

To: Minister of Finance
 Minister for Canterbury Earthquake Recovery
 Associate Minister of Finance (Hon Steven Joyce)



IN CONFIDENCE

**CONSIDERATIONS FOR THE CROWN OFFER TO ELIGIBLE PROPERTY OWNERS
 IN THE PORT HILLS RED ZONE**

Date	20 August 2012	Priority	High
Report No	M/12-13/062	File Reference	

Action Sought

		Deadline
Hon Bill English <i>Minister of Finance</i>	Agree to the recommendations in this paper	24 August 2012
Hon Gerry Brownlee <i>Minister for Canterbury Earthquake Recovery</i>	Agree to the recommendations in this paper	24 August 2012
Hon Steven Joyce <i>Associate Minister of Finance</i>	Agree to the recommendations in this paper	24 August 2012

Contact for Telephone Discussion (if required)

Name	Position	Telephone	1st Contact
Diane Turner	General Manager, Strategy, Planning and Policy		
John WA Spott	Senior Advisor, Policy	Withheld under section 9(2)(a)	
	Withheld under section 9(2)(g)(i)		

Minister's office comments

<input type="checkbox"/> Noted <input type="checkbox"/> Seen <input type="checkbox"/> Approved <input type="checkbox"/> Needs change <input type="checkbox"/> Withdrawn <input type="checkbox"/> Not seen by Minister <input type="checkbox"/> Overtaken by events <input type="checkbox"/> Referred to	<p>Comments</p>
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Considerations for the Crown Offer to Eligible Property Owners in the Port Hills

Purpose

- 1 This report proposes the elements of a Crown offer for red zoned property owners in the Port Hills.

Executive Summary

- 2 CERA proposes that the Crown offer for red zoned properties in the Port Hills be modelled on the flat land red zone offer. This would include insured residential, residential part build and not for profit properties. It would not include commercial, vacant, commercial part build or uninsured properties.
- 3 This approach is recommended as the flat land red zone offer has already been developed and tested, the public understands it, and basing the Port Hills offer on it provides equity for red zoned property owners across Canterbury.
- 4 In a few instances, modifications to the flat land approach are proposed due to issues related to life-safety risk that did not exist on the flat land. These modifications are summarised in the following table:

Offer Item	Rationale
Offer period for eligible Port Hills red zoned property owners to be 12 months from receipt of an offer letter or until 31 August 2013, whichever comes first	Provides 12 months from receipt of an offer letter or until 31 August 2013, whichever comes first, for eligible property owners to consider the Crown offer, seek any advice they consider necessary and make a decision. This is consistent with the timeframes adopted for Southshore. The offer period for any properties subsequently red zoned would be communicated at the time of zoning.
Settlement date to be 6 weeks after the date of the Agreement and no deposit will be payable	Given the risk to life associated with Port Hills red zoned properties (many have section 124 notices in place and are already unoccupied), CERA will require that property owners settle 6 weeks after the date of the Agreement. This will allow for the expedited settlement of red zoned properties once an offer is accepted.
Salvage rights and chattels	Given the risk to life associated with Port Hills red zoned properties, salvage rights and the ability to remove chattels will need to be managed as requests are received, on a case-by-case basis.

Rapaki Bay

- 5 In order to provide the owners of any insured red zoned Maori Freehold properties with certainty, confidence and simplicity, it is recommended that the Crown extend an offer to these properties. This offer would be conditional on the Maori Land Court making an order to change the status of the land from Maori freehold land to general land. It is proposed that the Crown would meet the reasonable costs of the Maori Land Court order, including both legal costs and court fees. No other changes to the transaction design are required.

Issues that May Affect the Uptake of the Crown Offer

- 6 We expect many red zoned property owners will wish to accept the Crown offer and complete the sale as soon as possible. There are two main issues that may affect the uptake of Red Zone offers: potential delays to insurance and EQC assessments of Red Zone properties due to life-risk concerns and related access restrictions; and property owners seeking to undertake individual or group rock roll protection works.

