

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

AND

IN THE MATTER OF an application for an extension of time to
lodge submissions pursuant to cl 5 of
Schedule 3 to the OIC

Date: 4 September 2015

RECORD OF DECISION

**re application for extension of timeframe
for making submissions by Gary Sharlick and Jan Burney**

Decision and Directions

[1] I have received an informal email request from Mr Gary Sharlick and Ms Jan Burney ('the Applicants') in relation to a Stage 3 proposal relating to Special Purpose (Flat land) Recovery Zone and Natural Hazards requesting that the closing submission date of 4 September 2015 be delayed.¹ The Applicants state that they represent a number of private property owners within the "Red Zone". The Applicants request is also addressed to the Mayor of the Christchurch City Council ('Council').

[2] I requested the Council to respond to the request by 12 p.m., Friday 4 September. The Council has done so and objects to the extension on the grounds that the Council does not consider that the Applicants have identified exceptional circumstances or characteristics of the Flat Land Recovery provisions that warrant an extension to the timeframe for submissions, nor the need to ensure that there is an adequate assessment of the effects anticipated from the

¹ Email from Gary Sharlick dated 31 August 2015 at 10.49pm

implementation of the proposal.² The Council relies on the affidavit of Michael Theelen dated 2 September 2015 that was filed in support of the extension it sought in relation to the Coastal Hazard matters.³

[3] Although this is not a formal application, I have considered the Applicants request as if it were an application made under Clause 5(1) of Schedule 3 to the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 ('OIC') for an extension of time. I have taken into account the matters in clause 5(2)(a)-(c) of Schedule 3 to the OIC.

[4] I refuse the extension as requested for the reasons set out below. However if the Applicants find they are unable to meet today's closing date for submissions on Stage 3 proposals, then they may request a waiver of time to allow a late submission to be received, which I can then consider in due course.

Jurisdiction

[5] Clause 5 of Schedule 3 to the OIC, provides:

Compliance with time limits

- (1) The chairperson of the hearings panel may—
 - (a) extend, or waive compliance with, any time limits specified by or under this order, except in relation to the time limit specified in clause 12(2) of this order; and
 - (b) accept submissions received after the relevant closing date notified under clause 5 or 7 of Schedule 1.
- (2) In making a decision under subclause (1), the chairperson must take into account—
 - (a) the interests of any person who, in the chairperson's opinion, may be directly affected by a waiver; and
 - (b) the need to ensure that there is an adequate assessment of the effects anticipated from the implementation of the proposal; and
 - (c) the stage of the hearing when the hearings panel is provided with the submissions.

² Memorandum of Counsel in reply to email from Jan and Gary Sharlick regarding extension of time frame for making submissions on the Specific Purpose (Flat land) Recovery Zone dated 4 September 2015.

³ See Decision on Extension of time for submissions on Coastal Hazard matters dated 2 September 2015.

- (3) A decision of the chairperson under this clause is final and there is no right of objection or appeal against it.

[6] I am satisfied that, pursuant to clause 5 of Schedule 3 to the OIC, I have jurisdiction to consider the application to extend the time limits for making submissions on a proposal. However, when making a decision, I must take into account:

- (a) The interests of any person who, in the chairperson's opinion, may be directly affected by the waiver; and
- (b) The need to ensure that there is an adequate assessment of the effects anticipated from the implementation of the proposal; and
- (c) The stage of the hearing when the Hearings Panel is provided with the submissions.

[7] I am mindful of our obligations under cl 12(2) of the OIC to hear submissions and make decisions not later than 9 March 2016. I must be satisfied that any extension of time will not impinge on our ability to meet those obligations.

Reasons for Decision

The interests of any person who, in the chairperson's opinion, may be directly affected by a waiver;

[8] Having considered the interests of the Applicants, and the group they purport to represent (although those persons have not been separately identified), and the Council, I am not satisfied that the circumstances are such to warrant an extension of time and are distinguishable from the issues we addressed in our decision on the Coastal Hazards matters.⁴ I have considered the Applicants email correspondence and the affidavit of Mr Theelan, in particular paragraph 7 where he confirms that, unlike the Coastal Hazards provisions, the provisions for the Flat Land Zone do not rely on complicated and detailed scientific understanding or interpretation. Instead, the provisions are based on planning principles and an intention to put limits around development in the zone while the Crown and Council decide

⁴ Decision on Extension of time for submissions on Coastal Hazard matters dated 2 September 2015.

the next steps (ie the consideration of the long term function and purpose of the land within the zone).

[9] I have taken into account the interests of submitters who have participated in, or will participate in the submission and hearing process under the OIC for the development of the Christchurch Replacement District Plan (CRDP). I am mindful all have been under the same time pressures and a number of them would likely be 'directly affected' by this extension. The short timeframes are simply a consequence of the special procedures set up under the OIC, to provide an expedited process for the development of the CRDP. Many submitters have already expressed in their presentations to us their concern about the short timeframes. We have also accommodated the specific circumstances of individual submitters by granting waivers of time for submissions filed outside the submission period, where these have been justified. The Applicants circumstances are not sufficiently distinct from all submitters on proposals in general to warrant an extension of time for the submission period.

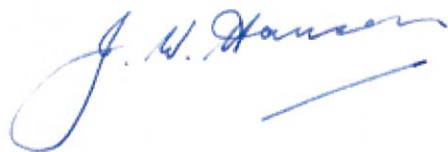
The need to ensure that there is an adequate assessment of the effects anticipated from the implementation of the proposal;

[10] Having considered Mr Theelen's affidavit and the concerns expressed by the Applicants I do not consider that an extension of the submission period time for the Specific Purpose (Flat land) Recovery Zone in general will assist further in the assessment of effects from the implementation of the proposal. If the Applicants find that the timeframe is unable to be complied with for good reason, then I am able to consider individual circumstances in the context of an application for waiver of time for individual submissions, if that is justified. The stage of the hearing when the Hearings Panel is provided with the submissions.

[11] The Stage 3 Flat Land matters are scheduled to be heard in December of this year. An extension in relation to this matter may compromise our ability to meet the requirements of the OIC, given the number of matters we have to deal with in Stage 3 in early 2016. Any issues with late filing of submissions, if indeed that occurs, can be addressed through an application for waiver of time for lodging late submissions, rather than an extension of the submission period, which has wider consequences for the hearing process and the interests of other submitters. What this means is that rather than generally extending the time frame for all submissions to be lodged on the Specific Purpose (Flat land) Recovery Zone, I can consider individual submissions that are lodged outside of the time frames already set. In order for me

to consider granting such a waiver of the time, the Applicants would first need to lodge their submission with the Council, when they are in a position to do so (but without undue delay) and provide a covering letter explaining why their submission was filed late and asking for the Chair of the Hearings Panel to consider waiving the time to lodge the submission. I would then consider the matters in clause 5(2)(a)-(c) of Schedule 3 to the OIC as they relate to the individual submitters position and the interests of the Council, and perhaps other submitters. The Hearing Panel has made available a Friend of Submitter, Mr Richard Ball, who would be able to offer some further assistance if required. Mr Ball's contact details are available on our website.⁵

[12] Having taken into account the relevant matters in clause 5(2)(a)-(c) of Schedule 3 to the OIC, I refuse the application for the extension as requested.

A handwritten signature in blue ink, appearing to read "J. W. Hansen", with a horizontal line underneath.

The Honourable Sir John Hansen, Chair

⁵ www.chchplan.ihp.govt.nz