

To: Minister for Canterbury Earthquake Recovery



IN CONFIDENCE

Mitigation Framework for Port Hills Properties

Date	7 September 2012	Priority	HIGH
Report No	M/12-13/096	File Reference	

Action Sought

Hon Gerry Brownlee <i>Minister for Canterbury Earthquake Recovery</i>	Agree recommendations in this paper	Deadline 13 September 2012
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Contact for Telephone Discussion (if required)

Name	Position	Telephone	1st Contact
Diane Turner	General Manager – Strategy, Planning and Policy	Withheld under section 9(2)(a)	<input checked="" type="checkbox"/>
John WA Scott	Senior Advisor		

Minister's office comments

- Noted
- Seen
- Approved
- Needs change
- Withdrawn
- Not seen by Minister
- Overtaken by events
- Referred to

Comments

Mitigation Framework for Port Hills Properties

Purpose

- 1 This report outlines a proposal for a framework for mitigation measures to contain rock roll, which would apply to all Port Hills properties.

Background

- 2 The case for the development of large-scale mitigation measures to manage the risk to life due to rock roll has proven to be weaker than previously thought. Smaller localised solutions, confined to a limited number of properties, may well be desirable and there are some property owners who wish to pursue this option.
- 3 The consenting process for the construction of protective structures is managed by the relevant local authority - in this case the Christchurch City Council (the Council). If the Council receives an application from a property owner who wishes to build mitigation it must be considered. The Council is already considering its processes in the expectation that it will receive applications for consents for protective structures on the Port Hills.

Comment / Discussion

- 4 Officials consider that there is merit in "front-footing" the issue of mitigation in the Port Hills by announcing the development of a framework for these protective structures. This will streamline a process that to some extent exists already, provide clarity to property owners and, if designed appropriately would:
 - Ensure that risks and liabilities are placed where they can be best managed;
 - Reflect an appropriate apportionment of public and private benefits;
 - Appropriately align incentives between public and private actors; and
 - Be equitable, consistent and transparent.
- 5 The framework relies on established processes as much as possible. Property owners¹ would make decisions as to whether mitigation is desirable in their case and seek the relevant consents from the Council. The Council would ensure compliance with agreed design standards, issue consents and, as a result of this, lift any section 124 notices that are in place.
- 6 Central Government – if it so wished – could help expedite this process by the provision of financial assistance in conjunction with the Council. The following section considers the extent to which the Crown / Council might support mitigation.

Reasons for Crown Involvement

- 7 There is some consideration that must be given before the Crown decides to get involved in what is a Council process. Officials believe there are several reasons to involve the Crown.
- 8 Crown involvement in natural hazard management in the Port Hills has occurred because of the unprecedented scale of the issue, and the fact it has been exacerbated by the earthquakes.

¹ Potentially, a number of private parties could enter into contracts between themselves to fund the works.

- 10 The Crown may also wish to get involved in order to expedite the process and allow property owners to have their mitigation proposals considered before their red zone offers expire on 31 August 2013.
- 11 A final reason for Crown involvement is, where mitigation is possible on a small scale, it would allow property owners who wish to stay in their homes to do so.

