



Cabinet

CAB Min (11) 34/17

Copy No: 18

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Additional Item: Canterbury Earthquake: Purchase Price Review Process for Residential Insured Property Owners in the Red Zones

Portfolio: Canterbury Earthquake Recovery

On 19 September 2011, Cabinet:

- 1 **noted** that the submission tabled at Cabinet by the Minister for Canterbury Earthquake Recovery outlines a review process for the Crown's purchase price to the Canterbury earthquake red zone residential property owners, as a result of a factual error (as defined by the Valuer-General's Rules) or outstanding building consents;
- 2 **noted** that Cabinet agreed, in relation to making purchase price adjustments for property owners, that the current Rating Valuation be the purchase price with no amendments, with the exception of factual errors or building consents that were not taken into account in the 2007 or 2008 Rating Valuation, which would be amended as per the Valuer-General's Rules [CAB Min (11) 27/12; CAB Min (11) 30/18];
- 3 **noted** that there are likely to be substantial delays in settling with property owners if a substantial proportion of property owners seek a review;
- 4 **agreed** that owners can only lodge a request for review based on floor area if the floor area adjustment sought is greater than 5 percent of the total recorded floor area;
- 5 **agreed** to introduce an administration charge of \$250 if the property owner requests a review from the Canterbury Earthquake Recovery Authority (CERA);
- 6 **noted** that CERA will appoint rating valuers to consider these requests, and the Valuer-General's Rules will be followed in assessing any change;
- 7 **agreed** to establish a disputes resolution process comprising a panel of expert registered valuers to review revised values should a property owner wish to appeal their revised valuation;
- 8 **invited** the Minister for Canterbury Earthquake Recovery to submit a paper to the Cabinet Appointments and Honours Committee on appointments to the expert panel of valuers;
- 9 **agreed** that members of the expert panel will be remunerated in accordance with the Cabinet fees framework [Cabinet Office Circular CO (09) 5];

- 10 **agreed** that the expert panel of valuers will act independently of CERA;
- 11 **agreed** that decisions made by the expert panel of valuers is binding on both the property owner and CERA;
- 12 **agreed** to an administration charge of up to \$100 for the expert panel disputes resolution process;
- 13 **approved** the following changes to appropriations to provide for valuation costs incurred by CERA associated with the acquisition of voluntarily acquired insured residential properties in Canterbury, with a corresponding impact on the operating balance:

Vote Canterbury Earthquake Recovery Minister for Canterbury Earthquake Recovery	\$m – increase/(decrease)				
	2011/12	2012/13	2013/14	2014/15	2015/16 & outyears
Departmental Output Expense: Management of Voluntarily Acquired Insured Residential Red Zone Properties (Funded by revenue Crown)	1.750	-	-	-	-

- 14 **agreed** that the changes to appropriations be met from the Canterbury Earthquake Recovery Fund established as part of Budget 2011;
- 15 **agreed** that the proposed change to appropriations for 2011/12 above be included in the 2011/12 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply;
- 16 **noted** that when the Canterbury Earthquake Recovery Fund was established, an allocation for decisions relating to land damage was developed of which there is around \$153 million still remaining, and that these decisions will reduce the allocation by \$1.75 million, leaving approximately \$151 million for other land damage decisions.

Reference: Paper tabled by the Minister for Canterbury Earthquake Recovery: *Canterbury Earthquake: Purchase Price Review Process for Residential Insured Property Owners in the Red Zones*

Distribution (see over):

Office of the Minister for Canterbury Earthquake Recovery

Cabinet Appointments and Honours Committee

APPOINTMENT OF EXPERT PANEL OF VALUERS FOR RED ZONE PURCHASE PRICE REVIEW APPEALS

Proposal

- 1 This paper outlines the reason for, and nominations to, the new Expert Panel of Valuers (the Panel) to be established as part of the review process for the purchase price payable under the Crown's offer to purchase insured residential properties in the Canterbury Red Zone.
- 2 This paper outlines my intention to appoint Mr Chris Stanley, Mr Terry Naylor, Mr Marius Ogg and Mr Alan Stewart to the Panel, from the date of appointment, expiring at either 30 April 2013, or the final settlement date under the Crown's offer to purchase properties in the Red Zone, should this date be extended.

