

**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

12 June 2023

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MAY IT PLEASE THE INDEPENDENT HEARINGS PANEL:

1. Counsel are instructed by Christchurch City Council (**Council**) in respect of Plan Change 14 – Housing and Business Choice (**PC14**).
2. This memorandum addresses matters raised in the Panel's 'Minute 1: Preliminary Directions' dated 31 March 2023 (**Minute 1**) and provides a further update to that contained in the memorandum of counsel for the Council (Mr Pizzey) dated 5 May 2023.
3. This memorandum:
 - (a) updates the Panel on the submissions made on PC14 and the Council's progress in summarising them;
 - (b) seeks some initial changes to the preliminary timeline set out in Minute 1, occasioned by the large volume of submissions (but without delaying the hearing, due to start on 9 October 2023);
 - (c) respectfully makes an initial proposal as to how the Panel might efficiently arrange and sequence the hearing by 'streams' / topics (to be refined as further information is available on the submissions); and
 - (d) updates the Panel and submitters on correspondence the Council has had with the Ministry for the Environment regarding an extension of the time for the Council to make decisions on PC14.
4. These matters are addressed briefly in turn below.

SUBMISSIONS MADE ON PC14

5. Over 900 submissions have been made on PC14, a number of which are very detailed. Approximately 260 submitters have asked to be heard in support of their submissions.
6. A large team of Council staff, supplemented by consultant planners, has been working hard to summarise the decisions requested by submitters on PC14, as required by clause 7 of Schedule 1 to the Resource Management Act 1991 (**RMA**).
7. Council staff have made good progress, with over 60% of submissions now summarised. However, considerable further work is required for the Council to complete this task to the standard necessary to meet legal requirements and best serve the Panel, submitters, and the PC14 process.

8. As such, the Council anticipates being able to notify the summary on **30 June 2023**, and cannot feasibly do so earlier than that date.

INITIAL PROPOSED TIMETABLE CHANGES

9. The scale of the task of summarising submissions has some immediate implications for the preliminary timeline specified by the Panel in Minute 1.
10. As the Panel will be aware, certain persons (specified in clause 8 of Schedule 1) may make a further submission on PC14 within 10 working days after public notice is given of the summary. Based on notification on 30 June 2023, further submissions will be due by **17 July 2023** (factoring in the public holiday for Matariki on 14 July 2023).
11. The implications for the Panel's preliminary timeline are as follows:
- (a) The Council will be unable to provide the Panel with all further submissions and an updated summary by 14 July 2023,¹ because the further submissions themselves will be due by 17 July 2023. Rather, the Council will be able to provide to the Panel:
 - (i) the further submissions (including late further submissions) by **24 July 2023**; and
 - (ii) the updated summary by **4 August 2023** (which is less than three weeks after the end of the further submission period).
 - (b) It is necessary to reschedule the pre-hearing meeting (indicatively timed for 20 July 2023) to a date early in **the week beginning 7 August 2023**, depending on the IHP's availability. This timing would allow submitters, including further submitters, to have at least 10 working days' notice of the meeting. While sufficient notice can readily be given to original submitters, as those submissions have already been lodged, the identities of further submitters will not be known until 17 July 2023 (excluding any late further submitters). In order to give notice as quickly as possible to further submitters, the Council intends to do so by email (if the submitter's email address is known) or letter when acknowledging receipt of the submission. Some extra time is factored into the suggested pre-hearing meeting date above to account for the likelihood of late further submissions and likely need for some

¹ As mentioned in the second row of the preliminary timeline beneath paragraph 5, and in paragraph 6(b) of Minute 1.

letters to be posted (where the further submitter's email address is not provided).

