



Canterbury Earthquake Recovery Authority: Questions and answers

The following questions were asked of the Canterbury Earthquake Recovery Authority (CERA) by Lincoln University students for the purpose of publishing answers in the Lincoln Planning Review (LPR). The answers were prepared by Bronwyn Arthur, the Interim Chief Legal Officer of CERA during the time of the caretaker Government following the 26 November 2011 election. As such, the answers are her views alone and should not be read as the views of CERA, the chief executive of CERA, the Minister for Canterbury Earthquake Recovery or the Government.

1. What can CERA do for affected Canterbury communities that the original local authorities could not do, and what do you expect CERA's legacy to be?

CERA has not taken over the role of the "original local authorities". They are still functioning and undertaking the roles that have always been required of local government. What CERA can do is provide better co-ordination between the local authorities and between the local authorities and central government. The affected communities will hopefully find that issues that cross these boundaries of local and central government can be dealt with more efficiently and effectively.

The Minister and the chief executive of CERA have some unique powers under the Canterbury Earthquake Recovery Act 2011 (CER Act) which they are able to exercise to enable a focused, timely and expedited recovery. It enables some of the red tape to be cut through when there is general agreement that speed is important.

CERA's legacy will be the recovery of greater Christchurch¹ – the restoration and enhancement of the social, economic, cultural, and environmental well-being of greater Christchurch communities.

2. Do you think that the community properly understand the role of CERA? If not, what could be done to improve this understanding?

No, but that is mainly because the role of CERA has been changing and expanding during the eight months it has been in existence.

Initially CERA's main role was to continue the work of the National Controller under the Civil Defence Emergency Management Act 2002 in relation to the demolition of dangerous buildings and the control of the CBD red zone. That role has continued but a new role developed with the focus moving to identifying what was known as "the worst affected suburbs" and developing policy to assist people who own houses in areas where rebuilding will be expensive and time consuming. This has meant dealing with insurance companies as well as offering to purchase people's properties if they wished to leave those areas. This

¹ 'greater Christchurch' means the districts of the Christchurch City Council, the Selwyn District Council, and the Waimakariri District Council, and includes the coastal marine area adjacent to these districts (s.4 (1) Canterbury Earthquake Recovery Act 2011)

role will continue to develop as policies for the Port Hills, uninsured residential properties, vacant sections and commercial properties are considered.

Assisting people out of their properties meant that CERA's role also grew to looking at alternative places for displaced households to move to. This has resulted in "greenfield" residential subdivisions being identified and assisted through the planning process and discussions occurring with owners of large urban sites for renewal. This has required close liaison with the relevant local authorities.

Close liaison has also occurred with the Christchurch City Council in relation to Stronger Christchurch Infrastructure Rebuild Team (SCIRT) and the rebuilding of horizontal infrastructure such as pipes and roads.

CERA is in close contact with the community support services to ensure support is in place when fundamental changes (such as orange to red zoning of properties) occur. CERA has also taken on the role of assisting community well-being by opening up the city's CBD through both bus and walking tours as soon as it was practicable to allow re-entry. CERA staff also work with the various groups trying to assist the economic rebuild (including the Cashel Mall Re-Start project) and track labour supply and demand (which in turn results in identifying housing need).

The CER Act requires that the chief executive develop a Recovery Strategy and that Christchurch City Council develop a Recovery Plan for the CBD in the first nine months. Development does not mean finalisation, and work is still needed on both of these documents. This is also a major role. The Recovery Strategy proposes other Recovery Plans and CERA will be involved in their development.

The CER Act also identifies other roles including Orders in Council (which may, unusually, change existing Acts) directing Council actions, providing for temporary building, restricting access to buildings and places, compulsorily acquiring land and monitoring and reporting.

CERA has been using a wide variety of communication tools and has a large communication and media team which is trying to reach as many people as possible to explain what CERA does. This is supported by the community wellbeing team who facilitate and attend many community meetings. We can always do better but I think there will be very few people who will ever understand the extent of CERA's role, as an individual's interest will always be on where their life and CERA intercepts. It is likely that for the people of greater Christchurch that interception will occur a lot more than most people may have expected, but no one is likely to be involved in every aspect of CERA's roles.

3. How can CERA effectively engage with the community as the community begins to show signs of fatigue?

I am sure that individual members of the community are fatigued but I have been surprised at the level of on-going engagement both with CERA and the Minister. New forms of engagement have been tried. Videos explaining liquefaction and rock fall by Dr Jan Kupec have, for example, been very popular and the feedback suggests they have helped explain

the effects of earthquakes for some people better than any other source. The opportunity to visit the central city and the video commentary by Warwick Isaacs has also helped people understand what is happening in their city.

As new issues arise CERA will need to consider other ways of engaging but clearly public meetings where senior CERA staff have fronted (and especially Roger Sutton) have proved to be one of the most important forms of engagement.

4. How would you currently rate CERA's relationship with the community and local authorities, and how could these relationships be strengthened?

