

**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

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**MINUTE 9: RESPONSE TO PRELIMINARY MATTERS RAISED BY MR DAVID  
TOWNSEND (SUBMITTER #599)**

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## Introduction

- [1] This is the ninth 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, pursuant to Part 5, subpart 5A and Part 6 of Schedule 1, of the Resource Management Act 1991 (RMA).
- [2] The purpose of this Minute respond to requests for the IHP to consider two preliminary matters filed by email by David Townshend, submitter #599<sup>1</sup> .

## Matters raised by submitter

- [3] On 25 August 2023 the IHP Secretariat received two emails from David Townshend, submitter #599 requesting the IHP address two preliminary matters related to PC 14 for IHP consideration:
- (a) Raising an issue about matters addressed in the section 42A report of Mr Ike Kleynbos; and
  - (b) Requesting disclosure of Council legal advice regarding the approach taken with the sunlight qualifying matter within PC 14.
- [4] The IHP invited the Council to respond to both matters and allowed a further opportunity to Mr Townshend to respond to the Councils' response.
- [5] We received a memorandum from counsel for the Council on Monday 4 September 2023 (Council Memorandum)<sup>2</sup> and Mr Townshend replied by email on Wednesday 6 September 2023.<sup>3</sup>
- [6] We have considered the Council Memorandum and Mr Townshend's reply.

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<sup>1</sup> Emails from David Townshend to info@chch2023.ihp.govt.nz sent 25 August 2023 at 10.01am and 25 August 2023 at 10.53am.

<sup>2</sup> Memorandum of Counsel for Christchurch City Council responding to preliminary issues raised by Mr David Townshend (submitter #599) 4 September 2023

<sup>3</sup> Email from David Townshend to info@chch2023.ihp.govt.nz sent 6 August 2023.

## **Section 42A Report of Mr Kleynbos**

- [7] We concur with the Council to the extent that the matters raised by Mr Townshend in relation to the s42A Report by Mr Kleynbos can be raised by Mr Townshend in his presentation to the IHP at the substantive hearing when he is scheduled to be heard. Mr Kleynbos' opinions are offered as an expert witness and the merits and weight given to his opinions will be tested through the hearing process as is the case with any other expert witness appearing before us.
- [8] Mr Townshend has noted that he will have limited time to present his submission and felt it was important that the matters he raised should be raised for the benefit of all submitters. If that is the case, and without offering any view on the merits of the points raised by Mr Townshend, Mr Townshend can include his concerns as part of a written statement, which as a lay submitter, he can provide to the IHP when he appears at his scheduled time. As with all submitters written statements of evidence or submission, will be published on the IHP website and able to be reviewed by other submitters. The IHP will read all relevant materials provided, even if the submitter does not address all points in the time allocated to be heard at the hearing.
- [9] As we understand Mr Townshend's email of Wednesday 25 August 2023, under the heading "Relief Sought" point 3, and repeated in point f. and g. of his email reply on 7 September he appears concerned that Mr Klynbos may have provided unequal emphasis on submitters supportive of the sunlight access qualifying matter compared to those opposed. We make no finding at this time on this assertion and note that the IHP will consider all matters raised by submitters and further submitters on their merits, regardless of the number of submission points either way.
- [10] It would, however, assist the IHP if the s42A Reporting Officer Mr Kleynbos could extract a list of all submissions and further submissions summaries on the sunlight access Qualifying Matter and identify these by submitter name and submission point number and group them into those supportive of the sunlight access qualifying matter, those opposed to it and those seeking an alternative outcome. We acknowledge this is available by searching the summary of submissions and in Appendix A to his s42A Report (excluding names). However, given the number of submitters on this topic it would provide a useful resource for the IHP to have on hand when hearing submissions on this topic. We direct that this be provided to the IHP by way of an addendum to Mr Klynbos' Report by Monday 18 September 2023. The Director of IHP will place this on the website.

[11] Except as directed in paragraph [10] above the IHP makes no further directions with regard to the s42A Report at this time.

### **Request for Legal Advice**

[12] We concur with the Council memorandum that the proper process for Mr Townshend to seek disclosure of the Council's legal advice is via the processes under the Local Government Official Information and Meetings Act 1987.

[13] The IHP, will as part of exercising its functions under the Resource Management Act 1991, consider the legal basis of all provisions in Plan Change 14 when making its recommendations to Council following the hearing of all submissions and further submissions.

[14] Accordingly, the IHP declines to make directions with regard to the disclosure of Council legal advice.

Dated 11 September 2023



Cindy Robinson

Chair

for Independent Hearings Panel