



Human Rights Commission  
Te Kāhui Tika Tangata

# Staying in the red zones

Monitoring human rights in the  
Canterbury earthquake recovery

## Te manawaroa ki te pae whero

Whakaora rū whenua Waitaha  
he aroturuki tika tangata

A report by the New Zealand Human Rights Commission  
about the people living or owning vacant land in the  
residential red zones in mid-2015

He aha te mea nui o te ao?

He tangata, he tangata, he tangata

*What is the most important thing in the world?*

*It is the people, it is the people, it is the people*



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residential red zones in mid-2015

October 2016

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In addition to people affected by the red zoning, the Commission would like to thank the New Zealand Red Cross, with whom it partnered for the outreach campaign phase of this research and who provided the Deprivation Index and heat mapping used in this report. The Commission would also like to thank the Canterbury District Health Board for feedback on aspects of the report relating to the wellbeing findings, as well as the Canterbury Earthquake Recovery Authority for providing data and maps.

The Commission followed a rigorous consultation process when finalising the report. The draft report was circulated for comment to agencies mentioned within it. Excerpts from participant interviews that could be considered critical of particular agencies were sent to these agencies, along with a copy of the draft report. In total, the draft report was sent to 20 agencies. The majority of these agencies took the opportunity to respond, and these responses have been considered when finalising the report.

The Commission would like to acknowledge information and feedback provided by the following: CanCERN; Canterbury District Health Board; Christchurch City Council; Environment Canterbury; Earthquake Commission; Fletcher EQR; GNS Science; Greater Christchurch Group within the Department of the Prime Minister and Cabinet; Independent Hearings Panel; Land Information New Zealand (Valuer-General); Land Valuation Tribunal; Ministry of Business, Innovation and Employment; Ministry of Social Development; New Zealand Post; New Zealand Red Cross; Regenerate Christchurch; Stronger Christchurch Infrastructure Rebuild Team; Quotable Value; and Waimakariri District Council.



**Martin:** We're called the red zoners. We have got a name and partly we took it with pride and with the feeling of defiance, we are the red zone. Some people said, "What? We don't understand what it means." And some say, "Good on you." So the reactions of people became important for us in a way too. We didn't want to be red zoners.

**Anne:** No-one wants to be red zoners.

**Martin:** But at one stage I thought, "OK, I'm a red zoner now."

**Anne:** You have to kind of find a dignity in your situation in order to make peace with it somehow ... you have to sort of claim it as a positive thing rather than it always being a negative thing.

# Foreword

## Kupu whakataki

The Canterbury earthquakes of 2010/11 were a stark reminder that New Zealand is highly susceptible to earthquakes. The scale of the damage meant that large, far-reaching decisions needed to be made, and it is important that we now assess these actions and what could have been done better.

In 2011 the Government made the decision to red zone earthquake-damaged land—a decision that ultimately affected 8,060 properties and more than 16,000 people across Greater Christchurch. The red zoned areas were assessed as having area-wide damage and/or risks. Solutions to remediate the land in the short to medium term were considered to be uncertain, disruptive, not timely or not cost effective. As a result, the land was regarded as unsuitable for residential occupation. For this reason the Government made offers to purchase properties in the red zone.

The Commission acknowledges the good intent and the benefit to thousands of people of the Government offers. We hope, though, that this report will give us all cause to consider whether property rights are adequately protected in our law.

The Commission has a unique and necessary role in raising awareness and understanding of human rights for everyone in New Zealand. *Staying in the red zones: Monitoring human rights in the Canterbury earthquake recovery* focuses on the human rights impacts of the residential red zone decision—specifically for the minority of people who did not accept the Government's offer to purchase their red zoned property or vacant section, and who continue to live on or own land in the now largely abandoned red zone areas. Instead of being seen as land or home owners, they were seen as “red zoners”.

This report contributes to the recovery and disaster preparedness conversation. It continues the Commission's monitoring of the Canterbury recovery and follows the Commission's 2013 report, which mapped human rights issues arising from the recovery in relation to housing, health, accessibility and business. It also provides a counterpoint to the February 2016 CERA Residential Red Zone Survey report, which considers the situation of people who accepted the Government's offer for their red zoned properties.

The report does not reflect the views of all the people who refused the Government offer, nor does it reflect the views of owners of red zoned properties who accepted the offer. The focus is on a selection of property owners who exercised their right to decide what was best for them. Human rights principles of dignity, non-discrimination, empowerment, participation in decision making and access to information are not only vital in civil emergencies: they are relevant to everyone, everywhere, all the time.

These property owners, most of whom were insured, stood up for rights that have their origins 800 years ago in the Magna Carta, and which were later clarified in the Universal Declaration of Human Rights. A Canterbury property owner told the Commission, “I wondered what all this had to do with human rights. Now I realise that most New Zealanders own their own home so that no one can tell them what to do in it. Now everyone is telling me what to do with my own home.” This comment succinctly sums up the issue of property rights which the earthquakes have brought to the fore.

The fact that a minority of the people affected by the red zoning believed, as the High Court put it, that they had been given a “Hobson’s choice” is evidence of the need to better enshrine in the New Zealand Bill of Rights Act the protection of property rights. Parliament is sovereign and can make laws that interfere with the right to property, but any government action is limited to the authority given to it by those laws. In the case of the Canterbury earthquakes, the Executive took actions that were not explicitly provided for in the Canterbury Earthquake Recovery Act 2011. The experiences of the group of people whose properties were red zoned and who did not accept the Government’s offer can be seen as illustrating why the Executive should limit itself to the powers given to it by Parliament.

The Commission has consistently drawn attention to the human right to adequate housing. It is aware of organisations like New Zealand Post, the Waimakariri District Council and Christchurch City Council, which have recognised that their role of providing services plays an important part in realising the right to adequate housing. We ask the Government, both central and local, to respect this right in any further dealings with the property owners in the red zone. The duty to ensure the provision of services does not always mean that water, sewerage and power services need to be at the level found in densely populated cities, but it does mean that services cannot simply be cut off.

Too often recovery is measured in terms of the repair and rebuild of buildings and infrastructure. While these are critical, there is also a need to measure the other things that matter to people, including communication, engagement, collaboration and

participation. Through monitoring these we can identify gaps and the actions needed to address them.

The report has six key messages.

First, human rights need to be front and centre in disaster recovery, prevention and preparedness. The Guiding Principles of the Sendai Framework adopted by the United Nations (including New Zealand) in 2015 place human rights at the centre of disaster risk reduction.

Second, the right to property is fragile in New Zealand. Property rights need to be better enshrined in the New Zealand Bill of Rights Act by Parliament.

Third, post-disaster it is particularly important for the Crown to exercise its powers carefully and in accordance with the relevant legislation.


Fourth, the communication needs of people affected by disasters are not confined to the immediate post-disaster period. Affected people need information to make decisions, need to participate in decisions that affect them, and need co-ordinated service delivery. They also want to be treated with respect.

Fifth, community engagement matters. The way in which government and non-government agencies pursue initiatives will determine how successful these are. The requirement to act swiftly must be weighed against the need to actively engage community in the design and implementation of solutions. A ‘nothing about us without us’ approach requires time, resources, and public and political will, but is essential to ensure that people are not passive recipients of disaster recovery response and risk reduction, but are actively involved in shaping it.

Finally, there is no one-size-fits-all for disasters: flexibility to consider individual circumstances needs to be incorporated into the design of disaster planning, policies and services. Recognising flexibility as an intrinsic goal in disaster preparedness results in better outcomes for people and organisations.

We know that those tasked with the recovery have been trying to solve complex issues in a challenging environment, often without an overall picture of the activities of other agencies involved. Considerable progress has been made, and examples of innovation and good practice continue to emerge, from which we can all learn.

The opportunity presented by undertaking disaster research such as this report is to build back better—not only in terms of bricks and mortar, but also in terms of policy development and service delivery by those involved in recovery. The Commission's 2013 report was well received offshore as well as in New Zealand. We hope this will be a further contribution to disaster preparedness.

A handwritten signature in black ink, appearing to read 'D. Rutherford'.

David Rutherford

Chief Commissioner Te Amokapua

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## A note on terminology

Areas in Canterbury that were deemed uneconomical, unsafe or unviable to remediate or repair in the short to medium term after the earthquakes of 2010/11 were zoned red. These areas became known as 'red zones' and people who owned or lived in houses located in these areas became colloquially referred to as 'red zoners'. Not all residents accept this terminology, and the Human Rights Commission would have preferred to avoid the use of labels that could cause further harm to those affected. For practical purposes, however, it was decided to use the term 'red zone' for this report.

The report focuses on the experience of people who did not accept the Government purchase offer for their red zoned residential property or vacant section, and who responded to a Human Rights Commission survey. For practical purposes, the report refers to 'people affected by the red zoning' and 'red zone residents' when referring to these groups of people.

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## Abbreviations

CanCERN	Canterbury Communities' Earthquake Recovery Network
CBD	Central Business District
CCC	Christchurch City Council
CDEM	Civil Defence and Emergency Management (CDEM) Recovery Framework
CER Act	Canterbury Earthquake Recovery Act 2011
CERA	Canterbury Earthquake Recovery Authority
EQC	Earthquake Commission
HPSTED	Health Promotion and Sustainability Through Environmental Design
MBIE	Ministry of Business, Innovation and Employment
OIA	Official Information Act 1982
QV	Quotable Value
RRZs	residential red zones
RV	rateable value
TC	technical category. Green zoned land in Greater Christchurch was divided into TC1, TC2 or TC3 land, depending on potential levels of vulnerability to liquefaction.





Restart Container Mall situated in the CBD red zone area.

# Executive summary

The effective implementation of human rights requires a culture of human rights at all levels of government as well as in society in general

– Judge Robert Spano, European Court of Human Rights.

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## Overview

The Canterbury earthquakes created challenges to some of the most basic human rights. Most obviously affected was the right to adequate housing. However, because rights are interlinked, other rights—such as the right to health, the right to property, and civil and democratic rights (such as access to information and participation in decision making)—were affected.

This report considers the situation of the people who did not accept the Government purchase offer to buy their red zoned properties and who have continued to live in their houses or own vacant land in Canterbury's residential red zones (RRZs). This research differs from the February 2016 Canterbury Earthquake Recovery Authority (CERA) report, *Residential Red Zone Survey*, which considers the situation of property owners and their adult family members who did accept the Government offer for their red zoned properties and have subsequently moved elsewhere.<sup>1</sup> Note that there is a great difference in sample size between the CERA and the Commission surveys, with 2,208 and 103 respondents respectively.<sup>2</sup>

This report also draws on broader advocacy and policy work carried out by the Commission during the earthquake recovery, particularly in relation to the residential red zones.

The aim of the report is to document the voices of Canterbury's red zone residents and understand their human rights situation. In focusing on the human rights impacts of the red zone decision in 2011, the intention of this report is not to criticise or to apportion blame, but rather to provide insights that will increase our broader understanding of disaster

risk and recovery. The report particularly seeks to highlight the need to incorporate flexibility into disaster response and recovery policies and practices to allow for individual circumstances.

While the intention of the red zoning policy was admirable—to provide an opportunity for people to leave earthquake-damaged areas and move on with their lives—the reality for some property owners and the Government was problematic. The zoning decision has been challenged by residents in the High Court, the Court of Appeal and the Supreme Court. In 2015 the Supreme Court (by majority) found that the process used to establish the red zones was unlawful because it was not made under the legislation that Parliament had passed.

The Court further noted that as a result of the Government's actions,

the reality is that the red zone is no longer suitable for residential occupation. We accept the Human Rights Commission's argument that the red zone decisions meant that residents in the red zone were faced with either leaving their homes or remaining in what were to be effectively abandoned communities, with degenerating services and infrastructure. In light of that stark choice, Panckhurst J, in his judgment, termed this a 'Hobson's choice.' We agree.<sup>3</sup>

The situation for those who continue to live in the red zoned areas remains uncertain today, both in terms of the future use of the land and the ongoing provision of services.



There is growing recognition that psycho-social recovery from the impacts of a disaster can be undermined by the impact of stressors that arise after the event itself. The Government has acknowledged this. One of the first to highlight the issue was the Office of the Prime Minister's Chief Science Advisor, Professor Sir Peter Gluckman.<sup>4</sup> A recurring theme in this research was that many people found the disaster itself easier to deal with than the processes associated with the recovery and rebuild. People fear a lack of co-ordination and responsiveness in much the same way they fear aftershocks.

The findings of this report have been used to create a Human Rights Checklist for government agencies and non-governmental organisations to use in developing disaster preparedness, prevention and recovery responses.

The findings also serve to dispel some common misconceptions about the red zone and the people who remain living there, particularly concerning the insurance status of property owners and their motivations for remaining living in the red zone.

The comments quoted in this report are based on the results from a Human Rights Commission survey and excerpts from interviews completed by people either owning vacant land or living in the RRZs. Of the 103 people who responded to the Commission's residential red zone survey in mid-2015, 62 continued to live in the red zone and 41 owned land in the residential red zone. The report reflects the views of individuals within this cohort. Despite the relatively small sample size, the 62 residents who completed the survey constitute 18 percent of the estimated 340 residents who lived in the red zones in mid-2015.

Many more survey respondents expressed a desire to tell their stories than the Commission was able to interview. Of the 103 respondents, 62 people indicated their interest in talking about their red zone experiences. The Commission selected 14 participants for in-depth interviews, whose experiences covered a range of issues across different geographical locations and demographics. The report draws on these interviews throughout. The full edited interviews can be accessed on the Commission's website. (<https://www.hrc.co.nz/red-zones-report/interviews>)

The report serves, on the one hand, to document the voices of this group, who have in many respects been marginalised by the process of the red zoning. On the other hand, in considering the circumstances and consequences of the red zoning, the report presents a case study of the post-disaster process from which important lessons can be learned.

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## Organisation of the report

The Report is organised into 10 parts.

**Part 1: Introduction** provides an overview of the aftershock sequence triggered by the 4 September 2010 earthquake and the immediate emergency response. It summarises the scope of the damage and introduces the Human Rights Commission's work in the recovery, including the research rationale and approach used for this report.

**Part 2: What are the residential red zones?** provides a knowledge base for the rest of the report by detailing the land zoning processes carried out in Greater Christchurch following the 2010/11 earthquakes. It also provides statistics about and maps the number of red zoned properties. It explains the Government purchase offers to owners of red zoned properties and the uptake of these offers, and describes the resulting legal proceedings. The future use of the RRZs is also discussed.

**Part 3: The Commission's survey of people affected by the red zoning who did not accept the Government offer** describes the 'Monitoring Human Rights in the Residential Red Zones 2015' survey of people who declined the Government offer, or who owned land in the residential red zone, and provides a demographic breakdown of the people involved in the process. It also describes the interview process, who took part, and why.

**Part 4: What financial issues have people faced because of the red zoning?** looks at two issues of crucial importance to people affected by the red zoning: their mortgage situation and their insurance, in terms of whether they had insurance at the time of the earthquake, whether they have been able to settle their claims, and whether they could get insurance for their red zoned properties at the time of the research.

**Part 5: Why have some people remained living in the residential red zones?** outlines the reasons why residents have remained in the RRZs, and in the process debunks a number of widespread opinions about ‘red zoners’.

**Part 6: What issues do affected people face, and what are the impacts of these issues?** considers the issues that have affected all red zoned people to a greater or lesser extent. These issues are: communication with agencies involved in the red zoning, access to information about the red zoning, and the level of participation and engagement of affected people in the red zoning process. The findings in this section reveal high levels of dissatisfaction among survey respondents.

**Part 7: What issues do specific groups of people face, and what are the impacts of these issues?** discusses key issues that have affected specific groups within the overall group of ‘people affected by the red zoning’. These issues include the application of section 124 notices (notices issued under section 124 of the Building Act); the issue of insurance in relation to the Government purchase offers for owners of vacant land, commercial properties and uninsured residential properties; the revaluation of red zoned properties; and the ongoing provision of basic services to the red zones.

**Part 8: What other impacts did the red zoning have?** includes information on the wellbeing of people affected by the red zoning, particularly their quality of life, their levels of satisfaction with living in the red zone, their wellbeing (as measured by the international WHO-5 wellbeing indicators) and their level of stress. This section also details the extent to which red zoning issues continued to affect the lives of survey respondents at the time of the research.

**Part 9: What is needed to improve life in the RRZ?** looks at the changes red zone residents felt would be needed to improve their lives in the residential red zones.

**Part 10: Looking forward** outlines lessons learnt and suggestions shared by affected people, as well as their unanswered questions and unresolved issues.

## Findings

### General

Post-disaster policies and services require flexibility to consider individual cases as needed.

The inclusion of affected people in post-disaster decision making can help to counter uncertainty, sense of loss and stress.

Communication is critical: the transparent and empathetic provision of adequate information can enable people’s post-disaster recovery.

### The residential red zones

- 2.1. It is estimated that approximately 300 people remained living in the residential red zones as at 8 March 2016.
- 2.2. The right to property in New Zealand is fragile. The use of the so called “third source” of power, when Parliament had given the Executive sweeping powers through legislation, was problematic and ultimately impacted on the rights and wellbeing of those who chose to remain in the red zone.
- 2.3. While the CERA report notes that the approach taken was beneficial to the majority of owners of red zoned properties who responded to its survey, the Government purchase offers and corresponding expectation to leave one’s home was a source of great disappointment and stress for some.
- 2.4. The reduced offers to owners of vacant sections, commercial and uninsured residential properties—and the delay in offering, and then revising these offers—exacerbated stress.

### Survey respondents' mortgage situations

- 4.1 Residential red zone residents included both borrowers with their property mortgaged to banks and people who had paid off their mortgage.
- 4.2 Residential red zone residents generally viewed their banks or lenders as supportive.

### Red zone residents' insurance situations

- 4.3 In contrast to popular belief, the vast majority of residential red zone residents living in the red zone when surveyed had insurance for their properties at the time of the earthquakes.
- 4.4 Insurance can either alleviate or contribute to stress in the post-disaster context and is therefore an issue of critical importance, especially in a country such as New Zealand with high levels of property insurance.
- 4.5 As a result of the earthquakes and red zoning, many residential red zone residents have struggled to secure insurance for their properties.

### The status of red zone residents' properties

- 4.6 Insurance claims can remain unresolved years after a disaster event, particularly if progress is hindered by unintended consequences such as those that arose as a result of the red zoning classification.
- 4.7 Being red zoned created a hypothetical situation in some instances making the distinction between a repair or a rebuild of significant financial importance to insurers. A government-imposed deadline meant that well considered and informed decisions were not possible for some individuals.

### Why have people remained living in the residential red zones?

- 5.1 After a disaster, attachment to place is a powerful force in people's decision to remain in their damaged property or neighbourhood.
- 5.2 Financial considerations also contribute to this decision making.
- 5.3 Once people have made the decision to remain in their property or neighbourhood, they generally hope their residency there will be long term or permanent.

### Communication with people living, or owning vacant land in the residential red zones

- 6.1 Respondents were very dissatisfied with the communication from agencies involved in the red zoning decisions and implementation.
- 6.2 This perceived poor communication created considerable avoidable stress and hindered people's ability to recover.

### Access to information

- 6.3 People need to feel they have received adequate information in order to be confident when making decisions. The provision of this information is critical, and in a post-disaster context can assist people's recovery by providing certainty.
- 6.4 Information provision following disaster should be proactive and needs to be provided in a form that is suitable to the target audience (for example, language, complexity, utility).
- 6.5 It is essential for agencies responsible for providing information to the public in the aftermath of a disaster to have plans in place and adequate resources available to ensure that public information needs are met in an appropriate and timely manner. This includes the ability to respond to information requests from affected individuals.

- 6.6 The low uptake of earthquake support services by people living, or owning vacant land in the residential red zone, suggests that they felt these services were either not needed or were unable to meet their needs.
- 6.7 Affected respondents felt that media reporting could contribute to the stressors they faced.

### Issues of participation, engagement and collaboration in decision making

- 6.8 Empathy and support from agency staff were helpful for affected people on a personal level, but these individual efforts were overshadowed by the difficulties in dealing with agencies as bureaucratic entities.
- 6.9 Affected people commonly remarked on the situation of others they saw as worse off, particularly older women.
- 6.10 Community groups emerged to support and educate others in a similar situation. These groups have played—and continue to play—an important role in providing support and information.
- 6.11 There is widespread disillusionment and dissatisfaction among those who participated in the survey with regard to participation, engagement, collaboration and decision making.

### The application of section 124 notices

- 7.1 MBIE has noted that s124 notices were only intended to address a short-term life safety risk. According to residents surveyed the extended use of these notices created uncertainty and stress. A more collaborative approach to determining risk threshold and rock-fall mitigation solutions from local and central government that includes input from the affected community is likely to lead to better solutions in terms of cost effectiveness and improved outcomes for affected residents in future events.

### The Government purchase offers: owners of vacant land, commercial properties and uninsured residential properties

- 7.2 The discrepancy between the initial offers made to owners of insured residential properties and owners of insured commercial properties, owners of vacant sections and owners of uninsured residential properties, as well as the length of time between the initial and revised offers, has caused considerable stress.
- 7.3 Continuing to rely on insurance status as a basis for differential treatment—despite a Supreme Court decision that it should not be the determinative factor—exacerbated delays and prevented some red zone residents from being able to move on with their lives. Delays continue and at the time of writing litigation was still underway in regards to the use of insurance status as a basis for differential treatment.

### The revaluation of red zone properties

- 7.4 The Supreme Court decided that the red zone designation was not lawfully made. The red zone was subsequently revalued on an area-wide basis for ratings purposes. The Commission believes this was inappropriate. Furthermore, treating red zoned land as rural for the purpose of the revaluation appears to be at odds with the purposes of the Canterbury Earthquake (Rating Valuations Act—Christchurch City Council) Order 2013 (Order in Council).
- 7.5 Treating red zoned land as rural for the purpose of the revaluation appears to go against the Rating Valuations Rules, which anticipate primary reliance on zoning or designation of land under the operative district plan to determine the type of property.

- 7.6 For residents who had not yet accepted the Government purchase offer of 100 percent of the 2007 rateable value, the significant drop in the value of red zoned properties as a result of the 2013 revaluation was perceived as an added pressure to accept the offer.
- 7.7 Owners of uninsured properties who were not eligible for the Government offer of 100 percent of the 2007 rateable value were particularly affected by the drop in the value of their properties.

### **The provision and maintenance of services to the residential red zones**

- 7.8 Uncertainty about the continued provision of essential services within the red zone is one factor among many contributing to the uncertainty faced by red zone residents, although this issue affects red zone residents to different degrees depending on where they live.
- 7.9 The cost of maintaining services is controversial, and there has been disagreement between central and local government about who is responsible.
- 7.10 Residents consider that media reporting about the cost of maintaining services has contributed to negative public perceptions of the red zone residents.

### **Survey respondents' wellbeing**

- 8.1 Post-disaster policies and practices can have a significant impact on affected people's wellbeing.
- 8.2 Time delays and a lack of certainty have a negative impact on people's wellbeing.
- 8.3 Affected people's levels of stress can continue to increase years after the disaster event.

### **The extent to which earthquake issues are affecting survey respondents' lives**

- 8.4 Post-disaster policies and practices can have long-term effects.
- 8.5 When people do not feel in control it can be detrimental to their recovery.
- 8.6 Not all people affected by post-disaster policies and practices are affected to the same extent.

### **What would be needed to improve life in the RRZs?**

- 9.1 Because the attribution of a label can be damaging to people's wellbeing, including after a disaster, the removal of the red zone label was listed by respondents as the most important change needed to improve life in the RRZs.
- 9.2 A need for certainty was the second-most-desired change, supporting findings throughout the report that security and certainty are critical in aiding people's recovery following disaster.

### **Affected people's lessons learnt, suggestions and recommendations**

- 10.1 Given their level of engagement with the issues, affected people can provide specific and constructive suggestions on a range of post-disaster practices, which can be used to improve future responses.

### **Affected people's unanswered questions and unresolved issues**

- 10.2 Some people affected by the red zoning decisions do not feel that their property rights have been adequately protected by the law.
- 10.3 Communication and engagement are issues that remain of concern to affected people.





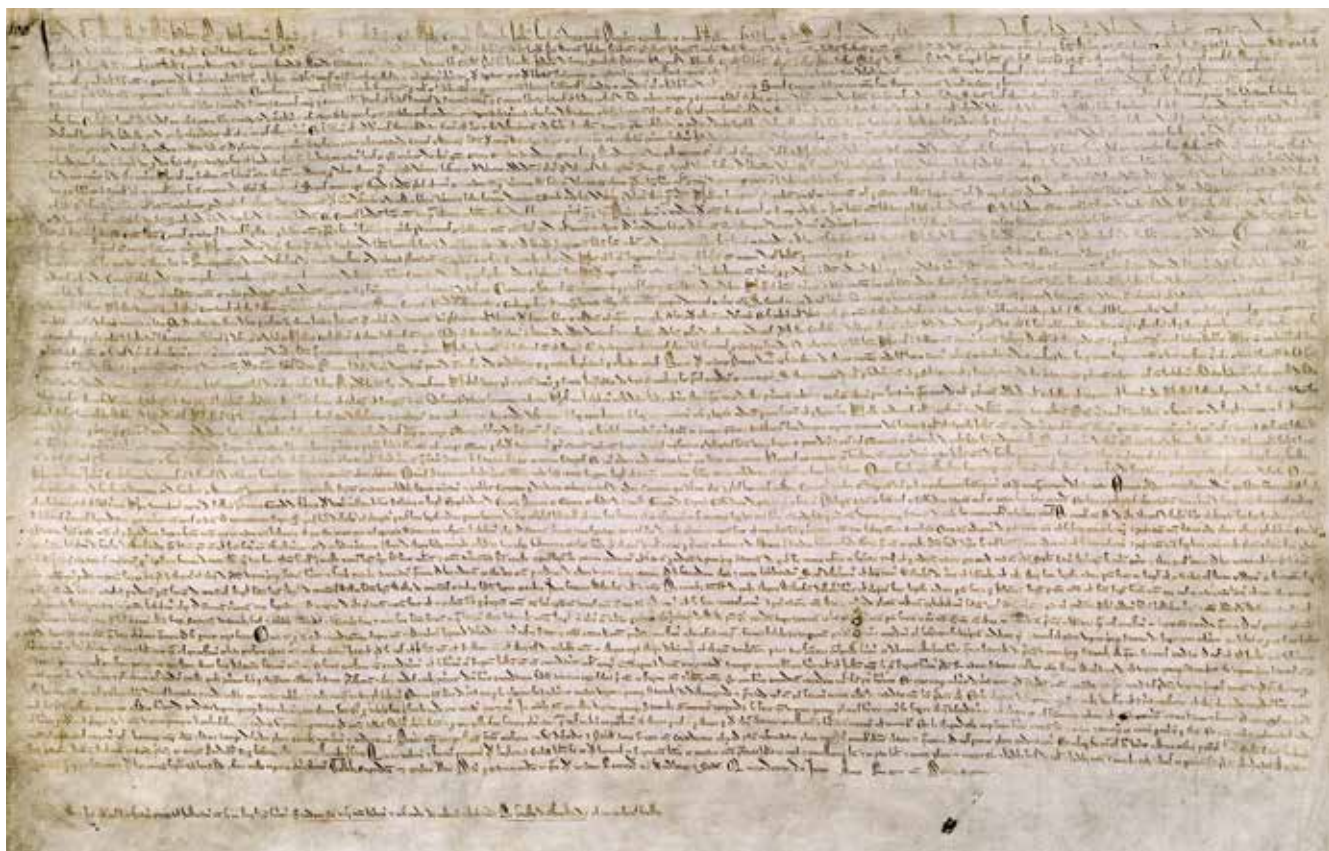
The Pallet Pavilion created by Gap Filler was a transitional architecture project that functioned as a community space and venue for events in the CBD red zone. It was built by volunteer power over 6 weeks in late 2012.

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## Recommendations

- 1 As Canterbury moves from recovery into regeneration, the Commission recommends that this report—particularly the ‘Findings’ and ‘Affected people’s lessons, suggestions and recommendations’ sections—be used by government agencies when planning the future use of the residential red zones (or ‘regeneration zones’). Of particular importance in this regard are the findings related to affected people’s ongoing stress and lack of certainty, and their determination to remain in their red zoned properties.
- 2 In the longer term the Commission considers that future disaster recovery frameworks should be guided by, and founded on, a human rights approach. A human rights approach requires compliance with international standards and emphasises non-discrimination, participation, empowerment and accountability. In order to achieve this, the Commission recommends that law, policy and practice is consistent with the Guiding Principles of the Sendai Framework for Disaster Risk Reduction 2015–2030, the Inter-Agency Standing Committee Operational Guidelines on Human Rights and Natural Disasters and the Pinheiro Principles (which relate to the loss of housing and shelter).
- 3 In particular, the Commission recommends that the following principles apply to any future recovery legislation:
  - a As far as practicable, law to be applied during an emergency is formulated when no emergency exists and the law is to be applied with participation from affected people.
  - b The law states with precision the circumstances in which, and the purposes for which, the emergency powers can be exercised.
  - c The law expressly provides for mechanisms for effective community participation in decision making.
  - d The law includes a positive obligation to protect human rights, particularly the rights to housing, health, home and property, and to participation. Where any temporary limits are placed on the realisation of these rights they must be justified within a human rights framework; namely, they must be for a particular purpose and no more restrictive than is required to achieve that purpose.
  - e The law provides for an assessment of vulnerability.
  - f Powers created by the law are:
    - restricted to those circumstances where the exercise of such powers is necessary in a particular situation
    - no more restrictive on the rights and freedoms of New Zealanders than is required to achieve the purpose of the powers
    - in force for the shortest time necessary in the circumstances
    - subject to the New Zealand Bill of Rights Act 1990, the Human Rights Act 1993, and consistent with New Zealand’s international human rights legal obligations
    - subject to periodic oversight by Parliament and other horizontal accountability mechanisms
    - subject to accessible operational level grievance mechanisms as well as judicial review mechanisms.
- 4 The right to property is integral to individual autonomy and a free society, and protects individuals from arbitrary or excessive exercise of power by the State. Of particular importance is the principle of no compulsory acquisition without compensation and the prohibition on arbitrary deprivation of property. The Commission recommends that the right to property be codified in the New Zealand Bill of Rights Act 1990.





**Magna Carta Libertatum (Latin for "the Great Charter of the Liberties"), commonly called Magna Carta, is a charter agreed to by King John of England at Runnymede, near Windsor, on 15 June 1215.**

5. The reliance on the so-called "third source of power" when dealing with properties and property owners in Canterbury was problematic and ultimately impacted on the rights and wellbeing of those who chose to remain in the red zone. Such actions, and more broadly all recovery activity, should always be guided by legislation and limited to the powers provided therein by Parliament.
6. The Commission recommends that Parliament consider what steps may be required to ensure that in the event of any future emergencies the Executive act only in accordance with the explicit legislative powers that have been provided.
7. The removal of the residential red zone classification and discontinuation of the use of this label in relation to those areas.
8. That services continue to be supplied to those who choose to remain in the red zone. Where new services are being connected, or services are being upgraded to green zone properties, the Commission recommends that they are likewise connected to adjacent or adjoining red zone properties.

The findings of the report have been used to develop a Human Rights Checklist. The Commission recommends that government agencies and non-governmental organisations use this when developing future disaster preparedness, prevention and recovery responses.

The Commission also recommends:

7. The removal of the residential red zone classification and discontinuation of the use of this label in relation to those areas.

## Human Rights Checklist

This section provides a Human Rights Checklist for government agencies and non-governmental organisations to use in developing disaster preparedness, prevention and recovery responses.

Elements of this checklist are evident in other recovery frameworks developed following the Canterbury earthquakes. One example is the *Integrated Recovery Planning Guide*, based on principles from the Greater Christchurch Urban Development Strategy, Health Promotion and Sustainability Through Environmental Design (HPSTED) and the Civil Defence and Emergency Management (CDEM) Recovery Framework.<sup>5</sup> The *Planning Guide* considers recovery of the social, built, natural and economic environments and incorporates reference to several aspects of the Human Rights Checklist, including the importance of effective communication.

The Human Rights Checklist is more targeted in scope than such frameworks. It is solely concerned with principles that protect the human rights of affected people and calls for an approach where people are at the centre of decision-making policies and practices. The Checklist draws on the key findings of the report and the human rights principles in the Sendai Framework for Disaster Risk Reduction.

Following disaster, it is critical that agencies:

- ✓ 1 consider the delivery of information as a form of post-disaster aid itself, and provide accessible information to all communities about:
  - a the nature and level of the disaster they are facing
  - b the possible risk mitigation measures that can be taken
  - c assistance, recovery efforts and entitlements
  - d the reasons how and why decisions are made, and the evidence and assumptions informing these decisions
- ✓ 2 communicate openly and effectively with affected people
- ✓ 3 incorporate flexibility into post-disaster policies and processes, including the ability to engage with affected people, or distinct groups of people, on a case-by-case basis
- ✓ 4 recognise that a sense of certainty and feeling in control can speed people's recovery
- ✓ 5 provide people with the opportunity to take charge of their own affairs to the greatest extent possible
- ✓ 6 recognise that people's recovery can be negatively influenced by a variety of factors, including the use of labels, the length of time taken to make and act upon decisions, and media commentary
- ✓ 7 recognise that affected people's stress in the aftermath of disaster can be exacerbated by the pressures of dealing with bureaucracy, particularly when communication is necessary with multiple agencies and when communication between these agencies appears to be disjointed
- ✓ 8 recognise, including when formulating policy, that attachment to place is an important identity marker for many people, and that displacement can have profound impacts on people's ability to recover
- ✓ 9 recognise that even when financial compensation has been paid, when people are required to move these people may still face numerous other financial, emotional and social costs
- ✓ 10 recognise that people's stress levels can continue to increase years after the disaster event
- ✓ 11 recognise that affected people, as those closest to the impacts of disaster, can provide valuable advice on post-disaster practices and solutions
- ✓ 12 provide the opportunity for people to participate meaningfully in the design, planning and implementation of the various stages of the disaster response.
- ✓ 13 ensure that all recovery activity is guided by legislation and limited to the powers provided therein by Parliament.

# Part 1

Introduction

**Kōrero whakataki**

## The earthquakes

On 4 September 2010 a shallow magnitude 7.1 earthquake hit the region of Canterbury, New Zealand. Buildings and infrastructure sustained considerable damage but there was no loss of life. Most of the damage occurred in the eastern suburbs and Central Business District (CBD) of Christchurch, the region's major city, and in parts of the town of Kaiapoi in the neighbouring district of Waimakariri to the north.

The earthquake set in motion a series of thousands of aftershocks. The most serious of these aftershocks occurred on 22 February 2011. The magnitude 6.3 earthquake, with a peak ground acceleration of 2.2 (over twice that of gravity), was centred just 10 kilometres from the CBD near the Christchurch suburb of Heathcote, and was only 5 kilometres deep. The event resulted in 185 deaths, thousands of injuries and extensive damage. As in the September 2010 earthquake, much of this damage occurred in the Christchurch CBD and eastern suburbs, where liquefaction was widespread.

**Soil liquefaction** occurs when the strength and stiffness of the soil is reduced by earthquake shaking, resulting in a silt-like substance rising to the surface of the land.

Strong aftershocks occurred again on 13 June 2011 and 23 December 2011. Further damage occurred as a result of these events, especially to buildings that were already weakened. Liquefaction was again an issue for many residents in Christchurch's eastern suburbs and in some parts of Waimakariri District. The June events in particular caused some rocks to roll down in the Port Hills.

More than 14,580 aftershocks have been triggered by the September 2010 earthquake.<sup>6</sup> The largest since December 2011 occurred on 14 February 2016, just eight days before the fifth anniversary of the 22 February 2011 event. The aftershock, which was of 5.7 magnitude, caused significant cliff collapse above Taylors Mistake in the Port Hills / Banks Peninsula area, with some areas retreating by 5 metres.

**Figure 1.1 Map of Christchurch City, with Waimakariri District to the north and the Port Hills and Banks Peninsula to the south. Source: Google maps, map data © 2016, with Human Rights Commission additions**





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## The response

In response to the disaster a national state of emergency was declared. In April 2011 the New Zealand Government established the Canterbury Earthquake Recovery Authority (CERA) by an Order in Council under the State Sector Act 1988. Also in April the Canterbury Earthquake Recovery Act 2011 (CER Act) was passed, with the purpose of enabling a focused, timely and expedited recovery of Greater Christchurch.

Essentially a government department, CERA was responsible to the Minister for Earthquake Recovery, the Hon. Gerry Brownlee. The CER Act afforded extraordinary powers to the Minister to expedite rapid decision making and acquire land for the city's reconstruction. It also provided for rights of appeal in certain situations, requiring independent legal scrutiny. CERA was disestablished on 19 April 2016 by the Greater Christchurch Regeneration Act 2016.

The Government decided in 2011 to red zone earthquake-damaged land which ultimately affected 8,060 properties and more than 16,000 people across Greater Christchurch. The red zoned areas were assessed as having area-wide damage and/or risks. Solutions to remediate the land in the short to medium-term were considered to be uncertain, disruptive, not timely or cost effective, and as a result the land was regarded as unsuitable for residential occupation.

Where a property was zoned red (and insured) the Government offered to purchase it.<sup>7</sup> This report, focuses on the human rights impacts of the residential red zone decision—specifically for members of the small group of people who did not accept the Government offer to purchase their red zoned property or vacant section, and who have continued to live on or own land in the now largely abandoned red zone areas. Instead of being seen as the land or home owners they were, this group of property owners in New Zealand became labelled as “red zoners”.

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## The damage

The scope of the disasters was extensive. The Ministry of Business, Innovation and Employment (MBIE) estimated in March 2013 that the earthquakes had reduced the housing stock in the Greater Christchurch region by 11,500 properties (6.2 percent of the previous housing stock).<sup>8</sup> In addition to the outright loss of housing through irreparable damage, the housing shortage was exacerbated by the short-term loss of housing needing repair, which affected relatively large amounts of more affordable and community housing.<sup>9</sup>

According to Swiss Re, a global reinsurance company and one of the Earthquake Commission's re-insurers, the Canterbury earthquakes constitute the third-greatest earthquake-related insurance loss in the world. As at May 2015 insurance costs for the February 2011 earthquake alone were estimated at US\$17.2 billion (NZ\$24.9 billion), and this was predicted to continue to increase.<sup>10</sup> In February 2016 the Reserve Bank estimated the total cost of the Canterbury rebuild at NZ\$40 billion.<sup>11</sup> The Government's May 2016 Budget noted that the Government expects to contribute NZ\$17 billion of this amount;<sup>12</sup> NZ\$7.3 billion of the Government's contribution will be incurred by the Earthquake Commission (EQC), the Government's disaster insurance entity.<sup>13</sup>

Further to the damage to property and infrastructure are the psychological and social impacts of the disaster. Many people in Canterbury have suffered—and continue to suffer—both from the earthquakes and from resultant secondary stressors, including housing shortages (particularly at the lower end of the market), faulty repair strategies and difficulties with ongoing insurance claims.

While seismic activity in the region has decreased since 2010/11, the February 2016 aftershock was a reminder that, for many people, the recovery process is far from over. The protracted nature of the Canterbury earthquakes has not only physically affected the city: it has also impacted the wellbeing of many residents.

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## Monitoring human rights

The Canterbury earthquakes have resulted in human rights challenges on a scale seldom seen in New Zealand, particularly in relation to the right to adequate housing. The earthquakes have also affected other basic human rights, including the right to health, the right to property and the right to education. Civil and democratic rights such as access to information and participation in decision making have also been affected. As a national human rights institution, the Commission has a mandate to protect and promote human rights through its monitoring, advocacy and education functions, including in the context of a disaster.

The research carried out for this report constitutes a follow-up to the Commission's December 2013 publication *Monitoring Human Rights in the Canterbury Earthquake Recovery*. The 2013 report and the accompanying resource, *Making Sure People Count in a Disaster*, have been used by a number of national human rights institutions, including in the Philippines and Nepal. This first report presented a wide-ranging overview of the human rights situation in the post-earthquake environment, particularly in relation to issues of housing and health. The report examined the human rights challenges that emerged during the recovery, and called for human rights standards to be the foundation for a fair and just recovery. It also featured a 'Human Rights Protection Toolbox', which outlined the international and domestic mechanisms that function to hold states to account.

In contrast, the focus of this follow-up monitoring research is narrower. It specifically considers the situation of people who declined to accept the Government purchase offer for their red zoned properties and have continued to live in or own vacant land in Canterbury's residential red zones (RRZs). Adopting a narrow focus enabled the Commission to gain an in-depth understanding of the human rights impacts of the policies and processes of the earthquake rebuild and recovery on a specific group of people.

This report provides a useful counterpoint to the February 2016 CERA report *Residential Red Zone Survey*, which considers the situation of people who accepted the Government offer for their red zoned properties. Research is yet to be conducted into the experiences of renters in the RRZs and people whose properties were zoned green but who would have preferred to have had their properties zoned red. Both these groups have also faced significant issues following the earthquakes and the related red zone decisions. Although natural disasters are indiscriminate in the devastation they cause to whole populations, international experience has repeatedly shown that the poor, the vulnerable and the marginalised suffer most. While renting does not in and of itself indicate vulnerability, it can be a contributing factor, particularly when it intersects with other vulnerabilities such as age, disability, illness or poverty.

The experiences of the people surveyed for this report are not necessarily representative of the experiences of Cantabrians who were not affected by the red zoning or of those people who were red zoned and who chose to accept the Government offer. However, there are many parallels and common factors, such as dealing with agencies and coping with stress.

A focus on the situation of a group of people who have been particularly affected by the post-earthquake policies and processes provides the agencies involved in the recovery with evidence on which to base policies to ensure that human rights are taken into account in future disaster preparedness and recovery. The application of a rights-based approach that is participatory, provides for accountability and delivers sustainability will ensure decision makers fulfill their human rights obligations.







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## Research aims

There were multiple objectives of the research. The overall aim was to investigate and document the situation of people living in the RRZs or owning vacant land in the RRZs, particularly in terms of their human rights. More specifically, the research aimed to:

- determine and promote awareness of the human rights issues faced by people living in the RRZs or owning vacant land in the RRZs
- assess the wellbeing of people living in the RRZs or owning vacant land in the RRZs
- assess the human rights impacts of central and local government policies and processes on the people living in the RRZs or owning vacant land in the RRZs
- identify problems in realising economic, social and democratic rights in the RRZs
- assist future legislative development, advocacy and policy formulation in response to disasters.

In looking at the situation of the small number of people who have remained in Canterbury's residential red zones, the report highlights the importance of individual rights. In particular it raises the critical importance of embedding within recovery policies and practices the ability to work on a case-by-case basis, as appropriate. Policies may outline an appropriate course of action for the majority—even the vast majority—of people, but are unlikely to suit everyone's circumstances. Agencies need to incorporate the flexibility to consider individual cases into disaster response and recovery. This commitment needs to be made clear and apparent, both at the policy level and during implementation, and should be emphasised at the outset of the policy rather than retrospectively.

By analysing the impacts of post-disaster policies and processes on one particular group of affected people, the report also presents a case study of the post-disaster process which can be used to improve future national and international disaster responses. The findings of this research have been used to develop a Human Rights Checklist, which the Commission recommends that government agencies and non-governmental organisations use in disaster preparedness, prevention and recovery work.

Significant steps have been taken internationally to incorporate human rights into disaster response and recovery, most notably through the Hyogo Framework for Action 2005–2015: Building the Resilience of Nations and Communities to Disasters, and the subsequent Sendai Framework for Disaster Risk Reduction 2015–2030. The aims of these international frameworks are reiterated in United Nations Sustainable Development Goal 11: “Make cities inclusive, safe, resilient and sustainable.” One of the targets within this goal is to reduce the numbers of deaths and people affected by disaster, with a particular focus on the poor and people in vulnerable situations. Another target refers specifically to the Sendai Framework and recommends holistic disaster risk management.<sup>14</sup>

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## How was the research conducted?

In the 18 months between the publication of *Monitoring Human Rights in the Canterbury Earthquake Recovery* and starting research for this report, the Commission continued to engage in the recovery through its Enquiries and Complaints service, and its legal and policy work. Research for this report was informed by the issues raised in these interactions.

However, the primary source of the information presented in this report was a survey designed by the Commission, which was complemented by subsequent interviews. The survey was distributed to people either living in or owning vacant land in the RRZs in order to gain an understanding of the issues that have affected them. The 14 interviewees were selected based on the geographic regions they live in and the specific issues they have faced.

The survey asked both quantitative and qualitative questions, and the interviews allowed both researchers and respondents to expand on issues raised in the surveys. For more information on the survey's design and development, including the methodological approach adopted and the ethical considerations considered, see 'Appendix 1: Survey development'.

# Part 2

**What are the residential  
red zones?**





**He aha ngā nōhanga  
pae whero?**

## Land zoning in Greater Christchurch

As a result of the destruction of the 2010/11 earthquakes, particularly the earthquake of 22 February 2011, decisions were taken by the Government regarding the viability of retaining, repairing or demolishing damaged properties. Under the provisions of the CER Act, a process of land zoning was initiated by CERA. All areas across Greater Christchurch were designated green, orange, white or red. The zoning process was intended to provide certainty for people about their properties, certainty being one of the Government's four recovery objectives, along with confidence, best information and simple process.<sup>15</sup>

A green categorisation was applied to areas deemed generally suitable for construction, where earthquake repairs could proceed. These green areas were further divided by MBIE into technical categories (TC) 1, 2 or 3 depending on their potential level of vulnerability to liquefaction. This categorisation of green zoned land meant that repair and rebuild work could begin on properties on the less-vulnerable TC1 or TC2 land without the need for detailed engineering investigation.

**Figure 2.1: Land zonings in Greater Christchurch**

	Deemed generally suitable for construction, where earthquake repairs could proceed.
	Areas requiring further assessment.
	Areas in the Port Hills requiring further assessment in terms of rock-fall and land-slip risk.
	Remediating the land and repairing or rebuilding properties would be uncertain, disruptive, lengthy and uneconomically viable.

Orange zoning indicated the need for further assessment, as did white zoning in the Port Hills, which required further assessment in terms of rock fall and cliff collapse risk. Parts of the Christchurch CBD were also zoned white, indicating they were not residential land.

In Waimakariri District and for the Christchurch flat land, red zoning indicated that remediating the land and repairing or rebuilding properties would be uncertain, disruptive, lengthy and uneconomically viable in the short to medium term. The rationale for the red zone in the Port Hills was different: the classification was applied to properties that posed unacceptable levels of risk to life for their occupants, and for which the work required to mitigate these rock fall or cliff collapse risks was deemed too uncertain, disruptive, lengthy and costly.<sup>16</sup> In contrast to the Port Hills situation, the terminology of 'risk' was seldom used in relation to the flat-land red zones.

A separate 'red zone' was created for the CBD, indicating those areas from which the public were excluded for safety reasons. The CBD's 'red zone' gradually shrank as demolition proceeded and more areas were made safe—with the last cordons being removed on 30 June 2013—but the use of identical names created confusion, especially in media reports.

Initial land zoning announcements were made on 23 June 2011. In these initial announcement parts of the Christchurch flat land and Waimakariri were zoned red. Zoning announcements continued over the next 18 months as geotechnical assessments were carried out across Greater Christchurch. While flat-land decisions were made relatively promptly, the geophysical landscape of the Port Hills slowed progress. The magnitude 5.6 and 6.3 earthquakes on 13 June 2011 also inhibited progress, as they caused further damage to the area in terms of rock fall and cliff collapse risk. Zoning in the Port Hills was carried out over an extended period and delayed by legal proceedings, with the final decisions being made in September and October 2012.

On 15 June 2012 the Government announced a review of the flat-land red zoning. The review panel did not make decisions on individual zoning requests; it only checked that the red zone / green zone criteria had been consistently applied and that boundaries



Homes above Peacocks Gallop, Sumner.

had been accurately drawn. Property owners were able to request that their zoning be reconsidered. As a result of the flat-land zoning review, the zoning status of 100 properties was changed.<sup>17</sup>

A zoning review was also conducted in the Port Hills in late 2012. As with the flat-land review, the review panel considered whether the red zone / green zone criteria had been consistently applied, and owners were again able to request a reconsideration of their property's zoning. This review ended with the announcement on 5 December 2013 of a further 237 Port Hills properties (at 96 addresses) being zoned red and 33 properties being zoned green, bringing the total number of red zoned Port Hills properties to 714.<sup>18</sup>

Although the Port Hills zoning review had not been completed, the Government announced on 31 October 2012 the completion of the land zoning process for Greater Christchurch. In addition to the zoning reviews, zoning decisions have occasionally been revised following consideration of individual cases, when rock fall hazards have been mitigated to sufficiently reduce the risk for which the property was zoned red.

See Appendix 5 for a timeline detailing the key land zoning announcements.

## Maps of the residential red zones

Red zones were declared in parts of Waimakariri District to the north of Christchurch City over the Waimakariri River, parts of the flat land in Christchurch city, and parts of the Port Hills. The different geophysical characteristics of the various red zone areas mean that it is more accurate to speak of *red zones* rather than a single *red zone*.

The red zoned areas in Waimakariri District were parts of the town of Kaiapoi and parts of the coastal suburbs of Pines Beach and Kairaki, which were zoned red in part because they were deemed at high risk of liquefaction in the event of another earthquake. The majority of red zoned properties in Greater Christchurch were on flat land, particularly in the east of the city towards the sea. The historically swampy land in these areas made them especially prone to liquefaction in future earthquake events. Affected suburbs included Brooklands, just south of the Waimakariri River, suburbs around the Avon-Ōtākaro River, and suburbs by the sea.

In contrast to the flat land, properties were red zoned in the Port Hills if they were deemed to be at an unacceptable risk to life of rock fall or cliff collapse. The red zoned areas in the Port Hills were spread out, encompassing parts of Hillsborough and Heathcote, Redcliffs, Sumner and Scarborough, Lyttelton and Governors Bay.

## Part 2

What are the residential red zones?

