

# ANNUAL REVIEW OF THE CANTERBURY EARTHQUAKE RECOVERY ACT 2011

**August 2014**

**Reviewer: Simon Murdoch**

## **BACKGROUND**

1. Under section 92 of the Canterbury Earthquake Recovery Act 2011 (CER Act) the Minister for Canterbury Earthquake Recovery is required to review the Act annually in terms of its operation and implementation, and report to Parliament. This is the third such review; it covers the 12 month period to July 2014.

### *Terms of Reference*

2. The specific objectives of this review are set out in the Terms of Reference provided by the Canterbury Earthquake Recovery Authority (CERA) and attached as Annex 4.

### *Conflict of Interest*

3. I advised CERA that I had immediate family living in earthquake-affected parts of Christchurch; one relative by marriage who had been a City Councillor and currently worked for Environment Canterbury, and another who is a member of the Community Forum established under the Act. I undertook to manage any risks arising from these relationships in respect of the review.
4. As in 2013, I was grateful to be supported by Ms Marilyn Bramley who added depth to this review through her specialised knowledge and practical experience of resource planning and environmental law.

### *Approach and Methodology*

5. It was agreed to follow broadly the approach and methodology established in the 2013 review.<sup>1</sup>
6. The CER Act prescribes an approach to earthquake rebuilding, reconstruction and recovery for Greater Christchurch which began with high policy – the creation of an overarching Recovery Strategy (RSGC), itself a statutory document. This created a planning platform for the articulation of sectoral policies – strategic programmes, and statutory Recovery Plans from which to proceed to implementation via the appropriate authorising and commissioning processes for works projects and activities.

---

<sup>1</sup> Annual Review of the Canterbury Earthquake Recovery Act 2011 (August 2013) – Paragraphs 8-12

7. Certain special powers would be available to focus the planning and authorising processes, and to expedite implementation consistent with the purposes of the Act to enable recovery from earthquake impacts and the restoration of economic, social, cultural and environmental wellbeing to affected citizens and communities. These powers were vested in the Minister and the CERA CEO. CERA is the Public Service department that administers the Act over its five year statutory lifespan.
8. The Act stipulated that recovery decision-making should be timely and efficient, but also, that it should generally be carried out in ways that enable community participation in planning; two consultative bodies were created under the Act with rights to receive information, offer advice and make inputs to decisions.

### *Questions*

9. The diagnostic phase of the Review was based on a set of generic questions, supplemented with more tailored questions for particular interviews in Christchurch. The generic questions were as follows;
  - The CER Act, in its purposes, intends the Greater Christchurch recovery to be planned, focussed and expeditious in its implementation. As recovery enters its 4th year, what is your / your organisation's perspective (experience), and your wider overview?
  - What is the current status of the Recovery Strategy, and its subsidiary recovery programmes, including the CBD Blueprint? Are they all in various stages of being implemented? Efficiently (on target / on schedule)? Effectively (delivering outcomes)?
  - If not, what, from your experiences, do you consider have been the main factors inhibiting progress?
  - The Act created decision-making powers for recovery governance (and the Strategy allocated executive decision rights amongst the partners); has this worked – optimally/suboptimally? Has it entailed any avoidable compliance or transaction costs?
  - The Act also created special powers for CERA/Minister – how have they been used in the year past? (CERA Legal team to provide updated chart) Review Panel activity and perspectives.
  - How have the two statutory consultative bodies – CCPF and CF – performed their roles?
  - Do you attribute any inefficiencies or ineffectiveness to the CER legislation – Is it proving fit for purpose? Would you seek any amendment to the Act?
  - What impacts have litigation processes or case law had on overall pace and direction of recovery, and on specific aspects (residential/community/commercial/environmental)?
  - FOR SELECTED INTERVIEWS ONLY; what is the status of “transition” policy? Key issues?

## *Review Contributors*

10. A full list of those approached as part of the Review is at Annex 3. It ended up not being possible to meet all members of the Review Panel, and some CCPF members. The Recovery Partner principals readily made themselves or their key advisers available. The access this Review was accorded by the Mayor and CCC officials was especially appreciated. We received full and considered responses to the interview questions, and information sought in follow-up was promptly provided.

11. Acronyms used throughout

CCC	Christchurch City Council
CCDU	Christchurch Central Development Unit
CCRP	Christchurch Central Recovery Plan
CER Act	Canterbury Earthquake Recovery Act 2011
CER Minister	Minister for Canterbury Earthquake Recovery
CERA	Canterbury Earthquake Recovery Authority
CERA CEO	Canterbury Earthquake Recovery Authority, Chief Executive Officer
CF	Community Forum, established under s.6 of the Act
CPPF	Cross Party Parliamentary Forum, established under s.7 of the Act
ECan	Environment Canterbury
LURP	Land Use Recovery Plan
NERP	Natural Environment Recovery Plan
NZTA	New Zealand Transport Authority
RMA	Resource Management Act 1991
RSGC	Recovery Strategy for Greater Christchurch Mahere Haumanutanga o Waitaha (the overarching Recovery Strategy)
SDC	Selwyn District Council
TLA	Territorial local authorities
TRNT	Te Runanga o Ngai Tahu
WDC	Waimakariri District Council

## THE REVIEW

### *Chronology*

The following are the dates of recovery decisions and relevant milestones during the review period, several of which are referred to in the report.

21 June 2013	CERA announcement of extensions, based on vulnerability/individual circumstances, to settlement dates for flatland red zone property acquisitions
27 June 2013	Crown/CCC cost sharing agreement for horizontal infrastructure and CCRP anchor projects
16 August 2013	Release of Report by Crown Manager for CC Building Consenting Functions
27 /28 August 2013	High Court Decision on “Quake Outcasts” case about Port Hills zoning decisions; Minister postpones release of zoning review
2 October 2013	First use of compulsory acquisition powers of CERA Act for CCRP
4 October 2013	ECan Commissioners formally adopt Natural Environment Recovery Programme
12 October 2013	Local Body elections
25 October 2013	Port Hills red zone property acquisition regime offer timeline extended to 31 March 2014
30 October 2013	Transport chapter of the CCRP (An Accessible City) released for consultation
3/5 December 2013	Court of Appeal judgement on “Quake Outcasts”; Minister releases Port Hills zoning review
4 December 2013	Release of MfE report – Assessment of Christchurch City Council's Resource Management Planning and Consenting Delivery (CR 175)
6 December 2013	Land Use Recovery Plan formally launched
13 December 2013	Port Hills red zone property acquisition regime offer timeline extended to 31 August 2014
18 March 2014	Third Wellbeing Survey released
17 April 2014	Community consultation for future uses of Crown-acquired red zone land announced
7 May 2014	Release of assessment by KordaMentha of financial viability of CCC3 Year Plan/announcement of Budget review by Mayo
7 May 2014	Change in delegations for (new) Associate Minister in CER portfolio
14 May 2014	Launch of Public Sector Rebuild programme
19 June 2014	Release by CERA of “Community in Mind” health and wellbeing strategy
20 June 2014	Minister directs Environment Canterbury and Lyttelton Port Company to prepare a Lyttelton Port Recovery Plan
26 June 2014	Ministerial release on next steps for ECan governance review
10 July 2014	SSC releases Memorandum on PIF Review of CERA
16 July 2014	Release of Draft Residential Chapter of the Christchurch Central Recovery Plan – <i>A Liveable City</i>

## I. STATE OF STRATEGY IMPLEMENTATION

### *Background*

12. The Recovery Strategy for Greater Christchurch published in May 2012 (RSGC), having regard to the Act's purposes, created the framework for recovery management in immediate; short-term; and medium-to-longer term (2015 to 2020 and beyond) phases; there would be 6 thematic (master) programmes of work each incorporating subsidiary programmes or projects. As of July 2014, there are now 24 such subsidiary programmes in all (Annex 2). There are also two statutory Recovery Plans (the Christchurch Central Recovery Plan (CCRP) and the Land Use Recovery Plan (LURP)) already in place, and a third (for Lyttelton) has been initiated<sup>2</sup>. The CCRP has 17 subsidiary projects.
13. Recovery programme governance and programme delivery accountabilities were also specified in the RSGC. It is important to note that while the CER Act itself and the RSGC allocate overall ownership and recovery governance to the Minister and CERA, the accountabilities for delivery of the subsidiary programmes are shared amongst the recovery strategic partners, and other central government agencies and organisations. In some cases CERA's role is to enable the lead agency with predetermined inputs, including funding, that it controls; in others it is to extend support, as required, to the lead agency and the designated enablers. The Strategy identifies a leadership and integration function for CERA in bringing coherence to this shared accountabilities model.
14. The RSGC outlined what the expected trajectory of recovery might be, based on international experience and research into best practice. It is important to acknowledge that there were caveats about this; the parameters it presumed for the Greater Christchurch recovery could only be indicative; generally, they were planning assumptions and subject to on-the-ground reality tests as events unfolded; and specifically, what was projected beyond 2016 was even more conditional because of the provision for expiry of the Act after five years. Nonetheless they are the best available basis for the purposes of this review.
15. The assumed and indicative trajectory by the end of 2014 was for the recovery to be in its second strategic phase ("short-term"). Its key features – rebuilding, replacing and reconstructing – would have been initiated and would be advancing to fruition. The projected outcomes it specified, cumulative over two years from 2012, were:
  - Begin to rebuild, replace and reconstruct.
  - Approve Recovery Strategy to direct and coordinate recovery activities and agencies involved in recovery.
  - Restore access to transportation networks in central city.
  - Establishment of the Christchurch Central Development Unit (CCDU).
  - Finalisation of the Recovery Plan for the CBD.

