

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

Statement of Evidence of Matthew Bonis

Dated: 10 May 2021

REFERENCE: Jo Appleyard (jo.appleyard@chapmantripp.com)
Amy Hill (amy.hill@chapmantripp.com)

Chapman Tripp
T: +64 3 353 4130
F: +64 3 365 4587

60 Cashel Street
PO Box 2510, Christchurch 8140
New Zealand

www.chapmantripp.com
Auckland, Wellington,
Christchurch



STATEMENT OF EVIDENCE OF MATTHEW BONIS

- 1 My full name is Matthew William Bonis. I am an Associate at Planz Consultants in Christchurch. I have held this position since 2009.
- 2 I hold a Bachelor of Regional Planning degree, and have been employed in the practise of Planning and Resource Management for over 20 years.
- 3 I am a full member of the New Zealand Planning Institute.
- 4 I am providing planning evidence on behalf of Airbnb Australia Pty Limited (*Airbnb*).
- 5 I am familiar with Airbnb's submission (number 112) and further submission (number 4) on proposed Plan Change 4 (*PC4*) to the Christchurch District Plan.
- 6 In preparing this evidence I have read and had regard to:
 - 6.1 the plan change document, section 32 assessment, and accompanying technical reports for PC4;
 - 6.2 the s42A report and associated appendices prepared by Ms Alison McLaughlin dated 21 April;
 - 6.3 The submissions and further submission summary posted on the Council website¹.
 - 6.4 Relevant statutory documents including the National Policy Statement – Urban Development (2020), the Regional Policy Statement (2013) and the Christchurch District Plan (2016).
- 7 In my evidence, except where otherwise stated, I have relied on the evidence of:
 - 7.1 Derek Nolan (policy and Airbnb operations); and
 - 7.2 Natalie Hampson (economics).

CODE OF CONDUCT

- 8 Although this is a Council hearing, I note that in preparing my evidence I have reviewed the code of conduct for expert witnesses contained in part 7 of the Environment Court Practice Note 2014. I have complied with it in preparing my evidence. I confirm that the issues addressed in this statement of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

¹ <https://www.ccc.govt.nz/assets/Documents/The-Council/Plans-Strategies-Policies-Bylaws/Plans/district-plan/Proposed-changes/2020/PC4/PC4-Summary-of-submissions-and-further-submissions.pdf>

SCOPE OF EVIDENCE

- 9 My evidence will deal with the following:
- 9.1 Part A – Background
 - (a) Airbnb’s submission (Sub 112).
 - (b) Background.
 - (c) s42A Report Recommendations on Sub 112.
 - (d) Executive Summary and nature of the dispute
 - 9.2 Part B – Statutory and non-statutory documents
 - (a) The Resource Management Act 1991
 - (b) National Planning Standards
 - (c) National Planning Statement – Urban Development
 - (d) Canterbury Regional Policy Statement (2013)
 - (e) Christchurch District Plan (2016)
 - (f) Iwi Management Plan and Other Management Plans
 - (g) Conclusions as to s32(1)(a)
 - 9.3 Part C – Actual or Potential effects associated with Plan Change 4
 - (a) Positive Effects
 - (b) Economic Effects
 - (c) Residential Amenity and Character
 - (d) Residential Cohesion
 - (e) Demand on services
 - 9.4 Part D – Compliance, monitoring and enforcement
 - 9.5 Part E – Conclusions as to s32(1)(b)
 - 9.6 Part F – Conclusions

ACRONYMS

- 10 The following acronyms are used throughout this planning evidence:
- | | |
|-----------------------|---------------------------------------|
| CA | Commercial Accommodation |
| CRPS | Canterbury Regional Policy Statement |
| HSA | Home sharing Accommodation |
| ODP or Operative DP | Operative Christchurch District Plan |
| RMA1991 | Resource Management Act 1991 |
| STA | Short Term Accommodation |
| Visitor Accommodation | As specified in the National Template |

PART A – AIRBNB’S SUBMISSION AND FURTHER SUBMISSIONS

- 11 Airbnb’s submission seeks to:
- 11.1 Reject PC4 as notified;
 - 11.2 Insert clear, simple provisions into the Christchurch District Plan which enable visitor accommodation and recognise the importance of Airbnb and other similar accommodation types to the economy and community of Christchurch as set out in **Annexure B** to the submission.
- 12 The relief, in synopsis seeks that:
- 12.1 New definitions be inserted for ‘Home sharing’, replacing the notified definitions for hosted and un-hosted visitor accommodation in a residential unit.
 - 12.2 Amending the definition of Residential activities to include ‘Home sharing’.
 - 12.3 Amend notified Objective 14.2.9 to identify that home sharing *‘is enabled in residential zones and recognised as an activity which makes a significant contribution to economic and social wellbeing in the district’*.
 - 12.4 Replaced notified Policy 14.2.9.1 to recognise and provide for home sharing in residential zones, where carried out in a residential unit which otherwise complies with zone scale and density requirements.
 - 12.5 Removes the provisions as notified with PC4 for each respective residential zone (commercial zones, and the Rural Banks Peninsula Zone, Rural Port Hills Zone, Rural Templeton Zone, Rural Urban Fringe Zone and Rural Waimakariri Zone), and replaces with provisions that deem home sharing permitted – where records are kept, and a controlled activity where not, subject to matters of discretion requiring records be kept and host management for outdoor recreation and entertainment.
 - 12.6 Amendments to Commercial Objective 15.2.5 and Policy 2.5.1 to explicitly identify home sharing as an anticipated activity in commercial zones.
- 13 Airbnb have opposed, through further submissions:
- 13.1 Submissions (including: *R Manthei s88.3, s88.4; Inner City East Neighbourhood Group (s10.2); Mount Pleasant Neighbourhood Watch Group (s18.1); Victoria Neighbourhood Residents Association (s90.2); and R James (s105.2)*) seeking more restrictive provisions than those include in PC4. Such a relief is considered less efficient and effective than those contained in PC4, and in my view would be inappropriate, costly; and not implement, achieve or give effect to the higher order planning documents.
 - 13.2 The submission from the *Victoria Residents Association (s90.2)* and *submission from Waikura / Linwood-Central Heathcote Community Board*

(s85.1) seeking a prohibited activity status for Visitor Accommodation in residential zones for stays of more than 60 working days. I consider such a relief for home sharing accommodation to be unjustified, does not achieve or implement Strategic Objective 3.3.1 or 3.3.32 of the District Plan, and is not commensurate with any actual or potential adverse effects associated with such activities.

- 13.3 Submissions from Hospitality New Zealand (Sub 123.5, 123.7, 123.6 – 7, 9) seeking amendments to Objective 14.2.9 and Policy 14.2.9 to ‘avoid’ visitor accommodation in the residential zone, is opposed as are more prescriptive standards sought to be applied to Policy 14.2.9, such as restricting unhosted visitor accommodation in residential zones to 60 night per year, and that residential use remains the dominant use. Such an approach is unrealistic, represents unwarranted prescription, and fails to promote s5 in that it would disenable wellbeing, without responding the mitigation of adverse effects (if there are any).

- 13.4 Support the submission from *A Lawson* (Sub 27.1), which succinctly states:

“I oppose the above rule... The Airbnb, Bookabach etc system encourage trust which our society really needs at the moment. Not everything needs to be controlled by the Council or regulations...”

PART A – BACKGROUND

Need for a Plan Change

- 14 PC4 is predicated as I understand it, on a lacuna in the District Plan that does not distinguish between forms of Visitor Accommodation. That is, larger scale and intensity Visitor Accommodation (hotels, motels), and visitor accommodation as based within a residential dwelling and unit (termed ‘home sharing’ (HSA) in the Airbnb submission).
- 15 I understand that the Council currently interprets the District Plan provisions on the basis that all home sharing activity (Visitor Accommodation in a residential unit) regardless of scale, intensity and actual or potential effects, is deemed to be ‘non-residential’ activity and therefore discretionary activity within the Residential (and Rural) zones.
- 16 On the Council’s analysis, such activities then run counter to **Objective 14.2.6** which seeks to restrict non-residential activities without a strategic or operational need to locate in residential zones², and subordinate **Policy 14.2.6.4**. That policy seeks restriction for non-residential activities, especially those of a commercial or industrial nature, unless there is an identified strategic or operational need and

² Objective 14.2.6(a)(ii)

where effects on the character and amenity of the residential zones are insignificant.

- 17 A corresponding Environment Court Decision³ on appeal of a Christchurch City Council decision to decline a resource consent to establish guest accommodation at 52A Creyke Road outlined these concerns succinctly:
- 17.1 Guest accommodation is not 'residential activity' as defined in the District Plan [17],[27].
- 17.2 The adverse effects (of the home sharing activity which was the subject of the proposal on appeal) were agreed to be less than minor. *'The proposal is comparable to the residential use of the site over the last 50 years. The only difference being what is proposed now is the use of the site for transient guest accommodation'* [20], [44].
- 17.3 Having regard to the ordinary usage of the term 'residential', in substance the activity is residential in nature albeit that the proposal was for transient accommodation [42], [44].
- 17.4 The proposal (when examined in that case, the Court found that it) did have an operational need to locate in the residential zone and that need arose out of the character and amenity afforded by residential zones [44].
- 17.5 *"A precedent upon which others would seek to rely may well be created based on the Court's interpretation. The issues for the City Council, however is not that a precedent is created but that the use of existing dwellings for guest accommodation, including accommodation marketed through AirBnB, was not identified in the proposed plan as being a significant issue for the district. Consequently, the plan provisions may not adequately respond to the demand for this activity. Rather than applying a strained application of the plan's provisions through initiating a plan change that responds directly to any issue created by the same".* [51]
- 18 In terms of the nature of the Planning dispute, I agree with the statement made in the notification of the PC4 that:
- 'Thirdly there is a lack of evidence to justify the current policy approach and rules [activities are deemed discretionary activities] that necessitates a review. Through research that the Council has undertaken, there has not been found significant negative impacts of home-share accommodation in a Christchurch context on housing supply and affordability, rural character and amenity nor the regeneration of the Central City that would provide a basis for a restrictive approach to small scale, part-time listing by permanent residents of the unit or rural holiday homes listed when not in use by the owners(s)'* ⁴.
- 19 I would however extend this further to include unhosted visitor accommodation.

³ Archibald vs Christchurch City Council. Env 2019-CHC098

⁴ Plan Change Explanation 'Reasons for the Plan Change' [3]

20 The introduction to the Plan Change states:

“Firstly there has been a significant increase in offerings of visitor accommodation in residential dwellings (home share accommodation) since the District Plan provisions were last reviewed. This has given rise to concerns about effects of the activity on neighbours and the surrounding area.... In the twelve months up to Sept 2019, listings for home share was 4,230 in Christchurch District (including Banks Peninsula) or which 2,135 were whole residential listings”.

The Plan Change explanation identifies that ‘data collected from AirDNA suggests there were an estimated 1,600 listings in residential zones in 2019 that required a resource consent...’⁵.

*“Secondly, issues identified with the objectives, policies and rules that apply to home-share accommodation through decisions on resource consents by Council and the Environment Court”*⁶.

21 On the basis of the above, I agree that a Plan Change is necessary to resolve the lacuna in the provisions, and the manner in which home share accommodation is defined and regulated under the Operative District Plan.

22 Where I diverge from Ms McLaughlin is that in my opinion the provisions as notified, and as recommended to be amended in the s42A Report do not represent the most appropriate way to achieve the objectives and policies in the higher order planning documents, nor are they the more efficient and effective in terms of the respective s32 tests.

What is Visitor Accommodation

23 Visitor Accommodation is defined in the National Planning Standards as:

“means land and/or buildings used for accommodating visitors, subject to a tariff being paid, and includes any ancillary activities”.

24 It is distinct from the definition of ‘Commercial Activity’ in the National Planning Standards:

“means any activity trading in goods, equipment or services. It includes any ancillary activity to the commercial activity (for example administrative or head offices)”.