Other Issues

- 7 Some rock roll-affected parties in Rapaki Bay have indicated an interest in continuing to reside in the area, but will not be permitted to build/rebuild dwellings in areas with high life risk levels through expected Christchurch City Council (CCC) planning restrictions. CERA will work with owners to identify feasible options to enable them to continue to reside in the same area.
- 8 The zoning of rock roll-affected Port Hills properties is based on the level of life risk affecting the dwelling. Individual options may exist for some red zoned property owners to continue using their properties, including through building relocation and non-residential land uses, which were not available on the flatland. Such options can be included within review criteria for Port Hills zoning decisions.

Consultation

- 9 Treasury and the Christchurch City Council have provided input to this paper.
- 10 The Department of Prime Minister and Cabinet have been informed of the content of this paper.

Recommendations

11 It is recommended that you:

- 1 Agree that the Crown offer period for insured residential, residential part build and not for profit properties in the Port Hills that are red zoned will be 12 months from receipt of the Crown offer or until 31 August 2013, whichever comes first

YES / NO
Minister of Finance

YES / NO
Minister for Canterbury
Earthquake Recovery

YES / NO
Associate Minister of
Finance

- 2 Agree that the offer period for any properties subsequently red zoned in the Port Hills will be determined as part of those zoning decisions

YES / NO
Minister of Finance

YES / NO
Minister for Canterbury
Earthquake Recovery

YES / NO
Associate Minister of
Finance

- 3 Agree that the settlement date will be 6 weeks after the date of the Agreement, and that this means that no deposit will be payable for red zoned properties in the Port Hills

YES / NO
Minister of Finance

YES / NO
Minister for Canterbury
Earthquake Recovery

YES / NO
Associate Minister of
Finance

- 4 Agree that salvage rights and the ability to remove chattels will be managed as requests are received on a case-by-case basis, and that in some cases this will not be possible due to life-safety risks

YES / NO
Minister of Finance

YES / NO
Minister for Canterbury
Earthquake Recovery

YES / NO
Associate Minister of
Finance

- 5 Agree to extend a Crown offer to insured owners of residential red zoned properties on Maori freehold land in Rapaki Bay, on the basis that such offers will be conditional on the Maori Land Court making an order to change the status of the land from Maori freehold land to general land

YES / NO
Minister of Finance

YES / NO
Minister for Canterbury
Earthquake Recovery

YES / NO
Associate Minister of
Finance

- 6 Agree that for insured owners of residential red zoned properties on Maori freehold land in Rapaki Bay who wish to accept a Crown offer, the Crown will meet the reasonable costs of the Maori Land Court order

YES / NO
Minister of Finance

YES / NO
Minister for Canterbury
Earthquake Recovery

YES / NO
Associate Minister of
Finance

- 7 Agree that in all other respects the Crown offer to red zoned properties in the Port Hills be on the same terms as that made to red zoned properties on the flat land

YES / NO
Minister of Finance

YES / NO
Minister for Canterbury
Earthquake Recovery

YES / NO
Associate Minister of
Finance

- 8 Agree that the terms of the Port Hills Crown offer be communicated to the public immediately and letters of offer be sent to eligible owners that have returned consent forms

YES / NO
Minister of Finance

YES / NO
Minister for Canterbury
Earthquake Recovery

YES / NO
Associate Minister of
Finance

Implications for Port Hills Zoning Review Process

- 9 Agree that CERA will communicate that red zoned residential property owners in rock roll areas will have, subject to considerations under the District Plan and Building Act requirements and restrictions, the opportunity to indicate their interest in retaining all or some portion of their property for non-residential use as part of the zoning review process

YES / NO
Minister of Finance

YES / NO
Minister for Canterbury
Earthquake Recovery

YES / NO
Associate Minister of
Finance

- 10 Agree that CERA will communicate that red zoned residential property owners in rock roll areas will have, subject to considerations under the District Plan and Building Act requirements and restrictions, the opportunity to indicate their interest in moving their dwelling to another site on their properties where the level of risk aligns with the criteria for green zoning as part of the zoning review process

YES / NO
Minister of Finance

YES / NO
Minister for Canterbury
Earthquake Recovery

YES / NO
Associate Minister of
Finance

Financial Recommendations

- 11 Note that the cost of meeting the reasonable costs of the Maori Land Court order for two Maori freehold properties in Rapaki Bay could be up to \$50,000

- 12 Approve a total gross cost of \$50,000, by way of a contribution to the vendors legal fees, for the Maori Land Court order to change two Maori freehold properties in Rapaki Bay to general land

