

**Subject:** Direction from Office to respond to Christchurch Council vote on IPI

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**From:** Sarah McCarthy [<mailto:Sarah.McCarthy@mfe.govt.nz>]

**Sent:** Tuesday, 13 September 2022 5:46 PM

**To:** Arron Cox <[Arron.Cox@parliament.govt.nz](mailto:Arron.Cox@parliament.govt.nz)>; Lesley Baddon <[Lesley.Baddon@mfe.govt.nz](mailto:Lesley.Baddon@mfe.govt.nz)>; Fiona McCarthy [EXTERNAL] (HUD) <[Fiona.McCarthy@hud.govt.nz](mailto:Fiona.McCarthy@hud.govt.nz)>

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**Subject:** [IN-CONFIDENCE]RE: Direction from Office to respond to Christchurch Council vote on IPI

Kia ora koutou

We think there are a few options, a mixture of which could be used. We are likely to recommend the use of Part 4 of the RMA, but are thinking about timing and sequencing, given local body elections etc. We will provide more fulsome advice on the options tomorrow.

Main Options:

1. Non regulatory:

Ministers\officials could contact Christchurch City Council to discuss the situation, public statements, letters etc (unlikely to recommend on its own)

2. Under the Resource Management Act:

Part 4 of the RMA confers powers on the Minister for the Environment to intervene in local government matters as they relate to RMA functions. The Act provides the Minister with a range of intervention options:

- **Ability to request information:** [section 27](#) – Gives the Minister the power to require council to provide information that relates to their exercise of powers and responsibilities under the RMA
- **Ability to investigate performance:** [section 24A](#) – allow the Minister to investigate performance of a council RMA functions and make recommendations
- **Ability to direct a plan change:** [section 25A](#) – Gives the Minister the power to direct a council to prepare a plan change to address an identified issue
- **Direct review of plan:** [section 25B](#) – Gives the Minister the power to direct a council to review whole or part of a regional or district plan
- **Ability to appointment commissioners:** [section 25](#) – Gives the Minister the power to appoint commissioners to exercise or perform all or any of those functions, powers, or duties in place of the council as they relate to the RMA responsibilities. This requires that the Minister provides council written notice, opportunity to respond and at least 20 working days after the date of notice to take proper steps to remedy the issue.

Each option requires evidence commensurate with the scale of the issue and proposed intervention before undertaking. Often it will be appropriate to carry out these options sequentially, for example requesting information first, then undertaking an investigation, then considering the options for directing a plan change or appointing commissioners.

All options must relate to a council's functions, powers or duties exercised under the RMA.

(Likely we recommend invoking the RMA Part4 but restricting requirements of the Council to the first bullet – information provision, and waiting for new council before following through with an investigation – however, these two processes could be began now)

3. There is an outlying option to seek an Environment Court declaration under section 310c – which relates to declaring a council has or had not acted or omitted to act in accordance with the RMA.
4. There are also options under the Local Government Act (which would need to be considered by and taken up by the Minister of Local Government):  
These largely relate to the appointment of a review team, a crown observer, a crown manager (which is what the Councillors referred to a lot in the council meeting on the plan change would be the consequence of them not voting to approve the plan change), or a commission (given its Canterbury, there is history here). All these LGA options require a terms of reference that outlines scale and nature of the issues to be investigated/addressed, and potential actions undertaken as part of the intervention. (This is an option that could be used but further down the track if RMA Part 4 actions are not gaining traction.

For all intervention options under both RMA and LGA, there is a high bar to cross regarding evidence of a significant problem or issue and understanding of the Council's role in it.

There are also potentially options around judicially reviewing to the High Court the Council's decision not to notify, which other people may be looking into also.

Thanks  
Sarah

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**Subject:** RE: Direction from Office to respond to Christchurch Council vote on IPI  
**Importance:** High

Kia ora Sarah and Fiona,

Minister Woods and Parker would like an overview of the options available to them by COB today. Happy for this to be an overview with a more formal Briefing coming over tomorrow.

Suggest a table with the options, an analysis of those options and brief next steps for each one.

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Kia ora,

Thanks for informing me that Christchurch City Council has vote against the Intensification Planning Instrument to implement the NPS-UD and MDRS.


Can MfE/HUD please:

1. Provide some holding lines – 4pm today
2. Provide advice on how Parker and Woods can respond – COB tomorrow

Can you please keep me in the loop on any media requests that come to MfE on this issue?  
Parker/Woods/MfE need to speaking from the same song sheet on this.

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