

Preliminary Draft Residential Red Zone Offer Recovery Plan

Summary of Public Submissions

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Report prepared for the Canterbury Earthquake Recovery Authority

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Executive summary

Public comment was sought on the *Residential Red Zone Offer Recovery Plan: Preliminary Draft* regarding offers to buy vacant, commercial and uninsured properties and the factors to consider in making such offers. Submissions were received primarily via an online comments form and posts to CERA social media channels, with additional views expressed by email, post and in focus groups.

People were overwhelmingly in favour of new offers being 100% of the 2007/08 rateable value, not the 50% that had been offered. This was based primarily on the inability to insure vacant and commercial land and on submitters' understanding of recent legal findings.

Many argued that more than 100% should be offered, in terms of interest, rates, loss of income, increased cost of housing, and the need to compensate people for the stress and hardship that the process to date had caused.

The exception was for those who had not insured property that was insurable (the uninsured). On the one hand, there was strong endorsement of a "100% offer for all" within public social media comments, but on the other hand, there was a call across online comments forms and some focus groups for a differential to be maintained between the insured and those who had chosen not to insure.

An approach of fairness and consistency was considered absolutely crucial in guiding new offers, with frequent calls to "*Just be fair!*". This meant equity with other red zone property owners, "*All people in the red zone should be treated equally*", involving a 100% 2007/08 RV offer (plus potential compensation). The time taken was seen as terribly unfair and there was a call for an urgent need to move forward as soon as possible.

The impact of zoning decisions was often raised as further rationale for a 100% 2007/08 RV offer, with much concern expressed about both the process and consequences of red-zoning, and parallels to land taken for public works drawn as a guide for a 100% offer.

A majority of submitters highlighted personal issues as imperative to consider in making new offers to counter the overwhelmingly negative personal impacts people had suffered, as well as to show a humane and compassionate response to assist people to recover and move on. Within this, there was some call for the uninsured to have their personal reasons for lack of insurance considered on a case-by-case basis.

Broader financial issues, beyond the amount that should be offered, were raised in terms of the costs of maintaining red-zone infrastructure. Wider legal issues were also raised regarding relevant legal processes of state land acquisition, and there was a call to avoid further legal action and associated delays.

Many submitters called for the potential consequences of any offer decisions to be considered. The key concern was that people may stop paying for insurance in future if there was a payout for the uninsured in this case, although others argued this was unlikely. There was also some awareness of precedent-setting as to how land values might be treated in future natural disasters in New Zealand. A longer term issue that many submitters were keen to see addressed was a legislative review of how to establish vacant land insurance and related EQC cover.

While a monetary Crown offer was preferred overall, submitters were invited to suggest alternative approaches. There was a call for additional compensation, with some suggesting provision of alternative housing or land, or allowing owners to remain on their properties.

Specific aspects of different property types outlined in the *Preliminary Draft* were not often addressed by submitters, beyond endorsement of the 100% 2007/08 RV offer for all. There was support needed for Port Hills property owners facing issues with not only the Crown but also council planning, and it was recommended that Te Rūnanga o Ngāi Tahu be comprehensively consulted on Rāpaki Bay land.

There was concern expressed by many submitters about how necessary or valid the public consultation process was, and fear that it would potentially add further delay to making new offers of 100% 2007/08 RV. Let submitters have the final word: “100% payout pronto!”

Introduction

The stated purpose of developing the *Residential Red Zone Offer Recovery Plan* is:

To assist the Crown (through CERA) to determine whether it should make new offers to buy vacant, commercial and uninsured properties in the residential red zone and, if so, how such offers should be structured. (p. 2)

The *Residential Red Zone Offer Recovery Plan: Preliminary Draft* is a discussion document for public consultation. It outlines the background and context of the issues relating to vacant, commercial and uninsured properties, and key questions to consider. This independent report summarises the submissions received for this consultation process.

Submissions received

Submissions were received by CERA between the 5th and 19th May, 2015 and then delivered to an independent research company for analysis. A range of submission formats were provided by CERA including email, social media (Twitter and Facebook), and postal submissions. A “comments form” containing specific questions was also provided—this could be completed in hard copy or electronically via the CERA website. Nine focus groups were conducted by an independent market research company, with each containing three to nine participants. The following table summarises the number of submissions/comments received, broken down by submission type:

Submission type	Total
Comments form – online	340
Comments form – paper	51
Email submissions ¹	104
Social media comments	306
Postal submissions ²	4
Focus groups	9
Total submissions/comments	814

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. Analysts reviewed every item, ranging from a lengthy email submission on behalf of an organisation through to a few words on a Facebook page. There were obviously differences in the content and style of submissions. An email or handwritten letter telling a compelling personal narrative of being affected by a property situation, is different from a short impersonal comment from a named Facebook member submitting on the public CERA Facebook page. Focus groups are different contexts again, with the discussion and debate occurring having an impact on the range of viewpoints

¹ 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.

² Includes submissions delivered in-person to CERA.

expressed. Submitters' names were often provided with submissions, but are not included in this report to preserve anonymity.

About the analysis

In order to ensure a rigorous analysis, all submissions were imported into QSR NVivo³, a qualitative data analysis package. 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, focus group videos, text, and scanned documents). Once imported, all submissions/comments were read by experienced analysts and categorised according to a comprehensive analysis framework.

The paper and online comment forms included some items that were numeric in nature. Question 1 requested that a number of possible factors be rated from 1 to 4 (*essential* through to *not important*), and Question 2 and 4 contained *yes/no* items. Data received for these questions were analysed separately, and were processed using a statistical analysis package, IBM SPSS Statistics⁴. Where percentages have been reported throughout this report, they relate to these categorical-type questions.

About the report

This report is focused on the purpose of the consultation (as stated above), and is centred around the key themes that emerged from the data. There are two main sections. Part 1 discusses what offer should be made, while Part 2 summarises what should be considered when making an offer, i.e. the justification for particular offer structures. Verbatim quotes are included from all types of submissions, and these were unedited apart from occasional spelling errors.

Many spoke of issues outside of the scope of this report. While these issues have not been extensively discussed in the sections that follow, the authors would like to emphasise that these comments were included in the analysis. In particular, there were numerous comments made regarding CERA as an organisation and also about the consultation process itself. The latter often related to the cost of the process, the appropriateness of asking the wider public to comment, and the design of specific questions.

