



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.

**TE POARI AROTAKE A WHAKAHOU WHITI REIA
CHRIST CHURCH CATHEDRAL REINSTATEMENT REVIEW PANEL**

IN THE MATTER

of the Christ Church Cathedral Reinstatement Act 2017

AND

IN THE MATTER

of the Christ Church Cathedral Reinstatement Review Panel appointed under section 13 of the Christ Church Cathedral Reinstatement Act 2017 to review draft Orders in Council and to provide advice on request to the Minister in relation to orders that may be required for the purposes of the Act

THE PANEL

The Honourable Nicholas Davidson QC (Convener)
David Ayers
Sina Cotter Tait
Kyle Davis
Sarah Dawson
Amanda Dewar

**KO NGĀ WHAKATAU O TE POARI AROTAKE A WHAKAHOU WHITI REIA
REPORT AND RECOMMENDATIONS OF THE CHRIST CHURCH CATHEDRAL
REINSTATEMENT REVIEW PANEL
DATED 24 JULY 2020**

A. INTRODUCTION

1. This report is made by the Christ Church Cathedral Reinstatement Review Panel (the Panel) established under the Christ Church Cathedral Reinstatement Act 2017 (the Act). It relates to a Draft Order in Council (Draft Order) received by the Panel for its review on 3 July 2020.
2. On 29 May 2020 The Associate Minister for Greater Christchurch Regeneration (the Associate Minister) advised of a proposal for an Order in Council (Proposed Order), by which the resource consent regime under the Resource Management Act 1991 (RMA) would be modified to facilitate reinstatement of the Christ Church Cathedral (the Cathedral).

3. On that day, the Associate Minister took the step prescribed in s 10 of the Act and invited written comment on the document which explained the Proposed Order and its intended effect, and why the Associate Minister considered the Proposed Order would meet the purpose of the Act. An on-line written comment form was available on the website of the Department of Prime Minister and Cabinet (DPMC), for comment by 5.00pm Monday 22 June 2020.
4. Comments were received and the Associate Minister reflected some of these in the Draft Order with which this report is concerned. All comments have been independently considered by the Panel.
5. On 3 July 2020 the Panel received for its review the Draft Order with the Associate Minister's draft reasons for recommending such. The Panel had 15 working days to report with advice and/or recommendations.
6. Section F to this report records the Panel's recommendations set against the background to the Draft Order in Sections A-E. The evolution of the Draft Order bears on the Panel's work.

B. THE LEGISLATIVE SETTING

Background

7. The background to the Act lies in the Government's offer to support the reinstatement of the Cathedral, after a long period of facilitation, negotiation and investigation. Reinstatement is intrinsically linked to two key reports facilitated by the Government, being the Cathedral Working Group Recommendation Report (CWG Report) and a report by Miriam Dean QC.
8. Miriam Dean QC facilitated discussions as to engineering options for repair, restoration and replacement of the Cathedral, with engineers John Hare and Adam Thornton.
9. The engineers addressed the damage and risk associated with the present structure, and what is required to investigate restoration or replacement options, in whole or in part, to 100% to the new Building Code standard. Their conclusions recognised the necessity for a combination of repair, restoration, reconstruction and seismic strengthening, altogether described as "reinstatement".
10. The CWG Report addressed feasibility of reinstatement, including the regulatory environment and the resource consents that would likely be required. Reinstatement would rely in part on public fundraising, and it was not certain that funds would be

found. CWG recommended a staged procurement model to match the flow of funds from the Government, the Church Property Trustees (CPT), and public fundraising. The report stated that to seek all required public funding before starting a project of this scale would result in failure, because major donors need to see a demonstrated commitment to proceed, and evidence of progress.

The Bill¹

11. Submissions on the Bill which preceded the Act were an early reflection of comments later made on the Proposed Order. Some submitters opposed the broad delegated law making powers contemplated, and said that such were objectionable outside an “immediate emergency context ...”, and that it was inappropriate to override the RMA and Heritage New Zealand Pouhere Taonga Act 2014 safeguards without a more explicit description of restoration in the Bill.

The Act

12. The *purpose of the Act* is to facilitate 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.
13. The *purpose of the Act* expressly includes any one or more of the following:
 - (a) To facilitate reinstatement in an expedited manner compared with processes and requirements outside this Act;
 - (b) To provide a cost-effective process for reinstatement compared with processes outside this Act;
 - (c) To achieve earlier or greater certainty for the owner of the Cathedral and the Christchurch community as to the reinstatement of the Cathedral than would be likely under processes and requirements outside this Act.
14. ‘Reinstatement’ is defined as one or more of a list of activities, even if an activity constitutes neither full reinstatement nor reinstatement to the original condition or state.
15. Under Part 2 of the Act the Governor General may make Orders in Council on the recommendation of the Minister, and by such orders may grant exemptions from, modify, or extend an enactment, or any provisions of an enactment, being those referred to in Schedule 2 of the Act, as to the whole or part of the Cathedral area.

¹ Christ Church Cathedral Reinstatement Bill 2017 (2-2)

Such exemption may be absolute or on terms or conditions, and may state alternative means of complying with the enactment or provision including creation of a discretionary power.

16. Under *Key restrictions on orders* s 9 provides that the Minister *may recommend an order only for the purpose of the Act*, if satisfied that the order is *necessary or desirable for the purpose of this Act*.
17. Mentioned above, the 'engagement' under s 10 of the Act must explain what the proposal is intended to achieve, with a description of its intended effect and an explanation of why the Minister considers that the order is necessary or desirable for the purpose of the Act. If the Minister makes a recommendation for an Order in Council under s 8 of the Act the reasons for doing so, including why the order sought is considered appropriate, must be published together with the order.
18. A draft of the order must have first been reviewed by the Panel, and provided to the Committee of the House of Representatives responsible for the review of disallowable instruments, or an alternative if the House is adjourned. The Minister must have regard to the Panel's recommendations and any comment from the Committee or its alternative. Under s 9(4) of the Act only the Joint Venture or entity managing the reinstatement of the Cathedral, or the Panel, may propose to the Minister that he or she recommend the making of an Order in Council under the Act.

C. THE PANEL

19. This Panel was appointed under s 13 of the Act. Its functions are to review draft Orders in Council, of which there may be more than one, and to provide advice at the request of the Minister *in relation to orders that may be required for the purpose of the Act*. The Panel is required to make recommendations to the Minister, after a review which may be conducted in any manner the Convener thinks appropriate. The Panel's recommendations together with the reasons for those recommendations, must be publicly available on the Internet.

The Panel's Terms of Reference

20. The Panel is an important check and balance on the significant powers in the Act, and has been appointed to provide expert, technical advice. It has no investigatory powers, and it does not hear directly from interested parties. It does not have a representative function and is not a forum for general engagement or community participation. It thus works from the written record, directed by the Act and the Terms of Reference, and draws on the expertise of its members, each of whom is expected

to bring matters of significance to the Panel and use professional perspectives to undertake analysis or prepare advice. Panel members are not representatives or advocates for a particular sector or interest, must be fair and open minded, and not advocate for any particular values, nor represent any interest group.

21. The Panel may address whether the Draft Order is sufficiently clear, and if not, options to improve it. It may identify unintended or unforeseen, but likely outcomes of the Draft Order, and ways to address these. It may bring to account other matters that the Panel considers relevant to the scope of its review, and has power to seek further information.

The Panel's interpretation of its role

22. The Panel must have front of mind the significance of an Order in Council which removes or modifies to any degree the usual rights of participation in a prescribed RMA process, and the usual powers of consent authorities under their planning instruments. Only the RMA is affected by the Draft Order for this Review. The legislation allows for such *but only to achieve the purpose of the Act*. The reasons given for such must therefore be scrutinized closely, as the Panel is expressly intended to be an important check and balance on the exercise of such broad powers.
23. The Panel is thus directed to consider the stated warrant or reasons given for all parts of the Draft Order, and its expression of the powers sought, which should be unambiguous and lucid. Its remit is broad, as it may bring to account any matter which it considers relevant to its statutory role.
24. Of obvious import is the extent to which the Draft Order departs from the resource consent process which would otherwise apply, and what that means to those who express keen interest not just in the fact and import of such empowering legislation, but in the detailed working of the consenting process contemplated under the Draft Order, including decision making powers. The opportunity to participate in some way in the resource consent process for reinstatement must be understood, and if there is no opportunity, or such is limited, then safeguards which address those outcomes must be considered, *if such would meet the purpose of the Act*.

D. EVOLUTION OF DRAFT OIC FOR REVIEW BY THIS PANEL

25. The public was invited to comment on the Proposed Order. The Panel has measured the comments received against the Draft Order and draft reasons provided by the Associate Minister, to see if and how those comments are reflected in the Draft Order.
26. For context, the Panel read the enabling resource consent RMA/2019/2957, granted for works to the Cathedral and its setting, as part of the reinstatement process, including contract and site establishment, and stabilization of the Cathedral building by deconstruction, partial demolition, insertion of temporary support structures and weather-proofing. The activity is restricted discretionary in status and consent was granted on a non-notified basis.
27. Christ Church Cathedral Reinstatement Ltd (CCRL) already held resource consents for site reinstatement work, with conditions under RMA 2019/1222 as to significant trees, and RMA 2018/2758 as to a safety barrier. RMA 2018/1399 allowed removal of asbestos contaminated fill. An Archeological Authority had been issued by Heritage New Zealand Pouhere Taonga (HNZPT) for works at 100 Cathedral Square, and the legal road reserve to the north, east, and south, 99 Cathedral Square under the Heritage New Zealand Pouhere Taonga Act 2014.
28. The enabling works were treated as an alteration to a heritage item under the District Plan rather than demolition, because removal of the Visitors' Centre and the vestry additions constitute partial demolition, and as such would not result in the complete or significant loss of the heritage fabric that makes the heritage item significant. The Cathedral is a Category 1 Historic Place in the New Zealand Heritage List and an archaeological site as a pre 1900 building. HNZPT confirmed full support for the application. Consultation was undertaken with Te Ngāi Tūāhuriri Rūnanga who did not oppose the granting of resource consent, with the requirement for cultural heritage monitoring.
29. The Independent Commissioner, Mr J W Maassen, concluded that the effects of enabling and stabilization works would always be less than those following collapse or failure in further earthquake events, or if the Cathedral continued to degrade if exposed to environmental elements. He concluded that "... the applicant has taken all possible care to design the proposed scheme that is as sympathetic to the heritage fabric as possible in the circumstances". He observed that in normal circumstances (prior to the Canterbury earthquake sequence) much of the proposed works would have been viewed as invasive and unacceptable but concluded that the work was essential to ensure the building's future so should be kept to a minimum to maintain

its significant heritage values. He brought to account that the proposed works were fundamental to eventual reinstatement and to secure the long term future of the main Cathedral building.

