

**BEFORE THE CHRISTCHURCH REPLACEMENT
DISTRICT PLAN INDEPENDENT HEARINGS PANEL**

IN THE MATTER OF The Resource Management Act
1991 and the Canterbury
Earthquake (Christchurch
Replacement District Plan) Order
2014

AND

IN THE MATTER OF The Residential Proposal (Chapter
14) and the Subdivision,
Earthworks and Development
Proposal (Chapter 8).

SUBMITTER **Independent Fisheries Limited**
(Submitter 732/ Further Submitter
1453)

SUBMISSIONS ON BEHALF OF INDEPENDENT FISHERIES LIMITED

22 APRIL 2015

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MAY IT PLEASE THE PANEL

1 These submissions address:

- (a) Interpretation of Policy 6.3.5(4) of the Regional Policy Statement (RPS); and
- (b) Uncertainty and Integrity of the Air Noise Contour Location.

Interpretation of Policy 6.3.5(4)

- 2 Counsel acknowledge that the interpretation of Policy 6.3.5(4) of the Regional Policy Statement (RPS) is central to the question of whether or not intensification with the living zones of the Operative City Plan is to be enabled within the Residential Zones promoted by the Proposed Replacement District Plan.
- 3 On this matter, Counsel respectfully adopts paragraphs 61-65 of the opening submissions on behalf of the Crown, dated 30 March 2015 and the submissions on behalf of the Mebo Family Trust, dated 17 April 2015.

Uncertainty and Integrity of the Air Noise Contours

- 4 The Panel will no doubt be acutely aware of the extensive history of litigation behind the air noise contours, including more particularly the debate as to whether the 50 dBA or 55 dBA Ldn contour is the most appropriate for setting the Outer Control Boundary.
- 5 IFL accepts that, for the purposes of the Proposed Replacement District Plan (Proposed Plan), the Minister's decision to approve the Land Use Recovery Plan on 06 December 2013 means that the policy of avoidance for noise sensitive activities within the 50 dBA contour is embedded in the RPS.
- 6 The issue of the location of the various noise contours however remains at large.
- 7 The air noise contours are all derived from the same data. In other words, data collected from the busiest 3 months of commercial aircraft movement to establish the Airport's compliance with the 65 dBA Ldn Contour at identified locations (as set out in Exhibit 13) is extrapolated to define the location of the 55 and 50 Contours.
- 8 Mr Blair has advised in his evidence and under cross-examination that the 65 and 55 contours will be addressed in Phase 2. He accepted that if the 65 and 55 dBA contours are wrong, the same must apply to the 50 dBA Ldn contours:¹

MR CLEARY: Given the relationship between those contour lines and the 50 dBA contour lines, if the 55 and 65 contour lines are wrong then intuitively that would mean that the 50 contour lines are wrong.

MR BLAIR: Intuitively, yes.

- 9 CIAL's planning witness, Mr Bonis, agreed²:

MR CLEARY: Because Mr Blair, when I cross-examined him last week, he said that the 65 and 55 contours would be part of stage two, and I asked him if he accepted that if the 65 and 55 are wrong, then intuitively, the 50 must be wrong; are you able to agree with that statement?

¹ Residential Hearing Transcript, 31/3/2015 at p.263

² Residential Hearing Transcript, 16/04/2015 at p.958

MR BONIS: My understanding is that they were modelled as a package so they would have to be, yes.

- 10 Mr Day was cross-examined on the accuracy of the projections for the previous City Plan contours, which he accepted were "grossly inaccurate". In my submission, there could be no other proper description for these projections given that the total number of aircraft movements as at 2013 sat at approximately 50% of the movements forecast for the 1994 to 2015- 2020 period. These were projected to reach 140,000 movements per annum when the Airport reached capacity.
- 11 Mr Day accepted that there was a significant (approximately 20%) decrease in the number of commercial aircraft movements associated with the Airport between 2005 -2013, as set out in Exhibits 12 & 13.
- 12 In evidence led by Counsel for CIAL, the bird strike witness (Mr McAnergney) advised that this decline had been arrested in 2014 with an increase from 2013 to 75,052 commercial aircraft movements:³

MS APPLEYARD: Just before you answer any questions, Mr McAnergney, you might recall that my friend, Mr Cleary, who is unfortunately, not here, but I will ask some questions about the 2014 aircraft movement numbers and Mr Day referred to a number of 96,000 but said that should be checked with you. Are you able to shed any light on the 96,000 number?

