

Before the Independent Hearings Panel
at Rolleston

under: the Resource Management Act 1991

in the matter of: Submissions and further submissions in relation to the
proposed Selwyn District Plan

and: Strategic Directions Proposal

and: **Lyttelton Port Company**
Submitter DPR-0453

Statement of Evidence of Matthew William Bonis (Planning)

Dated: 23 July 2021

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STATEMENT OF EVIDENCE OF MATTHEW WILLIAM BONIS

INTRODUCTION

- 1 My full name is Matthew William Bonis.
- 2 I hold a Bachelor of Regional Planning degree, and have been employed in the practise of Planning and Resource Management for 23 years. I am a full member of the New Zealand Planning Institute.
- 3 I am an Associate at Planz Consultants in Christchurch. I have held this position since 2009.
- 4 I am familiar with the submission made by Lyttelton Port Company (submitter number DPR-0453) on 11 December 2020 and the planning issues discussed in that submission. I have been authorised by LPC to provide evidence on its behalf.
- 5 The Lyttelton Port Company has substantial infrastructure represented by the Rolleston Inland Port (Midland Port) as located on Jones Road, Rolleston. I am familiar with the site and operations. I advised LPC when they obtained resource consent for the development (RC155101) in 2015. I am also familiar with the integration of Midland Port with LPC's operations at Lyttelton.
- 6 I am reliant on the evidence of:
 - 6.1 Mike Simmers (LPC) – Operational Manager, Lyttelton Port Company; and
 - 6.2 Mike Copeland (Brown, Copeland and Company Limited) – Consulting Economist and Director.
- 7 I have read:
 - 7.1 Selwyn District Council (SDC) – Section 32 Report, Strategic Directions;
 - 7.2 SDC Section 42A Report – Overview, Robert Love; and
 - 7.3 SDC Section 42A Report – Strategic Directions, Robert Love.

CODE OF CONDUCT

- 8 Although this is not an Environment Court hearing, I note that in preparing my evidence I have reviewed the code of conduct for expert witnesses contained in part 7 of the Environment Court Practice Note 2014. I have complied with it in preparing my evidence. I confirm that the issues addressed in this statement of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

SUMMARY OF MY EVIDENCE

- 9 The Strategic Directions Chapter of the replacement Selwyn District Plan is intended to operate as overarching objectives¹ which provides guidance for the subsequent, more

¹ Strategic Directions – Overview.

detailed ODP provisions. The Strategic Directions provisions provide an intended hierarchy in the design of the replacement plan.

- 10 Of relevance to 'Important Infrastructure' inclusive of Midland Port, the SDC Section 32 Report for Strategic Directions² identifies that:

"The Strategic Directions Chapter provides an overview of the significant land use issues and the key outcomes for the future land use in the District. These strategic directions reflect those factors which are considered to be key to achieving the overall vision for the pattern and integration of land use within Selwyn..."

The strategic objectives³ are intended to address: ...

- *integrated management through the grouping of environmental considerations which combine to achieve strategic outcomes; and avoiding strategic objectives being isolated within various chapters of the District Plan;*
- *the management of urban growth integrating existing and future infrastructure...."*

- 11 The National Planning Standards (NP Standards) identifies a mandatory (*must include*) requirement for PART 2 – District-Wide Matters for the inclusion of a Strategic Direction heading⁴. The matters to be addressed as included under Strategic Directions is set out in Part 7 of the NP Standards. The NP Standards do not preclude the inclusion of policies which address objectives associated with key strategic or significant matters⁵.

- 12 The Strategic Directions overview identifies that there is no hierarchy between stated objectives; that is no primacy amongst objectives exists. Furthermore, the Overview also states:

For the purposes of preparing, changing, interpreting, and implementing the District Plan, all other objectives and policies in all other chapters of this District Plan are to be read and achieved in a manner consistent with these Strategic Directions.

- 13 The importance of the Strategic Directions in terms of guiding the framework and architecture of the remaining plan provisions is therefore critical (Section 32(1) and Section 75(1)).
- 14 The submission from LPC is largely supportive of the Strategic Directions provisions; albeit deficiencies are identified in terms of how Strategic Directions accommodates, recognises and provides for *Important Infrastructure* (which would be inclusive of Lyttelton Port of Christchurch's interests in Midland Port and the strategic transport network).
- 15 Overall, the matters sought to be amended by LPC relate to a tension between Strategic Directions provisions that are overly general, compared to overly directive

² Section 1 Overview and Purpose.

³ Strategic Directions – Overview.

⁴ NP Standards [Part 4, Table 4].

⁵ NP Standards Section 7 District Wide Matters Standard (1(c)).

provisions that would be better established in the framework of latter chapters (such as Energy, Infrastructure and Transport).

- 16 This evidence concludes, with respect to Important Infrastructure, that the dial is too far towards general provisions, and does not appropriately articulate the higher order statutory framework associated with integration of land use with Important Infrastructure.
- 17 To ensure that the Strategic Directions are both interpreted and implemented according to the direction the chapter is to provide, additional detail is necessary to provide guidance to subsequent objectives and policies (and rules and definitions) and reconcile conflicts between provisions.
- 18 This is especially the case given that no primacy is established between Strategic Directions, and that enduring interpretation is to be provided through the lens of this Chapter.
- 19 In this light, the Canterbury Regional Policy Statement (**CRPS**) has specific relevance to Important Infrastructure. The CRPS provisions are relatively prescriptive and directive in this respect, and are to be given effect to by the Replacement Plan (s75(3)(c)).
- 20 The economic significance of Lyttelton Port of Christchurch to New Zealand, the South Island and Christchurch City has been set out in the evidence of Mr Copeland.
- 21 Lyttelton Port is recognised as a 'lifeline utility' and 'significant infrastructure' at a national and regional level, this extends to Midland Port. Lyttelton Port plays an essential role in the current and future economic wellbeing of the Region in that it is a key economic driver of the Canterbury and South Island economy, helping to underpin much of the economic activity in greater Christchurch; and the Port continues to contribute to Christchurch's recovery.
- 22 This significance is reinforced in a statutory sense in the operative Canterbury Regional Policy Statement ('CRPS' 2013) in Chapters: 5 'land use and Infrastructure' and 6 'Recovery and Rebuild of Christchurch'. The CRPS specifically identifies the Port (which would extend to Midland Port) as:
 - 22.1 Critical Infrastructure.
 - 22.2 Regionally Significant Infrastructure.
 - 22.3 Transport Hub (exchange of cargo and / or passengers).
 - 22.4 Strategic Infrastructure.
- 23 I understand that the statutory requirements for consideration of proposed plan changes from *Colonial Vineyard v Marlborough District Council*⁶.
- 24 I consider, as discussed that the amendments sought (refer Attachment A) better, or more appropriately achieve the requirements of s32.

