

Budget Sensitive

Office of the Minister of Justice and Minister for Courts

Chair, Cabinet Social Wellbeing Committee

## **Establishment of Canterbury Earthquakes Insurance Tribunal**

### **Proposal**

- 1 I seek Cabinet's agreement to establish a Canterbury Earthquakes Insurance Tribunal ("the Tribunal"), as committed to in the Labour Party's 2017 election manifesto, to provide an alternative pathway for claimants, the Earthquake Commission (EQC) and insurers to resolve outstanding earthquake-related insurance claims.

### **Executive Summary**

- 2 The 2010 and 2011 Canterbury earthquakes generated insurance claims in relation to over 167,677 residential properties. 98% of these claims have settled. However, seven years on, 2% of claims remain unresolved. Many of these are highly complex and do not have a clear pathway to settlement. In addition, some previously-settled claims are being re-opened due to the discovery of additional earthquake damage or deficient repairs.
- 3 The length of time taken to resolve these claims adversely impacts on homeowners' mental health and wellbeing. The uncertainty makes it hard for people to get on with their lives. It also risks undermining confidence in the legal and insurance systems' ability to deliver effective resolution in a timely manner. I intend the Tribunal to provide homeowners with an alternative pathway to resolve outstanding claims, one that is easy to access, quick and fair.
- 4 The Tribunal will apply existing law and precedent, but as a specialist body it will be able to develop expertise in managing earthquake-related insurance disputes. It will take an active and inquisitorial approach to cases, focusing on finding a pathway to resolution for homeowners. As many of the remaining unresolved claims involve complex technical or legal matters, the Tribunal will be able to appoint independent expert advisers.
- 5 The Tribunal will include an independent funded mediation process, to support parties to agree a settlement themselves. Mediation can resolve issues more quickly and cheaply, as well as helping homeowners to retain a sense of control over the settlement process.
- 6 I propose to introduce new legislation to establish the Tribunal in May 2018, with enactment anticipated in October 2018. Work to develop mediation services and set up the Tribunal will run concurrently with the legislative process. This will ensure the Tribunal is operational as early as possible.
- 7 s9(2)(f)(iv) [REDACTED] This cost reflects that the Tribunal will need to be heavily resourced in its early years, with the objective of settling the majority of its 1,000 estimated cases within three and a half years.

## The current situation in Christchurch

### *Several factors are delaying settlement of remaining earthquake-related insurance claims*

- 8 The existing mechanisms for resolving earthquake-related insurance disputes have evolved since the earthquakes to deal with the unprecedented number of claims:
- 8.1 Standard dispute resolution processes include private mediation, and financial service providers' dispute resolution schemes, while complaints about EQC can be made to the Parliamentary Ombudsman.
  - 8.2 The Residential Advisory Service<sup>1</sup> (RAS) provides free independent legal and technical assistance,<sup>2</sup> second-opinion advice from its panel of technical experts, and a brokering service between claimants and insurers.
  - 8.3 Christchurch High Court's Canterbury Earthquake List aims to expedite earthquake-related cases, by encouraging early identification of issues and exchange of expert reports. Approximately 93% of cases settle before trial. The List prioritises cases with precedent value, which enables other cases to settle.
- 9 These mechanisms have been, and continue to be, successful in helping resolve the majority of insurance-related disputes, and they will continue to operate alongside the Tribunal. However, there is a range of factors delaying settlement of the remaining Canterbury earthquake-related insurance claims. These include insufficient numbers of technical experts, frustrated and vulnerable claimants, or claimants and insurers waiting for court decisions in precedent cases. Further, some claims will only settle in the 'shadow of the court'; that is, parties are more likely to settle before trial.
- 10 Other claims have only recently been identified as over-cap,<sup>3</sup> and have been passed from EQC to Southern Response or private insurers, who are still working through their standard claims resolution processes.

