

# Residential Red Zone Offer Recovery Plan: Draft

## Summary of Public Submissions

13 July, 2015

Report prepared for the Canterbury Earthquake Recovery Authority

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## Executive summary

The CERA Chief Executive's *Residential Red Zone Offer Recovery Plan: Draft* was made available to the public for comment from 25 June to 9 July 2015. The *Draft Plan* presented the Chief Executive's preliminary views on specific offers to be made for all vacant land, insured commercial, uninsured improved, and other affected properties in the residential red zone area. Public submissions were received primarily via a comments form (online or paper) requesting feedback on each offer. There were also submissions to CERA social media channels, and views expressed by email and other paper submissions.

The offer of 100% of the 2007/08 rateable land value (RV) for all vacant land was seen as acceptable by nearly all those who gave feedback on this proposal. Positive comments emphasised the offer's fairness and consistency in maintaining equity with other red zone property owners, and acknowledged that bare land is uninsurable. The health and wellbeing aspect of vacant landowners being able to move forward was also valued. In addition, despite compensation having been ruled out in the *Draft Plan*, many submitters suggested that this should form part of the offer, due to the delay and costs incurred by property owners. It was suggested that recent property price rises needed to be reflected in the proposal, by offering more than 100% of the 2007/08 RV.

Similarly, there was widespread endorsement of the offer of 100% of the 2007/08 RV to purchase insured commercial properties, based on its perceived fairness in relation to other affected property owners. Submitters also highlighted the impact of the red zone in having imposed a significant loss of control over customers and circumstances. As with vacant land, compensation requests focused on the delay in receiving an offer, rates and interest costs, and shifting property values.

The majority of those submitting disagreed with the proposed offer for uninsured improved properties (i.e. 80% of the 2007/08 RV for land). An argument was put forward by many that it should be raised to 100% of the 2007/08 RV, primarily on the basis of fairness and consistency with other red zone property owners. In contrast, a minority of those submitting perceived the offer as overly generous. The need to move forward and guidance from the Supreme Court were seen as important considerations in relation to this offer. Red zoning was also cited as having had an impact unrelated to insurance status, and was seen as a factor that should drive a 100% offer. There was debate regarding no offer of payment for uninsured improvements. Some felt a 100% payment for both uninsured improvements and land should be offered due to the impact of the red zone, although a small number expressed concern about an insurance precedent being set. There was some concern that challenges to the uninsured improved property offer would cause new delays, which led to a call for the other 100% offers (for vacant land and insured commercial) to proceed separately and promptly.

The offers for Rāpaki and insured privately owned properties received few submissions but were generally endorsed as acceptable. Detailed consideration from Te Rūnanga o Ngāi Tahu recognised the revised Rāpaki offer as largely ready to proceed. Re-making the offer to purchase insured privately owned properties was seen as fair, on the basis of the impact of red zone living.

## Introduction

The CERA Chief Executive's *Residential Red Zone Offer Recovery Plan: Draft* was made available to the public for comment from 25 June to 9 July 2015. The *Draft Plan* presented the Chief Executive's preliminary views on specific offers to be made for all vacant land, insured commercial, uninsured improved, and other affected properties in the residential red zone area. The Chief Executive sought responses to these offers, particularly in relation to the specific amounts and payment structures proposed. Submitters could also raise any other issues they thought the Crown needed to consider. This independent report summarises the submissions received during this consultation process.

### Submissions received

CERA provided a range of formats for providing feedback including email, social media, and postal submissions. A comments form<sup>1</sup> containing specific questions was also provided – this could be completed on paper or electronically via the CERA website. Submissions were received by CERA and then delivered to an independent research company for analysis. The following table summarises the number of submissions received, broken down by type:

Submission type	Total
Comments form–online	176
Comments form–paper	33
Email submissions <sup>2</sup>	37
Social media submissions	70
Postal submissions	3
<b>Total submissions/comments</b>	<b>319</b>

It should be noted that a single individual was able to submit several times across (or within) each submission type; this was not on such a scale as to affect the reliability of the data. All submissions, of whatever type, were counted. Submitters' names were often provided with submissions, but are not included in this report to preserve anonymity. Verbatim quotes from submissions are presented in this document – these are unedited apart from the correction of occasional spelling errors.

