

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

Memorandum of counsel in relation to adjournment of Plan
Change 4 Hearing

Dated:

21 June 2021

Reference: J M Appleyard (jo.appleyard@chapmantripp.com)
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MEMORANDUM OF COUNSEL FOR AIRBNB AUSTRALIA PTY LIMITED

May it please the Hearings Panel:

- 1 We act for Airbnb Australia Pty Limited (*Airbnb*) – submitter 112 / further submitter 4 in these proceedings.
- 2 This memorandum of counsel responds to the Panel’s Minute 3 of 12 May 2021 adjourning the Plan Change 4 (*PC4*) hearing.

Airbnb Position on adjournment

- 3 Airbnb is concerned that the Council did not advise submitters of its proposal for adjournment, nor seek the views of submitters, before lodging its memorandum of 11 May requesting adjournment with the Panel. Submitters were therefore not provided with any opportunity to advise the Panel of their position on the proposed adjournment before a decision was made, nor comment on the practical consequences of the adjournment. Airbnb reserves its ability to raise issues of prejudice to it.
- 4 The Panel has directed a new hearing date will be set no sooner than 4 October 2021 and the Council has been allowed significant additional time to prepare an economic assessment of PC4. This is all work that was required before Council decided to notify PC4 and calls into question the entire justification for the plan change. Airbnb also reserves its position on this issue until it sees the economic evidence that Council puts forward.
- 5 Airbnb considers there was adequate information on the economic effects of the proposed plan change before the Panel in Ms Hampson’s evidence, which was extensive and detailed. Airbnb does not agree with Mr Pizzey’s assertion at paragraph [11] of the Council’s memorandum dated 11 May 2021 that “*more detailed economic information analysis [from the Council’s economist] will be necessary in order for the Panel to be in a position to make a recommendation on PC4*”. The fact Council could not produce evidence to support the notified version of PC4 does not mean that the Panel could not have decided matters on the basis of the independent expert advice of Ms Hampson.
- 6 Airbnb seeks confirmation that the Council is being provided with further time only to provide additional economics assessment, and not any further assessment from any other discipline to belatedly justify the decision it has already made to notify PC4. It would put submitters at an unfair disadvantage to have to respond to anything more than economics evidence.
- 7 Airbnb also requests that Council be required to address the prejudice arising to Airbnb by having its economics and planning experts conference with the Council’s economics expert and

planning officer to further assist in narrowing the issues ahead of a resumed hearing. We would expect this process to occur iteratively at all stages during the preparation of the further economics evidence and s42A report in accordance with the Code of Conduct for Expert Witnesses and instructions for conferencing of experts in the Environment Court practice note, and culminating with formal facilitated conferencing if necessary.

Directions sought

8 Airbnb seeks:

- 8.1 confirmation from the Panel by way of further direction that the Council is only given leave to produce additional economics assessment;
- 8.2 that the Council's economics expert is directed to prepare its evidence in accordance with the Environment Court's Code of Conduct for expert witnesses and is expected to make contact with Airbnb's economics expert in the course of preparing their economics assessment and if necessary to formally conference to produce a joint witness statement before any further production of additional evidence; and
- 8.3 that the Council officer is similarly directed to conference with Airbnb's planning expert in the course of preparing any revision to the proposed provisions in light of the economics assessment.

Dated:

21 June 2021



J M Appleyard / A Hill
Counsel for Airbnb Australia Pty
Limited