

AUCKLAND UNITARY PLAN INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

Procedural Minute No. 3 by Chairperson of Independent Hearings Panel

Further Waiver in respect of Extended Closing Date for Submissions

27 May 2014

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Proposed Auckland Unitary Plan

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Summary

The Auckland Council notified its Proposed Auckland Unitary Plan (**Proposed Plan**) on 30 September 2013, stating a closing date for submissions of 28 February 2014. Procedural Minute No.2 dated 12 March 2014 waived compliance with the time limit for making submissions on the Proposed Plan in respect of all submissions lodged after 14 January 2014 and by 5pm on 28 February 2014.

Since that extended closing date, a number of submissions have been lodged with the Council. This Procedural Minute records the decision by the Chairperson of the Independent Hearings Panel to waive compliance with the time limit for making submissions on the Proposed Plan in respect of all submissions lodged after 28 February 2014 and up to midnight on 30 April 2014 for the reasons set out below.

Background

The background to the matter of the closing date for submissions on the Proposed Plan is fully set out in the Procedural Minute No 1 dated 17 December 2013 and Procedural Minute No 2 dated 12 March 2014.

Since 5pm on 28 February 2014 and by the date of this minute, 539 submissions have been lodged with the Council. It is pertinent to note the spread of the timing of receipt of these submissions by the Council:

- 82 were received after 5pm on 28 February 2014;
- 399 were received between 1 and 7 March 2014 (inclusive);
- 40 were received between 8 and 31 March 2014 (inclusive);
- 12 were received during April 2014; and
- 6 were received between 1 May 2014 and the date of this minute.

According to the list I have seen, 54 of the submissions are recorded as "part late", which I understand to mean that they are related to submissions that were lodged before 5pm on 28 February 2014, but have been recorded separately.

Power to Grant Waivers

As previously identified, I have the power pursuant to section 165(c) of the Local Government (Auckland Transitional Provisions) Act 2010 (**LGATPA**) to decide whether to accept any late submissions. Pursuant to section 135 and in respect of submissions received after the closing date for those submissions, I must decide whether to waive the requirement to provide the submissions before that closing date in respect of each submission. In making my decision, I "*must take into account:*

- (a) *the interests of any person who or that, in the chairperson's opinion, may be directly affected by the waiver; and*

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- (b) *the need to ensure there is an adequate assessment of the effects of the proposed plan; and*
- (c) *the stage of the Hearing at which the Hearings Panel is provided with the submissions."*

My decision under section 135 would be final and there is no right of objection or appeal against it.

As those specific factors as listed in section 135 of the LGTAPA, I also have to act in a manner that is appropriate in light of the purposes of both the LGTAPA and the Resource Management Act 1991 (RMA).

Discussion

As previously identified, the process of dealing with submissions on the Proposed Plan under the LGTAPA must be consistent with the participatory character of the planning process under Schedule 1 to the RMA in order to promote the purpose of that Act, being to enable people and communities to provide for their well-being in its various dimensions while addressing the effects of people's activities now and for the future.

I have also previously noted the timing issues that confront this process and the importance of preparing a summary of the submissions received that must be advertised so that further submissions can be called for. At some reasonable point the opportunity for submissions to be received and considered must be closed so that the hearing process can commence. The present question is when the final time for lodging primary submissions will close so that the scope for further submissions can be determined.

The position of Auckland Council is important as it is responsible for undertaking the summary of submissions. I am told by the Council that it can accommodate late submissions up until the end of April in its summarising process without further delaying the anticipated commencement of hearings later this year.

In considering these various factors, it is my view that the best balance between enabling participation in the planning process and keeping within the time limit for completing that process in relation to the proposed Plan depends on the effect any waiver may have on the completion of the summary of submissions. That would mean that a further 533 submissions would be included in the submissions that must be considered by the Panel, and 6 submissions would be excluded from consideration. While the number of late submissions that would be added to those that must be considered by the Panel and be the subject of recommendations to the Council is not small, in the overall context of this process where some 9,000 submissions were lodged by 5pm on 28 February 2014, it is not a significant increase.

I have also considered the 6 submissions lodged after 30 April 2014. While that is a very small number, they are also very late. As indicated above, the majority of the submissions which are the subject of this minute were lodged within a week of the extended closing date. These 6 were lodged two months after that. I have asked to be shown the 6 submissions to see whether they contain any information about any special circumstances that might warrant being treated as an exception to the approach I am taking and find nothing that would warrant such treatment.

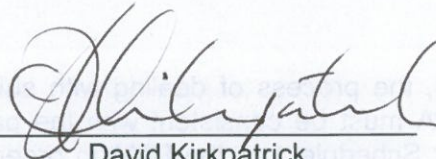
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Decision

For the reasons set out above, I am satisfied that, in addition to the waiver granted in Procedural Minute No.2 dated 12 March 2014, a waiver should also be granted in respect of all submissions lodged on the Proposed Plan after 5 pm on Friday 28 February 2014 but before midnight on Wednesday 30 April 2014.

Dated at Auckland this 27th day of May 2014.



David Kirkpatrick
Chairperson, Hearings Panel for
proposed Auckland Unitary Plan