

## REPORT ON DECISIONS MADE IN APPROVING THE TRANSITION RECOVERY PLAN

### 1. INTRODUCTION

On 14 May 2015 I directed the chief executive of the Canterbury Earthquake Recovery Authority ("CERA"), under sections 16 and 19 of the Canterbury Earthquake Recovery Act 2011 ("the Act"), to develop a draft Transition Recovery Plan ("draft Recovery Plan"). My direction was published in the *New Zealand Gazette* on 14 May 2015 and stated that:

*"The matters to be addressed by the draft Transition Recovery Plan must include, but are not limited to:*

- *An overview of the current state of the recovery from the effects of the Canterbury earthquakes. This includes context of what has been achieved so far in recovery and what is still to be achieved.*
- *Recovery result areas for central government.*
- *An overview of central government recovery functions proposed to continue after 18 April 2016, and how they will be delivered.*

*The Transition Recovery Plan may identify programmes of further work to be undertaken."*

In accordance with my direction, the chief executive developed a draft Recovery Plan, and provided me with the written comments received by CERA for my consideration on 13 August 2015.

I have considered the draft Recovery Plan, the public feedback, further input from the Strategic Partners, and other officials, and the requirements of the Act. I have now decided to approve the draft Recovery Plan; in doing so, I have withdrawn some proposals, and made other changes to it. This report records the decisions I have made and my reasons, as required under section 21(3) of the Act.

### 2. LEGAL REQUIREMENTS AND PROCESS

In accordance with section 20 of the Act, I publicly notified the draft Recovery Plan on 2 July 2015 and invited public written comments. A total of 2,762 written comments were submitted by 5pm 20 July 2015. A further 48 written comments were received shortly after this. As these were able to be easily incorporated into the analysis, they were considered with the others. In addition five targeted focus groups were conducted in Auckland, Wellington, and Christchurch. An independent research company assessed all the public feedback and provided a full summary to CERA.

The Act requires that, in approving a Recovery Plan:

- I must ensure that I exercise my powers in accordance with the purposes of the Act (section 10(1));
- I exercise my powers when I reasonably consider it is necessary (section 10(2));

- I must have regard to any information or advice I am given by the community forum (section 6(4));
- the Recovery Plan must be consistent with the Recovery Strategy (section 18(1));
- I must have regard to the need to ensure that the Recovery Plan is consistent with other Recovery Plans (section 19(2)(f)); and
- I must have regard to the impact, effect, and funding implications of the Recovery Plan (section 21(2)).

Under section 21(1) of the Act I am able to make any changes or no changes to the draft Recovery Plan I think fit, or withdraw all or part of the document.

### **3. LEGAL REQUIREMENTS AND PROCESS**

This section records my approval of proposals in the draft Recovery Plan, along with proposals I have changed and withdrawn.

#### **Crown-local cooperation 2016-2021**

*Local leadership supported by central government*

I have decided to approve the proposals in the draft Recovery Plan that:

- certain functions currently undertaken by CERA would wind down, so that local leadership and coordination of the recovery will be the responsibility of local institutions, primarily local authorities and Te Rūnanga o Ngāi Tahu, and
- support for community-led recovery activities that focus on community resilience will be the responsibility of local authorities (Christchurch City Council, Waimakariri District Council and Selwyn District Council) for their respective communities.

The responsibility for these functions lies with local institutions across the country.

In making these decisions I have considered the public feedback, including the alternative suggestions and additional options suggested. In addition to the decisions I have made, a Christchurch leadership forum will be held at least annually and be attended by relevant Ministers and the Mayor and Councillors from the Christchurch City Council. This forum will consider issues relevant to greater Christchurch and will not be limited to earthquake recovery of regeneration. This will improve the visibility of greater Christchurch issues to government.

There was a strong and consistent theme across most of the public feedback supporting devolution of responsibilities for the next phase of the recovery to local leadership. Strategic Partners were supportive of the proposals; some also emphasised the importance of the central/local government relationship, in particular the need for the Crown to remain in a supportive role.

