

**BEFORE INDEPENDENT HEARING COMMISSIONERS APPOINTED
BY THE WAIMAKARIRI DISTRICT COUNCIL**

IN THE MATTER OF The Resource Management Act 1991
(**RMA** or **the Act**)

AND

IN THE MATTER OF Hearing of Submissions and Further
Submissions on the Proposed Waimakariri
District Plan (**PWDP** or **the Proposed
Plan**)

AND

IN THE MATTER OF Hearing of Submissions and Further
Submissions on Variation 1 to the
Proposed Waimakariri District Plan
(**Variation 1**)

AND

IN THE MATTER OF Submissions and Further Submissions on
the Proposed Waimakariri District Plan by
**Momentum Land Limited (Momentum
or 'MLL')** and **Mike Greer Homes NZ
Limited ('MGH')**

**EVIDENCE OF PATRICIA HARTE
ON BEHALF OF MOMENTUM LAND LIMITED
AND MIKE GREER HOMES NZ LIMITED
STREAM 10A – AIRPORT NOISE ISSUES**

DATED 2 FEBRUARY 2024

Presented for filing by:
Margo Perpick
Saunders & Co
PO Box 18, Christchurch
T 027 227 2026
margo.perpick@saunders.co.nz

INTRODUCTION

- 1 My name is Patricia Harte of Christchurch.
- 2 I have provided resource management advice to Momentum Land Limited (**Momentum** or '**MLL**') and Mike Greer Homes NZ Ltd (**Mike Greer Homes** or '**MGH**'). In this evidence I provide a planning policy perspective on the appropriate measures to include in the Proposed Waimakariri District Plan ('**PWDP**') including Variation 1 to the PWDP, in relation to airport noise produced by Christchurch International Airport Limited (CIAL). In particular, I consider whether it is necessary or appropriate to prevent or limit residential development of intensification inside of the L_{dn} 50 dBA Airport Noise Contours of CIAL.
- 3 I hold the qualifications of LLB (Hons), M.Sc (Resource Management).
- 4 I am a consultant planner with Davie Lovell-Smith, Christchurch. I have extensive experience in reviewing and preparation of district plans including detailed work with councils in developing plans and plan changes. I have overseen and reported on major projects on behalf of councils. I have also prepared and followed through the full processes of a number of recent private plan changes requesting rezoning of greenfield areas for residential use in Selwyn, Waimakariri and Christchurch a number of which are fully developed, some partially developed and some yet to be developed.
- 5 I have read the Environment Court's Code of Conduct and agree to comply with it. My qualifications as an expert are set out above. The matters addressed in my evidence are within my area of expertise, however where I make statements on issues that are not in my area of expertise, I will state whose evidence I have relied upon. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in my evidence.

SCOPE OF EVIDENCE

- 6 In my evidence I address the following issues:
 - (a) The policy basis providing for development in north east Kaiapoi (as sought by Momentum) and in south Kaiapoi (as sought by Mike Greer Homes).
 - (b) The most efficient and effective approach to enable residential development taking into account the potential for impacts on CIAL's operations.

CONTEXT

- 7 Submissions and further submissions on the PWDP and Variation 1 have been made on behalf of David Colin, Fergus Moore and MLL (collectively, Momentum or MLL) relating to two blocks of land at the northeast corner of Kaiapoi. For convenience the two blocks are referred to as the north block and the south block which are shown below in Figure 1. These submissions have been opposed by CIAL.

8 Submissions and further submissions on the PWDP and Variation 1 have been made on behalf of Mike Greer Homes relating to a block of land at to the south of Kaiapoi, shown below in Figure 1. These submissions have been opposed by CIAL.

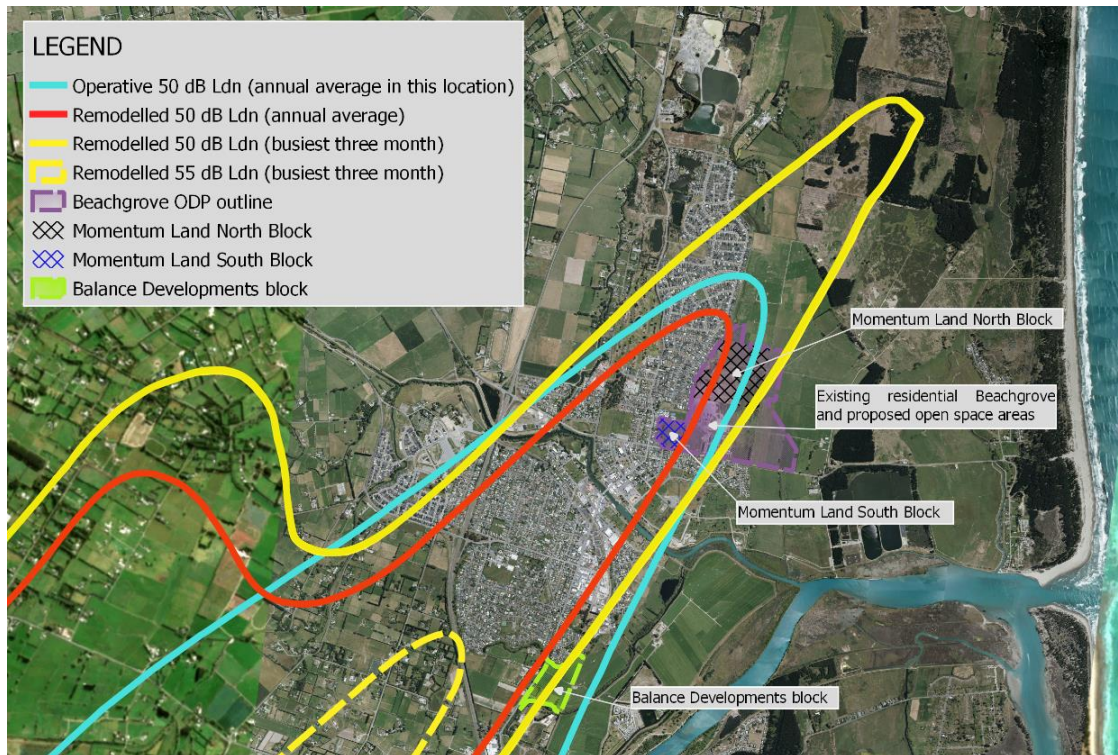


Figure 1 – Location of the subject sites in relation to aircraft noise contours (both operative and remodelled)