### *The remaining unresolved claims include both first-time settlement and reopened claims, many of which have complex legal or technical features*

- 11 To put the current situation in context, as at 31 December 2017 claims had been received in relation to 167,677 residential properties. 98.5% of these claims have been settled. The remaining claims awaiting first-time settlement are over-cap claims.
- 12 Insurers have advised that most of these first-time settlement claims typically involve complex technical and legal issues, and larger amounts of money. The rate of settlement of these claims has slowed over the last two years. There is expected to be a small tail of increasingly complex cases that may take several more years to resolve.
- 13 In addition, some previously settled claims are being re-opened due to the discovery of additional damage, or deficient repair of earthquake damage. Based on current resolution rates, EQC expects to have settled the re-opened claims it currently has on hand in the next year, and will then be dealing only with newly re-opened claims. Some of these re-opened claims will go over-cap and be transferred to private insurers.

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<sup>1</sup> RAS was initially established by insurers in May 2013, but has been fully funded by MBIE since July 2017.

<sup>2</sup> RAS does not provide assistance in deficient repair cases where the insurer cash-settled and the property owner managed the repairs.

<sup>3</sup> EQC manages land claims of any value. EQC property related claims generally have a cap of \$100,000 per event (exc. GST), after which the claim is transferred to the relevant private insurer. These over-cap claims are held with private insurers and Southern Response (the Crown company responsible for settling the claims of AMI policy holders for Canterbury earthquake damage).

**Table 1: Profile of unresolved claims**

Type of claim	Number remaining	Status/details
<b>Residential property claims deemed over-cap and awaiting settlement</b>		
Over-cap claims awaiting settlement with private insurers and Southern Response	<b>2,513</b> as at 31 December 2017	21% of the remaining claims are in construction, with a clear pathway to settlement. 36% of the remaining claims have cash settlements which are under consideration by claimants. <sup>4</sup> 793 of the remaining claims were transferred from EQC in 2017, due to an increase in the total value of the claim. <sup>5</sup>
<b>Re-opened under-cap residential property claims<sup>6</sup></b>		
Re-opened under-cap residential property claims (EQC)	<b>2,242</b> as at 31 January 2018	EQC continues to receive new complaints about previously settled claims, which may result in more claims being re-opened, and some may transfer to private insurers as over-cap. Some of these claims may be easily settled, and will not necessarily require dispute resolution.
<b>Other EQC claims</b>		
Land claims	<b>415</b> as at 31 January 2018	These claims relate to residential land damage, such as increased vulnerability to liquefaction or flooding. 261 of these are subject to litigation at the High Court and are expected to settle once the Court reaches a precedent decision.
<b>Active cases before the Court</b>		
Christchurch High Court	<b>512</b> active cases as at 31 January 2018	297 of these are land or property claims in litigation with EQC.
Christchurch District Court	<b>67</b> active cases as at 31 January 2018	There have been significantly fewer cases in the District Court, likely due to its lower jurisdictional limit. <sup>7</sup>

## Creating the Canterbury Earthquakes Insurance Tribunal

- 14 Seven years on from the earthquakes there is a number of unresolved claims which do not yet have any clear pathway to settlement, with claimants whose home is not yet being repaired or rebuilt, or who do not have a cash settlement offer. It is these, often weary, claimants, for whom I consider an alternative pathway is needed, to help break the current impasse. The Tribunal will serve as a 'circuit-breaker' to the ongoing situation, refocusing claimants and insurers and supporting them in resolving outstanding issues.

<sup>4</sup> Insurers categorise claims information differently, so this breakdown must be viewed with some caution.

<sup>5</sup> Data is not separately collected from private insurers on the detail of these claims.

<sup>6</sup> Deficient repairs will continue to be discovered for some time yet, so the total number of re-opened claims for both EQC and private insurers may increase over the coming years.

<sup>7</sup> The District Court's jurisdictional limit increased from \$200,000 to \$350,000 on 1 March 2017. Most remaining earthquake claims are likely to be above this higher threshold.

