



Christ Church Cathedral Reinstatement Order 2020

Patsy Reddy, Governor-General

Order in Council

At Wellington this 24th day of August 2020

Present:

The Right Hon Jacinda Ardern presiding in Council

This order is made under section 8 of the Christ Church Cathedral Reinstatement Act 2017—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Greater Christchurch Regeneration made in accordance with sections 9 and 10 of that Act.

Contents

	Page
1 Title	2
2 Commencement	2
3 Revocation	2
4 Interpretation	2
5 Application	3
6 Power to extend time limits	3
7 Suitably qualified and experienced experts	3
<i>Classification of reinstatement activities under RMA</i>	
8 Classification of reinstatement activities under RMA	3
<i>Matters on which consent authority's control is reserved</i>	
9 Reinstatement activities involving heritage upgrade works, deconstruction, reconstruction, and restoration	4

10	Reinstatement activities involving alterations, new buildings, and signs	5
11	Reinstatement activities relating to urban design	5
12	Reinstatement activities relating to construction	6
13	Reinstatement activities affecting Citizens' War Memorial	7
14	Reinstatement activities affecting significant trees	7
	<i>Determination of applications</i>	
15	Applications to be determined on non-notified basis	8
16	Conditions: modification of RMA (as allowed by section 8 of Christ Church Cathedral Reinstatement Act 2017)	8
17	Consent authority must notify certain persons and invite comments	9
18	Summary of written comments	10
19	Time limit for notification of decision	10
20	Period relating to written comments included in time limit	10
21	Enforcement proceedings	10

Order

1 Title

This order is the Christ Church Cathedral Reinstatement Order 2020.

2 Commencement

This order comes into force on 9 October 2020.

3 Revocation

This order is revoked on the close of 21 December 2032.

4 Interpretation

(1) In this order, unless the context otherwise requires,—

applicant means Christ Church Cathedral Reinstatement Limited (or any other joint venture or entity that is managing the reinstatement of the Cathedral)

application has the meaning given in clause 5

Citizens' War Memorial means the heritage item identified as heritage item number 107 in the Christchurch District Plan

consent authority means the Christchurch City Council or the Canterbury Regional Council, or both, as the case may require

RMA means the Resource Management Act 1991

significant tree means one of the 3 London plane (*Platanus x acerifolia*) trees identified in the Christchurch District Plan by the tree identification numbers T54, T55, and T56.

- (2) Terms used without definition in this order that are defined—
 - (a) in the RMA have the same meaning as in that Act; and
 - (b) in the Christ Church Cathedral Reinstatement Act 2017 have the same meaning as in that Act.

5 Application

- (1) This order applies only to an application lodged by the applicant after this order comes into force with—
 - (a) the Christchurch City Council; or
 - (b) the Canterbury Regional Council.
- (2) The **applications** to which this order applies are applications made under—
 - (a) section 88 of the RMA for resource consents to undertake reinstatement of the Cathedral (except an application to undertake demolition without restoration or reconstruction); or
 - (b) section 127 of the RMA to change or cancel any conditions of a resource consent referred to in paragraph (a).
- (3) In subclause (2)(a), **restoration** and **reconstruction** have the meanings given in the Christchurch District Plan.

6 Power to extend time limits

A consent authority must not extend a time period under section 37(1)(a) of the RMA in relation to an application unless the applicant agrees to the extension.

7 Suitably qualified and experienced experts

- (1) For the purposes of this order, the following experts referred to in the order must be suitably qualified and experienced:
 - (a) a professional engineer (**engineer**):
 - (b) a heritage professional:
 - (c) a conservation architect:
 - (d) a technician arborist.
- (2) The experts must—
 - (a) be independent from the reinstatement project; and
 - (b) be engaged on a professional basis; and
 - (c) provide reasons for their advice.

Classification of reinstatement activities under RMA

8 Classification of reinstatement activities under RMA

- (1) Reinstatement activities for which an application is made are controlled activities for the purposes of section 87A(2) of the RMA.

- (2) The application must be accompanied by—
- Citizens' War Memorial*
- (a) in relation to the Citizens' War Memorial,—
- (i) a heritage management plan prepared by a heritage professional or conservation architect with an engineer, which identifies in advance potential damage from removal and strategies to repair it; and
- (ii) a certificate from an engineer certifying that removal is necessary in order to achieve the applicant's proposed reinstatement of the Cathedral; and
- Significant tree*
- (b) in relation to a significant tree,—
- (i) a tree management plan prepared by a technician arborist; and
- (ii) a certificate from the technician arborist and an engineer certifying—
- (A) any damage or removal is necessary in order to achieve the applicant's proposed reinstatement of the Cathedral; and
- (B) all reasonable workable options to retain or protect the significant tree have been considered.
- (3) The consent authority may impose conditions on the resource consent, but, for the purposes of section 87A(2)(b) of the RMA, that power is restricted to the matters over which control is reserved in clauses 9 to 14.
- (4) Section 87A(2)(c) of the RMA does not apply in relation to a consent granted in reliance on this order.