⁶ [2014] NZEnvC, 55, at paragraph [17].

- 25 I have met with Mr Dean Chrystal, Ms Melanie Foote and Ms Nicola Rykers (representing Planning experts associated with Orion (DPR-0367), CIAL (DPR0371), Fonterra (DPR-370), and LPC (DPR0453)). This evidence concludes that LPC's relief can be met through amendments to this Chapter. The agreed provisions are appended (**Attachment A**). Specifically:
- 25.1 Amendments to **SD-DI-02** to reference both incompatible activities and reverse sensitivity effects.
 - 25.2 Amendments to **SD-IR-01** to recognise the benefits of Important Infrastructure.
 - 25.3 Insertion of a new **SD-IR-02** and associated **SD-IR-P1** to articulate the approach as to effects on Important Infrastructure.
 - 25.4 Amendments to **SD-IR-03** (as renumbered) to articulate the strategic approach to the management of the effects of Important Infrastructure.
 - 25.5 Amendments to **SD-UFD-02** to recognise to insert the qualifier 'appropriate locations' in terms of the provision of feasible development capacity.
 - 25.6 Amendments to **SD-UFD-03** to account for both Important Infrastructure and Infrastructure as to the integration with land use.
- 26 In terms of s32 of the RMA, I consider that the LPC position (as amended by this Statement) is the more appropriate approach.

SCOPE OF EVIDENCE

- 27 In my evidence I will, briefly, address:
- 27.1 Lyttelton Port's operation – Economic and Social benefits.
 - 27.2 The Statutory context.
 - 27.3 Principles associated with the relief.
 - 27.4 Why the LPC relief is (in part) more appropriate in terms of the higher order statutory documents.

PORT OPERATIONS, ECONOMIC AND SOCIAL BENEFITS

Port Operations and integration with Midland Port

- 28 As outlined by Mr Simmers in his Statement,⁷ LPC is a wholly owned subsidiary of Christchurch City Holdings Limited, which is the investment arm of Christchurch City Council.

⁷ Simmers, Paragraph [7].

- 29 The Port, proper is the South Island's major deepwater port. The landholding covers a total of 163 hectares.
- 30 LPC also owns and operates a 15 hectare off-port container operation located in Woolson, termed City Depot.
- 31 Midland Port, at Jones Road Rolleston, comprises 27 hectares and operates as an off-port container operation.
- 32 The three components representing Lyttelton Port are inextricably integrated, with the Midland facility providing extensive container storage and servicing, and being connected to the main Port operations by way of rail spur and the strategic road network⁸. As outlined by Mr Simmers, Midland Port is interwoven with LPC's portside operations, helping to mitigate against operational (capacity) constraints at Lyttelton Port. The facility:
- 32.1 provides for aggregation of containerised cargo for export before transport by road or rail to the Port proper; and
 - 32.2 disaggregation of imported freight to be disaggregated and redistributed at a central point relatively proximate to the main domestic South Island market of Greater Christchurch.
- 33 Midland Port was consented in 2015 to provide for container exchange (road and rail), container storage and reefer use over a 24/7 operation. The physical resources facilitate large scale Inland Port operations include large areas of sealed surfaces for container storage, developed rail sidings providing for rail based freight into the sites, large scale heavy vehicle access, and associated dispatch and warehouse buildings and a large scale stormwater basin adjoining Jones Road. The physical resources on the site(s), reflect a singular use for Port and Logistic activities.
- 34 Effects associated with the facility, include:
- 34.1 visual effects associated with container stacks up to 20.3m in height⁹, and substantial areas of sealed surfaces.
 - 34.2 noise from: train movements (shunting on rail spur) and trucks including nighttime movements; container loading and unloading of trains and trucks (L_{max}); container stacking (use of toplifters); container repairs; reefer (refrigeration units) operations.
 - 34.3 lighting (luminance and height) to ensure appropriate health and safety of employees.
 - 34.4 requirements as to connections to efficient and effective road and rail network corridors.
- 35 Despite a range of measures (bundling and landscaping, setbacks and height limits) these effects (particularly noise and visual amenity) are not able to be fully internalised within the site. The establishment of sensitive activities (particularly, but not limited to

⁸ Also defined as Important Infrastructure in the replacement Plan.

⁹ Consented pursuant to RC205205.

residential activity) would not only result in an incompatible amenity between these land uses, but also raise the prospect of reverse sensitivity effects whereby the likely expectations of such activities would not be achieved proximate to Midland Port, potentially resulting in complaints against the Port's operations.

- 36 For the purpose of the LPC relief, I consider that there are subtle but important distinction between activities being incompatible (divergence in the quality of the environment, amenity between aggregated activities, i.e. residential activities, industrial activities); and the prospect of reverse sensitivity effects (perceived reduction of expected amenity from more sensitive uses, leading to compromised or constrained activities on the activity generating effects).
- 37 In addition, Midland Port also requires an efficient and effective transport network as critical to the logistics operations being undertaken on the facility.