YES / NO
Minister of Finance

YES / NO
Minister for Canterbury
Earthquake Recovery

YES / NO
Associate Minister of
Finance

13 Agree to the following changes to appropriations to provide for the decisions in recommendations 12, with a corresponding impact on the operating balance:

Vote Canterbury Earthquake Recovery	\$m – increase/(decrease)				
	2012/13	2012/13	2013/14	2014/15	2015/16 & out years
Minister for Canterbury Earthquake Recovery					
Non-Departmental Other Expense					
Contributions towards legal fees	0.050	-	-	-	-

YES / NO
Minister of Finance

YES / NO
Minister for Canterbury Earthquake Recovery

YES / NO
Associate Minister of Finance

14 Agree that the proposed changes to appropriations for 2012/13 in recommendation 12 be included in the 2012/13 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply

YES / NO
Minister of Finance

YES / NO
Minister for Canterbury Earthquake Recovery

YES / NO
Associate Minister of Finance

15 Agree that all the expenses incurred under appropriations agreed in this paper be a charge against the Canterbury Earthquake Recovery Fund, established as part of Budget 2011

YES / NO

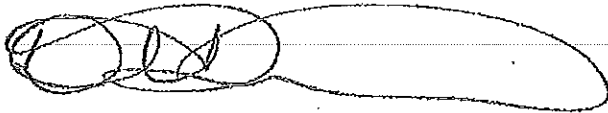
Minister of Finance

YES / NO

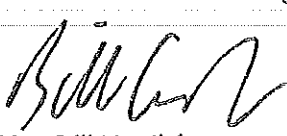
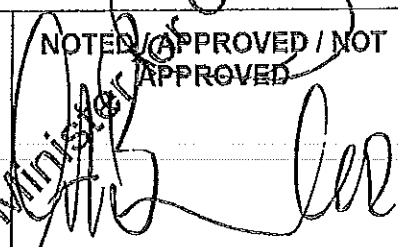
Minister for
Canterbury
Earthquake
Recovery

YES / NO

Associate Minister of
Finance



Diane Turner
General Manager
Strategy, Planning and Policy

NOTED / APPROVED / NOT APPROVED	NOTED / APPROVED / NOT APPROVED	NOTED / APPROVED / NOT APPROVED
 Hon Bill English	 Hon Gerry Brownlee	
Minister of Finance	Minister for Canterbury Earthquake Recovery	Hon Steven Joyce Associate Minister of Finance
Date: 20/08 / 2012	Date: 21/08 / 2012	Date: / / 2012

Background

- 12 On 22 June 2011, Cabinet agreed that the Crown would make an offer to purchase insured residential Red Zone properties in order to provide the certainty, confidence and simplicity that these landowners require. Cabinet also noted that the issues on the Port Hills are of a different nature to the low-lying areas [Cab Min (11) 24/15 refers].
- 13 On 27 and 28 July 2011, the Minister for Earthquake Recovery and the Minister of Finance agreed to eligibility requirements for a Crown offer (M11/09/089). Cabinet agreed on 28 May 2012 to extend Crown purchase offers to insured residential properties under construction and non-residential properties owned by not-for-profit organisations [Cab Min (12) 19/7A refers].
- 14 On 14 November 2011, Cabinet approved the green zoning of approximately 1,119 non-residential properties in the Port Hills. It was noted that some of the properties may remain subject to life safety risks from hazards such as rock roll, but that non-residential landowners could pursue various approaches to repair and rebuild as necessary, and those with undeveloped land or farm land properties who wish to have buildings developed may require technical inputs and/or site specific investigations to proceed [CAB Min (11) 41/10 refers].
- 15 On 29 June 2012, 285 properties in the Port Hills were red zoned. These included properties where there is either a life risk associated with cliff collapse, or where there is an unacceptable life risk (greater than 1 in 1,000 at 2012 risk levels) due to rock roll. Following this decision, approximately 166 properties remain white zoned as further investigations are required for these properties due to life risks associated with rock roll and landslip.
- 16 The Minister for Earthquake Recovery announced on 29 June 2012 that eligible red zoned properties on the Port Hills would receive a Crown offer similar to that provided on the flat lands. Property owners were informed that offers would be sent to eligible property owners who had returned signed consent forms from August 2012.
- 17 On 16 July 2012, the Cabinet, Canterbury Earthquake Recovery Committee authorised the Minister of Finance, the Minister for Canterbury Earthquake Recovery and the Associate Minister of Finance (Hon Steven Joyce), to have Power to Act until 31 October 2012 to make any outstanding decisions relating to the Port Hills White Zone [CER Min (12) 5/2 refers].

