

Before an Independent Hearings Panel  
appointed by the Waimakariri District Council

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

Memorandum of counsel on behalf of Christchurch International  
Airport Limited

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Dated: 14 August 2023

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## MEMORANDUM OF COUNSEL ON BEHALF OF CHRISTCHURCH INTERNATIONAL AIRPORT LIMITED

### Introduction

- 1 This memorandum of counsel is provided on behalf of Christchurch International Airport Limited (*CIAL*) (submitter #254, further submitter #80).

### Follow-up from Hearing Stream 1

- 2 Counsel and witnesses appeared on behalf of *CIAL* at Hearing Stream 1 on 18 May 2023. During *CIAL*'s presentation, matters were raised by the Panel in relation to the interpretation of the higher order planning framework and the relationship between various documents. To assist the Panel, we enclose the following:
  - 2.1 A timeline of relevant planning documents/changes including Our Space, the National Policy Statement on Urban Development and the Canterbury Regional Policy Statement; and
  - 2.2 The Commissioner's recommendation on private Plan Change 71 to the operative Selwyn District Plan, which addresses the relationship between the higher order documents<sup>1</sup>. The Commissioner found that, while the avoidance objectives and policies in the CRPS do not preclude application of development pathways in the NPS UD, they remain relevant and are clearly an important part of the planning matrix. In so far as the objectives and policies relating to the 50dBA Ldn noise contour, rezoning of land as requested by the Applicant clearly did not give effect to provisions relating to infrastructure (in CRPS or the Operative Selwyn District Plan).

### Airport specific hearing

- 3 One 4 May 2023 Momentum Land Limited filed a memorandum (the *MML memorandum*) that sought a combined hearing for the "Kaiapoi Growth issue", including in relation to the Airport Noise Contour. On 23 May 2023 the Panel issued Minute 4 and requested that the relevant Section 42A report authors and any interested submitters respond to the *MML* memorandum.
- 4 On 15 June 2023 counsel for *CIAL* contacted the Hearings Administrator and advised that it did not oppose a separate hearing stream, and that it would abide by the decision of the Panel. On 16 June 2023, the section 42A report authors issued a memorandum indicating that all airport related matters could be allocated to Hearing Stream 10. *CIAL* agrees with this approach.

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<sup>1</sup> At paragraph 148 to 150, 273 and 281

5 On 15 June 2023, counsel also signalled that CIAL would provide a list of submission points and the hearing stream that we understand they are now best suited to. We enclose a table summarising CIAL's submission points, and indicate which hearing we propose to address those matters in.

6 We would be grateful if the Panel could please confirm its agreement with our proposed approach. It may be that brief planning evidence or a brief memorandum can be filed in relation to the remaining submission points allocated to Hearing Streams 6, 7 and 8 instead of a full hearing appearance in the interests of efficiency.

#### **Hearing Stream 5**

7 In lieu of legal submissions, this memorandum briefly addresses CIAL's position on Hearing Stream 5.

8 Given that the majority of CIAL's submission points will be addressed in Hearing Stream 10, the focus of CIAL's evidence will be that hearing stream. To the extent that any of CIAL's submission points have been addressed by the Hearing Stream 5 section 42A report writers:

8.1 planning evidence by Mr Darryl Millar has been filed for CIAL which sets out his agreement or disagreement with the relevant provisions as they are now proposed by the section 42A report writers;

8.2 CIAL relies on its evidence and legal submissions previously filed for Hearing Stream 1; and

8.3 CIAL also relies on the legal submissions filed for MainPower New Zealand Limited for Hearing Stream 5 insofar as they address matters raised by the Panel and section 42A report writers regarding the relationship between the Strategic Objectives, Energy and Infrastructure Chapter and other parts of the Proposed Plan.

14 August 2023



J M Appleyard / A M Lee  
Counsel for Christchurch International Airport Limited

## TIMELINE OF RELEVANT PLANNING INSTRUMENTS

Below is a brief summary timeline of relevant planning instruments and their purpose.

Document	Time of implementation	Comments
Land Use Recovery Plan ( <i>LURP</i> ) <sup>2</sup>	Took effect in <b>December 2013</b> .	<p>A regional planning document prepared under Canterbury Earthquake Recovery Act 2011.</p> <p>It puts land use policies and rules in place to assist the rebuilding and recovery of communities (including housing and businesses) disrupted by the Canterbury Earthquakes.</p> <p>Of most relevance, however, it amended the RPS to include Chapter 6 (Recovery and rebuilding of Greater Christchurch) and identified 'greenfield priority areas'. The LURP acknowledges that noise sensitive activities must be avoided within identified airport noise contours.</p> <p>The LURP introduced the first iteration of what we know as 'Map A' into the RPS.</p>
National Policy Statement on Urban Development Capacity ( <i>NPS-UDC</i> ) <sup>3</sup>	Took effect in <b>December 2016</b> .	<p>The purpose of the NPS-UDC was to ensure that councils enabled development capacity for housing and businesses (through their land-use planning infrastructure) so that urban areas could grow and change in response to the needs of their communities.</p> <p>The emphasis of the NPS-UDC was to direct councils to "<i>provide sufficient development capacity and enable development to meet demand in the short, medium, and long term.</i>"<sup>4</sup></p>

<sup>2</sup> <https://dpmc.govt.nz/our-programmes/greater-christchurch-recovery-and-regeneration/recovery-and-regeneration-plans/land-use-recovery-plan>

<sup>3</sup> [https://environment.govt.nz/assets/Publications/Files/National\\_Policy\\_Statement\\_on\\_Urban\\_Development\\_Capacity\\_2016-final.pdf](https://environment.govt.nz/assets/Publications/Files/National_Policy_Statement_on_Urban_Development_Capacity_2016-final.pdf)

<sup>4</sup> Refer for example OA2, PA1, PC1, PC3, PC4 of the NPS-UDC.