Executive Summary

- 3 Cabinet agreed on 19 September 2011 to the establishment of a purchase price review process for residential insured property owners in the Red Zones [CAB Min (11) 34/17 refers].
- 4 As part of this review process, Cabinet agreed to establish a panel of expert registered valuers to review revised values should a property owner¹ wish to appeal their revised valuation.
- 5 In order to establish the panel of expert registered valuers, I have identified four suitable candidates to appoint. These candidates are: Mr Chris Stanley, Mr Terry Naylor, Mr Marius Ogg and Mr Alan Stewart.

Background

- 6 Ministers with Power to Act agreed on 22 June 2011 to a choice of two purchase packages for insured residential property owners in the Red Zone [CAB Min (11) 24/15, refers].
- On 18 July 2011, as part of the purchase offer process, Cabinet agreed that a purchase price review process would be established [CAB Min (11) 27/12, refers]. Under the agreed process, property owners can seek a review through the Canterbury Earthquake Recovery Authority (CERA) only in regard to factual errors on the rating roll (i.e. incorrect land or dwelling area) or consented building works that were not taken into account in the 2007 or 2008 Rating Valuation. CERA will appoint valuers to consider

¹ For the purposes of this paper, all references to the 'property owner' refers to insured residential property owners in the Red Zones, as these are the property owners to whom the establishment of the Expert Panel of Valuers applies.

requests for a review, and the Valuer-General's Rules will be followed in assessing any change.

- 8 On 19 September 2011, Cabinet agreed to establish a disputes resolution process comprising a panel of expert registered valuers to review values should a property owner wish to appeal their revised valuation [CAB Min (11) 34/17, refers]. The Panel will act independently of CERA and decisions made by the Panel will be binding on both the property owner and the Crown.
- 9 In order to establish the Panel, I have identified four suitable candidates to appoint. These candidates are: Mr Chris Stanley (Chair), Mr Terry Naylor, Mr Marius Ogg and Mr Alan Stewart.

Role, function and accountabilities of the Panel

- 10 Clear criteria outlining the circumstances under which property owners can contest an offered purchase price have been developed and approved by Cabinet as the 'purchase price review process' [CAB Min (11) 27/12 refers].
- 11 The purpose of the Panel is to ensure there is an opportunity for property owners to seek a review of any revised valuations offered by the Crown following a purchase price review [CAB Min (11) 34/17 refers].
- 12 In assessing an offer, members of the Panel will undertake a *technical review*, which consists of assessing written documentation relating to the value of the property in question. This documentation will be provided by the property owner and the CERA appointed valuer who undertook the purchase price review. The Panel will review the documentation received and make a joint decision on a value for the property. This decision will be recorded and issued in writing to the property owner and CERA.
- 13 The members of the Panel are accountable to the Minister for Canterbury Earthquake Recovery.
- 14 CERA has developed a Position Description for the members of the Panel (Attachment A) and a draft Terms of Reference for the Panel (Attachment B).

Appointment process

- 15 I can confirm that an appropriate process has been followed in selecting the proposed appointees, in terms of the State Services Commission appointment guidelines.
- 16 CERA sought nominations from Te Puni Kokiri, the Ministry of Pacific Island Affairs, the Ministry of Women's Affairs and the Ministry of Consumer Affairs. No nominations were received from the organisations approached.
- 17 CERA also consulted Quotable Valuation New Zealand (QV), GEM Valuation and the Property Institute of New Zealand (PINZ) about possible candidates for appointment to the Panel. PINZ assisted officials with the preparation of a short list of suitable potential candidates.
- 18 Suitability, availability and interest were discussed with those nominated and the most appropriate candidates were selected to put forward.
- 19 This process was appropriate for the Panel appointments.

Proposed appointees

- 20 The proposed appointees, their suitability and qualifications are outlined in Table 1 below. Full CV's for Panel members are included as Attachment C.