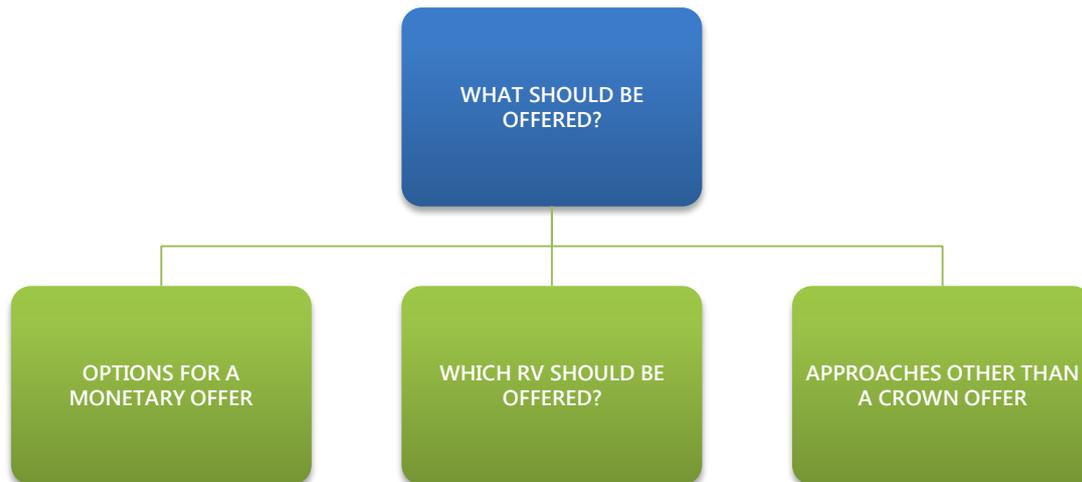
Submitters were highly engaged with the issues and the strong feelings expressed are evident in the verbatim quotes and analysis. Submitters included people affected by the specific property issues under review, other Christchurch residents, and others from around New Zealand who felt the issue of fairness required action, while acknowledging they were not personally affected.

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

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

Part 1: What should be offered?

A key aspect of the *Preliminary Draft* concerned how any potential Crown offer should be structured. When considering what should be offered to property owners affected, three key themes emerged—options for a monetary offer, which RV should be offered, and alternative approaches (other than a Crown offer).



Options for a monetary offer

Across all submission types, an overwhelming call was made for a 100% offer to be made to the groups discussed in the *Preliminary Draft*. It was also generally felt that this 100% offer should be based on the 2007/08 rateable value (RV). Different offers for different groups among those affected was a distinction made by some, while others felt that even an offer of 100% wasn't enough to compensate the owners of these properties. While there was a definite focus on monetary offers from the Crown, alternative options were also discussed, as specifically requested by the *Preliminary Draft*.

100% offer should be made

It was important to the vast majority of those responding that a 100% offer be made. This was often related to issues regarding fairness and consistency—100% of the 2007/08 RV was offered to other property owners in the red zone, therefore the same offer should be made to all.



Offer should remain at 50%

In contrast to those who felt that 100% was the only fair offer, some believed that a 50% offer was more appropriate, given the circumstances of these property owners. Such comments appeared mostly to relate to those who were deliberately uninsured:

Possibly there is an argument for a lower payout for owners who deliberately chose not to insure property with insurable improvements. 50% would seem fair in that scenario. [Comments form–online]

For some, there was the feeling that the offer should remain at 50% across all groups of property owners. This was put forward for a number of reasons; for some it was important to stay with the original offer which was seen as being generous, while others commented that a lower offer was needed because of the costs involved in fixing the land:

I'm with the 50% because I think if they are going to ever use that land, someone is going to have to remediate it, and it's going to cost a fortune to fix. [Focus group submission]

I am sympathetic to the concerns of uninsured property owners, but feel that a 50% payout is more than generous. I was appalled at the court decision to challenge this. [Email submission]

No offer should be made

A small number of people indicated that they felt no offer should be made by the Crown. As per the comments made relating to a 50% offer, such comments appeared to be specifically directed at those who were deliberately uninsured:

Those that were negligent in obtaining insurance should receive NO OFFER from the Crown and ultimately the tax payers of New Zealand. [Comments form–online]

In fact, I would suggest that by not accepting the 50% offered the time has passed and they receive nothing. Harsh, but life is like that for us in Christchurch. [Email submission]

Notably, comments suggesting that no offer should be made were most prevalent in the email and online submissions, rather than the more public forums of social media and focus groups.

Land value

Many of those submitting made the point that in the case of commercial and uninsured properties, the value of the land should be considered separately to the value of any buildings on that land:

Offer for land, but no offer for building as they should have been insured. [Comments form–online]

The general feeling was that the process of red zoning had taken away the land value from owners, and that reparation needed to be made for this in some way:

But by red zoning the land, the land value is destroyed ... If the uninsured people had lost their property because of fire for example, at least the land would have still been worth something. [Comments form–online]

Other Crown (monetary) offers

A variety of other monetary Crown offers were suggested. Often these related to a specific percentage amount (such as 75%), while others were less specific, for example, “...more than 50%, but not 100% as the land was still damaged”. Other suggested offers were sometimes quite general in nature, such as “just a fair offer”, “a discounted amount”, “a decent amount”, or “replacement value”. A common theme related to the importance of enabling the person to continue as they had been pre-earthquake:

An amount that will enable the affected persons to be in the same position relative to their red zoned property as before the earthquake. [Comments form–online]

100% of the figure that will restore red zoned owners (who were not offered 100% of 2007 RV) to the relative position they were in prior to red zoning. The discriminatory policy followed should not be allowed to further disadvantage those not offered fair compensation initially. They must be able to resume an equivalent position with regards to property ownership. [Email submission]

Other non-specific offers suggested that any offer should be tailored to the particular circumstances of the owner:

The Crown should offer a raised offer on those few properties which could not be insured because they were waiting for a builder to start work. [Comments form–online]

If property was habitually uninsured then maybe the 50% is reasonable but closer to the 100% if insurance was absent for a year or so. [Comments form–online]

The idea that those who were uninsured should be treated on a case-by-case basis was a recurring theme and is discussed elsewhere in this report.

More than 100% should be offered

For a large proportion of submitters, across different submission types, an offer of 100% was not enough. The time delays involved in making an offer were seen as disadvantaging owners financially. The personal and emotional toll that the delay has caused was also discussed. While some simply stated that “at least 100%” should be offered, others were more specific, and the following were suggested:

- Interest/inflation costs to cover loss of interest on the money due to the time delay
- Reimbursement of the interest costs relating to paying a mortgage
- Loss of income for commercial property owners
- Reimbursement for the cost of renting an alternative property
- Payment to cover stress, anxiety, hardship, legal costs, damages etc.
- Refund of any rates paid
- A higher than 100% offer to reflect the increased cost of housing in Christchurch
- Compensation for building plans.