Explanation for the Proposed Order

30. The Explanation Document for the Proposed Order identified all works that would require resource consent from the two consent authorities, namely the Christchurch City Council (CCC) or Environment Canterbury (ECan) for controlled, restricted discretionary, or discretionary activities under relevant RMA documents. These works comprehend a wide range of activity including: alteration, revocation and removal of heritage fabric and other items so the Cathedral can be reinstated with construction of new buildings such as a Visitors' Centre; the safe and careful removal of the Citizens' War Memorial; activities which would affect the three protected London Plane Trees if such proved necessary for reinstatement; removing groundwater from underneath the Cathedral site for base isolation; and landscaping and earthwork activities.
31. Of consequence, CCRL intends to seek resource consent for *all* of the reinstatement work at the same time, so the two consent authorities can assess the entirety of the works proposed. The purpose of the Proposed Order was said to provide a modified resource consent process for works not already consented, streamlined to facilitate the "timely, cost-effective and certain reinstatement work associated with the Cathedral," while still providing a transparent consent process.
32. All restricted discretionary or discretionary activities relating to reinstatement would become controlled activities and there would be no notification of resource consent applications relating to the rest of the reinstatement work, while allowing the CCC and ECan to impose conditions on resource consents *only* in relation to certain matters, in particular associated with the Citizens' War Memorial and the London Plane trees.
33. By treating restricted discretionary or discretionary activities as *controlled activities* under s 87A(2) RMA, reinstatement work *would be approved*, subject to conditions imposed, and *the application for resource consent cannot be declined*. The required element of certainty of consent, subject to conditions, would be met for the purposes of the Act. The Proposed Order would limit the scope of conditions on resource consent for such controlled activities, which meant the Proposed Order would prevent consent authorities using s 104(1)(b), 105, 107(2) and 108 of the RMA. The last

mentioned allows a consent authority to impose any condition it considers appropriate on a resource consent.

34. The Proposed Order particularised the matters that a consent authority could impose as conditions of consent, including those associated with removal of the War Memorial and any effect on the London Plane trees, including removal.
35. The processing time for a consent authority to approve an application would be 40 working days after the application is lodged, which could be extended. Further information from CCRL could be sought by the consent authority under s 88C RMA. An application would be processed on a non-notified basis, thus removing the right of the general public to make submissions but specified parties would be invited to make written comments within 10 working days during the 40 day processing time. Those parties were Te Rūnanga o Ngāi Tahu or any relevant Papatipu rūnanga identified by Te Rūnanga o Ngāi Tahu, HNZPT, Linwood-Central-Heathcote Community Board, the Christchurch Civic Trust and owners and occupiers of land adjacent to Cathedral Square. It was stated that comment received would help inform conditions to be imposed. Such comments would be summarised and included in the notification of the decision to the applicant.
36. Further, only the consent authorities could undertake enforcement proceedings with regard to activities undertaken under a resource consent granted in reliance on the order. The Proposed Order would expire on the expiry of the Act in December 2032. It allowed for further resource consent applications to be made if required, although only one application to the CCC and Ecan was expected.
37. The Associate Minister considered the Proposed Order necessary or desirable for the purpose of the Act because, in summary, there would be earlier or greater certainty of reinstatement under such modified process, compared with "normal processes" which would cause delay, increased costs and uncertainty. Resource consent applications would likely be publicly notified given the public interest in the Cathedral and its reinstatement, and the effects of the reinstatement activities may be deemed more than minor (in the Panel's view likely). Delays of up to six months to two years, including appeal, were likely, and work on the project could potentially stop after the site was established and stabilised using the already granted resource consents. The costs would increase for every month of delay, and there would be uncertainty of outcome as the consent authority could still decline a resource consent and there could be appeals.

38. If a resource consent was declined aspects of the Cathedral would have to be redesigned with resultant costs and delay. The potential for significant cost increases and time delays make it necessary and desirable that any Proposed Order avoid such. The oldest parts of the Cathedral would be strengthened as quickly as possible, reducing the likelihood of further deterioration, and preventing further delays to the project which is expected to take 7-10 years to complete.
39. There would be heritage protection, including that for the War Memorial and the London Plane trees. The Associate Minister considered that the Proposed Order provided sufficient protection.
40. The reasons section of the Proposed Order (Reasons) posed some "frequently asked questions and answers", including the history of the War Memorial and how it would impact on reinstatement of the Cathedral. CCRL contemplates that there is an opportunity to redevelop the north side of the Cathedral area to create a more functional Visitors' Centre, and open landscape to complement Cathedral Square. It becomes harder to protect the War Memorial structure *during* strengthening and reinstatement, risking further damage, because a crane would be employed and significant protective measures would be needed including a cage, with impediment to reinstatement, additional costs and delays. The Act only addresses the removal of the War Memorial, not its ultimate relocation. This will require a separate statutory process and it is understood that no decision has been taken in that regard.
41. The three protected London Plane trees are classed as significant in the District Plan and cannot be felled or significantly pruned without resource consent. Two trees at the east end of the Cathedral are close to the apse, the vestries, Colombo Street, the tram track and overhead wires. They were planted sometime between 1904 and the late 1920s and a further tree to the south west of the Cathedral was likely planted in 1884 when the ground was consecrated. The Reasons state "CCRL will only remove a tree or trees if it is necessary to reinstate the Cathedral". The Proposed Order would require a suitably qualified and experienced professional engineer to certify that removal is necessary in order to achieve the proposed reinstatement activity, but there is a statement worth emphasizing, that, "best efforts have been made to protect and preserve the trees".
42. Resource consent was obtained to prune the trees in 2019 and the arborist indicated their Safe Useful Life Expectancy is between 15 to 40 years if conditions do not alter. This management tool addresses the timeframe of tree life, conditional upon age, tree condition and expectation of total lifespan, if site conditions remain unchanged.

Ongoing advice was being sought by CCRL to look after the health of the trees with efforts to preserve them including taking cuttings so that in a worst case their progeny may be available for replanting. Relocation was not thought feasible.

43. In the decade since the earthquake sequence so severely damaged the Cathedral it has not been safe to access and maintain the trees and their large canopies shade parts of the Cathedral, encouraging moss growth. They can be worked around safely and protected during stabilisation but CCRL will not know how the trees might impact on reinstatement until contractors have started work, when they are able to carry out safe and proper site investigation.
44. The trees near the apse have grown so the canopies have come together, touching the Cathedral, and descending towards the overhead conductors for the tram lines. It is likely the roots encroach on the foundations of the Cathedral, which must be excavated for base isolation to make the building safe. The tree to the south west is close to touching the south side of the Cathedral and close to the proposed southern ancillary building. The trees are said to constrain the available working space, and are at heights which limit movement. Pruning of roots and the canopy may cause unavoidable harm to them.
45. The Proposed Order states that CCRL will only remove the trees *if there is no other way to reinstate the Cathedral without doing so. CCRL is very keen to keep the trees and will exhaust every avenue before removal becomes the only workable solution.* The Proposed Order did not rest on removal of the trees and any decision would be made on the basis of *"proper investigation and a full options analysis as part of the resource consent process.* It would not provide a pathway for removal of trees for the sake of convenience. Under the Proposed Order, tree removal would be a controlled activity and would be subject to requirements set out in a plan drawn up by a professional arborist. The Proposed Order would ensure a suitably qualified and experienced professional engineer to certify that removal is necessary in order to achieve the proposed reinstatement activity.

The written comments

46. The Proposed Order and Explanation summarised above were the subject of written comments, some of which are reflected in the Draft Order with which this review is concerned, and formed a useful reference for this Panel's work. They are of necessity a summary, but the Panel chose to go beyond the summary of them provided by the Associate Minister and refers to the following.

47. As to the London Plane trees, they are held to have immense historical and ecological significance, and require "the greatest protection possible". In overall context they are said to be essential for the future of the Cathedral and The Square. They are seen as part of the heritage landscape just as much as the Cathedral building, iconic to the centre of Christchurch providing Cathedral Square with a "more natural look". There was comment that the protected trees have a higher value than the reinstatement of the Cathedral. The point was made that trees have been lost to build the columbarium, and the loss of trees simply because they are inconvenient to work around was described as a tragedy. One comment was that the built heritage should not take priority over such significant natural heritage as the trees.
48. Another comment was that the trees in nature are essential to mental health, especially old mature trees and they are irreplaceable, or at least it would take more than a century to achieve their eminent state. The comment was made that if CCRL will incur extra costs means it is impossible to save the trees then "they survived the ravages of earthquakes and war, only to fall to the accountants". The further comment was that there should be a cost benefit analysis associated with saving the trees.
49. Some comments referred to Christchurch's acclaimed status as the Garden City as part of a plea to save the trees. In a strong echo of other submissions, the Tree Council urged specific rules for protection of the trees to avoid damage which often proves terminal during works, and that proposals for the protection of the trees should be part of a publicly notified process. CCRL made comments regarding matters of Control, which supported protections in relation to heritage, and that should include the oversight of an engineer on the removal of the War Memorial and the London Plane trees.
50. It was also said to be beyond doubt that reinstatement would be cheaper, quicker and more certain if the trees were removed but against that must be balanced the considerable and irreplaceable loss of amenity and heritage of the trees once removed, so there should be alternative options against which any proposed effect on the trees could be compared. One comment was that there must be a specialist arborist engaged as consultant to protect and maintain the trees, and that required an expert from London, with its extensive planting of such trees. Restore Christchurch Cathedral Group Incorporated said that protective management of all three Plane trees requires the highest standards of arboriculture care, so two expert consultants' names were put forward.

