

REPORT ON DECISIONS MADE IN APPROVING THE DRAFT ŌTĀKARO AVON RIVER CORRIDOR REGENERATION PLAN

1. INTRODUCTION

The Ōtākaro Avon River Corridor (“OARC”) makes up 602 hectares of land stretching across the east of Christchurch. It suffered some of the worst effects of the Canterbury earthquake sequence of 2010-2011, and much of the area was “red zoned” by the Crown – with depopulation of communities in the area as land was sold to the Crown and all built structures were removed from Crown-owned properties.

For almost eight years now, the OARC’s future has been uncertain. The earthquakes’ impacts on the natural and built environments have had very real impacts on the wellbeing of people and communities. Timely regeneration is essential to the ongoing recovery of these areas, and is a priority for me as Minister for Greater Christchurch Regeneration.

The OARC presents an historic opportunity for the city of Christchurch and the region. Very few cities ever get the opportunity to undertake a regenerative planning project of this scale and nature, in an urban environment and with potential for such transformational benefits.

The draft Ōtākaro Avon River Corridor Regeneration Plan (the “Plan”) has been developed by Regenerate Christchurch over two years of information gathering, engagement, analysis, and planning. Its primary purpose is to enable short, medium, and long-term uses of land within the OARC that will contribute and support the regeneration of greater Christchurch. The process of its development has provided opportunities for communities to have their say, and has recognised the role of local leaders.

I have taken my time to consider the Plan, and appreciate how important this decision is for Christchurch. I would like to acknowledge:

- Regenerate Christchurch, in particular, for its hard work in developing the Plan, and its focus on the social, cultural, environmental, and economic wellbeing of Christchurch communities;
- the people of greater Christchurch who took the time to participate in this important process for the future of their city; and
- Christchurch City Council (“CCC”), Canterbury Regional Council (“ECan”), Te Rūnanga o Ngāi Tahu (“Ngāi Tahu”), Ōtākaro Limited (“Ōtākaro”) and the many other groups, agencies and organisations, for their input in the planning process.

I have considered the Plan, alongside the requirements of the Greater Christchurch Regeneration Act 2016 (the “GCR Act”), and have decided to approve it. This report records the decision I have made under s38 of the GCR Act.

2. PROCESS AND LEGAL REQUIREMENTS

Following approval of the Outline for the Plan on 27 March 2017, Regenerate Christchurch (RC) undertook a large-scale planning and engagement process. This culminated in the development of a Plan, which included chapters covering:

- a Vision and Objectives for the future of the OARC

- preferred land uses and activities
- a spatial plan
- a statutory direction to amend the Christchurch District Plan (“District Plan”) and the Canterbury Land and Water Regional Plan (“Regional Plan”) and
- potential phases of implementation.

On 13 September 2018, RC sought the views of the s29 parties (CCC, ECan, Ngāi Tahu, Ōtākaro, and the chief executive of DPMC) in accordance with s33 of the GCR Act. All parties provided views within the 30 working day timeframe required under s16 of the GCR Act.

On 14 November 2018, RC notified the draft Plan and sought public written comments in accordance with s34, over a 24 working day period.

On 6 March 2019, in accordance with s35(4), Ōtākaro provided consent for RC to submit the Plan to me in my capacity as Minister for Greater Christchurch Regeneration. On 8 March 2019, in accordance with s35(1), the Plan was submitted to me by RC. RC also provided me with substantial supporting information, including their views and advice on my statutory considerations.

In making a decision on a draft Plan, the GCR Act requires me to:

- make a decision to approve or decline the Plan (s38(1));
- have particular regard to the views of Regenerate Christchurch (s38(2)(a)(i));
- consider the material specified in s35(2), which must be provided by RC, (s38(2)(a)(ii)) namely:
 - a concise statement recording the views provided [by strategic partners and the CE of DPMC] under s33;
 - a concise statement summarising the comments and other input [as part of a public call for comments] provided under s34;
 - advice on whether the Plan has been developed in accordance with the Outline approved under s31; and
 - advice on how the views and comments provided under ss33 and 34 have been considered and, if relevant, addressed;
- consider whether the Plan has been developed in accordance with the approved Outline (s38(2)(c));
- consider the fiscal and financial implications of the Plan (s38(2)(d));
- consider whether the Plan is in the public interest (s38(2)(e));
- ensure that I exercise my power in accordance with one or more purposes of the GCR Act (s11(1)); and
- exercise that power where I reasonably consider it necessary (s11(2)).

