

# Annual Review of the Greater Christchurch Regeneration Act 2016

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Reviewer: Liz Sinclair  
September 2019

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## Background

1. Section 150 of the Greater Christchurch Regeneration Act 2016 (the Act) specifies that the Minister responsible for administration of provisions of the Act<sup>1</sup> must commission an annual review (the Review) of the operation and effectiveness of the Act within 12 months of the commencement of the Act, and every 12 months after that. A report must be prepared for the Minister on that review, and the Minister must present the report to the House of Representatives as soon as practicable after the Review has been completed.

## Terms of Reference

2. This third annual review of the Act covers the period from 1 July 2018 to 30 June 2019.
3. The Terms of Reference provided by the Department of the Prime Minister and Cabinet (DPMC) set out the aim of this Review as being: “to develop and provide an informed view on whether the Act continues to be fit for purpose and supports the progressive move towards a normalised regulatory framework in greater Christchurch.”
4. The Review is to provide advice that:
  - gives assurance to the Minister, House of Representatives, and the public regarding the operation and effectiveness of the Act, and
  - builds a useful evidence base to track progress towards a return to normal regulatory processes.
5. The Review is asked to focus on “where the Act is effective and has achieved its policy objectives and also identify where the operation of the Act is defective.” The specific focus is on “the ability of the Act to support the transition back to local leadership and a return to a normalised statutory framework in Christchurch at the Act’s expiry in 2021”. The objectives for this Review are:
  - to identify and recommend any changes to the Act that will improve the Act’s overall operation and effectiveness in supporting the transition to local leadership. This includes the roles and function of Regenerate Christchurch, and the powers established through the Act including s71 and Regeneration Plans
  - to undertake a review of the checks and balances on the various powers provided under the Act to the Minister and the Chief Executives of DPMC and Land Information New Zealand (LINZ), and
  - to prepare a report for tabling by the Minister in the House of Representatives outlining the conclusions of the Review and recommendations (if any) for changes to the Act.
6. The Terms of Reference are explicit that earthquake recovery or regeneration policy, generic earthquake or emergency legislation, and the policy frameworks and environment that are not directly related to the powers created under the Act are all out of scope for the Review.
7. In summary the Review is asked to both look back at the operation of the Act during the 2018-19 year and forward to what role this legislation plays in the transition to local leadership that has already begun.

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<sup>1</sup> in this case the Minister for Greater Christchurch Regeneration

## Approach and Methodology

8. The approach to this review has been two-fold. I have considered the instances where the powers in the Act have been used during the period and reviewed publicly available information about regeneration planning progress. I have also conducted interviews with governance representatives, executives and officials from all of the relevant agencies who have been working closely with the Act. This report reflects themes from my observations and the comments made in interviews. It does not record the views of particular individuals.
9. Annex 1 of this report sets out the full schedule of the powers used during the 2018-2019 financial year. The people I spoke to are listed in Annex 2, and Annex 3 provides the list of questions used to structure these discussions. Annex 4 provides the full Terms of Reference.

# The Review

10. This report comprises three main parts. The first sets out the summary conclusions of the Review. The second part then deals with the context of this review period, and more detailed consideration of each significant aspect of the legislation in turn:
  - use of the planning instruments available under the Act
  - use of the land management powers of the Act
  - Regenerate Christchurch
  - partnerships and engagement, and
  - accountability and transparency.
11. The final part of the report comments on how the Act supports the transition to local leadership, and makes recommendations about how the Act should be changed to respond to how this transition is taking shape.

## Summary Conclusions

### The operation of the Act in 2018-2019

12. Since the last Review important progress can be observed in both regeneration planning using the tools available in the Act, and the transition to local leadership which shapes the context in which the Act has been used. In particular:
  - 19 February 2019 – the revocation of the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014. Christchurch City Council (the Council) powers to administer and manage its own District Plan are fully restored.
  - 29 July 2019 – the announcement of a draft Global Settlement Agreement (GSA), between the Crown and Christchurch City Council to provide clarity on shared costs and resolve outstanding issues from the 2013 Cost Sharing Agreement.
  - 23 August 2019 – the announcement of the approval of the Ōtākaro Avon River Corridor (OARC) Regeneration Plan and the partial revocation of the Christchurch Central Recovery Plan. The draft Plan was completed by Regenerate Christchurch and submitted to the Minister during the review period.
13. The Act has been used more than in the previous year. LINZ used the land management powers to a limited extent. Importantly this included completing the land reconfiguration work for the Waimakariri Residential Red Zone.
14. Few concerns have been expressed about the Act itself or the use of its powers in the 2018-19 period. Those working directly with the Act have found it to be both enabling, and flexible. The planning provisions of the Act have been applied with care as to the necessity for the use of these extraordinary powers. The required processes of engagement and consultation have been robust. Decision papers carefully set out the supporting rationale.
15. Frustration with the progress of regeneration planning is not directed at the legislation. The general view is that more use could have been made of the Act to further regeneration progress. This is coupled with concern to identify any areas where the planning powers should be used before the Act expires. With the Council now having its planning authority fully restored, many think the time for use of the powers in the Act has already passed and that the use of Resource Management Act 1991 (RMA) processes should now be the norm in Christchurch City as is already the case in Selwyn and

Waimakariri Districts. There is a strong view that with the expiry of the Act, there is also an opportunity and need for Greater Christchurch to be a priority for consideration under the proposed urban development policy changes.

16. I confirm my previous assessment that there is nothing about the legislation itself that inhibited its use. Comments made to the Review illustrate that a combination of reasons influenced why the Act has not been used more. The normal phenomenon of getting used to how new legislation works in practice, exacerbated by different interpretations of key concepts, such as regeneration itself, created some confusion and reluctance to use it. Alongside this, in the post-recovery environment the Act symbolised central government involvement and conflicted with a desire to get back to standard RMA processes with local leadership and control.
17. Regenerate Christchurch pulled off a significant and widely acknowledged achievement in delivering the draft OARC Regeneration Plan. There is clear recognition the agency had a challenging context to operate in, not just during this year, but over its lifespan – the crowded ecosystem, and shareholders who at times had different requirements of the agency.
18. The agency and its shareholders have also had some differing views about what the responsibilities under the legislation required of it. This reflected the complex judgements that had to be made about how Regenerate Christchurch should prioritise its functions under the Act to advance regeneration planning and at the same time support capability building in local agencies. During this year the shareholders have made appropriate use of the letters of expectation provided for in the Act to give clarity. Regenerate Christchurch now has explicit guidance about readying itself for transition by June 2020.
19. There is generous recognition of the commitment and expertise of staff in Regenerate Christchurch. I endorse the care being expressed to preserve and value this capability during its wind-down period. The Board and leadership of Regenerate Christchurch are committed to ensuring the transition of the agency is carried out well and collaborating with partners in the best interests of the ongoing regeneration work.
20. DPMC is acknowledged for its leadership of collaboration, and stewardship of the regeneration process through the relationships between central and local government.

### The Act and transition to local leadership

21. The accelerated progress of transition to local leadership has changed the context in which the Act operates. A tipping point has been reached where the need for the legislation in its present form is effectively over. I recommend consideration be given to early repeal of the Act. This will assist with providing clarity about the planning environment, start to simplify the agency ecosystem and inform the transition plan for Regenerate Christchurch itself.
22. LINZ is planning to complete its work with the Council on the reconfiguration of land in the OARC by June 2021. I recommend it would be sensible to extend their powers under the GCRA for 12 months beyond this date, given the complexity of this work. Scoping work between LINZ and the Council will clarify this requirement.
23. Design of legislative change for early repeal should take account of any substantive proposals for use of the Act, and relevant elements which may emerge from completion of the GSA and any decisions of the Council about the organisational arrangements it wants to put in place for the future.

24. Repeal of the Act does not suggest regeneration is complete. Rather it reinforces the priority of looking at how the current urban development policy changes can support future stages of regeneration for Greater Christchurch within the new national framework.
25. The parallel opportunities are:
- ChristchurchNZs work with the Greater Christchurch Partnership to develop the strategic framework for a shared view of priorities to focus the next stage of regeneration
  - the operation of the Act has improved the way Mana Whenua have been involved in planning proposal development. Agencies and the Greater Christchurch Partnership should ensure this is preserved.
26. There should be a continued role for DPMC through to June 2021 related to stewardship of the relationship with central government and its agencies in support of regeneration in Greater Christchurch.
27. The management and development of scarce specialist capability related to regeneration planning, development and land management should be a focus in this next phase. This is relevant for the transition plan being developed by Regenerate Christchurch, and the land reconfiguration work to be undertaken between LINZ and the Council.

