

Office of the Minister for Canterbury Earthquake Recovery

Chair
Cabinet

FINDINGS OF THE PORT HILLS ZONING REVIEW ADVISORY GROUP ON THE PORT HILLS ZONING DECISIONS

PURPOSE

- 1 This paper advises you of the recommendations of the Port Hills Zoning Review Advisory Group and seeks your agreement to:
 - 1.1 zoning changes for some Port Hills properties;
 - 1.2 extend an offer of purchase to owners of vacant land and other uninsured properties and commercial/industrial properties in the Port Hills red zone; and
 - 1.3 a policy position on applications for rezoning of properties following rockfall remediation, subdivision or re-siting of dwellings.

EXECUTIVE SUMMARY

- 2 The Government's approach to zoning decisions in greater Christchurch has been based on:
 - 2.1 identifying where the health/wellbeing of residents is at an unacceptable level of risk;
 - 2.2 taking an area-wide approach, not focusing on individual properties; and
 - 2.3 giving property owners certainty about their options and enabling red zone property owners to move on with confidence.
- 3 Previous Port Hills zoning decisions affected almost 20,000 properties with approximately 19,400 properties zoned green and 511 properties zoned red on the basis that they faced an unacceptable life risk associated with cliff collapse, rock roll and/or land slippage.
- 4 The Port Hills Zoning Review Advisory Group (Advisory Group) has completed its review of zoning in the Port Hills area and recommended that:
 - 4.1 212 properties (at 71 addresses) be rezoned red; and
 - 4.2 34 properties be rezoned green.
- 5 When applying the Cabinet zoning criteria, and developing its recommendations, the Advisory Group considered:
 - 5.1 all available geotechnical data for the areas under review including Institute of Geological and Nuclear Science (GNS) reports, new geotechnical information provided by GNS Science, results from the Geovert 3D rock roll study and modifications to the rock roll model, and expert advice;
 - 5.2 the infrastructure and social implications of zoning decisions; and
 - 5.3 field observations.

- 6 The Advisory Group developed a number of guiding considerations to ensure that the Cabinet zoning criteria were applied consistently, in cases where a level of judgement was required. I am generally in agreement with the approach taken and the guiding considerations developed by the Advisory Group. However, I do have some concerns about the Advisory Group's approach to zoning for Crown and Christchurch City Council (CCC) owned land as I consider the zoning should reflect the level of risk associated with these properties.
- 7 I support the Advisory Group's recommendations in relation to 31 of the 34 properties that are recommended to be rezoned from red to green as they are consistent with the Cabinet criteria for properties to be zoned green. The remaining three are CCC owned properties that I consider should remain zoned red because of the unacceptable level of risk.
- 8 I support the Advisory Group's recommendations for 211 properties (at 70 addresses) to be fully or partially rezoned red.
- 9 In addition I recommend that a further 27 properties be fully or partially rezoned red due to the risk profile associated with the property or, in some cases, practical considerations relating to extending the Crown offer to purchase.
- 10 The estimated gross costs of the recommendations contained in this paper are approximately [redacted] and have been appropriated as part of Budget 2013.
Withheld under section 9(2)(g)(i)
- 11 This paper also seeks agreement that:
 - 11.1 the Minister for Canterbury Earthquake Recovery and the Minister of Finance will have delegated authority to approve the terms of repurchase, by the former owners, of properties now owned by the Crown which are to be rezoned green;
 - 11.2 properties which are currently eligible for a Crown offer will remain eligible despite the property being rezoned green;
 - 11.3 the Minister for Canterbury Earthquake Recovery and the Minister of Finance will have delegated authority to approve reasonable reimbursement of costs incurred for owners who have recently purchased a property which is to be zoned red in reliance on its previous green zone status;
 - 11.4 the Minister for Canterbury Earthquake Recovery will have delegated authority to consider and act on requests for rezoning following rock source treatment (or removal) works within specified parameters;
 - 11.5 no further changes will be made to Crown zoning following the installation of private rockfall protection works; and
 - 11.6 no further changes will be made to Crown zoning following subdivision or re-siting of dwellings.
- 12 [withheld under section 9(2)(f)(iv)]

BACKGROUND

Previous Zoning Decisions in the Port Hills

- 13 On 11 July 2011, the Port Hills were zoned white while further assessments were undertaken following the 13 June 2011 earthquakes [CAB Min (11) 26/16 refers].
- 14 Following this decision, a number of Port Hills zoning decisions were made by Cabinet or by Joint Ministers with Power to Act between the dates of 5 September 2011 and 31 October 2012 [CAB Min (11) 26/16, CAB Min (11) 41/10 and CAB Min (11) 44/14 refer]. These decisions affected almost 20,000 properties, with approximately 19,400 properties zoned green, while 511 properties were placed in the red zone on the basis that they faced an unacceptable life risk associated with cliff collapse, rock roll and/or land slippage.¹
- 15 Decisions up to 20 December 2011 were made on the same basis as the flat land, and properties were zoned green where damage was able to be addressed on an individual basis. All areas where there were questions around elevated life risk due to rock roll, cliff collapse or land slip remained white, and were addressed in the decisions taken in 2012.
- 16 Three studies on life safety risks associated with rock roll and cliff collapse were undertaken: rockfall modelling, together with a “ground truthing” of the GNS model by the Port Hills Geotechnical Group (PHGG), and a 3D Study by Geovert for CERA. These studies focused on residential areas defined by PHGG where risk was likely elevated as a result of the earthquakes.
- 17 Based on these life safety risk reports, Joint Ministers with Power to Act agreed to criteria for properties at risk of cliff collapse or rock roll [CER Min (12) 5/2 refers].
- 18 Cabinet then confirmed the following criteria used for zoning decisions in the Port Hills on 1 October 2012 [CAB Min (12) 35/2A refers]:
 - 18.1 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;
 - 18.2 In the areas identified by GNS as high risk, red zones have been declared where:
 - 18.2.1 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
 - 18.2.2 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
 - 18.2.3 an engineering solution to mitigate the life risk is judged not to be desirable, as it would (amongst other factors);
 - 18.2.3.1. be uncertain in terms of detailed design, its success and its possible commencement; and/or

¹ This figure includes all residential, vacant or commercial properties placed in the Port Hills red zone to date.

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

- 18.2.3.2. 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
- 18.2.3.3. 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
- 18.2.3.4. not be cost effective, especially where the cost of mitigation is greater than the value of the properties; and

18.2.4 the health and wellbeing of residents is at risk from remaining in the area for long periods;

18.3 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, cliff collapse or land slip was less than 1 in 10,000 at 2016 risk levels as per the GNS modelling.

Zoning Review Advisory Group

- 19 On 1 October 2012 Cabinet agreed that a Zoning Review Advisory Group (Advisory Group) be appointed to review the Port Hills zoning decisions. The Advisory Group comprised Dr Keith Turner as independent chairperson, an independent geotechnical engineer who has had no involvement in previous zoning decisions, two senior CERA officials with expertise in public policy and law, and a senior representative of Christchurch City Council (CCC) [CAB Min (12) 35/2A refers].
- 20 The framework for the Port Hills Zoning Review (Zoning Review) was also approved by Cabinet on 1 October [CAB Min (12) 35/2A refers]. The objective of the Advisory Group was to complete a sound and impartial review of zoning decisions for:
 - a. properties whose owners have requested a review; and
 - b. properties identified by officials as being anomalously zoned.
- 21 The Zoning Review did not include a review of section 124 notices applied to properties by the CCC under the Building Act, or any mitigation options. The information used to undertake the Zoning Review is outlined below at paragraphs 33 - 35.
- 22 While Lucas Lane properties affected by land slip were rezoned later than other Port Hills properties, the Zoning Review covered all Port Hills zoning decisions.
- 23 Applications for the Zoning Review were received from 142 property owners. Of these requests 78 were from owners wanting their red zone property to be rezoned green and 64 were from owners wanting their green zone property to be rezoned red.

Changes to the GNS rock roll model

- 24 Since zoning decisions were completed on 31 October 2012, GNS Science reviewed its rock roll model, which was used to calculate life risk. This resulted in modifications to the 1 in 10,000 Annual Individual Fatality Risk line (AIFR risk line) for properties affected by rock roll, and these changes were taken into account in the Zoning Review process.

- 25 There are 20 properties affected by these changes to the risk line, with 15 in the current Port Hills red zone and five in the current Port Hills green zone.

Section 124 notices

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

- 30 CCC has restricted access, under section 124³ of the Building Act 2004, to a number of buildings on the Port Hills that are at risk of hazards such as rock roll or cliff collapse.
- 31 Also, access is restricted to a number of properties on the Port Hills under section 45 of the Canterbury Earthquake Recovery Act 2011 where there is a geological hazard, and buildings or open areas are identified as dangerous by CERA.

DISCUSSION OF PORT HILLS ZONING REVIEW ADVISORY GROUP'S APPROACH

Advisory Group process

- 32 The Advisory Group met during November and December 2012, and March and April 2013 to consider:
- a. the 142 applications received from individual property owners requesting a review of their zoning decision; and
 - b. properties identified as being anomalously zoned.

