IN THE MATTER OF The Canterbury Earthquake

(Christchurch Replacement District Plan)

Order 2014

AND

IN THE MATTER OF Chapter 6: General Rules and Procedures and

Chapter 14 Residential

Memorandum of "Submitter Group" In reply to joint memorandum filed by CCC and CIAL seeking minor corrections to Chapter 6 and Chapter 14

("Submitter Group") : David Bastin (2078), Bruce Campbell (2489), David LAWRY (2524), Mike Marra (2054), Vanessa Payne (2191), John Sugrue (2567, Gerrit Venema (2091)

Date: 26 September 2017

May it please the Panel

We thank the panel for the additional time to research and reply to the requested joint CIAL and CCC minor alteration relating to the air noise boundary. The firm comments, reminding us that this is a confined process to consider minor corrections to a decision in accordance with the Order in Council are acknowledged.

To be clear and in the context of much of our exhaustive submissions we have raised with you, the controller of the conduct in these proceedings, yet another situation has arisen where we believe the panel is being been misled. Conduct issues, despite the confined process we are reminded of, are, we submit able to be raised at any point when identified. We have done so on several occasions throughout this process as will be revised in this submission.

The requested minor change originates from Jo Appleyards second addendum dated 25 June 2015 and the Annexure 1: outlines the General Reasons for the submission and amendments. It is in the comments section that again misleading comments are made.

The panel is being told that The 65 dBA Ldn/95 SEL airport noise contour line was modeled in accordance with NZS6805:1992 using inputs agreed by a Panel of experts in 2007 and then supplied to CCC for inclusion on the planning maps. It is asserted that CIAL supplied this airport noise contour line to CCC.

From our enquiry to date the following is emerging as the truth.

The assertion that the 65dBA Ldn/95 SEL airport noise contour was modeled; by CIAL and supplied to CCC this is incorrect.

It would be very easy for the reader to be influenced into think that this modeling was actually carried out in 2007. This we believe intended influence is further

reinforced in the next item in of Annexure 1: in the comments section, which I now quote.

“The notified planning maps contain a mapping error as the 65 dBA Ldn/95 SEL contour is in the wrong location and does not reflect the location of the air noise boundary which resulted from the expert Panel process in 2007.”

The following is the actual factual situation.

CIAL did not provide the 65/95 dB Ldn/95 SEL contour line to the Council as asserted, they actually supplied the 65dB Contour and 95 dB Lae Contour.

It was the council who then used that data from these two contours to generate the combined 65/95dB Contour for the purpose of the particular rules that relate to it. Not CIAL as asserted.

This was not carried out in 2007 it was carried out in 2012 when incorrect data was provided to CCC by CIAL with the correct data only being supplied to CCC in March 2015.

This corrected data was not initially used by GIS staff to generate the 65/95dB Contour for the Stage 2 notification; this has led to the CIAL submission seeking that the composite contour be corrected.

These truths then open up a number of questions

Who decided that the 2007 65/95 dB Ldn/ 95 SEL contour line actually modeled in in 2007 was actually in the wrong location?

What motivated that revelation and what motivated the re-evaluation/modeling of that contour line in 2012 and again in 2015 leading to the current minor change.

Given that no other party is able to have the 2007 contours re-evaluated, or effect any changes how is this change been allowed at all?

Other than the inner corner changes we are aware that this change generated other changes, what are those? Is it correct, as we suspect the change has removed the Air Noise boundary from land CIAL now seek to develop?

We are aware that CIAL owned land above Raywood Fresh was re-zoned during these processes, this rezoning has allowed commercial usages that the previous urban rural zoning would not have allowed permitted. Our question is, has the re-evaluation of the air noise contour, producing we believe the shrinking of it in this area, facilitated the removal of an impediment to that re-zoning?

We have confirmed that CCC has not had any of this work peer reviewed by for example Dr CHILES.

The outcome of all the errors is that the notified version of the contour, is now late in this process, stated as being in the wrong place and is sought to be changed. CCC have carried out no independent peer review of the contour data nor asked why it is being changed from the 2007 version.

We submit that the Panel is at risk of **again** of accepting, without enquiry, misleading submissions that allow the competitive advantages that CIAL has worked to achieve and CCC allowed. This is no minor change it arises from a re-evaluation that should not even have taken place.