Matters on which consent authority's control is reserved

9 Reinstatement activities involving heritage upgrade works, deconstruction, reconstruction, and restoration

The consent authority's control is reserved in relation to the following matters involving heritage upgrade works, deconstruction, reconstruction, and restoration:

- (a) the oversight of a heritage professional or conservation architect, and the implementation of heritage advice; and
- (b) the form and provision of information and interpretation material identifying the history and significance of the Cathedral; and
- (c) the materials and methodologies to be used to maintain heritage values (including integration with, and connection to, other parts of the Cathedral); and

- (d) the methodologies to be used to appropriately protect the Cathedral during heritage upgrade works, reconstruction, and restoration (for example, temporary protection plans); and
- (e) the documentation of change during the work and after completion (for example, by photographic recording); and
- (f) the methodology for any deconstruction (including the phasing of the works) and—
 - (i) how any heritage fabric is to be retained:
 - (ii) how any heritage fabric retained for reuse is to be stored.

10 Reinstatement activities involving alterations, new buildings, and signs

The consent authority's control is reserved in relation to the following matters involving alterations, new buildings, and signs:

- (a) meeting the requirements of the Building Act 2004 and Building Code; and
- (b) the methods for mitigating impacts on views of, or from, the Cathedral; and
- (c) the relationship between elements and materials (such as the orientation), and between the heritage setting, a heritage item, and any relevant significant tree; and
- (d) management of any temporary or permanent adverse effects on heritage fabric, layout, form, or heritage value (and management of the scale of that effect), and any positive effect on heritage fabric, layout, form, or heritage value; and
- (e) any signage on heritage items or in heritage settings; and
- (f) the design, detailing, and location of any sign (including its supporting structure and methods of attachment to a heritage item) and the sign's compatibility with the architectural form, features, fabric, and heritage values of the heritage item and heritage setting; and
- (g) the appropriateness of any moving or flashing sign and its potential detraction from the heritage values of a heritage item or heritage setting; and
- (h) the duration of temporary or permanent signs.

11 Reinstatement activities relating to urban design

The consent authority's control is reserved in relation to the following matters of urban design:

- (a) the Cathedral functioning successfully as a spiritual facility and as a place for ministry (where relevant); and

- (b) recognition and reinforcement of the context of the site (having regard to the city centre's identified urban form and cultural elements and the heritage setting); and
- (c) engagement with the surrounding space (including publicly accessible spaces) through—
 - (i) interaction with activities within the Cathedral (where appropriate); and
 - (ii) safety in building design; and
 - (iii) visual interest; and
- (d) contribution to the attractiveness of the wider setting; and
- (e) high quality in architectural design, and in the display of architectural features, spaces, or materials that draw on the values and heritage of the site; and
- (f) design to minimise any effects of—
 - (i) equipment on the exterior of the building; or
 - (ii) the storage of materials; and
- (g) provision of a focal point and landmark for Christchurch that contributes to the city's sense of identity; and
- (h) recognition of and contribution to the role of the Cathedral area as a gathering place and support for the interaction between the Cathedral and the Cathedral area (with regard to the form and exterior of the building) while retaining—
 - (i) a visual connection along Worcester Boulevard to the Canterbury Museum (and reflecting the Canterbury Association's plans for the Canterbury Settlement); and
 - (ii) legibility of the design and form of the Cathedral area as a Maltese cross (and maintaining views through the Cathedral area on the north-south axis).

12 Reinstatement activities relating to construction

The consent authority's control is reserved in relation to the following matters of construction:

- (a) the management of the effects from natural hazards (including seismicity) on the structural integrity of building work; and
- (b) the management of the effects of earthworks; and
- (c) the methods for managing earthworks that encounter contaminated land; and
- (d) the methodology to implement base isolation and management of the effects of dewatering; and

- (e) the management of the effects of the following:
 - (i) construction work;
 - (ii) stormwater;
 - (iii) hazardous substances (including biohazards);
 - (iv) artificial lighting;
 - (v) dust;
 - (vi) noise;
 - (vii) vibration; and
- (f) the management of the effects of traffic on cyclists and pedestrians.

