



# Cabinet

CAB Min (11) 37/22

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## Minute of Decision

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### Canterbury Earthquake Recovery: Decisions of Joint Ministers with Power to Act

**Portfolio:** Canterbury Earthquake Recovery

On 10 October 2011, Cabinet:

#### Background

- 1 **noted** that on 11 July 2011, Cabinet authorised the Minister of Finance and the Minister for Canterbury Earthquake Recovery (Joint Ministers) to have Power to Act from 11 July 2011 to 31 October 2011, to take decisions on areas of Canterbury land that can be designated as Green Zones [CAB Min (11) 26/16];
- 2 **noted** that on 18 July 2011, Cabinet authorised Joint Ministers to have Power to Act from 18 July 2011 onwards, to take decisions on any minor and technical issues that arise in relation to transaction design decisions [CAB Min (11) 27/12 and CAB Min (11) 27/13];
- 3 **noted** that on 1 August 2011, Cabinet authorised Joint Ministers to have Power to Act from 1 August 2011 to 18 August 2011, to finalise the transaction design, sale and purchase agreements, and communications relating to the Crown's offer to purchase insured residential properties in Christchurch's Red Zones so that the deadline for making Crown offers could be met [CAB Min (11) 28/16];
- 4 **noted** that on 15 August 2011, Cabinet authorised Joint Ministers to have Power to Act from 15 August 2011 onwards, on minor policy, technical, and communications issues in relation to the transaction design and letters of offer to Red Zone residents in Kaiapoi and Pines Beach [CAB Min (11) 30/18];
- 5 **noted** that on 19 September 2011, Cabinet authorised Joint Ministers to have Power to Act from 19 September 2011 to 25 February 2012, to finalise, including amending as necessary, technical and minor decisions that arise from previous Cabinet decisions on transaction design as well as decisions pertaining to the transaction process, the sale and purchase agreements, and related communications [CAB Min (11) 34/18];

- 6 **noted** that on 19 September 2011, Cabinet authorised Joint Ministers, in conjunction with the Associate Minister of Finance (Hon Steven Joyce), to have Power to Act from 19 September 2011 to 25 February 2012 (subject to any period of caretaker government following the General Election), to take decisions on reclassifying the Orange Zone areas [CAB Min (11) 34/19];

### Transaction design decisions

- 7 **noted** that on 2 August 2011, Joint Ministers:
- 7.1 agreed that the Crown will bear the cost of EQC dwelling excesses, but that property owners will bear the consequences of choosing private insurance policies that contain excesses for earthquake claims;
  - 7.2 agreed that property owners cannot accept the Crown's Option 1 offer if they settle with their insurance company after receiving the Crown's letter of offer;
  - 7.3 agreed to amend Cabinet's decision of 18 July 2011 [CAB Min (11) 27/13, paragraph 15] in order to require property owners to maintain private dwelling insurance until settlement, unless their insurer declines to renew their policy, to prevent property owners from opting out of insurance policies;
  - 7.4 agreed that underinsured property owners who have relied on information from the Council to inform their insurance policies be exempt from a reduction in the purchase price offered by the Crown, if the underinsurance is due to factual errors in the RV;
- 8 **confirmed** the decision taken by Joint Ministers referred to in paragraph 7.3 above, which amends the earlier Cabinet decision taken on 18 July 2011;
- 9 **noted** that on 15 August 2011, Joint Ministers:
- 9.1 agreed to amend the deposit criteria for settlement agreed by Cabinet on 18 July 2011 [CAB Min (11) 27/13, paragraph 10] to state that:
    - 9.1.1 no deposit will be paid if settlement occurs within six weeks of an agreement being signed;
    - 9.1.2 if settlement is greater than six weeks of the agreement being signed, a deposit of the lesser of 50 percent of the purchase price less any insurance payments already made and \$50,000 will be paid;
  - 9.2 agreed that a default interest rate of ten percent per annum will be payable by the Crown for not providing notice and failing to settle on the agreed settlement date;
  - 9.3 agreed that the Crown would seek the right not to complete a transaction where:
    - 9.3.1 the Crown considers that completion would not be consistent with its intentions (for example, if it considers the contract does not properly respond to the situation or the contract is being gamed); and/or;
    - 9.3.2 a situation changes, for example, following another major natural disaster;

- 10 **confirmed** the decision taken by Joint Ministers in relation to paragraph 9.1 above, which amends the earlier Cabinet decision taken on 18 July 2011;