Table 1: Proposed appointees for the Expert Panel of Valuers

Name	Professional background	Qualifications
Mr Chris Stanley (Chair) Director, TeiferYoung	Highly experienced valuing all classes of urban property, considerable experience as an expert witness, an arbitrator and mediating disputes. Past President of the Property Institute of New Zealand.	Registered Valuer for 28 years. M Prop Stud (Distn); FNZIV; FPNZ; AAMINZ; ANZIV. Member the Land Valuation Tribunal
Mr Terrence Naylor Director, Ford Baker	Extensive experience in residential sector with additional experience in commercial, industrial and business valuations, particularly for hospitality and accomodation. Current Vice President of the NZ Institute of Valuers (board member for seven years).	Registered Valuer for 25 years. Senior Member of the Property Institute of New Zealand (SPINZ) and an associate of the NZ Institute of Valuers (ANZIV).
Mr Marius Ogg Director, CB Richard Ellis	Extensive experience across residential and land development, commercial, retail and portfolio valuation instructions, including but not limited to due diligence reporting, property feasibility studies, extensive market and rental valuations, consultancy and financial reporting.	Registered Valuer for 10 years; Associate of the NZ Institute of Valuers (ANZIV); Senior Member of the Property Institute of New Zealand (SPINZ).
Mr Alan Stewart Director, Alan Stewart Ltd	Wide ranging experience/expertise in residential and rural valuation matters over 30 plus years of practice. Has acted as an Expert Witness on a number of occasions and provided evidence for both the High Court, the Valuers' Registration Board, and other Tribunal hearings.	Registered Valuer for 30 plus years; Diploma in Valuation and Farm Management (VFM); Fellow of both the NZIV and Property Institute of NZ (PINZ).

Commencement and expiry dates

- 21 I wish to confirm appointment of the members to the Panel as soon as possible, with members available from appointment to review any cases that are referred to them.
- 22 The Panel will remain in operation until 30 April 2013, or the final settlement date under the Crown's offer to purchase properties in the Red Zone, should this date be extended.
- 23 Should a Panel member need to resign or be stood down during the period of appointment, CERA will work with the remaining members and the Property Institute of New Zealand to identify and appoint a replacement member with a similar skill set.

Representativeness of appointment

- 24 Full consideration has been given to the need to achieve an appropriate balance of representation on the Panel.
- 25 Valuation is a specialised, highly skilled, location specific field and those nominated have been selected for their experience and professional standing as nationally acknowledged experts in their field, as well as being representatives of the Canterbury valuation community.

Conflicts of Interest

- 26 I can confirm that appropriate enquiries concerning conflicts of interest have been carried out, in accordance with the SSC appointment guidelines, to identify any conflicts of interest that could reasonably be identified and:

- 27 The following conflicts of interest have been identified:

27.1 As all panel members are members of the Christchurch community, it is possible they may be asked to review cases that concern family or close friends. To mitigate this conflict, should this situation arise, the member affected will stand down from consideration of the case.

27.2 The companies that some of the proposed members work for or own have been involved, to a greater or lesser extent, in valuation work in the Red Zones and in acting for major insurance companies. As such it is possible that a company for which one of the proposed members works may have previously undertaken valuation work on a property that is submitted to the Panel. To mitigate this the member will stand down from deliberations on any property that they or their company have previously advised on. Likewise, the member's companies will not undertake any valuation work for properties submitted for a purchase price review.

Timing and Publicity

- 28 A press statement will be issued once the Panel appointments have been approved and those appointed notified of the approval.
- 29 Should membership of the Panel change during the period of its operation, a press statement will be issued regarding the new appointee/s.

Fees payable

- 30 On 19 September 2011, Cabinet agreed that members of the Panel be remunerated in accordance with the Cabinet Fees Framework [Cabinet Office Circular CO (09) 5], [CAB Min (11) 34/17 refers].
- 31 In accordance with this I propose that the reimbursement for the Panel be \$415 per day for panel members and \$575 per day for the Panel chair.

Consultation

- 32 Treasury, Te Puni Kokiri, the Ministry of Pacific Island Affairs, the Ministry of Women's Affairs and the Ministry of Consumer Affairs were consulted on this paper.
- 33 The Department of the Prime Minister and Cabinet was informed of this paper.