³ As modified by the Canterbury Earthquake (Building Act) Order 2011

- 33 The Advisory Group considered all available geotechnical data for the areas under review, as well as the infrastructure and social implications of zoning decisions. The Advisory Group accepted the GNS Science reports as the primary geotechnical resource to inform the Zoning Review. The Advisory Group also agreed to consider new geotechnical information furnished by GNS Science, or, where relevant, advice and information derived from the PHGG, CCC and other experts, and results from the Geovert 3D rock roll study. New geotechnical information provided by GNS Science included modifications to the GNS rock roll model.
- 34 After consultation with geotechnical experts from GNS Science, PHGG and CERA, the Advisory Group considered there were limitations to the data used to make previous decisions, requiring their careful reflection and the exercise of judgement in close consultation with experts. In a number of cases this resulted in recommendations which were based on expert advice for additional zoning changes. The limitations to the data which required the exercise of judgement, as described in the minutes of the Zoning Review and in a letter from the Chair of the Advisory Group to me, are discussed further in **Appendix A**.
- 35 Prior to beginning the detailed assessment of all applications for review, the Advisory Group made site visits to a range of green zone and red zone areas that are representative of the areas under review. After reaching preliminary recommendations, the Advisory Group undertook a second round of site visits, to confirm that field conditions matched the Advisory Group's recommendations.
- 36 The Advisory Group recommends zoning changes for properties where it found that:
- a. the zoning of a property is inconsistent with the criteria outlined above at paragraph 18; or
 - b. there are anomalies in the zoning of a property because:
 - i. boundary lines have not been drawn sensibly, leaving a property or a small group of properties isolated; and/or
 - ii. the green zoning of an individual property, or a small number of properties, would result in clearly not viable infrastructure servicing costs.
- 37 No properties were identified where the green zoning of an individual property, or a small number of properties, would result in clearly not viable infrastructure servicing costs.

Guiding considerations of the Zoning Review Advisory Group

- 38 The Advisory Group developed for itself a number of guiding considerations to ensure that the Cabinet zoning criteria were applied consistently, in cases where a level of judgement was required:
- a. The Advisory Group exercised judgement in relation to vacant residential lots intersected by the life safety risk line and applied a reasonableness test to achieve a sensible outcome.
 - b. The Advisory Group agreed that a rock roll-affected property zoned for residential use would typically be recommended for red zoning if the dwelling was entirely within or substantially intersected by the 1 in 10,000 2016 Annual Individual Fatality Risk (AIFR) line as defined by GNS Science (67% occupancy model with the effect of aftershocks removed).

- c. Commercial properties where buildings were within or substantially intersected by the 1 in 10,000 2016 AIFR line typically have been recommended for red zoning.
 - d. Properties that are zoned rural under the CCC's City Plan and the Banks Peninsula District Plan are generally recommended for green zoning. Rural properties have been recommended for red zoning where they are included in the GNS Science rock roll or cliff collapse models, are part of the residential settlement pattern for the area, and have met the red zoning criteria.
 - e. Crown and CCC owned land is generally recommended for green zoning.
 - f. Where properties did not strictly meet the red zoning criteria, but the intent of the criteria was met, namely exposure to high levels of life safety risk, the Group has recommended that these properties be zoned red.
- 39 I am generally in agreement with the approach taken, and the guiding considerations developed by the Advisory Group. I do, however, have some concerns about the Advisory Group's approach to zoning for Crown and CCC owned land as I consider the zoning should reflect where properties face an unacceptable level of life risk. I therefore asked my officials to identify where the Advisory Group's recommendations relating to Crown and CCC owned properties do not appear to accord with the geotechnical information and the Cabinet zoning criteria. These cases are discussed later in this paper.
- 40 I also note that in a small number of cases officials have identified circumstances which warrant further consideration of the Advisory Group's recommendations for particular properties. These will also be discussed later in this paper.

Consideration of the Advisory Group's report

- 41 The Advisory Group provided me with an initial report at the end of January 2013. I met with the Chair on 14 February for a presentation of their report, and requested and received further information from the Advisory Group in relation to the zoning recommendations for particular properties.
- 42 After reviewing the Advisory Group's initial report and the zoning maps carefully I wrote to the Advisory Group in March requesting information about how the Advisory Group had applied the Cabinet criteria and its guiding considerations when considering the zoning of 393 properties. Most of these 393 properties appeared from the Advisory Group's maps to be partially intersected by the GNS risk lines. I received this further information in April along with the Advisory Group's finalised report which included changes to the recommendations for a small number of properties.
- 43 I met with the Chair of the Advisory Group on 2 May to discuss remaining questions in relation to particular properties and the Advisory Group provided follow up information later that month. I met with the Chair once more on 4 June for further discussion of the Advisory Group's approach to zoning recommendations.

RECOMMENDATIONS FOR ZONING CHANGES

The Advisory Group's final recommendations

- 44 The Advisory Group recommends zoning changes for a total of 246 properties at 105 addresses across the Port Hills. This includes:
- a. 212 properties (at 71 addresses) recommended to be rezoned red; and
 - b. 34 properties recommended to be rezoned green.
- 45 Although these recommendations constitute a significant change to the existing Port Hills red zone, the recommended changes need to be considered in the light of the total number of properties covered by Port Hills zoning decisions, which is almost 20,000. I also note that 142 of the properties recommended to be rezoned red are separate unit titles making up one commercial storage facility at 301 Port Hills Road.

Advisory Group's recommendations for rezoning red to green

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

- 46 The Advisory Group considered that the available geotechnical information shows that 34 properties meet the criteria to be rezoned from red to green. This includes one property where the zoning boundary line had not been drawn sensibly to include all land in one title. The other 33 properties are discussed below.
- 47 The Advisory Group recommended that, for all other properties in the current Port Hills red zones, no change to zoning be made, on the basis that geotechnical data supports the original decision to zone them red based on the red zone criteria agreed by Cabinet.

Nine properties already purchased by the Crown

- 48 Nine of the properties recommended to be rezoned from red to green are already in Crown ownership because their former owners have accepted and settled the Crown offer. Despite this, I consider that the zoning of these properties should change to reflect the recommendations of the Advisory Group, so that the zoning is consistent with surrounding properties affected by the same risk.
- 49 I therefore seek agreement that these nine properties, whose former owners have already settled with the Crown, are rezoned green.
- 50 None of the former owners of these properties requested that their zoning be reviewed. It is possible, however, that some may wish to purchase their property back from the Crown after rezoning.
- 51 I recommend that, if any of the former owners of these properties wish to repurchase their property following a change in its zoning from red to green, the Crown facilitates this.
- 52 I seek agreement to a delegation to joint Ministers (the Minister for Canterbury Earthquake Recovery and the Minister of Finance) to approve:
- a. the sale of any currently Crown owned properties to their former owners and the terms of any such sale; and/or
 - b. any reasonable reimbursement negotiated by the CERA Chief Executive (or the Chief Executive's delegate) for a property owner who has incurred costs in settling with the Crown and then repurchasing a rezoned property.

Nine properties currently eligible for a Crown offer

- 53 At the time this paper was finalised nine of the properties recommended to be rezoned green were eligible for a Crown offer but the owners had not yet signed a sale and purchase agreement with the Crown. All of these affected owners applied to have their zoning changed from red to green and may welcome the rezoning decision. It is possible, however, that their thinking has changed and some may now be on the point of signing a sale and purchase agreement with the Crown.
- 54 The owners of seven of the nine properties have received offers of purchase, while the owners of two of the properties have not yet returned their consent forms. Withdrawing the offer, or the opportunity to receive an offer, would run counter to the Government's objectives of providing property owners with certainty and confidence through the zoning process.
- 55 I therefore recommend that for these nine properties, if they meet the eligibility conditions the owners will continue to be eligible for a Crown offer to purchase until the offer expiry date, even though the zoning will change from red to green.
- 56 In the event that some of these owners elect to take up the Crown offer, or the properties for which settlement has already taken place are not repurchased, the Crown will be in the position of owning a small number of green zoned properties, some of which may be habitable. The future use of these properties is yet to be considered.

15 properties which are not eligible for a Crown offer

- 57 Of the remaining 15 properties which the Advisory Group recommended rezoning from red to green, seven are privately-owned vacant lots, one is a commercial property, and seven are properties owned by CCC. All 15 properties are therefore currently ineligible for a Crown offer. The owners of one of the vacant properties and of the commercial property requested reviews.
- 58 My officials have identified that three of the seven CCC owned properties have been recommended for green zoning due to their ownership and the fact that the properties are non-residential, but that the geotechnical conditions affecting them do not support green zoning under the Cabinet criteria. As a result, I only support the Advisory Group's recommendation to rezone 12 of these 15 properties. I therefore recommend that these 12 properties be rezoned green.
- 59 Zoning recommendations for Crown and CCC owned properties are discussed further below.

Summary – red to green

60

	Advisory Group recommends green zoning	Minister recommends green zoning
Boundary line adjustment	1	1
Settled with the Crown	9	9
Eligible for a Crown offer, but not settled	9	9
Not currently eligible for a Crown offer	15	12
Total	34	31

61 Overall, the number of properties I have recommended for rezoning from red to **green** is 31. See **Appendix B** for more detail.

Advisory Group's recommendations for rezoning green to red

62 The Advisory Group recommended that 212 properties, at 71 addresses (as shown in **Appendix C**), are rezoned from green to red as available geotechnical data shows they meet the red zone criteria as agreed by Cabinet, or the intent behind the criteria.

