

Before the Independent Hearing Panel
Appointed by the Timaru District Council

Under	Schedule 1 of the Resource Management Act 1991 (RMA)
In the matter of	Submissions on the Proposed Timaru District Plan
Between	Various
	Submitters
And	Timaru District Council
	Respondent

Statement of evidence of Andrew Cameron MacLennan

Supplementary evidence – Non-commercial, small fixed-wing aircraft

28 February 2025

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Introduction

- 1 My name is Andrew Maclellan. I am an Associate at the firm Incite. I prepared the s42A report on Rural Zones to the Proposed District Plan (**PDP**). I have the qualifications and experience as set out in my s42A report. I confirm that I have read and agree to comply with the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023.
- 2 This evidence relates to the submission points from Aircraft Owners and Pilots Association (AOPA) and Sid McAuley regarding the management of non-commercial small, fixed-wing aircraft within the Proposed Timaru District Plan (PDP). It addresses the following:
 - (a) Council officers' position on GRUZ-R14 and GRUZ-R14A at the hearing;
 - (b) Council officers position within Interim Reply;
 - (c) Consultation with submitters;
 - (d) Memorandum of counsel for submitters;
 - (e) Updated recommendation; and
 - (f) Updated Section 32AA assessment.

Council officers' position at the hearing

- 3 Within my summary statement presented at the hearing¹ I provided an update to my position on the AOPA and McAuley submission points within paragraphs 27 – 30, as follows:

Aircraft Owners and Pilots Association of New Zealand (AOPA)

27 I agree in principle with the evidence of Mr Evans supported by the legal submissions from Mr Maw, that the setbacks included within GRUZ-R14 are excessive for managing the noise associated with small fixed-wing aircraft. I consider an alternative framework for managing these activities within the PDP would be appropriate.

28 The effect being managed by GRUZ-R14 is a noise effect. In my view there are two ways to manage the noise effects from aircrafts:

¹ https://www.timaru.govt.nz/_data/assets/pdf_file/0003/906762/Maclellan-s42A-summary-Hearing-B.pdf

- (a) *introduce a noise limit for the activity, (such as the general noise rule (Rule 5.22) within the Rural Zone chapter of the ODP which currently manages small fixed-wing aircrafts in the Rural zone) or*
 - (b) *introduce limits on the noise producing activity such as limits on duration or setbacks from noise sensitivity activities (such as GRUZR14 within the PDP).*
- 29 *Given the nature of the noise produced by small fixed-wing aircrafts, I largely agree with the amendments to the PDP suggested by Mr Maw. However, I disagree with the suggestion within paragraph 68(c) of Mr Maw's legal submissions that the flying of small-fixed wing aircraft on permanent or non-permanent airstrips should remain exempt from NOISE-R1.*
- 30 *If an exclusion for small-fixed wing aircrafts is made to GRUZ-R14, I consider the general noise rule (NOISE-R1) or another suitable noise limit should apply to small-fixed wing aircrafts in the GRUZ, to ensure the noise effects from these activities are appropriately managed.*

Councils officer position within Interim Reply

- 4 Within my interim reply², at paragraphs 81 – 83, I reiterated that the setbacks included within GRUZ-R14 are excessive for managing the noise associated with non-commercial small fixed-wing aircraft. I considered that an alternative framework for managing these activities within the PDP would be appropriate.

Consultation with submitters

- 5 I developed proposed provisions to implement that recommendation which were sent to the submitters on 2 September 2024. The submitters were not supportive of the suggested provisions as they considered the proposed drafting did not represent the status quo and would likely place further restrictions on the flying of small, non-commercial, fixed wing aircraft in the Timaru District, than currently exist in the ODP.
- 6 The Council therefore sought further advice from Malcom Hunt on whether a general noise standard would be appropriate to manage the effects of non-commercial small, fixed wing aircrafts, and if not, what other district plan provisions may be appropriate to manage the effects of these activities. That advice was forwarded to the submitters, with the following

