

Before an Independent Hearings Panel
appointed by the Waimakariri District Council

under: the Resource Management Act 1991

in the matter of: Submissions and further submissions in relation to the proposed Waimakariri District Plan, Variation 1 and Variation 2

and: Hearing Stream 5: Noise, Notable Trees, Historic Heritage, Signs, Light, Energy and Infrastructure, Transport, Earthworks

and: **Christchurch International Airport Limited**
Submitter 254

Evidence of Darryl Millar (Planning)

Dated: 7 August 2023

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EVIDENCE OF DARRYL MILLAR

INTRODUCTION

- 1 My full name is Darryl Kenneth Millar. I am a Director and Principal Planner with Resource Management Group Limited (*RMG*), a planning consultancy practicing in Christchurch, Nelson, New Plymouth and Wellington. I am based in the Christchurch office.
- 2 I have been authorised by Christchurch International Airport Limited (*CIAL*) to provide evidence in relation to its submissions and further submissions on the proposed Waimakariri District Plan (*PDP*).
- 3 I have previously prepared and presented evidence to the Panel at Hearing Stream 1 of the PDP. I adopt that evidence for the purposes of this hearing and provide supplementary detail relevant to Hearing Stream 5 matters below. My experience is set out in that evidence and, therefore, is not repeated here. Specifically, my evidence relates to the following chapters:
 - 3.1 Noise;
 - 3.2 Energy and Infrastructure; and
 - 3.3 Transport.

CODE OF CONDUCT

- 4 Although this is not an Environment Court hearing, I note that in preparing my evidence I have reviewed the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023. I have complied with it in preparing my evidence on technical matters. I confirm that the technical matters on which I gave evidence are within my area of expertise, except where relying on the opinion or evidence of other witnesses. I have not omitted to consider material facts known to me that might alter or detract from my opinions expressed.

SCOPE OF EVIDENCE

- 5 This hearing (Hearing Stream 5) considers a number of chapters in the PDP.
- 6 CIAL lodged submissions relevant to this hearing, as summarised in Table 1 below. The table also provides references to the relevant assessments contained in the s42A reports.
- 7 I note that the s42A reports for Historic Heritage and Earthworks reference further submissions by CIAL on HH-P6, and on submissions by HortNZ on a number of definitions such as “cleanfill area” and

seeking a new definition of “ancillary rural earthworks”. I have reviewed the CIAL submissions and further submissions and cannot identify a relevant submission. Given this I believe that a coding error may have arisen during the submission summary process. Similarly, the s42A Earthworks report, at paragraph 185, notes a submission by CIAL on earthworks rule EW-R1. Again, I cannot find a record of such a submission and assume it is a coding error.

Chapter	Submission	CIAL Sub Reference	42A Submission Reference
Noise ¹	Definition of “noise sensitive activity”	254.9	Manhire (NOISE report) - paragraph 3, 100, 101, 111 and 114.
	Noise chapter introduction	254.55	Paragraph 117
	NOISE-O2	254.56	Paragraph 146.
	NOISE-MD3	254.64	Paragraph 313, 315 and 317.
	NOISE-P1	254.58	Paragraph 178
Transport ²	TRAN-O1	254.33	Maclennan (TRAN report) paragraphs 56 and 63
	TRAN-O3	254.34	Paragraph 72
	Definitions	254.16 and 254.17	Paragraphs 336 and 337
Energy and Infrastructure	Introduction	254.25	Maclennan (EI chapter) paragraphs 75, 77, 78 and 80
	EI-O1	254.26	Paragraph 87
	EI-O2	254.27	Paragraphs 91, 93 – 95.
	EI-O3	254.28	Paragraphs 96, 100, 104 and 105.
	EI-P1	254.29	Paragraphs 109, 112 and 118.
	EI-P5	254.30	Paragraphs 136, 155 and 160

¹ CIAL submission points on the noise chapter are proposed to be dealt with in a separate s42A report and are not assessed in this hearing stream report (Manhire – paragraph 3). This includes CIAL submissions on NOISE-03, NOISE-P4, NOISE-R14, NOISE-TABLE1, NOISE-R17 and NOISE-MD2 which are not addressed in this s42A report.