63 Among the 212 properties, there are:

- a. two properties where the original zoning boundary lines had not been drawn sensibly to include all land in the titles;
- b. 142 separate unit titles which together comprise a commercial storage facility;
- c. four CCC owned properties – three of which have a number of baches located on the properties; and
- d. two privately owned properties where the land is recommended to be zoned part red and part green, and it is recommended an offer to purchase the land is contingent on subdivision of the red zoned portion from the remainder included in the title.

Part zoning of three CCC owned properties

64 At Boulder Bay, Taylors Mistake and Maori Gardens there are baches located on CCC land, some of which are within the area that is at risk of rock fall or cliff collapse.

65 The Advisory Group has recommended part zoning the risk areas in Boulder Bay and Taylors Mistake as red zone, to signal the risk to residential occupants. This outcome will have no practical consequences for any of the bach occupiers in the red zoned portion, as CCC is the land owner and the bach occupiers have no registered legal interest in the land. The remaining baches, outside the risk lines, are on the portion of the land that would remain zoned green.

- 66 At Maori Gardens, the Advisory Group has identified for red zoning only the part of the land where the baches are placed. The area actually affected by risk is larger. I recommend that zoning should reflect where the risk lines fall.
- 67 I therefore recommend that these three CCC owned properties are partially red zoned, with boundary lines drawn to reflect the risk lines at each property. In this case the red zoning of the land would indicate the presence of a hazard but does not signal any intention by the Crown to offer to purchase the land and/or baches.
- 68 The Advisory Group has also recommended that the property where the Naval Point Yacht Club is located be part zoned red around the Club's building footprint. This will be discussed later in relation to Lyttelton Port land.

Part zoning of residential properties

- 69 The Advisory Group has recommended that two properties be rezoned part red and part green with a purchase offer extended to eligible property owners for the red zoned portion of their properties on condition of their subdivision from the green zoned land in the same title.

Withheld under section 9(2)(a)

- 70 I support this recommendation in relation to the property at because the parcel to be zoned green is substantially outside the risk lines and markedly separate from the parcel to be zoned red.

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

Withheld under section 9(2)(a)

- 71 I recommend that both and be zoned red on the basis that, as a cross-leased property, they should be treated as one property for zoning purposes.

Other properties recommended for red zoning on the basis of red zone criteria

- 72 There are 51 other properties (including two boundary line adjustments) recommended to be rezoned red on the basis of the criteria agreed by Cabinet (as shown in Appendix C).
- 73 I recommend that these 51 properties be rezoned red and an offer of purchase extended to all eligible owners.

Zoning based on the intent of the red zone criteria

- 74 The Advisory Group recommended that an additional 13 properties (as shown in Appendix C) are also rezoned from green to red. In these cases the Advisory Group acknowledged that the properties do not strictly meet the criteria agreed by Cabinet to be zoned red. However, it felt that they fall within the intent of the red zone criteria for one or more of the following reasons:
- a. There is a significantly elevated hazard to life on these properties due to rock roll, such that the risk is comparable to red zoned properties within GNS Science modelled areas;
 - b. Further consideration and expert advice indicated that these properties are exposed to the potential for immediate land damage with an associated risk to life as a result of the Canterbury earthquakes; or

- c. The Advisory Group accepted the expert opinion of advisors from GNS Science, PHGG and/or CERA that the GNS Science cliff collapse model for this area understates the risk to these dwellings. These properties have the potential for cliff collapse or immediate debris inundation from cliff collapse, and carry an immediate risk to life.

- 75 The owners of 8 of these properties requested a review.
- 76 As the Advisory Group has accepted expert advice that there is an immediate risk to life associated with these properties, and come to the conclusion that the properties meet the intent of the red zone criteria, I recommend that the 13 properties be rezoned red.

Summary – green to red

77

	Advisory Group recommends red zoning	Minister recommends red zoning
Boundary line adjustment	2	2
Part zoning of CCC owned properties	4 partially red zoned	3 partially red zoned ⁴
Part zoning of privately owned properties	2 partially red zoned	1 partially red zoned 1 entirely red zoned
Other properties	191 ⁵	191
Zoning based on the intent of the red zone criteria	13	13
Total	212	211

Māori freehold land

- 78 There are three properties included among the properties recommended at paragraph 73 for rezoning that are Māori freehold land, located in the Rapaki area at 239 and 253 Governors Bay Road and 9 Omaru Road.
- 79 In order to provide the owners of these red zoned Māori freehold properties with certainty, confidence and simplicity, it is recommended that any offer to purchase these properties be conditional on the Māori Land Court making an order to change the status of the land from Māori freehold land to general land. I propose that the Crown meets the reasonable costs of the Māori Land Court order, including both legal costs and court fees, as is consistent with previous decisions on 21 August 2011 by Joint Ministers on transaction design for offers of purchase to property owners in the Port Hills red zone.

Additional red zoning recommendations

- 80 For a small number of Port Hills properties the Advisory Group's zoning recommendations require further consideration. The relevant properties are listed at **Appendix D** and discussed below.

⁴ The Naval Point Yacht Club is not recommended to be red zoned. Lyttelton Port properties are discussed later in this paper.

⁵ Includes the 142 unit titles at 301 Port Hills Road.

Additional part zoning issues

- 81 Due to an anomaly in the original zoning, the property at 73 Hawkhurst Road is currently zoned part red and part green. The Advisory Group recommended that this partial zoning remain and that a Crown offer to purchase the red zoned part be contingent on subdivision from the green zoned balance of the title. However, I recommend that the zoning of 73 Hawkhurst Road is changed to red in full because the property, including the dwelling, is substantially intersected by the risk lines for residential occupation as calculated by GNS Science.

Additional zoning boundary line issues

- 82 The Advisory Group has recommended that 212A Centaurus Road be rezoned red, while 214A&S is recommended to remain in the green zone. I recommend that both properties be rezoned red because they share an access way and it appears they are being used as one property. Also, 214A&S appears to be exposed to some risk of cliff collapse.
- 83 The Advisory Group has recommended that 79 Bowenvale Avenue be rezoned red. I recommend that 77A Bowenvale Avenue is zoned red along with 79 Bowenvale Avenue because they appear to be used as one property and approximately the same level of risk affects both properties.
- 84 The Advisory Group has recommended that 50 Avoca Valley Road remains zoned green. This property is a large title which is almost wholly within the risk area and surrounded by red zoned properties. I do not consider that the red zone boundary line has been sensibly drawn in this case and I do not consider that this passes a reasonableness test. I therefore also seek agreement to rezone 50 Avoca Valley Road red.

10 and 10A Bridle Path Road

- 85 This is a large commercially owned property with both a commercial building (the gondola base station) and a residential dwelling located on the same title. The residential building has a section 124 notice in place because it was hit by rockfall. The Advisory Group has recommended that the entire property remain zoned green because the dwelling is outside the GNS risk line. Most of the commercial building is within the GNS risk line.
- 86 In relation to the commercial building protection works have been installed on the site to protect the gondola building from rockfall and have been demonstrated to be practicable. As the gondola base station is a public building its owners will have to maintain the protection to ensure the building can remain open for public use. This property is therefore different from private dwellings where there is no guarantee that the protection works will be maintained.
- 87 I support the recommendations of the Advisory Group that this property remains zoned green. I note that this is a different approach from zoning recommendations for other properties in the Port Hills where zoning has not taken into account mitigation measures in place. However, given that this is a key tourism asset for greater Christchurch, and that mitigation work has been completed, I consider that it is in the interests of the recovery for this property to remain zoned green.

CCC and Crown owned properties

- 88 The Advisory Group's 10 May 2013 minutes explain that it has generally recommended green zoning for Crown or CCC owned properties because most of those properties are non-residential (typically unoccupied land such as recreation reserves and infrastructure sites) whereas the GNS modelled life safety risk assumes residential use.
- 89 I have some concerns with this approach. Zoning is primarily a tool to indicate the level of risk associated with the property. As far as possible, the zoning criteria need to be applied consistently to all properties within the residential settlement area regardless of their ownership or current use. Both ownership and use could change in the future if these properties are sold. Zoning these properties green could also be misinterpreted as indicating that the level of risk associated with any non-residential use of the properties has been assessed and is considered tolerable.
- 90 I recommend that Crown and CCC owned properties are zoned in accordance with the Cabinet criteria for life risk in the same way as for residential, commercial and vacant properties unless there are special circumstances which warrant a different approach.
- 91 Officials have identified 16 CCC or Crown owned properties that the Advisory Group recommends remain zoned green but where the property is partially or entirely subject to a level of risk that would be consistent with red zoning if the property was residentially occupied. These properties include two Crown owned school sites, Redcliffs School and Van Asch College (Deaf Education Centre).
- 92 The 1 in 10,000 2016 AIFR line appears to run close to the lower boundary of the Van Asch College and does not intersect with buildings on the property. Two classrooms nearest the road (38A and 38B Truro Street) currently have section 124 notices in place partly due to a large rock that rolled partway through the property during a seismic event. I recommend that that this property be partially rezoned red around the 38A and 38B Truro Street classrooms as far as the run-out risk for rockfall extends.
- 93 The Redcliffs School site was previously zoned green despite some classrooms and buildings being within the GNS Science risk lines for cliff collapse. The school has been temporarily relocated to Van Asch College. GNS has begun work on assessing the potential for further significant rock falls on the site which is expected to be completed in August 2013.
- 94 The Advisory Group has recommended Redcliffs School (at 136 and 136A Main Road) remains zoned green. Past zoning announcements where non occupied schools, or schools with significant land and building damage, have been identified as 'green' have created confusion for the school and wider community. These sites have ongoing assessments, or decisions are pending from the Minister of Education regarding their long term future. The green zoning has resulted in confusion for communities who have considered the zoning as being the final decision about the provision of education. The Ministry of Education has noted that it is important that they retain the confidence of the school community with the engineering and site investigation process that is currently underway.
- 95 I recommend that the rear two parcels at Redcliffs School (Pt Lot 8 DP1108 and Pt Lot 2 DP1228) be rezoned red to reflect the unacceptable level of risk on that portion of the school grounds.

