

10 A PLAN CHANGE PRESENTATION

Tuesday 20 February 2024

Introduction to Commissioners (Ask if they have read my Expert Qualifications. Ask if they have any questions.)

I advise that my wife and I own a 16-acre property in Yaldhurst Road that when first purchased was not impacted by any Air noise contours. This land has become impacted by the 50dBA Ldn air noise contour at its outer edge.

I advise this fact to disclose a possible source of bias.

This change did initially motivate my interest in investigating why as planes became quieter the air noise contour grew.

My wife and I have no intention of further developing this land but do object to being subjected to land use restrictions set at a 50dBA level when the background noise already exceeds that level. I refer the Commissioners to Professor Clarke's comments on this outlined at point 27 of his evidence "it makes little sense to have restricted land use due to aircraft noise above a certain level if the background noise level is greater."

I advise that where I comment on acoustical matters, an area that I am not an expert on, those comments are informed by my enquiries with Professor John Paul Barrington Clarke including from learnings I gained when I was part of a team that engaged him to give evidence in 2016 the Christchurch

Replacement District Plan hearings. I note at point 10 of his evidence he includes this fact.

You have read from my Qualifications and background, indicating that I have training and experience in the investigative arena.

What I was uncovering about CIAL and CCC behaviours piqued my interest as I saw a wider public interest aspect.

The key to quality investigation is to remain open minded and to question the why, when and how that drove actions.

Just a few of the many examples might assist why this interest has continued.

Christchurch City Council (CCC) is the regulatory body charged with investigating and policing excess noise. They employ and train motivated and well-equipped personnel to do so. Why then does CCC direct that they are not to investigate what is the most significant nighttime excess noise pollution in the Canterbury region, pollution arising from on wing aircraft engine testing at Christchurch International airport (CIAL)? Why does CCC delegate that role to an Independent Committee housed at CIA known as the Airport Noise Liaison Committee (ANLC). A committee that, to my informed knowledge, has never raised any noise related complaints to CIAL management nor CIAL board level and certainly never to CCC. A committee that holds no power to generate a curfew for example nor any other power to disrupt business continuity at CIA.

The CIAL alleged risk of operational disruption to its operations can only occur if CCC investigated and then took punitive action. It has delegated that investigative role. Having done so this risk of punitive action is effectively removed.

I will return to this critical point later in this submission but indicate now that if the premise underpinning CIAL's stated need for protection is negated then there is zero need for the suite of land use restrictions let alone at the extremely low 50 dBA Ldn noise level.

I fully endorse the evidence of Professor J P Clarke who 's evidence I submit is compelling. He has effectively peer reviewed the CIAL led acoustical evidence and in my world such adverse findings would call for further investigation enquiring as to why the level of exaggeration and the motivation behind the extreme positions that have been advanced. The issue of client capture would certainly form part of that investigation.

In assessing if any risk of CCC taking punitive action against CIAL based on noise complaints exists. I call upon the collective wisdom of you, the Commissioners to consider the facts surrounding CCC past actions with regards to on aircraft engine testing.

This case study is I believe useful in identifying past CCC behaviours around enabling excessive noise pollution and any risk of them taking punitive action against CIAL arising from noise complaints.

CIAL lease a large hanger, known as Number 1 to Air Zealand engineering. Aeronautical Engineers repair aircraft prop engines. Invoices are raised for those repairs. Routinely following those repairs these engines must be tested to ensure the repairs have been successful. This is routinely at night and into the small hours of the morning, by parking the aircraft beside the number 1 hanger and revving the engines up and down for periods of between fifteen and thirty minutes.

Is this industrial noise? The answer is critical to driving what follows.

What credibility can be assigned to an excess noise regulatory body that cannot work out that it is? Yet CCC supports CIAL's assertion that it is not. Why?

If the answer is in the affirmative, then the New Zealand legislative requirement is to mitigate that noise at or as close to source as possible. A Leq measure would be used as it is used worldwide for industrial noise. Three- and four-sided noise containment enclosures are built all around the world that successfully achieve mitigation. Not here.

Here Engine Testing Noise Contours have been developed with the help of CIAL's preferred acoustical expert Marshal Day Ltd. These contours restrict the land use options of the persons owning the land under those contours that are receiving the engine testing noise pollution. A double victimization. Engine testing noise contours do not exist anywhere else in the world.

The metric currently used is an Ldn seven-day averaged metric. Again, a metric not used anywhere else in the world, developed by Marshall Day Ltd. So, for every hour that engine testing is not taking place, due to the averaging over seven days i.e. 168 hours, the excess noise polluter gains a benefit with regards to the hourly total noise levels allowed. Ldn relates to the noise of planes approaching and moving away from airports as part of landing and take-off movements. It has no applicability to stationary planes testing engines at night.