13 Reinstatement activities affecting Citizens' War Memorial

The consent authority's control is reserved in relation to the following matters affecting the Citizens' War Memorial:

- (a) documenting and recording the removal of the Citizens' War Memorial; and
- (b) the storage location and form (including the methods of protection of the Citizens' War Memorial); and
- (c) the management and provision of public information about the Citizens' War Memorial; and
- (d) including, in the heritage management plan referred to in clause 8(2)(a)(i),—
 - (i) measures to protect the Citizen's War Memorial and to prevent potential damage during removal or storage; and
 - (ii) strategies to repair any damage that occurs during removal or storage; and
 - (iii) a requirement for oversight of removal or storage by a heritage professional or conservation architect; and
 - (iv) adoption of internationally accepted standards, practices, and procedures for the removal or storage of heritage items.

14 Reinstatement activities affecting significant trees

The consent authority's control is reserved in relation to the following matters affecting a significant tree:

- (a) the management of the effects of any damage or removal of a significant tree on—
 - (i) heritage, botanical, environmental, amenity, and cultural values; and
 - (ii) landscape and visual amenities; and
 - (iii) surrounding properties and infrastructure; and

- (b) including, in the tree management plan referred to in clause 8(2)(b)(i),—
 - (i) measures to prevent risk to people and prevent or reduce risk to buildings, property, and infrastructure; and
 - (ii) mitigation for the loss of a significant tree (including time frames for any replanting, site restoration, or landscaping); and
 - (iii) adoption of internationally accepted arboricultural standards, practices, and procedures; and
- (c) the management of the effects of any tree removal construction works, stormwater, hazardous substances (including biohazards), lighting, dust, noise, and vibration; and
- (d) the monitoring of the effects of any removal of a significant tree (both during and after removal); and
- (e) in relation to pruning of a significant tree or any work within a significant tree's drip lines,—
 - (i) the provision of a tree maintenance and management plan (prepared by a technician arborist) to protect the tree's health, structural integrity, amenity values, and visual appearance; and
 - (ii) mitigation measures to protect other parts of the tree (or to protect another significant tree); and
 - (iii) monitoring of the effects on the tree or on any other significant tree.

Determination of applications

15 Applications to be determined on non-notified basis

- (1) Applications must be determined in accordance with Part 6 of the RMA unless otherwise specified by this order.
- (2) Applications—
 - (a) must not be publicly notified or given limited notification; but
 - (b) must be notified to the specified persons listed in clause 17 and considered in accordance with that clause.
- (3) This clause and clauses 17 and 18 replace sections 95 to 103B of the RMA.

16 Conditions: modification of RMA (as allowed by section 8 of Christ Church Cathedral Reinstatement Act 2017)

Clauses 8 to 14 modify sections 104, 104A, 105, 108, and 108AA of the RMA as follows:

- (a) section 104(3)(c) and (d) and (6) are disappplied:

- (b) section 104A(b) is replaced by clauses 8(3) and 9 to 14 (allowing the consent authority to impose conditions on a resource consent granted in reliance on this order):
- (c) section 105(1) is disappplied:
- (d) section 108 is disappplied:
- (e) section 108AA is disappplied.

17 Consent authority must notify certain persons and invite comments

- (1) As soon as practicable after an application is lodged, the consent authority must—
 - (a) notify the persons specified in subclause (2) that an application has been lodged; and
 - (b) invite written comments on the application from them; and
 - (c) ensure that the application is publicly available on an Internet site maintained by or on behalf of the consent authority; and
 - (d) specify in the invitation the date by which written comments are to be received by the consent authority (which must be no less than 15 working days from the date of the invitation).
- (2) The persons are—
 - (a) Te Rūnanga o Ngāi Tahu and any relevant Papatipu Rūnanga identified by Te Rūnanga o Ngāi Tahu:
 - (b) Heritage New Zealand Pouhere Taonga:
 - (c) the Linwood-Central-Heathcote Community Board:
 - (d) owners and occupiers of land adjacent to the Cathedral area:
 - (e) any other person the consent authority considers appropriate.
- (3) An invitation is to be treated as a document to be served for the purposes of the RMA, and section 352 of the RMA applies accordingly.
- (4) A person invited to make written comments under this clause—
 - (a) may not appeal under section 120 of the RMA against the consent authority's decision on the application; and
 - (b) may not object under Part 14 of the RMA against the consent authority's decision on the application; and
 - (c) is a person whom the consent authority must ensure is served with a notice of decision on an application.
- (5) Section 114 of the RMA is modified accordingly.
- (6) A person who makes written comments to a consent authority under this clause is not to be treated, under the RMA, as a submitter making a submission on the application.

