

**BEFORE THE HEARINGS PANEL
CHRISTCHURCH DISTRICT PROPOSED PLAN CHANGE 4**

IN THE MATTER of the Resource Management
Act 1991

AND

IN THE MATTER of Proposed Plan Change 4 to
the Christchurch District Plan:
Short-Term Accommodation

**MEMORANDUM OF COUNSEL FOR CHRISTCHURCH CITY COUNCIL REGARDING
AMENDED OFFICERS' REPORT AND ECONOMIC EVIDENCE**

2 AUGUST 2021

IF IT PLEASES THE HEARING PANEL:

1. This is a memorandum of counsel for the Christchurch City Council (Council) as proponent of Plan Change 4 (PC4).
2. The purpose of this memorandum is to seek a change to the directions in the Panel's Minutes 3 and 5 concerning the content of the Council's amended section 42A report and the content of the submitters' evidence in response. The Council does not seek any change to the timetable in those directions.
3. The Council has served a copy of this memorandum on all submitters at the same time as lodging it with the Panel.

Background

4. The Council requested an adjournment in a memorandum dated 11 May 2021. The reason for the request was to enable the Council to produce a cost benefit analysis of PC4. The adjournment was to allow time for:
 - 4.1 The Council's economic expert to prepare a cost benefit analysis of PC4; and
 - 4.2 A new planner engaged by the Council to prepare a planner's report in response to the economist's cost benefit analysis. As recorded in the Panel's Minute 3, "*...the Council planner who has been leading the preparation of PC4 is taking up other employment at the end of May. The Council will need to appoint a new planner to lead this proposed plan change and it will take time for that to occur; and*
 - 4.3 Submitters to file expert evidence responding to that new information; and
 - 4.4 Rebuttal evidence.
5. The Panel's Minute 3 dated 12 May 2021 granted that request and made timetabling directions.
6. Counsel for Airbnb Australia Pty Limited (Airbnb) (Submitter S112 / FS04) filed a memorandum on 21 June 2021. That memorandum sought confirmation from the Panel that the Council is only given leave to produce additional economics evidence.

7. The Panel's Minute 5 dated 28 June 2021 issued an amended direction in response to that memorandum. The amended direction is:

16. *That Direction 15(c) of Minute 3 (12 May 2021) be amended to read as follows:*

- (c) *The Council is to file and serve an economic assessment of PC4 for the purposes of s.32 together with an updated s.42A report and s.32AA evaluation to take account of the economic assessment, seven weeks prior to the hearing. For clarification, this direction does not provide leave for the Council to file or serve any other expert assessments of PC4.*

The Issue

8. The purpose of this memorandum is to respectfully request the Panel to provide a qualification to that direction of 28 June 2021 that by necessity arises from the Council having engaged a new planner in this matter.
9. The Council has now engaged a consultant planner, Mr Ian Bayliss of Barker and Associates, to provide all planning input for PC4. Mr Bayliss will be providing a planning assessment of the implications of the economist's cost benefit analysis. Mr Bayliss will be providing the updated Council report under section 32 and 42A of the Act that is authorised by the Panel's direction in Minute 5.
10. Mr Bayliss will be providing his expert assistance to the Panel in accordance with the code of conduct for expert witnesses in the Environment Court. That code of conduct states (among other matters) that:
 - 10.1 An expert witness has an overriding duty to impartially assist the Court on matters within the expert's area of expertise; and
 - 10.2 An expert witness is not, and must not behave as, an advocate for the party who engages the witness.
11. That means that Mr Bayliss has a duty when preparing the amended s42A report to explain to the Panel any matters on which his opinion might differ from that in the original report. He has a professional

obligation under the code of practice to not only amend the s42A report where appropriate to respond to the new economic evidence, but also to amend the s42A report wherever his impartial opinion differs from that expressed in the original report.

12. The Council is not proposing any change to the existing directions that the new reports from the Council are confined to economic and planning assessment; however, it is possible that Mr Bayliss' opinion might be different on matters in the s42A report and s32 assessment that are more extensive than solely responding to the economic cost benefit analysis.
13. For the avoidance of doubt, that possibility warrants a minor amendment to the Panel's directions on the content of the amended Council reports and submitters' evidence in response.

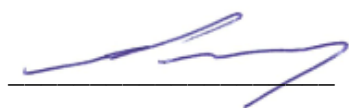
Directions sought:

14. Counsel respectfully seeks the following change to the Panel's directions in the Panel's Minutes 3 and 5 (change shown as **bold underlined**):
 - (a) *The hearing that was to commence on 17th May is adjourned and the timetable for rebuttal evidence and legal submissions is vacated;*
 - (b) *A new hearing date is to be set, with the hearing being no sooner than Monday 4th October;*
 - (c) *The Council is to file and serve an economic assessment of PC4 for the purposes of s.32 together with an updated s.42A report and s.32AA evaluation to take account of the economic assessment, seven weeks prior to the hearing. For clarification, this direction does not provide leave for the Council to file or serve any other expert assessments of PC4 **but does provide leave for the new planner engaged by the Council to amend the Council's s42A report and s32 assessment to record any material matters where his expert opinion differs from that of the original report writer. We direct the Council to clearly and specifically identify each matter on which he expresses a different opinion from that in the original report;***

- (d) *Submitters are to file and serve any expert evidence responding to that new information from the Council three weeks prior to the hearing; and*
- (e) *Rebuttal evidence (if any) and legal submissions are to be filed and served one week prior to the hearing.*

15. Counsel submits that this does not require any change to the timeframes in the existing timetable. That timetable provides submitters four weeks from receipt of the new Council report for the submitters to prepare and lodge planning and economic evidence that is confined to responding to the new information and new evidence in the Council reports. Counsel submits that four weeks remains an appropriate timeframe for the submitters to also include planning evidence in response to any amendments to the s42A report and s32 assessment prepared by Mr Bayliss.

2 August 2021



BK Pizzey

Counsel for the Christchurch City Council