



21 May 2018



Reference: OIA 2017/18-0571

Dear 

Official Information Act request relating to the Cenotaph

Thank you for your Official Information Act 1982 (the Act) request received on 20 April 2018. You requested:

"...a copy of the DPMC report "Relocating the Citizen's War Memorial (Cenotaph) using section 71 of the GCR Act", which was sent to Megan Woods office on 22 Feb 2018.

Are you able to provide a copy of this report?

Has DPMC provided any other advice on moving the Cenotaph since then? If so, is it possible to get hold of that as well?"

I have decided to release the requested document, subject to information being withheld as noted. The relevant grounds under which information has been withheld are:

- section 9(2)(f)(iv), to maintain the confidentiality of advice tendered by or to Ministers and officials
- section 9(2)(g)(i), to maintain the effective conduct of public affairs through the free and frank expression of opinion
- section 9(2)(h), to maintain legal professional privilege

No further formal advice has been provided by DPMC to the Minister since the above report, however the Citizens' War Memorial has been raised in meetings, including regular updates with officials (including the Minister, Land Information New Zealand and Christchurch City Council officials) since then. Accordingly, I must refuse this part of your request under section 18(e) of the Act, as the information does not exist.

In making my decision, I have taken the public interest considerations in section 9(1) of the Act into account.

This response will be published on the Department of the Prime Minister and Cabinet's website during our regular publication cycle. Typically, information is released quarterly, or as otherwise determined. Your personal information including name and contact details will be removed for publication.

You have the right to ask the Ombudsman to investigate and review my decision under section 28(3) of the Act.

Yours sincerely



Anne Shaw
Director – Greater Christchurch Group

Aide-memoire



DEPARTMENT of the
PRIME MINISTER and CABINET

Te Tari o Te Pirimia me Te Komiti Matua

To: Hon Dr Megan Woods, Minister for Greater Christchurch
Regeneration

From: Kelvan Smith, Director, Greater Christchurch Group

Date: 22 February 2018

Security Level: IN CONFIDENCE

Report No: DPMC-2017/18-702

Relocating the Citizens' War Memorial (Cenotaph) using section 71 of the GCR Act

Purpose

1. This paper provides you an update on whether section 71 of the Greater Christchurch Regeneration Act 2016 (GCR Act) can be used to relocate the Citizens' War Memorial (Cenotaph).

Background

2. As you aware, the Christchurch City Council (the Council) had been exploring a range of temporary and permanent options for the location of the Cenotaph and was considering potential statutory tools to do so (DPMC-2017/18-271 refers). Options considered at that stage were:
 - a. **RMA process:** Applying for resource consent under the standard Resource Management Act (RMA) process. A discretionary activity resource consent would likely be required, which would require a significant amount of information to justify the activity and would likely be publicly notified. The Council can either grant or decline the consent, and there is a risk of appeal to the Environment Court. The RMA plan change process was not considered as the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 prevents any normal RMA plan changes whilst the Order is in force.
 - b. **GCR Act process:** Using section 71 to implement required changes in the District Plan once a temporary or permanent location has been decided. This could be progressed by a number of parties as listed in section 14(1) of the GCR Act; or
 - c. **Cathedral Square Strategy:** Considering options for the Cenotaph as part of the Cathedral Square and surrounds strategy in development by Regenerate Christchurch. For example, planning changes under the GCR Act may be required to support implementation of the strategy.

3. We understand that the Mayor of Christchurch City has now directly raised with you the possibility of using powers under the GCR Act to relocate the Cenotaph.

Relocating the Cenotaph using the GCR Act

4. Officials, under the current legislative environment, see no issue with using section 71 of the GCR Act to relocate the Cenotaph.

How to relocate using the Section 71 Process

5. If the Council wishes to relocate the Cenotaph, its next steps are to progress the matter in accordance with sections 65 and 66 of the GCR Act:

- a. **Proponent:** Consider whether Regenerate Christchurch or the Council wishes to be a proponent to propose the exercise of section 71 powers. Should the Mayor raise this question with you, we consider that the Council is best placed to be the proponent in this instance. ^{s9(2)(g)(i)}

The Council is also the subject matter expert in this area.

- b. **Draft the Proposal:** The Council must draft the proposal in accordance with section 65 of the GCR Act.
 - c. **Seek Views:** The Council must then seek views of the strategic partners, Regenerate Christchurch, and the chief executive of the Department of the Prime Minister and Cabinet (DPMC), who have 30 working days to provide views.
 - d. **Provide the Proposal to Regenerate Christchurch:** The Council must finalise the proposal and provide it to Regenerate Christchurch. Regenerate Christchurch must then provide its views to you as soon as practicable. Note that if Regenerate Christchurch is the proponent this step does not apply.
 - e. **Submit the Proposal:** The Council must submit the finalised proposal to you to consider whether you wish to proceed with the proposal (i.e., whether you wish to seek public comment). You will also receive Regenerate Christchurch's view separately. You will have 30 working days to make a decision.
6. If you decide to proceed with the proposal you must invite public comment under section 68 of the GCR Act. DPMC will manage the public submissions process and would recommend that the public engagement period is at least 20 working days. Once the public engagement period closes you will have 30 working days to make a decision on whether to exercise your power in section 71. Should you approve the proposal, you are required to give notice of the changes in the Gazette.
 7. The Gazette notice will specify the date on which the exercise of the power takes effect. From that date relocation can commence (and the Council will automatically update its District Plan). For completeness, we note that after the Gazette notice has been published a public notice containing specified information regarding the Gazette notice must be published as soon as practicable.

Whether relocation can happen by November 2018

- 8. We estimate that a standard section 71 process would take approximately nine months to complete (from drafting the proposal to Ministerial final decision-making).

s9(2)(g)(i)

Change in legislative environment

9. s9(2)(f)(iv)

10. s9(2)(g)(i), s9(2)(h), s9(2)(f)(iv)

11.

Recommendations

- 12. It is recommended that you note the contents of this aide-memoire.



Kelvan Smith
Director - Greater Christchurch
Group

NOTED
Hon Dr Megan Woods Minister for Greater Christchurch Regeneration
Date: / / 2018