Economic Benefits of the Port

- 38 The economic benefits to the Region and the South Island are set out in the evidence of Mr Copeland. A synopsis is:
- 38.1 In terms of tonnage, Lyttelton Port is the largest port in the South Island, and the fourth largest in New Zealand. It is the second largest export port behind Tauranga.
- 38.2 At an annual growth rate of 11.2% per annum, the Port handled 446,101 containers in the year ending June 2020, an increase of 188.5% since 2010¹⁰. Forecasted growth is for over a million twenty-foot equivalent units (TEUs) by 2045.
- 38.3 Employment associated with agriculture, forestry, fishing and manufacturing account for 34% of total employment in the region, and are highly dependent on Lyttelton Port for export of product, and import of inputs.
- 38.4 Midland Port is anticipated to employ some 50 staff at full development.
- 39 Midland Port frees up capacity in and around Lyttelton Port, given land supply side constraints; facilitates greater off-peak movement for freight movements; and contributes to modal shift from road to rail for freight.
- 40 In terms of recent force majeure events, the Port is currently working through reinstatement work because of the Canterbury Earthquake sequence including reclamation at Te Awaparahi Bay. The costs of recovery were estimated at some \$500million, with reinstatement facilitated in part by the Port Recovery Plan (2015). Issues associated with the COVID19 pandemic increased the need for Midland (and City Depot) to alleviate capacity, requiring increased stack heights at Midland Port¹¹.
- 41 To conclude, the Port (and the Airport) are the largest transportation gateways for the South Island, and the scale of these operations results in significant benefits to Christchurch City and the wider Region.

¹⁰ EiC Copeland [7.2]

¹¹ RC205205.

STATUTORY CONTEXT

- 42 I understand that the statutory requirements for consideration of proposed plan changes from *Colonial Vineyard v Marlborough District Council*¹². In summary,
- (a) Provisions in the District Plan are to assist the Selwyn District Council in undertaking its functions under the Act¹³. Including the function of seeking to achieve the integrated management of the use, development and protection of land and associated natural and physical resources of the (Selwyn) District¹⁴.
- An important physical resource is Midland Port and supporting infrastructure (road and rail connections) as important infrastructure.
- That function is to be fulfilled by objectives, policies and methods within the District Plan, controlling any actual or potential effects of the use, development and protection of land¹⁵.
- (b) The preparation of the District Plan is to be undertaken in accordance with the provisions of Part 2, and any applicable regulations.
 - (c) The approach needs to align with the Council's functions under the Act and other relevant instruments.
 - a. That processes (and provisions that drive processes) are timely, efficient and cost effective and proportionate to the functions being performed, and that plan drafting is clear and concise (Section 18A); and
 - b. When reaching a conclusion as to which provision is the '*most appropriate*' the requirements of s32, having regard to the efficiency and effectiveness of the provision is to be considered.

National Planning Standard

- 43 The relevant requirements are set out in [11]. As identified, I consider that policies are mandated with Strategic Directions unless those policies are better located in more specific chapters.

Strategic direction

1. *If the following matters are addressed, they must be located under the Strategic direction heading:*

- a. *an outline of the key strategic or significant resource management matters for the district*

¹² [2014] NZEnvC, 55, at paragraph [17].

¹³ Section 74(1)(a).

¹⁴ Section 31(1)a).

¹⁵ Section 31(c).

- b. issues, if any, and objectives that address key strategic or significant matters for the district and guide decision making at a strategic level*
- c. policies that address these matters, unless those policies are better located in other more specific chapters*
- d. how resource management issues of significance to iwi authorities are addressed in the plan*

- 44 I consider that Policy SD-IR-O1 is of such strategic importance and significance, that it should be articulated with Strategic Directions. I acknowledge that the notified Strategic Directions do not contained policies, however the approach is available, and as discussed given their spatial importance and integration with land use and development I consider greater specificity in the Part 2 – District Wide Matters is warranted.

National Policy Statement – Urban Development (2020)

- 45 **National Policy Statements** are the RMA legislative tool whereby central government can prescribe objectives and policies to address matters of national significance. The Council must prepare and change its plan in accordance with a NPS (**s74(1)**) and must *give effect* to any relevant NPS (**s75(3)**). The only relevant NPS to this evidence is the National Policy Statement on Urban Development (**NPS-UD**).
- 46 This matter is referenced in the SDC Section 32 report but is not elaborated on in terms of substance¹⁶.
- 47 In terms of outcomes associated with Infrastructure:
- 47.1 Ports are defined as Nationally Significant Infrastructure¹⁷. The safe and efficient operation of such is consequently identified in Clause 3.32(c) as a qualifying matter from the application of Policy 3 / Policy 4 which seeks to otherwise enable further development capacity.
 - 47.2 Achieving a well-functioning urban environment that enables people and communities to provide for their social, economic and cultural well-being, now and into the future (**Objective 1**).
 - 47.3 Local authority decisions on urban development that affect urban environments are: (a) integrated with infrastructure planning and funding; and (b) strategic over the long to medium term (**Objective 6**)
 - 47.4 Well-functioning urban environments are defined in Policy 1.

¹⁶ SDC Section 32, Section 6.2.

¹⁷ Section 1.4 Interpretation. Referencing Part A of Schedule 1 of the Civil Defence Emergency Management Act 2002, which deems Lyttelton Port Company as a Lifeline Utility.

Canterbury Regional Policy Statement (2013)

- 48 **Attachment 'B'** outlines the relevant provisions of the CRPS. To summarise:
- 48.1 The Port (which is inclusive of Midland Port) is defined as Regionally Significant Infrastructure (Chapter 5), and as Strategic Infrastructure and a component of the strategic transport network for Greater Christchurch (Chapter 6).
 - 48.2 The Port is also defined as 'essential infrastructure' and 'critical infrastructure' (although this only has relevance in terms of resilience for natural hazards).
 - 48.3 The Chapter 5 provisions seek to provide for economic wellbeing; that sustainable economic development is achieved, through enabling business activities in appropriate locations; and that adverse effects on Regionally Significant infrastructure (which would include Midland Port) are avoided, or where this is not practicable effects on such infrastructure is remedied or mitigated (**Objective 5.2.1, Policy 5.3.2**).
 - 48.4 **Objective 5.2.2** seeks to ensure a high degree of integration of land use and regionally significant infrastructure, including recognising the social, economic and cultural well-being benefits of such infrastructure. Clause (2) seeks to '*avoid or mitigate ... reverse sensitivity effects and conflicts between incompatible activities...*'. (emphasis added).
 - 48.5 **Objective 5.2.3, Policy 5.3.2(3)** seeks integration with a safe, efficient and effective transport system to meet local, regional, inter-regional and national needs for transport, including for the movement of goods.
 - 48.6 **Policy 5.3.9** seeks to explicitly provide for regionally significant infrastructure (including transport hubs), including the avoidance of development with constrains the ability of such infrastructure to be developed and used without operational constraints that may arise from adverse effects relating to '*reverse sensitivity or safety*'; and that the logistical, technical and operational constraints of regionally significant infrastructure is provided for in terms of the location of such activities.
 - 48.7 The Chapter 6 provisions of the CRPS seek to provide a recovery framework that integrates strategic infrastructure with land use development, and achieve development that does not adversely affect the operation, use, development, appropriate upgrade, and future planning of strategic infrastructure and freight hubs (**Objective 6.2.1**).
 - 48.8 **Objective 6.2.6** seeks to provide for the recovery and growth of business activities, including through providing for business activities in appropriate locations.
 - 48.9 **Policy 6.3.5** provides the framework for the integration of land use and infrastructure. **Policy 6.3.5(3)** seeks that the efficient and effective functioning of infrastructure is to be provided for, and at **Policy 6.3.5(4)** that only new development should be provided that does not affect the efficient operation, use, development, and appropriate upgrade of existing strategic infrastructure.

