



Proactive Release

The following Cabinet paper and related Cabinet minutes have been proactively released by the Department of the Prime Minister and Cabinet, on behalf of Hon Dr Megan Woods, Minister for Greater Christchurch Regeneration:

Canterbury Earthquake: Revocation of the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014

The following documents have been included in this release:

Title of paper: Canterbury Earthquake: Revocation of the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 (DEV-19-SUB-0020 refers)

Title of minute: Canterbury Earthquake: Revocation of the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 (DEV-19-MIN-0020)

Title of minute: Report of the Cabinet Economic Development Committee: Period Ended 15 February 2019 (CAB-19-MIN-0033)

Some parts of Cabinet Minute *Report of the Cabinet Economic Development Committee: Period Ended 15 February 2019 (CAB-19-MIN-0033)* have been withheld as out of scope of this information release.

~~In-Confidence~~

Office of the Minister for Greater Christchurch Regeneration

Chair, Cabinet Economic Development Committee

CANTERBURY EARTHQUAKE: REVOCATION OF THE CANTERBURY EARTHQUAKE (CHRISTCHURCH REPLACEMENT DISTRICT PLAN) ORDER 2014

Proposal

1. This paper seeks agreement to the revocation of the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 and the authorisation to recommend to the Governor-General the signing of the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 Revocation Order 2019.

Background

2. Following the devastating Canterbury earthquakes, a legislative framework was put in place, which modified the Resource Management Act 1991 to provide for a streamlined process for the review of the existing Christchurch district plans (the Christchurch City Plan and the Banks Peninsula District Plan) and for the preparation of a comprehensive replacement district plan for the Christchurch district.
3. An independent hearings panel was appointed by the Minister for the Environment and the Minister for Canterbury Earthquake Recovery, in conjunction with the Christchurch City Council, to conduct hearings on any submissions and decide whether to make changes to any plan change proposal notified by the Council.
4. The independent hearings panel issued final decisions on the replacement district plan in December 2017. The Council made the new plan, the Christchurch District Plan, operative on 19 December 2017.
5. Now that the Christchurch District Plan is operative, and the process under the Order is complete, it is time to return responsibility for these functions to local leadership.
6. The revocation of this Order is a significant milestone for the transition back to local leadership, and one that will support the return to a normalised relationship between the Christchurch City Council (the Council) and the Crown.
7. The Order made under the Canterbury Earthquake Recovery Act 2011 (CER Act), would have been revoked on the expiry of the CER Act in 2016. However, as the Replacement District Plan process was not yet complete, including a number of appeals before the High Court, the Order was continued under section 147 of the Greater Christchurch Regeneration Act 2016 (GCR Act). The Order now has an expiry date of 30 June 2021 (the expiry date of the GCR Act).
8. At the time the Order was enacted, it was intended that once the District Plan was operative, standard RMA processes would resume [CAB Min (13) 42/23 refers]. The Christchurch District Plan process has been completed and the new Plan is now operative. While the

Order is in place, the Council is not able to manage the District Plan using normal RMA processes. There is also no ability to undertake changes or variations to the operative District Plan under the Order.

9. Christchurch City Mayor Lianne Dalziel wrote to me in my role as the Minister for Greater Christchurch Regeneration on 19 January 2018 requesting the revocation of the Order, to enable the Council to administer the District Plan using the same processes as other councils.
10. As Minister, I have the power, under section 148 of the GCR Act, to make a recommendation to the Governor-General to revoke the Order. Due to the technical nature of this matter and the need for timeliness and efficiency in progressing this matter, I am asking the Economic Development Committee to authorise the submission of the proposed Revocation Order for Cabinet to approve and submit to the Executive Council where the Governor-General will make her decision.

