

To: Minister for Canterbury Earthquake Recovery



CONFIDENTIAL

**Final Settlement Date for Flat Land Residential Red Zone Property Owners**

Date	14 December 2012	Priority	High
Report No	M/12-13/211	File Reference	

**Action Sought**

Hon Gerry Brownlee <i>Minister for Canterbury Earthquake Recovery</i>	Agree to a policy for considering extensions to the 30 April 2013 final settlement date	Deadline 14 December 2012
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**Contact for Telephone Discussion (if required)**

Name	Position	Telephone	1st Contact
Diane Turner	Deputy Chief Executive, Recovery Strategy, Planning and Policy	Withheld under section 9(2)(a)	<input checked="" type="checkbox"/>
	Senior Advisor, Recovery Strategy, Planning and Policy	Withheld under section 9(2)(a)	

**Minister's office comment**

- Noted
- Seen
- Approved
- Needs change
- Withdrawn
- Not seen by Minister
- Overtaken by events
- Referred to

**Comments**

As discussed with CERA, rec 3 is subject to comments on rec 7. See related press statement for further information.

Kelly 18-12

# Final Settlement Date for Flat Land Residential Red Zone Property Owners

## Purpose

1. To establish a policy for considering extensions to the 30 April 2013 final settlement date for flat land individual residential red zone property owners (IRPOs).

## Executive summary

2. CERA and your office are receiving a growing number of requests from flat land individual residential red zone property owners (IRPOs) to extend the final settlement date, with property owners expressing strong concerns about their ability to find alternative accommodation and vacate the residential red zone by 30 April 2013. The situation is attributable to a range of factors, including property owners' new homes not being completed on time, and delays with insurance claims settlements. We estimate that up to 1000 IRPOs may request an extension (if one were available). Community and media interest in this issue is likely to intensify as April draws closer.
3. There are benefits to continuing with the current Crown offer policy and timeframes, including providing certainty for property owners and encouraging the settlement of insurance claims, the completion of new building projects, and the decolonisation of areas severely damaged by the earthquakes. Once areas are vacated, costly infrastructure can also be decommissioned.
4. We assess, however, that the benefits are outweighed by the risks of not having some flexibility in the Government's approach. Some property owners are indicating they will be unable to vacate their property by the agreed settlement date, despite exploring all available options.  
Withheld under section 9(2)(g)(i)
5. Where there are strong grounds for doing so, we recommend that an extension to the final settlement date be granted to IRPOs, on a case-by-case basis. The extension would be for a maximum period of six months or less. Property owners would be required to apply to CERA for an extension and meet strict criteria for one or both of the following categories:
  - 5.1. Vulnerable  
Withheld under section 9(2)(f)(iv)
  - 5.2. Extraordinary delays – property owners who are delayed in moving to alternative accommodation due to exceptional circumstances beyond their control.
6. Careful communications will be crucial to ensure property owners and insurers understand the criteria and rationale for an extension being granted on a case-by-case basis, and that this is not a carte blanche extension or an automatic entitlement.
7. Subject to your agreement, we will begin developing the detailed criteria and internal processes in CERA to assess applications. We also recommend releasing a public statement on this decision as soon as possible, in order to provide maximum notice and information to IRPOs and other key stakeholders. We propose to come back to you early in the New Year with the detailed criteria  
Withheld under section 9(2)(g)(i)  
and the operational process design and costs for your consideration.

## Recommendations

8. It is recommended that you:

1 Note that CERA and your office are receiving a growing number of requests from flat land individual residential red zone property owners (IRPOs) to extend the final settlement date and expressing strong concerns about their ability to find alternative accommodation and vacate the residential red zone by 30 April 2013;

2 Note that the situation is attributable to a range of factors, including property owners' new homes not being completed on time, and delays with insurance claims settlements;

3 Agree in principle, to extend the April 2013 settlement date on a case-by-case basis, for a maximum period of six months, with that settlement no later than 31 October 2013;

4 Agree in principle that property owners would be required to apply to CERA for an extension and meet strict criteria for one or both of the following categories:

4.1 Vulnerable --

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

4.2 Extraordinary delays -- property owners who are delayed in moving to alternative accommodation due to exceptional circumstances beyond their control.

