

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
cl 3(1) (e) of Schedule 2 and cl 5
of Schedule 3 to the Order

Date: 8 June 2016

RECORD OF DECISION

[1] The Secretariat received an application for leave to lodge a late further submission by The Westall Trust (the Trust) in relation to Stage 3 Chapter 9 Natural and Cultural Heritage, Topic 9.3 Historic Heritage and 9.4 Schedule of Significant Trees.¹ The Trust opposes submissions by Heritage New Zealand (5029) and Christchurch Civic Trust (3700).

[2] The Trust has advised that it purchased the property at 104 Glandovey Road at public auction on 16 September 2015 and settled the purchase on 18 December 2015. At the time of the auction the Trust was aware that the property was listed and that there were protected trees in the Existing District Plan and in the proposed Christchurch Replacement District Plan (pCRDP). The Trust was also aware through its enquiries that the Council was supportive of the heritage listing but it was only seeking to list one of the three protected trees.² In May 2016 the Trust became aware that the Council may have changed its position regarding the listed trees in response to the submission of the Christchurch Civic Trust (3700). The Trust was not notified of the Council's changed position regarding the listing of trees.

¹ Letter from Westall Trust to the Hearing Panel dated 6 June 2016 and accompanying Application for Leave and further submission form..

² Late further submission of the Westall Trust and an Application for leave to file this submission late in respect of submissions dealing directly with property and trees of the Trust dated 3 June 2016 at 1.1 and 1.2.

[3] The Trust did not submit on the Stage 3 Chapter 9 Natural and Cultural Heritage proposal when it was notified on 25 July 2015. The period for making submissions closed on 18 September 2015. The further submission period closed on 2 October 2015. Hearings took place on the proposal in early February 2016 and additional mediation and a resumed hearing, on limited topics, took place in the ensuing months. Closing legal submissions have now been filed in relation to Topic 9.4 Significant Trees, and closing legal submissions are due to be filed on Topic 9.3 Historic Heritage on 10 June 2016, for submitters and 17 June 2016, for the Council.

Further submission on the listing of Historic Heritage – Topic 9.3

[4] The further submission from Heritage New Zealand (5029) simply supports the submission of the Christchurch Civic Trust (3700). The OIC does not provide for a process for the Trust to lodge a further submission in relation to another further submission. The Civic Trust submission does not seek any changes to the listing of 104 Glandovey Road, but is generally supportive of the notified proposal.³

[5] The Trusts application for leave to lodge a submission out of time does not disclose a reason why the Trust has not sought to raise the issue of the heritage listing of 104 Glandovey Road until now. Having considered the relevant matters in clause 5 of Schedule 3 to the OIC⁴, it is simply too late for the further submission to be made in relation to the listing of 104 Glandovey Road, given the stage of the hearing process.

Further submission on the listing of Significant Trees – Topic 9.4

[6] The position of the Trust differs in respect of the listing of significant trees. The Trust was aware that only one tree was proposed to be listed by the Council, however the Council subsequently changed its position without notice to affected property owners. We have already waived the time for making a number of late further submissions in opposition to the

³ The Civic Trust submission does seek additions or changes in relation to some identified properties.

⁴ Cl 5(2) provides: In making a decision the chairperson must take into account: the interests of any person who, in the chairperson's opinion, may be directly affected by a waiver; and the need to ensure that there is an adequate assessment of the effects anticipated from the implementation of the proposal; and the stage of the hearing when the hearings panel is provided with the submissions.

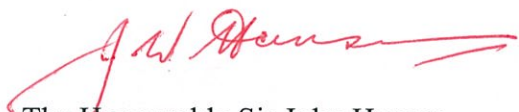
submission by the Christchurch Civic Trust. Although the request to make late further submissions is very late, because the Councils changed position was without notice, I have concluded that in the interests of fairness that the time for making a further submission should be waived and leave granted accordingly.

[7] The hearing of Chapter 9 has been concluded and that closing legal submissions have been filed in relation to Topic 9.4. It is too late for the Trust to be heard in response to its further submission on this point. We will however consider the objection to the listing of two additional trees in our deliberations.

[8] The application for leave to be heard and call evidence is declined.

[9] I order as follows:

- (a) The application to waive the time for filing further submissions by the Westall Trust in relation to the heritage listing of 104 Glandovey Road is declined.
- (b) The application to waive the time for filing further submissions by the Westall Trust in relation to the listing of significant trees is allowed.
- (c) Leave to be heard or call evidence is declined.
- (d) The Council is to serve a copy of this decision on Christchurch Civic Trust and the Westall Trust
- (e) The Council is to update the submission database in relation to 8(b).


The Honourable Sir John Hansen
Chair