

Submission to Plan Change 4 Hearing Commissioners

That they recommend that Plan change 4 be Declined

9 May 2021

My name is David Lawry I am a party to Plan Change 4.

I have included in a separate document my qualifications and investigative background. I have done so that you may conclude that I am an expert investigator and have the skills to identify when a case is fatally flawed.

I have completed my second reading of the Statement of evidence of Natalie Hampson on behalf of Airbnb Pty Limited (Airbnb). I have seldom seen a more comprehensive dismantling of a section 32 or s42A report.

It is clear that she politely outlines to the Christchurch City Council that understanding the 'what' 'where' and 'when' of an activity allows the actual or potential effects of that activity (positive or negative) to be put into context (now and in the future) so that scale and significance of resource management issues can be more accurately determined. (Refer point 13) Tellingly she also footnotes that the S32 report contains a list of mainly international and limited national literature, but little, if any of this pertains to research carried out in Christchurch.

In my investigative experience I also find the "Why" to be very informative.

At point 18 she concludes that Council (and its consultants) have made only selective use of the information available in the AirDNA dataset and do not analyses or present the available data in a way that informs particular threads of the proposed regulation. In this regard, I find the Councils evidence lacking. She then proceeds to fill in the Councils data gaps basically doing their job for them.

At 62 she reminds all that un-hosted listings in total are 1715 dwellings or 1.1% of district dwellings (2018).

Hardly a massive problem of the scale of things

At point 71 ... Council also considers there “may” be adverse amenity, coherence or character impacts that are not significant enough to prompt complaint to council. My concern is that if Council only had a high level and incomplete understanding of the scale and nature of the activity itself, then have they appropriately determined the scale and significance of the adverse effects of that’s activity (as a basis for informing the proposed activity status framework)?

She carries out a Review of District Regulation from 92-96. Finding that Christchurch, by comparison to other districts proposes the most complex and prescriptive regulatory approach of the examples investigated.

Figure 11 on page 33 graphically shows how a very poor scoping of a problem can result in plainly ridiculous outcomes.

Remember this is not unusual for CCC. It supports the only 50dBA Ldn residential activity avoidance rule existing in the world. And as the noise pollution enforcement body cannot conclude that the business activity of repairing aircraft engines and then testing them at full power in the small hours of the morning on aircraft parked Airport is in fact industrial noise. All to the benefit of its own company CIAL.

At points 115-120 under the heading Review of S32 Evaluation of Economic costs and Benefits, there is a scathing dismantling of the lack of quality of the analysis.

There are no compelling economic benefits identified to outweigh the considerable costs of the proposed consent requirement costs and the significant costs to people’s well-being. People trying to emerge from earthquake and Covid disasters with some supplementary income from their main asset by hosting paying guests, should not unjustifiably have their land use activities limited.

There is no justification at all for the proposed very high level of regulation properly assessed there simply is not a significant resource management issue in play and as a result this Plan change should be declined.

Point 124, I submit is interesting as it may well go to the “**why**” this shambles of a Plan Change has been given birth to. Hampson States: My reading of the S32 and S42A report is that justification for aspects of PC4 hinges firstly on simplifying, clarifying updating and improving consistency of the District Plan. 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).

If the real intent of PC 4 is as read by Hampson then CCC certainly do have a reputational risk.

I feel concern for the authors of those reports who now have just a few short days to rebut Hampson evidence I hope they are given support.

I have already raised to the Commissioners my concerns that this Plan Change was not advertised directly to the individual land owners at risk of the significant land use restrictions proposed. The proposed resource consenting régime is extreme and unjustifiable.

I have raised this point that with regards to land owners living under the Christchurch International Airport (CIA) air noise activity avoidance contours. These contours include a 50dBA Ldn air noise contour which is the most restrictive land use activity avoidance rule **anywhere in the world**. My point is that there is an even greater need to ensure those already so adversely impacted individuals are individually notified of Plan Changes that intend to further remove their already diminished land use rights.

In this case CIAL is seeking to alter a long established exclusion to the definition of Noise sensitive Activities. Currently all residential activities **other than those** in conjunction with rural activities that comply with the rules in the relevant district plan at 23 August 2008 are deemed to be noise sensitive and therefore subject to activity exclusion rules. If that change is made CIAL will move to have farm stays excluded a very significant outcome for those engaged in that activity living under the 50dBA Ldn air noise contour.

Land owners living under the air noise contours have experienced many decades of their land use rights being whittled away. The process regularly includes Christchurch City Council (CCC) failing to directly notify these land owners at risk of plan changes.

