

Before an Independent Hearings Panel
appointed by Christchurch City Council

under: the Resource Management Act 1991

in the matter of: the hearing of submissions on Plan Change 14 (Housing
and Business Choice) to the Christchurch District Plan

and: **Christchurch International Airport Limited**
Submitter 852

Rebuttal evidence of Darryl Millar (planning)

Dated: 14 November 2023

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REBUTTAL EVIDENCE OF DARRYL MILLAR

- 1 My full name is Darryl Kenneth Millar. I am a Director and Principal Planner with Resource Management Group Limited (*RMG*), a planning consultancy practicing in Christchurch, Nelson, New Plymouth and Wellington.
- 2 I provided a statement of evidence in relation to the relief sought by Christchurch International Airport Limited (*CIAL*) on proposed Plan Change 14 (Housing and Business Choice) to the Christchurch District Plan (*PC14*) dated 20 September 2023 (*primary evidence*). My experience and involvement with CIAL are set out in my primary evidence and I do not repeat those here.
- 3 I also provided a statement of rebuttal evidence in relation to the planning evidence of Mr Lindenberg dated 9 October 2023.
- 4 This rebuttal evidence responds to matters relating to airport noise in accordance with the IHP Minute 23 dated 7 November 2023.

CODE OF CONDUCT

- 5 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 the Environment Court Practice Note 2023. I have complied with it in preparing my evidence on technical matters. I confirm that the technical matters on which I give evidence are within my area of expertise, except where relying on the opinion or evidence of other witnesses. I have not omitted to consider material facts known to me that might alter or detract from my opinions expressed.

SCOPE OF EVIDENCE

- 6 My rebuttal evidence responds to the briefs of evidence and statements in the Joint Witness Statement (*JWS*) for airport noise dated 7 November 2023 from:
 - 6.1 **Dr Stephen Chiles** on behalf of Waka Kotahi NZ Transport Agency; and
 - 6.2 **Mr Jon Styles** on behalf of Kāinga Ora Homes and Communities.
- 7 My evidence addresses the issue of the significance of outdoor living environments with respect to noise exposure from aircraft noise.

THE JOINT WITNESS STATEMENT AND EVIDENCE

8 In the JWS (page 4) both Dr Chiles and Mr Styles note that they consider "... *that different forms of housing with different forms of outdoor spaces result in different responses in terms of amenity expectations and time spent outdoors.*" On this topic Mr Day and Ms Smith disagree and "*consider there is no evidence to support different levels of noise annoyance with different types or sizes of outdoor spaces.*"

9 At paragraph 4.4(c) of Dr Chiles' evidence, he provides a similar commentary and notes:

The way in which people use their homes, and in particular outdoor areas, may be materially different depending on the type of building. For example, in high density apartment developments people might have a small balcony but no other private outdoor space, and hence the relative influence of outdoor amenity on adverse health effects might be reduced.

10 Section 9 of Mr Styles' evidence raises a similar issue. Specifically, at paragraphs 9.2 and 9.5 Mr Styles notes:

It is my experience that the size and nature of the outdoor area associated with dwellings can influence the occupants' expectations for its amenity value and the general way it is used and the length of time that people might spend in their outdoor environment.

In a very generalised way, my experience is that the more intense the development is, the outdoor areas of dwellings become less significant in terms of size, length of occupancy and expectations of amenity. As the significance of outdoor areas reduces, it is logical that the adverse noise effects arising from exposure to aircraft noise will likely reduce as well.

11 Within this context I have approached this issue from a first principles perspective to determine if the relevant planning instruments:

11.1 support a "different response" argument to airport noise effects based on housing typology; or

11.2 establish if it is relevant to consider outdoor spaces at all as a valid location in which to consider potential adverse effects from aircraft noise exposure.