*The Tribunal will be independent, specialised and focused on speedy resolution*

- 15 Like the courts, the Tribunal will have the benefit of being independent of both the Government and the insurance industry. This is important to engender trust in the process by claimants. The Tribunal will focus on managing and resolving disputes objectively, and in accordance with applicable law and natural justice. The Tribunal's specialism will assist it to manage these often highly complex issues. It will also be able to take an active and holistic approach to case management, including mediation where appropriate, and will focus on reaching a resolution more quickly, and at a lower cost.

*I expect the Tribunal to settle the majority of cases within its first three and a half years*

- 16 To make a meaningful difference to Cantabrians, speedy resolution of claims is important. My expectation is that the Tribunal will settle the majority of cases within three and a half years of becoming operational. I acknowledge that a small tail of cases will inevitably remain beyond this period, including highly complex or new (re-opened) claims that continue to enter the system.
- 17 To achieve this, the Tribunal will need to take a pro-active case management approach to cases, setting timeframes for the provision of information, arranging case conferences between parties and experts where necessary, and overseeing mediation. It will therefore need to be heavily resourced in its early years.
- 18 Based on the reported status of current outstanding claims, the Tribunal is estimated to consider 1,000 cases, being an even mix of first-time settlement and reopened claims.<sup>8</sup> Drawing on the experience of the Weathertight Homes Tribunal, a similar specialist tribunal, it is anticipated that 60% of these cases will settle by mediation, with only 25% proceeding to adjudication and determination (the remaining 15% being discontinued or settling via other means).

**Key features of the Tribunal**

*General*

- 19 The Tribunal will include the standard features and protections of a judicial body, and will adhere to the principles of natural justice. This includes applying existing law and precedent, and applying processes that protect the rights of all parties to a fair hearing.
- 20 The broad design of the Tribunal is influenced by the existing Weathertight Homes Tribunal. This was established in 2006 to respond to a similar situation in which residential property owners faced complex legal and technical issues with their 'leaky home' claims. Features of the Tribunal noted below, such as mediation and the use of independent experts, are consistent with the approach of the Weathertight Homes Tribunal, and have been successfully used there.
- 21 The Tribunal will be administered by the Ministry of Justice, which already administers several dispute resolution bodies. Mediation services will be provided by the Ministry of Business, Innovation and Employment (MBIE), to utilise MBIE's expertise in alternative resolution. MBIE currently provides a range of mediation services for various bodies, including the Weathertight Homes Tribunal.

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<sup>8</sup> These estimates exclude EQC land claims, because the number of land claims expected to come before the Tribunal is negligible, and those that do are likely to be linked to a residential property claim. Land-related claims have not been included in the financial estimates.

### *Purpose and principles under which the Tribunal will operate*

- 22 The objective of the Tribunal is to remove barriers to claimants accessing dispute resolution, and to achieve faster resolution of claims. To this end, the Tribunal will provide speedy, flexible and cost effective procedures for the resolution of claims. It will have an inquisitorial focus and an emphasis on active case management to avoid unnecessary delays.
- 23 In settling claims and issuing determinations, the Tribunal will have the power to make any award or remedy that a court can make. The Tribunal's determinations will be treated, and enforced, as a District Court order.
- 24 I considered whether the Tribunal should decide claims on equity and good conscience, rather than being bound to give effect to strict legal forms or obligations. However, I recognised that if the Tribunal could override existing contractual terms this would retrospectively change the legal basis for determining disputes, breaching fundamental rule of law principles. This would create uncertainty in the insurance market, and more generally in contracts governed by New Zealand law, which is undesirable.
- 25 I therefore propose that the Tribunal will operate within the principles of natural justice, and will decide claims in accordance with existing law, and the terms of the relevant insurance contracts. It will also be bound by the valuable precedent in earthquake related cases that has been developed by the senior courts.

