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13 April 2023

Minister for the Environment  
Wellington  
by email

**RE: REPORT ON INVESTIGATION MADE PURSUANT TO SECTION 24A RMA**

In November 2022, the former Associate Minister for the Environment appointed me to investigate the Christchurch City Council's decision not to notify the intensification of housing Plan Change which was known as PC 14. A copy of my terms of appointment are annexed as Schedule A.

The purpose of PC 14 was to give effect to the National Policy Statement on Urban Development (NPS UD) and to implement the provisions of the Resource Management (Enabling Housing Supply & Other Matters) Amendment Act 2021 ("Enabling Act"). It is common ground that the Council had failed to notify by the statutory date provided by Parliament.

I saw my role as one of persuading the Council to change its mind and notify, or alternatively to advise you of alternative means by which you could bring about the intensification intended by the legislation.

After an initial meeting with the Council CEO, Mayor Mauger and relevant senior Council staff (at least part of which was also attended by one or more of your officials), I was persuaded that the Council wished to notify once it had made some further investigations into some qualifying matters which are provided for under s77I of the Enabling Act.

This persuaded me on a course of conduct to oversee the work that was being undertaken with a view to agreeing a timeframe for its completion. I see no reason to include the details of that timeframe in my report. The timeframe was largely adhered to, and where it deviated, it was because of my agreement to minor adjustments because of the nature of the work being undertaken.

At the outset it was agreed that my role did not involve enquiry into the content of PC 14, and neither did it involve enquiry into the policy and law that lay behind the need for PC 14.

The following is a summary of the steps that I took from November 2022 until mid- March 2023.

- I had numerous meetings with Council staff who were responsible for the content of PC 14, but all of those meetings were expressly for the purpose of establishing compliance with the timeline and none related to content. I also met for the same purpose with Mayor Mauger.
- I met with Councillors at all meetings where progress towards notification was discussed with them by Council staff. Those attendances were solely for the purpose of assisting me in determining whether or not matters were on track.
- I held seminars for interested ratepayers where I explained my role. I emphasised I was not required to investigate the content of PC 14, that being a function for the Council, which would in turn be regulated by an Independent Hearings Panel after notification. I also explained that my role was not to intervene in relation to the content of either the NPS UD or the Enabling Act, those being matters of Government policy already formulated. On that understanding, I agreed to receive submissions from persons who regarded themselves as interested stakeholders.
- I received many emails from individuals or organisations that regarded themselves as interested stakeholders. I read all emails sent to me but did not respond in writing because virtually all were about matters which were outside the terms of my investigation.
- I met separately with both Council officers and mana whenua Ngāi Tahu as defined stakeholders. My appointment terms required me to give you their views about the issues of intensification. In those meetings I asked that those views might be committed to writing, and the views of the Council are annexed as Schedule B, and those of Ngāi Tahu as Schedule C. I believe both documents are self-explanatory and do not require further input from me.
- For the purposes of carrying out my investigation, I did not find it necessary to meet with any other individuals or organisations who regarded themselves as stakeholders.
- I attended and spoke at the meeting of Councillors on 1 March 2023, that being the date set for receipt of the final content of PC 14 and the decision to notify. Many people spoke at that meeting both for and against the provisions in PC 14. My discussion was solely related to the options that were before the Council in relation to notification. You know that a decision was made by a majority vote to notify.
- PC 14 was publicly notified on 17 March 2023.

I am happy to speak with you about the content of my report. The outcome has been a notification of the intensification plan, albeit outside of the timeframe originally intended. I see my role as having concluded at the point of notification. Let me know if I can assist further.

Yours faithfully,



John Hardie

Schedules:

- A. Terms of Reference
- B. Letter providing views of Christchurch City Council
- C. Memo to Christchurch City Council from Mahaanui Kurataiao Ltd

## **Schedule A:**

### **Terms of Reference**

#### **Investigation under section 24A of the Resource Management Act 1991 into Christchurch City Council's non-notification of an intensification planning instrument**

#### **Purpose of investigation**

1. The purpose of this investigation is to consider the performance by Christchurch City Council (the Council) of its functions, powers or duties in relation to notifying an intensification planning instrument (IPI), as required by section 80F of the Resource Management Act 1991 (RMA).
2. The investigation will seek to understand the Council's perspectives in relation to the notification of an IPI, and the process for the Council making decisions on notifying an IPI.
3. If potential next steps to make progress emerge, these will be deemed in scope.