#### Future legislation of this type

28. There are learnings from the experience of working with the Act which can inform future legislation.

## The Context for this Review Period – the Act and how it has been applied in the 2018-19 financial year

29. This part of the report recaps the purpose and principal features of the Act, looks at how it has been applied during the Review period, and identifies themes from the Review about the operation and effectiveness of the Act.
30. I also comment on key features of the broader context for regeneration in Greater Christchurch which are relevant to considering both the Act's utility, and its role and ability to support the transition back to local leadership and a normalised statutory framework.

### What the Act put in place

31. The passing of the Act in 2016 marked an important shift from the period governed by the Canterbury Earthquake Recovery Act 2011. The new Act:
- signalled the shift from recovery to regeneration. Regeneration encompassed a combination of tangible rebuilding and restoration with urban renewal and development, and
  - recognised the need for greater local leadership and a pathway to standard regulatory and delivery arrangements.
32. The Act is clear in its intent to enable a focussed and expedited regeneration process, community input to decisions, recognition of local leadership, and the need for the Crown to efficiently and effectively manage the land acquired under the previous Canterbury Earthquake Recovery Act 2011.
33. The broad purposes of the legislation were given effect through:
- Specific planning mechanisms for regeneration planning – there are two main levers. **Regeneration plans** are able to direct and integrate changes to multiple RMA planning documents to support major regeneration projects. Regenerate Christchurch, the Chief Executive of DPMC, or one of the Strategic Partners (the Council, Te Rūnanga o Ngāi Tahu (TRoNT), Environment Canterbury<sup>2</sup>, Waimakariri, and Selwyn District Councils) may be proponents of a regeneration plan. **Section 71** of the Act gives the Minister power to suspend, amend or revoke RMA documents and other plans etc and is expected to be used where amendments are required to a discrete set of planning documents.
  - Mechanisms for managing land.
  - The establishment of Regenerate Christchurch, a body corporate jointly funded by the Crown and Council whose purpose is supporting a vibrant, thriving Christchurch that has economic, social and lifestyle opportunities for residents, businesses, visitors, investors and developers.
  - Broad statutory powers granted to the Minister and the chief executives of DPMC and LINZ.
  - A legal framework that provides opportunities for public input to planning decisions and recognises the importance of local leadership.
  - Recognition of the importance of local leadership through providing them with an increased role in decision-making processes under the Act and explicit requirements to seek and consider their views.

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<sup>2</sup> Environment Canterbury is legally constituted as "Canterbury Regional Council" by the Local Government Act 2002

## How the powers under the Act have been exercised in the 2018-19 financial year

34. The powers under the Act have been used more frequently than in the previous year. A full list is attached as Annex 1. The main regeneration outcomes arising from use of the powers are noted below.
35. With respect to the development and implementation of planning instruments (subpart 1 of Part 2 of the Act):
- The Minister approved the draft outlines for the **partial revocation of the Land Use Recovery Plan** for Greater Christchurch, and for the **partial revocation of the Christchurch Central Recovery Plan**.
  - The Minister agreed to exercise power under s69 of the Act to approve the **Residential Unit Overlay District Plan Changes Proposal** and to use s71 to make the required changes to the Christchurch District Plan. The Proposal was intended to “provide greater clarity and certainty to the Residential Unit Overlay, particularly for people seeking to rebuild or extend their house, and contribute to the regeneration of New Brighton, South New Brighton, Southshore and Redcliffs”.<sup>3</sup>
  - The Minister agreed to exercise power under s69 to approve the **Yaldhurst Recreation and Sports Facility Proposal** and to use s71 to make the required changes to the Canterbury Regional Policy Statement and Christchurch District Plan. The Proposal was to “contribute to the regeneration of sport and recreation in greater Christchurch by providing facilities to replace some of those lost or damaged in the Canterbury earthquakes and also by catering for an identified additional demand.”<sup>4</sup>
  - The Governor-General decided by Order in Council to revoke the **Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014**. As a result the Council can fully administer and manage its own District Plan.
  - Regenerate Christchurch submitted the **Ōtākaro Avon River Corridor Regeneration Plan** to the Minister for approval.
36. In addition work was initiated on two other s71 proposals during the year – Regenerate Christchurch’s Hagley Oval proposal, and the Council’s Lyttelton car parking proposal.
37. With respect to Regenerate Christchurch:
- The Minister and the Mayor provided Letters of Expectation to the Chair of Regenerate Christchurch under s131(1). The revised letter of 24 May 2019 noted that as a result of progress on regeneration and the strength of capability of relevant agencies, the transition of responsibilities from Regenerate Christchurch could be brought forward, and accordingly set out expectations for Regenerate Christchurch to give effect to that.
  - In accordance with s128(2) the Council assumed responsibility for appointment of a new Board Chair for Regenerate Christchurch.
38. The long term vision for Cathedral Square and the Central City Momentum advice released by Regenerate Christchurch at the end of June 2018 is acknowledged for its contribution to the development of the CNZ strategic visioning work ‘Greater Christchurch 2050’.
39. As expected the Council and Regenerate Christchurch are the only proponents to have proposed plans or s71 proposals using the Act. At the time of this Review no other firm proposals for use of the planning powers have been signalled for the remaining life of the Act, other than those noted in paragraph 36 above.

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<sup>3</sup> Announcement of Proposal approval, DPMC website.

<sup>4</sup> Announcement of Proposal approval, DPMC website.

40. Powers related to acquisition and disposal of land have been used to a limited extent in this period. Importantly LINZ completed its work on the reconfiguration of land in the Waimakariri Residential Red Zone.

### Significant developments in the regeneration context relevant to this Review

41. In the course of carrying out the Review I noted four developments or features which I consider have heavily influenced the context in which the legislation has been operating in Greater Christchurch, and how people have thought about it.

42. The first of these was the February 2019 **revocation of the Canterbury Earthquake (Canterbury Replacement District Plan) Order in Council 2014**. This marked the full restoration of the Council's powers to manage its own District Plan, and make changes to the Plan in accordance with normal RMA requirements and processes. In last year's Review I noted that the District Plan itself had been the subject of a robust and comprehensive process.

43. Secondly, during the course of 2018-19 senior officials of the Council and the Crown conducted negotiations on a **draft Global Settlement Agreement (GSA)**<sup>5</sup>. The GSA is to provide clarity on shared costs and resolve outstanding issues from the 2013 Cost Sharing Agreement. On 29 July 2019 this work culminated in an announcement from the Council that the draft GSA was ready to bring forward for Council consideration and public feedback prior to final approval by both the Council and Cabinet.

44. The GSA was described as reflecting "a normalised relationship between the Council and the Crown...(which would)...complete the transition to local leadership, responsibility and decision making with the Council leading Christchurch's regeneration into the future."<sup>6</sup>

45. Key features of the draft GSA noted in this announcement include, inter alia:

- central city public realm assets to be transferred to the Council by the Crown and Ōtākaro
- Crown and Council funding improvements to Cathedral Square with the Council leading works
- transfer of residential red zone land (RRZ) in the OARC, Port Hills, Brooklands and Southshore to the Council progressively over the next two years
- proposed co-governance arrangements to support transitional use of the RRZ
- Regenerate Christchurch being asked to prepare and implement a transition plan for its future
- the Council to have the opportunity to purchase Crown-owned central city land not needed for anchor projects
- ownership of Te Pae, the Christchurch Convention and Exhibition Centre to remain with the Crown, and
- ownership of the Canterbury Multi Use Arena to be determined through the investment case under development.<sup>7</sup>

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<sup>5</sup> At the time of drafting this Review, the Global Settlement Agreement was in draft. References to the Global Settlement Agreement in this paper therefore refer to the draft Global Settlement Agreement as at 29 July 2019. The final Global Settlement Agreement was signed on 23 September 2019.

<sup>6</sup> Draft GSA announcement, CCC website.

<sup>7</sup> Ibid.

