



Cabinet Committee on Canterbury Earthquake Recovery

CER Min (12) 3/2

Copy No: 28

Minute of Decision

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Canterbury Earthquake Recovery: Zoning Review Framework

Portfolio: Canterbury Earthquake Recovery

On 21 May 2012, the Cabinet Committee on Canterbury Earthquake Recovery:

- 1 **noted** that on 23 June 2011, the Prime Minister and the Minister for Canterbury Earthquake Recovery 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 there have been over 550 requests to the Canterbury Earthquake Recovery Authority (CERA) from property owners for the review of zoning decisions;
- 5 **noted** that the Minister for Canterbury Earthquake Recovery has considered the basis for zoning decisions and is satisfied that these provide a sound and practical criteria and basis for the repair and rebuilding of residential properties but that a final check is needed to ensure boundary lines are drawn appropriately;
- 6 **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 zoning decisions;
- 7 **authorised** the Minister for Canterbury Earthquake Recovery to appoint the independent reviewer referred to in paragraph 6 above;
- 8 **agreed** that the advisory group will make recommendations for zoning changes for any properties where it is found that:
 - 8.1 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];

- 8.2 there are anomalies in the zoning of a property due to:
- 8.2.1 the zoning boundary not adopting the underlying fee simple (legal) boundary for cross-lease or unit title properties;
 - 8.2.2 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;
- 9 **noted** that the advisory group will consider candidates for a change to zoning from two streams:
- 9.1 properties whose owners have requested a review;
 - 9.2 properties identified by officials as being anomalously zoned;
- 10 **noted** that the review panel will report the findings of the review to the Minister for Canterbury Earthquake Recovery who will make final decisions and make recommendations to Cabinet for any zoning changes;
- 11 **invited** the Minister for Canterbury Earthquake Recovery Authority to report to the Cabinet Committee on Canterbury Earthquake Recovery with the findings of this review including any recommendations for zoning changes by 30 July 2012.

Committee Secretary

Reference: CER (12) 10

Released by the Minister for Canterbury Earthquake Recovery

Memorandum for Canterbury Earthquake Recovery Committee

ZONING REVIEW FRAMEWORK

Purpose

- 1 This paper proposes a framework for a review process of red/green zoning decisions.

Background

Previous Zoning Decisions

2. 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].
3. 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 as part of the normal insurance process.

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

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

4. Red zones have previously been declared [CAB Min (11) 24/15 and CAB Min (11) 30/18 refers] in areas where:
 - 4.1. there is area-wide land damage, thereby implying some sort of area-wide solution; and
 - 4.2. an engineering solution to remediate the land damage would;
 - 4.2.1. be uncertain in terms of detailed design, its success and its possible commencement, given the ongoing seismic activity;
 - 4.2.2. 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;
 - 4.2.3. not be 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;
 - 4.2.4. not be cost effective: the cost of remediation is greater than the value of the land; and

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

Requests for zoning reviews

5. There is a strong expectation in the greater Christchurch community that there will be a general review process for zoning decisions. There has also been growing speculation in the media about what process does or should exist for reviewing zoning. A clear, timely message is necessary to clarify the Government's position and encourage property owners to make decisions.
6. CERA documents have said "If you disagree with your zoning, please email your name, property address and contact details to landinfo@cera.govt.nz." In response over 550 property owners have contacted CERA about reviewing their red/green zoning (CERA officials have taken details from these property owners and advised them that they will be contacted when a decision on a review process has been completed). The majority of these are seeking a change from green to red.
7. I am aware that there are a number of property owners who are delaying making decisions on their red zone offer until they receive an official response about the review of their zoning. Many of these owners have offers which expire on 17 Aug 2012.
8. I recommend that to clarify these expectations as soon as possible, a decision is made on scope, criteria and timeframes for the review process, and that these parameters are publicly announced. Now that the residential flat land zoning process has been completed, this is an appropriate time to review a small number of situations where changes to zoning should be considered.
9.
 - 9.1. :
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 - 9.2. :
10. There is a strong case for any decision to change the zoning decisions to be made as soon as possible to minimise any risk of owners acting in reliance of the current zoning and suffering any losses as a result of any change to that zoning.

Comment

11. I have reviewed the basis for zoning decisions based on the best available information. I am comfortable that the criteria and the basis for area-wide zoning decisions is sound and should not be revisited. Though area-wide decisions may appear inequitable to some individual property owners, they represent the best and most practical approach to considering issues of land damage and making decisions on the future use of land.
12. I do however propose that a limited process is put in place to respond to property owners who have requested a review and to address any anomalies or situations where it has become clear that current zoning is impractical or not cost-effective to maintain.
13. Subject to your agreement I intend to instruct officials to set up an advisory group to conduct a review.

