

Residential Red Zone Offer Recovery Plan

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Executive summary

The Residential Red Zone Offer Recovery Plan (Recovery Plan) identifies that new Crown offers need to be made to the owners of vacant, insured commercial and uninsured improved red zone properties, and as soon as practicable. Its purpose is to enable the Chief Executive of the Canterbury Earthquake Recovery Authority (CERA), on behalf of the Crown, to make decisions about new Crown offers.

The Recovery Plan identifies five key criteria for determining new Crown offers for all vacant, insured commercial and uninsured improved properties in the flat land and Port Hills residential red zone areas.

The Recovery Plan also considers the impact on other affected red zone property owners, including properties at Rāpaki Bay, insured privately-owned properties and underinsured properties.

What are the key criteria?

- **Health and wellbeing**

New Crown offers need to take into account the health and wellbeing of the property owners, and to provide them with a fair and reasonable opportunity to move forward with their lives. The offers need to consider factors such as the impact of the Canterbury earthquakes, the Government's zoning decisions and the difficulties of living in the red zone. The offers should also consider how awaiting resolution of the Crown offer process has affected property owners, particularly in relation to health and wellbeing. This may be especially relevant for those property owners who have not yet received a Crown offer.

The uptake of the Crown offers has been very high and has increased the isolation for many people living or owning property in the red zone. There is little or no market for red zone properties. Without a new Crown offer, these property owners will likely have difficulty re-establishing themselves. Addressing the health and wellbeing of the affected property owners will also benefit the collective psychosocial recovery of greater Christchurch.

- **Insurance status and precedents**

New Crown offers need to take into account the insurance status of the properties. The Supreme Court found that insurance should not be the "determinative" factor but that it is "not an irrelevant factor" for considering new Crown offers. The Crown needs to consider the implications of paying for uninsured losses incurred by property owners who were uninsured or uninsurable.

- **Fairness and consistency**

New Crown offers need to be fair and consistent for these property owners as well as other red zone property owners and green zone property owners who have also suffered losses. Any approach the Crown takes to assisting the recovery of these property owners and greater Christchurch also has to be fair and consistent with the Crown's approaches elsewhere in New Zealand.

- **Timely recovery and a simple process**

The Crown needs to ensure a simple process that will help enable a timely recovery for these property owners and greater Christchurch. This must be a priority for any new Crown offers, particularly given the length of time since the earthquakes and the need for certainty for the affected property owners. This is especially relevant for those in the Port Hills who have not yet received a Crown offer.

- **Costs to the Crown**

The financial implications of new Crown offers and the opportunity costs must be considered. There are limitations on Crown expenditure and the Crown needs to ensure that any decisions on using public funds are fiscally prudent, taking into account the Crown's recovery objectives for greater Christchurch as well as its obligations to New Zealand taxpayers.

What is the basis for the key criteria?

The five key criteria are based on an assessment of multiple considerations, including:

- The Crown's recovery objectives and obligations, including the purposes of the Canterbury Earthquake Recovery Act 2011 (CER Act);
- The views and information the public provided in two rounds of public engagement on the Preliminary Draft and Draft Recovery Plans.
- The matters raised by the Supreme Court in its judgment released in March 2015; and

The five key criteria have been taken into account for new Crown offers. They have been used qualitatively.

How could a new Crown offer be constructed?

Taking into account the five key criteria, this Recovery Plan outlines the Minister for Canterbury Earthquake Recovery's (the Minister) approval of new Crown offers at the following quantum:

- For all vacant red zone land: a new Crown offer at 100% of the 2007/08 rateable land value.
- For all insured commercial red zone properties: a new Crown offer at 100% of the 2007/08 rateable land value and 100% of the 2007/08 rateable improvements value for the insured improvements, if the insurance benefits are transferred to the Crown. Alternatively the owners may choose not to accept any payment for the improvements and keep the benefits of their insurance claims.
- For all uninsured improved red zone properties: a new Crown offer at 100% of the 2007/08 rateable land value. No payment should be made for uninsured improvements. The owners could choose to relocate, salvage or sell to a third party any uninsured improvements before settlement. In the event improvements are not relocated, salvaged or sold to a third party, the Crown would meet the demolition costs.

These new offers represent the best balance between the five key criteria. There are multiple considerations for any new Crown offer, which are discussed throughout this Recovery Plan. The majority of the public feedback supported using the 2007/08 rateable value as a fair and consistent basis for new Crown offers, a view which the Minister shares.

Former owners (who accepted the original Crown offer) of vacant, insured commercial and uninsured improved red zone properties would be eligible for an ex gratia payment, if the total payment of new Crown offers is higher than 50% of the 2007/08 rateable land value.

For other affected red zone property owners the quantum of new Crown offers should be as follows:

- For the ten privately-owned red zone properties at Rāpaki Bay: new Crown offers on the same basis as the offers for vacant, uninsured improved and insured red zone properties, and the Crown should agree with the property owners to apply to the Māori Land Court to set aside the land as Māori reservation, if the owners wish to accept a Crown offer.
- For insured privately-owned red zone properties (whose owners decided not to accept the original Crown offer): the Crown consider buying the properties, only if offered for sale by the owners, with payment on the same basis as the original Crown offer for insured red zone properties.

These new Crown offers are consistent with what the underinsured red zone property owners were offered (100% of the 2007/08 rateable land value, and payment for the improvements on a pro rata basis relative to the amount of insurance). No change is therefore required to the original Crown offer for underinsured red zone properties.

1. Recovery Plan purpose and process

What is the purpose of this Recovery Plan?

The Minister's direction, gazetted in the *New Zealand Gazette* on 23 April 2015, stated that the matters to be dealt with in the Residential Red Zone Offer Recovery Plan are focused on whether the Crown should make offers to purchase vacant, insured commercial and uninsured improved properties in the residential red zone (both flat land and in the Port Hills), whose owners have not accepted or been made a Crown offer.

The direction stated that the Recovery Plan should also consider how such offers should be constructed, including the terms and conditions and method of calculating the quantum of consideration.

The direction stated that as a consequential matter the Recovery Plan should address whether new offers should be made to other owners who did not receive the Crown's 100% payment, for example, but not limited to; those property owners who were underinsured by more than 20%, those who have already received (but did not accept) a Crown offer, and for Māori land where owners were unable to accept the Crown offer.

This Recovery Plan focuses on areas of greater Christchurch identified as the residential red zone by the Crown, being the flat land (in both Waimakariri District and Christchurch) and Port Hills red zone areas.

What is not covered in this Recovery Plan?

The Minister's gazetted direction stated that a number of issues would not be addressed by this Recovery Plan:

- Zoning decisions (that is, the basis on which properties were zoned as red or green and the decision to make an offer to purchase properties only in the residential red zone);
- The Crown offer to purchase insured red zone properties;
- Remediation or mitigation of land or natural hazards;
- Interim or future use of the red zone; and
- District Plan zoning and provisions.

What was the process for this Recovery Plan?

In April 2015 the Minister directed the CERA Chief Executive to prepare a Residential Red Zone Offer Recovery Plan. Two rounds of public engagement were held on the Preliminary Draft and Draft Recovery Plan, in May and June/July 2015. The Minister considered the public feedback and the requirements of the CER Act, as well as the Supreme Court's judgment and the Crown's recovery objectives and obligations, in deciding to approve the Residential Red Zone Offer Recovery Plan on 30 July 2015.

What is the effect of this Recovery Plan?

This Recovery Plan was developed under the CER Act and is a statutory document. The main effect of the Residential Red Zone Offer Recovery Plan is to enable the CERA Chief Executive, on behalf of the Crown, to make decisions about exercising the power in section 53 of the CER Act to make new offers to the owners of vacant, insured commercial and uninsured improved properties in the red zone. The Recovery Plan also enables the CERA Chief Executive to make decisions about new Crown offers to other affected property owners, including at Rāpaki Bay, and ex gratia payments to former owners of vacant, insured commercial and uninsured improved red zone properties who accepted the original Crown offer.

How does this Recovery Plan relate to the Recovery Strategy?

