

IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHĪ

Decision No. [2024] NZEnvC 239

IN THE MATTER of the Resource Management Act 1991

AND an appeal under clause 14 of the First
Schedule of the Act

BETWEEN CHRISTCHURCH
INTERNATIONAL AIRPORT
LIMITED

(ENV-2023-CHC-120)

Appellant

AND SELWYN DISTRICT COUNCIL

Respondent

Environment Judge P A Steven – sitting alone under s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 2 October 2024

CONSENT ORDER

A: Under s279(1)(b) of the Resource Management Act 1991, the Environment
Court, by consent, orders that:

- (1) the appeal is allowed to the extent that Selwyn District Council is to
amend the proposed Selwyn District Plan as set out in Appendix 1,
attached to and forming part of this consent order;

CIAL v SDC – CONSENT ORDER



(2) the appeal otherwise remains extant.

B: Under s285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns an appeal by Christchurch International Airport Limited (‘CIAL’) against a decision of the Selwyn District Council concerning the Proposed Selwyn District Plan (‘PDP’). The PDP is now referred to as the Partially Operative Selwyn District Plan.

[2] The appeal concerns provisions relating to the Christchurch International Airport (‘the airport’) and activities that could affect the airport and its operations. CIAL sought amendments relating to the management of bird strike risk, and the management of activities within the ‘Airport 50dB Ldn Noise Control Overlay’. In addition to substantive changes to the planning provisions, they sought correction of errors and changes to the planning maps. The appeal points that were specific to the airport were assigned to “Topic 9: CIAL Specific”.

[3] I have read and considered the consent memorandum of the parties dated 13 September 2024 which sets out the agreement reached between the parties to resolve these aspects of Topic 9. The parties have agreed:

- (a) to the addition of TEMP-REQ4.A and related amendments to the matters of discretion and additional wording added relevant to notification;
- (b) to minor amendments to the notification wording relevant to GRUZ-R5.5.e to ensure consistency with notification wording in other rules;
- (c) to amendments to GRUZ-R5 to manage alterations and expansion of existing residential units on undersized lots within the Airport 50dB

Ldn Noise Control Overlay;

- (d) to minor amendments to GRUZ-R7, GRUZ-R15, and GRUZ-R33;
- (e) to amendments to the proposed plan's planning maps to display the Airport 50dB Ldn Noise Control Overlay and the Airport 55 dB Ldn Noise Control Overlay as separate overlays; and
- (f) that no changes should be made to TEMP-REQ5, GRUZ-P3 and GRUZ-R6.

[4] I have also read and considered the affidavit of Jonathan Trewin affirmed 12 September 2024. The affidavit explains the scope to make the changes sought and the rationale for the agreed changes in terms of s32AA of the Resource Management Act 1991 ('the Act' or 'RMA'). Mr Trewin explained also that in addition to the above, the parties have agreed amendments to EI-P6 which address the effects on important infrastructure. The agreed wording seeks to manage bird strike risk within 8km and 13km overlays. These amendments will also include related overlays in the proposed plan's planning maps on the basis of the changes agreed to EI-P6. Despite the parties having reached an agreement in that regard the court has not been asked to formally approve the amendment as agreed at this stage, as other elements of EI-P6 remain subject of further discussion.¹

Other relevant matters

[5] Several parties joined as interested parties to this appeal under s274 RMA. All the s274 parties advised that they did not have (or did not wish to pursue) any interest in matters being addressed at the mediation for Topic 9. Accordingly, none of the s274 parties attended mediation and have agreed to abide by the outcome reached at mediation.²

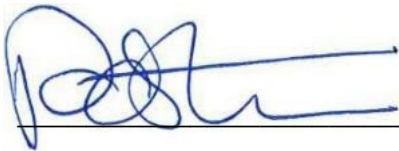
¹ Affidavit of J Trewin affirmed 12 September 2024 at [35].

² Fonterra Limited, Horticulture New Zealand, Lyttelton Port Company Limited, New Zealand Defence Force, Orion New Zealand Limited, Royal Forest and Bird Protection Society of New Zealand Incorporated and Transpower New Zealand Limited all signed the memorandum setting out the relief sought. The Director-General of the Department of Conservation did not sign.

[6] The parties advise that all matters proposed for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the Act including, in particular, Pt 2.

