

Community Forum
Private Bag 4999
Christchurch 8140

**Meeting notes for the meeting of the CERA Community Forum
Thursday 30 January 2014, 6:00pm
Canterbury Club, Cambridge Terrace**

Present:

Community Forum members:

Richard Ballantyne, Leah Carr, Leanne Curtis, Martin Evans, Maria Godinet-Watts, Tom McBrearty, Deborah McCormick, Lesley Murdoch, Jocelyn Pappill, Faye Parfitt, John Peet, Emma Twaddell, John Wong, Darren Wright

Apologies

Weng Kei Chen, Gill Cox, Ruth Jones, Trevor McIntyre, Patricia Siataga, Rachel Vogan
Hon Amy Adams, Associate Minister for Canterbury Earthquake Recovery

Chair

Darren Wright

In Attendance

Benesia Smith, Deputy Chief Executive, Strategy and Governance, CERA
[redacted] Legal Advisor, Planning, Strategy and Governance, CERA (Item 1 only)
Amanda Shaw, Acting Manager, Ministerial and Executive Services, CERA
[redacted] Advisor, Ministerial and Executive Services, CERA

Withheld under section 9(2)(a)

Agenda

**1. The Forum's Role under the Canterbury Earthquake Recovery Act 2011 – [redacted]
[redacted] Legal Advisor, Strategy and Governance, CERA**

Withheld under section 9(2)(a)

[redacted] gave a presentation on the Canterbury Earthquake Recovery Act 2011 (the Act) and the Forum's role under the Act. More comprehensive notes are attached as Attachment A.

- The Community Forum is a body set up under the Act for the purpose of providing information and advice to the Minister for Canterbury Earthquake Recovery and the Chief Executive.
- As a body set up under statute for that specific purpose, the Forum provides information and advice to the Minister on:
 - o actions he or the Chief Executive is considering taking; or
 - o actions that the Forum thinks that the Minister or the Chief Executive should consider takingunder the CER Act, that are related to earthquake recovery in the greater Christchurch area of Waimakariri, Selwyn and Christchurch.

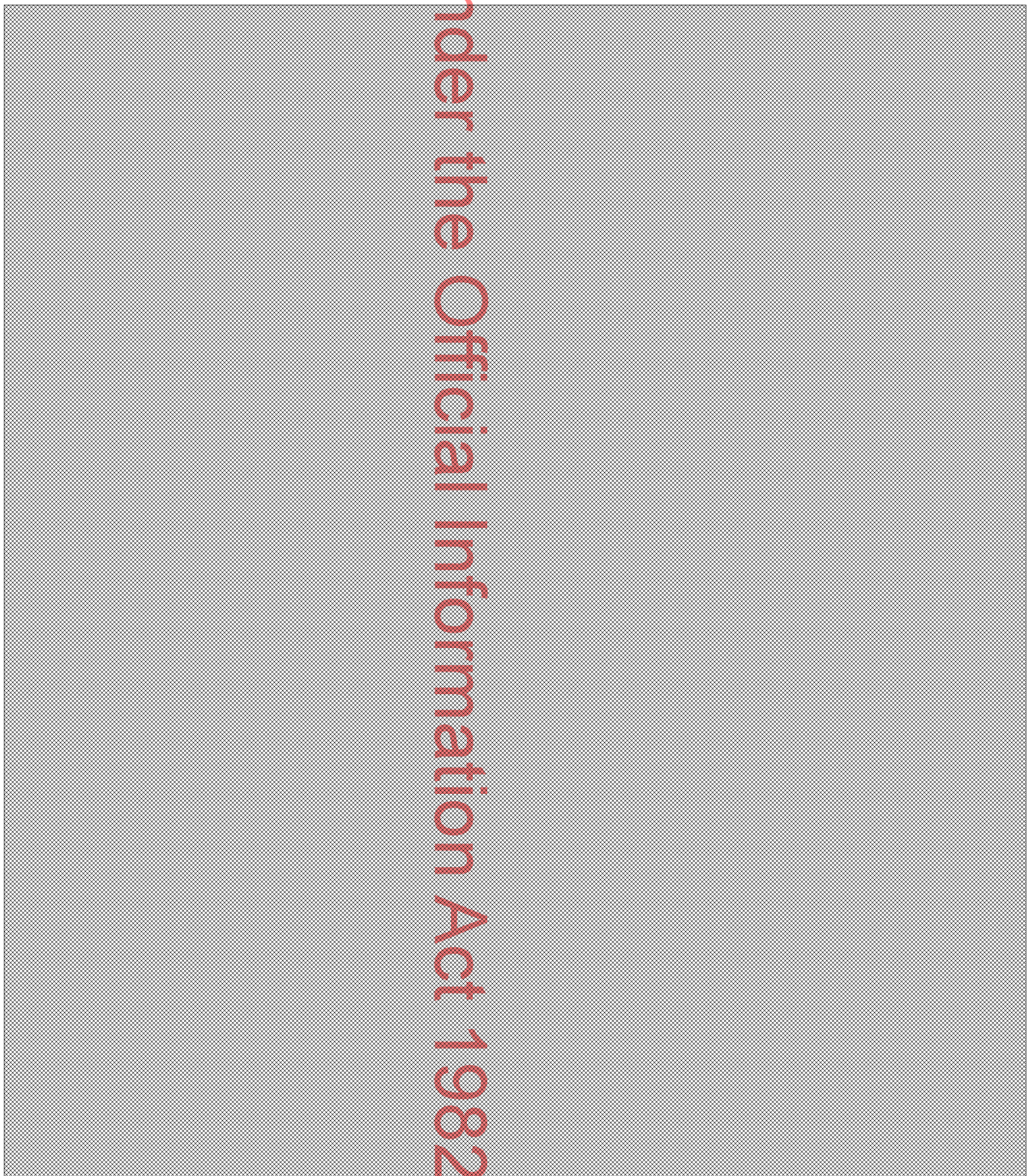
Discussion:

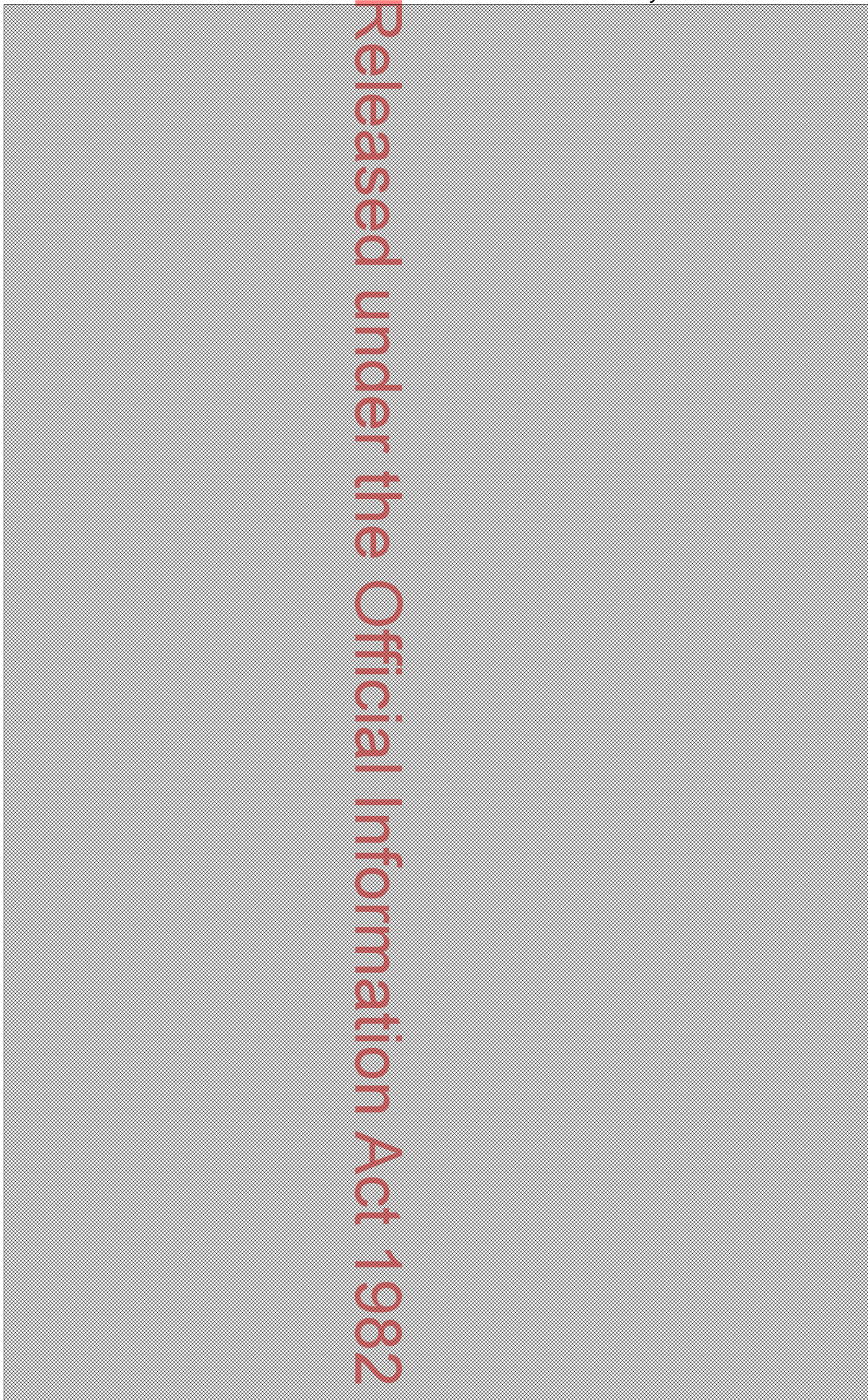
- The Forum asked about their position to provide advice about issues that the community considers are important for earthquake recovery, which CERA or the Minister may not be actively working on. CERA advised that if it related to earthquake recovery and communities/a community within the greater Christchurch area, then the Forum was an appropriate place for discussion about these issues.