### *New entities to regenerate Christchurch*

Decisions on responsibility for regeneration functions need to be made as soon as practicable in order to establish new recovery arrangements. The draft Recovery Plan proposed that responsibility for some regeneration functions carried out by CERA will transfer to a new entity or entities, possibly named Regenerate Christchurch, which would be jointly developed and designed with Christchurch City Council.

I have decided to approve this proposal. I have decided to confirm the establishment of two entities:

- an entity jointly funded and controlled by the Christchurch City Council and the Crown, operating under an independent board, called Regenerate Christchurch, focused on achieving regeneration outcomes, and
- a delivery vehicle focused on the delivery of selected Crown-led anchor projects.

In making this decision I have considered the public feedback, including the alternative suggestions and additional options suggested.

The 2491 written comments received from the ActionStation website advocated for “any new agency to be run by the council, community groups, or an independent board that can act without Ministerial influence”.

Some public feedback stated that the new arrangements would not create the ‘step change’ needed to drive community and business confidence and investment in Christchurch central. There were also concerns relating to commercial capability of any new entity and ensuring that the regeneration is driven by local institutions.

However the Strategic Partners were generally supportive of the proposal. The Christchurch City Council explicitly declined to address form or scope, but advocated for an “enduring collaboration” with central government. Te Rūnanga o Ngāi Tahu and the Greater Christchurch Urban Development Strategy Partnership explicitly supported the set-up of a new entity.

### **Legal framework for Regeneration**

New legislation is needed to support greater Christchurch's ongoing regeneration after the Act expires in April 2016. The draft Recovery Plan detailed examples of powers and provisions that the Government proposed will be needed in the new legislation, titled the “Greater Christchurch Regeneration Bill” (the Bill).

I have decided that the Bill will scale down current powers and provide for even more local input in greater Christchurch's regeneration. I have decided to approve the majority of the proposals in the draft Recovery Plan. That said, I have decided to withdraw three of the proposals set out in the draft Recovery Plan and make changes to two proposals. In making these decisions I have considered the public feedback, including the alternative suggestions and additional options suggested.

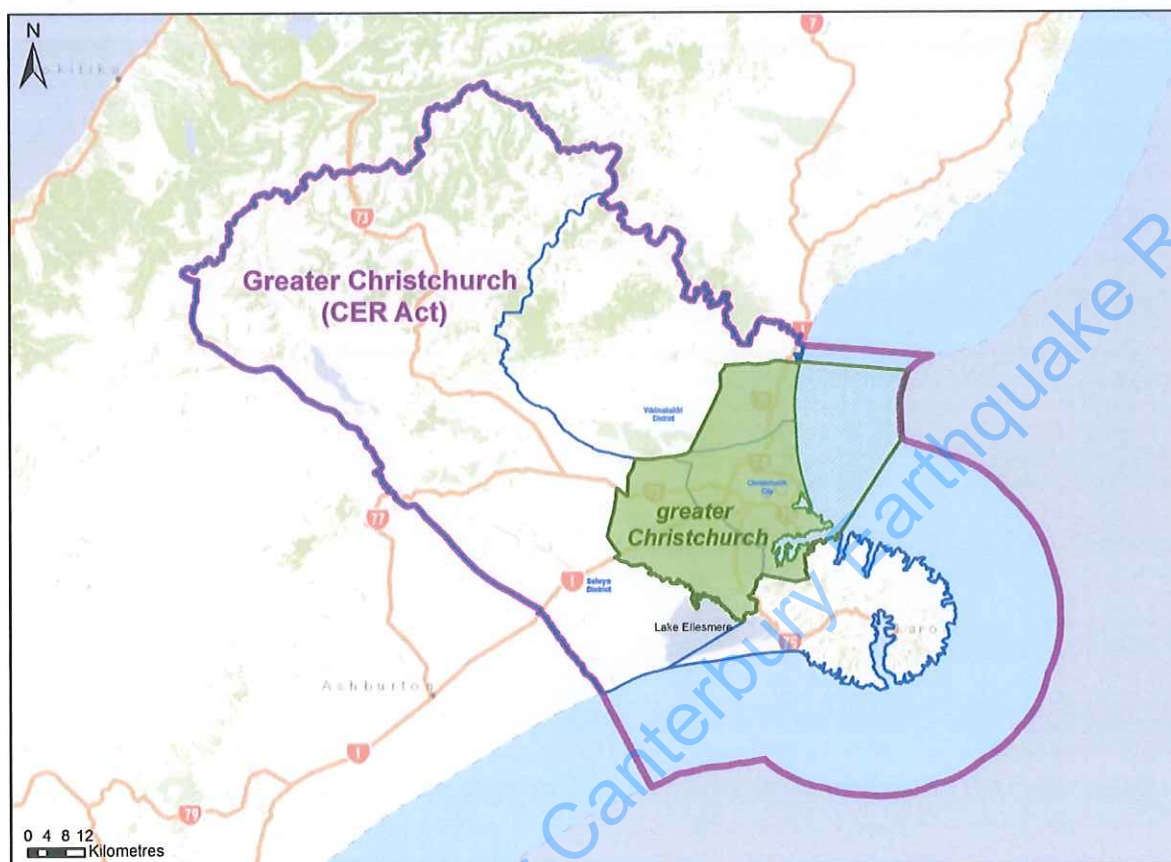
The Strategic Partners were broadly supportive of the proposals in the draft Recovery Plan and made specific suggestions in relation to particular provisions which I have taken into consideration when making my decisions.