Outcome

[7] The court makes this order under s279(1) RMA, such order being by consent rather than representing a decision or determination on the merits pursuant to s297. The court understands for the present purposes that all relevant parties to the proceeding have executed the memorandum requesting the orders. On the information provided to the court, I am satisfied that the orders will promote the purpose of the Act so I will make the orders sought.



P A Steven
Environment Judge





Appendix 1

The additional text is shown in **bold underlined text** and deletions are shown in ~~strikethrough~~.

TEMP-REQ4 Temporary Building and Structure ancillary to a Construction Project		
	1. Temporary buildings and structures ancillary to a construction project, including temporary accommodation within these, shall not exceed: a. a maximum duration of 12 consecutive months, or the duration of the construction project, whichever is the lesser, on any site; b. a total of 50m² in Gross Floor Area on any site, except within the KNOZ where a total of 100m² in Gross Floor Area shall not be exceeded for any construction project; c. the permitted thresholds for height, height in relation to boundaries, setbacks, of the zone of the site in which they are located, except within the KNOZ where KNOZ-REQ4.1 shall not apply to temporary buildings and structures ancillary to a construction project. 2. Temporary buildings and structures ancillary to a construction project shall be	Activity status when compliance not achieved: 4. When compliance with any of TEMP-REQ4.<u>1, TEMP-REQ4.2 or TEMP-REQ4.3</u> is not achieved: RDIS <u>B. When compliance with any of TEMP-REQ4.A is not achieved: RDIS</u> Matters for discretion: 5. The exercise of discretion in relation to TEMP-REQ4.<u>4 and TEMP-REQ4.B</u> is restricted to the following matters: a. TEMP-MAT1 Temporary Activity Matters Notification: 6. Any application arising from TEMP- REQ4.<u>4</u> shall not be subject to public notification. <u>7. Any application arising from TEMP-REQ4.B shall not be subject to public notification. Absent their written approval, notice shall only be served on Christchurch International Airport.</u>

	located on the same site as the construction project. 3. Temporary buildings and structures shall be removed from the site within 31 consecutive days of completion of the project. The site shall be returned to its original condition by the end of these 31 consecutive days, unless otherwise permitted by the Plan. <u>A. No temporary accommodation associated with a construction project shall be located within the Airport 50 dB Ldn Noise Control Overlay unless the temporary accommodation is associated exclusively with one household and complies with residential density as set out in GRUZ-SCHED2.</u>	
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GRUZ-R5 Residential Unit on an Undersized Site		
SCA-RD1 SCA-RD2 SCA-RD3 SCA-RD4 SCA-RD5 SCA-RD6 SCA-RD13	Activity Status: RDIS 5. The establishment or placement of a new residential unit on an undersized site where the activity does not comply with either GRUZ-SCHED2 - Residential Density - Specific Control Areas, or GRUZ-R4 Where: a. Sufficient balance land is provided in conjunction with the site to comply with the minimum site size requirements in GRUZ-SCHED2 - Residential Density - Specific Control Areas; b. ... e. The residential unit is not located within the Airport 50dB Noise Control Overlay or Port 45dB Noise Control Overlay. And this activity complies with the following rule requirements: GRUZ-REQ1 Building Coverage GRUZ-REQ2 Structure Height GRUZ-REQ4 Structure Setbacks GRUZ-REQ4B Landscaping GRUZ-REQ10 Sensitive Activity Setback from Intensive Primary Production GRUZ-REQ11 Sensitive Activity Setback from Mineral Extraction	Activity status when compliance not achieved: 7. When compliance with any of GRUZ-R5.5 is not achieved: NC 8. When compliance with any rule requirement listed in this rule is not achieved: Refer to relevant Rule Requirement. Notification 9. Where compliance with GRUZ-R5.5.e is not achieved, any application shall be limited notified to at least Christchurch International Airport or the Midland Port respectively (absent their written approval). <u>9. Any application arising from GRUZ-R5.5.e shall not be subject to public notification. Absent their written approval, notice shall only be served on Christchurch International Airport or the Midland Port.</u>