We say **again** for the following reasons:

We advised you, of our concern that the submissions made by Counsel for CIAL and Counsel for CCC, that there were no impediments to that Stage one panel, simply rolling over the Airport designation, were highly misleading.

The refusal to even entertain an objective evaluation of the facts is in our view a failure in ensuring the integrity of this process. An investigative report Titled Airport Designation Issue: Dakota Park was presented to you in support of the facts, which are convincing.

Briefly and in order to remind you at page 8 of Commissioners Collins decision on the Airport Purposes designation he states:

“Having considered all the evidence I have come to the view that the Christchurch City Council should recommend, pursuant to section 171 of the Resource management Act 1991, that the requirement issued by Christchurch International Airport Limited for the designation of land for “Airport Purposes,” **more specifically for the developments set out in clause 1 (c) of the Notice of Requirement, in the vicinity of Russley Road, Avonhead Road and Grays Road Christchurch be confirmed for a period of 10 years sought subject to the area designated being reduced to no more than 45 hectares plus any additional area needed for access and that new plan showing the area to be designated should be prepared accordingly.**

This was signed 24 November 1997

The designation was not approved for the very wide “Airport Purposes” it has been manipulated to be for. It was made very specifically for the building of an air freight and air cargo facility, that was to have new runway sidings, which would allow aircraft to roll up to these new buildings for ease of unloading. Critically the Commissioner went to great lengths to specify, that the designation was for 10 years only, and that after that time the designation over any land not used in terms of the designation would lapse.

Council during these proceedings has admitted it made an error and did not realize there was the ten year condition to the designation. Yet it has taken no action to rectify the matter.

CIAL initially appealed the Commissioners recommendation which they eventually did accept and which was incorporated into the Christchurch District Plan in 2000 following Council recommendation No 202 minus the ten year time limit condition.

As at 2010 none of the requirements of clause 1(c) of the Notice of Requirement had been carried out. Hence that designation then lapsed and no amount of rolling it over changes that fact. It was incorrectly rolled over by CCC who failed to appreciate the 10 year time line condition and again in this process as a result of the misleading submissions.

Despite our group proving these facts, you have allowed the flawed roll over of the designation approved in the Stage One process you are overseeing, to remain unquestioned.

That decision removes any remedies for the persons who were subjected to the coercion of the Public Works Act and perpetuates the dishonesty that the designation for "Airport Purposes" is an all-encompassing activity development enabling, one which on any objective evidence based evaluation it was not. It simply rewards that misleading assertion and lacks integrity.

In our view your refusal to investigate the truth, once we raised our, albeit late assertion, that your panel had been given misled, is simply wrong. There is a far greater harm being facilitated by allowing the lapsed designation to remain thereby removing previous property owners redress rights, than the fact we were late in identifying the misleading assertion.

We believe the same risk, that of rewarding misleading assertions with CIAL and or CCC desired outcomes, is present with the current minor error change being requested. Having outlined the misleading assertions and the lack of peer review, to simply acquiesce to the request without further investigation we assert is unsafe evidentially, and fails any integrity test. The fact that Ms. Appleyard the author of this request is one of the Counsels involved in the designation assertions to that panel is also material to your decision we submit.

Another example of misleading assertions and the resulting outcome being allowed to remain, or being resolved to CIAL advantage is the avoidance of all new noise sensitive activities under the 50dBA air noise contour.

Our submitter group engaged a world leading acoustical expert who advised that no other regulatory body in the world used such a low noise level to assert activity avoidance rules. CIAL and initially CCC assertioned that such a rule existed where eventually proven to be incorrect by Mrs DIXON.

CIAL and CCC have pursued land owners, enforcing this now known to have not been in place rule, by denying activity resource consents and court hearings over many years. They have refused land owners development opportunities, while

carrying out those very activities on land CIAL owned but affected by far higher noise levels. The intensity of this behavior was seen by you in CIALs approach to the University of Canterbury development aspirations, where they demanded what is effectively a right to veto any new development. This eventually resulted in an exemption which conveniently removed the scrutiny of this absurd rule.