Submitters were engaged with the issues and the strong feelings expressed are evident in the verbatim quotes and analysis. Submitters included people affected by the specific property types under review, other Christchurch residents, and others from around New Zealand.

<sup>1</sup> The comments form asked whether submitters agreed with the proposed offers for each of the property types. Responses could be indicated by ticking Yes/No, with an open question seeking further explanation of the answer (*Why or why not?*). The form concluded with an open question, *Is there anything else you think should be taken into account?*

<sup>2</sup> Note that this does not reflect the number of emails received. Several emails had multiple documents attached as submissions. Each attachment was treated as an individual submission.

## About the analysis

To ensure rigorous analysis, all submissions were imported into QSR NVivo<sup>3</sup>, a qualitative data analysis software application. The use of NVivo enabled all submissions to be included within a single database, as it is capable of handling a range of different data types (e.g. social media comments, text, and scanned documents). Once imported, all submissions/comments were read by experienced analysts and categorised according to a comprehensive analysis framework. The *Yes/No* questions on the comments form were analysed numerically using IBM SPSS Statistics<sup>4</sup>.

## About the report

The public consultation on the *Draft Plan* specifically sought feedback on offers relating to the following property types in the red zone:

- Vacant land
- Insured commercial
- Uninsured improved
- Rāpaki
- Insured privately owned.

Additionally, the Chief Executive outlined five key criteria that informed the offers in the *Draft Plan*:

- Health and wellbeing
- Insurance status and precedents
- Fairness and consistency
- Timely recovery and a simple process
- Costs to the Crown.

Responses to each of these new Crown offers are presented by property type in the following sections. Comments on the specific offer are followed by requested changes (where appropriate) and any other issues raised. Where submitters considered the five criteria in their feedback, these are discussed in the relevant sections.

Some issues raised were outside the scope of this report, including comments about CERA as an organisation and the consultation process itself. While these issues have not been specifically discussed in the sections that follow, the authors would like to emphasise that they were included in the analysis.

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<sup>3</sup> Further information regarding QSR NVivo can be viewed at: <http://www.qsrinternational.com>.

<sup>4</sup> Further information regarding IBM SPSS Statistics can be viewed at: <http://www.spss.com>.

## Responses to the preliminary views on new Crown offers

### Vacant land

<b>Vacant Land: Chief Executive’s Preliminary View</b>
Offer 100% of the 2007/08 rateable land value for all vacant red zone land.

### Responses to the proposed offer

Overall, there was a strong level of support expressed for the 100% offer for vacant land. Those responding to the comments form were specifically asked whether they agreed with this proposal – the majority (86%) indicated their agreement. This was further reflected in specific comments on this offer:

*The CEO has made the right recommendation with regard to vacant red zone land. [Comments form–online]*

*100% 2007/08 RV is the fair and correct decision. [Social media submission]*

*I’m glad the CEO has, at least for vacant landowners, to some extent listened to us in proposing 100% 2007 GV. [Social media submission]*

*The proposed offer is fair to the bare land red-zoners. [Email submission]*

The diagram below further illustrates the level of support for this offer:



Reasons given for supporting the proposal primarily focused on three of the criteria outlined in the *Draft Plan*. In particular, *fairness and consistency* was highlighted by the majority of submitters, as this was seen to be important with regard to maintaining equity with others in the red zone. In addition, while the *Draft Plan* discussed the difficulty of living in the red zone in relation to *health and wellbeing*, those giving feedback on this offer more often linked it to unfairness. This was because they saw it as a form of land acquisition by the state, with people therefore entitled to 100% compensation. Typical comments included:

*The red zoning of the land was a decision made by the government and the issue is similar in nature to acquiring land for a major road etc. It is only right that the Government compensate owners fully for this action. [Comments form–online]*

*The proposed offer of 100% of the 2007/08 RV of the land is the only fair outcome. It is consistent with what the Crown offered all other affected red zone homeowners and is the only sensible offer that can be made. [Comments form–online]*

The *health and wellbeing* aspect of being able to move on or move forward was strongly valued. The length of time taken for this offer to be made was closely linked to the need for *timely recovery and a simple process* – and was also seen to be impacting on people’s ability to get on with their lives:

*Just pay them their 100% of 2007 valuation so they can move forward just like everyone else in the red zones have been able to do. [Social media submission]*

*The delay in this matter has caused considerable angst to many people. [Comments form–online]*