- 96 In total I recommend that 16 Crown or CCC properties be rezoned entirely or partially red as set out in Appendix D.

Lyttelton Port land

- 97 The Advisory Group considered the Lyttelton Port area (irrespective of the land ownership) as a separate item and did not consider zoning for these properties with the exception of the Naval Point Yacht Club which the Advisory Group has recommended be rezoned red.
- 98 The various properties that form part of Lyttelton Port are each owned by the Crown, CCC or the Lyttelton Port Company Limited.
- 99 CERA officials are working with the Lyttelton Port Company, CCC, New Zealand Transport Agency, Te Rūnanga o Ngāi Tahu and Environment Canterbury to develop options to support the rebuild and long term development of the Port. I seek your agreement that I will enter into discussions with CCC and the Lyttelton Port Company Limited about the future of the Port properties as part of my consideration of whether a recovery programme is required.
- 100 Accordingly I recommend that the Naval Point Yacht Club remain zoned green the same as the other Lyttelton Port properties.

Vacant properties

- 101 The Advisory Group has recommended that lots at 87 Morgans Valley, 5 Awaroa Lane and 9 Leading Light Lane remain green. All three properties are situated entirely within areas of high risk as modelled by GNS Science. I therefore seek agreement that three lots at 87 Morgans Valley, 5 Awaroa Lane and 9 Leading Light Lane are rezoned red due to the risk profile for the properties.
- 102 The Advisory Group has recommended that 460 Governors Bay Road, a large vacant site, retain its green zoning due to its rural zoning under the Banks Peninsula District Plan. The property is within a GNS Science modelled area, and is itself almost entirely within the area of high risk. My officials have identified that this property is neighboured by other rural zoned properties of a similar size, which are red zoned. I consider that 460 Governors Bay Road should be treated similarly and rezoned red.
- 103 Finally, 23A Ross Terrace has been recommended to remain zoned green. The Advisory Group's reason for this is that it is a small title of vacant land which appears to be associated with 25 Ross Terrace, a neighbouring green-zoned property, with the same owner. However, 23A Ross Terrace is subject to an unacceptable level of risk as modelled by GNS Science, being wholly within an area of risk. I therefore recommend that 23A Ross Terrace be rezoned red.

Comparison of zoning recommendations with section 124 notices

- 104 Section 124 notices have been imposed by Christchurch City Council under the Building Act relating to risk from natural hazards including cliff collapse, land slip and rock roll.
- 105 It is to be expected that zoning outcomes for the Port Hills will, in a number of cases, overlap with the exercise of those statutory powers. However, it is important to note that there will not always be perfect alignment between zoning and restrictions on access under section 124. Different criteria are used for decision making about zoning and the application of section 124 and each decision is made for specific purposes.

- 106 As part of my consideration of the Advisory Group's report, I instructed officials to identify any properties recommended to be rezoned or remain zoned green following the Zoning Review where access is restricted under section 124 of the Building Act or section 45 of the Canterbury Earthquake Recovery Act. At a meeting I hosted on 13 June 2013 I requested CCC, GNS and CERA officials to undertake site visits to certain green zoned properties with section 124 notices in place and discuss the implications for these properties. Those site visits and discussions have now taken place.
- 107 The Redcliffs School, Van Asch College, and 10 and 10A Bridle Path Road properties have been discussed earlier in this paper. For the six other properties recommended to be rezoned or remain zoned green where there are section 124 notices on buildings at present I consider that, with one exception, there are good reasons for the apparent disparity. For example, in some cases the risk that justifies the section 124 notice is located on the property and can feasibly be removed, and so zoning these properties green is consistent with the approach taken by the Advisory Group.
- 108 The exception is the property at 36 Brittan Terrace. Based on field observations by CERA and CCC officials and a GNS representative on 19 June 2013 I have been advised that there is a high level of risk associated with this property, the hazard is complex, and source treatment is unlikely to be feasible. I therefore recommend that this property be rezoned red as this is consistent with the intent of the Cabinet criteria.
- 109 While I do not consider there are significant inconsistencies between the instruments, due to the different purposes they serve, there may be an appearance of inconsistency in some cases which requires careful communication between agencies and with the public.

Summary additional recommendations for green to red

110

	Minister recommends red zoning
Additional part zoning issues	1
Additional zoning boundary line issues	4
Crown owned properties	2 parcels red zoned 1 partially red zoned
CCC owned properties	1 partially red zoned 12 entirely red zoned
Vacant properties	5
36 Brittan Terrace (s124 notice)	1
Total	27

Total recommendations for red zoning

- 111 In total, this amounts to 238 properties (at 97 addresses) which I have recommended to be rezoned red.

112 I seek your agreement to rezone:

- a. 231 properties (at 90 addresses) as red zone
- b. 7 properties as partial red zone (70 Wakefield Avenue; CCC owned properties at 70A Morgans Valley, Boulder Bay, Taylors Mistake and Maori Gardens; and the Crown property at Van Asch College)

and for the Chief Executive to extend the Government purchase offer to owners of those properties which are insured residential properties, residential dwellings under construction and non-residential properties owned by not-for-profit organisations.

113

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

114 Of the 238 properties which are recommended for rezoning from green to red, 198 private owners (at 57 addresses) have not requested a review and may have commenced negotiations and/or repairs with their insurers and EQC.

115 There is a risk that these owners will object to their property being rezoned from green to red and also a risk that they may seek compensation from the Crown if they can establish that they will suffer a loss as a consequence of that decision. It is acknowledged that a significant proportion of affected property owners did not request for their zoning to be reviewed, and that, although the Zoning Review covered all zoning decisions on the Port Hills, these owners may not be expecting their properties to be rezoned red. Particularly in the case of residential or commercial properties, it is possible they have made significant decisions for their future on the understanding that they could stay in their homes in the long term, such as undertaking repairs on their home.

116 I consider that this risk is outweighed by the more significant risk that would result in leaving these properties in the green zone, with the occupants of dwellings exposed to what has been identified as an unacceptable risk to life. Further, the Crown offers have been designed to accommodate any cases where property owners have received payments from their insurers or EQC and/or undertaken repair work.

Reimbursement for costs incurred in recent purchases

117 It is possible that one or more property owners may have recently purchased green zoned property or properties in the Port Hills, and that they may seek reimbursement of costs incurred if that property is rezoned red as a result of the Zoning Review.

118 I therefore recommend that the Chief Executive of the Canterbury Earthquake Recovery Authority is given authority to enter into discussions with property owners if situations are identified that cannot be accommodated within current Crown offer processes.

⁶ The ultimate cost will depend on which of the two offers is accepted by property owners, and the amount of insurance recoveries received by the Crown under the purchase agreements.

- 119 I seek agreement on a delegation to joint Ministers (the Minister for Canterbury Earthquake Recovery and the Minister of Finance) to approve any reasonable reimbursement of costs incurred negotiated by the CERA Chief Executive (or the Chief Executive's delegate) for a property owner who has purchased a property, which is now to be rezoned red, in reliance on the previous green zoning of the property.

POSSIBILITY OF FURTHER REZONING

Appeals Process

- 120 I am comfortable that this thorough review process has addressed any final anomalies or situations where it has become clear that current zoning is inconsistent with the criteria agreed by Cabinet or impractical or not cost-effective to maintain. Therefore, I do not intend to recommend any further changes to zoning boundaries based on these criteria.
- 121 There will be no further appeal process for Port Hills red/green zoning decisions based on these criteria. However, all residents retain the right to seek judicial review of zoning decisions.

Rockfall remediation

- 122 There is a possibility that some owners will seek to install small-scale rockfall protection systems or undertake rock removal works. The Advisory Group has not made recommendations for rezoning with regard to properties where rockfall remediation is a possibility on an individual basis. As noted by Cabinet previously on 1 October 2012 [CAB Min (12) 35/2A refers], the key question regarding these properties is whether CCC will agree to remove section 124 notices from the property if protection works are undertaken. This is a judgement that CCC must make.
- 123 CCC decided on 7 December 2012 to consider consenting and/or partially funding small-scale rockfall protection systems proposed by individual red zone property owners on a case-by-case basis. Any proposed rock protection work would have to comply with relevant consenting regimes, and landowners will need to ensure the rockfall protection works are maintained appropriately and continue to be effective if they wish to avoid future restrictions on the use of their properties.
- 124 It is therefore possible that individual property owners on the Port Hills may obtain consent for and install small-scale rockfall protection systems in future. In this case, CCC may lift section 124 notices on affected properties. Officials from CCC, and some property owners, have enquired whether the zoning of properties would be changed if rockfall protection systems were implemented, resulting in the lifting of section 124 notices.
- 125 I consider that there is an important distinction between remediating the risk through rockfall protection works (such as a fence or a bund) and source treatment (rock removal). Source treatment works completed to a satisfactory standard remove the risk entirely whereas rockfall protection works only mitigate the risk and rely on the protection structures' existence and ongoing maintenance.
- 126 I recommend that you agree that no requests for rezoning will be considered for properties where remediation of rockfall risk has involved rockfall protection works.