46. My observation is that the progress of the GSA during the year has had an important and positive influence on developing the thinking about transition to a standardised way of operating for central and local government actors in Christchurch.
47. Regenerate Christchurch submitted the draft **OARC Regeneration Plan** for Ministerial approval in March 2019. Announcement of approval of the Plan was made in August 2019. (Outside the Review period, but during this Review process.) The OARC approval marks a crucial milestone in the regeneration process and triggers what will be an ambitious and decades-long implementation. The positive influence this will have in shaping the urban development character for Christchurch in the future should not be underestimated.
48. The other contextual feature I consider relevant is the co-existence of two apparently contradictory perspectives expressed frequently about where the overall process of regeneration is at. For many the elapsed time of eight years since the earthquakes is significant – the time for using extra-ordinary measures is passed, ‘normalised’ responsibilities and rights are restored and should be in operation. Others emphasize that it is *only* eight years in what will be, if overseas parallels are considered, a process that takes several decades given the scale of the original damage.
49. I suggest that part of the challenge for both local and central government is that both perspectives are correct. The transition to local leadership occurring now is a critical, and positive, stage in a long term regeneration process. There should be no suggestion in the narrative that either regeneration is complete, or that this is a return ‘back to business as usual’, because ‘usual’ fundamentally changed as a result of the earthquakes. Both perspectives inform how people think about this key stage in regeneration. They connect to another widely expressed view about the need to have a shared strategic view of priorities to focus the next stage of regeneration, and avoid a risk of looking ‘back to the future’. This emphasizes the importance of the strategic framework (Greater Christchurch 2050) that ChristchurchNZ is developing to meet this purpose.
50. Taken together these developments contribute to a marked shift in the environment in which the Act operates. This shift is an acceleration towards local leadership having the ability to fully assuming their role in driving regeneration. The question at this point is how best to support the next stages of regeneration, under local leadership. I comment on what this means for the Act later in this report. Central and local government leaders are appropriately giving careful thought to how the rebalance of their relationship to a more regular or ‘standardised’ way of working together is achieved, and in a way that doesn’t, as the Minister describes it, create a ‘cliff’ or an abrupt exit of central government support for Christchurch.

### Regeneration planning and the use of the mechanisms in the Act

51. There are two predominant themes in the feedback about how these aspects of the legislation have operated in the 2018-19 period, which reflect both an evolution in practice and the culmination of views that had formed during the previous two years.

### The Act is enabling and has assisted regeneration progress

52. The first theme is that, where the Act has been used, it has, generally delivered on its purpose of supporting regeneration. There is strong general agreement that the Act provides an enabling framework, and that it has proved flexible in both the changing context of Christchurch and the programme of a new Government.

53. Comments from the agencies and consideration of the relevant documentation illustrates that the planning provisions of the Act have been used with care as to the necessity for the use of the Act's extraordinary powers. As Reviewer I did not observe any problems. The required processes of engagement and consultation have been robust. Decision documents carefully set out the supporting rationale and will provide a useful future reference point.

54. Other positive features related to use of the planning provisions over the last year included:

- several agencies noted that increased pre-engagement between agencies ahead of formal consultation had improved the effectiveness of decision-making paths
- TRoNT reported the earlier and more meaningful engagement of Mana Whenua in the Act's planning processes, in contrast to what happens under the RMA, and
- the development of thinking and practice amongst key participants about how the Act is applied, for example the consideration that proposals to use the powers of the Act must benefit a range of parties, rather than one party ahead of others.

55. Any concerns mentioned were accompanied by a strong view that no purpose would be served by attempting to change the Act now to address these, and I agree. I note and comment on the most significant points raised below. These included a number of issues that were canvassed in last year's review.

- There was concern about the requirement to consult Strategic Partners when some of those agencies may have minimal interest or involvement in an issue. Related to this, was the time it takes for consultation given the timing of different governance cycles. In practice this does not seem to have been a problem, and was offset by the better pre-engagement noted above. Some Partners noted that they did not provide comment if it was not a matter that concerned them. I do not agree that the list of Strategic Partners should have focussed only on Christchurch City. The involvement of the wider group has contributed to maintaining connections in development thinking across Greater Christchurch. This should be seen as an advantage rather than a constraint, and remains important for the future in my view.
- There were mixed views about whether key concepts such as regeneration, which may have been interpreted differently by different actors, should have been more explicitly defined in the legislation. Some considered this would have been helpful. Others recognized that such prescription is not a feature of enabling legislation. In any case the way the term is thought about has undoubtedly changed even over the life of the Act.
- The length of time taken for regeneration planning proposals to reach completion was described as resulting in some confusion and frustration from the community about what is happening. My observation is that this is not a fault of the legislation itself but results from points I discuss later about the complexity of the planning ecosystem in Christchurch and challenges in the relationships between the actors/agencies involved. In the case of the OARC communicating the scale and complexity of the planning involved is understandably hard – and will continue to be so.
- There was also a view that from a commercial perspective the Act's processes are relatively cumbersome. This may be so, however it has to be balanced against the protections necessary given the extra-ordinary nature of the powers, and I consider this has been done satisfactorily.
- Ōtākaro Limited needed to seek independent legal advice to support the exercise of their role under the Act. Under sections 29(3) and (4), Ōtākaro Limited must consider its consent to any Outline and any regeneration plan prepared by Regenerate

Christchurch that includes residential red zone land. It is accepted that the Crown has an interest to ensure the best use of the land acquired in the residential red zones, and that Ōtākaro Limited's Constitution positions it specifically to balance commercial outcomes and regeneration objectives, and to support the Crown's exit over time on favourable terms. If there is an agency with a similar role in future legislation of this type, there may be benefit in providing more explicit legislative guidance on this point.

- Implementation and delivery issues in regeneration planning were touched on again. Last year the Review recorded divergent views around whether regeneration plans should include implementation issues such as governance, funding and responsibilities for outcomes. My view then was that “the right answer will be dependent on the nature of the particular regeneration plan and in all cases it will be a matter of degree”, and that for the OARC Regeneration Plan “given what is within scope, the implementation issues will require resolution outside the context of the plan and beyond the scale of commitments Regenerate Christchurch can make.”<sup>8</sup> For completeness I note that this is what occurred in relation to the OARC and I consider this appropriate. A number of those I spoke to underscored the importance of the work the Council is doing now to settle the future governance arrangements for OARC now the plan is approved, for the continued momentum of this important area of regeneration.

56. Three points emerged about the operation of s71 proposals:

- S71 proposals generally have taken longer than expected. This is attributed, I think correctly, to proponents and participants getting used to working with the new provisions.
- A gap in the legislation was highlighted. If there is significant feedback from Strategic Partners in relation to a particular draft proposal, resulting in a material change to proposal itself, there is no requirement under the legislation for a further round of engagement. Where this has arisen, DPMC has recommended further engagement be undertaken as the right thing to do given the intent of the legislation. Any future legislation of this type would be better for the inclusion of such a requirement.
- Another gap noted is the need for public consultation on a s71 proposal prior to submission to the Minister (as opposed to the obligation on the Minister to invite written comments via a public notice should the Minister decide a proposal should proceed.) This may also be useful to include in future legislation, not necessarily as a blanket requirement, but for consideration depending on the nature of the proposal.

#### The potential use of the Act could have been greater

57. There was a strong theme from feedback that the planning powers of the Act could have been made greater use of, and should now be, before the Act expires.

58. I explored the reasons which are thought to have contributed to this with those most closely engaged in using the Act. As a result I confirm my previous assessment that there is nothing about the legislation itself that has inhibited its use.

59. In my view a combination of reasons influenced why the Act has not been used more often. The normal phenomenon of getting used to how new legislation works in practice is apparent, exacerbated by different interpretations of key concepts, such as regeneration itself, creating some confusion and reluctance to use it. People note the RMA processes are more familiar, accepted and supported by existing agency

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<sup>8</sup> Annual Review of the Greater Christchurch Regeneration Act 2016, Review Report October 2018, paragraph 61.

capabilities, and illuminated by case law, as you would expect with legislation that has been in place for decades.

