



## Proactive Release

The following Cabinet material has been proactively released by the Department of the Prime Minister and Cabinet, on behalf of Hon Poto Williams, Associate Minister of Greater Christchurch Regeneration:

### **Christ Church Cathedral Reinstatement Order 2020**

The following documents have been included in this release:

*Title of Paper: Christ Church Cathedral Reinstatement Order 2020 (CAB-20-SUB-0409 refers)*

*Title of Minute: Christ Church Cathedral Reinstatement Order 2020 (CAB-20-MIN-0409 refers)*

*Title of Paper: Facilitation of Christ Church Cathedral's Reinstatement (DEV-20-SUB-0058 refers)*

*Title of Minute: Facilitation of Christ Church Cathedral's Reinstatement (DEV-20-MIN-0058 refers)*

*Report on Decisions Made in Approving the Draft Christ Church Cathedral Reinstatement Order 2020*

Including the following submissions documents:

*Summary of Written Comments*

*Christ Church Cathedral Reinstatement Order 2020 – Written Comments*

*Christ Church Cathedral Reinstatement Review Panel's Recommendations on the draft Order*

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant section of the Act that would apply has been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

### **Key to redaction code:**

- 9(2)(a), to protect the privacy of natural persons.
- 9(2)(g)(i), to maintain the effective conduct of public affairs through the free and frank expression of opinion.
- 9(2)(i), to enable commercial activities to be carried out by Ministers or the Crown, without prejudice or disadvantage.

In Confidence

Office of the Associate Minister for Greater Christchurch Regeneration  
Chair, Cabinet Economic Development Committee

## **FACILITATION OF CHRIST CHURCH CATHEDRAL'S REINSTATEMENT**

### **Proposal**

1. This paper seeks Cabinet's approval to draft an Order in Council under the Christ Church Cathedral Reinstatement Act 2017.

### **Relation to government priorities**

2. This paper supports the reinstatement of Christ Church Cathedral (the Cathedral), which the Government has prioritised [CBC-17-MIN-0016 refers]. Prioritising the reinstatement of the Cathedral will help protect the Crown's investment in regeneration and stimulate further regeneration in the centre of Christchurch and to the Christchurch economy.
3. This project, which is critical for Christchurch, is ready to get underway as soon as permitted after the Covid-19 lockdown. Any delays to the OiC process will likely add time and cost to the project.

### **Executive Summary**

4. The Christ Church Cathedral Reinstatement Act 2017 (the Act) creates an Order in Council (OiC) mechanism that facilitates the Cathedral's reinstatement. As you know, this Government created the Act so that work on this critical project could commence after years of prolonged debate about its future.
5. Planning for reinstatement has begun and physical enabling works ("phase one") for the Cathedral will commence as soon as permitted after the Covid-19 lockdown. Now more than ever, as the economy looks to recover from the effects of Covid-19, this project is needed. It will support the Christchurch economy, help protect the Crown's investment in Christchurch and stimulate further regeneration in the city.
6. CCRL is the joint venture company delivering the project on behalf of the Church Property Trustees (CPT, Cathedral owners) and the Christ Church Cathedral Reinstatement Trust (CCRT, the fundraising trust set up by the Crown).
7. "Phase two" of the project is due to begin in early 2021. During its planning for this phase, CCRL identified that using the standard processes for its resource consent application will likely result in public notification. This will likely cause significant delays of up to two years to the project, make the project uncertain and raise costs by at least \$4.85 million to \$5.35 million. As such, CCRL has requested that the OiC mechanism in the Act is used to significantly reduce the costs, uncertainty and time to process resource consents.

8. It is proposed that Cabinet approve the development of a draft OiC that will modify resource consent application processes. It would:
  - 8.1. require the Christchurch City Council (Council) and Environment Canterbury (the consent authorities) to grant resource consent applications for phase two work on a non-notified basis with no appeals, apart from the applicant on the consent conditions;
  - 8.2. require the processing of resource consent applications within a limited timeframe; but
  - 8.3. allow specified parties to make written comment on resource consent applications for reinstatement and strengthening work; and
  - 8.4. still provide the ability for consent authorities to impose some conditions on the resource consents.
9. The final decision to recommend a draft OiC to the Governor-General rests with me, as the Minister responsible, after the steps set out in the Act have been taken, including review of and consultation on the draft OiC.

## **Background**

*Cathedral's future was the subject of extensive litigation and public debate*

10. After the 22 February 2011 earthquake, the future of the badly damaged, Category 1 Historic Place Cathedral was the subject of protracted litigation between its owners, who wished to demolish it, and heritage protection groups, who wished it to be restored. Over the past nine years, the Cathedral's future has been the subject of multiple forms of public engagement conducted by the Government and other parties; reviews by independent facilitators; and advice from independent engineers, architects and heritage professionals. It has also been debated extensively in the media.
11. The Cathedral remains severely damaged today. As a result, the Cathedral has been represented widely as a symbol of the devastation suffered by the wider city. Around Cathedral Square, sites remain unbuilt upon and buildings are derelict. The Cathedral's reinstatement will be the last significant regeneration project that is completed in Christchurch.
12. The Cathedral's reinstatement is even more crucial to the regeneration of Christchurch now, as the economy looks to recover from the effects of Covid-19. As the timetable is already tight to progress this proposed OiC before the General Election, it is important that Cabinet is able to make decisions on this paper promptly. If delays occur which mean that a decision on the final OiC is not made prior to the General Election, work on the Cathedral site is expected to be delayed by six months and \$1.8 million is expected to be added to the project.

*The Act promotes the use of OiCs*

13. In 2015 the Crown stepped in to facilitate negotiations between CPT and heritage protection groups, resulting in agreement between them that the Cathedral could be reinstated at a cost of \$105 million. However, CPT had just \$42.4 million in insurance funds and it was not confident the shortfall could be overcome.
14. The Crown subsequently made an agreement with CPT on a range of support for reinstatement in 2017, including:
  - 14.1. promoting legislation (the Act) to modify the consenting and approval processes [CAB-17-MIN-0521 refers];
  - 14.2. Crown establishing an independent trust (CCRT) to lead fundraising and enter a joint venture with CPT to deliver the project;
  - 14.3. financial contributions, totalling \$35 million (including \$10 million from the Council) to help bridge the fundraising gap.
15. The Act was passed under urgency in late 2017 to ensure swift progress, as a matter of priority, for the reinstatement of the Cathedral. The purpose of the Act is to facilitate the Cathedral's reinstatement, recognising the Cathedral's contribution to cultural, social, and economic wellbeing in Christchurch, its importance to Christchurch's regeneration, and its heritage value. The Act achieves this purpose by enabling OiCs which can grant exemptions from, modify or extend specified enactments, such as the Resource Management Act 1991 (RMA). This is to enable expedited, cost-effective reinstatement processes, and to achieve earlier or greater certainty for CPT and the Christchurch community generally.

*Work is going ahead to reinstate the Cathedral, which has led to a proposed OiC*

16. In 2018 CCRL began planning to reinstate the Cathedral and "phase one" of work will begin as soon as permitted after the Covid-19 lockdown. To this end, CCRL intends to recommend the Cathedral for the Infrastructure Industry Reference Group's "shovel-ready" project list by preparing an application.
17. CCRL's resource consent application for phase one, site establishment and stabilisation, was not notified and approved on 4 March 2020. The resource consent's activity status is "restricted discretionary" and subject to a number of conditions. Site establishment includes building the site offices. Stabilisation involves reducing hazards and making the site safer. It also includes the removal features with little heritage value (such as the Visitors' Centre) and the deconstruction of badly damaged heritage features that will be reinstated (such as the Western Porch). This work was expected to start in early April 2020, but has been impacted by the Covid-19 lock down, however I understand that this work will begin as soon as the lock down is lifted.

18. In approximately September 2020, CCRL will lodge a resource consent application for “phase two” of work: the strengthening and reinstatement of the Cathedral. However, based on the requirements of the concept design for reinstatement, CCRL proposed an OiC in accordance with section 9(4) of the Act to support the September 2020 resource consent application. This is because under standard processes, the resource consent will likely be publicly notified, which will likely cause significant delays to the project. This would cause uncertainty for, and raise the costs of, the project.
19. On receiving CCRL’s proposal, I directed officials to begin policy work on the proposed OiC and I now seek Cabinet’s approval to develop an Order in Council, subject to the requirements of the Act.

