

**BEFORE THE INDEPENDENT HEARINGS PANEL APPOINTED BY THE
TIMARU DISTRICT COUNCIL**

UNDER the Resource Management Act 1991 (RMA)
IN THE MATTER the Proposed Timaru District Plan
SUBMITTER Aircraft Owners and Pilots Association of New Zealand
and Sid McAuley

**JOINT LEGAL SUBMISSIONS ON BEHALF OF THE AIRCRAFT OWNERS
AND PILOTS ASSOCIATION OF NEW ZEALAND AND SID MCAULEY**

Usage and controls for small, fixed wing aircraft

12 July 2024

PO Box 4341 CHRISTCHURCH 8140
DX WX11179
Tel +64 3 379 7622
Fax +64 3 379 2467

Solicitor: P A C Maw
(philip.maw@wynnwilliams.co.nz)

WYNN WILLIAMS

Introduction

- 1 The Aircraft Owners and Pilots Association of New Zealand (**AOPA**) and Sid McAuley (the **Submitters**) made submissions (and further submissions) on the Timaru District Council's (**Council**) Proposed District Plan (**PDP**) in opposition to the PDP's proposed rules regulating airstrips.
- 2 The Submitters are, or represent, people who fly small fixed-wing aircraft recreationally. There have never been any complaints related to this activity in the Timaru District and the experience of the Submitters is that the activity is enjoyed by, and provides benefits to, the wider community. There is no basis to impose regulation on this activity through the PDP.
- 3 The Submitters seek that:
 - (a) the flying of small fixed-wing aircraft on permanent or non-permanent airstrips be a permitted activity, without restrictions as to setbacks or the frequency of take-offs and landings; and
 - (b) small fixed-wing aircraft are excluded from the provisions of GRUZ-R14 and GRUZ-R14A; and
 - (c) the flying of small-fixed wing aircraft on permanent or non-permanent airstrips remain exempt from NOISE-R1.
- 4 Attached to these submissions as **Appendix A** are the changes sought to Rule GRUZ-R14 to achieve the relief sought.
- 5 The Submitters consider this relief to be appropriate on the basis that:
 - (a) with respect to small fixed-wing aircraft, the proposed rule seeks to correct a problem that is non-existent;
 - (b) the rules were devised in a way which is incompatible with the manner in which small fixed-wing aircraft effects occur; and
 - (c) the effects of the restrictions as proposed will be to reduce public enjoyment, safety, and opportunities for increasing and maintaining pilot proficiency.

Statutory framework

- 6 A territorial authority (city or district council) is required to prepare a district plan for its district, the purpose of which is to assist the council in carrying

out their functions in order to achieve the sustainable management purpose of the Resource Management Act 1991 (**RMA**).¹

- 7 In the course of drafting a proposed district plan, councils must prepare an evaluation report for the proposed plan in accordance with s 32 of the RMA. This evaluation report must, with a level of detail corresponding to the scale and significance of the proposals expected effects, examine:²
 - (a) the extent to which objectives of the proposed plan are the most appropriate way to achieve the purpose of the RMA;
 - (b) whether the provisions of the proposed plan are the most appropriate way to achieve the objectives by:
 - (i) identifying other reasonably practicable options;
 - (ii) assessing the efficiency and effectiveness of the provisions (this includes identifying the benefits and costs anticipated by implementation of the provisions, quantifying them where possible, and assessing the risk of not acting if there is uncertain or insufficient information); and
 - (iii) summarising the reasons for deciding on the provisions.
- 8 A council may require preparation of a s 42A report.³ This generally occurs following notification, the receipt of submissions, further submissions and the summary of decisions requested. The purpose of a s 42A report is to respond to submissions and make recommendations to the council in light of those submissions.
- 9 The Environment Court has found that where the purpose of the RMA and the objectives of the plan can be met by a less restrictive regime then that regime should be adopted.⁴ This approach reflects the requirement to examine the efficiency of the provision and promotes the purpose of the RMA by enabling people to provide for their well-being while addressing the effects of their activities.

¹ RMA, s 72 and 73.

² RMA, s 32(1) and (2).

³ RMA, s 42A(1).

⁴ *Royal Forest and Bird Protection Soc of New Zealand Inc v Whakatane District Council* [2017] NZEnvC 51 at [59]; *Wakatipu Environment Society Inc v Queenstown Lakes District Council* EnvC C153/04 at 56; and *Environmental Defence Soc Inc v Thames Coromandel District Council* [2020] NZEnvC 1.