### *Claims to be considered by the Tribunal*

- 26 I propose that the Tribunal's jurisdiction will be disputes over unresolved insurance claims in respect of residential land and property. Claims must relate to damage caused by the 2010/11 Canterbury earthquakes. This includes:
- 26.1 first time unsettled claims made for damage due to the earthquakes;
  - 26.2 reopened claims due to discovery of additional/further earthquake damage; and
  - 26.3 reopened claims due to deficient repair work, where the repairs were managed directly by either EQC, Southern Response, or private insurers.
- 27 Policy holders will be able to bring claims against EQC, Southern Response or private insurance companies, to the Tribunal. Where appropriate, the Tribunal may join other potentially liable parties, such as building professionals, to the dispute.
- 28 To maintain its focus on resolving insurance claims, the Tribunal's jurisdiction will not include disputes involving deficient earthquake-related repairs which were not managed by EQC or insurers, for example disputes between home owners and builders. There are existing alternative avenues for dealing with disputes regarding deficient building work, and existing protections under the Building Act 2004. Similarly, other disputes that may be holding up settlement, for example disputes between co-owners of cross-lease multi-unit buildings, will continue to be dealt with under the terms of their cross lease (which in most cases provides for settlement through arbitration).

### *Transfers of cases between the Tribunal and the courts*

- 29 The ability to actively manage claims between the Tribunal and the courts can speed up overall resolution rates, by ensuring claims are considered in the most appropriate place.

- 30 I therefore propose that eligible claims that have already been filed in the District or High Court will be able to be transferred to the Tribunal, on agreement of the parties or on the Judge's motion, if they are considered better suited for resolution through the Tribunal.<sup>9</sup>
- 31 The Tribunal will also be able to adjourn claims, or transfer claims to the courts, if it considers it more appropriate for the court to determine the claim. An example might be where the claim presents a novel question of law for which a precedent-setting decision would be beneficial. An adjournment or transfer may delay the resolution of a case for a while. However, ultimately it may support any final settlement, by helping avoid a later appeal, as well as providing precedent enabling other cases to settle more quickly.

### *Mediation*

- 32 I propose the Tribunal will include a funded mediation process, to which the Tribunal may direct parties where it considers mediation likely to support a speedier settlement. Access to funded mediation will increase the attractiveness of the Tribunal to all parties.
- 33 Mediation has been shown in both the Weathertight Homes Tribunal (and other earthquake-related contexts) to be an effective, and often faster and cheaper, way of bringing claims to resolution. Mediation, if entered in good faith and in the right circumstances, can also support claimants to retain a sense of control over decision-making. This can be psychologically important in their satisfaction of the process towards settlement as well as their acceptance of the final settlement.
- 34 The Tribunal will place time-frames around the mediation process, to encourage active engagement. Mediators themselves will be independent of all parties and the Tribunal. Mediation services will be provided by MBIE, to draw upon its significant expertise in alternative resolution mechanisms.

### *Access to independent technical experts*

- 35 Many of the issues in dispute involve technical engineering or construction matters. Delays are also caused by lack of agreement between parties' own technical experts, which can be confusing for lay claimants. I propose that the Tribunal have the power to appoint independent technical experts, such as geotechnical and structural engineers, quantity surveyors and licensed building practitioners to assist its work.
- 36 Experts appointed by the Tribunal will have an overriding duty to assist the Tribunal impartially on relevant matters within their expertise. Independent experts may be appointed to assist with any area of the claim, and any reports they produce will be available to all parties.
- 37 A significant factor currently contributing to the delay in settlement of claims is the limited number of qualified and experienced technical experts. This is particularly acute as claims become more complex and require greater input from this limited pool of experts. This resourcing issue is a significant risk to the success of the Tribunal, but is not something the Tribunal can resolve directly. The Minister for Greater Christchurch Regeneration is exploring options for using experts more efficiently.
- 38 The Tribunal will help to make efficient use of the technical expertise that is available, by providing a forum for parties to work together constructively through issues. Where there may be differences in existing expert advice held by either party, the Tribunal's

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<sup>9</sup> This transfer power is important because, due to concerns that insurers might use the Limitation Act 2010 as a defence to proceedings for claims filed more than six years after the earthquakes, some claimants presumptively filed claims with the High Court in 2017 to preserve their rights.

independent experts will be able to assist in working through these issues. I consider that this will particularly help vulnerable claimants to make sense of the various, and sometimes conflicting, information they may have received in relation to their claim.