Zoning Review Advisory Group

14. The advisory group will be set up comprising three senior CERA officials with expertise in public policy, law and geotechnical engineering.
15. Due to the importance of getting these decisions right, I recommend that in addition to these members an independent member also be appointed. This person will have a distinguished record in public administration and governance. Such an appointment will provide assurance about the integrity of the process.
16. The independent member of the Panel will have experience with regulatory decisions and ensuring good governance in public decision making - for example an ex-chief executive of a relevant Government agency.
17. I seek your authority to appoint such a person.

Role definition and functions

18. The advisory group will make a joint recommendation to the Minister for Canterbury Earthquake Recovery of any cases where they find that the zoning of a property should be changed.
19. They will recommend zoning changes for any properties where it is found that:
 - 19.1. The zoning of a property is inconsistent with the criteria agreed by Cabinet as outlined in paragraphs 2, 3 and 4 of this paper; or
 - 19.2. There are anomalies in the zoning of a property due to:
 - 19.2.1. The zoning boundary not adopting the underlying fee simple (legal) boundary for cross-lease or unit title properties; or
 - 19.2.2. 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.)
20. The advisory group will consider candidates for a change to zoning from two streams:
 - 20.1. Properties whose owners have requested a review; and
 - 20.2. Properties identified by officials as being anomalously zoned.
21. The Panel will operate under the Canterbury Earthquake Recovery Act 2011. The members of the Panel are accountable to the Minister for Canterbury Earthquake Recovery.
22. I propose that any further property owners who wish to request a review have until 30 June 2012 to request such a review of their property.
23. Once this review is completed, I will report back to the Canterbury Earthquake Recovery Committee by 30 July 2012 with the review's findings and make recommendations for any rezoning of individual properties.

Consultation

24. The Treasury and the Department of Building and Housing were consulted on this paper.

25. The Department of the Prime Minister and Cabinet was informed of this paper.

Financial implications

26. This paper seeks Cabinet's agreement to a reassessment process which will result in recommendations for red zoning of properties. This paper does not directly commit the government to any rezoning decisions at this stage.

27. Withheld under section 9(2)(f)(iv)
Withheld under section 9(2)(g)(i)

28. Withheld under section 9(2)(f)(iv)
Withheld under section 9(2)(g)(i)

Human rights implications

29. 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

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

Regulatory impact and compliance cost statement

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

Gender and disability implications

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

Publicity

33. If you agree to the recommendations in this paper, I propose to make a public announcement about the criteria for zoning reviews to the public on 1 June 2012.

34. Officials have developed a communications plan to clearly publicise the limited scope of the review process and the zoning criteria agreed by Cabinet that are used consistently throughout all zoning decisions.

35. Officials will prepare a letter to be sent to all property owners who have already requested or subsequently request a review. The letter will explain the process and criteria to be used in the review. It will request that they advise CERA if they no longer wish to have their zoning reviewed and give them an opportunity to provide any additional written material to support their request for review.

36. I will then instruct officials conduct the review using the process outlined in this paper.

37. Once this review has been completed, officials will draft responses to those who have requested reviews to outline the criteria used for zoning to advise that their zoning has been reviewed and whether or not there are grounds for the zoning of their property to be changed.

38. Officials will develop a communication plan for the owners of any properties that have not requested a review but have been identified as being impractical or not cost effective to remain zoned as they are currently and require rezoning.

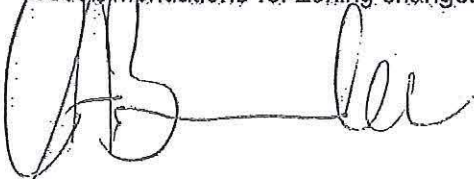
Recommendations

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 there have been over 550 requests to CERA from property owners for the review of zoning decisions;
- 5 **Note** that I have considered the basis for zoning decisions and I am satisfied that these provide a sound and practical criteria and basis for the repair and rebuilding of residential properties but that a final check is needed to ensure boundary lines are drawn appropriately;
- 6 **Agree** 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 zoning decisions.
- 7 **Authorise** the Minister for Canterbury Earthquake Recovery to appoint the independent reviewer referred to in recommendation 6.
- 8 **Agree** that the advisory group will make recommendations for zoning changes for any properties where it is found that:
 - 8.1 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
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- 9 **Note** that the advisory group will consider candidates for a change to zoning from two streams:
 - 9.1 Properties whose owners have requested a review; and

9.2 Properties identified by officials as being anomalously zoned.

- 10 Note that the review panel will report the findings of the review to the Minister for Canterbury Earthquake Recovery who will make final decisions and make recommendations to Cabinet for any zoning changes for individual properties;
- 11 Invite the Minister for Canterbury Earthquake Recovery Authority to report back to Canterbury Earthquake Recovery Committee with the findings of this review including any recommendations for zoning changes by 30 July 2012.



Hon Gerry Brownlee
Minister for Canterbury Earthquake Recovery

17, 05, 2012

Released by the Minister for Canterbury Earthquake Recovery