



Cabinet Committee on Canterbury Earthquake Recovery

CER Min (12) 7/1

Copy No: 26

Minute of Decision

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Findings of the Canterbury Zoning Review Advisory Group

Portfolio: Canterbury Earthquake Recovery

On 13 August 2012, the Cabinet Committee on Canterbury Earthquake Recovery (CER):

- 1 **noted** that in June 2011, the government announced four land damage zones for greater Christchurch;
- 2 **noted** that a key principle underpinning previous green zone decisions is that land damage can be repaired on an individual basis as part of the normal insurance process;
- 3 **noted** that red zones have previously been declared in areas where there is area-wide damage (implying an area-wide solution) and an engineering solution to remediate the land damage would be uncertain, disruptive, not timely, nor cost effective [CAB Min (11) 24/15 and CAB Min (11) 30/18];
- 4 **noted** that a separate land zoning process was undertaken for 2100 properties in the Port Hills and that a subsequent process may be undertaken to review the zoning in these areas once remaining decisions have been made;
- 5 **noted** that in May 2012, the CER invited the Minister for Canterbury Earthquake Recovery to report to CER the findings of this review including any recommendations for zoning changes by 30 July 2012 [CER Min (12) 3/2];

Fee for the Advisory Group independent reviewer

- 6 **noted** that in May 2012, CER:
 - 6.1 agreed that an advisory group comprising three senior Canterbury Earthquake Recovery Authority officials with expertise in public policy, law and geotechnical engineering, and an independent reviewer with a distinguished record in public administration and governance, be established to complete a review of zoning decisions;

6.2 authorised the Minister for Canterbury Earthquake Recovery to appoint the independent reviewer referred to above;

[CER Min (12) 3/2]

7 **noted**

Withheld under section 9(2)(a)

8 **noted**

Withheld under section 9(2)(a)

9 **agreed**

Advisory Group recommendations

10 **noted** that the advisory group has made recommendations for zoning changes for any properties where it is found that:

10.1 the zoning of a property is inconsistent with the criteria agreed by Cabinet to classify areas as either red zones or green zones [CAB Min (11) 24/15 and CAB Min (11) 30/18)]; or

10.2 there are anomalies in the zoning of a property due to:

10.2.1 the zoning boundary not adopting the underlying fee simple (legal) boundary for cross-lease or unit title properties; or

10.2.2 the green zoning of an individual property, or a small number of properties, would result in clearly not viable infrastructure servicing costs (this would typically be because such properties are serviced by infrastructure wholly or partly in a red zone, or the main purpose of the infrastructure is to service properties in a red zone);

11 **noted** that the advisory group considered candidates for a change to zoning from two streams:

11.1 properties whose owners have requested a review;

11.2 properties identified by officials as being anomalously zoned;

12 **noted** that the Minister for Canterbury Earthquake Recovery received the report of the Zoning Review Advisory Group which the following recommendations are based on;

13 **agreed** that 3 properties (as shown in the map attached in Appendix 3 to the paper under CER (12) 19) are rezoned from red to green where it has been found that the available geotechnical data shows that they meet the criteria to be zoned green;

14 **agreed** that 62 properties (as shown in the map attached in Appendix 3 to the paper under CER (12) 19) are rezoned from green to red where it has been found that the available geotechnical data shows that they meet the criteria to be zoned red;

- 15 **agreed** that 39 properties (as shown in the map attached in Appendix 3 to the paper under CER (12) 19) are rezoned from green to red where it has been found that they fall within the *intent* of the red zone criteria due to their community isolation and proximity to the red zone;
- 16 **agreed** to extend the Crown offer of purchase to insured residential property owners in the residential red zone agreed in paragraphs 14 and 15 above;
- 17 **agreed** that the properties new red zone property owners agreed in paragraphs 14 and 15 have until 30 April 2013 for final settlement;
- 18 **noted**.