---

<sup>2</sup> Gazetted 19 June 2014, Issue 65, Page 1861

- Rebuilding of the CBD starts.
- Complete decisions on land zones and geotechnical issues.
- Continue repair of infrastructure and make decisions about long-term repair and provision of infrastructure.
- Finish demolition of larger commercial buildings.
- Government and statutory partners undertake recovery programmes.
- Complete settlements and land clearance for residential red zone properties.
- EQC and insurers undertake residential repairs and rebuilds.
- Establish new residential subdivisions.
- Find facilities for sporting and cultural activities.
- Construct temporary buildings for entertainment and retail in greater Christchurch.

#### *Review comments*

16. The overall picture described in the 2013 review was that concluding the relief elements in terms of restoring basic services and properly completing the planning element of the first recovery phase had consumed more time and effort than the RSGC had foreseen; and that, although momentum was building, the second phase was not yet under full operational steam.
17. One year on, the Review saw a higher operational tempo across all master programmes, and in aggregate a recovery which is significantly engaged in delivering its second phase outcomes through the subsidiary programmes. This is reflected in all statistical measures of economic activity and employment. Whereas last year, the Review found that a number of the subsidiary programmes were still passing through the pre-operational steps of authorising and compliance processes (business-case; planning, consenting, and pre-delivery commissioning) they are now all activated, albeit some have only recently arrived at their operational take-off point. CERA itself has grown significantly<sup>3</sup>, and changed structurally.
18. Some programmes, especially those which had commenced during the emergencies or the immediate relief period, having already reached the necessary critical mass and access to resourcing to manage a high tempo of recovery operations for the second phase are achieving high overall delivery rates against their planning milestones.
19. Some programmes are still scaling up, and others for which critical inputs must come from the private sector have been subject to delays of various kinds, affecting overall momentum at the master programme level.

---

<sup>3</sup> At July 2013 CERA had 195 fixed term employees. At May 2014 there were 331 (from a total staff, including contractors and secondees, of 433. (source Estimates)).

20. In the Selwyn and Waimakariri Districts, the latter notwithstanding the demands created by other adverse events, the residential recovery is close to forecast peaks of planned and authorised activities and commissioned works. Recovery-related operations for the commercial built environment have considerable impetus, especially in Selwyn which was largely spared the devastation of the February earthquakes, and across the western metropolitan area and suburbs of the city.
21. In metropolitan Christchurch (and in Waimakariri District) repairs and rebuilds for flatland green zone dwellings has accelerated, but Recovery partners were encountering what some interviewees described as “the problems of the tail” – the resolution of community situations, group vulnerabilities and individual cases which were inherently complex (e.g. geostability risks) or have become complex because of extrinsic factors (e.g. insurance claims machinery and processes; market dynamics as in the rental sector; other adverse events such as flooding). These issues, particularly across Christchurch east, characteristically fell outside the standard treatment criteria and required tailored solutions involving adaptations of existing policy templates or cross-sectoral interventions and customised case management, or both. Some of the individual situations, when highlighted in media coverage of the recovery, gave rise to questioning of the recovery as a whole.
22. The Review was told that by virtue of a new cross-agency housing initiative such targeted solutions are now being given closer attention and higher priority by partners and stakeholders. The programme status accorded to this initiative indicates intent to reinforce strategic leadership, to shift towards more holistic policy and to solution-focussed interventions. To this end, CERA, with MBIE; HNZ, EQC and the local recovery partners, including TRNT, has led an adaptation of both the policy and the operational basis for emergency accommodation; social housing and the temporary/rental market, as well seeking to pilot innovations aimed at housing affordability. DPMC has also become more operationally engaged with the insurance industry which has taken steps to enable a common operating picture to be developed, by means of a claims data base which is more comprehensive across all insurers and up-to-date. It was too soon for this Review to ask about evaluations of the impacts of this initiative.
23. The part of Residential Recovery managed directly by EQC – claims settlement or repairs to 150,000 damaged homes – was the subject of a performance review (October 2013) by the Auditor-General which rated EQC’s performance as “mixed”. During this review period, it was announced that EQC would scale up capabilities and bring forward its target date for completion of all repairs by a year. The Auditor-General observed that the repairs programme, in its early stages, had encountered many complications which “did not arise in a linear sequence, but with many complexities coinciding (including land remediation and dwelling repairs)”.
24. For flatland properties deemed uninhabitable (“red zoned”), and subject to Crown purchase offers there had been 98% acceptance by the close-off – January 2014 – a date extended for special cases by the Minister. The zoning process applying to Port Hills properties, which was on a different time path, necessitated partly by geotechnical considerations (rock fall and landmass movement), has been subject to various delays, and extensions, and progress to settlements has been affected accordingly. Notwithstanding intensive engagement by CERA with those (230 owners) affected, the

rezoning process (and decisions) were described to the Review as “distressing” for many.

25. Two thirds of all vacated flatland properties have now been demolished, or sites cleared, leaving the Crown, as owner, to determine future use options with Recovery partners, and through a public consultation. (It is intended that, in due course the Port Hills red zone, where demolitions are technically less straightforward, will become part of the new regime.) In the meantime, and following public feedback, CERA has initiated a “greening” programme to landscape and maintain empty blocs of land.
26. Reinstatement of horizontal infrastructure (roads, underground water, waste and storm water systems) has been at a high operational tempo for some time under a five year programme jointly funded by the Crown (CERA/NZTA) and the CCC, and delivered through a public/private alliance (SCIRT) formed soon after the February 2011 earthquakes. These arrangements were reviewed by the Auditor-General (November 2013), and found effective and efficient to date, but not without risks which required mitigation. The Review was told that the recommendations have been taken under action by the SCIRT partners.
27. In regard to recovery in Christchurch central city, CCRP – a statutory Recovery Plan (with Spatial Blueprint) – was approved in July 2012. One new chapter on transport (An Accessible City) has been added and a further chapter on residential development has been published for consultation. Many interviewees made comments about the present state of progress, given that the indicative project delivery schedule for the seventeen key developments which have public sector backing (the “anchor projects”) has been subject to slippages and delays, for which the Review heard a variety of views about contributory causes. CCDU, well aware of criticisms attributing delays to gaps in its capabilities, undertook recruitments to deepen its specialist skills in relevant areas. The Minister commented in December on the importance of adequate preparation, including the need for scrutiny through rigorous business case processes and properly establishing governance structures at project and programme levels, preceding the construction phase. During this Review the CCDU released an update of its “Anchor Projects Overview”, detailing the critical paths for all projects. The Crown-led projects are now in contract-letting or negotiation with interested parties. The Overview indicates that 9 projects will be under construction by the end of 2014.
28. Outside the CBD the surge of commercial rebuild and relocation continued unabated, and gave rise to apprehensions about a commercial vacuum in the CBD. Some felt business sentiment had drifted towards uncertainty and risk aversion, particularly about returning or starting up in the CBD. This was attributed, in part, to timing factors, such as unsettled commercial insurance claims having driven market behaviour. The stimulatory effects on commercial investors of last year’s announcements of Crown/CCC intentions in the central city have been slower than hoped, but there appear to be recent signs that investors, tenants, developers and retailers are returning to the CBD. To boost confidence, the CCC brought forward the construction of a major retail/parking facility.
29. In respect of the public sector presence in, and outside the CBD, some 20 government agencies intend locating their operations in the CBD by 2016 and a consolidated rebuild programme of public works has been announced.



30. The master programmes for social and cultural recovery are managed as one portfolio in CERA. The former had its beginnings in emergency relief operations to deliver basic needs, and after that, in processes to track on-going individual or small group vulnerability. The need for policies addressing, in a collective sense, the psycho-social aspects of post-emergency and recovery was recognised at this time by three central government agencies and funding set aside for applied research. The research findings were published by CERA in July 2013 as background to a longer-term policy framework – “Community in Mind” – which seeks a better fusion between local social services delivery and national policies and programmes. The CCC, under the new Mayor, has committed to another policy framework (“Resilient Cities”) whose objectives seem highly compatible with “Community in Mind”, and for which a dedicated senior executive position has been created. The programmes for educational renewal and health sector recovery, both involving major facilities restorations and new builds, although continuing to be administered by the Ministry of Education and Ministry of Health respectively, are intentionally part of this framework.
31. There are the three subsidiary programmes of cultural recovery which have been slower to final articulation, but a range of recovery works and activities commenced during the review period. Similarly, repair and rebuild projects for sports and recreation have been initiated but a fully-articulated master programme for recovery remains under development, an initial draft having been referred to the CF by the CER Minister for scrutiny and comment.
32. The recently-established Natural Environment Recovery Programme (NERP) sees itself as having an integrative purpose – “to ensure the (post-earthquakes) rehabilitation of the environment (by its own and other programmes of recovery) is coordinated, and that the opportunities the recovery provides (for betterment and greater ecosystem resilience) are taken”. It contains seventeen subsidiary projects and actions, many of which are built upon existing regional or subregional/district plans, activities and funding, and are either on-going or longer-term by nature. It is the only master programme for which CERA does not have the strategic leadership and integration responsibility; it was allocated to ECan, and its Ministerial oversight was delegated by the CER Minister to the Minister for the Environment who was then the CER Associate Minister.
33. It was too early, comparatively, for the Review to assess whether the NERP, as a whole, was delivering to its planned milestones. The main points made to the Review about NERP concerned its high value and status in the eyes of TRNT; its interdependencies with other recovery policies and programmes, notably the LURP, and the future red zone land use review; and its future governance, in light of the wider review of ECan governance which Ministers have said will begin with the release of a discussion document in October/November 2014.