### *Appeals*

- 39 In line with the objective of providing speedy and cost-effective resolution for claimants, I intend to place some limitations on appeals from the Tribunal. However, I have balanced these limitations against the need to uphold the principles of natural justice.
- 40 Usually parties have, in the first instance, a right to appeal to the next level of decision-maker, on matters of fact and law. I propose limiting this so that the first appeal is directly to the High Court (bypassing the District Court for claims usually within its \$350,000 jurisdiction) and is only permitted with leave of the High Court. Appeals will still be permitted on matters of fact and law.
- 41 This approach maintains natural justice by retaining the ability for the Tribunal's determinations to be appealed, while reducing the risk of unmeritorious appeals, and associated costs and time delays, by allowing the High Court to refuse leave if, for example, an appeal appears to be trivial or vexatious.
- 42 Second and subsequent appeals will be provided only on matters of law with leave of the appellate court.

### *Other Tribunal powers, processes and procedures*

- 43 In line with the manifesto commitment, and to ensure there are no barriers to claimants, there will be no fee to access the Tribunal, or for mediation, or for any expert advisor that the Tribunal appoints. However, unless they meet the criteria for legal aid, parties will need to meet their own legal and other costs, including the costs for any expert reports they choose to commission. Due to the nature of the claims at issue, legal representation will likely be necessary.
- 44 I propose that the Tribunal be able to award costs and expenses against any party if that party has caused the costs to be incurred unnecessarily by bad faith, or through objections without substantial merit. The Tribunal should also be able to award costs if it considers the dispute could reasonably have been settled by mediation, but a party refused to attend or participate in mediation in good faith.
- 45 The Tribunal will have the power to make any award or remedy that a court can make. This includes the same power as the courts have to award general damages, for example for mental distress caused by unreasonable delays in resolving the claim.
- 46 Determinations of the Tribunal will be treated as a District Court order. This means that the District Court will be able to enforce the determination, even if the amount at issue is more than its usual jurisdictional limit of \$350,000.

### *Tribunal membership*

- 47 I propose that up to 10 members may be appointed to the Tribunal, in order to expedite cases over the new three years. The Tribunal will sit with a single member as decision-maker. The Chair and other members will be appointed by the Governor General for terms not exceeding five years, on the recommendation of myself, as Minister of Justice, and following consultation with the Minister of Greater Christchurch Regeneration.

48 Tribunal members will need to have suitable knowledge, skills and experience. I expect to appoint members with significant legal experience, for example, a minimum of seven years' experience in an appropriate area of law, or a former Judge.

49 I propose that the remuneration of the Chair and members be set in accordance with the Cabinet Fees Framework (Cab Min (120 43/4 refers). The Tribunal has been classified as a Group 2, Level 2 body under the Framework. s9(2)(f)(iv)

### Consultation

50 The Ministry of Business, Innovation, and Employment, Parliamentary Counsel Office, Crown Law, The Treasury, the State Services Commission, and the Greater Christchurch Group of the Department of the Prime Minister and Cabinet were consulted on the proposals in this paper. The Policy Advisory Group of the Department of the Prime Minister and Cabinet has been informed.

### Financial Implications

51 s9(2)(f)(iv) so that the Tribunal can be up and running as quickly as possible. The proposal is outside the scope of Budget 2018 manifesto initiative criteria, and is subject to decisions made by Budget Ministers during the decision-making process for Budget 2018.