Financial assistance

- 12 There is a case for the funding of any protective structures to be shared between the Crown / Council and the private individual in question. All parties would benefit.
- 13 There would be a saving to the Crown if – as is suggested – any financial contribution were to be less than the Red Zone offer. Further, making a contribution to mitigation could be seen as an appropriate step to address the risk to life from rock roll. Property owners would be beneficiaries as they would be permitted to stay in their houses following the mitigation works. This tends to suggest that a cost-sharing arrangement is the best approach, and there are precedents in this regard.
- 14 It is implicit that any Crown / Council payment should not exceed the costs of purchasing these properties through a Red Zone offer. If these costs are close to being comparable, it would be advisable to purchase the properties so as to remove any risk. At the other end of the continuum, it needs to be seen to represent fair value to the property owners who wish to pursue mitigation.
- 15 It is proposed that – should financial assistance be offered – a threshold be set for the upper bound of the Crown / Council contribution, based on a fixed percentage of the relevant Red Zone offer. This would not prevent property owners from designing more elaborate or expensive mitigation measures; it would simply limit the financial exposure of the Crown / Council.
- 16 As noted above, Port Hills property owners should be required to make a financial contribution to the mitigation works in recognition of the fact that they derive some benefit from the protective structures. Moreover, such an approach would reduce any arguments that there has been preferential treatment of Port Hills properties. The property owners would also be required to meet all costs of maintaining the mitigation works so as to ensure that they continue to comply with the design standard.
- 17 There are a range of options for the split between public and private funding of the mitigation works. A suggested starting point is that the Crown / Council pays 50 percent of the capital cost of any mitigation works (including consenting costs), up to a maximum of 50 percent of the relevant Red Zone offer. The rationale and quantum will be explored in further detail, if there is agreement to proceed with the development of the framework.
- 18 The Council has agreed in principle to pay for half of all rock roll costs, but final cost sharing will be determined once all Port Hills zoning decisions are finalised, including the review. Officials suggest you discuss this proposal with the Mayor.

Eligibility criteria

- 19 Consideration has been given to criteria which might govern the mitigation framework and eligibility for financial assistance. Firstly, there should be a set timeframe for applications. Initial thinking is that property owners are given six months from the announcement of the mitigation framework to lodge an application for funding assistance. This timeframe provides sufficient time for property owners to consider all options, prior to the expiration of Red Zone offers on Port Hills properties (31 August 2013).
- 20 Any financial contribution would only be for the protection of residential dwellings. Property owners would need to cover all costs of any extension to the mitigation scheme to cover commercial outbuildings/operations. Moreover, no public funding will be provided for commercial properties, due to disproportionate benefit.
- 21 Evidence of open invitations to tender for contracts at, or above a certain dollar amount (for example, \$100,000 as per Department of Internal Affairs procurement guidelines) would be required so as to conform with government procurement principles, including value for money, open and effective competition, and full and fair opportunity for domestic suppliers.
- 22 Importantly, any Crown / Council contribution would only be payable following construction, and subject to presentation of a certificate of compliance issued by the Council. This provides assurance that the mitigation structure meets the appropriate design standard. On issuing the certificate of compliance, the Council would remove any geotechnically-related section 124 notices issued under the Building Act 2004.

Decision Sought

- 23 This paper does not seek a decision on the details of the mitigation framework. Prior to this occurring commitment to this approach is required from the Council. Further work would be required to identify all elements of the framework.

Consultation

- 24 The Treasury, the Ministry of Business, Innovation and Employment (Building and Housing) and the Christchurch City Council were consulted in the preparation of this paper. The Department of the Prime Minister and Cabinet was informed.
- 25 If a decision is made to progress this work further, officials will consult with the Department of Conservation.

Financial Implications

- 26 There is the potential for savings to occur to the extent that property owners decline the Red Zone offer and undertake mitigation. Any savings would likely be relatively small.

Risks

- 27 There are some risks to consider when deciding whether or not to support mitigation works through the provision of financial assistance. These are as follows:
 - Providing financial assistance complicates the process and requires the definition of eligibility criteria that can be tested

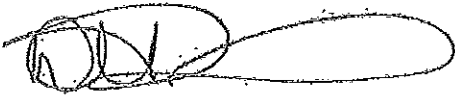
- It may raise arguments of equity from those on the flat for whom no assistance to mitigate was offered
 - There is the potential for confusion, and inconsistency, by announcing that individual mitigation is now an option for all Port Hills property owners to consider (at the same time as announcing the Red-Zoning of Bridle Path Road and Horotane Valley)
 - Mitigation on a limited number of properties across the Port Hills may fragment the Red Zone
 - It may offer "false hope" to a number of interested parties, whose properties may not be suited to mitigation and/or may not be able to meet the design standard
 - It may add to the list of ongoing issues that the Council has to manage, in particular, inspections to ensure that mitigation structures are maintained and continue to comply with the design standard
 - It may have the effect of increasing the number of applications for consents that the Council has to consider.
28. Some of these risks tend to fall on the Crown while others tend to fall more on the Council. Those that fall most on the Crown are the first two identified above. These are not considered unmanageable, but they are real nonetheless.
29. The final two issues listed above tend to fall more on the Council. They exist at present but the provision of financial assistance may well accentuate the risk. As such, it is recommended that you confer with Mayor Parker prior to making any decision. Providing financial assistance for mitigation would require the agreement of both the Crown and the Council.
30. Officials consider that it will prove easier for private individuals to construct small and perhaps individualised mitigation structures than large projects involving multiple parties. Private individuals are likely to face a series of co-ordination difficulties in progressing larger schemes. This is important context for the decision on whether to proceed or not with the provision of funding assistance.

