

MINISTERIAL DECISION REPORT APPROVING THE PROPOSAL TO EXERCISE POWER UNDER SECTION 71 OF THE GREATER CHRISTCHURCH REGENERATION ACT 2016 IN RELATION TO COMMERCIAL FILM OR VIDEO PRODUCTION FACILITIES

1. INTRODUCTION

On 18 June 2020, I received Regenerate Christchurch's Proposal to exercise my power under section 71 of the Greater Christchurch Regeneration Act 2016 (GCR Act) to provide for the development and operation of commercial film or video production facilities (the Proposal).

The Proposal was submitted to me prior to the repeal of section 71 of the GCR Act under the Greater Christchurch Regeneration Amendment Act 2020. As a result, under transitional provisions this process can continue as if section 71 had not been repealed. Therefore, I refer to provisions of the GCR Act throughout this report as if section 71 and related provisions had not been repealed.

Pursuant to section 67,¹ on 29 June 2020, I agreed to exercise my power to proceed with the Proposal and to invite public written comment under section 68 for a period of four weeks from notification on 7 July 2020. This period of written comment closed on 5 August 2020 at 5:00 p.m. 154 comments were received by that time; two more were received shortly after and I decided to accept and consider them as well.

The Proposal seeks to amend the Canterbury Regional Policy Statement (CRPS) and the Christchurch District Plan (CDP). The Proposal states that the proposed amendments '*provide a pathway for commercial film or video production facilities to be assessed and, if appropriate, consented within a clear and certain framework*'. It argues that the exercise of power under section 71 of the Act will '*provide more certainty and clarity as to the planning process*' and will therefore '*establish a more enabling regulatory environment which ... is more likely to encourage the establishment of such facilities*' in Christchurch district.

Having considered the Proposal, including the supporting information, the public written comments received, the requirements of the GCR Act, and advice from officials, I have decided to approve the Proposal (and thus exercise the power in section 71). This report records the decision I have made under sections 69 and 71.

This was the last possible time that the section 71 power could be exercised, and marks an important transition point in the regeneration phase, as we move further towards local leadership. I would like to acknowledge Regenerate Christchurch for its role as proponent, as well as the role of the strategic partners in the Proposal's development.

I also want to thank everyone who took the time to send in comments. It was clear to me that all those who commented take the interests of greater Christchurch very seriously, and I have carefully considered the issues before me.

¹ All references are to the GCR Act unless stated otherwise.

2. THE ISSUE AND PROPOSED AMENDMENTS

In explaining the rationale for and background to the Proposal, Regenerate Christchurch noted that, at present, Christchurch is not appropriately positioned to respond to film industry opportunities as an immediate regeneration opportunity. While several requests from potential film studio developers have been received by Christchurch City Council (the Council), in each case the Council determined that the current planning framework is uncertain and would act as a barrier to such development.

To address this problem and encourage the establishment of commercial film or video production facilities in Christchurch, the Proposal is to introduce a clear, certain and enabling planning framework for the establishment of such facilities in certain zones within Christchurch district. My decision to exercise the power will result in amendments to the CRPS and CDP, including:

- In the CRPS, the amendments would include express provision for “commercial film or video production” activities both within and outside of the existing urban areas and greenfield priority areas in the Christchurch district, while also requiring that such facilities are connected to reticulated water and wastewater systems (thus ensuring no unnecessary load on the district’s aquifers);
- Amending the “noise sensitive activities” definition in the CRPS to specifically exclude commercial film or video production activity from that definition;
- Inserting specific recognition for “commercial film or video production” activities (the activities) within CDP objectives and policies;
- Make “commercial film or video production” activities permitted in seven zones within the district (Commercial Mixed Use; Commercial Central City Mixed Use; Industrial General; Industrial Heavy; Industrial Park; Rural Urban Fringe; and Rural Templeton); and
- Providing for additional permitted activity standards, built form standards and matters of discretion in the CDP where these are required – to ensure appropriate environmental outcomes and to manage potential reverse sensitivity effects.

This does not mean that resource consent will not be required in certain situations to manage effects; for example, Regenerate Christchurch expected that specific development proposals would likely trigger the need for resource consent in relation to traffic generation. However, the Proposal is likely to provide greater certainty about the framework for assessing consents where required.

3. PROCESS AND LEGAL REQUIREMENTS

I am satisfied that the appropriate statutory processes occurred in relation to the development of the Proposal prior to its submission to me, and my invitation for public written comment.

