

# Departmental Disclosure Statement

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Greater Christchurch Regeneration Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by Canterbury Earthquake Recovery Authority.

The Canterbury Earthquake Recovery Authority certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

15 October 2015

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## Part One: General Policy Statement

### Purpose

The purpose of the Greater Christchurch Regeneration Bill (the **Bill**) is to provide a new legal framework to support the regeneration of greater Christchurch over the next 5 years. New legislation is needed to recognise the shift in focus from recovering from the Canterbury earthquakes in the Canterbury Earthquake Recovery Act 2011 (the **CER Act**) to regeneration. This includes providing for the timely, future development of greater Christchurch and enabling an increased role for local leadership.

### Local leadership

The Bill recognises the importance of local leadership of Canterbury Regional Council, Christchurch City Council, Selwyn District Council, Te Rūnanga o Ngāi Tahu, and Waimakariri District Council by providing them with a role in significant ministerial decision-making processes under the Bill.

The Bill also recognises that an atypical and transitional role of central government in the regeneration of greater Christchurch is expected to continue for the next 5 years, but will progressively move towards the Crown and local government establishing roles and responsibilities.

### Regenerate Christchurch

The Bill establishes Regenerate Christchurch, an entity jointly controlled by the Crown and Christchurch City Council with the purpose of supporting a vibrant, thriving Christchurch that has economic, social, and lifestyle opportunities for residents, businesses, visitors, investors, and developers.

The objectives of Regenerate Christchurch set out in the Bill are—

- to lead regeneration in defined areas of Christchurch:
- to engage and advocate effectively with communities, stakeholders, and decision makers to achieve its purpose:
- to collaboratively work with others in achieving regeneration.

The Bill provides Regenerate Christchurch with all powers reasonably necessary to achieve its purpose and objectives and to perform its functions. The Bill sets out the board's role and membership, duties on members, requirements to disclose conflicts of interests, accountability requirements, and other matters pertaining to the operation of Regenerate Christchurch.

The Bill provides that Regenerate Christchurch ceases to be a statutory entity from 30 June 2021 and provides for a council-controlled organisation to be its successor.

### Regeneration plans

The Bill provides for the ability of the Minister to approve the development, amendment, or revocation of Regeneration Plans (and for the continuation of existing Recovery Plans). These are plans that set out the direction and detailed matters that need to be addressed for regeneration in a particular area in a timely and collaborative way. Regeneration Plans can be proposed and developed by central government, councils, Te Rūnanga o Ngāi Tahu, or Regenerate Christchurch.

The Bill provides that the Minister, in making decisions relating to Regeneration Plans must seek the views of strategic partners (Canterbury Regional Council, Christchurch City Council, Selwyn District Council, Te Rūnanga o Ngāi Tahu, and Waimakariri District Council) and Regenerate Christchurch and have particular regard to their views. The Bill also provides requirements for public input into the development of Regeneration Plans.

## **Powers**

The Bill contains a number of powers that are needed to support the regeneration of greater Christchurch. The powers provided to the responsible Ministers and chief executives will generally need to be used in accordance with the purposes of the Bill and generally must be reasonably considered necessary. These powers include the following:

- the Minister can suspend, amend, or revoke RMA documents, council plans, or other documents:
- the Minister can amalgamate any land acquired under this Bill or the CER Act. The objective of this is to facilitate future uses of such land:
- the chief executive can carry out or commission works, such as the demolition of buildings, and can restrict access, and close or stop roads, in order to undertake works:
- the chief executive can dispose of land acquired under the CER Act or the Bill subject to the Minister's approval and any offer back obligations:
- the Minister can compulsorily acquire land where attempts to voluntarily acquire it have been unsuccessful. The Bill provides that the owner is entitled to compensation, but the Crown is not bound by the current market value, if not appropriate.

## **Other matters**

The Bill repeals the CER Act and establishes powers necessary to support the regeneration of greater Christchurch until 30 June 2021.