#### **Background context**

4. All specified territorial authorities were required by the Resource Management Act 1991 (RMA) to notify an IPI on or before 20 August 2022 to:
  - a. give effect to the National Policy Statement on Urban Development 2020 (NPS-UD)
  - b. implement the medium density residential standards (MDRS).
5. IPIs must be made operative using the Intensification Streamlined Planning Process.
6. Council staff developed a draft IPI and consulted the public from 11 April to 13 May 2022. The Ministry for the Environment (MfE) and the Ministry of Housing and Urban Development (MHUD) consider that the draft IPI recommended for notification by Council staff on 8 September 2022 broadly complied with the requirements of the RMA.
7. On 13 September 2022, the previous Council voted not to notify an IPI.
8. On 20 September 2022, former Mayor, Hon Lianne Dalziel wrote to the Minister for the Environment (the Minister), Hon David Parker, to advise the Minister that the Council is aware it is in breach of its statutory obligations and to request that the Minister work alongside the Council to find a bespoke solution for housing intensification in Christchurch.
9. A new Council was elected following local government elections on 8 October 2022.
10. On 27 October 2022, the Minister decided to initiate an investigation under section 24A of the RMA.
11. The Associate Minister for the Environment, Hon Phil Twyford with responsibilities for urban policy has appointed John Hardie to lead the investigation.

#### **Scope and focus of the investigation**

12. The investigation will be focused on identifying and understanding the issues, the Council's perspectives in relation to housing intensification in Christchurch, and the notification of an IPI. Noting the previous Council's decision on the matter and that a new Council has been elected, the investigation will consider the following:
  - a. the process for the Council to make decisions on notifying an IPI
  - b. the views, issues and concerns the Council has about the draft IPI and the changes proposed to the operative Christchurch District Plan

- c. the perspective of Ngāi Tahu as Treaty partner and mana whenua
- d. the views of any stakeholders if relevant.

13. If potential next steps to make progress emerge, these will be deemed in scope.

### **Methodology**

14. The investigator will:

- a. in the first five days of the investigation, work with the Council, MfE and MHUD to confirm a project plan
- b. hold interviews/workshops with staff and councillors about the draft IPI
- c. seek the views of Ngāi Tahu as Treaty partner and mana whenua
- d. seek to understand any barriers to notification of an IPI
- e. complete a draft independent report, including recommendations for the Minister on the options for addressing any issues identified in the investigation
- f. finalise and present the report to the Minister.

15. MfE officials will:

- a. prepare a template for findings and background material
- b. support the preparation of the report
- c. provide legal and communications assistance.

### **Term of investigation**

16. The investigation must begin no later than 21 November 2022.

17. The date the investigation is to be completed and the final report presented to the Minister is to be agreed by the Ministry for the Environment, the Council and the investigator.

### **Remuneration and costs**

18. The remuneration and costs of the investigator, and of those assisting him, will be covered by MfE. Any costs incurred by the Council will lie where they fall.

14 March 2023

John Hardie  
Investigator  
By email: [johnhardiemediator@gmail.com](mailto:johnhardiemediator@gmail.com)

Dear John

## Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021

On behalf of the Christchurch City Council (the Council), thank you for giving us this opportunity to lay out our views on the implementation of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (the Act).

It will come as no surprise to you that the Council is unhappy with the Act and the impact it has on our community here in Christchurch. However, we have voted to notify the plan change necessary to give effect to the Act after further work on our qualifying matters.

We have been increasing the number of multi-unit developments at a steady rate – consenting 1,422 units in 2020, 2,089 units in 2021 and 3,032 units in 2022. Generally, our Council believes that our District Plan is already achieving the outcomes of the Act in a way that works for Christchurch.