*The Cathedral’s reinstatement will have important benefits*

20. Prioritising the reinstatement of the Cathedral will help:
  - 20.1. stimulate Canterbury’s economy as it recovers from the effects of Covid-19. Approximately 50 – 60 workers are expected be employed on site during the work on the main Cathedral. This work will continue until 2027. There will be supply chain support, the use of largely local materials, and the involvement of artisan trades such as stone masons and stained-glass window specialists. The Cathedral will also provide a tourist attraction during and after the reinstatement;
  - 20.2. protect the Crown’s substantial investment in regeneration, including in the reinstatement of the Cathedral itself; and
  - 20.3. stimulate further regeneration in the centre of Christchurch by giving the owners of and leaseholders in surrounding buildings certainty.

### **Proposed OiC for the reinstatement and strengthening of the Cathedral – phase two**

21. The proposed OiC is for phase two of work which is to begin early next year, for completion in approximately 2027. This is the main part of the reinstatement work where the actual Cathedral, Visitors’ Centre, other ancillary buildings and tower will be built, in stages. It involves base isolation and installing a new seismic frame. The reinstatement work:
  - 21.1. will include the removal of the Citizens’ War Memorial, which is also a Category 1 Historic Place as it is located where the new Visitors’ Centre is proposed. Working around it would add approximately \$3.2 million to \$3.7 million cost to the project; reduce available working space and safety on site; and could also damage this important memorial;<sup>1</sup> and

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<sup>1</sup> The OiC can only enable removal of the Citizens’ War Memorial from the site, it cannot enable the Citizens’ War Memorial to be relocated elsewhere. Further detail about its relocation is below.

- 21.2.** may require the removal of up to three protected London Plane Trees, which have heritage value. The trees sit very close to the Cathedral and planned ancillary buildings and may interfere with the safety and available working space. CCRL will know if removal is necessary when it can access the site during phase one. Reinstatement work could unavoidably harm the trees due to necessary work taking place within their dripline.
- 22.** A concept drawing at Appendix 1 shows how close the Citizens' War Memorial and the three protected London Plane trees are to the works.
- 23.** Phase two will overlap with phase one, shown at Appendix 2. As the contractors work their way through the building, stabilising it, they will be followed by teams whose job it is to start strengthening work.

*Affected groups and options: the London Plane trees and Citizens' War Memorial*

- 24.** Protecting historic heritage from inappropriate subdivision, use, and development is a matter of national importance under Part 2, section 6(f) of the RMA, and therefore the reinstatement project and the potential effects it has on the historic heritage of Cathedral Square is a matter of public interest.
- 25.** Groups closely linked with the proposal to remove the Citizens' War Memorial and the potential removal of the London Plane trees are supportive of the proposal in this paper. This includes CCRL, CPT and the Christchurch Returned Services Association (RSA). § 9(2)(g)(i)  
[REDACTED]  
[REDACTED]  
[REDACTED]
- 26.** I note that:
- 26.1.** the § 9(2)(g)(i) [REDACTED] may be dissatisfied with this proposal as they disagreed with CPT and the Christchurch RSA on a new location for the Citizens' War Memorial; and
- 26.2.** it is also likely that some community groups, will have concerns or be opposed to the removal of the three London Plane trees due to their heritage value.
- 27.** If the London Plane trees and Citizens' War Memorial are not addressed by the OiC, solutions are limited:
- 27.1.** CCRL could apply for resource consent through the normal RMA process, but it would add delays, costs and does not guarantee removal;
- 27.2.** if the Citizens' War Memorial is not removed the northern side of the site would need to be redesigned, including the Visitors' Centre and access to the tower (adding delay and costs). Safety and efficiency would also be affected, as it would prevent a clear working space in this area; and
- 27.3.** if CCRL cannot work around the London Plane trees and nor is it permitted to remove the trees, the east end of the Cathedral and/or the southern ancillary building would need to be redesigned (adding delay and costs).

28. Each month of delay on the project will cost \$300,000.

*Phase two works will require resource consent*

29. Most activities required for the phase two will be regulated by Christchurch District Plan. Resource consent will be required for the reinstatement activities that are considered “restricted discretionary” or “discretionary” under the RMA to manage the effects on the surrounding environment can be managed. For example:

29.1. any activity on site that permanently alters the heritage fabric of the Cathedral is a restricted discretionary activity. The Cathedral, the Citizens’ War Memorial and Cathedral Square are all heritage items in the Christchurch District Plan;

29.2. removing the Citizens’ War Memorial is a discretionary activity; and

29.3. removing the three protected London Plane trees is a discretionary activity.

30. Resource consents will also be needed under the Canterbury Land and Water Regional Plan and Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 for groundwater removal and the soil contamination assessment, respectively.

*Standard resource consent process will probably lead to delays, extra costs and uncertainty*

31. Using the standard process, consent authorities would likely publicly notify the September 2020 resource consent application due to “special circumstances”, that is, the public interest in the Cathedral’s reinstatement.<sup>2</sup> Public notification can also occur when effects are deemed to be “more than minor”.<sup>3</sup> It is also possible that the resource consent would be notified on these grounds.

32. Public notification will increase the length of time associated with the project. It has a statutory timeframe of 130 working days, and can be extended. Potential appeals on any resource consent decision could add one to two years, in addition to the 130 working days. If delays are long enough, work on the Cathedral would likely stop after phase one work finishes, in the first quarter of 2022.

33. Assuming that extensions of time are not requested and no appeals, CCRL considers a notified resource consent application will cost at least \$1.65 million more than a non-notified resource consent. If there are extensions, appeals and resulting delays or work stoppage, CCRL estimates costs will escalate at the rate of \$300,000 per month.

34. The standard process may also result in the resource consent for phase two being declined. If this happens, work would stop on the Cathedral while it is redesigned.

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2 Section 95A(9) of the RMA refers.

3 Section 95A(8)(b) of the RMA refers.

35. Further delays may continue the negative effect that uncertainty about the Cathedral's future has had on regeneration in central Christchurch. This includes continuing to slow the regeneration around Cathedral Square. Enabling progress was a key driver for the Government when progressing the Act in 2017.

*Reinstatement will likely be delayed if the OiC is not prioritised now*

36. Phase two of this "shovel-ready" project will likely be postponed if the drafting of this OiC is delayed as a result of Covid-19. The resource consent for phase two work would not be granted until part way through next year. Materials, such as structural steel, could not be ordered until then, which would lengthen the project by six months. This will have a flow on effect of \$1.8 million in extra costs.

37. s9(2)(g)(i), s9(2)(i)

### **Opportunity to use the Act to expedite reinstatement**

38. I have applied three criteria, reflecting the Act's purposes, to undertake a preliminary assessment the possible solutions to the problem:

38.1. expediting reinstatement;

38.2. providing a cost-effective process; and

38.3. achieving earlier and greater certainty as to reinstatement.

39. I have also used an additional fourth criterion: ensuring that the consent authorities can manage the impacts of reinstatement. This is to ensure work is tied to the reinstatement of the Cathedral and that it is carried out in accordance within a specified range of rules (for example, relating to site management, good heritage conservation practice and monitoring).

*OiC would make resource consent applications non-notified*

40. I propose that a draft OiC is developed to support phase two work. This would:

40.1. turn all restricted discretionary and discretionary activities into controlled activities, requiring all resource consent applications for phase two to be granted;

40.2. prevent the notification of resource consent applications relating to phase two;

40.3. require consenting authorities to seek and consider written comment from specified parties (and other appropriate parties) within a limited timeframe;

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<sup>4</sup> Noting that when I make my final decision on whether to recommend the OiC, I must be satisfied, among other things, that the OiC is necessary or desirable for the purposes of the Act.