RESPONSE TO THE STATEMENTS AND EVIDENCE OF DR CHILES AND MR STYLES

- 12 Objective 1 of the National Policy Statement on Urban Development 2020 (NPS-UD) requires “well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.”
- 13 Well-functioning urban environments (*WFUE*) has the meaning in Policy 1 of the NPS-UD. Policy 1 states that WFUE’s are urban environments that, as a minimum, have the characteristics listed in clauses (a)-(f).
- 14 Unsurprisingly, there is no specific reference to the concept of residential outdoor living spaces being a contributor to WFUE. In my view there is no significance in this given the high level of the NPS-UD policy framework and the specificity of outdoor space provisioning.
- 15 When considering this issue further, I note that:
- 15.1 Objective 1 references the need to provide for “social” wellbeing; and
- 15.2 The Policy 1 definition of WFUE is not exclusive. Rather, it states minimums meaning that other factors or attributes can contribute to this.
- 16 With this in mind I have reviewed Policy 4 of Part 1 of Schedule 3A of the Resource Management Act (*RMA*), which has been included as Residential Policy 14.2.3.5 as part of PC14. The policy reads:
- “Enable housing to be designed to meet the day-to-day needs of residents.”*
- 17 The phrase “day to day needs” potentially has very wide meaning which, for the purpose of this evidence, I will not attempt to explain. Rather, I have considered whether the mandatory Medium Density Residential Standards (*MDRS*) provides guidance as to whether the provision of residential outdoor amenity spaces could be considered as such a need. In short, I believe that it does, given density standard 15 (outdoor living space (per unit)) of Part 2 of Schedule 3A of the RMA, and the requirement to include MDRS pursuant to s77G(1).
- 18 The policy framework of the District Plan, as recommended to be amended by the PC14 s42A reports, is also helpful when considering this issue. In addition to Policy 14.2.3.5 (above):

- 18.1 Policy 14.2.5.2 seeks high quality residential development attractive to residents; and
- 18.2 Policy 14.2.5.3 seeks a high level of internal and external residential amenity for developments of 4 or more units.
- 19 As a consequence of the above, including the mandatory MDRZ density standard 15, PC14 (as notified and as amended by s42A reports) includes outdoor living space (*OLS*) rules for the Medium Density Residential Zone (*MRZ*) and the High Density Residential Zone (*HRZ*). I have also examined the Town Centre Zone (*TCZ*) rules as an example of how such rules apply in a commercial zone environment.
- 20 A copy of the relevant provisions is attached as **Appendix One**.
- 21 I have summarised the key metrics from each rule in Table One below.

Table One OLS Summary

Zone	Ground Floor Level Unit		Above Ground Level Unit	
	Area	Dimension	Area	Dimension
MRZ/HRZ: <ul style="list-style-type: none"> Residential Units 	20m ² Balcony 8m ²	3m Balcony 1.8m	8m ²	1.8m
MRZ: <ul style="list-style-type: none"> One bedroom units (>45m²) and Studio units (>35m²) 	n/a	n/a	6m ²	1.5m
HRZ: <ul style="list-style-type: none"> One bedroom units (>45m²) and Studio units (>35m²) 	15m ²	3m	6m ²	1.5m
TCZ: <ul style="list-style-type: none"> Studio, 1 bedroom 2/3 bedroom 3+ bedroom 	n/a n/a n/a	n/a n/a n/a	8m ² 10m ² 15m ²	1.8m 1.8m 1.8m

- 22 I note the following from these rules:
- 22.1 The minimum area and dimension requirements for ground floor and above ground units in the MRZ and HRZ are the same, except that the requirements for ground floor studio units and single bedroom units exceeding stated floor areas in the HRZ are reduced;

- 22.2 The requirements for the TCZ (above ground floor level) are similar to the MRZ/HRZ and increase with unit size; and
- 22.3 Non-compliance with the MRZ, HRZ and TCZ OLS rules requires resource consent as a restricted discretionary activity (14.5.1.3 RD18, 14.6.1.3 RD14 and 15.4.1.3 RD1, respectively). The matters of discretion for the residential zones are found in 14.15.21, and 15.14.2.3 for the TCZ (**Appendix Two**).
- 23 In general terms the matters of discretion point towards useability of space, proportionality and/or provision of alternate communal spaces.
- 24 It is true that the OLS standards vary depending upon residential typology. That is, the space requirements reduce with increased density. It is clear, however, that the standards, policy framework, and assessment matters do not signal that they will be used in a different way or lend support to an argument supporting the view that the users of these spaces will respond differently to noise exposure. Moreover, the key message here is that the planning instruments fully anticipate that such spaces form an integral part of the residential environment irrespective of whether this occurs within a TCZ, MRZ or HRZ. Within this context alone, my view is that such spaces should be afforded no lesser amenity protection from aircraft noise than the internal spaces within residential units.