After eight months, I consider that CERA's relationship with most of the community is very good. The number of positive communications CERA has received from people thanking CERA for what has been done has amazed me.

There are obviously people who are upset over certain issues – the demolition of heritage buildings being an obvious example. The preservation of heritage does, however, come at a cost and that cost has to be borne by the owner. Where that is an individual then the cost/benefit analysis has to be considered realistically. Opportunities and time have been given to look for alternatives but where a building is dangerous demolition may be the only realistic solution.

The relationship with the community can only be improved through continuous communication and engagement and trying to explain why decisions are made. As with all things, however, much of the media comment is negative, but that does not appear to me to be the real picture.

In relation to the local authorities, there is obviously some tension as a new player enters the area. A memorandum of understanding between the chief executives was developed to provide a way of working together. Staff within CERA work with their colleagues at all of the local authorities within greater Christchurch, including through joint working parties and meetings. The Mayors of the territorial authorities and the Commissioners of ECan have communicated directly with the Minister. The relationships can always be improved through better and earlier communication, but as we all recognise that we are working together for the recovery of greater Christchurch I consider that the working relationship is positive.

5. How does CERA intend to work alongside other local agencies and authorities?

In relation to central government agencies, CERA (as a government department) must consult and be consulted on matters affecting greater Christchurch. Because CERA is based in Christchurch this has required a different way of approaching normal cross-government interaction but linkages now comfortably exist. These have been helped by the number of secondees from different Departments who have connected the appropriate people within CERA and the home agency. The linkages have also been assisted by the chief executive and senior managers visiting Wellington and having personal contact with their fellow managers in other agencies. Those chief executives and managers have also visited CERA and their own Departmental staff in Christchurch and have a good understanding of the issues faced

on the ground.

CERA has developed a positive relationship with Te Rūnanga o Ngāi Tahu. This is required by the CER Act in the development of the Recovery Strategy but that relationship has extended to other aspects of CERA's work.

In relation to other authorities, due partly to the connections that already existed between CERA staff (both on secondment and contract) CERA already has many links into social, cultural and economic networks.

The CER Act also required the Minister to establish a community forum. There are 39 representatives of greater Christchurch who have come from a wide variety of organisations which can provide the Minister and chief executive with information and advice which is to be had regard to.

CERA has sought community connection and input through the various social networks so if there are persons or groups who do not consider that they are being heard they only have to put their hand up.

6. People are becoming increasingly frustrated by the EQC process and questions about responsibility are becoming common. What can CERA do to make the EQC process more efficient and effective?

EQC is not CERA's responsibility as it is a separate agency set up under its own legislation. CERA cannot, therefore, influence EQC's process directly, although CERA has major interest in what EQC is doing. CERA has, however, worked with EQC to ensure that EQC staff are available at Ministerial briefings and press conferences as required, that they have attended public meetings and have had representation at the hubs CERA has helped to establish so that people can ask questions directly.

7. Given that transparency is required for legitimacy to be achieved, what is CERA doing to ensure transparency?

I consider that CERA is providing as much transparency as it can. Information is provided on the CERA website including Cabinet papers. CERA's chief executive has attended numerous public meetings to answer questions. The Minister has provided weekly media briefings. CERA has had a significant media campaign explaining the various decisions made.

On an individual level, we could have done better answering Ministerials and Official Information Act requests but a process is now in place and they are being responded to in a timely manner. There will, however, be information that is not available because of its commercial sensitivity or privacy issues.

8. The success or failure of the current government's policy towards CERA will be judged by the general public, not by the developers or insurance companies. How is the public perception to be managed in the future if people are disgruntled now? What PR strategy will CERA employ to alleviate these concerns?

As a government department, there will always be some matters that won't appear to be

transparent at the time decisions are made as the information has to be provided to Ministers for a decision. Those Cabinet decisions are, however, being made available on the CERA website.

There are always going to be some people that are disgruntled but at this stage I do not consider there needs to be a “PR strategy” to alleviate concerns. So far CERA’s standing with the public is high and CERA’s aim is to continue to meet the public’s expectations.

9. The NZ Transport Agency's funding and procurement manual only refers to damage from storms and floods - not from earthquakes - but does permit funding up to 90%; whereas the recently released Government Policy Statement on Land Transport indicates that only half the damage identified by CCC has been accepted as earthquake damage by NZTA, and because of the way that the funding assistance rate is calculated this results in the FAR being less than 70%, which means CCC has to find three times more money than it ideally should have to. Does CERA have any legal authority to direct the NZTA in regard to funding assistance for road works resulting from the earthquakes?

The short answer is that CERA cannot direct NZTA in relation to its funding, but through SCIRT, NZTA is well aware of the situation in Christchurch and has been providing funding. Work is progressing on resolving cost funding issues.

10. Does CERA have any power to decide what can be done with the red zone land being purchased by the government, i.e. can CERA re-zone the land from residential to open space to prevent it from being built on, even if remediated back above the 1 in 50 year flood level?