In addition to the above specific recommendations, more general references to “compensation” were made throughout. The idea of adequate compensation could be seen across all submission types:

The amount of time taken to get to this decision has taken an unreasonable amount of time, leaving land owners disadvantaged financially with lives on hold waiting for a fair outcome. ... They should also receive a fair compensation for the very long time it took to get a fair offer to them. [Comments form–online]

Additional compensation for emotional stress caused by CERA’s decision not to offer 100% of the 2007 RV at the same time the offer was made to other red zoned home owners. [Social media submission]

Minimum payment I think has got to be the rateable value plus an adjustment for the time delay, plus an adjustment for land value increases. [Focus group submission]

For a few submitters, a monetary offer was not enough, and an apology and acknowledgement from the Crown was suggested:

An apology for wasting so many Christchurch residents’ time, money, and energy should be included as a very bare minimum. [Social media submission]

Which RV should be offered?

The *Preliminary Draft* specifically asked whether the 2007/08 RV should be the basis for a new Crown offer, and there was a significant amount of comment regarding this. The majority of those responding chose to simply make brief statements, such as, “the full value from 2007 RV” or “100% 2007 RV ... No Less!!!” or “100% of 2007 valuation like everyone else”.



Those that elaborated further often discussed the issue of this being the “only fair offer”:

The fair rating as far as I’m concerned is the 2007 one, because they’ve set that precedent for that. So I don’t believe they can suddenly give them the value, what it would be now, or what it was before. [Focus group submission]

There were contrasting opinions regarding the use of the 2013 valuation. For some, this was seen as being an appropriate offer, while others were concerned regarding the impact of the earthquakes on the 2013 valuation (particularly in relation to the decision to red zone). It was generally felt that the 2013 values for red zone properties would be lower, and therefore not appropriate:

Current 2013 valuation is irrelevant once land has been red zoned as the act of red zoning it devalues it substantially. [Comments form–online]

There also appeared to be some confusion regarding whether the 2013 valuation would be higher or lower than the 2007/08 RV:

Please note that the results in the current (2013) valuation field may provide a misleading result. There may be the belief that valuations for all property has increased over the last several years. However this is not the case for red zone properties where they have devalued significantly. It is mentioned in the draft document but this point could potentially be misunderstood. [Comments form–online]

What do you mean by 2013 valuation? Sounds a bit sneaky to me as the 2013 values would be low I would say. [Comments form–online]

The online and paper comments form specifically asked submitters to rate the importance of the 2013 valuation. Over half of those submitting (55%) indicated they considered the 2013 valuation to be *not important*.

The need to make an offer based on “*market value*” was also discussed, although it was generally not specified what this would be based on. Some respondents indicated that the highest possible offer should be made out of the possible options (2007/08 RV, 2013 RV or market value).

Approaches other than a Crown offer

The suggestion of other approaches was less common than those for a specific Crown (monetary) offer. When specifically asked via the comments form, 60% indicated that they did not feel that any other approaches should be considered. For those that felt there were other approaches that could be undertaken, suggestions included compensating owners (discussed above), the provision of alternative housing or land, and allowing owners to remain on their properties or enabling other uses of the land.

There was discussion across all submission types about the possibility of offering those affected an alternative home or piece of land. This was seen by those who suggested it as a fair alternative to a Crown offer, although several acknowledged the difficulties achieving this in practice. Example comments included:

Particularly for pensioners they should be offered alternative housing arrangements, as a lot of them were comfortable and now can't afford to pay their power bill. [Comments form–online]

Offer an option of alternative sections in non red zone areas. Give people an option of different locations also. [Social media submission]

For some submitters it was important that owners be given the choice to remain on their land (possibly with the required infrastructure in place):

People should be able to relocate or be able to stay as they desire, to a liveable standard comparable to before the earthquake. [Comments form–online]

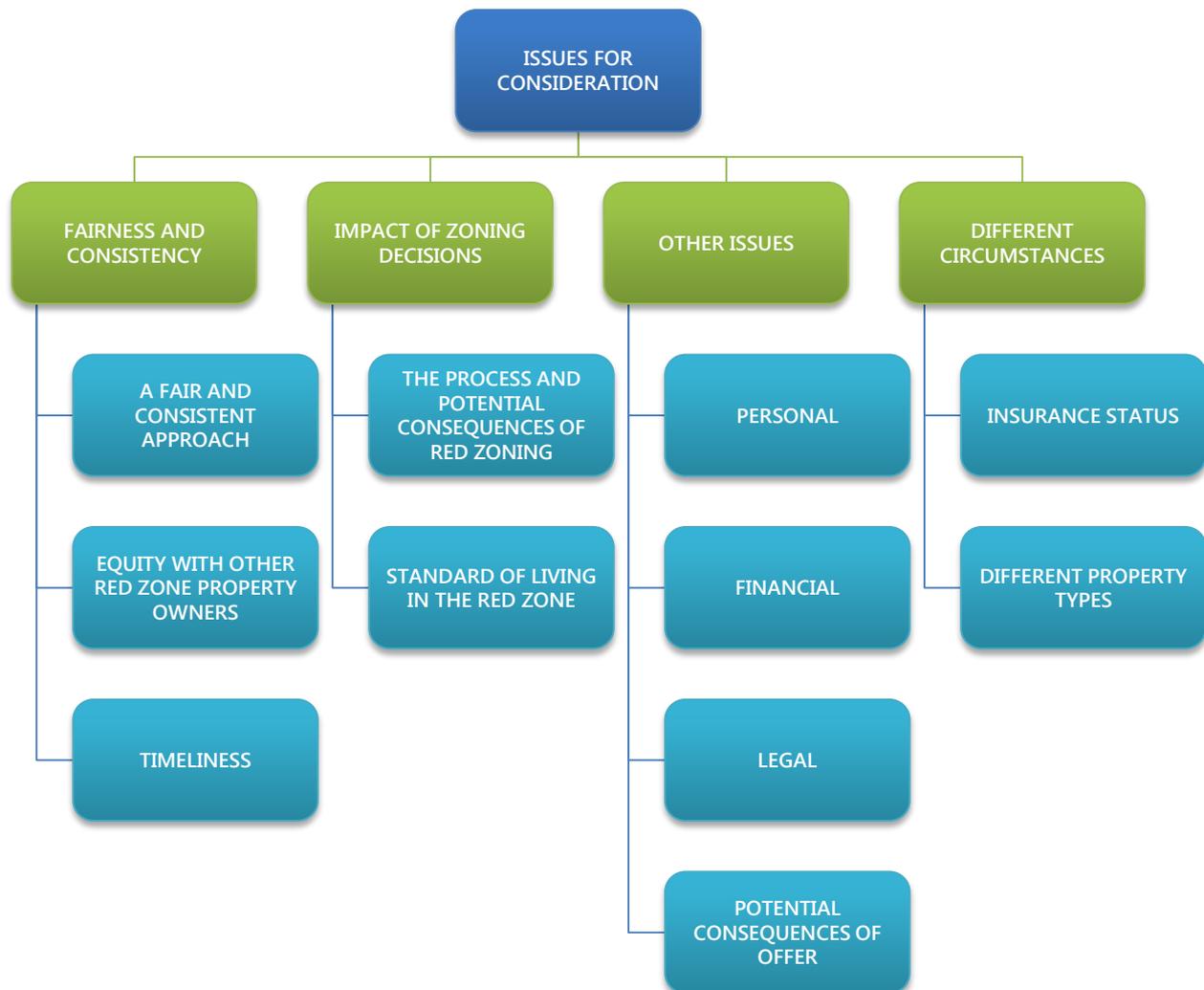
For those who did not want to live on the land, it was suggested that they should be able to retain the right of ownership, as the land may become more valuable in the future. For similar reasons, some suggested that the land be sold to developers who could purchase at their own risk. A small number of submitters mentioned that owners should be able to purchase back their land at a later time point, should they wish to do so:

Property owners should get first right of refusal to re purchase their land for the same price should the Crown wish to sell it within a certain period of time, e.g. 50 years, plus their share on any direct remediation on that parcel of land. [Comments form–online]

A range of other options were suggested including access to assistance in various forms (financial or personal e.g. counselling) and concern was expressed that this should be provided to certain groups such as the elderly or those with financial difficulties.

Part 2: Issues to consider

While submitters generally had definite views on what offer should be made, the issues relating to the offer structure were seen as more complex. Issues were wide-ranging and often discussed at length. A number of key themes emerged, relating to fairness and consistency of an offer, the impact of zoning decisions, other issues (such as personal and financial issues), and the circumstances relating to different types of property owners. The following diagram maps out these issues as they are discussed in the section that follows.



Fairness and consistency

Fairness was a key issue raised. First and foremost, people wanted an overall approach of fairness and consistency, it was time to “*do the right thing*”. Secondly, it was seen as “*fair to everyone*” that new offers to buy vacant, commercial and uninsured properties in the residential red zone should be like the offers made to other red zone property owners previously. Thirdly, “*time*” was raised by many people as crucial to fairness, with many referring to the negative impact of the time that had already passed, including

financial costs caused by delays, and that it was now time to “*get on with it*”. These three issues are discussed in more detail below.

A fair and consistent approach

Across all forms of submission, people argued that fairness was a reason for new offers to be made. Values such as “*fair treatment for all*” and being a “*fair and reasonable society*” were seen as important. As discussed previously, for some this meant that any offer should be based on the 2007/08 RV.

Other key factors raised were to not unfairly assume people could insure land when they could not, and to allow people to move on as others had:

Only the overriding sense of fairness and consistency. It is not the land owners’ fault that they were unable to insure. [Comments form–online]

Under the CERA Act you are to work to allow them to move on as with the other 7,000 odd properties that have been purchased. [Comments form–online]

There was also a sense that the red zoning itself had not helped fairness, and that there was a need to restore trust in government processes so that “*No-one would be worse off*”.

For some, fairness meant not fostering a “*them and us*” response between people, and instead sharing the burden. Likewise, splits between New Zealand taxpayers and those affected were seen as important to avoid:

We need to share the burden of the issues flowing from the earthquakes, many have suffered many were lucky, leaving the unlucky ones burdened with their problems lacks equity, particularly when insurance is not possible in the case of vacant land. [Comments form–online]

Fairness was less easy to define in relation to offers for those property owners who were able to insure but did not, as against those unable to insure. Maintaining a difference in offers between them was seen as unfair by a few, who felt reasons for not insuring should not be relevant:

Fairness to the people who were uninsured—no matter what the reason. [Comments form–online]

For others, fairness meant there should be a difference between properties unable to be insured and those who had chosen not to have insurance:

Personal responsibility! If owners were in the process of building and had not insured the contract works against earthquakes, then didums! [Comments form–online]

As well as the overarching desire for fairness, there was a particular focus on the need for fairness and consistency between red zone property owners, as discussed in the following section.

Equity with other red zone property owners

Many submissions gave fairness across all red zone property owners as the reason to make new offers, “*All people in the red zone should be treated equally*”. This was also reinforced in the rating scales on the CERA comments form (online and paper), with over half of those submitting (52%) indicating that they felt

this was of *essential* importance. Focus group participants also rated this particular aspect highly. Differentiating between those who had received and accepted offers years ago (such as residential red zone property owners) and the remaining red zone owners was seen as being unfair:

I believe that all property owners in the residential red zone need to be made the same offer ... Absolutely no distinctions can be made between any property owners. [Email submission]

It was also seen as fair that those unable to insure land (such as vacant land owners) should receive the same offer as other red zone property owners:

Owners of bare land in the red zone should receive the same payout as insured home owners in the red zone did. Bare land owners did not have the option to insure their land...Treat them fairly!! [Social media submission]

Timeliness

Timeliness was often highlighted as a key aspect of fairness. This related to the perceived delays in the process, with a consistent urging for CERA to “*get on with it*” and to “*act immediately*”. In addition, the cost of lost or wasted time was seen as adding to the lack of fairness. These issues are discussed below.



Time in limbo

There were many statements that the time taken so far in relation to the red zone properties under discussion had been very unfair, leaving people “*in limbo*” and facing “*needless delays*”:

The declaration of the red zone with no immediate plan has led to people being in limbo for a period of 4 years and counting. They certainly have not been “able to move on with their lives”. [Email submission]

The unacceptable psychological, emotional and financial distress caused to those involved with this long running process. [Comments form–online]

The phrase, “Justice delayed is justice denied”, was cited as highlighting the unfairness of time taken, and that court processes had added to the time in limbo.

Submitters felt various agencies or their processes were to blame for unfair delays, including CERA, the government, councils, politicians, officials and others:

Come on CERA it is over 4 1/2 years on from the earthquakes in Canterbury. This is unacceptable that the National Government has let this case drag on. [Email submission]

Time to get on with it

To counteract and remedy the unfairness of lost time, many submitters wanted swift action on an offer that would move people into a fairer future. Fairness was viewed as important to maintain when moving forward, however, so that further potential delays or unfairness to the wider community were not introduced. This seemed of particular concern to those completing the online comments form, perhaps prompted by the extended discussion of some issues in the *Preliminary Draft*:

We were red zoned and it’s essential the government make a decision very soon but also to get it right this time. It has taken too long so far. [Comments form–online]

The financial cost of time taken

The financial costs of time taken to resolve issues were raised. These included rates, interest costs of mortgages, interest that would have been received on payouts made if the August 2011 red zone offers were applied, cost of rents, litigation costs, and unspecified amounts of compensation or “*ex gratia payment*”:

Claimants have suffered considerable financial and personal stress and hardship, not to mention the cost of taking the Crown to court, and the opportunity cost of being unable to move on with their lives. [Comments form–online]

Some noted increased property and building costs, compared to 2011, and wondered how this could be accounted for fairly:

Delay in reaching settlement compared to those who have already received their 100% payouts – these people may have been paying ongoing rates and mortgage interest for this useless land. [Comments form–online]

Lastly, the complexity of calculating costs associated with lost time was highlighted.