12. In addition, it will be challenging for the section 42A reports and evidence-in-chief of the Council witnesses to be filed by the indicative deadline of 4 August 2023, again given the volume of submissions (and the work involved for some of those witnesses in preparing the summary of submissions). Counsel therefore request that the Panel amend the timetable to allow:
 - (a) two additional weeks to file and serve the Council witnesses' section 42A reports and evidence-in-chief, i.e. by **18 August 2023**;
 - (b) submitters an additional week to file and serve expert evidence, by **15 September 2023**; and
 - (c) expert conferencing to take place in the weeks of **18 and 25 September 2023**, with expert joint statements to be filed by 29 September 2023 (as the Panel has already directed).
13. These proposed changes will help facilitate the preparation of quality evidence to assist the Panel, while maintaining an efficient and fair process. In this regard:
 - (a) The proposed timetable changes would mean that submitters would have four, rather than five, weeks to respond to the Council evidence. This will not materially prejudice submitters, however, as their expert witnesses will have a further week overall to prepare evidence (noting that much of the evidentiary basis for the Council's position on PC14 is already available in the provisions as notified and the accompanying section 32 reports).
 - (b) Two weeks are still provided for expert conferencing; while some experts may have less time to conclude a written conferencing statement by the due date of 29 September 2023, this should be readily achievable by the experts preparing thoroughly for conferencing, as required by the Environment Court's Code of Conduct for expert witnesses. Further, depending on the scheduling and streaming of hearings (discussed below), there may be an opportunity to defer some expert conferencing to a later date, prior to the relevant hearing stream.

14. Counsel respectfully request that the Panel make directions to update its preliminary timeline accordingly; the amended timeline is set out in full in the **Appendix** to this memorandum. Consequential changes would also be required to the specific directions at paragraphs 6 to 11 of Minute 1; counsel can provide updated drafts of those paragraphs to the Panel if that would assist.

HEARING 'STREAMS' / TOPICS

15. The Council has been giving careful consideration to how the Panel's hearing of submissions might be ordered, including by reference to the procedure adopted for intensification planning instruments elsewhere in the country, so as to make the most efficient use of the hearing time available.
16. It has not yet been possible to formulate a firm proposed hearing schedule for the Panel to consider, because in large part this depends on the analysis of submissions that is ongoing, as well as the submitters' intentions regarding calling evidence.
17. Nonetheless, on an indicative basis counsel make the following observations:
 - (a) As an initial (perhaps obvious) point, the Panel has indicatively scheduled hearing time over eight weeks in October and November, sitting from Tuesday to Thursday in each week. Counsel respectfully suggest that it will be challenging for the Panel to hear approximately 260 submitters (and the Council) and the evidence of their respective witnesses over the course of 24 hearing days, and ask the Panel to consider scheduling more hearing time.
 - (b) A potential order and list of hearing streams / topics is as follows:
 - (i) **Strategic overview**, addressing the submission points on the strategic directions / objectives and providing an overview of how PC14 implements national direction (including the approach taken to assessing development capacity, identifying qualifying matters (including a specific new matter for coastal hazards), providing for a well-functioning urban environment, applying the centres hierarchy, and providing for strategic and city infrastructure (including in respect of electricity transmission, Lyttelton Port, railways, and airport noise, vacuum sewer and key transport corridors));

- (ii) **Central city** including walkable catchments from the central city,² central city-specific height limits, and qualifying matters specific to the central city, relating to Victoria Street building heights, central city heritage precincts, radio communications, and the hospital;
- (iii) **Commercial** including the centres approach (beyond the central city) and qualifying matters for Lyttelton building heights, and the Belfast Commercial Centre and the Styx River (Interface between commercial centre and Styx River);
- (iv) **Residential**, divided into:
 - (1) **Tranche 1** to address submissions on objectives, policies, walkable catchments and low public transport accessibility qualifying matter; and
 - (2) **Tranche 2** to address submissions on rules and site-specific zonings, and qualifying matters specific to residential zones – eg regarding sunlight access, residential heritage areas, Riccarton Bush interface, residential character areas, and residential / industrial interface;
- (v) **Other zones (within walkable catchments of commercial centres)** including industrial and mixed-use zones, and specific purpose zones (tertiary, schools, cemeteries, hospital (increased height limits));
- (vi) **Residential future urban zone and outline development plan qualifying matters;**
- (vii) **Subdivision;**
- (viii) **City-wide / multiple-zone qualifying matters:**
 - (1) Cultural and natural (landscape, ecological, waterbodies, public open space) values;
 - (2) Slope and flood hazards (excluding coastal hazards);
 - (3) Heritage;
 - (4) Trees (including financial contributions provisions);

² Alternatively, it may be more efficient to address submissions on this matter as part of the residential stream.

