

Before an Independent Hearings Panel
at Christchurch

under: the Resource Management Act 1991

in the matter of: Proposed Plan Change 4 to the Christchurch District
Plan

and: **Airbnb Australia Pty Limited**
Submitter 112 / Further Submitter 4

Summary of Evidence of Matt Bonis – Planning

Dated: 20 October 2021

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SUMMARY OF EVIDENCE OF MATT BONIS

- 1 My full name is Matt Bonis
- 2 My experience, qualifications and compliance to Part 7 of the Environment Court Practice Note (2014) is set out in my Evidence in Chief (**EiC**) as dated 10 May 2021, and restated in my Supplementary Evidence (**Supplementary**) dated 24 September and the Planning Joint Witness Statement (**Planning JWS**) as dated 8 October.. I restate that obligation in providing this **Summary** and in answers to Panel questions.
- 3 There is common ground between the Economic Witnesses, Mr Osbourne and Ms Hampson that there are *'no demonstrable or material net economic benefits associated with either the PC4 provisions or the provisions in the ODP as they pertain to HSA. As such there is nothing to be gained in terms of economic outcomes from enforcing the PC4 provisions or the ODP provisions'*¹. They also state: *'there are economic benefits attributable to the efficient provision of HSA in Christchurch'*².
- 4 The economists agree that *'HSA provides a valuable visitor accommodation resource for Christchurch, allowing greater choice, flexibility and utilisation of a significant community asset'*³.
- 5 Mr Osbourne identifies that a more restrictive approach⁴ as predicated by the implementation of the ODP would result in substantial economic costs. It seems intuitive to me that the approach sought by a number of submitters seeking a more restrictive approach than in the Operative Plan (such as submitted approaches by the Waikura / Linwood-Central Heathcote Community Board Sub 85, or Victoria Neighbourhood Association Inc Sub 90⁵) would also result in also result in substantial economic costs to the District.
- 6 In my view, and in the absence of demonstrable amenity and social costs (under a holistic consideration of s32); a more prescriptive approach would not be the *more appropriate*.
- 7 Whilst not explicit in the Economic JWS there is support for the removal of economic outcomes from some provisions (objectives)⁶. Based on the Osborne Report and EiC of Ms Hampson I consider that these matters relate to the removal of consideration of:
- 7.1 Housing supply;
- 7.2 A revitalised Central City; and
- 7.3 Enabling the revitalisation of commercial centres⁷.
- 8 I consider that the issues are therefore narrowed to the following:
- 8.1 the provisions in the ODP are not the most appropriate⁸;
- 8.2 In considering PC4, the Council is to prepare its District Plan in accordance with ss74 and 75 of the Act , with the Council having a function to achieve integrated management of the effects of the use, development or protection of land under s31(1)(a). An evaluation under s32, includes an examination of whether the provisions are the most appropriate, including by:
- (a) identifying other *reasonably practicable* options for achieving those objectives; and

¹ Economic JWS [2.15]

² Economic JWS [2.14]

³ Economic JWS [2.4]

⁴ Osbourne Report [6.3.5]

⁵ VNA ppt 19 October 2021 'Significant decrease in unhosted STA in Residential Central City Zones'.

⁶ Economic JWS [2.16]

⁷ Amended PC Provisions – Objective 14.2.9. Appendix A Rebuttal Bayliss 8 October.

⁸ Planning JWS [6.1.4] Bonis and Bayliss only.

- (b) assessing the *efficiency* and *effectiveness* of the provisions, including identifying, assessing and, if practicable quantifying the benefits and costs of all effects that are anticipated to be provided from the implementation of the rule⁹.

8.3 does the scale, extent and significance of HSA in terms of material adverse effects on localised residential character and amenity warrant prescriptive regulation in terms of the s32 tests¹⁰.

9 In my view the matters 'pivot' on the statement made by Mr Bayliss:

*'a fundamental disagreement as to whether the social costs (disruption, amenity, coherence) are present or predictable such that the regulations in PC4 are appropriate, efficient and effective'*¹¹.