5 Note that CERA will require increased resources to manage the process for property owners who wish to apply for an extension, and that these resources will be funded initially from existing baselines;

6 Note that an estimated 1000 flat land residential red zone property owners may request an extension to the final settlement date of 30 April 2013 (if one were available) however less than half would be likely to meet the criteria for an extension;

YES / NO

YES / NO

YES / NO

*The needs to be more specific*

7 Direct officials to develop and provide you with further advice on:

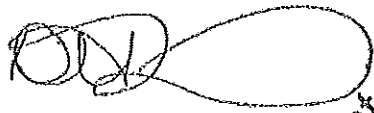
7.1 The detailed criteria for each of the vulnerable and extraordinary delays tests;

7.2 The operational process design and costs; and

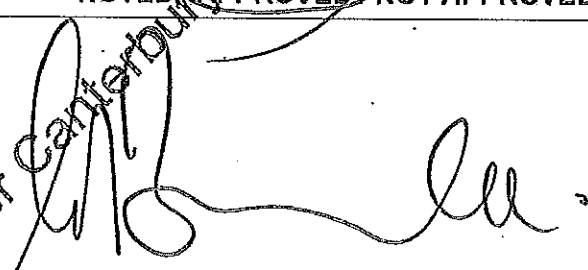
~~7.3 Options to delegate the authority to approve case-by-case extensions to the final settlement date to the Chief Executive of CERA, who can sub-delegate this authority within CERA as required; and~~

8 Note the need for careful communications to ensure property owners and insurers understand the criteria and rationale for an extension being granted on a case-by-case basis, and that this is not a carte blanche extension or an automatic entitlement.

*Final Settlement Date REMAINS AT 31 Jun 2013. GRS*



Diane Turner  
Deputy Chief Executive – Recovery,  
Strategy, Planning and Policy

NOTED	APPROVED	NOT APPROVED
		
Hon Gerry Brownlee Minister for Canterbury Earthquake Recovery		
Date: 17/12/2012		

Released by the Minister for Canterbury Earthquake Recovery

## Background

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### *Individual Residential Red Zone Property Owners*

9. Eligible flat land individual residential red zone property owners (IRPOs) who choose to accept the Crown offer have a final settlement date of 30 April 2013. The majority of IRPOs (5176 properties) have been given 22 months, from the date of the zoning announcement in June 2011 until the final settlement date, to make decisions on accepting the Crown offer and vacating the red zone. IRPOs in the Avon Loop, Richmond South, Linwood, and Southshore who were in the last group of orange to red zone announcements have been given 13 months. Those most recently rezoned, as a result of the flat land Zoning Review, were given 8 months to accept the offer and settle with the Crown.
10. Currently CERA will not complete settlement with the property owner on the settlement date if they (or their tenants) have not vacated the property, as the Agreement for Sale and Purchase requires vacant possession.
11. CERA and your office are receiving a growing number of requests from IRPOs to extend the final settlement date. Over 110 requests for extensions have been received, including some on behalf of families and residents associations, and a petition from recently red-zoned residents. The property owners are expressing strong concerns about their ability to find alternative accommodation and vacate the red zone by the final settlement date.
12. 

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

### *Southshore expiration date*

13. This current paper cannot address Southshore property owners. Cabinet has authorised you to extend, as appropriate, the final settlement date of 30 April 2013 [CAB Min (12) 10/19]. Extending the 30 June 2013 final settlement date for Southshore property owners will need to be considered separately, and authorisation sought from Cabinet if an extension is required.

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

### *Exclusions*

14. The scope of this paper excludes the small number of IRPOs (at this stage approximately 61 property owners) who have indicated their preference to stay in the RRZ and not accept the Crown offer – irrespective of settlement timeframes. This is a separate issue and is not covered in this paper.

