



Cabinet

CAB Min (12) 35/2A

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Minute of Decision

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Port Hills Zoning Review Framework

Portfolio: Canterbury Earthquake Recovery

On 1 October 2012, following reference from the Cabinet Committee on Canterbury Earthquake Recovery, Cabinet:

Background

- 1 noted that in July 2011, the Port Hills was zoned white whilst further assessments were undertaken [CAB Min (11) 26/16];
- 2 noted that by 20 December 2011, approximately 18,000 properties in the Port Hills area had been rezoned green by the Minister of Finance and the Minister for Canterbury Earthquake Recovery (joint Ministers) with Power to Act [CAB Min (11) 26/16, CAB Min (11) 41/10 and CAB Min (11) 44/14];
- 3 noted that the decisions by joint Ministers referred to in paragraph 2 above were made on the same basis as on the flat land:
 - 3.1 properties were zoned green where damage was able to be addressed on an individual basis;
 - 3.2 some areas in the Port Hills were zoned white, where there were questions around elevated life risk due to rock roll, cliff collapse or land slip, as it was understood that the Christchurch City Council (CCC) would focus on natural hazard management issues as part of their role under the Resource Management Act 1991;
- 4 noted that a series of studies on life-safety risks associated with rock roll and cliff collapse were undertaken by the Institute of Geological and Nuclear Sciences (GNS) including:
 - 4.1 rockfall modelling, together with a "ground truthing" of the GNS model by the Port Hills Geotechnical Group (PHGG);
 - 4.2 a 3D study by Geovert for the Canterbury Earthquake Recovery Authority (CERA);
- 5 noted that the results of these studies revealed that the scale of the life risk issues which had been exacerbated by the earthquakes was larger than first anticipated which meant that the government's involvement was required to enable these issues to be resolved in a timely manner and provide certainty to property owners;

- 6 noted that on 18 May 2012, joint Ministers with Power to Act zoned green 421 properties which had been identified in studies outlined in paragraph 4 above as having a negligible level of life risk;
- 7 noted that on 29 June 2012, joint Ministers with Power to Act approved further rezoning of 1,392 properties in the Port Hills affected by rock roll, cliff collapse and land damage/ landslips including:
- 7.1 285 properties were zoned red where there was either a life risk associated with cliff collapse, or where there was considered to be an unacceptable life risk due to rock roll (greater than 1 in 1,000 annual individual fatality risk at 2012 risk levels, according to the GNS modelling outlined in paragraph 4 above);
- 7.2 1107 properties were zoned green;
- 8 noted on 17 August 2012, joint Ministers with Power to Act rezoned a further 121 properties red on the basis that they faced an unacceptable level of life risk associated with rock roll, and 5 properties were zoned green on the basis that their level of life risk was acceptable;
- 9 noted on 14 September 2012, joint Ministers with Power to Act rezoned a further 37 properties red on the basis that they faced an unacceptable level of life risk associated with rock roll;
- 10 noted that eight properties in Lucas Lane that are at risk from a landslip remain white zoned while further investigation is considered, with a decision expected by 31 October 2012;
- 11 noted that joint Ministers with Power to Act agreed that for properties affected by cliff collapse, red zones have been declared where:
- 11.1 there is potential for immediate cliff collapse, as assessed by GNS, caused or accentuated by the Canterbury earthquakes with associated risk to life at either the top or bottom of the cliff; and
- 11.2 an engineering solution to remediate the land damage would:
- 11.2.1 be uncertain in terms of detailed design, its success and its possible commencement;
- 11.2.2 be disruptive for landowners as the commencement date is uncertain and due to the length of time they would need to be out of their homes to allow remediation to occur and new homes built;
- 11.2.3 not be timely: for example there is also substantial replacement of infrastructure required and/or the work required would probably lead to significant social dislocation for those communities in the short-to-medium term;
- 11.2.4 not be cost effective: the cost of remediation is greater than the value of the property; and
- 11.3 the health and wellbeing of residents is at risk from remaining in the area for prolonged periods;

- 12 **noted** that joint Ministers agreed that for properties affected by rock roll, red zones have been declared where:
- 12.1 annual individual fatality risk associated with residential dwellings in the area is higher than 1 in 10,000 at 2016 risk levels as per the GNS modelling, subject to expert advice in very particular circumstances¹; and
 - 12.2 an engineering solution to mitigate the life risk is judged not to be desirable, as it would (amongst other factors);
 - 12.2.1 be uncertain in terms of detailed design, its success and its possible commencement; and/or
 - 12.2.2 be disruptive for landowners as the commencement date is uncertain and due to the length of time they would need to be out of their homes to allow mitigation to occur; and/or
 - 12.2.3 not be timely: for example the work required would probably lead to social dislocation for those communities in the short-to-medium term; and/or
 - 12.2.4 not be cost effective, especially where the cost of mitigation is greater than the value of the properties; and
 - 12.3 the health and wellbeing of residents is at risk from remaining in the area for prolonged periods;