- 40.4. require the processing of resource consent applications within a limited timeframe (the exact timeframe will be discussed with consent authorities during consultation on the draft OiC);
- 40.5. still provide an ability for consent authorities to impose some conditions on the resource consents, including appropriate conditions for the removal of the Citizens' War Memorial and mitigations measures for the heritage trees; and
- 40.6. prevent the appeal of resource consent applications, apart from the applicant on the consent conditions.
41. This regime would enable, if necessary, the removal of the three significant London Plane trees and the Citizens' War Memorial. The proposed OiC would acknowledge the importance of the significant heritage items on site and will include measures to avoid adverse effects where possible, and remedy or mitigate them where required.
42. Matters of regulatory control would be restricted by the OiC including relating to environmental effects such as dust and noise, heritage values and impacts on stormwater and groundwater systems. The technical detail of these matters and the time limit on processing resource consent applications would be developed during the drafting process.
43. The OiC would provide for consent authorities to extend the resource consent application processing timeframe under section 37 of the RMA (for example, if there was a request for further information). The circumstances under which extension would be made and the exact timeframe will be discussed during consultation on the draft OiC.
44. The OiC would expire on the expiry of the Act.

*Why is this the preferred option?*

45. I consider that this option provides the best balance across the four criteria used in the policy analysis:
- 45.1. **expediting reinstatement** – after a short processing time, phase two work would begin next year so it runs concurrently with phase one, instead of in two years' time in 2023, after any potential appeals;
- 45.2. **providing a cost-effective process** – project costs are reduced by at least \$4.85 million to \$5.35 million, in comparison to paying for the costs of appeals and having to work around the Citizens' War Memorial;
- 45.3. **achieving earlier and greater certainty as to reinstatement** – CCRL's resource consent must be granted and cannot be appealed, unlike under the standard process; and
- 45.4. **ensuring the consent authorities can manage the impacts of reinstatement** – subjects the project to limited matters of control, retaining some of the consent authorities' abilities to manage the project's impacts.

### *Alternatives considered*

46. An alternative OiC model would make all phase two work a permitted activity (that is, no resource consent would be required). However, the consent authorities would lose all regulatory oversight of the reinstatement process and there is no extra time saved, in comparison to the preferred option.
47. CCRL had proposed making all restricted discretionary and discretionary activities controlled activities, except for the removal of the London Plane trees (if needed), which would have been a permitted activity. This is because CCRL considered it difficult to place controls over tree removal.
48. I consider that it is preferable for tree removal to be a controlled activity. Controls could then include ensuring that removal is for the purpose of reinstating the Cathedral and may include the need to take cuttings from the trees and to take photos of them. I also consider that having controls will safeguard the trees from being removed if they do not need to be. The controls proposed would not be onerous for the project.
49. While CCRL would have preferred a permitted activity approach for tree removal, it has expressed comfort with this change and understands the reasons for making this a controlled activity.
50. The Impact Summary provides more detail about the balancing exercise (Appendix 3).

### *Final statutory decision to recommend the making of an OiC yet to be made*

51. The approvals sought in this paper relate only to commencing the development of a draft OiC.
52. Although I have drawn on the purposes of the Act to support my recommendation to Cabinet, my assessment is only preliminary and I have not yet made a decision on whether or not to recommend the making of an OiC to the Governor-General. The Act sets express requirements and processes that must be adhered to before I can make such a recommendation and these will inform my final decision to recommend or not.
53. Based on the information currently available, I consider developing a draft OiC is appropriate, noting the further processes and checks and balances outlined below.

### *Inform Cabinet on decision in July 2020*

54. If Cabinet approves the drafting of the OiC, it will be drafted by the Parliamentary Counsel Office. It would then be subject to the prescribed review, consultation and engagement processes under the Act:
  - 54.1. review by the recently appointed Christ Church Cathedral Reinstatement Review Panel [APH-20-MIN-0019 and CAB-20-MIN-0073 refer];
  - 54.2. review by the committee of the House of Representatives that is responsible for the review of disallowable instruments;

- 54.3. consultation with the Minister for the Environment; and
- 54.4. engagement with relevant local authorities and other parties or with the public generally. Given the significance of this matter, I am proposing that I will go to the general public for engagement.
55. I intend to inform Cabinet of my decision later this year if I decide to proceed with recommending the draft OiC to the Governor-General. At this point I would also seek Cabinet's authorisation for the submission of the draft OiC to the Executive Council.

### Implementation

56. If the OiC comes into force and the resource consent application is lodged, the Council and Environment Canterbury would implement their resource consent decisions in accordance with the OiC.

### Financial Implications

57. The costs of the development of this OiC, including its review by the Christ Church Reinstatement Review Panel, will be met from within the Department of the Prime Minister and Cabinet's baseline funding. Regarding the Citizens' War Memorial, CCRL has set aside the funds to remove it from site while the Christchurch Earthquake Appeals Trust has set aside s9(2)(g)(i), to relocate the Citizens' War Memorial elsewhere.

### Legislative Implications

58. This paper proposes drafting a new OiC to support the reinstatement of the Cathedral, as outlined in the attached Impact Summary. The Parliamentary Counsel Office has been consulted and has said that the OiC could be in place by September.

### Impact Analysis

#### *Impact Summary*

59. On the advice of the Treasury, an Impact Summary, instead of a full Regulatory Impact Statement has been prepared (Appendix 3).
60. A Regulatory Impact Panel, with members from the Ministry for the Environment (MfE) and the National Emergency Management Agency considers that the Impact Summary meets the quality assessment criteria. The Impact Summary explains the rationale for making the OiC clearly. It also does enough to make the case for the recommended options with the elements of the proposal being clear and the potential impacts having been identified. The Impact Summary has also considered the input and feedback received on the proposal and its potential impacts has been reflected in the analysis.

## *Climate Implications of Policy Assessment*

61. MfE has been consulted and confirms that the Climate Implications of Policy Assessment requirements to do not apply to this proposal as the threshold for significance is not met.

## **Population Implications**

62. There are no population implications for this proposal, including for disabled people. The proposed OiC does not impact any provisions or enactments that relate to disability provision, for example, the Building Act 2004.

## **Human Rights**

63. The effect of the proposed OiC does raise potential issues in terms of the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993, in particular with respect to section 27(1) of the New Zealand Bill of Rights Act which preserves the right to the observance of natural justice. This is because the proposed OiC will prevent the public notification of any resource consent application for the reinstatement work, reducing the rights of public participation under the RMA. There will also be no appeal rights, apart from for the applicant on the consent conditions.
64. I note that judicial review will still be available. The proposed OiC will also:
- 64.1. allow any party that the consent authority considers appropriate to make a written comment on a resource consent application; and
  - 64.2. include the ability to extend the timeframe for considering a resource consent application.
65. I note the public's views have been incorporated in many ways over the past nine years and the processes to hear those views have been fair. I do acknowledge that this may indicate that there could be further public interest in the resource consent application. However, I consider it necessary to limit these rights normally available to the public in order to support timely, certain and cost-efficient reinstatement.
66. I also note that the public will be given further opportunity to comment during the written comment period on the draft OiC. Most, if not all parties who are likely to be interested in the September resource consent application should be identified at this point. I am required to have regard to the public's comments, including any comments relating the curtailing of public participation in making my decision.
67. The OiC is itself also subject to judicial review, although the Act does impose a time limit on the application for review.
68. It is also necessary to limit the right to take enforcement action to the local authorities concerned and to Ministers of the Crown. This will enable the local authorities concerned to enforce the conditions of the resource consent, but removes the power of the general public to take enforcement action, irrespective of whether consent conditions are being complied with. It is unusual for the public to take this type of enforcement action but if such action was taken it could impede the reinstatement of the Cathedral.

## Consultation

69. Heritage New Zealand Pouhere Taonga, Ministry for Culture and Heritage, the Ministry for the Environment, the Department of the Prime Minister and Cabinet's Policy Advisory Group, the Ministry of Justice, the State Services Commission, Land Information New Zealand, the Ministry of Business, Innovation and Employment, the Treasury and the Department of Internal Affairs had the opportunity to be consulted on this paper.
70. Heritage New Zealand Pouhere Taonga and Ministry for Culture and Heritage support the proposal for an OiC to facilitate the restoration of the Cathedral complex. The Ministry for the Environment considers the proposal is consistent with the provisions of the Act and broadly supports the drafting of an OiC to facilitate the reinstatement of the Cathedral. No substantive comments were received from other agencies consulted.
71. The Christchurch City Council, Environment Canterbury and Te Rūnanga o Ngāi Tahu were informed about the proposed OiC and will have the opportunity to comment during the prescribed engagement process under the Act if a decision is made to proceed with development of a draft OiC.