- The Forum asked about the development of 'plans' that the community believe should be written, and whether the Forum was an appropriate place to discuss how to instigate such plans. Again CERA advised that should the plans relate to community and earthquake recovery they are most likely appropriate for the Forum to consider. It was noted that, in fact, the Forum meetings provide a good opportunity to consider plans proposed by communities in greater Christchurch.
- The Forum asked for clarification about when they can provide proactive advice to the Minister as opposed to providing advice on matters the Minister refers to the Forum. CERA advised that the Forum should apply the 'earthquake recovery and community' test to this situation as well.
- Should the Forum have further questions about the CER Act and/or the Forum's role it was noted that CERA can provide advice on these questions.

Withheld under section 9(2)(f)(iv)

2.





Released under the Official Information Act 1982



Withheld under section 9(2)(f)(iv)

Action Point:

3. Notes of previous meeting

Moved

That, subject to the amendments discussed below, the meeting notes from 5 December 2013 meeting be confirmed as an accurate record.

Carried

Matters arising

The Forum agreed that the 'present' and 'apologies' sections of the previous meeting notes require minor amendments.

4. Other matters

- The Forum noted the upcoming One Voice Te Reo Kotahi (OVTRK) meeting which is titled 'Issues relating to CERA transitioning out in 2016'. This meeting is scheduled for 10 March.
- The Forum asked for an update about the Ministry for Culture and Heritage's draft Arts, Culture and Heritage Recovery Programme and requested that the draft be discussed at an upcoming Forum meeting as soon as possible.

Action Point:

CERA to confirm with the Ministry for Culture and Heritage (MCH) the current status of the draft Arts, Culture and Heritage Recovery Programme and request that MCH provides a draft of this document for the Forum to consider as soon as possible.

Next Meeting – 20 February 2014.

Meeting closed 8:05pm

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Attachment A

Notes for Community Forum on Thursday, 30 January 2014 – Canterbury Club

Presentation by [REDACTED] Legal Advisor, CERA

Withheld under section 9(2)(a)

You have asked for:

- guidance on your role; and
- some information about the Minister's powers under the Canterbury Earthquake Recovery Act 2011.