Review of Zoning

- 13 **noted** that there is a strong expectation in the Port Hills community that there will be a process for reviewing zoning decisions;
- 14 **noted** that the Minister for Canterbury Earthquake Recovery intends to appoint an advisory group to complete a review of zoning decisions, comprising:
- 14.1 Dr Keith **TURNER**, as independent chairperson;
 - 14.2 Ms Diane **TURNER**, General Manager, Strategy, Planning and Policy, CERA, as a CERA official with expertise in public policy and law;
 - 14.3 Ms Patricia **NOBLE**, Senior Solicitor, CERA, as a CERA official with expertise in public policy and law;
 - 14.4 Dr David **JENNINGS**, as an independent geotechnical engineer who has had no involvement in previous zoning decisions;
 - 14.5 Mr Kevin **LOCKE**, General Manager Capital Programme, CCC, as a senior representative from CCC;

¹ This is an exceptional circumstances clause and needs the agreement of both CERA and CCC.

- 16 confirmed the following criteria used for zoning decisions in the Port Hills which will form the basis for the advisory group to review zoning:
- 16.1 outside of the areas identified by GNS as high risk, properties have been zoned green where land damage and any life risk could be addressed on an individual basis;
 - 16.2 in the areas identified by GNS as high risk, red zones have been declared where:
 - 16.2.1 annual individual fatality risk associated with residential dwellings in the area is higher than 1 in 10,000 at 2016 risk levels as per the GNS modelling, subject to expert advice in very particular circumstances²; or
 - 16.2.2 there is potential for immediate cliff collapse or land slip, as assessed by GNS, caused or accentuated by the Canterbury earthquakes with associated risk to life; and
 - 16.2.3 an engineering solution to mitigate the life risk is judged not to be desirable, as it would (amongst other factors);
 - 16.2.3.1 be uncertain in terms of detailed design, its success and its possible commencement; and/or
 - 16.2.3.2 be disruptive for landowners as the commencement date is uncertain and due to the length of time they would need to be out of their homes to allow mitigation to occur; and/or
 - 16.2.3.3 not be timely; for example the work required would probably lead to social dislocation for those communities in the short-to-medium term; and/or
 - 16.2.3.4 not be cost effective, especially where the cost of mitigation is greater than the value of the properties; and
 - 16.2.4 the health and wellbeing of residents is at risk from remaining in the area for prolonged periods;
 - 16.3 in the areas identified by GNS as high risk, green zones have been declared where land damage and any life risk could be addressed on an individual basis and any life risk from rock roll was less than 1 in 10,000 at 2016 risk levels as per the GNS modelling;
- 17 agreed that the advisory group will make recommendations for zoning changes for any properties where it is found that:
- 17.1 the zoning of a property is inconsistent with the criteria confirmed in paragraph 16 above; and/or
 - 17.2 the boundary lines have not been drawn sensibly; and/or

² This is an exceptional circumstances clause and needs the agreement of both CERA and CCC.

- 17.3 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);
- 18 noted that property owners will have until 26 October 2012 to apply for a review of their zoning;
- 19 noted that 8 properties in Lucas Lane remain white zoned, with decisions expected by the end of October 2012;
- 20 noted that property owners of the 8 white zone properties in Lucas Lane will have until 16 November 2012 to apply for a review of their zoning;
- 21 noted that the review panel will report the findings of the review to the Minister for Canterbury Earthquake Recovery who will recommend any changes to zoning to CER by 10 December 2012;

Alternative options

- 22 noted that a number of property owners have expressed interest in proceeding further with exploring small scale mitigation options for their properties;
- 23 noted that CCC is required to consider any consent application that they may receive for mitigation works;
- 24 note that the Minister for Canterbury Earthquake Recovery has instructed CERA officials to work with CCC and any other relevant agencies to develop a policy framework to give property owners an opportunity to have mitigation options considered before their red zone offer expires;
- 25 agreed that the advisory group will not consider any zoning implications as a result of CCC's decisions on mitigation decisions referred to above;
- 26 noted that the Minister for Canterbury Earthquake Recovery may seek Cabinet's agreement to zoning changes as a result of CCC decisions on mitigation proposals at a later date;
- 27 noted that the Minister for Canterbury Earthquake Recovery has instructed officials to investigate a process for subdivision so a small number of owners who have large mixed use properties can access a red zone offer for the residential portion of their property;

- 28 **authorised the Minister of Finance and the Minister for Canterbury Earthquake Recovery to take joint decisions on the process and transaction design for subdivisions to occur and red zone offers to be made to the property owners noted in paragraph 27 above.**

Reference: CAB (12) 539; CER Min (12) 9/5

Secretary's Note: This minute replaces CER Min (12) 9/5. Cabinet amended paragraphs 4, 7, 8, 10, and 14-17 of the original minute.

Released by the Minister for Canterbury Earthquake Recovery