

Before an Independent Hearings Commissioner appointed by
the Selwyn District Council

under: the Resource Management Act 1991

in the matter of: a request for a private plan change to the Operative
Selwyn District Plan to rezone 163 Halkett Road and
1066 West Coast Road in West Melton for the
development of approximately 124 lots

between: **Hughes Development Limited**
Applicant

and: **Selwyn District Council**
Consent Authority

Memorandum on behalf of Christchurch International Airport
Limited

Dated: 21 March 2023

Reference: J M Appleyard (jo.appleyard@chapmantripp.com)
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MAY IT PLEASE THE COMMISSIONER

INTRODUCTION

- 1 We act for Christchurch International Airport Limited (*CIAL*).
- 2 *CIAL* is a submitter (#0072) on Private Plan Change 74 to the Operative Selwyn District Plan (*Operative Plan*) which seeks to enable residential development by rezoning approximately 20 hectares of rural land in West Melton (*PC74*). *CIAL* submitted in opposition to *PC74*.
- 3 The purpose of this memorandum is to:
 - 3.1 Record that *CIAL* maintains its submission in opposition to *PC74*; and
 - 3.2 Set out the reasons why *CIAL* does not intend to file evidence in support of its submission or appear at the hearing.
- 4 The issue is essentially one of timing as between the Operative Plan and the proposed Selwyn District Plan (*Proposed Plan*). In summary, *CIAL* is electing not to actively participate in the remainder of the *PC74* process because the Operative Plan will soon be overtaken by the Proposed Plan.

AIR NOISE CONTOURS

- 5 As the Commissioner will be aware, air noise contours are used as a planning tool in the Canterbury Regional Policy Statement (*CRPS*) and Christchurch, Selwyn and Waimakariri District Plans to manage the establishment of noise sensitive activities on land that would be subject to airport noise.
- 6 The air noise contours contained in the Operative Plan and the *CRPS* (*Operative Noise Contours*) are currently being remodelled through a process as prescribed in Policy 6.3.11(3) of the *CRPS*.
- 7 In late 2021, *CIAL* provided remodelled air noise contours to Environment Canterbury for independent peer review (*Updated Noise Contours*).¹ The peer review process is not yet complete, however the Updated Noise Contours reflect relevant and recent evidence about where airport noise is expected to be felt in Greater Christchurch for at least the next 10 years.

¹ As contained in 2021 *Christchurch International Airport Expert Update of the Operative Plan Noise Contours: For review by Environment Canterbury's Independent Expert Panel*.

PC74 PROCESS

- 8 PC74 was notified on 4 May 2022, *after* the Updated Noise Contours were submitted to Environment Canterbury for peer review.
- 9 The PC74 site is located within the Updated Noise Contours. CIAL therefore submitted in opposition to PC74 because it would enable the establishment of residential activity (i.e. new noise sensitive activity) within the Updated Noise Contours.
- 10 For completeness, we note that the PC74 site is not located within the Operative Noise Contours, therefore these were not referred to in CIAL's submission.
- 11 CIAL's submission on PC74 was consistent with the approach CIAL has taken to other planning processes, where it has relied on the Operative Noise Contours and the Updated Noise Contours, where each has been relevant. This is because CIAL considers it inappropriate to pre-empt the outcome of the peer review process. CIAL has maintained a clear position against any expectation of residential development being enabled or otherwise on land before the remodelling process is complete. For example, CIAL's further submission on the proposed Waimakariri District Plan includes the Operative Noise Contours and the Updated Noise Contours.
- 12 We note that the Reporting Officer for PC74 has recommended that CIAL's submission be rejected on the grounds that there is no certainty that the peer review panel will support the Updated Noise Contours or that they will cover the entire PC74 site, and that it is not clear how the Updated Noise Contours will then be implemented into the planning framework.
- 13 Until the Updated Noise Contours are confirmed and integrated into the planning framework, they are not formally part of that framework. However, as outlined above, they provide relevant and recent evidence as to the effects of airport noise in Greater Christchurch. CIAL considers that it would be highly inappropriate to create an expectation of enabling residential development of land that may fall within the final Updated Noise Contours.
- 14 On this basis, CIAL maintains its submission in opposition to PC74.