² CIAL submissions on TRAN-Overview (254.32), TRAN-O4 (254.35), TRAN-P15 (254.36) are not considered in the s42A report and, as above, I assume that this is because they will be considered as part of the separate airport focussed hearing.

Chapter	Submission	CIAL Sub Reference	42A Submission Reference
	EI-P6	254.31	Paragraphs 167, 168, 176, 178 and 179.
	Definition of "lifeline utility"	254.8	Paragraphs 554 and 555.
	Definition of "critical infrastructure"	254.5	Paragraph 561 and 564.
	Definition of "regionally significant infrastructure"	254.11	Paragraphs 611 and 613
	Definition of "strategic infrastructure"	254.15	Paragraphs 615 and 617.

Table 1 – Submission Points and references

- 8 I understand that submissions relating to the Christchurch International Airport Noise Contour (including the submissions on the noise chapter noted above) will be dealt with in a separate s42A report and a specific hearing on the Airport Noise Contour, bird strike and growth-related policies in the Canterbury Regional Policy Statement.³
- 9 In general terms I agree with this approach as it is logical to hear and determine these substantive issues, including how they influence the PDP provisions, collectively at one hearing. This approach is consistent with the position I adopted at the Stream 1 hearings.
- 10 I note that Mr MacLennan has considered CIAL submission points that specifically relate to Christchurch International Airport's (*Christchurch Airport / the Airport*) function as an infrastructure provider within the EI chapter.⁴ My evidence adopts the same approach to the EI chapter, as well as other Hearing Stream 5 chapters relevant to CIAL's submission.

³ Panel Minute 5, paragraph 10.

⁴ *Proposed Waimakariri District Plan; Officer's Report: Pūngao me te hanganga hapori - Energy and Infrastructure* prepared by Mr Andrew MacLennan at paragraph 30.

RELEVANT POLICY FRAMEWORKS

Canterbury Regional Policy Statement (CRPS)

- 11 As explained in my Hearing Stream 1 evidence Christchurch International Airport is clearly infrastructure that is nationally significant:
- 11.1 Christchurch International Airport is defined, and specifically listed, as “regionally significant infrastructure” and “strategic infrastructure” in the CRPS.
 - 11.2 The term nationally significant infrastructure is not defined in the RMA or in the CRPS, but is defined in the National Policy Statement on Urban Development (NPS UD)⁵, and includes:
any airport (but not its ancillary commercial activities) used for regular air transport services by aeroplanes capable of carrying more than 30 passengers.
 - 11.3 Mr Page, in his evidence for CIAL in relation to Hearing Stream 1 considers the importance of Christchurch Airport and concludes that it is of national and local significance.⁶
- 12 Chapters 5 and 6 of the CRPS establish a policy framework recognising this importance and the need to ensure appropriate integration of new development with infrastructure and the avoidance of reverse sensitivity effects.
- 13 Chapter 5 deals with land use and infrastructure. **Objective 5.2.1(f) and (g)** requires that development is located and designed so that it functions in a way that:
enables people and communities, including future generations, to provide for their social, economic and cultural well-being and health and safety; and which:
- ...
- f. is compatible with, and will result in the continued safe, efficient and effective use of regionally significant infrastructure;*
 - g. avoids adverse effects on significant natural and physical resources including regionally significant infrastructure, and*

⁵ NPS UD – Section 1.4 Interpretation

⁶ Evidence of Mr Geoff Page dated 1 May 2023 paragraphs 17 and 18.

where avoidance is impracticable, remedies or mitigates those effects on those resources and infrastructure...

