

	Regulatory environment	Decision-maker	Decision-making framework	Participation	Comment
<p><b>Canterbury Earthquake Recovery Act 2011</b></p>	<p>✓ - Provided ability to change regulatory environment to better enable recovery initiatives.</p> <p>Two ways of amending, suspending or revoking RMA documents:</p> <ul style="list-style-type: none"> <li>• Development of a recovery plan.</li> <li>• Ministerial direction.</li> </ul> <p>Once recovery plan was approved or Ministerial direction issued, the territorial authority was required to immediately amend the RMA document in accordance with the plan or direction without using the RMA Schedule 1 process.</p> <p>Governor-General, on recommendation of the Minister, could also, by Order-in-Council, grant exemptions from, modify, or extend specific enactments (and/or plans or rules made under those enactments) including the RMA and any RMA documents.</p>	<p>✓ - Decisions to change regulatory environment to support recovery made by the Minister, not local authorities.</p>	<p>✓ - Decisions to change regulatory environment – and the shape of those changes – are framed by recovery, not sustainable management. “Recovery” included “restoration and enhancement” – not limited to built form initiatives, but all actions that would enable the recovery of Canterbury from earthquakes.</p> <p>Wider purposes included:</p> <ul style="list-style-type: none"> <li>• Enabling community participation in the planning of the recovery of affected communities without impeding a focused, timely and expedited recovery;</li> <li>• To enable a focused, timely, and expedited recovery;</li> <li>• To restore well-being of greater Christchurch communities;</li> <li>• To facilitate, coordinate and direct the planning, rebuilding and recovery of affected communities.</li> </ul> <p>These purposes “tipped balance” in favour of development initiatives that would contribute towards recovery.</p> <p>To exercise planning powers, the Minister was required to determine that doing so would accord with the purposes of the Act (described above), and to reasonably consider that the exercise of power was necessary to achieve that purpose.</p>	<p>✓ - No requirement to consult on the development of the recovery plan, except that draft recovery plans were publicly notified and the public were able to make written comments.</p> <p>No requirement to consult before suspending, amending or revoking RMA document via Ministerial direction.</p> <p>No ability to appeal any Ministerial decision. Ability to request judicial review remained and was utilised.</p>	<p>A review of the CER Act on its repeal in 2016 confirmed that it “<i>generally worked as intended and that its purposes were achieved reasonably well, and faster than would have otherwise been the case</i>”. Our own experience with the CER Act reflects those conclusions.</p> <p>Over the course of the CER Act’s five year life-span, we advised both the Canterbury Earthquake Authority and numerous other public sector entities on the use of these tools to support the recovery of Christchurch. In particular, the Act was used to (among other things):</p> <ul style="list-style-type: none"> <li>• Develop the Christchurch Central Recovery Plan which continues to provide and protect the vision and resultant spatial planning outcomes for the central city.</li> <li>• Develop the Land Use Recovery Plan which set out a series of recovery objectives and actions to achieve those objectives including, by direction, amendments to the Regional Policy Statement, Christchurch City, Selwyn and Waimakariri District Plans and other related RMA documents.</li> <li>• Consent the temporary stadium in Christchurch. By using the fast-track powers under the CER Act, a special purpose-zone for the Stadium was developed and made operative within 8 weeks.</li> <li>• Provide for a designation to be inserted in the Christchurch City Plan to enable the expedited development of the Acute Services Building at Christchurch Hospital</li> </ul>
<p><b>Greater Christchurch Regeneration Act 2016</b></p>	<p>✓ - Provides ability to change regulatory environment to better enable regeneration initiatives.</p> <p>Two ways of amending, suspending or revoking RMA documents:</p> <ul style="list-style-type: none"> <li>• Development of a recovery plan.</li> <li>• Ministerial direction.</li> </ul> <p>Process for using each of the above tools was expanded</p>	<p>✓ - Decisions to approve changes to regulatory environment to support regeneration made by the Minister, not local authorities. However local entities (including territorial authorities and Te Rūnanga o Ngāi Tahu) given the ability to propose those changes, and</p>	<p>✓ - Decisions to change regulatory environment – and the shape of those changes – are framed by regeneration, not sustainable management. “Regeneration” means “rebuilding...” and/or “improving the well-being and resilience of communities through urban renewal and development, and/or restoration and enhancement”.</p> <p>Wider purposes include:</p> <ul style="list-style-type: none"> <li>• Enabling a focused and expedited regeneration process.