18 Summary of written comments

- (1) Before a consent authority makes a decision on an application, a summary of any written comments made under clause 17 must be prepared and considered by the consent authority.
- (2) The summary, together with the consent authority's response to the issues raised in the written comments, must be included in the notification of the decision to the applicant and under clause 17(4)(c).

19 Time limit for notification of decision

- (1) Notice of a decision on an application must be given within 40 working days of the date on which an application was first lodged with the consent authority (and section 115 of the RMA does not apply).
- (2) The time limit specified in subclause (1) cannot be extended or deferred in any way (including under section 37, 88B, or 88E of the RMA) except—
 - (a) if the applicant agrees to the extension or deferral; or
 - (b) under section 88C.

20 Period relating to written comments included in time limit

The period during which comments are sought under clause 17 (and then summarised and considered under clause 18) is included in the time limit in clause 19(1).

21 Enforcement proceedings

- (1) For the purposes of activities undertaken under a resource consent granted in reliance on this order, only the persons specified in subclause (2) may take enforcement proceedings (including declaratory proceedings) under Part 12 of the RMA, including in any case where it is alleged that the consent holder has breached section 16 or 17 of the RMA.
- (2) The persons are—
 - (a) the Canterbury Regional Council;
 - (b) the Christchurch City Council.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order is about the reinstatement of the Christ Church Cathedral (the **Cathedral**) in Christchurch. It comes into force on 9 October 2020.

Clause 3 provides that the order is revoked on the close of 21 December 2032. This reflects the automatic revocation of this type of order under section 16 of the Christ Church Cathedral Reinstatement Act 2017.

Clause 4 defines certain terms used in the order.

Clause 5 limits the scope of the order to certain applications lodged with the Christchurch City Council or the Canterbury Regional Council. These are applications for resource consents under the Resource Management Act 1991 (the **RMA**) to undertake reinstatement of the Cathedral (and any applications to change or cancel any conditions of such resource consents).

Clause 6 prevents a consent authority from granting an extension of time unless an applicant agrees.

Clause 7 provides that experts referred to in the order must be suitably qualified and experienced. It requires the experts to be independent from the reinstatement project and to be engaged on a professional basis. And it requires the experts to provide reasons for their advice.

Clause 8 provides that reinstatement activities for which an application is made are controlled activities. The application must be accompanied by,—

- in relation to the Citizens' War Memorial, a heritage management plan and engineer certification; and
- in relation to the adjacent heritage London plane trees, a tree management plan and engineer certification.

Clause 8 also provides that a consent authority may impose conditions on a resource consent granted under the order on certain reserved matters set out in *clauses 9 to 14*.

Clause 15 provides that an application must not be publicly notified or given limited notification, but must be determined under Part 6 of the RMA.

Clause 16 provides that *clauses 8 to 14* modify sections 104, 104A, 105, 108, and 108AA of the RMA.

Clause 17 (and clause 15(2)) requires a consent authority to notify certain persons that an application has been lodged, and invite comments. This takes the place of the normal process under the RMA.

Clause 18 requires a summary of any written comments to be prepared and considered before a consent authority makes a decision on an application. This clause also requires the summary of written comments and the consent authority's response to be included in the notification of the consent authority's decision.

Clause 19 provides that a decision on the application must be made and notified within 40 working days.

Clause 20 provides that the period during which comments are sought, summarised, and considered under *clauses 17 and 18* is included in the time limit in *clause 19*.

Clause 21 limits who may take enforcement proceedings in relation to a resource consent granted under the order to the 2 consent authorities.

Statement of reasons

This statement records the reasons of the Associate Minister for Greater Christchurch Regeneration for recommending the making of an order under section 9(1) of the Christ Church Cathedral Reinstatement Act 2017 (the **Act**).

Background

After 6 years of litigation deadlock and extensive negotiations, the Crown brokered an agreement with the owner of the Christ Church Cathedral (the **Cathedral**) to reinstate the Cathedral after it suffered significant damage in the earthquake on 22 February 2011. One of the commitments the Crown agreed to was passing the Act, reinforcing the Government's intention to prioritise the reinstatement of the Cathedral.

As described in further detail below, the Act's express purpose is to facilitate the reinstatement of the Cathedral, recognising its contribution to cultural, social, and economic wellbeing in Christchurch, its importance to Christchurch's regeneration, and its heritage value. This includes facilitating the Cathedral's reinstatement in a manner that is faster, more cost-effective, and more certain than using processes outside the Act (*see* section 4).