48.10 **Policy 6.3.6** 'Business Land' seeks to ensure that business land in Greater Christchurch maximises retention, attracts investment, and provides for healthy working environments, including through utilising existing infrastructure availability, capacity and quality, and *'ensuring that reverse sensitivity effects and conflicts between incompatible activities are identified and avoided or mitigated against'* (clause 8).

48.11 **Policy 6.3.11(5)(h)** 'Monitoring and Review' seeks that *'any change resulting from a review of the extent, and location of land for development ... shall commence only under the following circumstances (h) the operational capacity of strategic infrastructure is not compromised'*.

Mahaanui Iwi Management Plan

- 49 The Mahaanui Iwi Management Plan (IMP), published in 2013, is an expression of the kaitiakitanga and rangatiratanga for the six runanga within the takiwa from the Hurunui River to the Hakatere River and inland to Ka Tiritiri o Te Moana.
- 50 The relevant policies of the IMP seek to protect the mauri of land, water and air by avoiding inappropriate land uses and development.
- 51 There are no specific provisions in the IMP specific to Important Infrastructure in terms of matters related to Strategic Directions.

Local policies, plans or strategies

- 52 The Selwyn District Long Term Plan 2015 – 2025, and Selwyn 2031 District Development Strategy document are management plans and strategies prepared under other Acts, relevant as pursuant to s74(2)(b) of the Act.
- 53 These plans represent a non-RMA area planning and consultation outcome with the community. In that context, *regard is to be had* to these provisions.
 - The Selwyn District Long Term Plan 2015 – 2025 (**LTP**)- seeks as a community outcome a strong economy within settlements that complements the environmental, social and cultural environment of the district.
 - Selwyn 2031 – The District Development Strategy seeks the integration of land use and infrastructure (Strategic Direction 1.3), Economic Growth (Strategic Direction 2.2) and continued improvements in strategic freight networks (Strategic Direction 2.3). Rolleston is identified as the primary industrial base for the District¹⁸. Matter 1.3 identifies that *'new development has the potential to create reverse sensitivity effects on existing strategic infrastructure'*; the corresponding action is that¹⁹:

"that the District Plan gives effect to RPS Policy 6.3.5 as part of a review of the District Plan".

¹⁸ Selwyn 2031 [34]

¹⁹ Selwyn 2031 [40]

Summary in terms of statutory context

- 54 The statutory context in setting the Strategic Directions provisions is that the replacement Plan must *give effect* ²⁰ to the NPS-UD and Canterbury Regional Policy Statement (2013) and *have regard to* other relevant plans including the Selwyn 2031. With regard to urban growth and the efficient operation and development of Midland Port (as important infrastructure), these provisions broadly seek to:
- 54.1 Ensure development is located and designed so as to be compatible with, and will result in the safe, efficient and effective use of regionally significant infrastructure (the definition of which includes Midland Port) (**Objective 5.2.1, Objective 6.2.1**)
 - 54.2 Manage the effects of land use activities on infrastructure, through avoiding activities that would limit the efficient and effective provision, operation, development, maintenance and upgrade of strategic infrastructure and freight hubs (**CPRS Objective 6.2.1, Policy 6.3.5, 8.3.6/Method 3**).
 - 54.3 Integrate transport infrastructure and land use to ensure an efficient and effective transport network (**CRPS Objective 6.2.4, 6.3.5, Policy 6.3.5(5)**)
 - 54.4 Recognise the benefits of strategic infrastructure to community wellbeing and provide for their functional needs. (**CPRS Policy 6.3.5**).

PRINCIPLES ASSOCIATED WITH THE RELIEF

- 55 Strategic Directions are to provide overarching provisions as to issues of District Significance. Strategic objectives are to reflect the desired or expressed outcome to be achieved and provide a clear direction as to the **what** and **where**. In my view, I consider the **how** can be undertaken within the next tier of provisions, either for global district wide matters (Energy & Infrastructure, Noise) or area specific matters (zones), where such policies are '*better located in other more specific chapters*'²¹. As identified I am of the view that SD-IR-P1 (Attachment A) is appropriately placed within Strategic Directions.
- 56 In terms of LPC's relief, there are three strategic outcomes which I consider should be appropriately reflected in Strategic Directions in delivering the statutory framework above, these are:

56.1 **Principle 1 – Distinguishing Important Infrastructure from Infrastructure.**

Strategic Directions should distinguish between Important Infrastructure (**CRPS Objective 6.2.1(10)**) and Infrastructure (**CPRS Objective 6.2.1(9)), Policy 6.3.5**) predicated on their benefits to community enablement and wellbeing, and according greater prominence and protection to the former. This provides the nexus (s75(1)), or basis for distinguishing between Important Infrastructure²² and Infrastructure²³, as these two terms are defined²⁴.

²⁰ Section 75(3)(c) RMA.

²¹ NP Standards. Section 7 District Wide Matters Standard. Strategic Direction 1(c).

²² SD-IR-O1, SD-IR-O2, SD-IR-O3.

²³ SD-IR-O2, SD-UFD-O3.

²⁴ Noting that this is also not undertaken in EI-O1.

56.2 Principle 2 – Managing the effects of Important Infrastructure

Managing the effects of:

- (a) the efficient operation, use, development, appropriate upgrading and safety of Important Infrastructure is explicitly provided for²⁵ – as identified in the CRPS (**Policy 6.3.5(3)** and **(4)**); and
- (b) Important infrastructure, recognising community benefits (**Definition Strategic Infrastructure – Greater Christchurch**), and that not all effects can be reasonably internalised within the site, and will have consequences in terms of amenity and the quality of the environment for proximate / affected areas.

