

The Plan for a new central city

[Home](#) » [FAQ](#) » FAQ - Land Acquisition

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78. What is land acquisition?

Land acquisition refers to the purchase or taking of land. Under the CER Act the chief executive of CERA is able to purchase land as part of a voluntary negotiation with the owner. The CER Act also provides for the Minister for Canterbury Earthquake Recovery to compulsorily take the land. There is no requirement in the CER Act to try to voluntarily purchase the land before compulsory taking, but where people are willing to negotiate a commercial settlement CERA is very willing to enter into such negotiations. Together, purchase and taking are referred to as "acquiring".

79. How will voluntary purchase work?

In early August 2012 every land owner affected by a designation will be sent a letter advising what has happened and asking them to fill in a questionnaire giving information about contacts, property details, other interests such as leases and insurance information. The Crown's agents (The Property Group) will make contact with each land owner within a week of the letter being sent. The sooner that form is returned with complete information the sooner negotiations on a commercial settlement can commence with Crown's agents.

The voluntary purchase will enable sellers to include conditions in the purchase including settlement dates. CERA will prepare appropriate agreements for sale and purchase of land and buildings – these will not be based on the modified agreements used for Residential Red Zone purchases. The Crown will be using a Crown conveyancer (one or more private law firms) to act on its behalf to complete the transactions. Land owners should also seek their own professional advice.

80. Will a voluntary purchase price be based on 2007 rating values as was the case for the Residential Red Zone?

No. The purchase of properties for anchor projects is not covered by the options provided for the Residential Red Zone. The purchase price will be as a result of negotiations and will reflect the value of land on the date of acquisition. CERA will be using its own valuations as a base for negotiations.

81. Who has undertaken the valuations for CERA?

Valuations have been undertaken by Telfer Young and reviewed by Colliers. The same values will be used as a basis for compulsory acquisition.

82. How will compulsory acquisition work?

Although CERA will start by seeking a voluntary purchase, it will also begin the compulsory acquisition process around the same time. All affected land owners will be sent a Notice of Intention to Take Land, most likely during August to October 2012 depending on which sites are involved. These Notices will be registered against the computer register (the replacement for paper titles). The Notices have a life of 3 years (although this can be extended). Even with the Notices in place, negotiations to purchase will continue.

The timing of negotiations will depend on the priority of the anchor projects – the first tranche being the Convention Centre, the East Frame, Metro Sports Facility and the Papa o Ōtākaro/Avon River Precinct. It is anticipated that negotiations on land required for these projects will finish by December. Land for the other sites is likely to continue being subject to negotiations until April 2013 and in some cases maybe longer.

At the end of voluntary negotiations, the Minister will decide if the land should be taken by the Crown and, if so, will recommend to the Governor General the making of a Proclamation taking the land in the name of the Crown. The Proclamation is also registered in the computer register. Ownership of the land will vest in (transfer to) the Crown absolutely on the 14th day after the Proclamation is Gazetted.

83. What if my tenant or I are occupying the building at the time of the Proclamation?

The Proclamation has the effect of transferring ownership 14 days after it is published in the Gazette. Unless agreed otherwise with the Crown, the owner is required to give vacant possession within a month of the Proclamation being published. If vacant possession is not given the Minister can seek an order from the High Court directing the person in occupation to give vacant possession. Under voluntary acquisition the Crown may agree in writing to continued occupation by the owner or a departing family member.

84. What happens with other interests registered on the title?

The Notice of Intention to Take Land has to be served on everyone with a registered interest – mortgages, leases, land charges, easements etc. The Crown will also acquire these interests. How compensation is resolved will depend on the various interests. The Crown also succeeds to rights and entitlements that land owners have against insurers.

85. What about unregistered interests such as a licence or residential tenancy?

The Crown is seeking information from the land owners about unregistered interests. Any person with an interest in the land who suffers a loss can claim for compensation. CERA is trying to identify interests before undertaking compulsory acquisition and may agree to some forms of continued occupation, but strictly on a case by case basis.

86. How will you determine the price for my land/building?

Initial negotiations will be for a voluntary purchase of any designated land and the price will be decided between the vendor and purchaser. If a voluntary purchase cannot be negotiated then compulsory acquisition will apply. Instead of a purchase price, the CER Act refers to compensation. Compensation is determined by the Minister having regard to the land's current market value as determined by a valuation carried out by a registered valuer.