## II. CONSTRAINTS AND IMPEDIMENTS

### *Background*

34. The 2013 review sought to sum up from the many views it received what appeared to be the principal factors affecting the rates at which recovery programmes and plans were moving towards delivery against the planners' expectations and pre-set milestones, and to judge whether the CER legislation itself, in practice, was constraining or impeding strategic progress. The conclusions reached were that, firstly, the newer programmes were encountering generic risks, intrinsic to all project and programme management processes, and to that extent, unavoidable. Secondly there were also some extrinsic, recovery-specific factors affecting the tempo of delivery for the longer-standing programmes or projects where public sector / private sector priorities or business practices required alignment. But in neither case, had they been attributed to shortcomings in the legislation, and would not necessarily be best remedied by legislative change, so much as by focussed governance or management initiatives. Most interviewees believed that recourse to the expediting powers of the Act had been restrained, but some foresaw a cumulative "chilling effect" on executive initiative from the various legal challenges.
35. In the diagnostic phase of this Review it was useful to be able to refer to an external perspective on the recovery – the second instalment (24 April) 2014) of a "market sentiment" survey conducted by the NZ Council for Infrastructure Research amongst its own private sector membership, and other businesses providing professional services to the recovery. The survey findings, which he described as containing "candid feedback – both positive and critical" about programme governance, planning, funding and multi-agency coordination, were accepted by the Minister, as helping overall to better inform recovery delivery.
36. The Review also benefitted from access to data and analysis – all publicly available – which describes the demographic fluidity of Greater Christchurch. This applies to population growth and compositional changes which the earthquakes and the recovery have accentuated. It also applies to internal migration within Greater Christchurch and the region by businesses and households, relocating temporarily or permanently. The LURP in particular, seeks to track this state of flux strategically, but it also affects all recovery partners, particularly the TLAs and agencies, whether operationally now (e.g. with repairs), or in their planning of the future location of housing, health, education and welfare services. It is not a constraint per se, but a reality which adds to complexity.

### *Review Comments*

37. In broad terms the 2014 review found that as the Recovery had progressed more comprehensively into the delivery cycle for its Phase 2 outcomes, it was encountering challenges affecting governance, management and communications, but not substantive impediments.
38. This review period covers two political events – the local body elections of 2013 and the run-up to the 2014 national election. In the former case, post-election changes to recovery governance, management and policy settings occurred in respect of Christchurch City – many of them regarded positively by interviewees – which required

pauses and some period of adjustment for the other recovery partners. It remains to be seen whether the conventions which place restraints on the executive during and after a national election have any similar and significant effects on recovery decision making in the second half of 2014.

39. One constraint – the administrative capacity of the building consents authorisation machinery of the CCC – which was generally acknowledged to present risks to recovery progress (out of the planning cycle into the programmes/projects delivery cycle) became the subject of public attention late in 2013. An urgent diagnostic review disclosed a bottleneck due to an overall gap in CCC capability. This was regarded by some as indicative of a management failure (to scale up institutionally, or identify contingency surge resources, ahead of predictable rising demand, and in light of evident efficiency gains in building practices). Remedial measures were put in place, with urgency, by an external Crown Manager. The Review was told that these measures have been fully effective.
40. A separately-commissioned review, undertaken in two phases by the Ministry for the Environment, also explored the resource consenting capacity of the CCC. The first matter assessed was whether the Council was sufficiently resourced and had robust Resource Management processes in place to meet the expected requirements of the gathering pace of earthquake recovery. The second review was to undertake a more comprehensive assessment of the consent process to understand whether there were any significant time lags.
41. A report was published which contained 17 recommendations mostly related to resource consent processing. There were also recommendations relating to the treatment of existing use rights, the district plan review and the organisational culture of the Council.

#### *Comment*

42. Interviewees noted that, whereas building consent issues were longstanding, the resource consenting process was not as “broken”. Interviewees agreed that the reports identified some issues with the process and the review was told that the Council was working with Central government to resolve them. The review of the Christchurch district plans (see para 79 below) was also expected to assist with resource consenting matters.
43. No criticisms were made to the Review about ECan’s handling of its consenting function.
44. Several other examples were given to the Review of the importance of scaling up and of recognising critical interdependencies affecting the project delivery cycle, particularly for just-in-time services and for timely access to particular skills and specialisations. They were attributed more to supply chain factors arising from tight domestic market conditions than poor workforce planning, and intended as illustrations of the value of smart management. A more sophisticated microeconomic approach was called for. A new construction activity strategy has recently been signed off by the Government and published on the CERA website. Government procurement, including getting the government’s intentions out to the market is to be managed “end to end”. The overall picture of procurement now starts with the 3 main activity areas,

construction activity, labour and accommodation. Building materials supply; work safety and employment conditions (including training) data are also being used in more comprehensive activity forecasting. The accommodation demand curve (for the rebuild workforce) is under scrutiny. Interviewees commented on good coordination between MBIE and CERA and at the officer level with the TLAs to introduce these improvements.

45. A further, and related influence is macroeconomic policy restraint; an apprehension about the prices of skills, recovery goods and services becoming seriously inflated if recovery operations (for Phase 2), especially building and construction, ramp up, and private sector project pipelines fill up, too quickly. The revisions already made to forecast financial costs of the recovery to the public purse (taxpayers and ratepayers), and estimates of revenues and incomes (including the insurance settlements element) substantiate this as a risk. Aiming for and managing towards a sustainable equilibrium of operational inputs, and consequently, a recovery activity profile peaking gradually and stabilising (with a longer “plateau”) reduces these budgetary – and macroeconomic – policy concerns.
46. Another area of possible constraint on second-phase recovery progress, crystallised by an independent review commissioned by the new Mayor and Council upon entry to office in September 2013, concerns the fiscal situation of the CCC, and its future ability to fund the share of recovery costs which had been negotiated with the Crown and formalised three months earlier.
47. This agreement, made in conjunction with the cessation of Crown indemnities for horizontal infrastructure repairs provided in the emergency phase, besides establishing new (interim) arrangements for infrastructure repair costs (and governance), also established cost-apportionment formulae and governance for the anchor projects in the CCRP, and provisions for the acquisition of CCC-owned property in the residential red zone. The anticipated costs and work of horizontal infrastructure rebuild on which the sharing ratio was based would be reassessed by the end of 2014 to provide the basis for a final agreement. But the independent review confirmed that CCC’s initial forecasts had underestimated the downside risks.
48. The Review was told that the CCC was faced with a serious strategic problem about sustainably funding the Recovery both during the second strategic phase and beyond 2016. Options for a new mix of fiscal policies and possible rescheduling, or reordering of its recovery priorities had been scoped by CCC, in consultation with The Treasury and external advisers. The June-July timeframe for decisions about these matters, which involve political, as well as technical considerations for the CCC, and for the Crown, appeared quite constrained, but was considered manageable.
49. There was a view that these matters all pertained to latent dysfunctionalities in a single part of the Recovery governance system – the CCC/Crown relationship-which had needed to be exposed, so they could be dealt with. And now they had been. However to some, they raised wider questions; were they symptomatic of other – underlying – impediments beginning only now, as the recovery accelerates and deepens, to become more problematic? Were the decision-making processes amongst and between the recovery strategic partners as efficient as they needed to be, measured against the rising tempo of the recovery operations? The transaction costs of issue

management seemed to be getting higher, suggesting that the partners sometimes did not begin “on the same page (likeminded)”.

50. Some suggested to the Review that the fault lay in the recovery governance model itself with its shared accountabilities and diffused leadership, magnified by inherent cultural differences in the mind-sets and work practices of central and local government. Others thought that it was the machinery for integration and coordination that was ineffective – too layered and circuitous. But the view most commonly offered was that the Recovery was approaching a turning point and that, as levels of operational activity rise across most plans and programmes, the need for devolution and greater delegation does so too. New modalities for governance oversight; strategic facilitation and for course-correcting interventions, (including those requiring special powers) may be required. There was great interest in having such matters aired during the upcoming policy conversation about “transition”, a matter further described in section 0.
51. The Review also noted, and received many comments about a general downturn in expectations about the speed and reach of recovery. It was frequently observed that opinion had become more divided, between those who judged recovery progress to be reasonable, all things considered (“a glass half-full”) and those who had come to doubt that. Some saw this purely as a perceptions gap attributable to media coverage, but other interviewees also spoke of a mood of scepticism combined with weariness of the grind. Many citizens have had a long wait, or many hurdles, for the recovery and the “new normal” to reach them, or their local communities, tangibly. The previously-mentioned steps being taken to target community services and policy interventions at those caught in the administrative “tail” through circumstances beyond their control or those with multiple vulnerabilities is part of the answer to this. A qualitative lift in public-facing activities and joint engagement through communications by CERA and the CCC is also seen as necessary.
52. The Review was also told, and observed, that, for both sides of the recovery compact – a patient and stoic citizenry, and those leading or delivering recovery programmes and projects – the human toll has become more evident. Amongst Christchurch-based partners, many of the key administrators have been “on deck” since the February emergency, (some even longer), raising the question of how best to sustain performance against fatigue and burnout risks, the more so as some subsidiary programmes are still approaching peak delivery tempo.