Financial implications

- 34 Financial implications from the establishment of the review process for Red Zone property purchase price offers, of which the Panel is a component have been discussed and appropriations for this purpose have been approved [CAB Min (11) 34/17 refers].

Human rights implications

- 35 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

- 36 There are no legislative implications arising from this paper.

Regulatory impact and compliance cost statement

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

Gender implications

- 38 There are no gender implications associated with the proposals in this paper.

Disability perspective

- 39 There are no disability implications associated with the proposals in this paper.

Recommendations

- 40 I recommend that the committee note my intention to appoint Mr Chris Stanley (Chair), Mr Terry Naylor, Mr Marius Ogg and Mr Alan Stewart to the Expert Panel of Valuers for a term commencing as soon as possible and expiring on 30 April 2013, or the final settlement date under the Crown's offer to purchase properties in the Red Zone, should this date be extended.


Hon Gerry Brownlee
Minister for Canterbury Earthquake Recovery

09, 02, 2012

Required skills and essential qualifications

The members of the Panel must have a minimum of ten years experience as a valuer of residential properties in the New Zealand property market. They must hold a New Zealand Valuers' Registration Board registration. Appointees will need to be able to provide certified copies of qualifications/certificates. Experience working in a review or group valuation situation will be of benefit.

Likely work-load/meetings

Undetermined at this time, however not expected to be significant. All review work is to be based on written submissions, so the Panel is likely to undertake deliberations by email or teleconference, but may meet in person if this is a more efficient process or case load requires.

Further roles for the Panel may be identified. If this occurs, members will be approached to determine their ongoing interest in involvement, and will be replaced if they are no longer available to assist.

The Panel is to be established from early 2012, until either 30 April 2013, or the final settlement date under the Crown's offer to purchase properties in the Red Zone, should this date be extended.

Interests

An interest arises where a person has a financial, familial or other personal interest in a matter that could give rise to bias or the appearance of bias in the work of an agency. Considering the nature of the work of the Panel, valuers will be asked to certify that neither they, nor their family are affected by the Red Zone offer to purchase relating to the property in question, and that their companies have not been involved in valuing the property in question. Should a conflict of interest arise, valuers will step aside from deliberations in relation to that case.

Approach

Members of the Panel will be expected to undertake review work with impartiality, basing decisions on the materials provided to them and acting in good faith when making their decisions. The Panel will be expected to come to a joint decision on outcomes, which will be documented. Full terms of reference have been developed for the Panel.

Remuneration

Members of the Panel will be paid a daily fee for their case review work.

Attachment A

Position Description for the Expert Panel of Valuers

Role

The Expert Panel of Valuers (the Panel) is being established as part of the review process for the purchase price payable under the Crown's offer to purchase insured residential properties in the Canterbury Red Zones.

Background to role

On 23 June 2011, Cabinet announced a package to support insured, residential property owners whose houses were located in the Canterbury Red Zone. Under the package, the Crown offered to purchase the properties at pre-earthquake rating valuations. As part of the process of purchase of properties, property owners who choose to take up the offer from Government have the right to review the offered purchase price for their property where an error or outstanding building consent impacts on the value of their property.

The first step of a review will be undertaken by the Canterbury Earthquake Recovery Authority (CERA), who will appoint a registered valuer who will review the purchase price according to determined criteria. In some cases this may result in a reduction or no change to the purchase price.

Further review – submission to the Panel

If a property owner is unhappy with the outcome of the CERA review, the owner can challenge this, within a specified timeframe. Owners will be asked to submit documentation in support of their appeal to the Panel. The Panel will make a final determination based on the information submitted by the property owner and the valuer who undertook the review of the purchase price. The Panel's determination will be binding on the property owner and the Crown.

Role definition and functions

The members of the Panel will be required to undertake a *technical review* of written valuation documentation relating to properties under consideration. This documentation will be provided by the property owner and a valuer employed by CERA. Clear criteria outlining the circumstances under which property owners can contest an offered purchase price have been developed and approved by Cabinet. The Panel will be required to review the documentation received and make a joint decision on a value for the property. This decision will be recorded and issued in writing to the property owner and CERA.