Statutory process

Consultation with strategic partners, Regenerate Christchurch and Ōtākaro Limited

11. Following the request from the Mayor, I sought the views of the strategic partners as required under section 148(2) of the GCR Act. I also sought the views of Regenerate Christchurch and Ōtākaro Limited given their key regeneration roles as part of this process.
12. In summary:
 - (a) Environment Canterbury, Waimakariri District Council, Christchurch City Council, Te Rūnanga o Ngāi Tahu and Regenerate Christchurch support revoking the Order. Selwyn District Council responded that they did not have any specific views and did not oppose the proposed revocation.
 - (b) Ōtākaro Limited was not opposed but did raise some concerns about certainty of land use planning and the ability to secure a return on investment for Crown assets in the central city (where all the anchor projects are located).
13. In response to Ōtākaro Limited's comments, it should be noted that the Christchurch Central Recovery Plan (CCRP) mandates and provides certainty regarding development framework for the central city (which includes all the Anchor Projects, some of which are yet to be completed). The CCRP is not impacted by the revocation of the Order. Furthermore, the GCR Act prevents the Council from issuing any resource consent or decisions on District Plan changes that are inconsistent with the CCRP. Therefore, I consider there are existing processes in place to mitigate Ōtākaro Limited's concerns.

Purposes of the GCR Act and necessity

14. The revocation of the Order will meet the purposes of the GCR Act (under section 3 as required by the necessity test in section 11), through facilitating the ongoing planning and regeneration of the Christchurch district, by enabling the Council to administer and manage its own District Plan. I also consider it necessary under the GCR Act, as now the District Plan is operative there is no ability to make any amendments to the District Plan or the Resource Management Act process while the Order is in force.
15. While the existing GCR Act enables expedited planning processes to facilitate regeneration will remain, there may be situations where the Council needs to undertake a change to the

Plan for reasons not specifically related to regeneration which they are currently unable to do.

16. Depending on the circumstances of any particular proposal, revoking the Order may make it more difficult for me as the Minister for Greater Christchurch Regeneration to meet the reasonably considered necessary test (section 11) when exercising the power to approve a Regeneration Plan or section 71 proposal under the GCR Act. This is because revocation of the Order will mean that standard RMA processes would be available and would need to be considered as an alternative tool, to achieve the outcome intended.
17. However, I consider that this is not a reason not to revoke the Order. It was always intended that, once the District Plan was operative, standard RMA processes would resume [CAB Min (13) 42/23 refers] and allow Council to resume responsibility for the ongoing administration and management of its own District Plan.

Submission of Order in Council for signing

18. As outlined above, I have now completed the required process under section 148(2) of the GCR Act to enable me to make a recommendation to the Governor-General to revoke the Order under section 148(1) of the Act. Authorisation to make a recommendation to the Governor-General is sought at the same time as the policy decision on agreement to revocation, as the Order will confirm that decision and it is, therefore, considered expedient to request this at the same time.
19. Therefore, I am seeking authorisation from Cabinet to submit the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 Revocation Order 2019 to the Executive Council for approval and signing by the Governor-General.

Consultation with other agencies

20. Ministry for the Environment officials were consulted, and support the proposal to revoke the Order and return to usual RMA processes.
21. Land Information New Zealand, Department of Internal Affairs, Ministry of Housing and Urban Development, and the Department of Conservation were also consulted and they did not provide any specific comments. The Policy Advisory Group of DPMC were also informed.

Timing and the 28-day rule

22. It is not considered necessary or desirable to waive the 28-day rule.

Compliance

23. The Revocation Order in Council complies with the principles of the Treaty of Waitangi; the rights and freedoms contained in the New Zealand Bill of Rights Act 1990; the Human Rights Act 1993; the principles and guidelines set out in the Privacy Act 1993; and relevant international standards and obligations. It also complies with Guidelines on the Process and Content of Legislation (2014 edition).
24. If the Committee agrees, this Revocation Order in Council will be submitted to Cabinet and the Executive Council on 18 February 2019, with the intention it will be notified in the *New Zealand Gazette* on 19 February 2019 and come into force on 18 March 2019.

Certification by Parliamentary Counsel

25. The Order was drafted by the Parliamentary Counsel Office and is certified as being in order for submission to Cabinet.

Financial Implications

26. There are no financial implications associated with revoking the Order.

Impact Analysis

27. A Regulatory Impact Analysis is not required.

Legislative implications

28. An Order in Council is required to revoke the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014.

Human Rights

29. The proposal is consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993 in that it restores the rights of public participation under the RMA with respect to the District Plan.