PROPOSED PLAN

- 15 The Proposed Plan was notified on 5 October 2020, *before* the Updated Noise Contours were available. CIAL's submission and further submission on the Proposed Plan therefore necessarily relied on the Operative Noise Contours.
- 16 The PC74 proponent also made a submission on the Proposed Plan seeking the rezoning of the PC74 site through the Proposed Plan process.

- 17 As outlined above, the PC74 site is not within the Operative Noise Contours.
- 18 Due to the earlier timing of submissions and further submissions on the Proposed Plan, CIAL at that stage had no basis to further submit in opposition to the PC74 proponent's Proposed Plan rezoning submission.
- 19 This is in contrast to another rezoning request under the Proposed Plan, which seeks the rezoning of what is known as the Private Plan Change 71 (PC71) site. The PC71 site is within the Operative Noise Contours. CIAL accordingly further submitted in opposition to that Proposed Plan rezoning submission.
- 20 We note for completeness that the PC71 and PC74 sites are the only relevant sites subject to rezoning requests in Selwyn (under the Operative Plan and Proposed Plan) that are within the Operative Noise Contours or Updated Noise Contours.
- 21 As the Commissioner will be aware, hearings on the Proposed Plan are ongoing. CIAL filed evidence and attended the rezoning hearing in respect of the PC71 site (which was held on 2 February 2023). CIAL did not participate in the rezoning hearing in respect of the PC74 site (which was held on 3 March 2023), having not submitted on that rezoning request. Had the Updated Noise Contours been available during the Proposed Plan submission phase, CIAL would have further submitted in opposition to the rezoning request for the PC74 site.

PROPOSED PLAN PROCESS WILL OVERTAKE OPERATIVE PLAN PROCESS

- 22 The PC74 hearing is scheduled to take place on 27-28 March 2023, almost a month after the relevant hearing for rezoning requests in the Proposed Plan process has occurred. We understand that decisions on the Proposed Plan will be released in July 2023.
- 23 If the rezoning request of the PC74 site under the Proposed Plan is approved, PC74, even if also approved, will be relevant only for a short time.
- 24 The overlap of private plan change requests to the Operative Plan and hearings on the Proposed Plan was recently observed by Commissioner Thomas in his decision on Private Plan Changes 81 and 82 to the Operative Plan (PC81/82):²

[42] Firstly, it is important to stress that this is a proposed change to the Operative Selwyn District Plan. This is being pursued at the same time that the review of the District Plan is progressing, in the form of the

² Hearing of Proposed Plan Changes 81 and 82, *Report and recommendations by Hearing Commissioner Paul Thomas*, dated 27 January 2023.

Proposed District Plan, through its process of hearing submissions to the Proposed District Plan. The Proposed District Plan will replace the current Operative Plan at the conclusion of that process. If these Plan Changes are approved, they will, therefore, have a short lifespan unless carried through into the Proposed District Plan.

- 25 Commissioner Thomas ultimately took the position of leaving the rezoning of the PC81/82 sites to the Proposed Plan process.
- 26 Based on the likely short lifespan of PC74 (if approved), CIAL has elected not to file evidence and appear at the PC74 hearing. This is on the basis that it would be inefficient for CIAL to expend the resources necessary to prepare evidence and legal submissions and attend the PC74 hearing when, in all likelihood, the PC74 decision will become irrelevant once the Proposed Plan provisions become operative.
- 27 That being said, CIAL wishes for its position to be recorded that it maintains its submission in opposition to PC74 due to the site being located within the Updated Noise Contours.

CONCLUSION

- 28 CIAL is in a unique position which is confined to this set of circumstances only. PC74 is the only piece of land which falls into the "time-warp" outlined above. Accordingly, notwithstanding that CIAL has elected not to file evidence and appear at the hearing, CIAL wishes to record its position that it maintains its submission that PC74 is inappropriate.
- 29 To be clear, CIAL will continue with its approach to all other planning processes that residential development in areas subject to both the Operative Noise Contours and Updated Noise Contours is inappropriate until the remodelling process is complete.



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