## Comment

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15. Of 6108 IRPOs with a final settlement date of 30 April 2013, 4323 have settled to date (as at 11 December 2012) leaving 1785 yet to vacate their property and settle with the Crown as shown in the maps attached at Appendices A and B. This includes withheld under section 9(2)(f)(iv) property owners who have indicated their intention not to accept the Crown offer.
16. CERA has contacted a sample of 142 property owners who have selected settlement dates in the final two weeks of April 2013 to discuss their circumstances. Of these respondents:

- 16.1. 72 identified barriers to moving out of their property by 30 April 2013 – with the majority (47) citing the build timeframes for their new homes.
- 16.2. The other main obstacles identified by the respondents included delays in reaching an agreement with EQC and/or their insurers (10), insufficient funds to purchase or build a new property (8), and difficulties in finding a new property (5).
17. From the above sampling, we estimate that up to 1000 IRPOs may be likely to request an extension (if one were available) to the final settlement date of 30 April 2013. Attached at Appendices A and B are maps showing the location of these property owners in the five red zone areas. We note that they are generally spread throughout the red zone areas.

18.

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

19.

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

20. The Earthquake Support Coordinator Service and other groups working with IRPOs have noted they are seeing many cases where the property owner has signed up for a new build, soon after being zoned red, on the understanding that their property would be completed by April 2013, enabling them to meet the final settlement date timeframe. Since signing up, the timeframes have been delayed for a variety of reasons beyond the property owner's control, such as consenting and building delays.
21. We are also aware of a number of cases where disputes between the EQC and private insurer are delaying confirmation of the property owner's offer. The property owner is usually unable to proceed with the purchase of a new property until they have their final offer amount (and conditions) confirmed by their insurer.

#### Options

22. There are three main options available to the Government in response to this situation. The first option is to continue with the current Crown offer policy and timeframes, i.e. not to provide any extension to the final settlement date, regardless of any extenuating circumstances. The second option is to grant a blanket extension to the final settlement date. The third option is to create a process whereby applications for extensions can be considered on a case-by-case basis.

#### *Option A: Continue with the current policy*

23. There are benefits to continuing with the current RRZ Crown offer policy, including providing certainty for property owners and encouraging the settlement of insurance claims and the depopulation of areas severely damaged by the earthquakes. The policy is in line with the Government's objectives of enabling a focused, timely, and expedited recovery.

24. The final settlement date also provides an incentive to complete building projects on time. Extending the final settlement date could create the expectation that the date could be moved repeatedly if build timeframes slipped.
25. In addition, if the settlement date was changed, the clearance programme could be delayed and/or made more difficult by a small number of residents remaining in largely vacant areas. Delaying the clearance programme could create additional costs in property maintenance and security measures.
26. Expediting the settlement and vacating process would also bring savings in infrastructure provision to this area. The current cost for CCC of maintaining infrastructure to the RRZ is estimated at \$1.5 million per month, although this cost will reduce over time as further areas are vacated.
27. There are also health and wellbeing considerations for people remaining in these areas, surrounded by demolitions and clearance works, in damaged properties, and with limited services and community support networks.
28. Where property owners who have accepted the Crown offer and fail to meet the final settlement date, the Crown would take legal action to enforce the requirement under the Agreement to settle and provide vacant possession – and accept the implications of such action. These include:
- 28.1. Having to initiate resource-intensive legal proceedings.
  - 28.2. Imposing financial penalties (10% of the purchase price per annum, under the Agreement for Sale and Purchase).
  - 28.3. Withheld under section 9(2)(g)(i)
  - 28.4. Withheld under section 9(2)(g)(i)
29. We assess that the benefits of continuing with the current policy are outweighed by the risks of not having some flexibility in the Government's approach. Some property owners are indicating that they will be unable to vacate their property by the agreed settlement date, despite exploring all available options.

**Option B: Blanket extension to the final settlement date**

30. A second option would be to grant a blanket extension to the final settlement date, for all remaining property owners, regardless of personal circumstances.
- Withheld under section 9(2)(g)(i)
31. Withheld under section 9(2)(g)(i)

32. A blanket extension would also likely create equity issues with property owners who have already settled, some within tight timeframes and in difficult circumstances.