25 Residential Activity is defined, broadly, as:

“means the use of land and building(s) for people’s living accommodation”.

⁵ Plan Change Explanation ‘Reasons for the Plan Change’ [3], s42A [2.26]

⁶ Plan Change Explanation ‘Reasons for the Plan Change’ [2]

- 26 The Section 32 report accompanying Plan Change 47:

Visitor accommodation has characteristics of a commercial service to the extent that money is exchanged to meet the short-term lodging needs of someone who does not live on that site

- 27 The Operative Christchurch District Plan (ODP) has a graduated approach to the management of STA, being:

27.1 **Bed and Breakfast** - means the use of part of a [residential unit](#) for the provision of transient residential accommodation, at a tariff. It excludes the sale of alcohol. Rules in the residential zone limit the scale to no more than six guests, and an owner residing on site⁸.

27.2 **Farm Stay** means transient accommodation offered at a tariff that is [accessory](#) to [farming](#), [conservation activity](#) or [rural tourism activity](#) and in association with a [residential unit](#) on the [site](#). Applicable Rules in the Rural zone limit occupation to no more than ten (10) guests, or four (4) under the 50dBA Ldn Air Noise contour⁹.

27.3 **Guest Accommodation** captures all other forms traditional accommodation, being:

“...the use of land and/or [buildings](#) for transient residential accommodation offered at a tariff, which may involve the sale of alcohol and/or food to in-house guests, and the sale of food, with or without alcohol, to the public.... Guest accommodation includes [hotels](#), resorts, motels, motor and tourist lodges, backpackers, hostels and camping grounds. Guest accommodation excludes [bed and breakfasts](#) and [farm stays](#)”.

- 28 It would appear intuitive, from the estimated 1,600 listings that the Council estimate require resource consent¹⁰, that people undertaking the more recent advent of home share accommodation have not interpreted themselves, either individually or collectively, as falling within that more traditional District Plan definition of ‘Guest Accommodation’.

- 29 The definition of *Residential Activity* explicitly precludes *Guest Accommodation*:

means the use of land and/or buildings for the purpose of living accommodation. It includes:

- a. *a residential unit, boarding house, student hostel or a family flat (including accessory buildings);*

⁷ Section 32 [2.1.25]

⁸ i.e. Rule 14.4.1.1(P15).

⁹ i.e. Rule 17.5.1.1(P11)

¹⁰ s32 ‘Reasons for the Plan Change’. [2]

b. *emergency and refuge accommodation; and*

c. *sheltered housing; but*

excludes

d. *guest accommodation*

30 However, *Guest Accommodation* is not contained within the definition of *Commercial Services* or “commercial activities” in the ODP.

31 The definition of *Residential Unit* establishes a series of conjunctive limbs; that to be a residential unit:

31.1 the building or unit must be self contained;

31.2 must be used by one or more persons that form a single household; and

31.3 must be used for a residential activity.

The last limb on its face precludes the buildings and units associated with STA, or indeed any Guest Accommodation (during those times when used for such) from being defined as Residential Units.

32 There is an exemption in the definition of Guest Accommodation that applies to Bed and Breakfasts and Farm Stays. Beds and Breakfast and Farm Stays, being accommodation (for a tariff) are instead treated as contained within the definition of Residential Unit and limited (in scale) through other provisions in the Plan¹¹. I am not of the view that hosted home sharing can be distinguished, in terms of potential effects and character, from those forms of accommodation.

PART A – THE SECTION 42A REPORT RECOMMENDATIONS TO SUB 112

33 The Section 42A Report recommends that the Airbnb submission be rejected and comments specifically as follows:

33.1 In terms of amendments to Objective 14.2.9.

“...the Airbnb submission would not be the most appropriate way to achieve the higher order directions and the purpose of the Act in particular s7(c) to maintain and enhance amenity values and Objective 6.2.3 of the CRPS to provide for good quality living environments. Strategic Directions Objective 3.3.7 is for a high quality urban environment. In residential zones, the District Plan objectives and policies, particularly Objective 14.2.6 envisages this as “residential activities remain the dominant activity in residential zones” and Policy 14.2.6.2 is to “ensure

¹¹ i.e. Residential Medium Density Zone Rule 15.5.1.1(P5). Rural Urban Fringe Zone Rule 17.5.1.1(P11)

that non-residential activities do not have significant adverse effects on residential coherence, character and amenity.”

- 33.2 In terms of amendments seeking a permitted and controlled activity status for home sharing activities.

“For the reasons discussed above for Issue 6 and in the s32 report, in my view visitor accommodation in a residential unit is a distinct activity with different effects to a residential activity. Those effects vary in significance based on how frequently the activity is undertaken”¹².

Permitted activity status would not be appropriate because activity specific standards that managed the effects being addressed by the proposed matters of control would reduce flexibility to address how the effects could be managed¹³.

Permitting unhosted visitor accommodation in a residential unit on a year round basis, which is essentially a commercial activity, sets up a permitted baseline argument for other non-residential activities seeking to establish in residential zones¹⁴.

- 34 As I understand it, the Section 42A report appears to conclude that the regulatory approach contained within Appendix 2 of that report represents ‘the most appropriate’ regime to manage home sharing (hosted/unhosted visitor accommodation in a residential unit) in Christchurch District under the Resource Management Act.
- 35 Chiefly, as discussed below, that conclusion seems to rest almost completely on Ms McLaughlin’s view that home sharing accommodation, in a residential unit, contrasts with residential amenity and character.

PART A – EXECUTIVE SUMMARY AND SUMMARY OF THE DISPUTE

- 36 In summary, the proposed regulation contained in PC4 is not ‘the most appropriate’ to achieve relevant objectives in the operative District Plan or give effect to the regulation in CRPS.
- 37 Having read the evidence of Ms Hampson and the Property Economics Report, I understand that there is no strong evidence that there is an economic cost associated with facilitating home sharing accommodation in residential and rural zones of the City. I agree with Ms Hampson that:

“It does not appear that Property Economics have actually been asked by the City Council to provide an appropriate economic evaluation of the regulation proposed under PC4”¹⁵.

¹² Section 42A [7.9.3]

¹³ Section 42A [7.9.5]

¹⁴ Section 42A [7.9.6]

¹⁵ EiC Hampson [106]

- 38 Regulation that enables home sharing (or an absence of intervention) would appear to benefit housing supply¹⁶, with redistributed tourist spend associated with CBD spending also increasing where home sharing is agglomerated around the Central City¹⁷, or in a recovery context while CA is deferred¹⁸. There appears to be economic benefits in terms of tourism and associated spend¹⁹. As outlined by Mr Nolan, there is demonstrable enhancement in economic wellbeing for hosts who make their homes available for short term visitor accommodation²⁰.
- 39 Economic costs associated with the regulation include:
- 39.1 cumulatively some \$6.4m to \$9.6m in consenting costs to applicants²¹.
- 39.2 individual application costs which may well dissuade listings²² given application costs of some \$4,000 to \$5,250 for a controlled activity which for unhosted accommodation providers in residential zones (less than six guest, and less than 60 nights), would likely exceed anticipated annual revenue.
- 39.3 Administration and compliance costs to both applicants, the Council and neighbours where compliance, certainty and enforcement are largely predicated on arbitrary and unqualifiable matters. Council Planning Officers would be required to act in a formal manner to arbitrate effectively over acceptable social behaviours. Consent certainty is undermined [167].
- 40 Potential effects associated with character and amenity are not contextualised or quantified in the s32 accompanying the proposed regulation, including:
- 40.1 Formal noise complaints attributable to home sharing accommodation (assumed to be hosted and unhosted) are less than *0.34% of the total number of general noise complaints...*²³.
- 40.2 Reliance on the 'community survey' to justify regulation is negatively geared. The same survey results could equally be considered to identify that 94% (district), 65% (CBD) and (92%) Akaroa of respondents are either unaware (and hence unimpacted) or felt that holiday home accommodation was neutral or positive in terms of sense of community²⁴.
- 40.3 There is no established nexus between amenity concerns and necessary restrictions on hosted guest numbers²⁵, necessity related to unhosted

¹⁶ Property Economics (2020) [9]

¹⁷ Property Economics (2020) [10]

¹⁸ s32 (PEL) [2.7]

¹⁹ Property Economics (2020) [9], EiC Nolan [1]

²⁰ EiC Nolan [21, 26]

²¹ ²¹ Assuming a consenting cost of \$4,000 (PEL, [60]) for the 1,600 estimated listings without consent (Section 42A 2.2.6]. Although my experience is that Council consenting fees would be closer to \$6,000 / consent (\$9.6 million).

²² EiC Hampson [116.4]

²³ EiC Nolan [18].

²⁴ EiC Hampson 72]

²⁵ EiC Hampson [38]

guest numbers²⁶, hours of arrival²⁷, or booked days in the s32 analysis or s42A Report.

- 41 Residual amenity issues are not efficiently, nor effectively address by the regulation proposed in PC4.
- 41.1 For hosted accommodation, the scale and significance of regulation proposed is neither necessary, nor effective to manage effects²⁸.
- 41.2 For unhosted accommodation:
- (a) as outlined in the evidence of Ms Hampson, the incidence and distribution of such accommodation represents a very small proportion at 1.1% total district dwellings²⁹, contextualised against 9.5% of the total district dwellings being unoccupied, nor does it dominate residential activity in any part of the city, including where there is a higher incidence of listings³⁰.
- (b) there is both proactive frameworks³¹, and existing reactive frameworks [165] to manage residual or actual effects.
- 42 Lastly, the Introduction to the District Plan identifies the background to the preparation and context of the District Plan, identifying that the Plan is to respond to the recovery needs of the 2010 and 2011 seismic events that devastated Christchurch³². The Introduction also states that within that context and the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 ("the Order") and associated statement of expectations that:
- Both the Minister for Canterbury Earthquake Recovery and Minister for the Environment seek within the Replacement District Plan. In summary, the Ministers' expectations are that the District Plan will:*
- (i) *reduce significantly the reliance on the resource consent process, along with reduction in development controls, design standards and notification/written approvals;...*
- 43 That expectation (and issue) is enshrined in **Objective 3.3.1** and **Objective 3.3.2** of the Plan, which seek to minimise: reliance on resource consent processes³³; the number, extent and prescriptiveness of development controls and encourage innovation and choice³⁴; and the requirements for notification³⁵. The Introduction identifies that these objectives have primacy, meaning that all other objectives

²⁶ EiC Hampson [42]

²⁷ EiC Hampson [47]

²⁸ EiC Hampson [59]

²⁹ EiC Hampson[68] being those that would require consent under PC4.

³⁰ EiC Hampson [122]

³¹ EiC Nolan [31 – 35]

³² District Plan Introduction 1.1.2(a) and (b).

³³ Objective 3.3.2(i)(A)

³⁴ Objective 3.3.2(i)(B)

³⁵ Objective 3.3.2(i)(C)

(and policies) are to be expressed and achieved in a manner that is consistent with Objective 3.3.1 and Objective 3.3.2³⁶.

- 44 I have reviewed and concur with Ms Hampson's comparative assessment of the approach to home sharing accommodation in other District Plans in New Zealand³⁷. I agree with her conclusion that the Christchurch model, when faced with a relatively low incidence of unoccupied dwellings, no current issues with housing cost rises, and in a recovery context in its District Plan, has proposed the most restrictive regulatory approach to short term accommodation.
- 45 I also consider the regulation proposed in PC4 to lack clarity, conciseness and enforceability [195], which are matters of relevance in terms of investment certainty³⁸, and the accessibility of the Plan³⁹.
- 46 I conclude the Christchurch City Council approach to be the antithesis of the statutory approach sought in **Objective 3.3.1** and **Objective 3.3.2** of the District Plan, nor finding support within the *Colonial Vineyard* tests for assessing a change to the District Plan.
- 47 Accordingly, I support the introduction of the term 'home sharing' and its clear inclusion within the definition of 'residential activity'. That approach ensures that adverse effects are managed in much the same way as residential activities, which in conjunction with enabling provisions (Objective 14.2.9) and associated policies thereby resolve the lacuna identified in *Archibald vs Christchurch City Council. Env 2019-CHC098*. The proposed relief in the Airbnb submission is seen as more appropriate than that sought in PC4.