51. HNZPT says if the London Plane trees are a constraint or impediment to achieving the best outcome as to reinstatement of the original building and key elements, they do not oppose their removal but sought a detailed landscape plan for integration into the wider Cathedral Square.

The Citizens' War Memorial

52. An executive member of the Christchurch RSA was concerned about the membership vote to move the War Memorial, and the writer supported the War Memorial staying where it is during construction saying that the largest RSA Branch, at Papanui, is opposed to moving the War Memorial, as are some other branches.
53. Another comment was that the War Memorial should be removed and stored safely before reinstatement in an appropriate place as part of the "grand scheme" of the Cathedral/Square plans, and there is precedent for shifting memorials referred to in Jock Phillips' book 'To the Memory: New Zealand's War Memorials'.
54. The location of the War Memorial is traced to the requirement imposed on the architect and sculptor to include key structural and iconographical features dictated by church authorities, of most significance the 15 metre high cross. The vote for relocation by the Christchurch RSA is said to have been conducted in an irregular manner. This comment challenged the necessity or desirability of clearing the site, including removal of the War Memorial, and the reasons given based on the difficulty of protection, which is challenged. The comment specifically challenged the removal of the War Memorial under the guise of reinstatement of the old Cathedral if the plan is to place an ancillary building in that location and the future design of ancillary buildings is said to be "predictably contentious and requires full RMA process".
55. A comment was made that the mana of Christ Church Cathedral and the Citizens' War Memorial are closely linked, and each diminished if the War Memorial were to be relocated away from its setting beside the Cathedral. Its location is described as long established as a "sacred place". This submission concluded "in total, the spiritual, historic, aesthetic and public amenity values of the Citizens' War Memorial are embedded in its exact point of location: it cannot and must not go anywhere else".
56. CPT commented that it is unusual that a civic asset such as a War Memorial is privately owned and located on private land, and it should be on land owned by the Council and located on public land. They would offer the memorial as a gift to the CCC and that receipt requires consultation with the community. The CCC may initiate a public process to seek community preference for a new site for the War Memorial.

CPT asserts that it can be dismantled, transported, stored and reassembled, but with care, given compromise of the internal integrity of the War Memorial through rusting of the internal steel frame and dislodgement of stonework, and cracking. The war Memorial will require seismic strengthening. It once sat in a grassed setting but the road, the tram and other buildings have in a sense compromised its location.

57. The comment of HNZPT, is that from a heritage point of view the War Memorial can be moved and relocated to a suitable setting and there would need to be significant protection works if it were to remain where it is still with risk of damage. It would be inaccessible to the public until the Cathedral is no longer a construction site. Hence HNZPT does not oppose removing the Citizens' War Memorial.
58. Historic Places Canterbury commented that the War Memorial was designed with particular regard for geographical focus and would not operate as intended if relocated, and "... its 'unadorned rear façade' will be bought into unacceptable prominence".
59. The Christchurch RSA supported the reinstatement project and emphasised the importance of the War Memorial to service persons and their families, and the community. It considers protection of the War Memorial is best afforded by removal to safe storage, and that would be more efficient and cost-effective. It addressed future placement, not relevant in itself to this report. It considers the War Memorial's removal and placement into storage allows reinstatement to progress but allowing engagement and decision-making with the public as to its final location.
60. The Restore Christchurch Cathedral Group Incorporated supports restoration of the Cathedral but challenges any conclusion that requires removing the War Memorial from the Cathedral site because there was no impediment to restoration identifiable other than the broad statement that the War Memorial and trees reduced the safe and efficient working space around the Cathedral. The comment was made that if the War Memorial was to be removed to make way for new ancillary buildings that deviates from the primary objective of restoring the Cathedral and there would be a loss of public support for the restoration project.
61. A strong comment came as to what was said to be a shortcoming in the Proposed Order documents as there was "no tangible content in the proposal" as to "facts, quantities, calculations, measurements, dimensions, engineering, heritage or cultural, landscape or other verifiable data or expert opinion".

Christchurch City Council

62. The CCC made extensive comments which supported an Order in Council which provides for reinstatement as a controlled activity, with non-notification beyond specified parties being able to make written comments, and with no general right of appeal. It emphasised that the extraordinary power to recommend an Order in Council turns on it being necessary and desirable to achieve the purpose of the Act, not just reinstatement but also to recognise the heritage value of the Cathedral and the social and cultural wellbeing of Christchurch. That meant the order should be no broader than necessary. The Proposed Order would facilitate reinstatement as defined in the Act but does not adequately recognise the heritage value of the Cathedral, its setting and surrounds or the Citizens' War Memorial or the London Plane trees. For that reason, changes were suggested to the Proposed Order, set out at length, all of which have been considered by the Panel and reflected in Section F of this Report.
63. Reference to some of the comments to the Proposed Order in this way can be reflected further when considering the summary provided by the Associate Minister when the Draft Order was made available to the Panel.

The effect on the usual RMA processes under the Proposed Order

64. The Panel examined the differences between the District and Regional Plan process requirements for the resource consents likely to be required for the reinstatement work, and the Proposed Order, to comprehend the differences and the impact of such. It later undertook the same exercise for the Draft Order. The table below identifies these differences under the Proposed Order.

Proposed Reinstatement Work	District or Regional Plan Process Requirements	Key Implications with Proposed OIC Process
<p>Cathedral Building (reinstatement works)</p>	<ul style="list-style-type: none"> Majority, if not all, proposed reinstatement works - Controlled Activity Not to be limited or publicly notified Matters for conditions relate to the methodology, phasing, storage, photographic records, interpretative panels, etc 	<ul style="list-style-type: none"> Activity status the same Notification requirements the same Examples of matters stated for conditions appear more limited
<p>Existing Visitor Centre (part of heritage building complex listed as Christchurch Cathedral)</p>	<ul style="list-style-type: none"> Demolition (without restoration/ reconstruction) - Restricted Discretionary Activity Normal RMA notification requirements Matters for consideration include whether the engineering requirements and costs of retaining the Cathedral are unreasonable, whether there is a threat to life and/or property; and whether a resource consent process is underway for a replacement building at 100 Cathedral Square. 	<ul style="list-style-type: none"> Controlled Activity status (unable to be declined) No notification No relevant matters stated for conditions
<p>Citizens' War Memorial (relocation to outside Cathedral Square)</p>	<ul style="list-style-type: none"> Full Discretionary Activity Normal RMA notification requirements No limit on matters that can be considered 	<ul style="list-style-type: none"> Controlled Activity status (unable to be declined) No notification Matters stated for conditions are limited

¹ Based on Explanation Document 29 May 2020

Released by the ASRC Trustee for Greater Christchurch Regeneration

Proposed Reinstatement Work	District or Regional Plan Process Requirements	Key Implications with Proposed OIC Process
<p>London Plane Trees (major pruning/ felling)</p>	<ul style="list-style-type: none"> • Full Discretionary Activity • Normal RMA notification requirements • No limit on matters that can be considered 	<ul style="list-style-type: none"> • Controlled Activity status (unable to be declined) • No notification • Matters stated for conditions are limited
<p>London Plane Trees (works within a tree's dripline)</p>	<ul style="list-style-type: none"> • Restricted Discretionary Activity • Not to be limited or publicly notified • Extensive list of matters for consideration 	<ul style="list-style-type: none"> • Controlled Activity status (unable to be declined) • Notification requirements the same • Matters stated for conditions are not relevant
<p>New Buildings within Cathedral Square (as a Heritage Item itself and Heritage Setting for the Cathedral)</p>	<ul style="list-style-type: none"> • Restricted Discretionary Activity • Normal RMA notification requirements • Matters for consideration include compatibility with the heritage fabric, values and significance of the heritage item; design, detailing and location; impact on views and visibility from public places; relationship between elements, such as layout and orientation, form, and materials within the open space. The views of Heritage New Zealand Pouhere Taonga and Te Rūnanga o Ngāi Tahu and Papatipu Rūnanga are to be considered. 	<ul style="list-style-type: none"> • Controlled Activity status (unable to be declined) • No notification • Heritage New Zealand Pouhere Taonga and Te Rūnanga o Ngāi Tahu and Papatipu Rūnanga are listed as examples of specified parties invited to make written comments • No relevant matters stated for conditions