*It seems logical and the waiting has been too long. [Comments form–online]*

*Makes absolute sense and should have been this way from day one, such a crying shame it has taken this long and such a toll on those concerned. [Comments form–online]*

There was, by and large, widespread understanding that vacant land was uninsurable and therefore owners’ *insurance status* was not relevant in the vacant land category:

*Given property owners were (and remain) unable to procure insurance for vacant land in my opinion, to meet the criteria laid out for fairness and equity, this proposal is appropriate. [Comments form–online]*

One submission pointed to an “*element of unfairness*” in that both those owners who could not pay an EQC levy for land cover and those who could and did pay an EQC levy were receiving 100% – which could set future expectations.

### Changes suggested to the proposed offer: Compensation

The *Draft Plan* clearly states that “*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*” (p. 22). Nevertheless, submitters called for consideration of a range of costs. Indeed, for many in this category, while 100% was acceptable as a starting offer, additional payments were requested as compensation for costs incurred. Most commonly raised was the issue of the delay in making the 100% offer to these property owners, and the need for this to be recognised via financial reparation:

*Minimum of 100% and costs to compensate for the length of time taken to get to this point. [Comments form–online]*

Other direct costs – either as a result of delays or due to other associated issues – were mentioned, and included:

- Legal costs
- Fees charged by engineers, architects and landscape designers
- Opportunity costs (e.g. to buy other comparable land in the market)
- Interest paid on loans and mortgages
- Interest accrued on money paid out
- Rates bills
- Increase in real estate prices.

Typical comments regarding appropriate amounts, or how compensation levels might be assessed, included:

*However, there has to be added an amount of at least 12–15% of that for compensation, given their loss of interest since red zone offers to others were made. [Comments form–online]*

*Plus the litigation cost and use of money interest I would say an extra \$50,000 per claimant on top of the money owing would be fair. [Social media submission]*

*Vacant landowners on the hill should therefore receive compensation to the tune of 5% per annum (tax free) of a 50% GV sum backdated to the time offers were made to other red zoners. [Comments form–online]*

*This entire group should be compensated for the adjustment in land values since the earthquakes ... New Zealand's housing market ... grew 3.20% in 2014, up from 3% in 2013, 2.7% in 2012, and 1.4% in 2011. [Social media submission]*

Calls for compensation were often based on multiple criteria, with the need to recognise property owners' personal suffering, financial losses of various kinds, the passing of time, and statutory or legal processes outside of their control:

*The offer should be 100% 2007/2008 RV, however, as per the Supreme Court's ruling, there should be a component on top of this to take into account the four years of delay. This should reflect the increase in comparable property prices, and also the stress and financial hardship caused to these landowners by a Government decision, which was unlawful. Do this and do this NOW. [Comments form–online]*

### Changes suggested to the proposed offer: Different rateable value

Some submitters questioned whether the use of the 2007/08 RV was fair in calculating the offer, due to the length of time that had passed. This was particularly an issue given a sense that the Christchurch property market had moved ahead:

*100% is fair. 2007 is now an eight year old valuation. [Comments form–paper]*

*Due to the length of time these poor people and their families have had to wait AND due to the fact house and land prices have skyrocketed in the last four and a half years the whole offer would have to [be] worked out on today's values. [Comments form–online]*

Suggested formulae for calculating a different offer included equivalent value or indexing:

*That is red zoned section/property owners should be compensated with an amount that allows them to purchase an equivalent section/property in 2015. [Comments form–online]*

*100% RV should be based on an indexed figure so owners are compensated in 2015 terms not 2007. [Social media submission]*

*The only way to do this is to add on average Christchurch property market inflation in the last say three years to the offer. [Comments form–online]*

An occasional alternative view was expressed, for example:

*But it should be at the RV or what they paid for it. The 2007 valuations for a lot of areas were quite high in some areas. [Comments form–online]*

## Insured commercial properties

### Insured Commercial Properties: Chief Executive's Preliminary View

Offer 100% of the 2007/08 rateable land value for all insured commercial red zone properties. The offer for insured improvements would be 100% of the 2007/08 rateable improvements value, if the insurance benefits are transferred to the Crown, or the owners may choose not to accept any payment for the improvements and keep the benefits of their insurance claims.