The Bill covers a smaller geographic area than the CER Act. The area specified in the Bill has been chosen to align with existing local government planning documents for greater Christchurch.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?</b>	<b>YES</b>
<p>Three annual reviews were conducted under section 92 of the Canterbury Earthquake Recovery Act 2011. A fourth annual review is underway. A copy of the reports are available at the Canterbury Earthquake Recovery Authority website:</p> <ul style="list-style-type: none"><li>• <a href="#">Annual Review (June 2012) of the Canterbury Earthquake Recovery Act 2011</a> [PDF 195KB]</li><li>• <a href="#">Annual Review (September 2013) of the Canterbury Earthquake Recovery Act 2011</a> [PDF 342KB]</li><li>• <a href="#">Annual Review (August 2014) of the Canterbury Earthquake Recovery Act 2011</a> [PDF 395KB]</li></ul> <p>In December 2014 the Minister for Canterbury Earthquake Recovery, Hon Gerry Brownlee, established the Advisory Board on Transition to Long-Term Recovery Arrangements (the Advisory Board). The Advisory Board was asked to provide advice to the Minister. A copy of the first report of the Advisory Board is available at:</p> <ul style="list-style-type: none"><li>• <a href="#">The first report to the Minister for Canterbury Earthquake Recovery</a> from the Advisory Board on Transition to Long Term Recovery Arrangements in July 2015. [PDF 1.25MB]</li></ul> <p>The Draft Transition Recovery Plan <i>Greater Christchurch Earthquake Recovery: Transition to Regeneration</i> sets out proposals for the transition of central government's role in the recovery to long-term arrangements. The Draft Plan included proposals for new legislation and invited public comment from 2 July – 30 July 2015. A copy of the document is available at:</p> <ul style="list-style-type: none"><li>• <a href="#">Draft Transition Recovery Plan Greater Christchurch Earthquake Recovery: Transition to Regeneration</a> prepared by the Canterbury Earthquake Recovery Authority. [PDF 713KB]</li></ul>	

### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	<b>NO</b>
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### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	<b>YES</b>
<p>A Regulatory Impact Statement <i>Greater Christchurch Regeneration Bill</i>, authored by the Canterbury Earthquake Recovery Authority (October 2015) was provided to the Cabinet Committee that considered the Bill.</p> <p>The RIS is accessible at <a href="http://www.treasury.govt.nz/publications/informationreleases/ris">http://www.treasury.govt.nz/publications/informationreleases/ris</a></p>	

<b>2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?</b>	<b>YES</b>
<p>The Regulatory Impact Analysis (RIA) requirements apply to the proposal in this paper and a Regulatory Impact Statement (RIS) has been prepared and is attached.</p> <p>The Regulatory Impact Analysis Team (RIAT) has reviewed the regulatory impact statement (RIS) for the above legislative/regulatory proposal and considers that the information and analysis summarised in the RIS meets the quality assurance criteria.</p> <p>The RIS provides a full, clear and systematic analysis both of the need for a new Act and its general application, and of the specific powers that are proposed for retention after the expiry of the current Act. The proposals are well consulted.</p> <p>The risks of enlarging the purpose statement in a new Act to remove reference to earthquakes are well explained in general terms. The powers which would potentially be broadened by the extended purpose are clearly identified, and the main risks associated with reduced checks and balances in each case are described. RIAT notes that similar risks would apply, albeit to a lesser extent, to the alternative approach of defining regeneration to apply to both direct and indirect consequences of the Canterbury earthquakes.</p> <p>RIAT notes that previous decisions on this Bill were not accompanied by a RIS, which was not in line with the Cabinet RIA requirements.</p>	

