

Chair
Cabinet

Greater Christchurch Earthquake Recovery: Moving forward with pace and confidence

Proposal

- 1 The greater Christchurch earthquake recovery is now at a point where the Government needs to transition its role from leading the recovery to establishing long-term recovery arrangements. We propose Ministers agree to a set of decisions that:
 - 1.1 Position CERA as a departmental agency hosted by the Department of the Prime Minister and Cabinet (DPMC). This will assist the transition of roles and better enable knowledge capture and future disaster resilience as the Ministry of Civil Defence and Emergency Management (MCDEM) is located in DPMC.
 - 1.2 Ensure that the legislative powers after April 2016 support long term recovery, by removing or scaling back the powers of the Canterbury Earthquake Recovery Act 2011 (the Act) that are no longer required. This work will be undertaken by the Canterbury Earthquake Recovery Authority (CERA), with advice sought from the Advisory Group described in paragraph 1.4.
 - 1.3 Transfer roles and functions from CERA to more permanent agencies, likely to be a combination of local and central government, and potentially to a delivery vehicle for the major projects. This work will be led by DPMC in partnership with CERA with advice sought from the Advisory Group, and
 - 1.4 Establish an Advisory Group, comprising representatives of local government, Te Rūnanga o Ngāi Tahu, and other key stakeholders. The Advisory Group will be notified of proposals, and its advice sought, relating to the implications of the expiry of the CER Act in April 2016 and plans for the transfer of CERA's roles and functions. The Minister for Canterbury Earthquake Recovery may seek advice from the Advisory Group on other matters in the future.

Executive summary

- 2 CERA was established in the wake of the February 2011 earthquakes in Canterbury to lead the Government's response to the disaster. Without the hard work and dedication of staff from CERA and other agencies, the greater Christchurch recovery would not be as well advanced as it is.
- 3 Earthquake recovery needs in greater Christchurch have changed since 2011, however, and will continue to change. The Government's role must reflect this. Adaptability and flexibility have been, and will continue to be, essential. Looking ahead we want a well-planned and implemented transition to effective long term recovery arrangements that will:
 - Maintain and accelerate recovery momentum
 - Strengthen local governance and local institutions so they can inherit functions and roles from CERA

- Meet social needs and promote economic growth, and
 - Draw on lessons from Canterbury to strengthen future resilience for the benefit of all New Zealanders
- 4 We are proposing a set of decisions that:
- 4.1 Positions CERA as a departmental agency hosted by DPMC to better transition central government's roles in the recovery and better enable mobilisation of public service effort, as well as securing knowledge capture and future disaster resilience through MCDEM. DPMC, unlike CERA, has an enduring presence. As such, in hosting CERA as a departmental agency, DPMC provides an appropriate longer term home for the remaining future central government role, for example, policy and monitoring of the recovery, and the ability to respond to on-going issues as they arise.
 - 4.2 Ensure that the legislative powers after April 2016 support long term recovery, by removing or scaling back the powers of the Act, and associated Orders in Council, that are no longer required.
 - 4.3 Sets out a transition plan, as required by the *Recovery Strategy for Greater Christchurch*, that allows for a smooth transfer of functions and responsibilities from central government oversight and leadership to more permanent agencies, likely to be a combination of local and central government, and potentially to a delivery vehicle for the major projects.
 - 4.4 Establishes an Advisory Group, comprising representatives of local government, Te Rūnanga o Ngāi Tahu, and other key stakeholders, to provide advice to the Minister on relevant proposals on the implications of the expiry of the Act and the plan for the effective transfer of roles and functions to more permanent agencies. The Minister may seek advice from the Advisory Group on other matters in the future.
- 5 Establishing CERA as a departmental agency is relatively straightforward, requiring two Orders in Council. As a necessary formal requirement, the employment agreements of all CERA staff will transfer from CERA to DPMC, even though, on a day-to-day basis CERA staff will continue to be led by the Chief Executive of CERA. All CERA staff are on fixed term contracts that expire on or before 16 April 2016. We do not anticipate any significant changes to staffing as a result of the proposal.
- 6 We will report back to Cabinet on 3 November with further advice on progressing the set of decisions described above.
- 7 These changes will better support our recovery efforts in greater Christchurch. In practice, the 'face' of CERA in Canterbury will not change and there will be no disruption for residents. Implementing the decisions described above requires careful change-management. We will ensure the implementation of the decisions dovetails with the on-going work between CERA and the Christchurch City Council, and with the review of Environment Canterbury.