## Communications

72. A media announcement will be planned to draw attention to public comment on the draft OiC. This may also lead to media coverage given the strong public interest in the Cathedral's reinstatement. I will seek to minimise the risk of any negative media coverage resulting from the necessary engagement on the draft OiC.

## Proactive Release

73. I intend to delay the release of this paper until after the proposed OiC is finalised (in about September 2020). This is to protect the decision-making needed on the proposed OiC and the commercial sensitivity surrounding the design and the design approval process.

## Recommendations

74. The Associate Minister for Greater Christchurch Regeneration recommends that the Cabinet Economic Development Committee:

### *Background*

1. **Note** that the Christ Church Cathedral Reinstatement Act 2017 (the Act) was enacted to facilitate reinstatement of the Christ Church Cathedral (Cathedral) using Orders in Council (OiC);
2. **Note** that the Minister for Greater Christchurch Regeneration intended to prioritise the reinstatement of the Cathedral [CBC-17-MIN-0016 refers].

3. **Note** this project, which is critical for Christchurch, is ready to get underway as soon as permitted after the Covid-19 lockdown and any delays to the OiC process will likely add cost and time to the project;
4. **Note** that the purpose of the Act is to enable expedited, cost-effective processes and earlier or greater certainty for the Cathedral's owner and the Christchurch community generally;
5. **Note** that a resource consent application will be required for the reinstatement and strengthening of the Cathedral and that using standard processes to assess the application will likely lead to delays, extra costs and uncertainty for reinstatement;

*Proposed OiC is for the reinstatement and strengthening of the Cathedral*

6. **Note** that a modified resource consent application process would make all restricted discretionary and discretionary activities required for reinstatement and strengthening controlled activities and prevent the notification of resource consent applications relating to reinstatement works;
7. **Note** that the effect of the modified resource consent application process is that the consent authorities must grant resource consent subject to conditions, that only specified persons (and other persons considered appropriate by consent authorities) will be able to make a written comment on the application and there will be no rights of appeal, apart from the applicant on the consent conditions;
8. **Agree** to the development a draft OiC under the Act to provide for a modified resource consent application process for resource consent applications for the reinstatement and strengthening of the Cathedral;
9. **Note** that the Associate Minister for Greater Christchurch Regeneration will consult with the Minister for the Environment during the OiC's drafting process, as prescribed by the Act;
10. **Agree** that the draft Order in Council restricts the processing time for resource consent applications, with the exact processing timeframe to be discussed with consent authorities during consultation on the draft OiC;
11. **Agree** that the draft OiC will specify the matters over which the consent authorities have control with respect to these applications;
12. **Agree** that that section 37 of the Resource Management Act 1991 will available to be used to extend timeframes for processing resource consent these applications, with circumstances under which extension would be made to be discussed with consent authorities during consultation on the draft OiC;
13. **Agree** that if enacted, the draft OiC will expire on the expiry of the Act;
14. **Invite** the Associate Minister for Greater Christchurch Regeneration to issue drafting instructions to Parliamentary Counsel Office to achieve the policy decisions set out above;

15. **Invite** the Associate Minister for Greater Christchurch Regeneration to approve the final details and any other technical changes required to give effect to the policy in this paper, and any changes to be reported to the Committee of the House of Representatives that is responsible for the review of disallowable instruments; and
16. **Note** the Associate Minister for Greater Christchurch Regeneration will inform Cabinet of her decision later this year if she decides to proceed with recommending the draft OiC to the Governor-General.

Authorised for lodgement

Hon Poto Williams

Associate Minister for Greater Christchurch Regeneration

Appendix 1 withheld in full under sections 9(2)(g)(i) and 9(2)(i).

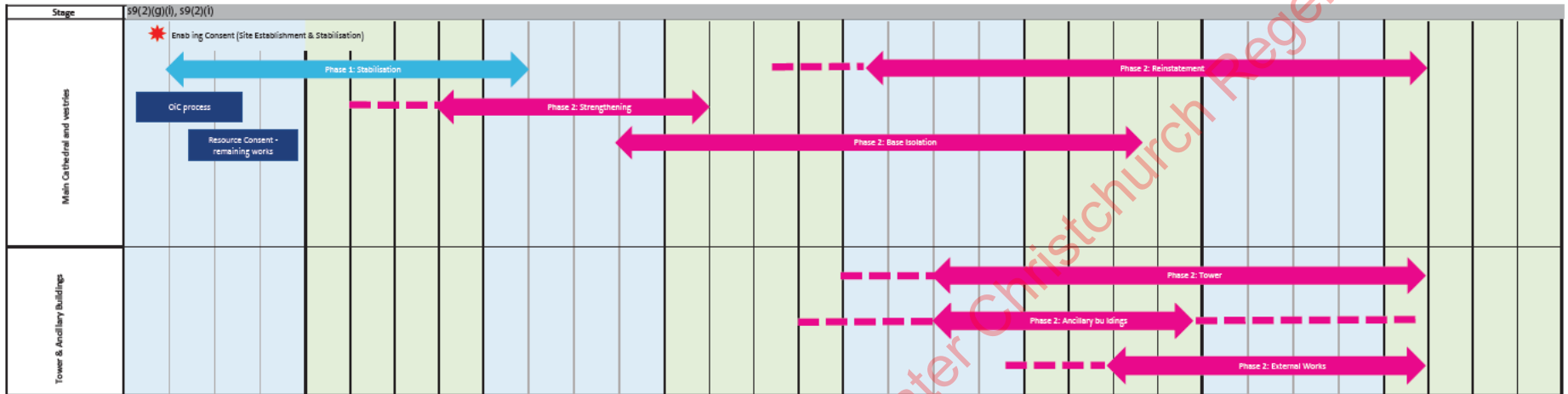
s9(2)(g)(i), s9(2)(i)

020-06-1

Released by the Associate Minister for Greater Christchurch Regeneration



Christchurch Cathedral Reinstatement Limited  
 Indicative Delivery Phase Diagram



Notes:

- 1 Indicative timeline to support DPMC O/C policy Analysis March 2020
- 2 Timeline assumes no funding constraints and that detailed work logistics analysis enables all parallel workfronts

# Impact Summary: Facilitation of Christ Church Cathedral Reinstatement

## Section 1: General information

### Purpose

The Department of the Prime Minister and Cabinet is solely responsible for the analysis and advice set out in this Impact Summary, except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing key policy decisions to be made by Cabinet.

### Key Limitations or Constraints on Analysis

#### Limitations and constraints derive from the nature of the problem

1. This impact summary relates to the process of reinstating the Christ Church Cathedral (the Cathedral). The problem is that using the standard process under the Resource Management Act 1991 (RMA) for the resource consent application for the Cathedral's reinstatement will likely trigger public notification of the application. This would cause delays of at least six months and up to two years to, and uncertainty for, the reinstatement project. It would also raise the costs of the project by approximately at least \$4.85 million to \$5.35 million.