Accountabilities

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.

Key relationships

The Panel will be supported by the CERA offices in Christchurch in regards to scheduling review processes and administrative issues. They will not have any other significant relationships.

Attachment B

Terms of Reference for the Expert Panel of Valuers

Purpose

The Expert Panel of Valuers acts to provide a review of contested purchase prices as part of the review process for the purchase price payable under the Crown's offer to purchase properties in the Red Zones.

Background to the creation of the panel

Under the purchase process for residential insured property owners in the Red Zones, property owners have the right to seek a review of the offered purchase price for their property where an error or outstanding building consent impacts on the value of their property. Specifically, property owners can seek a review of purchase price if:

- The area of the land recorded in the most recent rating valuation for the property is understated; or
- The total floor area of the improvements recorded in the most recent rating valuation for the property is understated by more than five percent; or
- They have undertaken consented building work on the property for which they hold a code compliance certificate, which has increased the floor area of the insured buildings but has not been taken into account in the most recent rating valuation.

Review process

Following a request for a review that meets the criteria, the Canterbury Earthquake Recovery Authority (CERA) will appoint a rating valuer who will review the purchase price. A review of the purchase price will be undertaken if it is determined that and of the following applies:

- The land area is incorrect.
- The floor area is incorrect by more than five percent.
- There are consented building works that have not been taken into account in determining the rating valuation.

In some cases this may result in a reduction or no change to the purchase price. The reviewed purchase price will, unless challenged further, become the purchase price for the property (subject to any deductions specified in the Agreement for Sale and Purchase).

Further review – submission to the Expert Panel of Valuers ("the Panel")

If a property owner is unhappy with the decision of the CERA appointed valuer, they can challenge this. The property owner has 10 working days from the date that they receive notification from CERA of the reviewed purchase price to lodge an appeal.

Owners will be asked to submit written documentation in support of their appeal to the independent Expert Panel of Valuers. This Panel will make a final determination in the form of a technical review based on the written information submitted by the property owner and the valuer who undertook the review of the purchase price. The Panel will reach a joint decision on the technical accuracy of the valuation put forward in the documentation and issue a determination in relation to this.

The Panel's determination will be binding on the property owner and the Crown.

Functions of the Expert Panel of Valuers

1. Undertake a technical review of written valuation documentation provided to them.
2. Following this review, reach a joint decision on the technical accuracy of the valuation put forward in the documentation, and either
 - (a) Agree with the conclusion of the valuation report, fully explaining and disclosing reasons for agreement, or
 - (b) Assign another valuation, fully explaining and disclosing reasons for the assignment of a new value
3. Record and issue, in writing, the decision to all affected parties. The decision will be binding on the property owner and the Crown.
4. Quorum for the Panel is three.

Members of the Expert Panel of Valuers are expected to:

- contribute their experience, skills and knowledge to the discussions;
- work collaboratively and by consensus to reach decisions on priorities;
- declare any conflict of interest, or potential conflicts of interest that may arise;
- offer advice that is independent, objective and unbiased;
- adhere to the highest ethical standards.

The Chair of the Panel is expected to, in addition to the above:

- chair meetings;
- organise the agenda with the assistance of the secretariat (CERA);
- ensure Panel outcomes and decisions are communicated in writing to property owners and CERA.

Accountabilities

The Panel will operate under the Canterbury Earthquake Recovery Act 2011. The members of the Panel are accountable to the Canterbury Earthquake Minister.

Replacement of Panel members

Panel members may be replaced if:

- a. they are no longer able to assist due to other commitments,
- b. there is a conflict of interest which cannot be managed, or,
- c. a member is not performing the role for which they were appointed to a satisfactory standard.

In the case of an unmanageable conflict of interest or non-performance, CERA will discuss resignation with the Panel member and act to identify a replacement Panel member.

Further roles for the Panel may be identified. If this occurs, members will be approached to determine their ongoing interest in involvement and will be replaced if they are no longer able to assist.

Key relationships

The members of the Panel will be supported by CERA, who will act as secretariat in regards to scheduling review processes. Panel members will not have any other significant relationships.