² https://www.timaru.govt.nz/_data/assets/pdf_file/0006/934404/Hearing-B-A-Maclennan-Interim-reply-in-response-to-Minute-14-Incl-appendices-.pdf

proposed provisions that established a permitted activity status for small fixed-wing aircraft based on the number of movements:

Noise from movements of fixed-winged light aircraft movements for non-commercial purposes at informal airstrips in the General Rural Zone (GRUZ) are exempted from the permitted activity noise performance standards of NOISE-S2 provided the following are complied with;

A. Number of Aircraft Movements

- 1) *Subject to clauses B, C and D, where an informal airstrip is located in the GRUZ within 500m of any existing sensitive receiver site (such as rural dwellings) or sites zoned for residential use, movements of fixed-winged light aircraft taking place for non-commercial purposes shall be managed to comply with each of the following limits;*
 - i. *Not more than two landings and two take-offs at the informal airstrip per calendar day;*
 - ii. *Not more than five landings and five take-offs at the informal airstrip per calendar week;*
 - iii. *Not more than twelve landings and twelve take-offs at the informal airstrip per calendar month.*
- 2) *None of the above movement limitations apply for aircraft movements at informal airstrips located in the GRUZ at locations 500m or more from any existing sensitive receiver site (such as a rural dwelling) or sites zoned for residential use.*

B. Night Time Aircraft Movements

- 1) *Where informal airstrips in the GRUZ are located within 1,000m of any existing sensitive receiver site (such as a rural dwelling) or a site zoned for residential purposes, use of the airstrip by non-commercial fixed-wing light aircraft between the hours of 10pm and 7am is not a permitted activity.*
- 2) *Night time movement restrictions between 10pm and 7am do not apply where an informal airstrip is located 1,000m or more from any existing sensitive receiver site in the GRUZ (such as rural dwellings) or sites zoned for residential use.*

C. Aircraft 'Fly-in' Events

Aircraft 'Fly-in' events are limited to not more than 6 events per calendar year per informal airstrip providing;

- 1) *No more than 1 event per month; and*
- 2) *The AOPA has notified the council's planning department of the event.*

D. Application

- 1) *These provisions apply to the use of informal airstrips in the GRUZ for the landing and taking off of fixed-wing light aircraft for a non-commercial purpose and which has a certified take-off weight for the aeroplane and its contents of 5,700kg or less.*
- 2) *None of the above restrictions apply to aircraft movements at informal airstrips used for emergency landings, rescues and fire-fighting.*

Memorandum of counsel from submitters – 6 December 2024

- 7 On 6 December 2024, the Council received a memorandum on behalf of the submitters setting out changes to the activity-based framework proposed by Mr Hunt that they consider acceptable and that would

effectively accommodate the scale of the existing activity. As set out in paragraph 33 of the submitter's memorandum, in summary, this rule will permit the flying of small non-commercial fixed-wing aircraft as follows:

1. *Where an airstrip is located within a 500m of any Residential zone or the notional boundary of a building containing an existing noise sensitive activity, on a separate site under different ownership:*
 - (a) *No more than 20 take offs and 20 landings per month;*
 - (b) *'Fly-in' events (where multiple aircraft fly onto a property) are not included in the calculation for (1)(a) and are limited to no more than 12 events per calendar year; and*
 - (c) *Nighttime movements (between 10pm and 7am) are subject to the permitted activity nighttime noise standard NOISE-S2.*
2. *Where an airstrip is located between 500m and 1000m from any Residential zone or the notional boundary of a building containing an existing noise sensitive activity, on a separate site under different ownership, no maximum use limitations or noise limits apply between 7am and 10pm but the permitted activity nighttime noise standard NOISE-S2 applies outside of these hours; and*
3. *Where an airstrip is located over 1000m from any Residential zone or the notional boundary of a building containing an existing noise sensitive activity, on a separate site under different ownership no maximum use limitations or noise limits apply (whether day or night).*

- 8 Mr Hunt has reviewed the proposal and considers that it is generally acceptable for the purposes of managing noise from non-commercial, small fixed-wing aircraft. I requested that Mr Hunt provide me with technical evidence addressing the proposed provisions in order to assist me in making my recommendation, and the Panel in making its decision.

