

# MINISTERIAL DECISION REPORT APPROVING THE HAGLEY OVAL PROPOSAL TO EXERCISE POWER UNDER SECTION 71 OF THE GREATER CHRISTCHURCH REGENERATION ACT 2016

## 1. INTRODUCTION

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I would like to acknowledge Regenerate Christchurch for its role as proponent and also the members of the public, business groups, residents groups, interest groups and different agencies and institutions who participated during the written comment period.

On 27 September 2019, I received Regenerate Christchurch's Proposal to exercise my power under section 71 of the Greater Christchurch Regeneration Act 2016 (GCR Act) to amend the Christchurch District Plan (District Plan) to provide for the operation and use of Hagley Oval.

Pursuant to section 67 (all references are to the GCR Act unless stated otherwise), on 9 October 2019, I agreed to exercise my powers to proceed with the Hagley Oval Proposal (the Proposal) and to invite public comment under section 68 for a period of 5 weeks. This closed initially on Wednesday, 20 November 2019, but was extended to 5pm, 2 December 2019 after I was made aware that some pertinent supporting information had not been made available to the public.

The Proposal sets out changes to the District Plan which are intended to enable changes to the use and operation of Hagley Oval to increase the number of matches allowed, enable more spectators to attend those matches and provide floodlighting to a standard now required for televised events. At a broad level, Regenerate Christchurch considers that the changes permit the same activities that were authorised through the 2013 Resource Consent and subsequent variation.

Regenerate Christchurch considers that the current resource consent conditions mean that the venue is not fit for purpose and it cannot meet the vision set out in the Christchurch Central Recovery Plan (CCRP), where it was identified as an Anchor Project. The CCRP refers to an 'enhanced cricket oval capable of hosting domestic cricket matches and international tests', including 'sports lighting to international broadcast standards'. In particular, the four retractable lights, permitted by the resource consent, have not been installed due to cost and increased standards for televised games. Other restrictions in the resource consent relate to pack-in and pack-out requirements of temporary structures, the number of events allowed and signage restrictions.

The Proposal states that the exercise of power under section 71 of the Act will – *'enable economic and social regeneration benefits to be realised, is identified as an Anchor Project in the Recovery Plan, and would enable Christchurch to compete for the opportunity to host top-tier matches in the 2021 Women's Cricket World Cup.'*

Having considered the Proposal including the supporting information, the public written comments received, the requirements of the GCR Act, and the 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.

## 2. THE ISSUE AND PROPOSED DISTRICT PLAN AMENDMENTS

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I am aware that Hagley Oval is located within Hagley Park, an area set aside as public reserve and managed by the Council in accordance with the Hagley Park Management Plan 2007.

Hagley Oval has a long and distinguished history as a cricket venue. The ability to provide for international, televised cricket matches on Hagley Oval was debated in 2012 when it was identified as an Anchor Project in the CCRP.

Hagley Oval was developed with an embankment and spectator area following the resource consent approval from the Environment Court in 2013 (with a variation in 2016). The resource consent imposes stringent controls on the consent holder (Canterbury Cricket Association) for its use and hosting of large events.

The four retractable lights, permitted by the resource consent, have not been installed due to cost and increased standards now required for televised games. Other restrictions in the resource consent relate to pack-in and pack-out requirements of temporary structures, the number of events allowed and signage restrictions.

Christchurch is not currently able to bid for televised day/night cricket and many top tier games now require that option. There are currently no alternative venues within Greater Christchurch following the loss of Lancaster Park in the 2010/2011 earthquakes.

In summary, the proposal would permit:

- **Lights** - 6 permanent flood lights up to 48.9 metres in height within an identified heritage setting - the Hagley Oval with the historic Cricket (Umpires) Pavilion.
- **Events** - a maximum of 20 sporting events for 2,000 or more spectators per year – of which 5 events can have 12,000 or more. A further 5 events (so 25 in total) would be permitted if International Cricket Council (ICC) events were held in that year. (Events such as local club events are not caught by the rules if they are under 2,000 spectators.)
- **Signage and restrictions on public access** – wayfinding and sponsor signage within the event area, on temporary structures and buildings. The perimeter area can be fenced off for events, restricting the general public's access to the Oval.
- **Temporary structures** – construction and use of temporary structures and facilities ancillary to broadcasting or hosting sporting events, with limits on occupation (noting less restrictive standards for the scaffolding holding television cameras and the picket fence compared to the other temporary structures – i.e. they can stay longer).

