

**BEFORE THE FAST-TRACK APPROVALS
EXPERT PANEL**

FTAA-2504-1054

UNDER the Fast-track Approvals Act 2024 ("**FTAA**")

AND

IN THE MATTER of an application for approvals by Carter Group Limited ("**CGL**") in relation to the proposed Ryans Road Industrial Development ("**Application**")

**MEMORANDUM OF COUNSEL ON BEHALF OF AIRWAYS CORPORATION OF
NEW ZEALAND**

16 FEBRUARY 2026

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MAY IT PLEASE THE PANEL:

Summary

1. This memorandum is filed on behalf of Airways Corporation of New Zealand ("**Airways**") in response to the Panel's Minute 8 requiring Airways (and other parties, including Christchurch International Airport Limited ("**CIAL**")) to:¹
 - (a) confirm the extent to which the new National Policy Statement for Infrastructure 2025 ("**NPS-I**") raises additional matters for assessment of approvals sought under the FTAA; and
 - (b) undertake a brief assessment of the impact of such matters on the Application.

2. Airways' navigation infrastructure is located (and critical to operations) at Christchurch Airport. In recognition of the location and similar position of CIAL and Airways in relation to the Application (as outlined in previous correspondence with the Panel),² Airways has reviewed and broadly adopts the planning analysis of the NPS-I (and associated planning documents) prepared by CIAL's independent planners ("**Planning Memorandum**") as it relates to Airways' infrastructure. This memorandum focuses on the legal position of the relevance of the NPS-I to approvals under the FTAA in the Panel's assessment of the Application.

3. In summary:
 - (a) The NPS-I came into force on 15 January 2026 and is required to be given effect to by decision makers on and from this date.³
 - (b) The NPS-I's objective and policies are directly relevant to the Application and must be considered by the Panel when considering the Application under the FTAA.⁴ Airways' navigation infrastructure meets the definition of infrastructure under the NPS-I.⁵ The NPS-I is therefore relevant to the adverse effects of the Application on Airways' infrastructure.

¹ Minute 8 of the Expert Panel dated 23 January 2026.

² Airways Corporation of New Zealand Response dated 18 December 2025, and Memorandum of Counsel on behalf of Airways, dated 28 January 2026.

³ NPS-I, clause 3.1.

⁴ See paragraphs 6 to 12 below.

⁵ NPS-I clause 1.4(1), RMA, section 2, and section 5 of the Civil Aviation Act 2023.

- (c) The adverse impacts from the Application on aviation safety have clearly been set out by Airways in previous memoranda and comments to the Panel.⁶ Airways reiterates it is critical that a fulsome and careful assessment of the safety effects of the Application is undertaken to ensure that any adverse safety risk is appropriately addressed by CGL, without adversely affecting CIAL's and Airways' critical infrastructure.
- (d) The adverse aviation safety impacts resulting from the Application are inconsistent with multiple NPS-I provisions as outlined in the Planning Memorandum.⁷
4. The Panel may decline an approval if one or more adverse impacts are sufficiently significant to be out of proportion to the Application's regional or national benefits under section 85(3) of the FTAA.
5. As has already been made clear to the Panel, Airways' position is that the Panel should be minded to decline the Application (unless CGL otherwise chooses to withdraw it) on the basis that the adverse impacts to aviation safety (including that those impacts are inconsistent with the NPS-I and other planning instruments) are sufficiently significant and out of proportion to any regional or national benefits of the Application.⁸

NPS-I matters relevant to approvals sought under FTAA

6. The NPS-I was issued by the Government on 15 December 2025 and came into force on 15 January 2026. All decision makers must give effect to the NPS-I on and from the commencement date (being 15 January 2026).⁹ As the Application has not yet been decided, the relevant NPS-I objective and policies must be considered by the Panel when determining the Application.
7. Airways' navigation infrastructure meets the definition of infrastructure under the NPS-I, being a navigation installation as defined in section 5 of the Civil Aviation Act 2023 which is infrastructure as defined in the Resource Management Act 1991 ("**RMA**").¹⁰ The Application (being a predominantly industrial development) does not meet this definition. The NPS-I is therefore

⁶ See for example the Airways Corporation of New Zealand Response dated 18 December 2025, and the Memorandum of Counsel on behalf of Airways, dated 28 January 2026.

⁷ Memorandum on behalf of CIAL dated 16 February 2026, Table 1.

⁸ Memorandum of Counsel on behalf of Airways, dated 28 January 2026, at [16].