</li> <li>• Facilitating the ongoing planning and regeneration of greater Christchurch.</li> </ul>	<p>✓ - Draft regeneration plans and proposals for Ministerial direction must be notified for public comment.</p> <p>No ability to appeal any Ministerial decision. Ability to request judicial review remained.</p> <p>Strong mandate for Regenerate Christchurch (the</p>	<p>We have been advising Regenerate Christchurch on the use of the GCR Act since its enactment (and Regenerate Christchurch’s resultant establishment).</p> <p>Each of these “levers” has, in our experience, made a significant difference in fast-tracking the process for consenting regeneration initiatives where they have been proposed. Moreover, neither the absence of the sustainable management overlay nor the change in public participation has, in our opinion, adversely impacted the outcomes of particular proposals.</p> <p>Improving the environmental and social wellbeing is a core facet of supporting the regeneration of greater Christchurch, and those outcomes have critically shaped regeneration proposals. One such example is the Ōtākaro</p>

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	<p>from the CER Act – wider range of entities could propose use of these tools, and these entities have specific role in process of developing plans and proposals for Ministerial directions.</p> <p>Once regeneration plan is approved or Ministerial direction made, the territorial authority is required to immediately amend the RMA document in accordance with the plan or direction without using the RMA Schedule 1 process.</p>	<p>to provide comments on any changes proposed by others.</p>	<ul style="list-style-type: none"> <li>Enabling community input into decisions on the exercise of powers.</li> </ul> <p>Wide definition of “regeneration” and these purposes tip the balance in favour of development initiatives that support the regeneration of greater Christchurch.</p> <p>To exercise planning powers, the Minister was required to determine that doing so would accord with the purposes of the Act (described above), and to reasonably consider that the exercise of power was necessary to achieve that purpose.</p>	<p>urban development authority under the Act) to consult with the public effectively and creatively in leading the regeneration of the Christchurch district.</p>	<p>Avon River Corridor Regeneration Plan, being a plan which outlines the vision and objectives for the future of the former residential red zone (approximately 600ha). That plan was developed over a 2 year process that involved extensive public engagement and the accumulation of nearly 6,000 ideas and comments. The environmental health of this area (including the river) was identified as a critical value by the community and that in turn became a key guide for the Plan’s vision. District and regional plan provisions which would assist in realising that vision were a part of the Plan, and were directed to be included into the relevant RMA documents immediately following the Plan’s approval in August 2019.</p> <p>In addition to the OARC Plan, we have advised Regenerate Christchurch on the use of the GCR Act to:</p> <ul style="list-style-type: none"> <li>Realise the effective functioning of Hagley Oval cricket ground. Amending the Christchurch District Plan through this fast-track process was estimated to enable the capture of \$7m in value to the city, compared to what might have been achieved under the standard track processes.</li> <li>Enable the development of a football stadium in the Christchurch district.</li> <li>Enable the relocation and development of Redcliffs school.</li> </ul>
<p><b>Hurunui/Kaikōura Earthquakes Recovery Act 2016</b></p>	<p>✓ - Provided the ability to change regulatory environment by enabling the removing of legislative barriers in order to assist earthquake-affected areas, councils and communities to respond to and recover from the earthquakes.</p> <p>Governor-General, on recommendation of the Minister, may, by Order-in-Council, grant exemptions from, modify, or extend specific enactments (and/or plans or rules made under those enactments) including the RMA and any RMA documents.</p>	<p>✓ - Governor General, on recommendation of the Minister. Minister must consult with Panel on draft OICs</p>	<p>✓ - Recommendations of the Panel and the Minister to change regulatory environment – and the shape of those changes to change regulatory environment framed by recovery purposes; specifically, assisting earthquake-affected area and its councils and communities to respond to, and recover from, the impacts of the Hurunui/Kaikōura earthquakes and, in particular, to - provide for economic recovery; and provide for the planning, rebuilding, and recovery of affected communities and persons.</p> <p>To recommend an OIC, the Minister must determine that it is necessary and desirable to achieve the above purpose, and the scope of the OIC can be no broader than is reasonably necessary to address the matters giving rise to the order.