10 In terms of s32(1)(b)(i) I consider that practicable in this context means possible to be accomplished with known means or resources and feasible. I have outlined in my Supplementary Evidence [62] the range of non-regulatory mechanisms that provide a feasible alternative to regulation. I have identified that the Noise compliant process represents an effective and efficient (and existing) means to manage noise disturbance from HSA. Mr Nolan can speak to the efficiency and effectiveness of the more proactive AirBnB measures, including online review process, neighbourhood support line, AirBnB community standards and the Party and Events Policy. It is important to note that these mechanisms exist with or without any provisions introduced through PC4

11 Mr Bayliss has recommended a suite of provisions (summarised) as below, by contrast I have suggested a more enabling, certain and simple set of provisions¹².

PC4 Provisions as amended Rebuttal Bayliss 8 October

HOSTED:

- **Permitted for max 6 guests**, and with check in/out restrictions (cannot occur between 10pm and 6am). Council to be notified prior to commencement, and records kept.
- **Discretionary** If hosting up to 12 guests.
- **Non-complying** if hosting more than 12 guests.

UNHOSTED:

- **Permitted in rural zones** and in some areas of Banks Peninsula¹³ (Akaroa, Duvachelle, Wainui, Barry's Bay, Le Bons Bay, Cooptown, Little River, French Farm, Kukupa, Little Akaroa, Okains Bay, Pigeon Bay, Robinsons Bay, Takamatua, Tikao Bay) **provided:**
 - o 6 guests max
 - o Total 180 nights per year
 - o Neighbours are given contact information for host
 - o Council to be notified prior to commencement, and records kept.
 - o In rural areas, guests are given extra information on wayfinding, rural hazards, stock, and other similar matters
- **Discretionary** if any of the standards above cannot be met.
- **Non-complying** If hosting 12 guests or more

⁹ s32(2)(a)

¹⁰ Planning JWS [6.15] Bonis and Bayliss only.

¹¹ Supplementary Bayliss [2.2]

¹² Bonis EiC [207] as amended Supplementary [72]

¹³ Rule 14.10.1.1(P21)

- **Resource consent always needed in residential zones** (apart from the Banks Peninsula locations listed above):
 - o **Controlled** for max 6 guests and total 60 nights per year with restricted check in / out times;
 - o **Discretionary** to host more than 6 guests, offer late check in and out times, or host for a total of more than 60 nights per year.
 - o **Non complying** If hosting 12 guests or more.

- 12 My view is reached on the basis of the following:
- 12.1 I consider that the provisions introduced by PC4 are to achieve and implement the objectives, including **Objective 3.3.1** and **3.3.2**¹⁴.
- 12.2 Specifically in relation to the Residential zones, **Objective 14.2.4** seeks a high level of amenity, and **Objective 14.2.6** seeks that residential activity remain the dominant activity in the residential zones.
- 13 In terms of the *former*:
- 13.1 I have noted in my EiC the Panel Decision instilled these provisions as '*fulfilling an important role within the design of the Plan (and in regard to its ongoing implementation and interpretation)*'¹⁵.
- 13.2 These provisions go to both - is prescriptive regulation needed? And if so what is the rule (and status) that may be the *most appropriate* in the evaluation under s32 of the Act? I note the case law referenced by both Mr Bayliss¹⁶ and Mr Carranceja¹⁷ in general support of a discretionary activity status (for a breach of controlled performance standards).
- 13.3 However, I understand that the approach as expressed in *Wakatipu Environment Society Inc Queenstown Lakes District Council*¹⁸ is that where the objectives of the Plan can be met by a less restrictive regime then that regime should be adopted. Such an approach reflects s32(1)(b)(ii) to examine the efficiency of the provision by identifying, assessing and, if practicable, quantifying all of the benefits and costs anticipated from its implementation. It also promotes the purpose of the Act by enabling people to provide for their well-being while addressing the effects of their activities¹⁹.
- 13.4 There is increased resonance against the backdrop of Objective 3.3.1 and Objective 3.3.2 of the Plan which seeks:
- The expedited recovery and future enhancement of Christchurch as a dynamic, prosperous and internationally competitive city, including meeting needs for economic development and social wellbeing;
 - fostering investment certainty;
 - through *changes* (to the plan) minimising transaction costs and reliance on resource consents, and the prescriptiveness of development controls and design standards, in order to encourage innovation and choice; and