### **III. FOCUSING MECHANISMS; STATUTORY INSTRUMENTS AND OTHER VEHICLES**

#### *Background*

53. The 2013 Review noted that besides relying on the focussing instruments of the Act, including the RSGC itself, to adapt historic local planning frameworks for recovery goals and priorities, it had been equally necessary to bring to bear on relevant elements of RSGC implementation those national policies and programmes not in the portfolio of the Minister for Canterbury Earthquake Recovery, which fell under other appropriations or other legislation. Cabinet and Cabinet Committee processes provide the principal means for this.

## *Review Comments*

54. During this review period Cabinet or its Committees received 35 papers related to the recovery, the bulk of them initiated by CERA, but six other portfolios also initiated papers; the special Cabinet Committee on Canterbury Earthquake Recovery met 7 times but other Committees, principally the Cabinet Committee on Economic Growth and Infrastructure, were also engaged. This is a higher level of activity and a wider spread of agencies than in 2013.
55. A change was made (on 7 May 2014) to the portfolio arrangements of the CER Minister with the appointment of a successor Associate Minister (Hon Nicky Wagner) with an expanded schedule of delegated responsibilities, for oversight of elements of the RSGC and liaison with strategic partners – ECan and the Selwyn and Waimakariri Councils.
56. The importance of improved policy alignment and operational coordination between the Christchurch-based recovery partners and those Wellington-based agencies of central government with lead or support commitments for Plans or RSGC-derived programmes was highlighted in the publication of a review of CERA conducted during 2013 under the Performance Improvement Framework programme for central government agencies. The reviewers advised that CERA and the three central agencies (DPMC; Treasury and SSC) and other government agencies such as MBIE needed to take steps to “reinforce system-wide ownership” of a range of recovery issues requiring deeper collaboration. They also advised it would be necessary as the focus shifted away from response to rebuild and recovery, for CERA to complete an organisational transition from “reactive response” to “proactive and planned recovery”.
57. The criticality of leadership and integration to the efficiency of recovery and its effectiveness both in quantitative and qualitative senses, has been clearly acknowledged, first in the RSGC itself, and then structurally by CERA through a dedicated master programme, properly resourced and under senior management. The unfolding recovery, with rising levels of resource outlays, and a wider, more complex mix of operational accountabilities, called for governance which gave priority to strategic coherence and systemic practices which could enhance it, such as a common operating picture across partners, and stakeholders. Late in 2013 CERA had begun adapting organisationally to strengthen its internal capabilities to meet these strategic requirements. This continued in the period under review.
58. The RSGC stresses the importance of recovery governance structures which facilitate input and alignment amongst government and strategic partners. CERA is the pivot around which most of it occurs. The structures in Greater Christchurch were “rewired” during this review period. The peak body for coordination amongst the locally-based Strategy partners is the Recovery Strategy Advisory Committee, which comprises Mayors and Councillors from the three TLA’s; the ECan Commissioners and NZTA representatives. It is convened by CERA and meets monthly with the CERA CEO in attendance. It is supported by a Chief Executives Advisory Group built upon from an earlier CCC led coordination group; and by an officials group. Until recently there was also a wider, less-formalised body – the Elected Members Group – comprised of Councillors and elected Community Board members which met monthly. It has been revamped following the local body elections under a new name – the Recovery

Leaders Forum – to take in a broader range of community leaders; it will meet less frequently. When the review asked about the effectiveness of these various bodies, participants were supportive of the concept of underlying regional collective interest but had mixed views about the practical value derived from attendance for their core concerns, which in some ways have become more localised with the shift from the shared exigencies of emergency relief, and restoration of basic services.

59. Adjustments of a similar kind to governance machinery were also made at the national level. Under DPMC's leadership, the policy coordination arrangements which enable CERA, representing the Recovery partners, to interact professionally at the CEO level with central government, were strengthened. Those familiar with previous practice, and efforts to optimise CERA's own recent investment (in 2013) in a Wellington presence, saw this as a constructive, and necessary development. Some of CERA's local partners nonetheless still felt distanced from central government, and not always able to follow matters they had initiated as closely as desired through Wellington-centric interagency advice and consultation procedures and processes. The new CCC recovery leadership has proposed steps to overcome this.
60. CERA's own management structure was revised in several ways, including by establishing a new Deputy Chief Executive role in charge of a comprehensive financial management and personnel function. Responding to the expressed needs of central government, and other stakeholders for better tracking of programme outputs and expenditures, CERA added professional policy research and analysis capabilities. It invested in more sophisticated monitoring and evaluation tools to better detect underperformance and forecast risk across the strategy for both the Government and the other recovery partners. New management information and risk management products – for assessing progress across (i.e. not just within) the master programmes – are now beginning to be utilised by CERA for external governance as well as internal management purposes.
61. CERA also revised its communications and public engagement activities in the direction of closer integration amongst the recovery partners and other stakeholders, but particularly with CCC. One aspect of this has been to seek opportunities to involve the core membership of the Recovery Strategy Advisory Committee (initially seen more as a clearing-house for information) in the planning of communications and engagement activities, and to build up wider participation from other sectors and stakeholders on a joint-venture basis. The Review was also told of several other managerial initiatives designed to overcome public messaging silos amongst the recovery partners, and to ensure that services-related information for vulnerable citizens uses the most accessible and familiar transmission channels.
62. The Review heard some critical comments about CERA having become “too big” and more “bureaucratic”. But others recognised that as the tempo of recovery operations across the subsidiary programmes accelerates and financial and other outlays grow apace, so the risks multiply. Overall, the organisational deepening described above was both commensurate with CERA's strategic role, and necessary for discharging its accountabilities under the Act.

#### **IV. RECOVERY OUTLOOK AND “TRANSITION”**

##### *Background*

63. During the last review period CERA had begun to research the third phase of recovery more intensively. This was a task initially derived from the requirement in the RSGC that a “transition plan” be developed one year before the scheduled expiry of the Act (5 years from 19 April 2011). But it also reflected a recognition that the dynamics of recovery deserved closer analytical attention in their own right.

##### *Review Comments*

64. A work programme – “Future Recovery Pathways” – grew from the research. In broad terms, as explained to the Review, it exposes, in far more detail than was possible at the time of the RSGC, the relationship between an earthquake-centric agenda of restoration, reconstruction and regeneration with component programmes of implementation running for the rest of this decade, and the long-term ambitions for Greater Christchurch as part of the wider Canterbury region, and the nation. For this, it draws upon the existing (pre-earthquake) TLA community plans and other (urban) development vision strategies running into the next decade. Arising from this work, as recently stated (in its responses to Select Committee) CERA expects, by April 2015, to be engaged with all recovery partners in developing a “progression plan” which is not solely focussed on “transition” per se, but on providing a context and process to ensure that recovery momentum itself is not adversely affected by the April 2016 expiry.
65. The Review was advised that CCC attaches high priority to the work of articulating the agenda for transition/progression and recognises the need for capable policy research and analysis if it is to contribute. The Review also noted the publication (April 2014) by the Canterbury Development Corporation of a new economic development strategy (to 2031) and the research analysis which underpins it. This will replace an earlier strategy formulated in September 2010; its commissioning had been deferred until the priorities of emergency response (in which CDC had been involved through “Recover Canterbury” a business-focussed victim support initiative) had given way to the recovery agenda. The new strategy presents projections of regional and local GDP growth, and explores the policy mix to enable sustained higher levels of growth beyond the stimulus injected by the direct, and time-bound, earthquake recovery outlays. CDC advised the Review that the strategy builds on the RSGC generally, and specifically the subsidiary CERA economic recovery plan. Analysis of the same kind from other sectoral perspectives will need to be commissioned.
66. The Review found many and varied opinions about the substantive matters to be addressed. Besides the policy-settings and policy-environment questions mentioned above, they extend over constitutional political and administrative dimensions. They are not easily summarised, but the PIF review of CERA offers at least an indication of what the agenda for this important policy conversation and debate might cover:

“The recovery is likely to take another five to ten years to complete. The stated assumption at the time CERA was created was that CERA’s activities “will transition to ‘business as usual’ activities for local and central government agencies and relevant infrastructure owners”. CERA is charged with the development of a transition



plan which will provide the opportunity to ensure greater clarity of roles as it will require consideration of and planning for:

1. What is expected to be achieved by whom in terms of the response, rebuild and recovery by April 2016.
  2. What will be required to complete the response, rebuild and recovery and which (existing or to be formed) agencies or bodies will undertake the completion.
  3. When it will be most desirable for transition to occur.
  4. The involvement that 'inheriting' agencies/bodies should have in the development and implementation of work between now and 2016 and how that will be achieved."
67. The point was made to the Review that procedural aspects should be attended to first. Several interviewees expressed quite firm views about how the conversation and debate should be structured, and conducted to ensure that a genuine and durable consensus can emerge on the matters of substance. Some partners would have preferred to be able to engage in this process sooner rather than later, but others felt it was better to be able to tackle it "in clean air" – meaning a process less prone to interruption from the competing pressures of the election on the time and attention of political leaders, and without constraints possibly arising for officials from the caretaker conventions.