Publicity

30. A media release will be made at an appropriate time such as either after the Order is signed in Executive Council or when it comes into force. The strategic partners, Regenerate Christchurch and Ōtākaro Limited will be notified of the revocation of the Order.

Proactive Release

31. I propose to release this paper proactively in whole.

Recommendations

32. I recommend that the Economic Development Committee:
1. **Note** that the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 prevents the Council from notifying any change or variation to the Christchurch District Plan under the Resource Management Act 1991 whilst the Order remains in force;
 2. **Note** that on 2 December 2013, Cabinet agreed that any applications for plan changes after the district plan is made operative, will be subject to the normal plan development process in Schedule 1 of the Resource Management Act 1991 [CAB MIN (13) 42/23];
 3. **Note** that the Christchurch District Plan became operative in December 2017 and that there is no ability to amend or vary operative Christchurch District Plan under Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014;
 4. **Note** that there is no ability to amend or vary the Christchurch District Plan using the Resource Management Act 1991 while the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 is in place;

5. **Note** that the Mayor of Christchurch has requested the revocation of the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014;
6. **Note** that I have undertaken the necessary steps under section 148(2) of the Greater Christchurch Regeneration Act 2016, seeking the views of strategic partners and others and applying the statutory tests in section 11, to enable me to recommend revocation of the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014;
7. **Note** that the revocation of the Order is reasonably considered necessary to facilitate the ongoing planning and regeneration of the Christchurch district and will enable the Council to administer and manage its own district plan;
8. **Note** I have decided to recommend to the Governor-General that the Order be revoked;
9. **Agree** to the revocation of the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014, enabling the Christchurch City Council to make and plan changes through normal Resource Management Act 1991 processes; and
10. **Authorise** the submission of the attached Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 Revocation Order 2019 to the Executive Council.

Authorised for lodgement

Hon Dr Megan Woods

Minister for Greater Christchurch Regeneration



Cabinet Economic Development Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Canterbury Earthquake: Revocation of the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014

Portfolio **Greater Christchurch Regeneration**

On 13 February 2019, the Cabinet Economic Development Committee:

- 1 **noted** that the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 prevents the Council from notifying any change or variation to the Christchurch District Plan under the Resource Management Act 1991 while the Order remains in force;
- 2 **noted** that on 2 December 2013, Cabinet agreed that any applications for plan changes after the district plan is made operative, will be subject to the normal plan development process in Schedule 1 of the Resource Management Act 1991 [CAB MIN (13) 42/23];
- 3 **noted** that the Christchurch District Plan became operative in December 2017 and that there is no ability to amend or vary operative Christchurch District Plan under the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014;
- 4 **noted** that there is no ability to amend or vary the Christchurch District Plan using the Resource Management Act 1991 while the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 is in place;
- 5 **noted** that the Mayor of Christchurch has requested the revocation of the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014;
- 6 **noted** that the Minister for Greater Christchurch Regeneration (the Minister) has undertaken the necessary steps under section 148(2) of the Greater Christchurch Regeneration Act 2016, seeking the views of strategic partners and others and applying the statutory tests in section 11, to enable the Minister to recommend revocation of the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014;
- 7 **noted** that the revocation of the Order is reasonably considered necessary to facilitate the ongoing planning and regeneration of the Christchurch district and will enable the Council to administer and manage its own district plan;
- 8 **noted** the Minister has decided to recommend to the Governor-General that the Order be revoked;
- 9 **agreed** to the revocation of the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014, enabling the Christchurch City Council to make and plan changes through normal Resource Management Act 1991 processes;

- 10 **authorised** the submission to the Executive Council of the Canterbury Earthquake (Christchurch Replacement District Plan) Order Revocation Order 2019 [PCO 21717/4.0];
- 11 **noted** that the Canterbury Earthquake (Christchurch Replacement District Plan) Order Revocation Order 2019 comes into force on 18 March 2019.

