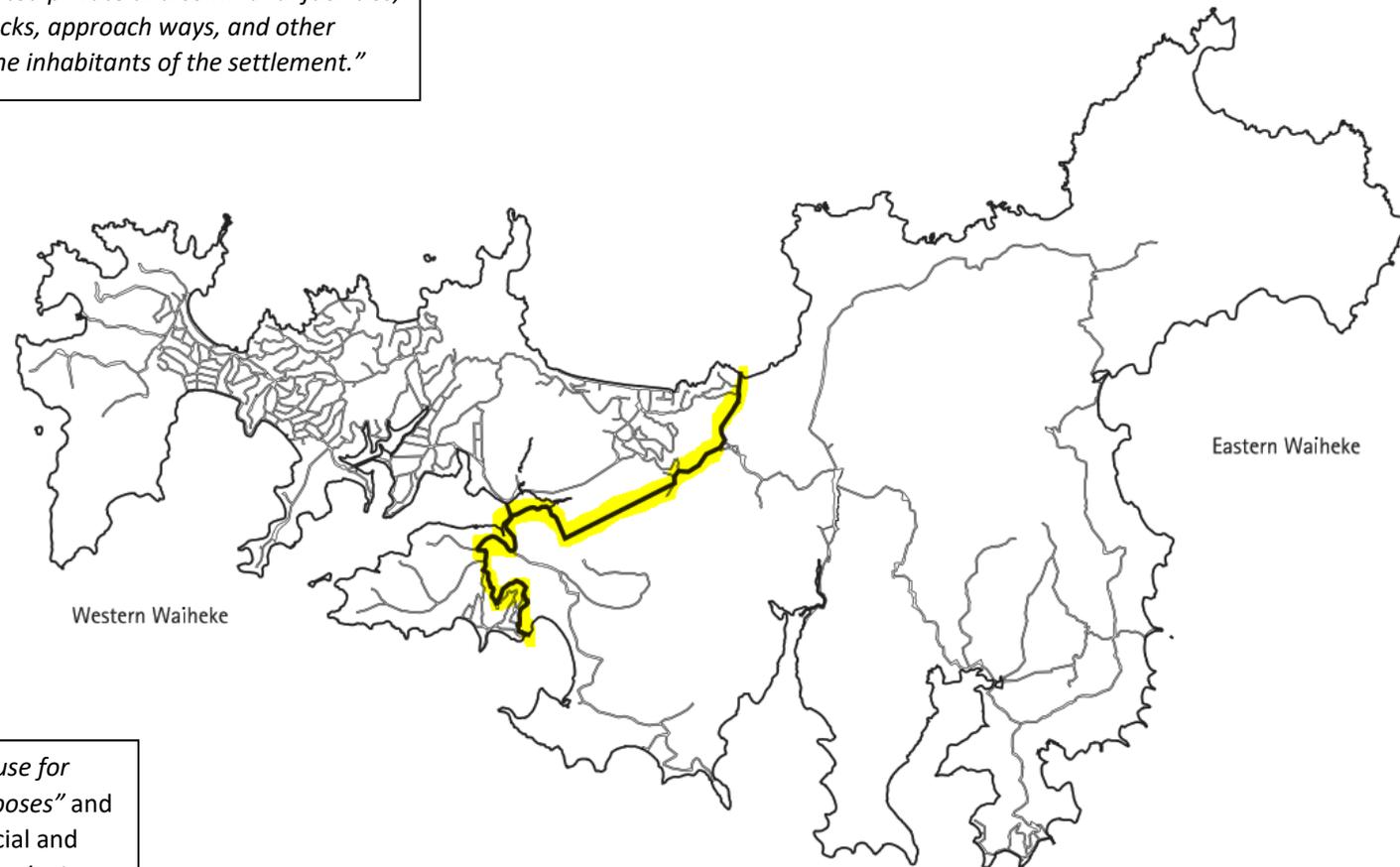


Figure 3.1 Auckland Council District Plan - Hauraki Gulf Islands Section