³⁶ District Plan Chapter 3. Section 3.1(e), (f) and Section 3.3 'Interpretation'.

³⁷ Ms Hampson [92 – 99]

³⁸ Objective 3.3.1

³⁹ Objective 3.3.2(iii) and Section 18A(b)

PART B – STATUTORY AND NON-STATUTORY DOCUMENTS

- 48 Plan Change 4 and accompanying Section 32 provides a consideration of the higher order planning documents as assessed in the preparation of PC4.
- 49 In essence, the legal framework is set by sections 32 and 75(3) of the RMA.
- 50 It involves a comparison between the status quo (the Operative Plan provisions), what is advanced by PC4, and potential modifications sought in submissions (such as those sought by Airbnb).
- 51 That comparison is to consider whether the proposed provisions will achieve and/or better meet the purpose of the RMA (in terms of changes to Objective 14.2.6 and new inserted 14.2.9 and amendments to 15.2.5 and 15.2.6 (which seek to replace Guest Accommodation with Visitor Accommodation) –and subsequently whether the subsequent changes to provisions (including changes to Policy 14.2.6.7, 14.2.9.1, 14.2.9.2, 14.2.9.3 and 14.2.9.4) and associated rules (and assessment matters) are the ‘most appropriate’ to achieve the Objective(s) (as well as any relevant settled operative Objectives in the Plan).
- 52 Section 75(3) sets out a mandatory directive for the District Plan to give effect to: any national policy statement and any regional policy statement.

The Resource Management Act

- 53 My understanding of the statutory requirements for consideration of proposed plan changes, are in summary,
- (a) Provisions in the District Plan are to assist the Christchurch City Council in undertaking its functions under the Act⁴⁰. Including the function of seeking to achieve the integrated management of the use, development and protection of land and associated natural and physical resources of the (Christchurch) District⁴¹.

That function is to be fulfilled by objectives, policies and methods within the District Plan, controlling any actual or potential effects of the use, development and protection of land⁴².

In establishing, implementing and reviewing the objectives, policies and methods (of the Plan), ensure sufficient development capacity⁴³ in respect of ... business land to meet the expected demands of the district⁴⁴.

⁴⁰ Section 74(1)(a)

⁴¹ Section 31(1)a)

⁴² Section 31(c)

⁴³ Section 2 Interpretation, s30(5)

⁴⁴ Section 31(b)

- (b) The preparation of the District Plan is to be undertaken in accordance with the provisions of Part 2, and any applicable regulations.
- (c) The approach needs to align with the Council's functions under the Act and other relevant instruments.
 - a. That processes (and provisions that drive processes) are timely, efficient and cost effective and proportionate to the functions being performed, and that plan drafting is clear and concise (Section 18A); and
 - b. When reaching a conclusion as to which provision is the '*most appropriate*' the requirements of s32, having regard to the efficiency and effectiveness of the provision is to be considered.

54 In terms of the **purpose** of the District Plan, **s72** of the RMA1991 states:

“the purpose of the preparation, implementation and administration of district plans is to assist territorial authorities to achieve the purpose of this Act.”

The relevant questions in terms of the Council's functions in regulating the scale, spatial distribution, hours of arrival associated with home share activities in the District are therefore:

- a. Are controls necessary and appropriate to achieve integrated management of the use, development and protection of land and associated natural and physical resources of the district; and
- b. Are resultant provisions (objectives, policies and rules (including zones)) appropriate to manage any actual or potential effects of the use, development of protection of land.

National Planning Standards

55 As identified in the s42A Report⁴⁵ there is a mandatory requirement to use definitions in the 'Definitions List' in National Planning Standard 14 'Definition Standard'⁴⁶, including that the District Plan can include sub-definitions of the defined term, where consistent with the higher-level definition used in the Planning Standards.

56 Accordingly, the insertion of '*Visitor Accommodation*', as follows is appropriate, as is the ability to 'nest' sub-definitions.

“means land and/or buildings used for accommodating visitors, subject to a tariff being paid, and includes any ancillary activities”.

⁴⁵ Section 42A [5.1.2]

⁴⁶ National Planning Standard. Standard 14 Definition Standard [5(b)]

- 57 No guidance is provided as to whether *Visitor Accommodation* is to be nested as either *Residential Activity* or *Commercial Activity*.

National Policy Statement – Urban Development

- 58 **National Policy Statements** are the RMA legislative tool whereby central government can prescribe objectives and policies to address matters of national significance. The Council must prepare and change its plan in accordance with a NPS (**s74(1)**) and must *give effect* to any relevant NPS (**s75(3)**).
- 59 The only relevant NPS in this instance is the National Policy Statement on Urban Development (**NPS-UD**).
- 60 This matter is addressed, briefly, in the Section 42A Report⁴⁷. Where it is identified that under Policy 11 of the NPS-UD the City Council will need to embark on removing carparking requirements (excluding mobility impaired) from the District Plan.
- 61 The Section 32 report⁴⁸ identifies the obligations on the City Council as a Tier 1 local authority⁴⁹, in terms of meeting at least short, medium and long-term demand for housing and business activities.
- 62 The requirements of the NPS-UD for Council in terms of the management of home sharing accommodation are more complex than outlined in the s32 report.
- 63 The provisions of PC4 are to contribute to:
- 63.1 Achieving a well-functioning urban environment that enables people and communities to provide for their social, economic and cultural well-being, now and into the future (**Objective 1**).
 - 63.2 Enabling more... business and community services to be located in areas of an urban environment: (a) in or near a centre zone; (b) where an area is well serviced by public transport (**Objective 3**).
 - 63.3 New Zealand's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations (**Objective 4**).
 - 63.4 Local authority decisions on urban development that affect urban environments are: (a) integrated with infrastructure planning and funding; and (b) strategic over the long to medium term (**Objective 6**)

⁴⁷ Section 42A [5.1.1]

⁴⁸ Section 32 Report [2.1.7]

⁴⁹ NPS-UD [Appendix 1]

- 63.5 Local authorities are to have robust and frequently updated information about their urban environments and use it to inform planning decisions (**Objective 7**).
- 64 Well-functioning urban environments are defined in **Policy 1**. In relation to PC4 the relevant elements are:
- Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:*
- (a) *have or enable a variety of homes that:*
 - (i) *meet the needs, in terms of type, price, and location, of different households; and*
 - (b) *have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and*
 - (c) *have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and*
 - (d) *support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and...*
- 65 In terms of whether the enablement of home share accommodation is having a consequential adverse effect on housing supply and affordability, I understand the following:
- 65.1 The incidence of home sharing across the City's dwelling stock is on average very minor (2.9% for un-hosted and hosted combined or 1.4% for solely un-hosted activity)⁵⁰.
 - 65.2 The Housing and Business Capacity Assessment for Christchurch (2018) concluded that there was sufficient enabled capacity for residential development in Christchurch over the short to medium term⁵¹.
 - 65.3 Christchurch is more affordable than other major centres in New Zealand, and home sharing accommodation can have a positive impact on the housing market where the house prices are at risk of moving in a negative direction⁵².
 - 65.4 The Christchurch Market for home sharing has stabilised and is unlikely to increase beyond its recent peak⁵³ in January 2019⁵⁴.

⁵⁰ EIC Hampson [122]

⁵¹ Section 32 [2.2.99]

⁵² EIC Hampson [108, 109]. Section 32 (PEL 56 – 57)

⁵³ EIC [122]

⁵⁴ EIC Hampson [16.1]

- 66 Accordingly, there is not support in terms of supply-side housing capacity for regulation under PC4 to restrict the use of housing stock for home share accommodation. There is no evidence that I can locate that would suggest that housing demand, in conjunction with the modest proportion utilised for home sharing would exceed capacity. As identified in the section 32, the opposite appears to be the case:

“new building consent[ing] is keeping pace with demand in Christchurch. In fact if all consents in residential buildings are realised in the next year, supply would outpace demand, within a context of growth in home share accommodation listings”.

- 67 Accordingly, I do not consider housing supply or capacity to be a relevant economic issue or cost associated with the provision of home sharing accommodation. The corollary is that there is an enablement requirement for the City Council to demonstrate suitable and credible provision for home sharing accommodation opportunities within the district. Importantly, the NPS-UD also acknowledges that the amenity of urban areas will change over time to provide for diverse and changing needs⁵⁵ – of which clearly home sharing accommodation is one.
- 68 I also consider that imposing substantial constraints on the extent of the use of residential properties for home sharing accommodation purposes is a less efficient use of housing stock. Such dwellings or units may otherwise remain empty under the calibrated status based on days utilised approach contained in PC4.
- 69 I consider that the Airbnb Submission approach to be the more appropriate in ‘giving effect’ to the requirements of the NPS-UD.

Canterbury Regional Policy Statement (CRPS)

- 70 Plan Change 4 is to ‘give effect’⁵⁶ to the provisions of the CRPS. I understand that requirement to mean to ‘implement according to the purpose specified’.
- 71 The Section 42A report identifies relevant provisions at Section 5.2. The Section 32 Report also addresses these matters⁵⁷.

Commercial Direction and Centre primacy

- 72 The Section 42A Report states that:

“There are a number of directions in the CRPS seeking to support commercial centres by primarily directing commercial activities there and avoiding development that undermines the viability of commercial centres⁵⁸. This is relevant to the Plan Change to the extent that visitor accommodation in a

⁵⁵ NPS-UD Objective 4.

⁵⁶ Section 75(3)

⁵⁷ Section 32 [2.1.18 – 2.1.29]

⁵⁸ Referencing Objective 6.2.5, Objective 6.2.6(3), Policy 6.3.1(8) and Policy 6.3.6(4).

residential unit that is not primarily also used for a residential activity meets the definition of the commercial activity under the CRPS and consideration needs to be given to whether or not (or which types) of this activity need to be primarily directed to commercial centres rather than being enabled in residential zones”.

- 73 Firstly, I consider the statement that visitor accommodation is defined as a commercial activity in the CRPS to not be clear cut. The relevant definition of “commercial activity” is as follows:

“means retail, office and other commercial service activities but does not include industrial activities”.

- 74 I do not consider Visitor Accommodation – (in terms of unhosted and hosted accommodation in a residential dwelling) to be either a retail activity or office activity, and unlikely to be confined within the definition of commercial services.⁵⁹ There is a transaction (or tariff) that takes place providing for a short-term lease of a whole, or part of a residential dwelling. But it is not clear that this is a ‘commercial activity’ in terms of the Plan definition.

- 75 I also note that Ms McLaughlin does not identify **Policy 6.3.6(4)** of the CRPS which states:

To ensure that provision, recovery and rebuilding of business land in Greater Christchurch maximises business retention, attracts investment, and provides for healthy working environments, business activities are to be provided for in a manner which

- (4) *Recognises that new commercial activities are primarily to be directed to the Central City, Key Activity Centres and neighbourhood centres where these activities reflect and support the function and role of those centres; or in circumstances where locating out of centre, will not give rise to significant adverse distributional or urban form effects;*

(underlined emphasis)

- 76 In addition, **Objective 6.2.5** identifies:

The development and distribution of commercial activity will avoid significant adverse effects on the function and viability of these centres [KACs]

- 77 Whilst Ms McLaughlin references **Objective 6.2.6(3)** which states:

- (3) *“New commercial activities are primarily directed to the Central City, Key Activity Centres, and neighbourhood centres”;*

She does not identify clause (4) and accompanying explanation which states:

⁵⁹ Neither of those terms of further defined in the CRPS.

(4) “A range of other business activities are provided for in appropriate locations”..

Explanation: “Some commercial activities will have particular locational constraints and are not suitable for centres, such as yardbased retailers and car-yards, and the need to identify a place for these activities is recognised”.