Section 69 requires that, in making a decision on whether to approve or decline the Proposal, I must:

- a) take into account the written comments provided during the public comment process (section 69(a));
- b) have particular regard to any views of the strategic partners expressed in written comments provided during the public comment process (section 69(b)); and

- c) make a decision no later than 30 working days after the date specified in the notice published under section 68 (section 69(c)).

I must also:

- ensure that I exercise my power in accordance with one or more purposes of the GCR Act (section 11(1)); and
- exercise that power only where I reasonably consider it necessary (section 11(2)).

I understand that under the GCR Act I am not able to amend the Proposal (with the possible exception of minor obvious errors). My decision is limited to either approving or declining the Proposal.

4. CONSIDERATIONS

This section addresses the matters I am required to consider in making my decision.

Public written comment

I note that a total of 156 written comments were received. I have read each of the individual written comments and the summary of comments prepared by officials in the Department of the Prime Minister and Cabinet. Approximately 98% of the written comments were in support of the Proposal and approximately 2% were opposed.

I have taken all these comments into account in coming to my decision.

Comments from strategic partners and Regenerate Christchurch

In coming to my decision, I have had particular regard to the views of the Council and Canterbury Regional Council (ECan), both of whom provided written comments during the public comment process. No other comments were received from other strategic partners as part of the written comment process (noting I previously had particular regard to the views expressed by the strategic partners in an earlier part of the statutory process, when I made my decision under section 67 to proceed with the Proposal by inviting written comment).

Both the Council and ECan expressed broad support for the exercise of power.

The Council emphasised the need for an enabling regulatory environment to encourage growth in the film industry in Christchurch and capitalise on the South Island's growing reputation as a filming location. It considers this would bring a range of regeneration benefits, while also ensuring the environmental outcomes in the CDP can be achieved.

ECan, likewise, recognised the potential economic and employment benefits, and the regeneration outcomes, of bringing the activities to Christchurch. It supported the Proposal's intent to better enable this opportunity while also managing environmental effects. ECan also provided several more specific comments which included support for the identified zoning locations and other standards and provisions included in the Proposal.

I note that ECan suggested that additional wording in Policy 6.3.5(4) and associated supporting text was not necessary to deliver the outcomes sought by the Proposal, and expressed a preference for a different approach to numbering of additional provisions. While I have taken this into account in coming to my decision, as noted above my decision is limited to approving or declining the Proposal.

Comments in support

153 comments were received that supported the Proposal.

Individuals and organisations that supported the Proposal generally did so because of the positive benefits of securing economic/employment activity of this kind, including for wider social, economic, and cultural wellbeing.

It was evident that many of those who commented were personally enthusiastic and excited about the Proposal. Many emphasised how real the opportunity is to capitalise on growing interest in New Zealand as a safe location for the development of films. Some repeated themes include that this is a 'no brainer', that it needs to happen immediately ('the sooner the better'), and that it needs to be as enabling as possible.

There were consistent messages that Christchurch can and should be a location for activity of this kind, taking into account its infrastructure, location, and skills base, but the missing link is the development of appropriate facilities for pre- and post-production activity. In the context of both earthquake recovery and wider challenges such as the impacts of COVID-19, many of the comments emphasised how positive this could be for people, for Christchurch's future, and for the place of the South Island in the world.

A number of those who commented are either training or working in the film industry, and would appreciate the opportunity to stay in Christchurch, return to Christchurch, learn in Christchurch, or bring projects to Christchurch. Other comments emphasised wider benefits accruing to industries beyond film itself, such as the hospitality, accommodation, and education sectors. In this context, many talked about the benefits of retaining talented people, diversifying the local economy to make it more resilient for the future, and developing opportunities for young people.

The benefits for greater Christchurch were generally recognised throughout the comments. However, a number of comments also recognised the Proposal as an opportunity to grow both the South Island's and New Zealand's share in the international film industry.

Some of the comments made specific suggestions on matters which could assist the film and video production industry, but these matters were generally outside the powers I have under the GCR Act.

Comments in opposition

Three opposing comments were received. These comments were not unresponsive of the Proposal generally (i.e. the concept of enabling development of the identified facilities), but either wanted it achieved through a different process, or wanted changes made to the area covered by the Proposal.

One of these comments was not opposed to film studios per se, but considered that, ten years after the earthquake, it is time to stop using the special powers granted under the GCR Act and instead rely on standard processes. I note that I am required to consider proposals that have been put to me in accordance with the GCR Act but, as required by section 11(2), I have considered (below) whether there are alternative means to give effect to the Proposal.