However rather than any penalty or adverse comment about this error your panel, despite indicating that it could not make regional wide decisions, remedies this matter by actually putting into the plan this very avoidance rule. Rewarding the misleading assertion that it existed, ignoring the highly contentious nature of such a rule and the expert evidence as to its absurdity and with no notification to the wider public that were having their land owners development rights removed.

Yet another example is the engine testing matter. Our group exposes the competitive advantage CIAL enjoyed over several decades from their commercial engine repair and testing regime and the resulting industrial noise it generated. The inappropriate enabling By-law that CIAL wrote for itself was never questioned by CCC the statutory regulator of that pollution. As a result, hundreds of complaints about what was the most sever noise pollution in the Region were referred back to CIAL and ignored. Yet despite the evidence from Professor CLARKE, Dr. Chiles and in a moment of honesty Mr. Day, that the Ldn metric was inappropriate for measuring industrial noise and that the 7 day averaging significantly advantaged the polluter and that this industrial noise should be measured by the Leq metric specific to industrial noise, this expert evidence has been rejected. The only conclusion available is that the panel found that the noise is not industrial in nature. No at source mitigation has resulted and we the neighbours of CIAL are still regularly awaken at night due to their pollution. Certainly not an evidence based outcome

We have been warned to not raise new matters. Again we believe such a warning, is not appropriate with regards to exposing misleading and ethically wrong actions of CIAL or CCC.

During the course of this latest investigation we have determined that Commissioner Mountford has been misled. He approved, via and outline process,

still allowed by the lapsed but rolled over "airport purposes" Designation, a new hotel currently being built **has been advised, by a currently unidentified CIAL member, that the proposed hotel was outside of the Air Noise Contour.**

I quote from that Outline Decision

"The Special Purpose Airport zoning would apply (if the designation could not be relied on) as the land zoned is divided into Aviation precinct and Development precinct. The hotel site is located in the Development precinct. Traveller's accommodation is anticipated in the zone but only where it is located outside the 65ldn noise contour, which the CIAL have confirmed is the case, (see Appendix 1, a plan supplied by CIAL which shows the proposed hotel location relative to the various zone boundaries in the DP review.)" This appendix 1 is simply incorrect; there is no question that the hotels in inside the air noise contour.

Despite CIAL obviously being aware of the location of the air noise contour as evidenced by Ms. Appleyerd minor change the subject of this minor error change request in 2015. CIAL have mislead Commissioner Mountford by supplying as Appendix one an incorrect and misleading map in 2016.

You may also see the irony that at the very time that CIAL is using their (lapsed) but rolled over designation process to fast track this new hotel, inside the air noise boundary, they were opposing the MAIL hotel development proposal on the grounds that it was a new activity in the much quieter 50dBA air noise contour and was therefore to be avoided.

A very clear example of how they utilize the contours to restrict competition there by very clearly gaining a competition advantage.

Finally I bring to your attention yet further misleading assertions in Ms. Appleyard initial submissions on behalf of CIAL to stage one and two of the Christchurch Replacement District Plan. In those submissions she swore that CIAL could not gain an advantage in Trade Completion through this submission.

The truth is that the régime of noise avoidance, bird strike and engine testing contours, and stealthy development of the airport purposes definition to now

mean anything CIAL wants it to, is actually all about ensuring an advantage in Trade Competition. It is this very competitive advantage that is being strategically sought throughout the process. CIAL intentionally and aggressively remove competition around their land through these layers of restrictions. All while actually developing the very activities refused to others, in a planning environment where no noise restrictions have been required by their owner CCC and where outline planning process significantly reduces costs and scrutiny.

If any doubt existed about this desire to gain a competitive advantage the following clearly offers proof. As already raise to you the PC84 Counsel for CIAL and CCC managed to gain acceptance from that Commissioner, that even though CIAL was not a key activity area, CIAL development would not be questioned by CCC until that development reached the stage that it significantly adversely impacted on the Central City's recovery. Again no comment arises from the panel with regards to this.

To be clear we oppose the minor change being sought. We seek further investigation by you the controller of integrity and conduct in this process. We do not believe the original decision makers ever questioned what we see as misleading facts. You have the power to ask questions under oath and determine the truth. It has been made very clear to us that we have little, so we leave your process with or integrity in place, but concerned about what we see as a failure to address the discrepancies we have raised.

For Submitter Group