

Before the Independent Hearings Panel
at Christchurch

under: the Resource Management Act 1991 and the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014

in the matter of: submissions and further submissions in relation to the proposed Christchurch Replacement District Plan

and: **Christchurch International Airport Limited**
Submitter 863 / F-1359

Statement of evidence of **Matt Bonis** (Definitions Proposal (Part))

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STATEMENT OF EVIDENCE OF MATTHEW WILLIAM BONIS

INTRODUCTION

- 1 My full name is Matthew William Bonis.
- 2 I am an Associate at Planz Consultants in Christchurch. I have held this position since 2009.
- 3 I hold a Bachelor of Regional Planning degree, and have been employed in the practise of Planning and Resource Management for some 17 years. I am a full member of the New Zealand Planning Institute.
- 4 I am presenting evidence on behalf of Christchurch International Airport Limited (*CIAL*) (Submitter number **863 / F1359**). I have presented evidence on behalf of *CIAL* for the following District Plan Proposals:
 - 4.1 Chapter 3 – Strategic Directions
 - 4.2 Chapter 10 – Designations
 - 4.3 Chapter 14 – Residential (Part)
 - 4.4 Chapter 15 – Commercial (Part)
 - 4.5 Chapter 16 – Industrial (Part)
- 5 I have provided details of my resource management experience in those hearings.
- 6 In preparing my evidence I have relied on the existing evidence before the Panel (for the Proposals identified in Paragraphs 4.1 – 4.5), specifically from **Mr Christopher Day** relating to noise issues. I have identified references to those statements in this evidence.
- 7 I have also read the Christchurch City Council’s evidence from **Mr Mark Stevenson, Mr Ivan Thomson, Ms J Carter and Mr David Falconer**.
- 8 In preparing my evidence I have reviewed the code of conduct for expert witnesses contained in Environment Court Practice Note (2014). I have complied with it in preparing my evidence.
- 9 I have also previously presented evidence to this Panel for those proposals in identified in Paragraphs 4.1 – 4.5 for Kiwi, Property

Council New Zealand, Lyttelton Port Company, Progressives, Bunnings and Waimakariri District Council¹.

- 10 I have discussed the matters raised in this evidence with **Mr Mark Stevenson, Mr Ivan Thomson** and **Mr Scott Blair** on 18 and 22 June 2015.

TERMS AND ACRONYMS

50dBA Contour – 50dBA Ldn Air Noise Contour

CRPS – Canterbury Regional Policy Statement

pDPR – Proposed District Plan Review

SPAZ – Specific Purpose (Airport) Zone

SUMMARY OF EVIDENCE

- 11 My evidence can be categorized into three sections:
- 11.1 Definitions relating to Bird Strike, which are sought to be carried over into the Part 2 Hearings. These matters are contained within Chapter 6.7 Airport Protection, and will be the subject of submissions, including from CIAL.
 - 11.2 Definitions relating to Sensitive Activities. The consolidated definition handed up as Exhibit 14 at the Commercial and Industrial Hearing is reliant on ensuring the appropriate 'nesting' of dependent definitions.
 - 11.3 Miscellaneous definitions, such as 'Freight Hubs' which CIAL maintain an interest in.
- 12 A summary of the definitions considered in this Statement of Evidence is provided in **Table 1** below. I have identified the respective definitions to be considered based on: the City Council's 13th May 2015 Statement of Issues and Definitions (Part); and the Council's Evidence in Chief.
- 13 Definitions contained in the pDPR or as submitted on are in '**bold**'.

¹ Kiwi Property Group Limited and Kiwi Property Holdings Limited, Submitter 761, Further Submitter 1352; Progressive Enterprises Ltd, Submitter 790, Further Submitter 1450; Bunnings Limited, Submitter 725, Further Submitter 1367; Lyttelton Port Company Limited, Submitter 915, Further Submitter 144, Waimakariri District Council, Submitter 968, Further Submitter 1200.

- 14 **Attachment A** provides a nested summary of the definition for Sensitive Activities, based on the consolidated definition in Exhibit 14 to the Commercial / Industrial Proposals.