Christ Church Cathedral Reinstatement Limited (**CCRL**), the joint venture company managing the reinstatement of the Cathedral, has developed a concept design for reinstatement. This relied on the agreement reached with the Crown and the definition of reinstatement in the Act. CCRL's shareholders, the Cathedral's owner and the Christ Church Cathedral Reinstatement Trust (the fundraiser for the project) have agreed to the concept design.

In the course of developing the concept design, CCRL has seen a need for certainty of outcome, in terms of the project's momentum, cost, fundraising and completion. CCRL has therefore proposed an order under section 9(4) of the Act to the Associate Minister for Greater Christchurch Regeneration (the Minister responsible for the Act).

Legislative framework underlying this order

This order is made under the Act. It comes into effect on 5 October 2020 and is revoked on the close of 21 December 2032. The Act enables Orders in Council to be made that grant exemptions from, modify, or extend the provisions of certain enactments for the purpose of facilitating the reinstatement of the Cathedral.

This order modifies the Resource Management Act 1991 (the **RMA**) to streamline the process for resource consent applications for the reinstatement of the Cathedral.

The order defines reinstatement to have the same meaning as reinstatement in the Act, which includes 1 or more of the following:

- (a) any activity in relation to any part of the Cathedral that the Cathedral Working Group Report contemplates as being a reinstatement activity;
- (b) seismic strengthening of any part of the Cathedral;
- (c) demolition or deconstruction of any part of the Cathedral;
- (d) construction, reconstruction, or restoration of any part of the Cathedral;

- (e) improvement or enhancement of any part of the Cathedral or the design of any part of the Cathedral:
- (f) repair of any part or materials of the Cathedral:
- (g) reuse of any materials of the Cathedral:
- (h) use of any new materials:
- (i) any activity that is ancillary to any activity described in paragraphs (b) to (h).

The order also defines Cathedral in the same way as in the Act. It—

- (a) means Christ Church Cathedral in Cathedral Square in Christchurch; and
- (b) includes all ancillary structures and improvements that are existing or new and that are proximate to, or directly associated with, the Cathedral.

An order under section 8 of the Act may be made only on the recommendation of the Minister who is responsible for the administration of the Act, the Associate Minister for Greater Christchurch Regeneration (the **Minister**). Section 9(1) of the Act provides that a Minister must not recommend the making of an order unless—

- (a) the Minister is satisfied that the order is necessary or desirable for the purpose of the Act; and
- (b) the order does not breach section 12 of the Act.

The purpose of the Act (*see* section 4) is to facilitate reinstatement of the Cathedral, recognising its contribution to cultural, social, and economic wellbeing in Christchurch, its importance to Christchurch's regeneration, and its heritage value. It includes, in particular, any 1 or more of the following:

- (a) to facilitate reinstatement in an expedited manner compared with processes and requirements outside the Act:
- (b) to provide a cost-effective process for reinstatement compared with processes outside the Act:
- (c) to achieve earlier or greater certainty for the owner of the Cathedral and the Christchurch community generally as to the reinstatement of the Cathedral than would be likely under processes and requirements outside the Act.

The Act achieves this purpose by enabling orders that can grant exemptions from, modify or extend specified enactments.

The effects of this order are set out in the explanatory note. This statement of reasons describes why the Minister is satisfied the matters in section 9(1) of the Act are met and therefore, why the Minister considers it appropriate to recommend the making of this order to the Governor-General.

Also, in accordance with section 9,—

- (a) the Minister confirms that a draft of the order (and statement of reasons) has been reviewed by the Christ Church Cathedral Reinstatement Review Panel and that the Minister has had regard to its recommendations on the draft order (*see* section 9(1)(b) and (d)(i)):

- (b) the Minister confirms that a draft of the order (and statement of reasons) has been provided to the Committee of the House of Representatives that is responsible for the review of disallowable instruments and that the Minister has had regard to its comments on the draft order (*see* section 9(1)(c) and (d)(ii)):
- (c) the Minister confirms that the Minister has consulted with the Minister of the Crown who, with the authority for the Prime Minister, is for the time being responsible for the administration of any Act that is subject to the draft order (*see* section 9(1)(e)):
- (d) the Minister confirms that the engagement process under section 10 has been complied with and that the Minister has had regard to the comments received (*see* sections 9(1)(f) and 10(1)(d)):
- (e) the order does not breach section 12 of the Act (*see* section 9(1)(a)(ii)).

Minister's reasons for recommending order under section 9(1) of Act

The Minister considers that these modifications to the RMA are necessary and desirable for the purposes of the Act, to facilitate the reinstatement of the Cathedral in a way that is efficient, cost-effective, and certain. The Minister considers that the approach taken is appropriate, with matters of control that will manage or mitigate certain effects of reinstatement of the Cathedral without impeding the delivery of the purposes of the Act. The order is proportionate to the problem it is trying to solve. Further, the order does not permit any activity (ie, does not enable any reinstatement activity to proceed without a resource consent).

