

(c) Leave be reserved for the parties to seek a variation to the Tribunal's orders.

[3] This claim began in the High Court in September 2017, over 3 years ago. EQC confirmed the claim was over cap as early as 24 August 2018 but it was not until 2 March 2020 that the Respondent consented to the discontinuance of the claim against EQC.

[4] In August 2019 the parties' structural engineering experts filed a joint expert report setting out the aspects of the claim that are agreed and those which are disputed. In November 2019 updated scopes of works and costings were obtained, the differences in the parties' positions are said to be largely a result of the differences in engineering opinion.

[5] On 25 August 2020 the Applicant applied to transfer the claim to the Tribunal as it wanted to avail itself of the fair, speedy, flexible and cost-effective services for resolving disputes of the Tribunal. The application was accepted.

[6] The Tribunal has inquisitorial powers. The first step in the Tribunal process is the first case management conference. At this conference the Applicant can set out in detail his or her experience to date. For many Applicants this is the first time they speak to a decision-maker. It is important that the Applicant has this opportunity to be heard.

[7] After hearing from the parties many details of the claim are then canvassed. The various pathways that exist for assisting parties are discussed, which include not just expert facilitation, but expert peer reviews, further independent expert assessments, mediation, and/or the convening of a settlement conference. It may be, that even if the experts do not agree, some form of commercial resolution is possible.

[8] The Tribunal has the flexibility to design a pathway specific to each claim. Therefore, all of the pathways available and the benefits of each must be considered. Only then can the Tribunal determine the way forward. This is a decision for the Tribunal to make and not counsel.

[9] Given the length that this claim has been moving through the High Court process it is important that consideration is given to all aspects of the claim and that the Applicant be heard before determining the next steps to take.

[10] Accordingly, the requests as set out at paragraph [2] are declined.

[11] The case management conference set down for Thursday 29 October 2020 at 10 am will proceed.

A handwritten signature in black ink, appearing to read 'E J Flaszynski', written in a cursive style.

E J Flaszynski
Member
Canterbury Earthquakes Insurance Tribunal

Shine Lawyers for the Applicant
Hesketh Henry for the Respondent