

**BEFORE INDEPENDENT HEARING COMMISSIONERS
IN CHRISTCHURCH**

TE MAHERE Ā-ROHE I TŪTOHUA MŌ TE TĀONE O ŌTAUTAHI

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the hearing of submissions on Plan Change 14 (Housing and Business Choice) to the Christchurch District Plan

**MEMORANDUM OF COUNSEL FOR CHRISTCHURCH CITY COUNCIL
REQUESTING ADJOURNMENT OF HEARING**

22 December 2023

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MAY IT PLEASE THE INDEPENDENT HEARINGS PANEL:

Introduction

1. This memorandum of counsel for Christchurch City Council (**Council**):
 - (a) updates the Panel and submitters regarding the Council's request that the Minister for the Environment pause the Plan Change 14 (**PC14**) process; and
 - (b) respectfully asks the Panel to adjourn its hearings pending further direction from the Minister, which has not yet been received.

Background

2. Counsel's memorandum of 6 December 2023 advised of a resolution passed by the Council, in light of the Government's intention to make the introduction of medium density residential standards optional, to:

Request that the Minister for the Environment give urgency to issue a Gazette Notice under section 80M of the Resource Management Act 1991 requiring that the [PC14] hearing not recommence until after a date set by the Minister, and extending the 12 September 2024 date by which the Council must make a decision on the Independent Hearings Panel recommendations.

3. As the Panel will appreciate, the resolution to seek a pause reflects a desire by the Council to maximise the value to ratepayers of PC14, which is a very large and costly process, in light of the considerable current uncertainty as to what the legal requirements on the Council will be (including with respect to any recommendations made by the Panel).
4. Should the legislative basis for PC14 be changed, the Council may wish to reconsider its content. It is considered more appropriate, therefore, that any pause to the process occurs now, rather than hearings continuing on the current timeline and a pause or change occurring at a future date at unnecessary expense.
5. The Council promptly made that request of the Minister and has since been liaising with officials at the Ministry of the Environment.
6. Minute 29 of the Panel acknowledged these circumstances and the uncertainty that all participants in PC14 are currently experiencing. The Panel expressed the hope that the position can be clarified well before the

hearing is scheduled to resume in order to enable fairness and, if necessary, effective preparation time for everyone involved.

Update on discussions with the Ministry for the Environment

7. Unfortunately, Council staff have been advised that the Minister has not yet been able to consider the Council's request and is unlikely to be able to do so until after 26 January 2024.
8. On this timeframe, there will obviously be insufficient time for any response received from the Minister to influence the preparations by the Panel, submitters, and the Council for the resumed hearings, if the hearings recommence on 30 January 2024 (as currently scheduled).
9. The Council acknowledges that one option for the Panel is simply to continue with the process in the meantime. However, the Council does not favour that option, because of:
 - (a) the costs associated with preparing for and reconvening the hearing on 30 January 2024, which are significant and may be wasted if the Minister agrees to the Council's request for an extension (depending on how the law may change); and
 - (b) the current legal uncertainty.
10. As such, the Council respectfully requests that the Panel adjourn its hearings until a future date, to be confirmed once the Minister's response has been received.
11. Counsel acknowledge paragraph 6 of the Panel's minute 29, which records that:

The IHP sought independent legal advice as to our powers pending clarification of the incoming coalition governments intentions. The outcome of that advice is that we do not possess the powers to suspend hearings and must therefore continue to work towards meeting the existing legislative requirements and associated Ministerial direction, until such time as we receive specific directions to do otherwise in the event of any changes to the legislative framework.

12. Counsel have not seen that advice but observe that, while the Panel has no power to extend the (current) 12 September 2024 deadline by which the Council must make a decision on the Panel's recommendations, the Panel is

able to regulate its process in the meantime and is not legally obliged to deliver its recommendations on 30 April 2024, as currently envisaged.

13. One consideration for the Panel is no doubt to allow sufficient time, after it makes its recommendations, for Council staff to carry out the necessary process leading to the Council's decision prior to 12 September 2024. In that regard, the Council advises that:
 - (a) in the usual way, the Council's earlier request for the Panel to deliver its recommendations by 30 April 2024 allowed for a number of additional weeks, between that date and 12 September 2024, for contingencies;
 - (b) the Council's strong preference, at this point, is for the Panel to adjourn the hearing until directions are received from the Minister; and
 - (c) if the Panel now adjourns the hearing as requested, the Council will be able to work with the Panel to revisit the 30 April 2024 milestone date, including (if required) requesting the Minister to adjust the 12 September 2024 deadline to accommodate the adjournment.

Conclusion

14. The Council therefore respectfully asks the Panel to adjourn its hearings pending further direction from the Minister.
15. On behalf of the Council planning team, counsel wish to express their gratitude to the Panel and submitters for the constructive and thorough process to date, and to extend compliments of the Season to all participants in PC14.

Date: 22 December 2023



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Counsel for Christchurch City Council