14 Policy 5.3.9(3) then states:

Provide for the expansion of existing infrastructure and development of new infrastructure, while:

a. recognising the logistical, technical or operational constraints of this infrastructure and any need to locate activities where a natural or physical resource base exists;

15 **Objective 6.2.1** (Recovery Framework) reads, in part:

Recovery, rebuilding and development are enabled within Greater Christchurch through a land use and infrastructure framework that:

...

10. achieves development that does not adversely affect the efficient operation, use, development, appropriate upgrade, and future planning of strategic infrastructure and freight hubs;

11. optimises use of existing infrastructure...

16 **Policy 6.3.5(4)** requires that new development should only be provided for if it does not affect the efficient operation, use, development, upgrading and safety of existing strategic infrastructure, *"including by avoiding noise sensitive activities within the 50dBA Ldn airport noise contour for Christchurch International Airport, unless the activity is within an existing residentially zoned urban area, residential greenfield area identified for Kaiapoi, ...;"*.

17 **Policy 6.3.5(5)**, similarly, reads:

Managing the effects of land use activities on infrastructure, including avoiding activities that have the potential to limit the efficient and effective, provision, operation, maintenance or upgrade of strategic infrastructure and freight hubs.

18 The 'Principal reasons and explanation' for **Policy 6.3.5** states (in part):

"Strategic infrastructure represents an important regional and sometimes national asset that should not be compromised by urban growth and intensification... The operation of strategic infrastructure can affect the liveability of residential developments in their vicinity, despite the application of practicable mitigation measures to address

effects... It is better to instead select development options ... where such reverse sensitivity constraints do not exist."

- 19 Overall, the policy thrust of the CRPS is clear, as it:
- 19.1 recognises the social and economic importance of the Airport, and the need to integrate land use development with infrastructure;
 - 19.2 seeks to avoid incompatible activities within the 50dBA contour which may result in reverse sensitivity effects on the Airport;
 - 19.3 recognises that the Airport should not be compromised by urban growth and intensification; and
 - 19.4 enables the Airport's safe, efficient and effective operation and development.
- 20 Objectives and policies within relevant chapters of the PDP must give effect to the CRPS. Below I outline my view on how this is best achieved in relation to Hearing Stream 5 matters, other than for provisions that will be dealt with in a separate s 42A and hearing related to airport specific matters.

THE PROPOSED DISTRICT PLAN – HEARING STREAM 5 MATTERS

Noise chapter

Definition of "noise sensitive activity"

- 21 CIAL's submission supported the definition of "noise sensitive activity" as it gives effect to the CRPS. CIAL requested that, should any additional rules applicable to noise sensitive activities be included in the plan as a result of submissions, that those activities are also added to the definition. Ms Manhire notes that this will be considered as part of the s 42A and hearing related to airport specific matters.⁷ I agree with that approach and do not comment on the definition further in this brief of evidence.

Introduction

- 22 I note that Ms Manhire states that CIAL's submission in relation to the Noise Chapter introduction will be assessed in the s 42A and hearing related to airport specific matters.⁸ Accordingly, I do not propose to address CIAL's submission on the Noise chapter introduction at this Hearing Stream 5.

⁷ At paragraph 100.

⁸ Paragraph 117.

NOISE-O2

- 23 CIAL supported NOISE-O2 and sought that it be retained as notified in the PDP. Ms Manhire recommends that the objective be amended as follows:

The operation of regionally significant infrastructure and strategic infrastructure, activities within Commercial and Mixed Use Zones and Industrial Zones and identified existing noise generating activities identified through the Noise Chapter rules are not adversely affected by reverse sensitivity effects from noise sensitive activities.

- 24 I consider that, in a general sense, the amendments proposed do clarify the application of the objective. That said, I also am of the view that the changes do not impact on interpretation of the objective insofar as it relates to CIAL, and the relief sought in the submission. That said, I note that Ms Manhire confirms in Table 5 (paragraph 144) that the CIAL submissions are not applicable to this s42A report. It is assumed this will be addressed in the s42A and hearing related to airport specific matters and therefore I do not comment on NOISE-O2 further in this brief of evidence.