Background

- 8 On 22 February 2011 Canterbury experienced a devastating earthquake and multiple aftershocks. Responding effectively was beyond the capacity and capability of existing institutions in Canterbury. A national emergency was declared. To support the transition from emergency to recovery, the Government introduced legislation to enable extraordinary powers for the Minister and the Chief Executive of CERA to assist with the recovery, as well as establishing CERA to lead central

government's recovery efforts. The establishment of CERA and the powers in the Act represented a departure from the usual set of governance and regulatory arrangements in Christchurch. Such a departure was necessary given the magnitude of the task and the public interest in an expedited recovery.

- 9 CERA and the Act were created as time-bound arrangements established for the purpose of facilitating recovery. The Act and its associated Orders In Council expire on 19 April 2016. Although staff contracts will terminate on or before this date, CERA itself does not, however, automatically expire at that time.
- 10 At the time the Act was passed, five years was estimated to be a period within which the recovery would advance to a stage where the extraordinary powers were less necessary and many of CERA's functions could be passed back to revitalised local institutions. Since then our understanding of recovery has deepened significantly, through both our ongoing experience in greater Christchurch and study of international recovery experiences. We now have a more informed overview of the different phases of recovery and the challenges associated with long term success.
- 11 Less than two years out from the expiry of the Act, it is timely for the Government to take stock, shift the focus firmly from response to long term recovery, and ensure the most effective and appropriate institutional and legislative arrangements are in place to achieve this.

Analysis

- 12 CERA and other Canterbury agencies have performed strongly in their response to the earthquakes, and without their hard work and dedication the greater Christchurch recovery would not be so well advanced. While much has been achieved, much work remains. Effective governance is essential for responding to these remaining issues and will ensure recovery efforts are well directed.
- 13 Recovery has progressed significantly since CERA was established in 2011. Adaptability and flexibility have been, and will continue to be, essential. Looking ahead we want a well-planned and managed transition to effective long term recovery arrangements that will:
 - Maintain and accelerate recovery momentum
 - Strengthen local governance and local institutions so they can inherit functions and roles from CERA
 - Meet social needs and promote economic growth, and
 - Draw on lessons from Canterbury to strengthen future resilience for the benefit of all New Zealanders.

Transition decisions

- 14 Revising central government's role to address the challenges of long term recovery will involve a staged process. This requires:
 - 14.1 Positioning CERA as a departmental agency hosted by DPMC.
 - 14.2 Removing or scaling back the powers of the Act that are no longer required
 - 14.3 A plan for the effective transfer of roles and functions from CERA to more permanent agencies
 - 14.4 Establishment of an Advisory Group, comprising local government, Te Rūnanga o Ngāi Tahu and other stakeholders, to provide advice to Ministers

on relevant proposals developed by officials on the expiry of the Act and the plan for the transfer of roles and functions.

A new model: the departmental agency

- 15 Positioning CERA as a departmental agency hosted by DPMC will assist with the transition of roles and functions. It will also better enable knowledge capture and the development of future disaster resilience that will benefit all New Zealanders as MCDEM is located in DPMC. Since the establishment of CERA, our understanding of recovery from disaster has deepened significantly. We now have a more informed overview of the different phases of recovery and the challenges associated with long term success. We need to ensure we learn the lessons of Canterbury so we can effectively respond to, and recover from, future disasters.
- 16 The departmental agency model was developed as a result of recommendations from the Better Public Services Advisory Group for more flexible arrangements to ensure a strong leadership focus on priority areas while maintaining strong connections between policy and operations. CERA will be the first departmental agency in New Zealand.
- 17 The departmental agency model is a permissive model enabled by recent changes to the State Sector Act. A departmental agency is established through an Order in Council, which provides for the agency, its functions and a host department. A departmental agency is technically a part of the host department (and is therefore subject to the State Sector Act, the Public Finance Act and the Ombudsmen and Official Information Acts), but with its own Chief Executive responsible for the functions assigned by the Order in Council and the departmental agency agreement.
- 18 The Chief Executive of the host department is accountable for the strategy, policy and resource settings in which the departmental agency operates, including responsibility for the financial management of the departmental agency. While the Chief Executive of the host department is accountable for these matters, in practice s/he may delegate their performance to the departmental agency.
- 19 The departmental agency Chief Executive is appointed by the State Services Commissioner and has the same status as any other Public Service Chief Executive. To carry out the functions assigned to the departmental agency by the Order in Council, the departmental agency Chief Executive and the host department Chief Executive determine a departmental agency agreement, which sets out the functions to be carried out under delegation from the host department Chief Executive. Functions relating to the employment and management of staff are deemed to be delegated to the departmental agency Chief Executive. The model has a high degree of flexibility to establish the right level of autonomy for the departmental agency in delivering its functions. The departmental agency agreement also provides for the ongoing management of relationships between the Chief Executives and their respective Ministers.

