



CCRU

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September 16, 2018

Reference: 180916 ccru letter re s71

Having had no formal response from

MPs Ruth Dyson, Poto Williams, Minister Megan Woods, Regenerate Christchurch, senior CCC consent, planning and policy teams staff.

this correspondence is further to the letter sent by CCRU at the end of July 2018, and to once again ask for your assistance with resolving the issues surrounding the RUO (Residential Unit Overlay) contained within the Operative Christchurch District Plan. Specifically:

- the reinstatement of Overlay clause 5.2.2.1(a) as presented to the Independent Hearing Panel in the original draft by the Council, and
- the circumstances that led to the omission of the overlay clause 5.2.2.1(a) from the final IHP published plan.

On 29 June 2018 CCRU called a meeting with local MP's to discuss our concern regarding the omitted enabling clause within the residential unit overlay policy. CCRU pointed out the facts relating to the issue and the effects it was having on the community: we asked for assistance in finding the most appropriate method for a swift correction.

A meeting held between CCRU and CCC consent and policy staff saw CCRU again convey the issue at hand. At this meeting CCRU invited CCC to partner with them in approaching Regenerate Christchurch and the Minister for a resolution plan.

Additionally, CCRU met with Regenerate Christchurch to ask for their assistance with progressing a reinstatement of the clause using s71 of the Regenerate Christchurch Act, suggesting that this may be an appropriate opportunity for use of the Act, as it fulfilled the requirements of s65 of the Act, *i.e.* that:

- **necessary** - for social and emotional wellbeing, and
- **preferable** - to expedite and avoid delays.

At the time, those involved in the meetings were waiting for the outcome of a related RMA hearing, that would hopefully give some direction on interpretation of the RUO to the CCC. CCRU pointed out that while the RMA hearing outcome would be useful it would not set a precedent and therefore was not an appropriate "fix" to the issue.

When released, the RMA decision RMA/2017/1413 153 Main Road Redcliffs, supported the stance of CCRU, in that the operative plan had a gap that had resulted in a disconnect between the avoidance policy and the RUO, causing it to be incorrectly applied. In support of this view the panel stated the following:



“...we consider the strict application of “avoid”, in the King Salmon sense to the RUO, would render the RUO redundant. Realistically, any new (and indeed many replacement), dwellings will increase potential risk. In our view, the application of a strict avoidance would result in an absurdity and would move perilously close to a prohibition...”

In response to the RMA decision, CCRU sent a letter dated 30 August 2018 to local MPs and Minister Wood, CCC and Regenerate Christchurch requesting that as...

“...concerned local representatives of your constituents, you offer support in remedying the disconnect by the way of utilizing s71 of the Regenerate Christchurch Act. This is to ensure that there is a clear and consistent assessment pathway that does not continue to unfairly disadvantage residents in the RUO...”

To date, CCRU have not received any response regarding the progress of these requests. In a further attempt to gain assistance, CCRU sent correspondence requesting those community boards in the areas affected by the RUO to...

“...write to Members of Parliament Poto Williams and Ruth Dyson to progress updating the Council’s district plan using section 71 powers under the regeneration act to reinstate the Residential Unit Overlay clause 5.2.2.1(a) as presented to the Independent Hearing Panel in original evidence by the Council...”

This correspondence was tabled, resolved and carried as evident in both sets of board minutes: Coastal Burwood Community Board on 20 August 2018 and the Linwood Central Heathcote Community Board on 3 September 2018. Both boards then sent letters to Ruth Dyson and Poto Williams asking for their assistance in resolving this issue.

Also, on Monday 3 September 2018 Christchurch City Councillor David East released a letter from the Hon. Sir John Hansen, Chair of the IHP. He confirmed the RUO was not being applied by CCC as intended by the IHP. Further, that it was an “obvious oversight” and stated:

“...if this matter had been brought to our attention we would have certainly added the policy back into the plan as a minor correction...”

Sir John also offered the following:

“...I would strongly support the use of s71 to reintroduce the policy into the relevant portion of the District Plan. It would correct an obvious oversight...”

After the release of this letter and the additional issues that arose from its release, two well attended community meetings were held. One in New Brighton on 11 September 2018 and the other in Redcliffs Monks Bay Area the following day.

At both meetings several motions were moved and passed. One of those motions requested CCRU to write, on behalf of those attending, advising the Government that the attendees of the meeting (of which there were over 300) fully supported the efforts and endeavours of their representatives



and requested an **independent inquiry** into how and why the error occurred. The motion also asked the Government to utilise s71 of the Regenerate Christchurch Act to reinstate the relevant clause as intended by the panel. This letter serves to satisfy that motion. *[attached herewith a copy of the full set of motions presented and carried at the Community Meetings].*

Both the Christchurch Mayor and CCC CEO attended both meetings. At the New Brighton meeting the Mayor made the following promises (*sic*, from recording):

"...I've heard two really important messages here tonight. And that is, fix the problem first and we are absolutely committed to doing that. There's a notice of motion on the council agenda" [appears below] "for Thursday asking for all stops to be pulled out essentially to get the advice we need for the mechanism of fixing the problem. Issue number two relates to finding out how this happened, but I want to find out how this has happened.