The Proposal is more permissive for lights, structures and events. Some current resource conditions are incorporated into the amendments to the District Plan - e.g. the requirement for operational management plans.

The District Plan does not currently restrict the number of events nor attendance levels covered by the Proposal. However, the District Plan is generally more restrictive on structures, particularly the height of structures for floodlights (a limit of 30 metre high versus 48.9 metres) and area coverage of other structures. The District Plan has standards for light spill and noise affecting neighbouring sensitive areas (e.g. houses).

### 3. PROCESS AND LEGAL REQUIREMENTS

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I am satisfied that the appropriate legal processes occurred, including seeking views of strategic partners on the draft proposal by Regenerate Christchurch and my call for public written comment.

Section 69 of the GCR Act 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 public comment process (section 69(a));
- b) have particular regard to any views of the strategic partners and Regenerate Christchurch expressed in written comments provided during 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. My decision is limited to either approving or declining the Proposal.

### 4. CONSIDERATIONS

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

#### **Public written comment**

I note that a total of 1253 written comments were received. I have read each of the individual written comments and the summary of comments prepared by DPMC. I have taken these comments into account in coming to my decision.

The written comments received included 1116 online through Survey Monkey and 137 by email or letter. Nine individuals amended their written comments following the supporting technical information being made available. A total of 1237 individuals and associations/groups made comments (noting some made both online and email comments). Approximately 83% of the written comments were in support of the Proposal, 17% opposed, 3 organisations did not take a position.

I want to thank everyone for taking the time to send in comments. The unique heritage aspects of Hagley Park are important and I realise that some individuals and groups will not agree with the decision I came to, but I see this as an opportunity for inner city regeneration that will have benefit for the city and region.

#### ***Comments from strategic partners and Regenerate Christchurch***

In coming to my decision, I have had particular regard to the views of Christchurch City Council and Te Rūnanga o Ngāi Tahu, both of which provided written comments during the public comment process. No other comments were received from other strategic partners or Regenerate Christchurch as part of the written comment process.

The comment received from the Council does not take a clear position in either supporting or opposing the Proposal. The Council highlighted the importance of Hagley Oval within the wider environs of Hagley Park and its importance as part of the culture, landscape and heritage of Christchurch. The Council also recognises the need for lights to provide for international cricket matches in the evening and says it is supportive of the Women's Cricket World Cup. It also acknowledges the high public interest in the Proposal. Finally, the Council indicated its staff would continue exploring ways outside of this GCR Act process to mitigate the visual impacts.

Te Rūnanga o Ngāi Tahu has made it clear to me that Te Ngāi Tūāhuriri has mana whenua status in relation to Hagley Park. Te Rūnanga o Ngāi Tahu does not provide a clear position of its own, but asks me to consider the views of Ngāi Tūāhuriri, which I have done. Ngāi Tūāhuriri is clearly in support of the Proposal, emphasising the economic benefits.

### **Comments in support**

Individuals and organisations that support the Proposal generally do so because of the economic benefits to Christchurch and/or they particularly endorse having a facility that could host day/night matches and hence bid for "top tier" cricket matches. Use of section 71 is seen as necessary to enable improvements to Hagley Oval for forthcoming World Cup events without the uncertainty of an RMA process (and potential delay). The passion for the importance of cricket, and being competitive against other cities to host day/night games is evident. For some the particular history of Hagley Oval, where cricket has been played since 1864, gives the Proposal further importance along with inspiring youth in the city.

A number of written comments were received that outlined the positive contribution of the enhanced facility. It is seen as important for attracting national and international visitors to Christchurch and positioning the city as an exciting and energetic modern city connected to the rest of the world.

It is clear that many in the community feel the lack of progress in the inner city, and need for events to raise spirits and support a sense of a healthy and growing city.