Impact of zoning decisions

The *Preliminary Draft* asked people to consider, in relation to each of the property types under review, “What has been the impact of the Government’s zoning decisions for these property owners?” (p. 22). Submitters mostly made general comments about red zoning and the processes, consequences and concerns associated with the establishment of red zones, rather than focusing specifically on vacant, commercial or uninsured properties.

The process and consequences of red zoning

Red zoning was characterised as a process in and of itself that some submitters saw as entirely divorced from the earthquakes:

By the stroke of a pen, the land was made "worthless" in the government's eyes, not by the earthquake. [Comments form–online]

Some outlined what they understood CERA's motives for establishing the red zone to be, namely, "to allow the community to recover quickly the red zones were created and offers made so people could move on". Submitters suggested other motives for red-zoning, ranging from politics, to collusion with insurance companies, to going for the cheapest option:

Red zoning was a political move to allow Insurance companies to save tens of millions by not repairing or replacing around 7400 families' homes. [Social media submission]

Other submitters highlighted that the lack of timely response in relation to red zone offers, rather than the establishment of red zones in themselves, was what had caused harm:

This classification of a red zone without subsequent compensation or action has significantly disadvantaged the vacant land owners. [Email submission]

The ongoing thread of debate around how those who chose not to insure property should be treated was considered in relation to the impact of zoning, but generally felt to be secondary to it, as this submitter explains:

These [uninsured by choice] are the most difficult, because there is potentially a perception of unfairness. But again, I feel these landowners have been largely injured due to the Crown offer, not the earthquakes themselves. If there was no red-zone, these landowners would be left with their property to repair or sell however they preferred or could afford. This freedom was taken from them, their community destroyed, services removed. [Comments form–online]

Some argued that the way CERA communicated the options available to owners of properties in the red zone did not properly offer an option to stay. This effectively made the "offer" a compulsory purchase. Of note, this issue was discussed at length in the focus groups with those affected.

There was further confusion expressed as to what value the acquired red zone land could have, described as anything from "unused farmland" to "valuable commercial land in the CBD". Recent rebuilding in the central city, on land formerly "written off", led to focus group discussions around not knowing whether red zone properties would not be "okay one day". For others, there was a suspicion of deliberately acquiring "prime real estate":

"Red-zoning" and the way it was presented to the public is what caused people to shift and thereby caused the supposed drop in property value ... It is doubtful that in the long term any of that land has actually dropped in value. It will probably become prime real estate eventually. [Postal submission]

Standard of living in the red zone

Some red zone land was still being lived on, with infrastructure and services available to varying degrees, and some had been largely or entirely vacated. These different circumstances were reflected in submitters' comments about the standard of living in the red zone, and in diverse expectations as to what could or should happen. The importance of standard of living in the red zone was specifically asked about in the CERA comments form (online and paper)—33% of those submitting indicated that this was an *essential* factor, with 19% stating that they felt it was *not important*.

It was felt that the standard of living in red zone areas needed to be clarified before making any further offers, as this submitter points out:

If they want to stay, can this be an option or not considering the roads, water, power etc, will it be safe to live in this area? [Comments form—online]

On the one hand, there was a sense of grievance that red-zone dwellers were not well served, despite still paying rates/rents, and that property owners should have the option to freely choose to live in the red zone if they wished:

Although people living in the 'Red Zone' have continued to pay rates or rates-related rentals, they have had to contend with poorly maintained roads and lack of information about what has been happening and is going to happen. [Comments form—paper]

Some submitters indicated there should be a totally free choice and right to remain in the red zone with adequate services, and that living in an isolated red zone could even be a sort of lifestyle choice:

Where else in the world can you buy a home in the middle of a city that has no close neighbours? ... I live out in the country to get such isolation and would love to have that isolation without the 50 km commute. [Comments form—online]

On the other hand, there was comment as to whether other ratepayers should support a choice to live in the red zone at a disproportionate cost of maintaining services, which may happen if compensation offers were too low:

An offer below this level only gives incentive for these individuals to remain in the red zone. If core services are still required to be provided to them, a huge ongoing cost falls on the ratepayer. The Government should however be given powers to make the offer mandatory. [Comments form—online]

There were yet other areas that had different issues in relation to infrastructure, including contrasts with the standard of living in different zones:

Many properties in red zone, e.g. Kaiapoi had no/minor damage, and a much better geological land status, than my TC3 property, yet I was forced to stay. They are forced to move. [Comments form—online]

While the red zone areas were the worst affected, there are areas of TC3 and some TC2 that have had a marked decrease in land value that no compensation has been provided. [Comments form—online]

The red zone submissions often discussed areas that were potentially out of scope for this consultation (such as future use of the red zone, p. 4 in the *Preliminary Draft*) but, as shown, submitters felt these were matters highly relevant to the consideration of how to structure new offers.

Other issues to consider

People raised a number of issues that should be considered when structuring new offers to buy vacant, commercial and uninsured properties. Across submission types, personal issues were most often mentioned; it was felt that offers needed to acknowledge that individuals' lives had been affected, and there should be humane and compassionate responses to assist people affected to “recover” and “move on”. Financial issues were raised at an individual level, and also in terms of wider economic implications of red zone offers. A few legal issues were raised that needed to be considered when making offers, including laws regarding compensation for state acquisitions of property for roading or public works. The potential consequences of any offer structure, particularly in terms of setting precedents for insurance and future natural disasters, were seen as important to address. Finally, there were calls for legislative review of laws regarding insurance cover (such as for vacant land).

Personal issues

Personal issues included health and wellbeing, or more often their opposite—ill-health, stress, suffering and hardship. People gave details of the suffering of themselves or others in relation to red zone properties, and the need for offers to help individuals and families recover and move on with their lives. This was reinforced by information received in the comments form (online and paper), with 85% of submitters indicating they felt that health/wellbeing was either *essential* or *very important*.