I have decided to approve the following proposals:

#### *General*

Little or no public feedback was received on the proposals in this section. The public feedback I received was generally supportive of the proposals.

The geographic scope of the Bill will be limited to Christchurch City and the Lyttelton Basin, the urban areas of Selwyn and Waimakariri Districts, and adjacent coastal marine areas; and excludes rural Selwyn, rural Waimakariri and the remaining areas of Banks Peninsula. (see map below)



The Bill will not carry forward the emergency related powers (powers of entry and processes for urgent demolitions); and the power of the courts to extend or shorten specified timeframes enactments. In the next phase of recovery it is no longer appropriate to provide for these powers.

#### *Changes to land management powers*

The small amount of public feedback on the land powers currently held by the chief executive (the power to acquire, hold, mortgage, lease, dispose of, amalgamate, subdivide, improve and develop land on behalf of the Crown) generally called for the powers not to be carried through into the Bill. Alternative suggestions included that the powers should only be able to be used when they are consistent with, and enable the implementation of, a shared vision for land agreed by communities and local institutions.

Given the significant amount of land the Crown has acquired in greater Christchurch under the Act, and the limited effects of such powers on private interests, I consider that land related powers are required in the Bill. This includes the powers to acquire land (voluntarily and compulsorily) using protections and processes similar to those in the Act, powers to subdivide, re-subdivide, improve, and develop all or any land acquired by the Crown under the Act or the replacement legislation. The Crown may dispose of land acquired under the CER Act or the Bill without any restriction, but must have regard to any applicable recovery or regeneration plans.



### *Recovery works and public safety powers (including demolitions and access restrictions)*

Of the public feedback made with respect to the powers to allow recovery works, including demolitions to continue, the majority related to concerns at the destruction of heritage buildings. Feedback suggested reinstating the regime under standard Resource Management Act 1991 processes. Feedback on the proposal to continue powers for access restrictions acknowledged the need for the public safety provisions but disagreed with the way access restrictions had been used in the residential red zones.

Due to the highly complex demolition and clearance work that will be on-going after April 2016 in the Port Hills residential red zone and Christchurch central, I consider it necessary for the Bill to carry over existing Act operational powers and obligations to undertake works on public or private land, erect temporary buildings, restrict access, stop and close roads, transfer Crown contracts to councils, and provide compensation in relation to damage due to demolitions.

