

Before an Independent Hearings Panel
appointed by the Waimakariri District Council

under: the Resource Management Act 1991 (*the Act*)

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

and: Hearing Stream 12E: Rangiora, Kaiapoi, Woodend,
Variation 1

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

Summary evidence of John Kyle (planning)

Dated: 19 August 2024

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SUMMARY EVIDENCE OF JOHN KYLE

- 1 My name is John Clifford Kyle and I am a founding director of Mitchell Daysh Limited, which practices as a planning and environmental consultancy throughout New Zealand. I prepared a brief of evidence addressing the relief sought by Christchurch International Airport Limited on the proposed Waimakariri District Plan and Variations 1 and 2.
- 2 My evidence for this hearing (Stream 12E) sets out the overarching policy framework in so far as it is relevant to CIAL's submission. To summarise, the 50dB Ldn Air Noise Contour is a key measure that has been adopted in the Canterbury region for identifying where reverse sensitivity effects are most likely to arise. In my view, great care needs to be exercised when evaluating proposals to rezone land within the 50dB Ldn Air Noise Contour due to this policy backdrop.
- 3 In my experience, allowing the intensification of noise sensitive activities within aircraft noise contours can increase the number of people exposed to the effects of aircraft noise over time. This also leads to an increase in reverse sensitivity concerns which have the potential to impact on airport operations.
- 4 CIAL's further submissions oppose the rezoning of land in the Kaiapoi Development Area within the operative 50db Ldn Air Noise Contour. The section 42A report officer has recommended rejecting CIAL's further submissions, and recommends accepting the submissions of Momentum Land Limited, Suburban Estates Limited and Survus Consultants Limited to rezone land in the Kaiapoi Development Area.
- 5 The section 42A report officer recommends rejecting the submissions of Mike Greer Homes Limited and WJ Winter And Sons Limited. However, this is based only on flood related matters affecting the land, rather than airport noise. In my view, the case against the residential rezoning requests within the 50dB Ldn Air Noise Contour in the Kaiapoi Redevelopment Area apply equally within the new South Kaiapoi Development Area, which is also within the 50dB Ldn Air Noise Contour.
- 6 The section 42A report officer relies on the "Kaiapoi exemption" within Policy 6.3.5(4) of the Canterbury Regional Policy Statement (*CRPS*) to justify his recommendation to reject CIAL's further submissions. My interpretation of Policy 6.3.5(4) is in conflict with the position of the 42A report officer, and I do not agree that the "Kaiapoi exemption" applies to the Kaiapoi Development Area. My reasoning for this is explained in detail in my evidence.
- 7 The section 42A report officer also states that Policy 6.3.5(4) can be reconsidered as to weigh against the National Policy Statement for Urban Development, with the result that he considers that new developments can occur within the 50dB Ldn Air

Noise Contour with appropriate acoustic insulation requirements. I do not agree with this opinion and refer to **Ms Smith's** Hearing Stream 10A evidence that sound insulation alone is not sufficient to prevent annoyance and reverse sensitivity effects. I also refer to the recent Auckland International Airport decision,¹ which I address later in this summary in response to Momentum Land's legal submissions.

- 8 The section 42A report officer also states that his approach is consistent with the approach in the draft CRPS. In my view, the draft CRPS is not at all relevant to the rezoning requests, given that as yet, it has no statutory weight.
- 9 I remain firmly of the opinion that rezoning land within the operative 50dB Ldn Air Noise Contour, is inherently undesirable. Given the CRPS review process is currently underway, it is my opinion that the best course of action is to defer any decision on rezoning requests within the 50dB Ldn Air Noise Contour until the new CRPS has been subjected to the process that is available under Schedule 1 of the Act.

RESPONSE TO SUBMITTER EVIDENCE

- 10 Below, I address various points raised in the legal submissions for Momentum Land and Mike Greer Homes as they pertain to my evidence. Since the submissions from both parties regarding my evidence are identical, I have provided a unified response.

NZS6805:1992

- 11 At paragraph 95 of the Momentum Land Limited legal submissions,² Mr Fowler states his opinion that my evidence does not accurately represent New Zealand Standard for Airport Noise Management and Land Use Planning (NZS6805:1992) because the guidance for NZS6805:1992 begins at 55 dBA, rather than 50 dBA.
- 12 Mr Fowler correctly points out that NZS6805:1992 recommends local authorities to incorporate into the district plan maps the sound exposure contours of the 65 dBA Ldn and the 55 dBA Ldn. Importantly, he also identifies discretion in NZS6805:1992 to show the contours in a position further from or closer to the airport "*if it considers it more reasonable to do so in the special circumstances of the case.*"
- 13 As I set out in my evidence, the 50dB Ldn Air Noise Contour has a long-established provenance within policy statements and plans that apply to land around Christchurch Airport. Historically, this has led to what I would consider to be a very effective land use management response to address the potential reverse sensitivity on the Airport and conversely, to manage potential amenity effects from aircraft noise on the community.

¹ *Auckland International Airport Ltd v Auckland Council* [2024] NZHC 2058.

² Mike Greer Homes NZ Limited legal submissions (dated 9 August 2024) para 93.

14 The question of applying the 50dB Ldn Air Noise Contour vs 55dB Ldn Air Noise Contour was previously raised in Hearing Stream 10A, and my view on the issue remains unchanged.³ That is, dispensing with the 50 dBA Ldn contour would comprise a significant departure from Policy 6.3.5 of the CRPS and the land use management practices subsequently adopted by all three territorial authorities within their respective district plans to this point in time. In my opinion, the CRPS review process (which is underway) is the appropriate forum to test the arguments for and against continuing to utilise this contour, or whether another contour should be utilised as a basis for land use management. The matter will be relevant to all three of the councils in the Greater Christchurch area and addressing this in isolation could lead to an inefficient piecemeal approach.

The Auckland International Airport Decision

15 At paragraph 99 of the Momentum Land Limited legal submissions,⁴ Mr Fowler disputes my evidence that the recent AIAL decision supports the acoustic evidence of Ms Smith. Mr Fowler is of the view that the level of aircraft noise within Christchurch Airport's 50dB Ldn Air Noise Contour would be considerably less than the level of aircraft noise within Auckland International Airport's Moderate Aircraft Noise Area, and as such, comparisons should not be drawn.

I acknowledge that the AIAL decision was made in a different context against a different set of noise contours. However, I disagree with Mr Fowler that the different details of the case mean that the overall principle is not relevant to this matter. As set out by Ms Appleyard in CIAL's legal submissions,⁵ the core issue in the AIAL decision essentially came down to whether or not compliance with acoustic standards was intended to be the sole mechanism by which reverse sensitivity effects were to be managed within the overlay. I agree with the findings of the Court, that compliance with acoustic standards is not, by itself, a complete approach to managing the adverse effects of noise. In my opinion, it is this fundamental concept that supports **Ms Smith's** acoustic evidence. I understand that Ms Appleyard will address Mr Fowler's comments on this decision further from a legal perspective.

Dated: 19 August 2024

John Kyle

³ Hearing Stream 10A, summary of evidence of John Kyle (dated 21 February 2024), paras 57-58.

⁴ Mike Greer Homes NZ Limited legal submissions (dated 9 August 2024) para 98.

⁵ Hearing Stream 12E, CIAL legal submissions (dated 9 August 2024), paras 30-37.