9 The planning details of these blocks and related submissions and further submissions are set out below.

Operative Waimakariri Plan	
<p>Zoning: Rural</p> <p>Layers: MLL Land lies within the operative 50 dBA aircraft noise contour (North Block only partly within)</p> <p>Mike Greer land (Balance Developments) lies fully within the operative 50dBA airport noise contour</p>	
Proposed Waimakariri District Plan	Submissions
<p>Zoning: Rural Lifestyle</p> <p>Layers: lies within (ODP) 50 dBA aircraft noise contour</p>	<p>Momentum Original Submission: seeks Medium Density Residential zoning of both North and South Momentum blocks</p>

<p>Kaiapoi Development Area:</p> <p>Provisions included in PWDP which provide through a certification process for land to be developed in accordance with General Residential zone stands including subdivision</p>	<p>Mike Greer Original Submission: seeks new South Kaiapoi Development Area for the South Kaiapoi block</p> <p>CIAL Original submission: seeks changes to Strategic Directions, Policies, subdivision provisions, noise chapter provisions, residential zone provisions, Kaiapoi Development Area provisions</p> <p>Momentum Further Submission: opposes CIAL Original Submission</p> <p>CIAL Further Submission: opposes Momentum and Mike Greer original submissions</p>
Variation 1	
<p>Zoning: Rural Lifestyle</p> <p>Qualifying matter (QM): Lies within the 50 dBA aircraft noise contour, density limited to 1 dwelling per 200m²</p>	<p>Momentum Original Submission: seeks Medium Density Residential zoning, supports minimum density 1 dwelling per 200m² in the QM area, but disputes the spatial extent of the QM area.</p> <p>CIAL Original Submission: seeks that within the noise contour QM density standards of 300m²/dwelling should applying in Residential 1 and 600m²/dwelling in Residential 2.</p> <p>Momentum Further Submission: Opposes CIAL submission.</p> <p>CIAL Further submission: Opposes MLL submission.</p> <p>Mike Greer Original Submission: seeks Medium Density Residential zoning for the South Kaiapoi block</p>
Canterbury Regional Policy Statement Status on Map A Chapter 6	
<p>Map A Status:</p> <p>Momentum North: lies partly within a Greenfield Priority Area, with balance in Future Development Area (FDA) and within the Projected Infrastructure Boundary (PIB)</p> <p>Momentum South: in Future Development Area and within the PIB</p>	<p>Submissions of MLL seek residential zoning within land identified as Greenfield Priority Area, Future Development Area and PIB on Map A</p> <p>MGH land is not within any of the specified areas for residential growth on Map A</p>

<p>Mike Greer South Kaiapoi: Not within FDA or PIB</p> <p>Layers:</p> <p>Momentum North lies partly within the operative 50 dBA aircraft noise contour</p> <p>Momentum South lies entirely within the operative 50 dBA aircraft noise contour</p> <p>Mike Greer South Kaiapoi lies entirely within the operative 50 dBA aircraft noise contour</p>	
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- 10 I assess the policy environment relevant to rezoning to provide for existing and future housing demand in Kaiapoi, Waimakariri and Greater Christchurch in more detail later in this evidence. As a preliminary comment however in my opinion the two Momentum blocks of land in north east Kaiapoi, and the Mike Greer block in south Kaiapoi have many attributes which support their being rezoned for residential purposes. The issue at hand that I address is whether the residential development of this land should be prevented in order to reduce/eliminate the potential for noise complaints that could result in significant restrictions on the operation of the Christchurch International Airport (CIAL).

PROVIDING FOR GROWTH

- 11 A central focus of the Proposed Waimakariri District Plan and other related policy documents is to provide for growth and change while limiting adverse effects of this on the community and natural environment. There has been widespread concern in, at least, the last 10-15 years as to how housing is going to be provided for New Zealand's growing population. For Canterbury this demand was exacerbated by the Christchurch earthquakes which significantly reduced the existing housing resource, and in particular in Kaiapoi. While there has been a response to this increased demand at national, regional and local level in various policy documents, in general this has been conservative and very delayed despite sections 30 and 31 of the RMA specifying that the functions of regional and district councils include reviewing "*objectives, policies and methods to ensure that there is sufficient development capacity in relation to housing and business land...*"
- 12 The increasing demand for housing not being matched by supply has resulted in significant increases in the cost of housing over the last 20 or so years as detailed in the economic evidence of Fraser Colegrave. This has affected the whole housing market, including the rental market where people have less choice. Any delays resulting from a lack of initiative to provide for growth exacerbates the impacts on many people who face huge difficulties finding and affording adequate housing. This process appears to be repeating itself with the increased levels of migration in very recent times again highlighting the lack of housing or provision for appropriately zoned land. In response to these housing issues central

Government has taken a number of initiatives, the most significant are the National Policy Statement on Urban Development Strategy 2016 (NPD-UDS 2016), the National Policy Statement on Urban Development 2020 (NPS-UD 2020), the RM Enabling Housing Supply Amendment Act 2021 and empowering Kainga Ora to undertake extensive house building programmes and to challenge district plans which do not provide for more intensive housing.