Other institutional options

- 20 Officials considered whether other arrangements might better enable a well managed transition to effective long term recovery arrangements. These included positioning CERA as a business unit within another department, reducing central government's role to strategic oversight immediately, or positioning CERA as a departmental agency hosted by a department other than DPMC. None of these arrangements provided the benefits of the set of decisions proposed above and were therefore rejected.

21 Officials also considered whether to retain CERA as a stand-alone department. We do not consider the status quo is the best option for advancing long-term recovery. CERA's focus is, rightly, on recovery from the earthquakes, not on the mechanics of transition or capturing the lessons of recovery from the disaster. We risk distracting CERA staff from the important tasks of recovery in greater Christchurch if we also task them with focusing explicitly on transition and wider resilience lessons. The status quo does not demonstrate our path for achieving enduring arrangements.

Proposal: CERA becomes a departmental agency hosted by DPMC plan

22 We recommend that CERA should become a departmental agency hosted by DPMC, with effect from 1 February 2015, for the following reasons:

22.1 DPMC leadership reinforces the fact that the Canterbury recovery is a Government priority. The Chief Executive of DPMC has a central role that enables him to mobilise the wider public sector to perform its role in recovery more effectively than the Chief Executive of CERA can do on his own.

22.2 Central government would have a sharp focus on recovery from a system perspective through the Chief Executive of DPMC, with the Chief Executive of CERA retaining operational autonomy and a focus on greater Christchurch recovery.

22.3 Tasking DPMC with developing an effective plan for transition addresses the limitations of CERA managing its own 'wind down'. This includes the issues of CERA having competing priorities and weak incentives to dissolve itself.

22.4 DPMC, unlike CERA, has an enduring presence. As such, in hosting CERA, DPMC provides an appropriate long term home for the remaining future central government role, for example, policy and monitoring of the recovery, and the ability to respond to on-going issues as they arise. This remaining role will eventually end, but is likely to last for several years.

22.5 MCDEM is a business unit within DPMC, allowing for knowledge capture and the development of future disaster resilience that will benefit all New Zealanders.

Roles and responsibilities

23 Roles and responsibilities need to be divided between Ministers and between Chief Executives. Our initial thinking on Ministerial roles and responsibilities is outlined in the table below.

| Minister for Canterbury Earthquake Recovery | Prime Minister |
|--|--|
| Accountable to Parliament for CERA | Accountable to Parliament for DPMC (including overview role in respect of CERA as a departmental agency) |
| Exercise of Canterbury Earthquake Recovery Act powers | |
| More engagement with the Chief Executive of DPMC on overall direction and governance of recovery and transition of central government's role | |

- 24 Our initial thinking about roles and responsibilities of the respective Chief Executives is outlined below:

| Chief Executive of CERA | Chief Executive of DPMC |
|---|--|
| Reports to Minister for Canterbury Earthquake Recovery | Reports to the Prime Minister and Minister for Canterbury Earthquake Recovery on overall plan for recovery and whether it aligns with the Government's goals and objectives |
| Executes the strategy Develops, leads and delivers the Crown's Canterbury recovery programme | Provides assurance, including monitoring of recovery, to the Prime Minister and Minister for Canterbury Earthquake Recovery: <ul style="list-style-type: none"> • that the recovery effort aligns with Government goals and objectives and • on overall direction and governance of recovery and transition of central government's role |
| Provides advice on exercise of powers under the Act | Provides advice on a plan for the transition of central government's role in recovery (including CERA functions and powers under the Act) |

What doesn't change as a result of the transition decisions?

- 25 The transition decisions will not change CERA's 'face' in Canterbury. CERA will continue to have the same Chief Executive and will continue to be responsible for the delivery of operations in Canterbury. For CERA staff, the terms and conditions of their employment will not change, other than to formally become employees of DPMC. We have analysed the contracts of CERA employees and concluded they enable the change.

Links to other policy

- 26 We will need to ensure the transition decisions dovetail with the on-going work between CERA and the Christchurch City Council, and with the review of Environment Canterbury.
- 27 There are a number of statutory groups with a role in the recovery, for example, the strategic partners. We will need to ensure that the development and implementation of the transition decisions appropriately takes account of them and their roles.