3. SECTION 38 CONSIDERATIONS

In making my decision, I have considered all the matters specified above. This paper outlines those considerations.

As part of the s38 considerations, I have given particular regard to the views and advice of RC, as required under s38(2)(a)(i). I have considered the views and advice of RC when they relate to my s11 considerations.

Views provided under s33

I have noted RC's concise statement recording the views provided under s33, and their advice on how these views were considered and, if relevant, addressed in the Plan. In general, I am satisfied that RC has appropriately considered and addressed these views.

In particular, I note that the Plan has not incorporated some of the comments provided by Ngāi Tahu, particularly where these relate to future land ownership and governance. I consider RC's response to these comments is appropriate, given the nature of regeneration plans as a tool to direct changes to certain Resource Management Act 1991 ("RMA") instruments and to relate to other matters set out in ss60 and 63 of the GCR Act.

Within this scope, the Plan appropriately recognises the important role of mana whenua in the OARC, and signals Ngāi Tahu's expectations that the Treaty of Waitangi will be honoured in decisions outside the scope of the Plan. Further, it is my expectation that views that were not able to be incorporated in the Plan can be considered as part of wider decision-making that is needed – for example, through the global settlement discussions between the Crown and Christchurch City Council.

Comments and other input provided under s34

I have noted RC's concise summary of the comments and other input provided under s34, which was the final opportunity for public comment in the process. I have also given particular regard to RC's advice on how these comments were considered and, if relevant, addressed in the draft Plan.

There were three key areas where RC did not address the comments in the ways sought by the submitters – in relation to two specific projects (a proposed flatwater facility and a proposed eco-sanctuary), and on wider matters of governance, funding, and implementation. In general, I consider RC's approach to those comments is both reasonable and appropriate. I agree with RC's advice that:

- The Plan should not pre-empt funding, ownership and governance decisions which sit outside the scope of the Plan (as per my comments above); and
- Individual projects (such as the eco-sanctuary) should not be permitted activities where specifics about their implementation are not yet known.

RC also advised that land use combinations that include a 2.2km out-of-river flatwater facility are not the best overall use of the OARC; however, it was erroneous to suggest the proposal was excluded by the Plan. Rather, the Plan provides for such a facility to be "assessed and consented if found to be consistent with the planning framework".

Given the level of public support expressed for a flatwater facility to be located in the OARC, I requested specific advice from my officials on RC's process and rationale for reaching its decisions on this matter. I have carefully considered this additional advice.

I accept the Plan does not necessarily rule out a flatwater facility as a consenting pathway is theoretically possible through the District Plan provisions. However, I note it is unlikely this would be a viable pathway for the project, at least in its current form. Therefore, I do not consider the Plan would support a 2.2km out-of-river flatwater facility.

However, I agree with RC's view that other land uses are preferred. My own view is that its decision not to prioritise a flatwater facility, or to provide a more enabling consenting pathway for the project, is appropriate and reasonable – for the following reasons:

- RC identified some substantive issues with the proposal for a flatwater facility. It also identified that alternative land uses would provide a range of benefits. Ultimately, I consider RC was right to prioritise these other land uses. My reasons for this are discussed in more detail below, in relation to my consideration of the public interest under s38(2)(e).
- Additionally, I consider RC has carried out a thorough, well-informed and reasonable process. There have been multiple opportunities for supporters of the flatwater facility to have their say and provide evidence supporting their views. RC has demonstrated that it comprehensively reviewed all comments and evidence of this kind, and obtained advice from reputable specialists where appropriate.

I consider RC has acted reasonably in relying on this specialist advice, and that it has gone beyond what could be reasonably expected in its efforts to engage and consider new evidence and options.

Development in accordance with the Outline approved under s31

I have considered the material provided under s35 and RC's advice on whether the Plan has been developed in accordance with the Outline. In accordance with s38(2)(c), I have also considered whether the Plan has been developed in accordance with the Outline.

RC advised that, with the exception of two departures (the removal of the Evaluation Panel step in the process, and the reduced timeframe for public notification), it developed the Plan in strict accordance with the Outline. I agree with RC's advice that these departures have had no material effect on the development of the Plan. I consider that they were reasonable actions to take to support a timely, while still robust, planning process – particularly given the other mechanisms that existed for evaluation of and input into the Plan.