Personal issues were raised both as evidence of the impact of the offer process to date, and as a guide to what must happen next. These impacts were described as wide-ranging and severe:

Waiting for a fair offer has affected many, many people including that they have died of stress-related illnesses—suicide, heart attacks, mental health issues, family violence etc. [Comments form–paper]

The Crown should take account of the stress, uncertainty and financial hardship that owners of vacant land have undergone while waiting for a fair decision. [Comments form–online]

People sometimes shared stories of their own or others' suffering to highlight the need to act or structure offers in particular ways. Stress and distress had taken a "terrible toll":

I planned to retire early due to a heart attack. I am now unable to do this as I have lost both the section I was to build my retirement dream home on and the financial ability to maintain a reasonable standard of living in retirement. I have lived with unnecessary stress for four years. [Email submission]

The accounts of those directly affected were shared in focus groups, in the comment forms and emails, and sometimes in social media. A number of very detailed personal narratives were submitted (mostly by email); these have not been reported here for reasons of confidentiality, but they have informed the analysis and weighting given to the personal impact. Submitters acknowledged that the voices of those affected should have particular authority in considering how to structure new offers:

I noticed in here [the Preliminary Draft] it talked about considering people's stress levels and things like that ... that touched me I thought, "Yes", listen to the voice of those people 'cause they've been through hell. [Focus group submission]

Based on the level of personal harm, it was felt that new offers should be structured to redress the balance and allow people to recover. People called for the new offer process to be informed by qualities such as compassion, empathy, certainty and closure, to counter the negative effects individuals had experienced. Submitters perceived that these qualities should be demonstrated by CERA, the government, and the wider community:

It is time to have compassion and treat these affected people with the dignity and respect they deserve and do only what is right. [Email submission]

Responding to the personal impacts required awareness of more than money. The ongoing question of how those who had not insured properties (where insurance was available) was brought up in relation to this by some:

So many people have suffered and been treated unjustly, redress for them is more important than one or two uninsured people getting a payout they otherwise would not have got. [Comments form–online]

Financial issues

As already covered, submissions on the offer structure specifically referred to possible financial amounts to offer. There were also submissions on broader financial issues (both individual and community-wide) that submitters wanted taken into account in the process of addressing residential red zone offers.

The impact on affected property owners' financial situations beyond just the rateable value of red zone property was highlighted, in terms of "financial strain" and "financial loss" and the broader context of property values changing:

Mortgages are still being paid on these properties, and banks are reluctant to lend to owners of red zone vacant land, as they are worth nothing and cannot be used as security for future lending. If people are unable to pay off the mortgages on these properties, they will be forever tied to the property, being unable to sell, or use the property, and they will be financially disadvantaged for decades to come. [Comments form–online]

The cost of the red zone both now and into the future was raised across submissions, as discussed. Again, although "interim or future use of the red zone" was excluded from the *Preliminary Draft* (p. 4), it was a subject of concern financially to both focus groups and other submitters, and was seen as highly relevant in figuring out how new offers might be structured.

There was a sense that the government's holdings of red zone land could provide future revenue or investment, which would have a bearing on what current offers should be made:

It should be the same across all vacant land as long as there is no profit gained from it. The Crown should be clear on what the land would be used for in the future. [Comments form–paper]

There was concern at the ongoing costs of maintaining red zone services and infrastructure, as opposed to a decision to "clear" the red zone. There was debate about whether people who declined offers could or should remain:

It's either buy it at 2007 price or supply services to it, e.g. water, power, phone etc. and roads and other infrastructure. The cost of getting everyone out fairly is cheaper than supplying services. [Comments form–online]

The future of the red zone seemed to feature more in focus group discussions, perhaps because there were the dynamics of the group to generate debate:

There's one thing that we don't seem to have thought about, is the requirement to try and get all this red zone completely cleared, so we don't need to provide services. [Focus group submission]

Also in terms of broader implications of any offers, there was some discussion as to how government spending should be prioritised, with some concern expressed:

Fine to make offers, but what sort of money have they got that they can throw at it? [Focus group submission]

Legal issues

Relatively few comments were made about legal issues to consider in making new offers, perhaps because the judicial reviews that had occurred were intrinsically part of the *Preliminary Draft* planning process. Where legal issues were raised, these were primarily a reminder to CERA to take heed of findings from the "Human Rights Commission" and "three courts" (High Court, Court of Appeal and Supreme Court):

Follow the direction of the Supreme Court and look closely at what they are saying. [Email submission]

Three courts have reviewed and said previous offers unfair and why. Time to show some integrity. [Comments form–online]

The legal purposes of the CER Act were mentioned by some, including “Sections 3 and 10”, as a guide to action:

One of the most important objectives of the Canterbury Earthquake Recovery Act is to enable the worst affected people to recover in a timely fashion. [Email submission]

A number of submissions referred to the existing legal framework of how land taken for public works or roading was compensated, and that this should potentially support a 100% offer:

The red zone uninsured claimants should be compensated to the same extent as they would be if their properties had to be taken under the s60 Public Works Act. [Social media submission]

There was some debate as to what an equivalent offer under the Public Works Act should be, that is, whether market value or current value should be offered:

It should be more closely aligned with the situation whereby the government acquires land for a motorway etc. Market value. [Comments form–online]

Other legal issues referred to questions of Local Authority consents to build:

Most of these that are in the plan are actually storage units that have been consented and have been built in an area of potential geological instability. Therefore, should it be the Crown that carries the can for that, or the local authority who granted the consent? [Focus group submission]

Potential consequences of offer

Although submitters were mostly focused on how to clearly and quickly structure new offers for the affected parties, there was some reflection on the flow-on effects of decisions being made. The key short-term concern was that people might stop paying for insurance in future if there was a payout for the uninsured in this case, although others argued this was an unlikely effect. There was also some discussion as to how future natural disasters might be handled, based on decisions being made in relation to Canterbury. A longer term issue that many submitters were keen to be addressed was a legislative review of vacant land insurance and related EQC cover.

There was a strong message in individual comments forms that paying equivalent amounts to those who chose to insure property and those who did not would have potentially negative consequences. It was felt that insurance should be encouraged:

Uninsured should not be paid out, as this would encourage future uninsurance and put additional costs on the citizens of NZ. [Comments form–online]

Uninsured should not get a full payout. That would not be fair. There has to be consequences for choosing to not have insurance. A dangerous precedent would be set. [Comments form–online]

Social media submissions often simply stated, “100% 2007/08 RV for everyone” and “Insurance status not relevant”, thus opposing the differential that these online comments wanted to be maintained. Focus groups also endorsed both sides of this debate, as to whether or not precedents were relevant:

I agree with the government, not wanting to pay out 100% for these people because it sets a precedent for people to not get insurance because the government will bail them out in the future. So I think there needs to be, that needs to be taken into account. [Focus group submission]

I think the government didn't want to set a precedent of paying people that aren't insured, but there's no way I think the vast majority of New Zealanders are going to not insure just in case it's red zoned and they get free insurance that way. I don't think it sets a precedent in that manner whatsoever. [Focus group submission]

Another aspect of precedent-setting was in relation to property offers in other natural disasters New Zealand might face:

The decision that's made here in Christchurch is going to affect the whole of New Zealand on any payout of any event right throughout... They have to be very careful that they're not overly generous, or simply, it's unsustainable. Realistically, Wellington is due for a huge earthquake. [Focus group submission]