- 10 The requirement for an evaluation report under s 32, to examine the extent to which the provisions in a proposed regional plan are the most appropriate way to achieve objectives, is a procedural obligation.⁵ Part of this evaluation requires the council to consider the existing activity. This allows the council to assess the “most appropriate” threshold test as required by s 32. Without an assessment of what the existing activity is, the effect-based analysis cannot be properly undertaken.⁶
- 11 Further, the Court has been clear that it is not appropriate in terms of s 32 to use zoning powers for the purpose of “sterilising” ancestral land from activities which would otherwise be acceptable under the RMA. Inherent land use and ownership rights should not be arbitrarily limited, restricted, or removed.⁷ In other words, there must be a link between limiting the right and achieving an objective or purpose. This is what the s 32 report requires the council to undertake an analysis of.
- 12 Even in cases where restrictions have been imposed by the council or approved by the Courts, it has always been on the basis that there is a link between the restriction imposed and the objective where the restriction is the “most appropriate” way (sometime because it is the only way) to achieve the objective.⁸

Development of GRUZ-R14

Current status

- 13 Currently, RURAL 1 ZONE (R1) and RURAL 2 ZONE (R2) Rules 1.15 make the following a permitted activity:

Airstrips or helicopter landing sites used for private purposes, emergency operations, pest control, scientific research or resource management monitoring and maintenance of public utilities, utility services and telecommunication facilities and radio communication facilities.

However, the PDP proposes changes to the regulation of recreational aircraft activities. GRUZ-R14 seeks to alter this regulation by introducing

⁵ Royal Forest and Bird Protection Soc of New Zealand Inc v Whakatane District Council [2017] NZEnvC 51 at [73].

⁶ *Capital Coast Health Ltd v Wellington CC* W101/98, Judge Kenderdine, 11 November 1998 at [163].

⁷ *Canterbury RC v Waimakariri DC* (2002) 8 ELRNZ 33 at [67].

⁸ *Guyco Holdings Ltd v Far North District Council* [2014] NZEnvC 129; *Creswick Valley Residents' Association Inc v Wellington City Council* [2015] NZEnvC 149; and *Royal Forest and Bird Protection Society of New Zealand v New Plymouth District Council* [2015] NZEnvC 219 at [95].

new permitted activity rules for the use of permanent airstrips and helicopter landing sites.

Comments in s32 report

- 14 The evaluation of these changes is minimal. There are fewer than ten mentions of aircraft in the s 32 evaluation report. Of those references:
 - (a) Several references only relate to discussion of aircraft operations at the Timaru Airport;
 - (b) Two others relate only to the use of aircraft in wetlands or areas of significance;⁹ and
 - (c) One reference relates to the benefits of aircraft or helicopter movements for emergencies in relation to consideration of the Proposed Selwyn District Plan.¹⁰
- 15 The only mention of aircraft of direct relevance to the Submitter's concerns is a statement under the heading "additional feedback on discussion document" namely:

"there was concern that aircraft noise associated with the rural zone are not adequately provided for".
- 16 No further information is given regarding these concerns, where or who they came from and whether the concern represented an actual issue in the area or was just noting it hadn't been addressed.
- 17 All other consideration of aviation activities pertains only to helicopters. There is no discussion of aircraft or helicopters in the s 32 report chapter addressing the rural zone.¹¹
- 18 In short, the s 32 report fails to properly consider the appropriateness of the restrictions sought to be imposed on recreational aircraft in the Timaru District.

⁹ Timaru District Plan Review Evaluation Report, Coastal Environment, June 2022, at [1.4.2].

¹⁰ Timaru District Plan Review Evaluation Report, Temporary Activities, June 2022, at [1.5.4].

¹¹ Timaru District Plan Review Evaluation Report, Rural Zones, June 2022.