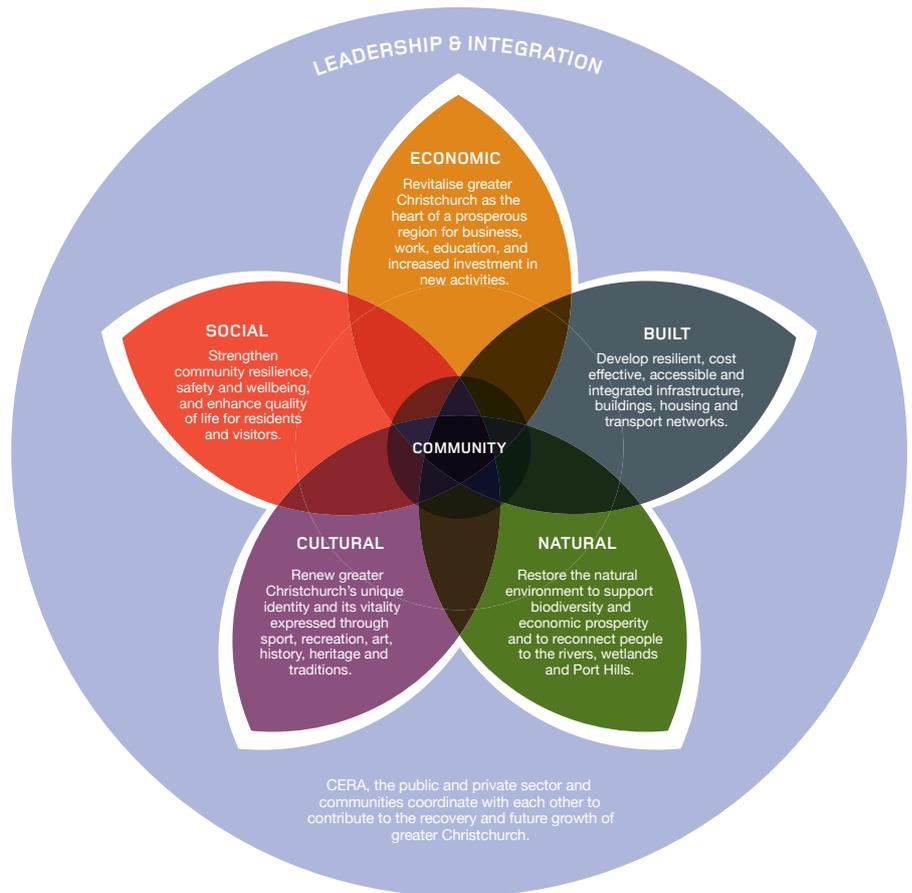
The Recovery Plan is consistent with the Recovery Strategy for Greater Christchurch: Mahere Haumanutanga o Waitaha. The Recovery Strategy sets out the vision for the recovery.

Supporting this vision are the goals outlined on the next page, which relate to the six components of recovery.

This Recovery Plan focuses primarily on the goals for social recovery. These goals include strengthening community resilience, safety and wellbeing, and enhancing quality of life for residents and visitors. It focuses on the leadership and integration goals, which include facilitating a timely and efficient recovery, and intervening where necessary to remove impediments, resolve issues and provide certainty. The Recovery Plan is also consistent with the goals set out in the Recovery Strategy for other areas of recovery.

“ Greater Christchurch recovers and progresses as a place to be proud of – an attractive and vibrant place to live, work, visit and invest, mō tātou, ā, mō kā uri ā muri ake nei – for us and our children after us. ”

Recovery Strategy vision



The Residential Red Zone Offer Recovery Plan is consistent with other Recovery Plans. There are two existing Recovery Plans – the Christchurch Central Recovery Plan and the Land Use Recovery Plan. A Lyttleton Port Recovery Plan and a Transition Recovery Plan ‘Greater Christchurch Earthquake Recovery: Transition to Regeneration’ are being developed. None of these Recovery Plans focus on the residential red zone or Crown offers for properties in these areas.

In preparing this Recovery Plan consideration has been given to the Crown’s existing Treaty of Waitangi obligations, as required by the Recovery Strategy. This is particularly relevant for the red zone properties at Rāpaki Bay, which were all part of Māori Reserve Number 875, established from the Port Cooper purchase agreement signed between Ngāi Tahu and the Crown in 1859. In determining new Crown offers careful consideration has been given to the historical and cultural significance of this land and the intent and restrictions of Te Ture Whenua Māori Act 1993. The new offers approved in this Recovery Plan take into account the discussions CERA has had over the past three years with the property owners, Te Rūnanga o Ngāi Tahu, the Māori Land Court and Te Puni Kōkiri.

2. Context

The Recovery Plan is focused on three main categories of red zone properties, with the categories and estimated numbers distinguished as follows.

Vacant land

- There are an estimated 163 vacant land properties in the red zone (84 in the flat land and an estimated 79 in the Port Hills).
- It is not possible to insure vacant land in New Zealand, either through the Earthquake Commission (EQC) scheme or privately.
- Owners of vacant land can be distinguished from other property owners living in the red zone as they were not affected by devastation to houses on their land (although some may have had a residential property adjoining their vacant land or lived elsewhere in the red zone).
- There were different intentions for the vacant land among the property owners – including property developers and investors and individuals with intentions to build a family home.

Insured commercial properties

- There are 20 insured commercial properties in the flat land red zone and an estimated 144 in the Port Hills red zone. 140 of the Port Hills properties are storage units or garages.
- Owners of commercial red zone properties were able to insure their buildings under private insurance contracts. They were not eligible for EQC cover and were therefore not able to insure their land.
- All of these owners in this category had insurance for their improvements.
- Aside from the 140 storage units and garages, the other 24 properties are mainly small businesses, reliant on local support and patronage, including corner stores, takeaway shops, veterinary clinics and cafes.

Uninsured improved properties

- There are an estimated 106 uninsured improved properties in the red zone (97 in the flat land, and an estimated nine in the Port Hills). Uninsured improved properties have either a residential or commercial building and are not vacant land.
- The term “uninsured improved” describes properties (with land and improvements) in the red zone which, for various reasons, were not insured at the time of the 22 February 2011 earthquake.

The Recovery Plan also considers the impact on other affected red zone property owners, including at Rāpaki Bay and insured privately-owned properties.

3. Your say – analysis of public feedback

In total, 319 written comments were received on the Draft Recovery Plan, which included 70 comments via social media. The submitters included:

- The directly affected property owners, including members of the Quake Outcasts, members of the Red Section Owners, other property owners and the Rāpaki Bay red zone property owners.
- The Human Rights Commissioner.
- CERA's strategic partners and external agencies.
- The Insurance Council of New Zealand.
- Interested members of the general public.

A link to the full summary of all the written comments received, which was prepared by an independent research company, can be found in Chapter 13.

The assessment of the public engagement was largely qualitative with a focus on the key themes that emerged (with limited statistical or quantitative assessment). This recognised that people could, and did, provide comments in a variety of ways and could provide feedback anonymously and more than once if they wished to do so.

Additional information was provided by counsel for the Quake Outcasts, after 9 July 2015, which the Minister has also considered.

What were the main themes?

The focus in this chapter is on the main themes identified in analysing the written comments on the Draft Recovery Plan.

- Submitters expressed diverse views about the proposed new offer for uninsured improved red zone properties, but were mostly against the proposal:
 - The vast majority of submitters strongly disagreed with the offer and thought it was too low. These submitters advocated for the quantum to be at least 100% of the rateable land value. This view was largely based on concerns about fairness and consistency with other red zone property owners. The quantum of 80% was also rejected by submitters based on the health and wellbeing concerns in relation to property owners' ability to move on.
 - Many of these submitters suggested that a new offer should include payment for both the rateable value of the land and improvements. Again this view was based on concerns about fairness and consistency with other red zone property owners and health and wellbeing considerations. A few submitters felt that the additional cost to the Crown of covering improvements for the uninsured would be relatively low.
 - A minority of submitters indicated they agreed with the proposal. These submitters felt the quantum was fair and recognised the difference between uninsured and uninsurable properties; and a few thought that an offer at 80% was too high and that it was not equitable or fair to those who pay insurance and/or have made every effort to be fully insured.
- The majority of submitters supported the proposed new offer for vacant red zone land, as acceptable or the minimum required. These submitters emphasised the fairness and consistency of the offer in maintaining equity with other red zone property owners, and acknowledging that bare land is uninsurable.
- There was also widespread endorsement of the proposed new offer for insured commercial red zone properties, as acceptable or the minimum required. This was based on its perceived fairness in relation to offers to other affected property owners, and its acknowledgement of the uninsurable status of commercial land. Submitters also noted the loss of the customer base for businesses in red zone areas.