- 127 I also seek your agreement to a delegation to the Minister for Canterbury Earthquake Authority to rezone properties which are currently zoned red due to rockfall risk and have a section 124 notice in place after rock source removal works are completed if the Minister is:
- a. satisfied that the risk has been entirely removed and the section 124 notice removed; and
 - b. the removal process is completed within the offer period for the Port Hills red zone.
- 128 I am advised that the owners of two properties at 14 and 16 The Crescent have recently completed rock source removal works and it is likely that the section 124 notices on the dwellings on these properties will be lifted in the very near future. I seek your agreement that, assuming the section 124 notices are lifted before announcements are made on the Zoning Review, these two properties be rezoned green as part of these announcements.
- 129 CCC officials have also enquired whether in some cases it would be possible to build protection systems on red zoned land acquired by the Crown. This enquiry cannot be answered without Cabinet agreement, and there are still a number of issues that would require more clarity before any advice to Cabinet might be developed, if considered appropriate. Decisions about the future use of the red zone have yet to be made and it will be some time before the Crown can be sure which properties it will own. I will report back at a later date with advice on this matter.

Requests for subdivision or relocation/re-siting of dwelling

- 130 In August 2012 Joint Ministers agreed that CERA would communicate that red zoned residential property owners in rock roll areas would have, as part of the zoning review process and subject to certain legislative and planning requirements, the opportunity to indicate their interest in:
- a. Retaining all or some portion of their property for non-residential use; or
 - b. Moving their dwelling to another site on their properties where the level of risk aligns with the criteria for green zoning
- 131 The Purchase Offer Supporting Information Booklet for Port Hills ("Blue Book") suggests that red zone property owners advise CERA if they are interested in subdividing or moving their dwelling to a safer location on the property, so that CERA can maintain a list of such requests, and explore these options.
- 132 I understand that four property owners have advised CERA that they are interested in subdividing their property. Six additional property owners referred to the possibility of subdivision in their applications for the Port Hills Zoning Review.
- 133 Officials are aware that a number of these properties are wholly within the risk lines (greater than 1 in 10,000 at 2016), while others are only partially within the area of risk.
- 134 The owners of two of the properties referred to above operate a horticultural business (e.g. orchard) on the same land as their residential dwelling. Each property is well within the risk lines. These owners have indicated that they wish to continue the horticultural use of their land even though ongoing occupation of the residential dwelling is not considered appropriate.

- 135 The question has been posed as to whether the Government would consider zoning changes in the Port Hills red zone as a result of the subdivision of properties, where:
- a. The remainder of the property is being used for commercial rather than residential purposes; OR
 - b. The risk line intersects a property, with the result that one part of the property is considered to have an acceptable risk level.
- 136 In the situation described at paragraph 135(a), the Government's zoning does not prevent land owners using their land for commercial or any other purpose. However, by agreeing to provide a Crown offer for a subdivided portion, or to rezone the other portion, the Crown could be seen to be implicitly condoning the risks associated with continuing to use the balance land. Agreeing to consider amendments to the Crown offer based on individual subdivisions could also result in significant delays to completing the red zone settlement process.
- 137 In all cases, policy on subdivisions should be consistent with (or distinguishable from) flat land decisions. The Government has not approved any requests to subdivide and partially rezone properties in the flat land red zone. Subdivision was a condition of Crown offers for three Southshore properties due to those properties being zoned part red and part green.
- 138 Some property owners have also asked about whether properties may be rezoned if the dwelling is moved to a part of a property that is seen as safer.
- 139 It is noted, however, that zoning has no effect on the legal rights and obligations that attach to the land. It is a tool to identify properties with an unacceptable level of risk and provide mechanisms to identify which properties the Government would offer to purchase. If owners are eligible for an offer of purchase and choose not to take an offer of purchase, and wish to re-site their dwelling to another part of the property, they may do so without the Government changing the property's zoning.
- 140 I recommend that the Government should not consider requests for rezoning and amended offers as a consequence of subdivision or re-siting of dwellings.

VACANT, UNINSURED IMPROVED AND COMMERCIAL/INDUSTRIAL LAND ON THE PORT HILLS

- 141 There are a number of properties already in the red zone on the Port Hills which are currently ineligible for a purchase offer from the Crown: properties with no insurance (vacant land and uninsured improved properties), and insured commercial/industrial properties. There are also a number of properties affected by the Zoning Review recommendations which fall into these categories.
- 142 Officials have identified 70 privately-owned vacant land properties in the current red zone on the Port Hills, 63 of which are recommended to remain red after the Zoning Review. In addition, 22 vacant land properties have been identified that will be rezoned red as a result of the Zoning Review, although it is possible that more may be identified as part of the offer process.
- 143 In total, officials are aware of 85 vacant land properties that will be in the Port Hills red zone following the Zoning Review decisions, subject to Cabinet approval.

144 Officials are currently aware of 2 uninsured improved properties in the Port Hills red zone. There may be other uninsured properties, identified over time as part of the Crown offer process.

145 There are 4 insured commercial properties currently in the Port Hills red zone. One is recommended to be rezoned green and 143 commercial properties are recommended to be rezoned red as a result of the Zoning Review. A total of 146 commercial properties will be zoned red following the Zoning Review, subject to Cabinet approval.

146 withheld under section 9(2)(f)(iv)

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FINANCIAL IMPLICATIONS

Rezoning of insured residential improved properties as a result of the Port Hills Zoning Review

- 161 CERA estimates the gross cost of rezoning insured residential improved properties from "green to red" on the Port Hills to be subject to the option taken by the vendor. **Withheld under section 9(2)(g)(i)**
- 162 The Crown can also recognise the EQC and insurance receivables relating to the properties. The exact amount of these receivables is yet to be confirmed, but the net cost of purchasing these properties is estimated to be **Withheld under section 9(2)(g)(i)**
- 163 It is important to recognise that these costs could change depending on the interpretation of insurance policies and coverage.
- 164 Further, CCC has agreed to contribute to the cost of buying Port Hills red zone properties affected by rock roll in the recent Crown-CCC cost sharing agreement. The CCC contribution for these rezoned residential improved properties is estimated to be approximately . As a result, the final net cost to the Crown of purchasing these properties is estimated to be **Withheld under section 9(2)(g)(i)**
- 165 The estimated transaction costs for these zoning decisions are as follows:
- a. Providing a contribution towards the legal fees of property owners in the new red zones is estimated to cost up to **Withheld under section 9(2)(g)(i)**
 - b. Property transaction and management costs including demolition of
 - c. Providing a contribution towards the legal fees for transferring land from Māori to general freehold land for three properties is estimated to cost up to **Withheld under section 9(2)(g)(i)**
- 166 The cost of purchasing these new red zone properties (including associated costs) was appropriated in 2012/13 as part of Budget 2013. In July 2013, joint Ministers being the Minister of Finance and the Minister for Canterbury Earthquake Recovery agreed to an expense and capital transfer of the of funding for the Port Hills zoning decisions from 2012/13 to 2013/14.
- 167 CERA estimates that the gross saving of rezoning properties from "red to green" on the Port Hills could be **Withheld under section 9(2)(g)(i)**
- 168 However, these savings have reduced as 9 properties have settled with an approximate value of
- 169 In addition, a number of these owners have received red zone offers or consent forms prior to the completion of the rezoning and some may wish to proceed with the transaction. CERA estimates that eleven properties may fall into this category (including with a potential drop in the saving noted above of

withheld under section 9(2)(a)

170 withheld under section 9(2)(1)(iv)

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CONSULTATION

176 The Treasury, the Ministry of Business, Innovation and Employment, the Ministry of Education, and CCC have been consulted as part of the development of this paper. The Department of the Prime Minister and Cabinet was informed.

⁷ Transaction costs for the 142 unit titles at 301 Port Hills Road have been treated consistently with other zoning decisions.

HUMAN RIGHTS, LEGISLATIVE, AND GENDER AND DISABILITY IMPLICATIONS

177 There are no gender or disability, or legislative, implications arising from this paper. The proposals in this paper are not inconsistent with the New Zealand Bill of Rights Act 1990, or the Human Rights Act 1993.

REGULATORY IMPACT AND COMPLIANCE COST STATEMENT

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

PUBLICITY

179 If you agree to the recommendations in this paper, I propose to make a public announcement about the outcome of the Zoning Review by the end of July 2013.

180 Officials have developed a communications plan to clearly publicise the outcome of the Zoning Review and the criteria agreed by Cabinet that have been used to make decisions on the Zoning Review recommendations.

181 I have directed officials to ensure that communications on the zoning decisions are very clear that green zoning does not mean that the entire property is low risk for high occupancy use, and that owners and residents need to consider the risk information for their property when considering how they will use it.

182 I have also directed officials to work closely with CCC to ensure that Port Hills property owners are able to access understandable, reliable and consistent information relevant to their properties.