56.3 Principle 3 – Managing the effects on Important Infrastructure

Managing the effects of land use activities on infrastructure, through avoiding activities that would limit the efficient and effective provision, operation, development, maintenance and upgrade of strategic infrastructure and freight hubs (**CRPS Objective 6.2.1, Policy 6.3.5, 8.3.6/Method 3**). Noting that the statutory framework distinguishes between both reverse sensitivity effects and conflicts between incompatible activities²⁶.

- 57 The submission from LPC seeks to insert these principles in the following manner is set out in **Attachment C** alongside a synopsis of the s42A Report's recommendation. It is noted that Mr Love has not accepted any of the relief.

RELIEF

Points of Contention and Discussion

- 58 Based on the above analysis, the remaining matters of dispute with the Section 42A Report relate to:
- 58.1 Ensuring that there is **appropriate coverage** of the Principles associated with Important Infrastructure to be contained within the provisions.
 - 58.2 **Reverse Sensitivity** and **Incompatible activities**.
 - 58.3 Extending reverse sensitivity considerations to both **existing and consented important infrastructure**.
- 59 In terms of **appropriate coverage**, as identified in Table 1 above, I consider that the Strategic Directions provisions are deficient of the necessary matters to *give effect* to the CRPS; I also consider that the provisions themselves are overly generalised, which without additional guidance or application, lack the certainty²⁷ or direction to guide appropriate implementation at the subsequent tiers of provisions²⁸.
- 60 The submissions from LPC, CIAL, Fonterra and Orion, whilst generally consistent, seek a variety of means by which the identified principles can appropriately be introduced.

²⁵ Done in part in proposed SD-IR-O2

²⁶ CRPS Objective 5.2.3(2)(b); Policy 6.3.6.

²⁷ Section 18A(b)(ii))

²⁸ Section 75(1)

- 61 For my part, there is balance between ensuring these matters are directly and transparently addressed, and not adding prolixity and repetition that would otherwise obscure the intent of Strategic Directions.
- 62 Accordingly, Mr Dean Chrystal, Ms Melanie Foote and Ms Nicola Rykers (representing Planning experts associated with Orion (DPR-0367), CIAL (DPR0371), Fonterra (DPR-370), and LPC (DPR0453)) met to see whether agreed provisions could be provided to the Panel (**Attachment A**).
- 63 Accordingly, I propose amendments to the following provisions, within the scope of these submissions.
- 63.1 SD-IR-O1 – Addresses Principle 1, that is recognising of the social, economic, environmental and cultural benefits of Important Infrastructure, consequently the Heading be amended.
- 63.2 SD-IR-O2 – Addresses Principle 3, through providing a specific provision articulating the **why** and **what** as associated with the protection of important infrastructure, including its efficient development and operation, from reverse sensitivity effects and incompatible activities. The recommended SD-IR-P1 provides the **how** within an appropriate National Planning Standards plan architecture.
- 63.3 SD-UF-O3 – Addresses Principle 2, through ensuring that the adverse effects arising from the development and operation of Important Infrastructure are managed, having regard to their benefits (Principle 1) and technical and operational requirements.
- 63.4 SD-UFD-O3 – Which includes as clause (1) a need to integrate with infrastructure but is deficient as to treatment of Important Infrastructure (Principle 3).
- 64 I consider that there is need to explicitly identify both the management of '**incompatible activities**' and '**reverse sensitivity effects**'.
- 65 I consider that these terms are overlapping, but that the latter is distinguishable, and furthermore is explicitly defined in the replacement plan (as well as in case law) as follows (whereas incompatible activities are not):
- The potential for an approved (whether by consent or designation), existing or permitted 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 approved, existing or permitted activity.*
- 66 I understand the phrase 'incompatible activities' to relate more broadly to where the effects of an activity of a certain character and type would affect another activity of a differing character and type through matters such as environmental nuisance, traffic generation of resultant amenity. The categorisation of such activities, in my view is the basis of zoning, for example distinguishing between residential activities (and associated character and amenity) and industrial activities.
- 67 Reverse Sensitivity effects, I associate with effects associated with locating sensitive uses in locations where expectations as to amenity and character would be incongruous with the quality of that environment as predicated by activities that are unable to internalise adverse effects; leading to the sensitive uses seeking to curtail or compromise the latter activities. Protection of the activities unable to internalise adverse effects is achieved through the imposition of restrictions on surrounding land – to reduce the propensity of sensitive uses. This may be in the form of Air Noise Boundaries with land use restrictions for International Airports, or buffer setbacks for the National Electricity

Transmission Network, with the restrictions on sensitive uses / activities potentially distributed over a number of zones.

- 68 'Reverse sensitivity' is also an explicit term referenced in the statutory documents²⁹. I have also identified above that the CRPS separately identifies both '*incompatible activities*' and '*reverse sensitivity effects*'.
- 69 I propose the amendments, to refer to 'reverse sensitivity effects' to SD-DI-O2, SD-IR-O2 and SD-UFD-O3.
- 70 Lastly, provisions to protect Important Infrastructure from reverse sensitivity effects should also account for where operation, use and development of that infrastructure has been **consented** (or authorised such as through plan provisions or designations), but may not yet be established (SD-UFD-O3).
- 71 I consider that such is the more appropriate in giving effect to the CRPS (**Policy 6.3.5(4)**) which explicitly seeks to ensure that development is precluded where it would affect the '*efficient operation, use, development, appropriate upgrading and safety of existing strategic infrastructure*', and **Policy 5.3.2(1)** which seeks to '*ensure that adverse effects are avoided, remedied or mitigated, including where these would compromise or foreclose (a) existing or consented regionally significant infrastructure...*'.
- 72 Furthermore, I consider that consented development forms part of the '*environment*' for the purpose of Plan Drafting, including Sections 31(a), Section 32(1)(c) and (2)(a), and Section 76(3).
- 73 This matter is pertinent in particular to Midland Port where the Noise Control Overlay proposed in the Plan is predicated on the generation of 'future' noise provided by RC155101. That is a future effect that is not currently present (but is authorised by a consent); with efficient Port operations potentially curtailed should sensitive activities be established in the notated area prior to the full development of Midland Port.
- 74 Lastly, as outlined in some detail in my evidence for CIAL, I consider that SD-IR-O2 is appropriate to provide a directive policy as associated with managing effects on Important Infrastructure. I consider such a provision is better located within Part 2 – District Wide Matters.
- 75 The proposed Strategic Policy addresses the operational constraint whereby Midland Port, in efficiently and effectively operating, provides the imposition of restrictions on surrounding land – to reduce the propensity of sensitive uses. The Policy is the '**how**' to achieve the '**why**' and '**what**' of SD-IR-O2 as this explicitly relates to Midland Port (and other Important Infrastructure), and provides the nexus for consequential objectives, policies and rules in other chapters of the plan.
- 76 In terms of the rationale for the provisions themselves in SD-IR-P1, what is being requested through this planning evidence relates to the notified 55dBA LA_{eq} Noise Control Overlay, with the evidential burden to be provided by LPC later (as I understand it, likely to be through evidence on the Energy and Infrastructure Chapter). Accordingly, I consider that such a reference in Strategic Directions is appropriate. I support the inclusion of the following:

SD-IR-P1 Reverse Sensitivity and Incompatible Activities

Only provide for new development that does not affect the efficient and effective operation of Important Infrastructure, including by:

²⁹ National Policy Statement – Electricity Transmission, Part 8. National Policy Statement – Renewable Energy Generation, Part D. National Planning Standard – Section 7 District Wide Matters Standard.

...

3. Avoiding noise sensitive activities within the Port Zone 55dBA LA_{eq} noise control overlay;

CONCLUSION

- 77 In terms of Part II of the Act, there are no treaty issues arising under s8, nor matters of national importance under s6. In terms of s7 'matters to which we are to have particular regard', the following are considered relevant:
- '(b) the efficient use and development of natural and physical resources;*
- (c) the maintenance and enhancement of amenity values;*
- (f) maintenance and enhancement of the quality of the quality environment;'*
- 78 Section 7(b) has particular importance, in that the provisions contained within the Strategic Directions Chapter are directly linked to the efficient functioning of the LPC as important infrastructure and avoiding noise sensitive activities within the Midland Port Noise Control Overlay. Potentially placing this facility's operation at risk in any way raises the possibility of an adverse impact on the Region's economic activity, would not give effect to the CRPS.
- 79 In terms of Section 7(c) and (f), it is considered that with the amendments sought by LPC, the provisions of the Strategic Directions Chapter provide consideration of matters relating to the efficient operation, use and development of Midland Port as an integral and integrated component of LPC's infrastructure in the Region.
- 80 The provisions, as amended all support the sustainable management of Midland Port in the public interest. Subject to the changes sought, I consider that the Strategic Directions Chapter could be confirmed to carry out its functions under s31 of the RMA, and to achieve the purpose of the Act.

Dated: 23 July 2021



Matthew William Bonis

Attachment A: Recommended Amendments

Attachment A: Recommended Amendments

SD-DI-O2 District Wellbeing and Prosperity

Selwyn's prosperous economy is supported through the efficient use of land, resources, and infrastructure, while ensuring existing activities are protected from incompatible activities **and reverse sensitivity effects**¹.

SD-IR-O1 – Community Needs Benefits of Important Infrastructure

The important infrastructure needs of the community are fulfilled ~~and their operation protected.~~ **recognising the social, economic, environmental and cultural benefits that important infrastructure provides**².

SD-IR-O2 Effects of on Important Infrastructure

~~The development, upgrade, maintenance, and operation of all important infrastructure is enabled in a way that minimises adverse effects, while having regard to the practical constraints and the logistical and technical practicalities associated with important infrastructure.~~

The safe, efficient and effective development, upgrade, maintenance and operation of important infrastructure is enabled³ **and protected from incompatible development, activities and reverse sensitivity effects**⁴.

SD-IR-P1 Reverse Sensitivity and Incompatible Activities⁵

Only provide for new development that does not affect the efficient and effective operation of Important Infrastructure, including by:

1. **Avoiding noise sensitive activities within the 50dBA L_{dn} noise contour for Christchurch International Airport;**
2. **Managing the risk of birdstrike to aircraft using Christchurch International Airport;**
3. **Avoiding noise sensitive activities within the Port Zone 55dBA LA_{eq} noise control overlay;**
4. **Avoiding sensitive land uses establishing in proximity to the Dairy Processing Zone;**
5. **Avoiding adverse effects on the electricity network and significant electricity distribution lines, including by identifying a buffer corridor within which buildings, excavations and sensitive activities will generally not be provided for.**

SD-IR-023 Effects of Important Infrastructure

The adverse effects of developing, up-grading, maintaining and operating important infrastructure on the surrounding environment are managed, having regard to the social and economic benefits, technical and operational requirements of that important infrastructure⁶.

¹ Submission origin: submissions from DI-O2 CIAL and Orion. Scope: 371-16, 367-1.

² Submission origin: submissions from IR-O2 Clause (a) All parties. Scope: 367-2, 453-15.

³ Submission origin: submissions from IR-O2 Clause (a) All parties. Scope: 367-3, 370-18, 371-17, 453-16, 420-F1.

⁴ Submission origin: submissions from IR-O1 LPC and Orion. Scope: 367-3, 370-18, 371-17, 453-16, 420-F1.

⁵ Submission origin: submissions from IR-O2 All parties. Scope: 367-3, 370-18, 371-17, 453-16, 420-F1.

⁶ Submission origin: submissions from IR-O2 Clause (a) and (c) All parties. Scope: 367-3, 370-18, 371-17, 453-16, 420-F1.

SD-IR-034 Natural Hazards....

SD-UFD-02 Urban Growth and Development

There is sufficient feasible development capacity in appropriate locations⁷ to meet anticipated demands for housing and business activities

SD-UFD-03 Integration of Land Use and Infrastructure

Urban growth and development:

1. is well-integrated with the efficient provision, including the timing and funding, of infrastructure; ~~and~~
2. has the ability to manage or respond to the effects of climate change; and
3. **manages reverse sensitivity effects and conflict between incompatible activities, including avoiding development which would limit the operation or development of existing and consented Important Infrastructure**⁸.