### *Regeneration Plans*

Most of the feedback received was in support of the powers to allow new Regeneration Plans to be developed, and for existing Recovery Plans to continue to have statutory force.

I consider it necessary for the Bill to clarify that Regeneration Plans are not mandatory for making and implementing regeneration measures; and that the Bill should include powers to make new Regeneration Plans and continue existing Recovery Plans.

### *Changes to powers to suspend, amend or revoke planning documents*

A majority of feedback opposed the continuation of the Minister for Canterbury Earthquake Recovery's power to suspend, amend or revoke resource consents and bylaws as well as plans and policies under the Resource Management Act 1991, the Local Government Act 2002 and Transport and Conservation legislation (section 27 in the Act). Alternatively, it was suggested that if this power were to be included in the Bill, it should only be exercised at the request of local authorities.

I consider, with the support of Strategic Partners, that the power to suspend, amend or revoke bylaws or plans is still necessary for the next stage of regeneration. However, in response to the concerns raised by the four local authorities and by the public, I have decided that the process for exercising this power will be modified to strengthen local involvement in decision-making. I have also decided that the power to suspend or cancel resource consents (currently part of section 27 in the Act) is not needed in the Bill.

### *Modified appeal rights and protections.*

A range of views were expressed in the small amount of feedback on appeal rights and protections. Some submitters emphasised the importance of appeal rights and others the need to facilitate recovery.

I consider that modified appeal rights and protections from liability and savings provisions are needed in the Bill to maintain recovery momentum in the next stage of regeneration in greater Christchurch.

### *Orders in Council*

Few comments addressed the continuation of a small number of existing Orders in Council created using the Act.

I have decided to remove the ability to amend enactments through Orders in Council, to continue in force the following Orders still needed to support recovery and regeneration until the expiry of the Bill (with the ability for Ministers to revoke the Orders before then):

- Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014;
- Canterbury Earthquake (Local Government 2002 – Retaining Walls) Order 2013;
- Canterbury Earthquake (Rating) Order 2012;
- Canterbury Earthquake (Earthquake Commission Act) Order 2012;
- Canterbury Earthquake (Historic Places Act) Order 2011;
- Canterbury Earthquake (Reserves Legislation) Order (No 2) 2011;
- Canterbury Earthquake (Resource Management Act Permitted Activities) Order 2011;  
and
- Canterbury Earthquake (Social Security Act) Order 2010

I have decided to change the following proposals in the draft Recovery Plan:

The Bill will not carry forward the provisions in the Act for quarterly reports and annual reviews. Instead, the Bill will include a requirement for annual reports on the use of the replacement legislation. This is a change as this proposal was not included in the draft Recovery Plan. The reason for this change is because such annual reports are sufficient to ensure transparency and accountability for the exercise of powers in the Bill without creating an administrative burden.

In addition, the Bill will provide flexibility for powers to be held by the Ministers (as assigned by the Prime Minister) and chief executives. This is also a change as this proposal was not included in the draft Recovery Plan. The reason for this change is because flexibility of delegation of powers within the Executive is necessary in the next stage of regeneration.

I have decided to withdraw the following proposals in the draft Recovery Plan. The following provisions will not be included in the Bill:

- Powers for collecting and disseminating information and reports, and commissioning investigations and surveys. After further consideration, I have concluded that existing chief executive powers to gather and disseminate information under the State Sector Act 1988 are sufficient to undertake this work in the future.
- Provisions relating to the community forum. Given that local government will have a greater role in the exercise of Ministerial powers in the replacement legislation, I expect local government to be representing community views to the Minister in the future.

### **Recovery reporting**

The draft Recovery Plan proposed regular monitoring and reporting on recovery progress in order to maintain the focus on recovery and ensure that the most critical recovery issues are prioritised by the central government agencies tasked with those responsibilities. I have decided to approve this proposal.

In making this decision I have considered the public feedback, including the alternative suggestions and additional options suggested.

Very little of the feedback responded to the proposal on regular monitoring and public reporting on priority areas, but that received was generally supportive.