Table 1 – Definitions

	<i>Definition</i>	<i>Recommended Approach</i>	<i>Comment</i>	<i>Council's Evidence</i>
Bird strike	Birds Strike	<i>Definition notified in Stage 1.</i> Accept Council Definition.	The term is used in Objective and Policy provisions in Stage 1 Proposals, particularly Objective 3.3.12. There appears to be no dispute between parties. The definition will be of some relevance in terms of Stage 2, Chapter 6 provisions but unlikely to be subject to debate.	Stevenson Definitions evidence [4.3] – [4.5]
	Bird strike risk activities	<i>CIAL sought definition for inclusion.</i> Deferral to Stage 2.	CIAL have submitted graduated definition under Stage 2, Chapter 6 provisions and will be considered at Chapter 6 hearing.	Stevenson Definitions evidence [4.10]
	Surface Water Management Structure	<i>Definition notified in Stage 1.</i> Delete (Recommended in Strategic Directions Bonis [71]).		Stevenson Industrial and Commercial evidence Attachment E
Sensitive Activity	Habitable Building	<i>Definition notified in Stage 1.</i> Deferral to Stage 2.	This definition has not yet been considered in any of the stage 1 hearings. Ms Carter recommends deferral to stage 2	Carter Definitions evidence page 11
	Residential Activity	<i>Definition notified in Stage 1.</i> The Ilam and Upper Riccarton Residents Association [738] requested a definition of ' boarding house '. Ensure definition of 'Residential activity' as referenced in the definition of	Mr Blair recommended retention of the definition of 'boarding house' in his evidence for the Residential proposal. Mr Thomson makes the same recommendation in his definitions evidence. It is currently not clear that that 'Boarding Houses' are	Thomson Definitions evidence [5.17] – [5.18]

	'Sensitive Activities' includes 'boarding house'	captured in the definition of 'Residential Activity'. This can be resolved through amending the definition of Residential Activity as a consequential change.	
Elderly Persons Housing Complex	<i>CIAL sought definition for inclusion.</i> Delete.	Mr Thomson recommends that this definition is not included on the basis that the consolidated definition of ' sensitive activities ' no longer makes reference to ' elderly persons' housing units or complex '. I Agree with Mr Thomson on deletion. Term no longer referred to in consolidated definition of ' Sensitive Activities ' and otherwise not used in the Stage 1 Proposals. Both Elderly Person's Housing Unit and Retirement Village remain nested as 'Residential Activities'.	Thomson Definitions evidence [5.44] - [5.51]
Family Flat	<i>CIAL sought definition for inclusion.</i> Accept	Relevant in terms of distinguishing from 'Minor Dwellings' for the purposes of Noise Sensitive Activities. Referred to in the definition of Residential Activity clause (a), also in Rule 14.2.2.1(P15) 25 March Version (Rebuttal Blair) for uplift of occupancy restrictions. Ensure remains as a 'Residential activity' as 'nested' within the broader in the definition of 'Sensitive Activities'	Thomson Definitions evidence [5.51] - [5.55]
Sensitive Activity	<i>Definition notified in Stage 1. CIAL submitted requesting amendment</i>		Stevenson Definitions evidence [5.6]

		Consolidate as per Exhibit 14 (Commercial / Industrial Proposal), and amended as per Stevenson [5.6] and below regarding clause (v) Custodial <u>and/ or supervised living accommodation where residents are detained.</u>		
Miscellaneous	Freight Depot	<i>CIAL sought definition for inclusion.</i> Delete.	Definition for Freight Depot is not included in the Stage 1 Proposals, and is a feature of Plan Change 84. Plan Change 84 when operative will be inserted, with any associated definitions including 'Freight Depot', into the final operative Plan.	Falconer Definitions evidence [4.12]

