

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

AND

IN THE MATTER OF Notice of Hearing and Directions relating to
the deferral of decisions on Stage 1 Chapter
15 Commercial and Chapter 8 Subdivision

Date: 1 October 2015

NOTICE OF HEARING AND DIRECTIONS

**For Stage 1 submitters on Chapters 15 Commercial
and Stage 1 Submitters Chapter 8**

Appendices 15.9.4, 15.9.10 and 8.6.6

[1] The Christchurch City Council ('the Council') filed a memorandum regarding provisions that it erroneously left open for submission in the Notified Version of the E-Plan, dated 24 September 2015 ('the Council's first memorandum'). The Council sought directions from the Hearings Panel for the deferral of decisions on Stage 1 provisions affected by the error, until submissions on Stage 2 are heard.

[2] The Hearings Panel issued a Minute with directions on 28 September 2015 ('Minute'), requiring the Council to prepare a procedural timetable for its consideration to provide the affected Stage 1 submitters with the opportunity to participate in the Stage 2 Commercial/Industrial and Subdivision hearings on the affected appendices, and to serve the affected submitters with the Council's first memorandum and our Minute.

[3] The Council has filed a memorandum in accordance with our directions, dated 30 September 2015 ('the Council's second memorandum'). In the Council's second

memorandum, the Council explained that there were some errors in the first memorandum and that the only provisions that we need to defer our decisions on Stage 1 that arise from the E-Plan error are Appendices 15.9.4, 15.9.10, 16.7.2, 16.7.11, 16.7.12, 16.7.13 and 8.6.6 ('the Appendices').¹ However the Council also noted in paragraph 3 and 4 of the same memorandum that, contrary to their advice on 28 September 2015 that Appendices 16.7.11 -16.7.13 were not notified in Stage 1, there are no Stage 1 submitters affected by the E-Plan error. Further to that, the Council advised that Appendix 16.7.2 is unaffected because there are in fact no Stage 2 submissions on that Appendix. This position has been clarified in a further memorandum dated 1 October 2015 ('third memorandum').

[4] Given that further explanation we now understand that we are only being asked to notify Stage 1 submitters on **Appendix 15.9.4, 15.9.10 and 8.6.6** of the opportunity to be heard during Stage 2.

[5] The Council's first and second memorandum have no doubt caused considerable confusion on the part of the affected submitters. It has also redirected the resources of the Independent Secretariat and Hearings Panel. Counsel need to be mindful of that when requesting directions from the Hearings Panel and ensure that the information provided to the Hearings Panel is accurate.

[6] The Council has confirmed that the affected Stage 1 submitters who wished to be heard have been served with a copy of the Council's first memorandum and our Minute on 29 September 2015.² The Council's second memorandum has also been served on those affected submitters.³ The third memorandum is attached to this Minute.

[7] We have considered the Council's second memorandum, as amended by the third memorandum and confirm that the timetable proposed is appropriate and direct accordingly:

¹ Para 2.1 of the Council's second memorandum.

² Para 6 of the Council's second memorandum

³ Email from Simpson Grierson 30 September 2015 4:42 p.m.

Chapter 15 Commercial Proposal

(a) Pursuant to clause 4(3)(c) of Schedule 3 to the OIC, **Notice of Hearing** is hereby given to Stage 1 submitters who wish to be heard in relation to any Stage 2 submission on Appendices:

(i) **15.9.4**

(ii) **15.9.10**

Stage 1 submitters are to attend the hearing of the Stage 2 Commercial and Industrial hearing on **19 October 2015 at 10am**. **The hearings will be held at the Christchurch Replacement District Plan Hearing Venue located at 348 Manchester Street, Christchurch in Hearing Room 1.** Stage 1 submitters wishing to be heard are to RSVP to the Independent Secretariat by **3 p.m., Monday 12 October 2015**.