## **V. USES OF THE ACT AND RECOURSE TO SPECIAL POWERS**

### **The Canterbury Earthquake Recovery Act 2011**

#### *Background*

68. The range of powers and obligations that the CER Act confers on the Minister for the Canterbury Earthquake Recovery and the CERA CEO were set out in paragraphs 40 and 41 of the 2013 review of the Act.

#### *Comment on use of powers in the Act*

69. The comments made to the review were similar to those made in 2013 with most commentators considering that recourse to the special powers of the CER Act by the Minister and the CEO had been selective and restrained. There were two principal schools of thought in relation to the continuing need for the powers under the Act. One approach considered the use of powers in relation to existing programmes and the other focused upon new problems and the extent to which they are likely to require expedited solutions using special powers. In relation to existing programmes the powers were seen necessary in specific instances such as the development of recovery plans, the use of Crown land and to a lesser degree the demolition of buildings. In relation to new problems, some interviewees considered that in the later phases of recovery the powers were no longer essential as exigent (circumstances necessitating) use of the powers are less likely to arise, while an alternative view was that as new parts of the recovery emerge there may yet be uses for the powers

expressed that had not yet been anticipated. The Flockton basin flooding and the contaminated land issue were mentioned to the review as new matters arising in the year under review which had not been anticipated although neither issue resulted in the use of powers in the Act.

70. The use of the powers throughout the review period are listed in Annex 1.

## **Recovery Plans**

### **Land Use Recovery Plan (LURP)**

#### *Background*

71. Last year the review noted the decision of the Courts on the use of powers under section 27 of the Act in the Independent Fisheries Case and that the development of the LURP was one of the consequences of that decision. The LURP is a recovery plan for the Greater Christchurch area. It covers all of the greater Christchurch land area except the central city which is covered by the Central City Recovery Plan. The LURP came into force on 6 December 2013. It is still in the early stages of implementation.
72. The LURP required 50 actions. Some actions were statutory directions under the Act while others were actions which had been agreed to by the relevant agencies. There are different categories of statutory directions. Some directions required amendments to be made to the Christchurch City Plan, the Selwyn District Plan, the Waimakariri District Plan and the Regional Policy Statement within a fortnight of Gazettal of the Recovery Plan. Other directions required details of changes to various statutory instruments to be provided to the Minister within 3, 6, 9 or 12 months of Gazettal of the Recovery Plan. Statutory Instruments to be amended under these directions, besides the Waimakariri and Selwyn District Plans, included the Canterbury Regional Land Transport Programme, the Canterbury Regional Policy Statement and Regional Plans and Local Government Act instruments for Selwyn, Waimakariri and Christchurch City.
73. At the time of this review the immediate changes had been made. There was one action which was required to be carried out within 3 months. This action has been assessed by CERA and recommended to the Minister for action. In assessing the proposal CERA followed a consultation process which involved the Community Forum as well as internal and external Strategic Stakeholders. This is the first proposal considered under section 24(1)(c) of the CER Act.
74. The details of the changes required to be provided within 6 months had recently been forwarded to CERA.
75. A number of the agreed actions were actions that were to be taken by the Christchurch City Council when it reviewed its District plans. These actions are to be completed by April 2016. This matter is further discussed below.

#### *Comment*

76. Interviewees commented that the LURP was an accepted and expected use of the powers to adapt an existing regulatory framework. It dealt with recovery matters in a holistic way across the recovery and enabled local government generally to keep pace with it. It was seen as incorporating a Greater Christchurch concept and it was noted

that discussions about the changes led to new relationships between central and local government and had positive implications for local communities. The process to approve the LURP was iterative and took some time and there is some concern that the period left to implement the LURP before the expiry of the Act is now an issue.

#### *Litigation related to the LURP*

77. The changes that the LURP made to the Regional Policy Statement are subject to a judicial review. A Notice of Proceeding and Statement of Claim was filed by Independent Fisheries Limited on 27 February 2014. Initially the only defendant was the Minister for Canterbury Earthquake Recovery. However, subsequently the Councils (ECan, CCC, WDC, and SDC) were joined. Christchurch International Airport joined as an intervener, with its interest limited to relief only and without the right to make oral submissions. No date has yet been set down for hearing the proceedings.

#### *Comment*

78. We were advised that the issue concerns the noise contours at the airport and had been the subject of previous proceedings. Some interviewees thought that the litigation could impact more broadly upon the LURP depending upon the approach taken by the parties.

### **Review of the Christchurch District Plans**

#### *Background*

79. Since the merger of Christchurch City and Banks Peninsula District in 2005, the Christchurch City Council has administered two district plans, the Christchurch City Plan and the Banks Peninsula District plan. The LURP requires a review of both plans. The review will cover all of the Christchurch city area including the CBD and residential red zone. To enable the District plan review to be completed by April 2016, an Order in Council was made providing for a truncated plan process under the Resource Management Act 1991 and for expected outcomes. We were advised that the first tranche of the new plan could be available for processing shortly.

#### *Comment*

80. A review of the existing Christchurch district plans is another important element of post-earthquake regulatory adaptation for Greater Christchurch. A district plan consistent with the recovery strategy is important and must be fit for the purpose of implementing those parts of the recovery strategy to be implemented by CCC. Stakeholders generally recognised the need for speed in carrying out the district plan review and were supportive of a truncated process. An expected outcome of the review is a reduction in reliance upon resource consent processes.
81. Some reservations about the district plan review process were expressed. One view was that as time from the earthquake passed expectation is increasing that the usual resource management process could be followed. Another reservation about the review was that time and capacity constraints were limiting the amount of high level policy analysis undertaken for the plan review. Comparisons were drawn with the extensive analysis carried out by Auckland city before the Auckland spatial plan was put in place.

## **Central City Recovery Plan (CCRP)**

### *Background*

82. In the period under review a replacement chapter on transport for the CCRP has been developed by CERA, the Christchurch City Council, Environment Canterbury and the New Zealand Transport Agency. A further replacement chapter on residential development for the CCRP was released for public consultation in mid July 2014.

### *Comment*

83. The use of powers in the Act, in this case to consolidate RCGS priorities and align them (progressively) with the pre-existing framework is regarded as necessary overall, and important for operational implementation of programmes and projects. Development and implementation of the transport and residential chapters of the CCRP was recognised as involving some balancing between public engagement and urgency when considering the wider aspects of the central city rebuild.

## **Lyttelton Recovery Plan**

84. As noted in paragraph 12 above, towards the end of the review period the Lyttelton Port Company and the Canterbury Regional Council were directed to prepare a recovery plan for Lyttelton Port and the surround coastal marine area.

## **Orders in Council and the Review Panel**

### *Background*

85. 6 Orders in Council were made under section 71 of the Act in the period under review. In total 21 Orders in Council are still in force including 4 Orders in Council made under the Canterbury Earthquake Response and Recovery Act 2010. Drafts of the 6 Orders in Council made under the CER Act in the period under review were, as the Act requires, referred to the Canterbury Earthquake Review Panel and actively scrutinised by the Panel which then advised the Minister on the draft.

### *Review Comment*

86. Panel members (it was not possible for the Review to speak with all) noted that it had been a relatively quiet time for the Panel since early 2014 with the possible referral of a draft order for the LURP (see paragraph 79) still pending. They indicated their general satisfaction with the secretariat services provided by CERA, including early advice of emerging issues, which had enabled a constructive iteration between the Panel and initiating departments or TLA's ahead of the formal conduct of its scrutiny.

### *Parliament*

87. The 2013 review, in paragraph 50, noted that a complaint had been made to the Regulations Review Committee (RRC) in February 2013 about the Canterbury Earthquake (Building Act) Order 2011. A further complaint was made in September 2013. The Order gave certain Councils the authority to issue an extended notice under the Building Act where there was a risk of injury or death from the collapse of nearby land and the CCC issued extended notices to prohibit access to houses in the Port

Hills. The Order expired in 2013 and was replaced by an Order that continued the existing extended notices until April 2016 but did not allow further extended notices to be issued. The RRC found that none of the grounds of complaint (concerning the Standing Orders) had been made out. However, it also considered that the position of the homeowners, subject to the extended notices that had been continued in force, was not sustainable and recommended that MBIE issue explicit guidelines for the relevant local authorities concerning the removal of the extended notices.

## **VI. OTHER LITIGATION**

### **Red Zone Flatland and Port Hills (Quake Outcasts case)**

#### *Background*

88. It will be recalled that CERA, pursuant to a Cabinet Directive offered to purchase, on behalf of the Crown, insured red zone properties at 100 per cent of their 2007 rating value. Later, a decision was made to offer to purchase uninsured homes and vacant land at 50 per cent of their 2007 rating value. There are red zones on the flat lands of Christchurch and another red zone in the Port Hills. Fowler Developments Ltd, which owned vacant land, and the owners of a number of uninsured homes, called the “Quake Outcasts”, sought judicial review of these decisions and of the decision to create the red zone. The High Court granted the application which was appealed by the Crown.
89. The Court of Appeal declared that the Chief Executive of the Canterbury Earthquake Recovery Authority did not comply with the CER Act in making the 50 per cent offers and the Crown was to determine the appropriate response to that declaration. Leave to appeal the decision to the Supreme Court has now been granted and the appeal is to be heard at the end of July.
90. Another Judicial Review against the Crown, filed in the High Court on 8 May 2014, relates to the red zone decision on two isolated properties in Port Hills. No hearing date has been set down.