Janine Harvey
Committee Secretary

Present:

Hon Kelvin Davis
Hon Grant Robertson (Chair)
Hon Phil Twyford
Hon Dr Megan Woods
Hon David Parker
Hon Nanaia Mahuta
Hon Iain Lees-Galloway
Hon Jenny Salesa
Hon Damien O'Connor
Hon Shane Jones
Hon Kris Faafoi
Hon James Shaw
Hon Julie Anne Genter

Officials present from:

Office of the Prime Minister
Officials Committee for DEV

Hard-copy distribution:

Minister for Greater Christchurch Regeneration



Cabinet

Minute of Decision

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Report of the Cabinet Economic Development Committee: Period Ended 15 February 2019

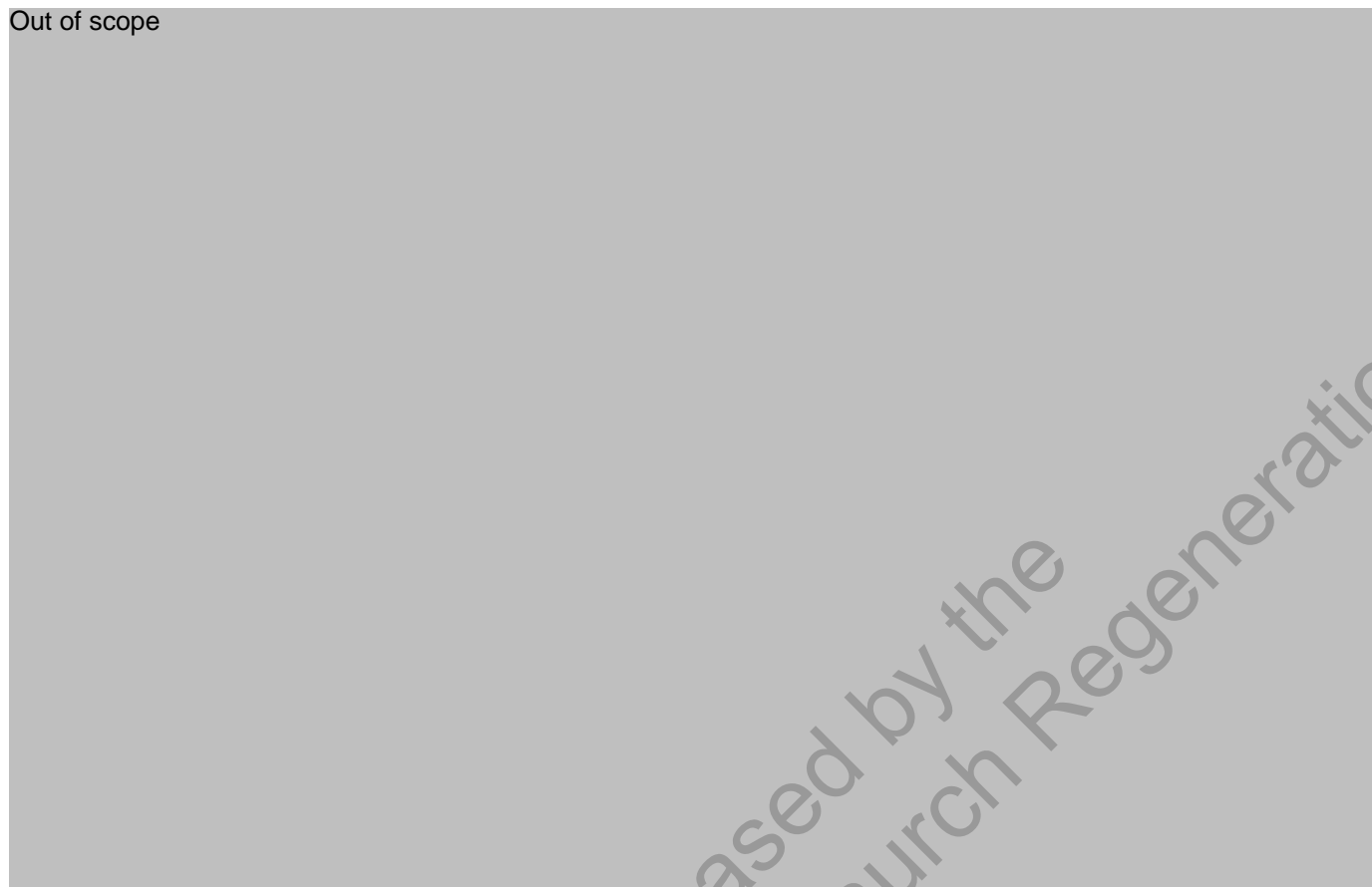
On 18 February 2019, Cabinet made the following decisions on the work of the Cabinet Economic Development Committee for the period ended 15 February 2019:

Out of scope



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Out of scope



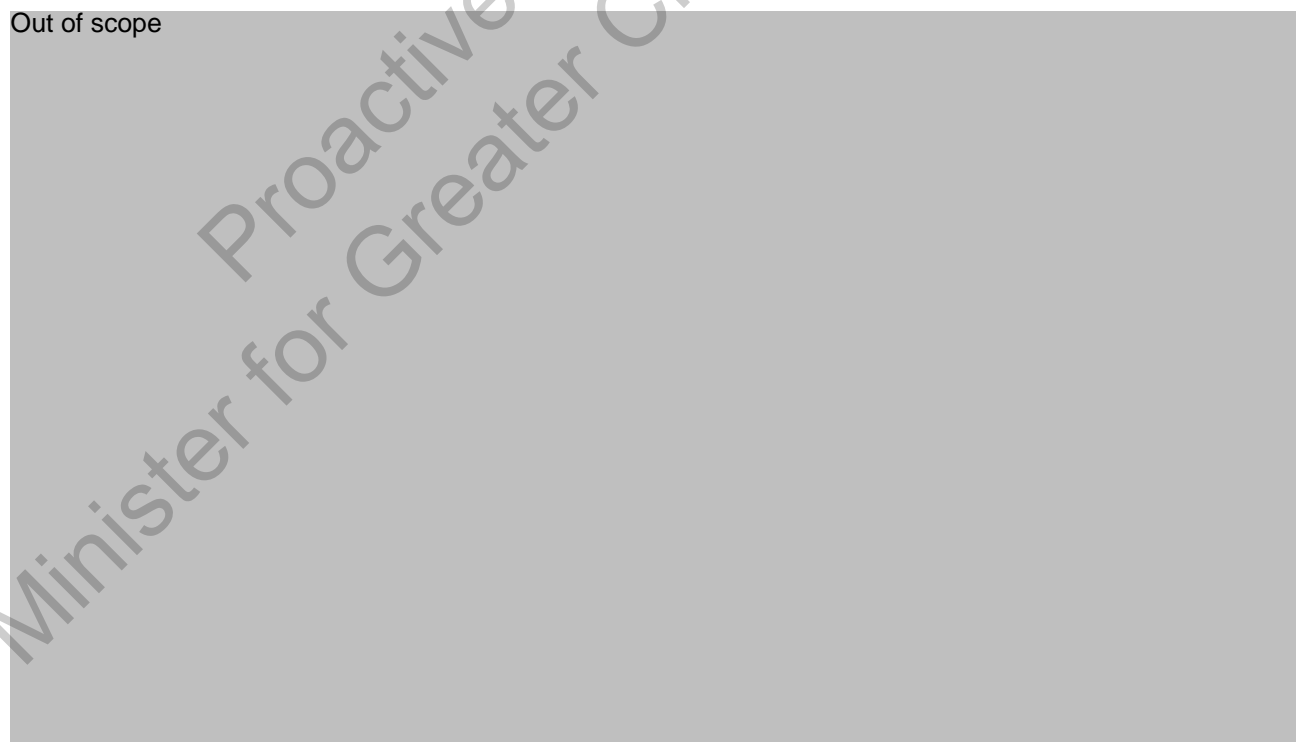
DEV-19-MIN-0020

**Canterbury Earthquake: Revocation of the
Canterbury Earthquake (Christchurch
Replacement District Plan) Order 2014**


CONFIRMED

Portfolio: Greater Christchurch Regeneration

Out of scope



Out of scope



Michael Webster
Secretary of the Cabinet

Hard-copy distribution:

Cabinet Economic Development Committee
Associate Minister of Transport (Hon Julie Anne Genter)

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