I've already raised it with the minister to give her a bit of a background, a bit of a heads up about what we might come with. Section 71 is one mechanism, but you have to get all of significant partners to sign off on it, but if I'm right, and there is a potential to use the Order in Council that's there at the moment, then I would ask her whether we could correct, in retrospect, something that was incorrect when the plan was decided..."

Supporting the Mayor's declaration, on 13 September 2013 the following Notice of Motion was carried at the CCC meeting:

High Flood Hazard Management area policy

- 1. That Council notes that the Linwood-Central-Heathcote and Coastal-Burwood Community Boards held a joint briefing following concerns regarding the High Flood Hazard Management area policy in the District Plan.*
- 2. That Council notes that the Mayor has asked staff to provide advice as to options for resolving the issue that has been raised in relation to the Independent Hearings Panel decision on the District Plan.*
- 3. That Council request urgency be accorded the matter so that the District Plan can be amended to reflect the intention of the Independent Hearings Panel as soon as possible*

CCRU has always felt that the omission of the policy that enabled building in the Residential Unit Overlay from the District Plan was an oversight and John Hansen's letter confirms that. However, the CCC position has been that the current Plan *is* as the panel intended. The Mayor's comments above indicate there now appears to be a desire to fix this issue, with some urgency.

While we have maintained a view that the use of s71 would a possible approach, recent discussion has arisen that other options, including a Members Bill, may be alternatives. As these methods are outside the realm of the CCC there is no doubt the CCC will need guidance and assistance from the Government to find the most appropriate path to resolution in the timeliest manner.



CCRU have a long history with this issue and were involved in the original IHP. Evident from the chronology in this letter, we have spent considerable time working with local MPs, Councillors, Community Boards and Regenerate Christchurch to highlight this issue and find a solution.

Because of this long-standing involvement, CCRU has good insight into the emotional climate within these communities. It would be fair to say that this RUO affair and Council's treatment of its elected representatives has impacted deeply on residents and has resulted in (yet again) deep mistrust: this is a blight on the trust required to engage in the Regenerate Christchurch led Community Engagement process. They have little appetite for further lack of transparency, drawn out internal council processes, silence, and closed-door meetings.

CCRU's understanding of the outcome of the Community Engagement Process and the implications of the Zero Carbon Bill is that Communities and Councils must go forward together in a transformed and much more open and trusting relationship. CCRU remains committed to the community engagement process and such a future, where consensual and informed adaptation can occur. We hope that your assistance on this will allow the Community to see such a future, rather than this past.

CCRU therefore strongly recommend, that clear and urgent communication is provided to the community regarding:

- Confirmation of the correct and most appropriate process that will be used to remedy this issue.
- A timetable for the reinsertion of the clause
- Report back mechanism so the community is aware of where this issue is on the timeline of resolution

And on the omission itself:

- A Timetable for the establishment of an independent hearing to investigate how the omission occurred and the circumstances surrounding the omission.
- The appointment of the most appropriate person to head the hearing be agreed on by stakeholder not appointed solely by the CCC

CCRU are keenly aware that issues presented to an independent hearing will be significantly complex and will require a chair that has extensive legal, RMA and hearing panel knowledge. Possibly, local knowledge would also be an advantage. With that in mind it has been suggested to CCRU that **Pru Stevens QC** would be ideal given her:

- Specialisation in RMA matters;
- Familiarity with the IHP District Plan process; and,
- Complete independence of all the parties.



In summary

Over a considerable period, there have been multiple motions, approaches, and requests put forward by CCRU and many parties including a motivated but exhausted community. All with the purpose of trying to fix this problem.

We are asking for your assistance to fix this. Fix it properly. Fix it honestly. Fix it fast.

Help ensure that there is a clear and consistent assessment pathway that does not continue to unfairly disadvantage residents in the RUO.

Help the affected communities and the greater city of Christchurch, who have shown much interest in this issue, understand how and why this error occurred via a truly independent review.

I look forward to hearing back from you.

Best wishes, Simon (CCRU, Chair)

Simon Watts

Visiting Professor of Biogeochemistry
Department of Chemistry and NERI, NUS
Southshore, Christchurch, 8062
New Zealand

+64 21 859 270 (NZ)

+65 9151 2716 (SGP)

+44 7958 028187 (UK)

Skype: simonfranciswatts

Email: sfwatts@hotmail.com

Further information and attachments to this letter:

<https://www.ccru.co.nz/single-post/2018/09/13/This-is-what-the-Mayor-promised>

link to video and transcript of Mayor Dalziel speaking at Community Meeting 11 Sep 2018

www.ccru.co.nz

CCRU website and archive of relevant information to this matter.

- Gavin Bodger - Notice of Motions.pdf
- Letter Chairperson IHP - Sir John Hansen.pdf
- letters requesting section 71 consideration Regen, CCC, MPs 30 07 2018.pdf