Darryl Millar

14 November 2023

Appendix One: Outdoor Living Space Provisions (S42A version)

1. MRZ

14.5.2.5 Outdoor living space

- a. A residential unit at ground floor level must have an outdoor living space that is at least 20 square metres and that comprises ground floor, balcony, patio, or roof terrace space that,—
- i. where located at ground level, has no dimension less than 3 metres; and
 - ii. where provided in the form of a balcony, patio, or roof terrace, is at least 8 square metres and has a minimum dimension of 1.8 metres; and
 - iii. is accessible from the residential unit; and
 - iv. may be
 - A. grouped cumulatively by area in 1 communally accessible location; or
 - B. located directly adjacent to the unit.
 - v. is free of buildings, parking spaces, and servicing and manoeuvring areas.
- b. A residential unit located above ground floor level must have an outdoor living space in the form of a balcony, patio, or roof terrace that—
- i. is at least 8 square metres and has a minimum dimension of 1.8 metres; and
 - ii. is accessible from the residential unit; and
 - iii. may be
 - A. grouped cumulatively by area in 1 communally accessible location, in which case it may be located at ground level; or
 - B. located directly adjacent to the unit.
- c. ~~d.~~ For one bedroom units exceeding 45m² in net floor area or studios exceeding 35m² in net floor area entirely at an upper level, outdoor living space shall be provided within the following dimensions. ~~The required outdoor living space can be in a mix of private and communal areas, at the ground level or in balconies within the following dimensions:~~
- | | | |
|-----|---|---|
| i. | <u>Minimum total private area for each residential unit</u> | <u>16m²</u> |
| ii. | <u>Minimum private balcony dimensions</u> | <u>A. 6m² area
B. 1.5 metres dimension</u> |
- d. ~~e.~~ In the Salvation Army Addington Overlay the outdoor living space shall be communal and shall be based on 10m² per residential unit.
- e. ~~This rule does not apply to residential units in a retirement village.~~

2. HRZ

14.6.2.910 Outdoor living space

- a. A residential unit at ground floor level must have an outdoor living space that is at least 20 square metres and that comprises ground floor, balcony, patio, or roof terrace space that,—
 - i. where located at ground level, has no dimension less than 3 metres; and
 - ii. where provided in the form of a balcony, patio, or roof terrace, is at least 8 square metres and has a minimum dimension of 1.8 metres; and
 - iii. is accessible from the residential unit; and
 - iv. may be
 - A. grouped cumulatively by area in 1 communally accessible location; or
 - B. located directly adjacent to the unit.
 - v. is free of buildings, parking spaces, and servicing and manoeuvring areas.
- b. A residential unit located above ground floor level must have an outdoor living space in the form of a balcony, patio, or roof terrace that—
 - i. is at least 8 square metres and has a minimum dimension of 1.8 metres; and
 - ii. is accessible from the residential unit; and
 - iii. may be
 - A. grouped cumulatively by area in 1 communally accessible location, in which case it may be located at ground level; or
 - B. located directly adjacent to the unit.
- c. For residential studio units with an internal floor area exceeding 35m², or single bedroom units with an internal floor area exceeding 45m², the following outdoor living space areas apply:
 - i. 15m² for residential units on the ground floor, with a minimum dimension of 3 metres; and
 - ii. 6m² for residential units above the ground floor, with a minimum dimension of 1.5 metres for of balconies, patios or roof terraces.

3. TCZ – P21 Residential Activity

- e. Each residential unit shall be provided with an outdoor living space with a minimum area and dimension as set out in the following table, located immediately outside and directly accessible from an internal living area of the residential unit.

	Type	Area	Dimension
i.	Studio, 1 bedroom	68m ²	1.58 metres
ii.	2 or 3 bedroom	10m ²	1.58 metres
iii.	More than 3 bedrooms	15m ²	1.58 metres

- f. Any outdoor living space shall not be used for car parking or access.

Appendix Two: Matters of Discretion (S42A version)

14.15.201 Outdoor living space

- a. The extent to which **outdoor living spaces** provide useable space, contribute to overall on-site spaciousness and ~~enable access to provide~~ **sunlight access throughout the year** for occupants.
- b. The ~~accessibility and convenience~~ **connection and ease of access to the outdoor living space to from the internal living area** for occupiers **of the residential unit(s) the outdoor living space serves**.

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- c. Whether the size, **sunlight access** and quality of **on-site** communal **outdoor living space** or other open space amenity compensates for any reduction in private **outdoor living space**.
 - d. The extent to which a reduction in **outdoor living space** will result in retention of mature on-site vegetation;
 - e. **Whether space for bicycle storage, servicing, washing lines and heat-pump units are located outside of the outdoor living space.**

15.14.2.3

- d.** In relation to the amount of **outdoor living space**, whether:
 - i. There is any alternative provision of publicly available space on, or in close proximity to the **site** to meet the needs of occupants now and in the future;
 - ii. The reduction in **outdoor living space** is proportional to the size of the **residential unit** and the demands of the likely number of occupants now and in the future;
 - iii. The reduction in **outdoor living space** or the lack of its access to sunlight is compensated for by alternative space within **buildings** with access to ample sunlight and fresh air.