Additionally, I note that the Plan took approximately three months longer to develop than expected in the Outline, and it did not confirm all potential responsibilities for funding, delivery and governance in a detailed manner. I do not consider the Outline was prescriptive about these matters, or that these present significant issues.

In general, I consider that none of the identified discrepancies were material to the process, and that the Plan has been developed in accordance with the scope and process set out in the Outline.

Fiscal and financial implications

In accordance with s38(2)(d), I have considered the fiscal and financial implications of the Plan. I consider that they are appropriate and reasonable, given the scale of the challenges facing future uses in the OARC.

While significant investment will be required, specialist advice indicates that the land uses enabled by the Plan will offer wider benefits that will eventually exceed the overall costs of delivery. It also indicates that locating some of the most costly public projects in the OARC (rather than elsewhere) will provide more cost-effective and efficient outcomes for ratepayers. From a wider perspective, I expect that approving the Plan will help to reduce impacts on taxpayers and ratepayers as the land can be managed or divested to support more productive and beneficial uses.

While the Plan does not bind any person or agency to delivery, approving it will set expectations that it can be delivered. I consider the Plan appropriately manages expectations by making it clear that delivery will occur over decades. Having said that, funding sources have already been identified for a number of the major projects, and I am confident that the Plan presents both a bold and a realistic vision that can be delivered by a range of sectors and communities working together.

I make several comments below that relate to the financial implications of the alternative proposal for a flatwater facility.

Public interest

As required by section s38(2)(e), I have considered whether the Plan is in the public interest. I am firmly of the view that it is.

It is in both the local and national interest that Christchurch regenerates, particularly in this seriously affected area. The Plan would enable activities that are expected to generate significant positive contributions to the wellbeing of communities and the Christchurch environment, alongside opportunities for research and learning – with benefits for local and national communities. The Plan would also support uses that would allow the Crown to manage or dispose of red zone land more effectively and with broader public benefit.

I also note that the Plan's approach recognises the roles and supports the strategic goals and priorities of local leaders, including iwi, in the wider interest of their communities.

There are several areas where there are conflicting public interests, as discussed below.

Impacts on private property owners

RC has advised that some of the works prioritised by the Plan (in particular, stormwater treatment) could, depending on design, impact a number of remaining private property owners. In particular, RC advises that three properties are likely to be impacted by potential works; two properties may be impacted (or require design work-arounds); and six properties may require changes to access arrangements. There is uncertainty about the impact of possible works because the Plan does not confirm developments.

I acknowledge this as a significant issue for those owners, who have already experienced disruption yet chosen to remain in the OARC. Having said that, I note the Plan itself would have no effect on the rights and protections these owners continue to have as private property owners. I also note that, in comparison with some other potential land use combinations, the Plan has relatively lower effects on existing owners.

Overall, I consider the Plan appropriately balances consideration of the needs of private property owners with wider public benefit. Additionally, approving it would provide some certainty to the 24 remaining private property owners about where impacts could occur.

Flatwater facility

I acknowledge there is a sector of the public that supports a flatwater facility, and is seeking changes to the Plan to provide for its consenting needs. I note this support, and that the project could provide a number of benefits. Having said that, I note there are conflicting views in the community and in the feedback RC has received throughout the development of the Plan. There are a number of interests to balance.

Overall, I consider the potential benefits provided by such a facility are outweighed by the proposal's risks and wider impacts. My view is that they are also outweighed by the benefits

offered by this Plan. Three specific reasons for this view are discussed below, although there are a range of matters that have entered into my consideration of this issue.

Environmental and other impacts – Given the information that is available about the environmental and other impacts of a flatwater facility, I consider it would be extremely inappropriate for the Plan to prioritise this facility in the manner that has been proposed – for example, overriding Christchurch’s groundwater allocation limits. In the current environment, this could result in an over-allocation of 16 million cubic metres of Christchurch’s groundwater per year (10% of the allocation for the Christchurch/West Melton Zone), and be inconsistent with a direction in the National Policy Statement for Freshwater Management, which a regeneration plan under the GCR Act has no authority to amend.