⁷ Submission origin: submissions from UFD-02 CIAL and LPC. Scope: 371-19, 453-17.

⁸ Submission origin: submissions from UFD-03 Orion, Fonterra, CIAL and LPC. Scope: 367-6, 370-21, 371-20, 453-18.

Attachment B: Canterbury Regional Policy Statement

Objective 5.2.1 – Location, design and function of development (Entire Region)

Development is located and designed so that it functions in a way that:

- (1) achieves consolidated, well designed and sustainable growth in and around existing urban areas as the primary focus for accommodating the region's growth; and
- (2) enables people and communities, including future generations, to provide for their social, economic and cultural well-being and health and safety; and which:
 - (a) maintains, and where appropriate, enhances the overall quality of the natural environment of the Canterbury region, including its coastal environment, outstanding natural features and landscapes, and natural values;
 - (b) provides sufficient housing choice to meet the region's housing needs;
 - (c) encourages sustainable economic development by enabling business activities in appropriate locations;
 - (d) minimises energy use and/or improves energy efficiency;
 - (e) enables rural activities that support the rural environment including primary production;
 - (f) is compatible with, and will result in the continued safe, efficient and effective use of regionally significant infrastructure;
 - (g) avoids adverse effects on significant natural and physical resources including regionally significant infrastructure, and where avoidance is impracticable, remedies or mitigates those effects on those resources and infrastructure;
 - (h) facilitates the establishment of papakāinga and marae; and
 - (i) avoids conflicts between incompatible Activities.

Objective 5.2.2 Integration of land-use and regionally significant infrastructure (Wider Region)

In relation to the integration of land use and regionally significant infrastructure:

1. To recognise the benefits of enabling people and communities to provide for their social, economic and cultural well-being and health and safety and to provide for infrastructure that is regionally significant to the extent that it promotes sustainable management in accordance with the RMA
2. To achieve patterns and sequencing of land-use with regionally significant infrastructure in the wider region so that:
 - a. development does not result in adverse effects on the operation, use and development of regionally significant
 - b. adverse effects resulting from the development or operation of regionally significant infrastructure are avoided, remedied or mitigated as fully as practicable.
 - c. there is increased sustainability, efficiency and liveability.

Policy 5.3.2 Development conditions (Wider Region)

To enable development including regionally significant infrastructure which:

1. ensure that adverse effects are avoided, remedied or mitigated, including where these would compromise or foreclose :
 - a. existing or consented regionally significant infrastructure;
 - b. options for accommodating the consolidated growth and development of existing urban areas;
 - c. the productivity of the region's soil resources, without regard to the need to make appropriate use of soil which is valued for existing or foreseeable future primary production, or through further fragmentation of rural land;
 - d. the protection of sources of water for community supplies;
 - e. significant natural and physical resources;
2. avoid or mitigate:
 - a. natural and other hazards, or land uses that would likely result in increases in the frequency and/or severity of hazards;
 - b. reverse sensitivity effects and conflicts between incompatible activities, including identified mineral extraction areas; and
3. integrate with:
 - a. the efficient and effective provision, maintenance or upgrade of infrastructure; and

- b. transport networks, connections and modes so as to provide for the sustainable and efficient movement of people, goods and services, and a logical, permeable and safe transport system.

5.3.9 Regionally significant infrastructure (Wider Region)

In relation to regionally significant infrastructure (including transport hubs):

1. avoid development which constrains the ability of this infrastructure to be developed and used without time or other operational constraints that may arise from adverse effects relating to reverse sensitivity or safety;
2. provide for the continuation of existing infrastructure, including its maintenance and operation, without prejudice to any future decision that may be required for the ongoing operation or expansion of that infrastructure; and
3. provide for the expansion of existing infrastructure and development of new infrastructure, while:
 - a. recognising the logistical, technical or operational constraints of this infrastructure and any need to locate activities where a natural or physical resource base exists;
 - b. avoiding any adverse effects on significant natural and physical resources and cultural values and where this is not practicable, remedying or mitigating them, and appropriately controlling other adverse effects on the environment; and
 - c. when determining any proposal within a sensitive environment (including any environment the subject of section 6 of the RMA), requiring that alternative sites, routes, methods and design of all components and associated structures are considered so that the proposal satisfies sections 5(2)(a) – (c) as fully as is practicable

Objective 6.2.1 - Recovery framework

Recovery, rebuilding and development are enabled within Greater Christchurch through a land use and infrastructure framework that:

- (1) identifies priority areas for urban development within Greater Christchurch;
- (2) identifies Key Activity Centres which provide a focus for high quality, and, where appropriate, mixed-use development that incorporates the principles of good urban design;
- (3) avoids urban development outside of existing urban areas or greenfield priority areas for development, unless expressly provided for in the CRPS;
- (4) protects outstanding natural features and landscapes including those within the Port Hills from inappropriate subdivision, use and development;
- (5) protects and enhances indigenous biodiversity and public space;
- (6) maintains or improves the quantity and quality of water in groundwater aquifers and surface water bodies, and quality of ambient air;
- (7) maintains the character and amenity of rural areas and settlements;
- (8) protects people from unacceptable risk from natural hazards and the effects of sea-level rise;
- (9) integrates strategic and other infrastructure and services with land use development;
- (10) achieves development that does not adversely affect the efficient operation, use, development, appropriate upgrade, and future planning of strategic infrastructure and freight hubs;
- (11) optimises use of existing infrastructure; and
- (12) provides for development opportunities on Māori Reserves in Greater Christchurch.

Objective 6.2.4 – Integration of transport infrastructure and land use

Prioritise the planning of transport infrastructure so that it maximises integration with the priority areas and new settlement patterns and facilitates the movement of people and goods and provision of services in Greater Christchurch, while:

- (1) managing network congestion;
- (2) reducing dependency on private motor vehicles;
- (3) reducing emission of contaminants to air and energy use;
- (4) promoting the use of active and public transport modes;
- (5) optimising use of existing capacity within the network; and
- (6) enhancing transport safety.