- 13 The most recent detailed consideration of the supply and demand for housing within the Waimakariri District occurred at the hearing of Private Plan Change 31 to the Waimakariri District Plan. While the requested urban use rezoning of land at Ohoka was not granted the decision specifically concluded that the assessments of supply relied on by the District Council were over-estimated for a variety of reasons. They therefore concluded that there was currently, and likely in the future, to be a shortage of land for residential development within the Waimakariri District. Fraser Colegrave in his evidence draws attention to the population of the Waimakariri District having *grown rapidly since the late 1990s, particularly after the earthquakes in 2010/11 with a strong growth still continuing today*. The growth rate for the district is estimated to be 1.2% using a medium scenario and 1.6% using a high scenario. Mr. Colegrave opines that the likely drivers of this growth are that housing in the district provides better value for money compared to Christchurch City and in response to covid 19 people have reconsidered various aspects of their life including where they live. In relation to the latter, living in a pleasant environment is considered by many to compensate for the need to commute. He then assesses where dwellings have been built in recent times in Kaiapoi concluding that virtually all dwellings built and sold in Kaiapoi in recent times have been in greenfield development on the edge of the town. However, there is now limited greenfield land available for development. He then concludes that *"Accordingly, new urban areas like the site (Momentum north and south blocks) need to be enabled as soon as possible to keep pace with demand for new dwellings well into the long term."*

SUITABILITY OF LAND FOR RESIDENTIAL DEVELOPMENT

- 14 In my opinion the MLL land at north-east Kaiapoi is well suited for residential zoning and in particular Medium Density Residential zoning. The reasons for this are:
- (a) It is a logical extension of Kaiapoi;
 - (b) It is of a scale to enable efficient servicing and to be provide for substantial residential development over time;
 - (c) This land is recognised in the Canterbury Regional Policy Statement, as an appropriate location for residential development and in particular is identified on Map A as a greenfield priority area (southwest section) and a Future Development Area (remainder of land);
 - (d) It is included as a growth area in the Waimakariri 2048 District Development Strategy
 - (e) It sits within the Kaiapoi Development Area contained in Proposed Waimakariri District Plan

- (f) It is one of the Future Development Area sites where future subdivision and residential development can occur through a "certification" process;
 - (g) There are no other sites in the vicinity of Kaiapoi that have these advantages.
- 15 In my opinion, the Mike Greer land is well suited for residential zoning and in particular Medium Density Residential zoning. The reasons for this are:
- (a) It is a logical extension of Kaiapoi;
 - (b) It is of a scale to enable efficient servicing and to be provide for substantial residential development over time;
 - (c) It is well served by public transport
 - (d) Public reserve areas will be able to establish along the Kaikainui and Courtenay Streams and along the setback area from the railway that will facilitate pedestrian and cycle connectivity within the site and residential land to the north of Kaikanui Stream;
 - (e) This area has been identified in the Waimakariri District Development Strategy as an appropriate extension of Kaiapoi. While this extension was proposed for business uses the demand for housing and the limited areas available make it a likely and suitable area for greenfield residential development.
- 16 For all these reasons it is logical and important that the best use of this land is enabled by providing for the level of density available under the relevant provisions of the NPS-UD and the Enabling Act.

AIRPORT NOISE CONTOURS – OPERATIVE AND REMODELLED

- 17 The operative existing (2008) L_{dn} 50 dBA CIAL airport noise contour is included in the Canterbury Regional Policy Statement (CRPS), Map A, and in the operative Waimakariri District Plan, and in the notified proposed Waimakariri District Plan.
- 18 CIAL have recently re-modelled the airport noise contours, but those contours have no legal effect in any statutory document. As I understand it, the process of including the re-modelled contours in the CRPS will not be notified until later in 2024 or potentially next year. Once notified, I understand that submissions on the CRPS will be able to debate the location and effect of the contours, including whether the L_{dn} 50 dBA contour or the L_{dn} 55 dBA contour should have any control over the location of residential development and other noise sensitive activities. That submission, decision, and potentially appeal process will need to be concluded before the re-modelled contours have legal effect through the CRPS. From that point, the Christchurch, Selwyn and Waimakariri District Plan RMA processes will need to take place in order to include the re-modelled contours in those plans.
- 19 The noise experts Professor John-Paul Clarke and William Reeve address this matter in more detail, but as I understand it, the existing (2008) L_{dn} 50 dBA contour which is included in the CRPS, the OWDP and the proposed WDP use the annual average noise contour in the vicinity of Kaiapoi. Further, the remodelled (2023) contours, which do not yet have any legal effect, have been prepared on two different bases, namely (1) the annual average

basis, and (2) a "3 worst months" basis which CIAL is referring to as the Outer Envelope. Instead of promoting the 2023 annual average noise contour, CIAL appears, through its further submissions to Variation 1, to be requesting that the more restrictive/extensive 3 worst months Outer Envelope 50 dBA contours be adopted and that the density within this contour be 1 dwelling per 300m² in the Residential 1 zone and 1 dwelling per 600m² in the Residential 2 zone.

DISTRICT PLAN NOISE STANDARDS

- 20 The Operative and Proposed Waimakariri District Plans have specific chapters dealing with noise. In both of these Plans **noise sensitive activities** (which include residential activities) are permitted activities in Residential zones under the 50 dBA noise contour. Noise sensitive activities under the 55dBA contour are also permitted activities providing they are insulated from aircraft noise to ensure that indoor sound levels stated in a table are not exceeded. This approach was supported by Marshall Day in their review of the noise provisions of the Proposed District Plan. I also note that the potential for increased aircraft noise is placed on Land Information Memoranda of properties within the 50dBA contour. In my opinion this approach provides a balanced approach to providing for residential use under the 50dBA contour while limiting the potential for residents to be annoyed to the extent that they lodge complaints about aircraft noise.