The Port Hills Red Zone Context

- 18 The implicit criteria that have underpinned zoning decisions in the Port Hills are different from those of the flat lands. Whereas flat land zoning decisions related to crust thickness and lateral spreading in relation to area-wide land damage, decisions in the Port Hills have involved assessments of life risk in localised areas for residential dwellings. This has implications for Crown offer design for the Port Hills.
- 19 Investigations conducted for cliff collapse areas in the Port Hills indicate that no remediation options exist for these areas, and that the life risks faced by red zoned property owners are above acceptable levels and will not improve over time. There are unlikely to be residential or non-residential uses for most these properties, and access may need to be restricted for safety reasons.
- 20 Rock roll investigations in the Port Hills have provided data regarding life risk, predicated on residential use, and the occupation of dwellings for approximately 16 hours per day. Zoning

decisions have relied on the exact location of dwellings. It is however possible that this level of risk may be manageable for non-residential uses, such as farming or for certain commercial pursuits.

- 21 In addition, life-risk levels on a property can vary, meaning that a dwelling may be in an unacceptable risk zone, but other portions of the property may be in an acceptable risk area. Through the production of comprehensive and detailed life-risk studies, and the availability of geotechnical expertise, it is possible to understand these varying levels of risk for affected properties.

Elements of the Existing Crown Offer that Remain Relevant

- 22 CERA proposes that the Crown offer for red zoned properties in the Port Hills be modelled on the flat land red zone offer. This would include insured residential, residential part build and not for profit properties. It would not include commercial, vacant, commercial part build or uninsured properties.
- 23 This approach is recommended as the flat land red zone offer has already been developed and tested, the public understands it, and basing the Port Hills offer on it provides equity for red zoned property owners across Canterbury.
- 24 The vast majority of the existing Crown offer remains relevant for the Port Hills. The elements of this offer were noted and agreed to by Cabinet on 18 July [Cab Min (11) 27/12, Cab Min (11) 27/13 refers], and by the Minister for Earthquake Recovery and the Minister of Finance on 27 and 28 September 2011 [M11/09/089 refers] and 28 May 2012 [Cab Min (12) 19/7A refers]. This includes the following provisions: two purchase offers for insured residential property owners in red zones (Options 1 and 2) at 2007 Capital and Land values; and the extension of the Crown purchase offer to residential part builds, not for profit, retirement villages and rest homes.
- 25 No changes are proposed to these fundamental elements.

Elements of the Existing Crown Offer that Require Adjustment

Offer Period and Settlement Date

- 26 Previous residential Red Zone property owners have had up to 12 months to accept the Crown offer, with the opportunity to defer settlement until 30 April 2013 or 30 June 2013 (in the case of Southshore).
- 27 Due to the timing of the zoning decisions for the Port Hills, property owners would have less than 12 months to accept the offer and settle by 30 April 2013 or 30 June 2013 if existing dates were used.
- 28 It could be argued for the Port Hills that the offer period and timeframe for settlement should be reduced, in recognition of the need for immediate retreat from these areas due to life risk. However, it is expected that property owners will require time to pursue their insurance claims and to make a considered decision on the Crown offer.
- 29 Officials recommend that the offer period for eligible Port Hills red zoned property owners be 12 months from receipt of an offer letter or until 31 August 2013, whichever comes first. Once property owners have accepted the Crown offer, they would be required to settle 6 weeks

after the date of the Agreement. This would ensure that these property owners have adequate time to consider the offer, but would be required to settle relatively quickly after accepting it. This is inconsistent with the approach in the flat lands, but is suitable given the life risk affecting red zoned properties in the Port Hills.

- 30 The offer period for any properties subsequently red zoned would be communicated at the time of zoning.
- 31 Under the current transaction design rules, no deposit is payable if the settlement date is six weeks or less from the date of the agreement. This means that no deposit will be payable for red zoned properties in the Port Hills, and we consider that this is appropriate for the Port Hills.