Policy 6.3.5 – Integration of land use and infrastructure

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

- (1) Identifying priority areas for development to enable reliable forward planning for infrastructure development and delivery;

- (2) Ensuring that the nature, timing and sequencing of new development are co-ordinated with the development, funding, implementation and operation of transport and other infrastructure in order to:
 - (a) optimise the efficient and affordable provision of both the development and the infrastructure;
 - (b) maintain or enhance the operational effectiveness, viability and safety of existing and planned infrastructure;
 - (c) protect investment in existing and planned infrastructure; and
 - (d) ensure new development does not occur until provision for appropriate infrastructure is in place;
- (3) Providing that the efficient and effective functioning of infrastructure, including transport corridors, is maintained, and the ability to maintain and upgrade that infrastructure is retained;
- (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 within an existing residentially zoned urban area, residential greenfield area identified for Kaiapoi, or residential greenfield priority area identified in Map A (page 64); and
- (5) Managing the effects of land use activities on infrastructure, including avoiding activities that have the potential to limit the efficient and effective, provision, operation, maintenance or upgrade of strategic infrastructure and freight hubs.

Policy 6.3.6 Business land

To ensure that provision, recovery and rebuilding of business land in Greater Christchurch maximises business retention, attracts investment, and provides for healthy working environments, business activities are to be provided for in a manner which:

- 1. Promotes the utilisation and redevelopment of existing business land, and provides sufficient additional greenfield priority area land for business land through to 2028 as provided for in Map A;....
- 8. Ensures reverse sensitivity effects and conflicts between incompatible activities are identified and avoided or mitigated against;..

Attachment C: Assessment of Infrastructure Principles within proposed Strategic Directions

Provision / Relief in submissions	Principle	S42A Recommendation.	Issue
SD-IR-01 The important infrastructure needs of the community are fulfilled, and their operation is protected <u>from incompatible development and reverse sensitivity effects.</u>	Principle 1 - Distinguishing Principle 3 - Managing the effects on Important Infrastructure.	Addition is unnecessary as 'sufficient coverage' in the current objective, and SD-DI-O2 and EI-O3 that seek that Important Infrastructure is not compromised by incompatible activities.	Objective is overly general, requires a qualifier as does not specify protection from what, and potentially enlarges scope from what would be appropriate (i.e enabling works for protection from natural hazards). Recommended amendment to focus on 'Benefits' of Important Infrastructure. Recognise that Important Infrastructure has subnational/regional importance / wellbeing benefits which should, in achieving the overall purpose of the Act be balanced against environmental effects.
SD-IR-02 SD-IR-02 Effects of Important Infrastructure The development, upgrade, maintenance, and operation of all important infrastructure is enabled in a way that minimises adverse effects, while having regard to the practical constraints and the logistical and technical practicalities associated with important infrastructure. <u>a. The social, economic, environmental and cultural benefits of important infrastructure are recognised and provided for, and its safe, efficient and effective development, upgrade, maintenance and operation is enabled; and</u>	Principle 1 - Distinguishing Principle 2 - Managing effects of... Principle 3 - Managing effects on...	Repeats SD-IR-01. Purpose of SD-IR-02 is to look at development of infrastructure and effects arising from it. Clause (a) repeats the Act and RPS, but is too liberal Clause (b) incompatible development is already covered in SD-IR-01. Clause (b)(i) is more appropriately addressed in policy rather than a Strategic Direction. Clause (c) largely repeats notified objective, but narrows the application of the objective to the consideration of economic benefits.	Objective is general, does not given effect to higher order statutory framework and conflates Principle 1 and Principle 2 . Solution is to refocus Objective on Principle 3 (effects on Important Infrastructure) and provide greater specificity and prescription – the need to protect Important Infrastructure from adverse effects. As identified the ' how ' (policy) of protection for individual infrastructure can be appropriately addressed through insertion of SD-IR-P1. Provide for explicit Objective on Effects of Important Infrastructure

<p><u>b. Important Infrastructure is protected by avoiding adverse effects from incompatible development and activities, including reverse sensitivity effects. This includes:</u></p> <p>...</p> <p><u>i. avoiding noise sensitive activities within Port Zone 55dB LAeq Noise Control Overlay; and</u></p> <p><u>c. The adverse effects of important infrastructure on the surrounding environment are managed, having regard to the economic benefits and technical and operational needs of that important infrastructure.</u></p>			<p>(Principle 2) through insertion of new SD-IR-02.</p>
<p>SD-UFD-O1</p> <p>There is sufficient feasible development capacity <u>in appropriate locations</u> to:</p> <p>(1) meet anticipated demands for housing and business activities <u>and</u></p> <p>(2) <u>promote well-functioning urban environments.</u></p>	<p>Principle 2</p> <p>Principle 3</p>	<p>Requirement for 'appropriate locations' and 'promote well-functioning urban developments' is addressed in UFD-O1 and UFD-03</p>	<p>The addition of the qualifier '<i>in appropriate locations</i>' is necessary to ensure that the provision of housing and business supply through this objective is linked to those SD provisions which manage the conditions by which growth is to be provided. Especially given the 'Overview' Statement that there is no hierarchy of provisions, nor primacy.</p> <p>Without the qualifier 'appropriate' there is no statutory requirement for the other SD provisions to prevail, where housing and business supply conflicts with consolidation, cultural values, natural landforms etc....</p> <p>The term 'well-functioning urban environment' reflects the phrase used in the NPS-UD (Policy 1) and would act as a qualifier for the provision of housing and business land. These matters are not apparent in the SD Chapter but are reflected in the Urban</p>

			Growth Chapter, accordingly the s42A Officer is agreed with in this instance.
<p>SD-UFD-O3</p> <p>Urban growth and development:</p> <ol style="list-style-type: none"> 1. is well-integrated with the efficient provision, including the timing and funding, of infrastructure; and 2. has the ability to manage or respond to the effects of climate change;. <p><u>(3) manages reverse sensitivity effects and conflict between incompatible activities, including avoiding development which would limit the operation or development of existing and consented Important Infrastructure.</u></p>	<p>Principle 1</p> <p>Principle 3</p>	<p>The Officer recommends that these matters are rejected as they are, in his view, contained within existing SD Objectives.</p>	<p>As identified, it is not considered that the SD framework appropriately 'gives effect' to these CPRS matters as identified in the Principles above.</p> <p>The recommended provision is considered to be a fundamental component in terms of managing both urban growth and integration with infrastructure, and recognising and managing activities between incompatible activities and reverse sensitivity effects.</p>