Canterbury Earthquake Recovery Act 2011

- 28 The Act provided extraordinary powers to central government that were necessary given the magnitude of the earthquake response and recovery task and the public interest in an expedited recovery. The implications of the expiry of the Act on recovery after April 2016 need to be given proper consideration. CERA will continue after April 2016, though its functions will evolve to reflect its long term role in recovery.
- 29 While many of the powers in the Act will not be needed, it is likely that certain powers will be necessary for aspects of recovery to continue. In some instances the removal of a particular section, such as indemnity provisions, could slow down the recovery.

- 30 Work to determine the implications of the expiry of the Act will be undertaken by CERA. We propose to report back to Cabinet on 3 November with initial advice on the implications of the expiry of the Act, including which of the powers may need to be retained. Following this, there will be engagement with the Advisory Group.

Plan for transfer of roles and functions

- 31 A plan for the effective transfer of roles and functions from CERA to more permanent agencies, likely to be a combination of local and central government, and potentially to a delivery vehicle for the major projects, needs to be developed. Tasks currently undertaken by CERA will evolve in one of four ways:
- 31.1 The task will be completed
 - 31.2 The task continues, but responsibility is passed onto another local organisation as the necessary capability and capacity is built up
 - 31.3 The task continues, but responsibility is passed onto another central government agency, or
 - 31.4 CERA, as a departmental agency of DPMC, or DPMC itself, will continue to perform the task.
- 32 The *Recovery Strategy of Greater Christchurch*, which guides and co-ordinates the programmes of work under the Act, requires that a transition plan is developed by April 2015 in collaboration with the strategic partners (local government and Te Rūnanga o Ngāi Tahu). We propose that DPMC works with CERA to develop proposals for the transition plan. Our 3 November report back to Cabinet will contain our initial thinking on the transition plan, following which it will be discussed with the Advisory Group.

Establishment of Advisory Group

- 33 We propose the establishment of an Advisory Group, comprising the strategic partners (local government and Te Rūnanga o Ngāi Tahu) and other key stakeholders. The Advisory Group will be notified of proposals, and its advice sought, for CERA's functions post-April 2016, and plans for the transfer of roles and functions. The Minister may seek advice from the Advisory Group on other matters in the future.
- 34 The establishment of the Advisory Group will need to take appropriate account of the statutory groups in greater Christchurch that are involved in the recovery, for example the strategic partners.
- 35 We propose to report back to Cabinet with advice on the Advisory Group, including its composition and functions, on 3 November.

Risks

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Next steps

- 41 We will report back to Cabinet on 3 November with:
- 41.1 Initial advice on the expiry of the Act, including which of the powers may need to be retained
 - 41.2 Initial advice on a plan for the transfer of roles and functions to more permanent agencies
 - 41.3 Advice on the establishment of the Advisory Group, including its composition and functions
 - 41.4 further advice on the implementation of a departmental agency including:
 - 41.4.1 draft Orders in Council for the establishment of the departmental agency
 - 41.4.2 a draft departmental agency agreement, and
 - 41.4.3 information on fiscal cost, if any, and associated appropriations.

Consultation

- 42 Officials from CERA, the State Services Commission, Treasury and DPMC were involved in the development of the proposal.

Financial implications

- 43 Further work needs to be done to ascertain whether there are any financial implications of the proposal. If there are any, they will be minor. DPMC will administer Vote: CER under the departmental agency approach.

Human rights implications

- 44 None

Legislative implications

- 45 An Order in Council will be required to disestablish CERA as a department (removing it from Schedule 1 of the State Sector Act) and establish it as a departmental agency (placing CERA on Schedule 1A of the State Sector Act). Because Schedule 1A is not yet in force, and is not due to come into effect until 17 July 2015, a second Order in Council will be required to bring Schedule 1A into force early.
- 46 This paper proposes further work to determine which of the provisions of the Act, and Orders in Council made under the Act, including extraordinary powers, will be required after the expiry of the Act in April 2016. If any powers are required after April 2016, legislation will be required to extend them.

Regulatory impact analysis

- 47 The proposal does not require the preparation of a Regulatory Impact Statement

Gender implications

- 48 None.

Disability perspective

- 49 None.