### Responses to the proposed offer

Similar to the vacant land offer, the insured commercial property offer of 100% was met with a high level of agreement (81% of those responding to the comments form indicated that "Yes" they agreed with the proposed offer). Examples of comments received by submitters on this offer included:



Overall, the 100% offer was seen as acceptable, or the minimum required. Submitters often endorsed the first offer listed in the online comments form (the 100% for vacant red zone land), and given the similarity of the insured commercial offer, followed up with a "Yes" or comment such as "see above", giving fewer responses to this property type overall.

Positive comments regarding this proposal again endorsed notions of *fairness and consistency* in relation to all in the red zone receiving the same offer:

*Yes, there is no reason why commercial properties should be treated any differently to any other group. [Comments form–online]*

*We concur with the Draft Plan that whatever land offer is made to vacant land should also be made to insured commercial properties on the grounds of fairness. [Postal submission]*

Perhaps given the commercial arena of these properties, there was less focus on *health and wellbeing* compared with the vacant land offer. Instead, the nuances of business (e.g. the need to ensure a thriving business community) and/or the intricacies of commercial insurance claims tended to be highlighted:

*Commercial properties must be considered fairly but they do not affect the health and wellbeing of families as much as depriving families from their homes. [Comments form–online]*

*Yes, should be 100%, ensures they get the full amount and more likely to re-establish businesses. [Comments form–online]*

*As long as any insurance monies already received go to the Government or the pay out by Government is less any monies paid out. [Comments form–online]*

The impact of commercial properties being in the red zone was also seen as having imposed a significant loss of control over their customers and circumstances:

*If all the residents have moved out then there is likely not to be any business to do. [Comments form–online]*

### Changes suggested to the proposed offer: Compensation

Similarly to those responding to the vacant land offer of 100%, a proportion of submitters who gave feedback on the insured commercial property offer called for payment over and above 100%. This was frequently an “as above” response; therefore, in line with the vacant land offer, issues of delay, rates and interest costs, and shifting property values were commonly mentioned. Compensation requests for this property type also referred to the particular needs of businesses (e.g. retaining a customer base):

*While the payment of 100% of the land value is as it should be, many Port Hills commercial red zoned property owners have had additional financial stress. [Comments form–online]*

*They have lost their business and probably their customers. [Email submission]*

## Uninsured improved properties

### Uninsured Improved Properties: Chief Executive's Preliminary View

Offer 80% of the 2007/08 rateable land value for all uninsured improved red zone properties. No payment should be made for uninsured improvements.

### Responses to the proposed offer

Public submissions responding to the offer for uninsured improved red zone properties were more numerous, diverse and challenging of the Chief Executive's preliminary views than those submitted in response to other property types. The diagram below summarises the range of different views for this particular offer:



While the views expressed in response to this offer were diverse, overall, there were few who agreed with the proposal. This was further emphasised by information collected on the comments form. When specifically asked whether they agreed with the proposed offer, only 26% indicated they were in agreement. Typical comments included:

*How can 80% be fair compensation when the other affected parties have been offered 100%?  
[Social media submission]*

*Your offer to uninsured home owners is extremely disappointing, an insult was my first angry reaction, followed by feelings of frustration and hurt. [Email submission]*

Given the different issues raised, reactions to each strand of this offer (i.e. land and improvements) are discussed in turn below.

#### *Responses to the 80% offer on 2007/08 rateable value*

The vast majority of submitters rejected the proposed 80% offer as being too low. This was most strongly based on the criteria of *fairness and consistency*, in that it was felt that this group should be treated in the same way as vacant land and insured commercial property owners:

*The fact that they are being separated out and treated so differently to the other affected 'red zoners' is very unfair. [Comments form–online]*

Fairness was of concern at both an individual level, from property owners who were affected, through to a sense of the larger process needing to be demonstrably fair:

*We are told that our land is now only worth 80% of its 2007/8 value when everyone else gets their full RV? I do not understand how this is unfair to others? [Email submission]*

*If you are buying the land, pay full price for the land. The uninsured home owners are wearing the cost of the improvements, and that is fair enough. It is not fair enough that because their houses were uninsured you offer them less than the land is worth. That's just opportunism. [Social media submission]*

The *health and wellbeing* aspect of being able to move on or move forward strongly underpinned the rejection of this offer, and there were more responses from people who were personally affected than for other property types. As such, they also provided more detailed accounts of specific circumstances in relation to moving on:

*The offer of 80% for land only does not fit with the Supreme Court's view that offers should allow people to 'move on'. [Social media submission]*

*Paying 100% to me would involve \$56,000. Little to the Government but it would mean everything to me and my diminished world. [Email submission]*

There were more references to the need for *timely recovery* in submissions on this property type, in part due to an expectation that the process may be held up due to a lack of public endorsement for the proposed offer (unlike the offers for vacant land and insured commercial properties):

*If the Crown pays only 80% it is penalising those people and will still prolong the settlement process. [Comments form–online]*

In addition, it was highlighted that this offer was possibly going to face legal challenge, and there was concern expressed that the rest of the proposed offers in the *Draft Plan* should proceed, to ensure they were not subject to further delays:

*We have read that the uninsured who with a new offer will be offered 80%, may appeal to the Supreme Court to try and get 100%. If this is the case the Crown should go ahead and pay commercial and bare landowners the proposed 100% straight away. Why should we have to wait even longer when we have already waited four years? Let them fight it out in the courts. [Comments form–online]*

*Those groups that involve more complicated issues i.e. uninsured property, may have to be dealt with separately to the vacant and commercial landowners to ensure that the latter groups are not further disadvantaged by untimely delays, further court action etc. [Comments form–online]*

In contrast to those who felt the offer was too low, a minority of submitters rejected the Chief Executive's revised proposal as overly generous. This was primarily due to strong views regarding *insurance status and precedents*, including some (insured) submitters who were clearly affected by their own insurance issues. Therefore, there was often a very personal sense of unfairness in relation to those who chose not to insure:

*Why should we suffer when we have followed all the rules and struggled to pay insurance while raising a family to be told people who have not paid insurance get a healthy pay out to buy a brand new house! [Comments form–online]*

*I pay my house insurance because I think it is unreasonable for me to rely on the generosity of others should my house burn down or suffer damage in an earthquake ... Outrageous for the uninsured to think they deserve the same treatment. [Email submission]*

There was also a broader sense of *fairness and consistency* relating to property owners in general:

*Property owners had the opportunity (as all others) to procure insurance – they took a calculated risk and as such to meet the criteria laid out for fairness and equity, this proposal is unacceptable. [Comments form–online]*

*80% is a generous offer considering that property owners who chose not to insure their properties were prepared to take the risks associated with non-insurance. [Comments form–online]*

#### *Responses to the proposal that no payment be made for uninsured improvements*

A number of submitters disagreed with the proposal to make no payment for uninsured improvements, with several reasons put forward for this. For example, *fairness and consistency* amongst red zone property owners was again endorsed. The impact of the red zone was seen as particularly relevant to buildings, fuelling the wish to include payment for improvements regardless of insurance status:

*The act of red zoning has denied these people the right to live in their homes. They should be compensated accordingly. [Social media submission]*

*As to paying nothing for improvements, it is CERA that devalued these owners' properties by declaring the red zone. Having taken away that value, these people deserve compensation. [Comments form–online]*

Additional aspects of fairness related to existing compensation structures for government public works, such as acquiring land for roading (a process which does not take into account the insurance status of a building). The act of red zoning, which was seen as the same as land having been “taken” for public works, meant that – for these submitters – fair compensation should ignore *insurance status and precedents*:

*When the Government buys houses for roading etc., they do not take into consideration if the owners are insured or not. [Comments form–online]*

There was some reference to *health and wellbeing* in arguing for the need for people to have a “home” in particular:

*Pay these poor families for the land and home and let them move on. [Comments form–online]*

*There is only one way to right this wrong, and that is to offer everyone the same 2007 rating valuation based on the improved capital value of the property that was someone's home. [Email submission]*

There were also references to *health and wellbeing* as related to the Supreme Court view of helping people move on:

*Does not fit with the Supreme Court's view that offers should allow people to 'move on'. Clearly, with no compensation for loss of dwellings and only 80% of the land value these people will not be able to make a fresh start in any meaningful way. [Comments form–online]*

Overall, the public rarely referred to the criteria of *costs to the Crown* in their submissions in relation to the *Draft Plan*. Despite the Chief Executive expressing concern as to the additional cost of covering improvements for the uninsured, this was argued against by a few submitters as being relatively low cost:

*There are real genuine good people dramatically impacted here, you stand to lose very little but making the right decision and giving us our fair recompense of full payment on 2007/08 RV (house and land). You can easily mitigate any risk as a result of this decision and allow us to end this chapter in our lives and 'move on'. [Email submission]*

## Changes suggested to the proposed offer

There were three key changes suggested to the proposed offer, as follows:

1. The offer should be raised from 80% to 100% of 2007/08 RV on land
2. The offer should be 100% for land and should also include buildings
3. The offer should preserve insurance status distinction.