The other two comments were received from companies responsible for bulk fuel and gas terminals in Woolston, from which the supply of oil and gas in Canterbury is managed. They opposed the Proposal as it relates to the area which surrounds the terminals. This area is subject to the Woolston Risk Management Area overlay (the overlay) in the CDP. The underlying zones are Industrial Heavy and Industrial General, and as the Proposal would provide for film and video production to be a permitted activity in those zones, this would mean

that the development of commercial film or video production facilities could occur in the overlay area without a resource consent process.

The companies considered that the Proposal should not apply to the Woolston Risk Management Area, and were concerned that approving the Proposal as it is worded would:

- create unacceptable health and safety risks by removing consideration, through a resource consent process, of the potential risks the activities might be subject to by locating within the Woolston Risk Management Area;
- create significant reverse sensitivity effects (i.e. potentially constraining the operation of the bulk fuel and gas terminals, which are key parts of Canterbury's strategic infrastructure);
- not improve, and indeed potentially undermine, the wellbeing or resilience of Christchurch communities (contrary to the definition of 'regeneration' in the GCR Act);
- be inconsistent with Objective 1 of the National Policy Statement on Urban Development 2020 (NPS-UD), which states that "*New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic and cultural wellbeing, and for their health and safety, now and into the future*"; and
- insert inaccurate statements into the CRPS about the Proposal's compatibility with all strategic infrastructure and not giving rise to reverse sensitivity constraints.

As a result the companies recommended that I amend the Proposal to exclude the Woolston Risk Management Area from its scope; approve the Proposal in part but decline the Proposal as it relates to the Woolston Risk Management Area; or decline the Proposal in full. I am advised, however, that in this case I only have the option to approve or decline in full – I am not able to amend the Proposal or accept it partially.

In taking these comments into account, I have sought and received specific advice on the concerns raised by the companies, as I agree that it is important that the activities are managed appropriately by the CDP. However, I am satisfied that there is sound rationale for the approach that the Proposal has taken in enabling the activities to potentially locate in areas that are subject to the overlay. This is for the following reasons, at a high level:

- Different levels of risk are recognised in the approach already taken by the overlay to activities that are permitted or constrained. For example:
 - Activities that are considered non-sensitive for the purposes of the overlay, such as industrial activity, high technology industrial activity, and trade and industry training activities, are permitted in areas subject to the overlay (and therefore require no resource consent); however
 - Activities such as commercial services or sporting complexes are recognised by the overlay as a moderate risk (through a discretionary activity status, requiring resource consent); and
 - Activities such as hospitals, schools, accommodation or residential buildings are recognised by the overlay as a high risk (through a non-complying activity status).

In this context, commercial film or video production activities as defined in the Proposal (with no provision for residential activity) are comparable to and well-aligned with the activities that are non-sensitive, and already permitted in the areas subject to the overlay. As such, they are not considered to present a moderate or high health and

safety risk which would require risk assessment through a resource consent process, or that such an activity be avoided in the area.

- There is a sound basis for Regenerate Christchurch's position that the anticipated activities, which do not include a residential component, are not 'sensitive activities' as defined in the CDP (largely care, education, or accommodation-focused). This definition forms a key element in planning provisions addressing the management or avoidance of adverse effects, including reverse sensitivity effects. Further, the approach currently taken regarding the kinds of activities permitted in the Woolston Risk Management Area overlay is founded upon this categorisation.
- Given that the activities, as above, are not considered to be 'sensitive activities' and are comparable to other activities already permitted within the Industrial General and Industrial Heavy zones subject to the Woolston Risk Management Area overlay, I do not consider they should present concerns about consistency with wellbeing and resilience considerations in the purposes of the GCR Act or in Objective 1 of the NPS-UD.
- Wording in the CRPS regarding compatibility with strategic infrastructure is intended to remove any doubt regarding compatibility within the airport noise contours, and also seeks to avoid or minimise constraints on strategic infrastructure by recognising they should not be affected.

Purposes of the GCR Act (section 11(1))

The GCR Act supports the regeneration of greater Christchurch through five purposes (section 3(1)). Section 11(1) requires me to ensure that I exercise my power to approve the Proposal (and thus agree to exercise my section 71 power) in accordance with one or more of these purposes.

'Regeneration'

In order to assess whether at least one of the purposes is met, I have first considered whether the Proposal supports regeneration as defined in the GCR Act (section 3(2)).

I note that regeneration includes: rebuilding in response to the Canterbury earthquakes or otherwise, including ... improving ... or converting land (section 3(2)(a)); and/or improving the environmental, economic, social, and cultural wellbeing and the resilience, of communities through urban renewal and development and/or restoration and enhancement (section 3(2)(b)).

