

The Treasury

On-sold Canterbury Properties Information Release

October 2019

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Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to sections of the Act under which information has been withheld:

- [23] 9(2)(a) - to protect the privacy of natural persons, including deceased people
- [25] 9(2)(b)(ii) - to protect the commercial position of the person who supplied the information or who is the subject of the information
- [26] 9(2)(ba)(i) - to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied
- [33] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
- [34] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions
- [36] 9(2)(h) - to maintain legal professional privilege
- [37] 9(2)(i) - to enable the Crown to carry out commercial activities without disadvantage or prejudice
- [38] 9(2)(j) - to enable the Crown to negotiate without disadvantage or prejudice
- [39] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage

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Treasury Report: Earthquake Commission Litigation - Final Cabinet Paper

Date:	7 August 2019	Report No:	T2019/2386
		File Number:	TY-2-1-17 (Disaster Insurance)

Action sought

	Action sought	Deadline
Hon Grant Robertson Minister Responsible for the Earthquake Commission	Note the changes to the attached draft of your " <i>Onsold Canterbury Properties</i> " Cabinet Paper.	Monday 12 August 2019

Contact for telephone discussion (if required)

Name	Position	Telephone		1st Contact
Craig Fookes	Principal Advisor, Earthquake Commission Policy Team	[23] (wk)	[39] (mob)	
Helen McDonald	Manager, Earthquake Commission Policy Team	[23] (wk)	[39] (mob)	✓

Minister's Office actions (if required)

Return the signed report to Treasury.

Note any feedback on the quality of the report

Enclosure: Yes (attached)

Treasury Report: Earthquake Commission Litigation - Final Cabinet Paper

Purpose of Report

1. This report provides the final lodgement draft of your “*Onsold Canterbury Properties*” Cabinet paper with tracked changes for your review. A final copy of the report without track changes will be lodged in Cab Net (pending your approval).
2. The key changes and some supplementary information is attached to this report.

Additional background with the Cabinet paper

3. A number of changes have been made to the Cabinet paper, but these changes mostly add background and context to assist Cabinet consideration of this policy.
4. [34]

we

have sought an internal review from two senior Treasury staff members who have not previously been closely associated with the development of this policy.
5. The review highlighted that more detail was required on:
 - a the nature of EQC natural disaster insurance;
 - b the EQC’s role in the Canterbury recovery, notably with respect to the Canterbury Homes Rebuild Programme; and
 - c the decisions taken by the EQC compared with the decisions taken by Government, notably with respect to the decision to settle the test case.
6. The Cabinet paper has been amended to:
 - a provide background and context;
 - b clarify that the EQC Board not the Minister Responsible for EQC has decided to settle the test case; and
 - c clarify the choice the Cabinet has to either allow the EQC to determine how it settles claims (funded by Government via the Natural Disaster fund) or for Cabinet to determine the nature and scope of Government support (funded via appropriation).
7. No substantive changes have been made to the parameters of the proposed Government support package.

Defining coverage

8. The proposed support package covers the cost of repair relating to damage missed from EQC assessments and/or failed building repairs. The draft Cabinet paper notes that we will provide you with advice on the terms and conditions of the support package, including whether there are limitations of a cap on the amount of Government support.

9. [34]
10. Our last report (T2019/2307) presented a financial cap as an option, along with higher evidential requirements, and/or partial coverage.
11. Our advice on financial caps noted that a trade-off exists between your objectives for this policy:
- A cap on the Crown’s contribution would still provide a very basic form of emergency support to the EQC’s more vulnerable clients that are unable to afford legal representation. But partial payment may still leave this group with insufficient funds to actually complete the required repairs.
 - [34]
12. We have noted in the draft Cabinet paper (paragraph 64) that officials will provide advice to you on this issue, with a decision to be delegated to yourself and the Minister Responsible for Greater Christchurch Recovery.
13. However, should Cabinet wish to cap coverage during their discussions (i.e. rather than to delegate this decision to joint Ministers), you could consider a cap of:
- a **\$100,000** to provide a very basic level of cover for the EQC’s most vulnerable clients. We note that claimants with significant repair costs may opt to seek compensation through the courts;
 - b **\$250,000** based on the average cost of over cap repairs reported by the private insurers.

Delegation to joint Ministers

14. The paper previously delegated the decision to decide terms and conditions on coverage necessary to give effect to this policy. We have amended this paper to include a proposal that you seek a joint delegation involving the Minister for Greater Christchurch Regeneration, Hon Dr Megan Woods.

Timing for design work

15. We have added an additional week to our previous estimate of the time we require to finalise the detailed design of this government support package. Our previous estimate of 3-4 weeks has been extended to read 4-5 weeks.
16. There is significant complexity in the design of the detailed terms and conditions of the package, including the issue of whether and how to cap claims for the cost of repair.
[34]
- We intend to provide advice on the pros and cons of the options you have available.

Recommended Action

We recommend that you:

- a **note** that the final version of your “*Onsold Canterbury Claims*” Cabinet paper, with track changes, is attached to this report
- b **note** that the final version of your “*Onsold Canterbury Claims*” Cabinet paper, without track changes, will be lodged in Cabinet pending your approval
- c **note** we have made changes to the Cabinet paper to provide clarity on: the context and background of EQCs role in Canterbury; clarity as to the decisions Cabinet makes compared to those made by the EQC; and transparency as to the sorts of limits on the cost of repairs that officials may provide advice on, and
- d **note** that no significant changes have been made to the policy parameters that you have agreed to in previous drafts.

Helen McDonald
Manager Earthquake Commission Policy Team

Hon Grant Robertson
Minister Responsible for the Earthquake Commission