We firmly believe that you cannot have a one-size-fits-all approach to planning and urban development in a country with so many different environments. These things must be done to suit the local geography and community.

It was for this reason, and the more detailed examples laid out in this letter, that our Council did not notify a plan change in September 2022 that would have given effect to the Act.

I hope this letter gives you an overview of the primary reasons for our decision and the subsequent work we have undertaken to notify a plan change.

I also want to make a point of thanking Council staff who have worked extremely hard and thoughtfully to try and apply the Act to Christchurch despite the legislation's many shortcomings. They have developed an excellent proposal and our Council is grateful for the work they have done.

## **The Act's Development**

Our concern with the Act really starts with its development – namely, the rushed process and the lack of thought given to its design.

We believe that the Act went through Parliament at such speed that there was no time for thorough consideration. Introduced on 19 October 2021 and given Royal Assent on 20 December 2021, the ability for anyone to really consider, analyse and assess the impacts was effectively removed.

This meant that very little thought was given to how such an imposing piece of legislation would apply in the different cities across New Zealand. To apply the same approach to planning in Wellington and Christchurch, for example, ignores the very obvious differences between the environments of the two cities.

As a result of the way this Act was developed, our council and our community – like so many others – was deeply concerned about how this law would work in practice. And as always, the implementation was left to local government after little to no consultation.

## **Aligning the Act**

Before I note some of our more specific concerns, I do want to note a wider concern about legislative alignment that our Council has expressed in various submissions on resource management reforms. For example, this Act opens up wider unplanned intensification while the proposed Climate Adaptation Bill is designed to provide tools for managing adaptation that may require further restrictions on where intensification occurs.

Where the Act has the potential to create short term effects which do not fulfil wider expectations under different reforms, there is a potential that it may not align with forecast legislative or regulatory changes.

This is particularly concerning as changes to our District Plan are complex and take time to implement – and should they fail to align with future legislation, then they will take time to correct. We remain concerned at the potential for misalignment between resource management reforms and this Act going forward.

## **The Act's Specific Requirements**

As a result of this rushed development, we were left with legislation which has some significant issues that concerned our council. Some of the primary concerns raised are detailed further below. This is not an exhaustive list, but it sets out the concerns raised by many councillors.

### *Supporting Three Units*

Allowing the number of units per section to treble without a resource consent fails to recognise the impact such increases in volume will have on existing infrastructure. Suburban streets, three waters and other amenities are designed to support the existing number of units and the populations that type of housing supports. In many places outside of our city's existing medium density zoning there is not the current capacity to allow for a trebling of the number of units without significant infrastructure upgrades.

In the immediate to medium term, this is likely to lead to issues with the three waters network and congestion on suburban streets until the needed upgrades can be made.

### *Infrastructure Planning*

Our current medium density zoning is matched with infrastructure that has been upgraded to support that intensification as planned. However, this Act allows intensification to occur in areas where the current and planned infrastructure is not capable of supporting the additional units. That is why we strongly believe in the need to manage the zoning of intensification so that it can be properly supported with the infrastructure it needs. Without aligning zoning with our infrastructure planning, there are likely to be new demands across many pockets of the city that no entity can respond to in a short space of time.

### *Three Storeys*

Allowing a three-storey development without resource consent on a flat city like Christchurch is going to have huge impacts on the amenity enjoyed by neighbouring properties. This is because there is no ability to require the development to give thought to impacts on neighbours' sunlight, outlook or privacy. While two-storey developments impose on these already, fencing and landscaping is more effective at increasing privacy and improving outlook from a two-storey unit, however, there are fewer options for residents to mitigate the privacy loss if a three-storey unit is built next door. This is especially true in suburban areas where there are predominantly single-story homes.

This concern was also raised as the plan change notes metropolitan centres where six-storey minimum heights apply as required by the NPS on Urban Development. For example, in an area like Hornby with no existing six-storey structures, these changes will be significant to the area's existing use, especially where they back onto existing single-storey housing. While these are not the result of the Act, there was concern raised about this for the same reasons as the three-storey allowance.