### **Comments in opposition**

Comments in opposition were smaller in number (17%).

Although there were some common themes, there was wide variation in the way members of the greater Canterbury community thought that their well-being could be adversely affected.

The themes raised in comments in opposition are also summarised and are primarily:

- Commercialisation of Hagley Park – including concern about precedent setting and current activities being incompatible with the objectives of the Hagley Park Management Plan. The most evident negative tangible impact is the anticipated visible advertising. Other related comments raise specific concerns about incremental and inappropriate privatisation, which appear related to the GCR Act power to grant the activity outside the RMA process. The area of land covered by the proposal is questioned in one comment.
- Impact of the lights – glare, as seen from the Port Hills, light towers and heads protruding above the established trees, and against the special character of the area and its heritage status.
- More permissive allowance for temporary structures compared to the current consent conditions – including the potential for the television scaffolding to stay in place between events during the cricket season and more events

- Increase in noise – including the impact on the local hospital as well as enjoyment of the Hagley Park environs.

Fifty two written comments raised concerns about the impact on the hospital generally, on patients, staff and visitors, and covering: noise, lights, parking, access of emergency vehicles and helicopter landing paths. I note that the written comment from Canterbury District Health Board acknowledged these environmental concerns, but also supported the proposal.

Some raised matters that, although related to the Proposal, are not that significant in regard to my decision. An example are the comments received about the funding for telescopic lights, which are currently permitted. Comments asked about ability to have telescopic lights, and who should pay. The lack of funding for telescopic lights is linked to the need for the Proposal in the first place, but is not part of the Proposal itself and therefore not part of my decision making.

There are also concerns about the use of section 71 as opposed to use of the standard RMA processes.

### **Technical matters raised**

I considered many matters of a technical nature that were raised in comments. I also received advice about the extent to which the concerns were matters covered by the District Plan or other processes.

By way of example, technical question or concerns about the impact of wind on the light towers and the safety of helicopter flight paths are not matters that are controlled by the District Plan so were not relevant to my decision. It was important for me to consider and note these types of issues. But the changes to the District Plan put forward by the Proposal do not affect the way or the extent to which they are controlled. For these examples I understand the Building Act and the Civil Aviation Rules are likely to be relevant.

### ***Other matters in comments that are not relevant to the section 71 power decision***

There were also other matters in comments that I considered and then disregarded as not relevant to my specific decision. These included:

*Where comments proposed text amendments to the Proposal* – I cannot approve the Proposal subject to any conditions. So, although I can consider the matter raised in the comment, the means to give effect to it (amending the Proposal) is not relevant to my decision.

*Alternative venues put forward in comments* – I read of a number comments about alternative venues, some speculative. These suggestions were not able to be compared and adequately assessed against the Proposal for Hagley Oval that I have to make a decision on. I am required to make a decision on whether the Proposal for Hagley Oval facilitates regeneration, not weigh up multiple alternative venues.

*Comments had expectations about the relationship to the Hagley Park Management Plan that were incorrect* – The Proposal did not seek changes to this Plan, so related comments were not a focus of my deliberations.

*Occasionally there was confusion about the scope of the Proposal* – For example, the Proposal I received did not refer to the Oval as “major sports facility”. Nor could I affect the lease process under the Reserves Act which is a separate matter for the Council.

This is not a comprehensive list. Rather it illustrates the process of considering all the public comments that I undertook and highlights ones that I particularly acknowledged as not relevant to my actual decision.

## **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 improving the environmental, economic, social, and cultural well-being and the resilience, of communities through urban renewal and development as well as enhancement (section 3(2)(b)).

The Proposal affects the permitted operational activities of Hagley Oval. This area is a community facility and/or public open space. It is an asset for the community to recreate, be entertained, watch matches and be part of a national/international event. The Proposal is focused on use of the Oval as a venue for the communities of greater Christchurch to play sport and for community activities, but it is also used for local club sport.

I am satisfied that the Proposal amounts to urban renewal and an enhancement of the status quo. Next, I have considered whether the Proposal will result in an improvement in the well-being of communities.