Released by the Associate Minister for Water Christchurch Regeneration

Proposed Reinstatement Work	District or Regional Plan Process Requirements	Key Implications with Proposed OIC Process
<p>New Buildings in Commercial Central City Business Zone</p>	<ul style="list-style-type: none"> Controlled (with urban design certification) or Restricted Discretionary Activity - Status not able to be clearly determined For a new building for a "spiritual facility" at 100 Cathedral Square - Normal RMA notification requirements For other buildings - most applications are not to be limited or publicly notified Matters for conditions (for controlled activities) or for consideration (for RDA) set out the required urban design provisions/ outcomes sought (specifically for "spiritual facility" at 100 Cathedral Square; and more generally for the CCCB Zone) 	<ul style="list-style-type: none"> Controlled activity status is likely to be the same For a new building for a "spiritual facility" at 100 Cathedral Square - no notification For other buildings - notification status likely to be the same No relevant matters stated for conditions
<p>Earthworks</p>	<ul style="list-style-type: none"> Restricted Discretionary Activity (as likely to exceed thresholds) May be limited, but not public, notification Extensive list of matters for consideration 	<ul style="list-style-type: none"> Controlled Activity status (unable to be declined) No ability for limited notification No relevant matters stated for conditions
<p>Works within Potentially Contaminated Land (National Environment Standard)</p>	<ul style="list-style-type: none"> No information, so requirements not known 	<ul style="list-style-type: none"> Not able to be determined
<p>Works within Flood Management Area</p>	<ul style="list-style-type: none"> No information, so requirements are not clear Potentially Restricted Discretionary Activity, if filling and excavation limited exceeded. Normal RMA notification requirements Comprehensive list of matters for consideration 	<ul style="list-style-type: none"> Controlled Activity status (unable to be declined) No notification No relevant matters stated for conditions

Released by [redacted] & Minister for Greater Christchurch Regeneration

Proposed Reinstatement Work	District or Regional Plan Process Requirements	Key Implications with Proposed Oic Process
Dewatering - Take and use of groundwater for dewatering during excavation / construction	<ul style="list-style-type: none"> Likely to be Restricted Discretionary Activity Normal RMA notification requirements Wide matters for consideration - actual or potential effects, including effects on Ngai Tahu values 	<ul style="list-style-type: none"> Controlled Activity status (unable to be declined) No notification No relevant matters stated for conditions
Dewatering - Discharge of water taken for dewatering during excavation/ construction	<ul style="list-style-type: none"> No information, so requirements are not clear May be Permitted Activity, or full Discretionary Activity if standards not able to be met Normal RMA notification requirements No limit on matters that can be considered if full Discretionary Activity 	<ul style="list-style-type: none"> Controlled Activity status (unable to be declined) - if not Permitted No notification No relevant matters stated for conditions
Discharge of Construction Stormwater - into land where contaminant may enter groundwater or surface water	<ul style="list-style-type: none"> No information, so requirements are not clear For groundwater - May be Permitted Activity or Restricted Discretionary Activity if standards not able to be met For surface water - May be Permitted Activity or full Discretionary Activity if standards not able to be met Normal RMA notification requirements Comprehensive list of matters that can be considered if RDA 	<ul style="list-style-type: none"> Controlled Activity status (unable to be declined) - if not Permitted No notification No relevant matters stated for conditions
Take and use of groundwater that depletes flow in Avon /6takaro River	<ul style="list-style-type: none"> Unlikely to be required Restricted Discretionary Activity, if standards are met Normal RMA notification requirements List of specific matters for consideration 	<ul style="list-style-type: none"> Controlled Activity status (unable to be declined) No notification No relevant matters stated for conditions
Discharge of Dust	<ul style="list-style-type: none"> Likely to be Permitted Activity, if standards are met 	<ul style="list-style-type: none"> OIC would not apply if Permitted Activity standards can be met

Released by the Society Against Greater Christchurch Regeneration

E. THE DRAFT ORDER IN COUNCIL AND DRAFT STATEMENT OF REASONS GIVEN BY THE ASSOCIATE MINISTER

65. The Associate Minister wrote to the Panel on 3 July 2020 with the Draft Christ Church Cathedral Reinstatement Order 2020 (Draft Order), the Draft Statement of Reasons (Draft Reasons) and a summary of written comments made on the Proposed Order.
66. After stating the principles which underpin the Act, and the role of the Draft Order, the Associate Minister recorded that she had had the opportunity to consider implementing the policy direction provided by the Act through an Order in Council.
67. Her letter repeated matters identified from the outset, such as delay, cost and uncertainty in the reinstatement process which would affect funding, and the speed and constraints of the usual resource consenting process. The Associate Minister asked the Panel to provide recommendations on the Draft Order bringing to account the Draft Reasons. Decisions would be taken after this Panel's review, any comment from the Regulations Review Committee, and consultation with the Minister for the Environment as Minister responsible for the administration of the RMA.

Summary of written comments

68. A summary of written comments received on the Proposed Order was provided and, as set out in Section D of this report, the Panel has read all comments in full. The Associate Minister's summary identified that the comments were largely from those who support the Draft Order in its entirety, and from those who were concerned about the inclusion of the Citizens' War Memorial and the London Plane trees within the scope of the Draft Order, with divergent opinions of local Returned and Services Associations, and heritage protection organisations on these matters.
69. Fifty three percent of those who made comment supported the Proposed Order, 43% were in opposition, and 5% partially supported the Proposed Order. The themes identified related to the Cathedral itself, the London Plane trees, the War Memorial, and "other matters". Such percentage analysis does not reflect the number of individuals who made comment under the banner of an interest group.
70. There was a desire expressed to see the Cathedral reinstated as soon as possible due to the importance of the Cathedral to the Anglican Church and to the City. Protection of the heritage of the Cathedral and surrounds as a significant icon of Christchurch, and the delays associated with the resource management process were seen as a concern. Public notification was considered necessary to ensure

transparency and there was strong opposition to modifying the usual statutory process.

71. There was concern expressed to protect the London Plane trees and the Cathedral as the trees are part of the City's heritage. There was comment that there must be a way to restore the Cathedral without removing the trees, although perhaps at more cost. For their "history, beauty, security, shade, shelter for birdlife", the comment was made that the trees must stay as essential for the future of the Cathedral and the Square.
72. As to the War Memorial, comment was made that it should be embedded in its exact present location, as its significant heritage value includes its location, and it should be a priority over any new building outside the original Cathedral footprint. Other comments were that the War Memorial should be removed and positioned as the Christchurch RSA wishes.
73. There were out of scope comments which went to an entirely different outcome than the reinstatement contemplated.

Changes from Proposed Order to Draft Order

74. It is apparent through the wording of the Draft Order that all activities within the definition of reinstatement in the Act are to be considered as controlled activities, to be processed without notification.
75. Considerably more relevant matters of control have been included in the Draft Order for each aspect of reinstatement activities, many of which have been taken from the District Plan. Some relevant matters of control have not been included (including some contained in the District Plan). These changes reflect the importance of protection of the heritage values of the Cathedral, and the importance of the War Memorial and the London Plane trees.
76. New inclusions relate to urban design, to ensure the reinstated Cathedral has regard to the urban form, cultural elements and the heritage setting of the City's centre. There is no limitation on the Cathedral's reinstatement falling within its present footprint because the Act is not limited in this way, and CCRL have relied on this relative freedom in developing the agreed concept design.
77. The specified parties who can comment on the resource consent application now are extended to include "*any other person the consent authority considers appropriate*". This could include interested bodies otherwise excluded.

78. While concerns about loss of heritage associated in particular with removal of the War Memorial and possible removal of any of the London Plane trees were clearly made out, the Associate Minister said that this needed to be balanced with the benefits of the reinstated Cathedral's contribution to cultural, social and economic wellbeing in Christchurch, its importance to Christchurch's regeneration, and its heritage value to the community.
79. Pre-requisite conditions have been included in the Draft Order for the Citizens' War Memorial and the London Plane trees, to ensure they are only removed if necessary. However, there are problems with the drafting of this clause and the associated certification process.

Draft Statement of Reasons

80. The Draft Reasons track the history of the reinstatement debate and legislation, in much the same way as the document which explained the Proposed Order.
81. The Draft Reasons record that the Draft Order defines reinstatement in the same way as the Act, and the Cathedral' has the same meaning as in the Act to include the Cathedral building and all ancillary structures and improvements, existing or new, approximate to or directly associated with, the Cathedral. The Draft Reasons state why the Associate Minister is satisfied that the purpose of the Act is met and why it is appropriate to recommend the making of the order.
82. The Associate Minister's reasons for recommending the Draft Order are that modifications to the RMA are necessary and/or desirable for the purposes of the Act, in order to facilitate the reinstatement of the Cathedral in a way that is efficient, cost-effective and certain. The Associate Minister considers that the approach taken by the Draft Order is appropriate, with controls that will manage or mitigate certain effects of reinstatement, without impeding delivery of the purpose of the Act.
83. The "general reasons" for the Draft Order include the likelihood of delays, increased costs and uncertainty for the project. Delays of between six months and two years are considered likely, with increased costs of some \$300,000 for every month of delay, without a certain outcome because of the possibility of consent being declined, and appeals. That would require redesign of aspects of the Cathedral with resultant professional costs, and a detrimental impact on fundraising because the full concept design would not be understood.

84. Of import and discussed further, the Draft Reasons state that "CCRL does not wish to release the concept design to the public without having certainty of resource consent first".
85. Clause 3 of the Draft Order provides for revocation of the order at 31 December 2032, to allow monitoring and enforcement across the lifespan of the project. Controlled activity status will modify the *existing* activity status to meet the purpose of the Act allowing conditions which address specified matters only. A permitted activity approach would not allow appropriate controls.
86. Clause 7 places conditions on the possible removal of the London Plane trees and the War Memorial. The removal of the War Memorial is a controlled activity only if in accordance with the Heritage Management Plan and certification from an engineer that removal is necessary. A London Plane tree may only be affected, damaged or removed in accordance with the Tree Management Plan and only if necessary as certified by an engineer. These controls are said to be necessary and desirable to recognise the importance of the War Memorial and the Plane trees, allowing removal only if that is *necessary* to provide for a more cost-effective, certain and timely reinstatement.
87. The matters for control set out in clauses 8-13 are specified because the RMA planning documents would not apply. The controls have been developed to include the identifiable and key potential effects of reinstatement activities involving (a) heritage upgrade works, deconstruction, reconstruction, and restoration, (b) alterations, new buildings and signs (c) urban design, (d) construction (e) effect on the War Memorial, and (f) effect on the London Plane trees.
88. The controls would allow conditions to be imposed with wider environmental effects on the surrounding area, and as an appropriate check and balance on reinstatement. The matters of control are limited to activities or matters for which the imposition of conditions will not impede the timeliness, cost-effectiveness or certainty of reinstatement. This is said to be necessary and/or desirable because other conditionality, for example limiting reinstatement within the footprint of the existing Cathedral, is thought to introduce significant uncertainty for the project, causing delays or significantly increasing costs.
89. There would be an exemption from the requirement to have regard to planning documents referred to in ss 104, 104A, 105, 108 and 108AA of the RMA, as that removes potential conflict between those documents and the *requirement* to grant resource consent.