78 **Objective 6.2.6** identifies:

The development and distribution of commercial activity will avoid significant adverse effects on the function and viability of these centres [KACs]

79 Accordingly, I do not agree with Ms McLaughlin that for home sharing accommodation there is a statutory requirement that such should be primarily directed to commercial centres. I consider the CRPS to be suitably nuanced that home share accommodation which is of a scale and amenity commensurate with residential living can be located, appropriately, in residential zones.

80 Furthermore, I consider that ‘shoe horning’ low intensity home share accommodation into commercial centres would not support the form or function of such centres (especially KACs and the Central City) and would result in opportunity costs to more intensive commercial, community and retail activities and an associated potential reduction in functional and social amenity.

81 In terms of more Commercial or ‘traditional’ Visitor Accommodation, that is hotels and motels, these are different beasts given both scale, intensity and range of ancillary activities, which includes offices, meeting and conference facilities, and the provision of goods and services for guests⁶⁰. Such remain appropriately contained in the definition of ‘Visitor Accommodation’ in terms of the activity lists for respective zones in the Plan, and applicable bulk and location standards.

82 I consider an approach that does not direct home sharing accommodation to commercial centres, on the basis of the vitality and viability of those centres, to be the more appropriate in terms of the requirements of the CPRS.

Residential and Rural amenity and character

83 Relevant provisions in terms of expectations for residential character and amenity include:

83.1 **Objective 5⁶¹.2.1(2)** enables people and communities to provide for their social and economic wellbeing, while (h) avoiding conflicts between incompatible activities.

83.2 **Policy 5.3.1(2)** encourage within urban areas, housing choice, recreation and community facilities, and business opportunities of a character and

⁶⁰ As defined as Guest Accommodation in the operative District Plan.

⁶¹ CRPS Chapter 5 relates to the Canterbury Region

form that supports urban consolidation, and (3) maintain and enhance amenity values.

- 83.3 **Objective 6.6²2.1(7)** maintain the character and amenity of rural areas ..
- 83.4 **Objective 6.2.3(1)** provide for quality living environments incorporating good urban design.
- 83.5 **Policy 6.3.2** development is to give effect to the principles of good urban design.
- 84 The extent to which the enablement of home sharing in residential and rural zones of Christchurch District achieves these matters, largely sits in a consideration as to whether home sharing accommodation alters (in a material adverse manner) residential and rural character and amenity. These matters are discussed in the sections below.
- 85 In **conclusion**, provisions that give effect to the CRPS recognise that residential and rural environments are an appropriate location for the activities represented by home sharing accommodation, provided that the amenity and character of these areas is maintained or enhanced.

The Christchurch District Plan

- 86 PC4 must be the most appropriate way to implement the relevant operative objectives of the Plan.
- 87 These matters have been considered in Section 2.4 of the Section 32 accompanying the change. I have considered these provisions in relation to the following headings:
- 87.1 Process
- 87.2 Housing supply
- 87.3 Business location and commercial centre primacy
- 87.4 Residential and rural character and amenity.

Process Provisions

- 88 **Objectives 3.3.1** and **3.3.2** are process provisions in the District Plan. They were inserted into the Plan, in part, as a consequence of the Order in Council Statement of Expectations (Schedule 4). The provisions were established to ensure *'efficiency and cost are [retained] as critical resource management issues in the context of post-earthquake Christchurch'*⁶³.

Decision 1 of the IHP also states:

⁶² CRPS Chapter 6 is narrowed to only Greater Christchurch

⁶³ IHP Decision 1 [55]

We see those provisions [**Objectives 3.3.1 and 3.3.2**] as validly able to be directed to drafting of the Replacement Plan proposals. That is in the sense that the Strategic Directions chapter, once approved, will be operative. However, we disagree with the Council's submission that the provisions should be confined to giving drafting direction. Rather, as part of a chapter that will have primacy within the Plan, we see these provisions as fulfilling an important ongoing role within the design of the Plan (and in regard to its ongoing implementation and interpretation)⁶⁴.

89 The relevant Objectives are:

3.3.1 Objective - Enabling recovery and facilitating the future enhancement of the district

- (a) *The expedited recovery and future enhancement of Christchurch as a dynamic, prosperous and internationally competitive city, in a manner that:*
- (i) *Meets the community's immediate and longer term needs for housing, economic development, community facilities, infrastructure, transport, and social and cultural wellbeing; and*
 - (ii) *Fosters investment certainty; and*
 - (iii) *Sustains the important qualities and values of the natural environment.*

3.3.2 Objective - Clarity of language and efficiency

(a) *The District Plan, through its preparation, change, interpretation and implementation:*

- (i). *Minimises:*
 - A. *transaction costs and reliance on resource consent processes; and*
 - B. *the number, extent, and prescriptiveness of development controls and design standards in the rules, in order to encourage innovation and choice; and*
 - C. *the requirements for notification and written approval; and*
- (ii). *Sets objectives and policies that clearly state the outcomes intended; and*
- (iii). *Uses clear, concise language so that the District Plan is easy to understand and use.*

90 The provisions are also largely aligned with the Council's functions under Section 18A of the Act. That is, all practicable steps are to be taken that processes (and provisions that drive processes) are timely, efficient and cost effective and proportionate to the functions being performed, and that plan drafting is clear and concise.

91 Accordingly, in achieving these objectives pursuant to Section 32(1)(b), the resultant provisions associated with PC4 should, as much as is practicable, be clear, concise and foster investment certainty, whilst meeting community needs and reducing transaction costs.

92 I consider however that PC4 as notified and as amended by with the s42A Report:

92.1 Is complex, in some case internally inconsistent and difficult to understand, monitor and comply with.

⁶⁴ IHP Decision [57]

- 92.2 Results in substantial transaction costs in the order of some \$6.4million⁶⁵, which outweigh the stated benefits of regulation.
- 92.3 Reduces investment certainty in home share accommodation provision in the District.
- 93 I do not consider PC4 as notified to achieve, or implement⁶⁶, the strategic objectives discussed above.

Housing Supply

- 94 In terms of provisions in relation to **residential housing** supply:
- 94.1 **Objective 3.3.4** – Provision of a minimum of 55,950 additional dwellings in the period 2018 – 2048, and a range of housing opportunities are provided to meet needs, including affordable housing.
- 94.2 **Objective 14.2.1** – An increased supply of housing, to enable a wide range of choice, meet diverse needs, and increase housing affordability.
- 95 I do not consider based on the material contained within the s32 Report and the Section 42A Report that HSA has a tangible detrimental effect on housing supply [66]. The Property Economics Report accompanying the s32 for PC4 does not provide substantive evidence on the correlation with home sharing opportunities and housing supply and rents, but does state:
- 95.1 HSA may increase the supply of housing to accommodate market demand⁶⁷.
- 95.2 HSA could have a positive impact on the housing market where house prices are at risk of moving in the negative direction which has its own economic costs⁶⁸.
- 96 Furthermore, as discussed in the evidence of Ms Hampson, I understand that unhosted (or entire) home share accommodation representing only 1.4% of total dwellings in the district⁶⁹, with a market appearing to have matured or peaked for listings⁷⁰, which stands in contrast to the s42A Officer's concerns as to ongoing 'significant increases⁷¹'.
- 97 Accordingly, I do not consider that the insertion within Objective 14.2.9 of clause (b)(i) achieves the purpose of the Act as established by the above provisions. The insertion has the potential to add complexity and prolixity to respective provisions

⁶⁵ Assuming a consenting cost of \$4,000 (PEL, [60]) for the 1,600 estimated listings without consent (Section 42A 2.2.6]. Although my experience is that Council consenting fees would be closer to \$6,000 / consent (\$9.6 million).

⁶⁶ Section 75(1)(b) and (c)

⁶⁷ PEL [56]

⁶⁸ PEL [57]

⁶⁹ EiC Hampson [32.4]

⁷⁰ EiC Hampson [16.1, 26]

⁷¹ PC4 Section 32 'Reasons for Plan Change' [1]

and consenting; such would be the less appropriate when also considered within the context of **Objective 3.1.1** and **Objective 3.1.2**.

- 98 In terms of provisions in relation to **commercial and business** distribution.
- 98.1 **Objective 3.3.5** – Critical importance of business and economic prosperity to Christchurch’s recovery and to community wellbeing and resilience is recognised and a range of opportunities provided for business activities to establish and prosper.
- 98.2 **Objective 3.3.8** – Central City is revitalised as the primary community focal point.
- (i) A range of housing opportunities are enabled.
 - (ii) Central City contributes to a high amenity urban environment for residents, visitors and workers to (iv) a wide diversity and concentration of activities that enhance its role as the primary focus of the City and region;
- 98.3 **Objective 3.3.7(v)** maintains and enhances the [Central City, Key Activity Centres](#) and [Neighbourhood Centres](#) as community focal points.
- 98.4 **Objective 3.3.10** - The recovery and stimulation of commercial and industrial activities in a way that expedites recovery and long-term economic and employment growth through: (i) revitalising centres; and (b) ensuring sufficient and suitable land development capacity.
- 98.5 **Objective 15.2.1** – Critical importance of [commercial activity](#) is recognised and facilitated in a framework that supports commercial centres.
- 98.6 **Objective 15.2.2** – Commercial activity is focused within a network centres, to meet the community’s and businesses’ needs in a way and at a rate that: (i) supports intensification, (ii) enables efficient use and continued viability of physical resources of commercial centres.
- 98.7 **Objective 15.2.4** – A scale, form and design of development that is consistent with the role of the centre (Policy 15.2.2, Table 15.1) and which (iii) recognises the functional and operational requirements of activities.
- 98.8 **Objective 15.2.6** – A Commercial centre City Business zone as the principle commercial centre for Christchurch and is attractive for businesses....
- (emphasis underlined)
- 99 Ms McLaughlin interprets the above provisions as support for a ‘centres-based’ approach for commercial activity, which extends to home sharing. She considers regulation should apply to mitigate impacts on commercial centres⁷². The section

⁷² Section 42A [7.19.14, s32 2.2.127, 2.2.133]

32 report⁷³ whilst not clear appears to consider that visitor accommodation should be considered a commercial service, and hence primarily directed to the Central City and Commercial Centre zones. This approach is reinforced in the Section 42A⁷⁴ report which states:

Unhosted visitor accommodation in a residential unit that exceeds 180 nights per year is a commercial activity in most instances because the unit is no longer being used for a residential activity the majority of the time. Given the strategic directions to support commercial centres by focusing commercial activities within them to support centre vitality and vibrancy...

- 100 Ms McLaughlin concludes that a non-complying activity status should apply to stays exceeding 180 nights, and to allow consideration on commercial centres, through a recommended amendment to Policy 14.2.9.1 which requires:

regard to [be had to] the cumulative effects of visitor accommodation and other non-residential activities offered in the same commercial centre catchment, would be inconsistent with the centre-based framework for commercial activities in Objective 15.2.2

- 101 I am not of the view that these objectives of the Christchurch City Plan seek to consolidate visitor accommodation, and especially home sharing within Central City and Commercial Centre zones.
- 102 The relevant provisions do not, in my view direct such activities into these zones. The provisions instead recognise that a range of opportunities are to be provided for business activities in the District⁷⁵, with commercial activity to be focused within a network of centres⁷⁶, and ensuring sufficient and suitable land development capacity⁷⁷. The importance of commercial activity is to be focused in commercial centres, in a way and at a rate that supports intensification⁷⁸, and is of a scale, form and design that is consistent with the role of the centre⁷⁹.
- 103 I agree with Ms McLaughlin that visitor accommodation is not an easy fit within the District Plan definition of 'commercial services'⁸⁰, and also note that such is excluded from that Definition through Proposed Plan Change 5. However, I do not find support for the remainder of her views.
- 104 Home sharing accommodation is a business supplying guest accommodation at a tariff, so Ms McLaughlin considers it is commercial in definition. However, the same can be said for bed and breakfast, farm stays and boarding houses, each of which are deemed residential activities and permitted within residential zones. None of those activities are deemed to fundamentally be at odds with the centres-based framework of the Plan.