PART A - DEFINITIONS RELATING TO BIRD STRIKE

- 15 Overall, I consider that the definition of **Bird Strike** be accepted, and **Bird Strike Risk Activities** be deferred to the Stage 2 Hearings. These matters will be the focus of provisions in Chapter 6.7 'Aircraft Protection'.
- 16 The proposed District Plan provided a definition for '**Bird Strike**'. This definition was supported by the CIAL submission. The definition: "*means when a bird or flock of birds collide with an aircraft*".
- 17 The term is used within **Objective 3.3.12(b)(iv)**, as well as in the context of Residential, Subdivision, Commercial and Industrial Proposals². Rule 6.7.2.2.3 in Chapter 6 of the Stage 2 Proposals has consolidated these matters.
- 18 There is no debate between Mr Stevenson and myself as to the inclusion of the definition of '**Bird Strike**' as notified. The phrase, because of its clear intent does not probably necessitate its own definition. However, its inclusion does promote clarity, and it aids in the interpretation of **Objective 3.3.12(b)(iv)**, and also Policy relating to stormwater design³.
- 19 CIAL submitted to Stage 1 seeking to insert a definition for '**Bird Strike Risk Activities**'. This relief was the subject of several further submissions.
- 20 The definition request sought the insertion of:
- "Bird Strike Risk Activities: Includes, but is not limited to, the creation, design and management of water features, stormwater management systems, the establishment of refuse dumps, landfills, sewage treatment and disposal, pig farming, fish processing, cattle feed lots, wildlife refuges, abattoirs and freezing works, and any other activities that have the potential to attract numbers of dangerous bird species within 13 kilometres of Christchurch International Airport"*.
- 21 My evidence for CIAL at the Strategic Directions hearing outlined concern, not as to the inclusion of rules relating to management of bird strike, but the manner in which the definition would be applied.

² Refer Stevenson. Paragraph 4.3.

³ Should Policy 3.3.12(c)(iv), Policy 16.1.2.4 'Managing Stormwater' (Industrial Proposal), and Policy 14.1.6.6 'Stormwater Networks' (Residential Proposal) be retained in a manner that refers to 'Bird Strike'.

- 22 I recommend deletion of this definition based on its lack of clarity and spatial application. The term is not present in the Stage 1 Proposals and CIAL has submitted a refined definition of '**Bird Strike Risk Activities**' in its Stage 2 submission⁴.
- 23 Lastly, I recommended within my Strategic Directions Evidence⁵ deletion of the pDPR proposed term '**Surface Water Management Structure**'. This term is only used in the pRDP in relation to bird strike risk management. However, the proposed definition of '**Surface Water Management Structure**' would include many structures, enclosed tanks and below ground sumps that pose no bird strike risk. This term has also been notified in Stage 2 with slightly altered wording. However, the term is not used in relation to Rule 6.7.2.2.3 '**Bird Strike Management Areas**' nor associated Objectives and Policies in Section 6.7.1. Unless necessary for another purpose, I maintain my position that it should be deleted from the Plan.

PART B – 'SENSITIVE ACTIVITIES'

Sensitive Activities Definition

- 24 The Stage 1 definition has been submitted on by a number of parties⁶.
- 25 Exhibit 14 to the Industrial and Commercial Proposal sought to consolidate the Sensitive Activity Definition. The consolidated definition was based on several Planners representing Strategic Infrastructure and the City Council convening on the matter⁷.
- 26 The principles behind the consolidated definition⁸ are:
- 26.1 a basis in the higher order planning documents, such as the CRPS and the National Policy Statement on Electricity Transmission with regard to sensitive activities; and

⁴ CIAL have submitted a graduated definition for Bird Strike Risk Activities for Stage 2 as limited to the application of Rule 6.7.2.2.3.

⁵ Bonis. Strategic Directions [71]

⁶ Christchurch International Airport, Sub #863; the Crown Sub#495; Transpower Sub#832; Lyttelton Port Company Sub#915; Radio New Zealand [Sub#596]; Mobil Oil NZ, Z Energy Ltd and BP Oil NZ Ltd [Sub#723]; KiwiRail [Sub#897] and Orion [Sub#922].

⁷ Commercial and Industrial hearing, Exhibit 14 "CIAL 863 (Bonis) – Sensitive Activities – Record of informal discussions on the definition of sensitive activities – 25052015".

⁸ As are recorded in Exhibit 14 Commercial / Industrial Proposals.

