

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 1: Part 1 General Matters, Definitions, Strategic Directions and Urban Form and Development

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

Evidence of Darryl Millar (Planning)

Dated: 1 May 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 40 years' experience in planning and resource management and am an accredited (and practicing) Hearing Commissioner. My time has been spent with a large urban-based territorial authority and with two planning consultancies. I have been with RMG since early 2001.
- 3 In general terms I manage the planning and resource management inputs into a large number of consenting and policy development projects. My work involves the assessment and preparation of Plan variations and changes, preparation of resource consent applications, notices of requirements and the associated assessments, policy formulation and related evidence and hearing fixtures. A focus of my experience has been with the RMA/planning processes facing infrastructure and utility providers. This includes Waka Kotahi, Orion New Zealand Limited, MainPower New Zealand and several local authorities.
- 4 In the last 20 months I have assisted Christchurch International Airport Ltd (*CIAL/Airport*) with the provision of planning services. This has included obtaining planning/RMA approvals for a range of on-campus development projects. I have also assisted CIAL with their planning responses to variations proposed by the Selwyn District Council (*SDC*) and the Waimakariri District Council (*WDC*), and Plan Change (PC14) proposed by the Christchurch City Council (*CCC*), which addressed those Council's duties under the Enabling Housing Supply and Other Matters legislation. This involved policy assessment and effects assessments associated with the potential residential densification beneath the Airport's 50dB Ldn Air Noise Contour.
- 5 Given this, I am familiar with the Airport's operational characteristics and the planning framework supporting the noise contours.
- 6 Finally, in my role as an Independent Planning Commissioner, I was appointed by the WDC to hear and decide Plan Change 45 (Rangiora Airfield). The Plan Change proposed to insert new Plan provisions dealing with noise contours, take off and approach obstacle limitation surfaces (runway ends and side), and related objectives and policies. There was also a related Notice of Requirement to designate land.

- 7 I have been authorised by CIAL to provide evidence in relation to its submissions and further submissions to the proposed District Plan (PDP).

CODE OF CONDUCT

- 8 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

- 9 This hearing (Hearing Stream 1) considers submissions on Part 1 and 2 of the PDP.
- 10 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.¹

Submission	CIAL Sub Reference	42A Submission Reference
HPW – Cross Boundary Matters	254.1	Wilson – paragraphs 75 - 83
HPW – Relationships between spatial layers	254.2	As above
Interpretation	254.4-17	Wilson – paragraphs 84 - 94 Buckley (SD Report) – paragraph 164 and 169
Strategic Directions	254.19	Buckley (SD Report) – paragraphs 58 and 66
Strategic Directions	254.18,19,20	Buckley (SD Report) – paragraphs 127 – 131, 135
Urban Form and Development	254.21, 22, 23	Buckley (UFD Report) – paragraphs 122, 123 and 130

Table 1 – Submission Points and references

- 11 My overall reading of the s42A reports is that the authors are of the view that relief sought in submissions should be considered in the

¹ The Strategic Directions and Urban Form and Development reports of Mark Buckley, and the Overarching and Part 1 Matters report of Peter Wilson

relevant Chapter hearings; specifically, the definitions, noise and rural chapters' s42A reports and hearings. In making this recommendation, there is an acknowledgement that any related or consequential changes required to the chapters that are the subject of this hearing can be considered in those reports/hearings.

- 12 In general terms I agree with this approach, as it represents a logical sequence in which the substantive issues can be considered.
- 13 Given this, my evidence simply focusses on the principle of whether an Air Noise Contour (the *Contour*) for Christchurch Airport is required within the context of the relevant planning frameworks. My evidence is an examination of the concept of applying a Contour within the District when considered by an assessment of the policy regime of the CRPS and the PDP. Future hearings will consider the specific merits of where the Contour applies, and how that may translate to objectives, policies and rules.
- 14 That said, I do consider the issue of whether it would be possible to include a Contour in the PDP that departs from the Contour currently shown on Map A of the CRPS. Again, this is not an exercise of assessing the relevant merits of those variants.

RELEVANT POLICY FRAMEWORKS

Canterbury Regional Policy Statement

- 15 The Airport is defined, and specifically listed, as "regionally significant infrastructure" and "strategic infrastructure" in the CRPS. The definition of "strategic infrastructure" notes that it includes "facilities, services and installations which are greater than local importance, and can include infrastructure that is nationally significant".
- 16 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)², 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.
- 17 Related to this issue, I have reviewed the evidence of Mr Page for CIAL in which he considers the importance of Christchurch Airport and concludes that it is of national and local significance.³

² NPS UD – Section 1.4 Interpretation

³ Evidence of Mr Geoff Page dated 1 May 2023 paragraphs 17 and 18.