The remainder of this document sets out the general reasons for the order, followed by clause-by-clause explanation.

General reasons for order

The Minister considers the order to be both necessary and desirable, as using processes other than the Act would cause delays, further costs and uncertainty for the project. This would be inconsistent with the intent of Parliament in enacting the Act, and with the Act's purposes.

CCRL began the stabilisation of the Cathedral in May 2020 and it has resource consent for this work. This is the first stage of work on the Cathedral. It is set to begin work on the reinstatement of the Cathedral in approximately mid 2021 and set to complete the Cathedral project in approximately 2027. The reinstatement work is based on the concept design. It will require further resource consent, which the order will support. CCRL's timeframe assumes that an expedited consenting process will be possible.

If the normal RMA process is used to process future resource consent applications for the Cathedral, it would be likely to create delays and increase costs and uncertainty for the project. This is because under the RMA process, the resource consent applications for reinstatement would very likely need to be publicly notified. This is due to the special circumstances that surround the Cathedral and the public interest in its reinstatement as a widely-recognised emblem of Christchurch. Public notification can

also occur for resource consent applications through normal processes when effects are deemed to be more than minor. That is expected to be likely in this case.

As a consequence of the requirement to publicly notify, the consideration of the resource consent application through normal RMA process will—

- be likely to cause significant delays to the project of between 6 months and 2 years (including possible appeal of decisions). Depending on the length of these delays, work on the project could potentially stop after the site is established and stabilised, adding further costs to re-establishing the site once consent is granted:
- be likely to cause an increase in costs at a rate of \$300,000 for every month of delay:
- not have a certain outcome, as the consent authority may still decline the resource consent and parties could appeal the decision.

If the resource consent is declined, aspects of the Cathedral will have to be redesigned. This will cause costs of millions of dollars for professional services such as architects and engineers, increase construction costs, and create further delays. It is likely that after a delay for public notification, appeals and redesign, costs would increase by multiple millions of dollars. It will likely also have a detrimental impact on fundraising, as large donors are unlikely to commit their funds without understanding the full concept design. CCRL does not wish to release the concept design to the public without having certainty of resource consent first.

The proposed resource consent application pathway departs from the normal process in a way that serves the purposes of the Act. The order would change how the RMA applies to future resource consent applications to support the Cathedral's reinstatement.

The order would set out an expedited process that requires resource consent applications for Cathedral reinstatement to be granted without notification. It would do this by—

- treating all restricted discretionary and discretionary activities relating to the reinstatement of the Cathedral as controlled activities, except for demolition without restoration or reconstruction:
- preventing the notification of future resource consent applications relating to reinstatement work on the Cathedral:
- providing an ability for consent authorities to impose conditions on the resource consents in relation to certain matters, including appropriate conditions for the removal of the Citizens' War Memorial and the London plane trees (if necessary for reinstatement):
- requiring the processing of resource consent applications within 40 working days:
- requiring consenting authorities to seek written comment from specified parties for at least 15 working days, during the 40-working-day processing time:

- preventing appeals against a consent authority's decision, except by the applicant;
- allowing the consent authorities to enforce conditions, but removing the ability of the public to do so.

The order would also use the same definitions for Cathedral and reinstatement that are used in the Act.

Compared with processes and requirements outside the Act, this order would facilitate reinstatement of the Cathedral in an expedited and more cost-effective manner, achieving earlier and greater certainty for the owner of the Cathedral and the Christchurch community generally. Consistent with the Act, its approach therefore recognises the Cathedral's contribution to cultural, social, and economic wellbeing in Christchurch, its importance to Christchurch's regeneration, and its heritage value.

In relation to clause 3 (revocation)

A resource consent application to the Christchurch City Council and Environment Canterbury is currently expected later in 2020, however, the order allows for further resource consent applications to be submitted if required. The duration of the proposed order is necessary and desirable because it ensures the consent authorities can carry out their monitoring and enforcement functions if required, across the lifespan of the project. The commencement of each phase of the reinstatement project is contingent upon having sufficient funding available, which means the duration of the whole project is estimated to be between 7 and 10 years.

In relation to clause 5 (application)

It is necessary and desirable to ensure that a resource consent application cannot be made for demolition unless it is in conjunction with restoration or reconstruction. This is appropriate as it reassures the public and consent authorities that the demolition of the entire Cathedral and replacement of it with a new build will be prevented.