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- There was general consensus that the proposed new offer for red zone properties at Rāpaki Bay was acceptable. Submitters considered the properties should remain in Māori ownership and that there should be specific consultation with current owners and iwi. The view was supported by a submission from Te Rūnanga o Ngāi Tahu. Concern about the preliminary view on an offer for uninsured improved properties was also raised specifically in relation to these properties.
 - Of the small number of submitters who commented on the proposal for insured red zone properties, the vast majority supported the proposal and considered it fair. This was on the basis of property owners having an opportunity to reconsider an offer in light of the current red zone environment.
 - Some submitters raised concerns about treating everyone in a category the same, particularly for uninsured improved property owners, and proposed a case-by-case approach.
 - There was general agreement that health and wellbeing, and fairness and consistency should be particular factors in determining the quantum of new Crown offers. Affected property owners being able to move forward with their lives was also emphasised as a priority consideration.
 - Submissions rarely referred to the key criteria of costs to the Crown.

A number of the themes of the public feedback on the Draft Recovery Plan were consistent with feedback received on the Preliminary Draft Recovery Plan. These included:

- Many submitters suggested that paying **additional compensation** to all vacant, insured commercial and uninsured improved property owners should be considered. Submitters suggested that paying such compensation would take into account financial circumstances, legal costs, health and stress issues, the delays with making the original Crown offers to these property owners, opportunity costs and changes to the Canterbury property market. Submitters were generally most supportive of additional compensation for owners of vacant land and insured commercial red zone properties, with less commentary about additional compensation for owners of uninsured improved properties.
- Again there were differing views about the importance of **insurance status**. Some of the responses were based on the misinterpretation of the Supreme Court’s decision that insurance was “not an irrelevant factor”, and the misconception that the Supreme Court had ordered the Crown to pay everyone 100% of the rateable value for their properties.
- There was a continued consensus that **a simple and quick process** is needed. Some responses again questioned the need for public engagement and suggested the Recovery Plan process was increasing the delay. Some submitters raised a concern that challenges to the proposed offer for uninsured improved properties would cause new delays, and suggested that other new offers (for vacant land and insured commercial properties) should proceed separately and promptly.
- Some responses again held the view that it was the **Government’s zoning decisions, rather than the earthquake damage**, that has devalued the land.
- The majority of the public feedback supported **using the 2007/08 rateable value** as a fair and consistent basis for new Crown offers.

The next few chapters outline how the public feedback has been considered by the Minister in determining the construct and quantum of new Crown offers.

4 What are the objectives for any new Crown offer?

In its 13 March 2015 judgment (see Chapter 13 for a link to the full judgment), the majority of the Supreme Court highlighted multiple factors which the Court said are relevant to considering the terms of a Crown offer. These matters are discussed in detail in the Draft Recovery Plan.

In addition to the matters raised in the Supreme Court judgment, the CER Act's purposes also need to be considered. Those purposes include:

- To provide appropriate measures to ensure that greater Christchurch and the councils and their communities respond to, and recover from, the impacts of the Canterbury earthquakes;
- To enable a focused, timely and expedited recovery;
- To facilitate, co-ordinate, and direct the planning, rebuilding, and recovery of affected communities, including the repair and rebuilding of land, infrastructure, and other property; and
- To restore the social, economic, cultural and environmental well-being of greater Christchurch communities.

Those are the broad, overarching recovery objectives. The Recovery Plan also reconsidered the original objectives of the Crown offer. They were:

Certainty

- Certainty of outcome for home-owners as soon as practicable.

Confidence

- Create confidence for people to be able to move forward with their lives.
- Create confidence in decision-making processes.

Best Information

- Use the best available information at the time to inform decisions.

Simple Process

- Have a simple process in order to provide clarity and support for land-owners, residents and businesses in those areas.

More than four years on from the Canterbury earthquakes these objectives remain valid and of central importance in considering new Crown offers. The Crown needs to provide certainty of outcome and confidence to assist the affected property owners in moving forward with their lives.

5. Should the Crown make new offers?

From a recovery perspective, the developments which led the Crown to make the original September 2012 offer are still relevant. In some cases they have become even more pressing or have been exacerbated with the passage of time, including:

- **Enabling people in the worst affected areas to move forward with their lives.** This is particularly the case for the owners of vacant, insured commercial and uninsured improved properties in the Port Hills red zone who have not yet received a Crown offer. The owners of red zone properties in the flat land are also waiting to know how the Crown will reconsider the September 2012 offer in light of the Supreme Court's judgment. This includes mitigating health and wellbeing issues associated with owning property and/or living in these areas.
- **The state of the land as a result of the earthquakes.** In the worst affected areas the damage to land was area-wide, with extensive area-wide remediation measures required to fix the damage. That situation has not changed. There are also life risk issues unique to the Port Hills areas, with on-going risks of rockfall and cliff collapse.
- **Availability of services and the high cost of infrastructure provision.** With the high uptake of the Crown offer by insured property owners the costs of infrastructure provision for remaining occupied properties in the red zone are very high. For now, infrastructure provision for many of them is achieved through temporary measures. These measures produce a sub-optimal service for users, increase the risk of contamination and are significantly more expensive than service provision for green zone properties.

Taking into account the above factors, new offers should be made by the Crown. That was the overwhelming consensus of the public feedback, a point on which almost everyone agreed. It is also consistent with the Crown's acknowledgment in the Supreme Court that it would focus on determining new offers in light of the Court's judgment.

Without a new Crown offer to purchase their properties remaining owners would likely be facing protracted negotiations over issues such as building consents and remediation or mitigation of land damage and risks and future insurability (if the land was built on). Their red zone properties are in areas which have been the hardest hit by the earthquakes. Area-wide remediation or mitigation would be required before new building work could take place.

This is a particular consideration for the owners of uninsured improved properties, some of whom are still living in the red zone, and for any insured commercial property owners still operating a business in the red zone.

While the owners of the vacant land and most insured commercial properties are not usually living on their properties, the effect of owning their red-zoned land on their economic and emotional wellbeing also needs to be taken into account.

Without some kind of intervention from the Government, these property owners may have difficulty re-establishing themselves and moving forward with their lives with certainty and confidence.

While the majority of the public's feedback was in agreement that new Crown offers should be made, there were some suggestions for alternative or additional options. These were centred mostly on three ideas:

- Individual land swaps;
- Compensation/financial payments (other than or in addition to a property purchase agreement); and
- Case-by-case arrangements between the Crown and each property owner.

Taking into account the Crown's objectives around fairness, consistency, certainty and timeliness for any new approach for these properties, these suggested alternatives or additional options would not meet the Crown's recovery objectives and obligations.

There are an estimated 433 properties within the three categories (vacant, insured commercial and uninsured improved red zone properties) and negotiating individual land swaps or case-by-case arrangements would likely be extremely resource-intensive and could take many months before individual agreements were reached. It is not clear that suitable land would be available for "land swaps". The impacts on the affected property owners and the costs to the Crown and New Zealand taxpayers have been considered.

Crown offers to red zone property owners have been offers to purchase property. The offers were not compensation or welfare. The Crown has never intended to compensate. To provide some kind of financial payment or compensation instead of, or in addition to, an offer to purchase the property would raise multiple issues around fairness and consistency of approach including for other property owners in greater Christchurch. It could also set precedents or expectations around Government assistance in future natural disasters. It would be very difficult to quantify or value the losses people have indicated they have suffered, such as emotional harm or stress – and certainly it would be very difficult to do so in a fair and consistent and timely way.

The original Crown offers did not take into account individual circumstances. The Crown offers for all other property owners in the red zone were based on the 2007/08 rating valuations. These rating valuations were chosen as the basis for the Crown's offers because they are an independent figure which could be readily applied, and they determine the value for all properties in an area at the same point in time. For fairness and consistency and to support a timely process, the Minister does not propose making individual offers based on case-by-case negotiations with the owners of the approximately 433 properties.

However, the Minister has considered the information on the individual circumstances of these property owners provided during the public engagement on both the Preliminary Draft and Draft Recovery Plans, and considered health and wellbeing issues, in agreeing that the total amount of new offers should be increased for all vacant, insured commercial and uninsured improved red zone properties from the amount originally offered in September 2012.