KAIAPOI DEVELOPMENT AREA

- 21 CIAL also lodged a submission to the Proposed District Plan in relation to the **Kaiapoi Development Area**. This area is the same as the Kaiapoi East Future Development Area shown in Map A of the CRPS. The CIAL submission requests that:

"land falling within the 50dBA Ldn Air Noise Contour be limited to development for non-sensitive activities only and do not enable further residential development"

CIAL's justification for this request includes the fact that the Kaiapoi Development Area is within a "future development area" (FDA) on Map A of the CRPS, rather than a "greenfield priority area" (GPA) and so cannot rely on the "Kaiapoi exception" in CRPS Policy 6.3.5(4). This restrictive approach in my opinion is contrary to the purpose of the Kaiapoi exception as it only allows for development in one of the identified growth areas but not the adjoining growth area. This inconsistency is not acknowledged or addressed in the Principal reasons and explanation supporting Policy 6.3.5. below which states:

"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"

- 22 Further, CRPS Policy 6.3.5(4) dealing with Integration of land use and infrastructure states:

Recovery of Greater Christchurch is to be assisted by the integration of land use development with infrastructure by:

(1) *Identifying **priority areas for development and Future Development areas** to enable reliable forward planning for infrastructure development and delivery*

(4) *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 a within an existing residentially zoned urban area, residential greenfield area identified for Kaiapoi, or residential greenfield priority area identified on Map A***

- 23 The wording of this policy is complicated as it refers generally to "existing strategic infrastructure" but also specifically to the Christchurch International Airport. It also creates a dilemma as it appears to provide for development in identified new residential areas including Future Development Areas, but then does not refer specifically to future development areas in clause 4 which provides an exception for development in Kaiapoi to compensate for residential land lost in the earthquakes. I interpret clause 4 to apply to all strategic infrastructure, including the Christchurch International Airport, and that it seeks that new activity does not "*affect the efficient operation, use, development, appropriate upgrading and safety of existing strategic infrastructure*". The reference to avoiding noise sensitive activities within the 50dBa contour, in my opinion, provides a possible method of maintaining efficient operation etc of strategic infrastructure, but is not a requirement.
- 24 There are reasons why the new term "future development areas" was used in PC1 of the CRPS, though none of these are relevant to reverse sensitivity. Both terms, "greenfield priority area" and "future development area" are used to identify areas chosen to provide for future urban growth, often referred to as greenfield residential development. The section 32 Assessment of PC1 to the CRPS explains the reasons why the term "future development area" was used for the new growth areas as follows:

The term 'Greenfield Priority Area' (GPA) is a product of the recovery timeframes associated with the LURP as distinct from the broader identification of greenfield areas located within the PIB. The GPAs were identified on Map A to provide for growth and residential relocation over the recovery period through to 2028.

At a territorial authority level, and once zoned for urban use in a district plan, the GPA term becomes largely redundant as assessment of such land has a more detailed zoning description and rules package.

Nearly all GPA land on Map A has already been zoned in district plans.

The use of the term FDA is more appropriate to ensure sufficient, feasible development capacity for the period 2018-2048

This reasoning shows that both types of area have the purpose of identifying land for future residential growth, but one (greenfield priority) was to provide for earthquake recovery and is now largely zoned, while future development areas are required to provide for newly determined medium and long term growth. It makes no planning sense to treat these two areas differently in relation to their being suitable to provide compensatory land for the recovery of Kaiapoi.

- 25 I note that Environment Canterbury (ECan) has not lodged a submission opposing the rezonings proposed by MLL and MGH, possibly indicating that they are satisfied with the identification of these areas for future residential growth. It also implies that ECan consider there is no reason for the density of development in these areas to be limited beyond those in the Variation 1 standards in the Proposed District Plan. With regard to the MLL land, this lack of a submission appears to acknowledge its suitability as a Future Development Area on Map A in the CRPS.
- 26 MLL's and MGH's position is that CIAL's approach is too restrictive given the land subject to their submissions are potentially the only areas of land of any significance available for greenfield housing development in Kaiapoi. The land therefore should not be limited by a density control that has little connection with estimated adverse noise impacts on new residents in the area. I share this concern that there are limited opportunities for land to be rezoned for residential purposes in Kaiapoi. When these opportunities arise, as with the Proposed WDP and Variation 1, then in my opinion they should be taken and their full potential recognised and provided for if at all possible.

ENABLING ACT AND MDRS PROVISIONS

- 27 The key links between the important responsibility of Councils to provide for housing in an effective and efficient manner and the submissions and further submissions of the MLL, MGH and CIAL are the issues of location and density of development. The Enabling Act, which Tier 1 Councils have to implement, requires formal provisions for national Medium Density Residential Standards (MDRS) to be included in all residential zones other than Large Lot and Settlement zones. The MDRS contain "density standards" which do not include a minimum area per dwelling rather they set limits on building height, setbacks, coverage, outdoor living and outlook space, street windows and landscaping requirements and a maximum number of units on a site. Initially the Proposed District Plan had no minimum lot size for the MDR zone but chose to include the 200m² minimum lot size for the Medium Density Residential zone under the airport noise contour in Variation 1 in response to the Enabling Act.
- 28 The Enabling Act provides for exemptions to the prescribed Medium Density Residential standards through exemptions associated with "qualifying matters". These qualifying matters apply to a wide range of matters including a *matter of national importance* (s6 RMA), ensuring *the safe or efficient operation of nationally significant infrastructure* and any other matter that *makes higher density inappropriate in an area*. Section 77L specifies that a matter is not a qualifying matter unless the sec 32 evaluation identifies that characteristics that make the level of development *inappropriate in the area* and justifies why it is inappropriate in the light of the NPS-UD and has a site-specific analysis. This approach is based on NPS-UD clause 3.33.
- 29 The Council have undertaken a section 77 assessment on the appropriate residential density under the 50dBA airport noise contour. This included consideration of options to reduce density to limit, but not avoid, potential adverse on CIAL operations, including reverse sensitivity effects from noise complaints. On this basis the Council chose to amend/include two standards for MDR development under the contour, namely:

- A minimum subdivision lot size of 200m²
- The number of residential units on sites being limited to 1 (as compared to 3 under the MDR Standards)

Peter Wilson in his section 42 Report agrees with this approach which he considers is in line with the policy approach of mitigating potential adverse reverse sensitivity effects as opposed to avoiding these. Mr. Wilson applies the same reasoning to a number of the CIAL policy and rule submissions requesting avoidance accompanied by his recommendation to reject these submissions. I agree with this reasoning in relation to supporting the Variation 1 approach to density under the Kaiapoi airport noise contour.

- 30 I consider the matter of intensification is also informed by the Canterbury Regional Policy Statement provisions relating to density and urban form and in particular Objective 6.2.2 (2) and Policy 6.3.12 as set out below:

Objective 6.2.2

*The urban form and settlement pattern in Greater Christchurch is managed to provide sufficient land for rebuilding and recovery needs and set a foundation for future growth, with an urban form that **achieves consolidation and intensification** of urban areas, and avoids unplanned expansion of urban areas, by:*

*2. **providing higher density living environments** including mixed use developments and a greater range of housing types, particularly in and around the Central City, in and around Key Activity Centres, and larger neighbourhood centres, **and in greenfield priority areas, Future Development Areas** and brownfield sites;*

*4. providing for the development of **greenfield priority areas, and of land within Future Development Areas** where the circumstances set out in Policy 6.3.12 are met, on the periphery of Christchurch's urban area, and surrounding towns at a rate and in locations that meet anticipated demand and enables the efficient provision and use of network infrastructure*

Policy 6.3.12 Future Development Areas

Enable urban development in the **Future Development Areas** identified on Map A, in the following circumstances:

1. It is demonstrated, through monitoring of housing and business development capacity and sufficiency carried out collaboratively by the Greater Christchurch Partnership or relevant local authorities, that there is a need to provide further feasible development capacity through the zoning of additional land in a district plan to address a shortfall in the sufficiency of feasible residential development capacity to meet the medium term housing bottom lines set out in Table 6.1, Objective 6.2.1a; and

2. The development would promote the efficient use of urban land and support the pattern of settlement and principles for future urban growth set out in Objectives 6.2.1 and 6.2.2 and related policies including by:

a. Providing opportunities for higher density living environments, including appropriate mixed use development, and housing choices that meet the needs of people and communities for a range of dwelling types; and

b. Enabling the efficient provision and use of network infrastructure;

All these objectives and policies clearly seek efficient use of new residential areas including higher densities. These provisions do not distinguish between greenfield priority areas and future development areas.

SECTION 77K ASSESSMENTS

- 31 As referred to previously, assessments have been undertaken regarding what is a suitable residential density under the CIAL noise contours in Kaiapoi. There have been two assessments, one undertaken by the Waimakariri District Council (August 2022) and one supplied by CIAL as part of its S77K assessment of Airport Related Qualifying Matters (dated 25 July 2022). The CIAL assessment is in fact a report prepared for the Christchurch District Plan PC14 airport related qualifying matters, so its relevance is questionable. Variation 1 to the Proposed Waimakariri District Plan was publicly notified on 9 May 2023. It is not clear exactly what density was being assessed in these assessments and so it is difficult to apply these to the land that is the subject of the MLL and MGH submissions.
- 32 While there may be amenity issues raised by existing landowners regarding MDR forms of development in existing residential areas, the enablement of more dense residential development is unlikely, in my opinion, to create any large-scale effects or a noticeable increase in noise complaints from new residents in these areas.
- 33 With regard to greenfield residential development, the design of these subdivisions commonly create what are referred to as "comprehensive" lots that have the potential for multi-unit development. However, it is likely, based on my knowledge of recent greenfield development that there would be a small proportion of these lots created in any development. On this basis I consider it is unnecessary to apply a density standard such as 1 house per 300m² or 600m² under the air noise contour for two reasons. Firstly, the overall density in greenfield areas and associated residents is unlikely to result in a noticeable overall increase as a result of such a minimum density standard, and secondly it will have the effect of making multi-unit development less attractive for developers and landowners which would be contrary to current housing policies.

POLICY ASSESSMENT

- 34 The following policy assessment has been undertaken to determine whether the prevention of residential development on the Momentum and Mike Greer Homes land under the airport noise contours, as sought by CIAL, is the most appropriate way to achieve the relevant objectives of higher-level planning directions and documents as well as those in the Proposed District Plan. The objectives are, at their simplest, to provide for additional housing at Kaiapoi and enable CIAL to continue operating. The approach of CIAL in the various documents attached to their submissions appears to assume that any increase in housing in undeveloped areas under the 50dBA noise contour will result in more complaints which will then require the airport operations to be reduced and possibly subject to curfews or even completely shut down in the future. In my opinion this assumption is extreme. No one doubts the importance of Christchurch Airport in terms of all the social and economic benefits it provides for Christchurch, Canterbury, and the rest of the country. It is in fact because it is a significant asset of strategic importance that it would seem very unlikely to be closed down or its operation limited in response to complaints.