LGOIMA request

- 19 John Evans, who prepared and filed evidence in support of the Submitters, made a Local Government Official Information and Meetings Act 1987 (**LGOIMA**) request following notification of the PDP. In this request he sought:
- Evidence supporting implementation of GRUZ-R14 PER-3 including the justification for setting “Take offs or landings must not exceed 10 per month”. Evidence may include noise complaint data, analysis of aircraft impacts within the district and the interpretation of NPS/RMA leading to the formation of GRUZ-R14.
- 20 The response to Mr Evans’ request can be found at Appendix A of the evidence of Mr Evans and provides some background to the development of GRUZ-R14 prior to notification.
- 21 The communications obtained through the LGOIMA request show communication between the Council planner and an external consultant regarding the appropriate rule framework for GRUZ-R14. Initially, a movement limit was considered of 8 movements a day and 28 movements a week. This was subsequently increased to 16 movements a day and 28 movements a week.¹²
- 22 No information was provided in response to the LGOIMA request (and therefore it can be assumed none exists) of:
- (a) Any complaint about aircraft noise which would be regulated by GRUZ-R14;
 - (b) Any data or analysis about the noise aircraft make when taking off or landing; or
 - (c) Any analysis regarding existing regulations for aircraft or existing noise standards for aircraft and how these relate to setbacks.
- 23 Further, none of these matters were addressed in the s 32 report.
- 24 However, despite no information of a problem or analysis of the actual effect of aircraft noise and contours, especially for small fixed-wing aircraft, the proposed plan included rule GRUZ-R14.

¹² John Evans’ brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024, Appendix A.

Restrictions of GRUZ-R14

- 25 GRUZ-R14 is a permitted activity rule for the use of airstrips and helicopter landing sites and comprises three parts:
- (a) PER-1 permits aircraft movement for emergency purposes;
 - (b) Per-2 permits aircraft movement (with various restrictions) for primary productions; and
 - (c) Per-3 permits other aircraft movement provided the movement is setback 500 metres from a residential zone or boundary of a building containing a noise sensitive activity and provided the movements are limited to 10 movements a month.
- 26 Activities not meeting these requirements would be discretionary activities.
- 27 There is a further relevant rule in the PDP, NOISE-R1, which regulates the noise of activities not otherwise specified in the rules section. NOISE-R1 contains a carve out exemption for aircraft using airstrips in compliance with GRUZ-R14. The Submitters support this exemption remaining.

Recommendation in the s 42A report

- 28 Following receipt of submissions the Council commissioned a s 42A report. The s 42A report states that the 10 movement restriction in the notified version of GRUZ-R14 lacked flexibility and that a radial setback from residential zones and sensitive activities was required to ensure the “amenity immediately around sensitive activities and zone boundaries is maintained”.¹³
- 29 The author of the s 42A report recommended:
- (a) GRUZ-R14 PER-1 and PER-2 be deleted.
 - (b) GRUZ-R14 PER-3 be amended to set out two separate setback restrictions with different movement limits, specifically:
 - (i) If the permanent airstrip is setback between 500m-1,000m from a residential zone or existing noise sensitive activity on

¹³ Andrew Maclellan “Proposed Timaru District Plan Section 42A Report: Rural Zones” 19 June 2024, at [10.25.18-20] and [10.25.33-34].

sites under different ownership, it may be used for a maximum of 30 days within any 12-month period.

- (ii) If an airstrip were to be setback more than 1,000m from a residential zone or noise sensitive activity on sites under different ownership, there is no movement limit.¹⁴
 - (c) Changing the activity status for activities which do not meet the restrictions of GRUZ-R14 to restricted discretionary.
 - (d) Inserting a new rule (GRUZ-R14A) which relates to aircraft movement rather than airstrips. The recommended GRUZ-R14A contains three permitted activities to provide regulation for aircraft and helicopter movements:
 - (i) GRUZ-R14A PER-1 and PER-2 would have the effect of making movements for emergency purposes and rural production permitted activities, with no restrictions as to number or frequency of movements.
 - (ii) GRUZ-R14A PER-3 would require all other aircraft and helicopter movements to have a setback of at least 100m from any residential zone or noise sensitive activity on sites under different ownership in order to be a permitted activity.
- 30 The author of the s 42A report recommends that activities not meeting the standards in GRUZ-R14 and R14A be restricted discretionary activities, with the matters of discretion restricted to:
1. the extent of non-compliance with PER-2 and PER-3; and
 2. the extent to which helicopter noise limits specified within Table 1 of NZS6807:1994 are complied with; and
 3. the level, duration and character of the noise; and
 4. proximity and nature of nearby activities and the adverse effects they may experience from the noise; and
 5. the existing noise environment; and
 6. effects on amenity values and anticipated character of the receiving environment; and
 7. effects on health and well-being of people; and
 8. noise mitigation measures; and
 9. the practicality of utilising alternative sites.