⁷³ Section 32 [2.4.3 to 2.4.13]

⁷⁴ Section 42A[7.19.8, 7.6.45 -7.6.47]

⁷⁵ Objective 3.3.5

⁷⁶ Objective 15.2.2

⁷⁷ Objective 3.3.10(b)

⁷⁸ Objective 15.2.2

⁷⁹ Objective 15.2.2.4

⁸⁰ Section 42A [2.4.4]

- 105 Home sharing accommodation in an existing, or compliant dwelling in a residential zones is, in my view, residential in nature and is somewhat dependent on the character and amenity afforded by residential zones, and both unsuited and not desirable within a commercial centre context.
- 106 The centres-based provisions identified above do not direct the Council to ‘shoe horn’ home sharing accommodation into the centres network. Instead, appropriate opportunities for businesses are to be provided to aid community wellbeing; and the nature, scale and form of home sharing activities would be the antithesis of the directions sought in **Objective 15.2.2** which seeks to intensify activity in commercial centres, and **Objective 15.2.4** which seeks the scale and form of activities to be consistent with the role of centres. Home sharing accommodation provision could generate opportunity costs in terms of realising increased density, and greater functional and social amenity associated with centres.
- 107 Furthermore, enabling home sharing accommodation in residential zones does not immediately correlate with a reduction in in-centre Commercial Visitor Accommodation (Hotels, Motels), and even if this was to occur, I understand that such could not lead to distributional effects⁸¹, with any agglomeration effects⁸² likely to be muted. As identified in the Property Economic Report accompanying the Section 32 in relation to the CBD HSA represent a small proportion of total CBD spending (1.6%)⁸³. Furthermore, ‘*home share accommodation pre-Covid was addressing a gap in the market created by the loss of hotels and other formal accommodation*⁸⁴’ positively contributing to both tourist accommodation and tourist spend in the recovery context of the District as consistent with **Objective 3.3.1** of the Plan.
- 108 Trade competition effects more directly focused on the longevity of individual commercial operators are to be disregarded⁸⁵.
- 109 I do not find support within the Property Economics Ltd for the statement at [2.2.124] of the s32 report relating to a decline in amenity in commercial centres and associated effects on centre viability.
- 110 Accordingly, in relation to home share accommodation, I do not consider that provisions provided in PC4 that seek to manage the spatial location of home sharing accommodation predicated on maintaining and enhancing the Central City and Commercial Centres to be the more appropriate in terms of achieving the relevant objectives of the Plan.
- 111 Assuming that the higher order planning provisions give effect to s5 of the RMA 1991 (as settled operative provisions in the District Plan) I do not find support for the insertion of Policy 14.2.9(b)(ii) and (iii) as recommended by Ms McLaughlin as it relates to home sharing accommodation in terms of s32(1)(b) of the Act.

⁸¹ Being the reliance of the proximate community to access goods and services from the centre.

⁸² Proportional disbursement of commercial activity and proportional loss of spend.

⁸³ PEL (2020) [52]

⁸⁴ Section 32 [2.2.114]

⁸⁵ Section 74(3).

- 112 In terms of provisions in relation to **residential and rural zone amenity**:
- 112.1 **Objective 3.3.7(i)** – A well-integrated pattern of development and infrastructure... high quality urban environment that is attractive to residents.
- 112.2 **Objective 3.3.14** – Conflicts between incompatible activities are avoided where there may be significant adverse effects on the health safety and amenity of people and communities.
- 112.3 **Objective 14.2.4** - High quality, sustainable, residential neighbourhoods which are well designed, have a high level of amenity, enhance local character...
- 112.4 **Objective 14.2.6** – Residential activities remain the dominant activities in the zone....
- 112.5 **Objective 3.3.16(a)** - A range of opportunities is enabled in the rural environment, primarily for rural productive activities, and also for other activities which use the rural resource efficiently and contribute positively to the economy.
- 112.6 **Objective 17.2.1.1** – Use and development of rural land that (i) supports and where appropriate enhances ... character and amenity values of the rural environment, (ii) avoids significant, and mitigates other reverse sensitivity effects, and (iv) maintains and enhances the distinctive character and amenity values of Banks Peninsula and the Port Hills.
- 113 At the outset, I do not consider that **Objective 3.3.14** or **Objective 14.2.6** to be relevant. There is no evidence to state that HSA has a 'significant' adverse effect on residential amenity to warrant avoidance of such activities in residential zones to achieve Objective 3.3.14. Ms Hampson identifies that unhosted home sharing in Christchurch district is not of a scale, nor likely to be, that could dominant residential activity, even where there are relatively higher concentrations of home sharing listings⁸⁶ in terms of Objective 14.2.6.
- 114 The Section 32 and Section 42A identifies residential amenity issues associated with HSA as adverse amenity, coherence or character impacts. Those reports also concludes, based on current complaints, that such effects may not be sufficiently significant to warrant a complaint to the Council, but sufficient to establish regulation⁸⁷.
- 115 I am not of the view that hosted and unhosted accommodation results in material adverse effects on character and amenity that are distinguishable from traditional residential activities, or are efficiently and effectively addressed by PC4 in a manner

⁸⁶ EIC Hampson [122]

⁸⁷ s32 [2.2.49]

that achieves the higher order statutory documents [40, 41]. The evidence from Ms Hampson⁸⁸ is that:

“It is my evidence that these adverse amenity effects are not significant when considered at a district or total residential zone level (although may be significant to a very small number of households in the wider community).”

- 116 In rural zones, adverse effects on character and amenity are, in my view accounted for and managed appropriately through subdivision and built form standards.
- 117 Ms McLaughlin is incorrect where she recommends rejecting the Airbnb submission (Sub 112, 10 and 12) seeking to distinguish both ‘home sharing’ and ‘hosted and un-hosted visitor accommodation in a residential unit, on the basis that:

Having a permanent resident in residence is an important factor influencing those effects and in achieving the unchanged objective for residential zones that residential activities remain the dominant activity (Objective 14.2.6).

The full objective reference requires ‘Residential activities remain the dominant activity in residential zones...’.

- 118 I do not consider, based on the 1.4% of unhosted home share across the district (10% within the four avenues⁸⁹ and 13% to 15% in Akaroa⁹⁰), realistically threatens residential activities remaining the dominant activities in residential zones, and further I consider that home share accommodation is residential in nature. Accordingly, I support the Airbnb submission on this matter.

Iwi Management Plan

- 119 PC4 is take into account⁹¹ to the extent that the content has a bearing on the relevant issues the Mahaanui Iwi Management Plan (2013). I understand that to *take into account* means that the matter must be addressed with weight and as a matter of judgement based on the facts and merits of the issue.
- 120 The Mahaanui Iwi Management Plan (2013) outlines the approach for ensuring that Ngāi Tahu cultural values including but not limited to impacts on freshwater resources, mahinga kai, wāhi tapu, wāhi taonga, cultural landscapes and access are taken into account in Resource Management decision making.
- 121 The Iwi Management Plan does not incorporate specific matters associated with the mechanisms to provide for business activities, or the spatial allocation of Visitor Accommodation. There are however several broader principles relating to settlement urban design, stormwater management, and waipuna (water quality). I

⁸⁸ EIC Hampson [124]

⁸⁹ EIC Hampson [15.6]

⁹⁰ EIC Hampson [81.3]

⁹¹ Section 74(2A)

consider that provisions in the IMP would not be assisted through freedom camping, specifically in terms of wastewater discharge.

Relevant Management Plans and Strategies

- 122 Regard is to be had to⁹² the Christchurch Visitor Strategy (2016), Christchurch Economics Development Strategy (2017), and the Freedom Camping Bylaw (2015).
- 123 In the context, *'have regard to'* means, giving matters genuine attention and thought, and such weight as is considered to be appropriate.
- 123.1 **Christchurch Visitor Strategy (2016)** seeks to encourage more visitors and rebuild the brand following the earthquakes. Key aspirations are to regain Christchurch's pre-earthquake share of visitor spending by 2025, delivering \$1billion of additional expenditure and 7,000 new jobs. Key actions include focusing on shoulder and off peak demand.
- 123.2 **Christchurch Economic Development Strategy (2017)** seeks to increase the market share of visitors over the next 15 years.

Section 32(1)(a) – Summary of amendments to Objectives

- 124 Based on the above, I disagree with Ms McLaughlin [7.6.9] recommending decline to amendments to Objective 14.2.9 as sought by AirBnB. I consider that the following represents the more appropriate drafting to both give effect to the relevant provisions of the CRPS, and the objectives of the Plan for the purpose of s32(1)(a) of the Act.
- 125 I consider that the Airbnb submission (Sub 112) point seeking to recognise home sharing for its significant contribution to the district economy is not without merit, but is unnecessary, given the exhaustive range of activities in wider Christchurch that contribute to regional GDP. I do not consider it aids conciseness to list such matters.
- 126 I have concluded, subject to my assessment under s32(1)(b) that a definition of home sharing is the more appropriate [207.1] and have therefore embedded as appropriate in the amended Objective below.

Where I have suggested further amendments to the AirBnB submission this is in grey or struck out. Amend the proposed drafting as follows:

14.2.9 Objective – Visitor Accommodation and home sharing in Residential Zones

a. Visitors and other persons requiring short-term lodging have a broad choice of types and locations that meet their needs where:

i. this is compatible with the function and level of amenity intended for the zone;

and

ii. ~~the use of any residential unit is still predominantly a residential activity, and the residential character of the site is retained.~~

⁹² Section 72(2)(b)

b. Visitor accommodation such as hotels, resorts, motels, motor and tourist lodges, backpackers, hostels is only established in residential zones (except for the Residential Visitor Accommodation Zone and Accommodation and Community Facilities Overlay) where it of a scale and character that is consistent with meeting objectives for:

i. a sufficient supply of housing, including affordable housing, with a choice of locations including an increase in the number of households within the Four Avenues;

ii. a revitalised Central City with a wide diversity and concentration of activities that enhance its role as the primary focus of the City and region;

iii. enabling the revitalising of commercial centres;

iv. protecting strategic infrastructure from incompatible activities and avoiding reverse sensitivity effects on them; and

v. high quality residential neighbourhoods with a high level of amenity.

c. Home sharing is enabled in residential zones, and recognised as an activity which makes a significant contribution to economic and social wellbeing in the district.

d.-e. Visitor accommodation in the Residential Visitor Accommodation Zone and Accommodation and Community Facilities Overlay can establish, operate, intensify and/or redevelop in a way that is compatible with the character and amenity of adjoining residential, rural or open space zones; and does not expand the activity outside of the existing zone or overlay area into other non-commercial zones.

- 127 Amendments are also identified in PC4 in relation to **Objective 15.2.5** and **Objective 15.2.6** which seek to replace 'Guest Accommodation' with 'Visitor Accommodation' in terms of the range of activities enabled within the Central City.
- 128 I agree with those changes – the approach implements the National Planning Standards definition for Visitor Accommodation, within the context of the widest diversity of activities being supported within the Central City. Within this context, I note support for HSA to be nested within the definition of 'Residential Activity'.

PART D – ACTUAL OR POTENTIAL EFFECTS ANTICIPATED FROM THE IMPLEMENTATION OF PC4, CONCLUSIONS AS TO S32(1)(b)

129 On the basis of my recommendation to amendments to **Objective 14.2.9** as being the approach that gives effect to the relevant provisions of the CRPS, and the respective operative objectives of the District Plan as these are construed to represent the purpose and principles of the Act for Christchurch District, the debate then changes.

130 The primary area of focus becomes the policies, rules and methods proposed⁹³. The key question becomes whether the policies, rules and methods proposed are the most appropriate for achieving the objective(s) (having regard to their efficiency and effectiveness), including whether they implement the unaltered policies. I have not considered these in a vacuum to my recommended Objective 14.2.9 and have considered the context provided by PC4.

131 I have not assessed the operative provisions, as these are identified by all parties as not being fit for purpose in terms of home share accommodation⁹⁴.