- 18 On this basis, it is clear that Christchurch Airport is infrastructure that is nationally significant.
- 19 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.
- 20 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 where avoidance is impracticable, remedies or mitigates those effects on those resources and infrastructure...*

- 21 **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...*

- 22 The CRPS includes the operative Contour on Map A, but does not at this point include the remodelled Contours. Relevant to this, **Policy 6.3.5(4)**, which implements **Objective 6.2.1**, specifically references the Contour and 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, ...;"

23 **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.

24 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."

25 There are two issues that arise from this:

25.1 what is the impact of the phrase "*unless the activity is within an existing residentially zoned urban area*" as used in Policy 6.3.5; and

25.2 similarly, why is there an exemption for the "*residential greenfield area identified for Kaiapoi*".

26 With respect to the broader reference to "*existing residentially zoned urban area*" used in the policy, it is valid to consider how a district plan should give effect to the CRPS. Some guidance on this issue can be found in the decisions of the Independent Hearings Panel (the *Panel*) appointed to consider the Replacement Christchurch District Plan. Overall, the Panel determined that, although there is no absolute direction in the CRPS to avoid any further noise sensitive activities in existing residentially zoned land within the Air Noise Contour, there is still a need to evaluate whether such activities should be avoided or restricted so as to give proper effect to **Policy 6.3.5** and related CRPS objectives and policies.⁴ The Panel recognised the need for an ongoing capacity to assess relevant reverse sensitivity and noise mitigation matters for residential intensification above a certain scale.⁵

⁴ Decision 10 Residential (Part), Independent Hearings Panel, 10 December 2015, at [195].

⁵ Ibid, at [235].

- 27 Ultimately, the Panel determined that, for residential zones in the Christchurch District that sit within the Air Noise Contour, residential activities which do not meet permitted zone standards should have restricted discretionary activity status.⁶ While this is a specific planning response for Christchurch City, there is no reason why, in my view, the principle of the Panel's findings should not apply to all residential land including in Waimakiriri and Selwyn. Given this, the direct impact of the Panel's assessment and decision was to reinforce the position that density (amongst other things) was a key matter to control in order to give effect to the CRPS.
- 28 What I wish to highlight here is that the position adopted by the Panel underpins an argument supporting the need to map the Contour in the District Plan, including within all relevant existing "*residentially zoned urban*" areas and to ultimately include supporting provisions address the impact of development that does not meet the relevant District Plan standards.
- 29 A similar argument is applicable to the Kaiapoi exemption issue. That said, it is also important to understand why the specific reference to Kaiapoi was included in the policy in the first place. Some guidance on this issue can be found in the 'Principal reasons and explanation' for **Policy 6.3.5** which notes (my emphasis):
- "The only exception to the restriction against residential development within the 50dBA Ldn airport noise contour is provided for at Kaiapoi.*
- Within Kaiapoi land within the 50dBA Ldn airport noise contour has been provided to offset the displacement of residences as a result of the 2010/2011 earthquakes. This exception is unique to Kaiapoi and also allows for a contiguous and consolidated development of Kaiapoi.*
- 30 My reading of this is that this particular exemption does not apply to Kaiapoi in totality. Rather, it applies to "land" that "has been provided to offset" displaced residences. In my view this does not rule out the consideration of a Contour over Kaiapoi as such and, for reasons that I have stated previously in relation to the general existing residentially zoned land exemption (paragraph 28), it reinforces the need for a Contour so that consideration can be given to appropriate district plan provisions.
- 31 As signalled earlier I have also considered whether it would be possible to include a Contour in the PDP that departs from the Contour currently shown on Map A of the CRPS.

⁶ Ibid, at [237].

- 32 I start by saying that I believe there is a pathway for this. Policy 6.3.5(4) is relevant which reads, in part:

"Only providing for new development that does not affect the efficient operation, use, development, appropriate 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, or residential greenfield priority area identified in Map A (page 6-28) and enabling commercial film or video production activities within the noise contours as a compatible use of this land; and ..."

- 33 Policy 6.3.5(4) does not refer to the airport noise contour as shown on Map A. Rather, the reference in the policy is to the activities as shown on Map A. Given this, it is arguable that a Council can insert updated contours into its District Plan that differ from those shown on Map A, and still be aligned with the CRPS.

- 34 Finally, I note Policy 6.3.9(5)(a):

In Greater Christchurch, rural residential development further to areas already zoned in district plans as at 1st January 2013 can only be provided for by territorial authorities in accordance with an adopted rural residential development strategy prepared in accordance with the Local Government Act 2002, subject to the following:

...

