

**IN THE HIGH COURT OF NEW ZEALAND  
CHRISTCHURCH REGISTRY**

**CIV-2016-409-**

**UNDER** the Resource Management Act 1991 and the  
Canterbury Earthquake (Christchurch Replacement  
District Plan) Order 2014

**IN THE MATTER** of an appeal under clause 19 of the Order

**BETWEEN** **CHRISTCHURCH CITY COUNCIL**, a territorial authority  
constituted by the Local Government (Canterbury  
Region) Reorganisation Order 1989

**APPELLANT**

**AND** **CHRISTCHURCH CITY COUNCIL**, a territorial authority  
constituted by the Local Government (Canterbury  
Region) Reorganisation Order 1989

**RESPONDENT**

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**NOTICE OF APPEAL  
Dated 7 November 2016**

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## NOTICE OF APPEAL

**TO:** The Registrar of the High Court at Christchurch

**AND TO:** The Christchurch City Council

**AND TO:** All submitters on Topic 9.3 of the Christchurch Replacement District Plan

### **This document notifies you that –**

1. At the first available sitting after the expiration of 10 working days from the service of this notice, or as soon as counsel may be heard, counsel for the appellant will move the High Court at Christchurch on appeal from parts of Decision 45 made by the Christchurch Replacement District Plan Independent Hearings Panel (**Panel**) and publicly notified on 7 October 2016 (**Decision 45**) on the grounds that the Panel made errors of law and upon the further grounds set out below.

### **The parts of the decision appealed**

2. This appeal relates to parts of Decision 45, namely the parts of the decision that relate to Objective 9.3.2.1(a)(i)(C) and the introductory wording to Policy 9.3.2.9 of the proposed Christchurch Replacement District Plan (**pCRDP**) as shown in context below (emphasis added):

#### **9.3.2.1 Objective – Historic heritage**

- a. The overall contribution of historic heritage to the District's character and identity is maintained through the protection and conservation of significant historic heritage across the district in a way which:
  - i. enables and supports:
    - A. the ongoing retention, use and adaptive re-use;
    - B. the maintenance, repair, upgrade, restoration and reconstruction; and
    - C. in some situations, the demolition; of historic heritage; and
  - ii. recognises the condition of buildings, particularly those that have suffered earthquake damage, and the effect of engineering and financial factors on the ability to retain, restore, and continue using them.

### 9.3.2.9 Policy - Demolition of heritage items

- a. When considering the appropriateness of the demolition of a scheduled heritage item have regard to the following matters:
    - i. whether there is a threat to life and/or property for which interim protection measures would not remove that threat;
    - ii. whether the extent of the work required to retain and/or repair the heritage item is of such a scale that the heritage values and integrity of the heritage item would be significantly compromised;
    - iii. whether the costs to retain the heritage item (particularly as a result of damage) would be unreasonable;
    - iv. the ability to retain the overall heritage values and significance of the heritage item through a reduced degree of demolition; and
    - v. the level of significance of the heritage item.
3. The appeal does not relate to any other provisions or appendices in Chapter 9.3 of the pCRDP.

### Errors and questions of law

4. The appellant alleges that, in its decision on Objective 9.3.2.1(a)(i)(C) and Policy 9.3.2.9, the Panel erred in law by:
- (a) incorrectly interpreting the provisions of the Canterbury Regional Policy Statement (**CRPS**) relating to historic heritage;
  - (b) failing to observe the statutory requirement in section 75(3) of the RMA to give effect to the CRPS;
  - (c) incorrectly interpreting section 6(f) of the RMA; and
  - (d) failing to observe the statutory requirement in section 6(f) of the RMA to recognise and provide for the protection of historic heritage from inappropriate subdivision, use, and development.
5. The questions of law to be answered are whether the Panel erred in the manner outlined in paragraph 4 above.

## Grounds of appeal

The grounds of appeal are:

6. Section 6(f) of the RMA provides:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

...

- (f) the protection of historic heritage from inappropriate subdivision, use, and development

7. Section 75(3) of the RMA provides:

- (3) A district plan must give effect to—

...

- (c) any regional policy statement.

8. Chapter 13 of the CRPS relates to Historic Heritage. The objectives in Chapter 13 of the CRPS seek the protection, conservation and maintenance of historic heritage and do not anticipate (and are not consistent with) the enabling and supporting of demolition.

9. Objective 13.2.1 of the CRPS provides:

**Objective 13.2.1 — Identification and protection of significant historic heritage**

Identification and protection of significant historic heritage items, places and areas, and their particular values that contribute to Canterbury's distinctive character and sense of identity from inappropriate subdivision, use and development.

10. Objective 13.2.2 of the CRPS provides:

**Objective 13.2.2 – Historic cultural and historic heritage landscapes**

Recognition that cultural and heritage values are often expressed in a landscape setting and to make provision for the protection of such landscapes from inappropriate subdivision, use and development.