#### *Comment*

91. Many interviewees considered that the loss in the “Quake Outcasts” cases had made Ministers cautious about using powers under the Act for matters they considered important. There was a range of views upon the extent of this “chilling effect”. Some interviewees considered that the cases had altered the attitude of some parties by making them less inclined to favour negotiated solutions over litigation. The common view of the decision is that it has prolonged, if not constrained, the process for resolving red zone matters both on the flat land and in the Port Hills for the uninsured, commercial and vacant land.

## **Hagley Park Cricket Oval**

92. This litigation was referred to in last year's review although the decision had not then been released. The 2013 review noted that CERA took a neutral position on the resource consent application but made legal submissions concerning the inclusion of Hagley Oval as an anchor project in the Christchurch Central Recovery Plan. On 14 August 2013 the court issued an Interim Decision granting consent to Canterbury Cricket Association Incorporated for the development of Hagley Oval as an International Cricket Venue. The decision was final in respect of the grant of consent but it was interim in respect of the wording of conditions. A second interim decision in relation to conditions was made on 19 September 2013 and a final decision was made on the condition on 29 October 2013.

## **Cathedral Cases**

93. The 2013 review noted that there were two matters relating to Christchurch Cathedral before the courts at that time. One matter relating to insurance was not relevant in this context. The other matter was an unsuccessful appeal against a declaration granted by the High Court in 2012 that a new building on the Christchurch Anglican cathedral site did not have to replicate the original structure predating the earthquakes. The most recent case combined 2 procedures, the first in relation to an application to lift a stay on the deconstruction of the cathedral and the second in relation to insurance monies. The High Court made an order on 30 May 2014 lifting the stay in relation to the deconstruction of the cathedral. A demolition order relating to the Cathedral made under section 38 of the Act is still in force.

## **Role of CERA Legal**

### *Background*

94. The 2013 Review considered CERA from an organisational development point of view against the likely rise in demand for its services as the overall pace and breadth of the recovery accelerated. Both in that review and in 2012 comments were made about the importance of CERA's internal compliance practices and its legal advice capabilities, both regarding its own activities and in matters where it must interact with the advisors of its recovery partners.

### *Comment*

95. CERA Legal has scaled up in this review period. Recovery partners generally commented positively on interactions. The most notable point which emerged was the significant efforts made to educate staff about the Act itself and matters of judicial interpretation arising from litigation which affect executive processes and conduct. Induction sessions are given to all new staff on the CER Act and the role of the legal team by CERA legal. The legal team also provides further general education to individual teams on request. Training on contracts and delegations policy has been provided to most teams by CERA legal, and external legal expertise was contracted to undertake 4 or 5 advanced contract training sessions for CCDU. The review was advised that further training would include the need to institutionalise good practice and standardise documentation.

96. As the recovery progresses, it has heightened the requirement for a robust financial control system and contracting regime. The principal responsibility lies with the new DCE Corporate Services who has established a recovery procurement strategic team in his section. CERA legal is building specific capability around contracting processes. All CBD construction contracts let by CERA are vetted by the CERA legal team. CERA legal has developed standard documentation and compliance processes and, as discussed above, has recently begun an outreach programme to educate CERA staff about the importance of these matters.

### **Litigation**

97. There has been one construction contract dispute between CERA and a contractor which was taken to the building disputes tribunal.

## **VII. PUBLIC PARTICIPATION AND COMMUNITY ENGAGEMENT**

### *Background*

98. The Community Forum (CF), a body appointed by the Minister with a statutory duty to provide information and advice to the Minister across the full range of matters encompassed by the RSGC has 24 members who are unpaid volunteers. It must meet at least 6 times a year. The 2013 Review found that the CF was maturing in its role and its processes; it was necessarily selective in its issue coverage. For various reasons, it had a low public profile (all its minutes are published). Neither its focus (on crosscutting policy matters) nor its potential influence were well understood or recognised beyond the Minister and CERA.
99. The CF is not the sole conduit for community views to the Minister or the other recovery partners. They – and especially CERA – have a wider range of resources and activities aimed at informing, engaging and consulting the public and local communities. There are a variety of organised feedback loops to carry views upwards.

### *Review Comments*

100. In this Review period, according to the Chair, and to others familiar with it, the CF made further progress in discharging its particular duties. Notably as the planning and implementation processes accelerated it was faced with a greater workload, being asked by CERA and the Minister to offer views at the developmental stage, on major new recovery instruments, such as the CCRP Transport and Residential chapters and the LURP, as well as draft master programmes (e.g. Community and Cultural Recovery) and subsidiary programmes (sports; education; youth). This intensified engagement had been anticipated by the Chair and a steering group of CF members who initiated some new internal practices designed to ensure that under time pressure it did not lose representivity in its feedback. The CF formalised a schedule of fortnightly meeting as a plenary with forward-planned agendas, and there are now issue-based working parties for different topics, utilising members' professional or community specialised knowledge and experience.

101. The Review examined the minutes of meetings held over the past year, and found them clear and comprehensive. The Chair advised that on issues it regarded as important, besides having full and accurate minutes available to the Minister, the CF would write directly to him to express its formed views, and the extent to which it had reached consensus.
102. One concern about the visibility and recognition of the Forum was addressed when the Mayor of Christchurch accepted an invitation to attend a meeting, and nominated a Councillor as a liaison point with the CF. This may help to consolidate the place of the CF in the wider civil society landscape of Greater Christchurch, particularly in relation to those groups with a grassroots recovery mission (such as CANCEARN) or a specific local focus whose normal channels of communication and support run more through their TLAs than CERA. It is significant that the CF Chair was recently invited to join the Board of CANCEARN.
103. To carry out its expanded role properly the CF has even greater need of support from CERA. That support appears to have been given in this review period, and CERA senior management has exercised appropriate oversight. The future role and composition of the Forum have been kept under review by the Chair with CERA, and it will arise when matters associated with the expiry of the Act (“transition/progression”) are aired.

## **VIII. PARLIAMENTARY PARTICIPATION**

### *Background*

104. The Cross Party Parliamentary Forum (CPPF) is the other consultative entity recognised in the Act as a provider of inputs (“information or advice”) to decision making. The Minister must convene it “from time to time”.
105. As with CF, this body is not the only means by which Parliamentarians may engage with the recovery activities of the Executive, obtain information, or scrutinise policy and performance.

### *Review Comments*

106. In this review period the CPPF met 4 times. The practice of the Minister to invite CPPF members, singly or as a party to comment on draft Orders in Council before the formal decisions are put to Cabinet was maintained, and some members availed themselves of it.
107. The general tenor of comments to this Review about CPPF was noncommittal. The non-Government members of CPPF, despite some reservations, had endorsed its overall value as an information clearing-house and problem identification point during the post-emergency phase, but now, in the later second phase of recovery, they see it as limited and diminishing. The ability to preview Orders in Council was appreciated.



## IX. CONCLUSIONS

108. The Recovery Strategy is well advanced into its second phase and has largely delivered the outcomes planned for the early stages. Seen through its parts, its master programmes are fully articulated, and most of the subsidiary implementing programmes are now fully planned, scaled up and have become operational. Seen as a whole it has accelerated; it is in higher tempo, and broader-based.
109. Demographic fluidity, social and economic, adds complexity to current operations and future planning.
110. The residential recovery is now focussed on the Port Hills and on resolving a “tail” of complex flatland cases through targeted policy and administrative interventions which take account of vulnerabilities caused by displacement and enable the brokering of tailored solutions.
111. It is harder to get an overall picture of recovery progress at the community level across Greater Christchurch, but both CERA and CCC have announced new, and seemingly likeminded policy frameworks to support an holistic approach to social recovery. Employment growth is strong.
112. The phase two strategic goals for business recovery and commercial sector rebuilding, replacement and reconstruction are being met in Selwyn and, incrementally, in Waimakariri. Christchurch City (metropolitan, as distinct from the inner city/CBD) has also seen high activity levels. The CCRP has been subject to slippages and delays.
113. The infrastructure recovery programme is considered to have met its milestones effectively to date; its future progress, under SCIRT, depends on how known risks to governance and funding are addressed.
114. The least mature of the recovery master programmes is that for Natural Environmental Recovery, but it is now in force under ECan leadership, and the first projects/activities under it are occurring.
115. The accelerating recovery places higher demands on systems, for financial control; for cross-cutting governance and coherent management of recovery programmes and the projects within them, by the Recovery partners amongst whom leadership and support roles are distributed under the Strategy.
116. In order to meet its responsibilities (in statute and strategy) for overall recovery leadership and integration, CERA has needed to reconfigure and adapt internally. It has introduced new capabilities and new tools for monitoring; evaluation and risk management which can generate a common operating picture, and better recognition of interdependencies for all recovery partners and important non-public sector stakeholders.
117. The most obvious strategic constraint to recovery progress which emerged in this review period was the overestimation by CCC of its ability to fund the future costs of its share of certain recovery programmes previously agreed with the Crown. This was under urgent review by CCC. Another constraint, belatedly revealed but promptly remedied, concerned the building (and resource) consenting capabilities and practices of CCC.