Recommendations

- 9 I have reviewed the drafting provided by the submitters and the evidence of Mr Hunt. I agree in principle with the drafting that has been proposed. However, rather than excluding non-commercial, small fixed-wing aircraft from GRUZ-R14 and applying the amendments to GRUZ-R14A, I consider the amendment should be made to GRUZ-R14.
- 10 The intention of the drafting is that GRUZ-R14 applies to "permanent airstrip or helicopter landing site". Within paragraph 10.25.37 of my s42A report I

suggested the inclusion of a definition of “permanent airstrip or helicopter landing site” as follows:

Means any defined area of land intended or designed to be used, whether wholly or partly, used for the landing or departure of aircraft.

- 11 GRUZ-R14A then manages “aircraft and helicopter movements” outside of “permanent airstrip or helicopter landing site”. Within paragraph 10.25.37 of my s42A report I also suggested the inclusion of a definition of “Aircraft and helicopter movement” as follows:

Means a single aircraft flight operation (landing or departure). Maintenance procedures are excluded.

- 12 Given non-commercial small fixed-wing aircraft movements occur on a permanent airstrip, I consider the amendments suggested to the PDP should be made to GRUZ-R14 rather than GRUZ-R14A.
- 13 On reflection, I consider the relationship between GRUZ-R14 and GRUZ-R14A is not clear in the drafting proposed within my interim reply. To clarify the relationship between these rules I have recommended an amendment to the title of the GRUZ-R14A so that is clear that it applies to aircraft and helicopter movements outside of permanent airstrips and helicopter landing sites. The rationale for the two different rules is set out in paragraph 10.25.17 – 10.25.35 of my s42A report.
- 14 Mr Hunt has also suggested the inclusion of a permitted standard requiring that the Council be notified of each fly-in event. While I acknowledge that would be beneficial from a monitoring perspective to have a record of each event, in my view there are countless permitted activities within the PDP that rely on plan users understanding the requirements of the PDP that do not require the notification of the Council prior to the activity being undertaken. I do not consider there is anything unique about the proposed fly-in rule that would require this additional requirement. As such, it has not been included within the suggested amendments.
- 15 If the Hearing panel were of a view that a notification requirement was required, I consider the following could be added to GRUZ-R14(3)(a)(ii):

(ii) *'Fly-in' events (where multiple aircraft fly onto a property) are not included in the calculation for (1)(a) and are limited to no more than 12 events per calendar year, the landowner must, 10 working days before each fly-in event, notify the Council's Planning Department of the event; and*

16 I recommend that GRUZ-R14 and GRUZ-R14A be amended as follows:

17 The following is a key of the proposed amendments:

Appearance	Explanation
Black text	Text as notified.
Black text with <u>underlining</u> or striketrough	Amendments recommended in section 42A report
Blue text with <u>underlining</u> or striketrough	Additional amendments recommended by the interim reply report.
Red text with <u>underlining</u> or striketrough	Additional amendments recommended within this evidence.

GRUZ-R14	Use of <u>permanent</u> airstrips and helicopter landing sites	
General Rural Zone	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1 The flights are for emergency purposes such as medical evacuations, search and rescue, firefighting or civil defence; or</p> <p>PER-2 The <u>permeant</u> airstrip or helicopter landing site is use is for primary production including spraying, stock management, fertiliser application or frost protection for:</p> <ol style="list-style-type: none"> 1. <u>used for</u> a maximum of <u>30</u> seven days within any 12three month period where the airstrip or helicopter landing site is 	<p>Activity status where compliance not achieved: <u>Restricted Discretionary</u>⁷</p> <p><u>Matters of discretion are restricted to:</u></p> <ol style="list-style-type: none"> 1. <u>the extent of non-compliance with PER-2 and PER-3; and</u> 2. <u>the extent to which helicopter noise limits specified within Table 1 of NZS6807:1994 are complied with; and</u> 3. <u>the level, duration and character of the noise; and</u> 4. <u>proximity and nature of nearby activities and the adverse effects they may experience from the noise; and</u>