¹⁴ Andrew Maclellan "Proposed Timaru District Plan Section 42A Report: Rural Zones" 19 June 2024, at [10.25.36].

- 31 There is no evidential foundation for imposing these restrictions on small fixed-wing aircraft as the flying of small fixed-wing aircraft has not created an identified issue. These restrictions unnecessarily limit and regulate an activity and these limitations will be detrimental to the Submitters and to the wider community.

Lack of identified issue

- 32 GRUZ-R14 (both in the original PDP and the amended version recommended in the s 42A report) and the recommended GRUZ-R14A propose solving a problem that does not exist.
- 33 The proposed rules impose unnecessary restriction on the activities of small fixed-wing aircraft and associated aviation activities without any evidence that these activities have caused noise or amenity issues within the Timaru District. As set out above, the development of these proposed rules has occurred without:
- (a) Any complaints about noise (the problem the proposed rules appear to be trying to solve);
 - (b) Any analysis of how much noise small fixed-wing aircraft actually make;
 - (c) Any analysis of how noise contours for different types of aircraft actually operate and therefore how this relates to setbacks; or
 - (d) Existing noise standards for small fixed-wing aircraft and what these standards would mean in practice if implemented in the Timaru District.
- 34 These submissions relate specifically to small fixed-wing aircraft which are used for recreational aviation. The term “fixed-wing” describes a type of aircraft which are commonly referred to as planes and use aerodynamic lift to achieve flight. This can be compared to “rotary-wing” aircraft such as helicopters which rotate the wing through the air to create lift. A “small” aeroplane (which is a fixed-wing aircraft) doesn’t have a direct definition, however the Civil Aviation Authority apply part 135 “Air Operations – Helicopters and Small Aeroplanes” of the aviation rules to:¹⁵

¹⁵ Civil Aviation Authority Rules Part 135 Air Operations – Helicopters and Small Aeroplanes.

“aeroplanes having a seating configuration of 9 seats or less, excluding any required crew member seat, and a MCTOW of 5700 kg or less, except when they are used for SEIFR passenger operations.”

- 35 “MCTOW” standards for the maximum certificated take-off weight. Therefore, it can be inferred the Civil Aviation Authority considers fixed-wing aircraft which meet that definition are “small aeroplanes”.
- 36 Small fixed-wing aircraft have a very different noise profile to other types of aircraft captured by this rule, for example, helicopters. The Submitters do not comment on the regulations in respect of the restrictions they impose on other aircraft and only submit that the proposed regulation is inappropriate for small fixed-wing aircraft and associated activities.
- 37 Throughout the development of the proposed rules, the only time an issue regarding the existing activity has been suggested is through one comment in the s 32 report, that “There was concern that aircraft noise associated with the rural zone are not adequately provided for.”
- 38 As referred to in the evidence of Mr Evans, it is unclear whether this comment was in relation to recreational or commercial activity¹⁶ and there is no further evidence to corroborate any such concerns. Nothing in the s 32 report provides further clarity on this point or evaluates the justification for increased regulation.
- 39 As set out above the LGOIMA request response demonstrates no noise complaints have been made, nor has the Council undertaken analysis of or provided rationale for the increased regulation.¹⁷
- 40 In addition, none of the aviators in the area who have filed evidence in support of these Submitters have ever received a complaint, nor are they aware of any others in the aviation community in Timaru District having receiving a complaint.¹⁸

¹⁶ John Evans’ brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024 at [25].

¹⁷ John Evans’ brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024 at [20].

¹⁸ Ian Sinclair brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024; Grant Colicott brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024; Sid McAuley brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024; and John Evans’ brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024.

- 41 Further, if there were concerns about certain aviation activities, for example commercial flying or helicopter noise, this would not justify the catch all approach to aviation activities advanced by the proposed changes.
- 42 If the Council wishes to capture or restrict commercial aviation or helicopter noise, this can be achieved without impacting non-commercial aviation or small fixed-wing aircraft. For example, the PDP contains a Policy GRUZ-P3 which requires the Council to provide for small-scale commercial activities where they meet certain requirements. It would be more consistent with this policy to remove non-commercial activities from GRUZ-R14 rather than combining commercial and non-commercial activities.