In relation to clause 7 (suitably qualified and experienced experts)

It is necessary and desirable to set out that the experts referred to in the order must be suitably qualified and experienced and independent of the reinstatement project. This clause ensures the transparency and integrity of the processes set out by the order.

In relation to clause 8 (controlled activities)

It is necessary and desirable to treat restricted and restricted discretionary activities as controlled activities for the purpose of resource consent applications related to the Cathedral. It is unlikely the applicant will be able to secure the necessary resource consent for reinstatement if the activity type of the relevant reinstatement work remains as that set under the Christchurch District Plan, the Canterbury Land and Water Regional Plan, and the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

Without the order, a resource consent application would be likely to be declined, because the reinstatement may require the removal of up to 3 London plane trees and will require the removal of the Citizens' War Memorial. Activities relating to this are classified as discretionary under the Christchurch District Plan. This would create uncertainty for reinstatement. Appeals could be pursued by CCRL but that would delay reinstatement and increase the costs associated with the project. This approach would therefore be out of step with the purposes for which the Act was enacted.

Costs would also increase if appeals are lost and work is required to redesign aspects of the Cathedral and ancillary buildings in a way that secures resource consent. This would result in further costs for professional services such as architects and engineers, increase construction costs, and create further delays. It would also potentially have a detrimental impact on fundraising.

It is likely the above delays, including public notification, appeals, and redesign, would increase the cost of the project by multiple millions of dollars. It is therefore necessary and desirable to modify the existing activity status, in order to meet the purposes of the Act. While a permitted activity approach could support the purposes of the Act, a controlled activity approach is considered more desirable, as it would retain the ability to place appropriate controls on reinstatement (as discussed further below) while also ensuring the timeliness, certainty, and cost-effectiveness of the project by requiring the local authorities to grant consents and reducing the cost implications as above.

Clause 8 also places conditions on the possible removal of the London plane trees and the Citizens' War Memorial. The removal of the Citizens' War Memorial may only be a controlled activity if removed in accordance with a heritage management plan, and a certification from an engineer that removal is necessary. A London plane tree may only be damaged or removed in accordance with a tree management plan and only if necessary (as certified by an engineer and a technician arborist) and all workable options have been considered. These controls are necessary and desirable to recognise the importance of the Citizens' War Memorial and the London plane trees, while also ensuring that the removal is enabled if it is necessary to provide for a timelier, more cost-effective, and more certain reinstatement.

In relation to clauses 9 to 14 (matters of control)

It is necessary and desirable to specify matters in respect of which control can be imposed. This is appropriate because any matters of control contained in the relevant RMA planning documents will not be applicable to the deemed controlled activities required for the reinstatement work. The matters of control have been developed to include the key potential effects of the reinstatement activities—

- (a) involving heritage upgrade works, deconstruction, reconstruction, and restoration (*clause 9*):
- (b) involving alterations, new buildings, and signs (*clause 10*):
- (c) relating to urban design (*clause 11*):

- (d) relating to construction (*clause 12*):
- (e) affecting the Citizens' War Memorial (*clause 13*):
- (f) affecting the London plane trees (*clause 14*).

This approach to matters of control enables the consent authority to impose conditions on activities that may have wider environmental effects on the surrounding area, thus providing an appropriate check and balance on reinstatement. However, the matters for control, and the provisions governing those matters, are limited to those activities or matters on which the imposition of conditions will not impede the timeliness, cost-effectiveness, or certainty of reinstatement. This is considered necessary and desirable, given that including other conditionality, for example, limiting reinstatement to within the footprint of the existing Cathedral is anticipated to introduce significant uncertainty for the project, causing delays or significantly increased costs.

Clauses 9 to 14 will also provide appropriate regulatory oversight on reserved matters of control.

In relation to clause 15 (determination on non-notified basis)

Under the RMA process, a resource consent application for reinstatement would very likely need to be publicly notified due to the special circumstances that surround the Cathedral, including the high public interest in the reinstatement. Public notification can also occur when effects are deemed to be more than minor, which is likely in this case.

Consequences of the requirement to publicly notify any consent applications would—

- (a) be likely to cause significant delays to the project of at least 6 months and up to 2 years, if there are appeals on decisions. Work on the project could potentially stop after the site is established and stabilised:
- (b) be likely to cause an increase in costs at a rate of hundreds of thousands of dollars for every month of delay:
- (c) not have a certain outcome, as the consent authority can still decline the resource consent and parties can appeal the decision.