⁷ Helicopters Sth Cant. [53.25], NZAAA [132.31]

	<p>setback between 500m-1,000m from:</p> <ul style="list-style-type: none"> a. any Residential zone; and b. the notional boundary of a building containing an existing noise sensitive activity, <u>on a separate site under different ownership not located on the site of the airstrip or helicopter land site</u>;³ <p>or</p> <p>2. the airstrip or helicopter landing site is setback greater than 1,000m from:</p> <ul style="list-style-type: none"> a. any Residential zone; and b. the notional boundary of a building containing an existing noise sensitive activity, <u>on a separate site under different ownership not located on the site of the airstrip or helicopter land site</u>;⁴ <p>or</p> <p>3. <u>being used by non-commercial small fixed-wing aircraft within the following limits:</u></p> <ul style="list-style-type: none"> a. <u>Where an airstrip is located within a 500m of any Residential zone or the notional boundary of a building containing an existing noise sensitive activity, on a separate site under different ownership:</u> <ul style="list-style-type: none"> i. <u>No more than 20 take offs and 20 landings per month;</u> 	<ul style="list-style-type: none"> 5. <u>the existing noise environment; and</u> 6. <u>effects on amenity values and anticipated character of the receiving environment; and</u> 7. <u>effects on health and well-being of people; and</u> 8. <u>noise mitigation measures; and</u> 9. <u>the practicality of utilising alternative sites.</u>
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³ Evans, J [45.1], McAuley, S [57.1], Aubrey, L [59.1], Station Air [61.1], Pemberton, S [64.1], Cessna 180/185 Group et al [201.1], Coldicott, J. M. [118.1], Coldicott, G [254.1]

⁴ Evans, J [45.1], McAuley, S [57.1], Aubrey, L [59.1], Station Air [61.1], Pemberton, S [64.1], Cessna 180/185 Group et al [201.1], Coldicott, J. M. [118.1], Coldicott, G [254.1]

	<p><u>ii. 'Fly-in' events (where multiple aircraft fly onto a property) are not included in the calculation for (1)(a) and are limited to no more than 12 events per calendar year; and</u></p> <p><u>iii. Nighttime movements (between 10pm and 7am) are subject to the permitted activity nighttime noise standard NOISE-S2.</u></p> <p><u>b. Where an airstrip is located between 500m and 1000m from any Residential zone or the notional boundary of a building containing an existing noise sensitive activity, on a separate site under different ownership, no maximum use limitations or noise limits apply between 7am and 10pm but the permitted activity nighttime noise standard NOISE-S2 applies outside of these hours; and</u></p> <p><u>c. Where an airstrip is located over 1000m from any Residential zone or the notional boundary of a building containing an existing noise sensitive activity, on a separate site under different ownership no maximum use limitations or noise</u></p>	
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	<p><u>limits apply (whether day or night).⁵</u></p> <p>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:</p> <ol style="list-style-type: none"> 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.⁶ 	
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<u>GRUZ-R14A</u>	<u>Aircraft and helicopter movements <u>outside of permanent airstrips and helicopter landing sites</u>⁸</u>	
<u>General Rural Zone</u>	<u>Activity status: Permitted</u>	<u>Activity status where compliance not achieved: Restricted Discretionary</u>
	<p><u>Where:</u></p> <p><u>PER-1</u> <u>Aircraft and Helicopter Movements are used for emergency purposes only such as medical emergencies, search and rescue or firefighting; or</u></p> <p><u>PER-2</u> <u>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</u></p> <p><u>PER-3</u></p>	<p><u>Matters of discretion are restricted to:</u></p> <ol style="list-style-type: none"> 1. <u>the extent to which helicopter noise limits specified within Table 1 of NZS6807:1994 are complied with; and</u> 2. <u>the level, duration and character of the noise; and</u> 3. <u>proximity and nature of nearby activities and the adverse effects they may experience from the noise; and</u> 4. <u>the existing noise environment; and</u> 5. <u>effects on amenity values and anticipated character of the receiving environment; and</u>