Market value is based upon the amount the land would be expected to sell for if sold on the open market by a willing seller to a willing buyer. No account is taken of the fact the property is being taken for a public work. The compensation is at the date of the compulsory acquisition.

87. What if I don't like the price that is offered to me for my property?

You or your representative has the right to make representations to the Minister or his delegate on the amount of compensation payable. The Minister has to determine the compensation within a reasonable period. If you still do not agree you can appeal the Minister's decision on compensation (but not taking) to the High Court, the Court of Appeal and the Supreme Court. The CER Act directs, however, that the compulsory acquisition can proceed without any claim for compensation being resolved. Any claim for compensation will be based on the date the Crown acquires the land and not when the compensation is resolved.

88. What about other costs I may incur such as for my lawyer?

If the property is purchased as a result of voluntary negotiations, as with all sellers, you will no doubt take into account the cost of the transaction in the settlement price that you agree. Under compulsory acquisition the Minister is required to determine the compensation in accordance with the relevant provisions of Part 5 of the Public Works Act 1981. The entitlement to full compensation is intended to ensure that land owners are left in no better or no worse position. This may include a reimbursement for "disturbance" – being a payment for actual monetary loss or costs incurred of a temporary non-recurring nature arising as a direct result of the land being acquired and where the cost was unavoidable. Reasonable costs of valuation, legal and other professional advice incurred as a result of negotiating compensation can be reimbursed. Removal costs, loss on mortgage payments due to early repayment or transfer and loss of actual business profits may be possible. Individual circumstances will change what compensation you may be entitled to and should be discussed with the Crown's agent.

89. What if I want to object to the taking and/or compensation?

The CER Act provides there is no right of objection to a notice on intention to take land and that the only right to compensation is that provided for under the CER Act. Rights of judicial review to the High Court remain.

90. What are my rights if my land has been designated and it is bare land but I have incurred costs of planning a development?

Compensation is not available for costs that you have incurred in planning for a future development.

91. My land has been designated, I am in the middle of sensitive negotiations with my insurer, where does this leave me?

As insurance policies vary it is not possible to provide general advice about the effect of a designation or compulsory acquisition on an individual property.

92. I am keen to rebuild, I have plans in place, and my insurance company is reinstating my building: what am I supposed to do now?

You should discuss this with CERA. Depending on what you are proposing to build and where, it is possible that it may fit within the designation and the Requiring Authority (Minister for Canterbury Earthquake Recovery Authority) may give you approval to proceed. It is, however, likely that the property will be acquired and you need to enter into negotiations with CERA's agents as soon as practicable.

93. My land has been designated in the South Frame and I have an operating business on that site, will you still acquire the land?

The South Frame will be acquired, although it is not a priority project. You can, therefore, remain operating and, depending on your business, you may be able to continue to operate as a tenant once the acquisition has occurred. These are all matters of negotiation and will be easier to resolve through a voluntary settlement rather than compulsory acquisition.

94. What about my obligations to tenants?

A separate [information sheet for tenants](#) has been created. Your obligations to tenants will vary depending on the acquisition. Although CERA will have information about registered leases, you will need to provide CERA with information about any unregistered interests related to your property. The Crown as purchaser also has the ability to acquire the leasehold interest.

95. What happens to the land after the Crown has acquired it?

CERA's CCDU will be taking the lead on development for many of the projects. This may require demolition of existing buildings, earthworks, land improvement, letting design contracts and arranging for construction. It will also require land to be amalgamated and at some stage the Crown may wish to dispose of some of the land to other entities such as the Council or developers. Land acquired under the Public Works Act has to be offered back to previous owners (although there are certain exclusions including where it would be impracticable, unreasonable or unfair to do so or there has been a significant change in the character of the land as a result of

the public work). Given the nature of the public works to be undertaken it is anticipated that these exclusions may well apply. Even if offer back provisions apply there is a truncated process under the CER Act.

96. How do I find out if my land or commercial building is affected by the anchor project locations? Can I use My Property on the CERA website?

No, "My Property" is specifically for residential property. There is an interactive map at that can be viewed from the [landowners page](#). This will let you locate your property and will tell you how you'll be affected.