<b>2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?</b>	<b>NO</b>
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### Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b>	<b>NO</b>
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<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	<b>NO</b>
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	<b>NO</b>
<p>The RIS provides a qualitative analysis, to the extent possible, of the costs and benefits of different policy options. However, due to the unique nature of the situation in greater Christchurch, it is difficult to provide fuller analysis or to make a judgment about the quantitative size of these costs and benefits. The size will depend on if and how the relevant powers are exercised.</p> <p>The costs of operating Regenerate Christchurch over the 5 years of the Bill are in part met by a transfer of costs currently incurred by the Canterbury Earthquake Recovery Authority. The benefits are that the new entity will bring together collective local and central government resources for regeneration of areas of Christchurch identified as requiring a regeneration focus.</p> <p>Although the Bill provides for the compulsory acquisition of land, it also provides for compensation, including authorising compensation to be above market value. Other powers that potentially impact on private property rights in land are discussed in Appendix one.</p>	

<b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:</b>	
<b>(a) the level of effective compliance or non-compliance with applicable obligations or standards?</b>	<b>NO</b>
<b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>	<b>NO</b>

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?</b>
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Provisions in the Bill follow from the powers in the Canterbury Earthquake Recovery Act 2011 with refinements and adjustments to support the regeneration of Christchurch. The Bill has proceeded on the basis that the Canterbury Earthquake Recovery Act is consistent with New Zealand's international obligations.
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### Consistency with the government's Treaty of Waitangi obligations

<b>3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?</b>
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Following steps have been taken to ensure that the Bill and the policy to be given effect by this Bill are consistent with the principles of the Treaty of Waitangi:
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| <ul style="list-style-type: none"><li>• the Bill explicitly preserves the Ngāi Tahu Claims Settlement Act 1998 and provides that disposal of land subject to that Act must be carried out in accordance with that Act (which includes the right of first refusal);</li><li>• in that Act "the Crown recognises Ngāi Tahu as the tangata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui";</li><li>• CERA has involved Te Rūnanga o Ngāi Tahu in policy development throughout the development of this Bill;</li><li>• Te Rūnanga o Ngāi Tahu will be recognised as a Strategic Partner in the Bill;</li><li>• the Bill will provide for Te Rūnanga o Ngāi Tahu (along with other Strategic Partners) to have a role in significant Ministerial decision making; and</li><li>• the Bill will set out as one of its purposes the recognition of local leadership which includes that of Te Rūnanga o Ngāi Tahu.</li></ul> |
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### Consistency with the New Zealand Bill of Rights Act 1990

<b>3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?</b>
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YES
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A copy of the advice can soon be accessed at: <a href="http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights/@@view_by_date#year-2015">http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights/@@view_by_date#year-2015</a>
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The Attorney-General has waived legal privilege.
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## Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>	
<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?</b>	<b>YES</b>
<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	<b>YES</b>
<p>The Bill creates offences in clauses 56 and 58 of the Bill. Clause 56 carries forward an existing provision in the Canterbury Earthquake Recovery Act but incorporates a mental element (<i>mens rea</i>). Clause 58 replaces an existing offence provision in the Canterbury Earthquake Recovery Act. It incorporates a mental element (<i>mens rea</i>) and increases the penalty.</p> <p>Clause 50 allows the chief executive to seek an order from the High Court that an owner or occupier must comply with a notice under clause 48 to vacate land or a building.</p> <p>Clause 74 allows the Minister to seek an order from High Court directing the owner or occupier to give vacant possession. There is an equivalent provision under the Canterbury Earthquake Recovery Act.</p> <p>Clause 86 of the Bill provides that there is no right of appeal against a decision of the Minister or chief executive under the Act, except as provided in clauses 87 and 88. This continues the position in the Canterbury Earthquake Recovery Act.</p> <p>Appeals allowed under the Bill include appeals against a decision on an application for resource consent specified in a Recovery Plan or Regeneration Plan where a person would otherwise have a right of appeal or objection under the RMA, appeals against a determination of compensation, appeals against a direction or conditions given under clause 57(2), appeals against decisions of a Minister under clause 31(3), and appeals in respect of any dispute referred to in clause 46.</p>	