35 The following planning/policy documents are assessed:

- Resource Management Act – Part 2
- National Policy Statement on Urban Development 2020
- Canterbury Regional Policy Statement
- Proposed Waimakariri District Plan

RMA Part 2 of the Act

36 The Resource Management Act is based around the concept of managing the use, development and protection of natural and physical resource in a way which enables people and communities to provide for their social, economic and cultural well-being and for their health and safety, while:

- sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and
- safeguarding the life supporting capacity of air, water, soil and ecosystems; and
- avoiding, remedying or mitigating adverse effects of activities on the environment.

37 “Environment” includes people and communities and natural and physical resources and amenity values and social, economic, aesthetic, and cultural conditions which affect the above matters.

38 Enabling communities to provide for their sustainable management therefore inherently involves consideration of a wide range of factors relating to the availability of natural and physical resources. For many people the resources that are important in their lives are associated with a place to live, places to work, the ability to travel and community services. Inherently there will be tradeoffs between the availability of these resources and levels of amenity. The Act sets some priorities as matters of national importance which are to be recognised and provided for relating to the preservation and protection of the coasts, wetlands, specific landscapes and habitats etc., however none of these are generally relevant to urban areas where the majority of people live and work. Part 2 therefore provides limited direction for understanding and assessing resource management issues relating to urban areas. Perhaps, predictably in this vacuum, major policy documents, especially at regional level, have maintained a conservative approach to providing for new housing by way of greenfield development.

National Policy Statement on Urban Development 2020

39 In response to this lack of direction and a housing crisis that beset New Zealand, the government prepared and approved the National Policy Statement for Urban Development Strategy 2016 (NPS-UDS), which was then replaced by the National Policy Statement for Urban Development 2020 (NPS-UD). This policy provides a very sound basis for, and

requirements on, local authorities (regional and local) making planning decisions contributing to well-functioning urban environments. In my opinion it is very relevant to consideration of the submissions and further submissions of Momentum, Mike Greer Homes and CIAL. To date the policies and requirements of the NPS-UD have been pivotal in Canterbury with councils approving numerous private plan changes enabling greenfield residential development. Many of these rezonings have been followed quickly by the redevelopment of the rezoned land and by people buying sections and building on them. This has resulted a number of new houses being built and lived in in Kaiapoi which otherwise would not have occurred resulting in a severe shortage of housing and high prices or rent for people finding a place to live. (MLL has requested information from WDC on how many homes have been built in reliance on "the Kaiapoi exception", but that information was not available at the time this evidence was due to be filed.)

40 Notably the NPS-UD Objectives and Policies do not require or prioritize protection of strategic infrastructure when making planning decisions which contribute to well-functioning urban environments and enable a variety of homes the meet the people's needs in terms of type, price and location of households. Rather Objective 6 requires local authority decisions on urban development to be "integrated with infrastructure planning and funding decisions" and Policy 10(b) simply requires engagement with providers of infrastructure.

41 The subsequent Enabling Act tackles the housing problem by enabling better utilization of existing urban areas, many of which have already been developed. It does this by requiring Medium Density Residential Standards to be inserted into operative and proposed district plans with the primary purpose of making more efficient use of existing zoned land. Again, it is responding to the lack of initiative on housing matters by some councils to provide for higher densities, presumably because of their concern about potential negative feedback from existing residents.

42 NPS-UD clause 3.33 **Requirements if qualifying matter applies** sets a standard for qualifying matters to meet if they are to be used to limit full application of the MDRS provisions. Sub-clause 3.33(3) states that:

A matter is not a qualifying matter under clause 3.32(1)(h) in relation to an area unless the evaluation report also:

*Identifies the specific characteristics that make the level of development directed by Policy 3 **inappropriate** in the area, and justifies why that is **inappropriate** in the area, and justifies why that is inappropriate in light of the national significance of urban development and the objectives of the National Policy Statement.*

43 The NPS-UD brings the concern relating to housing shortages upfront as a matter of national significance. Some of the relevant objectives which therefore need to be met are: *Objective 1: New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety, now and into the future.*

Objective 2: Planning decisions improve housing affordability by supporting competitive land and development markets.

Objective 4: New Zealand's urban environments, including the amenity values, develop and change over time in response to diverse and changing needs of people, communities, and future generations.

- 44 Policy 1 of the NPS-UD states that "a well-functioning urban environment" must as a minimum:
- Have or enable a variety of homes that meet the needs, in terms of price, type and location of different households
 - Have or enable a variety of site that are suitable for difference business sections
 - Have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces
 - Support and limits as much as possible adverse impacts on, the competitive operation of land and development markets
 - Support reductions in greenhouse gas emissions and
 - Are resilient to the likely current and future effects of climate change
- 45 Regarding Objective 1 and Policy 1, these clearly indicate that all people are entitled to be part of communities with a well-functioning urban environment and not just the lucky people who already have a place to live. The availability of new greenfield areas provides for people and organisations to build houses, taking some pressure off the market. This in turn keeps prices more stable and makes existing houses available for purchase or rent. This is a very important flow-on effect of the housing market which has occurred within the Canterbury market and is why the availability of land into the future for housing is so important. If land is zoned for residential use and is not developed in the short, or even medium term, this does not create any adverse economic or environmental effect, so there is no downside for setting aside land for housing over time. Not zoning the Momentum and Mike Greer Homes land for residential purposes in my opinion is poor use of land adjoining Kaiapoi. Even providing for zoning but at a lower density, is poor use of land and in my opinion does not enable the above objectives to be met.
- 46 Clause 3.2 of the NPS-UD specifically requires the District Council to provide "*at least sufficient development capacity to meet expected demand for housing in existing and new urban areas in the short, medium, and long term.*" Further, Policy 8 and clause 3.8 in the NPS-UD provide councils with criteria to consider when assessing a plan change providing for significant development capacity that is not otherwise enabled by a plan. These primary criteria are whether the development will contribute to a well-functioning urban environment and is well connected to public transport. The requested rezoning by Momentum and Mike Greer Homes will provide for the expected demand for housing in Kaiapoi referred to in the evidence of Fraser Colgrave. In addition, the sites generally satisfy the clause 3.8 criteria and so enable the District Council to consider and approve the

requested zoning even of land not currently identified for future growth such as the south Kaiapoi site.