The environmental impacts of this approach are not currently known, nor how (if at all) they could be mitigated, but there is potential for wider impacts, including on Christchurch’s drinking water. It is in the public interest that adverse effects on the environment can continue to be managed through the resource consent process. Even if the project were the most desirable use of the land, there would still be no basis, in my view, for overturning rules intended to sustain Christchurch’s water provision, which is a precious resource.

Impacts on regeneration momentum – A higher level of project delivery risk has been identified for the flatwater facility (compared to the preferred land use combination in the Plan), and the costs of delivery are substantial (potentially between \$160 and \$427 million) – without a clear source of funding identified, or responsibility for delivery. I have not given these issues undue weight because I recognise that these estimates and concerns are, in part, speculative e.g. I cannot assume that it would not be funded. However, I note that resources are constrained and, as noted above, it is doubtful that key consents could be obtained.

By comparison, the major infrastructure projects that would be enabled by this Plan have already secured significant funding, and there are a range of potential funding sources for other land uses. This is not to suggest there are not still issues to work through (as with any potential project), but on balance there appears to be greater certainty that the Plan’s projects could be delivered.

Lost opportunities for environmental, cultural and other benefits – Prioritising a flatwater facility over other uses (in particular, 30 hectares of stormwater treatment works) would also conflict with the views of local leaders and mana whenua. In particular, I note that:

- RC, supported by advice from technical specialists and CCC’s stormwater engineers, does not consider it is feasible to deliver both a flatwater facility and 30 hectares of stormwater treatment works in the Waikākāriki/Horseshoe Lake area. Given the particularly degraded water quality in this area, I agree with RC that delivering a flatwater facility would constitute a lost opportunity to demonstrably improve environmental wellbeing in the OARC, which is also of public interest; and
- Te Ngāi Tūāhuriri has expressed ‘strong opposition’ for the flatwater facility, alongside its support for the proposed stormwater treatment works, which would offer cultural benefits. There is no public interest in unjustifiably dismissing the views of mana whenua, while there is a public interest in actively protecting Māori interests and partnering with mana whenua to achieve regeneration in the OARC.

Overall, I am satisfied that it is in the public interest to prioritise other uses over a flatwater facility.

Conclusion: section 38 considerations

Overall, my view is that approving the Plan would be consistent with the considerations set out in s38 of the GCR Act. In coming to this conclusion I have had particular regard to the advice and views of RC regarding the s38 considerations.

4. SECTION 11 CONSIDERATIONS

Purposes of the GCR Act

The GCR Act supports the regeneration of greater Christchurch through five express purposes as set out in s3(1). Section 11(1) requires me to ensure that I exercise my power to approve the Plan in accordance with one or more purposes of the GCR Act. In order to assess this, I have considered how the Plan will support regeneration as defined in s3(2) of the GCR Act.

Regeneration means...rebuilding, in response to the Canterbury earthquakes or otherwise, including...improving...or converting land:

- Currently, zoning for the OARC does not support regeneration or reflect the land's potential. The Plan would enable land to be converted for more appropriate uses than pre-earthquake residential zoning (for example, through the transformational Green Spine), and for more beneficial uses than current zoning, which restricts most development.
- It would allow for rebuilding in a way that is appropriate for a badly damaged area subject to multiple natural hazards, through public infrastructure including flood and stormwater management infrastructure, transport connections, recreation and community facilities, and small-scale residential or retail activities in defined locations.

Regeneration means...improving the environmental, economic, social, and cultural well-being, and the resilience of communities through...urban renewal and development...and restoration and enhancement...

- The Plan would prioritise activities that will restore and enhance wider wellbeing – for example, increasing the resilience of communities to natural hazards, enhancing environmental and cultural wellbeing through significant ecological restoration, and providing for many forms of smaller-scale beneficial development. These outcomes will bring communities together, restore connections with the natural environment, increase prosperity, and improve the safety of communities by reactivating the OARC.

Taking this into account, I consider that approving the Plan is in accordance with more than one of the purposes of the GCR Act. In particular, but not limited to, it is my view approving the Plan would:

- **enable a focused and expedited regeneration process.** In effect, the Plan would provide an enabling planning framework which offers a vision for the future; certainty about how and where key activities can occur; and streamlined consenting processes where appropriate to expedite regeneration. It would support the OARC becoming available to communities of Christchurch for a range of activities in a way that has not been possible to date.
- **facilitate the ongoing planning and regeneration of greater Christchurch.** Approving the Plan would result in changes to the District and Regional Plans, enabling regeneration of the OARC to be prioritised and supported in consenting

decisions. It will also have an impact on a range of other decisions (listed in ss60 and 63 of the GCR Act), ensuring these decisions do not undermine or conflict with regeneration of the OARC.