<b>3.4.1. Was the Ministry of Justice consulted about these provisions?</b>	<b>YES</b>
<p>The Ministry of Justice was sent a draft of the Bill for comment and their attention was drawn to the appeal and offence provisions. The Ministry's comments include:</p> <ul style="list-style-type: none"> <li>• The lack of appeal options, carried over from the Canterbury Earthquake Recovery Act, is not a standard approach to appeals;</li> <li>• As a general principle, it is appropriate to include at least one "check" on a decision, especially when it has potentially significant impacts on people and communities;</li> <li>• One of the Bill's purposes is enabling an expedited regeneration process. Eliminating appeal options can reduce the time taken to complete processes and achieve finality, but can reduce community participation through review of decisions.</li> </ul> <p>Under the Canterbury Earthquake Recovery Act, appeals must be brought within 10 working days after the decision appealed against is given. This limitation has been removed in the Bill and appeals can be brought in accordance with the rules of Court.</p> <p>No other changes have been made to appeal rights, given the importance of having expedited processes. The right to seek judicial review remains available.</p>	

## Privacy issues

<b>3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?</b>	<b>NO</b>
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## External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>The Draft Transition Recovery Plan contained proposals for the Bill. Written public comments were received (total 2810) from 2 July – 30 July 2015 (refer to question 2.1).</p> <p>The majority view generally agreed that powers and provisions are needed in new legislation to support the recovery going forward however, these should be limited. A consistent theme in written comments was the preference for a return to a locally-led recovery with the withdrawal of central government. It was acknowledged in some written comments that there continues to be a role for central government support in the recovery. Some commented that the extraordinary powers in the Canterbury Earthquake Recovery Act are no longer valid or necessary and that new legislation is not required.</p> <p>The Advisory Board on Transition provided feedback through its first report to the Minister for Canterbury Earthquake Recovery (refer to question 2.1 above). Information was provided to the Advisory Board throughout policy development.</p> <p>Officials from the Strategic Partners (Christchurch City Council, Environment Canterbury, Selwyn District Council, Te Rūnanga o Ngāi Tahu, Waimakariri District Council) were consulted throughout policy development.</p>	

## Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
<p>Many of the provisions in the Bill are very similar to powers in the Canterbury Earthquake Recovery Act 2011 with refinements and adjustments to support the regeneration of Christchurch. The changes reflect experience from administering the Canterbury Earthquake Recovery Act.</p> <p>The workability of some of the powers to amalgamate has been tested with Land Information New Zealand.</p>	

## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

<b>4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?</b>	<b>YES</b>
<p>Clauses 70-74 provide for compulsory acquisition of land.</p> <p>Compulsorily acquisition of land could be necessary to give effect to the purposes of the Bill and where a voluntary purchase cannot be agreed or where the owner cannot be found to negotiate with.</p> <p>The purposes of this Bill are different to the purposes for which the compulsory acquisition provisions of the Public Works Act 1981 may be used, and so an alternative process is needed under this Bill to give effect to its purposes (which include expedited process).</p> <p>The features that could mitigate the potential adverse effects of the compulsory acquisition include:</p> <ul style="list-style-type: none"><li>• the power can only be exercised in accordance with the purposes of the Bill;</li><li>• the power can only be exercised where it is reasonably considered necessary;</li><li>• there must be reasonable endeavours to negotiate a voluntary purchase first;</li><li>• the Minister may exercise the power only if acquisition of the land is necessary to give effect to a Regeneration Plan or Recovery Plan where one is in place;</li><li>• if there is no Regeneration Plan or Recovery in place, the Minister may exercise the power only with agreement of the relevant local authority;</li><li>• the entitlement to compensation; and</li><li>• the Minister is not bound by the current market value when determining the amount of compensation.</li></ul>	

### Charges in the nature of a tax

<b>4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?</b>	<b>NO</b>
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### Retrospective effect

<b>4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?</b>	<b>YES</b>
<p>Clause 112(3) of the Bill declares that each Order in Council made under the Canterbury Earthquake Recovery Act and continued in force under the Bill has been lawfully made.</p> <p>This provision is included for the avoidance of doubt in the event that the Orders are alleged to be unlawful as a result of a technical error. This provision is necessary to provide certainty.</p> <p>This provision has a limited application. It only applies to the eight Orders in Council continued under the Bill.</p>	