As well as the immediate potential consequences of offers on insurance and in future natural disasters, there were submissions on broader systemic issues of vacant land insurance and EQC that required consideration and potential legislative change. The lack of ability to insure vacant land was seen as an anomaly that needed a law change:

Change the law so bare land can be insured. If that had been the case for many of these people, they wouldn't be in the position they are now. [Social media submission]

Some cautioned this might not be simple, that “land cannot be insured elsewhere in the world” and insurance companies might have issues:

There should be an insurance available, that's an EQC insurance for vacant land, going forward ... not necessarily through an insurance company, because as we know they are there to make money because they are a business. [Focus group submission]

Finally, there were some suggestions as to how vacant land and EQC matters could be better managed:

In the future maybe bare land owners can trigger EQC cover by a premium payment as part of their rates?? [Social media submission]

Introduce earthquake levy/some sort of insurance for vacant/commercial properties. [Comments form–paper]

Different circumstances

In considering offers for vacant, commercial and uninsured properties, submitters were encouraged to think about different circumstances that may need to inform offer structures, ranging from insurance status, to different property types, and property usage.

The *Preliminary Draft* asked whether there should be distinctions made between different property owners' insurance status (namely, uninsurable versus uninsured), noting that such a distinction has an impact on "the ability to recover some of the cost of the purchase" (p. 22). Submitters mostly did not comment on the cost-recovery aspect, but expressed opinions on the matter of insurance status.

Insurance status

Firstly, there was a strong argument that insurance status should not be taken into account, and a reading of the judicial review process was seen as endorsing this. The Supreme Court wording that, "although insurance was not an irrelevant consideration, other relevant considerations weighed against this being a determinative factor" [SC 5/2014, paragraph 196] was mostly shortened to insurance status being ruled as "irrelevant":

The only fair way is to make the offer the same for all properties—Supreme Court decision that insurance status is irrelevant. [Comments form—online]

There was some evidence of confusion as to what was insurable or not and how risk was determined:

Yes, but that gets complicated. If vacant, was the land obviously risky before the quakes? If so this should have a bearing. If not, then full 2013 price or at least near it. If commercial, why was it not insured? If insured, what's the problem? If uninsured but residential, then I support some compensation, but maybe not full price, otherwise, why insure? There may be individual hardship cases to hear. [Comments form—online]

Concern expressed about the fairness of the public consultation process focused on the difficulty of knowing the technicalities of insurance provision or inquiring about it:

I think it's very complicated to most people who don't get involved with this ... they just can't cope with all the elements—it's so complex. If you read all the papers over the years, we've become very [knowledgeable with] all the facts of it. But for someone to come in blind with this doesn't give it justice. [Focus group submission]

Some submitters endeavoured to reflect on possible elements of difference between vacant, commercial or uninsured, but primarily insurance status comments related to the question of whether people had an option to insure or not, and how reasons for being uninsured should be handled.

No option to insure

There was a strong argument across submission types that having no option to insure (for example, vacant land) meant that it was unfair to consider insurance status in regards to an offer. It was felt that those without an option to insure their vacant land or elements of commercial properties should be treated like red zone insured properties:

My situation falls under the vacant property situation. Unfortunately, when we purchased the section, insuring our property was not a possibility. [Comments form—online]

If you can't insure land, you cannot be penalised for not insuring it. Doesn't take a brain surgeon to work out that one. [Social media submission]

Again, the need for public understanding of what insurance options were available was highlighted:

And stop referring to them [vacant land-owners] as THE UNINSURED. You are trying to brainwash the ignorant and you are succeeding—many uninformed people don't realise you can't insure vacant land. [Comments form—online]

Reasons for being uninsured

There was also the question of uninsured property, where there was an option to insure, but for a variety of reasons the property owner did not have insurance at the time of the earthquakes. As already noted, there were strong opinions across a range of options here in relation to the offer that should be made, ranging from “zero” (being uninsured means you don’t get an insurance payout), to a percentage for the (uninsurable) land only, to other amounts ranging to greater than 100%.

Again, there was evidence of submitters being uncertain about the distinctions between what was able to be insured, as opposed to what was uninsurable:

If it was the case that the land owners were able to insure their vacant land and had opted not to, or neglected to, then I wouldn't sympathise so greatly, however my understanding is that insurance wasn't an option for these people so this is NOT their fault. [Comments form—online]

Where the submitter understood that insurance was a possibility, the reasons for not having insurance were discussed and weighed up. As already noted, many submitters thought that a distinction between those who could insure and did, versus those who did not, should be maintained in relation to potential consequences of any offer. However, personal suffering and the need for compassion might mean that not insisting on maintaining the differential might be warranted in some cases.

Social media submissions rarely referred to people choosing to not insure, instead repeating the “100% 2007/08 RV for everyone” message. It was in the comment forms, emails, and focus groups that the reasons for being uninsured were considered. These submitters outlined a range of reasons that might justify not having insurance:

- The elderly or people who did not insure due to poverty need to be cared for
- People legally defined as incapable; mental capacity issues
- Insurance may have lapsed due to “extreme” personal circumstances, such as stress, serious health issues, a family member dying
- A problem with their insurance company, or in the process of changing insurance companies
- Timing, e.g. recent acquisition of property; earthquake happened overnight; application not processed or hadn’t gone through

- Third party issues, e.g. had paid the broker who had not yet chosen the insurance company; fraud or criminal activity on the part of a third party without the owner's full knowledge; property in probate; WINZ refusing to pay for it or advising people to cancel insurance to reduce costs.

Some suggested that these circumstances should be considered on a “*case-by-case basis*” as there were probably not too many to consider, or just given the 100% offer regardless.



Different property types

Submitters were asked to consider differences that might be relevant to the three main different property types under review (vacant land, commercial and uninsured) and also other affected property owners, namely Rāpaki Bay properties, the underinsured, and those who had declined the initial Crown red zone property offer. Submitters also raised Port Hills properties as a specific category (even though in the *Preliminary Draft*, there are Port Hills properties in all categories). Submissions on the uninsured category have been outlined above, the other categories are summarised in the following sections.

Vacant land

In focus group discussions, people acknowledged there were complex sides to vacant land compensation. There was some advocacy for the 50% offer as fair enough, as in general, it was felt that investments like land depreciate or appreciate, and land was less likely to be damaged than other assets, damaged land was not as bad as a damaged house, and if someone had been sitting on a piece of land for 20 years, what value should be reflected?

Someone who owns a bare bit of land, you know, it's an investment, it's not their livelihood, it's not their family suffering. [Focus group submission]

On the other hand, there was concern that regardless of the state of the land, owners were likely to be paying a full mortgage on it, and therefore even though the government was taking away the land, people were left having to pay these.

