

IN THE MATTER OF the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014

AND

IN THE MATTER OF decisions on a late submission pursuant to Clause 3(1)(e) of Schedule 2 and Clause 5 of Schedule 3 to the Order

Date: 3 February 2015

RECORD OF DECISION

Background

1. The Council has received a late submission from Helena McIntyre, which has been forwarded to the Hearings Panel for determination. The late submission is on Chapter 5 Natural Hazards (Proposal 5) of the Christchurch Replacement District Plan. It is dated 1 February 2015. The submission period closed on 8 October 2014.
2. Clause 3(1)(e) of Schedule 2 to the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 authorises the Chairperson of the Hearings Panel to decide whether to accept any late submissions.
3. Clause 5 of Schedule 3 of the Order provides that the Chairperson of the Hearings Panel may extend or waive compliance with any time limits specified by or under this Order, except in relation to the time limit specified in Clause 12(2) which relates to completing the Panel's obligation under the Order. Clause 5 also states that the Chairperson of the Panel may accept submissions received after the relevant closing date notified under clause 5 or 7 of Schedule 1.

Statutory considerations

4. Clause 5(2) of Schedule 3 sets out the matters that must be considered in exercising this discretion. These are:

- (a) The interests of any person who, in the chairperson's opinion, may be directly affected by a waiver.
- (b) The need to ensure that there is an adequate assessment of the effects anticipated from the implementation of the proposal.
- (c) The stage of the hearing when the hearings panel is provided with the submissions.

Validity of submissions

5. Schedule 5 of the Order sets out the requirements of a submission.¹ I have reviewed the submission referred to me and consider it to be valid. The submission follows form 5 of the Regulations and relates to the proposed identification of Ms McIntyre's land at 68 Cressy Terrace, Lyttelton as being subject to rock fall hazard overlays. Ms McIntyre opposes the provisions for the reason that she believes the assessment undertaken is incorrect and may not have been subject to a site assessment.

Interests of directly affected persons

6. The process for making submissions and further submissions is prescribed in the Order in Council. Following the receipt of submissions the Council is required to provide a list of submissions on its website and then invite further submissions supporting or opposing primary submissions where they represent a relevant aspect of the public interest or have an interest in the proposal greater than the interest the general public has.

7. The submission has not yet been notified and will need to be to allow for further submissions. However, given the extremely late filing of this submission, and the hearing start

¹ The form of a submission is specified in Form 5 Resource Management (Forms, Fees, and Procedure) Regulations 2003.

date of 2 March 2015, in this instance any further submission must be filed by 17 February 2015.

The stage of the hearing process

8. The period for submissions and further submission has now closed. The issue raised by the late submission relates to provisions in Chapter 5 Natural Hazards (Proposal 5). The hearing for Proposal 5 has already been the subject of two pre-hearing meetings, most recently on 27 February 2015. The Panel issued a Pre-Hearing Meeting Report and Directions dated 18 December 2014, and a report on the most recent pre-hearing meeting is imminent.² The Natural Hazards hearing is scheduled to commence on 2 March 2015. Notice of Hearing has not yet been given. The Pre-Hearing Meeting Report and Directions dated 18 December 2014 makes specific directions for expert witness conferencing, which commenced on 12 January 2015.

9. This is an extremely late submission. In accepting this late submission, Ms McIntyre must accept that the process has already commenced without her participation, and she is bound by the earlier directions arising out of the two pre-hearing meetings. If Ms McIntyre wishes to call expert evidence to support her submission, then we suggest that she speak with other submitters who raise similar issues and co-operate with the sharing of any expert witness(es) who are already participating in expert witness conferencing.

Decision and directions

10. Having considered the late submission from Ms McIntyre that has been referred to me for determination, I am satisfied that acceptance of the late submission would meet the statutory requirements set out in clause 5(2) of Schedule 3 of the Order in Council.

11. Accordingly it is so ordered;


(a) The late submission of Ms McIntyre is accepted.

(b) The Christchurch City Council is directed to publicly notify the submission in accordance with the Order.

² Where directions have already been made in relation to any matter which is the subject of a late submission or further submission (as notified on the Panel's website www.chchplan.ihp.govt.nz), those parties are required to comply with any directions already made.

(c) Any further submissions arising must be submitted by *17 February 2015*.

(d) The Independent Secretariat is directed to serve Ms McIntyre with this decision.



The Honourable Sir John Hansen
Chair