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

Financial recommendations

- 19 **noted** that the gross cost of rezoning residential red zone is estimated to be \$19.768 million;
- 20 **noted** that the net cost of purchasing properties in the rezoned residential red zone is estimated to be Withheld under section 9(2)(i)
- 21 **approved** the following changes to appropriations to provide for the purchase of insured residential red zone properties related to paragraphs 14 and 15 with a corresponding impact on the operating balance:

Vote Canterbury Earthquake Recovery	\$m increase/(decrease)				
	2012/13	2013/14	2014/15	2015/16	2016/17 & Outyears
Minister for Canterbury Earthquake Recovery					
Non-Departmental Other Expense:					
Acquisition of Canterbury Red Zone properties	17.315	-	-	-	-
Non-Departmental Other Expense:					
Contributions towards legal fees	0.073	-	-	-	-
Non-Departmental Output Expense:					
Canterbury Earthquake Property Demolitions and Related Costs and Compensation	0.485	0.330	-	-	-
Departmental Output Expense:					
Red Zone Property Acquisition Costs	0.088	-	-	-	-
Non-Departmental Other Expense:					
Red Zone Property Management Costs	0.754	0.723	-	-	-
Total Operating	18.715	1.053	-	-	-

- 22 **agreed** that the changes to four appropriations for 2012/13 in paragraph 21 be included in the 2012/13 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply;

23 agreed that all the expenses (net of insurance recoveries where applicable) incurred under appropriations agreed in this paper be a charge against the Canterbury Earthquake Recovery Fund established in Budget 2011.

Committee Secretary

Reference: CER (12) 19

Released by the Minister for Canterbury Earthquake Recovery

Memorandum for Canterbury Earthquake Recovery Committee

FINDINGS OF THE CANTERBURY ZONING REVIEW ADVISORY GROUP

Purpose

1. This paper responds to Cabinet's invitation to report back on the findings of the Zoning Review Advisory Group (the Group).

Executive Summary

2. I received the report of the Zoning Review Advisory Group and the recommendations in this paper reflect its findings.
3. I seek Cabinet's agreement to rezone 3 properties from red to green and withdraw the Crown offer as geotechnical data shows that they meet the criteria agreed by Cabinet to be zoned green.
4. I also seek Cabinet's approval to rezone 101 properties from green to red and extend the Crown offer of purchase to insured residential property owners in these areas. These properties fall into two groups:
 - 62 properties where geotechnical data shows that they meet the criteria agreed by Cabinet to be zoned red.
 - 39 properties which do not strictly meet the criteria agreed by Cabinet to zone red. However the Group felt that they fall within the *intent* of the red zone criteria agreed by Cabinet.
5. This paper also notes recommendations made by the Group for Christchurch City Council to consider alternative routes for access to some properties which are currently accessed through the red zone.
6. I propose that no other changes to red/green zoning are made to flat land properties in Christchurch.

Background

Previous Zoning Decisions

7. In the initial Canterbury Earthquake zoning announcements on 23 June 2011, zones were established based on the severity and extent of land damage and the cost-effectiveness and social impacts of land remediation. Criteria were previously agreed by Cabinet to classify areas as either red zones or green zones [CAB Min (11) 24/15 refers].
8. Green zones have been declared in areas where there are no significant land damage issues which prevent rebuilding. A key factor is that, even though land on some properties may be damaged, most properties can be repaired on an individual basis.