NOISE-MD3

- 25 CIAL's submission on NOISE-MD3 sought to correct a grammatical error and Ms Manhire accepts this at paragraph 317. As this is aligned with the submission I do not propose to comment further.

NOISE-P1

- 26 I note that CIAL sought to retain NOISE-P1 as notified, and that Ms Manhire does not propose any changes to the policy. While not explicitly addressed in the s42A report, CIAL's submission on NOISE-P1 is accepted.

Energy and Infrastructure chapter

Introduction

- 27 CIAL's submission sought to amend the EI overview as follows:

The term 'infrastructure' is defined in section 2 of the RMA. The RPS defines the terms 'critical infrastructure', 'strategic infrastructure', and 'regionally significant infrastructure'. There is considerable overlap in the types of infrastructure covered by these terms. Infrastructure may be provided by network utilities, or by entities other than network utilities, including the private provision of and connection to infrastructure. Critical, strategic, and regionally significant infrastructure and network utilities are recognised through provisions which acknowledge their important function and service to the community. ...

- 28 Mr Maclennan agrees CIAL's submission at paragraph 77 of the s42A report with the addition of "...within this chapter...". I consider that

Mr MacLennan's proposed additional wording adds interpretative clarity and I therefore support his recommendation.

EI-O1

- 29 CIAL's submission sought to retain EI-O1 as notified. Mr MacLennan proposes the following amendments:

Provision of energy and infrastructure Across the District:

1. efficient, effective, resilient, safe and sustainable energy and infrastructure, including critical infrastructure, strategic infrastructure and regionally significant infrastructure, is developed and maintained to benefit the social, economic, cultural and environmental well-being of the District, region and nation, including in response to future functional, operational and increased sustainability needs ~~such as increased sustainability, and changing techniques and technology~~;

2. there is increased renewable energy for national, regional and local use; and

3. there is greater renewable electricity generation, including small scale or community scale renewable electricity generation, with generation surplus able to be supplied to the electricity distribution network.

- 30 I consider the changes proposed by Mr MacLennan are appropriate, particularly in terms of recognising the benefits of nationally significant infrastructure – which includes Christchurch Airport.

EI-O2

- 31 CIAL's submission sought to amend EI-O2 to recognise that there are practical, operational and technical constraints associated with important infrastructure. At paragraph 93, Mr MacLennan proposes that the objective use the terms "functional need" and "operational need" to align with the National Planning Standards and other provisions in the proposed Plan. Mr MacLennan also suggests that the phrase "avoid, remedied or mitigated" in EI-O2 be replaced with "managed" to ensure provision for a greater spectrum of management approaches.

- 32 I consider the proposed amendments recommended by Mr MacLennan are appropriate and broadly align with the outcomes sought in the CIAL submission. The concepts of recognising "*practical, operational and technical*" constraints, as sought in the CIAL submission, are embodied in the National Planning Standards definitions of "functional need" and "operational need". I do consider, however, that some rephrasing is necessary in order to ensure the objective does not establish a threshold that requires demonstration of functional and operation need at the same time.

Within this context, I recommend a minor adjustment to Mr MacLennan's recommendation as follows:

Adverse effects of energy and infrastructure on the qualities and characteristics of surrounding environments and community well-being are managed, while taking into account their operational or ~~and~~ functional needs.

EI-O3

- 33 CIAL supported EI-O3 but suggested a minor amendment to refer to "incompatible" activities. Mr MacLennan accepts the addition proposed makes it clear that not all activities will generate reverse sensitivity effects.⁹ I agree with Mr MacLennan that a reference to "incompatible" activities within the objective better clarifies the outcome sought.

EI-P1

- 34 CIAL's submission sought minor amendments to ensure clause 1 of EI-P1 also reference "use" and "development" of energy and infrastructure. Mr MacLennan at paragraph 112 does not support CIAL's proposed relief, as "use" is captured by "operation" and "development" is captured in clause 2. Mr MacLennan recommends that EI-P1 be retained as notified.