Each of these is discussed separately below. It should also be noted that, overall, there was less discussion of compensation in relation to this offer compared to the responses to proposals for vacant land and insured commercial property. Instead, the emphasis was more on bringing the 80% offer up to 100%.

### *Raise the offer to 100% of 2007/08 rateable value on land*

The majority of submitters expressed the view that the land offer should be raised to 100%:

*There is no justification to offer these people only 80% for their land while offering everyone else with red zoned land 100%. CERA is already proposing not to offer a cent for the improvements in this case so they should offer 100% for the land at least. [Social media submission]*

As noted previously, this was primarily driven by a perception that the offer made should be the same as for all other properties in the red zone:

*For consistency's sake, they should be offered 100% of the land value. [Comments form–online]*

It was hoped that raising the offer to 100% like all other property types would keep the process moving along:

*Just settle everyone with the same 100% offer and get it over and done with. [Comments form–online]*

### *Raise the offer to 100% of 2007/08 rateable value on land, plus include buildings*

Many submitters argued that 100% of 2007/08 should apply to all aspects of the property, i.e. both land and improvements:

*The only just course to take is to treat all red zoners equally and pay 2007/8 RV for land and any improvements. [Comments form–online]*

*[Name] has supported an application made by the Quake Outcasts to the Supreme Court for a direction that offers of 100% of 2007/2008 rateable value are made for both uninsured residential land and improvements. [Email submission]*

*Through this current consultation process I also strongly urge you to revise the current preliminary offer to increase the rate payable to uninsured property owners to 100% of land and improvement value and to bring a swift resolution to this prolonged and highly distressing process for affected Canterbury residents. [Email submission]*

As evident in the following submissions, this suggested change to the proposed offer was linked to a need for *fairness and consistency* within the red zone area, and the impact that government policy had had for residents:

*It is important to remember that the outcome for the owner of the red zone property has been determined by Government policy, not by considerations of fairness and consistency. This is the reason why the offer must be the same as Option 1 – not just the land value, but the entire capital value, including land and improvements. [Email submission]*

*Of particular concern is the arbitrary and highly perplexing decision to offer uninsured residential property owners 80% of the 2007/2008 rateable land value and nothing for improvements while offering vacant landowners 100% of the 2007/2008 rateable land value. [Email submission]*

Some submitters also continued to misinterpret the Supreme Court as having directed CERA to pay 100% in full for all property owners in the red zone.

#### *Insurance distinction should be preserved*

Those who felt the proposed offer was too generous argued that it should be less or nothing at all, if a choice had been made to not insure:

*They should not be offered this much, it was their choice to not insure their land or improvements. If they are treated this way, why shouldn't all owners be uninsured if the Crown will bail them out. They were uninsured, their own fault. [Comments form–online]*

There were a few specific suggestions made to reduce the offer, including back to the original offer of 50%, or to nothing:

*People without insurance should not be compensated at all. What precedent does this set?? Will you now refund my years of insurance payments? [Comments form–online]*

One submitter argued that if owners chose to return to court to challenge this offer, it should simply be withdrawn:

*I would accept some offer made is a charitable offer to them as victims, but NOT as an entitlement. And if that offer is contested in court it should be withdrawn totally. [Comments form–paper]*

#### *Case-by-case approach*

The Chief Executive argued against taking a case-by-case approach (in relation to reasons for being uninsured) on the basis of timeliness. This was endorsed by some respondents, although primarily to justify an increase to a 100% offer:

*It's too hard to separate why people did or didn't insure, give them the same as the 100% offer. [Comments form–online]*

In contrast, some felt that because the numbers of uninsured were small (106 properties), it was feasible to consider each case on its individual merits:

*Given the low overall numbers involved, you should at least consider the reasons behind each case of non-insurance. [Comments form–online]*

*If it was an unlucky timing issue (demonstrably so) then some discretion should apply. [Comments form–online]*

## Other affected properties: Rāpaki

### Rāpaki: Chief Executive's Preliminary View

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.