⁹ NPS-I, Part 3, 3.1(1).

¹⁰ NPS-I clause 1.4(1), RMA, section 2, and section 5 of the Civil Aviation Act 2023.

relevant to the adverse effects of the Application on Airways' (and CIAL's) infrastructure.

8. When considering the Application, the Panel must consider any relevant Government policy statement,¹¹ alongside other considerations set out in section 81(3)(a) of the FTAA.¹² This section imports the relevant parts of the RMA as applicable to the Application.¹³
9. The Panel must consider applicable parts of the RMA when making its decision on the application, including section 104(1)(b)(iii), which expressly requires consent authorities to have regard to any relevant provision of a national policy statement.¹⁴ The Panel is required to give the greatest weight to the purpose of the FTAA (namely, to facilitate the delivery of infrastructure and development projects with significant regional or national benefits),¹⁵ followed by the relevant RMA matters.¹⁶
10. Under section 85(3) of the FTAA, a Panel may decline an approval if one or more adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits.¹⁷
11. Section 85(4) of the FTAA precludes a Panel from forming the view that an adverse impact meets the threshold in section 85(3) **solely** on the basis that the adverse impact is inconsistent with or contrary to a provision in a specified Act or other document. This clearly signals that where an adverse impact of an application is inconsistent with the NPS-I, this should be considered under section 85(3) of the FTAA in combination with other adverse impacts. While acknowledging the decision is not binding on the Panel, there was unanimous agreement to this interpretation in the recently issued draft decision for the Taranaki VTM application under the FTAA.¹⁸
12. Therefore, the inconsistency of aviation safety impacts with the NPS-I should be considered cumulatively with other adverse impacts when a Panel is deciding whether to form the view that one or more impacts in relation to the approval are sufficiently significant to be out of proportion to the Application's regional or national benefits.

¹¹ FTAA, section 81(2)(aab).

¹² FTAA, section 81(2)(b).

¹³ FTAA, section 81(3)(a).

¹⁴ FTAA, Schedule 5, clause 17(1)(b) the Panel to take into account Part 6 of the RMA (resource consents).

¹⁵ FTAA, section 3 and Schedule 5, clause 17(1).

¹⁶ FTAA, Schedule 5, clause 17(1).

¹⁷ FTAA, section 85(3).

¹⁸ Draft Decision *Taranaki VTM* Expert Panel FTAA-2504-1048, 4 February 2026, at [237] to [241].

Impact of NPS-I on the Application

13. The Application is inconsistent with the objective and multiple policies in the NPS-I. The Planning Memorandum sets out the objective and policies of the NPS-I relevant to the Application and provides a comprehensive planning analysis of those provisions as they relate to Christchurch Airport and aviation operations at the Airport. The relevant provisions are:
- (a) The objective;
 - (b) Policy 1;
 - (c) Policy 2;
 - (d) Policy 4;
 - (e) Policy 8;
 - (f) Policy 10; and
 - (g) Policy 11.
14. Airways adopts the analysis in the Planning Memorandum as relevant to its aviation navigation infrastructure at Christchurch Airport and concurs with the findings of CIAL's planners that the Application offends relevant provisions of the NPS-I. The NPS-I provides strong direction to protect and not compromise the importance of existing infrastructure (including Airways infrastructure).
15. As has been made clear in previous correspondence,¹⁹ there is a fundamental lack of information in the Application on the aviation safety risks to Airways' infrastructure. There is significant and critical further work that must be undertaken by CGL before the adverse impacts on existing aviation infrastructure are fully known.²⁰ This creates significant uncertainty as to whether Airways' infrastructure can continue to operate in a safe, resilient and effective manner in direct conflict with not only the overall objective of the NPS-I but the range of policies listed in paragraph 13 above. Without repeating the analysis within the planning memorandum filed by CIAL, it is important to emphasise the fact that in the absence of sufficient information to address aviation safety matters, the Application is unable to meet the NPS-I objective of:²¹

¹⁹ Airways Corporation of New Zealand Response dated 18 December 2025, and Memorandum of Counsel on behalf of Airways, dated 28 January 2026.

²⁰ Memorandum of Counsel on behalf of Airways, dated 28 January 2026 at [9].

²¹ NPS-I objective 1(a), (b) and (c).