118. The decision-support systems and decision-making processes of central government were also seen by the Christchurch-based recovery partners as something of a constraint. As a result of an SSC review steps have been taken to enable CERA to interact more effectively at senior levels in head offices, and keep all recovery agencies in closer touch with each others' policy priorities and concerns.
119. These matters served to underline the value of ensuring that the machinery for integration and coordination, as well as the processes, which enable the shared (distributed) recovery programme leadership model to function coherently are kept in good repair – the more so as operational tempo picks up.
120. There were many comments made about the importance of public perceptions; community expectations and stakeholder confidence (especially business sentiment) about the recovery. New plans for quality of recovery information, and public engagement, particularly steps being taken by CERA and CCC to interface publications and join up their communications activities will be welcomed.
121. Awareness of the imminence of the expiry of the CER Act (April 2016), and anticipation of the substantive agenda for a strategic conversation about “transition” (recovery progression and future institutional architecture) was widespread. Viable procedural arrangements are seen as critical to consensus-building. CERA's preparatory policy work on the dynamics of disaster recoveries and that of others, such as CDC, on policy-settings for long-term development in the Canterbury region, should help prepare the ground amongst partners, and the public.
122. The use of special powers by the Minister to expedite the adaptation of pre-earthquake TLA regulatory frameworks and to align them with RSGC priorities was seen as a necessity, given the overall progress of RSGC programmes into their operational phases. Some reservations were expressed about aspects of the process to develop the content of plan amendments, and about the time taken.
123. It remains a commonly held view that recourse to special powers by the Minister or those in CERA with delegations has been restrained overall. Where it has been challenged legally CERA's institutional response to the views of the courts has been appropriate.
124. The Community Forum is fulfilling its statutory functions. It has become more substantively engaged in providing comment and advice on emerging issues related to the RSGC master programmes and their subsidiary activity plans. It is a demanding workload, requiring streamlining of CF procedures, and good support by CERA. A closer relationship with CCC which is in prospect, will help broaden awareness of CF's mission and its relationship to other arms of civil society involved with recovery at the community level.
125. The Cross Party Parliamentary Forum maintained a level of activity similar to its 2013 performance. As the second phase of recovery has advanced, CPPF's value as an information clearing-house, high during the emergency and immediate recovery period, has diminished markedly for some Members.

**Annex 1: Exercise of Mandatory and Discretionary Provisions of the Canterbury Earthquake Recovery Act 2011, as at June 2014**

**Mandatory provisions**

<b>Section</b>	<b>Operation / Action for review</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
s 6	Minister must arrange for a community forum to be held	Exercised	Exercised	Exercised
s 7	Minister must arrange for a cross-party parliamentary forum to be held	Exercised	Exercised	Exercised
s 11(1)	Chief Executive must develop a Recovery Strategy and submit the document to the Minister	Exercised		
s 12(1)	Process for development of a draft Recovery Strategy must include 1 or more public hearings	Exercised		
s 12(2)	Draft Recovery Strategy must be developed within 9 months	Exercised		
s 13(1)	Public notification of the draft Recovery Strategy	Exercised		
s 17(1) & (4)	A draft Recovery Plan for the CBD must be developed within 9 months (CCC)	Exercised		
s 20(2)	Minister must ensure that all other draft Recovery Plans are publicly notified		Exercised	Exercised
s 21(3) & (4)	Minister must give reasons for any action taken [in relation to approval of Recovery Plans], and give notice in the <i>Gazette</i>		Exercised	Exercised
s 27(3)	Minister must, if applicable, notify persons directly affected by action taken [to suspend or cancel any resource consent; any use protected under the RMA; any certificate of compliance]			
s 50(5)	Minister must present a copy of any call-in to the House			
s 54(2) & (3)	Minister must serve and lodge notices of intention to take land		Exercised	Exercised
s 55(5)	Proclamations to take land must be published in the <i>Gazette</i>			Exercised
s 56(1)	Proclamations must be lodged with the Registrar-General of Land			Exercised
s 58	Certain lands compulsorily acquired must be offered back to former owners			

s 64(1)	Minister must determine if compensation is payable and the amount	Exercised		Exercised
s 65	Minister must ensure that claims for compensation are determined within a reasonable period	Exercised		Exercised
s 72(1) & (3)	Minister must appoint Review Panel and convener of Panel	Exercised	ongoing	ongoing
s 72(5)	Chief Executive must provide administrative support for Review Panel	Exercised	ongoing	ongoing
s 73(2)	All draft Orders in Council must be reviewed by the Review Panel	Exercised	Exercised	Exercised
s 73(6)	Minister must publicly notify Review Panel recommendations	Exercised	Exercised	Exercised
s 73(7)	Minister must present a copy of the Review Panel's recommendations on a draft OIC to the House	Exercised	Exercised	Exercised
s 88(1)	Minister must prepare and present to the House quarterly reports on the operation of the Act.	Exercised	Exercised	Exercised
s 92(1) & (3)	Minister must carry out a review of the operation and effectiveness of the Act, and present the report to the House	Exercised	Exercised	This report

### Discretionary provisions

Section	Operation / Action for review	Exercised 2012	Exercised 2013	Exercised 2014
s 10(3)	Chief Executive may delegate functions and powers under this Act or any other Act	Exercised	Exercised	Exercised
s 14(1)	Minister or Chief Executive may review Recovery Strategy and propose amendments or replace it			
s 16(1)	Minister may direct 1 or more entities to develop a Recovery Plan		Exercised	Exercised
s 17(3)	Minister may require the CCC to enable other specified persons to provide input into the Recovery Plan for the CBD			
s 18(4)	Minister may direct a further review and amendment of a Recovery Plan			Exercised
s 19(1)	Minister may determine how Recovery Plans are to be developed		Exercised	Exercised

s 21(1)	Following the development of a draft Recovery Plan the Minister may make changes or withdraw all or part of the draft Plan	Exercised	Exercised	Exercised
s 21(2)	Minister may approve a Recovery Plan		Exercised	Exercised
s 22(1)	Minister may review a Recovery Plan and amend or replace it	Exercised	Exercised	Exercised
s 27(1)	Minister may suspend, amend, revoke whole or any part [of a number of instruments under the RMA, Local Government Act, Land Transport Management Act and other Acts]	Exercised	Exercised	Exercised
s 27(2)	Minister may suspend or cancel any resource consent; and use protected under the RMA; any certificate of compliance			
s 27(4)	Minister may revoke any changes or variations approved to a plan under [various Acts] or impose a moratorium on further changes or variations			
s 28(1)	Chief Executive may, by notice to a council, specify the types of contracts for which the consent of the CE of CERA must be obtained			
s 29(1)	Chief Executive may require any person to give any information required	Exercised	Exercised	Exercised
s 30(1)	Chief Executive may disseminate information and advice			
s 31	Chief Executive may commission any reports as he or she considers appropriate			
s 32	Chief Executive may investigate any matter			
s 33(1)	Chief Executive or any person acting under may enter on, or break into, any premises or place	Exercised	Exercised	Exercised
s 34(1)	Samples may be taken from premises			
s 35(1)	Chief Executive may direct the CE of LINZ to approve a cadastral survey dataset			

s 36(2) & (6)	Chief Executive may direct the Registrar-General of Land to seek the consent of the adjoining landowners to the new survey definition, and to disallow the application of s205(4) of Land Transfer Act			
s 38(1) & (3)	Chief Executive may carry out or commission works [including erection, reconstruction, demolition removal and disposal of any building] or fixtures and fittings	Exercised	Exercised	Exercised
s 39(2)	Chief Executive may put up a hoarding or fence to prevent people from approaching works, and warning notices	Exercised	Exercised	Exercised
s 41(1)	Chief Executive may recover cost of demolition of dangerous building from owner	Exercised	Exercised	Exercised
s 43(1)	Chief Executive may subdivide, amalgamate, improve and develop all or any land acquired by the Crown			Exercised
s 44(1)	Chief Executive may erect or authorise the erection and use of temporary buildings on any public reserve, private land, road or street	Exercised		Exercised
s 45	Chief Executive may restrict or prohibit access by any person to any specified area or building	Exercised	Exercised	Exercised
s 46(1) & (2)	Chief Executive may prohibit or restrict access to any road or public place	Exercised	Exercised	Exercised
s 46(3)	Chief Executive may stop a road			
s 48(1)	Minister may direct any council to take or stop any action, or make or not make a decision			
s 49(1)	Minister may require any council to perform or exercise specific responsibilities, duties, or powers			
s 50(1)	Minister may assume the responsibilities, duties or powers by notice of a call-in [if council has failed to comply with notice under s 49]			
s 51	Chief Executive may require any owner, insurer or mortgagee of a building to carry out a full structural survey of the building	Exercised	Exercised	Exercised

s 52(3)	Chief Executive may direct any [owners of adjoining properties] to act for the benefit of adjoining owners			
s 53(1)	Chief Executive may purchase or otherwise acquire, hold, sell, exchange, mortgage, lease and dispose of land and personal property	Exercised	Exercised	Exercised
s 53(4)	Minister may declare land held under this Act to be set apart for a Government work			Exercised
s 54	Minister may acquire land compulsorily by notice in <i>Gazette</i>		Exercised	Exercised
s 55(1)	Minister may take land in the name of the Crown			Exercised
s 55(4)	Governor-General may, on recommendation of the Minister, by Proclamation declare land is taken in the name of the Crown			Exercised
s 57	Minister may seek an order from the High Court directing vacant possession of land taken by Proclamation			
s 71(1)	Governor-General, on recommendation of the Minister, may make Orders in Council [to grant exemptions from, modify or extend provisions of certain Acts]	Exercised	Exercised	Exercised
s 77	Chief Executive may make a compliance order if any person has not complied with a lawful direction under the Act			
s 87	Minister or Chief Executive may transfer to a council any of the Crown's benefits and liabilities under any contract, agreement ... or other instrument			