As discussed in Chapter 10, the Minister has also decided that the new offer for the uninsured improved red zone properties should be increased from the proposed amount in the Draft Recovery Plan of 80% of the 2007/08 rateable land value, to reflect considerations such as the property owners' health and wellbeing, the strength of the public feedback and the need for a timely outcome.

Taking into account issues such as health and wellbeing and the public feedback on the need for a quick outcome, the Minister agrees that new Crown offers need to be made and as soon as practicable.

6. What about the funding implications?

The financial implications of making new Crown offers to the owners of vacant, insured commercial and uninsured improved red zone properties have been considered.

This Recovery Plan will enable the exercise of the power of the CERA Chief Executive to make decisions about new offers to buy vacant, insured commercial and uninsured improved red zone properties, and decisions about making additional payments to former owners of flat land vacant, insured commercial and uninsured improved red zone properties that have been sold to the Crown. Those decisions would require Crown expenditure, which is outlined below.

Acquisition by the Crown of red zone properties affected by rockfall in the Port Hills will need to take into account the cost-sharing agreement between the Crown and the Christchurch City Council.

The exact total cost can only be confirmed once CERA has the relevant information from owners on their particular circumstances, for example the level of insurance they had. Information is gathered through self-identification and is the first stage in a new Crown offer process.

Based on the information CERA has to date, the estimated cost of new Crown offers to buy vacant, insured commercial and uninsured improved red zone properties includes:

- Ex gratia payments for 131 vacant, insured commercial and uninsured improved red zone properties in the flat land, where the former owners have settled based on the original 50% offer, and who may receive an ex gratia payment if the total payment of a new Crown offer is higher than 50% of the 2007/08 rateable land value;
- The cost of purchasing 70 vacant, insured commercial and uninsured improved red zone properties in the flat land, where the original September 2012 offer has expired (and the owners did not accept the original offer but may want to accept a new Crown offer); and
- The cost of purchasing the estimated 232 vacant, insured commercial and uninsured improved red zone properties in the Port Hills whose owners have not received an offer.

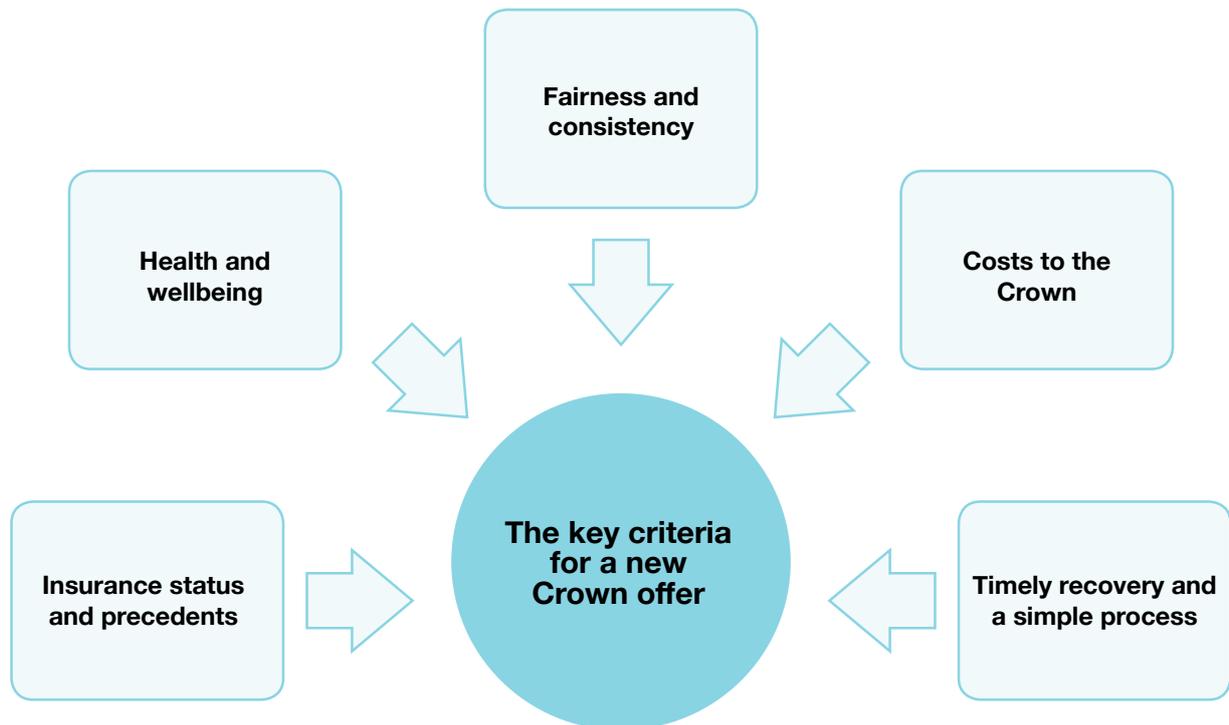
There are limitations on Crown expenditure and the Crown must ensure that any decisions on using public funds are fiscally prudent, taking into account the Crown's recovery objectives for greater Christchurch as well as its obligations to New Zealand taxpayers. The objectives of the Crown offer cannot be pursued regardless of cost, and there are opportunity costs. The Minister has also considered whether the new Crown offers are affordable.

In deciding to approve the Recovery Plan and, in accordance with section 21 of the CER Act, the Minister has given regard to the impact, effect and funding implications of the Recovery Plan. The main effect of the Recovery Plan is to enable the CERA Chief Executive, on behalf of the Crown, to make decisions about exercising the power in section 53 of the CER Act to make new Crown offers.

The main health and wellbeing benefits of the new Crown offers, at the levels approved in the Recovery Plan, will accrue directly to the property owners of vacant, insured commercial and uninsured improved red zone properties, providing them with certainty and assistance to move forward with their lives. The Crown will incur almost all the costs of the new offers including the cost of purchasing the properties and demolition costs.

7. What are the key criteria?

Taking into account the Crown's recovery objectives and obligations, including the requirements of the CER Act, the Supreme Court's judgment and the public feedback, the Recovery Plan identifies five key criteria for considering new Crown offers for vacant, insured commercial and uninsured improved red zone properties.



These five key criteria are the most important considerations for new Crown offers and they must all be taken into account. Rather than weighting or ranking these criteria, they are all of equal importance and have all been considered in developing new Crown offers.

There may be competing considerations, for example the costs and risks of the Crown paying for all uninsured loss, and the health and wellbeing issues for people owning property and/or living in the red zone. There is also a degree of overlap or connectedness with these key criteria, for example a timely recovery and a simple process will impact on the property owners' health and wellbeing.

The levels of new Crown offers approved by the Minister in this Recovery Plan represent the best balance between the five key criteria.

8. Vacant land

What is the new offer?

Offer 100% of the 2007/08 rateable land value for all vacant red zone land.

The Minister considers that an offer of this quantum represents the best balance between the five key criteria. There are multiple considerations for any new Crown offer for vacant land, as discussed in this and previous chapters.

An offer at 100% reflects the Supreme Court's judgment and the strength of the public feedback on the need to provide fair and reasonable assistance to these property owners, and to consider factors other than insurance status. Those factors include the property owners' health and wellbeing, the impacts of the Canterbury earthquakes, the Government's zoning decisions and the stresses associated with awaiting the resolution of the Crown offer process.

The offer also takes into account the public feedback on the appropriate quantum of a new offer to owners of vacant red zone land. There was widespread endorsement of a new offer at 100% of the 2007/08 rateable land value, as acceptable or the minimum required.

An offer at 100% does not reflect the fact that the Crown cannot recover the proceeds of an insurance claim to offset the purchase price of buying the uninsured land. However, such an offer reflects the uninsurable status of vacant land.

It is fair and consistent with the amount owners of insured residential properties, including not-for-profit organisations and properties with partially constructed dwellings, received with the original Crown offer.

The offer reflects the pre-earthquake value of the land, using the same rateable land value (2007/08) as was the basis for the Crown offers for insured red zone properties. The majority of the public feedback supported using the 2007/08 rateable value as a fair and consistent basis for new Crown offers.

To offer 100% of the 2007/08 rateable land value is a relatively simple process, structured in a similar way to other Crown offers. Many of the affected property owners are already familiar with the steps. As such, it will help to enable a timely and focused recovery for the affected property owners.