9. Red zones have previously been declared [CAB Min (11) 24/15 and CAB Min (11) 30/18] refers] in areas where:

9.1. there is area-wide land damage, thereby implying some sort of area-wide solution; and

9.2. an engineering solution to remediate the land damage would:

9.2.1. Be disruptive for landowners, as the commencement date is uncertain (both in terms of confidence in the land settling sufficiently to begin remediation and the need to sequence the many areas where remediation would be required), and the length of time they would need to be out of their homes to allow remediation to occur and new homes built;

9.2.2. Be not timely; for example there is also substantial replacement of infrastructure required and/or the land level needs to be significantly lifted effectively requiring work equivalent to the development of a new subdivision, and would probably lead to significant social dislocation for those communities in the short-to-medium term;

9.2.3. Be not cost effective: the cost of remediation is greater than the value of the land.

9.3. The health and wellbeing of residents is at risk from remaining in the area for prolonged periods.

10. To support the Canterbury recovery process the following objectives have been established for the Government in determining where rebuilding can occur or is unlikely to be possible in the short-to-medium term:

a) Certainty of outcome for home-owners as soon as practicable;

b) Create confidence for people to be able to move forward with their lives;

c) Creating confidence in the decision making process (for home owners, business-owners, insurers and investors);

d) Using the best available information at the time to inform decisions;

e) Having a simple process in order to provide clarity and support for land-owners, residents and businesses in those areas.

11. The final flat land zoning decisions were made on 18 May 2012 by which time a total of 7,256 properties were zoned red and over 180,000 properties were zoned green.

12. A separate land zoning process was undertaken for 2,100 properties in the Port Hills. Only 166 of these properties are yet to be zoned. A subsequent process may be undertaken to review the zoning in these areas once remaining decisions have been made.

Zoning Review Advisory Group

13. On 4 June 2012 Cabinet agreed that an advisory group comprising three senior CERA officials with expertise in public policy, law, and geotechnical engineering, and an independent reviewer with a distinguished record in public administration and governance be established to complete a review of red/green flat land zoning decisions [CAB Min (12) 18/3 refers].

14. Cabinet also delegated authority to the Minister for Canterbury Earthquake Recovery to appoint the independent member and chairperson. I appointed Dr Keith Turner, a former Chief

Executive at Meridian Energy to this role to provide additional assurance about the integrity of the review process.

15. On 15 June 2012 I announced that Dr Keith Turner would be an independent reviewer on the Zoning Review Advisory Group. Dr Turner chaired the advisory group. Dr Turner is currently the Chairman of Fisher & Paykel Appliances Holdings Limited, deputy chair of Auckland International Airport Limited and a director of other publicly listed companies. He has a distinguished record in public administration and governance and his appointment will provide assurance about the integrity of the review process.

16. The Cabinet has approved a fees framework that establishes fees payable to chairs and members of statutory and other bodies in which the Crown has an interest.

Withheld under section 9(2)(a)

17.

Withheld under section 9(2)(a)

18.

Withheld under section 9(2)(a)

19.

Withheld under section 9(2)(a)

20.

Withheld under section 9(2)(a)

Zoning Review Framework

21. The purpose of the Zoning Review Advisory Group (the Group) was to make recommendations for zoning changes for any properties where:

21.1. The zoning of a property is inconsistent with the criteria agreed by Cabinet to classify areas as either red zones or green zones as outlined in paragraphs 8-9 above; or

21.2. There are anomalies in the zoning of a property due to:

21.2.1. The zoning boundary not adopting the underlying fee simple (legal) boundary for cross-lease or unit title properties; or

21.2.2. The green zoning of an individual property, or a small number of properties, would result in clearly unviable infrastructure servicing costs. (This would typically be because such properties are serviced by infrastructure wholly or partly in a red zone, or the main purpose of the infrastructure is to service properties in a red zone.)

22. The objective of the Group was to complete a sound and impartial review of zoning decisions for:

22.1. Properties whose owners have requested a review; and

22.2. Properties identified by officials as being anomalously zoned.

23. Property owners had until 30 June 2012 to apply for a review. The Group met during July to consider the 1358 applications received from individual property owners requesting a review of their zoning decision (see maps at appendix 1 and 2).

24. Of these requests 150 were from red zone property owners wishing to be rezoned green and 1,191 were from green zone property owners wishing to be rezoned red. An additional 17 were invalid due to missing information. In such cases, where possible, officials contacted property owners to enable them to make a valid application.