Section 6 of the Canterbury Earthquake Recovery Act 2011 (the CER Act) sets out the structure and role of the Community Forum (the Forum).

S 6(2) The Minister for Canterbury Earthquake Recovery must invite at least 20 persons who are suitable qualified to participate in the forum.

- 39 members were originally appointed to the Forum representing a diverse range of communities within the greater Christchurch area.

Your role on the Forum is important as section 3(b) of the CER Act states that one of the purposes of the Act is:

- (b) to enable community participation in the planning of the recovery of affected communities without impeding a focused, timely, and expedited recovery:

The Minister and Chief Executive can rely on the information and advice you provide as representatives of your communities.

S 6(3) states that the Minister must ensure that the forum meets at least 6 times a year.

- Minister's quarterly report to Parliament under section 88 of CER Act records that this requirement has been regularly exceeded.

S 6(1) states that:

The Minister must arrange for a community forum to be held for the purpose of providing him or her with information or advice in relation to the operation of this Act.

- The Associate Minister attends many of your meetings.
- Minutes and notes are taken which are provided to the Minister and Associate Minister as well as CERA's Chief Executive.

Your role is to provide advice/information on matters that relate to earthquake recovery within the greater Christchurch area.

The CER Act has no mandate outside the boundaries of Waimakariri District, Selwyn District and Christchurch City.

- The Forum's advice, therefore, cannot be on Canterbury-wide issues.
- Issues that existed pre-earthquake and haven't changed as a result of the earthquakes are outside the CER Act and the role of CERA and the Minister for Canterbury Earthquake Recovery.

Therefore, it is not open to the Forum to give advice on matters outside the Act; either geographically outside greater Christchurch or by topic if the topic was pre-existing business as usual.

Under s 6(4), both the Minister and the Chief Executive of CERA must have regard to any information or advice they are given by this forum.

Having 'regard' to advice has a specific meaning in legislation. It means that the Minister/Chief Executive has to consider the advice and/or information as part of their decision making processes but they do not necessarily have to give effect to the advice.

When considering an issue or action under the CER Act, including having regard to your information/advice, s 10(1) of the CER Act requires:

The Minister and the chief executive must ensure that when they each exercise or claim their powers, rights, and privileges under this Act they do so in accordance with the purposes of the Act.

- It is the role of departmental officials to provide advice on whether or not the proposal comes within the purposes of the Act.
- CERA officials should not be asking you whether or not a proposal fits within the purposes of the CER Act.

Section 10(2) limits the Minister and the Chief Executive's exercise or claim of a power, right or privilege under this Act to where he reasonably considers it necessary.

And as a result of that reasonable consideration, for the purposes of s 10(2) he must find that it is necessary to exercise his powers. If he has the ability to achieve the same outcome without exercising his powers, then it is not necessary. He would fail on the test in s 10(2).

Section 10(3) allows the Chief Executive to delegate to any employee at CERA any of his functions or powers under this Act or any other Act.

As some of the officials that regularly attend the meetings of the Forum have been delegated some of the Chief Executive's powers and functions under the CER Act, they receive your advice and information in the same way that the Minister and Chief Executive do. They must have regard to it and they must:

- Consider whether the proposal meets the purposes of the CER Act as outlined in section 3 and whether the proposal is necessary.

Finally, the CER Act provides for Orders in Council to be made that amend existing legislation. Here it is the 'relevant Minister' (responsible for the legislation that is being modified) who has to take into account the purposes of the CER Act and have regard to comments from the Review Panel.

Where the relevant Minister is not the Minister for Canterbury Earthquake Recovery, no input is legally needed from the Forum.

To summarise:

- The Forum is a body set up under the CER Act for the purpose of providing information and advice to the Minister for Canterbury Earthquake Recovery and the Chief Executive.
- As a body set up under statute for that specific purpose, the Forum provides information and advice to the Minister on:
 - o actions he or the Chief Executive is considering taking or
 - o actions that the Forum thinks that the Minister or the Chief Executive should consider takingunder the CER Act, that are related to earthquake recovery in the greater Christchurch area of Waimakariri, Selwyn and Christchurch.