### *Recession Planes*

A related issue with the number of storeys is the changes to recession planes. These angles are set for the position of the sun in Auckland and ignore the reality that Christchurch's location further south has a different angle of sunlight. Setting recession planes without local application means the three-storey unit actually takes more sun in Christchurch than in Auckland. This is inherently unfair and emphasises the broader issues with a one-size-fits-all approach. Recession planes set in legislation do not recognise environmental differences.

### *Tree Coverage*

We have concerns at the prescribed rate of landscaping or tree coverage in the Act because it does not allow for consideration of the existing tree canopy in the area or allow for increases to the tree canopy in more barren areas. It also removes options for our city to take more proactive measures to increase and protect our tree canopy, such as setting minimum tree canopy coverage and protecting trees along a boundary. In Christchurch we have a great disparity between suburbs where the tree canopy is minimal and those with good coverage. Setting a mandatory rate again fails to allow our city to adapt to address our local concerns and needs.

This prohibits us from taking the measures needed to mitigate the heating effects of poor tree canopy coverage which are accelerated with climate change.

### *Car Parking*

As Christchurch's outer suburbs are forecast to still require access to private vehicles for the medium to long term until our active and public transport network improvements are completed, residents in medium density units will likely own a car. As the NPS on Urban Development allows developments to be built without off-street car parks, the trebling of units without carparks will only push more vehicles onto the streets and make conversion to electric vehicles more difficult as chargers are difficult to access. As noted above, suburban streets are designed for the number of standalone homes designated. They do not often provide the room for on street parking. By increasing the number of cars in a suburban street, we will see an increase in congestion on our narrower streets and reduced safety from more limited visibility for motorists. While long-term mode change remains a goal we are investing in, there are likely to be congestion impacts from this Act in the short to medium term.

### **Community Views**

Throughout this process, we have heard from our community. There are a mix of views, but in September 2022 we had a clear direction from some of those suburbs most greatly impacted that they did not want this type of intensification in Christchurch.

We agreed on the need for more housing and managed intensification, but there is concern and unease felt by suburban residents about how the Act will actually affect their property.

Through well organised residents' associations, they have been very clear in their message to our Council that this Act should not be implemented. Their arguments and concerns are related to some of the specific details mentioned above and I am sure that through your investigation you have been made aware of their views directly as well.

I do note, that while there was little feedback from the public in support of notifying the plan change at the September 2022 meeting, there were a number of emails and public deputations in support at the March 2023 meeting. This support was particularly represented by younger people who are concerned about access to housing in the long-term.

Your final report should recognise that there were a range of community views expressed throughout this process.

But above all else, the concern felt by most people – which is shared by our Council – is that the public have had very little say in the development and implementation of these rules. The Act requires councils to undertake specific actions. Even once the plan change is notified, there is little scope for a community to respond or amend if it is outside of the Act's parameters.

These concerns were thoroughly considered by Council when we agreed not to notify the plan change last September.



## Conclusion

I make no secret of the fact that I am unhappy with this legislation and like most of our Council, our first preference would be to reject these changes. But the Act, and your subsequent investigation of our refusal to notify in 2022, have required us to support notifying a plan change.

We realise that we have a legal obligation to notify the plan change but feel that the Act does not work well for our city. Despite notifying, that feeling remains.

However, I do want to end on a more positive note and recognise our Council's thanks to you for the way you have managed the strong views of our community, the patience you have shown our Council and the frankness of your advice. We have appreciated this during what has been a testing process and recognise that you have a job to do. So thank you.

I hope that this letter provides you with a brief outline of our position and our concerns to help you in drafting your report to the Associate Minister.

As noted above, the underlying concern we have – and one which neither you nor this plan change can address – is the fact that this Act is adding one-size-fits-all rules to the complicated and varied rules of planning across many different environments.

In the end, we are certain that our views and concerns will be validated when the long-term effects of the Act are more fully realised. Until then, it is up to Parliament to correct its mistake.

Thank you again for this opportunity.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'PS Mauger'.

Phil Mauger  
**Mayor of Christchurch**