90. Clauses 8-13 of the Draft Order are said to provide appropriate regulatory oversight on reserved matters of control. Only some sections of the RMA would be modified or disapplied.
91. Public notification *would likely be required* for some of the consents sought in the ordinary or usual way given the special circumstances surrounding the Cathedral and the high public interest in its reinstatement, with effects likely deemed more than minor. Publicly notified applications would likely cause delays to the project of six months and up to two years if there are appeals, and the project could potentially *stop* after the site is established and stabilized with a consequential increase in cost of hundreds of thousands of dollars for every month of delay, and without a certain outcome given that the consent authority may decline the resource consent and there may be appeals.
92. If resource consent is obtained by the end of 2020, then contractors and materials needed to begin the work of reinstatement will be able to be secured, and the work can overlap the stabilization and reinstatement phases of the project.
93. The limited notification processes under the Draft Order are said to be necessary and desirable. The consent authority *must* notify certain persons and invite comments and there is an alternative process provided under clauses 16, 17 and 19. The timeframe for comment is at least 10 working days, within a 40 working day time limit to process an application. The list of specified parties is few in number but the consent authority may consider it appropriate to invite others to make comment. A summary of the comments received must be considered by the consent authority and included in notification of the consent decision to the applicant and those invited to make comment.
94. It is said to be necessary or desirable that those who choose to make comment cannot appeal the resource consent conditions to avoid delays, and provide optimal timeliness and certainty. Only the applicant for consent may appeal, and then only as to conditions imposed. Section 114 of the RMA would be modified as to notification, replacing ss 95-103B of the RMA.
95. The timeframe for processing the application within 40 days is considered necessary and desirable as an adequate but finite amount of time. Such time cannot be extended except with the agreement of the applicant.
96. Enforcement proceedings under Part 12 RMA may be taken only by the consent authority.

F. DELIBERATION BY THE PANEL

Summary of Section F

97. The Panel understands the need for a consent process which allows the reinstatement project certainty of consents, and iterations of work which progress systematically. Reinstatement cannot be frustrated by delays which are endemic in the RMA consenting process.
98. The reinstatement of the Cathedral is a project of local and national significance and of undoubted complexity. Indeed, that complexity is emphasised by the fact that much of what will have to be done or chosen to be done in the course of reinstatement is yet to be determined, as work progresses and more is known. While there is an intention to reinstate, and agreement as to how this *might* be funded, the reason behind the draft Order in Council, that funding have the backing of a sound procurement model, is compelling.
99. The Panel members have relevant experience in their different ways and accept without reservation that the reinstatement project could not proceed without a process *of the kind* proposed by the Draft Order. In that sense the Draft Order is necessary or desirable in concept but only so far as its provisions meet the purpose of the Act.
100. The Associate Minister and CCRL clearly understand the significance of normal RMA processes being put aside. The extent of the cut-out, or limitation on what would otherwise be the right of the public to participate in a consenting process and the consent authorities decision making powers, is illustrated by the fact that there is no working concept plan available to the public or other parties. Comments were invited in relation to the Proposed Order without such plan but there is no such engagement in connection with the Draft Order. That is one reason why the Panel's role is expressly said to be significant as an important check and balance on the exercise of such powers.
101. Whether the *public* get any further opportunity to comment on the project as it evolves depends on the consent authorities, in particular the CCC, and whether in its discretion it allows *comment* during the consenting process to be received from parties other than those nominated in the Draft Order. Even if they do, and there is a strong case for that where it will not impede the timelines under the Draft Order, there is no *hearing*, no right of appeal, and the resource consent granted is certain, subject to conditions imposed as a controlled activity within the bounds of the Order in Council.

102. That is why the Panel has looked very closely at the way in which this uncharted process may evolve, with undoubted twists and turns in connection with nearly all parts of the reinstatement project. The Cathedral building itself will be subject to significant intervention and analysis in determining what of the heritage fabric can be retained and what must be replaced, and with what. The extent of foundation work required as the ground is broken and subsurface and structural examination is undertaken could lead to very different results. Works beyond the present footprint of the existing Cathedral building will likely be required.
103. The comments in response to the Proposed Order lay particular emphasis on the Citizens' War Memorial and the three London Plane trees. The Panel regards these as of considerable moment. It is clear that there are those who strongly favour retention of the War Memorial on its present site, and that to some it is *its site* and a sacred site. However there are others, including the Christchurch RSA who support removal of the War Memorial, while protecting it, to be placed elsewhere when a suitable site is found, whether that be undertaken according to a public process or otherwise, perhaps another Order in Council.
104. The fate of the War Memorial and the trees will turn on factors not yet known, including choices which CCRL may make as to the location of buildings, their size and orientation. The Panel was shown, in confidence, a concept design which makes this point clear.
105. The London Plane trees may, by virtue of their location, age, condition and spread, require arboreal intervention or at worst removal. CCRL expresses strongly an intention to keep the trees *if that can be achieved*. That may not be possible, but the Panel endorses any undertaking of CCRL to enable such resolution. If the trees or any of them are viably to be retained then, as discussed above, the placement of other accessory buildings, not yet fixed in location, scale and dimension, could well determine their fate and in particular the tree in the south west corner of the Cathedral building. This appears to be the oldest London Plane tree, possibly planted at consecration in 1884. The decision to place accessory buildings in a position that seals the fate of that tree should be one that CCRL avoids unless there is really no other option.
106. These matters have been addressed in the explanation for the amendments to the Draft Order which the Panel recommends, as they appear in the Appendix.

Explanation for recommended amendments to Draft Order in Council

107. All amendments recommended in this section are shown in the Appendix.

Limits on "Reinstatement Activities" for the purpose of Christ Church Cathedral Reinstatement Order 2020

108. The Draft Order uses the term reinstatement as it is defined in the Act. Through out, the term "reinstatement activities" is used to prescribe the activities for which controlled activity resource consents can be sought, for which there is to be no public, or otherwise limited notification, and consent must be granted.
109. Reinstatement is defined broadly and includes: demolition of any part of the Cathedral; the construction, improvement or enhancement of any part of the Cathedral; the design of any part of the Cathedral; and the use of any new materials.
110. The Explanation Document and Draft Reasons record that a concept design for the reinstatement of the Cathedral has been developed and that, for most people, the exterior of the Cathedral will look much the same as it did pre-earthquake, retaining many of its heritage features and, where practical, original materials. The Panel understands the work will involve demolition of parts of the existing Cathedral and that some new materials and new design will be required. However, the Panel was at first concerned that the explanatory material does not give the public any indication that this order could also, on one reading, enable a resource consent application, as a controlled activity (without notification and which must be granted), for the full demolition of the Cathedral and its complete replacement with a new Cathedral building with a new design. However, in the Panel's view, while the scope of reinstatement works is not limited by degree, it is limited by necessary inference. The reinstatement project is just that. The Panel considers the theoretical possibility it identifies is more appropriately the subject of a future order, with full explanation as to why it is necessary and desirable.
111. Therefore, the Panel agrees with the comments from the CCC that any application with controlled activity status under the order should not apply to all activities under the Act's definition of reinstatement and, for the purposes of this order, should be limited to activity consistent with the current reinstatement intent of the applicant. The Panel does not consider there are reasons which make it necessary or desirable to extend the application of this order beyond what is currently intended by CCRL and reasonably understood by those who make comment, or may have done.

Pre-requisite requirements for controlled activity status for removal of the Citizens' War Memorial and the London Plane trees

112. The Panel welcomes the inclusion of the pre-requisite conditions in clause 7(2)(a) and (b). It agrees with the comments from the CCC that such conditions are necessary and desirable to ensure that removal of the War Memorial and the London Plane trees is only enabled *where necessary to achieve reinstatement of the Cathedral* and, in the case of the trees, where other alternatives which do not involve tree removal have been fully considered.
113. However, the Panel has concerns about the drafting of Clause 7, in particular subclause (2). Subclause (1) deems reinstatement activities associated with any application to be controlled activities for the purpose of section 87A(2) of the RMA. Subclause (2) provides that any resource consent granted by a consent authority is subject to two conditions. The conditions relate to the potential removal of the War Memorial and affecting, damaging or removing a significant tree. The conditions provide two similar but different methodologies for certification to justify the removal of the War Memorial or the damage to or removal of a significant tree.
114. The Panel's first concern relates to the use of these conditions in the context of a consent that *must* be granted as a controlled activity. It is not clear whether subclause (2) provides that any resource consent granted must be expressly subject to the two conditions, or whether they are conditions precedent that must be satisfied before the consent is granted.
115. From an RMA perspective conditions are ultra vires if they serve to nullify or frustrate the consent granted, which would potentially be the case where the War Memorial and/or a London Plane tree is affected.
116. In the Panel's view the preferred approach, in order to make the subclause sufficiently clear and certain, would be to provide that, where relevant, the conditions must be satisfied in order for an application to be considered as a controlled activity by the consent authority. This will also make the processing of any application more efficient and avoid the possibility of conditions that purport to frustrate or nullify the consent granted.
117. The Panel also has some concerns regarding clause 7 that relate to the clarity and consistency of its wording, and the nature of the certification requirements.
118. To improve the clarity of subclause 7(2)(a), its consistency with the wording of clause 8, and better achieve the purpose of the Act, the Panel considers the term used to

refer to a heritage management professional should be consistent throughout the order. The expression "*suitably qualified heritage professional and/or conservation architect*" is used in clause 8 and is also the term used in the Explanation Document for the Proposed Order (page 15).