Figure 2.2: Map of Canterbury's red zones

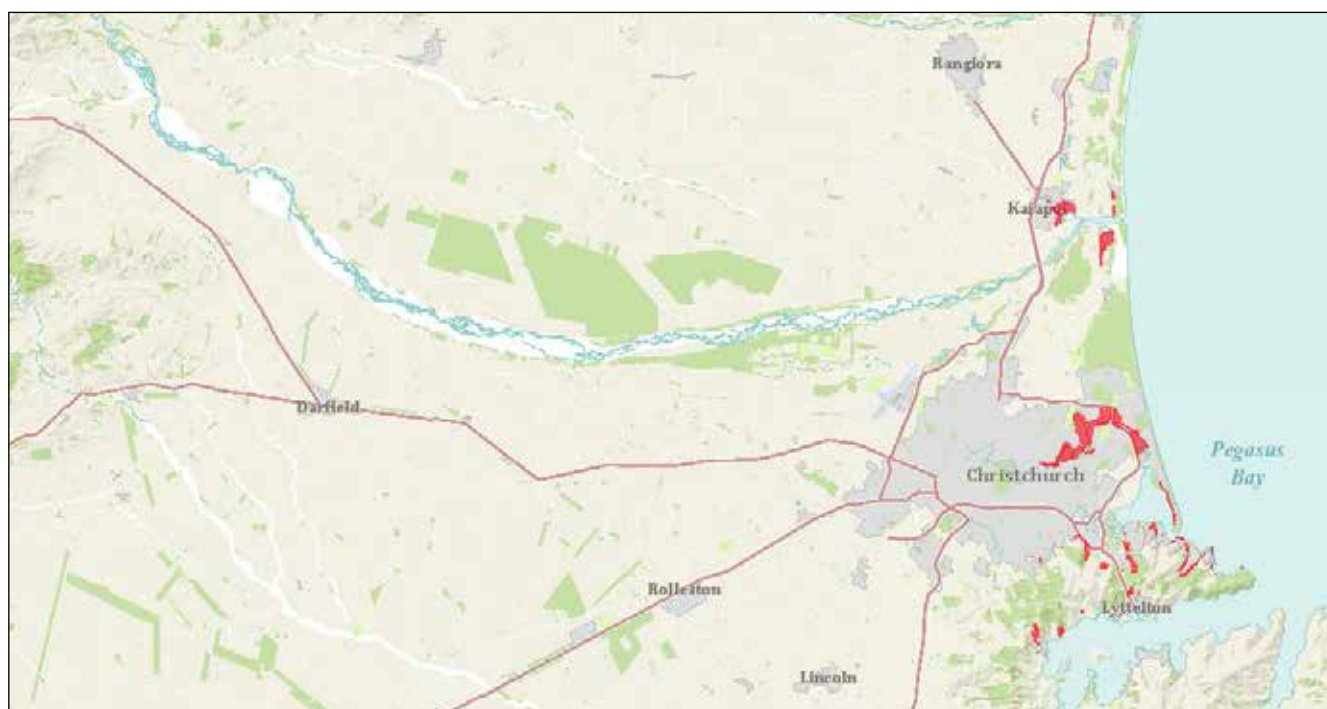


Figure 2.3: Map of the Waimakariri residential red zones

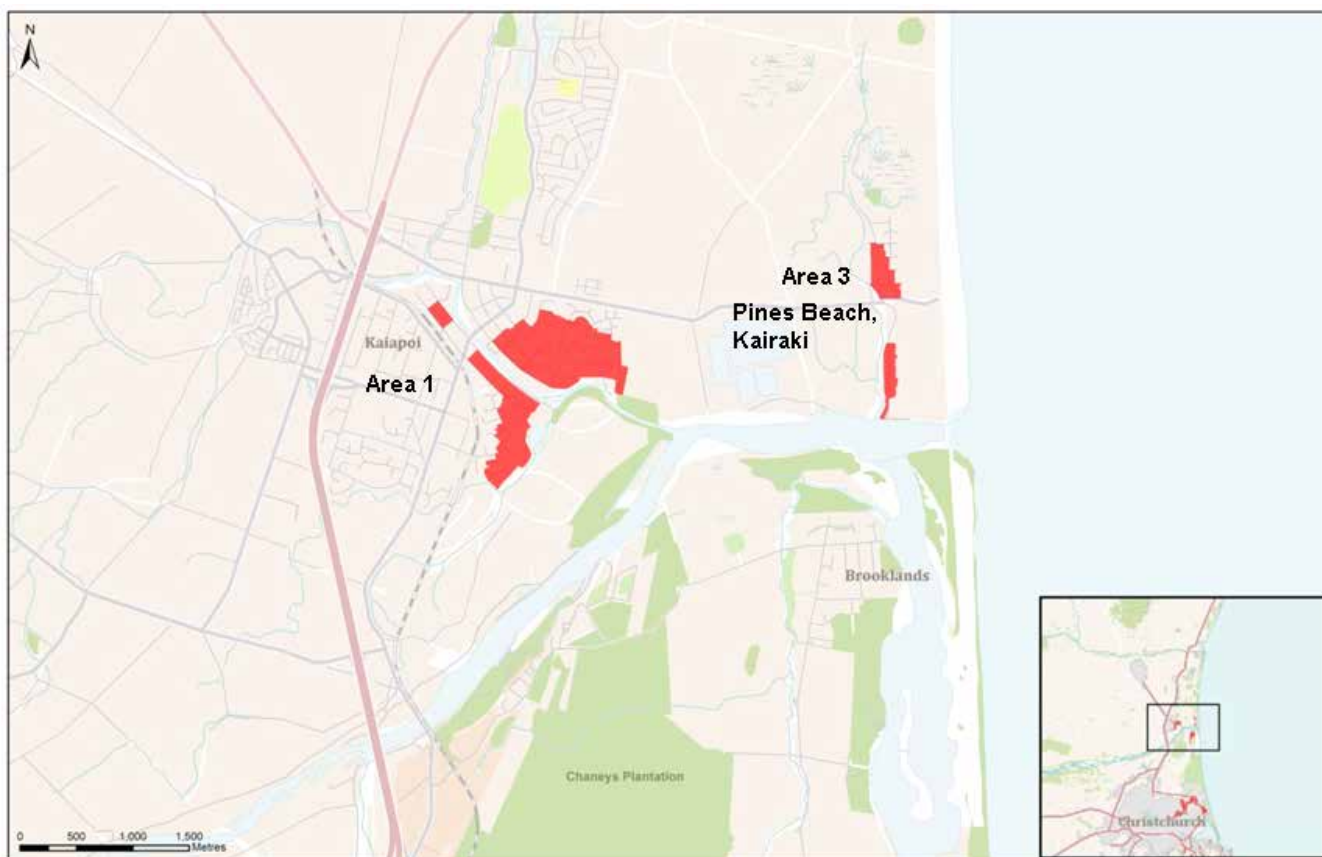




Figure 2.4: Map of the Christchurch flat-land residential red zones

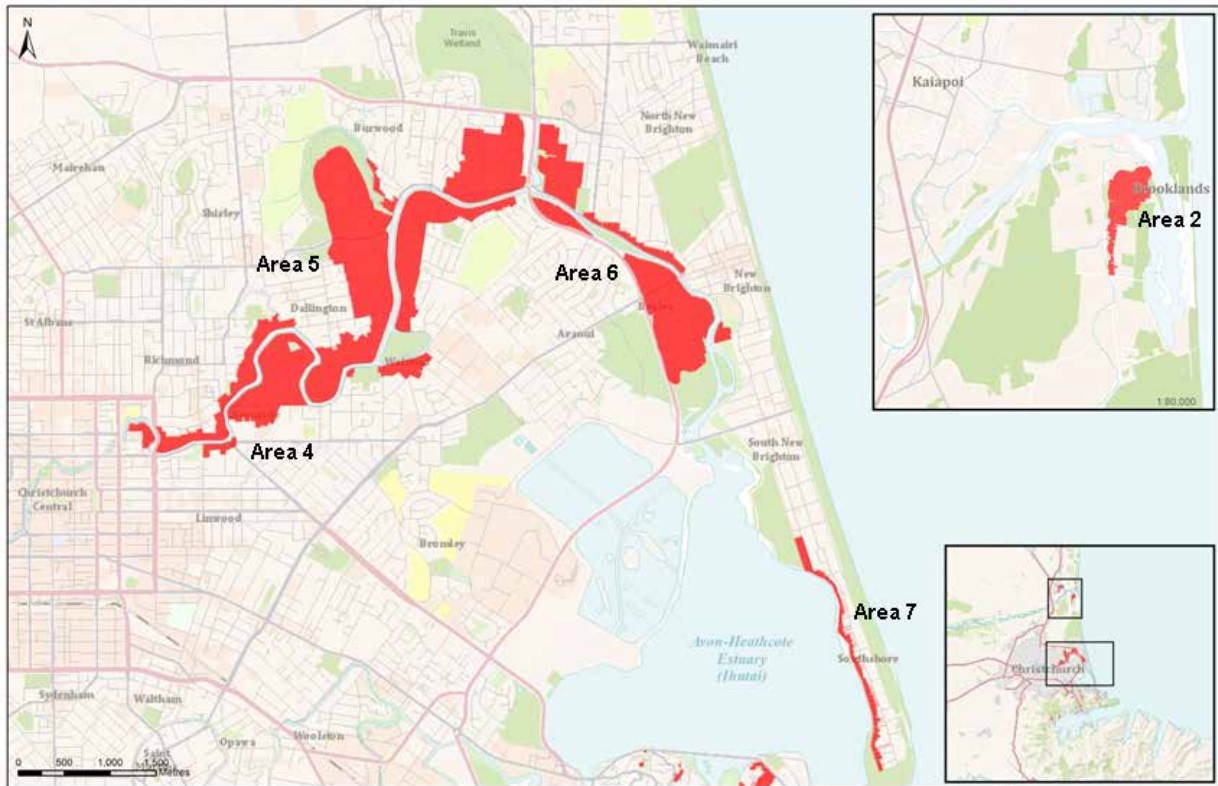
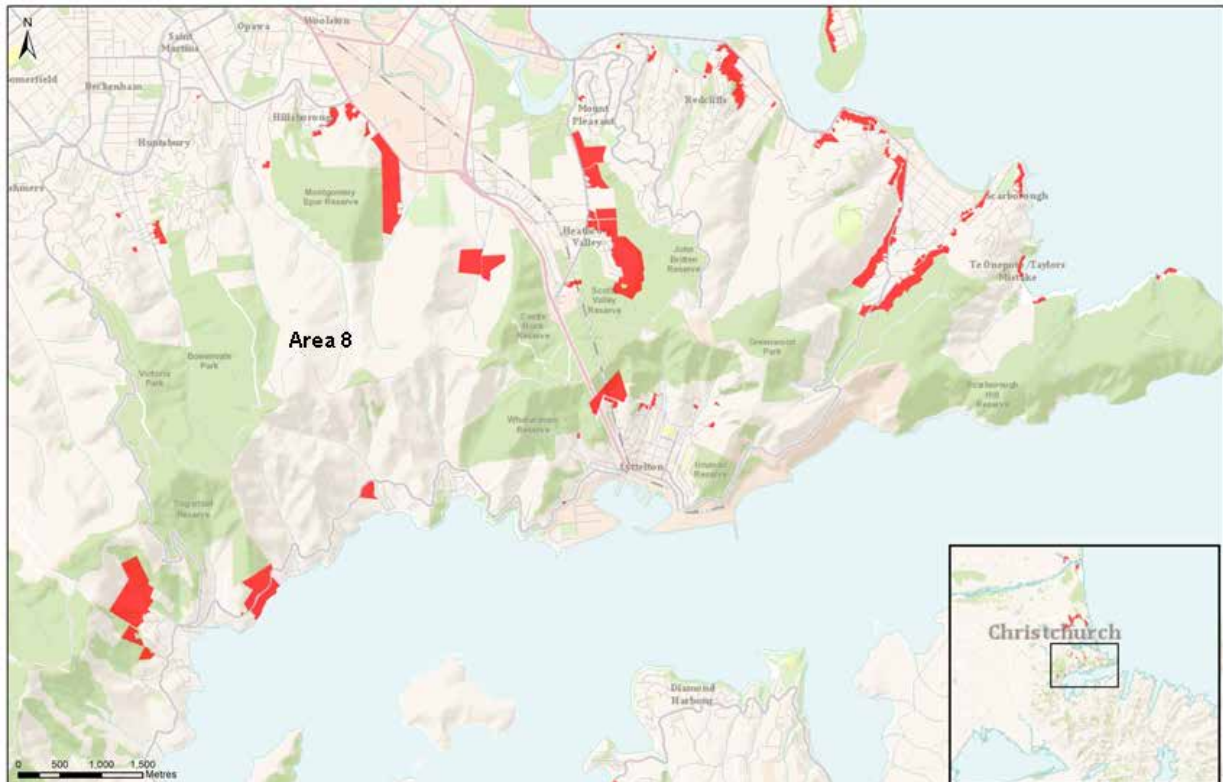


Figure 2.5: Map of the Port Hills residential red zones



Source: Maps provided by CERA in April 2016, with Commission additions.

Analysis was conducted on the maps of Canterbury's residential red zones by the Commission's survey outreach partner, the New Zealand Red Cross. The first set of maps (Figure 2.3) overlay data from the New Zealand Deprivation Index with the physical areas of the residential red zones.

The Deprivation Index combines nine variables, determined by the New Zealand Census 2013, which provide indicators for eight dimensions of deprivation. These dimensions are: communication, income, employment, qualifications, home ownership, support, living space and transportation. The variables are applied to meshblocks (areas of

variable size, each containing about 81 people in the 2013 Index) across the country to determine the Index.<sup>19</sup>

With a spread of different grey colours (indicative of level of deprivation) across the red zones, the maps show that there are no clear connections between red zoned areas and areas with high or low levels of deprivation. The maps do, however, highlight discrepancies between the different red zoned areas, with darker shades of grey (suggestive of higher levels of deprivation) visible in the Waimakariri District and Christchurch flat-land red zones than in the Port Hills red zones.

**Figure 2.6: The Canterbury residential red zones mapped against the Deprivation Index (2013)**

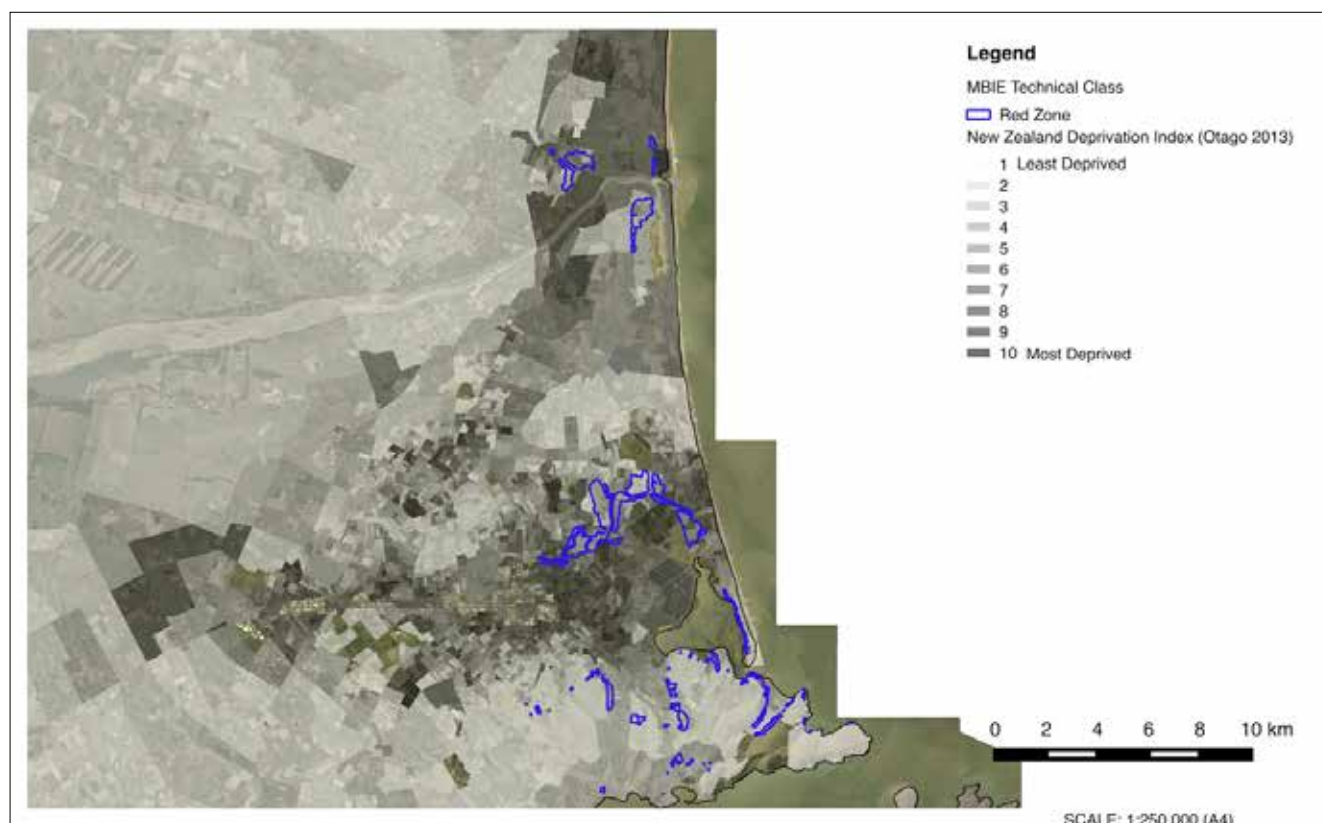
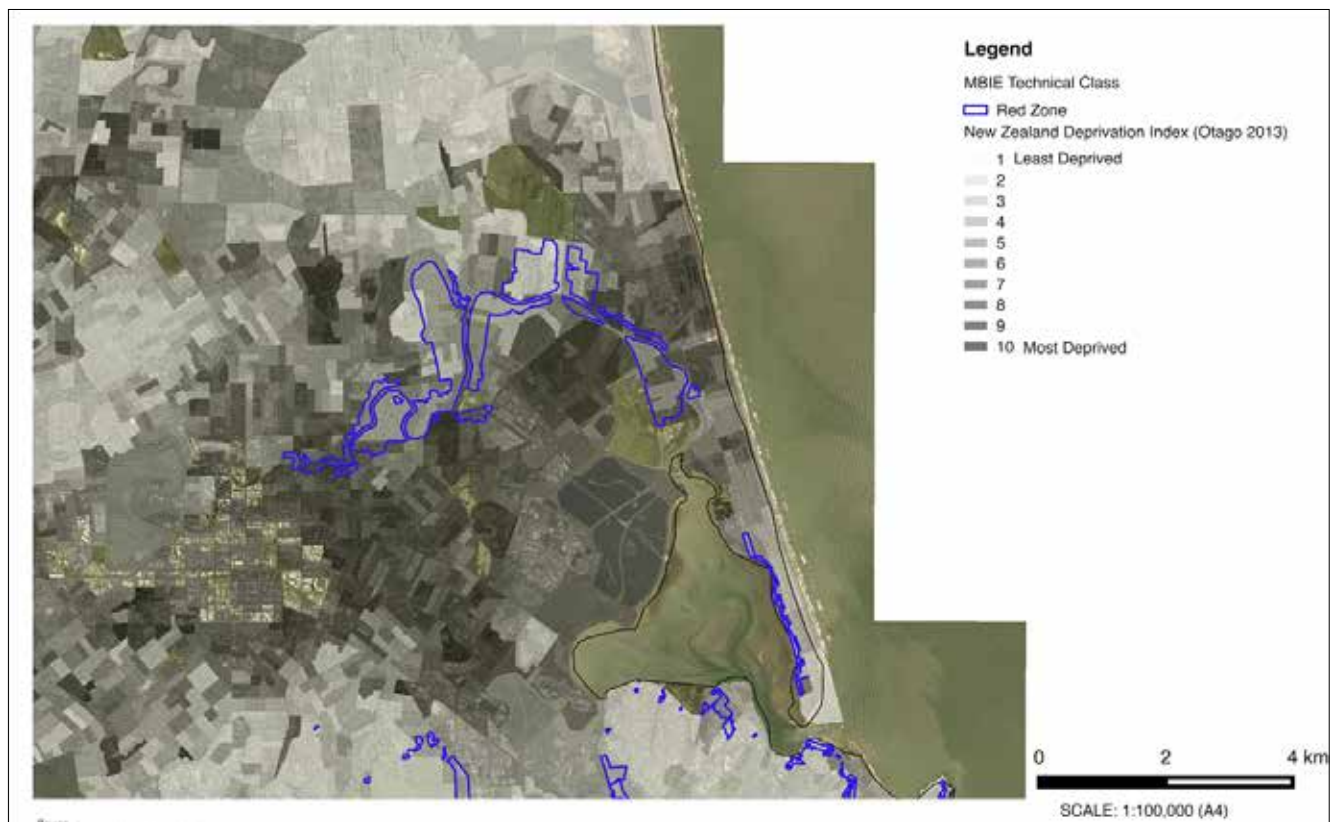




Figure 2.7: The Christchurch flat land residential red zones mapped against the Deprivation Index (2013)



Source for Figures 2.6 and 2.7: 1. Aerial imagery sourced from LINZ (may not be spacially accurate). 2. Cadastral Data from Land Information New Zealand, CERA and Statistics New Zealand. 3. Deprivation Data from NZ Dep2013 Index of Dprevation, sourced from <http://www.otago.ac.nz/wellington/otago069936.pdf>

## Part 2

### What are the residential red zones?

## The number of properties in the residential red zones

In total 8,060 properties across Greater Christchurch were zoned red. Of these, 7,214 properties were residential, 164 were commercial, 157 were vacant land and 525 were other types. The distribution of red zoned properties (not including 'other types') across the three geographic regions was as follows:

- 992 residential properties, six vacant sections and zero commercial properties in Waimakariri District
- 5,765 residential properties, 72 vacant sections and 20 commercial properties on the Christchurch flat land
- 457 residential properties, 79 vacant sections and 145 commercial properties in the Port Hills.

Red zoned land was divided into eight areas, as set out in Table 2.1.

## Government purchase offers

The Government offered to purchase red zoned properties from owners, with purchase prices based on the most recent pre-earthquake rateable values from 2007 (Christchurch City) and 2008 (Waimakariri District). However, the purchase offers provided to owners of insured residential properties differed from offers provided to owners of vacant land, insured commercial properties and uninsured residential properties. This section details the different offers, and the eventual decision to revise the offer to the latter group of property owners.

### Offers to owners of insured residential properties

#### The aim and content of the offers to owners of insured red zoned residential properties




On 23 June 2011 the Prime Minister, the Rt. Hon. John Key, and the Minister for Canterbury Earthquake

**Table 2.1: Red zone property types, by area**

Area	Suburb/s	Residential properties	Vacant land	Commercial properties
1	Kaiapoi	843	5	0
2	Brooklands	451	43	0
3	Pines Beach, Kairaki	149	1	0
4	Avon Loop, Richmond, Linwood	412	3	1
5	Dallington, Burwood, Avonside	2,653	16	6
6	Avondale, Aranui, Bexley, New Brighton, Wainoni	2,059	8	13
7	Southshore	190	2	0
8	Port Hills	457	79	144
<b>Total</b>		<b>7,214</b>	<b>157</b>	<b>164</b>

Source: Based on information provided by CERA in April 2016 following the final settlement date of 26 February 2016.

#### Key

-  RRZ properties in Waimakariri District Council
-  Flat land RRZ properties in Christchurch
-  Port Hills RRZ properties in Christchurch

Recovery, the Hon. Gerry Brownlee, announced an offer to purchase insured residential properties in the Christchurch flat land and Waimakariri red zones. The announcement identified about 5,000 properties in the Christchurch City Council (CCC) area and about 100 properties in the Waimakariri District Council area.<sup>20</sup>

Two options were available to property owners who wished to accept the purchase offer: they could either accept 100 percent of the 2007/08 rateable value for land, buildings and fixtures on the property (and any insurance claims were then assigned to the Government), or accept 100 percent of the 2007/08 rateable land value only and any insurance claims on buildings and fixtures on the property were retained by the owners. In August 2011 this same offer was extended to the owners of a further 940 red zoned residential properties in Waimakariri District.

The process and timeframe for red zoning properties was different in the Port Hills because of the difference in terrain. However, owners of insured red zoned residential properties in the Port Hills were eligible for the same Government purchase offer as and when their properties were red zoned.

The purchase offers were intended to help property owners by removing the complexities of the insurance process and allowing them to move away from areas with widespread damage.<sup>21</sup> According to the CERA survey of owners who accepted the Government purchase offer, 79 percent of respondents felt the offers provided them with certainty of outcome.<sup>22</sup> This finding is important because it illustrates that the red zoning had positive impacts on many owners of red zoned residential properties, as certainty is critical to enabling people's recovery following disaster.

The choice of two purchase offer options, however, meant that property owners needed to be familiar with their own insurance policies in order to decide which offer to accept. For many affected people this was not the case. This issue was not unique, though; the situation in Canterbury implied that all insured property owners needed to understand their insurance policies.

Following the receipt of a signed consent form, the Government provided property owners with an

offer to purchase their property. A property owner indicated acceptance of the offer through a signed agreement for sale and purchase sent to CERA by the owner's solicitor. Owners of insured flat-land red zoned properties were given 12 months from the date of their offer letter, or until 31 March 2013 (whichever date came first) to accept the offer. Rolling deadlines were in place from August 2012.

The Government was initially inflexible with granting deadline extensions. However, in December 2012 this decision was amended and the Minister for Canterbury Earthquake Recovery approved granting deadline extensions on a case-by-case basis. On 28 May 2013 the authority for making decisions on deadline extensions was granted to CERA's Chief Executive.<sup>23</sup>

Owners of red zoned Port Hills properties were initially given 12 months from the date of their offer letter, or until 31 August 2013 (whichever date came first) to accept. This deadline was later extended to 31 March 2014.

### **The framing of the insured RRZ offers**

The offer to all residents in the RRZs was framed as a voluntary offer to purchase. However, at the time of making the zoning announcement the Government issued a notice on the CERA website that:

- CCC would not be installing new services (or maintaining existing services in the longer term) in the RRZs
- if only a few people remained in a street or area, CCC and other utility providers might reach the conclusion that they would no longer maintain services to the remaining properties
- insurers might cancel or refuse to renew insurance policies for properties in the RRZs
- although no decisions had been made on the ultimate future of the red zones, CERA had powers under the CER Act 2011 to require the sale of the property to CERA for its market value at that time; if a decision were to be made in the future to use these powers to acquire a property, the market value could be substantially lower than the amount received under the Crown's offer.<sup>24</sup>

## Part 2

### What are the residential red zones?

In March 2013 CERA's Chief Executive, Roger Sutton, indicated that while compulsory acquisition may not occur, the position for homeowners remained uncertain. In response to queries from residents, government officials have stated that if basic services broke down they would not be replaced. The Prime Minister stated, "One of the issues is that land in the red zone is by definition marooned because there's no services being provided there, that won't be provided there, we believe the land is unstable."<sup>25</sup>

CERA's position was that the provision of existing services was a decision to be made by CCC rather than CERA. However, the Minister for Earthquake Recovery, the Hon. Gerry Brownlee, stated in 2013, "If services break down they won't be replaced."<sup>26</sup> The CCC's response at this time was that because the red zoned land was vacated, it would progressively cease to provide water, sewerage, solid waste and roading services to properties in the area. It subsequently stated that it would consult with residents who still lived in the red zone before making any decisions on how it would continue to provide services to those people.<sup>27</sup>

### Uptake of the Government's purchase offer

Owners of red zoned properties eligible for Government purchase offers under the Residential Red Zone Offer Recovery Plan process were given until 10 December 2015 to accept the Government's offer, with a final settlement date of 26 February 2016. The numbers of residential properties, by area, for which Government purchase offers had been settled, had yet to be settled or had not been accepted at 8 March 2016 is shown in Table 2.2.

As at 8 March 2016, owners of 7,086 of the 7,214 residential properties in the RRZs (98.2 percent) had accepted the Government's offer, while owners of 121 properties (1.7 percent) had not accepted. Of the property owners who had accepted the Government offer, all but seven had completed the settlement process. The Government offer process was closed in February 2016 prior to Regenerate Christchurch being established and during the closing down period of CERA. The Minister informed the Commission in September 2016 that the Government was still 'unofficially' open to people accepting the offer.

**Table 2.2: Uptake of Government offer for residential properties, by suburb, at 8 March 2016**

Area	Suburb/s	Govt offer settled	Govt offer still to be settled	Govt offer not accepted	Total
1	Kaiapoi	834	0	9	843
2	Brooklands	431	0	20	451
3	Pines Beach, Kairaki	126	0	23	149
4	Avon Loop, Richmond, Linwood	406	0	6	412
5	Dallington, Burwood, Avonside	2,639	6	8	2,653
6	Avondale, Aranui, Bexley, New Brighton, Wainoni	2,050	1	8	2,059
7	Southshore	189	0	1	190
8	Port Hills	411	0	46	457
<b>Total</b>		<b>7,086</b>	<b>7</b>	<b>121</b>	<b>7,214</b>

Source: Based on information provided by CERA in April 2016 following the final settlement date of 26 February 2016.

#### Key

- RRZ properties in Waimakariri District Council
- Flat-land RRZ properties in Christchurch
- Port Hills RRZ properties in Christchurch



**Table 2.3: Uptake of Government offer, by area**

Area	Total residential properties	Govt. offer settled or yet to settle (n)	Govt. offer settled or yet to settle (%)	Govt. offer not accepted (n)	Govt. offer not accepted (%)
Waimakariri	992	960	96.8	32	3.2
Flat land	5,765	5,722	99.3	43	0.7
Port Hills	457	411	89.9	46	10.1

Source: Based on information provided by CERA in April 2016 following the final settlement date of 26 February 2016.

**Key**

	RRZ properties in Waimakariri District Council
	Flat-land RRZ properties in Christchurch
	Port Hills RRZ properties in Christchurch

Working on the assumption that most people who did not accept the Government offer wanted to remain living in their red zoned property, this would mean that the 121 properties whose owners had not accepted the offer were likely occupied in March 2016. At an average of 2.48 people per house in the RRZs,<sup>28</sup> it can be estimated that approximately 300 people lived in the residential red zones across Greater Christchurch at the time of the Commission's survey. Although the percentage of residential property owners who did not accept the offer is very small, there are some important differences between Waimakariri District, the flat land in Christchurch and the Port Hills. These differences are revealed in Table 2.3.

The vast majority of red zoned properties were in the Christchurch flat-land area, and, as can be seen from the table, the uptake of the Government purchase offer was highest in these areas, with less than 1 percent of property owners not accepting the offer. The percentage of property owners who did not accept the offer is higher in Waimakariri, at 3.2 percent. The Port Hills was the area with the smallest number of red zoned properties, but it was also the area where the highest proportion (10.1 percent) of owners rejected the offer.

The Government has been clearing red zoned areas of properties. As at August 2016, 7086 dwellings in the flat land had been cleared, with another four in the process, and 291 dwellings in the Port Hills, with 88 underway.<sup>29</sup>

### Offers to owners of vacant land, insured commercial properties and uninsured residential properties

#### The aim and content of the offers

On 13 September 2012 the Government announced purchase offers for owners of vacant land, commercial properties and uninsured properties in the flat-land residential red zone.

- Owners of insured commercial properties were offered the option of either 50 percent of the 2007/08 rateable land value and 100 percent of the 2007/08 rateable value for any insured improvements on the property (insurance claims were then assigned to the Crown), or 50 percent of the 2007/08 rateable land value only (and insurance claims on any improvements on the property were retained by the owners).
- Owners of vacant land were offered 50 percent of the 2007/08 rateable value, triggering anger among affected people who believed they were being unfairly treated, because vacant land cannot be insured in New Zealand.<sup>30</sup>



Brooklands corner dairy in the residential red zone

- Owners of uninsured properties were offered 50 percent of the 2007/08 rateable land value, with no payment for improvements on their property.

The reduced offers made to uninsured residential property owners, insured commercial property owners and vacant landowners were rationalised primarily on the basis that the Government did not want to set a precedent, particularly in the case of uninsured property owners. The idea behind this was that compensating people who were uninsured might encourage people not to insure in the future. If people were not insured then they could not claim insurance, and the Government purchase offer reflected this argument.

As a result of this offer, 46 individual or joint owners of properties in the red zone (about half the uninsured residential property owners and half the vacant landowners) formed a group called the Quake Outcasts. This group initiated legal proceedings in the High Court challenging the Government's decision.

On 26 August 2013 the High Court decided that the decision to offer to purchase the properties was not made according to law. The Minister and the Chief Executive of CERA were directed to reconsider the offer in accordance with the CER Act.<sup>31</sup> The Commission applied to intervene in these proceedings<sup>32</sup> and argued that the creation of the red zones and the subsequent offers interfered with residents' human rights. The High Court concluded that the use and enjoyment of one's home is a fundamental human right and that the creation of the red zones interfered with this right.<sup>33</sup>

The Crown appealed the decision. The Court of Appeal released its decision on 3 December 2013. The Court of Appeal decided that the decision to red zone the most damaged parts of Greater Christchurch was lawful (in that the Government was permitted to take any action not legally prohibited) and well conducted. The Court nonetheless decided that the 50 percent offer was not in line with the CER Act. It also decided that there was a rational basis for distinguishing between insured and uninsured property owners and that it was therefore not appropriate to change the purchase offer. The Quake Outcasts appealed to the Supreme Court, seeking clarification as to whether it had been lawful to create the RRZs and whether it

had been lawful to distinguish between insured and uninsured property owners. The Commission was also involved in these proceedings.

On 13 March 2015 the Supreme Court, by a majority, decided that the decision to establish the RRZs was not lawfully made in as much as it was made outside the ambit of the CER Act. The Court issued a declaration that the decisions relating to uninsured improved residential property owners and to vacant residential land owners were likewise not lawfully made. The Supreme Court majority decided that the zoning and purchase offers should have been determined through the Recovery Plan process in the CER Act, which would have allowed for public consultation. The Court further decided that property owners' insurance status was relevant but should not have been the determining factor in the purchase offers. As a result, the Minister and the Chief Executive of CERA were directed to reconsider the offers. In relation to the issue of whether accepting the purchase offers was 'voluntary,' the Supreme Court found that:

It is true that the Crown did not use its powers of compulsory acquisition under the Act. However, it is unrealistic to describe the transactions that occurred as voluntary. The inhabitants of the red zones had no realistic alternative but to leave, given the damage to infrastructure and the clear message from the government that new infrastructure would not be installed and that existing infrastructure may not be maintained and that compulsory powers of acquisition could be used.<sup>34</sup>

After the Supreme Court's decision, CERA initiated a public consultation process on the issue of the purchase offers and published, in June 2015, the *Draft Residential Red Zone Offer Recovery Plan*. Following this process, the *Residential Red Zone Offer Recovery Plan* was published in July 2015.<sup>35</sup> This document outlined revised purchase offers to affected people. It proposed that owners of uninsured residential properties be offered 80 percent of the 2007/08 rateable value for land, but nothing for improvements (i.e. the dwelling and any outbuildings such as sheds or garages). In its submission to CERA on the *Draft*



## Part 2

### What are the residential red zones?

*Residential Red Zone Offer Recovery Plan*, CCC disagreed with the 80 percent offer, stating,

the Council believes it was wrong for CERA to discriminate against RRZ home owners who for whatever reason found themselves uninsured (or were underinsured) at the time of the earthquakes. It is disingenuous for CERA to selectively quote from the Supreme Court's judgement in the Quake Outcasts case to support its view that it is right to distinguish between insured or uninsured homeowners.<sup>36</sup>

CCC's view was that

homeowners are subject to the same offer not because they are uninsured, but because their house is in an area that the Government has 'zoned' for the purposes of the offer. The real distinction is between two uninsured properties, one in the 'green zone' and the other in the RRZ.<sup>37</sup>

CCC has stated that "the Government, having made an area-wide decision to create the RRZ, should then have made the same offer to every property owner in the zone, regardless of their insurer status."<sup>38</sup>

Through the consultation process the majority of submitters considered that offers should be made to uninsured home owners at 100 percent of the 2007/08 rateable valuation for land, with many of them also suggesting that the new offer should include payment for both land and improvements. The Minister approved the final Recovery Plan as either 100 percent of the 2007/08 rateable value for land and insured improvements (with insurance claims transferred to the Crown), or 100 percent of the 2007/08 rateable land value (with claims for the property maintained by the owners). Vacant landowners were offered 100 percent of the 2007/08 rateable land value.

Owners of uninsured residential properties were offered 100 percent of the 2007/08 rateable land value, but no payment for improvements. Owners were entitled to decide whether to relocate, sell or salvage any assets on the property, or to request the Crown to demolish (the costs would be met by the Crown).

Offers to affected people were formally made by CERA in August 2015.

In February 2016, 16 members of the Quake Outcasts commenced new proceedings in the High Court. They challenged the July 2015 offers on the basis that these offers were contrary to the Supreme Court's decision. In particular, the group claimed that the 2015 offers continued to treat insurance as a determinative factor applied on an area-wide basis. In August 2016 the High Court dismissed the case and found that the Minister for Earthquake Recovery, the Hon. Gerry Brownlee, was within his rights to consider insurance status when formulating a Crown compensation offer. At the time of writing, an appeal to the Court of Appeal has been filed on behalf of Quake Outcasts and leave has been sought from the Supreme Court to appeal to it directly.

### **Uptake of the offers: owners of vacant sections**

Table 2.4 sets out the number of vacant sections, by area, for which Government purchase offers had been settled, had yet to be settled or had not been accepted, as at 8 March 2016.

A lower proportion of owners of vacant land accepted the Government offer than owners of residential properties, with 88.5 percent of vacant landowners accepting the offer and 11.5 percent not accepting the offer.

### **Uptake of the offer: owners of commercial properties**

The number of commercial properties for which Government purchase offers had been settled, had yet to be settled or had not been accepted as at 8 March 2016 can be seen in Table 2.5.

The majority of commercial property owners (94.5 percent) had decided to accept the Government offer, with 5.5 percent of owners not accepting. Almost all commercial properties in the Port Hills were storage units on a single site.



**Table 2.4: Uptake of Government offer for owners of vacant sections, by suburb, at 8 March 2016**

Area	Suburb/s	Govt. offer settled	Govt. offer still to be settled	Govt. offer not accepted	Total
1	Kaiapoi	5	0	0	5
2	Brooklands	38	1	4	43
3	Pines Beach, Kairaki	0	0	1	1
4	Avon Loop, Richmond, Linwood	2	0	1	3
5	Dallington, Burwood, Avonside	16	0	0	16
6	Avondale, Aranui, Bexley, New Brighton, Wainoni	8	0	0	8
7	Southshore	1	0	1	2
8	Port Hills	68	0	11	79
<b>Total</b>		<b>138</b>	<b>1</b>	<b>18</b>	<b>157</b>

Source: Based on information provided by CERA in April 2016, following the final settlement date of 26 February 2016.

**Table 2.5: Uptake of Government offer for commercial properties, by suburb, at 8 March 2016**

Area	Suburb/s	Govt. offer settled	Govt. offer still to be settled	Govt. offer not accepted	Total
1	Kaiapoi	0	0	0	0
2	Brooklands	0	0	0	0
3	Pines Beach, Kairaki	0	0	0	0
4	Avon Loop, Richmond, Linwood	0	0	1	1
5	Dallington, Burwood, Avonside	6	0	0	6
6	Avondale, Aranui, Bexley, New Brighton, Wainoni	11	0	2	13
7	Southshore	0	0	0	0
8	Port Hills	132	6	6	144
<b>Total</b>		<b>149</b>	<b>6</b>	<b>9</b>	<b>164</b>

Source: Based on information provided by CERA in April 2016, following the final settlement date of 26 February 2016.

**Key**

- RRZ properties in Waimakariri District Council
- Flat-land RRZ properties in Christchurch
- Port Hills RRZ properties in Christchurch

## Part 2

### What are the residential red zones?

#### Property rights

The red zone decision and the Government offers has highlighted the fragility of the right to property in New Zealand. In contrast to many other countries where the right to property is protected in some form in their Bills of Rights, there is no specific statutory recognition of the right to property in the New Zealand Bill of Rights Act 1990.

Property plays a fundamental role in our society and provides a base from which individuals can participate in civic life. Professor RQ Quentin-Baxter said in relation to property:

Those of us who know least of Māori culture have in the last few years become aware of the concept of *tūrangawaewae* – the importance to the stature of men and women of the land on which they stand, of the place they are entitled to call their own.<sup>39</sup>

The right to property can be traced back to the Magna Carta which became part of New Zealand law in 1840. Chapter 29 of the Magna Carta which provides that “No freeman shall be ... disseised of his freehold ... but by lawful judgment of his peers or by the law of the land” remains in force by virtue of section 3 of the Imperial Laws Act 1988. This aspect of the Magna Carta has been recognised by the Courts over the years and is implicit in Article 2 of the Treaty of Waitangi.

The right to property encapsulates four key principles:

- a Everyone has the right to own property alone as well as in association with others;
- b No person shall be arbitrarily deprived of property;
- c No person shall be deprived of property except in accordance with the law, in the public interest, and with just and equitable compensation;
- d Everyone has the right to the use and peaceful enjoyment of their property. The law may subordinate such use and enjoyment to the interests of society.

Parliament is sovereign and can make laws that interfere with the right to property as long as it is reasonable, proportionate and not arbitrary.

The Canterbury Earthquake Recovery Act 2011 provided the Government with unprecedented powers. However, instead of using the powers specifically legislated for, the Executive made decisions in relation to Canterbury properties and property owners in reliance on the so called “third source of power” rather than following the procedures set out in the legislation. The experience of the group of people living, or owning vacant land, in the residential red zones who did not accept the Government’s offer has highlighted the danger that reliance on such a source of power poses to the rule of law and the rights and freedoms of New Zealanders.

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### The administration of the red zones

With the winding down of CERA in April 2016, its responsibilities for the Canterbury recovery were transferred to other government agencies in a multi-step process outlined in the Transition Recovery Plan.<sup>40</sup> The key components of this transition are:

- the Department of the Prime Minister and Cabinet will lead and co-ordinate the role of central government in the recovery and regeneration of Greater Christchurch, providing policy, planning, legal and monitoring support.
- the Greater Christchurch Group was formed on 1 March 2016 as a business unit within the Department of the Prime Minister and Cabinet to provide advice to Ministers and the Government, including policy advice on the regeneration of Greater Christchurch; the future uses of the RRZs; and to administer the new legislation, monitoring and reporting on the recovery progress, as well as part funding and/or joint governance of horizontal infrastructure repairs.

Other work previously undertaken by CERA has been transferred to other agencies as follows:

- Regenerate Christchurch, a new joint Crown and CCC agency, will oversee the long-term enhancement and development of the Christchurch central city, Christchurch residential red zones and New Brighton, including carrying out public engagement
- A new Crown company, Ōtākaro Limited, has been established to deliver anchor projects and precincts in Christchurch. It has an interest in Crown-owned land, including the RRZs
- Land Information New Zealand has taken on responsibility for the remaining demolitions and the clearing of Crown-owned property in the RRZs, as well as the maintenance and interim land management of Crown-owned land until future use decisions can be made
- MBIE has taken on responsibility for strategic procurement and the remaining residential rebuild work<sup>41</sup>
- The Ministry of Health and the Canterbury District Health Board have together taken on responsibility for psychosocial recovery work

With the end of CERA's five-year mandate, Canterbury moved from the 'recovery' phase into the 'regeneration' phase.

## Future use of the residential red zones

### Christchurch

At the time of writing, the future use of the RRZs in Christchurch remains unclear. CERA had resolved to lead an assessment of possible future land uses, taking factors such as hazards, economic growth, ecology and urban growth into consideration.<sup>42</sup> However, this had not been carried out before the agency wound down in April 2016. It is intended that public consultation will contribute to decisions on the future use of the Christchurch RRZs. Responsibility for this activity passed under the Transition Recovery Plan to Regenerate Christchurch.

In December 2015 CERA indicated that there were 32 remaining properties scheduled for demolition in the Christchurch flat-land area. The target was to have cleared all Crown-owned properties in the flat-land RRZ by April 2016.<sup>43</sup> Under the Transition Recovery Plan responsibility for the demolition of red zoned properties passed from CERA to Land Information New Zealand at the end of 2015.<sup>44</sup> In February 2016 *The Press* reported that 322 Port Hills homes and 28 other red zoned homes were yet to be demolished.<sup>45</sup> Demolitions in the Port Hills, already slowed by terrain and safety issues, were again delayed after the 14 February 2016 earthquake while safety checks were carried out.<sup>46</sup>

Although most red zoned properties were demolished, some were relocated to green zoned sections.

In carrying out the clearance of the red zone, CERA stated that it tried to keep open the option of pursuing any possible future use of the land. There has been public discontent with the delay in considering the future use of the Christchurch flat-land RRZ, which has minimised options for interim use of the area.<sup>47</sup> The possibility that the Government may be considering future use options that would yield financial return (such as selling the land for housing) has prompted public agitation, with Christchurch City Mayor Lianne Dalziel commenting that former residents should be offered first chance of purchase.<sup>48</sup>

### Waimakariri

The situation is different in Waimakariri District. A public engagement process was conducted between July and September 2014, which solicited suggestions from members of the public on the future use of the District's red zones in Kaiapoi, Pines Beach and Kairaki Beach. These suggestions were compiled into a report named *Canvas: Your Thinking for the Red Zones*, which was released in December 2014.<sup>49</sup> One result of the public consultation was that, when asked what the future use of the RRZ land should reflect, approximately 60 percent of ideas related to 'people values' and approximately 40 percent to 'place values'.<sup>50</sup>

## Part 2

### What are the residential red zones?



The red zone of Kaiapoi, Waimakariri, July 2015.

Further work has since been conducted on the land to determine what uses might be feasible. On 3 October 2015 the District Council released “*Let’s Discuss*”, which provided updated technical information on the Waimakariri RRZs and an overview of public opinions submitted through *Canvas*. Comments on the report informed the *Preliminary Draft Waimakariri Red Zone Recovery Plan* released in February 2016, and in early August 2016 the *Draft Waimakariri Residential Red Zone Recovery Plan* was released.

The *Preliminary Draft Waimakariri Residential Red Zone Recovery Plan* (known as “*Let’s Plan*”), released on 5 February 2016, set out suggestions for proposed long-term land uses in the five regeneration areas in Kaiapoi, Pines Beach and Kairaki. The Plan’s stated vision is

To creatively and cost-effectively return regeneration areas to active use ensuring Kaiapoi, Kairaki, Pines Beach and the wider district are economically vibrant, resilient, rewarding and exciting places for residents and visitors, while celebrating the significant cultural values of iwi and the wider community.<sup>51</sup>

The Commission welcomed the draft plan’s acknowledgement of the property rights of existing private property owners in the five regeneration areas. It also noted that the planners had taken into account these rights in the development of the proposed land uses. The Recovery Plan also

stated that services and roading access to private properties would remain, but that the level of service to these areas might change. The Plan outlined extensive infrastructure work planned for some regeneration areas, including new or upgraded road, water, sewerage and stormwater infrastructure. The Commission believed that these commitments would provide much-needed certainty for the people who remained in the regeneration areas. In particular, the Commission welcomed the case-by-case consideration in the draft plan of individual properties.

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## Findings: the residential red zones

- 2.1. It is estimated that approximately 300 people remained living in the residential red zones as at 8 March 2016.
- 2.2. The right to property in New Zealand is fragile. The use of the so called “third source” of power when Parliament had given the Executive sweeping powers through legislation was problematic and ultimately impacted on the rights and wellbeing of those who chose to remain in the red zone.
- 2.3. While the CERA report notes that the approach taken was beneficial to the majority of owners of red zoned properties who responded to its survey, the Government purchase offers and corresponding expectation to leave one’s home was a source of great disappointment and stress for some.
- 2.4. The reduced offers to owners of vacant sections, commercial and uninsured residential properties—and the delay in offering, and then revising these offers—exacerbated stress.



# Part 3

**The Commission's survey  
of people affected by the red  
zoning who did not accept  
the Government offer**

**Te tatauranga a Te Kāhui  
Tika Tangata ō ngā tangata  
e noho ana i te pae whero**

## Part 3

### The Commission's survey of people affected by the red zoning who did not accept the Government offer

This part of the report presents information on the survey, and on the people who completed the survey and interviews.

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## The survey

Given the high uptake of the Government's offer across Greater Christchurch, the vast majority of people owning properties in the RRZs had accepted the Government purchase offer and subsequently left by the time the Commission commenced its research in mid-2015. Despite the relatively small number of people who remained in the red zones, the research was considered important in order to record the human rights impacts of the residential red zone decision—in particular, to document the experiences of the small group of people who did not accept the Government offer to purchase their red zoned property or vacant section, and who have continued to live, or own land, in the now largely abandoned red zone areas. The research contributes to an evidential basis that can be used in the development of responses to future disaster events.

The Commission commenced its research in June and July 2015 with an outreach campaign in partnership with the New Zealand Red Cross. Staff and volunteers of both agencies visited properties to deliver 'Winter Warmer' packs and distribute the Commission's survey at the same time. The Red Cross simultaneously conducted an on-site needs assessment. At the time of this outreach campaign, the Residential Red Zone Offer Recovery Plan was in progress (April to July) to determine new Government purchase offers for the owners of vacant land, insured commercial and uninsured residential properties in the RRZs. Some of the survey and interview respondents have since accepted the new Government offer, made on 6 August 2015.

In order to gain an accurate idea of the number of people remaining in the RRZs, during the outreach campaign staff and volunteers visited each of the 385 RRZ addresses across Greater Christchurch that had been identified as potentially occupied. Having visited these addresses, 137 properties were deemed to be occupied, while the remainder had either been demolished or were clearly uninhabited. At an average

of 2.48 people per property, it was estimated that approximately 340 people remained living in the RRZs at the time.<sup>52</sup> By March 2016 this number had dropped to 121 properties and approximately 300 people. The Commission received survey responses from 103 people. Of these 103 surveys, 62 were completed by residents remaining in the RRZs, occupying 40 residential properties. The other 41 surveys were completed by people owning vacant land in the RRZs (a total of 34 vacant sections), who were reached via email.

For information on the survey distribution and response rate, please refer to Appendix 2 and Appendix 3.

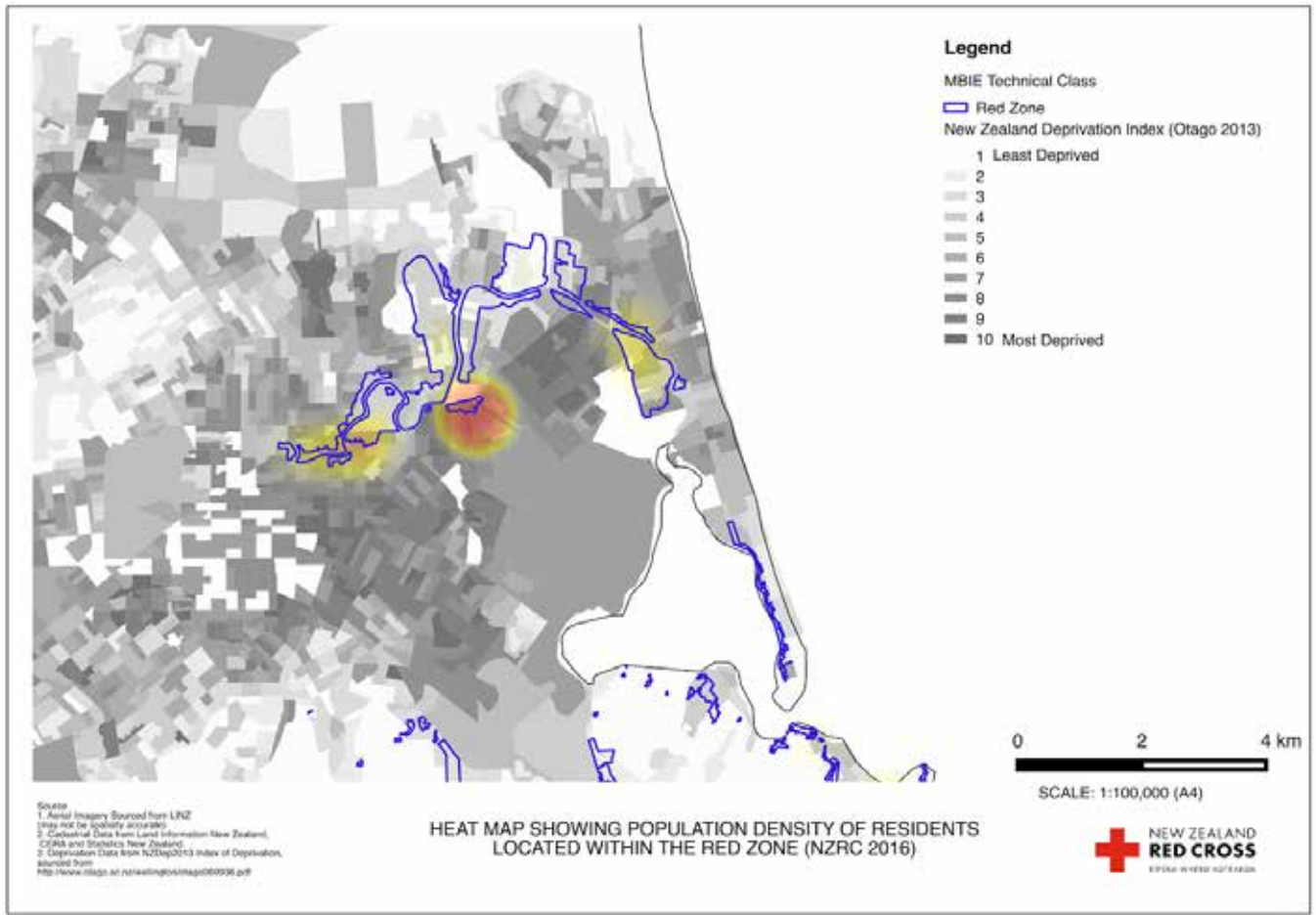
The following 'heat' maps show the locations of occupied red zoned properties (for anonymity, input by meshblock rather than address) at the time of the Commission / Red Cross outreach in June / July 2015. The maps show which red zoned areas had higher concentrations of occupied properties than others.

It is clear from the maps that at the time of research there was an unequal distribution of occupied properties across the red zones. The pale colours on the maps indicate that certain areas within the RRZs contained relatively few occupied properties. It is important to stress that these areas were not necessarily unoccupied, but that the *concentration* of occupied properties was lower in these areas than in others. These areas include Area 3 (Kairaki and Pines Beach in Waimakariri District), Area 5 (Dallington, Burwood, Avonside) and Area 7 (Southshore).

Conversely, the stronger yellows and reds indicate that Area 4 (Avon Loop, Richmond and especially Linwood), followed by Area 2 (Brooklands) and Area 8 (Port Hills) had much higher concentrations of occupied properties at the time. A lesser concentration of occupied properties is discernible in Area 1 (Kaiapoi in Waimakariri District) and Area 6 (Avondale, Aranui, Bexley, New Brighton and Wainoni).

The information presented in these maps should be analysed alongside data provided by CERA regarding the number of property owners who had not accepted the Government purchase offer as at 8 March 2016. The CERA data show that the Areas with the largest numbers of property owners who did not accept the offer were:

**Figure 3.1 Heat map showing population density of residents located within the red zone**



- Area 8 (the Port Hills), with 46 property owners
- Area 3 (Kairaki and Pines Beach), with 23 owners
- Area 2 (Brooklands), with 20 owners.

The heat maps and the CERA data together provide a fuller picture of the continued occupation of the red zones than can be gained from separate consideration of each data set. This is because the colouring on the maps indicates the concentration of occupied properties (measured by meshblock), while the numbers of owners who did not accept the purchase offer is measured by Area, which are of varying geographic sizes and varying numbers of meshblocks. The most obvious example of this discrepancy is the Port Hills red zone, Area 8. This Area is made up of many small red zoned areas spread across a large geographic space, and as a result has paler heat map colouring than might be

expected given the proportionately high number of property owners in the Area who did not accept the Government purchase offer.

## Demographics of the survey respondents

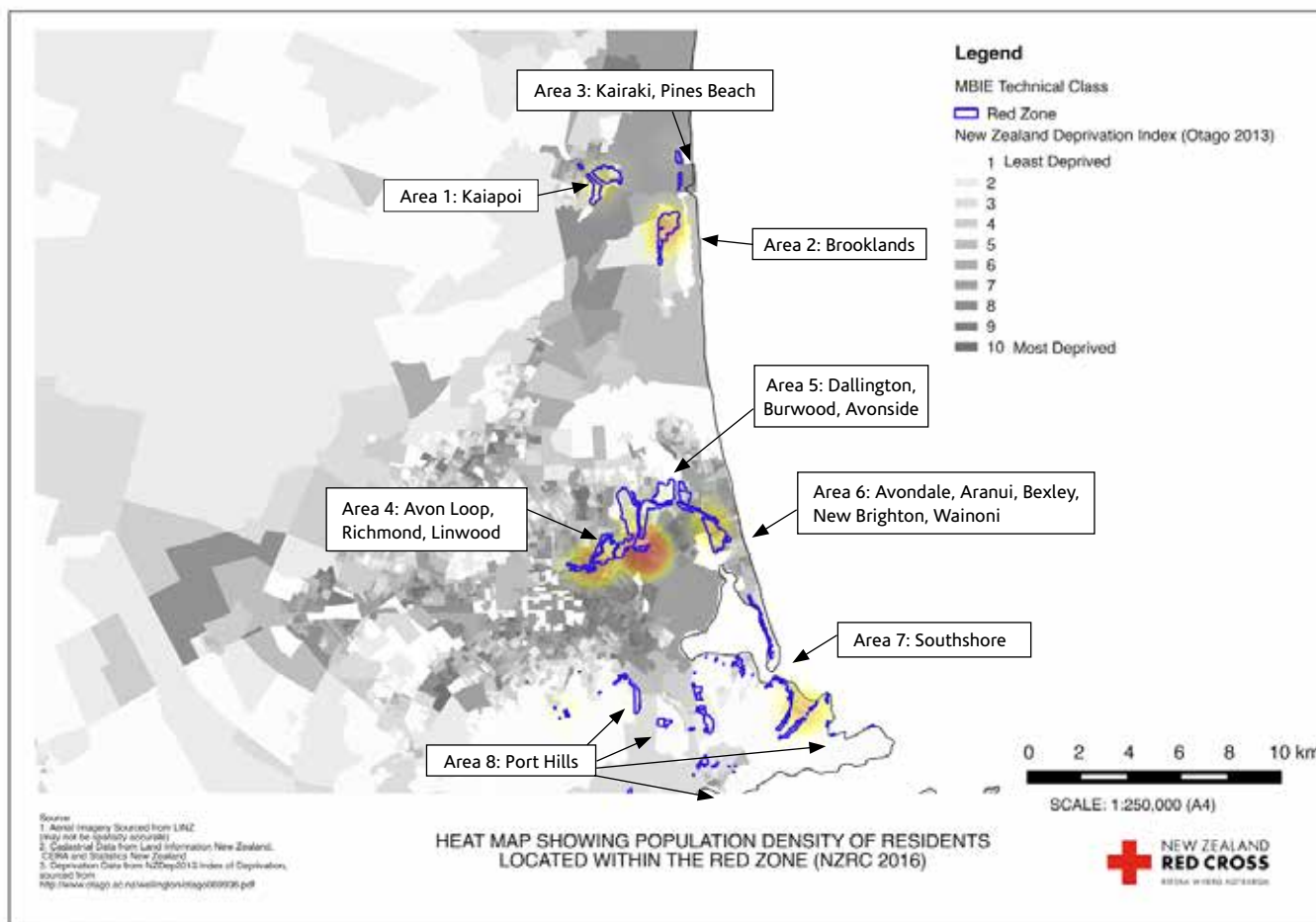
The demographic characteristics of the survey respondents are summarised in Figure 3.3.