Legal ability for imposing restrictions

- 43 It is submitted the Council in proposing GRUZ-R14 has failed to identify any noise issue regarding small fixed-wing aircraft. Further, the Council has failed to analyse in its s 32 report (as is required, see paragraphs 9 to 12 of these submissions):
- (a) What the existing activity is that GRUZ-R14 will control;
 - (b) What the “most appropriate” approach is to regulate the activity (in line with the objective of the PDP); and
 - (c) What effect the proposed “most appropriate” approach will have on the existing activity.
- 44 It is submitted the Council has not provided any justification to limit or restrict the land use activities of small fixed-wing aircraft users. Nor has it been able to meaningfully link the proposed limitation and restriction to any objective within the PDP or explain why any restriction at all is necessary.
- 45 An example of a council failing to consider the necessary requirements under s 32 is in the High Court case of *Orewa Land Ltd v Auckland Council*.¹⁹ The High Court referred a decision back to the Environment Court (where it had originally been decided) to cancel part of a proposed variation to the district plan relating to a variable height zone, an overlay applying to the existing residential zone. The High Court stated that the

¹⁹ *Orewa Land Ltd v Auckland Council* HC Auckland CIV-2010-404-6912, 21 April 2011.

Environment Court (or council in the first instance) was required to consider whether the variable height overlay was a more appropriate method of achieving the plan's objectives rather than the current residential zone.

- 46 Although the Environment Court identified developments within the overlay zone might contain adverse effects under s 32 of the RMA, it failed to analyse the plan rules to determine whether they would address those concerns. In particular, the High Court noted the Environment Court did not consider whether the overlay was adequate to manage the effects of future development proposals or whether such concerns would be adequately covered when the council considered future resource consent applications. Therefore, the Court was not in a position to determine whether the plan objectives were more appropriately met by the overlay and, as a result, erred in law.

Application to the PDP

- 47 The same issue has arisen here, although at a more fundamental level. By failing to analyse the existing activity and the actual noise it produces, as well as failing to analyse the various effects of the proposed rules, the Council cannot conclude that GRUZ-R14 is the "most appropriate" approach to control noise from small fixed-wing aircraft.
- 48 In the current case there are two potentially relevant objectives on the General Rural Zone portion of the PDP, namely:

GRUZ-O2 Character and qualities of the General Rural Zone

The character and qualities of the General Rural Zone comprise:

1. large allotments with large areas of open space; and
2. a working environment of mostly utilitarian buildings and structures where primary production generates noise, odour, light overspill and traffic, often on a cyclic and seasonable basis; and
3. higher levels of amenity immediately around sensitive activities and zone boundaries; and
4. vegetation, pasture, crops and forestry and livestock across a range of landscapes.

GRUZ-O4 Protecting sensitive activities and sensitive zones

Intensive primary production, mining, quarrying and other intensive activities generates no or minimal adverse effects on:

1. sensitive activities; and
2. land close to Residential, Rural settlement, Māori Purpose and Open space zones.

- 49 GRUZ-O2 states the general rural zone has a higher level of protection for amenity immediately around noise sensitive activities. GRUZ-O4 states intensive activities should have no or minimal effect on noise sensitive activities. As the movement of small fixed-wing aircraft is not an intensive activity GRUZ-O4 does not apply (although if it did there is no evidence the impact is more than minimal as required by the objective).
- 50 Although GRUZ-O2 states there should be a higher protection for amenity immediately around noise sensitive activities the Council has not provided a link between the noise effect of movement of small fixed-wing aircraft and any actual impact on noise sensitive activities. Nor is there any evidence or analysis that the restrictions proposed by the PDP would be the “most appropriate” way of achieving GRUZ-O2.
- 51 Therefore, it is submitted that there is insufficient evidence to justify the increased regulation on small fixed-wing aircraft.
- 52 For completeness, it is important to note that recreational aviation involving small fixed-wing aircraft is already sufficiently regulated by other means.²⁰ This is discussed in more detail below.

Proposed rule inappropriate for aircraft noise

- 53 A radial setback, such as those proposed and recommended by the author of the s 42A report, does not adequately engage with or consider how aircraft noise is actually emitted from a small fixed-wing aircraft. The result of the lack of consideration or analysis has resulted in the proposed rules imposing excessive noise restrictions.
- 54 The majority of reference to aviation activities in the s 32 report were in reference to helicopters²¹ and, as referred to in the evidence of Mr Evans, the majority of the communications obtained following the LGOIMA request concerned the use of helicopters.²²
- 55 Helicopters and fixed-wing aircraft make “different noises”,²³ which means treating their noise profiles as the same would be inappropriate.