132 The proposed provisions in PC4 seek to address the ‘way’ and ‘rate’ at which HSA is undertaken, so as to promote the sustainable management of nature and physical resources in the District. The respective matters set out above provide direction and guidance as to the application of ‘sustainable management’ as it relates to home share accommodation.

133 The Section 32 Report states:

A key question for this evaluation to address is: “What specific adverse effects does visitor accommodation in a residential dwelling result in over and above the effects that could be expected from long term residents in the same dwelling?”⁹⁵

134 Accordingly in the following sections I consider the effects that the proposed provisions seek to address as categorised as:

134.1 Positive effects.

134.2 Economic effects.

134.3 adverse effects on housing supply and increased rental costs.

134.4 Adverse effects on residential amenity and character (litter, noise, privacy and parking).

134.5 Adverse effects on residential cohesion.

134.6 Demand on services.

⁹³ s32(1)(b) and s32.

⁹⁴ *Archibald vs Christchurch City Council. Env 2019-CHC098 [51]*, Section 32 ‘Reasons for Plan Change: ‘there is a lack of evidence to justify the current policy framework and rules in the District Plan that necessitates a review’.

⁹⁵ Section 32 ‘Reasons for Change’ [3]

Positive Effects

135 I understand that the following positive effects identified in the Section 42A Report are agreed:

- 135.1 *Visitor accommodation in a residential unit, particularly where it is hosted and/or accessory to the long-term residential use of the property, does have positive economic and social effects (I do not consider that the amendments proposed are necessary or would be the best way to achieve the higher order directions or the purpose of the Act)⁹⁶.*
- 135.2 The provision for home share represents a more efficient use of housing stock, and provide flexible capacity for surges in demand for large scale events⁹⁷.
- 135.3 *'Home-share accommodation provides an opportunity for people to supplement their incomes by letting out spare rooms or the whole unit while they are away on holiday. This can potentially make home or bach ownership more affordable for people whose ability to cover mortgage payments on their own might otherwise be marginal...'⁹⁸.*

136 Mr Derek Nolan also identifies the following positive effects associated with home share accommodation:

- 136.1 Increased choice of accommodation to consumers in more locations, at different price points⁹⁹.
- 136.2 Increased tourism spend - AirBnB guest spend over \$50million in the District and contributed over \$35 million to Gross Regional Product¹⁰⁰.
- 136.3 Of the 4,228 active short term accommodation listings¹⁰¹, some 2,135 were entire listings (proxy for unhosted), and 2,093 were shared (proxy for hosted)¹⁰². For shared home share accommodation, this represents:
- (a) efficient use of housing stock¹⁰³.
 - (b) Supplementary incomeⁱ (and associated economic and social wellbeing)¹⁰⁴.

⁹⁶ S42A [7.6.7]

⁹⁷ S32 [2.2.40 and 2.2.42], EIC Nolan [19]

⁹⁸ s32 [2.2.88]

⁹⁹ EIC Nolan [12]

¹⁰⁰ EIC Nolan [12]. Deloitte Access Economics, Economic Effects of AirBnB in Christchurch.

¹⁰¹ AirBnB, Bookabach, Homeaway platforms.

¹⁰² EIC Hampson [15.1], although also note EIC Hampson [28] 38:62 shared : entire listings.

¹⁰³ EIC Nolan [25]

¹⁰⁴ EIC Nolan [15]

- 136.4 Emergency accommodation supply relating to the MoU with the Ministry of Civil Defence and Emergency Management (2018) and Fire and Emergency New Zealand (2019)¹⁰⁵.
- 136.5 Improvements in financial autonomy for Hosts, particularly for woman, with 70% of Christchurch hosts being woman¹⁰⁶.
- 136.6 The reliance, flexibility and affordability of home share accommodation makes it well placed to accelerate the recovery of the tourist sector post covid¹⁰⁷.

Economic Effects

- 137 I understand that the following economic **benefits** are identified in the Section 32 Report:
 - 137.1 The positive economic contribution made by home share accommodation to the District:

“If HSA were removed from Christchurch entirely, we [PEL] estimate that the loss would be at least 5% of total accommodation (around \$50million in spending)”¹⁰⁸.

As including, increased (via home share accommodation) number of visitors (2-4%) and increased length of stay¹⁰⁹.
 - 137.2 Growth in home share accommodation pre-covid was responding to a gap in the tourist accommodation market created by the loss of formal accommodation¹¹⁰.
 - 137.3 Increased overall visitor numbers results in multiplier benefits (flow on benefits) for the wider economy, with increased spending on food, entertainment and other goods¹¹¹.
- 138 Economic **benefits** identified in the evidence of Mr Nolan include (as noted above):
 - 138.1 Airbnb guests who stayed in Christchurch spent over \$50 million, supporting 360 jobs, and contributing over \$35 million to the Gross Regional Product¹¹².

¹⁰⁵ EIC Nolan [10]

¹⁰⁶ EIC Nolan [21]

¹⁰⁷ EIC Nolan [22]

¹⁰⁸ Section 32. Property Economics Ltd [11]

¹⁰⁹ S32 PEL [9, 16, 18]

¹¹⁰ S32 [2.2.114]

¹¹¹ s32 PEL [24]

¹¹² EIC Nolan [12]

- 139 Economic **costs** identified in the Section 32 assessment seem to be limited to the unsubstantiated reduction in in-centre amenity associated with a reduction of agglomeration benefits or closure of in-centre formal accommodation.
- 140 As identified in [107, 108] I do not share those views, nor can I find support from them within the Council's economic assessment¹¹³. I note that the PEL literature assessment report contends that home share accommodation tends to complement, rather than solely compete with the formal accommodation market, and that the formal accommodation market is starting to adapt¹¹⁴. In any case, I do not give weight to that consideration because it relates to trade competition issues, which must be disregarded.
- 141 Specifically for Christchurch District, given the deferment of a number of hotel developments post-earthquake, HSA has filled the gaps left in the market left by the loss of hotels¹¹⁵, but may have a growing impact on the rate of recovery of formal accommodation in the CBD¹¹⁶.
- 142 Any redistributed spend in the context of CBD sales is proportionally low¹¹⁷, and reduces where there is an increased density of home share within proximity to the CBD¹¹⁸.

Adverse effects on housing supply and increased rental costs.

- 143 This matter is discussed in [18, 65] of this evidence, that there has not been found significant negative impacts of home-share accommodation in a Christchurch context on housing supply and affordability.
- 144 There appears to be agreement between myself, and the Council officer that the provision of home share accommodation does not generate adverse effects, or upward cost pressure associated with either housing supply or housing rentals.
- 145 Furthermore, I note that the s32 Report identifies that even if there were issues, *...the economic analysis concluded that this pressure is likely to be short- to medium-term, and would be met in the long-term by increased development to meet that demand*¹¹⁹.
- 146 I also understand that the extent of dwellings used for 'entire listing' home share (1.4% of total dwellings), as compared to the extent of total unoccupied dwellings (9.5% of total dwellings)¹²⁰ brings into sharp relief the extent by which home share

¹¹³ PEL (2020) [2.3]

¹¹⁴ s32 (PEL) [2.7]

¹¹⁵ s32 (PEL) [[58]

¹¹⁶ s32 (PEL) [58]

¹¹⁷ s32 (PEL) [58]

¹¹⁸ s32 (PEL) [4.2]

¹¹⁹ s32 [2.2.91]

¹²⁰ EIC Hampson [76]

accommodation can impact on overall house prices, which I understand are dependent on the overall supply and demand for long term housing¹²¹.

- 147 Accordingly, I consider that there are no material adverse effects on housing supply that would warrant regulation on this matter to justify PC4 as notified.

Adverse effects on residential amenity and character (litter, noise, privacy and parking).

- 148 The Council approach is, as I understand it, summarised in the following statement:

“...there may be amenity, coherence or character impacts that are not significant enough to prompt a complaint to Council but which still have an adverse effect on neighbours that justifies intervention through the District Plan. Impacts like not having a neighbour, feeling that one’s neighbourhood no longer looks and feels residential or cumulative noise or privacy impacts would also not necessarily prompt a complaint to the Council but still reduce amenity for residents”.

- 149 Issues raised include:

149.1 Concern with noise, and party houses¹²².

149.2 Use for functions or events, such as wedding receptions¹²³.

149.3 Door knocks late at night, with guests seeking directions¹²⁴.

149.4 Regular late night and early morning arrivals and departures disturbing sleep¹²⁵.

149.5 Demand for on-street and off-street parking¹²⁶.

- 150 Although the s32 report does acknowledge that these effects are muted by the extent to which home share accommodation is occupied.

“Notwithstanding the points above, the occupancy level of most units is not likely to be high enough to create a noticeable impact over and above full-time residential use of a unit”.

¹²¹ s32 (PEL) [55]

¹²² s32 [2.2.59]

¹²³ s32 [2.2.59]

¹²⁴ s32 [2.2.61]

¹²⁵ s32 [2.2.62]

¹²⁶ s32 [2.2.66]

151 Lastly, concerns included, increased littering, rubbish bins not being taken out or brought in, and disposal of rubbish in neighbours' bins which were then not collected¹²⁷.

152 As identified in Part B of this evidence, amenity and character¹²⁸ are important attributes in achieving 'high quality' residential and rural environments¹²⁹.

153 Amenity is defined in s2 of the RMA1991 as:

“those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes”.

154 I understand 'character' to be defined to mean the qualities and features that make ... places distinguishable.

155 I do not consider that HSA, that is hosted or unhosted accommodation in an otherwise lawfully established residential unit results in adverse visual effects associated with residential (or rural) character, scale, density or form of development.

156 That is, the house or unit, as a physical resource is unaltered, regardless of occupancy type. There is also recognition in the s32 report, from community feedback that *“most [hosts] have maintenance people, cleaners and laundry supplies that look after the property to a much higher standard than the average inner-city property owner”*¹³⁰, which would result in enhanced residential visual amenity.

157 Home sharing is also a temporary use of a residential unit¹³¹, and can at any time revert to permanent occupation (either through owner-occupier, or long term rental), without any impact on the residential character of zones that enable housing.

158 Simply put, home share buildings are designed as a residential unit to be used for residential activity, as subject to the respective zone bulk and location standards of the Plan.

159 I also consider that issues associated with traffic as well as (on site and off site) parking are unlikely to be distinguishable from usage associated with residential occupancy. The implementation of Policy 11 in the NPS-UD will also reduce any statutory basis to distinguish parking effects associated with HSA on amenity.

¹²⁷ s32 [2.2.70]

¹²⁸ Policy 14.2.4.1, Policy 17.2.2.3

¹²⁹ Objective 14.2.4, Objective 17.2.1.1(a)(i)

¹³⁰ s32 [2.2.57]

¹³¹ EIC Hampson [21]

- 160 However, a full consideration of the adverse effects in terms of rural and residential character and amenity, in my view would traverse a number of other matters than simply the 'visual' implications
- 161 I accept at the outset that home share activities can result in potential effects associated with noise, traffic and disturbance. I accept that these effects have the potential to be greater than those anticipated from typical residential activity. The issue is to what extent and degree.
- 162 Ultimately, I consider the issue as to the scale and significance of adverse effects on residential amenity and character are indeterminate based on the evidence contained in the s32 and s42A reports.
- 163 In terms of the scale and substance of the issue, and whether regulation is the more appropriate, I note the following:
- 163.1 *"The Council receives relatively few complaints that are directly attributable to home-share accommodation activities. The compliance team received approximately 50 complaints between June 2018 and May 2020¹³²".*
- 163.2 *"... between June 2018 – May 2020 there were 49 complaints received that were categorised as relating to short term guest accommodation, of which a total of 9 breaches were identified... In 2020 a total of 14,424 complaints were made in relation to general noise (excluding road works, concerts and dogs barking). In other words, in the two year period of June 2018 to May 2020 the number of complaints in relation to short term guest accommodation was 0.34% of the total number of general noise complaints..."¹³³.*
- 164 In terms of s32(1)(b) there is a requirement to consider alternative means to achieve the objective, and also the efficiency and effectiveness of provisions.
- 165 I understand that the noise complaint process is well established¹³⁴, and provides the reactive response to incidents of potential excessive noise and allows for an immediate response from noise control officers on receipt of a complaint. This remains the viable and effective mechanism to manage any isolated nuisance, regardless of the regulation sought to be imposed via PC4.
- 166 Whilst I can understand, at a broad level how the various criteria (thresholds of days, number of guests, avoidance of functions, hours of arrival) may reduce the propensity for noise effects, they do not actually manage actual excessive noise or disruptive events in the residential (or rural) environment (in a similar manner as Plan regulation does not seek to restrict functions that can be held at student flat parties, or shift workers arriving home at late hours).
- 167 I acknowledge that the obligations of gaining a consent may result in increased focus between the consent holder and potential guests as to the prospect of noise, but ultimately: it is the guests that remain responsible for noise levels; there are

¹³² s32 [2.2.48]

¹³³ EIC Nolan [37].