Recommendations of the Advisory Group

25. The Group considered all available area-wide geotechnical data on the areas under review, as well as the infrastructure and social implications of zoning boundaries. In most cases this was sufficient to make a clear and considered recommendation.

26. Site visits assisted in decisions, especially in areas where the geotechnical data did not give a clear or obvious conclusion and/or there were particularly high numbers of requests for change.

27. The Group recommended zoning changes for a total of 104 properties across greater Christchurch. All of these properties are located along border areas between the current red and green zones.

Rezoning red to green

28. The Group recommended that three properties (as shown in appendix 3) are rezoned from red to green. The available geotechnical data shows that land damage is able to be remediated on an individual basis and therefore they meet the criteria to be zoned green.

29. These properties are all located on the borders of the green zone, and on balance the Group recommended that they be rezoned green.

30. The owners of the above properties have all applied to have their zoning changed from red to green in recent weeks and to date none have accepted the Crown offer. Therefore it is assumed that these owners are unlikely to dispute the rezoning of their properties and as a consequence there is unlikely to be any risk to the Crown in doing so.

31. I seek your agreement to rezone these properties from red to green and withdraw any Crown offer that has previously been made to these property owners.

32. The Group recommended that for all other properties in the current flat land residential red zones (excluding Port Hills), no change to zoning be made on the basis that geotechnical data supports the original decision to zone them red based on the red zone criteria agreed by Cabinet.

Rezoning green to red

33. The group recommended that 62 properties (as shown in appendix 3) are rezoned from green to red as available geotechnical data shows they met the red zone criteria as agreed by Cabinet.

34. The properties referred to in paragraph 33 above are located in:

- East Kingsbridge Drive, Stenning Place and Schumacher Place, Burwood (23 properties);
- River Road, Swanns Road and Glade Ave, Dallington (23 properties);
- Stanmore Road (6 properties); and
- Briarmont Street, Hulverstone Drive, Orrick Crescent and Cowes Street, Avondale (10 properties).

35. The group recommended that an additional 39 properties (as shown in appendix 3) are also rezoned from green to red. In these cases the Group acknowledged that these properties do not strictly meet the criteria agreed by Cabinet to zone red, however it felt that they fall within the *intent* of the red zone criteria for the following reasons:

- 35.1. They are anomalously zoned as small groups of properties, which are isolated in terms of their community and the provision of infrastructure; and
- 35.2. Whilst the damage which has occurred would be repairable on an individual basis, the land damage is severe; and
- 35.3. Impacts on residents of these properties remaining in the green zone with clearance works, bordered by red zone on all sides within the immediate neighbourhood, are likely to put the health and wellbeing of residents at risk and would be inconsistent with the Government's rebuild objectives.

36. The properties referred to in paragraph 35 above are located in:

- Stour Drive, Burwood (16 properties);
- Wattle Drive and Willryan Avenue, New Brighton (17 properties); and
- Porritt Place, Dallington (6 properties).

37. The Group noted that the situation for these particular properties can be clearly distinguished from any other properties near the red zone (on the basis of the criteria outlined in paragraph 35) and therefore there is little risk of this decision setting precedent for any other properties.

38. The net cost to the Crown of the purchase offer for these new residential red zone properties is estimated to be ~~Withheld under section 9(2)(i)~~. In addition, the Crown contribution to legal fees is estimated to be up to \$0.073 million. Additional costs include those for demolition of properties, the management of purchased land and transaction costs (estimated to be \$2.380 million).

39. I seek your agreement to rezone these 101 properties as residential red zone and that the Government purchase offer is extended to insured residential property owners in these areas.

40. I propose that the final settlement date for these red zone property owners is 30 April 2013 which is consistent with the surrounding red zone property owners.

41. Of the 101 properties referred to in paragraph 39 above which are being rezoned from green to red, 35 have not requested a review and may have commenced negotiations and/or repairs with their insurers and EQC.

42.

Withheld under section 9(2)(i)

43.