183 Officials will draft letters to all property owners affected by these decisions.

RECOMMENDATIONS

184 It is recommended that Cabinet:

Background

- 1 **note** that on 11 July 2011, the Port Hills were zoned white while further assessments were undertaken following the 13 June 2011 earthquakes [CAB Min (11) 26/16 refers];
- 2 **note** that by 31 October 2012, approximately 19,400 properties in the Port Hills had been zoned green and 511 properties had been zoned red by Cabinet or 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 refer];

- 3 **note** that in June 2011 Cabinet agreed that insured residential property owners will have the choice of two offered packages:

Either Option 1

- 3.1 the Crown will offer to purchase the entire property at the 2007 capital value rating valuation as at 3 September 2010 (less any land and dwelling insurance payments already made). The crown will also take an assignment of all earthquake related insurance claims. There will be a process through which any property owners who consider that there is a material discrepancy between the 2007 rating valuation and the market value of their property (eg, because of subsequent improvements) can raise their concerns;

Or Option 2

- 3.2 the Crown will offer to purchase the land only at the greater of the following (less any Earthquake Commission land payments already made):
- 3.2.1 2007 land value rating valuation as at 3 September 2010; or
 - 3.2.2 EQC valuation for the minimum lot size applicable;
- 3.3 the Crown will also take an assignment of the EQC land claim, and landowners will be free to pursue their private insurance company for any other insurance claims they have;

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

Advisory Group recommendations

- 6 **note** that the Port Hills Zoning Review Advisory Group (Advisory Group) have recommended zoning changes for any properties where it is found that:
 - 6.1 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 (12) 35/2A]; or
 - 6.2 there are anomalies in the zoning of a property because:
 - 6.2.1 boundary lines have not been drawn sensibly, leaving a property or a small group of properties isolated; and/or
 - 6.2.2 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);
- 7 **note** that since zoning decisions were completed on 31 October 2012 the Institute of Geological and Nuclear Sciences (GNS) has reviewed the appropriateness of their rock roll model resulting in modifications to the risk line for properties affected by rock roll, and these changes were taken into account in the Port Hills Zoning Review process;
- 8 **note** that the Port Hills Zoning Review did not include a review of section 124 notices applied to properties by the Christchurch City Council under the Building Act, or any mitigation options;
- 9 **note** that the Advisory Group considered candidates for a change to zoning from two streams:
 - 9.1 properties whose owners have requested a review;
 - 9.2 properties identified as being anomalously zoned;
- 10 **note** that the Advisory Group developed guiding considerations to ensure that the Cabinet zoning criteria were applied consistently, in cases where a level of judgement was required;
- 11 **note** that the Minister for Canterbury Earthquake Recovery has received the Advisory Group's report recommending that:
 - 11.1 212 properties (at 71 addresses) be rezoned red; and
 - 11.2 34 properties be rezoned green;

Recommendations for rezoning green

- 12 **agree** that with the exception of 27 Morgans Valley, 54 Morgans Valley and 284R Main Road the remaining 31 properties recommended to be zoned green by the Advisory Group will be rezoned from red to green (as shown in Appendix B and in the maps attached in Appendix F);

- 13 **authorise** the Minister for Canterbury Earthquake Recovery and the Minister of Finance to have Power to Act to approve:
- 13.1 the terms of sale of any currently Crown owned properties which are rezoned green to their former owners and the terms of the sale;
 - 13.2 any reasonable reimbursement of expenses incurred as negotiated by the Chief Executive of the Canterbury Earthquake Authority (or the Chief Executive's delegate) for a property owner who has incurred costs in settling with the Crown and then repurchasing the same property;
- 14 **agree** that, where the Crown has previously made an offer of purchase for red zoned properties which are now being rezoned green, this offer will remain in place until its expiry date is reached;
- 15 **agree** that, where any owners of red zoned properties were eligible for an offer of purchase from the Crown, but had not yet returned their consent form, they should remain eligible after their properties are rezoned green;

Recommendations for rezoning red

- 16 **agree** that, with the exception of the Naval Point Yacht Club, the remaining 211 properties (at 70 addresses) recommended to be partially or fully rezoned red by the Advisory Group will be partially or fully rezoned from green to red (as shown in Appendix C and in the maps attached in Appendix F);
- 17 **note** that the 211 properties at recommendation 16 include three properties owned by Christchurch City Council at Taylors Mistake, Boulder Bay and Maori Gardens which will be rezoned red in part where it has been found that the available geotechnical data shows that they meet the criteria to be zoned red (as shown in Appendix C and in the maps attached in Appendix F);
- 18 **agree** that for the property at Maori Gardens all areas within the GNS risk line for rock roll will be zoned red;
- 19 **agree** that the Crown offer to purchase be extended for part of the property located at 70 Wakefield Avenue (which forms part of Lot 6 DP331163 contained in certificate of title 523222) contingent on a separate certificate of title being issued for the parcel of land at 70 Wakefield Avenue;
- 20 **agree** that, if the insured owners of 70 Wakefield Avenue wish to accept a Crown offer, the Crown will meet the reasonable costs of subdivision and issuing a separate certificate of title for Lot 6 DP331163 in certificate of title 523222;
- 21 **authorise** the Minister for Canterbury Earthquake Recovery to take the necessary steps to effect timely subdivision of the property at 70 Wakefield Avenue;
- 22 **agree** to extend the Crown offer to insured owners of three red zoned properties on Māori freehold land in the Rapaki area on the basis that such offers will be conditional on the Māori Land Court making an order to change the status of the land from Māori freehold land to general land;

- 23 **note** that the Advisory Group has generally recommended green zoning for Crown and Christchurch City Council owned properties because most of these properties are non-residential;
- 24 **agree** that Crown and Christchurch City Council owned properties will be zoned in accordance with the Cabinet criteria referred to in recommendation 6.1 in the same way as for residential, commercial and vacant properties;
- 25 **agree** that the Van Asch College (Deaf Education Centre) property be partially rezoned red around the 38A and 38B Truro Street classrooms as far as the run-out risk for rockfall extends;
- 26 **agree** that the rear two land parcels of the Redcliffs School property (Pt Lot 8 DP1108 and Pt Lot 2 DP1228) be rezoned red;
- 27 **note** that CERA officials are working with the Lyttelton Port Company, Christchurch City Council, the New Zealand Transport Agency, Ngai Tahu and Environment Canterbury to develop options to support the rebuild and long term development of the Lyttelton Port;
- 28 **agree** that the Minister for Canterbury Earthquake Recovery will discuss the future of the properties at Lyttelton Port with Christchurch City Council and the Lyttelton Port Company Limited as part of consideration of whether a recovery programme is required;
- 29 **agree** that, in addition to the Advisory Group's recommendations, 27 other properties are partially or fully rezoned from green to red (as shown in Appendix D and in the maps attached in Appendix F);
- 30 **agree** to extend the Crown offer of purchase to insured residential property owners of the red zone properties agreed in recommendations 16 and 29 above;
- 31 **authorise** the Chief Executive of the Canterbury Earthquake Recovery Authority to enter into discussions with red zoned property owners if situations are identified where losses may have been suffered which are outside the scope of current provisions under the Crown offer process;
- 32 **authorise** the Minister for Canterbury Earthquake Recovery and the Minister of Finance to have Power to Act to approve any reasonable reimbursement of costs incurred as negotiated by the Chief Executive of the Canterbury Earthquake Authority (or the Chief Executive's delegate) for an owner who has purchased a property which is to be rezoned red in reliance on the previous green zoning of the property;

Rockfall remediation works

- 33 **note** that on 7 December 2012 Christchurch City Council resolved to consider consenting and/or partially funding small-scale rock protection systems proposed by individual red zone property owners on a case-by-case basis;
- 34 **agree** that no requests for rezoning will be considered for properties where remediation of rockfall risk has involved rockfall protection works;

- 35 **authorise** the Minister for Canterbury Earthquake Authority to have Power to Act to rezone properties which are currently zoned red due to rockfall risk and have a section 124 notice in place after rock source removal works are completed if:
- 35.1 the Minister is satisfied that the risk has been entirely removed and the section 124 notice uplifted; and
- 35.2 the removal process is completed within the offer period for the Port Hills red zone;
- 36 **agree** that if the section 124 notices on 14 and 16 The Crescent are uplifted before announcements are made on the Port Hills Zoning Review, these two properties will be rezoned green as part of these announcements;
- 37 **note** that I intend to report back at a later date with advice on whether red zoned land acquired by the Crown could be used for the construction of small-scale rockfall protection systems;

Requests for subdivision or relocation/re-siting

- 38 **note** that CERA has received or noted expressions of interest from ten property owners regarding the possibility of subdividing red zoned properties on the Port Hills;
- 39 **note** that zoning has no effect on the legal rights and obligations that attach to the land, and does not prevent owners from using their land for commercial or any other purpose;
- 40 **note** that, if they wish, owners can relocate dwellings to other properties by seeking necessary approvals through the standard consenting process;
- 41 **agree** that requests for rezoning and amended Crown offers to purchase, as a consequence of subdivision or re-siting of dwellings, will not be considered;

Vacant, uninsured, commercial/industrial properties

42 withheld under section 9(2)(f)(iv)

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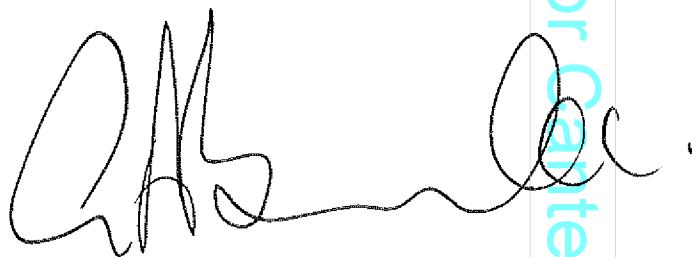
Financial recommendations

- 46 **note** that the costs incurred as part of the decisions outlined in this paper were appropriated in 2012/13 as part of Budget 2013, and that in July 2013 joint Ministers (being the Minister of Finance and the Minister for Canterbury Earthquake Recovery) agreed to an expense and capital transfer of the \$100.007 million of funding for the Port Hills zoning decisions from 2012/13 to 2013/14;
- 47 **withheld under section 9(2)(f)(iv)**

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Next steps

- 49 **note** that the Minister for Canterbury Earthquake Recovery intends to make a public announcement about the outcome of the Port Hills Zoning Review by the end of July 2013.