Based on the increased level of this new offer, former owners of vacant red zone properties who accepted the September 2012 Crown offer will be eligible for an ex gratia payment from the Crown (so that the total paid is 100% of the 2007/08 rateable land value). CERA will proactively seek to contact any former owners who are affected.

By offering to pay 100% of the 2007/08 rateable land value, and thereby enabling the owners to preserve the pre-earthquake equity of their land, the offer assists the owners with moving forward with their lives, including bettering their health and wellbeing and re-establishing themselves elsewhere, if they wish to do so.

What is the basis for the new offer?

Health and wellbeing

The Crown offer process has had an impact on the health and wellbeing of affected property owners, regardless of whether the property owner currently resides, formerly resided or never resided in the red zone. Owners of vacant land can be distinguished from other property owners living in the red zone as they were not affected by devastation to houses on their land (although some may have had a residential property adjoining their vacant land or lived elsewhere in the red zone).

There are still significant health and wellbeing considerations for all these property owners, based on factors such as the time since the Canterbury earthquakes and the uncertainty and delays over the Crown offer. This is a particular consideration for the owners of vacant red zone land in the Port Hills who have not yet received an offer.

These points were highlighted in the public feedback, with the strong consensus that health and wellbeing needs to be a central consideration for any new Crown offer and that these property owners need a quick and fair outcome.

The public feedback, including from the property owners themselves, emphasised the many difficulties of owning property and/or living in the red zone and the need for the Government to help people in this situation to move forward with their lives.

The owners of vacant red zone land could choose to hold on to their land, based on their own assessment that they could remediate, build on or sell the land in the future and that the value of the land may increase over time.

What is clear, though, is that the value of land in the red zone is significantly diminished from its pre-earthquake value and there is currently little or no market for red zone land. While that situation could change in the future, currently the choices for these owners are limited. They have equity tied up with their property but there is high uncertainty over its medium to long-term potential. This situation may be having a significant impact on the property owners' ability to recover from the earthquakes.

Insurance status and precedents

Insurance status is another key criteria. The Supreme Court found that while insurance should not be the "determinative" factor, it is "not an irrelevant factor" for considering new Crown offers. There were differing views expressed by the public about the importance of insurance status. While there was a strong emphasis on the need for "everyone to receive the same offer", another common view was that a distinction should be made between uninsured and uninsurable.

These are important points and they have been carefully considered.

The Crown cannot recover the proceeds of any insurance claims to offset the purchase price of buying the uninsured vacant land. As such, some could see such payment as unfair to other property owners, for example those in the red zone who were insured or those with properties in the green zone whose land values dropped significantly following the earthquakes.

If the Crown pays for all uninsured loss, for example by making an offer at 100% of the 2007/08 rateable value, this may create disincentives for people to take out insurance if insurance is available. It may also create expectations about how the Government might respond in future natural disasters in New Zealand.

That said, the damage caused by the Canterbury earthquakes was unprecedented and there was widespread public support for the Government to provide assistance to people in the worst affected areas. The owners of uninsured properties have lost considerable equity following the Canterbury earthquakes, and the risks of not insuring – where insurance is available – remain clear.

In addition, it is not possible to insure vacant land in New Zealand, either through EQC or privately. Irrespective of whether or not these property owners wanted to get insurance for their vacant land, they were unable to. As the Supreme Court noted and the public feedback emphasised, vacant land is effectively uninsurable, and this status needs to be taken into account.

Fairness and consistency

The need for a fair and consistent Crown offer was a central theme of the public feedback. There were differing views about what would be fair and consistent. A common theme was that for uninsurable land, where EQC cover was not available, it would be fair if the Crown made an offer at 100% of the 2007/08 rateable land value.

As discussed above, vacant land cannot be insured. This risk needs to be taken into account when buying vacant land anywhere in New Zealand. However, the Canterbury earthquakes were unprecedented in scale and impact, and it would have been very difficult for the owners of vacant land to predict these developments and what has happened over the last nearly five years. There is currently little or no market for red zone land.

The Minister considers that making an increased offer above 50% of the 2007/08 rateable land value is fair and consistent, for these property owners, for all red zone property owners and for green zone property owners who have also been affected by the earthquakes.

Timely recovery and a simple process

The owners of vacant red zone land had different intentions for their properties, including property developers and investors and individuals with intentions to build new family homes.

The majority of the public feedback was in agreement that the difficulties of determining the intended use of the land, and the difficulties of making fair and consistent decisions based on the different intentions for the land, mean that one Crown offer for all vacant red zone land would be preferable. In other words, the Crown should not seek to distinguish or discriminate on the basis of the intended use of the land.

This feedback, along with the requirement for a timely recovery and a simple process, supports a new Crown offer being made as soon as practicable to all owners of vacant red zone land.

Costs to the Crown

There are limitations on Crown expenditure and the Crown must ensure that any decisions on using public funds are fiscally prudent, taking into account the Crown's recovery objectives for greater Christchurch as well as its obligations to New Zealand taxpayers. This means that any new Crown offers to the owners of vacant red zone land, as well as the owners of insured commercial properties and uninsured improved properties in the red zone, taken into account:

- Whether this will raise expectations of future Government assistance, including for natural disasters or events, and discourage property owners from taking out insurance, based on an assumption that the Government will intervene if a natural disaster occurs;
- Whether the expenditure is an appropriate use of taxpayer funds; and
- Whether there are opportunity costs, for example for other parts of the recovery.

9. Insured commercial properties

What is the new offer?

Offer 100% of the 2007/08 rateable land value for all insured commercial red zone properties.

Consistent with the structure of previous Crown offers, an offer at 100% would provide two options:

Option 1: 100% of the land component, and 100% of the improvements of the property's 2007/08 rateable value, in return the owners would transfer the land and improvements to the Crown, plus the insurance claims; or

Option 2: 100% of the 2007/08 rateable land value only and owners pursue their own insurance claim. In return the land and improvements are transferred to the Crown.

The Minister considers that an offer of this quantum represents the best balance between the five key criteria. There are multiple considerations for any new Crown offer for insured commercial properties, as discussed in this and previous chapters.

This offer reflects the Supreme Court's judgment and the strength of the public feedback on the need to provide fair and reasonable assistance to these property owners, and to consider factors other than insurance status. Those factors include the property owners' health and wellbeing, the impacts of the Canterbury earthquakes, the Government's zoning decisions and the stresses associated with awaiting the resolution of the Crown offer process.

In approving this offer, the Minister has considered the public feedback on the appropriate quantum of a new offer to owners of insured commercial red zone properties. There was widespread endorsement of a new offer at 100% of the 2007/08 rateable land value, and 100% of the 2007/08 rateable improvements value (if the insurance benefits are transferred to the Crown) as acceptable or the minimum required.

This offer reflects the uninsurable status of commercial land. In addition, the Crown could (if the owners chose Option 1) recover the proceeds of an insurance claim for the insured improvements to offset some of the purchase price of buying the uninsured land.

This offer is consistent with all other Crown offers, including the amount owners of not-for-profit organisations and properties with partially constructed buildings received with the original Crown offer.

Based on the increased level of this new offer, former owners of insured commercial red zone properties who accepted the September 2012 Crown offer will be eligible for an ex gratia payment from the Crown (so that the total paid is 100% of the 2007/08 rateable land value). CERA will proactively seek to contact any former owners who are affected.

By offering to pay 100% of the 2007/08 rateable land value (and 100% of the 2007/08 rateable improvements value if the insurance benefits are transferred to the Crown), and thereby enabling the owners to preserve the pre-earthquake equity of their property, the offer will assist the owners with moving forward with their lives, including re-establishing themselves elsewhere, if they wish to do so.

What is the basis for the new offer?

The same five key criteria have been taken into account for a new Crown offer for insured commercial red zone properties. Many of the factors discussed in the previous chapter apply to the insured commercial properties too, and as such are not repeated in this chapter. There are, however, some specific considerations for the insured commercial properties, which are discussed below.

Health and wellbeing

Most of the owners of the insured commercial red zone properties are not residing on their red zone property (although they may be living in an adjoining property or different part of the red zone). If they were, and are still, operating a business in the red zone, there may be significant health and wellbeing considerations for these property owners. There are also health and wellbeing considerations related to awaiting the resolution of the Crown offer process, particularly for those property owners who have been involved in judicial proceedings or are yet to receive an offer.

