

AUCKLAND UNITARY PLAN
INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

**Procedural Minute No. 4 by Chairperson of
Independent Hearings Panel**

**Further Waiver in respect of Extended Closing
Date for Submissions**

18 July 2014

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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 28 February 2014, a number of submissions were lodged with the Council. Procedural Minute No. 3 dated 27 May 2014 recorded 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 by 30 April 2014 for the reasons set out in that minute. That excluded four submissions lodged between 30 April and 27 May 2014.

Since 27 May 2014 two further submissions have been lodged. For the reasons set out below, I refuse to grant a waiver to those two late submissions.

Background

The background to the matter of the closing date for submissions on the Proposed Plan is fully set out in the Procedural Minute dated 17 December 2013, the second Procedural Minute dated 12 March 2014 and the third Procedural Minute dated 27 May 2014.

Since 27 May 2014, two further submissions have been lodged with the Council:

- (i) Gail Warman who lodged a submission with 10 submission points in time (Submission #1708), but who then on 12 June 2014 lodged a submission in relation to specified building areas for subdivision in the Countryside Living zone (Rule 3H.5.2.3.3.8d(ii)).
- (ii) Martin Johnson who on 7 July 2014 lodged a submission in relation to Bayswater Marina (Chapter 3K.5.6) supporting those provisions.

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*
- (b) *the need to ensure there is an adequate assessment of the effects of the proposed plan; and*

AUCKLAND UNITARY PLAN
INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

- (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 well as those specific requirements 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

I note again that the process of dealing with submissions on the Proposed Plan under the LGATPA 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 also note again the timing issues that confront this process and the importance of preparing a summary of the submissions received and then dealing with further submissions to those primary submissions. The summary of decisions requested in primary submissions was notified on 11 June 2014 and the closing date for further submissions is 22 July 2014.

Earlier waivers have been granted on the basis that the process of dealing with submissions could accommodate late submissions up until the end of April without further delaying the anticipated commencement of hearings later this year. We are now past that point. I consider that it is still important to assess whether any further submissions may be received late, notwithstanding those timetabling imperatives, to ensure that the plan-making process enables full participation and to avoid injustice.

In the case of Gail Warman’s late submission, it would appear that she was successful in sending most of her submissions electronically but that some error occurred in relation to one of her submissions. I do not know whether the error was on her part or occurred somewhere in the ether of the internet. But I do not need to resolve that because on examining the Summary of Decisions Requested, I see that the submission she wanted to make has also been made by a number of other submitters. On that basis, the issue that she wishes to bring to the attention of the Panel for consideration will have to be considered in any event.

In the case of Martin Johnson’s submission, it appears that this is a standard form to which Mr Johnson has inserted his name and address. I note that he has not signed the submission, nor has he indicated whether he wishes to be heard in relation to it. The substance of his submission is addressed in other submissions and so will also have to be considered by the Panel in any event.

In considering these various factors, it is my view that waivers should not be granted in respect of these two late submissions, essentially because the issues raised are

AUCKLAND UNITARY PLAN
INDEPENDENT HEARINGS PANEL

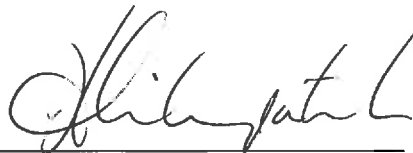
Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

already raised in other submissions and the need to advance the submission and further submission process to hearings is of greater import than including these late submitters.

Decision

For the reasons set out above, I decline to grant waivers in respect of the late submissions by Gail Warman and Martin Johnson.

Dated at Auckland this 18th day of July 2014.



David Kirkpatrick
Chairperson, Hearings Panel for
proposed Auckland Unitary Plan