

5 February 2020

Hon David Parker, Attorney-General

## **Consistency with the New Zealand Bill of Rights Act 1990: Greater Christchurch Regeneration Amendment Bill**

### **The Bill**

---

1. We have considered whether the Greater Christchurch Regeneration Amendment Bill ('the Bill') is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 ('the Bill of Rights Act').
2. We have not yet received a final version of the Bill. This advice has been prepared in relation to the latest version of the Bill (PCO 21850/1.8). We will provide you with further advice if the final version includes amendments that affect the conclusions in this advice.
3. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act. In reaching that conclusion, we have considered the consistency of the Bill with s 18 (freedom of movement). Our analysis is set out below.

### **The Bill**

---

4. The Greater Christchurch Regeneration Act was enacted in 2016 to support the regeneration of greater Christchurch through a range of special development provisions. Most provisions in the Act expire on 30 June 2021.
5. There has been significant progress in regeneration since 2016. In recognition of this, the Bill:
  - repeals specific provisions early, removing some extraordinary powers that are no longer required to demonstrably show the transition of regeneration matters to local leadership;
  - disestablishes Regenerate Christchurch (a Crown-Council organisation), supporting a timely transfer of functions and reducing duplication of effort on regeneration; and
  - provides a two-year extension to certain specified powers. This is to allow for ongoing title reconfiguration and works in the Ōtākaro Avon River Corridor. This work only began in late 2019 and the extension is required to ensure the Crown has sufficient time to complete work.

## **Consistency of the Bill with the Bill of Rights Act**

---

### **Section 18 – Freedom of Movement**

6. Section 18(1) of the Bill of Rights Act affirms that everyone lawfully in New Zealand has the right to freedom of movement and residence within New Zealand.
7. Section 87(1) and (2) of the principal Act provide for the Chief Executive of the administering government department to totally or partially prohibit or restrict public

access, with or without vehicles, to any road or public place within greater Christchurch. This is primarily to ensure public safety and to facilitate works to be completed on roads and other public land.

8. Clauses 28 and 29 of the Bill provide for the continued application of prohibitions or restrictions made under sections 87(1) and (2) of the principal Act to 30 June 2023, two years after the restrictions would otherwise cease to have effect. Clauses 28 and 29 therefore have the potential to impose further limits on the freedom of movement.
9. Where a provision proposes a limit on a right or freedom, it may nevertheless be consistent with the Bill of Rights Act if the limit is reasonable and justifiable in terms of s 5 of that Act.
10. Clauses 28 and 29 are clearly justifiable in terms of s 5 of the Bill of Rights Act. The provisions are necessary to enable remaining works in the Ōtākaro Avon River Corridor to be completed in a safe manner. This is a sufficiently important objective to warrant a limit on freedom of movement. Public safety is clearly enhanced by the exclusion of people from worksites. The limitation on the right to freedom of movement is also proportional. The Chief Executive must exercise their power only where it is reasonably necessary to achieve the purposes of the principal Act.

## **Conclusion**

---

11. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.

Jeff Orr  
**Chief Legal Counsel**  
**Office of Legal Counsel**