The sample has a fairly even mix of males and females: 54 percent and 47 percent, respectively. In terms of ethnicity, a very high proportion of survey respondents (96 percent) identified as being New Zealand European. Although Greater Christchurch has a high proportion of residents who identify as European, the figure of 85.9 percent at the

## Part 3

The Commission's survey of people affected by the red zoning who did not accept the Government offer

Figure 3.2 Heat map showing population density of residents located within the red zone (detail—Christchurch flat land)



Source for Figures 3.1 and 3.2: 1. Aerial imagery sourced from LINZ (may not be spatially accurate). 2. Cadastral Data from Land Information New Zealand, CERA and Statistics New Zealand. 3. Deprivation Data from NZ Dep2013 Index of Deprivation, sourced from <http://www.otago.ac.nz/wellington/otago069936.pdf>

2013 Census<sup>53</sup> is still significantly lower than the percentage of respondents to the red zone survey. There is no obvious explanation for this discrepancy.

The age profile of survey respondents is based on data provided by the people who completed the paper version of the survey, as respondents to the online survey were not asked their age. Of the 49 people who answered the age question, 28 were aged between 41 and 60 (57 percent). Note that only 2 percent were aged 40 or under, while 24 percent were aged over 70.

Out of 102 people who answered questions about their health situation, 9 percent said they had a disability and 11 percent lived with a serious health

condition. Three percent of the respondents were dependent on a carer. Given that respondents could identify with one, two, or all of these categories, and given the possible significance of these conditions to people's ability to cope in a disaster, it is worth clarifying the figures to give a more precise indication of the number of people who identified with these issues (see Figure 3.4).

Fifty-two percent of the 103 respondents surveyed lived in one- or two-person households, with the most common situation being two people living in the household (mentioned by 46 percent of respondents). Sixteen percent of the respondents who answered this question noted having a child in the household aged under six years old, while 32 percent had a child aged



under 16 years of age. Among the 31 households with children aged under 16 years, 68 percent had two or three children aged under 16 while the remaining 32 percent had one child under 16.

Note that at the time of the research in June/July 2015 the Government was in the process of determining new purchase offers to owners of vacant red zoned sections, insured commercial properties, and uninsured red zoned residential properties. The new offers were announced on 6 August 2015 and the Preliminary Draft Recovery Plan was publicly notified in May 2015.

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## The interviewees

Of the 103 people who completed surveys, 62 signalled their interest in continuing to answer questions on their red zone experience through an interview. Aiming to get as broad a picture as possible of the red zone experience of the people living, and owning vacant land, in the RRZs in mid-2015, the Commission invited people for interview based on the geographic areas in which they lived and the issues they faced. Eleven people were contacted, and as some people chose to be interviewed with their partner, 14 people participated in the interview process, which took place in October 2015. Interviewees provided permission for the Commission to use their names and reference to the areas in which they lived.

At the time of writing this report the Commission was seeking ways through which the other interested individuals might be able to tell their story if they chose.

The people selected for interview were:

- Dianne and Heather from Kairaki, in Waimakariri District, whose property was red zoned in June 2011 due to area-wide land damage
- Les in Brooklands, an area of Christchurch just south of the Waimakariri River, which was red zoned in November 2011 due to area-wide land damage
- John, who also lives in Brooklands, and whose property was red zoned in November 2011

- Anne and Martin from Dallington in the Christchurch flat land, whose property borders the green zone but was red zoned in June 2011 due to liquefaction, and who were extremely limited in their options for moving to a new property because of Anne's health conditions
- Ernest, a business owner and the owner of an uninsured residential property in the Christchurch flat land, which was red zoned in June 2011, and who was instrumental in creating and maintaining the momentum of the Quake Outcasts group
- Ian and his wife, Ruth, who were interviewed separately about their experiences with their Port Hills property, which was red zoned in December 2013 due to the risk of cliff collapse after having been white zoned initially and then green zoned
- Ralph, who lives with his family in Avoca Valley in the Port Hills and whose property was red zoned in August 2012 due to rock-roll risk and was also subject to a section 124 notice

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**In the aftermath of the September 2010 earthquake, CCC began to issue prohibited access notices under Part 5 of the Civil Defence Emergency Management Act. The notices were issued where a house was considered by CCC to be structurally unsafe as a result of earthquake damage, or where CCC believed there was an increased risk to life because of potential rock roll or cliff collapse. These became known as 'red stickers', or later, as **section 124 notices**, in reference to section 124 of the Building Act 2004.**

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- Phil, whose Port Hills property was deemed at risk of rock fall, given a section 124 notice and red zoned in October or November 2012, and who has been active in using his technical knowledge to advocate to government agencies about technical issues in the Port Hills region
- Merv and Jill, whose Port Hills property was zoned white, then green, then red in December 2013, and finally, in October 2015—after they had completed the surveys for this research—green again following the removal of rocks potentially hazardous to their property

### Part 3

The Commission's survey of people affected by the red zoning who did not accept the Government offer

Figure 3.3: Demographic characteristics of the survey respondents

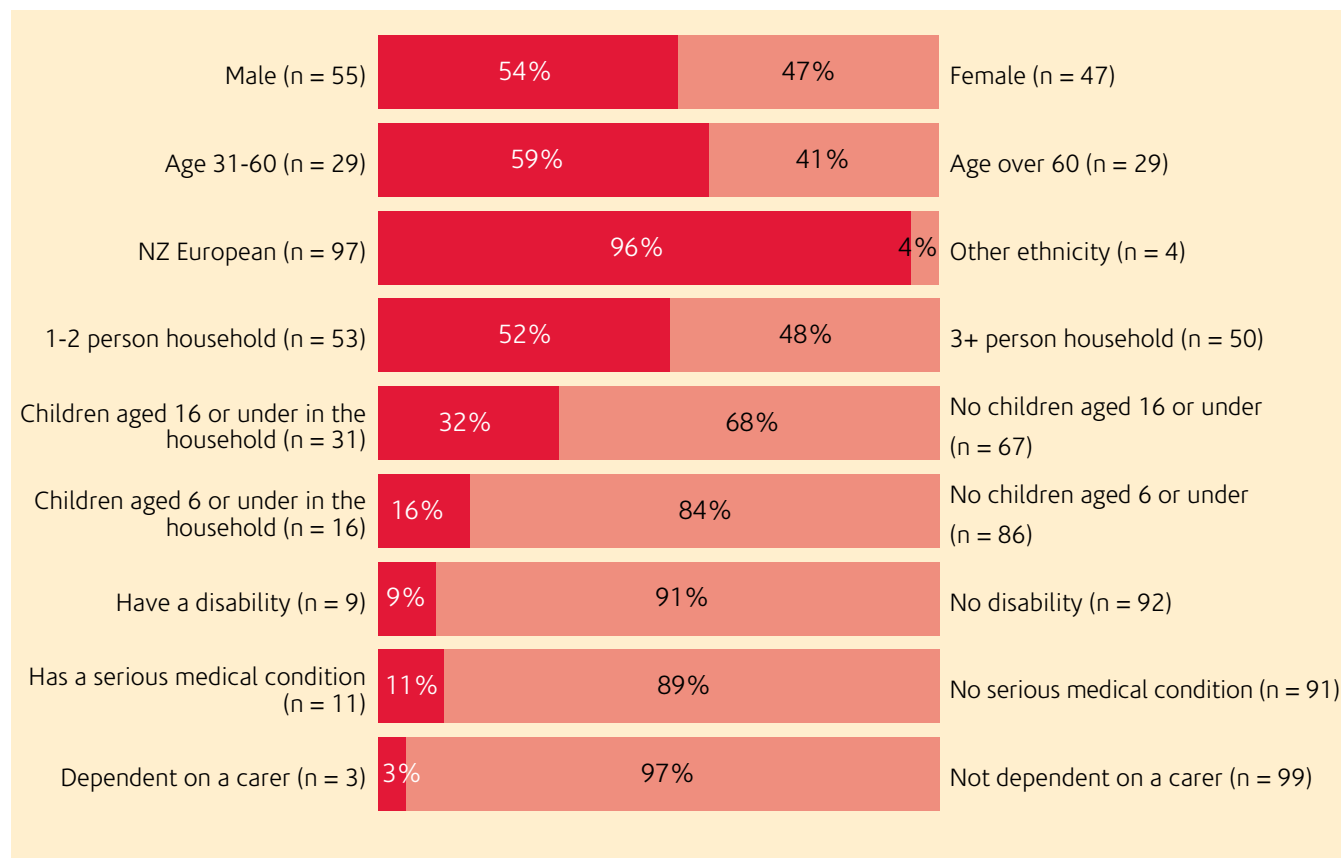
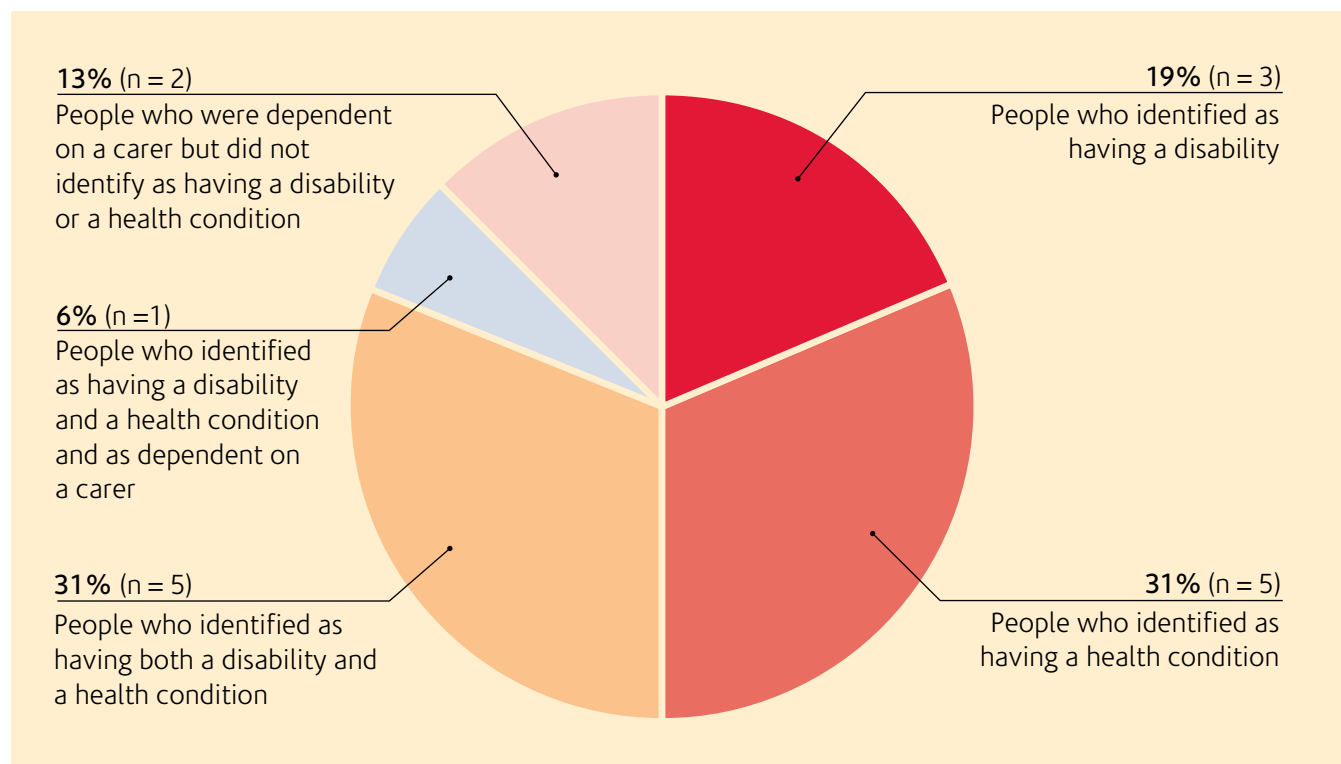


Figure 3.4: Survey respondents who identified as having a disability or health condition, or were dependent on a carer



- the owner of a vacant section in the Port Hills, who opted to remain anonymous.

It was hoped that talking with these individuals would provide an insight into the major issues facing people affected by the red zoning. The issues include the geotechnical differences across the red zones of Waimakariri, the Christchurch flat land and the Port Hills, as well as issues facing owners of uninsured residential properties, owners of vacant sections, owners of red zoned properties bordering green zones, owners of properties subject to section 124 notices, and owners of properties that have been rezoned.

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## Interest in having their voices heard

The high level of interest from survey respondents for an interview indicated that people wanted to tell their story and to have their voices heard, and comments from the interviews support this conclusion. Although the exact motivations for taking part in the research varied, the idea of 'having a voice' was universal. The anonymous vacant landowner stated her participation on behalf of people in a similar situation:

I think the piece of work you're doing is really relevant and I wanted to be able to contribute to that process. I feel that we as a group were very hard done by and I think it was great to be able to have a voice to put our experience through to someone who is willing to listen. (Vacant landowner)

As the owner of an uninsured red zoned residential property, Ernest also wanted to tell the story of people in his situation:

I think it is important that people know my story and hopefully some government bureaucrats would at least read my personal story and if they had an ounce of humanity they will see my side of the story as opposed to treating me and others like a "figure to be managed", to quote some of the bureaucrats that I have dealt with. (Ernest)

Initially sceptical about the energy required to complete "yet another survey", Ian in the Port Hills decided to take part in the hope that sharing his experiences might help others in a similar situation:

Ruth [my wife] said, "This is going to be your only opportunity to have someone listen to what you're going to say, because everyone else I talk to either thinks 'He's ranting again' or it has no impact ... This might have some impact on helping someone next time it goes around. They might not be treated quite so arbitrarily." I'd hope so. (Ian)

The sentiment that relating their story might help others was commonly expressed by the interviewees. For Martin and his wife, Anne, in Dallington, this possibility motivated them to take part, but they also saw the benefit of talking through their experiences:

This talking things through is nice for us, a healing experience, and I thank you for coming to us and taking us seriously. It has been healing and helpful for us. If we can help somebody else it's not entirely in vain. (Martin)

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## Transcripts of the interviews

Excerpts of the interviews featured throughout this report and the full interview transcripts are available on the Commission's website. These can be accessed here: <https://www.hrc.co.nz/red-zones-report/interviews>





New Brighton earthquake anniversary  
memorial event, 22 February 2015.



# Part 4

**What financial issues  
have people faced because  
of the red zoning?**

**He aha ngā kaupapa  
ahumoni e pā ana ki  
ngā tāngata e noho ana  
i te pae whero?**

## Part 4

What financial issues have people faced because of the red zoning?

This part looks at the mortgage situations of survey respondents, along with the insurance issues they have faced, including their insurance at the time of the earthquake, whether and how their claims have been settled, and their ability to get insurance for red zoned properties.

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### Survey respondents' mortgage situation

#### Who had a mortgage at the time of the earthquakes?

One issue facing both red zone residents and people owning vacant land in the RRZs is whether or not they had a mortgage at the time of the earthquakes. The 103 survey respondents all answered a question on this: 46 percent of respondents said that they had had a mortgage with a bank or other lender at the time of the earthquakes.

Respondents who had a mortgage at the time of the earthquakes were more likely to be from households with three or more people (60 percent) and households with children under the age of 16 (61 percent). In other words, mortgage holders were more likely to have children. Of the nine people who indicated they were not living in their red zoned property by choice, seven had a mortgage.

Analysing the number of respondents with and without a mortgage according to whether they lived in or owned vacant land in the RRZs reveals a further trend. Although the difference in numbers is not large, it makes it clear that survey respondents living in the RRZs were more likely to have paid off their mortgage and that vacant landowners were more likely to still have a mortgage at the time of the earthquakes.

Of the red zone resident respondents, 25 people (40 percent) had a mortgage at the time of the earthquakes and 37 (60 percent) did not. The 25 red zone residents with a mortgage lived in 18 properties, and the 37 red zone residents who did not have a mortgage lived in 22 properties.



Dianne and Heather in their Kairaki Beach property

Conversely, 22 vacant landowners (54 percent) had a mortgage at the time of the earthquakes, and 19 (46 percent) did not, indicating that a slightly higher percentage of red zone residents had paid off their mortgages than vacant landowners. The 22 vacant landowners who had a mortgage at the time of the earthquakes between them owned 17 vacant sections, and the same number of vacant sections was owned by the 19 vacant landowners who did not have a mortgage.

### What effect did having a mortgage have?

For some people with mortgages, remaining in their red zoned property was not an option. Talking of her Kairaki community, Dianne explained:

There were a number of properties that were really repairable, and the reason people had to go was because they had families, they had mortgages and they couldn't keep their mortgage without mortgage insurance. People with mortgages had no choice, so those of us down here are people that didn't have mortgages. (Dianne)

Similar sentiments were expressed by Les with respect to his neighbours in Brooklands:

Some people say, "How come you're living in the red zone?" ... I just say, 'You don't have to go, the thing was voluntary, you could all still have been here if you wanted.' But people with mortgages would have had a different kettle of fish, wouldn't they? The banks could make it hard." (Les)

In contrast to these anecdotes, the results from the survey show that having a mortgage at the time of the earthquakes did not necessarily mean people had to leave their property because of financial pressure. This finding runs contrary to commonly held perception—including among red zone residents without mortgages—that mortgage holders had no choice but to leave. It seems probable that the ability of mortgage holders to remain in red zoned properties was dependent on their bank's policies.

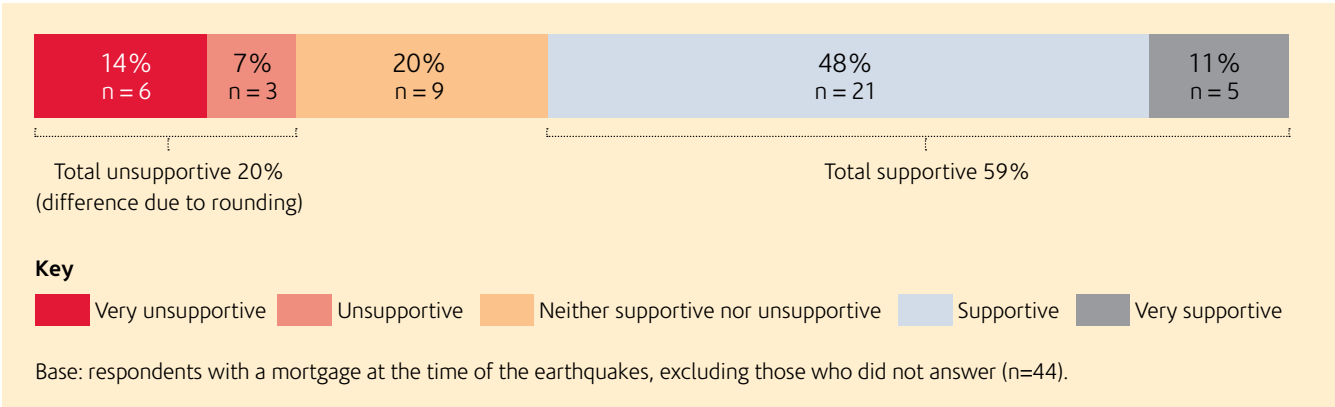
### Supportiveness of banks or lenders

Survey respondents who had a mortgage at the time of the earthquakes were asked to report on how supportive their bank or lender had been. Forty-four people completed this question, assessing their bank / lender on a five-point scale from 'Very unsupportive' to 'Very supportive.' Twenty-six respondents (59 percent) indicated that their bank or lender had been supportive (including five people who said their bank had been very supportive). By contrast, nine people (20 percent) said their bank/lender had been unsupportive (see Figure 4.1).

The results show that the majority of mortgage-holding survey respondents, whether red zone residents or vacant landowners, found their bank or lender to be supportive. This generally positive viewpoint contrasts with the views of survey respondents towards other sectors and agencies (see Part 6 for further detail).

One possible explanation for the more favourable opinions expressed by survey respondents about

Figure 4.1: Perceived supportiveness of the mortgage provider



## Part 4

What financial issues have people faced because of the red zoning?

their banks or lenders than about other agencies is the individualised approach adopted by some private sector agencies, which took the various situations of their red zoned clients into consideration.

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### Findings: survey respondents' mortgage situations

- 4.1. Residential red zone residents included both borrowers with their property mortgaged to banks and people who had paid off their mortgage.
- 4.2. Residential red zone residents generally viewed their banks or lenders as supportive.

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### Survey respondents' insurance situation

Another consideration in relation to the red zoning is insurance. There are many dimensions to this issue. First, there is the question of whether owners had insurance for their properties at the time of the earthquakes: contrary to widespread belief, the survey results show that the vast majority of people who have stayed did have insurance at this time.

The issue of insurance is important because red zone residents have often had difficulties insuring their properties following the earthquakes, with companies having different policies regarding the insurance of properties in the red zone areas. As a result, residents have been obliged to explore multiple alternative options, such as changing insurance companies, using multiple insurance companies, or looking offshore. These difficulties are revealed in the proportion of residents with partial rather than full insurance for their properties, and in the high number of insurance claims that remained unresolved at the time of the research.

To gain a sense of their insurance issues, red zone resident survey respondents were asked several questions about their past and present insurance situation. The questions about insurance were only

asked of red zone residents. Because insurance is unavailable for vacant land in New Zealand, the questions were not applicable to the vacant landowner respondents.<sup>54</sup>

### The insurance status of the red zone residents at the time of the earthquakes

The red zone resident respondents surveyed were asked if they had insurance for their residential property at the time of the earthquakes. Of the 56 red zone residents who responded to the question, 53 (95 percent) indicated they had insurance for their dwelling at the time. This finding is important because it challenges one of the chief misconceptions about residents who have chosen to remain living in their red zoned properties: that the majority of these people were uninsured. This is clearly not the case. As the survey results indicate, the vast majority of residents actually did have insurance for their properties at the time of the earthquakes.

The misconception surrounding the number of uninsured property owners remaining in the red zone may stem from the considerable media attention given to the Quake Outcasts, a group consisting of uninsured residential property owners, as well as commercial property and vacant landowners (who were, under New Zealand law, unable to insure their properties). More information on the Quake Outcasts and the situation of uninsured property owners is provided in Part 2.

### Insurance status of the red zone residents at the time of the research

Survey respondents owning a residential property in the residential red zones were asked if they had insurance for it. Of the 51 people who answered this question, 23 people (45 percent) had full insurance for their property at the time of the research; 28 people (55 percent) indicated that they only had partial insurance for their residential property.

### Red zone residents with full insurance

One couple who managed to obtain full insurance for their red zoned property—"on the same basis as we were before"—was Ian and Ruth, in the Port Hills. The process was not easy, however, involving lots of time and paperwork. The fact that Ian and



Ruth's property was initially zoned white, then green, and then finally red, also complicated the issue. In his interview Ian described the process:

We had to go through a lot of hoops to get insurance, and then in the end the insurers were quite happy to insure us on the same basis as we were before once they'd seen the reports ... I went through the broker I worked with for my own company insurance and he got the local manager [of our insurer] to back us up. Having insurance has made us feel immensely better, because you're not going to spend hundreds of thousands of dollars on your house if you can't insure it. (Ian)

In addition to the security provided by insurance, Ian also highlighted in his interview that his professional experience as a structural engineer had been instrumental in how he and Ruth had dealt with the red zone process. In fact, this experience was critical to their decision to remain in their property:

We're only where we are because I'm an engineer. We'd have gone, I'm sure, if I wasn't an engineer, because I simply wouldn't have the fortitude to fight it, or I guess the knowledge to see that it was OK anyway. (Ian)

Ian's insistence that his professional knowledge had enabled him and Ruth to deal with the difficulties of the red zoning process serves to highlight the alternative: without those skills, Ian believed they would not have stayed. They would have lacked the specific knowledge to negotiate the processes and make the necessary—and very difficult—decisions. (Both Ian and Phil, another interviewee, were able to use their technical expertise as engineers to make decisions to remain in their red zoned properties. Both made reference to the “bruising” experiences of having to deal with hostility from peers representing the red zoning agencies.)

While Ian was able to apply his knowledge to his own situation, most of the red zoned property owners were not in the same position. Insurance, a paramount issue for the residents, is a good indicator of some of the differences in how people have been able to operate within the red zoning process.

### Red zone residents with partial insurance

The results show that it was more common at the time of the research for red zone residents to have partial rather than full insurance for their dwelling. Based on comments from the interviews, it is likely that this trend is related to the difficulties residents have faced in insuring their red zoned properties. Interviewees revealed that the process has often been difficult and long, sometimes involving multiple companies and necessitating offshore intervention.

Of the 28 people who only had partial insurance at the time of the research, 17 responded to a further question which asked whether this partial insurance included earthquake cover. Three people (18 percent) indicated that their insurance policy included earthquake cover, while 14 (82 percent) indicated that earthquake cover was not included.

The high percentage of residents whose insurance policy at the time of the research did not include earthquake cover is an indication of the insurance difficulties faced by these red zone residents. In remaining living in the RRZs, residents had to forego certain safeguards that people living outside the red zones take for granted, including the option of insuring their property with earthquake cover.

### Red zone residents without insurance

Some residents have been unable to obtain any insurance for their property. The number of residents in this situation is unknown, but some indication is provided by the fact that 11 of the 62 red zone residents (18 percent) did not answer the question “Do you currently have full insurance?” However, it is impossible to know whether these 11 survey respondents did not answer because it did not apply (they did not have insurance) or because they preferred not to provide the information.

Interviewees Dianne and Heather did not respond to the insurance question in the survey, but in their interview they made it clear that they were uninsured. Their insurance company had insured the contents of the property, but it was unwilling to insure the property itself. This uninsured status was a real worry for the women:

## Part 4

### What financial issues have people faced because of the red zoning?

We decided to stay, so we're risking ... If this cottage goes up in flames, we walk away. So we've taken a calculated risk as they won't even insure us for fire. (Dianne)

Dianne and Heather were eager to see the red zone label lifted from Kairaki, where they live, and the possibility of again being able to insure their home was one of their main motivators.

Phil and his family, in the Port Hills, also lived for years in their property without insurance, although they had managed to organise some through a company in the United Kingdom by the time of the research. As Phil explained:

We got some insurance through a broker in the UK, who said, "Yes, we do have some underwriters that will insure in the red zone." The only thing we're not covered for is rock fall, because there is a stated risk which has not been fully mitigated to everyone's agreement. We certainly have EQC cover because we've got fire cover. I don't know how that works. It's good, because we lived for three-odd years without insurance, which was pretty scary at times, especially in the summer when it was so dry. And boy! I've seen some fires on this hillside that have just got way out of control. So we were worried. (Phil)

Phil's story demonstrates that even residents who had insurance at the time of the research (whether full or partial) had not necessarily had it for long.

### Red zone residents' understanding of their insurance policies

Phil admitted that he did "not know how his insurance cover works," and this feeling of not really understanding their insurance situation was common among the interviewees.

With his house declared "a total loss," Les in Brooklands had been offered a cash payment by his insurance company. He had, however, been reluctant to accept the money, feeling that it was insufficient to replace both the house and its foundations. His interview showed that he was confused about the situation and unsure what to do:



**Les stands outside his Brooklands property. Damage to his home is visible behind him.**

[Explaining the insurance situation] gets a bit tricky and I haven't really got to grips with this ... I still don't really fully understand it except that you can't get two payments. (Les)

Not wholly understanding the situation seemed to be adding to the pressure Les felt to make a decision on his property:

The insurance company ... wouldn't give you the foundation money unless you actually rebuilt by a certain time. Well that's not really right. They're supposed to be offering you a cash price to rebuild your house. We said we'd accept that, but I wouldn't accept those clauses where they took that money back or wouldn't pay the foundation cost and all that sort of thing. So that became a

stalemate, and then they put the pressure on about you had to make a decision within such and such a date or they were going to start all over again, or something. (Les)

Les here refers to timeframes—another issue that has been significant in the red zoning process and that has affected property owners. Pressure and timeframe are discussed later in the report, in Part 8, in the section ‘Survey respondents’ wellbeing’. The confusion surrounding insurance policies was revealed not only through the interviews, but also through comments added by respondents in the margins of the surveys.

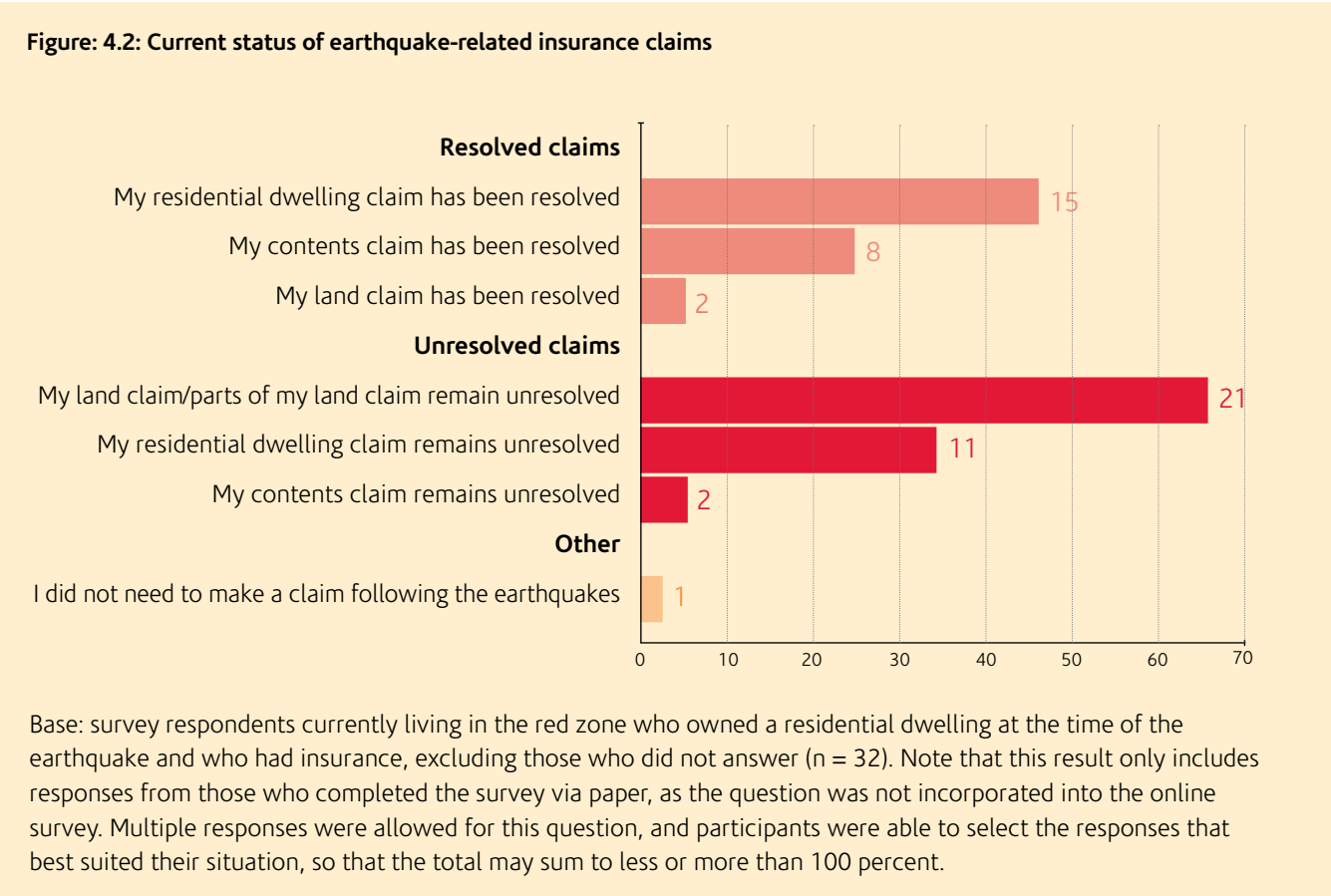
### Red zone residents’ settling of insurance claims

In addition to the problems of sourcing and securing insurance, and trying to understand their policies, another fundamental issue for red zone residents was the status of their earthquake-related insurance claims. The stress and pressures of living with

unresolved insurance claims link this issue directly to red zone residents’ wellbeing.

The links between wellbeing and unresolved insurance claims have been noted among the Greater Christchurch population, too. The September 2015 CERA Wellbeing Survey found that of the 20 percent of respondents who noted they experienced stress always or most of the time, 35 percent had unresolved insurance claims for the property they owned and usually lived in.<sup>55</sup> Further, the January 2016 All Right? research showed that respondents with unresolved claims were more likely to report negative impacts, including frustration, anger, upset, uncertainty and financial issues.<sup>56</sup>

Red zone resident survey respondents who had insurance at the time of the earthquakes were asked to identify the types of insurance claims they had submitted as a result of the event and whether these claims had been resolved. With multiple responses allowed, the 32 respondents who answered the question indicated the status of their claims as follows (Figure 4.2).



## Part 4

### What financial issues have people faced because of the red zoning?

From these figures it is possible to see that a significant number of people living in or owning property in the RRZs had unresolved insurance claims at the time of the research. The most common type of unresolved claim was for land, with the figures broken down as follows.

- **Land claims:** 21 of the 32 people who responded to the question (66 percent) indicated that their land claim or parts of their land claim remained unresolved, while only two people (6 percent) indicated that their land claim had been resolved.
- **Residential dwelling claims:** by contrast, 15 people (47 percent) said that their residential dwelling claim had been resolved, while 11 people (34 percent) indicated that their dwelling claim had not been resolved.
- **Contents claims:** eight people (25 percent) indicated that their contents claim had been resolved, as against two people (6 percent) who said their contents claim remained unresolved.

The figures reveal a high number of unresolved insurance claims for red zoned properties, which is a worrying trend revealed by the survey.

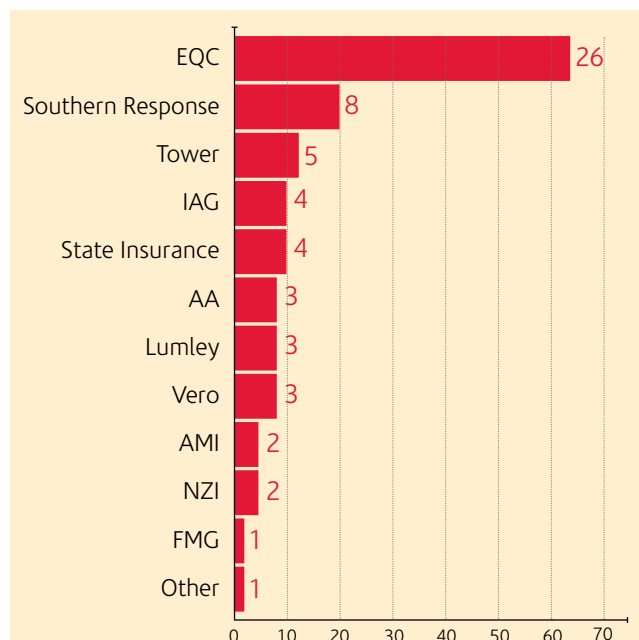
### Red zone residents' insurance companies

Survey respondents were asked to indicate which insurance or claims management companies were responsible for their outstanding residential property insurance claims. Sixty-six percent answered this question. Multiple responses were possible because some red zone residents had multiple insurance or claims management companies, including a combination of private insurance companies and EQC. Respondents identified their insurers or claims management companies as follows (Figure 4.3).

Twenty-six respondents (63 percent) had outstanding insurance claims with EQC, eight (20 percent) had claims with Southern Response and five (12 percent) with Tower. Five people or fewer had outstanding insurance claims with the other listed insurance companies.

Sixty-one percent had just one insurer, while 34 percent had two insurers and 5 percent had three or more insurers. These figures indicate that while the majority of people were dealing with just one

**Figure 4.3: Red zone residents' insurers and claim management companies for outstanding earthquake claims (%)**



Base: red zone residents who identified an insurer or claims management company for outstanding insurance claims, excluding those who did not answer (n = 41). The total sums to more than 100 percent because multiple responses were possible.

company regarding their insurance claim, a significant minority were dealing with multiple companies—mainly a private insurance company and EQC. Red zone residents in this situation were likely to be owners of properties deemed 'over cap' (above the \$100,000 plus GST limit for EQC claims).

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**When damage occurs during a natural disaster event, EQC is liable for insurance claims below \$100,000. These claims are known as *under cap*. When damage exceeds this \$100,000 limit, they become *over cap*, meaning that private insurance companies are liable for claims above this amount.**

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The survey results indicate that some people experienced significant levels of stress when dealing with insurance issues. For people dealing with multiple insurance companies, these feelings



were likely to be exacerbated given the relationship between time taken to resolve claims and affected people's recovery.

In its submission to the 2015 Treasury review of the Earthquake Commission Act, the Insurance Council of New Zealand (ICNZ) recommended revising the legislation to require that claims be lodged with and assessed by private insurance companies rather than the EQC, in order to reduce the duplication, confusion and delays that had arisen within the existing system as a result of the Canterbury earthquakes. This streamlined approach, the ICNZ believed, would have recovery benefits for homeowners:

Lessons learned from the Canterbury earthquake series illustrate the importance of removing or reducing as far as possible frictional costs and duplication that occurred between EQC and insurers. The EQC scheme needs to be simpler and clearer in order to enable a more efficient and effective post-disaster recovery for the benefit of homeowners, EQC and insurers.<sup>57</sup>

More information on stress is available later in the report (see Part 8, in the section 'Stress').

## Findings: Survey respondents' insurance situations

- 4.3 In contrast to popular belief, the vast majority of residential red zone residents living in the red zone when surveyed had insurance for their properties at the time of the earthquakes.
- 4.4 Insurance can either alleviate or contribute to stress in the post-disaster context and is therefore an issue of critical importance, especially in a country such as New Zealand with high levels of property insurance.
- 4.5 As a result of the earthquakes and red zoning, many residential red zone residents have struggled to secure insurance for their properties.

## The status of red zone residents' properties

In order to gain an understanding of the status of the occupied residential properties in the RRZs at the time of the research, red zone resident survey respondents were asked to indicate which items on a checklist applied to them (vacant landowners were not required to complete this question). Multiple responses were allowed, such that the total sums to more than 100 percent.

The responses of the 52 people who answered this question were grouped into five broad categories: status of dwelling; status of land; issues lying outside of the property; rock fall protection funding; and, other. The results are collated in Table 4.1.

### Unresolved property issues

Responses from the red zone residents who answered this question indicate that, in general, issues relating to the status of their properties had not been resolved at the time of the research. Some of the critical findings were as follows.

- Thirty-four people (65 percent) indicated that their dwelling was still in need of repair, compared with six (12 percent) who indicated it was fine and three (6 percent) who responded that it had been repaired.
- Twenty-three people (44 percent) responded that their land was still in need of remediation.
- Fourteen people (27 percent) noted that issues outside their property had not been resolved, compared with only three (6 percent) for whom issues outside their property had been resolved.

In total, 45 out of the 52 red zone residents who responded to this question (87 percent) had at least one issue that had not been resolved. The high number of people with unresolved property issues suggests that limited progress has been made towards completing repairs and land claims related to red zoned properties. The ongoing nature of these claims may have implications for residents, particularly in terms of their wellbeing. Such implications are discussed later in the report in Part 8, in the section 'Survey respondents' wellbeing'.

## Part 4

What financial issues have people faced because of the red zoning?

**Table 4.1: Status of red zone residents' properties**

Status of dwelling	n	%
My residential dwelling is still in need of repair	34	65
My residential dwelling is fine	6	12
My residential dwelling has been repaired	3	6
Status of land		
My land is still in need of remediation	23	44
Weakness in my land has been identified through land remediation	1	2
Weakness in my land has been identified through enhanced foundation design	1	2
Issues lying outside of the property		
The issue with my home/land lies outside of my property and has not yet been resolved	14	27
The issue with my residential dwelling / land lies outside of my property (i.e. rock fall, mass land movement) and has been resolved	3	6
Rock fall protection funding		
I have applied for CCC rock fall protection structure funding and have not yet completed this process	12	23
I have applied for CCC rock fall protection funding and have now completed this process	5	10
Other		
I have received a cash settlement for earthquake repairs	18	35
Not resolved or addressed yet (unspecified)	9	17
Other responses, such as:		
• "Complex claim not resolved"	5	10
• "My property was red zoned by CERA"		

Base: survey respondents currently living in the red zone who owned a residential dwelling at the time of the earthquakes, excluding those who did not answer (n = 52).

### Resolved property issues

Although the survey results point to the fact that the majority of residents have unresolved property issues, they also reveal that some progress has been made towards remedying the situation, in that:

- 35 percent had received a cash settlement for earthquake repairs
- 10 percent had successfully completed the process of applying for CCC rock fall protection funding
- six percent indicated that their residence had been repaired
- six percent noted that an issue outside their property had been resolved.

As these cases indicate, progress towards the 'resolution' of people's post-earthquake situation can be viewed as positive. The number of people who reported one of these positive outcomes is low, however, with only 29 of 134 responses to the question (22 percent) falling into the category of 'resolved property issues'.

### Were issues resolved to people's satisfaction?

Forty-eight percent of the 52 red zone residents who responded to the question about the status of their property said that at least one issue had been resolved. While this can be broadly categorised as 'positive,' it is important to qualify this term. For example, some people may have accepted a cash settlement merely in order to wind up the insurance settlement process. This was the case for Heather and Dianne in Kairaki Beach, who just wanted to "move on" with their lives:

I guess we wanted to move on in a little way and so we got a cash payout for repairs—which, thinking about it, was pretty minimal—but we were OK because we made that decision. (Dianne)

Here Dianne raises the issue in relation to cash settlements of the potential economic shortfall of taking this route. This issue stems from property owners' concerns that costs for repairs may not be



Red zoned neighbourhood, Seabreeze Close, Bexley.

## Part 4

### What financial issues have people faced because of the red zoning?

wholly accurate when calculated at the beginning of the process, particularly given the hidden damage inflicted by the earthquakes, such as damage to foundations. There have been suggestions in the media to this effect as well.<sup>58</sup>

For Merv and Jill in the Port Hills, the possibility of receiving the wrong amount of money made them refuse to accept a cash settlement from EQC:

With EQC, everything was going well until we got red zoned and then as far as they were concerned we were people who were just not accepting a cash settlement. Why not? ... We don't know how much it should be; they calculated their costs out based on 2010 prices or 2011 prices. (Merv)

As alluded to in Merv's comment, the issue of managed repairs versus a cash settlement was only one part of the couple's dealings with EQC. The relationship was fraught because the agency had been helpful when their property was zoned green (after the initial white zoning of Port Hills properties), but they then found the agency difficult to deal with when the decision was reversed and the property was zoned red. Following the removal of potentially dangerous rocks in 2015, the property was again zoned green, and Merv and Jill's dealings with EQC became much more effective.

Property owners across Greater Christchurch who accepted a cash settlement from EQC—regardless of whether or not their properties were red zoned—were bound by certain terms, which usually included self-managing repairs. While for some people this aspect of the deal was acceptable, for others—particularly those without prior experience in this area, or who were already in vulnerable positions—it created additional pressure and stress.

The links between the cash settlements and stress have been raised by earthquake support agencies, including CanCERN.<sup>59</sup>

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## Findings: the status of red zone residents' properties

- 4.6. Insurance claims can remain unresolved years after a disaster event, particularly if progress is hindered by unintended consequences such as those that arose as a result of the red zoning classification.
- 4.7. Being red zoned created a hypothetical situation in some instances making the distinction between a repair or a rebuild of significant financial importance to insurers. A government-imposed deadline meant that well considered and informed decisions were not possible for some individuals.



# Part 5

Why have some people  
remained living in the  
residential red zones?

He aha ai ka noho ētahi  
tāngata ki te pae whero?

Why have some people remained living in the red zones?

In conducting its research, the Commission was interested to see whether the people who remained living in the RRZs were doing so by choice. Red zone resident survey respondents were asked this question, and were also asked to give the reasons why they had chosen to stay, or why they had remained even if they did not want to. These questions aimed to determine what factors motivated or obliged people to remain in the red zone areas.

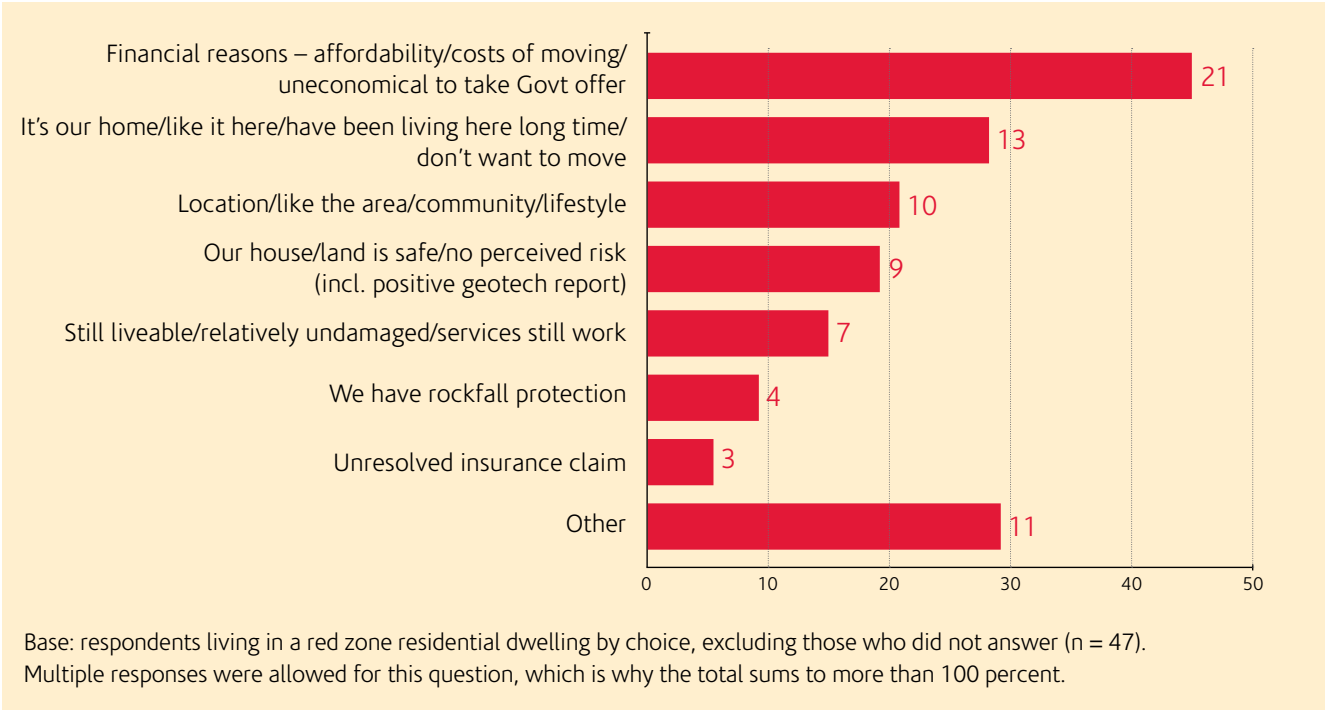
Red zone residents living in their property by choice

Out of the 56 red zone residents who answered the question on whether they were still living in their residential dwelling by choice, 47 (84 percent) answered yes. These 47 were then asked to provide reasons why they had decided to remain. From their open-ended responses the main reasons why people had chosen to remain were categorised (see Figure 5.1), with people often indicating multiple reasons.

Figure 5.1 shows that people chose to remain in their red zoned property for a variety of reasons. Financial considerations were notably important, as was attachment to property and neighbourhood. In fact, when these latter categories are combined into a single category of ‘place attachment,’ they constitute the most powerful reason for people staying, with 23 of 47 respondents (49 percent) indicating their importance. This shows that the sense of wellbeing that people derive from their home and their immediate environment is very powerful.<sup>60</sup> Another significant reason why people chose to remain was a belief that their property or neighbourhood was still liveable, including in terms of risk and infrastructure provision.

The results from this section challenge the perception that people in the residential red zones remained living there in order to ‘hold out’ for better financial offers, instead demonstrating that a variety of reasons—many emotionally driven—contributed to the decision to stay.

Figure 5.1: Reasons for remaining in the residential red zones





**Treehouses are the only sign that these empty sections in the Christchurch flat land red zone were once occupied.**

### Financial reasons

Financial reasons constituted the single most-cited reason why people chose to remain living in their red zoned residential property, mentioned by 21 out of the 47 respondents to this question (45 percent). As noted above, however, attachment to property combined with attachment to neighbourhood actually received the largest amount of support.

Respondents indicated a number of issues within the broad category of 'financial reasons,' including issues of home ownership and mortgages. Explicit or implicit reference to respondents' ages and/or employment situations was important here, suggesting that people who had already retired or already paid off their mortgage factored this into their decision to stay. A selection of comments related to finance includes:

Where else could we buy for the money offered us!

We were never consulted and never wanted to move. The government offer, had we taken it, would have left us severely disadvantaged financially.

We did not receive an offer from either CERA or Insurer that would enable us to move on successfully. To leave would mean we would lose home ownership.

While in theory owners of insured red zone properties were entitled to a new build on land purchased with the Government offer, in reality this was not financially viable for some claimants. Several factors contributed to this situation, including the fact that the Government purchased properties at the 2007/08

## Part 5

### Why have some people remained living in the red zones?

rateable value while developers sold sections at present market rates. Also, the size of these new sections was not always comparable to the size of the sections of people's red zoned properties, as land was not available on a like-for-like basis.

Having paid off a mortgage, people were reluctant to re-enter the property market, particularly if they were of, or nearing, retirement age. This issue was raised by Heather, in Kairaki Beach, as a factor that contributed to her and her partner's decision to remain in their red zoned property:

We knew there was that nasty little clause at the end of the Earthquake Recovery Act that says they could acquire our land. So we didn't know whether we'd have to move, we didn't know whether we could stay. All we knew was that if they made us move we'd have to get a mortgage, and we hadn't had one for 10 years, and that would really disadvantage us at our age. I like doing a little bit of work, but I'm 66 so I get a bit tired and I wouldn't want to work fulltime, which we would have had to to service a mortgage. (Heather)

Common to many of the finance-related reasons for remaining in the red zones was a perceived drop in quality of life if respondents were to leave. People who noted this reason believed that the Government offer was too low to enable them to afford a comparable life elsewhere. Again, comments from the surveys indicate that age and/or employment status factored into people's decision to remain living in the residential red zones:

Financially we could not accept the Govt. offer as our only income was the Superannuation and we would never be able to afford to move to a location similar to this area.

It was uneconomical for us to take the govt offer. We would of [sic] ended with more debt and be unable to afford what we have now.

These themes were explored further in the interviews, with similar sentiments expressed. Ruth, with a

property in the Port Hills, explained the situation as follows:

Because our house was a repair rather than a rebuild we weren't going to get a full payout, so the choice between taking insurance or the government offer—whichever we took—meant that we actually wouldn't be receiving the money to replace our home to a similar size or standard. (Ruth)

As with many other respondents, the inability to purchase somewhere comparable based on the Government (or insurance) offer prompted Ruth and her husband's decision to remain in their red zoned properties.

### Attachment to property

With 13 mentions (28 percent), the second-most commonly cited reason for residents choosing to remain in their red zoned properties was related to the idea of not wanting to leave their home. One such comment, which in fact mentioned three reasons for staying—attachment to property, attachment to area and a belief in the quality of the land—read, "Nice house, nice view, location. Land okay."

For many of the people whose responses indicated place attachment, the length of time they had been living in the home or neighbourhood was a factor in their decision to stay. Examples of this include "Long term resident. House partially liveable" and "Our home of 55 years plus EQC and insurance issues".

The underlying sentiment of this reasoning was the old adage that someone's home is their castle—the place where they feel comfortable and safe. This idea was eloquently captured by one of the interviewees, Anne, whose Dallington home is on the red zone / green zone border:

[Home is] the place that nurtures you, that you come back to after a hard day outside ... There's no insecurity about it; that we can put in potatoes for another year. (Anne)

Backing up Anne's comments about the sentimental importance of home, her husband Martin described the process of deciding to stay as one of weighing up



## Why have some people remained living in the red zones?

values: the value of their home versus the monetary value of the Government offer. When these two factors were measured,

On the one hand we had this house, and on the other hand we would have got the \$257,000. And we said no, we'd rather have the house. That was our decision. (Martin)

For Anne and Martin, their property was worth more to them than the money they were offered, and this worth was not purely financial. Anne's reference to planting potatoes indicates their desire for certainty and stability: to be able to know they will still be in their property in a year's time.