No decision has been made on the future of the red zoned residential land being purchased by the Crown. The rationale for the purchase was that the land could not be readily remediated. Significant time and cost would be involved. The 1 in 50 year flood level would not be the basis of remediation as the issues relate to lateral spread and thin crust (and thus issues of liquefaction) more than flooding concerns – although that is also an issue in some areas.

As with deciding which areas would be identified as “red”, I would anticipate that significant geo-technical advice would be required on whether land can be remediated and if so whether it could be undertaken in a way that is efficient and effective. There may well be some innovative remediation proposals in the future that mean the land can be used for residential purposes at some stage.

It is also likely that much of the land will never be able to be remediated in a cost effective way and that open space may be its best use. CERA will be involved in those discussions, but at present any final decisions about use of land from a planning perspective will be the responsibility of the territorial authority. CERA could assist if it is considered necessary for the recovery of greater Christchurch.

11. What processes are CERA using or proposing to use to implement its statutory obligations to consult with Ngai Tahu?

CERA has developed the Recovery Strategy in consultation with Te Rūnanga o Ngāi Tahu as

required under section 11(4) of the CER Act. This has included input from Te Rūnanga o Ngāi Tahu during the drafting of the Strategy and joint deliberation sessions to consider the response to comments received on the draft Strategy.

CERA also recognises that Te Rūnanga o Ngāi Tahu is the Crown's Treaty partner in the greater Christchurch area. The relationship has been developed through hui and direct contact. Te Rūnanga o Ngāi Tahu is party to a partnership agreement between the chief executives.

The relationship is such that if Te Rūnanga o Ngāi Tahu has a difficulty with the statutory consultation requirements or the more informal processes identified as the Principles of the Treaty of Waitangi, I am sure that the chief executive of CERA will be advised and will be expected to resolve any misunderstandings.

12. What conflict of interest issues are likely to arise when dealing variously with Ngai Tahu Holdings (as property owner/developer) and Ngai Tahu development (as social/welfare provider for the rununga)?

I do not consider there will be any conflict of interest between these entities within Ngāi Tahu and with CERA. Te Rūnanga o Ngāi Tahu has clearly distinguished these roles well before CERA existed by establishing a separate company to deal with land development issues. That separation has continued and it is very clear whether CERA staff are dealing with the rūnunga (as is required by the CER Act) or with the development company (which has no greater legal status than any other developer).

13. What advice are GNS scientists giving CERA with respect to the risks involved with the potential rupturing of the gap between the Greendale and Port Hills faults?

CERA is obtaining advice from a number of sources about geo-technical issues including from Dr Kelvin Berryman of GNS. CERA does not have any information about "the gap" that is not readily available to the public.

14. How much faith does CERA have in the GNS EQ predictions modelling system, is CERA seeking second expert opinions - for example from overseas agencies - and what risk contingencies are being applied to the decision-making processes in this respect?

CERA has no reason to doubt the information provided, all of which is already peer reviewed including internationally. CERA is not seeking its own information separate from that provided by GNS.

15. What is the capacity-building strategy to meet the proposed restructuring timelines, particularly with respect to the availability of skilled labour?

There are simply not enough people with the skills required in the Canterbury Region to repair and rebuild the housing stock, complete infrastructure repairs and repair and rebuild commercial property within an acceptable timeframe. The response to this issue is multifaceted and involves up-skilling large numbers of local workers, attracting workers from around New Zealand and using migration to remove the peaks from the projected demand. The Canterbury Employment and Skills Board (CESB) has been put together to provide a coordinated response to the needs of construction sector in the rebuilding of the city and

longer term economic growth. The CESB have developed a range of initiatives to overcome the shortfalls in the availability of skilled labour and are preparing a plan for the Labour Market that will dovetail into the Recovery Strategy.

16. Is there a danger of 'plan overload' and overlap with the suburban plans, central city plan, economic recovery plan, CERA recovery plan, demolition plan, etc.?

There is a risk of plan over-lap if people do not stop to think about the legal powers underpinning the various documents. Some documents have no legal status at all. They express the authors' (and the contributors') wishes but apart from moral suasion have no effect. Plans and other RMA documents under the Resource Management Act 1991 clearly do have legal effect but only in terms of that Act. Documents under other Acts such as the Local Government Act 2002, the Conservation Act 1987, the Reserves Act 1977, the Land Transport Management Act 2003 and the Public Transport Management Act 2008 have effect as per those Acts. Just because something is a plan does not make it a "Recovery Plan".

Even documents labelled "recovery plans" are not necessarily "Recovery Plans" in terms of the CER Act. At present the CBD Recovery Plan known as the Central City Plan is the only document which has a legal basis under the CER Act, being section 17. All other "recovery plans" must be directed by the Minister under section 16 through a *Gazette* notice. To date none have been made.

Any concern about "plan overload" and overlap can be resolved through following the CER Act process and keeping in mind what the purpose and effect of each document is.