Following the earthquakes and the high uptake of the Crown offer, red zone areas have become increasingly isolated, and many insured commercial businesses have lost their customer base and community support. The impact on the owners' financial and emotional wellbeing needs to be considered. Taking into account factors such as the time since the Canterbury earthquakes and the uncertainty and delays over the Crown offer, insured commercial property owners need to have an opportunity to move forward with their lives. The time delays are a particular consideration for insured commercial red zone properties in the Port Hills whose owners have not yet received an offer.

Insurance status and precedents

As with the vacant red zone land, it is not possible to insure commercial land in New Zealand, either through EQC or privately. As the public feedback emphasised, commercial land is effectively uninsurable and this status needs to be taken into account. All of the commercial property owners in this category had insurance for their improvements. In other words, they had the maximum amount of insurance available for their property (commercial properties with no insurance are included in the uninsured improved category). The September 2012 Crown offer to owners of insured commercial red zone properties in the flat land was for 100% of the 2007/08 rateable improvements value for the insured improvements and 50% of the 2007/08 rateable land value.

Fairness and consistency

Regarding the level of a new Crown offer and the precedents, the Crown has already paid for uninsured loss of insured red zone properties. The original offers included extending the Crown offer of 100% of the 2007/08 rateable land and improvements value to the owners of not-for-profit organisations and buildings under construction in the red zone. Like the insured commercial red zone properties, the owners of these properties had insurance for their improvements but not for their land. On this basis, the Minister has assessed that a fair and consistent approach is to extend the same Crown offer to insured commercial properties.

Costs to the Crown

If the Crown pays for uninsured loss for these insured commercial red zone properties, the Crown could recover the proceeds of an insurance claim for the insured improvements to offset some of the purchase price of buying the uninsured land.

Timely recovery and a simple process

There was a strong consensus in the public feedback that a quick and fair outcome is required, based on a simple process. A differentiated approach, for example the Crown taking into account the type of insured commercial property and adjusting the purchase price accordingly, would likely result in a prolonged process and it would be difficult to ensure fairness and consistency. This would not meet the Crown's objectives of a focused and timely recovery or reflect the public feedback. The Minister has assessed that the most reasonable and practicable option in the circumstances is to consider these commercial properties as one group, that is, not to distinguish on the basis of the specific type of commercial property and every property owner should receive the same offer.

10. Uninsured improved properties

What is the new offer?

Offer 100% of the 2007/08 rateable land value for all uninsured improved red zone properties. No payment should be made for uninsured improvements.

This has been a qualitative assessment. The Minister considers that a new offer of this quantum represents the best balance between the five key criteria. There are multiple considerations for any new Crown offer for uninsured improvements, as discussed in this and previous chapters.

The owners of uninsured improved red zone properties who wish to accept this offer will have the choice of:

1. Relocating, salvaging or selling to a third party any uninsured improvements (e.g. house, garage) prior to settlement if they wish to do so. This will provide an opportunity for the owners to retain some of the value of the uninsured improvements, and options for re-establishing themselves elsewhere; OR
2. The Crown will demolish the improvements as part of the standard settlement process. The demolition costs will be met by the Crown, which is consistent with the original Crown offers. This is a potentially significant cost for the Crown, particularly for demolition of uninsured improved properties in the Port Hills red zone areas with life risk and access issues.

The Minister has assessed that an offer at 100% of the 2007/08 rateable land value, rather than an offer at 80% of the 2007/08 rateable land value, better reflects considerations such as the property owners' health and wellbeing, the strength of the public feedback and the need for a timely outcome. This new offer provides assistance to these property owners, and takes into account factors other than solely insurance status, such as the impacts of the Canterbury earthquakes, the Government's zoning decisions and the stresses associated with awaiting the resolution of the Crown offer process.

The impact on owners' health and wellbeing and the difficulties for some who are living in the red zone are important considerations for a new offer. The environment in the red zone has changed considerably since the Crown offer was made in September 2012 and this may be having a significant impact on these property owners' health and wellbeing. The Minister has considered the need for a timely recovery and a simple process.

The Draft Recovery Plan considered different options for new Crown offers, including ranges between 50-100% of the 2007/08 rateable land value and case-by-case individual offers, which could more accurately reflect the net financial cost to the Crown and the insurance status of these properties.

Based on the increased level of this new offer, former owners of uninsured red zone properties who accepted the September 2012 Crown offer will be eligible for an ex gratia payment from the Crown. CERA will proactively seek to contact any former owners who are affected.

By offering to pay 100% of the 2007/08 rateable land value, the Minister considers that the offer provides these owners with a fair and reasonable opportunity to re-establish themselves elsewhere, if they wish to do so. The offer means the owners could keep the pre-earthquake equity of their land based on the pre-earthquake value.

What is the basis for the new offer?

The same five key criteria have been taken into account for a new Crown offer for uninsured improved red zone properties. Many of the factors discussed in Chapter 8 apply to the uninsured improved properties too, and as such are not repeated in this chapter. There are, however, some specific considerations for these uninsured improved properties, which are discussed below.

There are two key distinctions for this group of mostly residential red zone property owners, compared with owners of the vacant land and commercial properties. The first is that some of these property owners are still living in the red zone and the second is that these properties were insurable.

Health and wellbeing

As well as experiencing the stresses related to awaiting the resolution of the Crown offer process, some of these property owners are also experiencing the difficulties associated with living in the red zone. This may be having a significant impact on their economic and emotional wellbeing.

The difficulties of living in the red zone were emphasised in the public feedback, including from the property owners themselves. Issues such as the extent of the earthquake damage, uncertainty about the availability of services and infrastructure provision and the isolation and security risks are a particular concern for those still living in the red zone. The new Crown offer approved by the Minister for uninsured improved red zone properties takes this into account, providing a fair and reasonable opportunity for the uninsured improved red zone property owners to move forward with their lives.

Some uninsured improved red zone properties are occupied by owners and some are tenanted. If properties are unoccupied or occupied by tenants, the relevant factor for the owners of those properties is likely to be financial rather than a social or an amenity issue (the Crown offer is to the owner of the property not the tenants). However, there are health and wellbeing issues related to awaiting the resolution of the Crown offer process, which apply to all affected property owners, and these have been considered.

Insurance status and precedents

The second key distinction is that these properties were insurable, but for a variety of reasons did not have any insurance at the time of the 2010-2011 Canterbury earthquakes. This is an important point and one the Minister has considered.

The Crown has already paid for uninsured loss, including for not-for-profit organisations and dwellings under construction (with contracts works insurance but no EQC land cover), and where the EQC land cover did not cover the total footprint of the property. However, these insured red zone properties were insured to the extent possible (except for the underinsured, where the Crown offer was for 100% of the 2007/08 rateable land value and a pro rata payment was made for improvements relative to the level of insurance where property owners were underinsured by more than 20%).

In addition, for insured properties the Crown was able to offset some of the costs of purchasing the properties against the value of the insurance claim recoveries. Those factors significantly lowered the risks of the Crown paying for uninsured loss, such as disincentivising people to take out insurance and raising expectations of Government intervention in future.

For vacant land and insured commercial properties, they were in effect insured to the extent possible: the commercial properties had insurance for their improvements and the land was uninsurable.

Paying for all uninsured loss for the approximately 106 uninsured improved red zone properties, for example at or close to 100% of the 2007/08 rateable land value and at or close to 100% of the 2007/08 rateable improvements value, could expose the Crown to considerable risk around expectations of future assistance and disincentivise people from taking out insurance.

It would also mean the Crown would be making a significantly higher net financial contribution to these uninsured property owners, compared with the insured property owners in the red zone, taking into account there are no insurance claims to help offset the cost of purchasing the property.

That said, the two examples in the table below help to illustrate why an increased offer for the uninsured land is required. They show how in another disaster scenario uninsured improved property owners can retain some of the value of their property through the land value. But for the owners of these uninsured improved red zone properties, following the earthquakes and the Government's zoning decisions, there is little or no value retained for their land.

Example A

Uninsured residential property in New Zealand is destroyed by a fire.

- The owner did not have insurance cover and therefore cannot make an insurance claim.
- No-one wants to buy the damaged house.
- The owner therefore loses the value of the house, and must pay any clean-up or demolition costs.
- But the owner would retain the value of the land. They could then choose to sell the land or build on it, and as such would have some options to re-establish themselves.