### Responses to the proposed offer

There were a number of general responses to the Chief Executive's preliminary view on Rāpaki, largely noting that it seemed progress had been made since previous offers, and acknowledging there were complex issues that not all submitters felt qualified to comment on:

*Not enough knowledge to make a valued comment, but as long as the land stays in Māori hands and this is acceptable to the owners, and the tribe. [Comments form–online]*

There was a call for those affected to be heard, and that the unique issues in relation to Māori needed recognition. The *health and wellbeing* aspect was also valued by some submitters. Comments included:

*The Rāpaki Bay properties raise special issues for insured Māori freehold land because they were not able to accept the Crown's offer due to the land alienation issues this raised. [We] support arrangements to be made to enable an offer to purchase to be accepted. [Postal submission]*

*Māori land needs to stay in Māori – not to be owned by Government. [Comments form–paper]*

*The offer reflects the purpose of the red zone offers to enable whānau to move on with their lives following the devastating earthquakes. [Email submission]*

A submission from Te Rūnanga o Ngāi Tahu<sup>5</sup> acknowledged that the revised offer contrasted favourably with previous Crown offers that were unable to be legally accepted. The offer was also endorsed on the basis that the approach was consistent with the “*unique significance of the whakapapa and history to the Rāpaki land*” and accorded with the Te Ture Whenua Māori Act 1993. There was confidence expressed in principle that the offer process could proceed:

*Te Rūnanga supports the draft offer for the purchase of the ten privately-owned 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 the Crown Offer. [Email submission]*

The submission from Te Rūnanga o Ngāi Tahu also recognised that individuals were able to make their own responses in relation to these matters, as some did:

<sup>5</sup> Te Rūnanga is statutorily recognised as the representative tribal body of Ngāi Tahu whānui, comprising more than 50,000 members.

*It is our submission that a different approach is taken for the red zone Māori freehold land and the general land at Rāpaki (including uninsured properties). This has been clearly set out in the Ngāi Tahu response, which we support. In particular we support the returning of the land to a family trust for the use of family meetings and gathering but not residence. [Email submission]*

*We would like to receive an offer from Crown for monetary compensation ON CONDITION land is reserved as MFL [Māori freehold land] with reference to history/whakapapa. [Comments form–paper]*

Endorsement of the proposed offer for Rāpaki was also seen from those responding to the comments form. When specifically asked whether they were in agreement with the offer, 61% indicated they were. Notably, this offer had the highest level of “no response”, further demonstrating that many submitters did not feel able to comment on this particular proposal.

### Changes suggested to the proposed offer

Concern about the 80% offer for uninsured improved red zone properties, already noted in this report, was highlighted by some within this category, given that offers on these properties at Rāpaki are on the same basis. Some therefore argued the offer should be 100% or greater for land and improvements:

*The principle that should apply is one of consistency with our position on the offer that ought to be made to uninsured homeowners [100% land and improvements]. [Email submission]*

*No, the offer needs to account for the increase in property values since the 2007 valuation, therefore offers should be greater than 100%, or owner agree that proposed land swap is of equal value and amenity. The land should be set aside as a reservation if accepted. [Email submission]*

Those affected also expressed the next steps they might be needing to take:

*This is the only land I got from my mother. Difficulty in dealing with owners of multiply owned land. Trying to form a management structure to address this issue. [Comments form–paper]*

*For our Rāpaki property, given our unique personal circumstance we reject the Draft offer of 80% of the land value and request that an offer equal to the 2007 valuation for the land be made and that there be a separate offer for the value of the dwelling based on the Government valuation as at 2007 ... We would accept a fair penalty of 20% of the value of the property improvements to be fair. We would not accept any offer of less than 80% of the 2007 valuation for improvements as this would financially destroy us. [Email submission]*

Otherwise, there were caveats, rather than changes per se, summarised in responses to the Rāpaki offer. As the following comments from various submitters show, these were focused on reminding the Crown of obligations to consult, and take into account, appropriate aspects of both the past and the future:

*Appears fair as long as comprehensive consultation continues. [Comments form–online]*

*The offer should also include an agreement from the Crown about the future long-term use and governance of the land. This offer must not constrain whānau connection to the whenua or prohibit the use of the Rāpaki Land for residential purposes in the future. [Email submission]*

*The offer ... fully takes into account and acknowledges the implications of the taonga tuku iho (handed down from each generation) nature of the land and is in accordance with the Crown's obligations under Te Tiriti o Waitangi. [Email submission]*

## Other affected properties: Insured privately owned

### Insured Privately Owned Properties: Chief Executive's Preliminary View

The Crown could consider buying the 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 properties.