Gardens featured often in the interviews as a symbol of participants' feelings about uncertainty and timing related to staying in their property. The significance of gardens was twofold: they were a source of enjoyment and integral to participants' meaning of 'home,' and they also represented continuity, because participants wondered about putting effort into their gardens if they were not going to be allowed to remain. For example, following the decision that zoned their property red after it had been declared green, Merv and Jill were reluctant to continue investing effort into maintaining their property. As Jill explained:

All these trees and things we've been removing, well we started doing that before we were red zoned ... For two years that's just sat and it's got worse, the creepers that were growing all through everything and that kind of thing... It's just made a much bigger job for us as far as that goes. (Jill)

This issue of whether people would be able to remain in their properties or not has created stress for red zone residents, as discussed further below (Part 8, in the section 'Stress').

Information from the CERA survey of property owners who accepted the Government's purchase offer is relevant here. Following consultation during the survey design phase, two options were added to the list of issues having a negative impact on respondents: 'Feelings of sadness or resentment about needing to leave your red zone property' and 'A sense of guilt

about being able to move forward ... because your property was zoned red.' These issues were actually then ranked first and second by respondents as having the most negative impact, at 46 percent and 22 percent, respectively.<sup>61</sup>

The first issue indicates that a large proportion of property owners who accepted the Government's offer had some regrets about having to move. The CERA survey also demonstrates, however, that of the property owners who accepted the Government purchase offer, 70 percent felt it was the right thing to do at the time, and 66 percent remained confident about this decision at the time of research.<sup>62</sup>

Another finding from the CERA survey that demonstrates people's attachment to property is that eight percent of respondents suggested giving people greater choice to remain in, or putting less pressure on people to leave, their red zoned properties, which



Anne and Martin in their garden

## Part 5

### Why have some people remained living in the red zones?

was the third-most prevalent suggestion for how things could be done differently in the event of a future disaster.<sup>63</sup>

The findings from both the Commission and the CERA surveys show that attachment to property is very powerful. It plays a large role in how and whether people are able to recover and move on from the disaster experience. This information should be taken into consideration in formulating policy.

#### Attachment to neighbourhood

Attachment to neighbourhood or area was cited by the third-biggest number of respondents (10 people, 21 percent) as a reason for choosing to remain in their red zoned properties. Qualitative responses from the surveys included the following comments:

Because we love the area and our community.

Location, location, no need to move.

There is nowhere in NZ that has the same amenities and community we have at our home in Kairaki Beach, especially with the pathetic money we were offered by CERA / Government.

Why would anyone want to leave Brooklands, our paradise?

Sentiments of attachment to the local area were also expressed during the interviews. For Dianne and Heather, who both have long-term connections to Kairaki Beach and who actively and regularly participate in the outdoor pursuits the area offers, the thought of leaving was very difficult:

If we had to move from here it would be like we were leaving our soul behind. We looked, we went through the process, we looked for land, we looked at moving the house, we looked at where would we live, that was the issue. We looked from Leithfield to Diamond Harbour, but where would we move and get what we've got here? (Dianne)

Other interviewees had undergone similar experiences and had sought alternative accommodation elsewhere, but had also decided they would not

be able to replace what they had. Ralph spoke eloquently of his area, Heathcote, when explaining why he had not wanted to leave:

It's a beautiful community; it's just a lot smaller than it was! It was a great place. We lived in Heathcote Valley prior to that, around Port Hills Road and we love Heathcote. Heathcote and Lyttelton are two of those unique little communities you can get within a city sometimes (Ralph).

The surveys and interviews revealed that this feeling of place attachment played a powerful role in people's decision to remain in their red zoned properties.

Policies put in place worked against red zone respondents' desire to stay in their homes and in their neighbourhoods. The red zoning declarations, in particular, put pressure on property owners to accept the Government offer and leave affected areas, but subsequent policies and decisions (for example, decisions on the continued provision of infrastructure and services) also contributed to the pressure that residents felt to accept the offer.

The red zoning dislocated residents from places and people they were familiar and comfortable with. If people accepted the offer, they were required to move from their red zoned property and neighbourhood to somewhere new. According to results from the CERA survey of owners who accepted the Government's purchase offer, 64 percent of respondents missed their pre-earthquake community at the time of the research, five years after the February 2011 earthquake. The results also suggest that respondents found it more difficult to leave their red zoned neighbourhoods and what they represented than to get established in their new neighbourhoods.<sup>64</sup>

If people did not accept the offer and remained in the red zones, their neighbourhoods nonetheless changed irrevocably, because most people moved away. In some cases the dislocation from place and community experienced by people whose properties were red zoned (whether they remained in their property or not) hindered their ability to recover from the experience of the earthquakes. Anne in Dallington

## Why have some people remained living in the red zones?

is one of those people, and she spoke powerfully about the impact of this dislocation from community on her wellbeing:

Every agency we were dealing with in those early years was making it really difficult for us to maintain those core essential things that we needed to survive and that we valued as part of what it means for us. Am I saying that properly? To be a part of family and to be in a community with those around us and to have support from others and to give support—that's part of our physical and mental and emotional wellbeing. (Anne)

Dislocating people from their home environments at a critical time in their lives— after disaster—appears to have had strong impacts on people's wellbeing and ability to recover.

### House or land is believed to be safe

Nine people (19 percent) mentioned in their surveys that they believed their house or land was safe and that they did not perceive any risk, with three noting that they had geotech reports to support this. Accompanying references to section 124 notices and rock fall risk suggest that the majority of the people who chose to stay in their red zoned properties because they believed them to be safe are based in the Port Hills, where these risks have been identified. Some examples include:

We have an uncertifiable rock fall protection structure which reduces our risk to a low level.

Based on my knowledge I believe our home is currently adequately safe.

House is liveable and safe from hazards.

We have never been subject to a section 124. We have geotechnical reports confirming our land and house are safe to occupy. As our house is a repair rather than rebuild, we stood to lose a large sum of money if we accepted the Government offer of 2007/08 rateable value.

The comments demonstrate that while some respondents made their decision to stay based on advice from professional geotechnical assessments, this might not have been the case for everyone.

### Other reasons

'Other' reasons accounted for 23 percent of all comments. These reasons included cross-lease arrangement, pursuing own due diligence process, EQC assessment was false, waiting on zoning decisions and security reasons. Comments included:

We can't sell and move on until it is fixed.

We want to stay in our property as our section 124 notice has been lifted and we are planning to mitigate the rock fall risk by building a rock protection structure. We see no point in leaving.

The variety of 'other' reasons was broad, demonstrating that multiple factors affected people's decision to remain in the RRZs.

For some respondents their health condition influenced the decision to remain in their red zoned property. For these people, moving would either have been difficult or near impossible. One interviewee in this situation was Anne, whose multiple chemical sensitivities mean that she needs to be in an environment free from irritants. For this reason her house is critically important to her. Having looked around at possible alternative places, she and her husband decided to stay in their red zoned Dallington property because no other house was suitable health-wise. As Anne explained,

The house means a lot to us because I can't go into a new subdivision and under the new Building Code I can't build a new home with untreated wood. (Anne)

The near impossibility of Anne and Martin moving house prompted them to ask CERA and other agencies to take an individualised approach that would take their unique circumstances into consideration. While the couple found individuals within these agencies to be sympathetic and helpful, the system seemed unable to accommodate their needs.

Why have some people remained living in the red zones?



Phil in his Port Hills home.

One other reason for not wanting to move, cited by a small number of respondents, was pushback against what was perceived as bureaucracy impinging on their personal rights to decision making and property ownership. One survey respondent wrote, “Why would we accept a so-called voluntary offer that came with threats—which would result in a loss of equity?”

Some of the interviewees also mentioned this sense of injustice as partly contributing to their decision to remain in their red zoned properties. By their own admission they disliked being told what to do. For Phil, one of those who admitted to this feeling, it constituted only one (very minor) factor in the decision to remain in his Port Hills property with his family. There were in fact myriad reasons that prompted the decision, with a central reason being attachment to place:

There are a few factors, but the primary one is that I designed and built this house in a place that we had wanted to live for a long time and it would take a lot to give that up. Sure, if the house had been damaged in the earthquakes, but in this case it wasn’t, and there’s no reason for us to leave it. Unfortunately a lot of the neighbourhood has been removed, so that’s a really sad thing to see. People you get to know and share the environment with are gone and dispersed. But we still have some good neighbours further along the lane. It’s a nice spot. (Phil)

Red zone residents not living in their property by choice

Nine of the 56 residents responding to the question regarding people’s decision to live in the residential red zones said they were not remaining in the red zones by choice. The main reasons are given in Table 5.1.

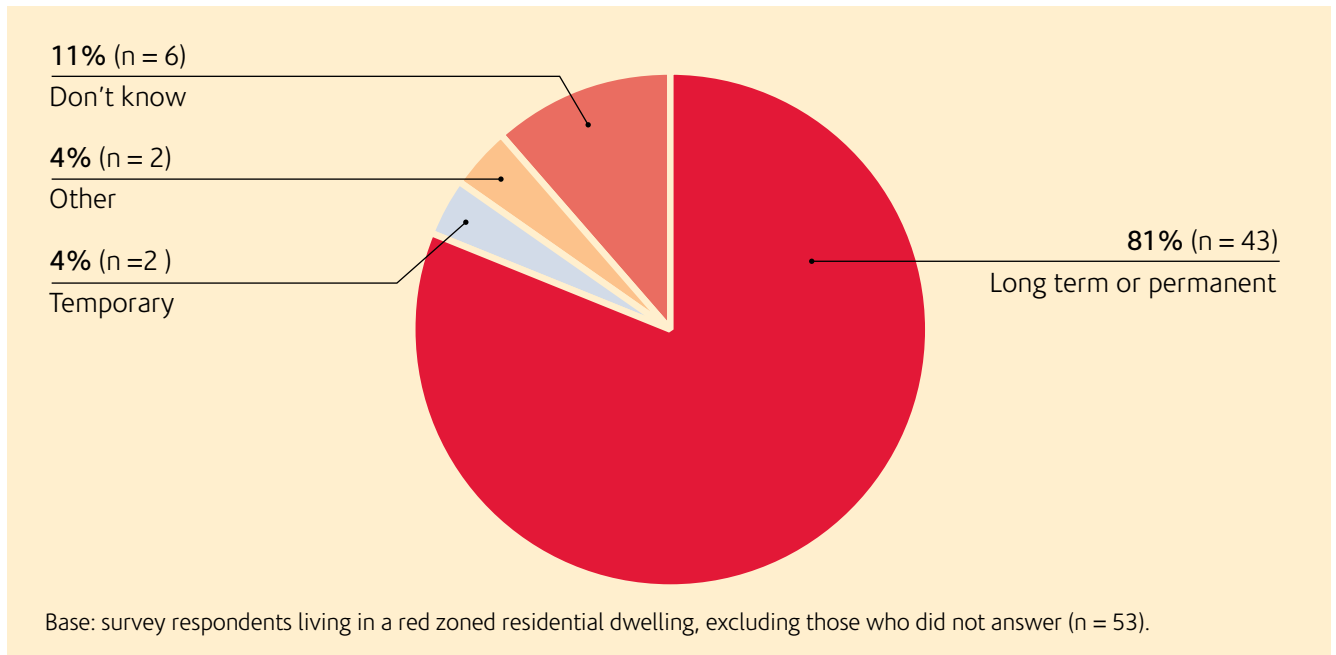
Table 5.1: Reasons given for not living in the red zone by choice

Reason	Number of comments
Rateable value was too low/incorrect	2
Lack of information / not sure about status of land or property	2
Financial reasons / mortgage	2
Legal reasons / court case / dispute	2
Still waiting for payout	2
Not allowed to build	1
Red zone section taken away from me	1
Large CCC-owned boulder in my bedroom	1
Involved in court case at time of government offer expiry	1

Base: Respondents living in a red zoned residential dwelling but not by choice, excluding those who did not answer (n = 9\*\*). Note that throughout the report, base sizes of less than 10 people have been indicated with two asterisks (\*\*) and base sizes between 10 and 29 have been indicated with one asterisk (\*).



Figure 5.2: Length of time red zone residents hoped to remain in the red zone



As can be seen from the comments, financial reasons were again the main considerations in determining people's continued residency in the red zones. However, in contrast to the views of the respondents cited above, who made the conscious decision to remain in the red zones after having taken their financial situation into account, this second group of respondents viewed their financial situation as *necessitating* their staying. This sense of being forced to remain in the red zones—because the decision was made *for* them but not *by* them—has for some people resulted in a bitterness that is tangible in their survey comments.

Because of the small number of people who indicated that their residency in the red zones was not by choice these results should be treated with caution. However, some trends can be discerned. For example, eight of the nine respondents in this sample answered a question on their level of satisfaction with life in the red zones (explored in more depth in Part 8, in the section on 'Levels of satisfaction living in the residential red zones'), with six respondents (75 percent) indicating they were 'Dissatisfied'. This figure is very high compared with the responses given by the 46 residents living in the red zones by choice, of

whom only 26 percent indicated their satisfaction level as 'Dissatisfied'.

## Respondents' hopes regarding their length of residency at their address

In addition to being asked whether their residency in the residential red zones was by choice, survey respondents were asked to indicate the length of time they hoped to remain at their residence: long term or permanent, or temporary. The answers are summarised in Figure 5.2.

Forty-three out of the 53 red zone residents who responded to this question (81 percent) hoped for long-term or permanent residency at their address, with only two hoping otherwise. Eight respondents expressed uncertainty, either indicating 'Other' or 'Don't know' as their answers. While this uncertainty indicates that not all red zone residents were entirely content with their situation at the time of the research, by far the largest percentage expressed hope for long-term or permanent residency.

## Part 5

Why have some people remained living in the red zones?



People watch waka at a commemorative event in New Brighton, 22 February 2015.

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### Findings: why have people remained living in the residential red zones?

- 5.1. After a disaster, attachment to place is a powerful force in people's decision to remain in their damaged property or neighbourhood.
- 5.2. Financial considerations also contribute to this decision making.
- 5.3. Once people have made the decision to remain in their property or neighbourhood, they generally hope their residency there will be long term or permanent.

# Part 6

What issues do affected people face, and what are the impacts of these issues?

He aha ngā kaupapa e aro ana ki te hunga pāpā, ā he aha ngā whakaaweawe?

## Part 6

What issues do affected people face, and what are the impacts of these issues?

The nature of the red zoning policies and processes have meant that people were affected by complex and multi-layered issues, with correspondingly complex and multi-layered impacts. Certain issues relating to the red zoning affected everyone, albeit to a greater or lesser extent. Such issues include communication between agencies and affected people, affected people's access to information, and affected people's participation and engagement in the red zoning process. It is these issues that are considered in this part of the report.

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## Communication

Research into the role that effective communication can play in establishing and deepening relationships has tended to focus on the medical and employment areas. This research stresses the links between good communication and good relationships—whether between medical staff and their patients or between co-workers—particularly through the deepening of trust.<sup>65</sup> Wellbeing benefits can also be derived from effective communication. By implication, poor communication is associated with a lack of trust and, consequently, weak relationships.

Communication, then, plays a central role in building and maintaining effective relationships. In terms of the red zoning, relationships between decision makers and affected people were always likely to be fraught, given the extent to which people were affected. Effective communication was one key means through which these relationships could have been improved. Communication was needed to inform people about the decisions and processes, and to facilitate and progress people's ability to query these decisions and processes.

Many factors have fuelled people's dissatisfaction with the communication from agencies regarding the red zoning. The interviews provide some insight into these dissatisfactions, which include:

- the way in which information about the red zoning has been communicated
- the difficulty in navigating the bureaucracy of agencies (for example, always speaking with a

different person on the phone rather than working through a sole case manager, and the inability of agency staff to make decisions)

- the behaviour of agency staff (including alleged bullying, aggressive behaviour and staff incompetence)
- the lack of feedback on decisions made about people's properties
- the type and tone of communications
- the lack of an apology or any offer of compensation from agencies for the strain placed on people
- the emergence of conspiracy theories in the information vacuum
- the stress that has resulted from this poor communication.

Findings from the CERA survey of property owners who accepted the Government purchase offer are relevant here. Respondents to the CERA survey were polarised in their levels of confidence in decision-making agencies (38 percent agreed that they had confidence, 33 percent disagreed). In terms of process, 68 percent agreed that the red zoning and purchase offer processes were clear, and 73 percent felt that they were given enough time to reflect on the offer. Although 19 percent disagreed that they had been treated respectfully and fairly throughout the process, 61 percent did agree with the statement.<sup>66</sup> Specifically in terms of information, 61 percent of respondents believed they were provided with the best possible information to make decisions about the Government purchase offer, with 22 percent disagreeing.<sup>67</sup> Responses in the CERA survey are generally more positive regarding communication and related issues than responses in the Commission survey.

These communication issues are considered below.

### Learning of the red zoning

It was apparent from the interviews that respondents' dissatisfaction with communication from agencies stemmed from as early as the announcement of the red zoning decision. For Ernest, whose Christchurch flat-land property was zoned red in the first zoning announcement on 23 June 2011, the problem arose



## What issues do affected people face, and what are the impacts of these issues?

because he was not advised of the situation by the Government, and instead learnt about it through a friend:

I'm 100 percent certain I did not receive a letter from CERA advising of the red zoning. I learned about it through a friend about a week after they announced it. A friend of mine came and said, "Did you hear the news?" (Ernest)

Martin also learned that his flat-land property lay within the red zone through word of mouth:

I heard that we were red zoned when I was at school. A colleague of mine looked up on the computer where the red zone was and she came and said to me, "Do you know that your house is red zoned?" And I was absolutely ... I couldn't believe it. I could not believe that we were in the red zone. (Martin)

In advising of the red zoning, the Government needed to distribute information on a large scale and in a timely manner. It was also the first communication with this particular group of affected people, so personalised communication channels had yet to be established. Despite these challenges, the lack of individualised communication advising of the flat-land red zoning decisions is regrettable given its significance for affected people. Not only were people left to find out information for themselves, and were not supported through this process, but this 'non-communication' as the first step in the red zoning process undoubtedly affected future interactions between CERA and affected people.

Perhaps in recognition of the significance of the announcement and its impact on people, CERA managed the process differently when it came to informing people of the re-zoning of properties in the Port Hills. The much smaller number of affected people also made this logistically more feasible than individually informing owners of red zoned flat-land properties. However, the number of affected people should not have prevented effective communication with flat-land property owners.

Ian and Ruth, in the Port Hills, received a phone call from a CERA representative one evening, informing them that their property had been red zoned following review of the area. Their property had initially been zoned white, and then green. As Ian described it,

At about 8.40 pm on the 14th of December 2013. It was just a phone call out of the blue: "Oh, I'm just ringing to let you know you're red zoned before it's public tomorrow." My son looked on the website and it was public already, and that was the first we knew about it. We'd been green zoned, we were in the process of going through our insurance, and we'd heard nothing, nothing at all. (Ian)

Ian's wife, Ruth, used similar vocabulary to describe the situation, but expressed stronger feelings about how the re-zoning decision was communicated to them. As she explained,

It was a huge relief when we were green zoned and as far as we were concerned that was the end of the matter. And then, 18 months later, in December 2013, we got a call out of the blue at night to say that we'd been red zoned. We'd had no inkling. We hadn't appealed our zoning—our neighbour had, but we hadn't—so there had been no communication, nothing to indicate that our land was still under investigation. So it just came as a huge shock.

...

Nothing to me excuses that our property was green zoned for 18 months—we had it in writing—but was still included in further investigations and we were never informed. That is one of the things I said pretty strongly to CERA that actually if we'd had pre-warning ... I mean people cope with far worse things than losing their property in their lives so it's the communication. I just think it's absolutely inexcusable. (Ruth)

In July 2016, the Commission met with Regenerate Christchurch and the CCC to discuss communication

## Part 6

What issues do affected people face, and what are the impacts of these issues?

with residents still living, or owning land in the residential red zone following the disestablishment of CERA. Both agencies clearly understood the issues and were in agreement about the need for unified and proactive communication with affected people.

### Difficulties navigating agencies' bureaucracy

In addition to dissatisfaction about communication (particularly from CERA) relating to the actual red zoning, affected people mentioned numerous other areas in which they felt communication had been inadequate. One such area was the difficulty navigating agencies' bureaucracy, including constantly speaking with a different person on the phone rather than working through a sole case manager, and agency staff being perceived as being unable to make decisions. This frustrating situation was summed up by Merv in respect to his dealings with EQC about his Port Hills property, which was zoned white, then green, then red, and then eventually green again in October 2015 once potentially dangerous rocks had been removed:

I talked to a number of people in their call centres who I just felt were the pawns that were being asked to pass on the unpalatable, because the senior people are too gutless to front up and justify their unjustifiable decisions. I don't think it was unreasonable to ask for someone at a senior level to come out and have a look at the special circumstances, and that's got to come right from the top. ... I don't know why they had a call centre. The call centre was there to record your complaints for posterity, but not do anything about them. (Merv)

Merv's criticism of EQC's policies was clear throughout the interview, and he repeated numerous times his insistence that the incompetence he perceived within the organisation would not have been acceptable in a private corporation.

Similar criticism of bureaucratic systems was expressed by Ralph, whose property was also in the Port Hills. As the owner of a successful business, Ralph was familiar with the processes required for an organisation to function effectively, which he did not



Ralph at his Three Boys Brewery business.

see occurring in the Government's handling of the red zoning. He compared the red zoning situation to the immediate and effective post-disaster response—the “incredible social spirit”, as he termed it—following the earthquakes, when people pulled together and helped each other, including to get his business operating again:

That's the realisation of the difference between what a lot of people were capable of doing in private business and what happens if that control and urgency are taken away from the situation. And lack of urgency and lack of focus are what Government and bureaucracy are about. That's what defines a bureaucracy.

We had all the difficulties to do with the earthquake, but in retrospect the earthquake itself was miniscule compared with the trauma that happened after that. Not that the earthquake wasn't bad—it was horrendous, and there's no doubt about that. But I think as humans we're capable of coping with trauma or blanking out trauma

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events—that's what we do—but there's a difference between trauma and torture. It's an interesting difference between immediately during and after the earthquake and what happened after that. (Ralph)

For more information on respondents' feelings on this matter, see Part 8, in the section on 'Stress'. The language Ralph uses demonstrates how strongly he felt about the stress to which he had been subjected.

In addition to speaking about the bureaucratic inefficiencies they perceived, interviewees also conveyed their frustration at dealing with members of staff who did not have the mandate or seniority to make decisions, or who could not adequately respond to questions. This issue seemed to be particularly apparent when communicating with staff over the phone. The situation was very clearly depicted by Ernest, the owner of an uninsured property in the Christchurch flat-land residential red zone:

But then as time went on and nothing came out from CERA, I just kept ringing them and writing to them and asking for clarification, and all I heard back was a standard script from people who answered the phone on the toll-free numbers.

So I pushed more, and they would reluctantly pass me on to people higher up in management to answer my call, and they would just say, "You know, people are going to move out, it's going to be a very deserted area, people are going to abandon their homes, why would you want to live there?" I was shocked. I thought, "What the heck are you talking about? I live here. Why would I not want to live here? You haven't provided me with any options or anything to assist me. You are getting rid of my neighbours and turning my neighbourhood into a deserted place, and you are asking me why do I want to stay behind? It's like I have a choice?" (Ernest)

Two key themes of communication between agencies and affected people are highlighted by this comment. First is the importance of persistence: in order to get answers to their questions it was sometimes

necessary for people to keep persevering. The second theme evident in Ernest's comment is the pressure that residents perceived was being put on them to make decisions, particularly decisions that were deemed 'suitable' or 'normal' according to the respective agency's perspective.

The elements of perseverance and pressure underscore the difficulties that people faced in deciding whether to remain living in the RRZs, including seeking out enough information to make an informed decision, and resisting pressure (both from personal contacts and from the government). In remarking on the difficulties they had finding appropriate information and resisting these pressures, many interviewees drew attention to people who were not able to 'fight' the system, and who left their red zoned properties as a result. More commentary on this issue can be found below, in the section on 'Agency engagement with the most vulnerable affected people'.

While call centre staff were often singled out by interviewees as frustrating to communicate with because of their limited ability to respond, they were not the only staff against whom this claim was levelled. This frustration was also felt when other agency representatives were unable to adequately answer people's queries, such as at community consultations, as described by Ernest:

The way the CERA people—the bureaucrats—were answering questions during those community meetings was quite limited and constrained. At times they had unanswered questions, and at times they said they needed to refer back to government to be able to tell us the answers. I decided later on something was fishy. We need to talk to a lawyer. (Ernest)

As Ernest makes clear, it was the inability of staff to adequately communicate CERA's thinking about uninsured red zoned properties that convinced him to contact a lawyer, setting in motion the events that eventuated in the establishment of the Quake Outcasts group.



## Part 6

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### Behaviour of agency staff

Another frustration raised by interviewees about communication with agencies was a feeling of being bullied, perceiving behaviour from staff to be aggressive, or getting an impression of staff incompetence. This criticism was levelled at various levels within agencies. Other interviewees spoke of feeling intimidated by the processes of the red zoning.

Complaints about the behaviour of agency staff were expressed by some interviewees in relation to the presence of CERA staff on red zoned properties. Ralph from Avoca Valley spoke of the lack of information shared with him about legitimate activities that CERA staff continued to carry out in the area, such as grassing and removing dumped rubbish. Concerns about the quality of work carried out by agency staff on the maintenance of red zoned areas were also voiced by both John and Les about their Brooklands neighbourhood. Of the agency contracted to clear the sewers, Les commented,

The number of people here ... Why do they need to be out here every day? All day! Sucking the sewer out? There's about 20 properties with two or three people on them I suppose. (Les)

Concerns over work considered to be pointless or poor-quality by affected people show that they did not feel they understood the processes being undertaken in their neighbourhoods. This feeling of exclusion could potentially have been addressed by better communication.

### Lack of feedback

Another area where interviewees felt communication could have been more effective was in providing feedback on decisions about their properties. People usually commented on this issue when agency staff had responded to a query but not followed through with this initial communication. An example of this



An 'Authorised vehicles only' sign in the Christchurch flat-land residential red zone, July 2015.



was described by Heather, talking about her and her partner's red zoned property in Kairaki Beach. Various agency staff visited the property, but little information was fed back to Heather and Dianne about these visits:

People have come out to see the property, but there's no real feedback. We've heard, "Your land has been badly affected", but we've never heard why they think that or we've never seen any geotech reports or anything like that. (Heather)

Without adequate and timely information it was difficult—if not impossible—for people to feel comfortable making major decisions such as whether to remain in the RRZs or sell up and move.

### Type and tone of communication

While the lack of communication and information perceived by affected people was a primary cause for concern, there were also comments from interviewees that suggested improvement might be possible where communication *did* occur between agencies and affected people. One problem people remarked on was the type and tone of communication employed.

Agencies involved in the red zoning used a number of forms of communication, including written information online or through the post, videos online, and the ability to seek verbal clarification through phone calls or face-to-face interactions at meetings or community consultations. Yet even with this range of options, people interviewed during this research expressed dissatisfaction with the communication they received. The reasons for this dissatisfaction are worth examining.

Referring to a document provided for participants at a community meeting on the future of Waimakariri's red zones, Dianne and Heather's comments are illuminating in terms of understanding why they did not appreciate such materials:

**Dianne:** You get given documents like this and you just go ...

**Heather:** Read the first page and go blank, glaze over.

The women obviously found it difficult to engage or connect with information provided in this form. Digesting and understanding written information (which was often lengthy), such as that provided in the brochure mentioned, requires a certain level of energy on the part of the reader. As expressed in their interview, with their energy levels sapped by years of uncertainty and change neither Heather nor Dianne felt motivated to try to understand anymore.

From their commentary it might be thought that Heather and Dianne would have preferred to receive information in a different form. Yet the opportunity to engage with the issues verbally and in the presence of other people held little appeal to them either after such an extended length of time:

And as far as the consultation process goes, there's all these consultation meetings where you go and you get spoken to and then you get into little groups and you talk about the area and you make a plan and you feel, right, we've achieved something, but then it comes back and we do it again—how many times have we done it? (Heather)

The feeling of dissatisfaction that people's voices are not heard beyond the room echoes Heather's comments above about the lack of feedback they received about their property. It is clear from these comments that while people may be willing to participate in consultative events, facilitating organisations need to demonstrate what outcomes have been achieved as a result of the time and energy given by participants. Also, as time goes by affected people who were initially willing to engage may no longer have the energy required to do so.

### Lack of apology or compensation

One other criticism levelled by affected people against the Government in terms of communication was its refusal to apologise for the stress caused by the red zoning. The vacant landowner interviewee wanted the Government to acknowledge the strain put on people in her situation. Following the 2015 decision of the Supreme Court that the red zone offers had been unlawfully made, the Government offered owners of vacant red zoned sections 100

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percent (rather than the initial offer of 50 percent) of the 2007/08 rateable value (RV). The vacant landowner wanted acknowledgement of this change in Government policy, which meant that vacant landowners waited several years more for their payouts than owners of insured red zoned residential properties. Speaking of the Government's lack of apology, the vacant landowner stated,

I'm sure it's all about setting precedents and so on and they won't want to do that ... but, like, have the courtesy at least to say sorry for the delay. (Vacant landowner)

For this interviewee, an issue related to this refusal to apologise was the low likelihood of vacant landowners receiving compensation for the hardships suffered over this period. These hardships were emotional, but also financial: in 2012 owners of vacant land were offered 50 percent of the 2007/08 rateable value, and it took three years (while the Quake Outcasts proceedings were underway) until the new purchase offer. During these three years owners could not use the money or generate interest on it. The landowner further explained,

People just want to be treated with dignity. Looking at the cold hard facts, we've been financially penalised. The Government has made money by not having to pay us out earlier. We should get something for that. (Vacant landowner)

Although this issue of compensation was specific to groups included in the Government's revised offer of 100 percent rather than 50 percent of the RV, the underlying sentiment—the need to publicly acknowledge the hardship the red zoning had produced—appears to be shared by most people affected by the process.

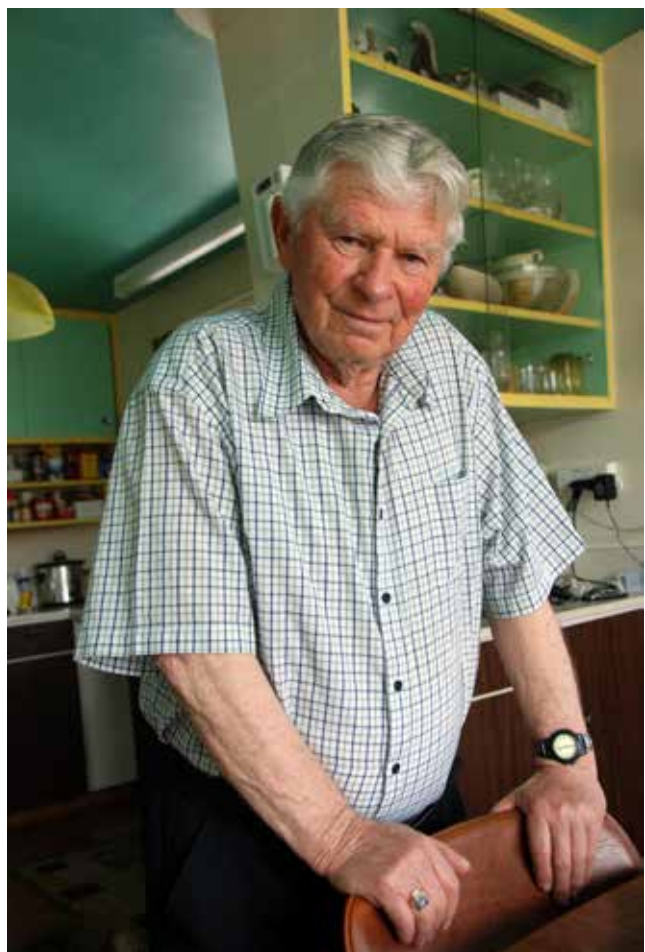
### The emergence of conspiracy theories

The perceived absence of clear communication from agencies about the red zoning was related to a widespread need among affected people to understand the decisions made and the processes undertaken. A situation where people wanted information they felt was not forthcoming opened space for questions and uncertainties—and drawing

conclusions. As the vacant landowner explained, she wanted to understand

What was the reason for the backtracking [on the offer to vacant landowners]? Why did it take so long? Why were the Court's results ignored? It would be helpful to have some answers or explanations just to make sense of it ... There's all these conspiracy theories ... We're looking for answers. There's nothing else coming, so we're drawing our own conclusions. (Vacant landowner)

Other interviewees also spoke of conspiracy theories that had emerged to fill the information vacuum. One popular theory was that the Government would later sell the land to developers and make a huge profit. Anne and Martin in Dallington, and John in Brooklands, suggested that financial motivations might be driving the situation. They found it difficult



John in the kitchen of his Brooklands home.

to comprehend why the value of red zoned properties had dropped so considerably unless the government had a reason for doing so. For John, it was the development potential of the land that made him question the process:

We've had the odd developer cruising round. Who knows what that's about, but it's certainly an apple to be picked. Just what developers are looking for and rubbing their hands together with the eye of making a fortune out of rebuilding in Brooklands. I believe they have a hidden agenda. I do believe that. (John)

Regardless of which conspiracy theory interviewees discussed, the fact that the issue was raised by numerous people points to how widely such theories had spread among the affected communities. To avoid this, timely provision of adequate information is critical.

The lack of adequate information from agencies is reflected in the results of the September 2015 CERA Wellbeing Survey, which noted a continued decrease in satisfaction with the information received from CERA between April and September 2015 (from 35 percent to 31 percent). This was coupled with a drop in the overall confidence that residents had in the agencies making the earthquake recovery decisions and a drop in satisfaction with the opportunities the public has had to influence those decisions (from 33 percent to 29 percent). This contrasts with the CERA survey of residents who were red zoned and who accepted the Crown offer where 61 percent of owners believe that they were provided with the best available information at the time to make decisions about the Government offer.

At the time of writing no decision has been made on the future of the red zone land.

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## Findings: communication

- 6.1. Respondents were very dissatisfied with the communication from agencies involved in the red zoning decisions and implementation.
- 6.2. This perceived poor communication created considerable avoidable stress and hindered people's ability to recover.

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## Access to information

Related to communication is the issue of access to information, which was also of critical importance to people affected by the red zoning. The importance of this issue stems from the fact that it was stressful and extremely difficult—if not impossible—for people to make decisions about their red zoned properties without feeling properly informed. The issue encompasses the provision of information from agencies involved in the red zoning, people's levels of access to support services, and affected people's views on the role of the media in the red zone experience.

### Provision of information

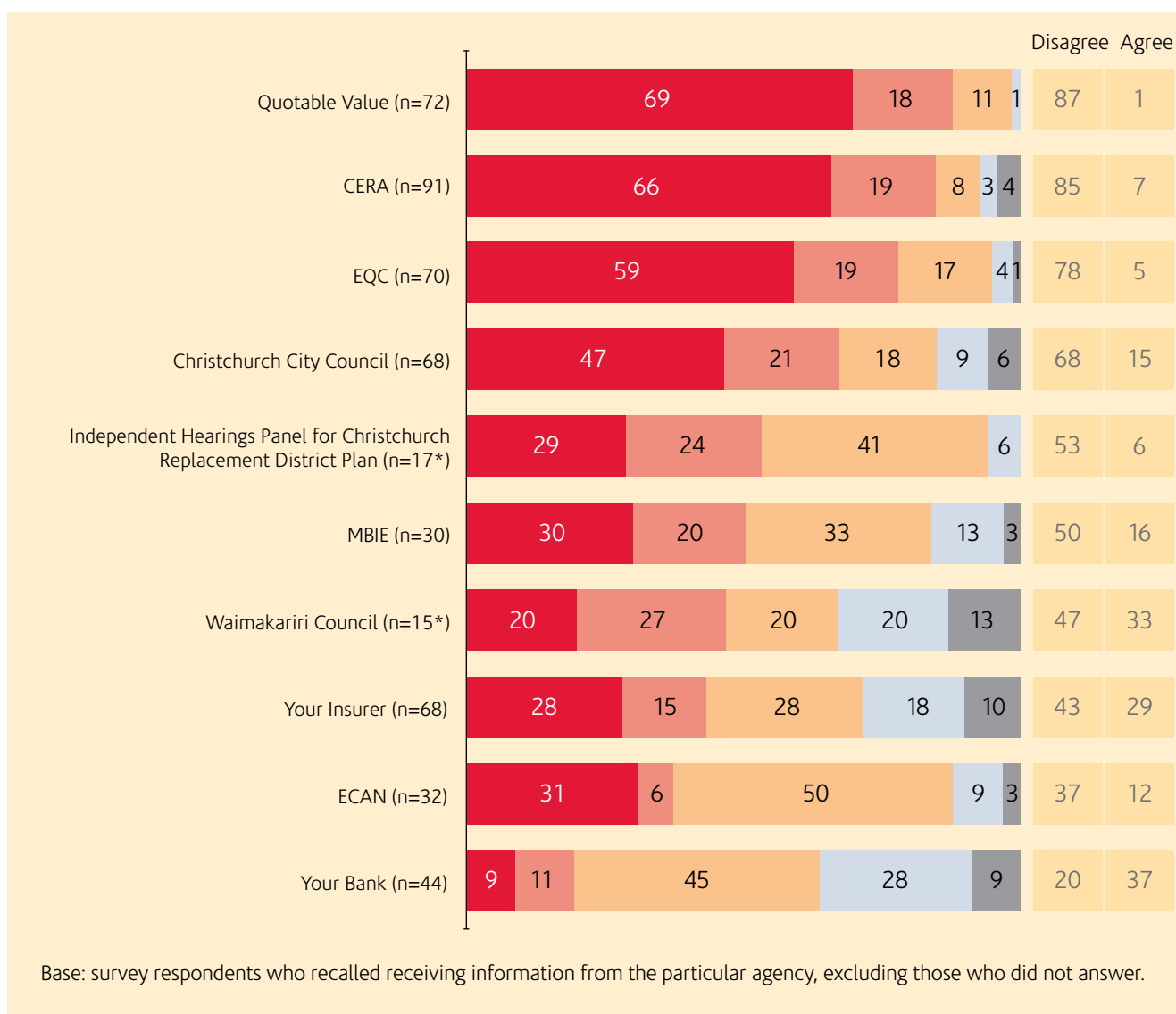
To understand how affected people felt about the provision of information about red zoning decisions, survey respondents were asked to rate their levels of satisfaction with information from a variety of agencies in terms of whether the information had been accessible, timely, relevant and accurate. 'Don't recall any information from this agency' and 'Not applicable' responses were removed in order to get a sense of respondents' levels of satisfaction with the agencies with which they engaged. The results are summarised in Figure 6.1.

Respondents' levels of dissatisfaction exceeded their level of satisfaction with information provided by all agencies except for their banks. Thirty-seven percent reported satisfaction with the information provided by their banks, with 20 percent of respondents indicating dissatisfaction.

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Figure 6.1: Satisfaction with information about red zoning decisions from various agencies



### Key

- Strongly agree
- Disagree
- Neither agree or disagree
- Agree
- Strongly agree



## What issues do affected people face, and what are the impacts of these issues?

The highest level of dissatisfaction with information provision was with the property valuation agency Quotable Value (QV), with 63 out of 72 people (87 percent) who dealt with the agency dissatisfied. The second-highest level of dissatisfaction was with CERA, with 85 percent dissatisfied. Seventy-eight percent of the 70 people dealing with EQC were dissatisfied with the information provided.

One noticeable difference apparent in the figure is the response of people to information provided by Christchurch City Council (CCC) and Waimakariri District Council. Although some caution needs to be exercised, given the relatively small sample size, the findings show that while 68 percent of respondents indicated dissatisfaction with information provided by CCC, this figure dropped to 47 percent for Waimakariri District Council. This finding is in line with others throughout this report which show that the relationships between Waimakariri District Council and people affected by the red zoning were generally more positive than those between affected people and CCC.

The findings about information provision suggest that people affected by the red zoning felt they were being asked to make decisions without access to all the information they needed, and for this reason they were unable to make completely informed decisions. The situation was forced upon them by the actions (or inaction)—whether intentional or unintentional—of the various agencies with which they were required to interact to obtain this information.

These findings contrast with the findings from CERA's survey of owners who *accepted* the Government purchase offer for their red zoned properties, which presents a more positive view of access to information. Sixty-one percent of respondents to the CERA survey believed that the information provided to them about the purchase offers was the best possible at the time, with 22 percent disagreeing.<sup>69</sup> Information quality was the most common reason for disagreeing with the statement: 65 percent of those respondents who disagreed were unhappy with information from the Government and 52 percent were unhappy with information from their private insurance companies. Respondents indicated that they wanted information that was honest,

transparent and factual, and that was consistent across the different agencies.<sup>70</sup>

The questions in the CERA survey specifically related to the Government purchase offer and not to red zoning decisions generally. The difference in responses between the two survey samples might therefore suggest that information was relatively clear in relation to the Government purchase offers, but not in relation to other aspects of the red zoning. Even for the CERA survey sample, however, information remained an issue.

Dissatisfaction with information provision across both survey samples, and especially among respondents to the Commission's survey, is important in terms of what can be learnt from the Canterbury experience. The situation shows, firstly, that there should be greater proactive release of information following disaster so that affected people feel better informed; and secondly, that if affected people require further information, this information should be easy to obtain and provided in a timely manner.

The provision of information from government agencies is covered by the Official Information Act 1982 (OIA), and information from private insurance companies by the Privacy Act 1993. These mechanisms mean there should have been no obstacle to people receiving information about their properties or land. Yet a report by the Chief Ombudsman and the Privacy Commissioner shows that with the large number of insurance claims submitted to EQC after the Canterbury earthquakes, the agency found itself overwhelmed and as a result was unable to process insurance claims in a timely manner.

Affected people resorted to invoking the OIA and the Privacy Act to try to get information on the status of their properties; however, the report shows that EQC was in many cases unable to meet the mandated 20-working-day deadlines for OIA responses because of its workload and the complicated and risk-averse systems in place.<sup>71</sup> In April 2013, at the peak of the problem, EQC had 1,317 overdue OIA requests to process.<sup>72</sup> EQC itself commissioned research into its customer interactions, which resulted in the publication of a report, *EQC—Customer Interaction*

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*Review*, in November 2014.<sup>73</sup> The report identified the need for a major realignment of focus within the existing customer interaction model.

The inability of EQC to meet its legal obligations to provide information indicates that New Zealand's systems for information provision following disaster need to be bolstered to cope with increased demand at times of crisis. EQC has taken steps to act on the recommendations from its *Customer Interaction* report, including increased training and resourcing for Complaints Team staff, changes to enable faster delivery of information, and better clarification on its website of information held offsite, as well as improved communication with and proactive information provision to customers.<sup>74</sup>

#### Access to support services

All online survey respondents were asked which support services and agencies they had contacted, and which they knew about but had not contacted. Table 6.1 shows the results, ranked in order from the most- to least-contacted support services.

The results show that all agencies listed were known by at least 53 percent of respondents to this question. There is a large discrepancy, however, between the percentages of people aware of the support services, with figures ranging between 53 and 94 percent. There is also a large discrepancy in the number of people who had contacted the various agencies, with only six of 26 agencies contacted by 20 or more people (39 percent or more of respondents). The remaining 20 agencies had been contacted by fewer than 10 respondents each.

People who responded to this question had contacted, on average, 4.6 of the agencies or organisations listed. The most commonly contacted organisations were the Quake Outcasts (contacted by 71 percent), John Campbell (61 percent) and the Red Cross (59 percent).

Adding together 'Have contacted the agency' and 'Aware of but have not contacted', the most well-known agencies were also those most contacted: Quake Outcasts (94 percent), John Campbell / TV3 (88 percent) and the Red Cross (86 percent). That John Campbell, a journalist and media presenter,

was both the second-most known and the second-most contacted support service potentially indicates that he was held in high regard by people affected by the red zoning. It may also point to the potential failure of more traditional types of support agencies to adequately meet the needs of people affected by the red zoning. More information on John Campbell, and the media in general, is available in the following sub-section.

The relatively low uptake by survey respondents of the available support services—despite more than half of respondents knowing of every listed service—suggests that people affected by the red zoning may have considered them unnecessary or unable to help. By way of contrast, 77 percent of respondents to the CERA survey of owners of red zoned properties who had accepted the Government purchase offer had accessed at least one of the six support services listed in the survey.<sup>75</sup>

Despite this implication, comments from the interviews show that throughout the years since the earthquakes, support from agencies has been vital to various people at certain times. Reflecting on his willingness to participate in the Commission's survey and subsequent interview, Phil in the Port Hills noted that

It has felt like the Human Rights Commission has been the only agency who has been on our side or hearing our voice right through the whole thing. It's fantastic. There are times when that alone makes the difference to wanting to keep going. (Phil)

Given the important role that support agencies can play in improving people's post-disaster experiences, it is important to consider how services might be altered to most appropriately meet the needs of affected people as these change over time.

#### Media

The fact that online survey respondents selected John Campbell as the second-most-known-about and the second-most-contacted 'support service' highlights the power of the media in the red zone issue. While there were no questions specifically related to the media in the survey, the issue was commented on in the interviews.

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**Table 6.1: Contact with and knowledge about support services/agencies**

Support service/agency	Have contacted		Know about but have not contacted		Total	
	n	%	n	%	n	%
Quake Outcasts	36	71	12	24	48	94
John Campbell (TV3)	31	61	14	27	45	88
Red Cross	30	59	14	27	44	86
Other media (newspapers, radio, etc.)	25	49	14	27	39	76
Social media (Facebook groups or blogs)	22	43	15	29	37	72
Human Rights Commission	20	39	21	41	41	80
Office of the Ombudsman	9	18	29	57	38	75
CanCERN	5	10	30	59	35	69
Canterbury Earthquake Temporary Accommodation Service	5	10	26	51	31	61
Residential Advisory Service	4	8	26	51	30	59
Office of the Auditor General	4	8	26	51	30	59
InsuranceWatch	4	8	21	41	25	49
The free earthquake counselling service	3	6	25	49	28	55
Earthquake Support Coordination Service (including Kaitoko Whanau workers)	3	6	23	45	26	51
WeCAN	3	6	18	35	21	41
Canterbury Community Law	2	4	34	67	36	71
Salvation Army	2	4	33	65	35	69
Insurance and Savings Ombudsman	2	4	27	53	29	57
Free Financial Advice for Red Zoners	2	4	18	35	20	39
Relationship Services Aotearoa	1	2	28	55	29	57
All Right? Campaign	1	2	25	49	26	51
0800 777 846 Canterbury Support Line	1	2	24	47	25	49
Presbyterian Support	0	0	31	61	31	61
Age Concern	0	0	30	59	30	59
Methodist Mission	0	0	29	57	29	57
Canterbury Insurance Advocacy Service	0	0	27	53	27	53

Base: all online respondents, excluding respondents who did not answer (n = 51).

## Part 6

### What issues do affected people face, and what are the impacts of these issues?

In relation to John Campbell, interviewees spoke of the positive way in which they felt he had contributed to the red zoning situation by giving a voice to affected people and showing a side of the story that was not often covered by other mainstream media. One example comes from Martin in Dallington:

John Campbell had a lot of compassion, and we were grieving when he was discontinued. We were comforted by how he showed what horrible situations some people were in, were in their cars after two and a half years after the quakes and so forth. And it was just the right approach: it was a healing approach, it was a caring approach, a compassionate approach, and it has done so much good. He became a hero. (Martin)

The impression that affected people had of John Campbell's reporting differed substantially to their views on other media: most other commentary constructed the media as a source of frustration.

One complaint voiced by interviewees was the media's apparent lack of interest in presenting the multiple sides of the red zoning story. As a result of this one-dimensional reporting, affected people felt that the media were perpetuating the problems they faced, including the sense of stigma attached to areas labelled as 'red zones'. Speaking of people not affected by the earthquakes, Dianne in Kairaki Beach noted that "All they know is what they read in the media. And if they think we're living here illegally, well, what does that say about the media?"

Dianne is referring to the commonly held—but false—idea that people living in the residential red zones (without hazard or section 124 notices on their homes) had defied a legal obligation to leave. Rather than helping these sorts of falsehoods to continue circulating by either propagating the message or by not challenging it, the media has a role, Dianne believed, to debunk myths and present a balanced account of the situation.

Interviewees seemed particularly indignant that the media were unable or unwilling to portray their stories when they were often approached with requests for comment. Numerous people made reference to the fact that media personnel

showed renewed interest in them with every new development in the red zoning process. Here are two such comments:

The media come rushing out every time somebody makes a decision. Yeah like when they said something about they were going to cut the services off, the media was out here like a flash, they were out here [in Brooklands] the next day. (Les)

They ring you up about something that's happened—like the Quake Outcasts case being resolved—and they're just completely green. "Are you going to take the offer?" And so it's wearying to start the story again. (Phil)

These comments highlight the fluctuation of media interest in the red zoning situation, but also underscore how tiring and frustrating some people found this to be.

A similar experience was related by Ralph. He outlined how he and his wife had talked through the issues of rock-fall risk and mitigation with journalists, presumably hoping that their side of the story would be told publicly. It was disappointing and annoying, then, for them to see the finished sensationalised report. In Ralph's words:

We had people come up and look at our property and house, talk about the zoning issues, and then when it came to reporting time the first shot would be rocks rolling down the hill. (Ralph)

Particularly frustrating to them was the fact that the footage of the rolling rocks had been filmed as part of authorised remediation work carried out in Avoca Valley *following* the earthquake.

People also spoke of the role of the media in not presenting a balanced view of the situation as an extension of a power imbalance of the red zoning process in general. Anne and Martin, in particular, engaged in a lengthy discussion about this issue. Here are some highlights.

**Martin:** I often felt angry about the media when they write what it costs just to keep



people in the red zone. Well, these people didn't choose to be red zoned, it was just that they were unlucky to be in an area when the Government decided that it's cheaper for us to let the whole place go and buy the people out. And I do understand that, but that wasn't the people's fault.

**Anne:** Us and them.

**Martin:** Again, divide another group. And that's not necessary every time, because there are a lot of people who cost a lot of money and we can't always raise a fire storm against them, against vulnerable people. Politicians were not exempt from that either.

**Anne:** I think the media were quite polemic in terms of the way they portrayed the red zoning ... They need to be accountable too. The cornerstone of good journalism is reporting both sides of the story in a fair manner and letting people's words speak for themselves, and they have failed.

For Anne and Martin, the way in which the media treated people affected by the red zoning was just another source of stress.

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## Findings: access to information

- 6.3 People need to feel they have received adequate information in order to be confident when making decisions. The provision of this information is critical, and in a post-disaster context can assist people's recovery by providing certainty.
- 6.4 Information provision following disaster should be proactive and needs to be provided in a form that is suitable to the target audience (for example, language, complexity, utility).
- 6.5 It is essential for agencies responsible for providing information to the public in the aftermath of a disaster to have plans in place and adequate resources available to ensure that public information needs are met in an appropriate and timely manner. This includes the ability to respond to information requests from affected individuals.
- 6.6 The low uptake of earthquake support services by people living, or owning vacant land in the residential red zone, suggests that they felt these services were either not needed or were unable to meet their needs.
- 6.7 Affected respondents felt that media reporting could contribute to the stressors they faced.

## Part 6

What issues do affected people face, and what are the impacts of these issues?

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# Participation, engagement and collaboration in decision making

An issue related to access to information is the participation, engagement and collaboration of affected people in the red zoning decisions and processes. This includes people's levels of satisfaction with the way in which agencies have engaged with them, agency engagement with the most vulnerable, and the emergence of community groups—at least partly in response to (perceived) low levels of engagement from agencies. This section considers these issues, and concludes by noting the widespread disillusionment and dissatisfaction among respondents of the Commission's RRZ survey and interviews in this regard.

## Agency engagement with affected people

Survey respondents were asked to rate their level of satisfaction with the way that agencies had engaged with them about red zoning decisions. People were specifically asked whether they considered this engagement to have been participatory and transparent. The results are shown in Figure 6.2.

Respondents were largely dissatisfied with the agencies they had engaged with regarding red zoning decisions. The highest level of dissatisfaction was recorded for CERA, with 79 out of 90 people (88 percent) noting their dissatisfaction. Other agencies receiving high levels of dissatisfaction were: EQC (83 percent), the Land Valuation Tribunal (75 percent) and CCC (73 percent). Respondents were most satisfied with their banks, with 41 percent indicating satisfaction.

A number of interviewees mentioned that although they found agency bureaucracy generally very difficult to deal with, individuals within agencies were supportive. An example comes from Phil:

There have been individual people where you've felt, "Yeah, they get it," and they've made a difference in terms of how they've engaged with you. (Phil)

The sense from the interviewees is that this human face provides some comfort on a personal level, but that these individual efforts cannot compensate for the difficulties people faced when interacting with the agency as a whole.

## Agency engagement with the most vulnerable affected people

It has been common for people affected by the red zoning to recognise and remark on the situations faced by others, often highlighting how lucky they feel in comparison to people they perceive to be worse off.