- **recognise the local leadership of ECan, CCC and Ngāi Tahu, in particular, and provide them with a role in decision-making under the GCR Act.** The Plan provides meaningful support for local leaders to carry out their core functions, and to achieve their strategic priorities – particularly in relation to the Plan’s priorities for public infrastructure that will support accessibility and connectivity, renewed cultural value and connection, resilience to natural hazards, and improved water quality and biodiversity. Approving the Plan would recognise their leadership and ensure that their voices are heard.
- **enable the Crown to efficiently and effectively manage, hold, and dispose of land acquired by the Crown under the CER Act 2011 or the GCR Act.** Currently, the Crown manages its land in the OARC at significant expense and with few opportunities to provide wider benefit, given the restrictive zoning of the land and the need to wait for confirmation of any future uses. By enabling more appropriate land uses and activities that have more benefits for the community, the Plan would support the Crown to divest land to parties better able to deliver those benefits, or to manage the land more effectively, providing greater value for money for taxpayers and ratepayers and wider benefits for the community.

Although my decision to approve the Plan would not in itself enable community input into its development, I note that the Plan has been developed in a way that drew on many inputs from communities of greater Christchurch.

Necessity

I consider that exercising my power to approve the Plan is necessary to address the significant problems currently faced in the OARC, and enable a focused and expedited regeneration process for the OARC. I also do not consider that the same result of the Plan could be achieved in another way. My view is that:

- the Plan has been developed through a process that is best suited and was designed for a regeneration planning project of this scale. It enables me in making this decision to balance, amongst other things, objectives for local leadership of regeneration, community input into decision-making, efficient use of the power, a focused and expedited regeneration, and protection of the wider public interest, while retaining a decision-making role for the Crown (as a significant landowner);
- approving the Plan would facilitate changes to Resource Management Act 1991 instruments that are necessary for regeneration, through a holistic and integrated process;
- it would ensure that a range of decisions listed in s60 and s63 of the GCR Act cannot be inconsistent with the Plan (while the relevant parts of the GCR Act are in force). This provides some protections for the Plan’s emphasis on connectivity, ecological restoration and conservation;
- no other tools are currently or realistically available that would enable all these outcomes to be achieved; and
- moreover, I do not consider there is any real benefit that could be achieved through alternative mechanisms, which would only result in significant delays and increase

uncertainty without any clear added value. I do not consider that a decision to decline on this basis could be justified, or would meet the GCR Act tests for decision-making. This is particularly so given the serious impacts on communities under the status quo and the potential for delays to create further stress.

In coming to my decision, I have considered the significance of the decision, its consequences, and alternatives to approving the Plan.

5. OTHER MATTERS

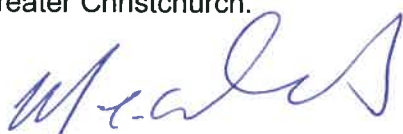
East Lake Trust Ombudsman's complaint and Select Committee petition

I note the East Lake Trust ("Trust") complaint made to the Ombudsman about the decision of Regenerate Christchurch not to include the Trust's flatwater facility proposal, known as East Lake, in the refined shortlist of proposals for the Plan. I am aware of the outcome of this complaint, with the Ombudsman releasing his final opinion on 22 July 2019. This found Regenerate Christchurch did not act unlawfully or unreasonably in relation to the Trust's complaint that its assessment of its proposal was factually flawed.

I also note the petition to the Governance and Administration Committee (the Committee) by the Trust requesting the House '...urge the Minister for Greater Christchurch Regeneration and Regenerate Christchurch to include the East Lake in the long-term planning for the redzone...'. I am aware that this is still under active consideration by the Committee.

6. DECISION

I am very pleased to be able to approve the Ōtākaro Avon River Corridor Regeneration Plan under section 38 of the GCR Act, and I am confident that it will support the regeneration of greater Christchurch.



Hon Dr Megan Woods

Minister for Greater Christchurch Regeneration

Date: 15 August 2019