44. The Group agreed that for all other properties currently zoned green (excluding Port Hills), the geotechnical data shows that they meet green zone criteria and can generally be repaired or rebuilt using the Building and Housing foundation guidelines.

45.

Withheld under section 9(2)(i)

46.

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

47.

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

Appeals Process

48. I am comfortable that this thorough review process has addressed any final anomalies or situations where it has become clear that current zoning is inconsistent with the criteria agreed by Cabinet or impractical or not cost-effective to maintain. Therefore I do not intend to make any further changes to zoning boundaries.

49. There will be no further appeal process for flat land red/green zoning decisions however all residents retain the right to seek judicial review of zoning decisions.

Financial implications

50. CERA estimates the gross cost of purchase associated with the additional residential red zone properties to be \$19.768 million. However, the Crown can also recognise the insurance receivables relating to the purchased properties. The exact quantum of these receivables is yet to be confirmed, but the net cost of purchasing these properties is estimated to be ~~Withheld under section 9(2)(i)~~. It is important to recognise that these costs could change depending on the interpretation of insurance policies and coverage.

51. The consequential impacts of the red zone decisions are as follows:

- Providing a contribution towards the legal fees of property owners in the new red zones is estimated to cost up to \$0.073 million.
- Property transaction and management costs including demolition of \$2.380 million.
- The net costs of purchasing all of the new red zone properties (including associated costs) will be a charge against the Canterbury Earthquake Recovery Fund (CERF).

Consultation

52. The Treasury and the State Services Commission were consulted on a draft of the paper. The Department of the Prime Minister and Cabinet and the Ministry for Business, Innovation and Employment (Building and Housing) were informed of the paper.

Human rights implications

53. The proposals in this paper are not inconsistent with the New Zealand Bill of Rights Act 1990, or the Human Rights Act 1993.

Legislative implications

54. There are no legislative implications arising from this paper.

Regulatory impact and compliance cost statement

55. A regulatory impact statement is not required at this time as there are no regulatory changes.

Gender and disability implications

56. There are no gender or disability implications associated with the proposals in this paper.

Publicity

57. If you agree to the recommendations in this paper, I propose to make a public announcement about the outcome of the zoning review to the public on 24 August 2012.

58. Officials have developed a communications plan to clearly publicise the outcome of the review process and the criteria agreed by Cabinet that have been used review zoning decisions.

59. Officials will draft responses to all property owners affected by these decisions.

Recommendations

It is recommended that Cabinet:

- 1 **Note** that on 23 June 2011, the Prime Minister and I announced four land damage zones for greater Christchurch;
- 2 **Note** that a key principle underpinning previous green zone decisions is that land damage can be repaired on an individual basis as part of the normal insurance process;
- 3 **Note** that red zones have previously been declared in areas where there is area-wide damage (implying an area-wide solution) and an engineering solution to remediate the land damage would be uncertain, disruptive, not timely, nor cost effective [CAB Min (11) 24/15 and CAB Min (11) 30/18];