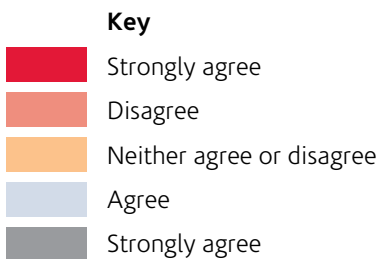
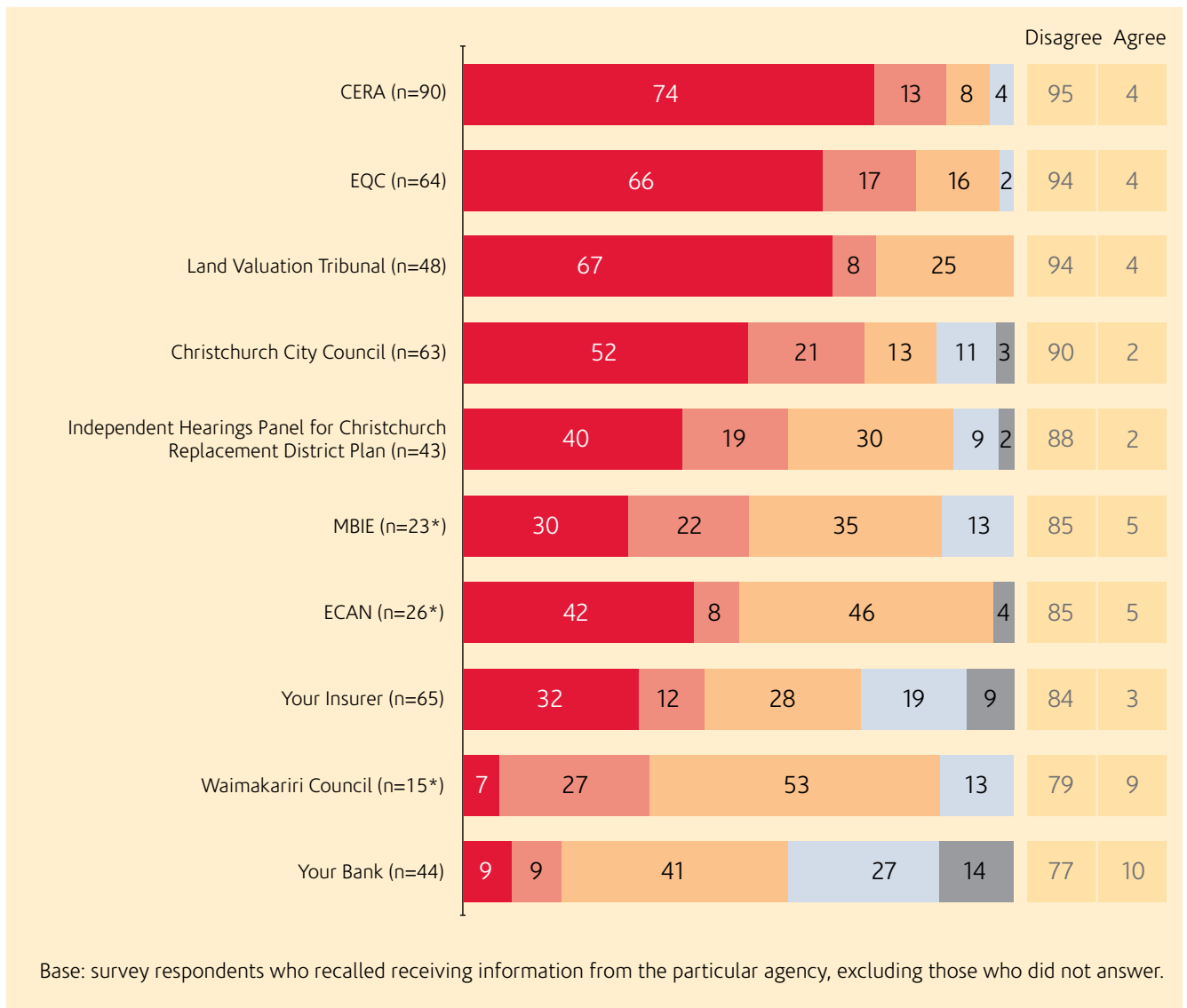
This sentiment of 'feeling better off than others' was also evident in the CERA survey of owners of red zoned properties who accepted the Government purchase offer, with people responding more positively to questions about the Government offer from a personal rather than a general perspective. This finding might suggest that perceptions of the impact of the Government offer were less positive than the reality.<sup>76</sup>

While the disconnect between perception and reality may also be present in the responses of owners to the Commission's survey, it should be noted that consideration of the Government purchase offer was just one element of the red zoning process people experienced. Anecdotes accompanying respondents' comments further demonstrate that respondents often saw the situation of others as worse than their own.

Comments about feeling lucky in comparison to others were usually linked to engagement with agencies. The people making the comments realised that the ability to have their say to support agencies was an opportunity that not every affected person has had. Commentators also often felt themselves better able to endure the experience of the red zoning than others. This sentiment tended to arise from people's awareness that the actions they had taken to improve their situation (such as mobilising pre-existing knowledge or leveraging contacts) were not available to every affected person, or because they considered themselves better able to cope with the pressures of the process than others in a similar situation.

What issues do affected people face, and what are the impacts of these issues?

Figure 6.2: Satisfaction with engagement with agencies about red zoning decisions



## Part 6

### What issues do affected people face, and what are the impacts of these issues?

An example is Ian, an engineer involved in post-earthquake assessments. Of his own red zoned property in the Port Hills, Ian said,

We haven't been settled for the claim, but the indications are that they [EQC] will finally come to the party. We'd have never got there if I wasn't an engineer. This is what I do for a living, so I know the process, but it's incredibly frustrating—and that's for someone who is in the game. (Ian)

Ralph similarly recognised that his circumstances had enabled him and his family to make the decision to remain in their red zoned Port Hills property, which had necessitated working with CCC and having enough financial capacity to get rock fall protection installed. In addition to his professional knowledge—the know-how he had accumulated as a business owner—Ralph referred to circumstances of privilege:

What really annoys me about CERA and the Government is the fact that we're really lucky in the sense that we're white, we're middle class, we're well educated, relatively articulate, a business owner who can just stop and say, "No". But if you're poor, uneducated, only by your chance of birth, then you have absolutely zero chance. That sort of goes against what New Zealand culture and society are supposed to be about. I think that's forced most people into that belligerence in dealing with government, because it's almost compensation for those who can't say what they need to say, or do what they need to have done. Oh God, you just feel for them so much because of how lucky we are. (Ralph)

Numerous interviewees mentioned that they perceived that other affected people had a much harder time dealing with the red zoning than they had themselves. Most often this commentary was related to older women, who were seen both as having especially suffered as a result of the red zoning and as being particularly vulnerable to exploitation.

Both of these issues have been raised by support groups, which have remarked on the difficulties presented by post-earthquake processes generally,

and the added complications and stresses of the red zoning. For example, a February 2013 research report noted that in the post-earthquake recovery period older people were susceptible to abuse by stressed family members or unscrupulous tradespeople. The report further outlined how older owners of red zoned properties who accepted the Government offer had often accepted a drop in their quality of life, because the amount of money was inadequate to purchase properties comparable to those owned pre-earthquake.<sup>77</sup> Also noted in the report were the mental health impacts of the earthquakes and their aftermath: while older people experienced the same fear and frustration as all residents, especially once dislocated from their familiar surroundings if they moved house, they also faced the added worry of feeling time was running out for them to see the process completed.<sup>78</sup>

Indignant about the amount of effort he had put into trying to understand his options as the owner of a red zoned property in Brooklands, Les, himself in his 80s, reflected on how much worse this experience might have been for others, specifically singling out older women:

I don't really think it is up to the homeowner to chase information, but if you don't, they just run all over the top of you. God, some people must have got some ... What about these poor old ladies on their own? What sort of hassles have they been put under? It makes you sick to think about what's going on. (Les)

While Les was speaking hypothetically, stories provided by Ernest, and by Heather and Dianne, reiterate the theme of older women not knowing how to negotiate the bureaucratic challenges of the red zoning. In his role as spokesperson for the Quake Outcasts, Ernest visited uninsured people, including older women:

I remember quite a number of elderly ladies who were living alone at the time. I personally met a few of them and I went to their homes. They were in a very vulnerable situation because they did not know their rights or what they were doing or what was happening. They weren't in the loop at all.





Brooklands farewell event 9 September 2012. Over 400 properties in the small community were zoned red and have been demolished.

## Part 6

### What issues do affected people face, and what are the impacts of these issues?

They just couldn't understand the complicated offers and deals and options and what it meant for them. (Ernest)

As the following conversation between Heather and Dianne makes clear, their former neighbours—some older women whose properties had been insured—were intimidated by the processes and the uncertainty of the red zoning, and had made the decision to move as a result. Leaving Kairaki Beach, however, had serious implications for their wellbeing.

**Heather:** There was an older woman down the road who had been there for 50-something years and her house was quite munted.<sup>79</sup> And she thought, "Oh they're going to make me go; I'd better go." And she bought a house and she's been so unhappy.

**Dianne:** She's really miserable; she's down here a lot. And our neighbour on the other side was elderly and she had plans for a nice new little cottage, something really simple, and she went and now it's too painful for her to come down and even visit us. They were women on their own, about 80 [years old], and that was the advice they were getting. They needed certainty in their lives, whereas maybe our professions [as counsellors] helped us live in limbo.

More broadly, the potential vulnerability of older people following a disaster is a cause of concern. The earthquakes themselves triggered higher-than-normal death rates among Canterbury's older population<sup>80</sup> and there are suspicions among affected people that the post-earthquake processes contributed to this trend.<sup>81</sup>

### The emergence of community groups

One consequence of the perceived low levels of engagement between agencies and affected people was the emergence of community groups to support and educate others about the red zoning decisions and processes. These groups were often driven by one or two key individuals who acted—and continue to act—as conduits between agencies and affected people, disseminating information in both directions as required.

In some ways these groups were extensions of the support networks that developed spontaneously in the aftermath of the earthquakes, when neighbours faced similar difficulties. Dianne described how the Kairaki Beach community responded to the earthquakes and the subsequent shifts within the community:

People reacted differently. Some people did their own thing, but in the actual crisis there's some younger guys here, and you know if you say, "Can you help me?" Like, one guy who we didn't know very well at the time, he brought his little digger over. The liquefaction came up our drive, and it was that deep we couldn't get our gates open and we shovelled.

The sense of community was really strong before the earthquakes. The people that have left, some of them they've taken the friendships with them. There's two couples like that. Those of us who are left here have created a new community, and in fact we've got a street BBQ here tomorrow night. We haven't done anything as a neighbourhood for a while. (Dianne)

Beyond the immediate aftermath of the earthquakes, and as the land zoning decisions came through, formal and informal groups were established specifically to support affected people through the process. This community support was highlighted in the interviews, sometimes to contrast this support with agencies' performance in terms of providing information and engaging affected people in the processes. The vacant landowner interviewee, for example, spoke very highly of the individual who connected vacant landowners, engaged on their behalf in the Quake Outcasts group, and became the go-to person for vacant landowners seeking information:

My husband and I are really grateful to her. We were lucky to have her because ... we didn't have any fight left and I think it was only because of her that this decision [to increase the offer from 50 percent to 100 percent of the rateable land value] came through, to be honest. ... Look at the time and effort and stress that she put into this. She's invested her life, it seems, into this

## What issues do affected people face, and what are the impacts of these issues?

... I guess as in times like this, leaders will emerge and she was just amazing. (Vacant landowner)

Similar praise was expressed by Les in Brooklands of the woman who provided information on the red zoning to the community:

The lady across the road here, she keeps us pretty well informed. She's really into it; she's into everything. She's up to here in it. (Les)

As with the vacant landowner, Les acknowledged the energy required to maintain momentum, particularly after such a long time.

### Widespread disillusionment and dissatisfaction among survey respondents and interviewees

This report has shown that Commission survey respondents and interviewees have been—and continue to be—deeply affected by the red zoning, just as people across Canterbury have been and continue to be affected by the earthquakes and their aftermaths on many different levels. These feelings are manifested in disillusionment and dissatisfaction with the process and the issues the process has created. These feelings are generally more negative than in the CERA survey of owners who accepted the Government offer (statistics were cited in the introduction to Part 6: Communication).

These feelings are especially apparent in the reactions of respondents to 20 general statements in the Commission's survey about red zoning processes. Asked to indicate their level of agreement with each statement on a five-point scale, from 'Strongly agree' to 'Strongly disagree,' the majority of respondents recorded scores that indicate very high levels of dissatisfaction.

Figures 6.3 and 6.4 (pp. 98-99) show the level of agreement or disagreement expressed by respondents in relation to each statement. The 10 statements with the highest levels of disagreement are shown in Figure 6.3, ranked in order from the highest to the lowest level of disagreement.

All of the 10 statements in Figure 6.3 have levels of disagreement over 75 percent and correspondingly low levels of agreement. There is almost universal disagreement with three statements.

- Ninety-five percent disagreed with the statement 'I have confidence in the Government agencies involved in red zoning and decisions arising from this', with 84 percent strongly disagreeing and 11 percent disagreeing
- Ninety-four percent disagreed with the statement 'I have been included in the decisions made about the area in which my home/property is located', with 79 percent strongly disagreeing and 15 percent disagreeing
- Ninety-four percent disagreed with the statement 'I have been included in the decisions made about my home/property', with 75 percent strongly disagreeing and 19 percent disagreeing.

It is important to note that two of the three statements with almost universal levels of disagreement refer to being included in decision-making processes. This feeling of being excluded from decision making relates directly to the lack of certainty and security that has been so central to the lives of people affected by the red zoning.

Other statements with over 80 percent disagreement among survey respondents include:

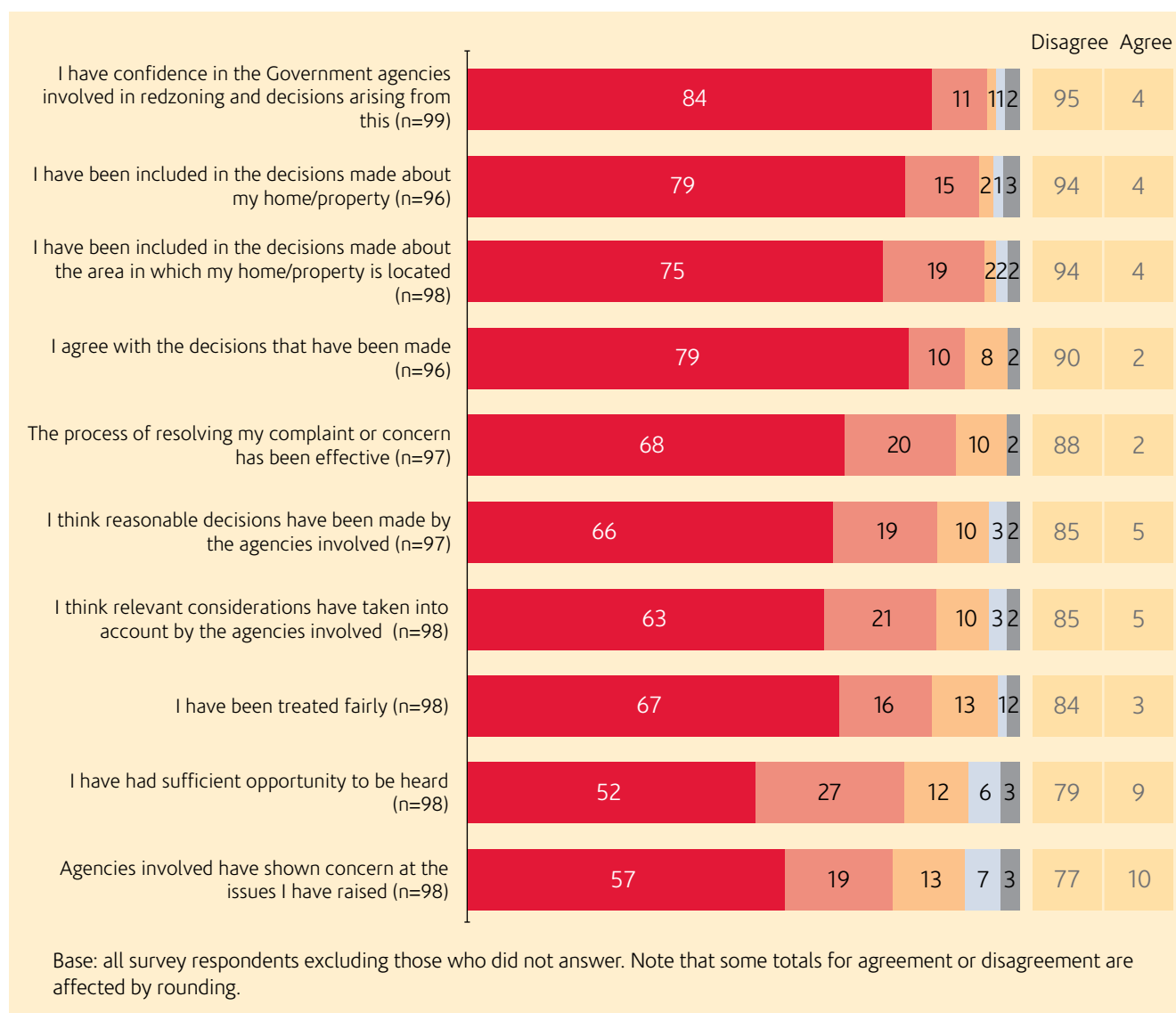
- 'I agree with the decisions that have been made' (90 percent disagreed)
- 'The process for resolving my complaint or concern has been effective' (88 percent disagreed)
- 'I think reasonable decisions have been made by the agencies involved' (85 percent disagreed)
- 'I think relevant considerations have been taken into account by the agencies involved' (85 percent disagreed)
- 'I have been treated fairly' (84 percent disagreed).

The findings from this part of the Commission's survey support conclusions drawn throughout the report which suggest that respondents are highly disillusioned and dissatisfied with the red zoning and its processes.

## Part 6

What issues do affected people face,  
and what are the impacts of these issues?

**Figure 6.3: Agreement with statements about red zoning processes (top-10-highest levels of disagreement)**



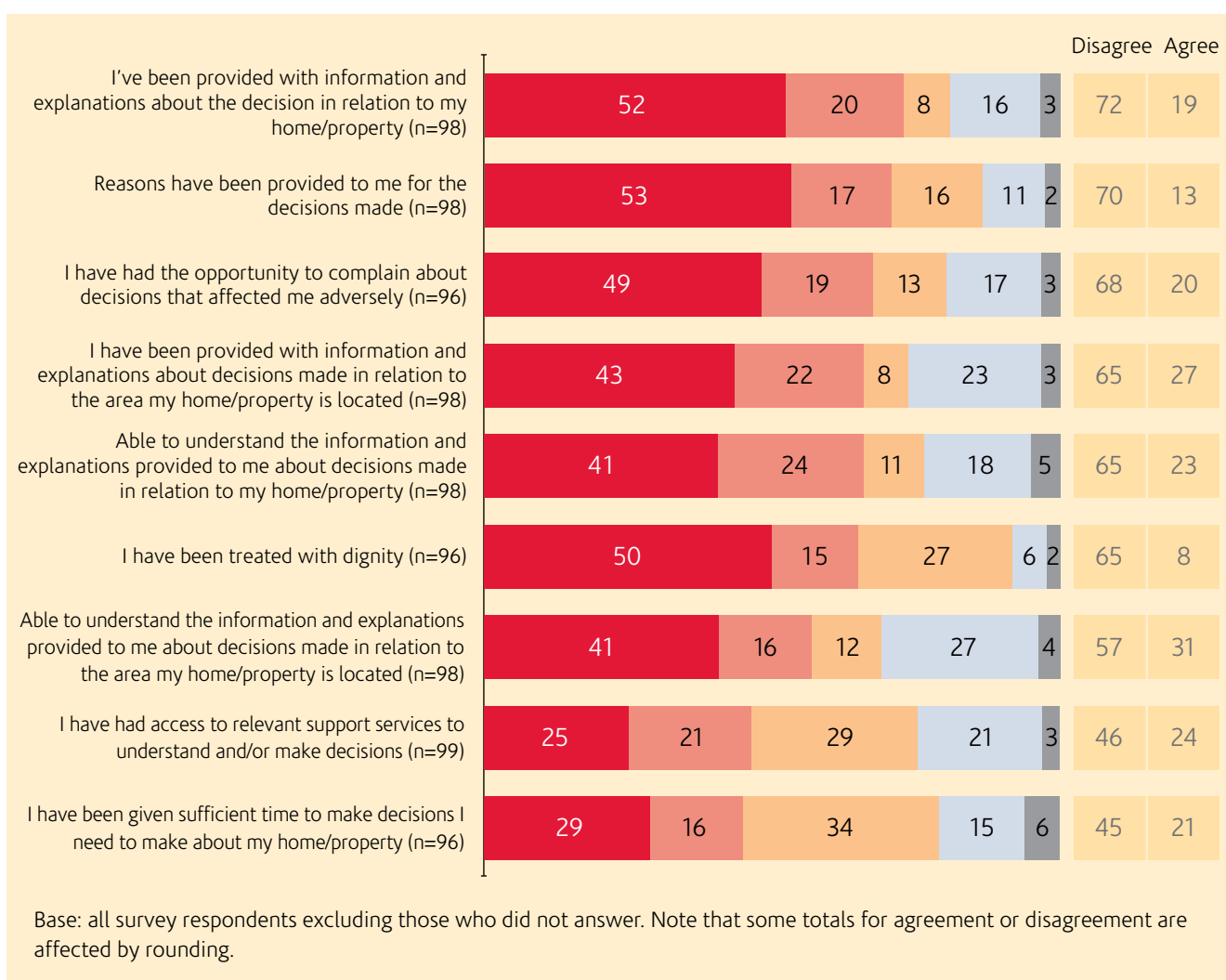
### Key

- Strongly agree
- Disagree
- Neither agree or disagree
- Agree
- Strongly agree



## What issues do affected people face, and what are the impacts of these issues?

**Figure 6.4: Agreement with statements about red zoning processes (statements with lower levels of disagreement)**



### Key

<span style="display:inline-block; width:15px; height:15px; background-color:red; border:1px solid black;"></span>	Strongly agree
<span style="display:inline-block; width:15px; height:15px; background-color:lightcoral; border:1px solid black;"></span>	Disagree
<span style="display:inline-block; width:15px; height:15px; background-color:orange; border:1px solid black;"></span>	Neither agree or disagree
<span style="display:inline-block; width:15px; height:15px; background-color:lightblue; border:1px solid black;"></span>	Agree
<span style="display:inline-block; width:15px; height:15px; background-color:grey; border:1px solid black;"></span>	Strongly agree



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What issues do affected people face, and what are the impacts of these issues?

The high levels of disagreement with these statements suggest that many people affected by the red zoning felt themselves to be dislocated from decision-making processes and unhappy with decisions reached by the Government: 88 percent of respondents disagreed with the statement 'The process for resolving my complaint or concern has been effective'.

The remaining nine statements in the survey question also received high levels of disagreement and correspondingly low levels of agreement, as outlined in Figure 6.4.

The types of issues covered in these statements include the provision of information, provision of reasons for decisions, opportunity for complaint, ability to understand information, and access to support services. Only two of the 20 statements presented in the survey received a level of disagreement less than 50 percent:

- 'I have had access to relevant support services to help me understand or make decisions' (46 percent disagreed)
- 'I have been given sufficient time to make decisions I need to make about my home/property' (45 percent disagreed).
- Conversely, only one of the 20 statements received more than a 30 percent level of agreement:
- 'I have been able to understand the information and explanations provided to me about decisions made in relation to the area my home/property is located' (31 percent agreed).

Interestingly, this statement is one of only two of the 20 detailing a situation over which respondents could exercise agency; the other statements pertained to situations beyond the control of individual respondents. Because a lack of certainty and security has characterised the red zone experience, it is possible that the comparatively high level of agreement with this statement stems from the fact that people were able to engage with the situation—they were able to develop their understanding of information provided—instead of merely being the recipients of others' decisions.

The findings from this part confirm information presented throughout the report, which shows that people affected by the red zoning have been, and continue to be, deeply affected by the process. As a result, there was and still is little inclination among the group to view the red zoning processes and decisions positively.

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### Findings: issues of participation, engagement and collaboration in decision making

- 6.8 Empathy and support from agency staff were helpful for affected people on a personal level, but these individual efforts were overshadowed by the difficulties in dealing with agencies as bureaucratic entities.
- 6.9 Affected people commonly remarked on the situation of others they saw as worse off, particularly older women.
- 6.10 Community groups emerged to support and educate others in a similar situation. These groups have played—and continue to play—an important role in providing support and information.
- 6.11 There is widespread disillusionment and dissatisfaction among those who participated in the survey with regard to participation, engagement, collaboration and decision making.

# Part 7

What issues do specific groups of people face, and what are the impacts of these issues?

He aha ngā kaupapa e aro ana ki ia tau tāngata, ā he aha ngā whakaaweawe?

## Part 7

What issues do specific groups of people face, and what are the impacts of these issues?

The red zoning process has encompassed many different issues. As a result, people affected by the red zoning have faced different challenges and have had very different experiences of the process. Key issues and policy decisions that have affected specific groups include:

- the application of section 124 notices to homes in the RRZs deemed to be at risk of rock fall
- the Government offer to owners of red zoned properties who still live in the RRZs and whose homes are uninsured
- the Government offer to owners of red zoned vacant, commercial or industrial property, who live outside the RRZs
- the 2013 revaluations of red zoned properties owned by people who still live in the RRZs
- the provision of infrastructure and services
- property rights and the use of the so called “third source” of power.

The Commission has engaged with residents affected by these four issues (some of which overlap) in different capacities in the years since the earthquakes, including through its Enquiries and Complaints service and policy and legal work.<sup>82</sup> This part of the report examines these four policy decisions and their impacts on specific affected people.

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## Section 124 of the Building Act notices in the Port Hills

In the aftermath of the September 2010 earthquake, the Christchurch City Council (CCC) began to issue prohibited access notices under Part 5 of the Civil Defence Emergency Management Act. The notices were issued in instances where a house was considered by CCC to be structurally unsafe as a result of earthquake damage, or where CCC believed there was an increased risk to life because of potential rock roll, land slippage or cliff collapse (i.e., a risk to the property and occupants as a result of a hazard originating from, or associated with, another property).

These became known as ‘red stickers’, or later, ‘section 124’ notices, in reference to section 124 of

the Building Act 2004. They were placed on people’s properties—usually on the front door. The notices are intended to prevent people from living in the properties and to warn others not to approach the building. It is an offence not to comply with the notice. The notices were issued on a case-by-case basis so that one property might have been subject to a notice while the neighbouring property was not. The notices were issued in both green zoned and red zoned areas. The properties issued with section 124 notices in the green zoned areas were predominantly in the flat-land areas. In these instances, it was generally the dwelling itself that had suffered significant damage that rendered it unsafe.

The majority of houses issued with section 124 notices in the Port Hills areas suffered damage that was repairable and many remained habitable. The risk to the houses resulted from hazards (predominantly rock roll and cliff collapse) on land owned privately or by public entities.

The effect of the section 124 notices has proved to be profound. People were effectively prevented from the use of their property in exactly the same way as they would be if it was seized from them. In practical terms, having a section 124 notice has meant that some property owners have remained in a state of limbo up to April 2016 (section 124 notices ceased to have effect when the CER Act was repealed on 19 April 2016 by section 146(1) of the Greater Christchurch Regeneration Act 2016). They have been unable to remain legally in their homes, to progress repairs, or to access insurance payouts to allow them to purchase a new property and move on with their lives. The ongoing uncertainty caused by this protracted process has been a source of considerable stress.

### Survey responses

Of the 48 current residents who owned a residential dwelling at the time of the September 2010 earthquake and who answered the Commission’s survey question, eight people (17 percent) said their dwelling/property was subject to a section 124 notice at the time of research. Forty people noted that their dwellings were not subject to a section 124 notice at that time. Note that this includes flat-land as well as Port Hills residents.

Five fewer people responded to the question about the issuing of a section 124 notice in the past. Seven of 43 respondents (16 percent) said their dwelling had been subject to a section 124 notice that had now been removed. The remaining 36 dwellings had never been subject to a section 124 notice.

### Red zoned with a section 124 notice: a test case

Owners of properties affected by section 124 notices could also lack recourse to insurance coverage. One such case was *Kraal v Earthquake Commission*.<sup>83</sup> The property was red zoned by the Government. It had some damage caused by the earthquake, but this was repairable. It remained habitable but could not be occupied because it was subject to a CCC-issued section 124 notice.

The question considered in the High Court in October 2014 was whether a CCC-issued section 124 notice as a result of exposure to rock fall triggered EQC's liability for "natural disaster damage". The High Court decided that being deprived of the use of the house because of rock fall did not constitute "physical loss ... to the property" under the EQC Act or damage under the natural disaster cover in the property's insurance policy. In other words, the hazard was in the nature of a future risk of damage rather than actual physical damage to the home. The complainants brought the matter before the Court of Appeal, which upheld the decision of the High Court in December 2013.<sup>84</sup>

The High Court decision was at odds with legal advice obtained by some insurers, such as IAG, which had, prior to the Court decision, indicated that permanent loss of use of a property constituted physical loss. IAG had settled claims on this basis and automatically provided property owners with a constructive total loss offer. Following this ruling, insurers revised their position. Residents living in red zoned Port Hills areas with section 124 notices were then faced with the choice of either accepting the by-now-dated Government offer (based on the 2007 rateable value of their property) or seeking to remain in their homes by pursuing individual rock-fall mitigation with CCC.

### Flow-on effect of the *Kraal v Earthquake Commission* litigation

One resident, who wished to remain anonymous, described the effect of the *Kraal v Earthquake Commission* litigation on her own situation in an email to the Human Rights Commission. This email is reproduced here with the author's permission.

My new house didn't suffer structural damage but after red zoning and the section 124 notice I moved out and was ready to re-settle. Meanwhile I lived in three different rental properties which I had to subsidise, suffered cold winters and ill health. I was prepared to leave my new house; however, the government offer was nowhere near sufficient to re-build. Damage to the house was under the cap and my insurer refused to accept my claim of total loss.

I have sued my insurer in the High Court for over two years. After the first hearing in 2013, and a subsequent series of mediations, no agreement was reached. During the litigation the judge ordered that I and the insurer provide independent quantity surveying assessments of the rebuild cost. The two assessments came to nearly the same sum—of which the government offer represented only one third.

The trial was delayed until a verdict from the *Kraal vs Earthquake Commission* case was known, which was in the same situation as my house (section 124 and red zone) ... The judge decided that the loss of use of the house does not amount to total loss. My lawyer has told me that this verdict has set the precedent and I am most likely to lose if I go to trial and insurance might demand that I pay for their legal expenses. That would be devastating on the top of the huge expense of suing and other financial losses I have suffered since the earthquake.

I have instructed my lawyer to discontinue the litigation and accepted the repair cost [offered by EQC] which was mostly used to pay the rest of the legal costs.



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My bank was extremely uncooperative as I had to service a considerable mortgage for my red zoned house. They did not consider it to be a suitable collateral because it was red zoned and therefore of no value. I was bullied [by my bank] into signing a commitment, through my solicitor, that I would accept the Crown offer two weeks before it expired. After I refused to do this they were no longer prepared to provide me with the mortgage and in early 2015 I had to re-finance with another bank and carry yet more expenses for a lawyer and the bank's fees.

It is now a common knowledge that the red zone has no legal foundation and by CERA's own admittance it was just a tool to deal with earthquake. ... Recently I listened to the BBC programme about Magna Carta which stated then, 800 years ago, that no person should be deprived of their property except by law of land. How is it possible that in NZ democracy property has been taken from thousands of people without adequate compensation?

### Lowering the risk threshold: the technical details

The Canterbury Earthquake (Building Act) Order 2010 came into effect on 16 September 2010. It deemed the Civil Defence notices (the red stickers) to be notices under section 124(1)(b) of the Building Act 2004. The Order also changed the definition in the Building Act of a dangerous building.

The Building Act sets out the requirements that must be complied with when building work is undertaken. It confers a wide range of powers on territorial authorities in relation to building work and the safety of buildings generally. The Building Act test is site / property specific and is concerned with the life safety effects in the building and not the property generally.

Section 124 of the Building Act provides for a territorial authority to require work to be carried out on an earthquake-prone building by issuing a notice requiring the building owner to "reduce or remove the danger:" During the relevant period of time, up

until 28 November 2013, section 124(1) read as follows (underlining emphasis added):

#### Section 124 Powers of territorial authorities in respect of dangerous, earthquake prone, or insanitary building

- (1) If a territorial authority is satisfied that a building is dangerous, earthquake prone, or insanitary, the territorial authority may –
  - (a) Put up a hoarding or fence to prevent people from approaching the building nearer than is safe
  - (b) Attach in a prominent place on, or adjacent to, the building a notice that warns people not to approach the building
  - (c) Give written notice requiring work to be carried out on the building, within a time stated in the notice (which must not be less than 10 days after the notice is given under section 125), to –
    - (i) Reduce or remove the danger; or
    - (ii) Prevent the building from remaining insanitary.

The definition in the Building Act of a dangerous building, which had been modified by the 2010 Order, was further modified by clause 7 of the Canterbury Earthquake Building Act Order 2011. The 2011 Order, among other things, modified the definition of a dangerous building so that it included the position where (underlining added):

there is a risk that adjacent, adjoining, or nearby buildings or land could collapse (including collapse by way of rock fall, landslip, cliff collapse, or subsidence) or otherwise cause injury or death to any person in the building.<sup>85</sup>

These modifications of the Building Act applied only to the districts covered by CCC, Selwyn District Council and Waimakariri District Council. The 2011 Order ceased to have effect from 17 September 2013. However, a further Order, which took effect on 17 September 2013, stated that any section 124 notice that was still in force on 16 September 2013 would remain in force until 18 April 2016 unless lifted earlier than that date.

## What issues do specific groups of people face, and what are the impacts of these issues?

The risk threshold in the modified Building Act changed from being “is dangerous” (i.e., there is a real risk—sometimes termed a ‘pure risk’) to “there is a risk”. This was interpreted as follows: “A risk that something could happen is simply a possibility of that occurring.” A public law expert, Mai Chen, noted that this was a lower test than applied anywhere else in the country.<sup>86</sup>

Between September 2010 and April 2016, CCC issued 270 section 124 notices to properties in the Port Hills under the 2011 Order in Council for geotechnical reasons, and four notices under the Building Act. (Note that this does not include notices issued in the flat-land RRZ areas.)

### Measuring risk

The concept of a ‘real’ or ‘objective risk’ that can be measured continues to be a matter of debate. Social scientists take the view that risk is a wholly human construction that is shaped by people’s perceptions and the way decisions are framed, a view encapsulated by risk academic and psychologist Paul Slovic:

Risk does not exist “out there”, independent of our minds and cultures, waiting to be measured. Instead, it is seen as a concept that human beings have invented to help them understand and cope with the dangers and uncertainties of life. Although these dangers are real, there is no such thing as “real risk” or “objective risk”.<sup>87</sup>

Research has shown that people are generally more tolerant of risks undertaken voluntarily than those imposed on them.<sup>88</sup> Some will take calculated risks and readily bungee jump, boat or climb, and wilfully ignore signs about speed, alcohol, rogue waves or operating dangerous machinery.

Regulators have tended to see risk as able to be measured based on past and present mortality data and believe that an optimal level of mortal risk can be defined.<sup>89</sup> As a result, building regulations, particularly those building codes and standards dealing with mortal risks, are what Enright describes as “typically reactionary documents.”<sup>90</sup> Problems occur, he suggests, when there is a gap in risk

perception between the public and the regulator, because this gap affects the legitimacy of the regulator’s risk decisions. He also cautions that it should not be assumed that the regulator’s perception is right and the public’s perception is wrong, concurring with Slovic’s view of risk as a social construct.

CCC considers that it took into account life risk and the inherent uncertainties involved in the natural processes driving risk, and that these factors contributed to it taking a conservative approach. The gap between risk perception and risk analysis has been a critical factor in the issuing and challenging of section 124 notices. CCC informed the Commission that no section 124 notices were issued without an onsite inspection of the property, and that all geotechnical work undertaken by the Port Hills Geotechnical Group (PHGG) and GNS Science was based on detailed field mapping and modelling calibrated by site observations. It confirmed that PHGG members visited each property and undertook a systematic approach to documenting the nature of hazards and risk.

However, a number of residents in the Port Hills remain of the belief that assessments of land stability and risk carried out by geotechnical experts commissioned by government agencies for the purposes of the red zoning process were undertaken remotely, without individual site-specific visits—an approach described by an engineering geologist, David Bell, as “neither prudent or appropriate for Christchurch City”.<sup>91</sup> The Council, however, has informed the Commission that all geotechnical work undertaken by the Port Hills Geotechnical Group (PHGG) and GNS science was based on detailed field mapping and modelling calibrated by site observations and that PHGG members visited each property undertaking a systematic approach to documenting the nature of hazards and risk.

Residents have also reported basic errors in the assessments of their land, which they have raised with experts and officials in a range of forums.<sup>92</sup> Residents have told the Commission that these errors have contributed to a lack of confidence in the red zoning process overall and have been a determining factor in their decision to remain in their homes in

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breach of the notices. CCC does not appear to have enforced the section 124 requirement to remain away from the affected properties. The reasons for this are unclear.

Ruth, a resident whose home was red zoned and who chose to stay, explained:

We were red zoned because we were “10 to the minus 4” in terms of life:risk—which is, I gather, a risk of 1 in 10,000 in a year—because of possible cliff collapse. Their definition of cliff collapse is when uncountable rocks come out, but you could count the rocks that have come out of our cliff. The height of the cliff comes into it too, and again our cliff is below this height, and in fact their model specifically excludes anything under 10 metres. So we seem to be excluded [from their definitions] on all of these factors, but they’ve calculated that life:risk factor.

One of the other things is the occupancy—they take the occupancy of a house as being 100 percent, which is a fair enough thing as there would be some people, I guess, who were home all the time. So they’ve put this hazard line which is out in the garden—but no-one is ever in the garden 100 percent of the time, and not only is it being in your garden, it’s actually being in that cliff edge part of your garden. I just feel it’s statistics that can be manipulated either way, probably. I mean, our house is quite a long way, actually, from where they’ve put the hazard line. We still don’t believe it’s the right decision. But that was a terrible process to go through ... We’ve lost in our property value but we’re still going to have a very nice place to live and we’ve decided we can live there ... We’ve obviously decided it’s worth the risk, but it is a risk. (Ruth)

Ruth’s partner, Ian, a structural engineer, stated:

There were four factors in the cliff hazard management risk. One is the probability of another big earthquake. Another one was the cliff-top recession. Well, how can you possibly apply that without looking? Another

one was the likelihood of the house being occupied, and I’ve accepted that is 100 percent, because this isn’t just a holiday house. Another one is the 100 percent risk, the chance of you being at the top of the cliff. We’ve actually got a hedge and a fence at the top of our cliff to stop people going there, and that’s not taken into account. The other one is the chance of you being killed if you fall from the cliff. The numbers that come out of it say you’ve only got a 50 percent chance of being killed. So when you go through those risk factors for our property you’ve got a one in ten thousand chance of being killed on our property. And if it’s greater than 1 in 10,000, it’s red zoned.

Those factors are just so arbitrary and incorrect. For example, to accept that there’s a 100 percent chance of you being killed if you’re at the top of the cliff is wrong, and that there’s a 100 percent chance there could be someone at the top of the cliff is wrong too. In other words, it’s total manipulation of the figures. This magical 1 in 10,000—it’s so arbitrary. (Ian)

For the anonymous vacant landowner interviewee:

We disputed the whole ruling for our land. They claimed that there was one rock that fell on our land during the earthquakes, so that process we found disappointing. But again, we understood the big picture that they had to do something. And with the whole Port Hills they were being risk averse, and we were just caught up in that.

The city is made up of individual people and properties, and I do believe that we should have had the opportunity to stand on the site with them and find out why exactly they red zoned it, based on our property.

There’s all kinds of different things that would have worked well for our section, and we had looked at that ourselves, bearing in mind there’s a road down at the bottom. And we thought terracing would be a great one. It’s used all around the world, but there

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are so many other techniques. And that was something we thought: why weren't the mitigation techniques looked at? It would have been a lot cheaper than paying out everyone ... I still feel that we weren't given the opportunity to just talk about our situation. (Vacant landowner)

### Regulating for remote hazards

Residents affected by section 124 notices have found the notion of a remote hazard prohibiting access to a structurally sound dwelling confusing in practical terms. They have questioned both the modification of the Building Act to include remote hazards over which they have no control, and the reduction of the risk threshold that would trigger a section 124 notice. Phil, a Port Hills resident whose red zoned property was subjected to a section 124 notice, commented:

The Building Act doesn't address remote hazards to a building. Like, if there was a skyscraper next door to a house, you can't tell the people in the house to get out. You tell the people in the skyscraper to fix it, which is natural justice ... But remote hazards? Suddenly you're applying laws to things that are outside of the control of the people that they're being applied to. (Phil)

There is no requirement for CCC, acting in its regulatory role under the Building Act, to engage with a property owner about the level of risk the property owner may wish to carry or mitigate. CCC accepted expert advice prepared for it, which recommended that an individual fatality risk of 1 in 10,000 per year be adopted as "intolerable for existing development" in the Port Hills.<sup>93</sup> This advice was based on the belief that while it may be acceptable for an individual to accept a certain level of risk, it is not acceptable if this risk means that others are exposed to it without their knowledge or control—CCC does not accept that it is up to a landowner to accept a higher level of risk.

In December 2012 the Commission wrote to then CCC Mayor Bob Parker recommending CCC consider ways of resolving the issue, whereby some elements of choice could be brought into the situation. The Commission noted that human rights are about both

safety and freedom, and that the presence of risk is often an indication of the presence of freedom. The Commission asked CCC to consider how New Zealanders would be constrained if an individual fatality risk of 1:10,000/year became the intervention point for constricting freedom of choice and prohibiting people from taking risk.

It noted that risks from adverse effects can be classified as follows:

- negligible: risk < 1:1,000,000 (e.g., being struck by lightning)
- minimal: risk 1:100,000–1:1,000,000 (e.g., railway accident)
- very low: risk 1:10,000–1:100,000 (e.g., death playing soccer)
- low: risk 1:1,000–1:10,000 (e.g., death from influenza)
- moderate: risk 1:100–1:1,000 (e.g., death from smoking 10 cigarettes a day)
- high: risk greater than 1 in 100 (e.g., transmission of measles).<sup>94</sup>

The Commission also wrote twice to MBIE and again to CCC in 2014 urging the development of clear guidance for property owners with section 124 notices so that they could mitigate the risk to their homes. It noted that the approach applied to rock-fall risk in the Port Hills was inconsistent with the approach taken in managing the risk from earthquake-prone buildings, which, as discussed above, uses a higher risk threshold. It was also at odds with the Government's approach to allowing vehicles to travel on rock-fall-prone roads, and to adventure tourism activities where a level of inherent risk is accepted.

In its response to the Commission's 2014 letters, CCC noted that while there was a clear process for how the risk to those properties with section 124 notices could be mitigated, in many cases the work required was technically challenging and/or the property owner did not own the land on which the work was required.

CCC does not view its approach to rock-fall risk as being at odds with other risks, such as transient risks. It considers there is a difference between a life risk associated with a resident living in their home and that of a transient risk, such as driving in traffic, which

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involves being exposed to a hazard for a much shorter duration.

Experts advising MBIE and CCC on the issue of risk in the Port Hills have noted that tens or possibly hundreds of thousands of New Zealanders currently live with a natural hazard risk greater than 1:100,000 and significant numbers live in particular locations with levels in excess of 1:10,000, but such locations are generally the subject of actions to reduce the risk.<sup>95</sup>

Ralph, a Port Hills resident whose home was affected by a section 124 notice until 2015, viewed the concept of tolerable risk as a highly subjective measure:

As a man in his late 40s I've got about one chance in 30 to 50 of dying this year, and it gets worse from now on, and then it ends up at one chance in one before I get to about 80. So you're just thinking, why take five years out of someone's life, make that miserable, for the sake of one miniscule chance that you might get killed? What would have been better is if they had got our house fixed in the first 18 months or one year, we got back and lived in there with our community, and everybody back happily going on with new houses.

Tramping, swimming—we have 400-and-something deaths a year from swimming. We don't fence off the sea. ... No matter how you look at those [risk] stats, it shows you that it's gone askew. Driving: there's a benefit to driving, of course—that's why we're allowed to drive when we have a chance of dying—like there's a benefit to living in a house in a community in a stable environment. CERA and their models on paper—when they looked at numbers, they never took into account anything social; everything was simply a dollar value.

...

How many people died in rock-roll incidents in their homes in the February 22nd earthquake? ... It was zero. One person died in a cliff collapse and one when they were

walking in the Port Hills ... Nobody died in rock roll in houses; houses might have got hit by rocks—and actually if you list those, there's actually not that many of them either. So we've gone through all of this. More people have died and more marriages have broken up in the last five years because of what these people have been through and you're worried about perhaps potentially somebody might die? (Ralph)

Ralph's story of his experience of the earthquakes and his efforts to protect his home can be found on the Commission's website: <https://www.hrc.co.nz/red-zones-report/interviews>

### Challenging a section 124 notice: seeking a determination

The Building Act provides for a way to review a section 124 notice by seeking a 'determination' from the Chief Executive of MBIE. A determination is a review of the decision, which can lead to the notice being removed. As at 18 April 2016, MBIE had received 16 applications for determinations regarding section 124 notices in the Port Hills. Of these, 10 applications were withdrawn. Without recalling archived files MBIE was unable to provide the reasons for all the withdrawals; however, it informed the Commission that at least one was because CCC had removed the section 124 notice.

Of the remaining six applications:

- three confirmed CCC's decision to issue the section 124 notice
- two reversed CCC's decision to issue the section 124 notice
- one confirmed CCC's decision not to issue a section 124 notice.

The determinations considered a number of factors to reach the conclusion that the notice should be reversed, including whether there was:

- a credible risk of a triggering event that would generate a rock fall
- a source of rocks above the property
- a risk that rocks from these sources would reach the building



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- a risk that rocks from these sources would reach the building with sufficient energy to injure an occupant
- sufficient mitigation that would offset this risk.

The Building Act does not specify any time limit on the effect or duration of a notice. However, a further Order, which took effect on 17 September 2013, stated that any section 124 notice that was still in force on 16 September 2013 would remain in force until 18 April 2016 unless lifted earlier than that date.

### Residents' experiences of seeking a determination

Phil works as an engineer and lives in the Port Hills with his family. He described his unsuccessful experience seeking a determination to have his section 124 notice removed:

[MBIE] decided that my house would be a good one to start with because it had all the features: it had some existing rock fall protection [which Phil put in himself], it had quite strong topographical valleys and ridges ... Council were pretty adamant that they felt we had a strong risk in this place and we were kind of going, "Well yeah we know we do, but what we want you to do is tell us what we need to do about it and then we'll get on with our lives." But that wasn't Council's approach. I understand now that the whole issue was tied up with the red zone.

We sought the determination for the place and there was a long conversation about what the technical input should be and whether there was a risk in all of that. At the end of the day, everyone agrees there is 'a risk' and so how minute that might be is irrelevant because of the wording in the Act. So they [MBIE] couldn't take the section 124 off although they made some strong recommendations to the Council. They said, "You need to give Phil and Clare explicit guidelines how they're going to get their section 124 notice off."



Phil surveys the landscape from the roof of his red zoned property in the Port Hills.

Ralph described the process of trying to have the section 124 notice on his home in the Port Hills removed:

We tried to get the sticker removed. We did a heap of work on that because you could do a determination. We never got to the stage of doing a determination because originally the red stickers were applied by the City Council, and it took some time before that was taken over by the Department of Building and Housing, or whatever they're called now, so there was a gap where nobody had real ownership of the red stickers. Again that was a bureaucratic thing: the City Council slapped them on and we asked them, "How do we remove this?" and they said, "Actually we don't know, we haven't thought that far through." They said, "We've got to get processes in to get it removed," and the

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process was pushing that red sticker onto MBIE, and it took them a long time, of course, because this is a new process for them.

And so you just never got anywhere. We put appeals in to the City Council. We said, "Look, this is our situation, this is what we have behind us, these are the rocks that came down, this is where they landed in the valley, this is how low risk our house was, this is the state of the damage of our house ..." We can't say we didn't get a *no* decision because we didn't get *any* decision, which is typical of dealing with those bureaucratic things. People just say, "Well we haven't a process in place to deal with this." Funnily enough the process was quick enough to slap the sticker on, but nobody thought too far through the implications of that.

### The Regulations Review Committee

The Regulations Review Committee<sup>96</sup> acts on Parliament's behalf to ensure that the delegated law-making powers are being used appropriately. It examines all regulations, investigates complaints about regulations, and examines proposed regulation-making powers in bills for consistency with good legislative practice.

On 24 April 2014 Parliament's Regulations Review Committee reported on complaints received from the Hon. Ruth Dyson, Member of Parliament for Port Hills, and Phil, who had been unsuccessful in seeking a determination to have the section 124 notice on his property removed and whose comments are included in this report. The complainants objected to the 2011 Order on four grounds, submitting that it:

- was not in accordance with the general objects and intentions of the statute under which it was made
- trespassed unduly on personal rights and liberties
- appeared to make an unusual or unexpected use of the powers conferred by the statute under which it was made

- contained matters more appropriate for parliamentary enactment.

The Commission wrote to the Regulations Review Committee expressing concern that the situation of the Port Hills' residents who are subject to extended section 124 Building Act notices was leading to an infringement of their rights to adequate housing, health and property.

In its report, the Committee expressed sympathy for the concerns raised by the complainants, noting the "considerable frustration and difficulty" caused by the extended section 124 notices issued under the modified provisions of the Building Act for many property owners in the Port Hills. It found that little or no mitigation work had taken place in the Port Hills and recommended to the Government that "as a matter of urgency, it issue explicit guidelines for the relevant local authorities concerning the removal of extended section 124 notices issued under the Canterbury Earthquake (Building Act) Order 2011."<sup>97</sup>

The Committee further stated:

We consider the position that these homeowners have found themselves in as a result of the 2011 Order is not sustainable. In our view, the residents of the Port Hills will be best served if the council can devise a way for the extended section 124 notices to be removed.<sup>98</sup>

The Committee's view was that central government rather than local authorities should be tasked with establishing criteria to decide whether a notice could be removed.

The Government declined to act on the Committee's recommendation to urgently issue explicit guidelines because it was satisfied that CCC had a process for removing section 124 notices, and because CCC was at that time working with MBIE on a rock-fall hazard mitigation process.<sup>99</sup>

Phil described his experience with the Regulations Review process as follows:

Then we went to the Regulations Review Committee and we were saying, "Well hang on, OK, we've just gone through this

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process where the wording of the Act makes it impossible for a section 124 notice to come off, what are you going to do about that because it doesn't make any sense at all?" We said to them, "This high bar where you've changed the wording from 'a likely risk' to just 'a risk,' and also this remote hazard thing which gives us no control over the situation ... surely this is not what was intended when writing that legislation?" You've left us in a limbo land. You've removed our normal property rights that people expect.

They noted that the wording of the Act makes it impossible for a section 124 notice to come off, but they decided they weren't going to change the Act. All they would do is make recommendations to the Council that they sort out the problem for those of us who wanted to stay in our homes.

It was soul destroying, the outcome from the Regulations Review Committee. It wasn't immediately, but over time it became so because we could see that no-one was going to take any notice of what they said anyway, even if they did make noises like you need to help these people out. And you think, where do we go from here? What's the next process? I wrote a long letter to the panel that were looking into the CERA legislation<sup>100</sup> telling them this is what we should do next time. I never even received an acknowledgement. I've written so many long letters. (Phil)

### MBIE guidance for rock-fall protection

Homeowners were initially informed by MBIE that the technical guidance for the design of rock-fall protection meeting the requirements of the Building Code would be available in early 2014. The guidance would enable engineers employed by homeowners to be confident that they were applying a reasonable level of conservatism to their designs and obtaining results consistent with the other hazard mitigation approaches prescribed by the Building Code. There have been a number of delays in the delivery

of the MBIE guidance. The date of release of the document for industry comment was expected to be in mid-2016.

Some residents, such as Phil, have not wished to proceed with building a rock-fall protection structure until this guidance is issued. Their view is that the MBIE guidelines will offer the most straightforward means of complying with the Building Act, and therefore the greatest degree of protection, both in practical terms and for insurance purposes. He explained why:

I always said to the Council staff that ultimately I wanted our rock-fall protection upgraded to be designed under the MBIE guidance document ... The MBIE guidelines offer much more objective parameters, like, for instance, to select the correct rock size for the site, select the right slope properties for input to the analysis programmes and model the rocks rolling down the hill and then quite good guidance on what type of structures are necessary for that particular site. I thought that they weren't ideal and they weren't complete enough and all of that, but they're a heck of a lot better than the Council guidance at the moment.

As it stands at the moment, the Council completely rely on the certification of engineers in order to satisfy themselves that the Building Code has been met, because as one of their statutory requirements, the Council have to ensure that any structure in their territorial region complies with the Building Code. And that's their method for doing that ... The engineers need to have upgraded professional indemnity insurance and all that ...

With the MBIE guidance document engineers can—it's almost like an approved method of complying with the Building Code. So if you go through the steps of the MBIE guidance, or you demonstrate that you've gone through the steps of the MBIE guidance, that demonstrates that you've complied with the Building Code. So that is the common

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way that engineers work in New Zealand. You don't pick up a document that says the Annual Individual Fatality risk should be at this level and then you're sent off into the wilds to work out how that might work ... That's not the way engineering works in New Zealand ... It's just a bit nuts; it's not the way to do it. (Phil)

### The Christchurch City Council's rock-fall protection structure funding programme

CCC issued its *Technical Guideline* for rock-fall protection structures in March 2013. The *Technical Guideline* provides guidance to property owners, engineers and others who may engage in the evaluation, design, consenting and/or construction and ongoing maintenance of a rock-fall protection structure. Unlike the MBIE guideline currently under development, the CCC's *Technical Guideline* is not a construction standard. Rather, it sets out some—though not necessarily all—of the matters to be considered in the planning, design and construction of a rock-fall protection structure specifically for protection against rock (boulder) roll. It does not offer a means of complying with the Building Act.

Following the publication of the *Technical Guideline*, CCC established a process for private rock-fall protection structure funding in 2014. The funding is decided on a case-by-case basis. It is only available to residents who were red zoned and received (and declined) a purchase offer from the Government. Under this scheme CCC will pay up to a maximum of 50 percent of the amount of the Government offer to insured, red zoned property owners at the time of the funding application. The remaining cost, including that for expert consultants, is met by the owner.

All risk is borne by the owner. CCC does not warrant the effectiveness of any rock-fall protection structure. It also does not offer any representation as to whether the Government might exercise its power to compulsorily acquire the property at a future date in spite of a rock-fall protection system being in place. If a section 124 notice has been issued for the property, in order for the funding application to be accepted by CCC the homeowner must not be living in the property in breach of the notice.