¹⁴ Bonis EiC [88]

¹⁵ IHP Decision 1 [57]

¹⁶ Rebuttal Evidence. Bayliss [4.18]

¹⁷ Submissions Mr Carranceja [5.28]

¹⁸ *Wakatipu Environment Society Inc Queenstown Lakes District Council C153/2004*[56]

- use clear, concise language so that the plan is easy to understand²⁰.
- 13.5 My Bayliss is aware that the strategic objectives of a Plan can result in a more enabling approach towards HSA, as identified in his comparison against the Auckland Plan. In that context²¹ he states the Auckland Plan puts more emphasis on ‘a quality compact city’ with little emphasis on residential amenity. I suggest that Objectives 3.3.1 and 3.3.2 provide a very high-level directive towards both plan drafting and reducing – as appropriate - the extent, nature and scope of regulation to encourage innovation and choice.
- 14 In terms of the *latter*:
- 14.1 A key concern by the Council is that ‘*visitor accommodation, if left unregulated, has the potential to give rise to significant adverse social and amenity effects, particularly in the absence of any limits on the scale / intensity of the activity*’²².
- 14.2 In terms of **Objective 14.2.6** as stated in evidence²³, that HSA at 1.4% of total housing stock (10% in the four avenues, 13 – 15% in Akaroa) does not in my view threaten residential activities as the dominant activity in these zones.
- 14.3 In terms of **Objective 14.2.4**, and noting that I agree that amenity and character are important attributes in achieving ‘high quality’ residential (and rural) environments²⁴, I consider the following:
- (a) The *scale* of the HSA activity remains subject to the respective zone bulk and location standards;
 - (b) HSA utilises a residential unit, for ostensibly an activity that is more akin to residential than commercial, with upkeep and exterior amenity being subject to a relatively high standard²⁵.
 - (c) There are only 2,135 entire unhosted listings in the district, and in the residential zones only 0.6% of total district wide housing stock is in usage as an HSA for 60+ days. The HSA market had started to plateau prior to Covid 19²⁶.
 - (d) There is agreement that ‘*specialist technical reports on the extent of the adverse effects of these activities on residential amenity, character and coherence in Christchurch are not currently before the Panel*’²⁷.
 - (e) There are existing non-regulatory practicable options available to manage social costs arising from HSA. The Council receives very few noise complaints associated with HSA²⁸.
- 15 Lastly, I note that there is agreement between the Planning witnesses that the PC4 provisions have issues associated with complexity and enforceability²⁹. I share Mr Bayless’ view that any regulation or metrics in this space are somewhat arbitrary. However, I do consider that a fundamental issue for any plan rule is the practicality of administration by Council Officers, and ease of understanding for any applicant and

²⁰ These principles are also espoused in s18A RMA1991.

²¹ Rebuttal Bayliss [4.9]

²² Submissions Carranceja [5.4]

²³ Bonis EiC [118]

²⁴ Bonis EiC [152]

²⁵ s32[2.2.7]

²⁶ Economic JWS [2.2]

²⁷ Summary Bayliss [4(ii)]

²⁸ EiC 163

²⁹ Planning JWS [2.4.3]. Rebuttal Bayliss [4.8]

subsequent consenting process. I do consider that PC4 as currently recommended contains an administrative burden in this respect.

- 16 I have set out my recommended provisions within my EIC and Supplementary Evidence. These are predicated on my consideration that the social costs of HSA are not effectively nor efficiently regulated by the PC4 provisions as recommended by Mr Bayliss. As identified in the Planning JWS should the Panel reach a different view but seek further planning input into provisions, I would happily assist.



Matt Bonis
20 October 2021