	GRUZ- REQ16 Springfield Airfield Height Restriction EI-REQ23 West Melton Aerodrome Height Restriction Matters for discretion: 6. The exercise of discretion in relation to GRUZ-R5.5. is restricted to the following matters: a. ...	
<u>Airport 50dB Ldn Noise Control Overlay</u>	<u>Activity status: PER</u> <u>10. The alteration or expansion of an existing residential unit on an undersized site where the activity does not comply with GRUZ-SCHED2 - Residential Density - Specific Control Areas</u> <u>Where:</u> a. <u>Any alteration or expansion after [CONSENT ORDER DATE] results in a maximum total increase in habitable rooms of 70m², compared to the area of habitable rooms within the residential unit on [CONSENT ORDER DATE].</u> <u>And this activity complies with the following rule requirements:</u> <u>GRUZ-REQ1 Building Coverage</u> <u>GRUZ-REQ2 Structure Height</u> <u>GRUZ-REQ4 Structure Setbacks</u>	<u>Activity status when compliance not achieved:</u> <u>11. When compliance with any of GRUZ-R5.10.a is not achieved: RDIS</u> <u>Matters of discretion:</u> <u>12. The exercise of discretion in relation to GRUZ-R5.11 is restricted to the following matters:</u> a. <u>NOISE-MAT1 Health and Wellbeing and Amenity Values</u> <u>Notification</u> <u>13. Any application arising from GRUZ-R5.11 shall not be subject to public notification. Absent their written approval, notice shall only be served on Christchurch International Airport.</u>

	<u>GRUZ-REQ4B Landscaping</u> <u>GRUZ-REQ10 Sensitive Activity Setback</u> <u>from Intensive Primary Production</u> <u>GRUZ-REQ11 Sensitive Activity Setback</u> <u>from Mineral Extraction</u>	
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GRUZ-R7 Relocated Residential Unit		
	Activity Status: PER 1. The placement of a relocated building onto land to be used as a residential unit that complies with GRUZ-SCHED2 - Residential Density - Specific Control Areas Where: a. The building is either: i. shifted within the same property; or ii. shifted from off-site; and: 1. ... b. The building is not located within the Airport 50 dB Ldn Air Noise Contour <u>Noise Control Overlay</u> And this activity complies with the following rule requirements: GRUZ-REQ1 Building Coverage ...	Activity status when compliance not achieved: 2. When compliance with any of GRUZ0R7.1.a is not achieved: RDIS 2A. When compliance with GRUZ-R7.1.b is not achieved: NC 3. When compliance with any rule requirement listed in this rule is not achieved: Refer to relevant Rule Requirement Matters of discretion: 4. The exercise of discretion in relation to GRUZ-R7.2. is restricted to the following matters: a. The time period within which the building will be placed on its foundations; b. Identification of, and the time period to complete reinstatement works; and - bb. Proposed landscaping

GRUZ-R15 Visitor Accommodation

Activity Status:

1. The establishment of a new, or expansion of an existing visitor accommodation

Where:

- a. Accommodation is offered to not more than five guests for reward or payment at any one time;
- b. The registered proprietor resides permanently on-site;
- c. The visitor accommodation is set back 10m from any boundary; and
- d. The visitor accommodation is not located within the Airport 50dB **Ldn** Noise Control Overlay.

And this activity complies with the following rule requirements:

GRUZ-REQ10 Sensitive Activity Setback from Intensive Primary Production

GRUZ-REQ11 Sensitive Activity Setback from Mineral Extraction

Activity status when compliance not achieved:

2. When compliance with any of GRUZ-R15.1.a or GRUZ-R15.1.b. is not achieved: DIS
- 2A. When compliance with GRUZ-R15.1.~~c~~ **d** is not achieved: NC
3. When compliance with any rule requirement listed in this rule is not achieved: Refer to relevant rule requirement

Notification

4. Absent its written approval, any application under GRUZ-R15.2A shall be notified to Christchurch International Airport Limited.

GRUZ-R33 Community Facility		
	Activity Status: DIS 1. The establishment of a new, or the expansion of an existing community facility Where: a. The activity does not provide overnight accommodation if it is located within the Airport 50dB Ldn Noise Control Overlay.	Activity status when compliance not achieved: 2. When compliance with any of GRUZ-R33.1 is not achieved: NC Notification 3. Absent its written approval, any application arising from GRUZ-R33.2 shall be notified to Christchurch International Airport Limited.

Amendments to Proposed Plan planning maps	
	Amend the Proposed Plan planning maps to separately display the following: - Airport 50dB Ldn Noise Control Overlay; - Airport 55dB Ldn Noise Control Overlay