There were comments on the need for independent reporting and the use of a transparent and accountable process. Some suggested methods to report the results including using social and traditional media, public forums and physical copies being distributed to public libraries. A range of views were also expressed on the report back period for any future reporting and alternative monitoring areas.

## **Impact, effect and funding implications**

As required by section 21(2) of the Act, I have also had regard to the impact, effect and funding implications of the Transition Recovery Plan.

### *Impact and effect of the proposals*

The impact and effect of the proposals for **Crown-local Cooperation** is as follows:

- Local leadership supported by central government: By and large this is a return to normal local government arrangements whereby local institutions take on responsibility for their respective communities. It will empower local institutions and provide certainty to the people of greater Christchurch that standard arrangements are once again in place. The main health and wellbeing, social and economic benefits would accrue directly to the people of greater Christchurch.
- New entities to regenerate Christchurch: The impact and effect of the establishment of Regenerate Christchurch are set out in the Regulatory Impact Assessment attached to the Cabinet Paper *Regenerate Christchurch: Entity Design, Risks and Next Steps* [EGI-15-MIN-0062]. The establishment of the delivery vehicle is an internal restructuring of Crown business and as such its impact and effect is largely restricted to the Crown. Both Regenerate Christchurch and the delivery vehicle are likely to have a beneficial impact on the business sector in greater Christchurch by providing certainty about both the Crown and Christchurch City Council's commitments to their current and future investment.

The impact and effect of the proposals for the **Legal framework for Regeneration** is set out in the Regulatory Impact Assessment attached to the Bill.

The impact and effect of the proposals for **Recovery reporting** is to increase transparency and accountability of regeneration progress. This will have broad health, wellbeing, social and economic benefits for the people of greater Christchurch and was supported by the public feedback. It will also demonstrate the government's commitment to the ongoing regeneration of greater Christchurch.

The Transition Recovery Plan does not direct changes to Resource Management Act 1991 documents or other instruments relating to local government, transport and conservation matters.

### *Funding implications of the proposals*

In making decisions on the Transition Recovery Plan, I have considered the following funding implications. The decisions made by Cabinet in relation to the following Cabinet papers provide appropriate funding for decisions made in this paper.

Funding implications of the proposals for **Local leadership supported by central government** are set out in the Cabinet paper *Greater Christchurch – Transition to Regeneration: Approval of the Transition Recovery Plan*. The proposal that local leadership, co-ordination, and community resilience will devolve to local institutions, primarily local authorities; these are core local government functions to be met from local government baselines.

The capital and operating implications for decisions relating to **New entities to regenerate Christchurch** are set out in the Cabinet paper *Regenerate Christchurch: Entity Design, Risks and Next Steps* [EGI-15-MIN-0062]. Regenerate Christchurch will have 50% of its costs met by existing central government baselines or tagged contingencies and 50% from local government baselines. The new delivery vehicle will be funded 100% by existing central government baselines or tagged contingencies.

There are no direct funding implications for decisions relating to the **Legal framework for Regeneration**.

Funding implications of the proposals for **Recovery Reporting** are set out in the Cabinet paper *Greater Christchurch – Transition to Regeneration: Approval of the Transition Recovery Plan*. The financial implications for central government agencies that will be involved in recovery reporting will be met by the agencies concerned within baselines.

#### 4. CONTENT OF THE TRANSITION RECOVERY PLAN

I have also made editorial changes to the content of the draft Recovery Plan. I have:

- removed references to process orientated information around the draft Recovery Plan;
- deleted or moved to Appendix 1 surplus information;
- included information related to Cabinet decisions where necessary;
- included references to public engagement where appropriate; and
- updated information and restructured the document to reflect my decisions.