</p> <p>If the order relates to the RMA, the Minister must have considered:</p> <ul style="list-style-type: none"> <li>the effects on the environment of any controls provided for in the order; and</li> </ul>	<p>✓ - Minister could either notify proposed OIC to relevant parties or the public generally, inviting comments. Can avoid notification requirement if Minister is satisfied that engagement is impracticable in the circumstances, or the urgency of the situation requires that the order be made as soon as practicable without that engagement.</p> <p>Notified persons had 3 working days to make comments.</p>	<p>The passage of the HKER Act was again recognition that large scale disasters/emergencies require at least temporary recalibration of the usual regulatory and planning environment to allow the pace of recovery to gain momentum. In particular (and as set out in the Regulatory Impact Statement) powers are required to speed up standard processes, cut through impediments to recovery and enable timely decision-making. The framework for recovery also needs to be flexible enough to deal speedily with changing circumstances.</p> <p>The most expansive OIC made under the HKER Act was the Hurunui/Kaikoura Earthquakes Recovery (Coastal Route and Other Matters) Order in 2016. The OIC modified 10 primary statutes (or subsidiary instruments) (including the RMA) to expedite the restoration of SH1 and the Main North Line between Picton and Christchurch. A review of the operation of the OIC (and the truncated consenting process that it offered) determined that it provided a robust framework for a rapid recovery and restoration of a critical transport link for local communities, the South Island and the New Zealand economy.</p>

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			<ul style="list-style-type: none"> <li>whether those controls avoid, remedy, or mitigate any adverse effects; and</li> <li>whether the engagement process contained in the Act had been complied with.</li> </ul>		
<b>Christ Church Cathedral Re-instatement Act 2017</b>	<p>✓ - Provides ability to grant change regulatory environment to facilitate reinstatement of the Christ Church Cathedral.</p> <p>Governor-General, on recommendation of the Minister, may, by Order-in-Council, grant exemptions from, modify, or extend specific enactments (and/or plans or rules made under those enactments) including the RMA and any RMA documents.</p>	<p>✓ - Governor General, on recommendation of the Minister. Minister must consult with Panel on draft OICs.</p>	<p>✓ - Recommendations of the Panel and decisions to change regulatory environment – and the shape of those changes – are framed by reinstatement outcome (reinstatement of the Cathedral, recognising its contribution to the wellbeing of Christchurch, its importance to Christchurch’s regeneration, and its heritage value).</p> <p>Wider purposes include:</p> <ul style="list-style-type: none"> <li>Facilitating reinstatement in an expedited manner compared with processes and requirements outside this Act.</li> <li>Providing a cost-effective process for reinstatement.</li> <li>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.</li> </ul> <p>Decision-making framework (for both Panel and Minister) elevates reinstatement, tipping balance in favour of decisions which facilitate that.</p>	<p>✓ - Minister can either notify relevant local authorities and specific persons of proposed OIC, or the public generally, and invite comments. Can avoid notification requirement if Minister is satisfied that engagement is impracticable in the circumstances, or the urgency of the situation requires that the order be made as soon as practicable without that engagement.</p> <p>No right of appeal.</p> <p>Right to apply for judicial review time limited.</p>	<p>We have been advising the Christ Church Cathedral Reinstatement Trust on the reinstatement of the Cathedral.</p> <p>The fast-track powers under the Reinstatement Act 2017 have not yet been used, but they are among the most enabling in New Zealand history.</p> <p>The justification for the legislation was the identified need to reduce uncertainty and remove the perceived and actual regulatory barriers which could further threaten the timely reinstatement of the Cathedral. In particular (and we suggest, of broader relevance), the Regulatory Impact Statement noted that:</p> <p><i>Despite the intent to facilitate an outcome, there are unintended and avoidable risks using the District Plan process as a result of ancillary and unanticipated activities requiring additional and less permissive resource consents (and therefore public notification could occur).</i></p> <p><i>There is therefore a risk of conditions being imposed that are overly restrictive and will not allow for the Cathedral to be reinstated in a timely manner, or of resource consent being declined.</i></p> <p><i>These factors are likely to result in either a slow, complex and contentious reinstatement process or another indefinite stalemate. This option is therefore unlikely to re-establish the Cathedral to its iconic status or even to allow the Cathedral to be reinstated more affordably. This would reduce public confidence in recovery, negatively affect the ongoing regeneration of Cathedral Square and its surrounding area, and undermine the Crown’s investment in the central city.</i></p>