

Reference: 20160366

17 November 2016



Thank you for your Official Information Act request, received on 20 October 2016. You requested the following:

*"...a copy of all consultations information you provided and received in development of the paper: "Canterbury Earthquake: EQC Payments to Owners of the Very Worst Affected Land", which was presented by the Chair of the Ad Hoc Cabinet Committee on Canterbury Earthquake Recovery, to that Committee for consideration."*

On 20 October 2016 Treasury clarified this request to:

*"I am looking for a copy of any Treasury advice or information it provided to the Minister on the options discussed in the paper and the recommended option."*

### Information Being Released

Please find enclosed the following documents:

Item	Date	Document Description	Decision
1.	8 October 2010	Aide Memoire: Land Remediation in Canterbury	Release in part
2.	18 November 2010	Aide Memoire: Purchase of Damaged Land in Canterbury	Release in part
3.	13 December 2010	Treasury Report: Briefing for Canterbury Earthquake Recovery Tuesday 14 December 2010	Release in part

I have decided to release the relevant parts of the documents listed above, subject to information being withheld under one or more of the following sections of the Official Information Act, as applicable:

- personal contact details of officials, under section 9(2)(a) – to protect the privacy of natural persons, including deceased people.

Information not relevant to your request from item 3 above has been removed as out of scope.

In making my decision, I have considered the public interest considerations in section 9(1) of the Official Information Act.

Please note that this letter (with your personal details removed) and enclosed documents may be published on the Treasury website.

This fully covers the information you requested. You have the right to ask the Ombudsman to investigate and review my decision.

Yours sincerely

Alex Harrington  
**Team Leader, Justice, Security and Government Services**

# TOIA 20160366

## Information for release

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1.	<a href="#">8 October 2010 Aide Memoire Land remediation in Canterbury</a>	1
2.	<a href="#">18 November 2010 Aide Memoire Purchase of Damaged Land in Canterbury</a>	3
3.	<a href="#">13 December 2010 Treasury Report Briefing for Canterbury Earthquake Recovery</a>	4

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Date: 8 October 2010

SH-12-2-2-0



To: Acting Minister of Finance

**AIDE MEMOIRE: LAND REMEDIATION IN CANTERBURY**

This aide memoire briefs you on a paper prepared by the Minister for Canterbury Earthquake Recovery on land remediation issues in Canterbury. The key decision facing the Government in the paper is whether to remediate land damaged by the earthquake to its pre-earthquake condition or to a higher standard. This is a critical decision with significant economic and fiscal implications for the future.

*Land remediation*

The Earthquake Commission (EQC) is only required to remediate land to its pre-earthquake condition. However, local authorities are likely to tighten building standards in the Canterbury region as a result of lessons learned from the earthquake experience. Under any new standards, property owners may not be able to rebuild structures because the remediated state of the land does not meet the new standards. Some property owners may therefore feel that the land has not been 'fully' remediated.

At one level, the issue boils down to a question of who should face the cost from regulatory change – i.e. the change in building standards following the earthquake. As a matter of general policy, the Government does not compensate citizens when it creates or changes regulation because the costs of doing so would be prohibitive. In this case, a decision to remediate land to a higher standard will have significant direct and indirect costs. The paper estimates a one-off fiscal cost of \$200-\$400 million, but this decision will generate higher costs over time as it establishes a policy precedent for the treatment of land remediation in future natural disasters and, more importantly, potentially a precedent for land standards for all new houses built on land at risk of liquefaction in an earthquake. The indirect costs are likely to be higher still. The Government's decision may incentivise local authorities to raise building standards in the region, driving construction costs and therefore the cost of housing higher.

We recognise there is a difficult trade-off between the need to manage financial and economic risk, and the need to address public concerns about the completeness of land remediation policy. Nevertheless, the scale of costs and risks involved in this decision justifies a cautious approach on the part of the Government.

