Subject: Re: Pre-Hearing Application
Sent: 2/08/2023, 9:21:09 am
From: David Townshend<dstownshend@gmail.com>
To: IHP Info

Hi Jo,

To clarify,

CCC is currently in breach of s80E of the Act, since the notification of the IPI does not incorporate MDRS (anywhere).

Can you please confirm this and my previous email have been passed on for consideration.

Thanks and best regards,
David Townshend

On Tue, 1 Aug 2023 at 16:29, David Townshend <dstownshend@gmail.com> wrote:

> Dear Chair,
>
> Firstly, I would like to apologise for not understanding your process properly.
>
> I understood there would be an opportunity to go over the merits of the pre-application matters raised, later, rather than fully canvas them at todays meeting and so my presentation was organised on that basis.
>
> With that in mind, please accept my additional information contained within this email, which I believe is important to consider for why I believe the 'Sunlight Qualifying Matter' should be considered as a preliminary legal matter relating directly to scope of PC14.
>
> As presented today in person, when considering this matter, it is important that the panel look to sections 80E, 80F and 80H of the RMA. I expand on my statements made here.
>
> These sections relate to the statutory duty to implement 'MDRS' as defined in schedule 3A. Not how to implement them as CCC submitted(and I agree) is covered under s77L, but rather the primary duty to implement 'MDRS' as defined in the Act.
>
> If Council had applied 'MDRS' to even one singular site in Christchurch, then they would have met ss80E, 80F & 80H and I would agree with their submission today that the merits should be considered at the same time as the legality.
>
> However, it should be recognised they haven't. Instead, by applying the 'sunlight qualifying matter' across the city, to every residential zone, the result is there is **no residential site in Christchurch that will ever have 'MDRS' applied under the proposed plan**.
>
> This is a clear breach of s80F(1)(a); and
>
> **80F Specified territorial authority must notify IPI**
>
> (1) The following territorial authorities must notify an IPI on or before 20 August 2022:
>
> (a) every tier 1 territorial authority:
>
> s80E(1)(a)(i); and
>
> **80E Meaning of intensification planning instrument**
>
> (1) In this Act, **intensification planning instrument** or **IPI** means a change to a district plan or a variation to a proposed district plan—
>
> (a) that must—
>
> (i) incorporate the MDRS; and
>
> s80H(1)(a)(i):

80H IPI must show how MDRS are incorporated

(1) When a specified territorial authority notifies its IPI in accordance with section 80F(1) or (2), it must show in the instrument, for the purposes of sections 77M, 86B, and 86BA—

(a) which provisions incorporate—

(i) the density standards in Part 2 of Schedule 3A; and

Council clearly believes in their position, but if they are wrong, and they have breached the legislation, which must be considered a possibility, then it is important this is discovered as soon as possible, precisely for efficiency, but also for false hope of all those residents who support less intensification than 'MDRS' on every site in the city.

If Council are wrong, and have in fact breached the legislation, then I propose the IHP would be prevented from providing an opinion on the merits of something that is a breach of the legislation. For efficiencies of the running of the panel, it would be sensible to decide on this matter first.

This seems a simple and straightforward matter, that would not take a lot of time in a hearing to resolve.

Best regards,
David Townshend