¹³⁴ <https://ccc.govt.nz/services/noise-control>

already non-regulatory frameworks to manage guests¹³⁵; and the regulatory approach proffered via PC4 appears to suggest that s128 review clauses will be used to potentially remove consents where there are adverse effects arising at a later date¹³⁶, which can at best reduce investment certainty¹³⁷, and at worst create a litigation headache were Council to seek to revoke consent based on indeterminate noise complaints.

- 168 Home share accommodation also has the propensity to improve residential character and amenity, in terms of housing occupation, vitality and 'eyes on the street'¹³⁸.
- 169 In terms of hosted accommodation, I do not consider that issues associated with localised nuisance warrant the regulatory regime imposed through PC4, in terms of efficiency and effectiveness. Simply put, I consider that the actual or potential effects associated with disturbance to be indistinguishable from typical residential activity. There is a permanent household member that can address issues of noise disturbance between neighbours, rescue rubbish bins, and manage on-site traffic and parking issues.
- 170 In terms of un-hosted accommodation, the following is noted:
- 170.1 There is only 2,135 entire listings in the district¹³⁹, with little evidence of any prospective increase in the short-medium term, or that spatial patterns will change¹⁴⁰.
- 170.2 There is evidence that the home share market is fluid and often listings are temporary in nature¹⁴¹.
- 170.3 The usage patterns of un hosted accommodation as representing 1.4% of the district housing stock is as follows¹⁴²:
- (a) 0.6% of total district dwellings are 1 – 60 days.
 - (b) 0.5% of total district dwellings are 61 – 180 days.
 - (c) 0.3% of total district dwellings are 180+ days.
- 171 Whilst I note that s3 of the Act determines that the meaning of 'effect' includes (b) any temporary effect, and (d) any cumulative effect, reiterating the statement made at [150] I consider that the regulations put in place to manage the 'potential' for adverse amenity and character effects relate to a very small number of residential units – which goes to the efficiency and effectiveness of such regulation.

¹³⁵ EIC Nolan [11 to 18]

¹³⁶ s42A [7.11.11]

¹³⁷ Objective 3.1.1(ii)

¹³⁸ s32 [2.2.56]

¹³⁹ EIC Hampson [13.1]

¹⁴⁰ EIC Hampson [15]

¹⁴¹ EIC Hampson [20]

¹⁴² EIC Hampson [30.4]

Adverse effects on residential coherence

- 172 I understand Residential Coherence to be considered to the extent at which adverse effects are experienced as a loss of security, friendship and fellowship as a result of the loss of residential neighbours.
- 173 The extent of potential effects that could arise as associated with HSA on residential coherence is therefore considered to include: the extent to which a resident is left with no immediate residential neighbours; the frequency of occupation of adjoining home sharing and whether there is permanent occupancy over reasonable time periods (such as owner holiday home use); proximity of property relative to neighbours; and cumulative effects where there is a material concentration of home share activities within a neighbourhood.
- 174 For hosted home share accommodation, these by their very nature require concurrent occupancy of the residential unit as a residential activity, thereby providing the contribution to residential cohesion, despite that term not being referenced in objectives and policies of the Plan.
- 175 For un-hosted home sharing accommodation, there will be a turnover of short term guests on a repeated basis, with no on-site activity at the same time. I accept that such has the potential to adversely affect residential cohesion, however as discussed below, I do not consider that there are material actual or potential adverse effects that would warrant regulation proposed through PC4, or would be materially effective, given the inefficiencies associated with the proposed regulation.
- 176 I note that un-hosted home sharing accommodation represents some 1.4% of total district housing stock representing a very small degree of issue. Furthermore, contextually this number is even less material when considered against the 9.5%¹⁴³ of unoccupied dwellings.
- 177 I have already identified that home sharing accommodation can have positive effects in terms of vitality and privacy through occupation and maximising use of housing stock, and I am uncertain as to the nexus between consenting tiers predicated on limiting occupancy days for unhosted accommodation and how such would assist with residential occupancy (as the unintended consequence appears to be the opposite with houses remaining empty).
- 178 For the rural zone, I note that the policies and objectives of the Plan do not place significance on issues that would appear to extend to residential coherence and instead seek to enable a range of activities¹⁴⁴.
- 179 I do not consider that the regulation proposed is commensurate with actual or potential effects likely to be generated in terms of residential coherence.

¹⁴³ EIC Hampson [70]

¹⁴⁴ Policy 17.2.2.1, 17.2.2.9

Demand on Services

- 180 This matter is not discussed in the s32 Analysis, but Appendix 10 appended to the Section 32 Report states that *'I do not consider that restrictions on the activity proposed are necessary to manage effects on the Council stormwater network'...* or *'manage effects on the Council's wastewater network'*.
- 181 For home share accommodation, it is safely assumed that when occupied, there will be similar usage of water, wastewater and the transport network¹⁴⁵.
- 182 When home sharing listings are unoccupied, or as restricted through the PC4 thresholds for usage as tiered with the consent status (or conditions of any consent) it is considered that such represents (dependent on which viewpoint is taken), additional capacity in the respective network, and / or an inefficient use of a physical resource as relevant to Section 7(b) of the RMA1991.

Summary in terms of effects

- 183 I consider, based on the evidence of PEL and Ms Hampson, that the **economic benefits** of unregulated home share accommodation outweigh potential costs. The benefits as outlined include diversity of accommodation supply, increased tourist spend and diversification and support of income streams for owners. In the recovery context of the District Plan, guests through home sharing accommodation have filled gaps in the District tourist spend which are yet to be met by the recovered hotel industry.
- 184 **Economic costs** appear to be sheeted to indeterminate agglomeration costs on commercial centres. These are not substantiated in the s32 or s42A reports. I do not consider these effects to be material, except on the CBD, and note that PEL Report Option 3B which permits home share in the CBD and nearby CAUs (for the four avenues) (only) considers such an approach to be the most beneficial (in terms of options)¹⁴⁶.
- 185 It appears that there is agreement that unregulated home share accommodation does not present a cost in terms of upward pressure on housing supply and rental costs.
- 186 Accordingly, costs associated with home sharing accommodation, appear to be limited to slight, highly localised, transient environmental costs associated with amenity and character, and social costs in terms residential coherence. These costs are, as identified above, at a very localised level and relate to a very small number of residential units.

¹⁴⁵ s32 Appendix 10 [2]

¹⁴⁶ s32(PEL) [5.5]

- 187 Whilst, as above I have acknowledged that unhosted accommodation may have the potential to result in localised nuisance effects, on balance and given the scale and significance of the issue I am not of the view that the regulation proposed through PC4 is either efficient or effective in achieving amended Objective 14.2.9 as proposed in this evidence (or the operative Objectives of the Plan).
- 188 I consider that home share accommodation largely operates within the same or similar envelope of environmental effects as residential activities, and typically cannot be easily distinguished.
- 189 Where there is potential for increased nuisance associated with the establishment of home share accommodation, there is already both proactive frameworks¹⁴⁷, and reactive frameworks [165] set up by Airbnb and other platforms to manage those effects.
- 190 Whilst that management approach is not embedded in the District Plan and may not be as effective in completely resolving all potential issues as placed in PC4 (although as identified above there are also unintended adverse effects from the regulation such as a potential increase in adverse effects on residential coherence, disablement of tourist accommodation diversity and opportunities), I find PC4 regulation to be highly inefficient for the reasons set out below (around compliance and complexity), and when considered against the respective costs and benefits assessed above.
- 191 My view on the regulation proposed is very much related to the Christchurch context, as predicated on: a minute proportion of home share listings; the Recovery context of the District Plan; and the complexity and prolixity of the notified PC4 provisions.
- 192 The complexity, efficiency and effectiveness of the provisions included in PC4 to manage that residual adverse effect is considered below. Such also needs to be considered in terms of the efficiency of the provisions recommended in PC4, and the scale and significance of the effects to be managed¹⁴⁸.

¹⁴⁷ EIC Nolan [31 – 35]

¹⁴⁸ s76(3) RMA.

PART E – COMPLIANCE, MONITORING AND ENFORCEMENT

- 193 The operative Plan provisions do not adequately respond to both the demand for, and provision of home share accommodation in the District. An issue that PC4 seeks to address.
- 194 I am concerned that PC4 addresses this matter through overly complex regulation that is not commensurate with the scale and significance of the issue. This is recognised in the s32 report, but not then addressed in any meaningful way:

“Rules that are more onerous than necessary can cause frustration for the plan user, and transaction costs for both the applicant and the Council if there is a non-compliance that requires a resource consent. There are costs of meeting the standards and also the opportunity cost of restrictions on the use of the land and costs to the environment if the standard is implemented”¹⁴⁹.

- 195 Similarly, rules that are complex, or contain words or phrase of uncertain or ambiguous meaning run the risk of being highly inefficient in terms of application, ignored, or considered ultra vires.
- 196 I consider that PC4 as proposed will result in the exact outcomes described above. In summary:

196.1 there are issues with establishing consent status:

- (a) the number of booked days cannot be ascertained until the end of the year, yet consents are intended to be sought in advance.
- (b) hosts and listing operators are not able to always guarantee arrival time of guests. In addition, any listed guest arriving on a late-night flight from Australia would either need to be precluded (that is the listing would need to specifically exclude such guests), or a Host could find themselves in breach of the rules if their guest checks in later than expected due to a delayed flight, or the listing would need to seek a discretionary activity status consent¹⁵⁰ to provide for such eventualities – with associated consent uncertainty and costs accrued.
- (c) In terms of limits on ‘attendees’ in the provisions, neither ‘function’ nor ‘event’ is defined in the Plan, but must be assumed by the Plan drafters to also incorporate ‘informal’ gatherings; similar to a residential activity, hosts and listing operators are not able to always guarantee the number of people that may simply ‘show up’ in a day; does ‘attendee’ also include house and garden maintenance staff employed by the Host in terms of a cumulative total, or staff assisting with formal functions (make-up artist, caterers, photographers, flowers...).

¹⁴⁹ s32 [2.2.14]

¹⁵⁰ Tier of consents from 14.4.1.2(C7), to 14.4.1.4(D7).

- (d) what is the 12-month period measured from in terms of guest numbers?
- (e) how would a host provide confirmation of compliance with any of the standards, and how would the Council monitor compliance?