A number of residents who have been successful in applying for CCC's rock-fall protection funding have reported to the Commission that they found this to be a good process that eventually enabled them to remain living in their homes:

After a long, long time we managed to get the City Council to agree to pay for the rock-roll protection if we could show that we could do it cheaper than their 50 percent of the buyout offer—which we could do easily. It was great that they had a reasonable organisation, one that you could reason with. They said, "If you can do it and it's cheaper, then go ahead and do it." And so we had this rock-roll bund put in at the back of our property. It's on our land. (Ralph)

CCC had had 30 applications for funding to assist with building a rock-fall protection structure at the end of May 2016. Of these, 14 had section 124 notices, and four section 124 notices had been removed by CCC following the completion of a rock-fall protection structure.

However, putting rock-fall protection in place has been made both costlier and more complex for homeowners as a result of CERA's decision not to pursue area-wide mitigation, and by its refusal to allow residents to build rock-fall protection structures on vacant, red zoned, government-owned land. As a result, homeowners had no option but to build individual rock-fall protection structures within the boundaries of their own sections rather than partner with neighbours to build shared structures. In some instances, residents report that this resulted in a rock-fall protection structure that was closer than desired to the house itself, or that was sub-optimal in terms of its functionality in relation to the land and house (i.e., it had to follow the boundaries of the section rather than the contours of the land).

Ralph described a group of Avoca Valley residents' attempts to put in a rock-fall protection structure that would protect a number of houses at once.

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## Community proposal for rock-fall protection

With our neighbours being the same as us—red zoned on either side—we as a community put a proposal that we took to CERA and [later] the City Council saying, “Look, we can protect these houses at a tiny cost compared with the buyout offer of the Government. It will allow people to stay in their houses and could be done quickly and effectively.” In fact, out of anywhere in the Port Hills it was probably the easiest remediation site. I think that was because Avoca Valley was used as a case study for rock-roll remediation. All the engineers said yeah this is easily doable, this is the cost it would be, plus allowance for things going a bit haywire. The rock source was on City Council land, then there’s private non-residential land for quite a large area before it hits our houses down the bottom, so there’s heaps of space up the back to put in lots of remediation and rock-roll stuff.

We took that to CERA, and basically they said they weren’t interested in remediation because in their opinion—I don’t know where that opinion came from, but I think it was from pretty high up—it was just too complicated. And that’s exactly what happened with CERA. Everything became too complicated, so nobody could make a decision and get things rolling. Unlike the opposite example I gave of dealing individually in a business environment: how quickly you can achieve things and how effectively the system works because you can’t have inefficiency in any business for very long. Moving out of that into dealing with the Government was just unbelievable. Nobody could make a decision—nobody was willing to make a decision—and so no decision was made, except the simplest one of saying we’re not going to do anything to remediate your properties. The simplest solution for them was just to red zone it, pull the houses down and hope the problem disappeared—which it effectively has after five years. But it didn’t take into account the trauma and the fact that these were people’s homes and communities, and all of those things that go along with your house. It’s not just a building on a piece of land, which is what they were looking at ... Of the 20 to 30 houses on our side of the valley, everyone has

moved out apart from one, and potentially two, others.

On top of that—this is some of the most irritating bits for us—we did this financial analysis to show how cheap it was, and we’ve proved that because we’ve actually remediated our house for under half the value of what the buyout was of the property. And this was cheaper even though we did remediation on a small site, fitting in and doing all the engineering work, so it was more expensive than it would have been if we were remediating several properties in one go.

One edge of our section is cut off on an angle, so it would have been nice if we could have squared that off. It would make the engineering easier, because the bund would have been just a straight line. We were talking through this with the reasonable people at the City Council, and they said, “Why don’t you just do a boundary adjustment? You simply resurvey it. It costs a few hundred dollars. It’s just a boundary adjustment. It’s a really simple thing that’s designed for squaring up sections and making things easy.” So we thought that’s great, and they said all you need to do is write to CERA and see if you can do a boundary adjustment and we’ll help you through the rest of it, quickly and for \$300. Great! Wrote to CERA: “No, can’t do that.” And you just go, “Argh!” They didn’t have a plan for the Crown-owned red zone residential properties. But we’re only asking to take a small piece of land to square off the corner of our section.

We would have bought the land. We said we were happy to buy it at the valuation, because even at the 2007 valuation it was probably worth \$1,000. And the current valuation is probably \$50. Then if you take into account that you have to maintain it, to the City or CERA it’s probably worth a significant negative number. But the answer was no. And it was just the whole thing that they couldn’t make a decision, nobody could actually do anything. So we’ve built the bund around the dogleg, and it comes very close to our house when it could have been much further away. It could have been right at the back of the valley, to be honest, and we wouldn’t have known it was there, and it would have protected six houses in a row. (Ralph)



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### Impacts of section 124 notices

Residents surveyed by the Commission have said that the greatest source of stress caused by the section 124 notice process has been the lack of certainty caused by not having a co-ordinated process across key agencies (CERA, CCC and MBIE) to resolve the issue within a reasonable timeframe:

“A lot of the heartache and torture were due to not knowing what was happening for so long” (Ralph).

MBIE has noted that the application of section 124 notices was only intended to address a short-term life safety risk, and that other devices were expected to deal with how these risks were then mitigated. It appears that the red zoning and subsequent depopulation of the Port Hills (which followed the initial issuing of hazard notices) effectively became the default mitigating strategy. The Minister for Earthquake Recovery, the Hon. Gerry Brownlee, stated in 2013 that the red zoning of the Port Hills was designed with the aim of allowing “property owners to move on from properties” and “does not take into account existing protective structures such as other houses, trees or rock fall protection structures, as there is no guarantee that these will always be present in the long term.”<sup>101</sup>

It is unlikely that CERA, CCC and MBIE expected the notices would last as long as they did or that they would lead to the difficulties Helen Kraal and others experienced, such as the insurers’ initial attitude to the effect of a section 124 notice.

Further sources of stress have been:

- the fact that the timeframes for Port Hills residents to accept the Government’s offer did not correspond with timeframes for other processes, such as seeking a determination from MBIE, the issuing of the MBIE guideline, or CCC’s rock-fall protection structure funding programme
- a lack of communication with residents about site-specific assessments and their individual properties
- a gap in risk perception between the property owners and the responsible agencies (CERA, CCC and MBIE).

Some of the issues related to the application of s. 124 notices, as highlighted by this, research have been noted elsewhere. The Canterbury Earthquakes Royal Commission, for example, recognised the need for improved co-ordination between the management of buildings during times of emergency (within the mandate of Civil Defence and Emergency Management) and during times of normalcy (within the mandate of the Building Act), as well as the limits of the Building Act to adequately manage life risk issues following disaster.<sup>102</sup> The Commission also specifically recommended that the Building Act be amended to make it clear that sections 122 and 124 apply to parts of a building.<sup>103</sup>

The issues with the s 124 notice process identified by the Commission were also identified by the Canterbury Earthquakes Royal Commission.<sup>104</sup>

In mid-2016 MBIE was finalising proposals to ask the Government for a decision regarding amendments to the Building Act. Changes embedded within the proposal include clear laws and responsibilities for managing buildings after disaster, including risk from buildings; rules related to assessing buildings after disaster, including the application and removal of notices; new powers to make decisions on buildings without requiring a building or resource consent; and improving the transition between the management of buildings under times of emergency and times of normalcy.

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## Findings: the application of section 124 notices

- 7.1 MBIE has noted that section 124 notices were only intended to address a short-term life safety risk. According to residents surveyed the extended use of these notices created uncertainty and stress. A more collaborative approach to determining risk threshold and rock-fall mitigation solutions from local and central government that includes input from the affected community is likely to lead to better solutions in terms of cost.**

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## The Government purchase offers: owners of vacant land, commercial properties and uninsured residential properties

While the offers for owners of insured red zoned residential properties were for 100 percent of the property's 2007 rateable value and were announced in June 2011 soon after the red zoning, the situation was different for owners of vacant sections, commercial properties or uninsured residential properties. Residents suggested that the reason that these three categories of property owner were grouped together was because:

All three groups had the same common denominator: they are not clients of EQC because the land components weren't EQC insured. (Ernest)

In August 2015, following the decision of the Supreme Court that the red zoning and the offers had not been lawfully made, these groups were made an offer comparable with the one made to owners of insured residential properties.

The discrepancy between the initial offers made to owners of insured residential properties and these other groups, as well as the length of time between the initial and revised offers, has been a source of considerable stress for affected people. Comments from the vacant landowner interviewee and from Ernest, the owner of an uninsured residential property, provide some insight into the challenges and frustrations faced by these groups. Note that the CERA survey (of owners who accepted the Government purchase offer) revealed a strong relationship between delayed zoning decisions and less positive ratings of the Government's response.<sup>105</sup>

For the vacant landowner, the fact that the Government grouped owners of commercial properties and vacant landowners together with owners of uninsured residential property owners was unfair, given that vacant land *cannot* be insured in New Zealand. She believed that the decision to consider the groups together regardless of whether

insuring the properties had been a possibility was unhelpful for vacant landowners trying to advocate their case:

There is a clear difference [between people who did not have insurance and vacant landowners], but the way it was simplified in the media, the fact that we were all put in together, made it seem as if we chose not to insure. (Vacant landowner)

The vacant landowner considered that the media exacerbated the issue by "lumping" uninsured residential property owners in with owners of commercial and vacant sections. In addition, she criticised the way the media and the Government focused on one issue—the lack of insurance—during the Quake Outcasts case, although other issues were just as relevant to the situation. In particular, she noted that the critical issue of the lawfulness of the decision to create a red zone was missing from media commentary on the case:

The media were really biased. Particularly heading up towards that final Supreme Court ruling. During the lead-up to each decision date there was quite a campaign from the Government to focus on the insurance issue, which we felt was really misleading. There were a number of interviews we saw on TV asking Jo Public, "What do you think about this decision?", particularly after the Supreme Court decision had been made about the people who didn't have insurance are being paid out. It was spun in a really incorrect way ... So it was actually really neat to see the level of support and engagement from everyone to counter their claims. But I still think there would be a number of people out on the street who would be unaware of the issues. (Vacant landowner)

It was not just being grouped in with uninsured residential property owners that was a problem for the vacant landowner. It was also the amount of time they waited for the revised offer:

We were really patient for the first couple of years, but I think after that we were like,

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“What’s going on?” That was when the frustration really kicked in. By that time it felt like it was a done deal, and it was out of our control anyway. So there was no point getting frustrated, because we didn’t have the power to do anything, or we felt we didn’t have the power. (Vacant landowner)

The fact that vacant landowners were offered 100 percent of the 2007 rateable land value in the revised August 2015 offer made the issue of time delay even more significant. The landowner could not understand the reasons for the delay between the red zoning and the announcement of the offer.

The vacant landowner was interviewed soon after the revised offer was announced. She and her husband had decided that if the 100 percent offer came through they would sell their vacant section. While they would have preferred to have kept it, they decided that the uncertainty was too great.

Similarly, Les in Brooklands, who owned two vacant sections at the front of his residential property, had made the decision to sell following the announcement of the revised offer: “We’re definitely going to sell the two front sections off to the government. I’m pretty sure we will, in this new offer thing”. This decision was driven primarily by financial considerations, as the costs of living in his red zoned residential property on a single pension were likely to be high.

Ernest, who owned an uninsured red zoned residential property, strongly believed the issue of insurance should not have factored into the Government’s offers in relation to purchasing the land of red zoned properties. In other words, he felt the offer should have been the same regardless of whether an owner had insurance or not. His argument was that people pay insurance for the house and fixtures, and insurance policies constitute a contract between the owner and the private insurance company. According to Ernest, therefore, there was no rationale for offering uninsured residential property owners (or owners of commercial properties and vacant sections) only 50 percent of the rateable land value.

The vacant landowner concurred with Ernest’s assessment of the situation:

The fact that the properties—the vacant land or uninsured properties—were red zoned, that was the loss of the value. Whether someone got paid out on their house because they didn’t have insurance was between the insurance company and them. But because of the zoning, they lost access to their house. *That* was the issue. (Vacant landowner)

The Government’s revised offer in August 2015 of 100 percent of the 2007 rateable land value to owners of uninsured residential properties, commercial properties and vacant sections (with owners of insured commercial properties able to decide how to pursue options for their buildings) confirmed this appraisal of the invalidity of insurance in the purchase offers.

While affected groups were eventually offered 100 percent of the rateable land value for their red zoned properties, the length of time and the amount of energy spent campaigning for this revision have taken their toll on the affected people. Ernest’s advocacy on behalf of homeowners without insurance has cost him in terms of his health:

I have not slept well in a very long time, and always have a low level of worry and stress. It’s very, very infrequent that it is not there. You’re not actively thinking about it, but something will just remind you—you see something or you hear something—and it reminds you of the things they are doing to me. It’s a constant bombardment of pressure and stress, and there’s just no escaping it. (Ernest)

While Ernest, as a driving force behind the original Quake Outcasts group, has probably expended more energy than others over the last few years, the surveys and interviews demonstrate the extent to which the health of people living, or owning vacant land, in the red zone has suffered.

## Findings: the Government purchase offers: owners of vacant land, commercial properties and uninsured residential properties

- 7.2 The discrepancy between the initial offers made to owners of insured residential properties and owners of insured commercial properties, owners of vacant sections and owners of uninsured residential properties, as well as the length of time between the initial and revised offers, has caused considerable stress.
- 7.3 Continuing to rely on insurance status as a basis for differential treatment— despite a Supreme Court decision that it should not be the determinative factor— exacerbated delays and prevented some red zone residents from being able to move on with their lives. Delays continue and at the time of writing litigation was still underway in regards to the use of insurance status as a basis for differential treatment.

## The revaluation of red zone properties

Property owners of red zoned land were affected by the 2013 ratings revaluation of their land, which resulted in the value of properties significantly reducing as a result of the red zoning of areas of the city. The revaluation of land is a process used to provide councils with a basis on which to assess rates. A revaluation process generally occurs every three years. As a result of the earthquakes the revaluation process in Canterbury scheduled for 2010 was delayed.

In the first revaluation following the earthquakes, the rateable value of people's properties in the red zones fell dramatically, for many by up to 80–90 percent. In most cases it resulted in people's properties being valued at around \$30,000 to \$40,000 for land and improvements. This sudden reduction in property value, in what for most people was their biggest asset, has been a further source of stress for residents affected by the earthquakes. This section briefly explains the general revaluation process and the revaluation of red zoned land in 2013 following the earthquakes. It identifies problems in this approach and provides property owners' perspectives on the process of making an objection to the revaluation and its impacts.



Earthquake damaged road in Avonside.



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What issues do specific groups of people face, and what are the impacts of these issues?

### Property revaluation: the technical details

#### How general revaluations work

The Valuer General sets minimum standards for rating valuations and maintenance of the District Valuation Roll. These standards are set out in the Rating Valuation Rules (the Rules) under the Ratings Valuation Act. The Rules are intended to ensure there is a nationally consistent, impartial, independent and equitable rating valuation system that can be monitored and audited. Quotable Value (QV) is contracted to undertake the revaluation.

It is standard practice for a general revaluation to assess property values taking into account:

- market value
- the type of property
- information in the District Valuation Roll
- changes that have been made to a property since the last revaluation.

When considering the type of any given property the rules anticipate primary reliance on the zoning or designation of the land under the Operative District Plan.<sup>106</sup>

Other factors that are taken into consideration are proximity to transport, community assets and hazard areas.

The Valuer General must audit rating valuations to ensure the values and processes undertaken meet the standards set out in the Rules. The Valuer General's approval is required before the values can be published and used for rating purposes.

#### The CCC revaluation 2013

As a result of the damage caused by the Canterbury earthquakes, a 2011 Order in Council under the CER Act maintained Christchurch city property values at August 2007 levels and deferred the next general revaluation to 1 December 2013. In early 2013 concerns were raised about the practicality and cost of undertaking a general revaluation given the number of unrepaired residential and commercial/industrial properties. In order to comply with the Ratings Valuation Act, the revaluation would need to include both general market relativity value changes and any physical earthquake damage on individual properties.

At the same time, market sales evidence for Christchurch city showed that there had been significant value movements, of up to 50 percent, since the 2007 revaluation. This meant the continued rate setting based on August 2007 values situation was not ideal or equitable, and many property owners in Christchurch city would be disadvantaged in terms of their rating valuation or in the rates they would pay based on that rating valuation. For this reason, deferring the next general revaluation again was not considered an appropriate solution.

Land Information New Zealand, the Valuer General and CCC considered it necessary to modify the standard revaluation methodology to enable a revaluation to occur. On 5 July 2013 a Cabinet Paper was submitted to the Cabinet Committee on Canterbury Earthquake Recovery proposing that the Ratings Valuation Act be modified so that:

- the general revaluation be conducted by 31 March 2014
- the principle that values do not recognise the individual property effects of physical earthquake applies
- the principle that values will be assessed from sales data that includes sales where Earthquake Commission (EQC) and private insurance entitlements were assigned applies

The Cabinet Paper noted that

For owners of damaged properties awaiting repair, the benefit of this proposal is that the general revaluation does not create the perception that landowners' equity has dropped.

In September 2013 an Order in Council was enacted under the CER Act modifying the rating valuation system in Christchurch. The Order in Council expressly enabled assessing property values:

- (i) from data about sales, including sales where insurance benefits have been assigned, and, if those data are not sufficient, from secondary evidence; and
- (ii) for each rating unit, excluding the effects on the value of that rating unit of earthquake damage to that rating unit.



## What issues do specific groups of people face, and what are the impacts of these issues?

### The effects of the revaluation of red zoned properties

In relation to the revaluation of red zoned properties, CCC noted on its website that

Due to the impact of the earthquakes, Red Zoned properties have been treated as unsuitable for residential occupation. The land value was initially assessed with regard to rural land sales evidence. A premium was then applied taking into account the city location and the possibility that at some time in the future the land may be suitable for residential occupation with remediation work undertaken.

This resulted in red zoned properties being valued at significantly less than the 2007 valuations. For example, residents interviewed by the Commission for this research reported drops in value:

- to \$44,000, down from \$645,000
- to \$20,000, down from \$310,000
- to \$50,000, down from \$640,000.

Such an outcome appears to be at odds with one of the stated purposes of the modified valuation process: to ensure the general revaluation does not create the perception that landowners' equity has dropped. CCC has advised the Commission that the issue of perceived equity drop applied only to unrepaired properties with insurance entitlements. It did not apply to red zone properties where the value of the land was now lower given the area-wide assumption that the land was no longer suitable for residential occupation in the short to medium term.

### Problems in the approach to red zoned properties

The Order in Council enabled CCC to assess the value of properties by looking at data from sales (including where insurance benefits had been assigned). In relation to red zoned properties there was no available open market sales on which to base the valuation. Although data from the settled Government offers could have potentially provided a baseline for this assessment, it was deemed inappropriate to do so. It was considered that the

settled offers could not be used as a benchmark for the 2013 valuation because the transactions did not occur on the open market: they were based solely on the previous valuations from 2007.

The Order in Council further required that the effects of earthquake damage not affect the value. While red zone land was treated as physically undamaged, the likely market response to the suitability of red zone land for residential occupation was taken into account. The valuers considered that the market would likely look at liquefaction-prone land on a comparable basis to rural land. Rural land valuation was therefore used to assess the base value of red zone properties. The CCC has stated that

red zoning signalled that affected land was no longer suitable for development, and the market value of that land fell accordingly. This had to be reflected in rating valuations.

The Commission's view, which it raised with the Department of Prime Minister and Cabinet, is that on this basis it appears that treating red zone land as rural for the purpose of the revaluation was at odds with the Order in Council. The Commission also believes that relying on the red zone categorisation on an area-wide basis for the valuations was inappropriate in light of the Supreme Court finding that the red zone designation was not lawfully made.

The Commission also considered that treating red zoned land as rural on an area-wide basis for the purpose of the revaluation goes against the Rating Valuations Rules, which anticipate primary reliance on zoning or designation of land under the operative district plan to determine the type of a particular property.

The legal effect of the red zoning was noted by a number of residents interviewed by the Commission. Ian, for example, commented,

The red zoning has no "legal basis"—that was the term the Supreme Court used—and yet still it sits on our property and takes away our value and there's nothing we can do about it. We've lost all the value of our house. The value of the property has gone from \$760,000 RV to \$44,000 for the

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What issues do specific groups of people face, and what are the impacts of these issues?

land and house. Ruth thought we should appeal the revaluation and I said, "What's the point? Who's going to buy a wrecked house, red zoned with a hazard management zone across it?" But people have got short memories. It's a fantastic section, and in 20 years' time we'd like to think that we'll get reasonable value for it again. But, I mean, if I drop dead now and Ruth had to sell the house she'd get peanuts for it. (Ian)

### Objections to the rating valuation

Owners of red zoned properties who disagreed with the rating valuation could submit an objection to QV. The Commission has been informed by QV that following the 2013 revaluation and up to May 2016, 76 red zoned residents submitted objections to QV for 113 rating units. Of these:

- three rating valuations were changed on objection
- seven rating valuations that involve five objectors (one objector has three properties) have been referred to the Land Valuation Tribunal and are as yet unsettled; three of these have not reached the pre-settlement meeting stage.

In the three cases where the objection was successful, this resulted in revised valuations with a capital value change of \$20,000, \$50,000 and \$140,000.

In cases where the objection was unsuccessful and the values were not changed, QV informed the Commission that this was because there was "no physical reason why the methodology that we adopted for the red zone was incorrect." This was in contrast to the properties that QV did alter (for example, properties that had improvements it was unaware of in the original assessment).

Where an appeal to QV is unsuccessful, a property owner can request that their objection be heard by the Land Valuation Tribunal.

The Tribunal received 44 rating valuation objections following the revaluation. The objections were for Christchurch City, not just for the residential red zone. Fourteen of these related to red zoned properties. Of these 14 objections,

- five objections were for vacant land, with the objectors selling to the Crown and their objections withdrawn
- one objection was withdrawn by the objector (not vacant land)
- four objections went to pre-settlement conference, with a further review of values and a final response yet to be made by the objectors to QV's amended values (it is understood that these four objections, from two parties, may be waiting the outcome of the 2016 general revaluation before they decide whether they wish to go to hearing)
- two objections did not get to the Land Valuation Tribunal stage, because QV produced evidence but the objectors did not produce any evidence by the due or subsequent dates
- evidence was produced by QV and the objector for two objections, but no date has been set for a settlement conference
- three properties had their value changed as a result of their objection to Quotable Value and not objections that were advanced to the Land Valuation Tribunal.

As at 30 June 2016 no decisions on these objections have been issued by the Land Valuation Tribunal.

One red zone resident, Merv, described submitting an objection to QV in relation to his Port Hills property:

We spoke to QV and we explained to them, sent the documents of the reports on the rock removal to show that it had all been reduced. We also sent them the information about the Transitional Plan. But despite all that, QV decided to rate it as if it was a red zone.

So in the meantime we're paying about \$400 a year in rates instead of about \$4,000 plus. They said if we wanted to sell then they would come and do a revaluation for us, but we would have to pay for that revaluation and it could mean that our rates go up. They said, "We can do that, otherwise you wait until 2016". (Merv)





Temporary water station at Heathcote Valley School. Some areas were without water for several weeks after the February 22 earthquakes.

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### What issues do specific groups of people face, and what are the impacts of these issues?

Dianne and Heather, in Kairaki, described the process they went through seeking a revaluation:

**Heather:** With the red zone the cottage went from being valued at \$310,000 down to \$20,000. So this is worth \$20,000.

**Dianne:** And QV have got it on their website—a photo of our cottage. It says it's uninhabited. So we objected and they came, we went through the process [...]

**Dianne:** In the objection to QV we put in what we estimated the cottage was worth, which we thought was really fair, but it just got dismissed.

The drop in rateable value was less concerning for some residents who planned to remain in their homes for the long term. For others it created added uncertainty. Ralph, for example, stated:

It is going to be our home forever, so the monetary value is irrelevant. In that sense the \$640,000 actually didn't mean anything to us because we were effectively buying that house. So for us, the loss of value didn't mean anything. But of course it does mean something for a lot of other people who are stepping through houses or whatever, when you go to sell your house. They couldn't have done what we've done. As I say, now it's worth \$50,000. (Ralph)

Residents who have decided to remain in their red zoned properties described their decision as a calculated risk:

We've lost in our property value, but we're still going to have a very nice place and we've decided we can live there, but sometimes I think, "Actually what if something happens?" Things happen in people's lives and we haven't got an asset that we could sell and use that to buy another property. We've obviously decided it's worth the risk, but it is a risk. (Ruth)

The drop in value was far more problematic for property owners who held a mortgage at the time of the earthquakes:

We were incredibly lucky, because we didn't have a substantial mortgage on our house. People not only had CERA telling them they couldn't be there, EQC telling them that they weren't going to fix their house, and insurance companies saying they weren't going to pay for it. They also had the banks going, "Your house is worth nothing and you owe us \$400,000. Please can we have it today." We did have a mortgage, but we paid it off very quickly before we dealt with the insurance company because we could see that was going to be a thing. (Ralph)

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## Findings: the revaluation of red zone properties

- 7.4 The Supreme Court decided that the red zone designation was not lawfully made. The red zone was subsequently revalued on an area-wide basis for ratings purposes. The Commission believes this was inappropriate. Furthermore, treating red zoned land as rural for the purpose of the revaluation appears to be at odds with the purposes of the Canterbury Earthquake (Rating Valuations Act—Christchurch City Council) Order 2013 (Order in Council).
- 7.5 Treating red zoned land as rural for the purpose of the revaluation appears to go against the Rating Valuations Rules, which anticipate primary reliance on zoning or designation of land under the operative district plan to determine the type of property.
- 7.6 For residents who had not yet accepted the Government purchase offer of 100 percent of the 2007 rateable value, the significant drop in the value of red zoned properties as a result of the 2013 revaluation was perceived as an added pressure to accept the offer.
- 7.7 Owners of uninsured properties who were not eligible for the Government offer of 100 percent of the 2007 rateable value were particularly affected by the drop in the value of their properties.



## The provision and maintenance of services to the residential red zones

### Lack of Government decision

One issue that has complicated the situation of the red zone residents—and which has increased the uncertainty with which they live—is the possibility that services and infrastructure to their homes may be suspended, or that maintenance may not be carried out. This issue of services has been of concern since the declaration of the red zoning process, and at the time of writing this report, it remained a source of apprehension for some residents.

This situation is not universal across the red zones of Greater Christchurch. For Dianne and Heather in Kairaki, for example, the issue was never of great importance:

**Dianne:** The other thing that makes our area different is all our services had been replaced. We've got brand new sewerage and we were only without electricity for 24 hours.

**Heather:** And there's the camping ground behind us: the water and everything, sewer and everything went to them. And they've stayed there, so it's not like our services will ever get cut off.

**Dianne:** And Pines Beach green zone sewer goes past our gate and then across country to the sewerage farm just a kilometre away, so the threats that you'll lose your services were sort of different down here.

Unlike for Dianne and Heather, however, the provision of services remains of significant concern for residents in other RRZs.

The Government has stressed that no decision has been made about the future of the RRZs, including the provision and maintenance of services. In other words, councils continue to provide services—albeit at reduced levels in some areas—but have not clearly committed to what will occur in the long term.

The duty to ensure the provision of services does not always mean that water, sewerage and power services need to be at the level found in densely populated cities, but it does mean that services cannot simply be cut off. The Commission has previously encouraged services to be supplied to red zone residents, where for example, new services were being installed down a road that was green zoned on one side, and red zone on the other. This opportunity, which would have saved costs in the future, was not taken.

The Commission's position is that the provision of services by a local council needs to be made in accordance with the requirements of the Local Government Act 2002, which details the responsibilities of local government, and with other relevant legislation. The Local Government Act has to be applied in a way that meets the international human rights obligation of the right to an adequate standard of living, which includes adequate housing. The Commission has encouraged both CCC and the Waimakariri District Council to adopt an approach to the issue of service maintenance and provision that is pragmatic and takes the individual needs of the red zone residents into account.

The CCC announced in December 2015 that it would not permanently remove any infrastructure in RRZs until the future of the land is decided. It said it would consult with residents in the remaining homes in the area before making any decisions on how it would continue to provide services to those people.

Another positive step in terms of red zone service provision was the commitment in the *Preliminary Draft Waimakariri Red Zone Recovery Plan* ("Let's Plan"), released in February 2016, that services and roading access to private properties will remain but the level of service may change. The document also outlined extensive infrastructure work planned for some areas, including new or upgraded road, water, sewerage and stormwater infrastructure.<sup>107</sup> These commitments will provide much-needed certainty for the people who remain in the red zoned parts of Kaiapoi, Pines Beach and Kairaki, referred to in the document as "regeneration areas".



## Part 7

What issues do specific groups of people face, and what are the impacts of these issues?

### Associated costs

The issue of paying for services to red zoned properties has been a source of contention between local and central government. Although local councils bear the responsibility for services under the Local Government Act 2002, Christchurch City Mayor Lianne Dalziel has stated that because CERA did not use the provisions of the CER Act to compulsorily acquire all red zoned properties—leaving residents with the right to decide to stay—the central government should pay the costs of maintaining services to the remaining properties. She believed that the withdrawal of services from these areas could be legally questionable, as residents were not required to leave.<sup>108</sup>

The issue of red zone service provision and maintenance has been exacerbated by media comment about the cost to taxpayers. For example, a May 2014 article in the North Canterbury community newspaper *Northern Outlook* opened with the sentence “Waimakariri District ratepayers will fork out an extra \$550,000 to service the red zones in Kaiapoi, Kairaki and Pines Beach until June 2015”, before going on to claim that this cost of “more than \$40,000 a month” was being spent “to maintain the largely empty red zones”.<sup>109</sup> Similarly, in January 2014 *The Press* reported the cost of maintaining services to the red zones to be \$1 million per month, or \$500 per week per house.<sup>110</sup>

Such reporting emphasises the financial consequences of residents’ decisions to remain in the red zones without noting the fact that accepting the Government offer was voluntary. As with other media coverage of the red zoning, this coverage has affected people who have chosen to remain in their red zoned properties by contributing to negative public perceptions of them. John in Brooklands described the situation as he saw it:

It’s stressful not knowing whether you’re going to be here next week. It’s pretty frustrating. We’re apparently not getting a lot of sympathy from the North Island. There’s been anti-letters in the paper when they decided the stayers are not justified in staying. And the Council put in a report in

the paper that it’s costing so many million dollars for us to remain in the area, which was a lot of bunkum: they’re counting the wages of all the Council workers, and a lot of them are being put off work because there’s not much work for them now. And of course, propaganda is a weapon for people with money, and people in the North Island read that and say, “Oh we shouldn’t be paying tax payers’ money to keep those lazy so and so’s there!” (John)

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### Findings: the provision and maintenance of services to the residential red zones

- 7.8 Uncertainty about the continued provision of essential services within the red zone is one factor among many contributing to the uncertainty faced by red zone residents, although this issue affects red zone residents to different degrees depending on where they live.
- 7.9 The cost of maintaining services is controversial, and there has been disagreement between central and local government about who is responsible.
- 7.10 Residents consider that media reporting about the cost of maintaining services has contributed to negative public perceptions of the red zone residents.

# Part 8

What other impacts  
did the red zoning have?

He aha ētahi atu  
whakaaweawe e pā  
ana ki te pae whero?

## Part 8

### What other impacts did the red zoning have?

People owning residential property or vacant land in the RRZs of Greater Christchurch have faced a number of issues that have had a significant impact on them. The earlier parts of this report have outlined various issues faced by these people, such as communication, section 124 notices and dealing with agencies. This part builds on the information provided above and considers the more personal impacts of the red zoning on people's lives.

We first consider the wellbeing of people affected by the red zoning, looking particularly at their quality of life, their levels of satisfaction with living in the red zone, their wellbeing as measured by the WHO-5 wellbeing indicators, and their level of stress. The WHO-5 Index provides an internationally adopted measure for assessing wellbeing. The section then analyses the extent to which red zoning issues continued to affect the lives of survey respondents at the time of the research.

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## Survey respondents' wellbeing

When trying to understand the impacts of red zoning it is critical to take people's wellbeing into account. For this reason, survey respondents were asked several questions relating to their wellbeing, including questions on their pre- and post-earthquake quality of life, their level of satisfaction with life in the RRZs (red zone residents only), and questions from the WHO-5 Index.

International research has shown that while most people recover from disaster without needing formal support, some people affected by disaster are likely to experience negative outcomes in terms of wellbeing and mental health. With appropriate support, however, people who experience mild reactions should be able to recover.<sup>111</sup> Groups for whom mental health outcomes are likely to worsen following disaster include people with pre-existing mental health issues and people dislocated from systems of support.<sup>112</sup>

Critical to the situation of people affected by the red zoning decisions—particularly the red zone residents—is the issue of accessing adequate support.

The protracted nature of the red zoning process, the perceived poor communication from agencies relating to red zoning decisions, and the physical disintegration of their neighbourhoods and communities all contributed to isolating affected people from their support systems.

## Quality of life

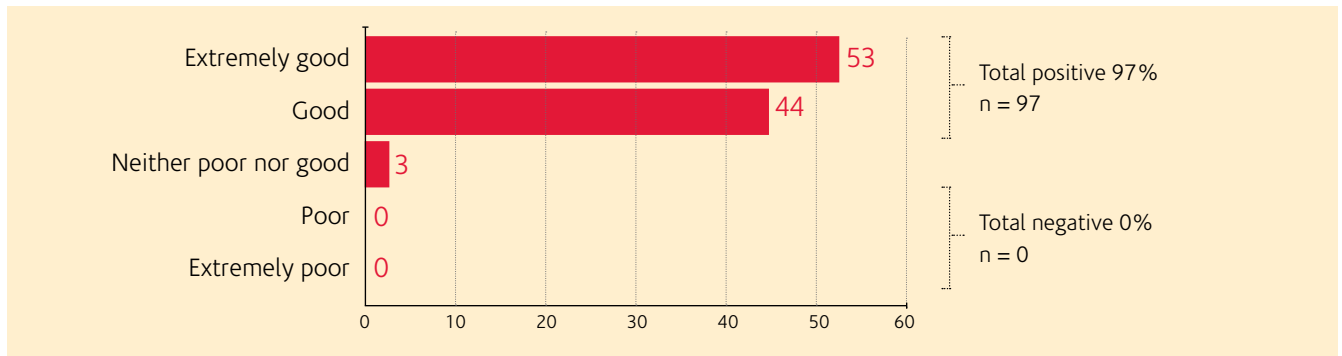
All survey respondents were asked to rate their overall quality of life before and after the earthquakes. The results are summarised in Figure 8.1.

Respondents' perceptions of their quality of life have changed markedly since the earthquakes, with virtually all respondents (97 percent) remembering their quality of life as being good or very good before the earthquakes, compared with only 33 percent rating their quality of life positively since the earthquakes. While no respondents recorded their quality of life negatively before the earthquakes, 36 percent believed their quality of life to be poor or extremely poor after the earthquakes. Further evidence of respondents' changed perceptions of their pre- and post-earthquake situation is that thirty-six people rated their quality of life as 'Neither poor nor good' since the earthquakes whereas only three chose this categorisation to describe their lives before the earthquakes.

These findings indicate significantly lower rates of quality of life satisfaction among respondents of the Commission's survey than among the Greater Christchurch population surveyed through the CERA Wellbeing Surveys. For the September 2015 CERA Wellbeing Survey, 77 percent of respondents rated their quality of life positively (19 percent as extremely good and 58 percent as good). Only six percent of respondents rated their quality of life as poor (poor or extremely poor). These figures are fairly consistent with other results across the six-monthly surveys, with the exception of September 2013, when only 73 percent of respondents rated their quality of life as good or extremely good.<sup>113</sup>

Given the overwhelming difference perceived by people affected by the red zone decisions between their pre- and post-earthquake quality of life, it is important to try to determine what factors influenced this change.

Figure 8.1: (a) Overall quality of life before the earthquakes



(b) Overall quality of life since the earthquakes

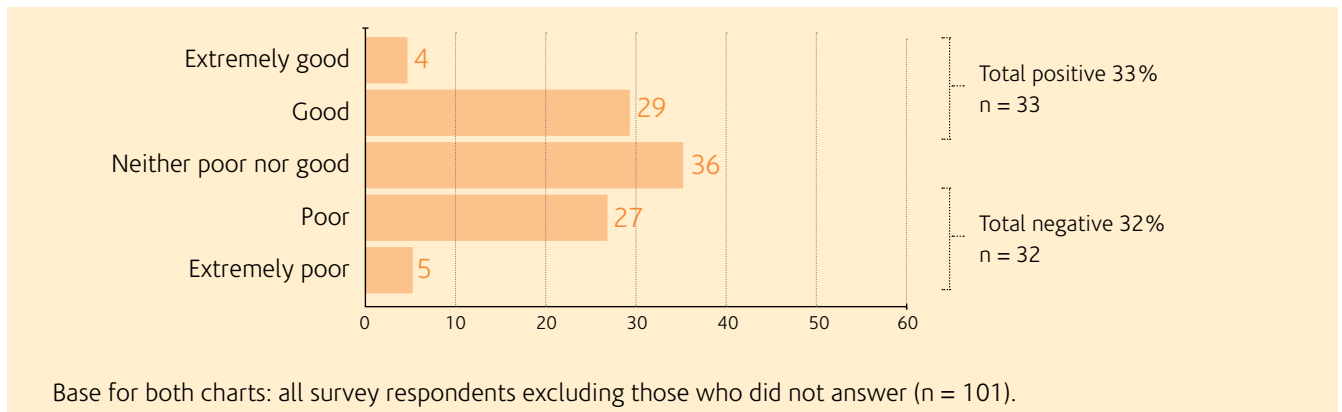
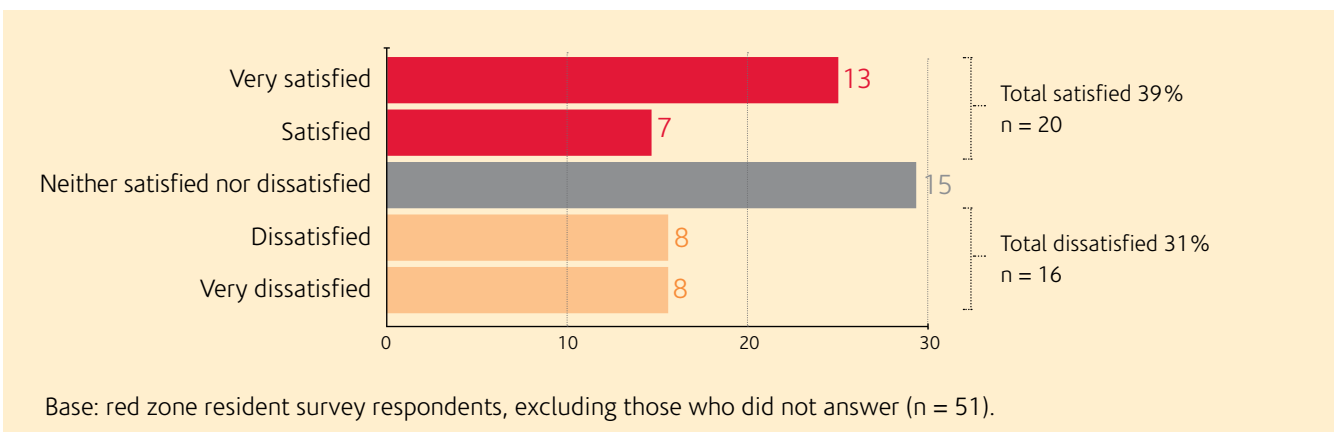


Figure 8.2: Satisfaction levels of red zone residents



### Levels of satisfaction living in the residential red zones

Building on information obtained about respondents' quality of life were questions relating to red zone residents' levels of satisfaction with living in the RRZs. Fifty-one respondents answered this question (Figure 8.2).

Thirteen residents indicated that they were 'Very satisfied' living in the RRZs and seven that they were 'Satisfied,' totalling 20 residents (39 percent of respondents to the question). Conversely, eight residents were 'Dissatisfied' and another eight were 'Very dissatisfied' (totalling 16 dissatisfied residents, or 31 percent). The remaining 15 residents (29 percent) declared themselves neutral. Of the red



Part 8

What other impacts did the red zoning have?

zone residents who responded to the question, then, there was a fairly even spread between people who were satisfied, neither satisfied nor dissatisfied, or dissatisfied.

The data provided by this question were cross-tabulated with data from other questions to determine which groups of affected people recorded the highest levels of satisfaction with living in the RRZs. Respondents who indicated they were either ‘Very satisfied’ or ‘Satisfied’ were analysed for demographic information, with the following results.

Table 8.1: Demographic information on residents who were ‘Satisfied’ or ‘Very satisfied’ living in the residential red zones

Factor	Sample size	% ‘Very satisfied’ or ‘Satisfied’
Living with a serious health condition	7**	75
Living in the Waimakariri District	13*	69
Living with a disability	8**	63
No mortgage at time of earthquake	29*	52
Living on the flat	31	48

Note that throughout the report, base sizes of fewer than 10 people have been indicated with two asterisks (\*\*) and base sizes between 10 and 29 have been indicated with one asterisk (\*).

A similar process was applied to respondents who indicated they were either ‘Dissatisfied’ or ‘Very dissatisfied’.

Table 8.2: Demographic information on residents who were ‘Dissatisfied’ or ‘Very dissatisfied’ living in the residential red zones

Factor	Sample size	% ‘Very dissatisfied’ or ‘Dissatisfied’
Not living in the property by choice	8**	75
Under stress mostly or all the time	31	45
Household with child under 16	11*	45
Had a mortgage at time of earthquake	22*	41
Don’t have full insurance for the property	25*	40
Living on the Port Hills	20*	40
Female	25*	40

Note that throughout the report, base sizes of fewer than 10 people have been indicated with two asterisks (\*\*) and base sizes between 10 and 29 have been indicated with one asterisk (\*).

The results of the cross-tabulation reveal that, at the time of the research, certain demographic groups found living in the RRZs more satisfactory than others. Note, however, that because these groups are relatively small the results should be treated with caution.

Some findings are not surprising. For example, it is to be expected that people not living in the RRZs by choice would be least satisfied with their life there (although it is interesting that the dissatisfaction rate of 75 percent among this group is so much higher than for any other group). It is also understandable that people with no mortgage at the time of the earthquakes—who, by virtue of having paid off their mortgage, potentially had more flexibility in making the decision to remain or leave—ranked among the most satisfied with living in the RRZs, while people with a mortgage ranked among the least satisfied. That relatively high dissatisfaction levels were indicated by people living under stress mostly or all of the time, and by people without full insurance, is similarly understandable.

However, the research also revealed a number of findings that are more surprising. For instance, it is interesting to note that people who self-identified as having a disability or serious health condition were among the people most satisfied with living in the red zones. Given the difficulties associated with living in these parts of Greater Christchurch—not least issues related to physical accessibility—this finding is surprising. Another finding with no clear explanation is that female survey respondents were more likely to declare themselves dissatisfied with living in the RRZs than males.

### Levels of satisfaction in Waimakariri District

In disaggregating the data by area, one important finding is that residents in the Waimakariri District red zones expressed far greater levels of satisfaction than people in the Christchurch red zones. Similar findings have also been revealed in the September 2015 CERA Wellbeing Survey, with residents of both Selwyn and Waimakariri Districts rating their quality of life higher than residents of Christchurch city.<sup>114</sup>

This result also supports anecdotal evidence the Commission received since the earthquakes that Waimakariri District Council's earthquake responses—particularly the speed of its decision making and the levels of community engagement and participation it encourages—are generally quite good. The Waimakariri District Council also appears to have approached the issue of the repair and maintenance of infrastructure and services to its red zones more positively than the CCC has been able to.

The role their local council had played after the earthquake was one topic addressed by Dianne and Heather, the interviewees from Kairaki Beach in Waimakariri:

**Dianne:** I think we're heard locally and at Council level. However, I suspect for the community to get what it wants there's got to be a lot more negotiation in higher places. It's the next level up above Council, that's my hunch. We feel like the Waimak District Council has generally been supportive.

**Heather:** And you think you've been heard, and you know you've been heard by the Council, but it's like somebody up there

doesn't quite get it, and so they start another process, and then you go through the whole rigmarole again. It's like everybody around here is hearing it, the Council is hearing it, but the Government couldn't give a shit really.

...

**Dianne:** We've got a Pines–Kairaki Beach Association, and there's really good communication between Kairaki and Pines Beach and the Waimak DC [District Council]. I guess the City is so much bigger and bureaucratic. And we know, because we've heard, that the Waimak Council was really surprised that we were red zoned. They were going to start down by the river and work this way remediating the land.

**Heather:** They had planned to start about the week it was announced this was red zoned.

The interview makes it clear that Dianne and Heather believed that the Waimakariri District Council was generally an ally, but that stalemates at higher levels were responsible for the lack of progress and other problems.

### Levels of satisfaction in Christchurch city

Further analysis of the survey data by area reveals different levels of satisfaction among people living in Christchurch, with higher levels of satisfaction expressed by people living on the flat land than by those living in the Port Hills. The most likely reason for the higher levels of dissatisfaction among Port Hills residents is the slower rate of progress and the greater lack of resolution in the red zoning process in that area, along with the application of section 124 notices. (See Part 7, in the section 'Section 124 of the Building Act notices in the Port Hills' for more detail on this issue.)

Whereas initial red zoning for Greater Christchurch occurred in June 2011,<sup>115</sup> decisions on the zoning of properties in the Port Hills were only released 18 months later, and it was not until 5 December 2013 that final zoning decisions were announced following the decision of the Courts regarding the legality of the zoning process.

## Part 8

### What other impacts did the red zoning have?

In addition to the extended timeframe for the red zoning of properties in the Port Hills, owners of affected properties have faced further uncertainty because of prolonged negotiations with CCC and MBIE about the removal of section 124 notices and the installation of rock-fall mitigation mechanisms. Some Port Hills residents (including 12 survey respondents; see Part 4, in the section 'The status of red zone residents' properties') have yet to complete negotiations on the installation of safety measures for their properties, creating a lack of certainty and drawing out the possibility of resolution.

While the protracted nature of the zoning decisions in the Port Hills and the uncertainty this process has created are likely to be chiefly responsible for residents' dissatisfaction, other factors also come into play. One of these is the psychological impact of living among empty properties. While almost all abandoned red zoned properties on the flat have been demolished, it is expected to take another two or more years to complete this process in the Port Hills,<sup>116</sup> where logistical and safety difficulties hinder the work crews.

### Wellbeing according to the WHO-5 Index

The WHO-5 Index is a self-rated measure of emotional wellbeing developed by the World Health Organisation. Respondents are asked to rate the extent to which each of five wellbeing indicators has been present or absent in their lives over the previous two-week period, using a six-point scale, ranging from 'All of the time' to 'At no time'. Here are the five wellbeing indicators:

- I have felt cheerful and in good spirits.
- I have felt calm and relaxed.
- I have felt active and vigorous.
- I woke up feeling fresh and rested.
- My daily life has been filled with things that interest me.

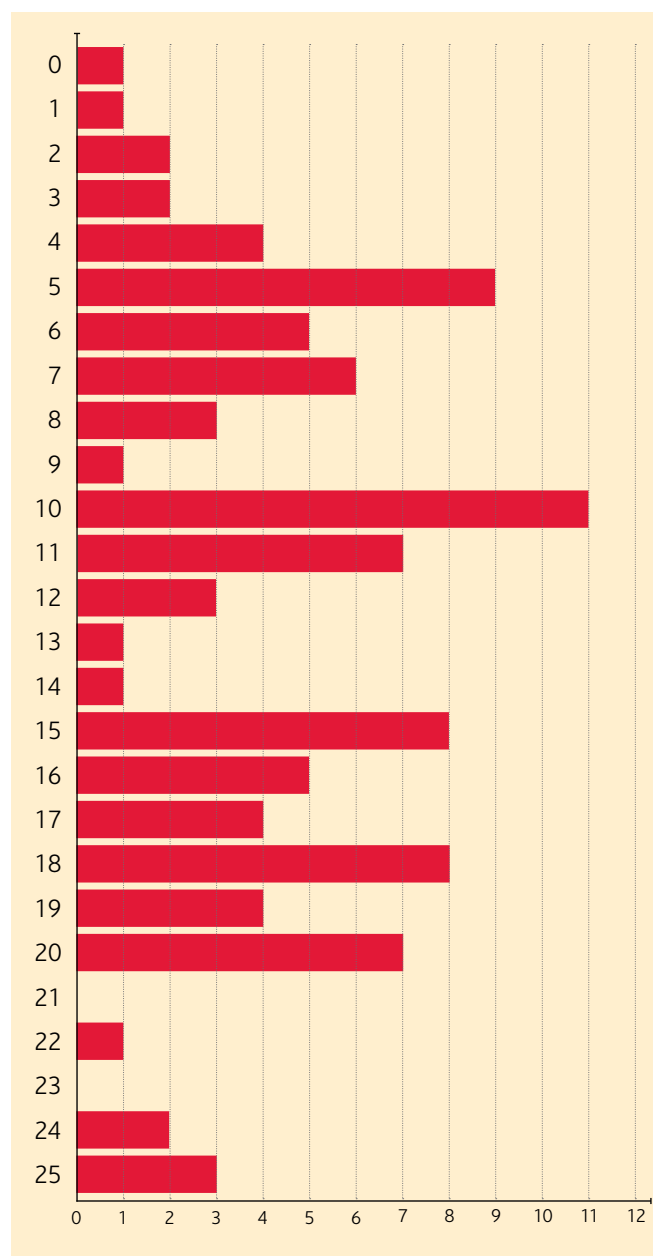
The WHO-5 is scored out of a total of 25, with 0 being the lowest level of emotional wellbeing and 25 the highest. Scores below 13 (between 0 and 12) are considered indicative of poor emotional wellbeing and may indicate risk of poor mental health.<sup>117</sup>

### Results from the Commission's survey

All survey respondents—including people currently living in and people owning vacant land in the red zone—were asked the WHO-5 questions. The mean result of people's answers was 12.1 and the median was 10.6.<sup>118</sup> Figure 8.3 shows the distribution of scores.

Fifty-six percent of the 99 respondents recorded a score below 13, which indicates a risk of poor mental health. Eighteen percent recorded a score of 5 or less.

Figure 8.3: Results of the WHO-5 Index survey (%)



Base: all survey respondents, excluding those who did not answer (n = 99)

The WHO-5 results were cross-tabulated against demographic information to determine which groups displayed higher or lower WHO-5 scores. Because of the small sample sizes of some of these groups, the results should be treated with caution. The highest levels of WHO-5 raw mean scores were recorded for people whose section 124 notice had been removed and people living in the Waimakariri District, as follows.

**Table 8.3: Categories of people with the highest WHO-5 scores**

Category	Sample size	WHO-5 mean score
Had a section 124 notice which has been removed	8**	17.6
Living in the Waimakariri District	17*	15.6

Note that throughout the report, base sizes of fewer than 10 people have been indicated with two asterisks (\*\*) and base sizes between 10 and 29 have been indicated with one asterisk (\*).

The first result is not surprising, as the removal of a section 124 notice is likely to indicate that respondents had successfully completed the process of installing rock-fall protection or the removal of rock-fall hazards and were able to remain adequately protected in their property.

As was noted above, respondents resident in Waimakariri District indicated higher levels of satisfaction than people resident in Christchurch; that this group of people also recorded higher WHO-5 scores is therefore not surprising. Respondents to the September 2015 CERA Wellbeing Survey residing in Waimakariri also had higher WHO-5 scores than respondents in Christchurch city, with a mean WHO-5 score of 15.1.<sup>119</sup>

By contrast, the lowest WHO-5 raw mean scores were recorded among the following groups of people.

**Table 8.4: Categories of people with the lowest WHO-5 scores**

Factor	Sample size	WHO-5 mean score
Quality of life before earthquakes was good	42	10.6
Living with a disability	9**	10.1
Not living in property by choice	9**	9.2
Under stress most or all the time	53	8.7
Quality of life since the earthquakes is poor	32	8.7

Note that throughout the report, base sizes of fewer than 10 people have been indicated with two asterisks (\*\*) and base sizes between 10 and 29 have been indicated with one asterisk (\*).

Again, the majority of these results are not surprising: it makes sense that respondents who recorded a good pre-earthquake quality of life, are not living in their property by choice, are often stressed or have a poor post-earthquake quality of life might also record lower WHO-5 scores. That people who self-identified as having a disability also rank among people with the lowest WHO-5 scores does, however, deserve mentioning, because it contrasts directly with the findings above that people with a disability ranked themselves among those most satisfied with living in the residential red zones. Clearly their quality of life was unrelated to where they lived.

One further analysis of the WHO-5 Index results was conducted: dividing the answers according to whether respondents live in, or own vacant land in, the RRZs. The raw mean score for respondents living in the RRZs was 12.4 and the mean score for people owning vacant land was 11.8, with sample sizes of 61 and 39 people, respectively. This indicated that respondents living in the RRZs had a slightly higher WHO-5 score than respondents owning vacant land there.

## Part 8

### What other impacts did the red zoning have?

#### Results from the Commission survey compared with results from other surveys in post-earthquake Canterbury that used the WHO-5 Index

The WHO-5 Index has also been used to determine residents' wellbeing in a variety of other surveys circulated in Canterbury following the earthquakes. Such surveys include the CERA Wellbeing Survey, carried out every six months since 2012, and the 2013 CERA Youth Wellbeing Survey,<sup>120</sup> both of which solicited responses from residents across the Greater Christchurch area. The All Right? mental health campaign also incorporated the WHO-5 Index into its July 2014 survey.

The inclusion of the WHO-5 Index in multiple wellbeing surveys allows for some comparisons to be drawn across time and between population groups. In order to gauge how the wellbeing of people living in, or owning vacant land in, the RRZs compared to the wellbeing of other groups, results from the Commission's survey were analysed alongside results from other surveys. These surveys were: the CERA

survey of property owners who had accepted the Government purchase offer, the April 2015 and September 2015 CERA Wellbeing Surveys (conducted either side of the Commission research), and the 2014 All Right? survey.<sup>121</sup>

A comparison of these WHO-5 measures is given in Table 8.5.