A number of submitters argued that the intention for the use of the land should be considered in relation to distinguishing between property development and private residential plans:

The Crown could consider the purpose the land was bought for, for example was it land banking with the vacant piece of land bought a number of years previously and no plans to do anything with it in the near future? In that case should compensation be offered? ... People who had bought and were in the process of building a home could be considered differently. [Comments form—online]

Personal circumstances were outlined to further argue for the need to consider private residential plans differently from property developers:

Perhaps you should look at each example on a case-by-case basis. We are not property developers. We had intentions to build our family home on this site. We had fully consented plans for a family home, all ready to go. [Comments form—online]

Overall, there were few comments calling for detailed consideration of the intended use of vacant land, in contrast to the overall message that 100% 2007/08 RV offers should be made.



Commercial

Specific issues in relation to commercial property were raised by relatively few submitters. There were some accounts of circumstances that commercial property owners had faced, particularly in relation to the impact of red zoning:

Our disadvantage was that we had to move into a rental property to run our business with the exception of finance ... 1) we lost money; and 2) we had to pay twice the rent to keep operating. There was no commercial land outside the Red Zone area available to rezone. [Focus group submission]

Some argued that the relatively small numbers of commercial property owners affected should add weight to making fair offers:

I think the small number of commercial properties should be taken into account. Commercial properties in the red zones are few and far between, and are usually owner-operator businesses in largely residential areas. I think more could be offered to the owners of commercial land in the red zones. [Comments form—online]

Different circumstances of land use were also considered, for example the difference between storage units or owner-operated businesses. Submitters indicated that the bulk of commercial properties were storage units; it was the owner-operated businesses that required more consideration:

The storage unit people would probably still be okay. The local dairy owner—all of their business has just disappeared because no one's living there anymore. [Focus group submission]

There is further comment on this issue in the Port Hills section of this report.



Rāpaki Bay

The *Preliminary Draft* outlined circumstances specific to Rāpaki Bay (pp. 27–28). A detailed and lengthy email submission from Te Rūnanga o Ngāi Tahu was submitted, and this accords with submitters' endorsement that there were cultural and legal considerations that required attention:

For Māori ... a lot don't see land the way that most people see land ... A Māori concept is different, they'll look at and they won't even put a value on it. It's like an heirloom ... if it's not making any money, they don't care ... it has historic value for them personally ... they don't think of it as monetary in value. [Focus group submission]

Not that I'm aware of but I have very little understanding of the rules governing Māori land. As long as decisions are made involving the appropriate Māori representatives and legislation. [Comments form—online]

Ngāi Tahu should be consulted first and foremost. Spiritual, cultural + historical significance outweighs \$. [Comments form—paper]

For many submitters, the circumstances relating to Rāpaki Bay were perceived as being complex, and not an issue they felt qualified to comment on. There was also a general feeling that any decision needed to be made in close conjunction with Ngāi Tahu.

Lastly, in some focus group discussions, the issues of rockfall safety relating to Rāpaki were also raised:

The problem is that it's been red zoned for safety. So you don't want people living there because it's not safe. But at the same time it is a very significant piece of land from a cultural and historical perspective. So you can't just erase that with a payout. [Focus group submission]

Other affected property owners

In the *Preliminary Draft*, there was a brief overview of offers made to underinsured properties and to those who had declined offers on their insured red zone properties. Few submitters commented on these matters.

In terms of the *underinsured* (25 properties), there was endorsement from both individuals and organisations, of the pro rata structure of offers being kept in alignment based on key values of fairness and equity:

If the offer for uninsured properties is increased, I think attention would need to be paid to those who were underinsured at the time of the earthquakes and had their purchase price adjusted accordingly. These people did choose to insure their properties—despite not ensuring their insurance was adequate. It would be unfair for uninsured property owners to end up with more than some underinsured property owners. [Comments form—online]

In terms of *declined offers*, there were again few submissions. Comments were evenly split across recommending that the matter should be left closed or reopening the offer, with an occasional suggestion that some case-by-case consideration may be required. If reopening the offer, a clear timeframe should be given (“three months to make up their mind and three months to move out”):

For those who decided not to take the Crown offer which has now expired, I think that they have made their decision and a new offer from the Crown should not be made. It has been more than 4 years and a new offer may just create more stress and indecision for those who thought the matter was decided. [Comments form—online]

People who didn't accept initial offer—give them opportunity to accept again (short time frame). [Comments form—paper]

Port Hills

As noted, Port Hills properties are mentioned in the *Preliminary Draft* in relation to vacant, commercial and uninsured property types. Submitters focused less on those distinctions and more on the particular issues they felt Port Hills property owners faced. Overall, there was a strong sense of concern that Port Hills owners were yet to receive any offers:

I find that the lack of any offer at all for the Port Hills bare land owners 4 1/2 years after the start of the Earthquake series and nearly 4 years after the initial red zoning announcements unbelievable. [Email submission]

The offer of “100% 2007/08 RV” was suggested but, by and large, the Port Hills issues were described as complex, in terms of also including Council processes, such as district planning, and in need of more careful consideration:

The situation with the Port Hills is COMPLETELY different than all other vacant flat-land issues. Insurance status should NOT be a factor in the decision making process with the Port Hills properties. The government AND the Christchurch City Council should contribute to the cost of the buy-out for the Port Hills land, as they are liable as the “owners” of the rocks/cliffs near these properties etc. [Comments form–online]

Detailed personal accounts of issues from Port Hills owners were submitted, and there were also lengthy email submissions with requests that CERA meet with those affected to address their unique issues:

I would ask that an urgent meeting be organised with all those involved with the storage units at [address supplied] to properly ascertain the issues, the unique and complex problems facing the joint owners of this property and the real effects the inordinate delay in process has had and is still having on the property owners of this location. [Email submission]

In focus group discussions, owners affected pointed out that the status for Port Hills had not been sufficiently clarified, meaning an area-wide process for categorising red or green zones was being incorrectly used as a resource management tool, influencing district planning, and affecting property values for both red and green zone owners.

Council and District Plan issues to do with the Port Hills was an acknowledged complication that required attention, as evident in the following submissions:

The plan should also acknowledge the Council’s financial contribution to property purchases on the Port Hills. ... On the Port Hills the “red zone” properties are likely to fall within a hazard management area for land instability and must demonstrate, through a resource consent process, that the hazards have been appropriately mitigated. The proposed planning provisions for natural hazards seek to avoid development where there is a high risk, and carefully manage it where there is increased risk, of fatalities or damage to property and infrastructure. [Email submission]

For Port Hills, many properties have been red zoned not due to damage already suffered, but due to perceived risk (usually rockfall) in the future, which in many cases is unlikely to be any greater than prior to the earthquakes. These property owners again are not able to develop their land due to a government (and in this case also Council) decision over which they have no control. [Comments form–online]