60. Alongside this is the post-recovery phenomenon that the Act symbolises central government involvement. It is very evident that this conflicts with a desire to return to standard RMA processes, and local leadership and control. Comments made to the Review suggest this is the stronger driver.
61. Although there is a desire to see the Act used more during its remaining life, I did not hear a long list of specific opportunities. Those mentioned included Southshore and South New Brighton. That work now sits with the Council which has announced a forward path involving two separate projects running simultaneously to resolve the outstanding impacts of the earthquakes and do more detailed planning on responding to climate change.<sup>9</sup> Others possibilities were the Brooklands and Port Hills Residential Red Zones (RRZs).
62. Current proposals for use of the Act which are underway in the 2019-2020 year are those initiated in 2018-19 and noted in paragraph 36 above.
63. I offer two further observations about why the Act may not have been used more, focussing on this year in particular. I heard that the use of RMA planning mechanisms is now the predominant expectation in Christchurch City, as it already has been in the other two District Councils I spoke to. The comment was often that there is no reason not to use the RMA, rather than that change isn't possible unless the special powers in the Act are used. At the same time there are quite mixed views about whether the relevant capability is in place to do this. Many of those I spoke to recognize this is not a case of returning to how things were done in the past. Stronger and possibly different capabilities to use RMA tools to advance Christchurch's regeneration are thought to be needed from this point on.
64. I also agree with a point made to me from several quarters during the review that, as RMA powers have been restored in Christchurch, the bar has got higher for using the extra-ordinary powers in the Act to, for example, override rights to appeal. This validly requires judgement about how to apply the Act taking account of a changing context, rather than reflecting any change to the tests in the Act itself.

### The role of LINZ and the use of the land management powers of the Act

65. LINZ has made limited use of its powers under the Act in the review year. They completed work to hand over land in the Waimakariri District RRZ, and this is a useful reference point for how use of these powers works in practice. The reconfiguration process seems to have been generally effective from both party's perspectives, while also reflecting the complexity encountered in land reconfiguration transactions.
66. The primary area where the LINZ powers will be used extensively is the OARC. In fact the work required to reconfigure land in the OARC will be one of the largest and most complex undertakings of its type in New Zealand's history. It includes land that is currently both Crown and Council owned and in part will involve transferring Council land to the Crown to enable reconfiguration, and then transferring it back to Council. By way of contrast OARC involves reconfiguring nearly 5,500 titles while the work completed in Waimakariri concerned nearly 1,000 land titles. The work in Waimakariri took 2.5 years.

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<sup>9</sup> CCC announcement 9 May 2019, CCC website.

67. The challenge of LINZ's task in the OARC is not well understood by some. There is also concern that LINZ has not given the OARC work the priority and resourcing needed to advance things ahead of the approval of the OARC Regeneration Plan. LINZ advised the Review that work done in 2018, in conjunction with other officials, provided the necessary analysis and technical design (including seeking a reduced survey standard from the Surveyor General) to develop a reconfiguration approach which will enable significant time and cost savings, but which relied on the Regeneration Plan being approved. Now this has occurred they, with the Council, can complete more detailed scoping and have the potential to build momentum quickly. Finalising the arrangements to operate under the GSA is also relevant. Schedule 3 of the draft GSA provides considerable detail on how the reconfiguration process is to work<sup>10</sup>. Advancing substantive work ahead of both the Plan approval and GSA would, in LINZ's view, have risked wasting time and scarce resources.
68. LINZ expect it will take around six months to complete full scoping with the Council. Under the draft GSA a working group including LINZ and the Council will be established to provide further detail to assist this, with that work to be completed by 31 December 2019. LINZ advised the Review that they are planning to complete the substantive reconfiguration work by June 2021, however an extension of the powers in the Act for an additional 12 months would ensure any residual work could be completed, in the event that there were unforeseen delays. There was general support for this necessity, but also scepticism about why it needs to take that length of time.
69. There was some suggestion that LINZ's powers under the Act could be transferred to the Council to complete the work faster, however I do not think this is advisable, not least because of the need to engage with the statutorily independent functions of the Surveyor General.
70. Ōtākaro Limited is also continuing to work with LINZ in relation to acquisition of land titles to support the completion of anchor projects in the central city.
71. I recommend that LINZ's powers should be extended to enable completion of the OARC land reconfiguration. The scoping work referred to should be given the utmost priority in order to inform the duration of any extension. It was suggested to me that declining an extension would incentivize the parties to complete the total work programme as soon as possible. However I consider that given the complexity involved, and the likely emergence of unforeseen issues, an extension is sensible. The draft GSA provides for two fall-back options if the Act expires before the work is complete:
- LINZ declares the land to be held under either the Public Works Act or the Land Act and completes the work under other legislation, or
  - LINZ transfers the land to CCC, and reimburses CCC for third party costs associated with the reconfiguration work.
- LINZ considers these are good alternative options, depending on the scale of the work remaining.
72. The results of the scoping work can be robustly tested as it progresses. LINZ and Council officials should also be supported to seek innovative and collaborative ways of working to accelerate their progress, and build relevant capability for the future benefit of both organisations
73. Further, LINZ and the Council should make every effort to be able to communicate to partners and the public the nature and progress of this work during the scoping phase

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<sup>10</sup> Global Settlement Agreement Draft 1 July 29/07/2019, Schedule 3

and especially during implementation. LINZ will be part of the Implementation Governance group of agencies set up under the draft GSA<sup>11</sup>, and this will assist.

74. I also heard criticism that LINZ has not facilitated investment in transitional uses of the RRZ, because it has required any agreements for transitional use to include termination clauses. Until there was certainty about future land use, LINZ has been unable to permit permanent land use, so termination clauses have not been optional. LINZ's experience has been it is the requirement to include any termination clause at all, rather than the timeframe for termination, that has been the problem for those proposing transitional use projects. Under the GSA, Phase 1 of transition planning for governance arrangements in the RRZ sets up a consultative group of local stakeholders, and community representatives to advise the Council and LINZ on transitional land use applications.<sup>12</sup>

75. LINZ is very clear that overall the Act is useful and gives them the powers needed for these circumstances. I noted several specific points:

- LINZ is not a Strategic Partner under the Act and if it had been, they consider it would have reduced difficulties experienced through not being involved in relevant conversations, and having their views incorporated. They appreciated the role DPMC has played in support of them, however thought that future legislation of this type should elevate their role. This makes sense, where there is likely to be reconfiguration on the scale seen here.
- Use of the compulsory acquisition powers has been approached conservatively. This is appropriate given the sensitivity of their application.
- During the year a High Court case preliminary hearing clarified that the Crown could not rely on the statutory immunity under section 145 of the Act. The substantive hearing has not yet been held, and findings could have implications for potential nuisance claims elsewhere.
- Outside the scope of the Act LINZ has been dealing with outstanding CER Act issues related to s38 of that Act which gave the Chief Executive of CERA the power to carry out or commission demolition works on damaged buildings. When the CER Act was repealed it was silent on what should happen with respect to these notices and whether they remained in effect. LINZ's position is that the existing s38 notices continue to have effect, relying on section 21 of the Interpretation Act 1999.

## Regenerate Christchurch

76. Regenerate Christchurch pulled off a significant achievement in delivering the draft OARC Regeneration Plan and there is widespread acknowledgement of this.

77. There is no debate that Regenerate Christchurch, as a special purpose planning agency governed jointly by Crown and Council, has had a challenging context to operate in, not just during this year but over its lifespan. There has been confusion and high relationship transaction costs for several reasons. Many refer to the crowded ecosystem that exists in Christchurch for planning and development, with multiple agencies and roles that increasingly overlap as transition to local leadership takes hold. There is recognition that Regenerate Christchurch's shareholders have at times had different requirements of the agency. The agency and its shareholders have also had differing views about what the responsibilities under the legislation required of it. This has all contributed to the public's confusion about what Regenerate Christchurch's responsibilities have been for development, decision-making and delivery of proposals.

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<sup>11</sup> Ibid Page 10 Part 16

<sup>12</sup> Ibid Page 12 Part 19.