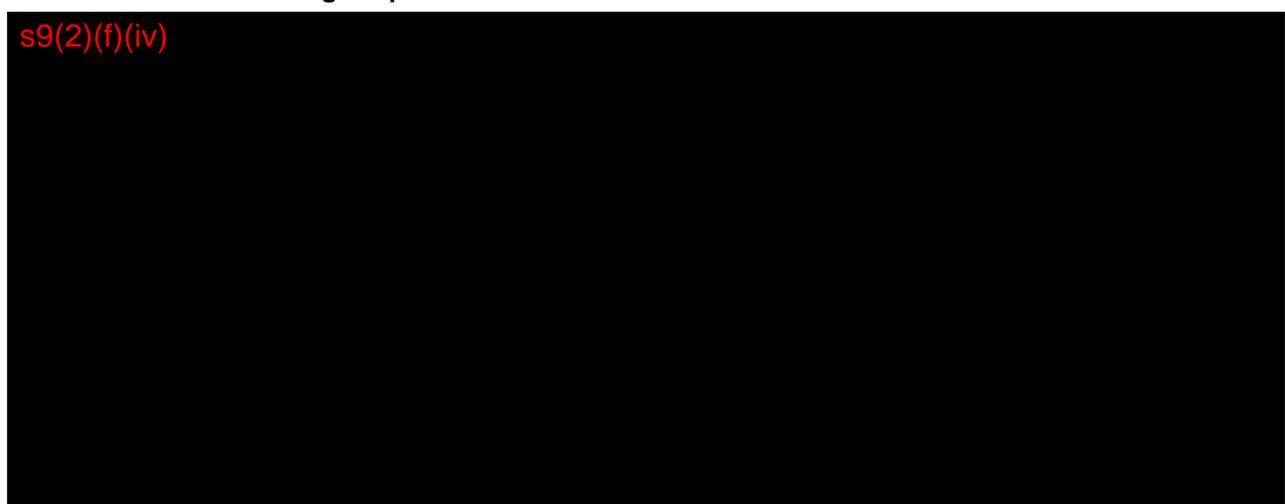
52 The funding request covers the costs of establishing and operating the Tribunal, which, as noted at paragraph 43 will not impose any filing fees on claimants. The Tribunal will require significant resourcing in its early years to support claimants to speedy resolution of claims, so the funding request includes funding for 10 tribunal members, who will proactively manage cases, and 18 administrative and specialist staff to support the members in their work.

53 The funding request will also fund independent technical assessments for use in mediation and the Tribunal, and mediation services themselves. These two features are a unique aspect of the service that the Tribunal can offer to claimants.

54 Funding is being sought through the Budget 2018 process and will require changes to the following appropriations:

**Table 2: Tribunal Funding Requirements**

s9(2)(f)(iv)



s9(2)(f)(iv)

## Human Rights

55 The proposals are consistent with the New Zealand Bill of Rights Act 1990 and Human Rights Act 1993.

## Legislative Implications

56 A new Act is required to establish the Tribunal. s9(2)(f)(iv) or a bill, provisionally titled the Canterbury Earthquakes Insurance Tribunal Bill, on the 2018 Legislation Programme. I intend to bring this Bill to Cabinet Legislation Committee for approval and for introduction in May 2018.

57 The Bill will bind the Crown.

58 I propose that Cabinet invite me to instruct Parliamentary Counsel Office to give effect to these proposals.

59 I propose that Cabinet authorise me to take any detailed policy decisions that may arise during the drafting of the legislation, in consultation with the Minister for Greater Christchurch Regeneration where necessary.

## Regulatory Impact Analysis

60 The Regulatory Impact Analysis requirements apply to the proposals in this Cabinet Paper. A Regulatory Impact Statement (RIS) is attached.

- 61 The Ministry of Justice Regulatory Impact Assessment Quality Assurance Panel has reviewed the RIS prepared by the Ministry of Justice and associated supporting material.
- 62 The RIS meets the Quality Assurance criteria.
- 63 The RIS clearly articulates the options and assesses each against clearly specified objectives. The RIS clearly identifies the lack of consultation with those directly affected - insurers and claimants. This is noted as the result of the time to prepare the assessment. As this is clearly identified, the Quality Assurance Panel does not consider that it significantly constrains the ability of Cabinet to rely on the RIS for decision making.