Table 8.5 shows that the respondents to the Commission's residential red zone survey recorded lower WHO-5 Index results than were recorded by respondents in the CERA April and September 2015 Wellbeing Surveys and the July 2014 All Right? survey. The large difference in sample sizes between the different surveys means that this finding should be treated with some caution; nonetheless, it suggests that the situation of living in, or owning vacant land in, the RRZs has had a significant impact on affected people's wellbeing.

Based on the results from the April 2015 CERA Wellbeing Survey, the June 2015 Canterbury Wellbeing Index mapped the percentage of respondents with

**Table 8.5: A comparison of survey measures**

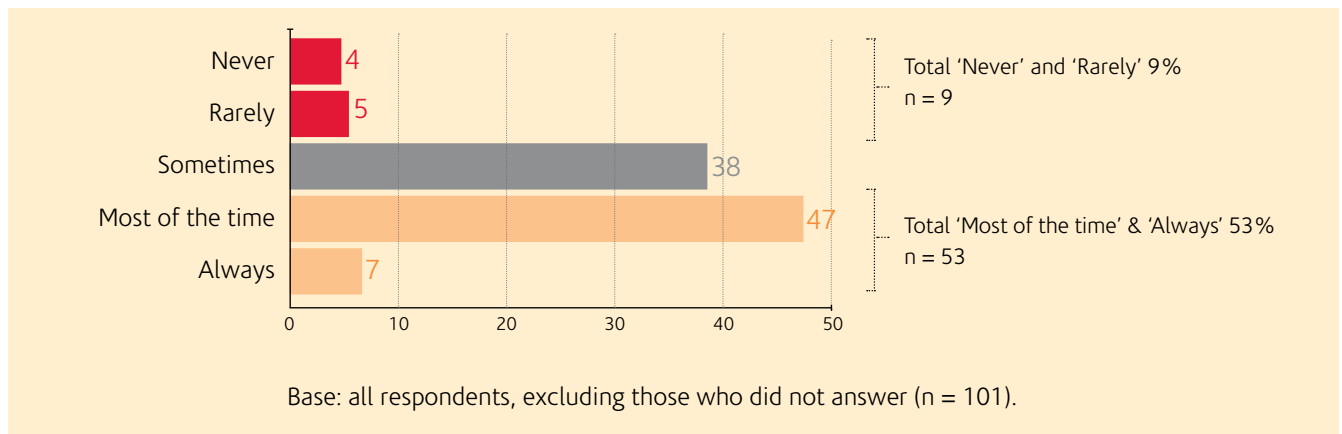
Category	Human Rights Commission survey: people living in or owning land in the RRZs aged 18+	CERA survey: people who accepted the Govt. purchase offer aged 18+*	CERA Wellbeing Survey: residents in the Greater Christchurch area aged 18+**	CERA Wellbeing Survey: residents in the Greater Christchurch area aged 18+***	All Right? survey: residents in the Greater Christchurch area aged 15+
Sample size	99	2,208	2,453	2,445	400
Fieldwork period	June – July 2015	Oct – Nov 2015	March – May 2015	Sept – Oct 2015	July 2014
WHO-5 mean score	12.1	13.9	14.2	14.1	14.4
WHO-5 median score	10.6	14.1	15.0	14.4	N/A
Percent with Index scores below 13	56	38	34	35	33

Sources: \* Canterbury Earthquake Recovery Authority [Nielsen], *Residential Red Zone Survey (of Those Who Accepted the Govt. Offer)*, February 2016, p. 67.

\*\* Canterbury Earthquake Recovery Authority [Nielsen], *Wellbeing Survey April 2015*, p. 45. Retrieved from <http://cera.govt.nz/sites/default/files/common/cera-wellbeing-survey-april-2015-report.pdf>.

\*\*\* Canterbury Earthquake Recovery Authority [Nielsen], *Wellbeing Survey September 2015*, p. 40. Retrieved from <http://cera.govt.nz/sites/default/files/common/cera-wellbeing-survey-september-2015-report-20151221.pdf>.



**Figure 8.4: Respondents' self-reported stress experienced in the last 12 months**

WHO-5 scores below 13. Of the nine housing catchment areas of Greater Christchurch, the area with the lowest WHO-5 score was Christchurch East, with 48 percent of people in this area recording a score below 13.<sup>122</sup> In addition to comparing results by area, demographic information was analysed to determine how groups fared. Groups that were found to have lower WHO-5 scores included people with vulnerabilities such as a disability or health condition, people from a low-income households or renters, as well as people 'newly vulnerable' since the earthquakes.

The four most significant secondary stressors were: 'Being in a damaged environment'; 'Loss of access to recreational, cultural and leisure facilities'; 'Transport-related pressures'; and 'Dealing with EQC / insurance issues'. Compounding these stressors (except transport) were unresolved insurance issues.<sup>123</sup> These findings help to explain why the WHO-5 results were lower for respondents to the Commission's research: a large number of people affected by the red zoning were at the time of the research still affected by these stressors.

## Stress

Stress and (poor) wellbeing are linked, and for this reason questions on stress were incorporated into the Commission's RRZ survey.

## Respondents' stress in the last 12 months

All survey respondents were asked how often they had experienced stress in the past 12 months: 'Never', 'Rarely', 'Sometimes', 'Most of the time' or 'Always'. The results are summarised in Figure 8.4.

Fifty-three percent of the 101 survey respondents who answered the question indicated that they had experienced stress either 'Most of the time' or 'Always' over the past 12 months, while only 9 percent said they had experienced stress 'Never' or 'Rarely'. These findings demonstrate that stress levels among survey respondents appeared to be fairly high in the 12 months preceding the time of the research.

The strong correlation between stress and wellbeing was apparent in the survey results. Respondents who recorded a low WHO-5 score (indicating a risk of poor mental health) regularly recorded a high level of stress; conversely, respondents who recorded a high WHO-5 score usually reported comparatively low levels of stress.

When the data were disaggregated by red zone resident and vacant landowner respondents, both groups recorded the same stress level, with an average of 3.5 (half-way between 'Sometimes' and 'Most of the time').

#### **Results from the Commission survey compared with results from other surveys in post-earthquake Canterbury: Stress**

The CERA Wellbeing Surveys also asked respondents to indicate levels of stress along a continuum of 'Never', 'Rarely', 'Sometimes', 'Most of the time' and 'Always'. The wording of the CERA Wellbeing Surveys differed from the Commission's residential red zone survey, however. The Commission's survey asked, "In the past 12 months, how often have you experienced stress?" whereas the wording of the CERA Wellbeing Survey was:

At some time in their lives, most people experience stress. Which statement best applies to how often, if ever, in the past 12 months you have experienced stress that has had a negative effect on you? Stress refers to things that negatively affect different aspects of people's lives, including work and home life, making important life decisions, their routines for taking care of household chores, leisure time and other activities.

These differences in wording mean the results from the two surveys are not strictly comparable. Nevertheless, on the premise that most stress for people affected by the red zoning is likely to be perceived as having a negative effect, the results of the two surveys can be compared, with caution.

In the April 2015 CERA Wellbeing Survey of residents in the Greater Christchurch area, 19 percent of respondents indicated that they had experienced stress that had a negative effect on them 'Most of the time' or 'Always' in the past 12 months, while 25 percent said they had experienced this type of stress 'Never' or 'Rarely'.<sup>124</sup> Six months later, in September 2015, 20 percent of respondents indicated that they had experienced stress 'Most of the time' or 'Always' in the past 12 months, while 27 percent said they had experienced this type of stress 'Never' or 'Rarely'.<sup>125</sup>

When comparing these results with the results from the Commission's residential red zone survey, in which 53 percent of respondents indicated that they had experienced stress either 'Most of the time' or 'Always' over the past 12 months, it appears that a greater proportion of red zone survey respondents

had experienced stress in the year preceding the research than respondents from the Greater Christchurch area captured in the two 2015 CERA Wellbeing surveys. This finding suggests that the circumstances faced by people affected by the red zoning have been particularly stressful.

#### **Respondents' stress levels compared with the previous four-and-a-half years (since the September 2010 earthquake)**

Survey respondents were also asked to compare their current stress levels with the stress they had experienced in the previous four-and-a-half years, or since the September 2010 earthquake. The results are shown in Figure 8.5.

Sixty-one out of 101 respondents to this question (60 percent) currently experienced an increased level of stress in the last 12 months compared with the previous four-and-a-half years, while 20 percent indicated that they experienced less stress at this time. For the majority of respondents, therefore, stress levels have continued to rise since the earthquakes.

This result was even less positive for the 54 people who had answered the preceding question on their stress level with either 'All the time' or 'Mostly': 40 people in this group (74 percent) said that their stress levels were greater compared with the previous four-and-a-half years.

#### **Extent to which respondents' stress is the result of the earthquakes and their aftermath**

In order to gauge the extent to which the earthquakes and their aftermath had contributed to respondents' stress levels (as opposed to other potentially stressful events), respondents were asked to indicate the extent to which they thought the stress they had experienced since September 2010 was caused by just the earthquakes themselves, or by the after-effects of the earthquakes. Stress resulting from the earthquake events themselves is shown in Figure 8.6.

Forty-seven percent of the 101 people who answered this question recorded that the stress they had experienced was 'Not at all' or 'Not very much' due

Figure 8.5: Comparison of current stress level with the previous 4.5 years

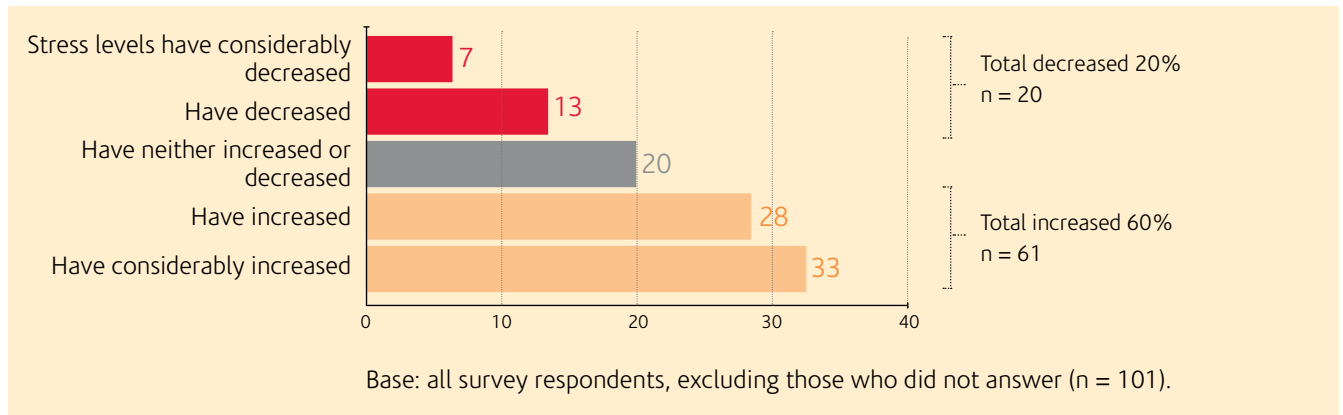


Figure 8.6: Extent that stress since September 2010 is due just to the earthquakes themselves

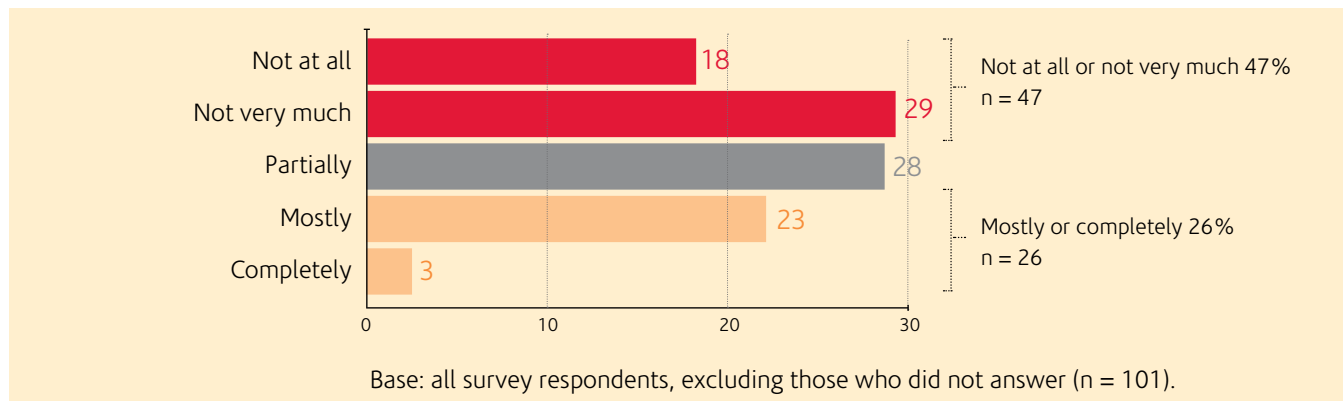
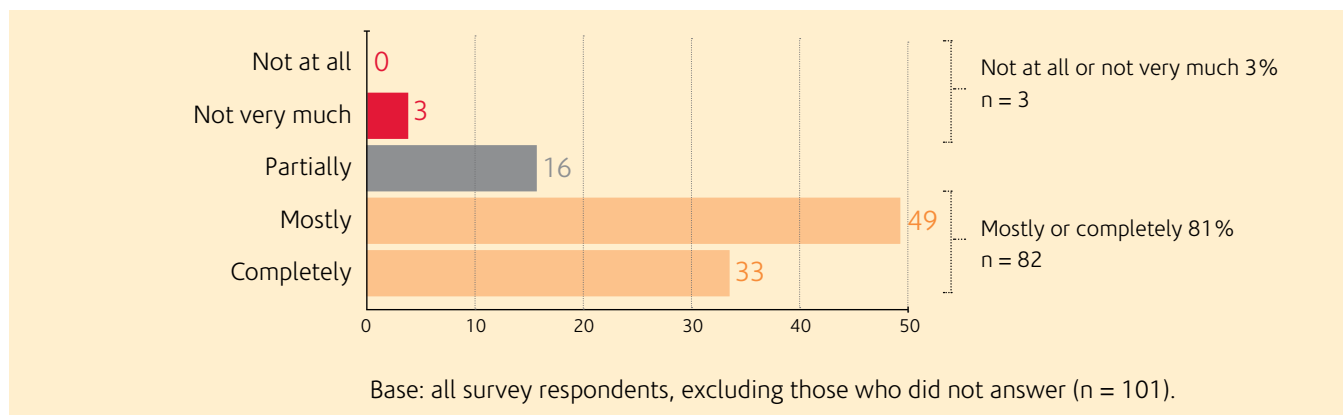


Figure 8.7: Extent that stress since September 2010 is due to dealing with the after-effects of the earthquake



## Part 8

### What other impacts did the red zoning have?

just to the earthquakes themselves. Conversely, 26 percent indicated that the earthquakes themselves were mostly or completely the cause of their stress over this time.

The extent to which respondents' stress since September 2010 was caused by the after-effects of the earthquakes is shown in Figure 8.7.

Eighty-one percent of the 101 people who answered this question indicated that the stress they had experienced was mostly or completely due to the stresses of dealing with the after-effects of the earthquakes. Only three percent indicated that their stress was 'Not very much' due to the earthquakes' aftermath, and no respondents indicated that the earthquakes' aftermath had no stressful impact on them at all.

These findings reveal that the aftermath of the earthquakes has had far greater implications in terms of people's stress levels than the events themselves. This is important because it highlights the need for effective post-disaster mechanisms that alleviate rather than exacerbate the stress of the disaster.

The all-encompassing nature of the stress she has felt since the earthquake was eloquently described by Anne in Dallington:

'Undue stress' doesn't actually describe the extent of anguish and hardship and mental strain on our personal health, on our relationship, on our ability to work and function and earn an income, the worries, the anxiety... (Anne)

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## Findings: survey respondents' wellbeing

- 8.1 Post-disaster policies and practices can have a significant impact on affected people's wellbeing.
- 8.2 Time delays and a lack of certainty have a negative impact on people's wellbeing.
- 8.3 Affected people's levels of stress can continue to increase years after the disaster event.

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## The extent to which specific earthquake issues are affecting survey respondents' lives

All survey respondents were asked to indicate the extent to which a number of issues were still having an impact on their daily lives as a result of the earthquakes and the red zoning of their residential property or land. Twenty-eight issues were listed in the survey, and respondents were also invited to enter their own thoughts under 'Other.' The issues can be broadly categorised as relating to stress, dealing with agencies, and the environment. Responses were analysed to determine the 10 issues with the highest levels of major negative impact, and then by theme.

### The 10 issues with the highest major negative impact

The 28 issues were ranked to determine which issues respondents believed had the highest level of major negative impact for them. The 10 highest-ranked issues are shown in Figure 8.8.

The three issues with the highest major negative impact were:

- living in a home that had lost equity, which was listed by 65 percent of respondents
- difficulty being heard in relation to decisions about their land/home (59 percent)
- difficulty getting information about the reasons for decisions (58 percent).

In addition to the second- and third-most cited issues, two other issues in the top 10 related to feeling a lack of control:

- having a lack of certainty about the future ownership of their home or land (56 percent)
- difficulty in participating meaningfully in relation to decisions about their home or land (53 percent).

'Seeing the effects of stress on my partner' and 'The effects of stress on myself' were ranked in eighth and ninth place, respectively. Two of the 10 most highly ranked issues related to finances: 'Living in a home

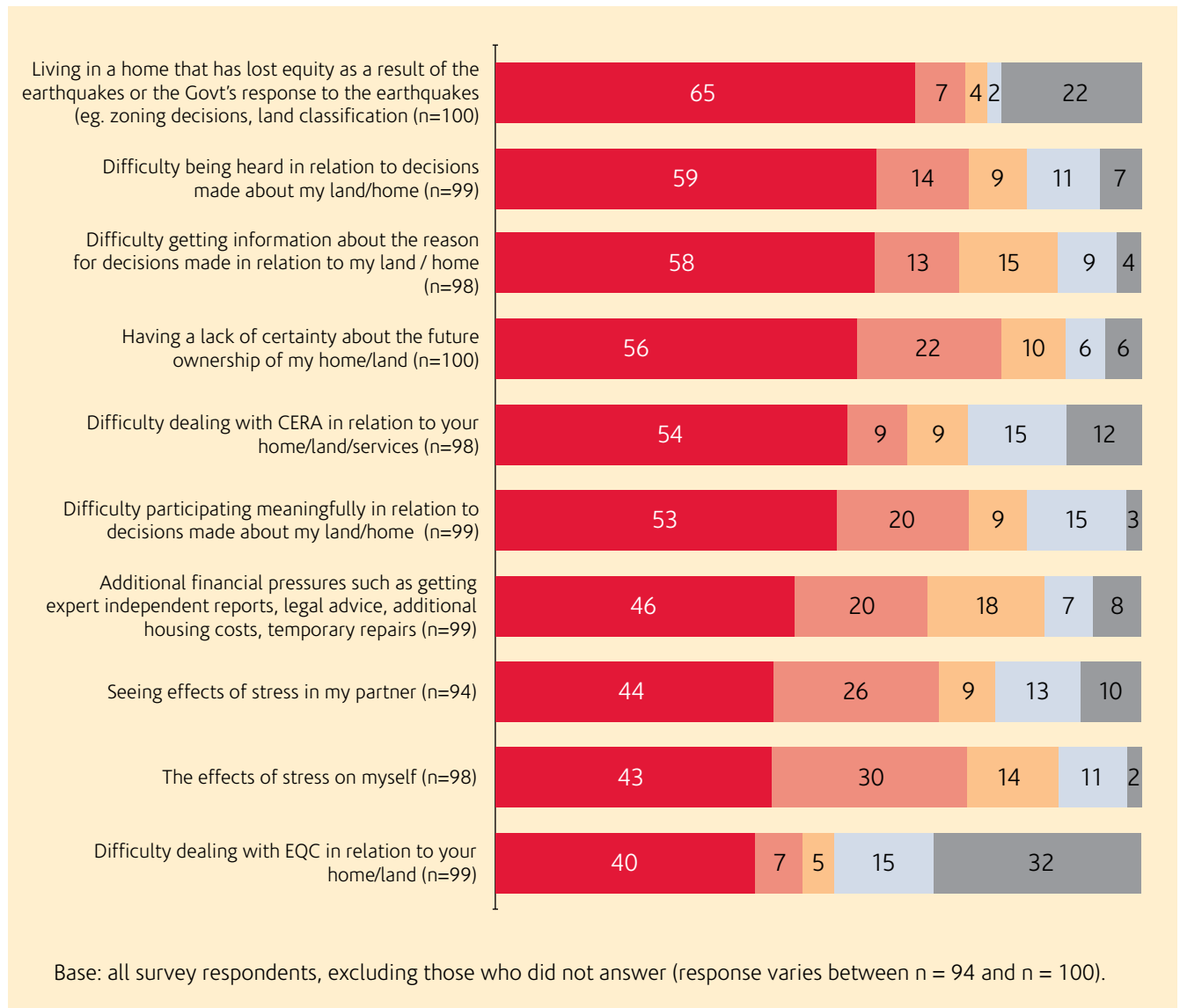
that had lost equity', which was the most commonly cited issue, and 'Additional financial pressures such as getting independent expert reports and legal advice', which was identified by 46 percent and ranked seventh. 'Difficulties dealing with CERA' was ranked fifth and 'Difficulties dealing with EQC' came in tenth.

Overall, in terms of highest negative impact, issues relating to dealing with agencies featured prominently, with five such issues ranked among the top 10. The other five issues ranked among

the top 10 all related to stress, although these five were cumulatively ranked slightly lower than the agency-related issues. This indicates that dealing with agencies and stress were the two areas with which respondents had experienced significant difficulty.

As suggested in Part 6, in the section 'Access to information', establishing government agency requirements, standards and monitoring mechanisms could be highly beneficial in the event of another disaster. Greater awareness of obligations would

**Figure 8.8: Extent that issues are having an impact on people's daily lives**





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improve interaction across and between agencies and affected people, minimising the possibility that interactions between government agencies and affected people would be such a significant source of stress.

#### Analyses of the issues with the highest major negative impact, by theme

As well as analysing the results and ranking the issues with the most major negative impact overall, responses were categorised into three themes: issues related to dealing with agencies, stress-related issues, and issues related to the environment. The findings were then analysed to determine which issues within these themes had the most major negative impact on respondents.

##### Issues relating to dealing with agencies

Twelve issues were classified into the theme 'Dealing with agencies.' Agency-related issues with the highest levels of major negative impact were as follows:

- 59 percent of respondents were still experiencing major negative impacts in relation to 'Difficulty

being heard in relation to decisions made about their land or home'

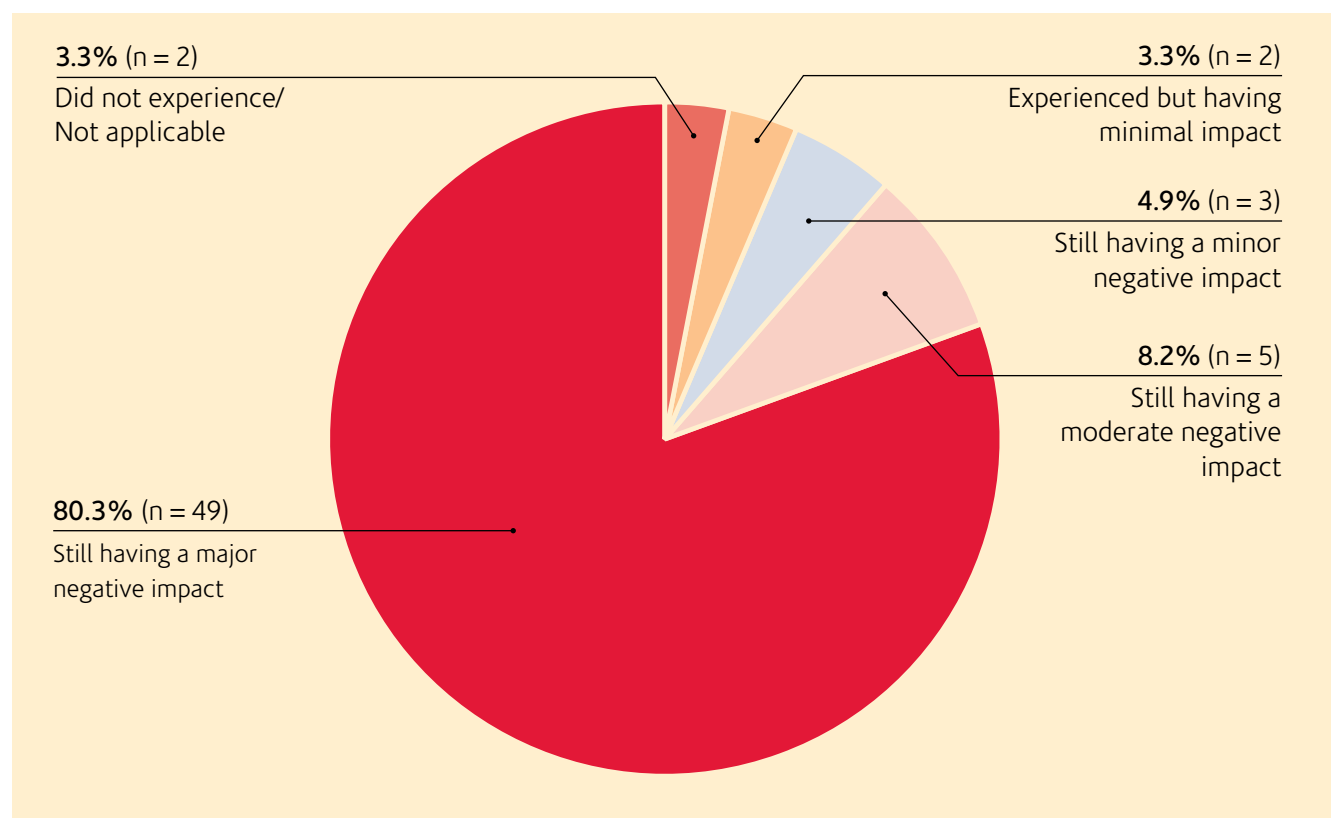
- 58 percent mentioned 'Difficulty getting information about the reasons for decisions made in relation to their land or home'
- 54 percent mentioned 'Difficulty dealing with CERA in relation to their home, land or services'.

These frustrations, as well as others listed, point to a perceived lack of personal efficacy and a sense of existing in a vacuum when dealing with agencies; in other words, respondents indicated they had experienced difficulties being heard and getting information about reasons for decisions on their red zoned properties.

##### Stress-related issues

Stress-related issues accounted for five of the top 10 issues with the highest negative impact. As with responses relating to dealing with agencies, the 10 issues grouped into the category of 'stress-related issues' were ranked. The three highest-ranked stress-related issues were:

Figure 8.9: Responses from red zone resident survey respondents to 'Living in a home that has lost equity'



- living in a home that has lost equity, mentioned by 65 percent of respondents
- having a lack of certainty about the future ownership of their home or land (56 percent)
- additional financial pressures such as getting independent expert reports and legal advice (46 percent).

Five of these stress-related issues (those issues with 43 percent or more major negative impact ratings) featured in the top 10 issues in terms of their perceived level of major negative impact. Notably, two of the top three stress-related issues in terms of major negative impact related to the financial pressures experienced by the survey respondents.

Based on the above finding, the responses of red zone residents to the issue of 'Living in a home that has lost equity' were considered separately. The results show that the issue of property equity was particularly important among red zone residents, with 80 percent of the 61 red zone residents who answered the question noting that this issue was still having a major negative impact on them at the time of the research, and another eight respondents recognising that the issue had either a moderate or a minor impact on them (see Figure 8.9).

The findings of the survey on the importance of lost equity in property were reflected in the interviews. More information on this issue can be found in Part 7, in the section on 'The revaluation of red zone properties'.

Overall, the importance attributed to stress-related issues by survey participants indicates not only that stress was widely felt among the group, but also that they may not have accessed or known how to access support services, as is suggested by the finding in Part 6, in the section on 'Access to support services'.

## Environmental issues

Issues resulting from the physical environment did not feature in the top 10 issues having a major negative impact, which indicates that these issues affected respondents less than issues related to dealing with agencies or stress. This probably stems in part from the fact that the results incorporate the views of both red zone residents and vacant landowner

respondents: vacant landowners living outside the RRZs would generally not experience these issues to the same degree as people still living within the RRZs.

Nonetheless, issues related to the environment did have an impact on respondents—both red zone residents and vacant landowners—and because the physical environment has not featured prominently in the discussion so far it is worth examining this factor in a little more detail.

Environmental issues having the highest levels of major negative impact were:

- the deterioration of infrastructure such as footpaths and roads, listed by 23 percent of respondents
- living in a damaged environment (18 percent).

'Living in a damaged home' and 'Lack of certainty about the ongoing availability of services' were each ranked as having a major negative impact by 13 percent of respondents.

The survey results show that respondents placed relatively minimal importance on the negative impacts of the physical environment on their daily lives compared with issues related to dealing with agencies or stress. Given the importance of the physical environment to wellbeing, and the attention focused (for example, by the media) on the physical surroundings in the RRZs, this finding suggests just how much of an impact engagement with agencies and stress had on affected people.

Although the interviews reiterate the finding that agency- and stress-related issues had more of an impact on people's lives than the environment, the more in-depth format of the interviews provided participants with the scope to discuss the impact of the environment. A number mentioned the difficulty of seeing their community disappear; for example, John in Brooklands and Phil in the Port Hills:

I'm quite happy here, a bit lonely ...  
There's some things that I miss and that's neighbours, because I got on pretty well with all my neighbours. Most of them, they're heart broke when they had to leave, crying. (John)

## Part 8

### What other impacts did the red zoning have?

Unfortunately a lot of the neighbourhood has been removed so that's a really sad thing to see, people that you get to know and just share the environment with are gone and dispersed around the place. (Phil)

People also spoke of the psychological impact of being confronted with the gradual degradation of the properties and landscape around them. Ralph, in Avoca Valley, described the difficulty in witnessing the process:

In many ways it was such a slow process. What was worse—probably personally, not for them [his children]—was to see the degradation of those properties before they got demolished. They got to a point finally where you say, "Actually pull these things down, if you're going to do it actually just get rid of them because it's worse now with trees and grass and weeds and birds flying in and out of them and just sitting there for four years of not doing anything." (Ralph)

Although red zone residents' comments make it apparent that witnessing the degradation of properties can be difficult, their testimonies also suggest that residents felt better once abandoned properties had been demolished and cleared. John described the transformation of Brooklands once the decision had been made to clear the debris and sow grass in its place:

Apart from the fences, it's going to be just like living in the middle of Hagley Park with the grass and that starting to come through now. They've left quite a few fruit trees, walnut trees and things; otherwise most of the trees have been taken out that aren't native. They're getting around to cleaning up the rubbish lying around, most of that was cut off to allow them to put the fences up and it was just heaped up on the side of the road to be collected later and apparently it's not a very important load. The last couple of days they have been picking them up. Truckload after truckload of soil and they've built up sections about eight to ten inches, I suppose. The heaps of soil that was all

spread out and sown in grass, it's certainly tidying the place up a lot. (John)

The importance of the physical environment to wellbeing has been well documented,<sup>126</sup> and commentary from red zone residents supports this body of literature, which recognises that unattractive or unsafe environments are usually detrimental to wellbeing, while attractive or safe environments usually engender positive wellbeing.

The interviewee who spoke the most about the physical surrounds of the RRZ was Ernest, who owned a red zoned property in the Christchurch flat land. It is obvious that at times he found the environment in which he lived exceedingly difficult. Here are some excerpts.

It is difficult to live in at times, because you get the undesirable elements of society that come around and dump rubbish, nick things, make graffiti, do car burn outs, boy racing, that type of thing. Minor property crimes and also some arson, but thankfully not near where I live. But all these problems were created by the Government when they made the illegal red zone. I think it might be a good idea to make a reality TV series and say, live in the red zone for x number of days. Call it "Survivor Illegal Red Zone Christchurch", and we'll see how that goes.

There are numerous inconveniences. The post doesn't come that often for me. I was lucky enough to negotiate with NZ Post to still deliver because of my proximity to the green zone, but for everybody else NZ Post stopped delivering to their door. You can't get pizza, you can't get a lot of the delivery services, you can't get any courier services

...

And there will be strange people lurking around, and you will think, what are they doing here, they're not living here, why do they park their car here and sit inside, or why do they have to walk in this area, are they going to their house or from their house?

**Nihil  
De Nobis  
Sine Nobis**  
*Nothing about us...  
Without us!*



Save our schools protest rally against Canterbury school closures and mergers following the earthquakes, September 2012.



## Part 8

What other impacts did the red zoning have?



Red zoned shopping centre, Bexley.

In some places the road is quite damaged. There are giant holes, like a permanent pond. Every time it is high tide the water just back flows in from a storm drain. They should have fixed the valves lining the river and stopped the problem, but all these years on they still haven't fixed them.

It's very frustrating to have to come home to a desolate ghetto every day. It's not a good feeling. At the end of a long day and you have been working hard, to come home to see all this shit going on or not going on around you. It's just a constant reminder that the Government doesn't give a shit about you and they are happy to screw you over and there's nothing you can do about it. (Ernest)

The environment of the red zone is the cause of many of Ernest's feelings about his life, from frustration at the potholed roads and poorly maintained infrastructure, to fear and anger at the behaviour of some visitors to the neighbourhood, who have burned cars in his street, dumped rubbish and stolen railway sleepers from his driveway. Ernest's commentary makes it clear how the physical environment can have an impact on his wellbeing, indicating that living in the red zone environment can be challenging for residents.

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### Findings: the extent to which earthquake issues are affecting survey respondents' lives

- 8.4. Post-disaster policies and practices can have long-term effects.
- 8.5. When people do not feel in control it can be detrimental to their recovery.
- 8.6. Not all people affected by post-disaster policies and practices are affected to the same extent.



# Part 9

**What is needed to  
improve life in the  
Residential Red Zones?**

**Pēhea nei te whakapai  
ake i te nōhanga ki te  
pae whero?**

Part 9

What is needed to improve life in the Residential Red Zones?

It is apparent from the surveys that, at the time of the research, some residents found living in the RRZs challenging. This result confirms information provided through the Commission’s Enquiries and Complaints service, as well as through anecdotal evidence provided by individuals, civil society organisations and earthquake social and support agencies, such as the Residential Advisory Service, (established in May 2013 to provide advice to property owners in Greater Christchurch) and CanCERN (Canterbury Communities’ Earthquake Recovery Network).

To gain an understanding of what red zone residents felt might be required to improve their lives in the RRZ, survey respondents were asked in an open-

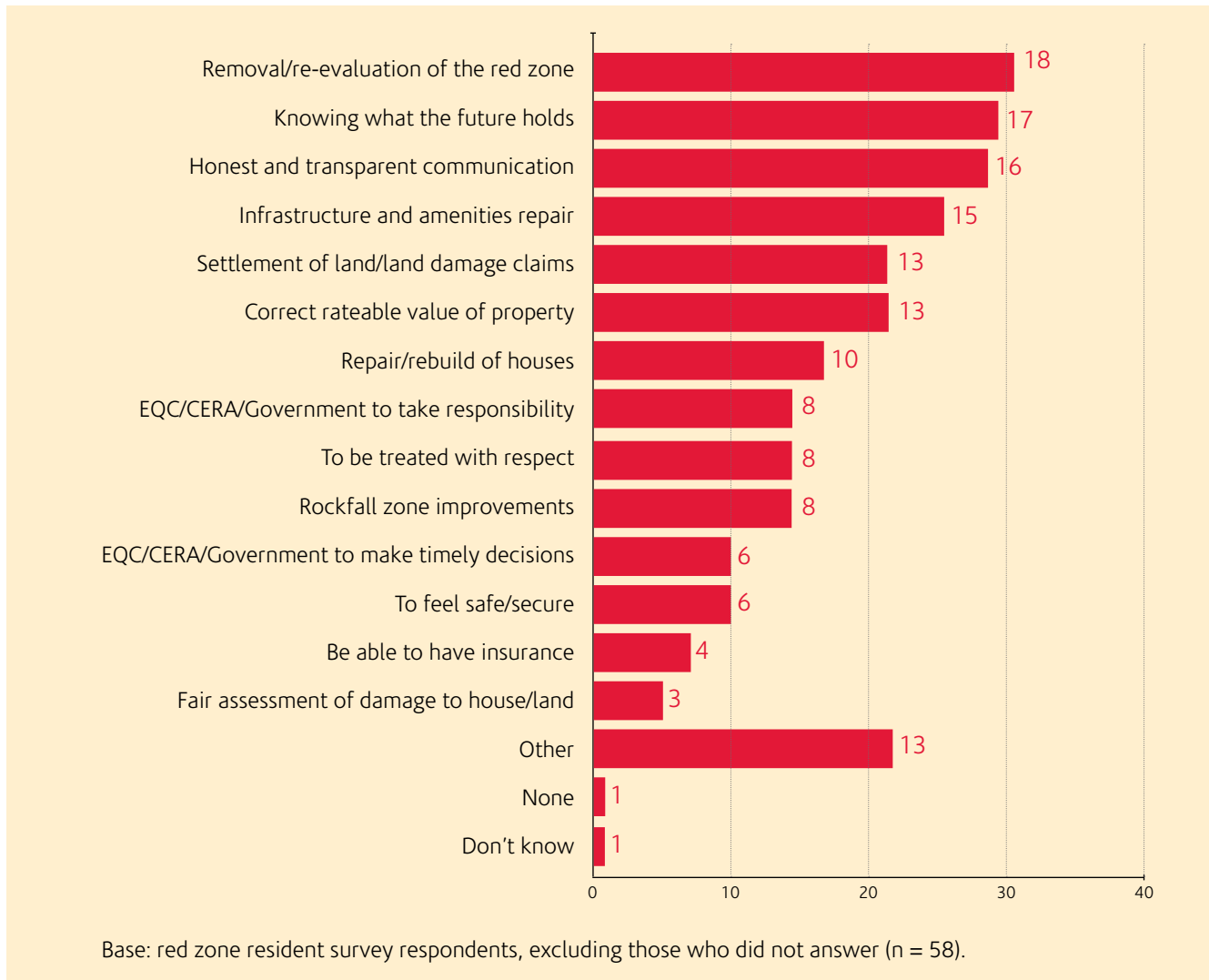
ended question to identify the two or three most important changes they desired. The main themes from their comments were categorised into 14 groups, plus ‘Other,’ ‘None’ and ‘Don’t know’ (Figure 9.1).

Red zone residents identified four main changes needed to improve their lives:

- the removal of the red zone label
- knowing what the future holds
- honest and transparent communication
- infrastructure and amenities repair.

Other desired changes were financial issues (including the settlement of property claims, the reappraisal

Figure 9.1: What are the two or three most important things you need in order to improve your life in the residential red zone? (%)



of rateable values and the ability to get insurance), moral and emotional issues (such as wanting agencies to take responsibility, to be treated with respect, timely decisions, to be able to feel safe, and fair assessment of damage), and physical issues (such as property repair and rock-fall protection).

The issues that residents selected as necessary to improve their lives in the red zones are not surprising. They echo the findings presented throughout this report, which have shown that, at the time of the research, respondents craved certainty and security—physical, financial and emotional. For example, in response to the question of issues having a continuing impact on respondents' lives, 59 percent of people noted 'Difficulty being heard' and 56 percent 'Difficulty getting information'. These difficulties correspond to a number of desired changes listed above, including 'Honest and transparent communication', 'EQC/CERA/Government

to take responsibility', 'To be treated with respect' and 'Knowing what the future holds'. Residents selected the issues above because they believed them to be the main changes required to provide the certainty and security they sought.

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## The removal of the red zone label

The most commonly desired change was the removal of the red zone label, mentioned by 31 percent of the 58 respondents. The importance of this issue cannot be overstated: the fact that areas in Greater Christchurch have been labelled as the 'Residential Red Zone'—despite the 2013 High Court decision that the process by which the label was imposed was flawed—marks them as different. The term 'Residential Red Zone' was an issue for many of the



Signs such as these, put up by CERA, are visible throughout the residential red zones.

## Part 9

### What is needed to improve life in the Residential Red Zones?

affected people because in their view it provided—and continues to provide—a false legitimacy to the zoning. The unintended consequences that occurred as a result of the red zoning classification also hindered progress for some residents.

An important point for residents was that the red zone classification significantly devalues their properties. People interviewed mentioned that the value of their properties had dropped by between 80-90 percent (see the section on 'The revaluation of red zone properties' in Part 7 for more information). The indignation people felt about the devaluation of their properties was discernible in their comments in the surveys; for example:

I would like the right to appeal this decision.  
I would like my property to have a realistic rateable value, and therefore a resale value.  
As long as the red zoning is attached to our property our equity is seriously compromised.

To have my values returned to what they should be, not set at some ridiculous figure which no one seems able to explain how that figure was obtained.

The stigma associated with the red zone classification has resulted in some residents having difficult dealings with government agencies, and insurance and maintenance companies, in relation to their properties and surroundings. This interaction was expressed by Ernest when describing the difficulties of living in his red zoned property:

You can't get telecommunications companies to do repairs that are unrelated to the earthquake, because they say the red zone is abandoned so they're not going to spend any money to repair anything, even though it's just natural wear and tear and it's their contractual responsibility to repair it when something breaks down. That's what happened to me. I had to switch to wireless communications for a time. (Ernest)

Ernest's complaints about the maintenance of telecommunications to his property were echoed by other interviewees in relation to a variety of services and issues.

A powerful demonstration of the frustrations caused by the red zone classification is provided by Merv and Jill. Their Port Hills property was initially zoned white, then green, then red, and then finally green again after adequate rock-fall hazard removal work had been undertaken. Once their property was re-zoned green they found dealings with EQC and their insurance company dramatically improved; during the time the property was red zoned they felt they were very poorly treated. Merv explained the difference that being labelled 'red zone' made to their post-earthquake experience:

If we were green zoned and we were going through that, maybe I'd have a different story about EQC, but it was as if we were suddenly not part of the system. We were just someone that EQC said, "You're not a person anymore. You just shut up and you're going to get what you're going to get because we aren't going to change, we're not going to do anything, we're not going to listen to you." That's the feeling I got. (Merv)

It is obvious from Merv's words that the treatment they received while their property was red zoned deeply affected them, clearly highlighting how the red zone label influenced—and continues to influence—people's ability to recover emotionally.

In addition to agency-engendered difficulties, another impact of the stigma of the red zone classification was felt by residents on a personal level, when colleagues, peers, friends and even family questioned their decision to remain. The following points made by Heather, from Kairaki Beach, emphasise this.

It's hard to convince people of that. Not so much now, but in the beginning people would say, "Oh what are you doing living there? You're not allowed to live there, are you?" So we had all this outside speculation about what was going to happen to us, which did affect us. We had to explain over and over, "We've got all our services, the sewer was repaired after the first earthquake before the big second one and we're allowed to stay here. They could take our land, yes, but they haven't yet." So there's been a whole lot of that.



The pervasive lack of understanding of the red zoning processes among people not directly affected by them, including residents of green zoned areas of Christchurch, combined with a lack of detailed media coverage on the issue are probably responsible for the lack of awareness about the ongoing occupation of the red zone.

One interviewee who drew very clear connections between being red zoned and recovery was Phil, in the Port Hills. He described how the red zone classification of his family's property impeded their recovery:

We would have recovered really quickly, I think. There were no impediments to us getting on with our lives until the Council, and then CERA. And now the Council and CERA are just making our lives hell because they don't want us here. Our services are fine, our house is undamaged, we have got the rock risk taken care of. We'd like to spend our time planting native trees rather than writing letters to councillors. Just let us get on with our lives! (Phil)

As was common to a number of the people interviewed, Phil referred to the ability to tend his garden as a metaphor for certainty in his life.

Setting aside objections to the red zoning process itself, people found the fact that government agencies continued to use the red zone label after the Supreme Court majority ruled that the process used to establish the red zones was unlawful to be particularly unhelpful.

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## Knowing what the future holds

As Phil alluded to in his reference to wanting to plant trees, the red zoning prevented residents from feeling settled in their lives and in their homes. Without certainty it was difficult—if not impossible—for affected people to 'recover'. It is this lack of certainty that generated the second-most-mentioned aspect that residents felt would improve their lives in the RRZs, knowing what the future holds, which was mentioned by 17 respondents (29 percent).

Lack of certainty was a central theme in every interview, and the issue has had significant effects on people's post-earthquake experiences. The red zoning was central to much of this uncertainty. For some interviewees this uncertainty related to not feeling confident about what the process itself entailed, as described by Anne in Dallington:

We were tense because we had decided that we would not take the financial offer of our rating value, so we didn't know what it all meant because it was unclear what red zoning meant. (Anne)

A similar lack of understanding about the options available to owners of red zoned properties was expressed by the vacant landowner. Without knowing what possibilities would be feasible, she argued, it was very hard to decide which course of action to take:

From being red zoned to now we've been tossing around those two options: Do we keep it? Do we try and start another business? Or do we grow something on it? Do we run alpacas? We couldn't make a final decision because we didn't know what was possible. (Vacant landowner)

For the vacant landowner, interviewed shortly after the Government's July 2015 decision to offer 100 percent of the 2007/08 rateable value to owners of vacant and insured commercial red zoned properties,<sup>127</sup> the uncertainty had come to an end: she and her husband had agreed to sell their section if the 100 percent offer came through.

Conversely, for red zoned residents Anne and her husband Martin, the uncertainty remained. Two weeks prior to their interview the Greater Christchurch Regeneration Bill had been released. According to the CERA website, the document's purpose was to outline how central government would work with local bodies to ensure the area's "regeneration" (a phase deemed to take place after emergency response and recovery), moving forward after the April 2016 cessation of the extraordinary powers granted under the CER Act.<sup>128</sup> Although they had recently been feeling more comfortable about their decision to remain in their red zoned home,



## Part 9

### What is needed to improve life in the Residential Red Zones?

Anne and Martin were concerned about the powers outlined in the Bill, which they worried could be used to force them to move. Their discussion demonstrates the stress and fear the Bill generated for some people.

**Anne:** We're like, "Oh no, here we go again, we're back into this whole area of uncertainty". CERA reassured us that we had primary ownership rights, so we're like, phew. And then comes the Regeneration Bill and embedded within that Bill is they have the right under the Public Works Act to acquire our land. So we're back into this zone of uncertainty. We have no idea if or when they will do it. So what do we do if we get any money from EQC? Can we do up our home—which really needs it—or do we need to hold onto that money because we might really need that money to shift if it's forced? The stress is back again. And we don't know ... there's no disclosure. There was the discussion in the newspaper today that the land could be used as an urban farm, public works, private developers, different sporting things.

**Martin:** So this uncertainty: when will it stop?

**Anne:** When can we get on with our lives?

This latest uncertainty was particularly difficult for Anne and Martin, who had only recently received news from EQC that, following advice presented in two engineers' reports, their property had been deemed overcap (having over \$100,000 worth of damage). Although that change in status brought some of its own uncertainty—primarily about how much money they should invest into the property, given its low rateable value and its uninsurable status—it meant that Anne and Martin expected to have more financial capital than they had previously thought, alleviating some of their money worries. Coming so soon after this relatively good news, the Regeneration Bill was especially upsetting.

Uncertainty was generated not only from not wholly understanding the red zoning process, as with Anne and the vacant landowner, but also from the circumstances the process created and the difficult decisions that affected people were forced to

consider as a result of these circumstances. Heather's comments provide an example:

So in the beginning it was the limbo, the stress of the limbo: shall we go? If we go we're going to get a mortgage, so no we'll stay, because if we have to get a mortgage how are we going to finance that? Perhaps we should go and maybe they'll take the land. And there was all that limbo-ish stuff that caused a huge amount of stress. (Heather)

Similar experiences were described by Phil about his red zoned property in the Port Hills. He spoke extensively about uncertainty and its impacts:

We've had no certainty about this place and so we've been lingering in this half-finished house, and it's the uncertainty through the whole thing that has been the real killer. It's the uncertainty of not being able to make firm decisions about the most fundamental things, like where you're living and what you're going to do with your money, whether you need to continue a mortgage or buy a new car.

It's a really, really corrosive psychological thing, uncertainty. I certainly don't envy refugees who don't even know where they're going to be living the next day, and to have that year after year after year it's just ... It's hard. (Phil)

Like the vacant landowner cited above, the uncertainty Phil describes subsided for him and his family following a change in circumstances. For Phil, this change occurred with the 2015 decision of the Supreme Court that the Government's decisions relating to the uninsured and uninsurable in 2012 were not lawfully made, which made him more confident in his decision to remain:

We've never known for certain until the last Quake Outcasts outcome whether we were definitely going to stay. The outcome of that case sort of says that the Government really couldn't touch us without using the Public Works Act. I think we're reasonably certain

now that we'll be staying, but we have many issues to settle before we'll be happy, that's for sure. (Phil)

Despite his increased level of certainty, Phil's comments make it clear that things were still not totally certain for him, most notably because of the continued presence of the section 124 notice on his property.

It was apparent during the interviews that some of the red zone residents were continuing to experience uncertainty, resulting in stress. For some interviewees, such as Anne and Martin (quoted above), this uncertainty was directly related to their earthquake experiences. The interviews also made it clear, however, that it was not only the earthquakes and related issues that generated uncertainty in people's lives. Experiences of 'normal life' have also affected red zone residents over the years since the earthquakes, just as they have affected everyone. It did appear from the interviews, however, that the red zoning had amplified these experiences for some affected people.

The story of Les is a strong case in point. His wife had died just days before his interview, and her death, following a long period of illness, featured prominently in his discussion. Without her desire to remain in their Brooklands home, Les seemed much less sure of his resolve, alternating between wanting to stay and realising the logistical challenges of this decision:

Now that Lorraine's gone it's put a whole new light on the thing. Lorraine didn't want to shift and I didn't want to go, but look at this house! I could live in this room here. Just need to put a wall up there somewhere. It's just far too big. I don't really know where I would go. I did think at one stage I'd like to have a lifestyle block, but then you've got to think, well I'm 80 years old, you've only got about six years left being able to do things and then you're just about in a rest home—well that's how I look at it anyhow—so that's not a very good idea.

Plus, this whole place, we put it into a family trust and I'm thinking if something happens to me and the kids get left with this and nobody wants it ... Everybody has sort of got their own places, so it's only great-grandchildren on the way, but I don't think they'd want to be saddled with it either. So I don't know. It's a damn shame really. The upkeep of this place on one pension is going to be horrific. The whole place is centrally heated. (Les)

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## Honest and transparent communication

The third-most-cited change that survey respondents believed would improve their lives in the RRZs was honest and transparent communication, with 16 mentions (28 percent). This desired change stemmed from the perception held by many affected people that communication on the zoning and related issues had been poor, which had negatively affected their ability to feel certainty or security, which had in turn affected their sense of wellbeing. Following are examples of the kind of honest and transparent communication desired by survey respondents:

Acceptance by the CCC of evidence supplied by our lawyer and geotech expert that our house is in no danger from rock fall. An apology from CERA for the unfair and misleading process engaged in when red zoning the Port Hills residential and a communication about their future intentions regarding our property. Communication from the Government about their intentions for residential properties they own that are adjacent to us.

Proper process from Council/MBIE. Respect for our property rights. Honesty from the Government and Council regarding the status of our land and home.

The importance of effective communication was discussed in Part 6.

## Part 9

What is needed to improve life in the Residential Red Zones?

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### Infrastructure and amenities repair

Infrastructure and amenities repair was noted by 15 people (26 percent). This issue relates to physical certainty and security, as respondents wanted to be able to access their properties without difficulty and feel safe once they were there, as highlighted in the following comment:

For CERA to remove the unjustified and not-lawfully based red zoning. Completion of roading repairs to end over 4 years of obstructed access to our property.

The issue of infrastructure and amenities repair goes beyond physical comfort, though; it is also critical in terms of wellbeing because of the links between wellbeing and certainty. Given these links, the commitment laid out in the *Preliminary Draft Waimakariri Residential Red Zone Recovery Plan* to keep services and roading access to private properties in the RRZs (although the level of service may change), and to undertake extensive infrastructure work for some regeneration areas, was significant in terms of providing much-needed certainty for the people who remain in the regeneration areas. (See the section on 'The provision and maintenance of services to the residential red zones' in Part 7 for more information on this issue.)

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### Other desired changes

'Other' comments accounted for 22 percent of the responses, and included the following—typically forthright—remarks:

Bring back John Campbell—we still need him!!!

Compensation/restitution paid for pain and suffering as a result of government wrongdoing.

Lack of self-determination and control of our lives is crippling us.

Good emotional support (which was available with counselling until Relationships Aotearoa ceased operations).

Quicker demolition of vacant houses.

The responses indicate a variety of issues that people felt would be needed to improve their lives in the RRZs. The underlying theme that residents need certainty and security remains discernible in the responses. For example, John Campbell was seen by many red zone residents as a champion of their situation and their rights (see the section on 'Media' in Part 6 for more information), and the timely demolition of vacated red zoned properties has been shown in Part 8 in the section 'The extent to which earthquake issues are affecting survey respondents' lives' to positively affect wellbeing.

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### Findings: what would be needed to improve life in the RRZs?

- 9.1 Because the attribution of a label can be damaging to people's wellbeing, including after a disaster, the removal of the red zone label was listed by respondents as the most important change needed to improve life in the RRZs.
- 9.2 A need for certainty was the second-most-desired change, supporting findings throughout the report that security and certainty are critical in aiding people's recovery following disaster.

# Part 10

Looking forward

**Tirohanga whakamua**

The Canterbury earthquakes created challenges to some of the most basic human rights. Most obviously affected is the right to adequate housing, but because rights are interlinked this issue affected numerous other rights, such as the right to health, the right to property, the right to education, and civil and democratic rights.

While almost every person in Canterbury has been affected to some degree by the earthquakes, certain people have felt the effects more than others. Within this cohort are people who have lost family members and friends, suffered serious injury, or lost or sustained serious damage to their homes. Another group that have been significantly affected are people whose properties were red zoned, both those who chose to accept the Government purchase offer and those who did not.

The research for this report has been drawn from the responses of people whose properties were red zoned and who opted not to take the purchase offer, and who took part in the Human Rights Commission survey and subsequent interviews. These individuals, their families and communities have spent the years since June 2011 dealing with challenges unfamiliar to many New Zealanders.

