

IN THE MATTER OF Resource Management Act 1991

AND

IN THE MATTER OF Proposed Plan Change 14 Housing and
Business Choice pursuant to Part 5, subpart
5A and Part 6 of Schedule 1 of the Resource
Management Act 1991

MINUTE 30: DECISION ON LATE FURTHER SUBMISSION MR DAVID LAWRY

- [1] This is the thirtieth (30) procedural Minute to be issued by the Independent Hearings Panel (IHP) established by the Christchurch City Council (the Council) to conduct the hearing of submissions on proposed Plan Change 14 Housing and Business Choice (PC 14) notified by the Council and to make recommendations to the Council, after the hearing of submissions is concluded.
- [2] The purpose of this Minute is to issue the decision of the IHP regarding receipt of a late further submission lodged by Mr David Lawry.
- [3] On 21 November 2023 Counsel for Christchurch City Council filed a memorandum in relation to a late further submission lodged by submitter Mr David Lawry submitter #873.
- [4] Following that memorandum, on 22 November 2023, the IHP issued Minute 27: Late Further Submission Mr David Lawry¹, with directions that:
- (a) Mr Lawry provide in writing to the IHP Secretariat by noon on Wednesday 29 November 2023 the reason why his further submission (whether that is the document of 5 September, or the form filed on 19 November) was not filed with the Council by the close of the further submission period on 17 July 2023. Mr Lawry serve his response on the Council and CIAL.
 - (b) Council and Christchurch International Airport Limited (CIAL) advise the IHP if there are any matters of prejudice arising from the receipt of this late further submission by 12 noon on Monday 4 December 2023.
- [5] On 26 November 2023 Mr Lawry filed a document: David Michael Lawry: Reply to IHP Minute 27: Late Further Submission²
- [6] On 4 December 2023 Counsel for the Council filed a Memorandum of Counsel regarding the late further submission of Mr David Lawry stating they would abide by the decision of the IHP³.
- [7] On 4 December 2023 Counsel filed a Memorandum on behalf of CIAL in opposition to Mr David Lawry's application for leave to file late further submission⁴.

¹ [IHP Minute 27 - 22 November 2023](#)

² [David Lawry #837 - Reply to IHP Minute 27 - Late-Further-Submission-- 26 November 2023](#)

³ [Memorandum of Counsel for Christchurch City Council 4 December 2023 - Late further submission of Mr David Lawry.pdf](#)

⁴ [Memorandum of Counsel for Christchurch International Airport #852 - In opposition to David Lawry's application for leave to file a late further submission](#)

IHP Consideration/Decision/Directions

- [8] The IHP has considered the background to the late further submission as set out in the memorandum of counsel for the Council dated 21 November 2023, and the responses of the parties to Minute 27 and finds that the document sent by Mr Lawry to the Council on 5 September, when considered in the round, contained the requisite elements of a further submission in opposition to submission #852 of CIAL (although it does contain matters which prima facie extend beyond those requirements). The document was served on counsel for CIAL at that time, all be it well outside the closing date for further submissions of 17 July 2023.
- [9] We find Mr Lawry, as a primary submitter who is opposed to matters covered by the CIAL submission on PC 14 has an interest in PC 14 greater than the public generally. The document clearly opposes the primary submission of CIAL, however, it duplicates and elaborates on matters contained in his primary submission.
- [10] The Council made inquiry of Mr Lawry as to whether he intended the document of 5 September to be considered as a late further submission or simply as supplementary material to his primary submission. We understand that Mr Lawry's response by email on 14 September 2023 confirmed the latter if that was 'best or easiest approach'. In those circumstances the Council did not forward the document to the IHP for consideration as a late further submission. Mr Lawry now wishes to have the document considered as a late further submission.
- [11] CIAL is opposed to the receipt of the late submission noting that expert evidence has been exchanged and expert conferencing has been undertaken. We note, however, Mr Lawry did not file any expert evidence in support of his original submission, so would not have been involved in expert conferencing in any event. CIAL have been on notice of the issues raised by Mr Lawry since his original submission was filed, so we do not agree that there is any prejudice to CIAL arising by a late further submission which largely repeats the matters raised in the original submission.
- [12] CIAL seek relief which is based on a remodelled noise contour. There are also several other further submitters opposed to the relief that CIAL seeks in its primary submission.⁵ The existence and addition of Mr Lawry's opposition cannot be a surprise to CIAL.

⁵ For example FS # 2017, 2032, 2082 and 2103

[13] We will allow the late further submission part because CIAL seeks relief relevant to the very issues raised in Mr Lawry's primary submission, however, we do so only to the extent that the further submission records opposition to the modified 50dBALdn noise contour sought by CIAL as the basis for a qualifying matter.

[14] It is, however, too late for Mr Lawry to call independent expert evidence in support of his submission or further submission, and to allow him to do so would create prejudice to other parties who at this late stage would not have an opportunity to consider those matters before the scheduled hearing.

[15] We also record that the IHP will only consider matters relevant to the jurisdiction of the IHP in accordance with the Resource Management Act 1991, as amended by the Resource Management (Enabling Housing Supply and other matters) Amendment Act 2021. The second and third matters of relief in Mr Lawry's original submission which are repeated in his late further submission, and which appear to seek investigative actions by the Council directly, are not matters within our jurisdiction. Mr Lawry is also directed to consider the hearing procedures available on the IHP website as he prepares for the hearings in the new year.⁶

[16] Accordingly, for the reasons above the IHP accepts the late further submission in part, limited only to the Mr Lawry opposes the relief sought by CIAL in relation to the 50dBA Ldn noise contour as a proposed qualifying matter.

Dated 14 December 2023



Cindy Robinson
Chair
for Independent Hearings Panel

⁶ We note our recent Minute 29 which addresses the possible delay in hearings brought about by the Council decision to seek a pause from the Minister for the Environment.