78. Looking back over previous Reviews these themes are apparent at an early stage, and to a certain extent are inevitable. A time limited organisation faces high expectations. It has to do all the things any organisation has to do to get started, while needing to make early and rapid progress, and establish clarity about what it is there to do and not do. It will not have the latitude that other organisations have to recover from any missteps.
79. For Regenerate Christchurch, functioning in a complex, rapidly evolving regeneration environment has also thrown up the need to make judgements about how its own role should adjust. The Act sets up a number of functions for the agency. There were always going to be decisions about which of those functions only Regenerate Christchurch could do and therefore prioritise, if it was to operate in a way which built overall regeneration capability in the city. The transition to local leadership has effectively accelerated the life cycle of the agency towards an early conclusion. These are all significant challenges and Regenerate Christchurch's experience demonstrates how it has grappled with these at various stages, including in this year.
80. With hindsight it is easy to suggest ways in which these difficulties could have been ameliorated. A faster startup, earlier and greater clarity between its shareholders and from the shareholders to the Board, and more effective relationships across the agencies generally would undoubtedly have assisted. There are clear learnings for future post-recovery situations. However these are also easy reflections to make. The difficulties all parties were experiencing in operating in uncharted territory should not be too quickly forgotten.
81. My assessment is that the establishment of Regenerate Christchurch was still the right mechanism for the time, given the extensive involvement of the Crown in Christchurch at that point, and the legislative requirements around it were well designed for the circumstances. There was inherent challenge in creating an agency to lead regeneration planning, and charting a parallel path to restore local leadership of planning. That challenge was a necessary feature. Legislative prescription cannot substitute for the contribution that leadership, communication and collaborative behaviour on the part of all parties make to effective institutional arrangements. An aside, I do not agree with the view that situating sole accountability for the functions that Regenerate Christchurch has undertaken with either the Crown or the Council would have been the right thing to do at that early stage of regeneration for Greater Christchurch.
82. Regeneration progress would not be where it is without the work of this agency. The OARC Regeneration Plan is the outstanding representation of this.
83. During this year the shareholders have made appropriate use of the letters of expectation provided for in the Act, and discussions at the governance level, to give clarity. Collaboration across agencies is reported to have improved during the year as a result. Regenerate Christchurch now has explicit guidance about readying itself for transition by June 2020, reinforced by changes and reductions in its funding arrangements for the 2019/20 financial year.
84. Under the draft GSA Regenerate Christchurch is asked to prepare a Transition Plan in partnership with the Council to conclude or transition the majority of its functions by 30 June 2020.<sup>13</sup> Within their limited resourcing, the Board and leadership of Regenerate Christchurch are clearly committed to doing this as effectively as possible, both for the staff and functions of the agency itself, and for the wider contribution this can make for regeneration progress.

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<sup>13</sup> Ibid Section 18.

85. I heard generous recognition of the commitment and expertise of staff in Regenerate Christchurch, and endorse the care being expressed to preserve and value this capability during the transition. In particular, the open and engaging approach of Regenerate Christchurch's Chief Executive has been appreciated. Recently, outside of this review period, Regenerate Christchurch, ChristchurchNZ (CNZ) and Development Christchurch Limited (DCL) have co-located, and staff from all three agencies are working together on regeneration issues, including CNZ's Greater Christchurch 2050 work. This is a sensible move and underscores the criticality for collective stewardship of the scarce capability required for continuing regeneration work.
86. I have considered whether the Act could have helped Regenerate Christchurch more by providing greater articulation of its role and key concepts underpinning this – such as regeneration and leadership. I conclude that this is not something legislation alone can solve. The quality of engagement between the players is the determining factor. The Act provides the mechanisms for clarity and support to be delivered to the agency, and the use of those tools this year reinforces their utility. The only point where future legislation could assist more is in requiring greater overlap between the governance of such an agency, and that of other local institutions with planning or development roles.

### The role of DPMC

87. There were positive comments about the role that DPMC's Greater Christchurch Group has played. The importance of its leadership of collaboration, and stewardship of the regeneration process through the relationships between central and local government, are emphasized. Maintaining this through the completion of this transition is considered essential to ensuring the central government/local government relationships are rebalanced in the right way.
88. I also observe that DPMC has been careful in the handling of its dual roles as Strategic Partner, and advisor to the Minister, confining its comments on proposals as Strategic Partner to matters of procedure and the evidence supporting a proposal.

### Partnership and Engagement

89. I have commented on these aspects earlier, particularly my view on the mixed reports about what has driven partnership and collaboration difficulties. My only further observation is that effective collaboration requires investment and generally takes some time to cement, which has been difficult as agency roles have rapidly changed.
90. I want to reiterate the significance of the comment made by TRoNT about the early engagement of Mana Whenua that has been demonstrated under the Act as a more appropriate reflection of the Treaty partnership than RMA processes have delivered.
91. I also note strong themes around the importance of community engagement where it has been done well, in particular for Regenerate Christchurch's work on the OARC. However, I heard frequently that the public and interested stakeholders such as the development community have experienced difficulty in understanding what is happening with regeneration processes and the roles of agencies and decision-makers. There is commentary about consultation fatigue in the community as various planning processes and projects work their way through. It is thought that different agencies with project development responsibilities may be seeking to secure investment from the same parties, with a range of consequent risks.

92. The transition to local leadership represents an opportunity to simplify and clarify this situation. The earlier it can be done the better both for future momentum, and for public trust and confidence.

### Accountability and Transparency

93. The legislation includes requirements that promote openness and transparency about the use of the powers in the Act. This Review is a part of those requirements. No concerns were raised to the Review related to this aspect of the legislation. I note again the effort that has been made to ensure the rationale supporting decisions to use the powers is carefully set out.

94. Regenerate Christchurch is required to produce and publish a standard set of accountability documents (Statements of Intent etc) under schedule 5 of the Act. It was suggested that this may have been a high compliance cost for a small agency, however this view was not a general one and Regenerate Christchurch itself saw no problem with this. There were some timing issues with quarterly reporting for the agency but these were resolved during the year.

95. As required, this Review includes a description of the powers exercised by, or on behalf of, a Minister or a chief executive during the reporting period 1 July 2018 to 30 June 2019. These are set out in Annex 1.

## The Act and transition to local leadership

96. This final part of the Review report deals with how the Act can support the transition to local leadership as its expiry approaches. In order to comment on this I have considered the broader context of regeneration progress in Greater Christchurch, the way the Act has been used over the last year as set out above, and what I have been told in the Review about what may be required in the future. I set out a number of observations and draw conclusions about what this means for the Act.
97. In assessing what “the transition back to local leadership and a return to a normalised statutory framework in Christchurch”<sup>14</sup> means I make the assumption that the outcome of this transition would be demonstrated by use of the RMA for all planning activity, and by central government agencies moving towards a relationship with the local authorities which looks more like what occurs in the rest of New Zealand.

## The pace of transition has accelerated during the last year

98. The shift towards local leadership being in a position to lead the next stages of regeneration for Greater Christchurch was very apparent to this Review, and illustrated by developments referred to earlier:
- Selwyn and Waimakariri are solidly in a normalised mode of operation
  - CCC has control of its planning processes
  - CCC has appointed the new chair of Regenerate Christchurch’s Board
  - the draft GSA details a range of arrangements covering various aspects of regeneration moving forward, and including the requirement on Regenerate Christchurch to detail a plan for transitioning its functions, and
  - CNZ is positioning its visioning exercise ‘Greater Christchurch 2050’ as a basis for the Greater Christchurch Partnership agreeing strategic priorities to shape development in Greater Christchurch. This is intended to be underpinned by a broad and forward-looking view of regeneration which encompasses economic development and participation.

## There are also concerns about the approaching expiry of the Act in 2021

99. Loss of momentum in Christchurch if the extraordinary powers in the Act can no longer be applied was a concern raised frequently. It seemed to be linked more to general uncertainty about the potential loss of specialist planning and development capability, and whether local agencies had the capability to sustain the regeneration work programme, than to specific areas of work that needed the powers in the Act.
100. Legislation and the role of central government agencies since the earthquakes have provided a high level of access to national decision makers. Changing the balance of this needs to be handled with care so the right level of continued support is provided. A managed and deliberate approach is needed. I observed that the Minister and officials are certainly conscious of this.
101. The expiry of the Act and rebalancing of central and local relationships is also seen as signalling a parallel shift for Christchurch from being able to rely on ‘committed capital’ provided by the Crown, to having to compete with other regions for private sector investment capital.

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<sup>14</sup> Terms of Reference: 2018-19 Review of the Greater Christchurch Regeneration Act 2019, paragraph 9

## Complexity of the planning and development ecosystem in Greater Christchurch

102. This is commented on already in this report, and repeats a theme from previous Reviews. The transition to local leadership now needs to be reflected in institutional arrangements. The draft GSA clearly envisages this.

### What does this mean for the Act?

103. For time limited legislation such as this, there may come a practical point before the planned expiry, where the context in which the legislation is operating has changed so much that the need for it in its original form, and the mechanisms and institutional arrangements it prescribed, is effectively over. This is desirable and intended where it means that enough of the right mechanisms are in place to enable progress without the use of extraordinary powers, and previously necessary barriers to standard ways of operating working have been removed. As key participants anticipate transition, capability and relationship shifts naturally start to occur.

104. When this point arrives there can also be potentially negative side-effects – uncertainty and loss of momentum until the forward path is fully clear.

