

*Anthony Harper*

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Environment Canterbury  
PO Box 345  
**CHRISTCHURCH 8140**

By e-mail: [lurp@ecan.govt.nz](mailto:lurp@ecan.govt.nz)

**Christchurch**  
Level 9, HSBC Tower  
62 Worcester Boulevard  
PO Box 2646  
Christchurch 8140  
Telephone +64 3 379 0920  
Facsimile +64 3 366 9277

**Auckland**  
Level 8, Chorus House  
66 Wyndham Street  
PO Box 2646  
Auckland 1140  
Telephone +64 9 920 6400  
Facsimile +64 9 920 9599

Dear Sir/Madam

[www.anthonharper.co.nz](http://www.anthonharper.co.nz)

### **COMMENT ON LAND USE RECOVERY PLAN REVIEW: DRAFT RECOMMENDATIONS**

- 1 We act for Clearwater Land Holdings Limited (Clearwater).
- 2 Clearwater wishes to address the following matters relevant to the Draft Recommendations on the review of the Land Use Recovery Plan (LURP):
  - (a) Clearwater's prior involvement in the LURP;
  - (b) Comments made by Christchurch International Airport Limited (CIAL) on the LURP review;
  - (c) Air noise contours as they affect Clearwater; and
  - (d) To request an amendment to the LURP, specifically Policy 6.3.5 (4) of the Regional Policy Statement contained in Appendix 1 to the LURP.

### **Prior Involvement in Land Use Recovery Plan**

- 3 Clearwater has previously detailed comments on the various versions of the LURP notified for public input in 2013. In very simple terms, a key message of these comments was that further, limited, residential development at Clearwater Resort should not be precluded on the basis of the Resort's location within the remodelled 50 dBA Ldn air noise contours.
- 4 In respect of these previous comments, the advice received from CERA included the following:

*CERA's analysis of the written comments and the subsequent advice to the Minister for Canterbury Earthquake Recovery on the draft Land Use Recovery Plan concluded that the matters raised in Clearwater Ltd's written comment were able to be addressed by way of a resource consent. Officials further considered that Clearwater Limited has sufficient mechanisms in place, including agreements with Christchurch International Airport Limited, to enable the required resource consent applications to be considered by the territorial authority.*

*The Land Use Recovery Plan decisions were also considered in light of the purpose of the Canterbury Earthquake Recovery Act 2011 and the vision and goals of the Recovery Strategy for Greater Christchurch. Clearwater Ltd's proposal, as provided to CERA, does not appear to be inconsistent with the Act's purpose or the vision and goals of the Recovery Strategy.*
- 5 The above advice reflects of the Minister's decision to direct that a specific exemption against the policy of avoidance of development of noises sensitive activities within the 50 dBA Ldn be included in the City Plan in respect of Clearwater Resort. This exemption is set out in Policy 6.3A.7 of City Plan, which reads:

*To avoid noise-sensitive activities within the 50 dBA Ldn noise contour around Christchurch International Airport Limited except:*

- *Those permitted in conjunction with rural activities in the rural zones, and*
- *Activities within the existing Living zones as defined in the City Plan; and*
- **Activities in the Open Space 3D (Clearwater) Zone** [Our Emphasis]

6 Taken together therefore, the outcome of the LURP process in 2013 and CERA's analysis of Clearwater's position implicitly contemplate further development at Clearwater, albeit recognising that this development should be progressed by means of the resource consent process. In principle, Clearwater is supportive of the requirement to obtain consent to enable further development at the Resort, but only on the proviso that any such consent process provides a high level of certainty for an enabling or positive outcome.

#### **Comment by Christchurch International Airport Limited On LURP Review**

7 The comment lodged by CIAL on 29 May 2015 asserts that there has been a drafting error in Policy 6.3A.7 of the City Plan and requests that the Minister should use his powers to amend the Policy to read:

*To avoid noise-sensitive activities within the 50 dBA Ldn noise contour around Christchurch International Airport Limited except:*

....

**Existing permitted** activities in the Open Space 3D (Clearwater) zone.

8 Clearwater notes that CIAL previously sought identical relief to the above in its comments on the Preliminary Draft LURP (22 April 2013) and also on the Draft LURP notified by the Minister (05 August 2013).

9 In both cases, the relief sought by CIAL was specifically rejected on the advice of either local authority planning staff associated with the development of the LURP, or (more lately) by the Minister's advisors. This advice was accepted by all local authorities and the Minister, which tends to suggest that the assertion by CIAL that there has been a drafting error in the Policy is misplaced.