Canterbury Regional Policy Statement

- 47 The Canterbury Regional Policy Statement (CRPS) is the policy document which provided for the Kaiapoi East Future Development Area by way of Plan Change 1 (PC1) in July 2021. The plan change was subject to a detailed assessment. I have read the various documents associated with the development and final approval of Plan Change I. No potential issues associated with air noise contours were raised throughout the preparation of PC1. This strongly indicates the priority and importance of providing for much needed future residential areas following the earthquakes. PC1 provided for several "Future Development Areas" by identifying these on Map A. Policy 6.3.12 below describes their purpose.

Policy 6.3.12 Future Development Areas

"...further feasible development capacity through the zoning of additional land in a district plan to address a shortfall in the sufficiency of feasible residential development capacity to meet medium term targets set out in Table 6.1 Objective 6.2.1a and

The development would promote the efficient use of urban land and support the pattern of settlement and principles for future urban growth set out in Objectives 6.2.1 and 6.2.2 and related policies including by:

- a. **Providing opportunities for higher density living environments**, including appropriate mixed use development and housing choices that meet the needs of people and communities for a range of dwelling types; and*
- b. Enabling the efficient provision and use of network infrastructure*

- 48 This policy clearly supports the identification of Future Development Areas in the CRPS and for these to be implemented through rezoning. The fact that the future development areas were specifically chosen after having been assessed in detail also indicates their suitability for greenfield development including for provision of higher density living environments.
- 49 I am aware that CRPS **Policy 6.3.5(4) Integration of land use and infrastructure** refers to the issue of development not affecting 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 CIAL, unless the activity is within an existing residentially zoned urban area, residential greenfield area identified for Kaiapoi or residential greenfield priority area identified on Map A."*
- 50 I have addressed this matter in detail in my assessment of the Kaiapoi Future Development Area in paragraphs 20 to 25 of this evidence. I further note that the main policy relating to Development within the Greater Christchurch Area – Policy 6.3.1(4) specifically provides for new urban activities to only occur within existing urban areas, greenfield priority areas on Map A *"unless they are otherwise expressly provided for in the CRPS"*. Clearly this would include the Kaiapoi East Future Development Area on Map A. Alternatively, it could have been concluded that on the basis of the very limited number of complaints that in fact it was not necessary to avoid residential development under the noise contours. I note that

the recent Supreme Court *Port Otago* case supports such an approach with its finding that the word “avoid” is to be interpreted as “avoid material harm from an activity”, rather than “avoid the activity regardless of whether it causes material harm”: *Port Otago Limited v Environmental Defence Society Incorporated*,¹ where the Supreme Court affirmed the previous decision of that Court in *Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board*,² that the concepts of mitigation and remedy may serve to meet the “avoid” standard by bringing the level of harm down so that material harm is avoided.

- 51 In my view, and based on the evidence of Professor John-Paul Clarke in particular, and the ability to mitigate or remedy noise airport effects on residents within the 50 dB L_{dn} contour through acoustic insulation and LIM notices and/or no-complaints covenant, it has not been established that it is necessary to avoid the activity of residential development or intensification within the 50 dB L_{dn}, CIAL airport noise contour, because that activity in that location is not likely to result in material harm.

Proposed Waimakariri District Plan

- 52 The Proposed Waimakariri District Plan proposes that most of Kaiapoi is zoned Medium Density Residential Zone, excluding flood prone and special purpose areas. The General residential zone policies encourage more housing in appropriate locations to meet growth needs. The Urban Form and Development Objective 1 specifies that there is to be:

“Sufficient feasible development capacity for residential activities to meet specified housing bottom lines and a changing demographic profile of the District..”

and then lists the goals for short, medium and long term. As stated in the WDC Section 32 report on this matter, there are no policies in the PDP referring to avoiding higher densities within Kaiapoi residential areas in response to concerns regarding impacts on the operation of the Airport. Rather the preferred approach is to:

- Set the minimum lot size on land under the airport noise contours of 1 house per 200m²
- Require insulation to limit the noise levels received within buildings under the contours
- Provide information on LIMs advising future owners that they are located under an air noise contour and that therefore a certain level of noise is to be expected.

However, there are policies in the Noise section of the Proposed Plan relating to airport noise including Objective 2 and Policy 4 as set out below:

NOISE – O2 Reverse sensitivity

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

¹ [2023] NZSC 112

² [2021] NZSC 127, [2021] 1 NZLR 801

NOISE – P4 Airport Noise Contour

Protect Christchurch International Airport from reverse sensitivity effects by:

1. *avoiding noise sensitive activities within the 50dBA 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 50dBA and 55 dBA Noise contour for the Christchurch International Airport*

Both these policies refer to reverse sensitivity which I address below.

REVERSE SENSITIVITY

- 53 Given the significance of CIAL's concern I consider that the matter of reverse sensitivity needs to be carefully assessed rather than assumptions being made as to its existence and significance. Reverse sensitivity is defined in the Proposed District Plan as:

the potential for the operation of an existing lawfully established activity to be compromised, constrained, or curtailed by the more recent establishment or alteration of another activity which may be sensitive to the actual, potential or perceived adverse environmental effects generated by an existing activity.