Hon Gerry Brownlee
Minister for Canterbury Earthquake Recovery

10, 07 2013

Appendices:

- Appendix A: *The GNS Science model, as applied by the Port Hills Zoning Review Advisory Group*
- Appendix B: *Properties recommended by Advisory Group to be rezoned from red to green*
- Appendix C: *Properties recommended by Advisory Group to be rezoned from green to red*
- Appendix D: *Additional properties recommended for red zoning*
- Appendix E: *Additional properties recommended for green zoning*
- Appendix F: *Maps of the Port Hills with GNS Science risk modelling*

Appendix A – The GNS Science model, as applied by the Port Hills Zoning Review Advisory Group

Excerpt from Minutes of the Port Hills Zoning Review Advisory Group, pp. 5-7

“Through discussions with GNS Science and PHGG representatives, the [Advisory] Group gained an understanding of how the GNS Science studies assessed future Annual Individual Fatality Risk (AIFR) in the Port Hills based on seismicity; weather; geological and topographic conditions; boulder roll and cliff collapse data collected between 2010 and 2012; and ground truthing by the PHGG. (GNS Science in most cases adjusted its life-risk models on the basis of this ground truthing.) GNS Science reports have been peer reviewed by independent, internationally-recognised geotechnical and life-risk experts.

“The [Advisory] Group accepted the GNS Science studies on rock roll, cliff collapse and debris inundation as the primary geotechnical resource to support its review of zoning decisions but emphasised that other sources of information (as listed in these Minutes) were also used.

“The Group therefore also agreed to consider new geotechnical information furnished by GNS Science, or where relevant, advice and information derived from the PHGG, CCC and other experts, and results from the Geovert 3D (3D) rock roll study.

“The [Advisory] Group noted some limitations in the GNS Science model, which underscored the need to exercise judgement in forming zoning recommendations and in some cases seek new expert advice in forming zoning recommendations:

- The GNS Science model often related to the use of suburb-wide assessments to predict rock roll. While generally appropriate, the GNS Science model may locally over or understate life risk for particular properties, due to localised effects that were averaged out by the area-wide models.
- GNS Science's cliff collapse studies have not assessed cliffs less than 10 metres in height or at angles of less than 45 degrees, man-made cliffs in areas without pre-existing slopes, slopes that were not formerly coastal cliffs, or soil cliffs.
- GNS Science's assessment of life risk on cliff tops has been based on observations from recent earthquakes, and the application of these observations to other geologically and topographically similar slopes in the Port Hills.
- In some areas, GNS Science reports, PHGG reports and the 3D model have under predicted boulder run out distances and/or bounce heights. This is due to site-specific variations in some areas, such as the shape of slopes, the size/shape of boulders, and the nature of the materials and vegetation along the rockfall paths.
- It was noted for the Group that the 3D model was commissioned by CERA in order to provide a separate report based on a different methodology from GNS Science models and PHGG reports. This 3D report was intended to serve as a counterpoint and secondary resource. It is comparable to preliminary design-level data, and was not internationally peer reviewed. In some cases there were marked differences between the GNS Science and 3D model results; the Group relied primarily on the GNS Science results in these cases.

- In some instances the GNS Science model may have overstated the risk to life from cliffs, where the cliffs modelled are on the boundary of the acceptance criteria used, i.e. just over 10 metres in height or just over 45 degrees in slope angle.
- In some areas the GNS Science model has boundary or edge effects, where risks at the outside extent of rock roll or cliff collapse-affected areas may be over or understated.
- As part of initial zoning work, CERA and CCC commissioned engineering-firm Aurecon to identify ground damage features (possibly new or reactivated landslides or 'just' highly-fractured ground) that potentially carried life risk in the Port Hills, which led to the identification of Lucas Lane and Clifton Terrace as areas with life risk. As part of CCC's responsibility for natural hazard management, CCC has commissioned GNS Science to undertake further investigations in the Port Hills into land damage areas in a number of localities. These investigations are expected to continue for a number of years, and are outside the scope of the review.
- The Group has considered all of the information made available to it from GNS Science as at 26 November 2012.

...

"The [Advisory] Group affirmed that the key factor in the Port Hills zoning criteria is immediate risk to life associated with geotechnical hazards caused or accentuated by the Canterbury earthquakes. The [Advisory] Group reviewed the Port Hills, area by area. The [Advisory] Group sought advice from experts where new geotechnical information needed to be considered, and where the GNS Science model outcomes had the potential to over or understate life risks. The [Advisory] Group then reviewed zoning in that area, and examined individual properties." ...

Excerpt from letter from Dr Keith Turner to Minister for Canterbury Earthquake Recovery, dated 5 April 2013

"I would like to emphasise that the [Advisory] Group had considered the entire Port Hills area not only the areas covered by the GNS modelling. Even within the areas covered by the modelling a wide range of additional information influenced our decisions. For example:

- a) Field reported land cracking mapping
- b) Ground truthing reports
- c) GNS reports (some very comprehensive)
- d) 3D modelling
- e) Supplementary geotechnical advice requested by the panel at earlier meetings
- f) Model revisions reported to the panel but not included in the maps
- g) Model accuracy guidance from geotechnical experts.

"All of these additional sources of information do modify the way in which the modelled risk contours on the maps provided to you should be interpreted. For example:

- a) Cliff collapse retreat lines are very inaccurate against ground truthing at the ends of the cliff zones – the model does not capture reducing cliff height or steeply sloping ground adequately so careful interpretation is required in these model zones.
- b) Cliff collapse model results are much better on high and steep cliffs than they are for low cliffs or steeply sloping ground.
- c) Cliff retreat lines do not follow the cliff profile accurately where the cliff propagates into a narrow valley.
- d) 3D modelling generally underestimates rock roll risk because there are many situations where boulders were mapped well beyond the extremities of the 3D model.
- e) The 2D model does not always account for specific geographical features in determining risk profiles, as it incorporates area averaging effects that are not always consistent with ground truthing and field observations.
- f) Man-made cliffs are treated the same as natural cliffs by the model but we have both good field evidence and geotechnical advice that man-made cliffs are more stable than natural ones.

"These are not an exhaustive list of the considerations the [Advisory] Group had to take into account throughout its work. They are provided to help explain why the reasons for each property decision are, in some cases, necessarily abbreviated.

"In addition they show why zoning conclusions may differ markedly from those that could be derived from only considering the 2D map risk profiles. ..."

Appendix B – Properties recommended by Advisory Group to be rezoned from red to green

	Address	Map	Property type	Asked for Review?	Crown offer status	Minister's recommendation
1.	2 Stronsay Lane	5	Vacant			Green
2.	10 Reservoir Lane	5	Vacant			Green
3.	11 Reservoir Lane	5	Vacant			Green
4.	48 Horotane Valley Rd	8	Residential improved			Green
5.	27 Morgans Valley	10	CCC owned			Red
6.	54 Morgans Valley	10	CCC owned			Red
7.	Lot associated with 14 Cliff St	18	Vacant			Green
8.	69A Bay View Rd	18	Residential improved			Green
9.	284R Main Road	19	CCC owned			Red
10.	24A Kinsey Terrace	19	CCC owned			Green
11.	4 Campbell St	21	Commercial			Green
12.	2 Denman St	21	Residential improved			Green
13.	16 Gilmour Tce	31	Residential improved			Green
14.	14 Gilmour Tce	31	Residential improved			Green
15.	18 Gilmour Tce	31	CCC owned			Green
16.	19 College Rd	32	Residential improved			Green
17.	7 Endeavour Place	33	Vacant			Green
18.	66 Hawkhurst Rd	34	Vacant			Green
19.	25B Walkers Rd	35	Residential improved			Green
20.	25D Walkers Rd	35	Residential improved			Green
21.	10 Harmans Rd (includes 4 lots at 10, 16, 18, 20 Harmans Road)	35	Residential improved			Green
22.	46A Voelas Rd	35	CCC owned			Green
23.	50 Voelas Rd	35	CCC owned			Green
24.	52 Voelas Rd	35	Residential improved			Green
25.	54 Voelas Rd	35	Residential improved			Green
26.	25 Walkers Rd	35	Residential improved			Green
27.	27 Walkers Rd	35	Residential improved			Green
28.	25F Walkers Rd	35	Residential improved			Green
29.	25E Walkers Rd	35	Residential improved			Green