- 26.2 A desire to remove extraneous and overly specific references within the **sensitive activity** definition where such specific activities are captured within a more general definition (i.e. 'residential activities', 'education activities', 'guest accommodation' or 'health care facilities')⁹ (refer **Attachment A**).
- 27 I agree with **Mr Stevenson's** amendments¹⁰ to the definition of '**sensitive activities**'. There are, however some matters I wish to briefly discuss below.
- Health Care Facilities*
- 28 I agree with **Mr Stevenson's** recollection of **Mr Day's** answers to the Panel with regard to Health Care facilities in the 50 dBA Ldn Contours. **Mr Stevenson's** caveat on Health Care Facilities only being limited within the 50dBA contour where accommodation is provided is supported;
- Corrections facilities and Custodial Accommodation*
- 29 **Mr Day**,¹¹ when asked about corrections facilities, stated that prisoners deserve the same protection from environmental noise as any other person, but that reverse sensitivity would unlikely be an issue. **Mr Day** identified that from his experience, prisons are acoustically designed in terms of their internal environment.
- 30 The CRPS definition of noise sensitive activities is not explicit as to incorporating prisons or corrections facilities. However, in my view and in light of **Mr Day's** answers above, these activities are noise sensitive.
- 31 In the pDPR custodial accommodation where residents are detained would be excluded from the definition of **Residential Activity**¹².

⁹ I noted in submitting the Exhibit to Panel that there is consequential complexity in a lay person being able to determine the nature of their specific activity as to being contained as a Sensitive Activity.

¹⁰ Stevenson. Paragraph 5.7.

¹¹ Industrial and Commercial Hearing, Transcript 25 May 2015, page 1000, line 35 to page 1001, line 10.

¹² **Residential Activity** means the use of land and/or buildings for the purpose of living accommodation and includes:

- (a) a residential unit or a family flat;
- (b) emergency and refuge accommodation; and
- (c) sheltered housing;

but does not include:

- (e) guest accommodation; and
- (f) the use of land and/or buildings for custodial and/or supervised living accommodation where the residents are detained on the site.

- 32 Mr Stevenson has recommended insertion into the definition of **Sensitive Activities**, clause (v)¹³

'Custodial corrections facilities with no overnight accommodation'.

- 33 'Custodial corrections facilities' is however not further defined.
- 34 I agree with the reasoning behind Mr Stevenson's additional clause (v) *Custodial Correction facilities with overnight accommodation*, although I recommend a small amendment to align with clause (e) of the Residential Activity definition which otherwise excludes such activities from being **Residential Activity**.
- 35 Accordingly, '**Sensitive Activities**' clause (v) as recommended by Mr Stevenson should read:

(v) Custodial **and / or supervised living accommodation where the residents are detained on the site.** ~~correction facilities with overnight accommodation.~~

- 36 The Minister of Corrections is a requiring authority. Designated sites for corrections facilities can therefore be developed using outline plans¹⁴ under s176A RMA, including for the provision of accommodation. The benefit of amending the definition of '**Sensitive Activities**' to include custodial accommodation as defined above is that it would highlight the fact that such activities are noise sensitive the need to consider alternative locations outside the 50dBA contours or additional acoustic attenuation.
- 37 Amending the definition in this manner also removes potential uncertainty as to whether other supervised living accommodation types where persons are detained on the site, would also be noise sensitive.

Education Activities

- 38 The remaining issue is whether there is sufficient clarity within clause (b) which, within Exhibit 14, states:

(b) 'flight training or other trade and industry training facilities located on land zoned or legally used for commercial or industrial activities'.

(emphasis added)

¹³ Stevenson. Paragraph 5.6, 5.7.

¹⁴ An example being Paparua Prison under the 50dBA Contours

- 39 Firstly, in my view 'Flight Training' does not require specific definition given its clear and unambiguous meaning.
- 40 Secondly, in my view the Specific Purposes (Airport) zone constitutes '*land legally used for commercial or industrial activities*' within this clause. However any ambiguity in this manner can be removed through explicit reference in clause (b) to the Specific Purposes (Airport) Zone.
- 41 I reach this view on the basis that The Specific (Purposes) Airport Zone specifically permits a range of commercial and industrial activities, as well as permitting 'Educational Facilities (excluding pre-schools)¹⁵. The basis for the definition of '**Trade and training facility**' was introduced through the CRPS as narrowly focused to preclude such activities outside the SPAZ. **Trade and Training Facilities** are also a class of activities permitted in industrial and commercial zones¹⁶.
- 42 Clause (b) could therefore be amended as below:

(b) *Flight training, or other trade and industry training facilities located on land zoned or legally used for commercial and industrial activities, **including the Specific Purpose (Airport) zone.***