- 54 It has to be a situation where there is a real possibility that adverse effects experienced will lead to significant pressure to limit or close down an activity. In my opinion the adverse effects would have to be substantial and result in a high level of complaints/concerns to reach the point where an activity will have to be abandoned or seriously compromised. It is not enough that noise sensitive activities are anticipated to occur in an area as is frequently referred to in the CIAL submission requests. This approach is in accord with the recent Supreme Court *Port Otago* case with its finding that the word "avoid" is to be interpreted as "avoid material harm from an activity", rather than "avoid the activity regardless of whether it causes material harm." This approach to interpretation coincides with the policy assessment undertaken by Peter Wilson and Neil Sherrin in their s42A reports where they conclude that avoidance of reverse sensitivity effects is not the appropriate test, rather the test of mitigating adverse amenity effects on residents and the airports operation is appropriate.
- 55 I understand the level of complaints by Kaiapoi residents about aircraft noise is very limited. Despite this, CIAL in their submissions frequently assert that new residential areas will result in adverse reverse sensitivity effects. Clearly CIAL's concerns must relate to potential future increase in noise levels as a result of growth of flights to and from the airport as the current aircraft movements are not causing concern. I am not in a position to know how realistic CIAL's flight projections are, however, I suspect that they are very optimistic. In my opinion the consequences of not providing for much needed zoned land for residential development in Kaiapoi is significant directly for people wanting to live there. Unfortunately, this lack of available land also causes house prices and rental fees to increase resulting in many people finding suitable accommodation very challenging.

- 56 It is my evaluation that the preferred approach in the Proposed Plan and Variation 1, of minimum lot size 200m², one house per site and LIM notice is better aligned with NPS-UD policies regarding integration of housing development with planned infrastructure, than is CIAL approach of preventing/avoiding residential development / intensification within the 50 dBA airport noise contour. In my opinion this approach is unlikely to result in reverse sensitivity issues for CIAL.

SECTION 32 ASSESSMENT

- 57 Section 32 of the RMA sets out matters to be assessed when an alternative plan provisions are proposed. In simple terms there are two alternatives to the PWDP and Variation 1, namely the requested rezoning of MLL and Mike Greer for their land to be zoned Medium Density Residential and the CIAL opposition to those rezonings, along with its request for other substantial changes to the strategic directions, objectives, policies and other provisions in the proposed plan designed to prevent new greenfield residential development beneath the airport 50 dB L_{dn} contour. Consideration of these options is complicated by the issue of which air noise contour should be used as the basis for any change in residential density. This matter is addressed by Professor John-Paul Clarke and William Reeve.
- 58 The policy assessment in the above paragraphs indicates that in all cases there is nothing positive about CIAL's opposition to the requested rezonings and other changes with regard to enabling more people to live in Kaiapoi which is a well-functioning urban environment. Rather, acceptance of CIAL's submission would prevent residential development in the only two feasible extension areas of Kaiapoi which provide significant development capacity. These areas are needed to meet the development capacity requirements of the NPS-UD and the purpose of the RMA, particularly as Kaiapoi has not yet been in a position to fully replace the residential sections lost as a result of the Canterbury earthquakes.
- 59 The requests of CIAL would limit complaints by the public regarding aircraft noise to the current level, which is minimal. The increased number of residents in the proposed new areas is not expected to result in a significant increase in these complaints as dwellings will have been specially insulated to keep noise at an acceptable level. Any future owners will be advised of their location under the airport noise contours. John-Paul Clarke has assessed the assumptions that CIAL specialists have used as a basis for determining likely aircraft movements and their potential reverse sensitivity impacts. The assumptions that he queries regarding their likelihood or validity include:
- That the next generation of single-aisle aircraft will have the same noise characteristics as the current generation;
 - That the current air traffic management procedures will be in use in 2084;
 - It is not realistic to use the highest 3 month usage for each runway and then apply it to worst case 3 month contours to determine noise levels
- 60 On the basis of these assumptions Professor Clarke concludes that the noise modelers *"have ensured that the contours will be significantly larger than reality"*

- 61 This indicates to me that issues of reduced amenity of residents in Kaiapoi resulting from increased flights and aircraft noise in the future are very likely to be overstated. I also note that as Kaiapoi is at the end of the contour area that it is less likely to be a nuisance, in part due from my observations that aircraft are less likely to follow strict paths at this stage in their flights. In addition, noise insulation in new homes is intended to address the noise created by increased aircraft movements. All these factors indicate that the level of noise is not likely to result in a level of effect that will result in significant complaints. Even if these complaints occur the social and economic benefits of the Airport to Christchurch, Canterbury and New Zealand are such that I consider it is very unlikely that these would result in the operations of CIAL being compromised. In this situation the benefits of the requested prevention of residential development in the Kaiapoi are very limited and in my opinion do not justify the restrictive approach requested in the CIAL submission.
- 62 Part 3 of the NPS-UD and in particular clauses 3.2 and 3.8 specifically requires local authorities to provide at least sufficient development to meet expected demand and for councils to be responsive to meet short and medium-term demand. The requested rezoning by MLL and Mike Greer, if granted, will provide a very effective and efficient means of meeting the objectives relating to residential provision and in particular greenfield provision. The benefits are multiple, being more land being available for development, consolidated and well-functioning urban environments, more sections and houses being created, and potential maintenance or limited increase in the cost of housing across the spectrum, including the price of rental accommodation. On balance it is my opinion that granting the rezonings with the Variation 1 density standards would best achieve the objectives of the proposed plan and the purpose of the RMA.

Patricia Harte
2 February 2024