### Strict liability or reversal of the usual burden of proof for offences

<b>4.4. Does this Bill:</b>	
<b>(a) create or amend a strict or absolute liability offence?</b>	<b>NO</b>
<b>(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?</b>	<b>NO</b>

## Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	YES
<p>Clause 109 of the Bill provides protection from liability.</p> <ul style="list-style-type: none"> <li>• No action lies against the Crown, officer, employee or Minister of the Crown for damages or loss due to action taken under the Bill.</li> <li>• There is no liability for a fine, costs, and expenses under the Resource Management Act for persons who take action under the Bill.</li> </ul> <p>The equivalent provision in the Canterbury Earthquake Recovery Act has been relied on for activities such as assessing damaged buildings and demolitions etc. This provision is necessary because similar high risk work will be on-going beyond 2016, notably demolitions in the Port Hills. Some risks associated with this type of work cannot be insured. Contractors may refuse to undertake some necessary work without this provision.</p> <p>Clause 52 clarifies that the Crown remains liable to compensate for negligent physical loss or damage to other property resulting directly from a demolition. An act or omission that constitutes bad faith or gross negligence is not exempted from liability. The Bill provides for compensation for demolition of non-dangerous buildings (see below). These features could mitigate potential adverse effects of the immunity.</p> <p>Clause 39 of Schedule 5 provides that a member of the board or an office holder or employee of Regenerate Christchurch is not liable for any liability of Regenerate Christchurch by reason only of being a member, office holder, or employee. This is standard protection for members, office holders and employees of Crown entities, and is based on s120 of the Crown Entities Act 2004.</p>	

## Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	YES
<p>Clause 47 of the Bill allows the chief executive to carry out works on private land with or without the consent of the owner or occupier including the erection, reconstruction, placement, alteration, or extension of a building. This carries forward an existing provision in the Canterbury Earthquake Recovery Act.</p> <p>Clause 57 of the Bill will provide for a power for the chief executive to direct a property owner to act for the benefit of the adjoining or adjacent property.</p> <p>(Refer to Appendix One)</p>	

## Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
<p>Clauses 12-43 of the Bill (Development and implementation of planning instruments) set out two instruments that create a power to make delegated legislation.</p> <p>(Refer to Appendix One)</p>	

### Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	YES
<p>Clause 54 of the Bill allows the chief executive to restrict or prohibit access to a specified area or building. This provision is unusual because it allows the chief executive to limit the freedom of movement and could also affect private property rights. The provision is carried forward from the Canterbury Earthquake Recovery Act and is intended to provide for public safety by prohibiting entry into a certain building or area. The provision is necessary because there are still some areas in greater Christchurch considered dangerous for public access, for example in the Port Hills.</p> <p>Clauses 89-108 of the Bill provide for the creation of a new entity called Regenerate Christchurch, its purpose, functions, and powers.</p> <p>The entity is to be jointly controlled by the Crown and Christchurch City Council. The shared governance of the entity means that it is neither a Crown Entity under the Crown Entities Act 2004, nor a council-controlled organisation under the Local Government Act 2002. Hence the Bill needs to set out the operation, liabilities, and accountability measures.</p> <p>Where possible, the Bill draws on existing clauses and experience, including in the Crown Entities and Local Government Acts, to establish Regenerate Christchurch. The Bill also provides for Regenerate Christchurch to transition into a council-controlled organisation (CCO) at the end of June 2021. The Bill's transition provisions remove the Local Government Act public consultation requirements that would apply at the setup of a CCO. The reasoning is that the Bill process provides for appropriate public scrutiny and comment of the design and purpose of the new entity.</p> <p>Clause 98 provides for the validation of any acts done for purpose of establishing Regenerate Christchurch despite the provisions in the Bill not having commenced when those acts were done.</p> <p>This provision is necessary to progress the establishment of Regenerate Christchurch as an entity, appoint board members and staff it, rather than waiting for the Bill to come into force.</p>	

## **Appendix One: Further Information Relating to Part Four**

### **Significant decision-making powers – question 4.6**

Clause 47 of the Bill allows the chief executive to carry out works on private land with or without the consent of the owner or occupier including the erection, reconstruction, placement, alteration or extension of a building. This carries forward an existing provision in the Canterbury Earthquake Recovery Act.