105. My assessment is that the tipping point for transition of this legislation has been reached. The key question then becomes whether the Act should be repealed sooner than its scheduled expiry. My recommendation, based on the information before this Review is that **early repeal should now be considered** for these reasons:

- The elapsed time since the earthquakes, the reinstatement of standard planning mechanisms, and the absence of further new and substantive regeneration planning proposals make it hard to argue for the continuation of extra-ordinary powers which override normal RMA requirements, particularly those related to public consultation, and the operation of appeal rights. The availability of the regularised planning environment also makes judgements about use of the Act increasingly complex.
- Early repeal would have the immediate effect of reducing some of the existing complexity in the planning environment and potential confusion about roles, and simplify aspects of transition planning. For example consideration of any residual functions of Regenerate Christchurch becomes more straightforward if the Act no longer exists to require those being carried out.

106. The exception to this recommendation is that LINZ should have extended access to its powers under the Act beyond June 2021, in recognition of the complexity of the OARC work.

107. In designing legislative change for early repeal of the Act I would expect officials to also have regard to:

- any solid requirement that emerges in the near term for use of substantive powers of the Act to develop further regeneration plans
- the results of the land reconfiguration scoping work to be completed by LINZ and the Council and how that informs the timeframe for extension of the relevant powers
- anything related to the functions of Regenerate Christchurch that may emerge from consideration of the transition plan for that agency
- Any consequential role clarification for other government agencies such as Ōtākaro Limited
- Timing issues related to the legislative process

108. Design of legislative change may also be informed by other elements of transitional arrangements for Christchurch as they take shape in parallel. These include the

completion of the GSA, and any decisions the Council makes about the organisational arrangements it wants to put in place for the future.

109. The role of DPMC would change with repeal of the Act. The arrangements proposed under the draft GSA provide for their ongoing involvement in the dialogue on matters arising from that agreement. In my view it would also make sense for DPMC to continue its stewardship role of the relationship central government and its agencies have around regeneration in Greater Christchurch for a period through to June 2021. This would provide assurance that there is an ongoing strategic Wellington presence for a period, and that central government is rebalancing its role in supporting Greater Christchurch in a measured way.

110. I have commented earlier on the commitment of Regenerate Christchurch and its Board to delivering a good transition of that agency's functions and capabilities. Other agencies should continue to support that.

#### Other matters not directly related to the Act itself

111. During the Review there was a lot of comment about the relevance for Greater Christchurch, once the Act is repealed, of the new national urban development policy changes, including the proposed Kainga Ora – Homes and Communities urban development authority. It would seem sensible to explore this now given the opportunity of these national policy changes coinciding with legislative change affecting Greater Christchurch, and given the economic significance of this region. This would be the preferable route to ensure Greater Christchurch has the tools needed to continue to drive regeneration, but within the framework of the new national approach for urban planning and development. I do not consider another 'special' arrangement where, for example the Act's powers are transferred to the Council, would be acceptable or sensible.

112. The Review heard about the need for a reset and strengthening of the Greater Christchurch Partnership as a consequence of the changing roles and relationships as regeneration progresses. CNZ's Greater Christchurch 2050 has the potential to provide a useful basis for this.

113. The effect of the Act's planning proposal requirements has been to improve engagement with Mana Whenua. Agencies individually and the Greater Christchurch Partnership will want to ensure this is continued.

#### Considerations for future legislation of this type

114. While outside the direct scope of this Review, this Report already records that this was a feature of discussions during the Review process. It is worth noting the following points which came through most strongly:

- Any future circumstance of this scale and type in New Zealand will involve the same challenge of central and local government working together in circumstances often in similarly uncharted territory. The combined experience of working with the CER Act and this Act should provide some useful insights into how these arrangements can best work. It was suggested to me that any future legislation needs to use the experience in Christchurch to more explicitly chart the responsibilities of each and how these might change over the life of a response/recovery/regeneration cycle. This is correct and in my view is no reflection on these two pieces of legislation, as there was literally no precedent to follow.
- Legislative guidance that assists relevant actors to adapt roles, responsibilities and functions on a principled basis in response to the rapidly changing nature of a recovery/regeneration context, without having to change the legislation itself would be valuable.

- The Act usefully set up aspects of how transition to local leadership should occur. Examples are ss128(2) regarding the change in responsibility for appointing Regenerate Christchurch's Board Chair, 134 providing a successor organisation to Regenerate Christchurch to be created after 2021 and Council owned and controlled, and 138 regarding the transfer of Regenerate Christchurch's assets and liabilities.

I support the strong theme in feedback to this Review that future legislation should go further in specifying roles, accountability and timeframes, for determining transition plans ahead of the conclusion of the legislation.

- Specific points on future legislation noted elsewhere in the report and not repeated here are:
  - Role of LINZ para 75
  - Consultation aspects related to s71 – para 56
  - Role of Ōtākaro – para 55
  - Governance arrangements for a regeneration planning agency – para 86.

## Acknowledgement from the Reviewer

In carrying out this second Review I was privileged to experience the open, constructive and insightful engagement of the people I spoke to and their shared commitment to positive regeneration outcomes for Greater Christchurch.

I have again received excellent secretariat support from staff in the Department of the Prime Minister and Cabinet in both Wellington and Christchurch, and would like to thank everyone involved.

## **Annexes**

**Annex 1 – Schedule of Powers Exercised**

**Annex 2 – Persons interviewed for this Review**

**Annex 3 – Structured questions for Interviews**

**Annex 4 – Terms of Reference 2018-19**

## Annex 1 – 2019 Review of the Greater Christchurch Regeneration Act 2016 Schedule of Powers Exercised

| Date  | Section    | Power exercised by      | Operation / Action  |
|---|------------|-------------------------|---|
| <b>Subpart 1—Development and implementation of planning instruments</b>               |            |                         |   |
| <i>Development and amendment of Plans relating to Christchurch district (s28-s39)</i> |            |                         |   |
| s33   | Sept-18    | Ōtākaro Limited         | Review of the Draft Ōtākaro Avon River Corridor Regeneration Plan   |
| s33   | 13-Sept-18 | Regenerate Christchurch | Development of draft Plan or amendment (Engage with parties identified under s29 of the GCR Act to seek their views in relation to the Draft Ōtākaro Avon River Corridor Regeneration Plan) |
| s33   | 17-Oct-18  | Chief Executive, DPMC   | Review of the Draft Ōtākaro Avon River Corridor Regeneration Plan   |
| s33   | Oct-18     | Environment Canterbury  | Review of the Draft Ōtākaro Avon River Corridor Regeneration Plan   |
| s33   | Oct-18     | Te Rūnanga O Ngāi Tahu  | Review of the Draft Ōtākaro Avon River Corridor Regeneration Plan   |
| s35   | 8-Mar-19   | Regenerate Christchurch | Proponent must finalise and submit draft Plan or amendment (Submitted the Draft Ōtākaro Avon River Corridor Regeneration Plan to the Minister)  |
| s35(5)  | Feb-19     | Ōtākaro Limited         | Consent given to submit Draft Ōtākaro Avon River Corridor Regeneration Plan to Minister Supporting Greater Christchurch Regeneration.   |
| s38   | 7-Mar-19   | Regenerate Christchurch | Must submit the draft Plan to the Minister (Submitted the draft Plan to the Minister, together with advice to assist with decision)   |

| <i>Revocation of Plans relating to greater Christchurch (s41-s48)</i>  |           |                              |   |
|--|-----------|------------------------------|---|
| s41  | 4-Sept-18 | Regenerate Christchurch      | May propose a draft outline for all or part of a plan relating to Greater Christchurch (Outline for partial revocation of LURP)   |
| s42(1)(a)  | Jul-18    | Selwyn District Council      | Provided views on the Partial Revocation of the Land Use Recovery Plan  |
| s42(1)(a)  | Jul-18    | Waimakariri District Council | Provided views on the Partial Revocation of the Land Use Recovery Plan  |
| s42(1)(a)  | Jul-18    | Environment Canterbury       | Provided views on the Partial Revocation of the Land Use Recovery Plan  |
| s42(1)(c)  | 6-Aug-18  | Chief Executive, DPMC        | Provided views on the Partial Revocation of the Land Use Recovery Plan  |
| s43  | 8-Nov-18  | Minister                     | Approved the Draft Outline for the Partial Revocation of the Land Use Recovery Plan   |
| <i>Revocation of Plans relating to Christchurch District (s49-s59)</i> |           |                              |   |
| s49  | 4-Sept-18 | Regenerate Christchurch      | May propose a draft outline for all or part of a plan relating to Greater Christchurch (Outline for partial revocation of LURP and CCRP)  |
| s50(1)   | Aug-18    | Te Rūnanga O Ngāi Tahu       | Provided views on the Draft Outline for the Partial Revocation of the Christchurch Central Recovery Plan  |
| s50(1)   | Aug-18    | Environment Canterbury       | Provided views on the Draft Outline for the Partial Revocation of the Christchurch Central Recovery Plan  |
| s50(1)   | 6-Aug-18  | Chief Executive, DPMC        | Provided views on the Draft Outline for the Partial Revocation of the Christchurch Central Recovery Plan  |
| s52  | 8-Nov-18  | Minister                     | Approved the Draft Outline for the Partial Revocation of the Christchurch Central Recovery Plan   |
| s57  | 12-Mar-19 | Regenerate Christchurch      | Regenerate Christchurch must provide recommendation to Minister (Submitted the proposed partial revocation of Christchurch Central Recovery Plan (CCRP) to the Minister for her approval) |