Salvage Rights and Chattels

- 32 Given the life-safety risks associated with most red zoned Port Hills properties, changes are required to the decisions which allow owners to take chattels and salvage fixtures. Requests for the removal of chattels and salvage of fixtures will need to be managed on a case-by-case basis, and in some cases requests will need to be refused due to life-safety risks. CERA will manage this process where section 45 Canterbury Earthquake Recovery Act notices are in place, and CCC will manage this process where section 124 Building Act notices are in place.

Rapaki Bay

- 33 Seven properties in Rapaki Bay have been red zoned due to unacceptable rock roll risks. Five of these red zoned properties are held under general freehold titles, and two properties are Maori freehold titles.
- 34 Insured red zoned residential property owners with general land freehold titles are eligible for the existing Crown purchase offer, but this is not currently the case for those whose dwellings are located on Maori freehold titles, due to alienation issues as provided for in the Te Ture Whenua Maori Act 1993.
- 35 It is proposed that the Crown offer be extended to insured owners of residential red zoned properties on Maori freehold land in Rapaki Bay on the basis that such offers will be conditional on the Maori Land Court making an order to change the status of the land from Maori freehold land to general land. The Crown would meet the reasonable costs of the Maori Land Court order, including both legal costs and court fees. The estimated financial implications of meeting these costs for both properties could be up to \$50,000. No other changes to the transaction design are required.
- 36 Affected land owners in Rapaki Bay have expressed the strong preference that if eligible red zoned residential property owners accept a Crown purchase offer, this land become part of a Maori reserve rather than remaining as Crown land under the Land Act 1948. This issue will be addressed at the time decisions are made on future land use.

Issues that May Affect the Uptake of Red Zone Offers

37

Withheld under section 9(2)(i)

Withheld under section 9(2)(i)

Requests from Owners to Undertake Rock Roll Protection Works on an Individual or Group Basis

- 38 It is likely that some red zoned property owners will seek to undertake protection works on an individual or group basis, rather than accepting the Crown's purchase offer. CERA and CCC will need to develop a joint understanding of how such requests would be handled, taking into account how consideration of such requests may affect the uptake of Crown offers and compliance with section 124 Building Act notices, and noting the potential this has to add complications and reduce certainty going forward. Separate advice will be provided to the Minister for Earthquake Recovery on this issue.

Non-Acceptance of Crown Offer

- 39 In some cases, red zoned property owners may choose not to accept the Crown offer, even though their property may be subject to a section 124 Building Act notice, preventing occupation of buildings/ dwellings.
- 40 Given that there are life-safety issues for all red zoned properties in the Port Hills, CERA, CCC and the Ministry of Social Development will leverage existing resources to assist property owners to understand their options and support them through the offer process as necessary. CERA and CCC will also emphasise in communications that property owners should not view the offer period, or the fact that the properties are not the subject of a compulsory acquisition process, as an indication that they can remain in their properties where a section 124 Building Act notice is in place.
- 41 Of note, CCC is considering its obligations in relation to the enforcement of section 124 Building Act notices.

Other Issues

- 42 Some rock roll-affected parties in Rapaki Bay have indicated an interest in continuing to reside in the area, but will not be permitted to build/rebuild dwellings in areas with high life risk levels through expected Christchurch City Council (CCC) planning restrictions. CERA will work with owners to identify feasible options to enable them to continue to reside in the same area.
- 43 The zoning of rock roll-affected Port Hills properties is based on the level of life risk affecting the dwelling. Individual options may exist for some red zoned property owners to continue using their properties, including through building relocation and non-residential land uses,

which were not available on the flat land. Such options can be included within review criteria for Port Hills zoning decisions.

Decision Making, Funding and Timing Implications

- 44 Red zoned property owners that have returned consent forms are expecting to receive Crown purchase offers in August 2012.
- 45 As such, CERA officials propose that the terms of the Port Hills Crown offer be communicated to the public immediately, and letters of offer be mailed to owners that have returned consent forms as soon as possible following the announcement.

Financial implications

- 46 In the event that owners of two red zoned Maori freehold properties in Rapaki Bay are eligible for, and would like to accept, a Crown purchase offer, it is proposed that the Crown meet the reasonable costs of the Maori Land Court order associated with changing the status of these properties to general land. The estimated cost for these two properties could be up to \$50,000.

Released by the Minister for Canterbury Earthquake Recovery