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Recommendations

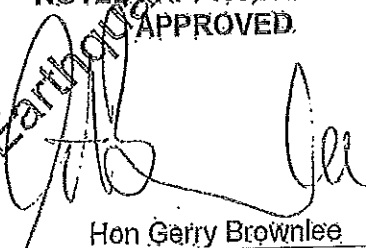
31 It is recommended that you:

- 1 **Note** that Christchurch City Council is working with the Ministry of Business, Innovation and Employment (Building and Housing) and CERA to develop a design standard for mitigation works to manage the risk to life due to rock roll, and that a mitigation framework exists to some extent already;
- 2 **Direct** officials to discuss with Mayor Parker the possibility of providing financial assistance to aid the development of mitigation measures prior to reaching any final decision; YES/NO
- 3 **Direct** officials to develop a Cabinet paper for your consideration which outlines the design details for a mitigation framework by 8 October 2012. YES/NO



Diane Turner
General Manager – Strategy, Planning and Policy

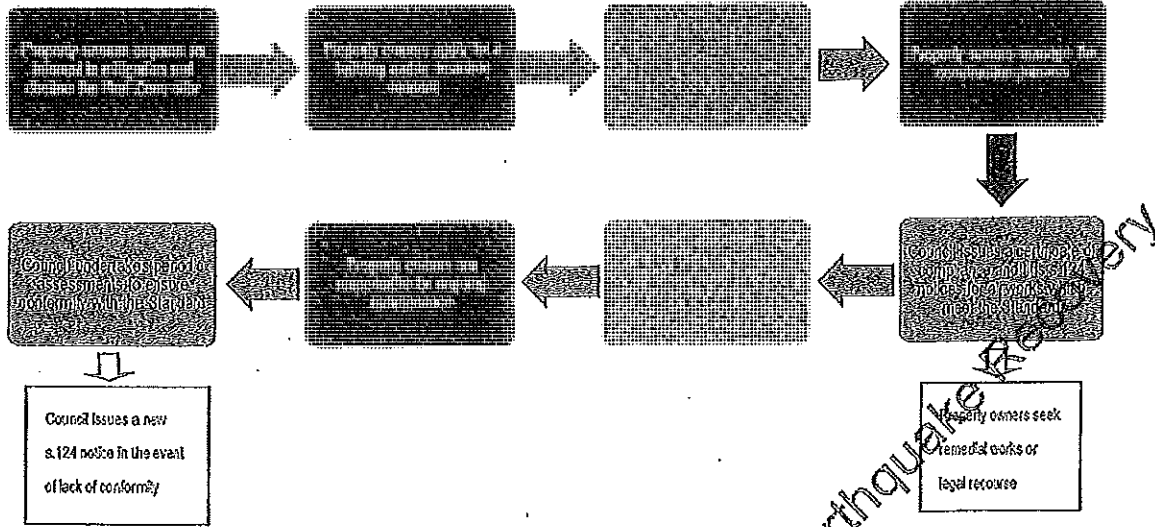
Attachment A Process Flow Diagram

<p>NOT APPROVED / NOT APPROVED</p>  <p>Hon Gerry Brownlee</p>
<p>Minister for Canterbury Earthquake Recovery</p>
<p>Date 12/9/2012</p>

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Attachment A

Process Flow Diagram



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