

Summary and analysis of the Canterbury Earthquake Recovery Act 2011

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In response to the disaster of Canterbury's earthquakes and the formidable recovery task that now faces the country, Parliament has passed the Canterbury Earthquake Recovery Act 2011 (the Act).

The Act requires the newly-created Canterbury Earthquake Recovery Authority (CERA) to plan and execute a recovery strategy for greater Christchurch and gives CERA significant powers to make that possible.

Purpose of the Act

The Act lists several purposes, but broadly, these fall into the following categories:

- The provision of appropriate institutions, powers and support to enable greater Christchurch to be rebuilt and otherwise recover as quickly and fully as possible
- The involvement of communities and the public in the decisions made about the rebuilding of their own area
- The restoration of the greater well-being of Christchurch communities.

Broadly, the Act encourages collaborative decision-making, particularly at higher levels, and the emphasis throughout is on a successful, swift and complete recovery.

Substance of the Act

The Act is structured around the development of a *Recovery Strategy* and accompanying *Recovery Plans*. The Recovery Strategy is to be a long-term, wide-ranging strategy for the recovery of greater Christchurch, and will set out the areas that must be specifically addressed through Recovery Plans. By contrast, the Recovery Plans will be more specific, and limited to the plan for recovery of particular areas or community issues.

CERA is responsible for developing the Recovery Strategy, with wide consultation, while local authorities and others will be responsible for Recovery Plans. For example, the Act requires the Christchurch City Council to take the lead on the Recovery Plan for the Christchurch CBD.

The Act establishes two forums to advise the Minister, with the intent being to make the recovery as representative of different interests as possible. The community forum will include twenty leaders in greater Christchurch, while the cross-party forum will include all MPs from Christchurch.

CERA's powers

Parliament clearly intends the Recovery Strategy to prevail over all existing rights and documents, and the Act reflects this with the extent of powers it grants to CERA. Among many others, CERA's chief executive will have the authority to do the following:

- Require councils to act as directed, and or to provide information on request
- Amend or revoke RMA documents and city plans
- Close or otherwise restrict access to roads and other geographical areas
- Demolish buildings, or otherwise enter and deal with people's land and property (with notice, in the case of Marae and dwellinghouses)
- Require compliance of any person with a direction made under the Act.

It is a significant point that in many cases, there will be no compensation for the loss resulting from demolitions and other works CERA (or its agents) undertakes as part of its Recovery Strategy. In addition, the cost of demolishing dangerous buildings may be recovered from the owners of such buildings.

Practicalities of CERA's operation

The basic structure of the recovery process under the Act is clear: CERA is a central decision-making authority, directing councils and other local organisations to implement its Recovery Strategy. It appears, however, that the more practical Recovery Plans will be the responsibility of local authorities and community organisations, either as a result of being directed by the chief executive or as the result of an organisation's own request that it be responsible for particular issues or areas. Accordingly, community organisations and local authorities, in particular, are likely to have a significant role in shaping the recovery.

CERA's chief executive is responsible for establishing a collaborative relationship with the relevant local authorities (among others). The Act does not elaborate on the nature of that relationship, but reads as if the local authorities will be involved both in the consultation and implementation aspects of the Recovery. Owing to the vast amount of local information and expertise residing in local authorities and other organisations, CERA will likely be heavily reliant on these bodies for assistance as it carries out its functions.

It is not clear whether CERA will behave as a confirmation authority for works proposals made by local authorities, or whether it would plan individual operations itself. However, it is possible that the entity responsible for a particular Recovery Plan would be the one to make related works proposals to CERA for approval by the chief executive.

Conclusion

The Act is a radical piece of legislation that will have an unprecedented impact on the landscape of local government throughout greater Christchurch. It includes extraordinary powers to override existing plans, and regulatory requirements and prescribes urgent deadlines for planning and executing Christchurch's recovery. At least partly because further powers may be created by Order in Council, it is not possible to predict with any certainty how CERA will operate or interact with community organisations and local authorities. It will be interesting to see how the recovery unfolds as Christchurch gets back on its feet.

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