The Proposal affects seven zones in Christchurch district, amending the planning framework in those zones to allow and encourage the development and operation of commercial film or video production facilities on land which has not previously been available to develop permanent facilities of this kind. Where any facilities are developed as a result of these amendments, they must be used in association with the creation of a film or video product where undertaken by a professional production company. Any residential component is excluded. The activities will also be required to be consistent with a number of rules and standards intended to manage effects on the physical environment.

The Proposal itself provides supporting analysis that suggests securing commercial film or video production facilities would help to deliver wider benefits that support environmental, economic, social and cultural wellbeing. The broad themes of most of the written comments that were received reinforce this view, with many of those who commented emphasising opportunities to create jobs; grow the film industry and support the wider creative, hospitality, accommodation, technological, education and tourism sectors; diversify Christchurch's economy; showcase the South Island and develop its unique voice in the world; and more.

Two comments were received that raised concerns about the Proposal's impacts on wellbeing and resilience, as a result of locating such facilities within the Woolston Risk Management Area. However, as noted above, I am satisfied that the facilities do not constitute 'sensitive activities' as defined by the CDP, and that the facilities as defined by the Proposal are comparable with other activities already permitted within the Woolston Risk Management Area. Therefore, I do not consider this should impact on consideration of the GCR Act's purposes.

Overall, I am satisfied that the Proposal amounts to rebuilding (through the converting of land for development). I am also satisfied that it will support urban renewal, development and an enhancement of the status quo, which will in turn improve the wellbeing and resilience of communities.

Taking this into account, I consider that approving the Proposal 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 Proposal would:

- **enable a focused and expedited regeneration process.** In effect, the Proposal would provide an enabling planning framework for the activities, through an expedited planning process;
- **facilitate the ongoing planning and regeneration of greater Christchurch.** Approving the Proposal would result in changes to the CRPS and CDP which address issues in the planning framework that are currently acting as a barrier to regeneration;
- **enable community input into decisions on the exercise of powers.** While approving the Proposal would not in itself enable further community input, and may limit community input on specific facilities in future, the section 71 process has enabled community input through the written comment period. I have taken this input into account in coming to my decision; and
- **recognise local leadership and provide local leaders with a role in decision making under the GCR Act.** Approving the Proposal would recognise that the strategic partners support the Proposal, as evidenced by the views provided to Regenerate Christchurch and the further comments provided by the Council and ECan during the written comment period.

I conclude that the Proposal supports regeneration and is specifically in accordance with purposes (a), (b), (c) and (d) – which is sufficient to meet the section 11(1) test.

Necessity Test (section 11(2))

Having considered the significance of the decision, its consequences and other alternatives, I am satisfied that it is necessary to exercise my power under section 71 in accordance with the Proposal. This is because:

- The proposed planning changes are necessary to enable and encourage the development and operation of commercial film or video production facilities, and therefore to enable the regeneration benefits to be delivered;
- Further, early certainty on this enabling planning framework is necessary to deliver the intended outcomes, by allowing potential film studio developers to respond rapidly to the immediate opportunity offered by international interest in New Zealand as a location for film studio activity. Without early certainty, such rapid action will not be viable and regeneration benefits may be missed;
- The section 71 process provides for these outcomes within a timeframe and with a level of certainty that ensures the necessary planning changes can be made effectively and efficiently;

- I consider that none of the alternatives (a Regeneration Plan process, the existing resource consent process or a plan change process under the Resource Management Act 1991) will enable the planning changes to be considered and progressed with the urgency, efficiency, focus and certainty that is needed to realise the identified regeneration benefits; and
- The section 71 process also allows this decision to be considered with a focus on the regeneration of greater Christchurch.

6. DECISION

I consider that approving the Proposal is in accordance with one or more purposes of section 3(1) of the GCR Act, and that it is necessary to support the regeneration of greater Christchurch through the best available process.

Accordingly, I have decided to exercise my power under section 71 of the GCR Act to amend the CRPS and CDP in accordance with the Proposal by notice in the next available *Gazette*.

In making my decision I have read and taken into account all the public comments received through the written comment period, having particular regard to the views of the Council and ECan.

7. CONCLUSION

I have made the decision to approve the Proposal and to exercise my section 71 power for the reasons set out in this report.

I am very pleased to be able to approve the Proposal, the last possible exercise of the section 71 power, and I am confident it will support the regeneration of greater Christchurch.



Hon Poto Williams

Associate Minister for Greater Christchurch Regeneration

Date: 9 September 2020