119. The Panel understands from the Explanation Document (page 17) that removal of the War Memorial is implicit in the scope of the reinstatement project. There is strong protest referred to above. Accordingly, the Panel accepts that the certification in subclause 7(2)(a)(i), as to whether the removal of the War Memorial is necessary to achieve the proposed reinstatement is a decision for an engineer and it is not necessary or expedient for this certification to also involve a heritage management professional.
120. With respect to the Heritage Management Plan for removal of the War Memorial, the Panel considers this ought to require input from an engineer regarding the methodology for deconstruction/removal/temporary protection (including ensuring that the removal does not destabilise the Cathedral itself). The Panel recommends that input from an engineer be added to subclause 7(2)(a)(i) (renumbered in the Appendix as subclause 7(2)(a)).
121. In the case of the removal of the London Plane trees, the Explanation Document (pages 18-19) states that a tree or trees will only be removed if it is necessary to reinstate the Cathedral; best endeavours to retain the trees are intended; every avenue to retain the trees will be pursued; and the trees will only be removed if there is no workable way to reinstate the Cathedral without doing so. In particular, the Explanation Document states that any decision to remove a tree or trees will only be taken on the basis of a proper investigation and a full options analysis as part of the resource consent process.
122. The Panel is concerned that the provisions of the Draft Order do not reflect the stated intention to ensure a proper investigation and full options analysis is undertaken. The Panel considers this approach should be expressly required as an integral part of the certification, including the reasons that certification is able to be provided. It recommends wording to this effect for subclause 7(2)(ii) (renumbered in the attached Appendix as subclause 7(3)(b)).
123. The Panel considers such an investigation and options analysis would need to be informed by the expertise of a qualified and experienced arborist, in addition to that of an engineer. An arborist would be necessary to explore workable options to retain the trees, and to assess whether or not particular options are likely to damage or

cause unsurvivable harm to the trees. The Panel considers it is necessary and desirable to include a technical arborist in the certification process and to expressly require full consideration of all workable options to retain the trees.

124. The certification and management plan process provided by Clause 7 is a crucial aspect of the controlled activity status of any relevant application processed under the Draft Order. It will ensure the War Memorial and the Plane trees are only removed where necessary and, in the case of the trees, all options to retain them have been fully considered. For transparency and integrity of the certification process, the Panel recommends a requirement that the experts providing certification under clause 7 be independent of the reinstatement project.

Additional Matters of Control

125. The Panel welcomes inclusion in the Draft Order of many of the matters of control sought in the comments from the CCC. The Panel notes that the Explanation Document for the Proposed Order referred to treating all restricted discretionary and discretionary activities, relating to reinstatement of the Cathedral under the District Plan, as controlled activities. The Panel agrees in principle with the comments from the CCC which sought the inclusion of additional matters of control currently included in the District Plan.

126. The Panel is concerned that clause 9 of the Draft Order includes only limited heritage-related matters of control for reinstatement activities involving alterations to the Cathedral or new buildings. These are included in clause 8 for heritage upgrade works, deconstruction, reconstruction and restoration of the Cathedral, but only in a more limited manner in clause 9 for new works. Under the District Plan, heritage-related matters of discretion or control are included as consent requirements for alterations to the Cathedral as a heritage building; for new buildings within the heritage setting of the Cathedral itself; and within Cathedral Square as an open space heritage place.

127. Matters of control required by the District Plan have not been included in the Draft Order which would enable consent conditions to manage the effects of alterations and new buildings on these heritage items / settings. The Planning Memorandum attached to the written comments from the CCC includes proposed matters of control for alterations and new buildings adapted from those in the District Plan. The Panel does not consider all these matters need to be incorporated into clause 9 of the Draft Order. However, it has recommended some additional heritage-related matters of control, including recognition of Cathedral Square as an open space heritage item,

and management of temporary or permanent effects on heritage fabric, layout, form or heritage values.

128. The Panel notes that there is no matter of control that addresses the relationship between alterations or new buildings and significant trees. Alterations to the east end of the Cathedral and any new building to the south of the Cathedral have the potential to affect the significant trees and their relationship to the heritage items and setting. Conditions may need to be imposed to manage those effects, and the Panel recommends the inclusion of a reference to significant trees in clause 12.
129. A requirement for a heritage management plan (to address potential damage from removal and repair strategies) is included in the pre-requisite conditions for consent for the removal of the War Memorial in clause 7(2)(a)(i). However, the Panel notes that this is not referred to in the matters for control for the War Memorial in clause 12. The Panel is concerned that, having reviewed the applicant's heritage management plan, the CCC would not be able to impose conditions to, add to, or amend, the management strategies, if necessary. The ability to impose conditions relating to the tree management plan (required by clause 7(2)(b)(i)) is included in clause 13(b), but a similar matter is not included in clause 12 for the War Memorial.
130. The Panel does not consider the Associate Minister has provided sufficient reasoning that it is necessary or desirable to exclude consideration of these matters for any relevant controlled activity application.
131. The Panel also notes an additional matter of control for reinstatement activities relating to construction in clause 11. Although there is a general matter of control in clause 11(e), referring to "*the management of the effects of construction*", this is followed by a list of particular construction-related matters which are commonly the subject of conditions on construction consents. The Panel notes there is no specific reference to effects of construction traffic on other traffic, cyclists and pedestrians. The Panel considers an addition to this effect in clause 11(e) would improve the clarity of this clause and better achieve the purpose of the Act.

Matter of Control relating to establishment and input from Liaison Group/s

132. The Draft Order has a long timeframe, and there will to be changes as to what is workable and viable for reinstatement as more information becomes available over time, and there is likely to be a need for ongoing resource consents. The Panel considers it would be desirable and better achieve the purpose of the Act if the matters of control enabled consent conditions to be imposed, where necessary, to

facilitate input from, and communication with, appropriate parties such as local and central government organisations, manawhenua, community or other specialist groups, and adjacent owners and occupiers.

133. Provision for a reinstatement liaison group would be consistent with the requirements for such a group as part of the consent conditions for the reinstatement of coastal infrastructure under the Hurunui/Kaikōura Earthquakes Recovery (Coastal Route and Other Matters) Order 2016. The Panel understands the Restoration Liaison Group under that order was important for communication and transparency regarding the complex matters associated with that infrastructure reinstatement, and provided valuable input to the ongoing construction phases.
134. The Panel recommends that the matters of control for reinstatement activities enable consent conditions which could require, as appropriate, the establishment of a reinstatement liaison group, including the persons listed in subclause 17(2)(a)–(d), to help inform the management and communication of reinstatement activities.

Timeframe for written comments

135. The Panel considers that 10 working days is insufficient for persons to provide written comments on an application, particularly as professional advice may be sought. The normal timeframe for submissions on a notified resource consent application is 20 working days. The Panel has taken a practical approach and recommends 15 working days for written comments.

Other Matters

136. In the Appendix, the Panel has made other minor changes it considers necessary to improve the clarity and certainty of the Draft Order as follows:
- a. Clauses 8, 9, 10, 11, 12, 13, – the term “relevant” has been added to the stem of these clauses as it is unlikely that the matters of control will be relevant for applications to the Canterbury Regional Council. An alternative would be to add to the beginning of each stem “Where relevant...”.
 - b. Clause 8 – Subclause (a) has been amended to delete the term “application” which is a defined term and replaced with “implementation” to make sense of the subclause. Subclause (d) has been amended to add the term “appropriately” in the context of protecting the Cathedral during heritage upgrade works. Absolute protection is simply not possible during upgrade

works and restoration so the Panel considers the amendment is necessary to qualify the level of protection that is practically possible.

- c. Clause 10 – Subclause (h) has been amended to delete the reference to the “Square” and replace it with the defined term “Cathedral Area” to make the subclause more certain.
- d. Clauses 14 and 15 (clauses 15 and 16 in the Appendix) - The Panel considers that these sections and subsections are not in a logical order from a resource consent processing perspective. Following the drafting rule that general provisions should go before specific provisions, Clause 15(1) should be first as this relates to the overall processing and determination of any application. Clause 15(2) should follow as this relates to the notification component of processing and finally Clause 14 which relates to the “nuts and bolts” of the decision making process for any application.
- e. Clause 16 (Clause 17 in the Appendix) – The Panel considers that subclause (1) could be improved to provide a requirement for the consent authority to include advice for invitees as to where an application can be viewed or to provide a link to an electronic copy of an application. Invitees will have very limited time to make comments so getting access to an application should be made clear and speedy.

Conclusion

- 137. The Panel accepts that the concept of the Draft Order is necessary or desirable, and meets the purpose of the Act, without which order the reinstatement project would likely falter. The extent to which the consent process is so limited means the matters of control must be as clear and comprehensive as possible. CCRL has expressed an intent, if it can, to spare the London Plane trees, and while there are reasons given to remove and later reinstate the Citizens’ War Memorial the Panel expects CCRL will reflect on the heartfelt comments received. In the course of the project, decisions about location and scale of accessory buildings will be made which will reflect sentiments expressed about the trees and the War Memorial.
- 138. The reason the Panel considers the Draft Order, amended as recommended, meets the purpose of the Act is that it allows certainty and for timely consent to be obtained, while retaining control mechanisms and professional oversight of effects on heritage. CCRL has a broad canvas on which to work but its detailed decisions will turn on much not yet known. Given the many uncertainties of reinstatement, the Draft Order

with the suggested amendments is necessary and/or desirable. In the Panel's view it meets the statutory purposes otherwise particularised under the Act.