CCC supports this metric. Again Why?

As Commissioners do you see a problem?

CCC have been made aware of this matter repeatedly at CEO level with zero outcomes.

For the purposes of this presentation, however, this non-action is helpful.

If CCC is content to enable this level of excess noise pollution arising from airport industrial engine repair activity, then what is the likelihood of it ever taking punitive action arising from noise complaints?

CIALs overarching premise is that it requires the protection of the residential development avoidance rules that it has built up under the various air noise contours to reduce the risk of business continuity interruption being imposed on its operations arising from excess noise complaints.

I submit that there is in fact zero risk.

In criminal law “Modus Operandi” a Latin term meaning “mode of operating” refers to a mode of operation or pattern of criminal behavior so distinctive that separate crimes or wrongful conduct are recognized as the work of the same person.

This concept can be useful as is the idea that past behaviours are often repeated and are predictors of future behaviours by the same actors.

There is a very strong pattern of CCC moving to assist its company in the property management and development competitive world it operates by taking what are, when put under scrutiny questionable stances.

It is not just what CCC do, but also what they don't do that is questionable.

CIAL enjoy a Special Purpose (Airport Zone) Zone that enables it to establish a wide range of activities by way of out-line resource consenting processes. This includes revenue streams from business operations that have no connection to the airport purposes designation. Interestingly in the out-line Commissioner led hearing that approved the Novotel Christchurch Airport Hotel, Marshal Day Ltd led acoustical design information asserted that 50dBA was a suitable noise level to be achieved inside the glass of the bedrooms of that hotel. This was accepted.

So, for approximately 209 kilometers squared of land 50dBA is advanced by CIAL as unsuitable for residential purposes but entirely suitable for obtaining good sleep inside the rooms of

the Hotel situated at the very source of the most persistent and extreme noise generated by air movements.

Again, do you as Commissioners see a problem?

As has been CCC's pattern of operation It repeatedly fails to call independent acoustical expert evidence to challenge CIAL led evidence. Yet again CCC did not challenge this out-line process. Why?

CCC's ongoing pattern is and has been for many years to leave it to submitters to call expert acoustical evidence across the many plan changes. The associated costs reduce submitter input and certainly significantly damage trust in the democratic processes.

CCC is the statutory body charged with monitoring excessive noise this stance especially with regards to its owned company fails to address perceived or real conflict of interest risk.

Plan Change 84 in 2013 was a plan change that sought amendments to the Special Purpose Airport Zone. Its timing was interesting in that it was the last plan change before the Judge Led Christchurch District Plan hearings. Its findings were deemed to be unable to be altered by the Judge led hearings.

I was present on the last day of that long hearing process when CIAL counsel and CCC counsel agreed to a deal that CIAL could continue developing to the point that their development could **significantly adversely** affect the

Christchurch CBD earthquake recovery before CCC would intervene. This deal became a PC84 finding.

CIAL was and is still not a Key Activity area. The PC84 decision, fully supported by CCC, effectively made it one.

The development at CIAL has been huge from a property development and management perspective. All while its aviation side business has been in significant decline. This decline, especially regarding market share to Queenstown air movements is the real reason behind its announced intention to build a new airport at Tarris. This point is supported by an aviation consultant report I was involved in having commissioned refer AilevonPacific CHC Noise contour Traffic Forecast Consideration July 2021 which CCC and CIAL have been supplied with but refuse to engage on.

CCC, CEO Dawn Baxendale shortly before her own departure approved further purchases of land at Tarras for this new airport.

It is reasonable to presume that if it is ever built it will detract from air movements at CIA further adversely impacting on that airport's timeline to reach the alleged capacity in 2084. Professor Clarke at point 78 of his evidence in this hearing addresses this matter.

The dividends that CIAL used to pay CCC have already been significantly reduced as they raise funds for Tarras. Why CCC desires to support this new airport has yet to be explained certainly there is no rate payer mandate for it, yet CCC so far continues.

While I could take up the entire allocated time slot with further examples of the ends CCC goes to assist CIAL competitive advantage aspirations the pattern is clear. (I refer you to plan change 4 & 5 should this comment pique your interest in your already very busy deliberations, which contain many further examples)

The point is, CCC would have to totally reverse its decades old behavioral pattern for any risk of it bringing a sanction that would create any business continuity disruption to CIAL.

The most feared sanction is a curfew.

In assessing if any risk of business disruption exists it's worthwhile looking at what would be required to take place for the alleged risk to become a reality.

The Airport Noise Liaison Committee would need to elevate a noise complaint directly to CCC as it has no ability to create sanctions.