### ***Economic considerations***

Post the 2010/11 earthquakes the need to strengthen the economy and support local communities continues to be an important focus of regeneration. We need to build Christchurch as a destination in a way that makes the most of our heritage and culture. We have unique environments, treasures and taonga to share.

I note the short, medium and long-term benefits of increased visitor spend as a result of future events showcasing the Oval and the city. Knowing that Christchurch would be very likely to be awarded the final match of the Women's World Cup in 2021 if the lights are confirmed is a part of that optimism.

Some of the written comments in opposition challenged the economic benefits and I have taken those comments into account. But, I am of the view that the scale of those benefits for regeneration would be significant at a time when other event facilities are still being developed in Christchurch. There is a range of estimated monetary returns, but it is the scale of the benefits that may change rather than whether they exist at all. This view endorsed the many organisations that are working hard to build Christchurch as a national and international destination.

I am therefore satisfied that, overall, the Proposal will result in an improvement to the economic well-being of communities.

### ***Social considerations***

The Proposal emphasises the ability to competitively bid for top-tier matches and if successful ultimately host them. For many this has clear associated benefits for social well-being and hence regeneration. The vast number of supporting written comments are testimony to the long standing appeal of cricket in greater Christchurch and also to the social benefits of events, inspiring youth, family friendly activities and supporting central city investment and energy. The timing of the proposal, when there is particular opportunity with the Women's World Cup, and

other facilities are a few years away, means that there is added impetus to make the most of the Oval facility.

On the other hand, the location of the venue, in Hagley Park, which is valued for its wide-open spaces, mature woodlands and range of recreational facilities means that, for some, the Proposal reduces their sense of well-being. It is not always clear from the comments how wide spread adverse impacts are for the people using, visiting or viewing the park from near or far (i.e. Port Hills). Some comment that South Hagley is more dominated by a mix of recreational activities and associated sports grounds (softball, volleyball, netball, etc.) and so this may lend it more towards developed facilities than North Hagley. I concur that South Hagley Park has a different character from North Hagley. This is also emphasised in the Hagley Park Management Plan.

There clearly is a strong sense of improved social well-being from the opportunities of hosting cricket events. As with economic well-being, although there is an acknowledged negative impact on the social well-being of some, I am satisfied that overall there would be an improvement to social well-being.

### ***Environmental considerations***

The environmental effects that are of prime concern to those opposing the Proposal are the impact of the lights (structures and glare); commercialisation and public access; impact of permitting sporting events on congestion and parking, temporary structures (e.g. scaffolding) and noise.

There is little ability to mitigate the most common concern – that of the permanent light structures – as a formal means to influence design or operation of the lights is not part of the Proposal. I note that the ability to mitigate the structure height impacts outside the regulatory framework is limited to Council staff working with the Operator. But, because the Proposal would make the height and use of lights a permitted standard in the District Plan, there would be no formal opportunity under RMA processes to further control design of the poles and heads and the number of days that the lights are used.

Technical documents referenced by the Proposal state that ‘it is not practical to reduce the visual prominence of the lighting poles via landscaping...’, As to the other structures (temporary fencing, grandstands and scaffolding), the restrictions in the Proposal are less than under the resource consent conditions. I recognise that there is likely to be some ability to mitigate the impact of temporary structures through the use of the operations management plan that is part of the conditions proposed alongside the permitted standards. The impact of scaffolding for television cameras remaining during the cricket season I know is a particular concern to some.

The actual impact of temporary structures on amenity values may, in fact, be significantly less than that provided for in the Proposal because it is dependent on the number of fixtures that are actually held. But, I am not able to judge that.

As to general concerns about commercialisation, the impact is a cost that cannot be easily mitigated. Certainly the level of control over signage, in particular, is less under the Proposal compared to the resource consent.

In making my decision I note that certain environmental issues raised by some comments are in practice not altered by the amendments to the District Plan.

I recognise that the Proposal may lead to changes in land use which then affect noise, light spill, parking and traffic in the area. In regard to these concerns the ability for the Council to control those activities would remain the same. Either the District Plan standards are not significantly

changed (in the case of light spilt and noise), or for vehicle issues this is not something that is currently managed by the District Plan. I know that parking and traffic is a bigger issue than Hagley Oval and the Council is working on a number of fronts to ease the problems.