**Meaning of "insured" in the context of the Crown's offer**

- 11 **noted** that on 28 September 2011, Joint Ministers agreed:

- 11.1 that for an owner to qualify for the Crown offer, the Crown will require the owner to have held a contract of insurance under which the property was insured against natural disaster (including earthquake) damage on 22 February 2011, unless prior to that date the insurance policy for the property was no longer in force because the owner had fully and finally settled their insurance claims on the basis that the property was beyond economic repair;

**Deduction of insurance/EQC payments already received by property owners**

- 11.2 to amend Cabinet's decision of 18 July 2011 [CAB Min (11) 27/12, paragraph 54] to state that:
- 11.2.1 the Crown will deduct from the purchase price payable under the Crown's offer all payments received by an owner for the reinstatement and repair of a property, unless the property owner has evidence that those payments have been spent on remediation works on the property;

**Withheld under section 9(2)(j) of the Official Information Act - to enable a Minister of the Crown or any department or organisation holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations**

**Unit titles where the principal insurance policy is held by a body corporate**

- 11.3 to give further consideration to intervening to impose a requirement for unit owners to hold a meeting of their body corporate to discuss the issue of which Option to select if unit title developments are identified in any of the future Red Zones consisting of more than 10 individual principal units;

**Insurance payments held by a body corporate**

- 11.4 that for unit holders who choose Option 1, any insurance payments held by a body corporate should not be deducted from the purchase price of their unit;
- 11.5 to make the following amendments to the Sale and Purchase Agreement:
- 11.5.1 the definition of "Insurance Payment" be changed to only include insurance payments actually received by the Vendor;
- 11.5.2 the definition of "Benefits" be amended to include an explicit reference to the right to receive future payments of EQC/insurance proceeds from the body corporate;

- 11.5.3 a further warranty be included in the Sale and Purchase Agreement stating that the Vendor has not accepted any insurance payments from the body corporate between the date of the Agreement and the settlement date and that the vendor will provide evidence that the body corporate continues to hold the full amount of the insurance payments disclosed to the Crown as at the date of the Agreement;
- 11.5.4 a new clause be added to give the Crown the ability to provide direction to unit title owners who select Option 1 on the conduct of the body corporate claim (in addition to any individual insurance claims that such owners may have) through a power of attorney. Providing such a power will mitigate the risk of the body corporate claim being mismanaged during the period up until settlement;
- 11.6 that where insurance payments are held by a body corporate the Crown will register a caveat to ensure that notice of any resolutions to apply insurance moneys for purposes other than reinstatement of the unit title development be given to the Crown during the period up until settlement;
- 12 **confirmed** the decision taken by Joint Ministers in relation to paragraph 11.2 above which amends the earlier Cabinet decision taken on 18 July 2011;

## Zoning decisions

### Decisions on Green Zones in Selwyn and Waimakariri

- 13 **noted** that on 15 July 2011, Joint Ministers decided that, for clarification, the land in the Selwyn District and the Waimakariri District areas be zoned Green, as shown on the map attached as Appendix 1 to the paper under CAB (11) 602;

### Initial Green Zones for the Port Hills

- 14 **noted** that on 5 September 2011, Joint Ministers decided to identify an initial residential Green Zone for the Port Hills, as shown on the map attached as Appendix 2 to the paper under CAB (11) 602;

### White Zones in the Kaiapoi town centre

- 15 **noted** that on 21 August 2011, Joint Ministers decided that the non-residential properties in the Kaiapoi town centre be zoned White;

### Interim process for progressing rebuilding in some White Zones

- 16 **noted** that on 5 September 2011, Joint Ministers agreed:
- 16.1 that councils should not hold up the building consent process if an appropriate geotechnical report was presented by any of the following parties when requesting a building consent:
- 16.1.1 non-residential property owners within Waimakariri District Council White Zones; or

- 16.1.2 non-residential property owners (e.g. commercial zoned community facilities, schools, reserves) within the Christchurch City Council White Zone but outside the Central Business District and outside the Port Hills White Zone; or
- 16.1.3 residential or non-residential property owners within the Banks Peninsula White Zone;
- 16.2 to review their advice about the building consent process in White Zones if there is another magnitude 5.5 quake or greater;

**Next steps**

- 17 **noted** that the Minister for Canterbury Earthquake Recovery intends to publicly release the paper under CAB (11) 602.

Secretary of the Cabinet

Reference: CAB (11) 602

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