MR McANERGNEY: Yes, there are several numbers that are used and the numbers that I think were being referred to come from the noise report.

MS APPLEYARD: Yes.

MR McANERGNEY: We tend to plot for public purposes scheduled passenger transport numbers. So in 2013 the number was 71,715 scheduled passenger transport movements, 2014, 75,072 movements. A growth of about 4 and a half to 5 percent over that period.

Mr Day mentions in his evidence 96,000 movements because that includes other aircraft movements not scheduled passenger transport movements such as overnight freight movements, RNZAF movements, Antarctic movements and the like, general aviation type movements.

MS APPLEYARD: And just one final question, the question that Mr Cleary asked about the drop effectively from 80-odd thousand down to 71,000 in 2013, are you able to attribute that drop to anything?

MR McANERGNEY: There was a major drop in aircraft movements as a result of the Christchurch earthquake, because there was no hotel 30 accommodation available in Christchurch or very limited hotel accommodation available in Christchurch.

³ Residential Hearing Transcript, 14/04/2015 at p.789

- 13 Mr McAnergney's explanation as to decline in commercial aircraft movements post 2011 appears reasonable. Notably however, he failed to even attempt an explanation as to the decline (as shown in Exhibits 12 & 13) in movements from approximately 86,000 to approximately 75,000 in the pre-earthquake years of 2005-2010. Further, the increase in commercial aircraft movements for one year in ten does not address the gross inaccuracy of the projections.
- 14 Mr Bonis accepted that his assessment of the costs and benefits of disabling intensification in the residential zones may be different if the contours are in the wrong locations and that the integrity and certainty of the contours was a real issue:⁴

MR CLEARY: And in terms of your table of costs and benefits, or benefits and costs on page 31 of your evidence – I am just wondering Mr Bonis, does it concern you at all that the opportunity costs incurred by members of the community who cannot develop their properties, maybe costs unnecessarily borne, if the contours are wrong?

MR BONIS: That would stand to reason effectively, if they are too wide from what they actually should be and changed, then there would be the imposition of regulation on areas that was unnecessary and inappropriate.

MR CLEARY: And would you also accept that the benefits, it is a corollary, that the benefits for the Airport might be overstated, it seems that - - -?

MR BONIS: Yes, that would be the corollary of that.

MR CLEARY: And one of the benefits listed is the integrity and certainty of the contour, 50dBA contour?

MR BONIS: Yes.

MR CLEARY: Do you accept that that is a real issue?

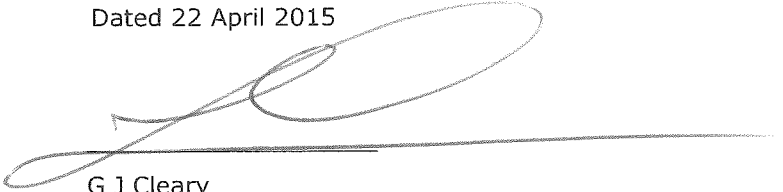
MR BONIS: Yes, very much.

- 15 Having regard to the extensive litigation around the air noise contours, it is more than plausible to suggest that the costs associated with this litigation, and the opportunity costs lost from an inability to develop land could have been avoided if the projections for commercial aircraft movements had not been *grossly inaccurate*.
- 16 The Panel cannot of course turn the clock back, rather it will be faced with a decision in Phase 2 as to whether or not the air noise contours on which the 65 and 55 Ldn contours are based are accurate for the planning period up to 2035, or such other reasonable planning period as may be deemed appropriate.
- 17 IFL remains of the view that matters relating to the location of the Air Noise Contours are more properly addressed in Phase 2 when all potentially interested parties, including landowners in Phase 2 zones impacted by contours (IFL included) will have the opportunity to make submissions and be heard. There is an inherent risk that a decision made on the location of the noise contours in Phase 1 may impact adversely on these potential participants.

⁴ Residential Hearing Transcript, 16/04/2015 at p.959

18 Accordingly, Counsel requests that the Panel defer any decision on the contour locations until all submissions have been considered, and all evidence heard, on Phase 2 of the Proposed Replacement District Plan.

Dated 22 April 2015

A handwritten signature in black ink, consisting of a large, stylized 'G' followed by 'J' and 'Cleary'. The signature is written over a horizontal line.

G J Cleary

On behalf of Independent Fisheries Limited.