*Delivery agent*

The paper invites the Ministers of Finance and Canterbury Earthquake Recovery to develop advice on the most appropriate entity to deliver the land remediation work. The EQC is the most likely candidate to deliver this work, but it will require a major expansion of the Commission's resources and capabilities at a time when the organisation is already stretched. The EQC has already expanded by a factor of 30 as a result of its initial response to the Earthquake (from 22 staff to over 600).

The EQC's relationship with its reinsurers will also need to be carefully managed. The reinsurers are only liable to pay the EQC for costs incurred based on existing legislation and policy. This does not prevent the Government from asking the EQC to

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incur additional costs, but the additional costs will need to be carefully ring-fenced so that the reinsurers can be confident their rights are not being undermined. This is critical not only in relation to the reinsurance payments due to the EQC for the Canterbury earthquake, but also for the EQC's purchase of reinsurance cover in the future. These risks should be manageable, and the EQC is well aware of them.

*Land purchase*

The Minister for Earthquake Recovery also proposes to investigate the possibility of purchasing land that has been remediated but has not sold on the open market. We do not advise taking this approach because the EQC will pay out what is needed to restore the property to its pre-earthquake condition (and even to a higher standard than this if the Government so decides). We understand, however, that the Minister for Earthquake Recovery proposes to impose the following constraints, which we largely support as an alternative option:

- The Crown will only purchase severely-damaged (red zone) properties where remediation has taken place.
- The Crown will only purchase land (i.e. not where a new or repaired dwelling has been added).
- The Crown will make an offer at the pre-earthquake value (we would prefer the post-earthquake value).
- The Crown will only make an offer if the land has not sold within a two year period after remediation.

We would also suggest that the offer should be limited to a short time period (e.g. four months).

More work will need to be done on the land purchase option before it is ready to be announced, as the Cabinet paper recognises. We would note, in particular, that once holding costs, interest costs and other costs are taken into account, the Crown may not be better placed than any other landowner to hold and then dispose of a property.

s9(2)(a) Analyst, Natural Resources, s9(2)(a)  
**Joanna Gordon**, Manager, Financial Markets, s9(2)(a)

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Date: 18 November 2010

SH-12-2-2-0



To: Minister of Finance

**AIDE-MEMOIRE: PURCHASE OF DAMAGED LAND IN CANTERBURY**

This aide-memoire clarifies the powers of the Government to purchase damaged land in the Canterbury region.

*EQC insurance payments*

The Earthquake Commission (EQC) is currently proposing to make insurance payments to owners of the very worst affected land for the insured value of their land, where the cost of proposed land remediation work is greater than the insured (pre-earthquake market) value of the land. This is estimated to affect 16 properties in Canterbury at a cost of \$4.1 million.

The proposed transactions will not involve any transfer of title between the Crown and the affected landowners. The EQC is simply paying out insurance on the affected land, not purchasing it. In fact, the EQC Act does not provide the Commission with any powers to purchase land.

*Land Act purchases*

If the Government wishes to purchase the damaged land, it could use the powers available under the Land Act. Section 40 of the Land Act allows the Minister for Land Information to approve the purchase of land for "any Government purpose". Land Information New Zealand (LINZ) already uses this power to purchase properties affected by land subsidence in Huntly in the Waikato region. We understand these types of transactions can only occur on a willing-seller basis. Funding to purchase the land would need to on top of the \$4.1m for EQC insurance payments.

In the case of the damaged properties, we understand some of the landowners are considering adding their own funds to the EQC payment to pay for land remediation works, meaning they are unlikely to be willing to sell to the Crown in any case.