(ix) **Wash-up matters** (including mapping, site-specific zoning, definitions, and consequential amendments).

18. The Council is conscious, in devising this initial suggested order, that some submitters have broad submissions and will likely wish to participate in a number of hearing streams, whereas others may wish to appear before the Panel only once. The Council is certainly open to any measures the Panel wishes to adopt that would assist submitters to participate efficiently.
19. Counsel would welcome any initial feedback from the Panel on these potential streams and order. Otherwise, the Council will continue to analyse submissions with a view to formulating a tentative draft hearing schedule for the Panel and submitters to consider.
20. Feedback will also be required from submitters, including in respect of the number of witnesses they intend to call, to ensure that sufficient time is factored in to hear that evidence. The Council and Panel will be able to explore this with submitters in due course.

CORRESPONDENCE WITH MfE REGARDING TIMEFRAMES

21. As the Panel is aware, the Minister for the Environment has directed that all specified territorial authorities (including the Council) issue decisions on their respective intensification planning instruments by 20 August 2023, which date obviously requires amendment in respect of PC14.
22. The Council has been corresponding with officials at the Ministry for the Environment regarding a potential new date and will update the IHP upon hearing from the Minister.

CONCLUSION

23. Counsel would be grateful for the Panel to amend the timetable in the way described above and in the **Appendix**.

Date: 12 June 2023



D G Randal / C O Carranceja
Counsel for Christchurch City Council

APPENDIX – PROPOSED CHANGES TO INDICATIVE TIMELINE

Dates	Action
30 June 2023	Council to provide IHP with Plan Change documentation required by Schedule 1, clause 97, <u>apart from the matters specified in clause 97(f), (g), and (h), being further submissions on PC14, any late further submissions (and associated information).</u>
<u>24 July</u> 14 July 2023	Council to provide IHP with further submissions and an updated summary of submissions document.
19 and 21 July 2023	IHP to undertake preliminary site visits/general location orientation
<u>4 August 2023</u>	<u>Council to provide IHP with an updated summary of submissions document.</u>
<u>Week of 7 August</u> 20 July 2023	Pre-hearing meeting (procedural matters). Venue tbc. Agenda and draft procedures available by 7 July.
<u>18 August</u> 4 August 2023	Filing and service of s42A reports and Council evidence-in-chief.
<u>15 September</u> 8 September 2023	Filing and service of submitter expert evidence-in-chief. Note lay evidence is not required to be pre-circulated.
<u>18 – 29 September</u> 11 – 22 September 2023	Expert witness conferencing – specific directions to follow prehearing meeting on 20 July 2023.
29 September 2023	Filing of expert joint statements summarising agreed and not agreed matters.
9 October 2023	Filing and service of brief opening legal submissions by all parties (10-page limit).
9 October – 30 November 2023 ³	Independent Hearings Panel Hearings final dates to be confirmed once number of submissions known. IHP to sit Tuesdays, Wednesdays, and Thursdays. Monday and Fridays of each week reserved for further possible expert conferencing and/or procedural matters and pre reading of evidence. Venue: Crowne Plaza Christchurch, 764 Colombo Street, Christchurch Central City
8 December 2023	Filing of Submitter written closing legal submissions.
15 December 2023	Filing of Council closing legal submission including any updated agreed provisions and s42A reporting officer recommended amendments to provisions in reply to submissions.
30 November - 22 December 2023	IHP deliberations and preparation of IHP Recommendations Report
22 December – 15 January 2024	Holiday period.
15 January 2024 – 23 February 2024	IHP preparation and finalising of IHP Recommendations Report.

³ These and subsequent dates are subject to further hearing time being scheduled.

26 February 2024	IHP Recommendations Report delivered to Council in accordance with Schedule 1, clause 99.
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