DATED at *Christchurch* this *24th* day of *July* 2020

Nicholas Davidson

The Honourable Nicholas Davidson QC
Convener
Christ Church Cathedral Reinstatement Review Panel

Released by the Associate Minister for Greater Christchurch Regeneration

APPENDIX

PCO 22936/1.7
Drafted by Parliamentary Counsel

IN CONFIDENCE

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Christ Church Cathedral Reinstatement Order 2020

Governor-General

Order in Council

At Wellington this day of 2020

Present:
in Council

This order is made under section 8 of the Christ Church Cathedral Reinstatement Act 2017—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Greater Christchurch Regeneration made in accordance with sections 9 and 10 of that Act.

Contents

	Page
1 Title	2
2 Commencement	2
3 Revocation	2
4 Interpretation	2
5 Application	2
6 Power to extend time limits	3
7 Classification of reinstatement activities under the RMA	3
8 Reinstatement activities involving heritage upgrade works, deconstruction, reconstruction, and restoration	4
9 Reinstatement activities involving alterations, new buildings, and signs	4
10 Reinstatement activities relating to urban design	5
11 Reinstatement activities relating to construction	5
12 Reinstatement activities affecting Citizens' War Memorial	6

13	Reinstatement activities affecting significant trees	6
14	Conditions: modification of RMA	7
15	Applications to be determined on non-notified basis	7
16	Consent authority must notify certain persons and invite comments	7
17	Summary of responses	8
18	Time limit for notification of decision	8
19	Period for making written comments included in time limit	9
20	Enforcement proceedings	9

Order

1 Title

This order is the Christ Church Cathedral Reinstatement Order 2020.

2 Commencement

This order comes into force on 5 October 2020.

3 Revocation

This order is revoked on the close of 21 December 2032.

4 Interpretation

(1) In this order, unless the context otherwise requires,—

RMA means the Resource Management Act 1991

applicant means Christ Church Cathedral Reinstatement Limited (or any other joint venture or entity that is managing the reinstatement of the Cathedral)

application has the meaning given in **clause 5**

Citizens' War Memorial means the heritage item identified as heritage item number 107 in the Christchurch District Plan

consent authority means the Christchurch City Council or the Canterbury Regional Council, or both, as the case may require

significant tree means one of the 3 London plane (*Platanus x acerifolia*) trees identified in the Christchurch District Plan by the tree identification numbers T54, T55, and T56.

(2) Terms used without definition in this order that are defined—

(a) in the RMA have the same meaning as in that Act; and

(b) in the Christ Church Cathedral Reinstatement Act 2017 have the same meaning as in that Act.

5 Application

(1) This order applies only to an application lodged by the applicant with—

- (a) the Christchurch City Council;
 - (b) the Canterbury Regional Council.
- (2) The **applications** to which this order applies are applications made under—
- (a) section 88 of the RMA for resource consents to undertake reinstatement of the Cathedral, other than for a resource consent to undertake demolition of any part of the Cathedral where the application for demolition is not made in conjunction with an application for restoration and/or reconstruction (as defined in the Christchurch District Plan); or
 - (b) section 127 of the RMA to change or cancel any conditions of a resource consent referred to in **paragraph (a)**.

6 Power to extend time limits

A consent authority must not extend a time period under section 37(1)(a) of the RMA in relation to an application unless the applicant agrees to the extension.

7 Classification of reinstatement activities under the RMA

- (1) Reinstatement activities for which an application is made are controlled activities for the purposes of section 87A(2) of the RMA except as provided by subclauses (2) and (3).
- (2) Any application to remove the Citizens' War Memorial shall only be a controlled activity if a consent granted by a consent authority for a reinstatement activity in reliance on this order is subject to the following conditions—
 - (a) ~~the Citizens' War Memorial may only be removed—~~
 - (i)(a) in accordance with a heritage management plan prepared by a suitably qualified heritage management professional and/or conservation architect, with input from a suitably qualified and experienced engineer, that identifies in advance potential damage from removal and strategies for repairing it is provided; and
 - (ii)(b) if a suitably qualified and experienced professional engineer (who is independent of the reinstatement project) certifies that removal is necessary in order to achieve the applicant's proposed reinstatement of the Cathedral; and
 - (b)(3) Any application to affect, damage, or remove a significant tree may only be affected, damaged, or removed shall only be a controlled activity if—
 - (i)(a) in accordance with a tree management plan prepared by a technician arborist is provided; and
 - (ii)(b) if a certificate from a suitably qualified and experienced professional engineer and technician arborist (both of whom are independent of the reinstatement project), having had regard to the tree management plan and having considered all workable options to retain or protect the significant tree, together certify with reasons, that no other reasonably workable options are available and certifies removal (or other effect) is necessary in order to achieve the applicant's proposed reinstatement of the Christ Church Cathedral.
- (4) For the purposes of section 87A(2)(b), the consent authority's power to impose conditions on the resource consent is restricted to the matters over which control is reserved in **clauses 8 to 13**.

~~(6)~~(5) Section 87A(2)(c) does not apply in relation to a consent granted in reliance on this order.

Released by the Associate Minister for Greater Christchurch Regeneration

8 Reinstatement activities involving heritage upgrade works, deconstruction, reconstruction, and restoration

The relevant consent authority's control is reserved in relation to the following matters involving heritage upgrade works, deconstruction, reconstruction, and restoration:

- (a) the oversight of a suitably qualified heritage professional or conservation architect, and the application-implementation of heritage advice; and
- (b) the form and provision of information and interpretation material identifying the history and significance of the Cathedral; and
- (c) the materials and methodologies to be used to maintain heritage values (including integration with, and connection to, other parts of the Cathedral)
- (d) the methodologies to be used to appropriately protect the Cathedral during heritage upgrade works, reconstruction and restoration, such as (temporary protection plans); and
- (e) the documentation of change during the work and after completion (for example, by photographic recording); and
- (f) the methodology for any deconstruction (including the phasing of the works) and—
 - (i) how any heritage fabric is to be retained;
 - (ii) how any heritage fabric retained for re-use is to be stored.

9 Reinstatement activities involving alterations, new buildings, and signs

The relevant consent authority's control is reserved in relation to the following matters involving alterations, new buildings, and signs:

- (a) meeting the requirements of the Building Act 2004 and Building Code; and
- (b) the methods for mitigating impacts on views to or from the Cathedral that may reduce their visibility from public places; and
- ~~(c)~~ the relationship between elements ~~(such as the orientation)~~ and materials ~~(such as the orientation)~~ within the heritage item (including the open space heritage item) and the heritage setting, and with the significant tree(s); and
- ~~(d)~~ management of any temporary or permanent adverse effect on heritage fabric, layout, form or heritage values and the scale of that effect, and any positive effects on heritage fabric, layout, form or values; and
- ~~(e)~~(e) any signage on heritage items or in heritage settings; and
- ~~(d)~~(f) the design, detailing, and location of any sign (including its supporting structure and methods of attachment to a heritage item) and the sign's compatibility with the architectural form, features, fabric, and heritage values of the heritage item or heritage setting; and
- ~~(e)~~(g) the appropriateness of any moving or flashing sign and its potential detracting from the heritage values of the heritage item or heritage setting; and
- ~~(f)~~(h) the duration of temporary or permanent signs.

10 Reinstatement activities relating to urban design

The consent authority's control is reserved in relation to the following matters of urban design:

- (a) the Cathedral functioning successfully as a spiritual facility and as a place for ministry (where relevant); and
- (b) recognition and reinforcement of the context of the site (having regard to the city centre's identified urban form, cultural elements, and the heritage setting); and
- (c) engagement with the surrounding space (including publicly accessible spaces) through—
 - (i) interaction with activities within the Cathedral (where appropriate); and
 - (ii) safety in building design; and
 - (iii) visual interest; and
- (d) contribution to the attractiveness of the wider setting; and
- (e) high quality in architectural design, and in the display of architectural features, spaces, or materials that draw on the values and heritage of the site; and
- (f) design to minimise any effects of—
 - (i) equipment on the exterior of the building; or
 - (ii) the storage of materials; and
- (g) provision of a focal point and landmark for Christchurch that contributes to the city's sense of identity;
- (h) recognition and contribution to the role of the SsquareCathedral area as a gathering place and support for the interaction between the Cathedral and the square-Cathedral area (with regard to the form and exterior of the building) while retaining—
 - (i) a visual connection along Worcester Boulevard to the Canterbury museum (and reflecting the Canterbury Association's plans for the Canterbury Settlement); and
 - (ii) legibility of the design and form of the Cathedral Square-area as a Maltese cross (and maintaining views through the square on the north south axis).

11 Reinstatement activities relating to construction

The relevant consent authority's control is reserved in relation to the following matters of construction:

- (a) the management of the effects from natural hazards (including seismicity) on the structural integrity of building work; and
- (b) the management of the effects of earthworks; and

- (c) the methods for managing earthworks that encounter contaminated land; and
- (d) the methodology to implement base isolation and management of the effects of dewatering; and
- (e) the management of the effects of construction work, stormwater, hazardous substances (including biohazards), [traffic \(including effects on cyclists and pedestrians\)](#), artificial lighting, dust, noise, and vibration.