**Option C: Case-by-case extension to the final settlement date**

33. We recommend that, where there are strong grounds for doing so, an extension to the final settlement date be granted on a case-by-case basis. The extension would be for a maximum period of six months or less, and the Government would need to be clear that this not a carte blanche extension or an automatic entitlement. In that regard, while we anticipate that up to 1000 IRPOs may apply for an extension, only those applicants (we estimate less than half) who meet strict criteria would be granted an extension.
34. IRPOs would also need to be made aware that six months is the maximum period of time allowed for any extension. To ensure equitable treatment of all IRPOs, including those who have already settled, CERA would need to be very clear that individual extensions will only be granted in exceptional circumstances, and based on strict criteria. The aim must be to maintain the momentum of the recovery programme and ensure IRPOs vacate their property by their agreed settlement date.
35. The six month period should allow the majority of remaining property owners to vacate their properties and settle with the Crown. A small number of owners would likely still not have settled with the Crown by 30 October 2013, but these would be individually case managed to ensure that they have the support required to enable them to vacate the RRZ.
36. IRPOs would need to apply to CERA for an extension and meet strict criteria for one or both of the following categories:
- 36.1. Vulnerable – property owners who meet vulnerability criteria for not vacating the red zone by the final settlement date.
- 36.2. Extraordinary delays – property owners who are delayed in moving to alternative accommodation due to exceptional circumstances beyond their control.

*Category (1): Vulnerable*

37.

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

38.

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

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

39.



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

Released by the Minister for Canterbury Earthquake Recovery

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

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

Released by the Minister for Canterbury Earthquake Recovery

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

### **Support for property owners**

44. To assist with vacating the red zone and finding alternative accommodation, RRZ property owners will continue to have access to support from a number of sources:
- 44.1. Private insurers – temporary accommodation subsidies are available under most contents policies, but cover may not necessarily be provided where owners are required to vacate their properties upon sale to the Crown (although Southern Response has indicated it will provide cover in such situations). We are seeking further information from the Insurance Council to understand how temporary accommodation provisions would respond in the event that IRPOs are unable to permanently relocate by the final settlement date.
  - 44.2. Canterbury Earthquake Temporary Accommodation Service – property owners who have exhausted the temporary accommodation cover from their private insurer can apply for a subsidy. CETAS maintain a list of accommodation, including 83 dwellings available at the temporary accommodation villages at Linwood, Kaiapoi, Rawhiti Domain and another village with 40 units approved for Rangers Park in Linwood (due for completion end July 2013).
  - 44.3. Earthquake Support Coordinator Service – provides advice and support to property owners as well as arranging counselling for those experiencing stress as a result of the earthquakes.
  - 44.4. Red Cross Grants – to assist with moving and storage costs.

45.

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

### **Communications**

46. Careful communications will be crucial to ensure property owners and insurers understand the criteria and rationale for CERA granting an extension on a case-by-case basis, and that this is not a carte blanche extension or an automatic entitlement.

47.

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

CERA will need to be very clear that extensions will only be granted in exceptional circumstances, and based on strict criteria. We need to ensure the momentum is maintained, and that property owners are under no impression that remaining in the RRZ for any longer than is absolutely necessary is an option.

48.

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

48.3.

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

48.4.

49. We recommend releasing a public statement on this decision as soon as possible, in order to provide maximum notice and information to RRZ property owners and other key stakeholders. We note that CERA's call centre is closed from 21 December until 3 January.
50. A detailed communications plan is being prepared separately and will be provided to your office.

### Financial Implications

51. CERA will require increased resources to manage the process for IRPOs wishing to apply for an extension. CERA will need to absorb the cost of this within existing baseline funding and, if needed, highlight at normal budget process points whether there are problems absorbing this (for example in the March 2013 baseline update).

52. The Crown settlement agents and Crown conveyancers contracted by CERA will also need to have their contracts extended beyond August 2013 to reflect the extended settlement period time.

53.

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

54. We have noted also the high cost for CCC of maintaining infrastructure in the RRZ (although this cost will reduce over time as further areas within the RRZ are vacated). Extending the provision of security and property maintenance costs in the RRZ are also under consideration, although the more significant costs are around possible delays to the insurance settlement process and clearance programme. This reinforces the need for extensions to be granted only in exceptional circumstances, and for a limited period of time.

### Next steps

55. As noted above, Cabinet has authorised you to extend, as appropriate, the final settlement date of 30 April 2013 [CAB Min (12) 10/19]. We propose to come back to you early in the New Year with advice on the detailed criteria for each of the vulnerable and extraordinary delays tests and the operational process design and costs. We will also develop options for your consideration to delegate the authority to approve case-by-case extensions to the final settlement date to the Chief Executive of CERA, who can sub-delegate this authority within CERA as required.

#### APPENDICES

Appendix

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

Appendix

Appendix