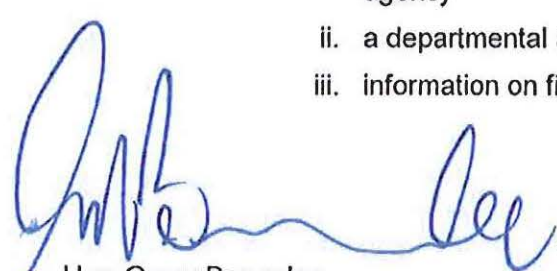
Publicity

- 50 General messages will be framed around the proposal as positioning CERA for the next stage in the Government's response to the earthquakes. Tailored communications will be developed for the following audiences:
- 50.1 Canterbury stakeholders and the wider community (delivered by Ministers, CE(s), SSC)
 - 50.2 CERA staff (delivered by CERA SLT)
 - 50.3 Canterbury Public Sector, especially local government (delivered by CERA CE/SSC)
 - 50.4 Wellington public servants (SSC-CE to other CEs)
- 51 The State Services Commission will work with the offices of the Prime Minister, Minister for Canterbury Earthquake Recovery and Minister of State Services and with CERA to co-ordinate and plan the announcement and communication.

Recommendations

- 52 It is recommended that Cabinet:
- 1 **Note** that the Canterbury Earthquake Recovery Act 2011 expires in April 2016.
 - 2 **Note** that the recovery of greater Christchurch is now at a point where the Government's role in recovery needs to evolve further.
 - 3 **Note** that we want a well planned and managed transition to effective long term recovery arrangements that will:
 - a. Maintain and accelerate recovery momentum
 - b. Strengthen local governance and local institutions so they can inherit functions and roles from CERA

- c. Meet social needs and promote economic growth, and
 - d. Draw on lessons from Canterbury to strengthen future resilience.
- 4 **Agree** to a set of decisions that:
- a. Position CERA as a departmental agency hosted by DPMC
 - b. Remove or scale back the powers of the Canterbury Earthquake Recovery Act 2011 that are no longer required
 - c. Transfer roles and functions from CERA to more permanent agencies, likely to be a combination of local and central government, and potentially to a delivery vehicle for the major projects, and
 - d. Establish an Advisory Group, comprising representatives of local government, Te Rūnanga o Ngāi Tahu, and other key stakeholders, to provide advice to Ministers on relevant proposals developed by officials on the implications of the expiry of the Act and the plan for the effective transfer of roles and functions to more permanent agencies.
- 5 **Agree** to establish CERA as a departmental agency hosted by DPMC.
- 6 **Invite** the Minister for Canterbury Earthquake Recovery and the Minister of State Services to report back to Cabinet on 3 November with:
- a. initial advice on the implications of the expiry of the Canterbury Earthquake Recovery Act 2011, including which of the powers may need to be retained
 - b. initial advice on a plan for the transfer of roles and functions to more permanent agencies
 - c. advice on the establishment of the Advisory Group including its composition and functions
 - d. further advice on the implementation of a departmental agency including:
 - i. draft Orders in Council for the establishment of the departmental agency
 - ii. a departmental agency agreement, and
 - iii. information on fiscal cost, if any, and associated appropriations.


Hon Gerry Brownlee

Minister for Canterbury Earthquake Recovery



Hon Dr Jonathan Coleman

Minister of State Services

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- Released by the Minister for Canterbury Earthquake Recovery
through the Minister of State Services
- c. Meet social needs and promote economic growth, and
 - d. Draw on lessons from Canterbury to strengthen future resilience.
- 4 Agree to a set of decisions that:
- a. Position CERA as a departmental agency hosted by DPMC
 - b. Remove or scale back the powers of the Canterbury Earthquake Recovery Act 2011 that are no longer required
 - c. Transfer roles and functions from CERA to more permanent agencies, likely to be a combination of local and central government, and potentially to a delivery vehicle for the major projects, and
 - d. Establish an Advisory Group, comprising representatives of local government, Te Rūnanga o Ngāi Tahu, and other key stakeholders, to provide advice to Ministers on relevant proposals developed by officials on the implications of the expiry of the Act and the plan for the effective transfer of roles and functions to more permanent agencies.
- 5 Agree to establish CERA as a departmental agency hosted by DPMC.
- 6 Invite the Minister for Canterbury Earthquake Recovery and the Minister of State Services to report back to Cabinet on 9 November with:
- a. initial advice on the implications of the expiry of the Canterbury Earthquake Recovery Act 2011, including which of the powers may need to be retained
 - b. initial advice on a plan for the transfer of roles and functions to more permanent agencies
 - c. advice on the establishment of the Advisory Group including its composition and functions
 - d. further advice on the implementation of a departmental agency including:
 - i. draft Orders in Council for the establishment of the departmental agency
 - ii. a departmental agency agreement, and
 - iii. information on fiscal cost, if any, and associated appropriations.

Hon Gerry Brownlee
Minister for Canterbury Earthquake Recovery



Hon Dr Jonathan Coleman
Minister of State Services

28/8/14