BEFORE THE CHRISTCHURCH CITY COUNCIL

UNDER the Resource Management Act 1991

IN THE MATTER Plan Change 4 to the Christchurch District Plan

SUMMARY OF LEGAL SUBMISSIONS ON BEHALF OF CLEARWATER LAND HOLDINGS LIMITED – FS#7

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1 CLEARWATER RESORT – DISTINCTION WITH RESIDENTIAL ZONES

1.1 The submissions filed noted the clear distinction between "Resort Hotels" and "residential activities", as those terms are defined in the District Plan.

1.2 Mr. Bayliss' rebuttal evidence contains a useful discussion of some of the history behind the Clearwater Zone provisions, in particular the inclusion of the three month limit on owner occupancy of resort hotels. Mr. Bayliss refers to the IHP's decision on the appropriateness of the three month limit, and concludes that he is not aware of anything having changed since then [5.33]. Mr. Bayliss is entirely correct in his conclusion.

2 JURISDICITONAL ISSUE

2.1 Mr. Carranceja/ Ms Meares & I agree that those parts of CIAL's submission seeking changes to the Clearwater Zone are not "on" Plan Change 4.

2.2 In submissions filed, a systematic approach to addressing this issue was adopted. This has been updated below to briefly respond to legal submissions on behalf of CIAL.

(a) PC4 does not propose any amendments to the management regime for the particular resource that is Clearwater Zone. This was a deliberate and unequivocal decision on behalf of the Council, and is not disputed by CIAL. Instead, CIAL simply rely on the fact that PC4 amends the management regime for other zones within the District to advance an out of left field request to change the Clearwater Zone;

(b) A submission seeking to amend the management regime for the Clearwater Zone cannot be on PC4. This is particularly the case when the submission seeks to regulate a particular activity (owner-occupation of resort hotels) which has no relationship whatsoever with PC4. CIAL has simply not addressed this matter in its submissions;

(c) There is a complete absence of any s 32 analysis to support any amendments to the provisions of the Clearwater Zone. Pointing to the fact that some of the provisions of the Clearwater Zone were listed in an Appendix to the s 32 evaluation report does overcome that fundamental point. Nor is it sufficient to highlight a reference to residential activities in the Clearwater Zone (and multiple other zones) in the context of an evaluation in the s 32 analysis as to whether or not a new Strategic Directions objective on Visitor Accommodation should be included. That evaluation does not: *"... demonstrate a deliberate determination and proposal as to the extent to which PC4 should change the pre-existing status quo in the SPGRZ"*. In my submission, a discussion about an overarching strategic objective which never materialised in the final version of PC4 is far removed from a decision on a very specific resource, being the Clearwater Zone.

(d) It is inevitable that there are Clearwater landowners who have been deprived of a real opportunity to participate in the PC4 process. CLHL is just one of many

landowners within the Resort. It is fanciful to suggest that owners within the Resort would file a submission that simply stated support for the explicit exemption for the Clearwater Zone from PC4. That is of course proven by the simple fact that none have done so.

3 THE EVIDENTIAL BASIS FOR RESTRICTIONS ON RESORT HOTEL BEDROOMS WITHIN 50 DBA LDN CONTOUR?

3.1 CIAL seeks to bring "Resort Hotels" into the definition of "Residential Activities" and, as a consequence, into the definition of "sensitive activities". There is no evidential basis to support the avoidance [in a policy sense] of "resort hotels" within the 50 dBA Ldn Contours. Evidence from previous processes which focused on the effects on residential amenity cannot be used as justification, nor is it sufficient to simply state that visitor accommodation is by definition a noise sensitivity activity. Further, there is no evidence which establishes that the use of residential units for visitor accommodation increases any existing potential for reverse sensitivity.

4 BASIS FOR THE CLEARWATER EXEMPTION

4.1 CIAL's submission on PC4 states that there is no basis for waiting to reassess the provisions applicable to the Specific Purpose (Golf Resort) Zone until the outcome of a review of the noise contours.

4.2 The contrary position is that because the contours are so fundamentally flawed, it is inappropriate, in s 32 terms, to seek to impose further costs on accommodation providers within the 50 dBA Ldn contour until this matter is addressed.

4.3 There is no shortage of evidence that the contours are flawed. This includes documents made public by CIAL itself, and the Alivion growth forecasts included in Mr. Lawry's bundle.

5 DEFINITIONS

5.1 CLHL supports the exclusion of "resorts" from the definitions of "Hosted Visitor Accommodation", "Unhosted Visitor Accommodation" and "Residential Activity".

5.2 CLHL retains a concern that "resorts" are included in the definition of Visitor Accommodation:

Visitor accommodation includes hotels, resorts, motels, farmstays, bed and breakfasts, Motor and tourist lodges, backpackers, hostels, camping grounds, hosted visitor accommodation ~~in a residential unit~~ and unhosted visitor accommodation in a residential unit.

5.3 CLHL's concerns in that respect could be addressed by more clarity as to the meaning of "*designed, constructed and operated*" within the definition of "*sensitive activity*".

G J Cleary

18 October 2021