²⁰ John Evans' brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024, at [16].

²¹ Timaru District Plan Review Evaluation Report, June 2022.

²² John Evans' brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024, Appendix A.

²³ John Evans' brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024, Appendix A.

- 56 The LGOIMA request confirms that the PDP's movement restrictions were based on helicopter noise standards, despite the standard not applying to fixed wing aircraft. It is unjustified to impose a helicopter noise restriction on fixed-wing aircraft as they have markedly different noise impacts.
- 57 Noise emitted from small fixed-wing aircraft is not uniformly radial. The noise emitted during small fixed-wing aircraft movements is confined to the areas where the actual lift of and actual landing occurs. While the entire runway is used for take-off and landings, the noise is not the same throughout the entire take-off or landing process. Further, the noise is highly directional.²⁴ Therefore, imposing a radial setback would not reflect the actual noise created by small fixed-wing aircraft and would result in overregulation.
- 58 More complex setbacks could be imposed to avoid regulating small fixed-wing aircraft activities in an incongruent manner, however, as submitted above, this approach is unnecessary as it has not been established that these activities warrant further regulation.
- 59 Importantly, the setbacks recommended by the s 42A report author are actually greater than the 55dB Ldn contour for many regional airports.²⁵ As recreational airstrips often have fewer than 2 movements a day,²⁶ a greater regulation than an actual airport is clearly excessive.
- 60 Further analysis of the 55dB Ldn contour is set out Mr Evans' evidence. However, the key point is that if the existing noise standards (the 55dB Ldn contour) is applied to the actual use case for the recreational use of small fixed-wing aircraft, no setback and no movement limitations are justified.

Implications of excessive restrictions

- 61 It is submitted that not only are the proposed rules an unnecessary regulation, but the result of overregulation will be unreasonable burdens on those undertaking and participating in recreational aviation.

²⁴ John Evans' brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024, at [26-29].

²⁵ John Evans' brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024, at [29].

²⁶ John Evans' brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024, at [31].

- 62 The impact of the proposed increased regulation will result in many aviator's airstrips no longer complying with the District Plan as permitted activities, thereby forcing existing aviators to apply for existing use certificates or resource consents. This expansion in administrative burden and cost to the airstrip owner may lead to a decrease in people who are willing to maintain their rural and recreational airstrips, which could have several negative repercussions.
- 63 First, all of the affidavits filed in support of these legal submissions speak of the social benefits recreational aviation has for the aviators and their communities. Several of the affidavits discuss taking neighbours for flights and using flying as a means to connect with others in various ways.²⁷
- 64 Secondly, recreational airstrips provide valuable emergency landing areas.²⁸ Although the proposed rules and s 42A report recommendations aim to make provision for emergency landing and take-offs, the ability to accommodate these emergency situations will decrease if the number of recreational airstrips decrease, as is likely to occur if the increase in regulation goes ahead.
- 65 Thirdly, linked to the above, recreational airstrips facilitate important training and learning opportunities for pilots and aspiring pilots.²⁹ Rural and recreational airstrips allow pilots to experience different conditions, increasing or maintaining resilience to emergency situations and adaptability and, therefore, increasing or maintaining pilot competence.
- 66 It would be detrimental to the Timaru District if these positive effects on the community were not realised, especially in circumstances where there has been no issue in the existing activity identified to date.

Relief sought

²⁷ Ian Sinclair brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024; Grant Colicott brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024; Sid McAuley brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024; and John Evans' brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024.

²⁸ Sid McAuley brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024, at [11]; Ian Sinclair brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024, at [5].

²⁹ Sid McAuley brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024, at [11]; Ian Sinclair brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024, at [5]; John Evans' brief of evidence for Timaru District Council proposed plan hearing dated 5 July 2024, at [10] and [12].