CCC would then need to take some investigative action. CCC executives would then need to decide that a sanction that would adversely impact on CIALs operations was the best remedy in addressing that complaint or complaints.

Given past behaviors I submit that there is zero risk of this chain of events occurring. Nor has there been any such risk for the last decade.

Assertions that there is such a risk are dishonest.

You as Commissioners need to decide at what point the evidence you are being presented with is misleading and

what to do about it. Professor Clarke's evidence I submit strongly debunks CIAL's acoustical evidence from Marshall Day Ltd. I support Professor Clarke's evidence in its entirety. I submit that my evidence debunks the alleged risk underpinning the entire reasoning that the protections sought are needed at all and seek that you reject all of their requested changes.

CIAL seeks that you to negate residential development under the air noise contours including the extreme 50dBA Ldn air noise contour until it reaches its exaggerated capacity now pushed out to 2084, all based on this alleged risk to their operations. CIAL has failed to quantify this alleged risk and gives no evidence relating to it. I consider it to be zero risk currently and for the last decade.

Could that risk level alter in the years out to 2084? Possibly. But given past behaviours I would certainly need further evidence to make any estimation of what level that risk had risen to.

What is being exhibited are unreasonable, exaggerated assertions of risk that are self-serving.

The level of expenditure being wasted due to the failure for CIAL to adopt better corporate citizen approaches to balancing the needs for increased residential capacity and for CIAL to prosper is simply sad. The Auckland Airport model that works is a far more productive way to address the issues.

I do, however, see the green shoots of Change. On Friday the 16 of February the Greater Christchurch Partnership made a

media release confirming that they had received and endorsed the final version of the Greater Spatial Plan as their **overarching strategy for managing growth.**

This Partnership includes Environment Canterbury, Mana Whenua, Christchurch City Council, Selwyn District Council, Waimakariri District Council, Te Whatu Ora-Waitaha, and the NZ Transport Agency and the Urban Growth Partners which include Department of Internal Affairs, Kainga Ora, Ministry of Housing and Urban Development.

I have had confirmation from Jenny Wilkinson who is the Greater Christchurch Partnership Program relations advisor that the Greater Christchurch Spatial Plan was unanimously endorsed at the committee meeting on 16 February 2024 without changes. I presented to the Spatial Plan hearings panel with similar detail to this presentation.

That being the case the Spatial plan recommendation 3.10 b) relating to Protection of Strategic Infrastructure has been amended by removing the word “avoided” in respect of urban development around strategic infrastructure, to “carefully managed.”

On Sunday I sent copies to you via Audrey Benbrook, if you have not received them can produce to you copies now.

Another green shot of change is that very clearly Neil Sheerin the Senior Policy Planner and author of the s42A report for 10A sees the risks of allowing CIAL request.

The final decision relating to the retention or removal of the 50dBA Ldn air noise contour and its adverse impact on

residential growth will be made by the regional council in December this year.

CIAL seems determined to get current plan changes to find in favor of avoidance wording or in PC14 to have the air noise contours deemed to be Qualifying Matters exempted from intensification. These advances should be rejected as very clearly the Regional Council decision will determine the outcome once and for all.

I note that CIAL has raised the bird strike line of desired land use restrictions at this hearing. I am not a bird expert although my son is, having raised and trained hunting falcons on our land. He presented at the 2016 Canterbury Replacement District plan.

From an investigative stance I simply ask the following questions.

How is okay for CIAL to earn tenancy revenue from fast food outlets at the airport, activities that encourage large birds such as gulls to those sites?

How is okay that CIAL gives District Plan exemptions to the likes of Clearwater Golf Resort with regards to residential development under the air noise contours including the 50dBA Ldn? This is an area full of small lakes heavily populated with birds.

How is it that CIAL can even give exemptions to District Plan rules at all? The University of Canterbury being another deal done that I am aware of? If CIAL opposes a resource consent then those seeking it are in a world of pain if they do not, as

they have not for hundreds of homes at Clearwater building proceeds.

Yet in Plan change 10A they seek to control a huge range of activities under their proposed bird strike contours for miles and miles in Waimakariri.

CIAL tried seeking a 13-mile bird strike contour and associated activity restrictions during the Judge led Christchurch Replacement District Plan hearings and were flatly turned down. This would have covered almost all of Christchurch City.

The current request should also be rejected.

As is common, those most impacted have not been consulted by CIAL prior to this request, again a very heavy-handed approach is exhibited.

To end on a fun note its worthwhile advising that situated next to the proposed Tarris runway is one of the main breeding grounds for the New Zealand bird of the century, the Puteketeke otherwise known as the Australasian Crested Grebe. It will be interesting to see what experts CIAL engage to justify their runway given these huge birds size and popularity.

David Lawry