| <i>Suspension, amendment, or revocation of RMA document, council plan, etc (s65-s73)</i> |             |                              |   |
|--|-------------|------------------------------|---|
| s66(1)   | 15-Oct-18   | Christchurch City Council    | The Proponent must seek the views of the Strategic Partners and the chief executive of DPMC on the draft proposal (High Flood Hazard Management Area Residential Unit Overlay)  |
| s66(1)(a)  | Oct-18      | Te Rūnanga O Ngāi Tahu       | Provided views on the Draft Section 71 Proposal (Residential Unit Overlay District Plan Changes)  |
| s66(1)(a)  | 17-Oct-18   | Selwyn District Council      | Provided views on the Draft Section 71 Proposal (Residential Unit Overlay District Plan Changes)  |
| s66(1)(a)  | 18-Oct-18   | Waimakariri District Council | Provided views on the Draft Section 71 Proposal (Residential Unit Overlay District Plan Changes)  |
| s66(1)(a)  | 26-Nov-18   | Environment Canterbury       | Provided views on the Draft Section 71 Proposal (Residential Unit Overlay District Plan Changes)  |
| s66(1)(c)  | 26-Oct-18   | Chief Executive, DPMC        | Provided views on the Draft Section 71 Proposal (Residential Unit Overlay District Plan Changes)  |
| s66(2)   | 23-Aug-18   | Christchurch City Council    | The Proponent must finalise the Section 71 proposal and submit the proposal to the Minister for approval together with a concise statement recording the views provided by the parties under section 66(1) (Yaldhurst Recreation and Sports Facility section 71 Proposal) |
| s66(2)   | 1-Nov-18    | Christchurch City Council    | The Proponent must finalise the section 71 proposal and submit the proposal to the Minister for approval together with a concise statement recording the views provided by the parties under section 66(1) (Residential Unit Overlay District Plan Changes)               |
| s66(1)(a)  | 26-Oct-2018 | Environment Canterbury       | Provided views on the Draft Section 71 Proposal (Yaldhurst Recreation and Sports Facility section 71 Proposal)  |
| s66(4)   | 2-Nov-18    | Regenerate Christchurch      | Must provide views on section 71 proposals (Provided a view to the Minister on the final section 71 proposal for CCC use of the Act regarding Residential Unit Overlay)   |
| s67(1) and (2) and s68   | 25-Sep-18   | Minister                     | Agreed to exercise power under s67 to proceed with Section 71 Proposal (Yaldhurst Recreation and Sports Facility) and agree to invite public comment under s68 on the Proposal  |

|                        |           |                         |   |
|------------------------|-----------|-------------------------|---|
| s67(1) and (2) and s68 | 7-Nov-18  | Minister                | Agreed to exercise power under s67 to proceed with Section 71 Proposal (Residential Unit Overlay District Plan Changes) and agree to invite public comment under s68 on the Proposal  |
| s69 and s71            | 13-Dec-18 | Minister                | Agree to exercise power under s69 to approve the Section 71 Proposal (Residential Unit Overlay District Plan Changes) and to make the required changes to the Christchurch District Plan  |
| s69 and s71            | 17-Dec-18 | Minister                | Agree to exercise power under s69 to approve Section 71 Proposal (Yaldhurst Recreation and Sports Facility) and to make the required changes to the Canterbury Regional Policy Statement and Christchurch District Plan             |
| s71                    | 2-Nov18   | Regenerate Christchurch | Minister may suspend, amend, or revoke RMA document, council plan, etc (Provided a letter to the Minister with views on Christchurch City Council's finalised proposal for the exercise of powers for the Residential Unit Overlay) |
| s73                    | 23-Jan-19 | Minister                | Minister presented Section 71 Proposal (Residential Unit Overlay District Plan Changes) to the House of Representatives   |
| s73                    | 23-Jan-19 | Minister                | Minister presented Section 71 Proposal (Yaldhurst Recreation and Sports Facility) to the House of Representatives   |

**Subpart 2 — Dealing with land and other property (s74-s109)**

|  |           |                      |  |
|--|-----------|----------------------|--|
| <b>Subpart 2 — Dealing with land and other property (s74-s109)</b> |           |                      |  |
| s91(1)(a)  | Various   | LINZ Chief Executive | Five uses of this section to purchase or otherwise acquire land on behalf of the Crown.  |
| s91(1)(b)  | Various   | LINZ Chief Executive | Forty-five uses of this section to: hold, mortgage and lease land acquired by the Crown under this Act or under the Canterbury Earthquake Authority Act 2011 on behalf of the Crown. This included approval of one-off events and leases for transitional use of land in the OARC. |
| s91(2)(a)  | Various   | Minister             | Two uses of section whereby the Minister approves the purchase or other acquisition of land  |
| s93(1)   | 18-Dec-18 | LINZ Chief Executive | The chief executive may subdivide, resubdivide, improve, and develop all or any land acquired by the Crown   |

|      |            |                      |  |
|------|------------|----------------------|--|
| s94  | 9-Nov-18   | Minister             | Amalgamation of land in the Waimakariri Residential Red Zone   |
| s95  | 12-Sept-18 | Minister             | Consultation on the Waimakariri Residential Red Zone Recovery Plan (Consultation with Minister for Conservation, Local Purpose Utility Reserve). |
| s107 | Various    | LINZ Chief Executive | Four uses of this section to dispose of land held by the Crown.  |

**Subpart 5 – Regenerate Christchurch (s121-s136)**

|         |           |                         |   |
|---------|-----------|-------------------------|---|
| s123    | Ongoing   | Regenerate Christchurch | The functions of Regenerate Christchurch (Southshore and South New Brighton, Cathedral Square, Ōtākaro Avon River Corridor, Yaldhurst Recreation and sports facility, Residential Unit Overlay, Central City Momentum advice, Governance and Regeneration advice to the Minister) |
| s131(1) | 13-May-19 | Minister and Mayor      | Letter of Expectations provided to the Chair of Regenerate Christchurch   |
| s131(1) | 24-May-19 | Minister and Mayor      | Letter of Expectations (revised) provided to the Chair of Regenerate Christchurch   |
| s131(1) | 3-Aug-18  | Minister and Mayor      | Letter of Expectations provided to the Chair of Regenerate Christchurch   |

**Subpart 6 – Transfer of assets, liabilities and land (s137-s144)**

|      |         |                      |   |
|------|---------|----------------------|---|
| s142 | Various | LINZ Chief Executive | Three transfer agreement amendments and transfers of land |
|------|---------|----------------------|---|

| <b>Subpart 7 – Miscellaneous provisions</b>  |           |                  |  |
|--|-----------|------------------|--|
| <i>Repeal of Canterbury Earthquake Recovery Act 2011 and related matters (s146-s149)</i> |           |                  |  |
| s148(1)  | 19-Feb-19 | Governor-General | The Governor-General decided by Order in Council to revoke the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014                   |
| s148(2)  | Feb-19    | Minister         | Minister made recommendation to the Governor-General regarding revocation of the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 |
| s149   | 25-Feb-19 | Minister         | Canterbury Earthquake (Christchurch Replacement District Plan) Order Revocation Order 2019 (2019/16)   |
| <i>Annual Review (s150)</i>  |           |                  |  |
| s150(4)  | 30-Oct-18 | Minister         | Minister presented the Annual Review of the Greater Christchurch Regeneration Act to the House of Representatives  |

| <b>Schedule 5 – Provisions applying in relation to Regenerate Christchurch</b> |           |                         |  |
|--|-----------|-------------------------|--|
| <i>Part 2 Reporting and financial obligations</i>                              |           |                         |  |
| Clauses 51 and 52  | 12-Jul-19 | Regenerate Christchurch | Provision, publication and presentation of the Statement of Intent   |
| Clause 60  | Dec-18    | Regenerate Christchurch | Obligation to publish and present Statement of Performance Expectations (Statement of Performance Expectations 2018/19 published on Regenerate Christchurch website) |
| Clause 60(3)   | 18-Dec-18 | Minister                | Minister presented a copy of the Statement of Performance Expectations 1 July 2018 - 30 June 2019  |
| Clause 62(2)   | 5-Oct-18  | Minister                | Presentation of Regenerate Christchurch's 2017-18 Annual Report in the House of Representatives  |
| Clause 68  | Various   | Regenerate Christchurch | Provision of information to the Auditor General (To allow preparation of the Audit Report)   |