CCC decision makers are well aware of the huge area of land adversely impacted by what is a ridiculous noise level 50dBA (akin to slightly elevated normal conversation), residential activity avoidance rule. They are also aware of International Acoustics experts JP CLARKES evidence that the background noise impacting on land under the 50dBA Ldn already exceeds 50dBA and at a conservative population level of 20 persons per hectare (excluding road noise) that noise is already at approx. 56dBA.

It is certainly not effective or efficient to have an activity exclusion rule set at a noise level lower than the noise already impacting on that land. These contours are totally out of date and should have been re-evaluated in 2017.

Putting those matters aside the key issue is that CCC has all the contour details hence a simple overlaying of the contours over rate payers land details would identify who should be specifically notified. This is not rocket science and failure to do so is a best negligent.

This failure to personally notify land owners at risk of significant land use restrictions has been at the heart of many complaints to CCC and I submit has significantly grown public perceptions of Council dishonesty and flawed process that grows general disengagement with what should be a transparent democratic process.

The Resource Management Act under Sections 9 and 32 requires a balancing act of land owners land use rights to be recognized and where regulatory intervention is justified a balancing of those land owners rights and the needs of others are to be carefully considered.

It is very easy to circumvent any balancing act when those most adversely impact are excluded from the process due to failure to be notified of the risks and process happening around them.

This is a frequent complaint yet no action to rectify the process has been taken.

I have been advised that this issue has already been raised with the Commissioner however no reply has eventuated to date.

The evidence of Natalie Hampson, which I totally support , destroys both the S32 and S42A reports. The issue of failure to notify those persons at real risk of adverse impact is also a critical mistake.

I conclude that this Plan change process is fatally flawed.

Remedies sought.

The Commissioners advises the CEO of Christchurch City Council that they are considering declining Plan Change 4.

Should Council staff fail to adequately rebut the evidence of Hampson,

Who has carried out a far more in depth and sophisticated analyses of the “What” “When” “Where” of the short term accommodation activities issue.

Who has discredited both the Section 32 and Section 42A reports?

Who has concluded that there is insufficient evidence to justify the heavy regulatory intervention proposed.

Who concludes that no significant resource management issue actually arises from these activities.

That the Commissioners as a response to that failure to rebut and/or the inadequacy of notification to significantly adversely affected land owners Decline Plan Change 4

D.M. Lawry

My name is David LAWRY. In 2013 I retired from the New Zealand Police after 38 years, with my final position being Northern Canterbury Area Commander.

I have a Master of Public Policy degree from Victoria University a Bachelor of Business Studies degree from Massey University, a diploma in New Zealand Policing from The Royal New Zealand Police College and a Certificate of Law related Education from Virginia University USA. I am also a graduate of the FBI National Academy, 177th session and remain engaged with that organisation.

As well as many years leading complex investigations as a Detective at several ranks, I have also completed three operational tours internationally. I have presented evidence before many levels of court proceedings both internationally and within New Zealand including coronial investigations and before Select Committees.

Internationally I carried out roles such as, peacekeeping, policy development and implementation, mentoring of in county Police incumbents and investigations into war crimes and corruption cases. Examples include.

In 2004 I was a member of the Regional Assistance Mission to the Solomon Islands (RAMSI), where amongst other positions I held, I was the Assistant Commissioner 2 IC (RAMSI) and Officer In-Charge of all of the Solomon Island War Crimes and Corruption Investigations. I was commended by the RAMSI Commander *in this role*.

In 2006 I was the New Zealand Police contingent Commander for Operation Highland based at the Provincial Reconstruction Centre in Bamyan, Afghanistan. There I lead the Police training team and mentored the Afghan Police Commander for the Province. Due to corruption issues that Commander was replaced. As that Commander had been a Northern Alliance, war Hero and was a personal friend of the President of Afghanistan who had also been such a commander, this required negotiation at the presidential level. The revitalization of the narcotics section I facilitated, resulted in the largest opium seizure of 1.5 tons ever achieved in that Province along with machine guns and a number of high level drug and gun dealers being convicted. I received a US Contingent Commanders commendation for this and other actions in this deployment.

In 2008 I was the New Zealand Police Contingent Commander to the United Nations Integrated Mission in Timor-Leste (UNMIT). As the United Nations Police District Commander for the capital city and Dili District, I led numerous corruption

investigations including a human trafficking operation, for which I was commended by the UNPOL Commissioner.

Many of the investigations presented complex investigative and political risks requiring sensitive management. Additionally leadership of and guidance to a very diverse set of working teams was achieved.

I believe this back ground exhibits both academic and practical evidence of investigative skills, combined with the political sensitivity to successfully and at times discreetly achieve the investigative outcomes desired.

I submit that I have the skills to identify criminal, corrupt and or biased decision making when I see it.