#### 5. CONSIDERATION

I consider that the Transition Recovery Plan is in accordance with the purposes of the Act set out in section 3. The Transition Recovery Plan, in my view:

- Provides appropriate measures to ensure that greater Christchurch and the councils and their communities respond to, and recover from, the impacts of the Canterbury earthquakes. The Transition Recovery Plan enables a smooth transition to long-term recovery arrangements;
- Reflects community feedback and enabled community involvement in the transition to new arrangements. Community involvement and feedback has been facilitated through public engagement. I have reflected throughout the Recovery Plan how the public feedback has been considered in determining structure of long-term recovery arrangements;
- Enables community participation in the planning of the recovery of affected communities without impeding a focused, timely, and expedited recovery. By having a streamlined process of public engagement, the process for this Recovery Plan has enabled community participation while also focusing on providing an outcome as soon as practicable;
- Enables a more focused, timely, and expedited recovery. More than four years on from the Canterbury earthquakes, I am conscious of the need for central government's role in recovery to evolve from leadership to supporting local institutions, while retaining the Government's ongoing commitment to the recovery. The Transition Recovery Plan emphasises the need for decisions on transition to be made and implemented as soon as practicable;
- Facilitates, coordinates, and directs the planning, rebuilding and recovery of affected communities, including the repair and rebuilding of land, infrastructure, and other property. My assessment is that the Transition Recovery Plan does so in a manner that maintains recovery momentum.
- Helps restore the social, economic, cultural, and environmental well-being of greater Christchurch communities. The long-term arrangements set out in the Transition Recovery Plan will continue to facilitate the social, economic, cultural and environmental recovery of greater Christchurch communities.

I consider that the Transition Recovery Plan is necessary to enable the timely and expedited recovery of greater Christchurch given that:

- The effect of the Supreme Court's majority decision in *Quake Outcasts v The Minister for Canterbury Earthquake Recovery* is that, when dealing with a significant earthquake recovery



measure, either a Recovery Strategy or a Recovery Plan covering that matter needs to be in existence;

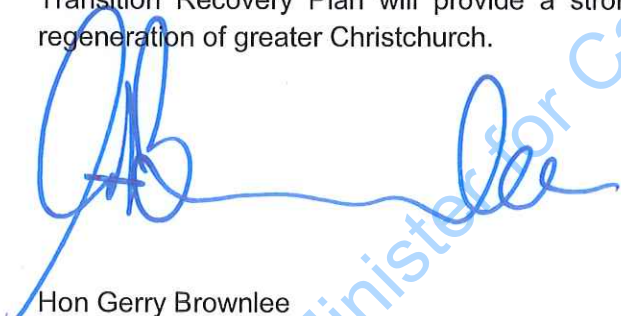
- Public participation, which was recommended by the Supreme Court, is a fundamental part of a Recovery Plan process and is required by the Act; and
- The Transition Recovery Plan will set the overall direction for the transition to long-term recovery arrangements in greater Christchurch and is a significant recovery measure.

I consider that the Transition Recovery Plan is consistent with the Recovery Strategy and the other existing Recovery Plans. The Recovery Strategy envisaged a transition plan to make a smooth transfer of responsibilities and maintain the recovery effort. This Recovery Plan focuses on the goals for leadership and integration, which include facilitating a timely and efficient recovery, facilitating engagement that will result in constructive and enduring governance, partnerships and relationships for recovery, and reporting and communicating how recovery work programmes are delivering integrated recovery.

The proposal for new entities to regenerate Christchurch in particular focuses on goals for economic recovery, which include leading and working with Strategic Partners and both the public and private sector, enabling a business-friendly environment that retains and attracts business and growth, and facilitating the recovery and development of Christchurch central; it also focuses on goals for social recovery which includes enabling and empowering local communities to shape and lead their own recovery.

## 6. CONCLUSION

I have made the decision to approve the Transition Recovery Plan with those changes and withdrawals I have specified in this report. I am happy to do so in the knowledge that the Transition Recovery Plan will provide a strong basis for the focused, timely and expedited regeneration of greater Christchurch.



Hon Gerry Brownlee

**Minister for Canterbury Earthquake Recovery**

Date: / 19 / 10 / 2015