- 35 I accept that at a policy level there is little to distinguish between the terms "use" and "operation". I also agree with Mr MacLennan that clause 2 provides for the "development" of infrastructure. Within this context I am aligned with Mr MacLennan and see no reason to pursue the relief sought in the CIAL submission.

EI-P5

- 36 CIAL's submission sought that EI-P5 reflect the operational and technical constraints associated with important infrastructure, and that it will not always be possible, or reasonable, to avoid, remedy or mitigate adverse effects. At paragraph 155 Mr MacLennan considers this is already provided for in the policy, noting that clauses 3 and 4 require the consideration of the functional or operational needs of energy and infrastructure.

- 37 Mr MacLennan recommends the EI-P5 be amended as follows:

Manage adverse effects of energy and infrastructure, including by the following:

1. enabling ~~or providing~~ for the ongoing operation, maintenance, repair, renewal, removal and minor upgrade of existing energy and infrastructure;

⁹ At paragraph 100.

2. providing for new energy and infrastructure, or more than minor upgrades to existing energy and infrastructure while avoiding, remedying or mitigating adverse effects of more than minor upgrades to existing energy and infrastructure, including effects on:

- a. natural and physical resources;*
- b. amenity values;*
- c. an existing sensitive activity;*
- d. the safe and efficient operation of other infrastructure;*
- e. the health, safety and well-being of people and communities;*

3A. using major upgrades to existing energy and infrastructure as an opportunity to reduce existing adverse effects where appropriate to do so;

3. outside of the coastal environment, regionally significant new energy and infrastructure, or major upgrades to existing regionally significant energy and infrastructure, should, to the extent considered practicable, ensure that the route or site is located outside of the following types of sensitive environments to protect such environments from significant adverse effects, taking into account the constraints imposed by the functional need or operational need of the energy and infrastructure:

- a. ONF, ONL and SAL;*
- b. areas of ONC, VHNC and HNC, and natural character of scheduled freshwater bodies setbacks;*
- c. SNAs;*
- d. buildings, other structures and settings with heritage values, and archaeological sites;*
- e. SASM;*
- f. ~~places adjoining the coastal marine area;~~*

4. where regionally significant energy and infrastructure, or major upgrades to existing regionally significant energy and infrastructure, cannot locate outside of the sensitive environments in (3) above, the energy and infrastructure should, to the extent considered practicable, ensure that the proposed route, site, structure and construction method demonstrate the following, taking into account

the constraints imposed by the functional need or operational need of the energy and infrastructure:

a. ~~regionally significant energy and~~ infrastructure will be located in more compromised parts of the areas in (3) above where that reduces adverse effects on the values of those areas;

b. techniques (such as structure selection or construction methodology) will be used to mitigate adverse effects on the areas in (3) above;

c. adverse effects on the areas in (3) above will be remedied or mitigated;

5. consider biodiversity offset, where there is a strong likelihood that the offset will be achieved in perpetuity, for residual adverse effects on indigenous biodiversity that cannot otherwise be avoided, remedied or mitigated;

6. ~~avoiding or mitigating~~ potential significant adverse effects of the generation of radio frequency fields and electric and magnetic fields by requiring compliance with recognised standards or guidelines; and

7. promoting the undergrounding of new energy and infrastructure where it is:

a. technically feasible;

b. economically viable;

c. justified by the extent of adverse visual effects if not placed underground.

38 I agree in general terms with Mr Maclennan's comment at paragraph 155. Policy EI-P5(3) deals with a specific set of sensitive environments, rather than the generality of the district. Policy EI-P5(4) deals with locations outside of the areas covered by EI-P5(3). Read together, I agree that they achieve the outcome sought in the CIAL submission.