- 43 There was discussion at the Commercial / Industrial Proposal as to ambiguity and overlap of various education definitions given the general nature of the '**Trade and Industry Training Facility**', and '**Tertiary Education and research activity**' definitions.
- 44 The concern expressed was that a Polytech could be considered both: a **Trade and Industry Training Facility** and able to operate under the 50dbA contours; and a **Tertiary Education and research activity**, and thereby excluded.
- 45 In my view, a Polytech complex would come under the ambit of **Tertiary Education and research activity** and would appropriately be restricted under the 50dBA noise contours. Individual occupational courses offered by a Polytech where these

¹⁵ Rule 3-8.3.4.2(b)7: "*Educational facilities (excluding pre-schools) provided for persons working in the Airport zone and passengers and visitors using the airport, or associated within aviation activities at the airport, or with the Antarctic programme*". Note PC84 is subject to Appeal.

¹⁶ For example: Industrial General Zone. Rule 16.2.2.1(P5)

come under the ambit of **Trade and Industry Training Facility** would however be appropriately enabled under the 50dBA contours.

Residential Activities

- 46 **'Habitable Building', 'Boarding House' and 'Elderly Persons Housing Units, and 'Family Flats'** are considered to be Residential Activities. The nested definitions are identified in **Attachment A**.
- 47 I consider that it is not clear whether **Mr Thompson's** recommendation relating to **Boarding Houses** is nested as a **Residential Activity**. To avoid any ambiguity, I recommend that the definition of Residential Activities make this explicit, as follows:

Residential Activity

Means the use of land and / or buildings for the purpose of living accommodation and includes:

- a. A residential unit, **boarding house** or a family flat.

- 48 In terms of **Elderly Persons Housing Complexes**, CIAL sought inclusion of a definition for 'elderly persons housing units or complexes' as this phrase is a clause in the notified definition of 'Sensitive Activities'.
- 49 I agree with **Mr Thomson**¹⁷ that the removal of this term within the consolidated 'Sensitive Activities' definition renders the request for the term **Elderly Persons Housing Complexes** redundant.
- 50 I note and support the retention of the term **Elderly Person's Housing Unit**¹⁸ as this definition, ('one of a group of residential units') remains within the ambit of 'Residential Activities', and hence 'Sensitive Activities' under the consolidated definition.
- 51 **Family Flats** are discussed by **Mr Thomson** at his paragraph 5.53 – 5.55. He accepts CIAL's submission seeking inclusion of this definition. I understand that the City Council is seeking to replace the operative plan provisions associated with Family Flats with the more encompassing 'minor dwelling unit' provisions.

¹⁷ Thomson. Paragraph 5.47 – 5.51

¹⁸ Thomson. Paragraph 5.46

- 52 This matter was raised in evidence in relation to the Residential Proposal, and is also the subject of CIAL submissions on the Stage 2 Rural Proposal.
- 53 I agree with **Mr Thomson** as to the inclusion of a definition of '**Family Flat**' as it improves clarity in the plan. The term is used in the definition of **Residential Activity** (clause a), and is the basis of Rule 14.2.2.1(P15)¹⁹ for uplift of occupancy restrictions.
- 54 Ms Carter²⁰ has recommended deferral of the definition of **Habitable Building** to Stage 2. I do not object to such a deferral, but concur with the current definition that identifies such buildings for either '*residential activity*' or '*guest accommodation*' both of which are deemed '**Sensitive Activities**' within the consolidated definition.

PART C - MISCELLANEOUS

- 55 With regard to the CIAL request for the inclusion of the definition for '**Freight Depot**', I agree with the evidence of **Mr Falconer**²¹ to not include the definition. The term Freight Depot is not included in the Stage 1 Proposals, and is a feature only of Plan Change 84.
- 56 Plan Change 84 when operative will be inserted, with any associated definitions including 'Freight Depot' into the final operative Plan.

Dated: 23 June 2015



Matthew William Bonis

¹⁹ Residential Proposal, 25 March Version (Rebuttal Blair)

²⁰ Carter. Page 11.

²¹ Falconer. Paragraph 4.10 – 4.12

Attachment 'A' Sensitive Activity: Nested Definitions The diagram below identifies those activities considered to be 'nested' within the broader definition of Sensitive Activities.