Example B

Uninsured residential property is in one of the areas in greater Christchurch hit hardest by the earthquakes. The area is zoned red.

- The owner did not have insurance cover and therefore cannot make an insurance claim.
- The owner could in theory retain some of the value of the property – either by continuing to live there (repair or rebuild), or by seeking to sell it. But the land has suffered extensive earthquake damage, its value has greatly diminished, and there is currently little or no market for red zone land.
- If the owner wished to continue living on the property they would likely face issues with future insurance and consenting (if they wanted to build), uncertainty around infrastructure provision and services, and health and wellbeing issues.

Fairness and consistency and costs to the Crown

The Minister has also considered what is fair and consistent, including for the red zone property owners who paid insurance premiums (and who assigned the benefits of their insurance claims to the Crown under the offer), property owners in the green zone (some insured, some uninsured) who have also been affected by the earthquakes, property owners outside of greater Christchurch who pay insurance premiums and property owners outside of greater Christchurch who may also be uninsured and affected by a natural disaster.

The new Crown offer for the uninsured improved red zone properties of 100% of the 2007/08 rateable land value balances the considerations about the owners' health and wellbeing and a timely recovery with the costs and precedent risks of paying for uninsured loss when insurance was available.

Timely recovery and a simple process

In the public feedback there were some suggestions for case-by-case assessments and tailored offers to uninsured improved red zone property owners, based on the personal circumstances of each property owner and the reasons why they did not have insurance. As discussed in Chapter 5, taking into account the Crown's objectives

around fairness, consistency, certainty and timeliness for any new approach for these properties, the Minister considers that case-by-case offers would not meet the Crown's recovery objectives and obligations. However, the Minister has considered the information on the individual circumstances of these property owners provided during the public feedback on both the Preliminary Draft and Draft Recovery Plans, and considered health and wellbeing issues, in agreeing that the total amount of new offers should be increased from the amount originally offered in September 2012.

In addition, the Minister has decided that the new offer for the uninsured improved red zone properties should be increased from the amount proposed in the Draft Recovery Plan of 80% of the 2007/08 rateable land value, to better reflect considerations such as the property owners' health and wellbeing, the strength of the public feedback and the need for a timely outcome.

11. Other affected properties

This chapter considers other affected red zone properties, including at Rāpaki Bay, insured privately-owned properties and underinsured properties.

Rāpaki Bay

What is the new offer?

Offer to purchase each of the ten privately-owned red zone properties, being the four insured properties and the six vacant or uninsured improved properties.

The purchase price should be on the same basis as the offers for vacant, uninsured improved and insured red zone properties.

The offers for these ten properties should also include an agreement from the Crown about the future long-term use and governance of the land. For each of these ten properties the Crown should agree with the property owners to apply to the Māori Land Court to set aside the land as Māori reservation, if the owners wish to accept a Crown offer.

The quantum of this specific offer recognises the ancestral connections and history of the land at Rāpaki Bay and will not result in Māori land alienation, in accordance with Te Ture Whenua Māori Act 1993. If the Māori Land Court agrees that the land should be set aside as Māori reservation the land will not be able to be sold and will be in trust for future generations.

In approving this new offer, the Minister has considered the public feedback and the discussions CERA has had over the past three years with the property owners at Rāpaki Bay, Te Rūnanga o Ngāi Tahu, the Māori Land Court and Te Puni Kōkiri.

This specific offer provides an opportunity for the property owners to move forward with their lives and re-establish themselves elsewhere, if that is what they wish to do.

It takes into account the life risk issues unique to the Port Hills red zone and, in particular, the rockfall issues at Rāpaki Bay (with many of the properties assessed as unsafe for residential use).

It takes into account factors other than the insurance status, including the key criteria of property owners' health and wellbeing, the impact of awaiting resolution of the Crown offer process and the effects of living or owning property in the red zone.

Agreeing to set aside this land as Māori reservation is an early decision on the future use of red zone land. Giving careful consideration to the history, status and feasible uses of the land at Rāpaki Bay, the Minister has decided that such an early decision is needed. Without this specific Crown offer the red zone property owners at Rāpaki Bay are unlikely to be able to move forward with their lives.

What is the basis for the new offer?

There are ten privately-owned red zone properties at Rāpaki Bay in the Banks Peninsula. The Preliminary Draft and Draft Recovery Plans discussed the status and history of the red zone land at Rāpaki Bay in detail, including the restrictions of Te Ture Whenua Māori Act 1993 and the need for a new specific Crown offer. The key specific factors are:

- **The history of Rāpaki Bay and the property owners' ancestral and cultural connections to the land:** The properties were all part of Māori Reserve Number 875, established from the Port Cooper purchase agreement signed between Ngāi Tahu and the Crown in 1859. By 1886 the land had been partitioned into individual titles. Since then, the land has been passed down from generation to generation.
- **The earthquake damage and on-going life risks:** All of the properties were zoned red because of the extreme risk of rockfall. Boulders were dislodged during the earthquakes from the mountain directly above Rāpaki Bay and are an on-going threat to the properties. As such the properties have been assessed as unsafe for residential use. The owners would not be permitted to build/rebuild on the land in its current state due to council planning and consenting restrictions in high life risk areas.
- **The owners of the Māori freehold land cannot sell their land to the Crown unless an agreement is reached about its long-term use and governance:** The legal restrictions of Te Ture Whenua Māori Act 1993 mean that the Māori Land Court and Te Puni Kōkiri would need to be satisfied that the acceptance of any Crown offer would not result in Māori land alienation. This would require an agreement being reached in advance between the Crown and the owners about the long-term use and governance of the land. Otherwise, the owners of the Māori freehold land could not accept a Crown offer.
- **Future uses of the red zone land at Rāpaki Bay are very limited:** This assessment is based on the earthquake damage, the rockfall issues in the area, and the type of land. CERA engineers have assessed that mitigation by engineering would be ineffective because of the size and speed of boulders, and in any case the cost is likely to be prohibitive. In addition, any long-term owner would need to accept the liability and costs associated with this land, including managing access due to the associated high life risks.

Insured privately-owned red zone properties

What is the new offer?

The Crown could consider buying insured privately-owned red zone properties, only if offered for sale by the owners. For fairness and consistency, the Crown's purchase should be on the same basis as the original Crown offers for insured red zone properties.

This will enable insured red zone property owners who wish to sell their property to the Crown and leave the red zone an opportunity to do so. In addition, if new Crown offers are made to buy vacant, commercial and uninsured improved red zone properties, the administrative cost of this offer is only a small part of the larger administration required. The additional cost to the Crown and New Zealand taxpayers is therefore minimal.

What is the basis for the new offer?

There are still some privately-owned properties in the red zone which were insured at the time of the 22 February 2011 earthquake and their owners decided not to accept the original Crown offer. Although these properties are outside of the direct scope of this Recovery Plan, if a new Crown offer is made these properties may be affected.

These property owners did not accept the offer for various reasons. It is, however, possible that since then the reality of living in the red zone might not have equated with their expectations and they may now wish to sell. The public feedback provided insights on life in the red zone since the Canterbury earthquakes and the high uptake of the Crown offers.

Since the June 2011 Crown offer expired, the owners of seven properties have approached CERA asking whether they can accept the expired Crown offer. There may be others who wish to leave the red zone and sell their property, but are finding it difficult to do so, given the greatly diminished value of their land and the lack of a market for red zone property.

When considering options for these insured property owners many of the same factors discussed in the previous few chapters apply, including fairness and consistency with those who have already accepted a Crown offer and met the timelines and other requirements involved; and the health and wellbeing of property owners still residing in the red zone areas.

Many of the insured red zone property owners who have chosen not to accept a Crown offer have indicated they feel strongly about their decision and do not wish to have any further contact with CERA. A blanket Crown offer, based on the feedback to date, is unnecessary and could be seen as exerting pressure on property owners. However, for those who do wish to sell their property to the Crown and leave the red zone as soon as possible, it could be a long time to wait for decisions about the future use of Crown-owned red zone land and implementation of those decisions.

The Minister's decision has also taken into account the public feedback on the proposal for insured red zone properties in the Draft Recovery Plan. Of the small number of submitters who commented on the proposal, the vast majority supported it and considered it fair – providing an opportunity to reconsider the offer in light of the current red zone environment.