#### Scope relates to the exceptional circumstances of the Cathedral's reinstatement

*Cathedral is an exceptional, vital building in Christchurch and will be reinstated*

2. The circumstances relating to the reinstatement of the Cathedral are exceptional. After the 22 February 2011 earthquake, the future of the badly damaged Cathedral was the subject of protracted litigation between its owners and heritage protection groups. The Crown stepped in to facilitate negotiations and broker a solution. The Christ Church Cathedral Reinstatement Act 2017 (the Act) was developed as part of an offer from the Crown and Christchurch City Council (Council) that:
  - a. promoted legislation to streamline the consenting and approval processes;
  - b. established an independent trust to lead public fundraising and enter into a joint venture agreement with Church Property Trustees (the owner of the Cathedral) to govern and manage the delivery of the project;
  - c. included Crown financial contributions (\$10 million cash contribution and \$15 million suspensory loan (not to be paid back if certain conditions are met)); and
  - d. included a Council agreement to support an "in principle" \$10 million grant, subject to consultation with the community.
3. The circumstances around the Cathedral were identified as exceptional because:
  - a. the Cathedral is a Category 1 historic place;
  - b. it took six and a half years to find a solution acceptable to all parties;
  - c. there is intense public interest the Cathedral's future; and
  - d. the reinstatement of the Cathedral has an impact on regeneration in central Christchurch.
4. Prioritising the reinstatement of the Cathedral will help protect the Crown's investment in regeneration, stimulate further regeneration in the centre of Christchurch and stimulate the Christchurch economy.

#### *The Act facilitates reinstatement*

5. The Act provides for the making of Orders in Council (OiC) to facilitate the reinstatement of the Cathedral, recognising its contribution to cultural, social and economic wellbeing in Christchurch, its importance to Christchurch's regeneration and its heritage value. An OiC can grant exemptions from, modify, or extend an enactment, or any provisions of an enactment in connection with the Cathedral. This is to provide for an expedited, cost effective and/or earlier or more certain reinstatement, compared to processes outside the Act. Enactments that may be subject to an OiC include the RMA and plans made under the RMA (e.g. Christchurch District Plan), as well as other specified enactments.
6. The decision to recommend a draft OiC to the Governor-General sits with the Minister, after a draft OiC has been through the engagement and review processes under the Act.

#### *There has been no reconsideration of the original policy issues or options*

7. This analysis accepts the policy rationale provided for the Act as a starting point. The priority to address problems associated with the reinstatement of the earthquake-damaged Cathedral, and the potential impacts on the regeneration of Christchurch, have already been addressed in the policy for the Act.
8. Any reconsideration or re-litigation of the original, broader policy problem is excluded, noting that we do not consider there have been any changes or developments that would warrant such a reconsideration. This includes the further investigation of using the Greater Christchurch Regeneration Act 2016 or streamlined planning processes available under the RMA to solve the problem. These options have been excluded from the options analysis in this document.

#### **Cathedral conceptual design and analysis of planning framework is the basis of evidence**

9. The evidence of the problem comes from the joint venture entity project managing the reinstatement, Christ Church Cathedral Reinstatement Limited (CCRL), and our analysis of its evidence.
10. On 5 December 2019 CCRL proposed the making of an OiC to the Associate Minister for Greater Christchurch Regeneration, who is the Minister responsible for the administration of the Act. CCRL's proposal is based on its design for the strengthened and reinstated Cathedral, which they used to understand what resource consents would be needed during the strengthening and reinstatement phase of work. On basis of the design, the application would be publically notified causing delay, cost and uncertainty. Our analysis does not consider the merits of the concept design or whether any changes would be beneficial.

#### **The Act directs further consultation and testing on a draft OiC**

11. DPMC has carried out consultation with relevant stakeholders to the extent required to inform this analysis. However, the Act directs an engagement and review process to be undertaken after the OiC is drafted:
  - a. the draft OiC must be reviewed by the Christ Church Cathedral Reinstatement Review Panel;
  - b. the draft OiC must be considered by the Committee of the House of Representatives that is responsible for the review of disallowable instruments (or the leader of each Party represented in Parliament if the House is adjourned);
  - c. a summary of the draft OiC must be made available for relevant local authorities and appropriate persons or the public generally for written comment; and
  - d. Minister responsible for the administration of the Act subject to the OiC must be consulted.

#### **The consenting regime limits the available options**

12. The options for consideration are limited. They are:
  - a. following standard statutory process (status quo / do nothing);
  - b. creating an OiC under the Act:

- i. that makes all activities for the reinstatement phase permitted activities (that is, no resource consent required);
- ii. that makes all activities for the reinstatement phase controlled activities, apart from tree removal, which would be a permitted activity; or
- iii. that makes all activities for the reinstatement phase controlled activities, including tree removal.

**The consenting regime also helps with assessment criteria**

13. Reflecting the purposes for which the Act was put in place, the three criteria used to assess options are:
- a. expediting reinstatement;
  - b. providing a cost-effective process; and
  - c. achieving earlier or greater certainty as to reinstatement.
14. An additional fourth assessment criterion has also been used: ensuring consent authorities can manage the impacts of reinstatement. This reflects the need for some level of regulatory control to make sure that work is carried out in accordance within a specified range of rules (for example, relating to site management, including hours of operation, lighting, safety, and security, and monitoring).

**Responsible Manager (signature and date):**



24 March 2020

**Anne Shaw, Executive Director**

**Greater Christchurch Group, Department of the Prime Minister and Cabinet**

*To be completed by quality assurers:*

**Quality Assurance Reviewing Agency:**

Ministry for the Environment and the National Emergency Management Agency

**Quality Assurance Assessment:**

Meets the quality assessment criteria

**Reviewer Comments and Recommendations:**

The Impact Summary explains the rationale for making the OiC clearly. It also does enough to make the case for the recommended options with the elements of the proposal being clear and the potential impacts having been identified. The Impact Summary has also considered the input and feedback received on the proposal and its potential impacts has been reflected in the analysis.

We don't have to review this again, but we have additional recommendations (more of an FYI) relating to the limitation section below:

- The limitation section is well done, but could be more concise to improve readability. For instance, there is no need to include officials view about CCRL assessment (evidence) in the key limitation section. The key limitations are the Act provides for a step by step process (which includes but not limited to engagement and review process to develop the Order in Council), the existing consenting regime limits the available options. And, lastly, there has been no reconsideration of the original policy issues or options, or any

consideration of the merits of the concept design or whether any changes would be beneficial.

- Some of the content in the limitation section can also be found in the later section of the impact summary, and could have been referred to instead being repeated in the limitation section.

Released by the Associate Minister for Greater Christchurch Regeneration

## Section 2: Problem definition and objectives

### 2.1 What is the policy problem or opportunity?

#### Early work on Cathedral reinstatement underway

15. CCRL has been planning for reinstatement since 2018. Site stabilisation and establishment is set to begin in April 2020 under a resource consent granted by the Council on 4 March 2020.
16. In about August 2020, CCRL intends to lodge a resource consent application with the Council and Environment Canterbury (the consent authorities) for the strengthening and reinstatement of the Cathedral. This is the main part of the reinstatement work where the main Cathedral building, Visitors' Centre, ancillary buildings and tower will be built, in stages. CCRL intends for this work to begin in early 2021.
17. Reinstatement:
  - a. will also include the removal of the Citizens' War Memorial (also a Category 1 historic place) because it stands on the proposed new Visitors' Centre site. Working around it would add approximately \$3.2 million to \$3.7 million to the project and reduce efficiencies, available working space and safety on site<sup>1</sup>; and
  - b. may also include the removal of up to three protected London Plane trees, if they interfere with the safety and efficiency of the working site. These trees sit very close to the Cathedral and planned ancillary buildings.
18. Attachment A shows how close the Citizens' War Memorial and the trees are to the planned buildings.

#### Reinstatement will require resource consent

19. Resource consent will be required for the activities that the reinstatement requires. The proposed work includes activities that are considered "restricted discretionary" or "discretionary" under the RMA. Restricted discretionary and discretionary activities require resource consent. For example, under the Christchurch District Plan:
  - a. any activity on site that permanently alters heritage fabric is a restricted discretionary activity. The Cathedral, the Citizens' War Memorial and Cathedral Square are all listed as heritage items in the Christchurch District Plan;
  - b. removing the three London Plane trees is a discretionary activity because the trees are classed as "significant" with "exceptional values"; and
  - c. the activities needed to remove the Citizens' War Memorial from the site are considered restricted discretionary and discretionary.
20. Resource consents will also be required under the Canterbury Land and Water Regional Plan and Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 for the removal of groundwater and the soil contamination assessment, respectively.