(b) The directions for the hearing are amended to include the following:⁴

(i) Any Stage 1 submitter who wishes to be heard may seek leave to cross-examine relevant Stage 2 evidence on the Appendices by **12pm, 2 October 2015**. If the current scheduling of Stage 2 witnesses prejudices a Stage 1 submitter who wishes to be heard, then they may seek leave to recall a witness at a later stage, but any application to do so must be in writing, setting out the reasons for any prejudice and the topics for cross-examination. Submitters are reminded that there is no automatic right to cross-examine any witness.

(ii) Any Stage 1 submitter on the Appendices who wishes to present Rebuttal evidence in reply to the evidence prepared by the Council or a Stage 2 submitter on the affected provisions is to provide that evidence by **5 p.m. on 9 October 2015**.

⁴ Pre-Hearing Report and Directions for Stage 2 Commercial/Industrial dated 10 August 2015.

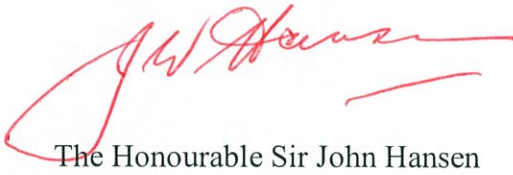
- (iii) Any response to rebuttal evidence called by a Stage 1 submitter is to be provided by **5 p.m. on 15 October 2015**.

Stage 2 Chapter 8 Subdivision Proposal

[8] Stage 1 submitters on Chapter 8 Subdivision, Appendix 8.6.6 will be served with Notice of Hearing for the Stage 2 Subdivision hearing, and if they wish to attend they are to follow the directions already in place for that hearing. These are set out at paragraph 5 of the Council's second memorandum, except to the extent that Stage 1 submitters on Appendix 8.6.6 may only call rebuttal evidence in response to Council or Stage 2 submitters on the Appendices (given they have already had the opportunity to provide evidence in chief during Stage 1 hearings).

Scope of Submissions

[9] Stage 1 submitters on the affected Appendices are reminded that the opportunity to be heard at the relevant Stage 2 hearing is limited to matters that are within the scope of their submission on the Appendices.



The Honourable Sir John Hansen
Chair

**BEFORE THE CHRISTCHURCH REPLACEMENT
DISTRICT PLAN HEARINGS PANEL**

IN THE MATTER of the Resource
Management Act 1991
and the Canterbury
Earthquake
(Christchurch
Replacement District
Plan) Order 2014

AND

IN THE MATTER of the proposed
Christchurch
Replacement District
Plan

**MEMORANDUM OF COUNSEL REGARDING PROVISIONS THAT WERE LEFT
OPEN FOR SUBMISSION IN THE NOTIFIED VERSION OF THE E-PLAN**

1 OCTOBER 2015

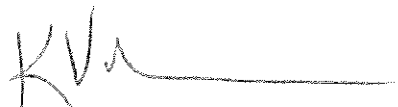
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MAY IT PLEASE THE PANEL:

1. This memorandum of counsel is filed on behalf of the Christchurch City Council (**Council**) in response to the request for clarification by the Hearing Panel made by way of an email from Cindy Robinson dated 1 October 2015.
2. The email sought clarification as to whether the Council considered that Stage 1 submitters need to be notified on the ability to be heard on Appendix 16.7.2 or whether this is not necessary given the coding error identified in paragraph [4] of the Council's memorandum of 30 September 2015.
3. We have been instructed by the Council that no Stage 2 submissions were received on Appendix 16.7.2 (the only submission that was coded against this Appendix in Stage 2 was the Corston's submission which was coded in error as explained at paragraph [4] of the Council's 30 September 2015 memorandum). Therefore, the Council considers that there is no need to defer decision making on Appendix 16.7.2 (i.e. it should be considered as part of the Stage 1 decision on the Commercial Proposal), and the reference to that Appendix at paragraph [2.1] of the Council's memorandum of 30 September 2015 should therefore be ignored.
4. For completeness, the Council records that as Appendices 16.7.11 – 16.7.13 were not notified in Stage 1, the references to those Appendices in paragraph [2.1] of the Council's memorandum of 30 September 2015 can also be ignored (as there will not have been any Stage 1 submitters on those Appendices).

DATED this 1st day of October 2015



J G A Winchester / K E Viskovic
Counsel for Christchurch City Council