

Department of the Prime Minister and Cabinet

Inquiry into the Earthquake Commission Proactive Release November 2018

The document below is released by the Department of the Prime Minister and Cabinet relating to the inquiry into the Earthquake Commission.

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- [1] 9(2)(a) – to protect the privacy of natural persons, including deceased people
- [2] 9(2)(ba)(i) – to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied

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Office of the Minister responsible for the Earthquake Commission
Chair, Cabinet Legislation Committee

Inquiries (Public Inquiry into Earthquake Commission) Order 2018

Proposal

- 1 This paper seeks the Cabinet Legislative Committee's agreement to authorise the submission to the Executive Council of the Inquiries (Public Inquiry into Earthquake Commission) Order 2018 (the Order), to establish the Public Inquiry into the Earthquake Commission (the Inquiry).

Policy

- 2 On 12 September 2018, the Cabinet Appointments and Honours Committee agreed that a Public Inquiry into the Earthquake Commission be established under section 6(1)(b) of the Inquiries Act 2013 (APH-18-MIN-0196 and CAB-18-MIN-0448 refer). The Inquiry's purpose is to ensure that lessons are learnt from past Canterbury earthquake experiences, and that the Earthquake Commission has the appropriate policies and operating structures in place to ensure improved claims management experiences in the future.
- 3 The Committee approved the terms of reference for the Inquiry for inclusion in the Order, which set the Inquiry's conclusion as 30 June 2019.
- 4 The Inquiry will have a membership of one, with the Minister to recommend that the Governor-General appoint Dame Silvia Cartwright. She will be appointed for a term to commence on the date the Order comes into force and expiring on 31 July 2019.
- 5 The Minister of State Services agreed to a fee of \$1,400 per day for the Inquiry member, consistent with the Cabinet Fees Framework.
- 6 Budget 2018 allocated funding of \$3.2 million for the Public Inquiry into the Earthquake Commission [CAB-18-MIN-0158.24].

Timing and 28-day rule

- 7 A waiver will also be required of the 28-day rule for legislative instruments to come into force, following notification in the *New Zealand Gazette*. As the Order will establish a public inquiry that will include public consultation, I seek a waiver on the grounds the Order will confer only benefits on the public.

Compliance

- 8 I confirm that the Order in Council complies with the principles of the Treaty of Waitangi; the rights and freedoms contained in the New Zealand Bill of Rights Act 1990; the Human Rights Act 1993; the principles and guidelines set out in the Privacy Act 1993; and relevant international standards and obligations. It also complies with Guidelines on the Process and Content of Legislation (2014 edition).

- 9 The Order meets the following requirements in section 7 of the Inquiries Act 2013:
- specifies the matter of public importance that is the subject of the inquiry;
 - names the one person appointed to be the member of the inquiry;
 - specifies the date when the Inquiry may begin considering evidence; and
 - notifies the terms of reference for an inquiry.
- 10 The Order has been certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.
- 11 If the Committee agrees, this Order in Council will be submitted to Cabinet and the Executive Council on 12 November 2018, with the intention it will be notified in the *New Zealand Gazette* on 15 November 2018 and come into force on 16 November 2018.

Certification by Parliamentary Counsel

- 12 The Order was drafted by the Parliamentary Counsel Office and is certified as being in order for submission to Cabinet.

Impact analysis

- 13 A Regulatory Impact Analysis is not required.

Publicity

- 14 An announcement on the Inquiry will be made as soon as practicable after the Order is signed in Executive Council. The press release will include the announcement of the Inquiry member and the Inquiry's terms of reference.
- 15 I also intend to proactively publish this Cabinet paper, the preceding Cabinet paper and other related papers on the Department of the Prime Minister and Cabinet's website, subject to consideration of redactions that would be justified if the information had been released under the Official Information Act 1982.

Consultation

- 16 This paper was prepared by the Department of the Prime Minister and Cabinet (Greater Christchurch Group) as the administering agency for the Inquiry. The Department of Internal Affairs, Crown Law, the Ministry of Business, Innovation and Employment, the Earthquake Commission, The Treasury, the Parliamentary Counsel Office, and the State Services Commission were consulted in the preparation of the paper and the previous policy papers. The Department of the Prime Minister and Cabinet (Policy Advisory Group) was informed.

Recommendations

- 17 I recommend that the Cabinet Legislation Committee:
- 1 **note** that on 12 September 2018 the Cabinet Appointment and Honours Committee [APH-18-MIN-0196]:

- 1.1 agreed that a Public Inquiry into the Earthquake Commission's approach to the Canterbury earthquake events be established under section 6(1)(b) of the Inquiries Act 2013, to ensure that lessons are learnt from these past Canterbury earthquake experiences and the Earthquake Commission has the appropriate policies and operating structures in place to ensure improved claims management experiences in the future;
- 1.2 approved the terms of reference for the Public Inquiry, including that it will conclude on 30 June 2019;
- 1.3 agreed that the Inquiry comprise of one member and noted that the Minister intends to recommend to the Governor-General the appointment of Dame Silvia Cartwright; and
- 1.4 noted that Budget 2018 allocated funding of \$3.2 million for the Inquiry and that a daily fee of \$1,400 was agreed with the Minister of State Services;
- 2 **note** that the Inquiries (Public Inquiry into Earthquake Commission) Order 2018 will give effect to the decision referred to in paragraph 17 above;
- 3 **note** that a waiver of the 28-day rule is sought:
 - 3.1 so that the Order in Council can come into force immediately following its publishing in the *Gazette* on the grounds that the Order will confer only benefits on the public;
- 4 **agree** to waive the 28-day rule so that the Order can come into force on 16 November 2018; and
- 5 **authorise** the submission of the Inquiries (Public Inquiry into Earthquake Commission) Order 2018 to the Executive Council for approval.

Authorised for lodgement

Hon Dr Megan Woods

Minister responsible for the Earthquake Commission