### Responses to the proposed offer

There were relatively few comments specific to this offer and it was generally endorsed as fair, given that it was on the same basis as the original Crown offer for insured red zone properties:

*This appears a very good, fair proposal. [Comments form-online]*

*As long as the offer is 100% and is as the original offer is made. [Comments form-online]*

Of those responding via the comments form, 75% indicated they were in agreement with the offer for insured privately owned properties. Inviting people to offer their properties for sale again was seen as generous by some, primarily because it gave them an opportunity to reconsider the proposal in light of how the red zone had developed:

*Changes within the red zone will have provided additional information to a person in this situation. Decisions of this nature are difficult as there is no history to refer to. Providing an opportunity to reconsider is generous. [Comments form-online]*

*Now that people have come to terms with the realities of living in the red zone they may want to rethink their original decision not to accept the government offer. An offer of 100% of the 2007/08 RV should be extended to all of the owners still in this group. [Comments form-online]*

There was also some expectation that re-making the offer would support a simpler process by clearing or compulsorily acquiring the remainder of red zone land:

*If you're clearing out the neighbourhood and making it all government land there is an obligation to buy all properties. [Comments form-online]*

*For those that don't accept this offer, compulsory acquisition may be the only recourse to ensure that the red zone clearance is achieved. [Comments form-online]*

There were references to past and present *health and wellbeing* issues that were addressed by this proposal, with property owners having had to make decisions in stressful circumstances at the time of the original offer. The current state of the red zone, variously described as "scary", "impossible to live in" and with reduced services, was also a *health and wellbeing* issue for some. Comments included:

*These people should be given the opportunity to re-visit their earlier decision, as it was likely a very difficult decision to not accept the offer, made under stressful circumstances. [Comments form-online]*

*The process over the last five years has been very stressful and difficult. The 'red zoning' has had a far wider effect than is justified with many misconceptions associated with it. The sooner the red zone offer can be put behind us the sooner we can properly recover. [Comments form-online]*

In addition, while the opportunity to revisit the offer was endorsed, there was concern that the process of doing so must not repeat the difficulties (with both CERA and EQC) that occurred first time around:

*My fear is that this whole process will be repeated. I believe there is a prospect that the red zone offers will be reinstated, which I fully support as a fair and reasonable move, but that EQC will have not made an offer to settle our land insurance claim. [Email submission]*

### Changes suggested to the proposed offer: Compensation

Similar to those responding to the vacant red zone and insured commercial offers, there were some calls for a “more than 100%” payment to compensate for delay, costs and property price rises. Some referred to friends in the red zone and argued that compensation since the original offer was warranted:

*I am though concern[ed] about the years of property tax that they have paid and the years of inflation that they haven't been able to enjoy. [Social media submission]*

Likewise, affected property owners who had previously rejected the Crown offer expressed concern that more than 100% was required to allow them to move on and leave the red zone:

*The alternative should be an independent assessment of the pre-earthquake value of the property, and the government offer should be based on that valuation. This would meet the fairness and consistency tests, and would also allow my family to start our lives over again outside the red zone. [Email submission]*

*Though it didn't reflect improvements done to properties that would have increased their value. [Comments form–online]*

It should be noted, however, that some submitters highlighted the generosity of a second chance for this group, and therefore felt that compensation was not warranted:

*The aim was to clear the area. Given time these people may have changed their minds. But since it was their choice, they should not receive interest for the three years. [Comments form–online]*

### Other affected properties: Underinsured

The Chief Executive noted that underinsured properties, while outside the direct scope of the *Draft Plan*, may be affected by revisiting red zone offers. There were very infrequent references to underinsured properties, and where submitters referred to them, it was primarily in relation to the debates about insurance of uninsured improved properties. For example, there was an account given of an underinsurance case where revisiting an offer at the full 100% of 2007/08 RV for improvements could be warranted. This would mitigate the financial loss for the person, in a situation that had caused “*great emotional distress*”.