30.	25A Walkers Rd	35	Residential improved		Green
31.	25C Walkers Rd	35	Residential improved		Green
32.	25K Walkers Rd	35	Vacant		Green
33.	25L Walkers Rd	35	Vacant		Green
34.	26 Mariners Cove	38	Residential improved		Green

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Appendix C – Properties recommended by Advisory Group to be rezoned from green to red (212 including 142 titles at 301 Port Hills Rd)

	Address	Map	Property type	Asked for Review?	Notes	Minister's recommendation
1.	79 Bowenvale Ave	1	Residential improved			Red
2.	212A Centaurus Rd	3	Residential improved			Red
3.	68 Rapaki Rd	4	Residential improved			Red
4.	351 Port Hills Rd	5	Commercial			Red
5.	5 Reservoir Lane	5	Residential improved			Red
6.	142 titles located at 301 Port Hills Rd	6	Commercial			Red
7.	311 Port Hills Rd	6	Vacant			Red
8.	2 Avoca Valley Rd	6	Residential improved			Red
9.	4A Avoca Valley Rd	6	Residential cross-lease			Red
10.	4B Avoca Valley Rd	6	Residential cross-lease			Red
11.	6 Avoca Valley Rd	6	Residential improved			Red
12.	275 Port Hills Rd	6	Residential improved			Red
13.	24 Bridle Path Rd	9	Residential improved			Red
14.	Lot associated with 112 Bridle Path Rd	11	Residential improved		Boundary issue	Red
15.	39 Mt Pleasant Rd	13	Residential improved			Red
16.	10 Quarry Rd	13	Residential improved		Meets intent of criteria	Red
17.	2/51A St Andrews Hill Rd	13	Residential cross-lease		Meets intent of criteria	Red
18.	51C St Andrews Hill Rd	13	Residential cross-lease		Meets intent of criteria	Red
19.	62 Main Rd	13	Residential improved			Red
20.	76 McCormacks Bay Rd	14	Residential improved		Meets intent of criteria	Red
21.	124A Main Road	16	Residential improved			Red
22.	120A McCormacks Bay Rd	16	Residential cross-lease			Red
23.	120B McCormacks Bay Rd	16	Residential cross-lease			Red
24.	6 Balmoral Lane	16	Residential		Meets intent of	Red

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			improved		criteria	
25.	8 Balmoral Lane	16	Residential improved		Meets intent of criteria	Red
26.	156 and 156A McCormacks Bay Rd	16	Residential improved		Meets intent of criteria	Red
27.	4 Moncks Spur	17	Residential improved		Meets intent of criteria	Red
28.	8 Moncks Spur	17	Residential improved		Meets intent of criteria	Red
29.	4 The Spur	19	Residential improved			Red
30.	70 Wakefield Ave	21	Vacant		Advisory Group recommended partial red zoning	Partial red zoning in accordance with risk lines
31.	122 Wakefield Ave	22	Residential improved			Red
32.	104B Wakefield Ave	22	Vacant			Red
33.	48 Sumnervale Dr	22	Vacant			Red
34.	2/110 Wakefield Ave	22	Residential cross-lease		Advisory Group recommended partial red zoning	Red, with 1/110 Wakefield Ave as one property
35.	110 Sumnervale Dr	23	Residential improved		GNS modification	Red
36.	102 Sumnervale Dr	23	Residential improved		GNS modification	Red
37.	98 Sumnervale Dr	23	Residential improved			Red
38.	106 Sumnervale Dr	23	Residential improved			Red
39.	2/104 Sumnervale Dr	23	Residential cross-lease			Red
40.	1/104 Sumnervale Dr	23	Residential cross-lease			Red
41.	114 Sumnervale Dr	23	Residential improved			Red
42.	43 Ocean View Tce	23	Residential improved		GNS modification	Red
43.	45 Ocean View Tce	23	Residential improved		GNS modification	Red
44.	47 Ocean View Tce	23	Residential improved		GNS modification	Red
45.	27 Ocean View Tce	23	Residential improved			Red
46.	71 Heberden Ave	24	Vacant			Red
47.	48 Heberden Ave	24	Residential improved			Red
48.	50 Heberden Ave	24	Residential			Red

			improved			
49.	47 Truro St	24	Residential improved			Red
50.	141 Nayland St	25	Residential improved			Red
51.	25A Taylors Mistake Rd	26	Vacant			Red
52.	Taylors Mistake	28, 29	CCC owned	Advisory Group recommended partial red zoning in accordance with risk lines		Partial red zoning in accordance with risk lines
53.	Boulder Bay	30	CCC owned	Advisory Group recommended partial red zoning in accordance with risk lines		Partial red zoning in accordance with risk lines
54.	Lot associated with 33 Brenchley Rd	32	Residential improved	Boundary issue		Red
55.	37 Ross Tce	33	Vacant			Red
56.	21 Buxtons Rd	36	Vacant			Red
57.	23 Buxtons Rd	36	Vacant			Red
58.	Naval Point Yacht Club	37	CCC owned land (commercial premises)	Advisory Group recommended partial red zoning around building footprint		Remain green
59.	253 Governors Bay Rd	39	Vacant, Māori Freehold			Red
60.	239 Governors Bay Rd	39	Vacant, Māori Freehold			Red
61.	9 Omaru Rd	39	Vacant, Māori Freehold			Red
62.	Maori Gardens	41	CCC owned	Advisory Group recommended partial red zoning around baches		Partial red zoning in accordance with risk lines
63.	58 Zephyr Tce	42	Residential improved			Red
64.	56 Zephyr Tce	42	Vacant			Red
65.	41 The Terrace	43	Vacant			Red
66.	43 The Terrace	43	Vacant			Red
67.	3 Leading Light	43	Vacant			Red

	Lane					
68.	334 Marine Drive	44	Residential improved		Meets intent of criteria	Red
69.	332 Marine Drive	44	Residential improved		Meets intent of criteria	Red
70.	342 Marine Drive	44	Residential improved		Meets intent of criteria	Red
71.	336 Marine Drive	44	Vacant		Meets intent of criteria	Red

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Appendix D – Additional properties recommended for red zoning

	Address	Map	Property type	Asked for Review ?	Advisory Group's recommendation	Minister's recommendation
1.	77A Bowenvale Ave	1	Vacant but associated with residential		Remain green	Red – treated as one property with 79 Bowenvale Ave
2.	214A&S Centaurus Rd	3	Residential improved		Remain green	Red – treated as one property with 212A Centaurus Rd
3.	323 Port Hills Rd	5	CCC owned		Remain green	Red – due to risk profile
4.	50 Avoca Valley Rd	7	Residential improved		Remain green	Red – to ensure boundary lines are drawn sensibly
5.	70 Morgans Valley	10	CCC owned		Remain green	Red – due to risk profile
6.	70A Morgans Valley	10	CCC owned		Remain green	Partial red zoning in accordance with risk lines
7.	87 Morgans Valley	10	Vacant		Remain green	Red – due to risk profile
8.	136 Main Rd	16	Crown owned (Redcliffs School)		Remain green	Red zone Pt Lot 8 DP11088 only in accordance with risk profile
9.	136C Main Rd	16	Crown owned (Redcliffs School)		Remain green	Red zone Pt Lot 2 DP1228 only in accordance with risk profile
10.	300 Main Rd	19	CCC owned		Remain green	Red – due to risk profile
11.	300A Main Rd	19	CCC owned		Remain green	Red – due to risk profile
12.	72 Wakefield Ave	21	CCC owned		Remain green	Red – due to risk profile
13.	1/110 Wakefield Ave	22	Cross-leased residential property		Remain green	Red – cross-lease with 2/110 Wakefield Ave
14.	100A Wakefield Ave	22	CCC owned		Remain green	Red – due to risk profile
15.	69 Evans Pass Rd	23	CCC owned		Remain green	Red – due to risk profile
16.	5 Awaroa Lane	24	Vacant		Remain green	Red – due to risk profile
17.	38A and 38F Truro Street	24	Crown owned (Van Asch College)		Remain green	Partial red zoning to extent of runout-risk

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18.	21 Heberden Ave	25	CCC owned	Remain green	Red – due to risk profile
19.	23 Heberden Ave	25	CCC owned	Remain green	Red – due to risk profile
20.	3 Heberden Ave	25	CCC owned	Remain green	Red – due to risk profile
21.	4 Scarborough Rd	25	CCC owned	Remain green	Red – due to risk profile
22.	73 Hawkhurst Rd	34	Residential property divided by paper road - partially zoned red	Remain zoned part green and part red	Red zoning of all land parcels due to life risk
23.	23A Ross Terrace	34	Vacant	Remain green	Red – due to risk profile
24.	36 Brittan Terrace	36	Residential improved	Remain green	Red – meets intent of criteria
25.	460 Governors Bay Rd	40	Vacant	Remain green	Red – due to risk profile and area of residential settlement
26.	522 Governors Bay Rd	41	CCC owned	Remain green	Red – due to risk profile
27.	9 Leading Light Lane	43	Vacant	Remain green	Red – due to risk profile

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Appendix E – Additional properties recommended for green zoning

	Address	Map	Property type	Asked for Review?	Advisory Group's recommendation	Minister's recommendation
1.	14 The Crescent	4	Residential improved		Remain red	Green – once section 124 notice lifted
2.	16 The Crescent	4	Residential improved		Remain red	Green – once section 124 notice lifted

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Appendix F – Maps of final recommendations for zoning changes

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