- (a) ensuring the national, regional and local benefits of infrastructure are provided for;
- (b) enabling infrastructure to support the social, economic and cultural wellbeing of people and communities and their health and safety; and
- (c) ensuring that infrastructure is well-functioning, resilient and compatible, as far as practicable, with other activities.

Consideration of NPS-I policies 10 and 11

- 16. We acknowledge the Christchurch City Council's ("**CCC**") and Canterbury Regional Council's ("**CRC**") position that Policies 10(a) and (b) and 11(1)(c) are limited to decision-makers on "planning instruments" and therefore not relevant to the Application (being a decision on a resource consent application).²²
- 17. With respect, it appears CCC and CRC have taken a very strict, plain wording interpretation of these policies. In our submission, a broader interpretation is required for the purpose of the Application's impact on Airways' (and CIAL's) infrastructure.
- 18. Policies 10 and 11 are intended to cascade into planning instruments development under the NPS-I and therefore bind all decisions-makers. As the Panel is aware, the NPS-I has only very recently come into effect. There is currently a requirement to stop most plan making in New Zealand (as explained within the "Explanatory Note" to the NPS-I) meaning that there is no (or a very limited) ability for these policies to be included in planning instruments at the current time. In our submission, it would be illogical for the Panel to disregard these policies entirely, due to the fact that the relevant plans have not yet been updated in light of the NPS-I.
- 19. Policies 10(1)(a) and (b) and 11(1)(c) are broadly framed and seek to manage the interface between developments and existing infrastructure, with new activities having primary responsibility for managing adverse effects. In our submission, those policies can and should be taken into account by the Panel when considering the Application.
- 20. If, however, the Panel is minded to take a strict interpretation and consider that policies 10(1)(a) and (b) and 11(1)(c) do not apply to the Application, it is our submission that there are existing provisions within the Christchurch City

²² Memorandum on behalf of CCC, dated 3 February 2026, page 9 and 10.

District Plan ("**District Plan**") and the Canterbury Regional Policy Statement ("**RPS**") covering the key aspects of these policies, in addition to the objective of the NPS-I which also specifically requires consideration of land use compatibility.

21. The Panel is already required to consider these provisions in its decision-making under the FTAA:
- (a) Policy 10(1)(a) and (b) of the NPS-I requires decision-makers to manage the interface between existing infrastructure and other activities to ensure compatibility, and ensure that existing infrastructure is not compromised. Several existing provisions in the District Plan and RPS require new development to be compatible with existing regionally significant infrastructure and require the avoidance or mitigation of adverse impacts arising from the conflict between incompatible activities as far as practicable.²³
 - (b) Policy 11(1)(c) of the NPS-I requires that the primary responsibility for managing adverse effects is on the new activity (not existing). There are several existing provisions within the District Plan and RPS that require the avoidance or mitigation of reverse sensitivity effects which are directly concerned with new uses locating near existing infrastructure and that infrastructure is not subsequently constrained.²⁴ It is inherent in this concept that the new activity should be managed in a way so as to not affect the existing activity, consistent with the intent of policy 11(1)(c).

Conclusion

22. There is a fundamental lack of information in the Application on the aviation safety risks on Airways' infrastructure, which requires significant and critical further work by CGL. It is important that the safety risks are understood and then quantified and addressed by CGL. This is work that is required up front, not retrospectively through conditions for example.
23. The adverse aviation safety impacts of the Application are inconsistent with the objective and policies contained in the NPS-I. The Panel must take this

²³ RPS 5.2.1 and 5.2.2.f and District Plan objective 3.3.15. For the purpose of the District Plan, navigation aids are also a "Utility" and therefore objective 11.2.2 (requiring the protection of utilities from the adverse effects of other activities) is also relevant.

²⁴ RPS 5.2.1 and 5.3.2. For the purpose of the District Plan, navigation aids are also a "Utility" and therefore policy 11.2.2.2 applies (requiring the avoidance of adverse effects on utilities, including reverse sensitivity effects, that may compromise their operation, maintenance, upgrade and development).

into consideration when making its decision to grant or decline the Application under section 81 of the FTAA.

24. In our submission, the fundamental failing of the Application, namely, the significant information gaps in the aviation safety assessments provided by CGL, and potential adverse impacts on aviation safety on its own provides sufficient grounds for the Panel to decline the Application under section 85(3) of the FTAA. This is further compounded by the adverse impacts of the proposal being squarely inconsistent with key provisions of the NPS-I.
25. In our submission, the Panel should decline the Application under section 85(3) of the FTAA.

DATED 16 February 2026



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