### ***Conclusion on the improvement of the wellbeing of communities***

The focus on regeneration remains important for Christchurch communities, encompassing businesses, families and youth. The inner city is particularly needing a boost. I recognise that many comments mentioned the slower than hoped for return of people and events to the central area. Hagley Park has a valued history and is woven into our social and environmental appreciation of Christchurch. It is also nationally important. The ability to host international sporting events and showcase our city is part of that regeneration.

On balance, I consider that the Proposal supports regeneration in greater Christchurch because of the opportunities it creates and the community support for utilising Hagley Oval in a way that creates economic benefits and meets a social need around sport - continuing a long legacy of cricket. There are negatives associated with the environmental effects and the impact on visual amenity, however I find that they do not outweigh the positives on the question of whether or not the activity is one of 'regeneration'.

### **Specific purposes**

Having decided that the Proposal amounts to regeneration that supports greater Christchurch, I am also satisfied that the Proposal is in accordance with the following specific purposes:

#### ***Enables a focused and expedited regeneration process (section 3(1)(a))***

The Proposal endeavours to expedite a development which Regenerate Christchurch outlines will bring benefits to the wider community. The use of section 71 is certainly a mechanism for expediting a desired outcome, if that outcome meets the test of 'regeneration'.

#### ***Facilitates the ongoing planning and regeneration of greater Christchurch (section 3(1)(b))***

This purpose is the most relevant section 3 purpose for the Proposal, and I am satisfied that the Proposal supports regeneration, and that the Proposal facilitates the ongoing planning and regeneration of greater Christchurch.

#### ***Recognises the local leadership of Canterbury Regional Council, Christchurch City Council, Regenerate Christchurch, and Te Rūnanga o Ngāi Tahu and provides them with a role in decision making under the Act (section 3(1)(d))***

The use of the section 71 power was initiated by Regenerate Christchurch and that is recognised as a reflection of its role to support regeneration.

The Council and Ngāi Tahu (and Ngāi Tūāhuriri) took the opportunity to make comments on the Proposal (in addition to earlier comments on the draft proposal).

I conclude that the Proposal supports regeneration and is specifically in accordance with purposes (a), (b) 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:

- Meeting the necessity test had to include consideration of the ability of the current RMA provisions to enable the regeneration benefits;
- Utilising the section 71 power allows for the Women's World Cup bid and means Christchurch can access other international fixtures. To not enable this, risked Christchurch being passed over for future events;
- The section 71 process is the only available means to implement the complete Proposal within a timeframe and with the level of certainty that enables the desired enhancements in time for the 2020/21 cricket season; and
- I consider that the alternative options (Regeneration Plan process, and normal RMA processes) will not address the matters being considered in the same urgency, focus and efficiency that a section 71 proposal does.

## **6. DECISION**

I consider that approving the Proposal is in accordance with one or more purposes of section 3(1) of the GCR Act'.

A key factor for me was meeting the tests of regeneration, which included consideration being given to the importance of building Christchurch as a destination for domestic and international visitors. That objective has to be met in a way that embraces our unique place in the world and the sharing of our heritage and culture.

Regeneration of the inner city is important, along with the impact on the rest of the city and region, and the significance of Hagley Park as national taonga.

I consider the use of section 71 of the GCR Act is necessary to support a focused regeneration process for the city and that none of the possible alternatives would be as direct, focused, efficient or certain.

Accordingly, I have decided to exercise my power under section 71 of the GCR Act to amend the Christchurch District Plan 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 from the public comment process, having particular regard to the views of Christchurch City Council and Te Rūnanga o Ngāi Tahu (and Ngāi Tūāhuriri).

## 7. CONCLUSION

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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 happy to be able to approve the Hagley Oval Proposal in the knowledge that it will support the regeneration of greater Christchurch and that it meets the required legislative tests.

I see this as an opportunity for inner city regeneration that will have benefit for Christchurch city and the wider region.



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**Hon Poto Williams**

Associate Minister for Greater Christchurch Regeneration

Date: 23 December 2019

Proactively Released by the Department  
of the Prime Minister and Cabinet