## Annex 2 – Persons interviewed for this Review

### **Christchurch City Council**

- Lianne Dalziel, Mayor of Christchurch
- Brendan Anstiss, General Manager Strategy and Transformation
- David Griffiths, Head of Planning and Strategic Transport
- Ian Thomson, Senior Legal Advisor
- Nicola Shirlaw, Senior Advisor to the Mayor

### **Regenerate Christchurch**

- Ivan Iafeta, Chief Executive
- Julia Hardacre, Director, Business Performance
- Jen Crawford, Board Member
- Hilary Walton, Board Member
- Therese Arseneau, Board Chair

### **DCL**

- Dr Jane Gregg, Board Director
- Rob Hall, Chief Executive Officer

### **ChristchurchNZ**

- Joanna Norris, Chief Executive Officer
- Therese Arseneau, Board Chairperson

### **Land Information New Zealand**

- Jerome Sheppard, Deputy Chief Executive Crown Property
- Jeremy Barr, Group Manager, Land and Property
- Jessica Enoka, Solicitor

### **Canterbury Employers' Chamber of Commerce**

- Leeann Watson, Chief Executive Officer

### **Environment Canterbury**

- Bill Bayfield, Chief Executive

### **Ōtākaro Ltd**

- Ruth Keating, General Manager Legal and Risk
- John Bridgeman, Chief Executive
- Lizzy Pearson, Manager, Planning, Placemaking, and Urban Design

### **DPMC Greater Christchurch Group**

- Anne Shaw, Executive Director
- Kelly Chapman, Manager, Strategic Policy
- Andrew Hammond, Principal Advisor
- Fran Hook, Senior Solicitor

### **Selwyn District Council**

- David Ward, Chief Executive Officer
- Mayor Sam Broughton

### **Waimakariri District Council**

- Jim Palmer, Chief Executive
- Mayor David Ayers

### **Minister for Greater Christchurch Regeneration**

- Hon Dr Megan Woods

### **Treasury**

- James Beard, Acting Deputy Secretary of Macroeconomics and Growth

### **Te Rūnanga o Ngāi Tahu**

- Rebecca Clements, General Manager – Strategy and Influence

## Annex 3 – Structured questions for Interviews

### **Question 1**

When considering how effective the Act has been during the past year in achieving its overall purpose:

- (a) what do you consider to be the biggest gaps, if any?
- (b) where and/or how do you think the legislation could be strengthened to close these gaps, if needed?

### **Question 2**

When considering how effective the Act could be in the transition to local leadership and a normalised statutory framework:

- (a) what do you consider to be the biggest gaps, if any?
- (b) where and/or how do you think the legislation could be strengthened to close these gaps, if needed?
- (c) what parts of the legislation may need to be retained, if any?

### **Question 3**

Are the principal bodies/actors empowered by the Act with decision making rights to bring about regeneration in greater Christchurch:

- (a) able to carry out their functions?
- (b) carrying out those functions effectively/efficiently?
- (c) carrying out the functions as required by the Act?

### **Question 4**

- (a) are local entities equipped to drive regeneration after the Act is repealed?
- (b) if not, what legislative powers or tools would assist them and why?

### **Question 5**

Regenerate Christchurch:

- (a) is it achieving its purpose?
- (b) is it carrying out its functions as required by the Act?
- (c) if not, what, from your experiences, do you consider have been the main factors inhibiting progress?
- (d) how can its role and function support the transition to local leadership?
- (e) how can its role and function transition to local leadership?

**Question 6**

Are the engagement arrangements established by the Act:

- (a) able to be conducted between specific parties?
- (b) being conducted effectively / efficiently?
- (c) being conducted as required by the Act?

**Question 7**

Are the provisions made in the Act for accountability and transparency:

- (a) able to be operationalised?
- (b) operating effectively/efficiently?

**Question 8**

If there are impediments to any of the above:

- (a) what is the nature of the impediment;
- (b) what is its significance (impact);
- (c) what action, including legislative amendment, would best remedy or mitigate?

## Annex 4 – Terms of Reference: 2018-19 Review of the Act

### Introduction

1. Section 150 of the Greater Christchurch Regeneration Act 2016 (Act) requires the Minister responsible for administration of provisions of the Act (in this case the Minister for Greater Christchurch Regeneration), commission an annual review (the Review) of the operation and effectiveness of the Act.
2. The person(s) conducting the Review must prepare a report for the Minister which includes:
  - a. a description of powers exercised by or on behalf of a Minister or a chief executive under the Act during the reporting period from 1 July 2018 to 30 June 2019, and
  - b. any recommendations for amendments to the Act.
3. The Minister must present the report to the House of Representatives as soon as practicable after the Review has been completed.

### Context

4. In 2016, the Act was passed to support the continued regeneration of greater Christchurch. The Act established Regenerate Christchurch to lead regeneration, engage and advocate with communities, and collaboratively work with others in achieving regeneration. Other extraordinary functions established or continued under the Act include, the section 71 process for changing RMA documents, and powers relating to management of land acquired by the Crown through the red zoning process.
5. It was envisaged that the Act would support the progressive move towards a normalised relationship between central government and local leadership, with the majority of the Act's provisions and extraordinary functions to be repealed in June 2021.
6. To date, 2019 has seen a significant momentum towards locally led regeneration with the revocation of the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 and Regenerate Christchurch delivering its final draft Regeneration Plan. Moreover, eight years on from the first earthquake, the acute need for the provisions and extraordinary functions in the Act has lessened.
7. Outside the scope of the Act, further work has been progressed to support the transition to local leadership through global settlement negotiations to provide for a full and final resolution of outstanding issues and transition the Crown's extraordinary responsibilities in Christchurch.

## **Purpose and objectives**

8. The underlying aim of the Review is to develop and provide an informed view on whether the Act continues to be fit for purpose and supports the progressive move towards a normalised regulatory framework in greater Christchurch. The Review should provide advice that:
  - gives assurance to the Minister, House of Representatives, and the public regarding the operation and effectiveness of the Act; and
  - builds a useful evidence base to track progress towards a return to normal regulatory processes.
9. The Review should focus on both where the Act is effective and has achieved its policy objectives and also identify where the operation of the Act is defective. Specifically, this review should focus on the ability of the Act to support the transition back to local leadership and a return to a normalised statutory framework in Christchurch at the Act's expiry in 2021. With respect to this the objectives for the Review are as follows:
  - to identify and recommend any changes to the Act that will improve the Act's overall operation and effectiveness in supporting the transition to local leadership. This includes the role and function of Regenerate Christchurch, and the powers established through the Act including section 71 and Regeneration Plans;
  - to undertake a review of the checks and balances on the various powers provided under the Act to the Minister and the Chief Executives of DPMC and LINZ; and
  - to prepare a report for tabling by the Minister in the House of Representatives outlining the conclusions of the Review and recommendations (if any) for changes to the Act.
10. It is not the purpose of the Review to reconsider earthquake recovery or regeneration policy nor generic earthquake or emergency legislation. It is also not the purpose of the Review to consider the policy frameworks and environment that are not directly related to the powers created under the Act.

## **Deliverables, timelines and completion**

11. A final report should be submitted to the Minister for Great Christchurch Regeneration no later than 30 September 2019. The report is expected to cover the purpose and objectives above and specify areas for attention and/or follow up in future reviews.

## **Terms and conditions**

12. The details for the Review will be set out in an agreement between DPMC and the reviewer.
13. DPMC will provide secretariat support for this Review.