5. *The location and design of any proposed rural residential development shall:*
 - a. *avoid noise sensitive activities occurring within the 50 dBA Ldn air noise contour surrounding Christchurch International Airport so as not to compromise the future efficient operation of Christchurch International Airport or the health, well-being and amenity of people...*

- 35 Overall, the policy thrust of the CRPS is clear, as it:

35.1 recognises the social and economic importance of the Airport, and the need to integrate land use development with infrastructure;

35.2 seeks to avoid incompatible activities within the 50dBA contour which may result in reverse sensitivity effects on the Airport;

35.3 recognises that the Airport should not be compromised by urban growth and intensification; and

35.4 enables the Airport's safe, efficient and effective operation and development.

36 In my view, the foundation stone for achieving the outcomes sought for the Airport in the CRPS is the mapping of the Contour on the relevant planning maps in the PDP. Without this metric, the PDP would be inconsistent with the CRPS.

The Proposed District Plan

37 The PDP uses the same definitions of "regionally significant infrastructure" and "strategic infrastructure" as used in the CRPS. This includes noting that "strategic infrastructure" includes "facilities, services and installations which are greater than local importance, and can include infrastructure that is nationally significant".

38 The relevant objectives and policies, as notified⁷, are:

SD-03 Energy and Infrastructure

Across the District:

2. *infrastructure, including strategic infrastructure, critical infrastructure and regionally significant infrastructure:*
 - a. *is able to operate efficiently and effectively; and*
 - b. *is enabled, while:*
 - i. *managing adverse effects on the surrounding environment, having regard to the social, cultural and economic benefit, functional need and operational need of the infrastructure; and*
 - ii. *managing the adverse effects of other activities on infrastructure, including managing reverse sensitivity;*

UFD-P10 Managing reverse sensitivity effects from new development

Within Residential Zones and new development areas in Rangiora and Kaiapoi:

⁷ Noting there are submissions from CIAL seek changes to many of these

1. *avoid residential activity that has the potential to limit the efficient and effective operation and upgrade of critical infrastructure, strategic infrastructure, and regionally significant infrastructure, including avoiding noise sensitive activities within the Christchurch Airport Noise Contour, unless within an existing Residential Zone...*

Noise-02 Reverse Sensitivity

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

Noise-P4 Airport Noise Contour

Protect Christchurch International Airport from reverse sensitivity effects by:

1. *avoiding noise sensitive activities within the 50 dBA Ldn Noise Contour by limiting the density of any residential unit or minor residential unit to a maximum of 1 residential unit or minor residential unit per 4ha, except within existing Kaiapoi Residential Zones, greenfield priority areas identified in Chapter 6 - Map A of the RPS (gazetted 6 December 2013) or any residential Development Area; and*
2. *requiring noise insulation within the 50 dBA Ldn and 55 dBA Ldn Noise Contour for Christchurch International Airport.*

- 39 The key outcomes sought by the policy framework of the PDP are similar to that of the CRPS and are:
 - 39.1 The Airport is able to operate efficiently and effectively, while managing adverse effects having regard to benefits and functional/operational needs;
 - 39.2 Manage reverse sensitivity effects; and
 - 39.3 Avoid residential activities that may give rise to reverse sensitivity effects, unless within a residential zone, including Kaiapoi.
- 40 The policies attempt to balance the effectiveness and efficiency of outcomes sought in strategic objective 03 and the operational objective of Noise-02, against the development imperatives of UFP-P10 and Noise-P4. Policies P10 and P4 appear to largely replicate the Kaiapoi exclusion found in the CRPS.

- 41 Clearly, there is a weighting issue to be considered here given the early stage of the PDP review process and that a number of submitters, including the Airport, have sought changes to these provisions
- 42 Overall, the aforementioned provisions largely reflect the outcomes sought in the CRPS. This includes recognising important infrastructure and the need to protect it and to avoid reverse sensitivity effects on such activities.
- 43 Given this, my earlier discussion and overall findings with respect to the CRPS are equally relevant to the PDP.

CONCLUSIONS

- 44 In my view there is a strong policy argument to support the inclusion of a Contour within the PDP. This includes within Kaiapoi, where an apparent “exemption” applies under the CRPS and the PDP.
- 45 The Airport is clearly infrastructure of importance, is nationally significant infrastructure, and is recognised as such in the CRPS and in the PDP. Within this context, the effective and efficient operation of the Airport, and its protection from reverse sensitivity effects, requires consideration at a strategic level. The inclusion of a Contour is an essential element in this process in my view, and provides the foundation for the development, where appropriate, of supporting provisions within the PDP via future evidence and hearing processes.

Dated: 1 May 2023

Darryl Millar