Given the need to reinstate the Cathedral efficiently, CCRL requires a method of obtaining consents as soon as is feasibly practicable. The time frames associated with the standard submission process (including decisions on notification, and the time frame for public submissions and hearings and appeals) would prevent consents from being obtained in the required time frame, which is approximately by the end of 2020. If CCRL is able to secure resource consent by the end of the year, it will be able to secure the contractors and materials needed to begin the actual reinstatement of the Cathedral. It will also be able to overlap the stabilisation and reinstatement phases of the project.

It is necessary and desirable to modify the public and limited notification processes because this will facilitate reinstatement in an expedited manner, be more cost-effective, and achieve earlier and greater certainty as to the reinstatement, than would be likely under processes and requirements outside the Act.

This clause replaces sections 95 to 103B of the RMA, regarding public notification and hearings.

In relation to clause 16 (modification of RMA)

Clause 16 sets out sections of the RMA that are modified or disapplied, including 104, 104A, 105, 108, and 108AA. This is necessary and desirable to assist the consent authorities in the processing of any resource consents.

Given the order treats the resource consent activity status for reinstatement as a controlled activity, there are likely to be a number of areas where the resource consent sought will not align with the existing provisions of the relevant RMA planning documents. Therefore, it is necessary and desirable to exempt consent authorities from the requirement to have regard to the various RMA planning documents referred to in sections 104, 104A, 105, 108 and 108AA of the RMA.

Removing the requirement for consent authorities to have regard to those planning documents will avoid any potential conflict between those planning documents and the requirement to grant resource consent.

In relation to clauses 17, 19, and 20 (consent authority must notify certain persons and invite comments)

To address the limits on public participation due to the suspension of public and limited notification, *clause 17* introduces an alternate process for specified parties. The time frame for the process in *clause 17* is necessarily short, (at least 15 working days, within the 40-working-day time limit (*see clauses 19 and 20*) in order to ensure that there is no undue delay to the commencement of reinstatement work. An invitation is to be treated as a document to be served for the purposes of the RMA and section 352 of the RMA applies accordingly.

The list of specified parties has been kept short, with an allowance for any other person the consent authority considers appropriate to be invited to make a written comment. This approach reflects that the order limits appeal rights, which is necessary and desirable to provide greater certainty for the reinstatement, while it does not prevent the consent authority from identifying additional parties if appropriate.

Further, it is necessary and desirable that those persons who are invited to make comments cannot appeal the resource consent conditions, to avoid delays to the reinstatement work and provide optimal timeliness and certainty and avoid additional costs through any delay. This means that section 120 of the RMA cannot be used by written commenters to appeal to the Environment Court and a person who makes a written comment cannot object under Part 14 of the RMA. The appeals process would only be able to be used by the applicant, for example, to appeal conditions.

This process therefore modifies section 114 of the RMA, regarding notification and replaces sections 95 to 103B of the RMA, regarding public notification and hearings.

In relation to clause 18 (summary of written comments)

Clause 18 ensures that a summary of written comments is considered by the consent authority and must be included in the notification of the decision. This is considered appropriate to keep parties informed of any decision on the resource consent application, while not impacting on the outcomes sought by the purposes of the Act.

In relation to clauses 19 and 6 (time limits for notification of decision and extensions)

In order to meet the timeliness expectation in the purposes of the Act, it is necessary and desirable to cap the time frame for processing the application at 40 working days (*clause 19*) to ensure that the resource consent application for reinstatement work on the Cathedral, which will be large, can be processed within an adequate but finite amount of time. This will prevent undue delays to the project.

It is also necessary and desirable that the 40-working-day time frame cannot be extended (*clause 6*), except with the agreement of the applicant under section 37(1)(a) of the RMA, so that the Cathedral can be reinstated in an expedited manner. If the consent authority requests more information from the applicant, the normal process in the RMA will apply, under 88C of the RMA. This is appropriate to reassure the public that a resource consent application will be appropriately supported.

This process modifies sections 37, 88B, and 88E of the RMA and disappplies section 115 of the RMA.

In relation to clause 21 (enforcement proceedings)

Under *clause 21*, enforcement proceedings under Part 12 of the RMA may be taken only by a consent authority. It is necessary and desirable to exclude applications for enforcement orders or declarations by members of the public to ensure that reinstatement work can proceed. The ability for consent authorities to bring proceedings is sufficient to ensure that conditions of consent and designation and other relevant sections of the RMA are not breached. This is consistent with the approach of the Act and is necessary and desirable to provide optimal certainty for the project.

Regulatory impact assessment

The Department of the Prime Minister and Cabinet produced a regulatory impact assessment on 24 March 2020 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact assessment can be found at—

- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 27 August 2020.

This order is administered by the Department of the Prime Minister and Cabinet.