12 Reinstatement activities affecting Citizens' War Memorial

The [relevant](#) consent authority's control is reserved in relation to the following matters affecting the Citizens' War Memorial:

- (a) documenting and recording the removal of the Citizens' War Memorial; and
- (b) the storage location and form (including the methods of protection of the Citizens' War Memorial); and
- [\(c\) the management and provision of public information about the Citizens' War Memorial; and](#)
- [\(d\) the heritage management plan referred to in clause 7\(2\)\(a\) including:](#)
 - [\(i\) measures to protect the Citizen's War Memorial and prevent potential damage during removal and/or storage; and](#)
 - [\(ii\) strategies to repair any damage during removal and/or storage; and](#)
 - [\(iii\) oversight of removal and storage by a suitably qualified heritage professional or conservation architect; and](#)
 - [\(iv\) adoption of internationally accepted standards, practices and procedures for the removal and storage of heritage items.](#)

13 Reinstatement activities affecting significant trees

The [relevant](#) consent authority's control is reserved in relation to the following matters affecting a significant tree:

- (a) the management of the effects of any removal of a significant tree (or other effect on a significant tree such as trimming or pruning) on—
 - (i) heritage, botanical, environmental, amenity, and cultural values; and
 - (ii) landscape and visual amenities; and
 - (iii) surrounding properties and infrastructure; and
- (b) the tree management plan referred to in **clause 7(2)(b)** including—
 - (i) measures to prevent risk to people and prevent or reduce risk to buildings, property, and infrastructure; and
 - (ii) mitigation for the loss of a significant tree (including time frames for any replanting, site restoration, or landscaping); and
 - (iii) adoption of internationally accepted arboricultural standards, practices, and procedures; and
- (c) the management of the effects of any tree removal construction works, stormwater, hazardous substances (including biohazards), lighting, dust,

- noise, and vibration; and
- (d) the monitoring of the effects of any removal of a significant tree (both during and after removal); and

Released by the Associate Minister for Greater Christchurch Regeneration

- (e) in relation to pruning of a significant tree or any work within a significant tree's drip lines—
 - (i) the provision of a tree maintenance and management plan (prepared by a technician arborist) to protect the tree's health, structural integrity, amenity values, and visual appearance; and
 - (ii) mitigation measures to protect other parts of the tree (or to protect another significant tree); and
 - (iii) monitoring of the effects of any pruning on the tree or on any other significant tree.

14 Any reinstatement activity

The relevant consent authority's control is reserved in relation to the following matters affecting any reinstatement activity:

- (a) the establishment of a reinstatement liaison group, which shall include (at least) the persons listed in subclause 17(2)(a)–(d), to help inform the management and communication of reinstatement activities.

1415 Conditions: modification of RMA

Clauses 7 to 13 modifies sections 104, 104A, 105, 108, and 108AA of the RMA as follows:

- (a) section 104(3)(c) and (d) and (6) are disapplied;
- (b) section 104A(b) is replaced by—
 - (i) **clause 7(2)** (imposing conditions on a resource consent granted in reliance on this order); and
 - (ii) **clause 7(3) and clauses 8 to 13** (allowing the consent authority to impose conditions on a resource consent granted in reliance on this order):
- (c) section 105(1) is disapplied;
- (d) section 108 is disapplied;
- (e) section 108AA is disapplied.

1516 Applications to be determined on non-notified basis

- (1) Applications must be determined in accordance with Part 6 of the RMA unless otherwise specified by this order.
- (2) Applications—
 - (a) must not be publicly notified or given limited notification; but
 - (b) must be notified to the specified persons listed in **clause 16** and considered in accordance with that clause.
- (3) This clause and **clauses 16 and 17** replace sections 95 to 103B of the RMA.

1617 Consent authority must notify certain persons and invite comments

- (1) As soon as practicable after an application is lodged, the consent authority must—
 - (a) notify the persons specified in **subclause (2)** that an application has been lodged; and
 - (b) invite written comments on the application from them; and

- (c) specify in the invitation the date by which written comments are to be received by the consent authority (which must be no less than ~~10~~15 working days from the date of the invitation).
- (2) The persons are—
- (a) Te Rūnanga o Ngāi Tahu and any relevant Papatipu Rūnanga identified by Te Rūnanga o Ngāi Tahu;
 - (b) Heritage New Zealand Pouhere Taonga;
 - (c) the Linwood-Central-Heathcote Community Board;
 - (d) owners and occupiers of land adjacent to Cathedral Square;
 - (e) any other person the consent authority considers appropriate.
- (3) An invitation is to be treated as a document to be served for the purposes of the RMA and section 352 of the RMA applies accordingly.
- (4) A person invited to make written comments under this clause—
- (a) may not appeal under section 120 of the RMA against the consent authority's decision on the application; and
 - (b) may not object under Part 14 of the RMA against the consent authority's decision on the application; and
 - (c) is a person who the consent authority must ensure is served with a notice of decision on an application.
- (5) Section 114 of the RMA is modified accordingly.
- (6) A person who makes written comments to a consent authority under this clause is not to be treated, under the RMA, as a submitter making a submission on the application.

1718 Summary of responses

- (1) Before a consent authority makes a decision on an application, a summary of any written comments made under **clause 16** must be prepared and considered by the consent authority.
- (2) The summary, together with the consent authority's response to the issues raised in the written comments, must be included in the notification of the decision to the applicant and under **clause 16(4)(c)**.

1819 Time limit for notification of decision

- (1) Notice of a decision on an application must be given within 40 working days of the date on which an application was first lodged with the consent authority (and section 115 of the RMA does not apply).
- (2) The time limit specified in **subclause (1)** cannot be extended or deferred in any way (including under section 37, 88B, or 88E of the RMA) except—
 - (a) if the applicant agrees to the extension or deferral; or
 - (b) under section 88C.

1920 Period for making written comments included in time limit

The period during which comments are sought under **clause 16** is included in the time limit in **clause 18(1)**.

2021 Enforcement proceedings

- (1) For the purposes of activities undertaken under a resource consent granted in reliance on this order, only the persons specified in **subclause (2)** may take enforcement proceedings (including declaratory proceedings) under Part 12 of the RMA, including in any case where it is alleged that the consent holder has breached section 16 or 17 of the RMA.
- (2) The persons are—
 - (a) the Canterbury Regional Council;
 - (b) the Christchurch City Council.

Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order is about the reinstatement of the Christ Church Cathedral in Christchurch. It comes into force on 5 October 2020.

Clause 3 provides that the order is revoked on 21 December 2032. This reflects the automatic revocation of this type of order under section 16 of the Christ Church Cathedral Reinstatement Act 2017.

Clause 4 defines certain terms used in the order.

Clause 5 limits the scope of the order to certain applications lodged with the Christchurch City Council or the Canterbury Regional Council. These are applications for resource consents under the Resource Management Act 1991 (the **RMA**) to undertake reinstatement of the Cathedral (and any applications to change or cancel any conditions of such resource consents).

Clause 6 prevents a consent authority from granting an extension of time unless an applicant agrees.

Clause 7 provides that reinstatement activities for which an application is made are controlled activities. This is done on 2 conditions. The first condition is that the Citizens' War Memorial may only be removed in accordance with a heritage management plan, and a certification from an engineer that removal is necessary. And the second condition is one of the significant plane trees in the Cathedral area may only be affected, damaged, or removed in accordance with a tree management plan and only if necessary (as certified by an engineer).

Clause 7 also provides that a consent authority may impose conditions on a resource consent granted under the order on certain reserved matters set out in *clauses 8 to 13*.

Clause 14 provides that *clauses 7 to 13* modify sections 104, 104A, 105, 108, and 108AA of the RMA.

Clause 15 provides that an application must not be publicly notified or given limited notification, but must be determined under Part 6 of the RMA.

Clause 15(2) and clause 16 require a consent authority to notify certain persons that an application has been lodged, and invite comments. This takes the place of the normal process under sections 99 to 99A of the RMA.

Clause 17 requires a summary of any written comments to be prepared and considered before a consent authority makes a decision on an application. This clause also requires the summary of written comments and the consent authority's response to be included in the notification of the consent authority's decision.

Clause 18 provides that a decision on the application must be made and notified within 40 working days.

Clause 19 provides that the period during which comments are sought under *clause 16* is included in the time limit in *clause 18*.

Clause 20 limits who may take enforcement proceedings in relation to a resource consent granted under the order to the 2 consent authorities.

Statement of reasons

[Section 11 requires "the Minister's reasons for making the recommendation (including why the order is appropriate) must be published together with the order."]

Regulatory impact assessment

The [name(s) of agency/agencies] produced [a regulatory impact assessment/regulatory impact assessments] on [date] to help inform the decisions taken by the Government relating to the contents of this instrument.

[A copy of this regulatory impact assessment/Copies of these regulatory impact assessments] can be found at—

- [Insert URL link(s) to the RIA on the agency's/agencies' Internet site(s)]
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*:

This order is administered by the Department of the Prime Minister and Cabinet.



CHRIST CHURCH CATHEDRAL REINSTATEMENT REVIEW PANEL

29 July 2020

Hon Poto Williams
Associate Minister
Greater Christchurch Regeneration
Parliament Buildings
WELLINGTON

E te Minita o te Kowatawata, tēnā koe, tēnā koe,

**RE: TE POARI AROTAKE A WHAKAHOU WHITI REIA
CHRIST CHURCH CATHEDRAL REINSTATEMENT REVIEW PANEL**

I am writing to advise the Panel's response to the request for clarification as regards our redrafted clause 9 (c).

The Panel agrees to removal of the term "open space heritage item" on the basis that reference to "*the open space heritage item*" was included to ensure that the heritage item status of the "open space" of the Square is recognised within this matter of control. However, "*including the open space heritage item*" can be deleted, as "*an open space, such as a square...*" is included within the defined term "heritage item".

The Panel has made other minor amendments to assist with clarity and clause 9 (c) should now be read as follows:

(c) the relationship of, and between, elements and materials (such as the orientation), and the heritage setting, the heritage item, and with the significant tree(s); and

The Panel remains ready to advise or clarify further as may be required.

Ngā mihi nu ana,
Te Poari Arotake a Whakahou Whiti Reia

Hon Nicholas Davidson QC