#### Standard resource consent process would likely lead to delays, extra costs and uncertainty

21. Using the standard resource consent process, the consent authorities would likely be required to publicly notify the resource consent application due to 'special circumstances' – that is, the public interest in Cathedral reinstatement (section 95A(9) of the RMA refers). Public notification can also occur when effects are "more than minor" (section 95A(8)(b) of the RMA refers).

<sup>1</sup> The relocation of the Citizens' War Memorial will be dealt with using normal Council processes outside of this OiC. The OiC can only remove the Citizens' War Memorial from the site, it cannot authorise relocation outside of the Cathedral area. s 9(2)(g)(i)

22. Public notification will increase the length of time associated with the project. This process has a statutory timeframe of 130 working days, and can take longer when further information is requested or the consent authority extends the timeframe. Potential appeals on any resource consent decision could add one to two years, in addition to the 130 working days. If delays are ongoing, work on the Cathedral would likely stop after stabilisation finishes, in the first quarter of 2023.
23. Based on 130 working days for processing, assuming that there are no extensions of time, no requests for information and no appeals, CCRL considers a notified resource consent application will cost at least \$1.65 million more than a non-notified consent. This is the best case scenario
24. There is no guarantee that the standard process will result in the resource consents being granted. An appeal process may take up to two years. This may result in work stopping on the Cathedral, necessitate redesign and escalate costs further at the rate of \$300,000 per month. s9(2)(g)(i), s9(2)(i)  
Even if consents are granted, the conditions could be overly restrictive, not enabling reinstatement in a timely manner.
25. Further delays may continue the negative effect that uncertainty about the Cathedral's future has had on regeneration in central Christchurch. This includes continuing to slow the regeneration around Cathedral Square.

#### **The Act was created to ensure reinstatement can happen as efficiently as possible**

26. The intent of the Act is essentially to facilitate the reinstatement of the Cathedral in ways that are more efficient than standard processes. The potential delays, costs and uncertainty associated with using the standard processes for reinstatement are outlined above. The Act recognises the Cathedral's contribution to Christchurch and specifies that reinstatement can occur by enabling a more expedited, cost-effective and certain process through the OiC mechanism (section 4 of the Act refers).

#### **There is now an opportunity to use the Act as intended to expedite reinstatement**

27. CCRL have proposed the making of an OiC in accordance with section 9(4). It will take about five months to develop and make an OiC, using the prescribed process under the Act. This timeframe aligns with CCRL's intention to apply for resource consent in August 2020. Assuming the OiC is made, it will also allow an overlap between the enabling works and the strengthening work on the Cathedral, shortening the project length.

#### **The next step is to decide what the best model is for the OiC**

28. Section 3 outlines the options for the OiC. To use the Act as intended, the OiC will need to change the activity status of the reinstatement work. This is so that either a resource consent must be granted (that is, reinstatement work is a "controlled" activity) or a resource consent is not needed at all (that is, reinstatement work is a "permitted" activity). The OiC will also need to remove the need for public notification of the resource consent application.
29. Given the reasons set out in Sections 1 and 2.1, this RIS is not an evaluation of the status quo option, but only the options for an OiC. There has been no reconsideration of the original policy issues or options, or any consideration of the merits of the concept design or whether any changes would be beneficial.

## **2.2 Who is affected and how?**

30. This work seeks to change the Council and Environment Canterbury's resource consent processes, providing expedited reinstatement, cost effectiveness and greater certainty by changing the activity status of the resource consents required under the RMA for the substantive reinstatement works.
31. The direct benefits of a new consenting regime will go to CCRL and the reinstatement project. As noted above, it will accelerate the Cathedral reinstatement project, allowing

parts of the project to overlap and avoid the cost escalation that is likely as a result of the standard process.

32. Flow on changes from a new consenting regime will also help maintain regeneration momentum by help to unlock development of Cathedral Square and the surrounding area. It will also protect the Crown's considerable investment in nearby anchor projects and in the recovery and regeneration of the central city as a whole.
33. It is anticipated that the facilitation of removal of the Citizens' War Memorial and protected trees may upset some members of the community who care strongly about them. However, apart from this opposition, no other resistance has been encountered, yet. It is noted that the trees will only be removed if they can no longer be worked around; that the "arborists' report of the trees indicates that their Safe Useful Life Expectancy is in the order of 15 – 40 years"<sup>2</sup>; and that CCRL has taken cuttings from the trees.

### 2.3 What are the objectives sought in relation to the identified problem?

34. The objective of this policy change is to provide the optimal resource consenting regime to facilitate the timely, efficient and certain strengthening and reinstatement work associated with the Cathedral, in the context of the framework established by the Act and its purposes. An appropriate resource consenting regime would need to:
  - a. expedite reinstatement;
  - b. provide a cost-effective process;
  - c. achieve earlier and greater certainty as to reinstatement; and
  - d. ensuring consent authorities can manage the impacts of reinstatement.
35. There is hierarchy of objectives, with objective d, being of lower importance than objectives a, b and c. Objective d needs to be balanced carefully against the other objectives, so as not to thwart the intent of the Act.

## Section 3: Options identification

### 3.1 What options have been considered?

See options comparison chart next page. The status quo option has not been included, as it is outlined in Section 2.1.

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<sup>2</sup> 12 December 2019, email from the Planning Manager, Christ Church Cathedral Reinstatement Limited



### Options comparison chart

Option	Decision criteria			
	Expediting reinstatement	Cost effective process	Certainty	Regulatory control
<p><b>Option 1 – an Order in Council making all activities for the reinstatement phase permitted activities</b></p> <p>Under this option no resource consent would be necessary and therefore there would be no public notification.</p> <p>No resource consent would be required to remove the London Plane trees or the Citizens' War Memorial.</p> <p>CCRL would have to comply with all relevant rules in the plan in relation to the activities.</p>	<ul style="list-style-type: none"> <li>✓ No risk of a hearing or subsequent appeal</li> <li>✓ An OiC takes approximately five months to develop and can be in place when CCRL is ready to begin reinstatement work, at the beginning of 2021</li> <li>✓ The establishment and reinstatement phases would overlap, shortening the project length by about 12 months, subject to funds being available.</li> <li>✓ Work would not stop</li> <li>✗ The Act permits judicial review of an OiC but limits it to 28 days after the Minister publishes their reasons for recommending that an OiC be made, unless it is ultra vires</li> </ul>	<ul style="list-style-type: none"> <li>✓ Costs to CCRL are reduced because no resource consent need preparing, s9(2)(g)(i), s9(2)(i)</li> <li>✓ No change to fundraising strategy needed</li> <li>✓ Consenting authorities save some costs associated with hearings and appeals</li> <li>✗ There is a cost to the Government for producing the OiC that will be met from existing baselines</li> <li>✗ Some cost to consenting authorities for monitoring and enforcement.</li> </ul>	<ul style="list-style-type: none"> <li>✓ A resource consent is unnecessary</li> <li>✓ There is no recourse for appeals</li> </ul>	<ul style="list-style-type: none"> <li>✗ Little regulatory control retained.</li> <li>✗ Normal checks and balances such as the public submission phase are lost</li> <li>✗ There is no resource consent monitoring</li> </ul>
<p><b>Option 2 (CCRL's suggested option) – an Order in Council:</b></p> <p><b>1) changing all restricted discretionary and discretionary activities required for reinstatement to controlled activities that cannot be notified, including the Citizens' War Memorial and</b></p> <p><b>2) permitting the removal of three significant London Plane trees</b></p> <p>Under this option the OiC would place a time limit on processing the application, limiting extensions except if agreed by CCRL.</p> <p>Specified parties would be invited to make written comment on the resource consent.</p> <p>Matters of control for the reinstatement work would be specified.</p> <p>There would be no appeals allowed.</p>	<ul style="list-style-type: none"> <li>✓ No risk of a hearing or subsequent appeal</li> <li>✓ An OiC takes approximately five months to develop and can be ready when CCRL is ready to lodge its consent in August 2020</li> <li>✓ The time to process the resource consent application is time limited, and exceptions can only be granted with CCRL's agreement</li> <li>✓ The establishment and reinstatement phases would overlap, shortening the project length by about 12 months, subject to funds being available.</li> <li>✓ Work would not stop</li> <li>✗ The Act permits judicial review of an OiC but limits it to 28 days after the Minister publishes their reasons for recommending that an OiC be made, unless it is ultra vires</li> </ul>	<ul style="list-style-type: none"> <li>✓ Costs to CCRL are reduced and fall within their budget s9(2)(g)(i), s9(2)(i)</li> <li>✓ No change to fundraising strategy needed</li> <li>✓ Consenting authorities save some costs associated with hearings and appeals</li> <li>✗ There is a cost to the Government for producing the OiC that will be met from existing baselines</li> <li>✗ There is a cost with monitoring the resource consents for the consenting authorities</li> </ul>	<ul style="list-style-type: none"> <li>✓ A resource consent must be granted</li> <li>✓ There is no recourse for appeals</li> <li>✓ The Council only has the ability to put specified controls on reinstatement work</li> <li>✓ The London Plane trees can be removed without resource consent</li> </ul>	<ul style="list-style-type: none"> <li>✓ Some regulatory control retained for most activities, although it is restricted to specified matters in the OiC.</li> <li>✓ Specified groups are able to make written comment, although the public are not able to make submissions</li> <li>✗ Regulatory control not retained for the London Plane trees</li> </ul>