## Annex 2: Recovery Programmes and Anchor Projects

### Recovery Programmes

Recovery Programmes	Lead Agency	CERA role
Land and Land Use Programme	CERA	Delivering
Demolition and Operations Programme	CERA	Delivering
Residential Rebuild and Housing Programme	CERA / MBIE	Enabling
Horizontal Infrastructure Programme	CERA (with NZTA & CCC)	Delivering
Christchurch Central Delivery Programme (includes Anchor Projects, see below)	CCDU	Delivering
Christchurch Central Development Support Programme	CCDU	Delivering
Arts, Culture, and Heritage Collections Programme	MCH	Supporting
Heritage Buildings and Cultural Heritage Places Programme	MCH	Supporting
Sport and Recreation Programme	Sport NZ	Supporting
Greater Christchurch Business and Investment Attraction and Retention Programme	CCDU	Enabling
Business Environment Programme	CERA	Enabling
Insurance Programme	CERA	Enabling
Labour Market Programme	CERA	Enabling
Recovery Governance Coordination Programme	CERA	Delivering
Monitoring and Reporting Programme	CERA	Delivering
Communications and Engagement Programme	CERA	Enabling
Transition Plan	CERA	Delivering
Community Resilience Programme	CERA	Enabling
Residential Red Zone Programme	CERA	Delivering
Effective Government Services Programme	SSC	Supporting
Education Renewal Recovery Programme	MOE	Supporting
Canterbury District Health Board Recovery Programme	CDHB	Supporting
Iwi Maori Recovery Programme	Te Runanga o Ngai Tahu	Supporting
Natural Environment Recovery Programme	ECan	Supporting



## Anchor Projects in Christchurch Central Recovery Plan

Anchor Project	Lead Agency
Te Papa Otakaro / Avon River Precinct	CCDU
The Frame	CCDU
Convention Centre Precinct	CCDU
Bus Interchange	CCDU
Metro Sports Facility	CCDU
The Square (Landscaping)	Joint CCDU and CCC
Stadium	CCDU
Justice and Emergency Precinct	Ministry of Justice
'Breathe' Residential Demonstrator	CCC / private sector
Health Precinct	Private sector facilitated by CCDU
Innovation Precinct	MBIE / private sector
Central Library	CCC
Earthquake Memorial	MCH
Retail Precinct	Private sector facilitated by CCDU
Performing Arts Precinct	CCC
Cricket Oval	CCC
Te Puna Ahurea Cultural Centre	Te Runanga o Ngai Tahu

## **Annex 3: People Interviewed for the third annual review of CER Act**

### **Minister and Minister's office**

Hon Gerry Brownlee, Minister for Canterbury Earthquake Recovery

### **Canterbury Earthquake Recovery Authority**

Roger Sutton, Chief Executive

Benesia Smith, Deputy Chief Executive, Corporate and Governance

Warwick Isaacs, Deputy Chief Executive Implementation / Director, Christchurch Central Development Unit

Mike Shatford, Deputy Chief Executive, Communications

Michelle Mitchell, Deputy Chief Executive, Social and Cultural Recovery

Kelvan Smith, Deputy Chief Executive, Corporate Services

Ariana Smith, General Manager, Christchurch Central Development Services

Bronwyn Arthur, Chief Legal Advisor

Patricia Noble, Senior Advisor, Legal

Susan Newell, Senior Advisor, Legal

Jill Thomson, Advisor, Legal

Suzanne Doig, General Manager, Policy

Sarah Jardine, Manager, Strategic Policy

Kirsten Hagan, Chief Advisor

Jacinda Lean, Acting General Manager, Policy

Robert Woods, Acting General Manager, Recovery Strategy and Planning

Viv Smith, Manager Planning

Juliet Harris, Acting Manager Monitoring and Evaluation

Rachel Shaw, Manager Programme Management Office

Margot Christeller, Acting General Manager, Ministerial and Executive Services

Joana Johnston, Acting General Manager, Ministerial and Executive Services

### **Christchurch City Council**

Lianne Dalziel, Mayor

Raf Manji, Councillor, Chair Finance Committee

Kate Brett, Chief of Staff

Jane Parfitt, Acting Chief Executive

Brendan Anstiss, Director Corporate Services

Michael Theelen, General Manager Strategy and Planning

Ian Thomson, Senior Solicitor

Brent Pizzey, Solicitor

### **Independent**

Doug Martin, Crown Manager, Christchurch City Council

### **Selwyn District Council**

David Ward, Chief Executive

Tim Harris, Planning Manager

**Waimakariri District Council**

Jim Palmer, Chief Executive

Simon Markham, Manager, Policy and Customer Service

**Environment Canterbury**

Dame Margaret Bazley DNZM ONZ, Chair

Hon Professor Peter Skelton CNZM, Commissioner

Bill Bayfield, Chief Executive

Jill Atkinson, Director, Strategy and Programmes

**Te Runanga o Ngai Tahu**

Arihia Bennett, Chief Executive

Diane Turner, Interim Chief Executive Officer, Te Pūtahitanga Establishment Team

**Canterbury Development Corporation**

Tom Hooper, Chief Executive

**Department of the Prime Minister and Cabinet**

Richard Braae, Policy Advisor

**The Treasury**

Tom Hall, Manager Earthquake Recovery

Robert Barton, Senior Analyst

**State Services Commission**

Peter Martin, Assistant Deputy State Services Commissioner

**Ministry of Business, Innovation and Employment**

Dave Kelly, Director Canterbury Recovery Programme

**Ministry for the Environment**

Guy Beatson, Deputy Secretary Policy

**Community Forum members under section 6 of CER Act**

Darren Wright

**Members of Parliament / members of Cross Party Forum under section 7 of CER Act**

Hon Ruth Dyson

Hon Nicky Wagner

Megan Woods

Poto Williams

Eugenie Sage

**Review Panel appointed under section 72 of CER Act**

Murray Sherwin

Anake Goodall

**CANTERBURY EARTHQUAKE  
RECOVERY ACT 2011**

**ANNUAL REVIEW**

**TERMS OF REFERENCE for 2014**

## Introduction

1. Section 92 of the Canterbury Earthquake Recovery Act 2011 (the CER Act) requires the Minister for Canterbury Earthquake Recovery to carry out an annual review of the Act's operation and effectiveness.
2. The Minister is also required to present a report on the review to the House of Representatives as soon as is practicable after the review is concluded, including any recommendations for amendments to the Act.
3. The first annual review of the CER Act was undertaken over the period April to June 2012, and tabled in the House on 26 July 2012.
4. The second annual review of the CER Act was undertaken over the period June to July 2013, and tabled in the House on 26 September 2013.

## Context

5. Following the Canterbury earthquakes, new legislation was assessed to be the most cost effective and appropriate means of implementing new policy with regard to the Canterbury recovery. The CER Act encourages collaborative decision-making, and reflects the need for timely and effective decision-making powers.
6. The Act grants broad statutory powers to the CER Minister and the Canterbury Earthquake Recovery Authority (CERA) Chief Executive. While the Act has a number of wide-ranging powers, it also includes a number of checks and balances.
7. At the time of drafting, the possible impact of the exercise of those powers, particularly on the landscape of the local government in greater Christchurch<sup>4</sup>, was recognised in section 92 of the Act. The annual review is to ensure regular re-evaluation of the need for the powers provided for under the legislation, and the suitability of the checks and balances in place.

## Scope and objectives

8. The purpose of the review is to provide independent advice:
  - that gives the Minister and the public assurance regarding the operation and effectiveness of the Act; and
  - that identifies opportunities for improving the legislation.
9. The purpose of the review is not just to focus on where the legislation or its operation is defective, but also identify where the legislation has worked well.

---

<sup>4</sup> 'greater Christchurch' includes Christchurch City, Selwyn and Waimakariri Districts and the Coastal Marine area from Pegasus to Rakaia.

10. The specific objectives of the review are to:
  - undertake a review of the legislation from a drafting and/or technical perspective, informed by the experiences of the CERA Legal Team;
  - identify and recommend any changes to the legislation that will improve the Act's overall operation and effectiveness; and
  - undertake a review of the checks and balances on the various powers provided to the Minister and the CERA Chief Executive.
11. It is not the purpose of the Review to reconsider earthquake recovery policy.
12. The annual review of the CER Act in 2014 should focus on whether the purposes of the Act, as set out in section 3, are being achieved through the development and implementation of planning instruments set out in Part 2, Subpart 3 of the Act.

### **Deliverables, timelines and completion**

13. The Review will commence in May 2014. The independent Reviewer will determine the method of the Review.
14. The Reviewer will be well-informed about the range of measures in the Act which enable the CER Minister and the public service department, CERA, to facilitate and direct the response and recovery from the impacts of the Canterbury earthquakes.
15. An early deliverable is a proposal setting out the planned approach to the Review, methods to be used and any resourcing issues.
16. A final report should be submitted no later than 31 July 2014. The report is expected to:
  - cover the objectives in paragraphs 7-9 above
  - cover the focus for 2014 set out in paragraph 12
  - specify areas for attention and/or follow up in future reviews.

### **Terms and conditions**

17. Terms and conditions will be set out in an agreement facilitated by the Canterbury Earthquake Recovery Authority.
18. CERA will provide secretariat support for this review.

-----