

## **SPECIFIC INSTANCE COMPLAINT: NGO SOUL and MNE Fletchers Building**

### **FINAL STATEMENT BY THE NEW ZEALAND NATIONAL CONTACT POINT**

---

#### **Summary of the outcome of the Specific Instance**

This Final Statement concludes consideration by the New Zealand National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises (the Guidelines) of a Specific Instance submitted by the NGOs SOUL (Save Our Unique Landscape) and Ngā Kaitiaki o Ihumātao Trust in regard to alleged conduct towards them by the Multinational Enterprise (MNE) Fletchers Building Limited in relation to a proposed housing development.

After reviewing the Specific Instance application and consulting the parties, the NCP distributed the draft initial assessment to the parties. The draft initial assessment proposed that the NCP offer its good offices to facilitate discussion between the parties.

The NGO requested that the NCP pause its consideration of the case and finalisation of the initial assessment during their campaign opposing the development. Since then, and separate from the NCP process, a Memorandum of Understanding (He Pūmautanga) has been signed by the Kīngitanga, the Crown and Auckland Council which sets out how parties will work together to decide the future of the land.

In accordance with the Guidelines, this Final Statement briefly describes the issues raised, the procedures the NCP initiated in assisting the parties, and the outcome.

#### **Substance of the Specific Instance/Guidelines provisions cited**

The NGO stated that the MNE's actions in purchasing the land, and active involvement in its rezoning from rural to residential and its designation as a Special Housing Area, contributed to historical injustices, intergenerational trauma and the contemporary impacts of forced confiscation, landlessness and poverty of mana whenua at Ihumātao, thereby causing them to suffer adverse impacts with respect to their human rights in breach of Chapter 4 (Human Rights) of the Guidelines and the related UN human rights instruments, particularly those covering indigenous peoples, including:

- a) the UN Declaration of the Rights of Indigenous Peoples
- b) the UN Declaration on the Elimination of All Forms of Racial Discrimination and
- c) the UN International Covenant on Economic, Social and Cultural Rights.

The NCP considered in its draft initial assessment that there would be merit in attempting to facilitate further discussion between the NGO and MNE over the concerns the NGO had expressed. This was in regards to the potential cultural impacts of the development for some local iwi members so that it is clear to both parties that they have been heard.

#### **Parallel processes and separate outcome**

Following the provision of the draft initial assessment, the NGO requested that the NCP pause its consideration of the case and finalisation of the initial assessment during their campaign opposing the development. The NCP respected this request and did not become involved in subsequent events regarding the proposed housing development.

In December 2020, the Government announced an agreement was reached on the future of the land at Ihumātao. A Memorandum of Understanding (He Pūmautanga) was signed by the Kīngitanga, the Crown and Auckland Council which sets out how parties will work together to decide the future of the land. The land is being purchased from the MNE under the Land for Housing Programme as the parties have committed that there will be housing on the site. The exact form that takes will be agreed by the signatories to He Pūmautanga - it could include Papakainga housing, housing for mana whenua and some public housing. It will be a sensitive development that recognises the special characteristics of the land.

### **Conclusion**

This Specific Instance is concluded because He Pūmautanga has set out a process to address the issues at the heart of the specific complaint.

**New Zealand National Contact Point for the OECD Guidelines for Multinational Enterprises**

**August 2021**