196.2 There are issues with enforcement and consenting:

- (a) Compliance and establishing activity status between hosted and unhosted accommodation is ultimately subject to the permitted / controlled activity status split respectively, and individual record keeping in the case of unhosted accommodation.
- (b) How does an individual Host applying for consent under PC4 assess cumulative effects on a sufficient supply of housing¹⁵¹, a revitalised CBD¹⁵², and enabling a revitalising (sic) of commercial centres¹⁵³ in order to support their application?
- (c) How does an individual applicant (or planning officer) reconcile the requirements of Policy 14.2.9.1(b) which seeks to manage 'visitor accommodation', '*while restricting scale, duration and frequency to ensure that the (meaning singular) residential unit is still predominantly used for residential activity*' (which, on the Council's interpretation, appears to explicitly excludes Visitor Accommodation)?
- (d) Costs for consenting existing established home share providers is considered, at the lower range, to be some \$4,000 to \$5,250¹⁵⁴ per consent. For the 1,195 listings¹⁵⁵ that would require discretionary or non-complying consents, these costs would be considerably higher, and 'change from \$15,000 for notified consents as narrowed to Council costs alone should not be expected'¹⁵⁶. Where consents are refused, or costs dissuade existing or potential hosts, this results in a cumulative decrease in accommodation providers and diversity.
- (e) How would the Council impose and enforce check in times?
- (f) How would the Council impose and enforce restrictions on 'the number and size of vehicles used by guests, including large vehicles', or 'building access arrangements and wayfinding'¹⁵⁷.

¹⁵¹ Objective 14.2.9(b)(i)

¹⁵² Objective 14.2.9(b)(ii)

¹⁵³ Objective 14.2.9(b)(iii)

¹⁵⁴ EIC Hampson [116.4]

¹⁵⁵ EIC Hampson [62] (836 listings + 359 listings).

¹⁵⁶ Council Costs alone commence at \$10,000 for limited notified applications. <https://ccc.govt.nz/the-council/plans-strategies-policies-and-bylaws/plans/long-term-plan-and-annual-plans/fees-and-charges/fees-resource-consents/>

¹⁵⁷ Assessment matter Rule 14.5.1.2(C6) and (C7)

PART E – CONCLUSIONS AS TO S32(1)(B)

- 197 As outlined in the assessment of costs and benefits and actual or potential effects as above, I consider that the evaluation contained within the Council's s32 evaluation, that the provisions contained within PC4, or as amended in the s42A Report (s32AA) to be fatally flawed.
- 198 It is my conclusion that the notified provisions as these relate to home sharing are not necessary, nor the most appropriate way to: achieve the purpose of the Resource Management Act 1991; give effect to the relevant provisions of the CRPS; or implement¹⁵⁸ and achieve¹⁵⁹ the operative Objectives of the Plan, or amended Objective 14.2.9 as recommended in [124].
- 199 The Council's s32 identifies housing supply, effects on commercial centres, impacts on residential amenity and coherence as key issues that require addressing through the provisions.
- 200 For home sharing accommodation, this evidence and that of Ms Hampson (and in relation of housing supply and commercial centres the evidence of Property Economics Ltd) these matters do not appear to be resource management issues that are appropriate or necessary to address in the context of the District Plan, and in order to achieve the purpose of the Act.
- 201 In terms of s32(1)(b)(ii)¹⁶⁰, I consider that 'efficiency' and 'effectiveness' to have the following meanings:
- 201.1 *Effectiveness* means how successful a provision is in achieving the stated objective.
- 201.2 *Efficiency* means whether the benefits of the provision outweigh the costs, either immediately or over time.
- 202 In terms of **efficiency**, there is no evidence that enabling home sharing accommodation results in economic costs, whereas there are a number of economic and social benefits [38]. There are however a number of economic costs associated with the notified regulation [39, 196].
- 203 In terms of **effectiveness**, there is no material evidence that home sharing accommodation is having a material adverse effect on residential amenity that would warrant, given the scale and significance of the issue, the imposition of regulation imposed by PC4.
- 204 Regardless, there are already a number of reactive and proactive mechanisms already present that seek manage localised residential nuisance issues, if and when these arise, such as those described in Mr Nolan's evidence.
- 205 The notified provisions in PC4 are considered to be an overly blunt tool (despite the intended layering and criteria applied, which add to complexity), and are not considered to be particularly effective.
- 206 Even were the Panel to consider that there may be material benefit in their effectiveness in managing the potential for adverse nuisance effects from home

¹⁵⁸ s75(1)(b) and (c)

¹⁵⁹ s32(1)(b)

¹⁶⁰ Also for s35(2)(b)

sharing, I consider that they cannot be justified given the inefficiencies of the regulation as identified.

207 In my opinion, as based on the conclusion that home sharing is not materially different from residential activity [158], does not adversely affect housing supply [65], nor commercial centres [107, 108], and that matters associated with localised nuisance, given scale and significance and existing mechanisms to manage such [41]; there should not be a material distinction between home sharing and other residential activities. Accordingly, I support the insertion of:

207.1 A **proposed new definition** for home sharing as the use of a compliant residential unit for visitor accommodation. Whilst, I consider that the difference between 21 days (of occupation) and 28 days to be somewhat arbitrary¹⁶¹, I consider that consistency with other legislation (in this case the Residential Tenancies Act 1986 which, in section 5(1)(k) references 28 days¹⁶² to assist in application of provisions. Accordingly, I recommend:

New definition	<p>Insert a new definition as follows:</p> <p><u>Home sharing:</u> <u>means the use of a residential unit for visitor accommodation where individual bookings are for less than 28 consecutive days in length each.</u></p>
----------------	---

207.2 The insertion of that definition as **nested within the definition of ‘Residential Activity’**, which ensures that the lacuna as the treatment of home sharing accommodation in the Christchurch Plan is resolved. This would also result in respective provisions regulating residential activities (i.e. Rule 6.1.7.2.1 sensitive activities near roads and railways) applying to home sharing activities.

Residential activities	<p>Amend the definition of “residential activities” as follows:</p> <p>means the use of land and/or buildings for the purpose of living accommodation. It includes:</p> <ul style="list-style-type: none"> a. a residential unit, boarding house, student hostel or a family flat (including accessory buildings); b. emergency and refuge accommodation; <u>c. home sharing</u> <u>ed. use of a residential unit as a holiday home where a payment in money, goods or services is not exchanged;</u> <u>de. house-sitting and direct home exchanges where a tariff is not charged;</u> <u>ef. rented accommodation and serviced apartments not covered by clause (g) and where individual bookings are for a minimum of 28 consecutive days (except in the Specific</u>
------------------------	---

¹⁶¹ s42A [7.7.14, 7.7.15]

¹⁶² s42A [7.7.15]

	<p>Purpose (Golf Resort) Zone); and fg. sheltered housing; but excludes: gh. guest visitor accommodation other than home sharing, including hotels, resorts, motels, motor and tourist lodges, backpackers, hostels, farmstays, camping grounds, hosted visitor accommodation in a residential unit and unhosted visitor accommodation in a residential unit; hj. the use of land and/or buildings for custodial and/or supervised living accommodation where the residents are detained on the site; and ij. accommodation associated with a fire station.</p>
--	---

207.3 **Consequential removal of the distinction** for ‘hosted visitor accommodation’ within the PC4 introduced amendment to the definition of ‘Sensitive Activities’ as such, deemed Residential Activities would be nested in that term.

207.4 **Amendments to PC4 introduced Policy 14.2.9.1**, as aligned with the above, but to improve conciseness, and clarity as to the interplay between Objective 14.2.6 and associated policy.

<p>Amendment to Policy 14.2.9.1 to enable home sharing as a Residential Activity,</p>	<p>14.2.9.1 Policy – Visitor Accommodation in a Residential Unit Home sharing a. Permit Enable home sharing in residential zones, of a scale that is compatible with residential amenity and character, including through the provision of site management information to the Council upon request. visitor accommodation in a residential unit where: i. at least one permanent resident of the site is in residence for the duration of the stay; ii. the number of visitors, including additional guests not spending the night, is comparable to use by a residential household; and iii. disturbance to neighbours is minimal. b. Manage visitor accommodation in a residential unit while the permanent resident(s) are not in residence to minimise adverse effects on the residential character, coherence and amenity of the site and its immediate surroundings including through: i. restrictions on the scale, duration and frequency of use to ensure that the residential unit is still predominantly used for a residential activity; and ii. management of operations to minimise disturbance of neighbours, including providing contact and site management information to guests and neighbours. be . Avoid home sharing visitor accommodation in a residential unit at a scale, duration and/or frequency that cannot be managed in a way that minimises adverse effects on commercial centres or the residential character, coherence</p>
---	---

	<u>and amenity of the site and its immediate surroundings; or</u> that would be likely to give rise to reverse sensitivity effects on strategic infrastructure.
--	---

207.5 Amendments to provisions to provide for home sharing as permitted activities (as subject to the same Activity Standards as Residential Activities and operative regulations regarding reverse sensitivity) within residential zones (Chapter 14), Papakāinga / Kāinga Nohoanga Zone (Chapter 12), Specific Purpose (Flat Land Recovery) Zone (Chapter 13) and Rural (Chapter 17, excluding Rural Quarry), through deleting proposed new rules for hosted and unhosted accommodation and replacement with the following. I consider that such is appropriate given the conclusions as to the commonality and overlap to residential activities, but with controls associated with the keeping and provision of records, and the ability for the Council to require consent be obtained where records are not being adequately kept. The approach is considered more appropriate given the assessment above, and encourages the autonomy of providers. I have sought to insert greater clarity as to the date by which records are to be kept.

All residential activity status tables	Permitted activities		
	Activity		Activity specific standards
	<u>PXX</u>	<u>Home sharing</u>	a. <u>The owner of the residential unit must keep records of the number of nights booked per year, as commencing on 1 January of that year, and the dates used for visitor accommodation and provide those records to the Council on request.</u>
Controlled activities			
Activity		The matters over which Council reserves its control	
<u>CXX</u>	<u>Home sharing which does not comply with the activity specific standards in PXX</u>	a. <u>Record keeping and provision of information to the Council</u> b. <u>Host's plan to manage outdoor recreation and entertainment</u>	

207.6 Insert for the Commercial Core, Commercial Local, Commercial Banks Peninsula, Commercial Central City Business, Commercial Central City Mixed Use, and Commercial Central City (South Frame) Mixed Use zones (Chapter 15), the same provision – noting that regulation associated with bulk and location, restrictions on development at grade¹⁶³, and acoustic

¹⁶³ i.e. Commercial Core Rule 15.4.1.1.1(P21)

controls will be applicable to such as 'Residential Activities' as nested as 'Sensitive Activities'¹⁶⁴.

As associated with Residential Activity.	Permitted activities		
	Activity		Activity specific standards
	<u>PXX</u>	<u>Home sharing</u>	b. <u>The owner of the residential unit must keep records of the number of nights booked per year, as commencing on 1 January of that year, and the dates used for visitor accommodation and provide those records to the Council on request.</u>
	Controlled activities		
Activity		The matters over which Council reserves its control	
<u>CXX</u>	<u>Home sharing which does not comply with the activity specific standards in PXX</u>	c. <u>Record keeping and provision of information to the Council</u> d. <u>Host's plan to manage outdoor recreation and entertainment</u>	

207.7 Deletion of respective General Rules (Chapter 6) and Transport rules (Chapter 7) which sought to be applied to hosted and unhosted accommodation as sought to be introduced through PC4.

207.8 I do not consider that the Airbnb submission relating to explicitly identifying home sharing as non-complying activities in Industrial zones is necessary. Such activities as defined as 'Residential Activities' and 'Sensitive Activities' are already effectively precluded within the Industrial Zones through existing provisions.

PART F - CONCLUSIONS

208 I have concluded, based on the evidence of Ms Hampson and Mr Nolan, and taking into account the s32 material, the s42A Report, and the (preceding) economic assessment from Property Economics Ltd the proposed home sharing provisions as sought to be introduced by PC4 are not 'the most appropriate' in terms s32 of the Act. The provisions sought to be introduced are highly inefficient, and do not appear to be effective, given the scale and significance of the issue, the existing measures, and as considered against the context of a recovery based District Plan.

209 Instead I support the clear inclusion of home sharing within the definition of Residential Activity. Such an approach appears to provide material economic and

¹⁶⁴ i.e Rule 6.1.6.2.9 Sensitive Activities in the Central City

social benefits, and represents the more appropriate way to enable people and communities in Christchurch District to provide for their wellbeing, whilst managing adverse effects.

Dated: 10 May, 2021

Matthew William Bonis

A handwritten signature in blue ink, appearing to read 'M W Bonis', with a long horizontal flourish underneath.