Document	Time of implementation	Comments
Our Space 2018-2048: Greater Christchurch Settlement Pattern Update ( <i>Our Space</i> ) <sup>5</sup>	Final report endorsed by the Greater Christchurch Partnership in <b>June 2019</b> .	<p>This document was expressly prepared to give effect to the NPS-UDC in Greater Christchurch and in particular the provision of "sufficient development capacity". Our Space identified that housing development capacity in Selwyn and Waimakariri is potentially not sufficient to meet demand over the medium and long term (10 to 30 years).</p> <p>It was intended that this document then form the basis of changes to Regional and District Planning documents to give effect to the NPS-UDC in a planned and collaborative way across Greater Christchurch.</p> <p>Our Space proposed that Map A of the RPS be amended to include 'Future Development Areas' which would give effect to the NPS-UDC.</p> <p>We note that the Our Space Map A contains a note at the bottom which provides: "<i>While it is intended Our Space provides some direction to inform future RMA processes, [this map] is indicative only.</i>" Figure 10 of Our Space also incorporates the airport noise contours as a constraint on development.</p>
National Policy Statement on Urban Development ( <i>NPS-UD</i> ) <sup>6</sup>	Took effect in <b>August 2020</b> .	<p>This national policy statement replaced the previous NPS-UDC.</p> <p>It introduced a range of policies and objectives additional to the NPS-UDC.</p>
Plan Change 1 to Chapter	PC1 made operative <b>July 2021</b> .	PC1 was approved by the Minister for the Environment (the <i>Minister</i> ) under the Streamlined Planning Process.

<sup>5</sup> <https://greaterchristchurch.org.nz/assets/Documents/greaterchristchurch/Our-Space-final/Our-Space-2018-2048-WEB.pdf>

<sup>6</sup> <https://environment.govt.nz/assets/Publications/Files/AA-Gazetted-NPSUD-17.07.2020-pdf.pdf>

Document	Time of implementation	Comments
6 of the RPS (PC1) <sup>7</sup>		<p>PC1 effectively amends the RPS to include in Map A the Future Development Areas identified in Our Space, including at Rolleston, Rangiora and Kaiapoi. Map A as contained in Our Space and PC1 are identical. Both identify the 50dB Ldn Air Noise Contour.</p> <p>PC1 also introduced new objectives and policies around the new future development areas. The PC1 recommendation, which was approved by the Minister, states that any development in the new future development areas would still need to comply with Policy 6.3.5.</p>

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<sup>7</sup> <https://www.ecan.govt.nz/your-region/plans-strategies-and-bylaws/canterbury-regional-policy-statement/change-chapter-6/>

**TABLE OF CIAL SUBMISSION POINTS AND RELEVANT HEARING**

<b>Proposed plan reference</b>	<b>CIAL submission number</b>	<b>Proposed hearing stream</b>
<i>PART 1 – Introduction &amp; General provisions</i>		
HPW	254.1 - 254.3	Airport hearing (stream 10)
Interpretation – Definitions	254.4 – 254.13, 254.15 – 254.17	254.15 was considered and accepted in Hearing Stream 1.  254.5, 254.8, 254.11 and 254.15 were considered and accepted in Hearing Stream 5.  Other submissions relating to definitions to be considered in the Hearing Stream they relate to (with the exception of bird strike as below).
SD	254.18 – 254.21	Considered in Hearing Stream 1, but deferred.
UFD	254.21 – 254.24	To be addressed at Airport hearing (stream 10).
EI	254.25 – 254.31	Hearing Stream 5
TRAN	254.32 – 254.36	Hearing Stream 5. Note that 254.35 and 254.36 have not been considered in the s 42A report, but CIAL proposes to address these alongside 254.32 and 254.33 at Hearing Stream 5 (refer Mr Millar’s evidence).
NFL	254.37 – 254.40	Airport hearing (stream 10)
NC	254.41 and 254.42	
SUB	254.43 and 254.45 – 254.47	Hearing Stream 8
	254.44 and 254.48 – 254.54	Airport hearing (stream 10)

<b>Proposed plan reference</b>	<b>CIAL submission number</b>	<b>Proposed hearing stream</b>
NOISE	254.55 and 254.57-254.64	Airport hearing (stream 10)
	254.56	Hearing Stream 5
TEMP	254.65 and 254.66	Airport hearing (stream 10)
<i>PART 2 – Area-specific</i>		
RES	254.6, 254.71 and 254.92.	Airport hearing (stream 10)
	254.68 – 254.70	Hearing Stream 7
GRZ	254.72 – 254.81	Airport hearing (stream 10)
MRZ	254.82 – 254.91	Airport hearing (stream 10)
RURZ	254.93, 254.95 and 254.96	Airport hearing (stream 10)
	254.94	Hearing Stream 6
GRUZ	254.97 – 254.107	Airport hearing (stream 10)
RLZ	254.108 – 254.119	Airport hearing (stream 10)
CMUZ	254.120 – 254.124	Airport hearing (stream 10)
GIZ	254.125 – 254.127	Airport hearing (stream 10)
WKP, K and SPZ KR	254.129 – 254.131	Airport hearing (stream 10)
New rule and matter of discretion for birdstrike	254.132 – 254.148	Airport hearing (stream 10)



<b>Proposed plan reference</b>	<b>CIAL submission number</b>	<b>Proposed hearing stream</b>
Mapping	254.149 and 254.150	Airport hearing (stream 10)