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<p><b>Option 3 – an Order in Council changing all restricted discretionary and discretionary activities required for reinstatement to controlled activities that cannot be notified</b></p> <p>Under this option the OiC would place a time limit on processing the application, limiting extensions except if agreed by CCRL.</p> <p>Specified parties would be invited to make written comment on the resource consent.</p> <p>Matters of control for the reinstatement work would be specified.</p> <p>There would be no appeals allowed.</p>	<ul style="list-style-type: none"> <li>✓ No risk of a hearing or subsequent appeal</li> <li>✓ An OiC takes approximately five months to develop and can be ready when CCRL is ready to lodge its consent in August 2020</li> <li>✓ The time to process the resource consent application is time limited, and exceptions can only be granted with CCRL's agreement</li> <li>✓ The establishment and reinstatement phases would overlap, shortening the project length by about 12 months, subject to funds being available.</li> <li>✓ Work would not stop</li> <li>✗ The Act permits judicial review of an OiC but limits it to 28 days after the Minister publishes their reasons for recommending that an OiC be made, unless it is ultra vires</li> </ul>	<ul style="list-style-type: none"> <li>✓ Costs to CCRL are reduced and fall within their budget <sup>s9(2)(g)(i), s9(2)(i)</sup></li> <li>✓ No change to fundraising strategy needed</li> <li>✓ Consenting authorities save some costs associated with hearings and appeals</li> <li>✗ There is a cost to the Government for producing the OiC that will be met from existing baselines</li> <li>✗ There is a cost with monitoring the resource consents for the consenting authorities</li> </ul>	<ul style="list-style-type: none"> <li>✓ A resource consent must be granted</li> <li>✓ There is no recourse for appeals</li> <li>✓ The Council only has the ability to put specified controls on reinstatement work</li> <li>✓ The London Plane trees and Citizens' War Memorial can only be removed when needed for reinstatement</li> </ul>	<ul style="list-style-type: none"> <li>✓ Some regulatory control retained for all activities, although it is restricted to specified matters in the OiC</li> <li>✓ Specified groups are able to make written comment, although the public are not able to make submissions</li> </ul>
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### 3.2 Which of these options is the proposed approach?

36. Option 3, an OiC changing all reinstatement work to a controlled activity that cannot be notified, is the preferred Option.
37. In terms of efficiency, cost-effectiveness and certainty, all three options are similar. However, on balance, Option 3 is the preferred Option because it retains some regulatory control over all reinstatement activity, including the removal of the London Plane trees and the Citizens' War Memorial.
38. Option 3 is still reasonably efficient, cost effective and certain, but it offers the appropriate level of regulatory control over all reinstatement activity. This would provide some reassurance that the London Plane trees cannot be removed arbitrarily and that their removal must be tied to the purpose of reinstating the Cathedral.

#### **OiC would change activity statuses**

39. The OiC will address the problem by changing all restricted discretionary and discretionary activities required for reinstatement to controlled activities that cannot be notified. No appeals would be allowed.
40. A controlled activity means a resource consent must be granted where there is sufficient information but that the activity may be subject to conditions. Non-notification means that a resource consent will not be publicly notified and no public hearings can be held.
41. Under this option the OiC would place a time limit on processing the application, limiting extensions of time except if agreed by CCRL, if for example, more information was requested.
42. Specified parties would be invited to make written comment on the resource consent.
43. Matters of control for the reinstatement work would be specified by the OiC. The types of conditions able to be imposed would be limited to matters such as:
  - a. site management, including hours of operation:
  - b. lighting, safety, and security:
  - c. effects on recreational users:
  - d. traffic and access:
  - e. earthworks:
  - f. landscaping:
  - g. air discharge (including dust, contaminants, and odour):
  - h. groundwater (including quality and quantity):
  - i. record keeping and reporting:
  - j. monitoring (including data management):
  - k. community liaison-complaints process and reporting.

## Section 4: Impact Analysis (Proposed approach)

### 4.1 Summary table of costs and benefits

Affected parties (identify)	Comment: nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts</i>
<b>Additional costs of proposed approach, compared to taking no action</b>		
Regulated parties (CCRL)	Costs associated with submitting the resource consent application in a streamlined manner in August 2020	Low
Regulators (Christchurch City Council, Environment Canterbury)	Costs associated with ongoing monitoring and compliance checks associated with the works Cost associated with streamlined process	No change No change
Wider government (DPMC, other agencies as needed)	One off costs creating the OiC, including Christ Church Cathedral Reinstatement Review Panel fees, to be met within existing baselines	Medium
Other parties (Public, affected persons)	Some loss of democratic voice as part of the status quo process (as there will be no public notification of consent)	High
<b>Total Monetised Cost</b>		\$1,625,000
<b>Non-monetised costs</b>		Medium
<b>Expected benefits of proposed approach, compared to taking no action</b>		
Regulated parties CCRL	Lower costs associated with submitting the resource consent application in a streamlined manner in August 2020	\$1.65 million less than normal processes
	Costs avoided by no delays or work stoppage	\$300,000 per month
	Ensures that CCRL is able to deliver the reinstatement and that potentially significant risks under status quo processes are minimised.	High
	Minimising legal fees means the fundraising target does not increase.	
	Cathedral reinstatement project facilitated.	
Regulators (Christchurch City Council,	Council and Environment Canterbury, in conjunction with relevant experts, would determine conditions of the consent.	Low

Environment Canterbury)		
Wider government	Wider benefits of significant investment in anchor projects in Christchurch will be realised.	High
Other parties (Community, businesses)	<p>Enables regeneration of the area surrounding Cathedral Square and the reinstatement of a significant cultural and civic landmark.</p> <p>Provides confidence that the reinstatement of the Cathedral will not be further delayed, therefore providing the public with confidence in the future of the city.</p> <p>Provides confidence for businesses and tourism in the Square and its surrounds.</p> <p>The project will employ about 50-60 people during its stabilisation and reinstatement.</p>	High
<b>Total Monetised Benefit</b>		At least \$4.85 million to \$5.35 million
<b>Non-monetised benefits</b>		High

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## 4.2 What other impacts is this approach likely to have?

44. Heritage New Zealand Pouhere Taonga, Ministry for Culture and Heritage, the Ministry for the Environment the Department of the Prime Minister and Cabinet's Policy Advisory Group, the Ministry of Justice, the State Services Commission, Land Information New Zealand, the Ministry of Business, Innovation and Employment, the Treasury and the Department of Internal Affairs had the opportunity to be consulted on this policy proposal.
45. The Christchurch City Council, Environment Canterbury, Regenerate Christchurch, Ōtākaro Limited and Te Rūnanga o Ngāi Tahu were informed about the proposed OiC and will have an opportunity to make written comment under the Act (Section 1 of this paper also refers).