At the beginning, after the earthquake, we were all equal, everybody was in a difficult situation. But after a certain time we felt left behind and others moved on, and we were still in a crisis situation. (Martin)

Affected people are in a unique position to reflect on the past and its impact on the future as the region moves from 'recovery' to 'regeneration' with the winding down of the Canterbury Earthquake Recovery Authority (CERA) in April 2016. It is therefore appropriate that this section on 'Looking forward' is shaped largely by the thoughts and words of the people who participated in this research.

The part contains two sections. The first section outlines the lessons learnt, suggestions and recommendations from their red zoning experiences that affected people shared in their interviews. The second section lists the unanswered questions and unresolved issues with which affected people still grappled at the time of the interviews in October 2015.

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## Affected people's lessons learnt, suggestions and recommendations

A human rights approach puts people at the heart of decisions and debates about issues that affect them. As people affected by the red zoning process have the most in-depth, lived knowledge of the experience, this part of the report largely uses the words of the 103 survey respondents and 14 interviewees to provide space for their lessons, suggestions and recommendations for future disaster practice. Providing affected people with an opportunity to voice their thoughts gives them some empowerment in the face of what has, for many, been a disempowering experience.

### Post-disaster policies need to have the flexibility to consider individual cases

The most common lesson learnt cited by people in the interviews was the inadequacy of a blanket policy, the red zoning, that had the potential to irrevocably change people's lives. The fact that the red zone residents who participated in the survey and subsequent interviews had for the most part *chosen* to remain in their properties (and had therefore not accepted the Government purchase offer) also contributed to this thinking. People had genuine reasons for their decision to stay, which they felt had not been heard and which greater flexibility may have been able to accommodate. As a result, interviewees advocated for more case-by-case consideration:

I'd be very cautious about creating blanket red zones. I think too much of a blanket decision was made. More individual situations should be looked at. (Dianne)

The argument for case-by-case consideration was particularly applicable to the red zoning of parts of the Port Hills, where the rationale was based on life risk from rock fall, cliff collapse or land slippage. Even though the very nature of building in the area meant that an area-wide approach like that for the flat land was not feasible—as a result of topography the Port Hills red zone was spread across multiple clusters of between one and 25 properties—and the fact that



property owners were able to request reconsideration of their zoning, respondents to the Commission's survey and interviews still did not feel satisfied their cases had been adequately considered:

We raised the point that after the quake there was no rock fall on our section because of the topography of the land, the way the slopes fall. Our neighbours were affected and the ones two along from us, they had a massive boulder. So of course we understand that. But they'd made a blanket policy for that whole area. They didn't take into account individual sections. So while we had the opportunity to engage and to put that across, it was a done deal, so there was no point. They had all this technical speak, they were the experts, and who am I to come along and say, "Actually, I don't think it's right."

It would be time-consuming, but at least if you had someone onsite they could say, yes well this is possible, and then you're done and dusted, that's one done. If they could take the time to get around everyone. That would have made a huge difference, just to feel that you are being listened to in your individual cases. Particularly in our case with the rock fall. It wasn't an issue given the topography of our land. (Vacant landowner)

The inflexibility of agencies to reconsider the red zoning of specific Port Hills properties—often despite positive assessments from geotechnical experts—was a source of intense frustration for many people.

### More and better engagement with affected people

The need for meaningful participation in decision making was also emphasised by interviewees:

The one thing that would make a difference in the future is collaboration with the residents. That's where it's all gone wrong for us. Rather than a dictatorial approach to things, we would have been sorted a long time ago had there been a will to involve us in the decision making. (Phil)

Greater inclusion of affected people in decisions could have helped counter the uncertainty and sense of loss of control people have faced.

This collaboration was needed not only to improve affected people's emotional journeys, but also their practical understanding of the various policies and practices that affected them. Phil continued:

Bureaucracies say, "We have provided a path." The problem for residents and people who are affected by the whole thing is that the path is convoluted and not necessarily, in fact, even walkable. And that's where the collaboration thing comes in. That's what was needed from the start and is still needed. (Phil)

In addition to increasing the amount of engagement with affected people, interviewees also had suggestions for *how* this engagement could be carried out. One aspect of engagement that needed development, according to Ernest, the owner of an uninsured residential property, was

The way they communicate and present information to the population. They need to treat people like human beings and not as numbers to be managed. (Ernest)

Effective collaboration is critical in helping people to recover from disaster.

### Greater use of local actors, structures and networks

Connected to the issue of more engagement with affected people, but more controversial, was the suggestion that the Government should have less involvement in the management of post-disaster issues. These comments generally stemmed from reflections on the slow pace of progress and the inefficiency of large bureaucracies, particularly when compared to private companies.

In many ways the only thing that could be done better is for government to stay out of it more. Actually go through the processes that were already in place with insurance and with people. If it's high risk, then just acknowledge that and go straight into the

process of fixing it. That would have been the ideal situation. It was too big a job for a bureaucracy to deal with. A business would have dealt with it a lot more efficiently and better. Individuals would have dealt with it a lot better, knowing their own risk and things.

For the government to put in place a buyout offer was ideal, because it gave people that option: if you're really uncomfortable about living here, we don't want the value of your house to destroy your lives, we can give you this money and you can leave. But they didn't just do that. They put all the other layers on top of it, which ended up doing exactly what they were trying to avoid, which was to destroy your life. They actually put in processes that destroyed people's lives. They lost their way, I guess. The initial idea was a good one, and then they just couldn't see the end of it. And again, that is the nature of a young bureaucracy: they didn't have a process in place to fix the problem. (Ralph)

This idea of the separation of government and business, and the way in which both sectors approached the recovery, was most often referred to when discussing the difference between working with EQC and working with private insurance companies.

#### Re-evaluation of EQC's under-cap/over-cap system

Among the suggestions for high-level change was a desire to see the Government reappraise the under-cap/over-cap system. This suggestion was made by Martin, whose Dallington property was deemed under cap until he had an independent assessment done, which contested EQC's assessment and brought the claim to over cap. This experience made him reflect on the under-cap/over-cap system, particularly with respect to property values:

Some things will have to be done by the legal people to say, "Do we disadvantage people with our system because the house is not worth that much and so the owners will have a way harder

situation to prove so much?" If the limit is \$100,000 for every house then of course it is harder in Dallington than in Fendalton to get over cap.

Parliament has to discuss some of the things that went wrong and restructure and make it more fair. Probably the insurance companies wouldn't earthquake insure us if it wasn't arranged that the State takes the first \$100,000 so it needs to be looked at in terms of it's a fixed sum, the \$100,000. Maybe it needs to be put into a relationship of the size of the house: If it's 90 square metres it could be, well, \$90,000, and if it's 150 square metres it could be \$150,000 so they could be making it more equal. People with small houses also pay the earthquake contribution, not just the ones who have \$2 million palaces, and I think something must be changed. (Martin)

This suggestion reflects the comments made by research participants that private insurance companies have generally been easier to deal with and more efficient than EQC.

#### Greater respect for individuals' property rights in government legislation

The people who have made the decision not to accept the Government purchase offer and remain in their red zoned properties have done so because they considered their property more valuable—however 'value' is defined by the individuals affected—than the offer. Property rights are at the heart of this decision, and some interviewees saw this right as being challenged by post-earthquake policies and practices:

I do think that the property rights issues here are pretty fundamental. The Building Act should never be used in the way it was used. The CERA legislation was abused. (Phil)





#### Greater acknowledgement that life risk is something individually assessed rather than imposed

There was intense dissatisfaction among people whose Port Hills properties were red zoned because the properties were deemed to present a risk to life of greater than 1 in 10,000. Some people considered the figure of 1 in 10,000 to be arbitrary, or irrelevant, given the number of risks in the world. Phil, talking about his house on the cliffs in Sumner, made this case:

There are risks out there that we don't even know about; you don't know about risks until they actually happen. In the time period that they evaluated the life risk to this house, several tsunamis are going to wash in and out of this valley and some of them are going to be 10 metres high. The same outfit that did their original rock-fall analysis—GNS—has said that about the tsunami risk. So go figure. (Phil)

Other people commented on the fact that risk is something individuals assess and then choose to accept or reject. They felt that for the Government to label something as too great a risk was in breach of this individual choice. Comparisons were commonly drawn between the imposition of the red zoning due to life risk, and people's voluntary involvement in extreme and adventure sports, which is particularly celebrated in New Zealand.

#### More salvaging and less waste during demolition

Interviewees would also have appreciated seeing more salvage work—in other words, less waste—when the red zones were cleared of properties. While this concern has been widely expressed by people across Greater Christchurch, for people affected by the red zones the waste was not only physical but also emotional:

I think one of the things I'd like the Government to learn from this, what I would like them to think about and not do, is demolish houses that are perfectly liveable.

The bulldozer came and smashed them all up and carted them away, and what better use could those houses have been put to? If they didn't stay here some of them must have been able to be shifted. It seemed a huge destruction of people's memories and experience and property, and just seemed silly. There's a couple of houses that were just being built, and they could have been easily repaired, easily picked up and put somewhere else. They were just all smashed. (Heather)

While about 7 percent of red zoned houses (about 500 houses) were relocated rather than demolished, there was scope for much greater efforts in this area.<sup>129</sup> More recycling of materials would have helped people feel better about the demolitions, not only because the process would have had less impact on the environment, but also because it would have been seen as paying greater tribute to the emotional side of the zoning.

#### Support group for affected people

One practical and achievable suggestion was the creation of a support group for people affected by the red zoning, specifically one that spans the different red zones so that people can connect to others living beyond their immediate localities. The benefits of such a group would be to connect people together for psychological and mental and emotional wellbeing.

There has never been an opportunity for red zoners to come together and meet and say, "How are you, how are you getting on?" And "What are you finding?" and "We're finding this." That would be such a help. There was Earthquake Support Coordinators... pfft. There were all these other things but really, it's the people who are in the same situation as well. (Anne)

Meeting and sharing experiences with others who have been similarly affected might help people's wellbeing and, eventually, their recovery.

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## Finding: affected people's lessons learnt, suggestions and recommendations

- 10.1 Given their level of engagement with the issues, affected people can provide specific and constructive suggestions on a range of post-disaster practices, which can be used to improve future responses.

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## Affected people's unanswered questions and unresolved issues

The process of the red zoning has been long, challenging and exhausting for many affected people. For the people who participated in the research, their red zoning journey had started four-and-a-half or five years beforehand and the majority continued to live with uncertainty and doubt. It was apparent in the interviews that many of them continued to grapple with issues and questions to which they had yet to find an answer.

These unanswered questions and unresolved issues provide an insight into the complexities of the red zoning story, and the stress and confusion with which people continue to live. They are symptomatic of a very difficult experience—that of the Canterbury earthquakes and their aftermaths—and, while posed by only a small group of people who participated in the Commission's survey and interviews, may hold true for other people living in Canterbury. Research shows that recovery from disaster can take many years, such that the region and its inhabitants may still be coming to terms with the experience and consequences of the disasters.

### The red zoning of particular neighbourhoods

The red zoning of particular neighbourhoods was a source of confusion for some interviewees. The fact that people still could not come to terms with the

reasoning behind this decision many years after the fact gives some indication of the challenges people faced in terms of coming to terms with their situation. Les in Brooklands was one such person:

I cannot for the life of me understand why we are red zoned, I really can't. I mean, we are no different than Spencerville [where it's TC3] ... When you look at the other red zones—the likes of Bexley and all around there—I mean, houses just about disappeared in some places, didn't they? Nothing like that happened here ... The red zones are not all the same thing. (Les)

Also comparing the situation of their neighbourhood with other red zoned areas were Dianne and Heather in Kairaki:

**Heather:** We get lumped in with red zoners where there's no services and no people, only the odd person is living there and that sort of stuff. Why aren't they listening? Why can't they say, "Right, Kairaki and Pines Beach are different, they've got their services, they're a main recreational area, we're never going to close it down." Why do we have to be red zoned, and why can't they lift that because we're different from Kaiapoi, who don't have services from town? Why are they lumping us in with a place that can't be repaired?

**Dianne:** What we down here believe is that the red zone should be lifted from Kairaki.

These comments underscore the importance of differentiating between areas, rather than referring to the residential red zone (in the singular).

### The continued lack of certainty

As has been made clear throughout this report, the most significant barrier to recovery faced by people affected by the red zoning has been the lack of certainty in their situations. Given the centrality of the issue to affected people's situations, it is not surprising that it featured prominently in people's unresolved issues. For example:



The uncertainty that we have still, that's a big one, and there is nobody who can clearly answer it. There's nobody who has got the authority to say, no in this case it is so and so and you can count on this. (Martin)

This uncertainty that red zone residents continue to face is largely due to the continued lack of a government decision on the provision and maintenance of services to red zoned properties, and uncertainty about the future use of the red zone. Having certainty on these issues would make a significant difference to affected people.

### The role of local and central government in the recovery

Some people suggested that the involvement of both central and local government in the Canterbury recovery complicated the situation. One complication was the perceived disconnect between the two layers, which seemed to be manifested in generally favourable comments about local government and less favourable comments about central government. This disconnect was outlined by Heather in Kairaki Beach, who saw her local Waimakariri District Council as supportive but felt this support was eroded higher up the system:

When the Council is like it is out here, why aren't the Government listening to it? It seems they're [the Council are] on the level, they've heard us, they agree with us, they're supportive of us, they've been always quite supportive of us. But it's like the next one on the power ladder is going na na na, we're going to do this. (Heather)

Another problem caused by the double-layered bureaucracy was that affected people were sometimes unclear about which level of government and which agency they should approach in response to various issues.

### Interactions between the Government and red zone residents

Just as people queried the relationship between central and local government, so too was the relationship between government and affected

people an issue that remained unresolved. Given the significance of the red zoning, the relationship was always likely to be fraught, but what people could not understand was why it continued to be so after such a long time. Getting straight to the heart of the matter, Phil asked,

Why are they making it so hard, given that it's obvious that we're staying? What's the point? (Phil)

These two questions sum up the frustrations of many red zone residents, whose decision not to accept the Government offer indicates their intention to remain in their red zoned properties for the long term. Given this decision—and the fact this decision was entirely legitimate—they cannot understand why the situation remains such a challenge.

### Lack of flexibility in the red zoning policies

Martin and Anne, who remained in their red zoned property in Dallington largely because Anne's health issues prevented them from finding another suitable house, wondered why the system had no flexibility to accommodate their unique circumstances:

**Martin:** I felt often, why did they not talk to us? ... I always envisaged that somebody from EQC, somebody from CERA maybe, would come and say, "You're a strange case here: On one hand it says you have hardly any damage in the house and on the other hand we say that you are on very bad land and everything must be very bad. How can we solve this?"

**Anne:** Especially when the numbers became feasible for them to do that, when the numbers got to a stage where they could see who was left behind and they were generally people with problems and difficulties.

This issue is linked to people's suggestion that blanket policies need to incorporate flexibility to adapt to individual circumstances. Compliance with deadlines to accept the Government offer was mandatory regardless of individual circumstances up until December 2012 (by 15 June 2012, 70 percent (5000) residents in the residential red zone had made

a decision on whether to accept the Crown offer). Greater flexibility was subsequently introduced after this time with CERA in some cases adopting more of a case-management approach to individual property owners. Respondents to the Commission's 2015 survey felt that much greater flexibility was required to take account of their circumstances.

### **The lack of official acknowledgement of the suffering caused by the red zoning**

People spoke of the suffering caused by the red zoning, noting that within the overarching cohort of owners of red zoned properties certain people have been more adversely affected by the process than others. Two comments to this effect are from Martin in Dallington and Dianne in Kairaki:

I wish there was a public acknowledgement where the Government says, "There was an earthquake, it was a difficult situation, we were overwhelmed, we made some mistakes, we hurt some people, we caused undue stress on some and we want to acknowledge that somehow as a human gesture." (Martin)

Our two elderly neighbours were really disempowered; more so than us. I mean, I saw one of them at the supermarket yesterday in Kaiapoi and her health is affected—well everybody's health is affected, actually—but why can't she buy her section back and build that little house that was all set to go? I think [there should be] acknowledgement that there has been some injustice in the process. I mean, I acknowledge the Government did its best at the time in a new event and they need to learn from this for the future, but there are some injustices about what's happened. (Dianne)

As is implied by the two interviewees, official acknowledgement of the problems the red zoning caused could have significant effects in terms of people's ability to recover.

### **The future use of the red zones**

Although interviewees focused more on the journey they had already experienced than on the path they have yet to walk, the future of the red zones was nonetheless a concern. Mostly people wondered about the health of their communities, but there were also some practical concerns, including the geophysical conditions of the area once properties had been demolished:

What's going to happen to this land that's being stripped around us? What's CERA going to do with it? If it's just transferred over to Council, I can imagine a lot of it is just going to be an absolute nightmare for land stability with storm events and things like that—half of those hillsides are going to end up in the stormwater system. You can't take houses away on the Port Hills and expect it to stay uneroded. So that's a big question in my mind. (Phil)

The idea that the removal of houses was making other houses more vulnerable was mentioned by several people in relation to the Port Hills zoning.

### **The revaluation issue**

An ongoing concern for red zone residents was the significant reduction in value of their properties because of the red zone label. This issue has long-term implications for people's financial stability, and so understandably featured as an unresolved issue in the interviews:

In no way could they explain the logic to us of why they devalued our house by \$300,000 when they said it was land that they were talking about. Our house hasn't changed at all. (Anne)

Anne's comment indicates that she not only found the situation difficult, but that she also genuinely could not understand it.



Display at Brooklands community farewell event, 9 September, 2012.

### The revised Government purchase offers to owners of vacant sections

The following questions were posed by the vacant landowner in relation to the revised Government purchase offer to owners of vacant sections. While affected people were initially offered 50 percent of the 2007/08 rateable land value of their section, this offer was revised to 100 percent in August 2015 following the decision of the Supreme Court. The announcement came shortly before the vacant landowner's interview but after she had submitted her survey, and was therefore of central importance to her situation at the time.

What was the reason for the backtracking?  
Why did it take so long? Why were the Court's results ignored?

They had this money available to them for three years longer than they should have. Was that part of the plan?  
(Vacant landowner)

The owner of the uninsured residential property also had some unresolved issues relating to the legal process for the revised Government purchase offers:

I was very disappointed that the Supreme Court did not see the value of declaring the zoning decision unlawful. That puts a big question mark over how independent or trustworthy the judicial system, especially at the very top, might be. What were they thinking when they made that decision not to spell out and make a declaration? (Ernest)

The issue of government accountability is particularly important in terms of people being able to recover and move on from their situation.

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### Findings: affected people's unanswered questions and unresolved issues

- 10.2. Some people affected by the red zoning decisions do not feel that their property rights have been adequately protected by the law.
- 10.3. Communication and engagement are issues that remain of concern to affected people.

# Glossary

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## Agencies

**Canterbury Communities' Earthquake Recovery Network (CanCERN):** a network of residents' association and community group representatives from the earthquake-affected neighbourhoods of Canterbury.

**Canterbury District Health Board:** under the Transition Recovery Plan to guide work programmes beyond CERA's cessation in April 2016, the Canterbury District Health Board, together with the Ministry of Health, took on the responsibility for psychosocial recovery work.

**Canterbury Earthquake Recovery Authority (CERA):** a government department, established by an Order in Council under the State Sector Act 1988 to lead and co-ordinate Canterbury's earthquake recovery.

**Christchurch City Council (CCC):** the local government body for Christchurch, the largest city in the Canterbury region of New Zealand.

**Department of the Prime Minister and Cabinet:** a government department. Under the Transition Recovery Plan to guide work programmes beyond CERA's cessation in April 2016, the Department took on responsibility for leading and co-ordinating the role of central government in the recovery and regeneration of Greater Christchurch.

**Earthquake Commission (EQC):** a Crown entity, established under the Earthquake Commission Act 1993, whose responsibilities include providing natural disaster insurance for residential property.

**Human Rights Commission:** an Independent Crown Entity, responsible for commenting and acting on human rights-related issues in New Zealand.

**Land Information New Zealand:** a government department. Under the Transition Recovery Plan to guide work programmes beyond CERA's cessation in April 2016, Land Information New Zealand took on responsibility for the remaining demolitions and clearing of government-owned property in the residential red zones, as well as the maintenance and interim land management of government-owned land in these zones.

**Ministry of Business, Innovation and Employment (MBIE):** a government department, whose responsibilities relating to Canterbury's earthquake recovery include housing. Under the Transition Recovery Plan to guide work programmes beyond CERA's cessation in April 2016, MBIE took on responsibility for strategic procurement and the remaining residential rebuild work.

**Ministry of Health:** a government department. Under the Transition Recovery Plan to guide work programmes beyond CERA's cessation in April 2016, the Ministry of Health, together with Canterbury District Health Board, took on responsibility for psychosocial recovery work.

**National human rights institutions:** bodies that monitor the effective implementation of international human rights standards at the national level. The Human Rights Commission is New Zealand's national human rights institution.

**New Zealand Red Cross:** the Red Cross have provided support to earthquake-affected Cantabrians

through a grants scheme and psychosocial services. The Red Cross partnered with the Human Rights Commission to distribute its survey in conjunction with the 2015 'Winter Warmer' outreach programme.

**Quotable Value (QV):** provides independent market valuations and rating valuations to the Christchurch City Council.

**Residential Advisory Service:** provides free, impartial help to residential property owners facing repair or rebuild challenges.

**Waimakariri District Council:** a local government body for Waimakariri District, which lies north of Christchurch city in the Canterbury region of New Zealand.

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## Terms

**Green zone:** Following the earthquake of 22 February 2011, the Government zoned land across Greater Christchurch. A green categorisation was applied to areas deemed generally suitable for construction, where earthquake repairs could proceed.

**Liquefaction:** A physical process that occurs when the strength and stiffness of a soil are reduced by earthquake shaking, resulting in silt-like substance rising to the surface of the land.

**Orange zone:** Following the earthquake of 22 February 2011, the Government zoned land across Greater Christchurch. Orange zoning indicated the need for further assessment.

**Over cap:** When damage occurs during a natural disaster event, EQC is liable for insurance claims below \$100,000. When damage exceeds this \$100,000 limit, they become 'over cap,' meaning that private insurance companies are liable for claims above this amount.

**Peak ground acceleration:** The maximum ground acceleration that occurs during an earthquake.

**Quake Outcasts:** A group of owners of uninsured red zoned properties and vacant land who initiated legal proceedings that challenged the Government's red zoning decision and the use of insurance as a determinative factor in the formulation of the purchase offer.

**Red zone:** Following the earthquake of 22 February 2011, the Government zoned land across Greater Christchurch. Land was classified red when it was deemed that remediating the land and repairing or rebuilding properties would be uncertain, disruptive, lengthy and uneconomically viable in the short to medium term.

**section 124 notice:** A notice issued under section 124 of the Building Act 2004 where a property is considered by the Christchurch City Council to be structurally unsafe as a result of earthquake damage, or where the Council believes there is an increased risk to life because of potential rock roll or cliff collapse.

**TC1, TC 2, TC3:** Areas green zoned after the earthquake of 22 February 2011 were divided by the Ministry of Business, Innovation and Employment (MBIE) into technical categories (TC) 1, 2 or 3 depending on their potential level of vulnerability to liquefaction.

**Under cap:** When damage occurs during a natural disaster event, EQC is liable for insurance claims below \$100,000. When damage is within this \$100,000 limit, it is 'under cap'.

**White zone:** Following the earthquake of 22 February 2011, the Government zoned land across Greater Christchurch. White zoning was applied to areas of the Port Hills which required further assessment in terms of rock-fall and cliff collapse risk. Parts of the Christchurch CBD were also zoned white, indicating they were not residential land.



# Appendix 1

## Survey development

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### Methodology

The development of the survey on which *Staying in the Red Zones: Monitoring Human Rights in the Canterbury Earthquake Recovery* is based involved multiple steps. Initially the Human Rights Commission met with agencies and community representatives who supported the idea of a follow-up report to *Monitoring Human Rights in the Canterbury Earthquake Recovery* (published in 2013), including Canterbury District Health Board, the New Zealand Red Cross, the Canterbury Communities' Earthquake Recovery Network (CanCERN) and others. Conversations with these agencies informed the Commission's thinking about the research, particularly in terms of its research questions and angle, as well as the logistics.

These agencies also expressed support for the Commission's intention to focus the research on people connected to the residential red zones, a decision that was made based on the Commission's work over the preceding four-and-a-half years, and especially the human rights enquiries and complaints it had received.

In developing its research questions the Commission used the OPERA framework developed by the Center for Economic and Social Rights, which promotes outcomes, policy efforts, resources and assessment as critical to effective policy monitoring.<sup>131</sup> The framework of Health In All Policies (HIAP) and work produced by its local iteration, Canterbury Health In All Policies Partnership (CHIAPP), also proved key to developing the research questions.<sup>132</sup> *A Guide to Good Survey Design*, produced by Statistics New Zealand,

was instrumental in guiding technical decisions relating to the survey's design.<sup>133</sup>

The style of the survey questions was influenced by other surveys that have focused on the wellbeing of residents in post-earthquake Christchurch, including: the New Zealand-wide Quality of Life Survey; the CERA Wellbeing Survey, carried out at six-monthly intervals since 2012; and the survey conducted by Canterbury's All Right? mental health campaign.

Having decided on a framework and style, the Commission worked on the survey content, producing a first draft. This draft aimed to capture the human rights issues pertaining to living on or owning land or property in the residential red zones, as gleaned by the Commission through its on-the-ground work and through the enquiries and complaints it had received in relation to earthquake recovery.

In addition to questions developed specifically to address the situation of the RRZs, the survey also included questions that had been incorporated into other surveys circulated among Cantabrians since the earthquakes. Most notable was the incorporation of the World Health Organisation's WHO-5 Index, which has been used to provide a measure of Cantabrians' post-earthquake wellbeing in both the CERA Wellbeing Surveys and the research for the All Right? Campaign. The inclusion of questions already circulated allowed for the data gathered in response to the RRZ survey to be directly compared with data gathered for other population groups in the region.

The draft survey was circulated for both internal and external review, with external review sought from four support or advisory agencies and seven individuals. These individuals represented residents

affected by different RRZs: people affected by section 124 notices; uninsured people; people affected by revaluation issues; and, owners of red zoned vacant land. The agencies and individuals were invited to give feedback to the Commission, either in person or via email or phone, with all individuals and all except one of the agencies taking the opportunity to respond. The feedback was generally very positive, with respondents expressing satisfaction that the situation of people living in the RRZs or owning vacant land in the RRZs would be the focus of the research.

Despite the primarily positive feedback, an element of discontent was expressed by some respondents, particularly in relation to the incorporation of certain questions deemed unnecessary or out of place, and the use of certain words. In response to these comments and suggestions, the survey was adapted, with questions edited, added or removed as appropriate. One example of this process was a respondent's reaction to the question "Are you still living in the residential red zone by choice?" The respondent commented that, as the zoning decision was beyond her control, she had had no opportunity to choose to remain in the RRZs or not. In response to her suggestion, the question was reworded to read, "Are you still living *at this address* by choice?" which more accurately captured the choice available to residents of the RRZs.

Having adapted the survey in response to the feedback received, the survey underwent one final review by Commission staff, resulting in the production of a 16-page self-complete survey.<sup>134</sup> Based on trial completion exercises, respondents were advised, at the top of the survey, that completion was expected to take 20 to 30 minutes. While the length of time involved possibly dissuaded some people from completing the survey, the Commission wanted to ensure people were aware of the detail required before they embarked on the process.

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## Ethical considerations

Following discussion with Canterbury District Health Board about the scope of the Commission's RRZ research, it was decided that formal ethics approval was not needed for the project. To give it ethical rigour, however, the research follows the *Ethical Guidelines for Observational Studies: Observational Research, Audits and Related Activities*, published by the Ministry of Health's National Ethics Advisory Committee.

The *Ethical Guidelines* are intended to facilitate high-quality studies, protect the interests of participants and assure the public of good study conduct. Observational studies are considered low risk in comparison to intervention studies, in that researchers observe and analyse information but do not alter the services or care that people receive.<sup>135</sup> Participants are also less likely in observational studies to be in a dependent relationship with the researcher.<sup>136</sup> Nonetheless, there are potential harms in conducting observational studies, such as breaches of confidentiality. Steps should be taken to reduce the possibility of any harm occurring.

Human rights monitoring is essential for ensuring that decision makers create the conditions in which people can enjoy their rights.<sup>137</sup> As independent bodies—officially established by legislation or constitution with a specific mandate to protect and promote human rights—national human rights institutions have a number of unique institutional characteristics that can enable them to effectively undertake this kind of policy monitoring. Effective monitoring through observational studies generally has more predictable benefits and fewer risks than other methods of research.<sup>138</sup> In general, when there is some engagement with affected communities during the conduct of an observational study, there is more likely to be long-term benefit to study participants and to the community.<sup>139</sup> Monitoring can uncover the ways in which laws and policies create, perpetuate or exacerbate deprivations of economic, social and cultural rights. Effective monitoring is essential for ensuring accountability in such cases.

Participation in the Commission's RRZ research was voluntary, with respondents self-selecting to complete the survey and follow-up interview. In order to ensure voluntary, informed participation, surveys were accompanied by a comprehensive Consent Form and Participant Information Sheet. These documents outlined details such as the purpose of the research, how the data would be used and shared, the length of time the data would be kept, and the participants' right to withdraw from the research at any stage. Individuals were assured they would not be identifiable, unless they elected to provide a non-anonymous interview case study (interviewees could choose to remain anonymous if they preferred). The Information Sheet also provided the number for Canterbury Support Line in case respondents wanted to contact counselling services. Participation in the survey was restricted to people aged 18 and over, to minimise risk. As part of fulfilling best research practice, participants were informed that the final report would be shared with them upon its completion.

Distribution of the surveys was carried out with partner agency the New Zealand Red Cross, in conjunction with its 2015 'Winter Warmer' outreach campaign (see Appendix 2). This partnership made it important to clarify the role of each agency in the research process. For this reason the Information Sheet for survey and interview respondents emphasised that the raw data (the surveys or the audio files) would be available only to the Commission. Only analysed and anonymised data would be shared with the Red Cross.

# Appendix 2

## Survey distribution

The constantly shifting population of the RRZs meant that one of the major difficulties faced in conducting the research was reaching potential respondents. Striving for full coverage of eligible respondents, and in order to reach the greatest number of people and best enable them to respond, the survey was made available both in hard copy and online through Survey Monkey. Outreach to people owning vacant land in the RRZs was through email, with potential respondents invited to submit their surveys online or request a hard copy from the Commission. Conversely, outreach to people living in the RRZs was initially through the delivery of hard copy surveys, with an invitation to submit online if this method was preferred. Respondents were provided with a personalised code for each survey in order to guarantee anonymity and ensure that only affected people could respond.

Delivery of the hard copy surveys was carried out by the Commission in June / July 2015 in conjunction with the New Zealand Red Cross, which in that year extended its 'Winter Warmer' outreach programme to incorporate the Greater Christchurch RRZs. This programme consists of a door-knocking campaign, through which the Red Cross distributes boxes containing items to improve people's winters, such as warm socks, hot water bottles, hot chocolate and door snakes. While distributing the boxes, the Red Cross conducts an assessment of people's needs, allowing staff to match identified needs with resources, such as relevant social support services.

The 2015 Red Cross campaign was intended to make a difference for people living in the RRZs, which was especially important as residents faced their fifth winter since the earthquakes. In terms of need, of the 55 houses visited when someone was home, residents of only four houses indicated they would appreciate a follow-up visit by the Red Cross. Of the 137 RRZ houses deemed occupied, 59 Red Cross Winter Warmer packs were delivered.

When residents were home at the time of the outreach, surveys were presented to them. The number of surveys presented corresponded to the number of adults resident in the house. Where no-one was home at the time of the outreach, two surveys were left in the mailbox of each house deemed occupied, with an invitation to request further surveys from the Commission if there were more than two adults resident in the house. A stamped, self-addressed envelope was provided with each survey for its easy return to the Commission. Respondents were alternatively able to complete their surveys online using the unique code allocated to each survey.

During the Commission / Red Cross outreach campaign, staff and volunteers visited each of the 385 RRZ addresses that had been identified as potentially occupied. The status of each of these addresses was documented, with the results as follows.

Addresses deemed to be occupied = 137 (including seven houses that were not red zoned)

Addresses unoccupied = 248, including:

- vacant land (never built on) = 10
- houses unoccupied = 45
- houses demolished = 165
- houses that could not be found (presumed demolished) = 22
- houses with no information provided (presumed demolished) = 6
- Houses demolished + houses presumed demolished = 193

Information on the number of people living in the house was provided by 52 people who were home when the outreach occurred. Between them these people indicated the presence of over 129 residents (the 'over' refers to the fact that the exact number of residents was not recorded for two houses).

Based on these figures, it can be calculated that on average 2.48 people live in each house in the RRZs:

- $129 \text{ residents} / 52 \text{ houses where occupation figures were known} = 2.48$ .

These calculations can be used to estimate that approximately 340 people were living in the RRZs at the time the surveys were distributed:

- $2.48 \times 137 \text{ occupied houses} = 340 \text{ people resident in the RRZs}$ .



# Appendix 3

## Survey response rate

Using this distribution method, 276 surveys were delivered. In addition to these hand-delivered surveys, 157 surveys were emailed to people who owned vacant land in the RRZs. Combining the number of surveys delivered by the Commission / Red Cross outreach, plus the surveys emailed, gives a total of 433 surveys distributed:

- 276 hard copy surveys delivered + 157 surveys emailed = 433 surveys.

With 103 surveys returned to the Commission, the survey response rate can be calculated as 24 percent:

- $103 \text{ responses} / 433 \text{ surveys distributed} \times 100 = 24 \text{ percent.}$

With 41 responses from vacant landowners of 157 distributed surveys, the response rate is 26 percent.

However, the actual survey response rate is likely to be higher than this due to the tendency of the Commission to 'over distribute' hard-copy surveys rather than not distribute enough: surveys were delivered to houses deemed occupied even in the absence of any clear indicators of habitation. Also, two surveys were usually sent to every vacant landowner email address to ensure people were provided with too many rather than not enough opportunities to respond.

Another way of calculating response rate is by working with the estimated number of 340 people remaining in the residential red zones in June/July 2015. Using this figure, the number of 62 survey submissions from red zone residents is a response rate of 18 percent of the possible total cohort.

The breakdown of the response rate to the survey by red zone area is outlined in Table A3.1 below, which also highlights the response rate per area based on the number of properties deemed occupied by Commission / Red Cross staff and volunteers during the outreach campaign.

**Table A3.1: Survey response rate, by red zone area**

Area	Number of survey respondents living in the RRZ	Number of residential properties occupied by respondents	Number of residential properties deemed occupied	Survey response rate (%) based on number of properties deemed occupied
1: Kaiapoi	6	3	20	15
2: Brooklands	14	10	23	44
3: Pines Beach, Kairaki	9	6	19	32
4: Avon Loop, Richmond, Linwood	0	0	2	0
5: Dallington, Burwood, Avonside	5	4	10	40%
6: Avondale, Aranui, Bexley, New Brighton, Wainoni	2	2	8	25
7: Southshore	0	0	0	0
8: Port Hills	26	15	55	27
<b>Total</b>	<b>62</b>	<b>40</b>	<b>137</b>	<b>Average = 29</b>

Source: data obtained from Human Rights Commission / Red Cross outreach campaign

These figures can be further broken down to indicate how many people responded from each of the three areas: Waimakariri District, the flat land in Christchurch and the Port Hills.

**Table A3.2: Survey response rate, by main geographical area**

Area	Number of survey respondents living in the RRZ	Number of residential properties occupied by respondents	Number of residential properties deemed by outreach team to be occupied	Survey response rate (%) based on number of properties deemed occupied
Waimakariri	15	9	39	23 %
Flat land	21	16	43	37 %
Port Hills	26	15	55	27 %
<b>Total</b>	<b>62</b>	<b>40</b>	<b>137</b>	<b>Average = 29</b>

Source: data obtained from Human Rights Commission / Red Cross outreach campaign

**Key**

	RRZ properties in Waimakariri District Council
	Flat-land RRZ properties in Christchurch
	Port Hills RRZ properties in Christchurch

# Appendix 4

## Survey analysis and guide to its interpretation

Analysis of the quantitative data obtained from the Human Rights Commission's *Staying in the Red Zones: Monitoring Human Rights in the Canterbury Earthquake Recovery* survey was conducted by data analysis and research company Nielsen.

Surveys were returned by 103 respondents, with 54 respondents completing the survey online and 49 returning hard copy survey forms. With a sample size of 103, the overall results of the RRZ survey have a maximum predicted margin of sampling error of  $\pm 9.8$  percent based on a large survey sample. In fact, because the number of people affected by the red zoning is relatively small, a finite sample adjustment should be applied, but it is difficult to be exact about this adjustment because the population is not precisely known. However, based on an estimated population of 340 residents, this adjustment would reduce the maximum predicted margin of sampling error to  $\pm 8.2$  percent. This figure does not include vacant landowners.

Results for sub-samples of the population should be treated as indicative only because of their relatively small size. Therefore, aside from results for residents' level of satisfaction living in the red zone and the WHO-5 Index results, which can be compared with the WHO-5 results obtained from other surveys of Canterbury residents, the results have not been cross-analysed for different sub-groups of residents. Base sizes less than 10 have been indicated with two asterisks (\*\*) and base sizes between 10 and 29 have been indicated with one asterisk (\*).

All questions were optional, so some respondents did not answer every question. Some respondents either chose not to, or omitted to, answer various survey

questions, so the results are presented on the base of respondents who answered the question, given that no assumptions can be made about those who did not. Therefore each percentage is accompanied by a base number (n) indicating the number of respondents for each question.

In some cases the proportions of those responding do not add up to 100 percent. Typically this is due to one of the following reasons.

- Percentages were rounded to the nearest whole number (usually resulting in totals of 99 percent or 101 percent).
- Multiple responses were allowed (e.g. responses to open-ended questions or lists of responses such as the number of main insurers people have). In these cases, the totals may add up to well over 100 percent. This is because the percentages are calculated based on the number of respondents who answer the question rather than the number of comments made. As a hypothetical example, if 100 people say they use 200 insurers (an average of two each), then the total would be 200 percent.

# Appendix 5

## Timeline of key land-zoning announcements<sup>140</sup>

<b>23 June 2011</b>	<p>Initial announcement of the Greater Christchurch land zoning:<sup>141</sup></p> <ul style="list-style-type: none"><li>• red zones: areas deemed uneconomically viable for repair in the short to medium term given the high risk of extensive damage in a future event (some flat-land areas in Christchurch City and Waimakariri District)</li><li>• orange zones: areas where further investigation was required (due in part to further damage from the magnitude 5.6 and 6.3 earthquakes on 13 June 2011)</li><li>• green zones: areas deemed viable for repair</li><li>• white zones: areas where mapping was still required, or which were not residential land (Port Hills and the Central Business District)</li></ul>
<b>5 September 2011</b>	<p>Announcement of the re-zoning of more than 9,700 residential properties in the Port Hills from white to green, leaving approximately 3,700 white zoned properties</p>
<b>14 October 2011</b>	<p>Announcement of the re-zoning of all properties in Banks Peninsula from white to green, except for 20 properties in the Church Bay and eastern Diamond Harbour area</p> <p>Of the 5,443 Banks Peninsula properties re-zoned to green:</p> <ul style="list-style-type: none"><li>• 4,359 were residential and lifestyle properties</li><li>• 88 were commercial and industrial properties</li><li>• 996 constituted other types of property, such as parks and health and education facilities</li></ul>
<b>28 October 2011</b>	<p>Announcement of the re-zoning to green of 6,430 of the remaining 8,096 orange zoned properties (80 percent of the total)</p>
<b>17 November 2011</b>	<p>Announcement of the green zoning of 8,300 non-residential properties across Greater Christchurch previously in the un-mapped white zone</p>

## Appendix 5

### Timeline of land-zoning announcements

<b>17 November 2011</b>	Announcement of the re-zoning to green of a further 758 orange zoned properties (89 percent of the total)
<b>19 December 2011</b>	Announcement of the re-zoning to green of a further 1,600 white zoned residential properties in the Port Hills area
<b>10 February 2012</b>	Announcement of the re-zoning of 42 orange zoned properties to green and 213 orange zoned properties to red
<b>23 March 2012</b>	Announcement of the re-zoning of 251 residential properties in Christchurch's Central City, Richmond South and Linwood from orange to red
<b>18 May 2012</b>	<p>Announcement of the re-zoning of 421 Port Hills properties to green, and of the affected 401 properties in Southshore West:</p> <ul style="list-style-type: none"><li>• 198 were zoned red</li><li>• 203 were zoned green</li></ul>
<b>15 June 2012</b>	Announcement of flat-land zoning review process
<b>29 June 2012</b>	<p>Announcement of re-zoning of the 1,558 affected Port Hills residential properties:</p> <ul style="list-style-type: none"><li>• 285 were zoned red</li><li>• 1,107 were zoned green</li><li>• 166 remained white zoned awaiting further assessment</li></ul>
<b>17 August 2012</b>	<p>Announcement of the re-zoning of 126 of the remaining 163 white zoned properties in the Port Hills:</p> <ul style="list-style-type: none"><li>• 121 were zoned red</li><li>• five were zoned green</li><li>• 37 remained white zoned (six in the Horotane Valley and 31 on Bridle Path Road) awaiting further assessment</li></ul>
<b>24 August 2012</b>	Announcement of the completion of the flat-land zoning review, in which 101 properties were zoned red and three properties were zoned green <sup>142</sup>



- |                          |  |
|--------------------------|--|
| <b>13 September 2012</b> | <p>Announcement of the zoning to red of 37 remaining white zoned properties in the Port Hills (in the Horotane Valley and on Bridle Path Road) due to rock-roll risk</p> <p>Eight properties in Lucas Lane remained white zoned</p>  |
| <b>9 October 2012</b>    | <p>Announcement of the Port Hills zoning review process</p>  |
| <b>31 October 2012</b>   | <p>Announcement of the completion of the land-zoning process for Greater Christchurch following the zoning of the final eight residential properties in the Port Hills from white to green<sup>143</sup></p> <p>Announcement of the number of applications for zoning review in the Port Hills: 132 applications were received from property owners:</p> <ul style="list-style-type: none"> <li>• 60 properties were zoned green and would like to have been zoned red</li> <li>• 72 properties were zoned red and would have preferred to be green</li> </ul> |
| <b>5 December 2013</b>   | <p>Announcement of completion of the Port Hills zoning review, bringing the total number of red zoned Port Hills properties to 714:</p> <ul style="list-style-type: none"> <li>• a further 237 Port Hills properties (at 96 addresses) were zoned red</li> <li>• 33 properties were re-zoned green<sup>144</sup></li> </ul>  |

# Appendix 6

## Timeline of key Government announcements about and legal interventions in the Residential Red Zones

<b>29 March 2011</b>	Establishment of the Canterbury Earthquake Recovery Authority (CERA)
<b>18 April 2011</b>	Passing of the Canterbury Earthquake Recovery Act 2011
<b>23 June 2011</b>	<p>Announcement of the Government purchase offer to owners of insured red zoned residential properties in the Christchurch flat land. Property owners could accept either:</p> <ul style="list-style-type: none"><li>• 100 percent of the 2007 rateable value for land, buildings and fixtures on the property (and any insurance claims were then assigned to the Government), or</li><li>• 100 percent of the 2007 rateable land value only (and any insurance claims on buildings and fixtures on the property were retained by the owners)<sup>145</sup></li></ul>
<b>18 August 2011</b>	<p>Announcement that this same offer would be extended to owners of the 940 insured red zoned residential properties in Waimakariri District</p> <p>Owners of insured red zoned residential properties in the Port Hills were also eligible for this offer as decisions were made about the zoning in this area</p>
<b>19 August 2011</b>	Mailout of purchase offers to the first 3,000 owners of eligible red zoned properties
<b>13 September 2012</b>	<p>Announcement of the Government purchase offers for owners of vacant land, and commercial and uninsured properties, in the flat-land residential red zone.</p> <ul style="list-style-type: none"><li>• Owners of insured commercial properties were offered the option of either:<ul style="list-style-type: none"><li>◦ 50 percent of the 2007/08 rateable land value and 100 percent of the 2007/08 rateable value for any insured improvements on</li></ul></li></ul>

	<p>the property (insurance claims were then assigned to the Government), or</p> <ul style="list-style-type: none"> <li>• 50 percent of the 2007/08 rateable land value only (insurance claims on any improvements on the property were retained by the owners).</li> <li>• Owners of vacant land were offered 50 percent of the 2007/08 rateable value.</li> <li>• Owners of uninsured properties were offered 50 percent of the 2007/08 rateable land value, with no payment for improvements on the property.</li> </ul>
<b>26 August 2013</b>	Decision of the High Court that there had been no prerogative power to create the red zones, and that the Canterbury Earthquake Recovery Minister had not followed correct statutory procedure (i.e. the Government's decision to red zone parts of Greater Christchurch was not lawfully made) <sup>146</sup>
<b>3 December 2013</b>	The Court of Appeal decided that the decision to red zone parts of Greater Christchurch was lawfully made and well conducted, and that there was a rational basis for distinguishing between insured and uninsured property, but that the 50 percent offer was not in line with the CER Act
<b>30 July – 12 September 2014</b>	Public engagement on the future use of the Waimakariri District red zones, called <i>Canvas: Your Thinking for the Red Zones</i>
<b>12 September 2014</b>	Completion of the <i>Canvas</i> public engagement
<b>26 December 2014</b>	Release of the CERA report on suggestions put forward in <i>Canvas</i> <sup>147</sup>
<b>13 March 2015</b>	Decision of the Supreme Court that, among other points, the Government's September 2012 decisions relating to uninsured red zoned residential property owners and to vacant residential land owners were not lawfully made <sup>148</sup>
<b>21 April 2015</b>	Announcement of the decision to develop a Recovery Plan, allowing public commentary on the Government offers to owners of red zoned commercial, vacant and uninsured properties <sup>149</sup>
<b>5–19 May 2015</b>	Public engagement on the <i>Preliminary Draft Residential Red Zone Offer Recovery Plan</i> , during which more than 800 submissions were received

## Appendix 6

### Time line of key Government announcements about legal interventions in the RRZs

<b>20 June 2015</b>	New Zealand made a commitment to the Sendai Framework for Disaster Risk Reduction and the Ministry of Civil Defence and Emergency management is reviewing the Civil Defence Emergency Management Strategy. The implementation of the Strategy will demonstrate over time New Zealand's progress towards the priorities of the Sendai Framework.
<b>25 June – 9 July 2015</b>	Public engagement on the <i>Draft Residential Red Zone Offer Recovery Plan</i>
<b>30 July 2015</b>	Release of CERA's <i>Residential Red Zone Offer Recovery Plan</i>
<b>6 August 2015</b>	<p>Announcement of the revised Government offer for owners of vacant, commercial and uninsured properties in the residential red zones:</p> <ul style="list-style-type: none"><li>• Owners of insured commercial properties were offered the option of either:<ul style="list-style-type: none"><li>◦ 100 percent of the 2007/08 rateable land value and 100 percent of the 2007/08 rateable value for any insured improvements on the property (insurance claims were then assigned to the Government), or</li><li>◦ 100 percent of the 2007/08 rateable land value only (insurance claims on any improvements on the property were retained by the owners).</li></ul></li><li>• Owners of vacant land were offered 100 percent of the 2007/08 rateable value.</li><li>• Owners of uninsured properties were offered 100 percent of the 2007/08 rateable land value, with no payment for improvements on the property.</li></ul>
<b>3 September 2015</b>	Announcement of the preparation of a Recovery Plan for the future use of the residential red zones in Waimakariri District <sup>150</sup>
<b>3 – 30 September 2015</b>	Public engagement on the <i>Waimakariri Residential Red Zone Discussion Document</i>
<b>3 October 2015</b>	Publication of "Let's Discuss", providing information on the future use of the RRZs in Waimakariri
<b>19 October 2015</b>	Introduction of the Greater Christchurch Regeneration Bill

<b>22 October 2015</b>	Release of <i>Greater Christchurch Earthquake Recovery: Transition to Regeneration (Transition Recovery Plan)</i> , <sup>151</sup> which details which agencies will take on CERA's responsibilities beyond its cessation in April 2016, including its residential red zones responsibilities
<b>4 December 2015</b>	Deadline for submissions on the Greater Christchurch Regeneration Bill
<b>10 December 2015</b>	Deadline for accepting the revised Government offer for owners of vacant land, commercial properties or uninsured residential properties  Deadline for accepting the Government offer for owners of insured properties in the Port Hills
<b>5 February 2016</b>	Release of the <i>Preliminary Draft Waimakariri Residential Red Zone Recovery Plan</i> ("Let's Plan"), setting out options for proposed long-term land uses in the five Waimakariri regeneration areas in Kaiapoi, Pines Beach and Kairaki
<b>5 February – 4 March 2016</b>	Public engagement on the <i>Preliminary Draft Waimakariri Residential Red Zone Recovery Plan</i>
<b>26 February 2016</b>	Final settlement date for owners of vacant land, commercial properties or uninsured residential properties
<b>7 April 2016</b>	Passing of the Greater Christchurch Regeneration Act. The purposes of the Act include enabling community participation in recovery / regeneration processes, for example through recovery and regeneration plans, and public engagement is a requirement of any regeneration plan process. The legislation also contains provisions requiring the exercise of power to meet the purposes of the Act, and that the relevant chief executive or Minister must reasonably consider it necessary to exercise that power to meet those purposes.
<b>18 April 2016</b>	Cessation of CERA
<b>18 April 2016</b>	Expiration of section 124 notices issued under the CER Act



## Endnotes

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- 12 Hon. Bill English, *Budget 2016: Overview*, 26 May 2016, <https://www.beehive.govt.nz/release/budget-2016-overview>.
- 13 New Zealand Government, *Budget speech*, 21 May 2015, <http://www.treasury.govt.nz/budget/2015/speech>.
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- 15 Canterbury Earthquake Recovery Authority [Nielsen], *Residential red zone survey (of those who accepted the Crown offer)*, February 2016, p. 31.
- 16 Canterbury Earthquake Recovery Authority, *Land zones*, <http://cera.govt.nz/land-information/land-zones> (accessed 7 August 2015).
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- 29 Data provided by Land Information New Zealand in August 2016. Note that this more recent data presents a slightly different picture of the acceptance of the Crown offer than the data provided by CERA in April 2016. The LINZ data states that 7,871 properties were red zoned, of which 7,719 owners had settled with the Crown as at August 2016, with a further four owners yet to settle. According to the LINZ data, 148 owners did not accept the Crown purchase offer.
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- 31 *Fowler Developments Ltd v Chief Executive of the Canterbury Earthquake Recovery Authority* [2013] NZHC 2173 <https://www.hrc.co.nz/files/4514/2427/9545/Fowler-Developments-Ltd-v-CE-CERA-and-Quake-Outcasts-v-Min-for-CER-and-O.pdf> (accessed 8 April 2016).
- 32 Section 5(2)(j) of the Human Rights Act 1993 provides that the Commission may “apply to a court or tribunal, under rules of court or regulations specifying the tribunal’s procedure, to be appointed as intervener or as counsel assisting the court or tribunal, or to take part in proceedings before the court or tribunal in another way permitted by those rules or regulations, if, in the Commission’s opinion, taking part in the proceedings in that way will facilitate the performance of its functions stated in paragraph (a).”
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- 35 Canterbury Earthquake Recovery Authority, *Residential Red Zone Offer Recovery Plan*, July 2015, <http://cera.govt.nz/sites/default/files/common/residential-red-zone-offer-recovery-plan-2015-07-30.pdf> (accessed 8 April 2016).
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- 50 Ibid., p. 14.
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- 82 The Commission offers a confidential enquiries and complaints service to respond to issues of discrimination and racial and sexual harassment. The Commission also responds to complaints about broader human rights issues. In the earthquake context these broader issues have been centred around property rights and the right to adequate housing and health. The Commission also regularly makes policy submissions on recovery related issues. The Commission's earthquake related legal work has been predominantly focused on raising awareness of human rights issues in relation to the owners of red zoned uninsured property.
- 83 *Kraal v Earthquake Commission* [2014] NZHC 919; [2014] 3 NZLR 42; *Kraal v EQC* [2015] NZCA 13; [2015] 2NZLR589.
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- 85 Canterbury Earthquake (Building Act) Order 2011, cl. 7.
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- 91 Independent Hearings Panel, Christchurch Replacement District Plan, Chapter 5, Natural hazards, Transcript of proceedings, 12 March, 2015, David Bell, p. 833. A number of interview

participants noted that their individual properties were not visited before being red zoned and/or having section 124 notices applied.

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93 A. Taig, Statement of evidence of Anthony Richard (Tony) Taig on behalf of Christchurch City Council: Risk, before the Christchurch Replacement District Plan Independent Hearings Panel, 13 February 2015, p. 10.

94 P. J. Nicholson Communicating health risk, *Occupational Medicine*, 49(4), 253–258, 1999, <http://occm.oxfordjournals.org/content/49/4/253.full.pdf> (accessed 15 May 2016).

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96 Note that the Regulations Review Committee did not take the opportunity to respond to the Commission's draft survey.

97 See: [http://www.parliament.nz/resource/mi-nz/50DBSCH\\_SCR6194\\_1/ee3a110695b348b113ed0f276f160798313f4c78](http://www.parliament.nz/resource/mi-nz/50DBSCH_SCR6194_1/ee3a110695b348b113ed0f276f160798313f4c78).

98 Ibid.

99 See: [http://www.parliament.nz/resource/mi-nz/50DBHOH\\_PAP56771\\_1/62c21fd35eb0dde1d3f5dc85c357732ba1c36707](http://www.parliament.nz/resource/mi-nz/50DBHOH_PAP56771_1/62c21fd35eb0dde1d3f5dc85c357732ba1c36707)

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to managing buildings under normal, business-as-usual powers in the Building Act 2004

- the need for a clearer legislative mandate for the system for managing buildings after emergencies
- insufficient powers in the Building Act 2004 to manage the life safety risks posed by some buildings after emergencies. Canterbury Earthquakes Royal Commission.

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