10 CIAL also notes in its comment of 29 May 2015 that Policy 6.3A.7 is inconsistent with Policy 6.3.5 (4) of the Regional Policy Statement, which provides that new development is only provided for 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 50 dBA 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."*

11 Once again, CIAL raised the exact same issue in its previous comments on the LURP. As noted above the relief CIAL sought was consistently rejected throughout the LURP development process.

12 While Clearwater acknowledges that there may be a minor degree of tension or misalignment between the City Plan Policy 6.3A.7 and Policy 6.3.5 (4) of the RPS, by making the decision to incorporate both these policies in the final LURP, the Minister was obviously of the view that any such tension or misalignment should not inhibit further development and recovery at Clearwater Resort. In other words, it is implicit that the Minister was able to reconcile both policies as being consistent with the purpose of the Canterbury Earthquake Recovery Act 2011.

## Air Noise Contour Issues

- 13 Clearwater's long-standing position is that development at Clearwater Resort can readily proceed without in any way compromising the ongoing safe and efficient operation of Christchurch Airport. This position is held regardless of whether or not future development at the Resort is affected by the 50 dBA Ldn noise contour, and is based on the long standing agreement between CIAL and Clearwater and the mechanisms established under that particular agreement.
- 14 That said, it has recently come to Clearwater's attention that the noise contour provisions in the City Plan are derived from analysis that has been accepted by CIAL's own expert advisors as being grossly inaccurate. While this matter is addressed in more detail in other comments on the LURP review, Clearwater notes that the contours and associated restrictions on development of the Resort have now been in place for 20 years. Quite understandably, Clearwater is perturbed by this fact, particularly as it has expended significant (and ultimately wasted) resources over the years in addressing the contour issue.
- 15 Clearwater therefore takes the view that the rationale for restricting further development at Clearwater on the basis of grossly inaccurate contours has been exposed as fundamentally flawed and unjustified.

## Outcome Sought

- 16 Clearwater notes the recommendation in respect of the Airport Noise Contours at 3.3.4:

*CIAL has sought to clarify CRPS restrictions on intensifications under the contour within the existing urban area of the City and further development at Clearwater. IFL and one other comment have questioned the validity of the modelling, in particular the projected growth in flight movements, which results in spatial definition of the airport noise contours.*

*No changes are recommended through the LURP Review.*

*Any review of the airport noise contours should be done as part of a review of the CRPS, being the higher order statutory document. This is provided for in Policy 6.3.11 of the CRPS.*

- 17 Regardless of whether or not a review of the contours should be undertaken sooner rather than later, development at Clearwater faces an uncertain future simply because of the lack of a direct alignment between Policy 6.3A.7 of the City Plan and Policy 6.3.5 (4) of the RPS.
- 18 As noted above, the advice from CERA was that further development at Clearwater should be enabled by means of the resource consent process. However the outcome of any such consent will potentially be jeopardised because of this lack of alignment. In the interests of both certainty and recovery therefore, the proper course of action would be to amend Policy 6.3.5 (4) of the RPS as follows:

*"...including by avoiding noise sensitive activities within the 50 dBA 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, or within the **Open Space 3D (Clearwater) Zone**"*

- 19 Clearwater considers it appropriate that the Minister use his powers to make such an amendment, as it will directly reflect his earlier intention in approving the LURP to enable (in a policy sense) further development at Clearwater despite its location within the remodelled contours.

### Further Evaluation of Clearwater's Comment

- 20 Clearwater notes that the Canterbury Regional Council, Selwyn District Council, Waimakariri District Council and Te Runanga o Ngai Tahu have lodged a joint further submission in opposition to a submission made by Clearwater on the Christchurch Proposed Replacement District Plan.
- 21 The Clearwater submission seeks to provide for limited further intensification within the Specific Purpose Golf Zone at Clearwater Resort. A particular rationale behind its submission is the transfer of development rights for adjacent land owned by the Isaac Wildlife and Conservation Trusts. Agreement as to the transfer of these rights is formally recorded in binding legal agreements between CIAL and the Isaac Trusts, and CIAL and Clearwater.
- 22 Given the position taken by Canterbury Regional Council and other local authorities in their further submission, Clearwater also considers it inappropriate (for reasons of demonstrated bias) that no further recommendations or advice to the Minister for Canterbury Earthquake Recovery be given by persons associated with these organisations.

Should any further clarification of the above comment be required, please do not hesitate to contact us.

Yours faithfully  
**ANTHONY HARPER**



**Gerard Cleary**  
Special Counsel

Contact: Gerard Cleary +64 3 364 3809 gerard.cleary@ah.co.nz  
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