The provision is intended to allow for the demolition of dangerous buildings to ensure public safety as well as other works to repair damage. It is also intended to allow for the demolition of non-dangerous private buildings in the process of demolishing a dangerous building, or where it is necessary to demolish a non-dangerous private building in order to demolish a dangerous building.

The power must only be exercised for the purposes of the Bill and must be reasonably considered necessary. Clause 48 of the Bill requires the chief executive to give written notice to the owner or occupier before exercising this power. Clause 51 of the Bill provides that the Crown is liable to pay compensation for any loss resulting from the demolition of a non-dangerous building.

Clause 51 also provides that the Crown is not liable to compensate the owner or any tenant or other occupier of the building if the chief executive demolishes a dangerous building.

The power to demolish privately owned dangerous buildings is not expected to be used widely. This provision will protect the Crown from having to compensate an owner of a dangerous building for demolition work done to ensure public safety and to protect the public. The clause provides that the Crown is liable to compensate for demolition of a non-dangerous building.

Clause 57 of the Bill will provide for a power for the chief executive to direct a property owner to act for the benefit of the adjoining or adjacent property.

The power is intended to be used only in situations where rebuilding from earthquake damage is necessary and where the chief executive considers it desirable that the owner of a property act for the benefit of one or more owners of properties that are adjoining or adjacent.

When exercising this power, the chief executive will be required to comply with the principles of natural justice. A decision/direction of the chief executive under clause 57 can be appealed to the High Court under clause 87. A decision of the High Court could be appealed to the Court of Appeal with the leave of the Court of Appeal. The decision/ direction of the chief executive can also be judicially reviewed.

### **Powers to make delegated legislation– question 4.8**

Clause 21 of the Bill provides that the Minister may approve a Regeneration Plan or an amendment to an existing Recovery Plan. Clauses 16-30 set out the process for the development, amendment and revocation of Regeneration Plans and Recovery Plans.

The effects of Regeneration Plans and Recovery Plans are set out in Clauses 31-35 and include the following:

- persons exercising functions under the Resource Management Act 1991(RMA) must not make a decision or recommendation inconsistent with a Regeneration Plan or Recovery Plan (Clause 31);
- if a Regeneration Plan or Recovery Plan directs so, a council must amend and a RMA document (Clause 32); and
- requires certain documents not be inconsistent with a Regeneration Plan or Recovery Plan (clause 34).

Clause 42 provides for the Minister to suspend, amend or revoke RMA documents, plans or policies under the Local Government Act 2002, regional land transport plan and conservation and reserve plans and strategies. This provision is carried forward from the Canterbury Earthquake Recovery Act.

The delegated legislation powers provide for expedited processes to give effect to changes that would (under ordinary circumstances) be given effect to by local government. These matters deal with planning documents. The expedited processes are considered necessary to provide for timely regeneration, urban renewal and development of greater Christchurch.

The safeguards that apply to the exercise of these powers to make delegated legislation include the following:

- these powers do not apply in respect of any area outside greater Christchurch (as defined in the Bill);
- these powers can only be exercised in accordance with the purposes of the Bill;
- these powers can only be exercised where it is reasonably considered necessary;
- before exercising these powers, the Minister must seek and have particular regard to, the views of Strategic Partners (Canterbury Regional Council, Christchurch City Council, Selwyn District Council, Te Rūnanga o Ngāi Tahu, and Waimakariri District Council);
- these powers can only be exercised after the public has been invited to make written comment; and
- the delegated legislation created under the Bill will cease to have effect on 30 June 2021 when the legislation will be repealed.