Underinsured

The Minister's direction for this Recovery Plan stated that as a consequential matter the Recovery Plan should address whether new offers should be made to other red zone owners who did not receive the Crown's 100% payment, for example, property owners who were underinsured.

The original Crown offer for underinsured red zone properties was 100% of the 2007/08 rateable land value, and the purchase price for the improvements was on a pro rata basis, relative to the amount of insurance, where an owner was underinsured by more than 20%.

On the basis of the new offers the Minister has approved, no change is required to the original Crown offer for underinsured red zone properties (around 23 properties across the flat land and Port Hills). This is because the new offers of the quantum approved by the Minister are consistent with the offer for underinsured red zone properties.

However, if an owner of an underinsured red zone property did not accept the original Crown offer but now wishes to sell, then the Minister has agreed that the Crown could consider purchasing the property on the same pro rata basis as was previously offered (as per the new offer endorsed in the previous section). This will enable underinsured property owners who wished to sell their property to the Crown and leave the red zone an opportunity to do so.

12. Glossary

Term	Definition
Canterbury earthquakes	This includes any earthquake in Canterbury on or after 4 September 2010 and includes any aftershock.
CER Act	Canterbury Earthquake Recovery Act 2011
CERA	Canterbury Earthquake Recovery Authority
EQC	The Earthquake Commission
Flat land red zone	Term used to describe the residential red zone areas in greater Christchurch, including Waimakariri District, but excluding the Port Hills.
Greater Christchurch	The term 'greater Christchurch' refers to districts of the Christchurch City Council, the Selwyn District Council and the Waimakariri District Council, and includes the coastal marine area adjacent to these districts.
Infrastructure	Includes roads; storm water, drinking water and sewerage pipes; telecommunications; and electricity.
Māori Land Court	The specialist court that hears matters relating to Māori land. It also has jurisdiction to hear cases under the Māori Fisheries Act 2004, the Māori Commercial Aquaculture Claims Settlement Act 2004 and a number of other statutes.
Minister for Canterbury Earthquake Recovery	The Minister who holds the Canterbury Earthquake Recovery portfolio.
Port Hills red zone	Term used to describe the residential red zone areas in Christchurch that are in the Port Hills, which include Rāpaki Bay (i.e. excluding the flat land red zone).
Rating Valuations and Rateable Values	A rating valuation reflects the property's market value at the date of the valuation. This is then broken down to land value and improvement value. The value of the land is defined as the probable price that would be paid for the bare land. This includes any development work that may have been carried out. The value of improvements is calculated by subtracting the land value from the capital value, and represents the extra value the buildings and other developments give to the land.
Recovery Strategy	Recovery Strategy for Greater Christchurch: Mahere Haumanutanga O Waitaha; prepared under the CER Act by CERA, a statutory document which sets out the principles, priorities, vision and goals for the recovery.
Residential red zone or 'red zone'	An area of residential land which suffered severe land damage due to the Canterbury earthquake sequence, and where the Crown offer was made to owners of insured properties. The residential red zone was the term used to distinguish between the suburbs and the Christchurch central business district red zone cordon.
Strategic partners	Te Rūnanga o Ngāi Tahu, Environment Canterbury, Christchurch City Council, Selwyn District Council and Waimakariri District Council.
Technical Category and TC3	A land classification developed by the Ministry for Business, Innovation and Employment that requires site specific geotechnical investigations to determine appropriate foundation type for residential construction. There are three categories, with TC3 land requiring the most extensive investigations.

13. Links to further information

Recovery Strategy for Greater Christchurch

The Recovery Strategy for Greater Christchurch: Mahere Haumanutanga O Waitaha is the overarching, long-term strategy for the reconstruction, rebuilding, and recovery of greater Christchurch.

<http://cera.govt.nz/recovery-strategy>

Canterbury Earthquake Recovery Act 2011

The Canterbury Earthquake Recovery Act 2011 (CER Act) was enacted on 19 April 2011. The purpose of the CER Act is to support and facilitate the recovery of greater Christchurch following the Canterbury earthquakes.

<http://www.legislation.govt.nz/act/public/2011/0012/latest/DLM3653522.html>

Land zoning and Crown offer decisions

A range of information and Cabinet papers can be found on the CERA website at the following link

<http://cera.govt.nz/cabinet-papers>. Some relevant papers are listed below.

- **Cabinet paper – Land Decisions, June 2011**
Sets out the policy decisions that were made in relation to land damage from the Canterbury earthquakes, including the formation of the red, green and orange zones.
- **Cabinet paper – Canterbury orange zones, October 2011**
Sets out a process and timeframe for rezoning the remaining orange zones in Canterbury, including Southshore West, Kaiapoi West and Brooklands.
- **CERA briefing, Red zone residential properties under construction and non-residential properties owned by not-for-profit organisations, May 2012**
Extends the Crown offer to purchase red zone properties under construction and non-residential properties owned by not-for-profit organisations.
- **CERA briefing, Considerations for the Crown offer to eligible property owners in the Port Hills Red Zone, August 2012**
Sets out the elements of a Crown offer for red zone property owners in the Port Hills. Note it does not include an offer for owners of vacant, uninsured improved or commercial properties.
- **Cabinet Business Committee paper – Red zone purchase offers for residential leasehold, vacant, uninsured and commercial/industrial properties, August 2012**
Sets out the purchase offer for properties that were previously ineligible for a Crown purchase offer: insured residential leasehold properties, properties with no insurance (vacant land and other uninsured improved properties), and insured commercial/industrial properties. Note this paper does not apply to the Port Hills.

Supreme Court's Judgment

The Crown offer for vacant, insured commercial and uninsured improved red zone properties was challenged by way of judicial review and was appealed to the Supreme Court. In its judgment released on 13 March 2015, the Supreme Court held that the Crown offer had not been lawfully made and directed that the Minister for Canterbury Earthquake Recovery and the CERA Chief Executive reconsider the decision in light of the requirements and factors outlined in the judgment. This judgment has led to the Minister's direction to develop the Residential Red Zone Offer Recovery Plan.

https://www.courtsofnz.govt.nz/cases/quake-outcasts-and-fowler-v-minister-for-canterbury-earthquake-recovery/at_download/fileDecision

Human Rights Commission Report

This report provides a human rights analysis of key issues that have emerged in the recovery relating to housing, health and property. It highlights particular human rights challenges in these areas, instances of good progress, and areas in which challenges remain. It was released in December 2013.

<http://www.hrc.co.nz/your-rights/social-equality/our-work/canterbury-earthquake-recovery/>

Residential Red Zone Offer Recovery Plan process

A range of information and papers about the Recovery Plan process can be found on the CERA website at the following link <https://cera.govt.nz/residential-red-zone-offer-recovery-plan>. This includes:

- **Direction**
This Direction specifies the matters to be dealt with in the Residential Red Zone Offer Recovery Plan and that the responsible entity to develop the Recovery Plan is CERA. It was published on 23 April 2015 in issue no.41 of the *New Zealand Gazette*.
- **Residential Red Zone Offer Recovery Plan: Preliminary Draft**
The Preliminary Draft Recovery Plan was the first opportunity for the public to provide views on whether the Crown should make new offers to buy vacant, commercial and uninsured improved properties in the residential red zone, and if so, how any offers should be structured. The public had from 5-19 May 2015 to provide written comments.
- **Summary of the Public Submissions on the Preliminary Draft Recovery Plan**
This is a summary of all the public feedback received on the Preliminary Draft Residential Red Zone Offer Recovery Plan. This was prepared for CERA by an independent research company.
- **Residential Red Zone Offer Recovery Plan: Draft**
The Draft Recovery Plan identified the CERA Chief Executive's preliminary views that new Crown offers should be made and as soon as practicable, if the Recovery Plan is approved. It identified five key criteria for new Crown offers, and the Chief Executive's preliminary views on the quantum of new offers. The public was invited to provide written comments between 25 June - 9 July 2015.
- **Summary of the Public Submissions on the Draft Recovery Plan**
This is a summary of all the public feedback received on the Draft Residential Red Zone Offer Recovery Plan. This was prepared for CERA by an independent research company.
- **Report on Decisions Made in Approving the Residential Red Zone Offer Recovery Plan**
This paper outlines the Minister for Canterbury Earthquake Recovery's decisions in approving the Residential Red Zone Offer Recovery Plan, including changes made to the Draft Recovery Plan and the reasons for those changes.