## Section 5: Stakeholder views

### 5.1 What do stakeholders think about the problem and the proposed solution?

#### The applicant s9(2)(g)(i) supportive

46. CCRL agrees with the problem and its causes. Option 3 was not CCRL's preferred option, because it did not consider meaningful matters of control can apply on tree removal. However, we have suggested that some matters of control can apply to tree removal, for example, providing that removal must be for the purpose of reinstating the Cathedral. As a result of this discussion, it is comfortable and understands the reasoning for the recommendation of Option 3.

47. s9(2)(g)(i)

48. s9(2)(g)(i)

#### Government agencies are largely supportive

49. Heritage New Zealand Pouhere Taonga and Ministry for Culture and Heritage support the proposal for an OiC to facilitate the restoration of the Cathedral complex.
50. The Ministry for the Environment considers the proposal is consistent with the provisions of the Act and broadly supports the drafting of an OiC to facilitate the reinstatement of the Cathedral.
51. The Ministry of Justice has concerns about the proposed lack of public notifications and consider the proposed administrative efficiency justification to be insufficient. However, it did not have time to fully explore this issue. We will continue to work with agencies if the OiC is drafted.

#### Other stakeholders are largely supportive

52. Groups closely linked with the proposal to remove the Citizens' War Memorial and the potential removal of the London Plane trees are supportive of the proposal in this paper. This includes the Church Property Trustees (the Cathedral's owner) and the Christchurch Returned Services Association (RSA). s 9(2)(g)(i)

53. We note that:
- a. the s 9(2)(g)(i) may be dissatisfied with this proposal as they disagreed with the Church Property Trustees and the Christchurch RSA on a new location for the Citizens' War Memorial; and
  - b. it is likely that some community groups, will have concerns or be opposed to the removal of the three significant trees. s9(2)(g)(i)
54. A significant part of the public sentiment in Christchurch is that there is a need to "just get on with" the Cathedral's reinstatement.

## Section 6: Implementation and operation

### 6.1 How will the new arrangements be given effect?

#### CCRL will use OiC to support resource consent application for reinstatement work

55. The proposal originated from CCRL in accordance with the Act but this regulatory proposal has been developed by DPMC and will be implemented through a legislative vehicle that is used by the Council and Environment Canterbury.
56. Any communications needed will be a joint effort between the Minister's office, DPMC, CCRL, the Council and Environment Canterbury.
57. No transitional arrangements are needed. The OiC will be in force until the expiry of the Act.
58. When the OiC is in force and the resource consent application lodged, the Council and Environment Canterbury would implement their decisions in accordance with the OiC.

## Section 7: Monitoring, evaluation and review

### 7.1 How will the impact of the new arrangements be monitored?

#### Consenting authorities will monitor the new arrangements

59. The impact of a good OiC will mean that all activities needed on site can be carried out, subject only to conditions applied by the consenting authorities, thus facilitating the reinstatement of the Cathedral in a way that would not happen under standard process.
60. The consenting authorities, in conjunction with relevant experts, would determine appropriate conditions of the consent for the reinstatement work on the Cathedral. They would also be involved in the ongoing compliance monitoring
61. Further, section 24 of the Act requires the Minister to present a report to the House of Representatives relating to its operation every 12 months, this includes listing and describing OiC made during the period. Reports so far have also described progress on Cathedral reinstatement, so it is likely the impact of the OiC would be recorded here along with progress on resource consents lodged and approved, when resource consents have commenced, how the works are complying with the resource consents and the final completion of the reinstatement.
62. We expect the good communication between CCRL and the Council to continue to ensure that the OiC is well-implemented and reinstatement of the Cathedral is facilitated. Data is not being collected on the impact, implementation and operational issues associated with reinstatement.

## 7.2 When and how will the new arrangements be reviewed?

63. There are no plans to review the OiC. It has a finite lifespan as it will expire when the Cathedral is reinstated or finishes or when the Act expires in 2032 (whichever comes first). If further matters arise with the Cathedral's reinstatement, other OiCs can be considered under the Act at that point. The reporting requirements of the Act are also noted and this will help monitor the new arrangements.
64. Given the very specific nature of this OiC, and the good levels of communication between stakeholders so far, it is expected that CCRL would raise any concerns with DPMC or the Associate Minister for Greater Christchurch Regeneration as needs be.

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# Cabinet Economic Development Committee

## Minute of Decision

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### Facilitation of Christ Church Cathedral's Reinstatement

**Portfolio**                      **Greater Christchurch Regeneration**

On 29 April 2020, the Cabinet Economic Development Committee:

#### Background

- 1        **noted** that the Christ Church Cathedral Reinstatement Act 2017 (the Act) was enacted to facilitate reinstatement of the Christ Church Cathedral (Cathedral) using Orders in Council (OiC);
- 2        **noted** that the Minister for Greater Christchurch Regeneration intended to prioritise the reinstatement of the Cathedral [CBC-17-MIN-0016];
- 3        **noted** that this project, which is critical for Christchurch, is ready to get underway as soon as permitted after the Covid-19 lockdown, and that any delays to the OiC process will likely add cost and time to the project;
- 4        **noted** that the purpose of the Act is to enable expedited, cost-effective processes and earlier or greater certainty for the Cathedral's owner and the Christchurch community generally;
- 5        **noted** that a resource consent application will be required for the reinstatement and strengthening of the Cathedral, and that using standard processes to assess the application will likely lead to delays, extra costs and uncertainty for reinstatement;

#### Proposed OiC for the reinstatement and strengthening of the Cathedral

- 6        **noted** that a modified resource consent application process would make all restricted discretionary and discretionary activities required for reinstatement and strengthening controlled activities, and will prevent the notification of resource consent applications relating to reinstatement works;
- 7        **noted** that the effect of the modified resource consent application process is that:
  - 7.1      the consent authorities must grant resource consent subject to conditions;
  - 7.2      only specified persons (and other persons considered appropriate by consent authorities) will be able to make a written comment on the application;
  - 7.3      there will be no rights of appeal, apart from the applicant on the consent conditions;

- 8 **agreed** to the development a draft OiC under the Act to provide for a modified resource consent application process for resource consent applications for the reinstatement and strengthening of the Cathedral;
- 9 **noted** that the Associate Minister for Greater Christchurch Regeneration will consult with the Minister for the Environment during the OiC's drafting process, as prescribed by the Act;
- 10 **agreed** that the draft OiC will restrict the processing time for resource consent applications, with the exact processing timeframe to be discussed with consent authorities during consultation on the draft OiC;
- 11 **agreed** that the draft OiC will specify the matters over which the consent authorities have control with respect to these applications;
- 12 **agreed** that that section 37 of the Resource Management Act 1991 will be available to be used to extend timeframes for processing resource consent these applications, with the circumstances under which extension would be made to be discussed with consent authorities during consultation on the draft OiC;
- 13 **agreed** that if enacted, the draft OiC will expire on the expiry of the Act;

#### **Legislative implications**

- 14 **invited** the Associate Minister for Greater Christchurch Regeneration to issue drafting instructions to the Parliamentary Counsel Office to achieve the policy decisions set out above;
- 15 **invited** the Associate Minister for Greater Christchurch Regeneration to approve the final details and any other technical changes required to give effect to the policy in the paper under DEV-20-SUB-0058, with any changes to be reported to the Committee of the House of Representatives that is responsible for the review of disallowable instruments;
- 16 **noted** that the Associate Minister for Greater Christchurch Regeneration will report back to Cabinet later in 2020 if she decides to proceed with recommending the draft OiC to the Governor-General.

Janine Harvey  
Committee Secretary

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**Present: (see over)**

**Present:**

Hon Kelvin Davis  
Hon Grant Robertson (Chair)  
Hon Phil Twyford  
Hon Dr Megan Woods  
Hon Chris Hipkins  
Hon Carmel Sepuloni  
Hon David Parker  
Hon Nanaia Mahuta  
Hon Stuart Nash  
Hon Iain Lees-Galloway  
Hon Jenny Salesa  
Hon Damien O'Connor  
Hon Kris Faafoi  
Hon Shane Jones  
Hon Poto Williams  
Hon James Shaw  
Hon Eugenie Sage

**Officials present from:**

Office of the Prime Minister  
Officials Committee for DEV

Released by the Associate Minister for Greater Christchurch Regeneration