⁵ Evans, J [45.1], McAuley, S [57.1], Aubrey, L [59.1], Station Air [61.1], Pemberton, S [64.1], Cessna 180/185 Group et al [201.1], Coldicott J. M. [118.1], Coldicott, G [254.1]

⁶ Helicopters Sth Cant. [53.25], NZAAA [132.31], Federated Farmers [182.201], Talbot, J [79.1]

⁸ Helicopters Sth Cant. [53.25], NZAAA [132.31], Federated Farmers [182.201], Talbot, J [79.1]

<p><u>All other aircraft and helicopter movements must be setback greater than 100m from:</u></p> <ol style="list-style-type: none"> 1. <u>any Residential zone; and</u> 2. <u>the notional boundary of a building containing an existing noise sensitive activity, on a separate site under different ownership.</u>⁹ 	<ol style="list-style-type: none"> 6. <u>effects on health and well-being of people; and</u> 7. <u>noise mitigation measures; and</u> 8. <u>the practicality of utilising alternative sites.</u>¹⁰
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Definitions

<u>Aircraft and helicopter movement</u>	<u>Means a single aircraft flight operation (landing or departure). Maintenance procedures are excluded.</u> ¹¹
<u>Permanent airstrip or helicopter landing site</u>	<u>Means any defined area of land intended or designed to be used, whether wholly or partly, used for the landing or departure of aircraft.</u> ¹²
<u>Small fixed-wing aircraft</u>	<u>Means an aeroplane that has a certified take-off weight for the aeroplane and its contents of 5,700kg or less.</u> ¹³

Section 32AA assessment

- 18 I consider the recommended amendments to GRUZ-R14 provides flexibility within the rule to enable the use of non-commercial small fixed-wing aircrafts as a permitted activity, while also ensuring that the effects of the activity are managed to ensure the amenity of the GRUZ is maintained. I

⁹ Helicopters Sth Cant. [53.25], NZAAA [132.31], Federated Farmers [182.201], Talbot, J [79.1]

¹⁰ Helicopters Sth Cant. [53.25], NZAAA [132.31], Federated Farmers [182.201], Talbot, J [79.1]

¹¹ Evans, J [45.1], McAuley, S [57.1], Aubrey, L [59.1], Station Air [61.1], Pemberton, S [64.1], Cessna 180/185 Group et al [201.1], Coldicott, J. M. [118.1], Coldicott, G [254.1]

¹² Evans, J [45.1], McAuley, S [57.1], Aubrey, L [59.1], Station Air [61.1], Pemberton, S [64.1], Cessna 180/185 Group et al [201.1], Coldicott, J. M. [118.1], Coldicott, G [254.1]

¹³ Evans, J [45.1], McAuley, S [57.1], Aubrey, L [59.1], Station Air [61.1], Pemberton, S [64.1], Cessna 180/185 Group et al [201.1], Coldicott, J. M. [118.1], Coldicott, G [254.1]

consider the proposed rule framework balances the requirements within GRUZ-O1 to provide for activities that require a rural location, with the requirement within GRUZ-O2(2) to provide higher levels of amenity immediately around existing sensitive activities and zone boundaries.

- 19 I consider the recommended amendments will have an economic benefit as it will ensure that there is a permitted activity pathway for aircraft owners, removing the costs associated with requiring a resource consent, where the permitted standards are achieved. It also removes uncertainty and costs associated with demonstrating existing use rights, or the cost associated with obtaining a certificate of compliance.
- 20 I do not consider the recommended amendments will have any greater environmental, social, and cultural effects than the notified provisions.
- 21 Finally, I consider the recommended amendment to GRUZ-R14A is minor in in nature but improves the clarity and interpretation of the provision as the drafting clarifies the relationship between GRUZ-R14 and GRUZ-R14A. I do not consider the recommended amendments will have any greater environmental, economic, social, and cultural effects.

Andrew MacLennan

28 February 2025