- 4 **Note** that a separate land zoning process was undertaken for 2100 properties in the Port Hills and that a subsequent process may be undertaken to review the zoning in these areas once remaining decisions have been made;
- 5 **Note** that an advisory group comprising three senior CERA officials with expertise in public policy, law and geotechnical engineering, and an independent reviewer with a distinguished record in public administration and governance, was established to complete a review of zoning decisions [CAB Min (12) 18/3 refers];
- 6 **Note** that on 15 June 2012 the Minister for Canterbury Earthquake Recovery announced that Dr Keith Turner would be appointed as the independent reviewer referred to in recommendation 5;
- 7 **Note** Withheld under section 9(2)(a)
- 8 **Agree** Withheld under section 9(2)(a)
- 9 **Note** that the advisory group has made recommendations for zoning changes for any properties where it is found that:
- 9.1 The zoning of a property is inconsistent with the criteria agreed by Cabinet to classify areas as either red zones or green zones [CAB Min (11) 24/15 and CAB Min (11) 30/18 refers]; or
- 9.2 There are anomalies in the zoning of a property due to:
- 9.2.1 The zoning boundary not adopting the underlying fee simple (legal) boundary for cross-lease or unit title properties; or
- 9.2.2 The green zoning of an individual property, or a small number of properties, would result in clearly not viable infrastructure servicing costs. (This would typically be because such properties are serviced by infrastructure wholly or partly in a red zone, or the main purpose of the infrastructure is to service properties in a red zone.) [CAB Min (12) 18/3 refers].
- 10 **Note** that the advisory group considered candidates for a change to zoning from two streams:
- 10.1 Properties whose owners have requested a review; and
- 10.2 Properties identified by officials as being anomalously zoned.
- 11 **Note** that I received the report of the Zoning Review Advisory Group which the following recommendations are based on;
- 12 **Agree** that 3 properties (as shown in the map attached in appendix 3) are rezoned from red to green where it has been found that the available geotechnical data shows that they meet the criteria to be zoned green.
- 13 **Agree** that 62 properties (as shown in the map attached in appendix 3) are rezoned from green to red where it has been found that the available geotechnical data shows that they meet the criteria to be zoned red.
- 14 **Agree** that 39 properties (as shown in the map attached in appendix 3) are rezoned from green to red where it has been found that they fall within the *intent* of the red zone criteria due to their community isolation and proximity to the red zone.

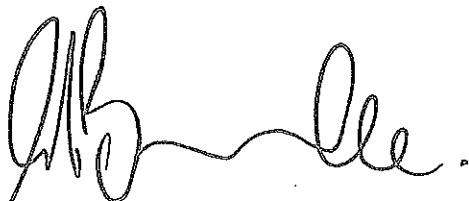
- 15 **Agree** to extend the Crown offer of purchase to insured residential property owners in the residential red zone agreed in recommendations 13 and 14 above.
- 16 **Agree** that the properties new red zone property owners agreed in recommendations 13 and 14 have until 30 April 2013 for final settlement.
- 17 **Note** that it is recommended alternative access is considered by CCC for properties in the green zone in Kingsbridge Drive and Sutton Place;

Financial Recommendations

- 18 **Note** that the gross cost of rezoning residential red zone is estimated to be \$19.768 million;
- 19 **Note** that the net cost of purchasing properties in the rezoned residential red zone is estimated to be Withheld under section 9(2)(i)
- 20 **Approve** the following changes to appropriations to provide for the purchase of insured residential red zone properties related to recommendations 13 and 14 with a corresponding impact on the operating balance:

	\$m increase/(decrease)				
	2012/13	2013/14	2014/15	2015/16	2016/17 & outyears
Vote Canterbury Earthquake Recovery					
Minister for Canterbury Earthquake Recovery					
Non-Departmental Other Expense:					
Acquisition of Canterbury Red Zone properties	17.315	-	-	-	-
Non-Departmental Other Expense:					
Contributions towards legal fees	0.073	-	-	-	-
Non-Departmental Output Expense:					
Canterbury Earthquake Property Demolitions and Related Costs and Compensation	0.485	0.330	-	-	-
Departmental Output Expense:					
Red Zone Property Acquisition Costs	0.088	-	-	-	-
Non-Departmental Other Expense:					
Red Zone Property Management Costs	0.754	0.723	-	-	-
Total Operating	18.715	1.053	-	-	-

- 21 **Agree** that the proposed changes to four appropriations for 2012/13 in recommendation 20 be included in the 2012/13 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply.
- 22 **Agree** that all the expenses (net of insurance recoveries where applicable) incurred under appropriations agreed in this paper be a charge against the Canterbury Earthquake Recovery Fund established in Budget 2011.



Hon Gerry Brownlee
Minister for Canterbury Earthquake Recovery

09, 08, 2012

Released by the Minister for Canterbury Earthquake Recovery