EI-P6

39 CIAL sought to amend EI-P6 as follows:

~~Manage~~ Avoid adverse effects of ~~other~~ incompatible activities (including adverse reverse sensitivity effects) on ~~and~~ development of energy and infrastructure, including by ~~the following~~:

1. ensuring such effects do not compromise or constrain access to or the safe, effective and efficient operation, maintenance, repair, upgrading and development of energy and infrastructure; and

2. avoiding the establishment of noise sensitive activities within the 50 dBA Ldn Air Noise Contour;

3. managing the risk of bird strike to aircraft using Christchurch International Airport;

4. ...

40 At paragraph 176, Mr Maclennan expresses his preference for the word "manage" rather than "avoid" as it provides a greater breadth of management responses. I disagree with Mr Maclennan. A "management" approach is not an appropriate policy response when considering the establishment of noise sensitive activities within the 50 dBA Ldn Air Noise Contour. In my view "avoidance" is necessary to give effect to the CRPS; specifically, policy 6.3.5(4). That said, I do consider that there are some structural issues with the drafting of the policy and the relief sought by CIAL in its submission. The current wording of the submission seeks to "avoid adverse effects" by "avoiding the establishment of noise sensitive activities" and by "managing the risk of bird strike". This is, in my view, somewhat clumsy and is simply a reflection of the submission trying to retrofit an existing proposed policy. An alternate approach could be a standalone policy for the Airport issues.

41 With this in mind, I do note that Mr Maclennan does not otherwise specifically comment on CIAL's submission on EI-P6. It is assumed that this will be addressed in the specific s42A and hearing for airport related matters. On that basis, I do not comment further on CIAL's relief in relation to EI-P6 in this brief of evidence.

Definitions

42 CIAL supported a number of definitions which relate to the EI chapter and which are addressed in Mr Maclennan's report.¹⁰ I note that these are all proposed to be retained as notified. I support Mr Maclennan's assessment and recommendations on these definitions.

Transport chapter

TRAN-O1

43 CIAL's submission sought to retain TRAN-O1 as notified. Mr Maclennan has recommended that CIAL's submission be accepted but considers at paragraph 65 that the following amendments are appropriate:

¹⁰ "lifeline utility", "critical infrastructure", "regionally significant infrastructure" and "strategic infrastructure".

A safe, resilient, efficient, integrated and sustainable transport system An integrated transport system, including those parts of the transport system that form part of critical infrastructure, strategic infrastructure, regionally significant infrastructure, and strategic transport networks, that:

- 1. is safe, resilient, efficient and sustainable for all transport modes;*
- 2. is responsive to future needs and changing technology;*
- 3. enables economic development, including for freight;*
- 4. supports healthy and liveable communities;*
- 5. reduces dependency on ~~private~~ single-occupant motor vehicles, including through prioritising public transport, and active transport, and micromobility; and*
- 6. enables the economic, social, cultural and environmental well-being of people and communities.*

- 44 The changes proposed are of no consequence to the outcomes sought by CIAL submissions. Given this I do not propose to comment further.

TRAN-O3

- 45 CIAL's submission also sought to retain TRAN-O3 as notified. Mr MacLennan proposes no changes and accordingly accepts CIAL's submission. Given this I do not propose to comment further.

Definitions

- 46 CIAL's submission supported a number of definitions relevant to the Transport chapter of the PDP. At paragraph 338 of the s42A report, Mr MacLennan recommends no changes to the relevant definitions. Given this I do not propose to comment further.

CONCLUSIONS

- 47 I emphasise again that this brief of evidence analyses CIAL's submissions and further submissions insofar as they are addressed in the relevant s 42A reports for this Hearing Stream 5. I support the approach to address other matters in a separate s 42A report and hearing stream for airport specific topics.
- 48 As explained in my Hearing Stream 1 evidence, Christchurch Airport is clearly infrastructure of importance. It is critical that the PDP, including relevant chapters addressed in this Hearing stream 5, adequately recognise and provide for important infrastructure. In my view the provisions, as amended in the CIAL submission, further

submissions and my evidence above, would achieve the purpose and principles of the CRPS and RMA.

Dated: 7 August 2023

Darryl Millar