- 67 For the reasons set out in these legal submissions, it is submitted there is no basis to justify restricting the use of small fixed-wing aircraft for non-commercial activities. It is submitted this activity ought to be excluded from any restrictions imposed on aviation in the Timaru District.
- 68 Specifically, the Submitters seek:
- (a) the flying of small-fixed wing aircraft on permanent or non-permanent airstrips be a permitted activity, without restrictions as to the frequency of take-offs or landings or setbacks;
 - (b) small-fixed wing aircraft are excluded from the provisions of GRUZ-R14 and (if adopted) GRUZ-R14A; and
 - (c) that the flying of small-fixed wing aircraft on permanent or non-permanent airstrips remain exempt from NOISE-R1.
- 69 Attached to these submissions as **Appendix A** are the changes sought to Rule GRUZ-R14.

Dated this 12th day of July 2024



P A C Maw

Counsel for the Aircraft Owners and Pilots Association of New Zealand and Sid
McAuley

Appendix A

Proposed amendments to GRUZ-R14 as set out in the PDP:

GRUZ-R14: Use of airstrips and helicopter landing sites

Activity status: Permitted

Where:

PER-1 The flights are for emergency purposes such as medical evacuations, search and rescue, firefighting or civil defence, **or where the flight is of a non-commercial small fixed-wing aircraft**; or

PER-2 The use is for primary production including spraying, stock management, fertiliser application or frost protection for:

1. a maximum of seven days within any three month period where the airstrip or helicopter landing site is setback between 500m-1,000m from:
 - a. any Residential zone; and
 - b. the notional boundary of a building containing a noise sensitive activity, not located on the site of the airstrip or helicopter land site; or
2. the airstrip or helicopter landing site is setback greater than 1,000m from:
 - a. any Residential zone; and
 - b. the notional boundary of a building containing a noise sensitive activity, not located on the site of the airstrip or helicopter land site; or

PER-3 Take offs or landings must not exceed 10 per month; and the airstrip or landing site is setback a minimum of 500m from:

1. any Residential zone; and
2. the notional boundary of a building containing a noise sensitive activity not located on the site of the airstrip or helicopter land site.

Insert definition: **Non-commercial small fixed-wing aircraft** is an aeroplane that is not being flown for a commercial purpose and has a certified take-off weight for the aeroplane and its contents of 5,700kg or less.

Proposed amendments to GRUZ-R14 and GRUZ-R14A if the recommended changes in the s 42A report are adopted:

GRUZ-R14: Use of permanent airstrips and helicopter landing sites

Activity status: Permitted

Where:

~~PER-1 The flights are for emergency purposes such as medical evacuations, search and rescue, firefighting or civil defence; or~~

~~PER-2 The permeant airstrip or helicopter landing site is use is for primary production including spraying, stock management, fertiliser application or frost protection for:~~

- ~~1. used for a maximum of 30 seven days within any 12 three month period where the airstrip or helicopter landing site is setback between 500m-1,000m from:~~
 - ~~a. any Residential zone; and~~
 - ~~b. the notional boundary of a building containing an existing noise sensitive activity, on a separate site under different ownership not located on the site of the airstrip or helicopter land site; or~~
- ~~2. the airstrip or helicopter landing site is setback greater than 1,000m from:~~
 - ~~a. any Residential zone; and~~
 - ~~b. the notional boundary of a building containing an existing noise sensitive activity, on a separate site under different ownership not located on the site of the airstrip or helicopter land site; or~~
3. **being used by non-commercial small fixed-wing aircraft.**

~~PER-3 Take offs or landings must not exceed 10 per month; and the airstrip or landing site is setback a minimum of 500m from:~~

- ~~1. any Residential zone; and~~
- ~~2. the notional boundary of a building containing a noise sensitive activity, not located on the site of the airstrip or helicopter land site.~~

GRUZ-R14A: Aircraft and Helicopter Movements

Activity status: Permitted

Where:

PER-1 Aircraft and Helicopter Movements are used for emergency purposes only such as medical emergencies, search and rescue or firefighting, or where the movement is a non-commercial small fixed-wing aircraft; or

PER-2 Aircraft and Helicopter Movements are associated with purposes ancillary to rural production including topdressing, spraying, stock management, fertiliser application, and frost mitigation, including the incidental landing and take-off of helicopters during their normal course of operation, or

PER-3 All other aircraft and helicopter movements must be setback greater than 100m from:

1. any Residential zone; and
2. the notional boundary of a building containing an existing noise sensitive activity, on a separate site under different ownership.

Insert definition: **Non-commercial small fixed-wing aircraft** is an aeroplane that is not being flown for a commercial purpose and has a certified take-off weight for the aeroplane and its contents of 5,700kg or less.