*Public Works Act purchases*

Local authorities can acquire land under the Public Works Act (PWA) that is no longer suitable for its previous purpose (e.g. if it is no longer deemed appropriate or safe for residential purposes). Central government possesses similar powers, but the onus should be on local government to intervene in the first instance because the management of local hazards is a core local authority responsibility

In any case, the restrictions implicit in the PWA limit the circumstances in which these powers can be used and therefore the usefulness of the Act in achieving the Government's goals in this instance.

s9(2)(a) Natural Resources, Dynamic Economy, s9(2)(a)

**Joanna Gordon**, Manager, Financial Markets, Dynamic Economy, s9(2)(a)

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**Treasury Report:** Briefing for Canterbury Earthquake Recovery Tuesday  
14 December 2010

<b>Date:</b>	13 December 2010	<b>Report No:</b>	T2010/2589
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**Action Sought**

	<b>Action Sought</b>	<b>Deadline</b>
Minister of Finance (Hon Bill English)	Read prior to ACE meeting	7.00pm, Tuesday 14 December 2010
Associate Minister of Finance (Hon Simon Power)	Read prior to ACE meeting	7.00pm, Tuesday 14 December 2010
Associate Minister of Finance (Hon Steven Joyce)	Read prior to ACE meeting	7.00pm, Tuesday 14 December 2010

**Contact for Telephone Discussion** (if required)

<b>Name</b>	<b>Position</b>	<b>Telephone</b>	<b>1st Contact</b>
Joanna Gordon	Manager, Financial Markets	s9(2)(a)	✓

**Minister of Finance's Office Actions** (if required)

None.
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**Enclosure:** No

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13 December 2010

MS-5-2-ACE

**Treasury Report:** Briefing for Canterbury Earthquake Recovery  
Tuesday 14 December 2010

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**Executive Summary**

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We are currently aware of 8 items on the Canterbury Earthquake Recovery agenda for Tuesday 14 December 2010. The table below identifies any relevant fiscal impacts and / or provides Treasury's comments / recommendations on 6 of these. The remaining 2 papers which we are aware of, for which Treasury has no briefing or comment, are listed below the table for completeness.

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Title	Pg	Recommend	Fiscal Implications (\$m GST excl.)					Treasury Comment
			10/11	11/12	12/13	13/14	Out years	
Removed as out of scope of request								
Canterbury earthquake – EQC payments to owners of the very worst affected land	6	Support	<i>Operating</i>					Treasury supports the paper
			5,000	-	-	-	-	
			<i>Capital</i>					
Removed as out of scope of request								

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**Recommended Action**

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We recommend that you read this report prior to the Canterbury Earthquake Recovery meeting at 7.00pm on Tuesday 14 December 2010.

Joanna Gordon  
**Manager**  
**for Secretary to the Treasury**

Hon Bill English  
**Minister of Finance**

Pages 5,6,8-10 removed as out of scope of request

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Canterbury earthquake: EQC payments to owners of the very worst affected land

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**Responsible Person:** Joanna Gordon s9(2)(a)

**First Contact Person:** s9(2)(a)

11. This paper seeks agreement for the Earthquake Commission (EQC) to make insurance payments to owners of the very worst affected land for the insured value of their land, where the cost of proposed land remediation work is greater than the insured (pre-earthquake market) value of the land.
12. The paper was still not finalised at the time this briefing was prepared. We will advise your Office if we become aware of any significant changes to the paper before the ACE meeting.

**Comment**

13. EQC has identified a number of properties where it is not possible or not economically viable to undertake land remediation works. Under current arrangements, these landowners will only receive payments from EQC to return the land to its pre-earthquake state, which will probably not be compliant with future building regulations. These landowners will therefore be left significantly worse off than other landowners who benefit from the extensive land remediation works funded by the Government.
14. Following a disaster, it would in fact be normal practice for EQC to pay out the insured value of land in cases where the cost of the proposed land remediation work is greater than the insured value of the land. In this case, however, EQC requires explicit confirmation to do so because it conflicts with Cabinet's previous agreement to conduct widespread land remediation in Canterbury.
15. EQC is aware of at least five properties suffering from extreme land damage, but the number is likely to increase as further site investigations are completed. The paper proposes to establish an appropriation of \$5 million to cover insurance payments for the five known properties and any other properties identified during the course of engineering works.
16. We support this approach. While there is always a chance the appropriation may be set at too high or too low a level, it would be unnecessarily time-consuming for Ministers to approve additional appropriations on a property-by-property basis.

**Treasury Recommendation**

17. We recommend that you **support** the recommendations in this paper.