### **Gender Implications**

- 64 The proposals in this paper have no gender implications, so gender analysis has not been undertaken.

### **Publicity**

- 65 Subject to Budget 2018 approvals, I will announce these policy decisions as soon as practicable. This will ensure current settlement negotiations are not unduly delayed, and provide certainty for claimants and insurers about how the Tribunal will operate.
- 66 The proposal to establish a Tribunal was well-publicised as part of Labour's election manifesto commitments. Some insurers, and the Insurance Council of New Zealand, have previously expressed concern that the new Tribunal will undermine existing settlements, undermine contract law, or slow down, or otherwise effect, current settlement negotiations.
- 67 I am confident that these concerns are adequately addressed by my proposals to model the Tribunal on standard tribunal processes, and require it to decide claims in accordance with existing law and the terms of the relevant insurance contracts. Announcing these decisions about the scope of the Tribunal, and the basis on which it will operate, will help mitigate insurers' concerns.
- 68 The Ministry of Justice will publish a copy of this paper on its website, subject to any necessary redactions, in due course.

### **Recommendations**

The Minister of Justice and Minister for Courts recommends that the Committee:

- 1 Note that the Labour Party's 2017 election manifesto committed to create an arbitration tribunal with an inquisitorial focus, to provide claimants with an alternative pathway to settle their outstanding insurance issues relating to the 2010/2011 Canterbury earthquakes.

#### *Canterbury Earthquakes Insurance Tribunal*

- 2 Agree to establish the Canterbury Earthquakes Insurance Tribunal ("the Tribunal") to manage disputes between policyholders and insurers (the Earthquake Commission, Southern Response or other private insurer) related to unresolved Canterbury earthquake-related insurance claims in respect of residential land or property, and which involve:

- 2.1 first time unsettled claims made for damage due to the earthquakes;

- 2.2 reopened claims due to discovery of additional/further earthquake damage; and
- 2.3 reopened claims due to deficient repair work, where the repairs were managed directly by the Earthquake Commission, Southern Response or other private insurers.
- 3 Agree that the purpose of the Tribunal will be to provide speedy, flexible and cost effective procedures for the resolution of unresolved insurance claims.
- 4 Agree that the Tribunal will operate within the principles of natural justice, and will decide claims in accordance with existing law and the terms of the relevant insurance contracts.
- 5 Agree that the Tribunal shall have, or include, the following features:
  - 5.1 An inquisitional focus and proactive case management approach.
  - 5.2 A funded and independent mediation process, with appropriate timeframes as directed by the Tribunal.
  - 5.3 The power to appoint independent experts, with an overriding duty to assist the Tribunal impartially, to assist in the resolution of any aspect of any claim.
  - 5.4 The ability to appeal decisions of the Tribunal, on questions of fact and law, to the High Court, with leave of the High Court.
  - 5.5 The ability for second and subsequent appeals to be made on questions of law, with leave of the appellate Court.
  - 5.6 No fee to access the Tribunal, or to enter into mediation, or for any expert advisor that the Tribunal appoints.
  - 5.7 The power to award costs and expenses against any party if that party has caused the costs to be incurred unnecessarily by bad faith or objections without substantial merit, or where the dispute could reasonably have been settled by mediation but a party refused to attend or participate in mediation in good faith.
  - 5.8 The power to make any award or remedy that a court can make.
  - 5.9 The ability to transfer claims to the District or High Court if the Tribunal considers it is more appropriate for the court to determine the claim.
- 6 Note that the Tribunal will be administered by the Ministry of Justice, and that mediation services will be provided by the Ministry of Business, Innovation and Employment.
- 7 Agree that determinations of the Tribunal will be treated as a District Court order, and so will be able to be enforced by the District Court, regardless of the amount at issue.
- 8 Agree that eligible claims that are, or have already been, filed elsewhere, for example in the High Court, may be transferred to the Tribunal on agreement of all parties, or on the motion of the Judge.

#### *Tribunal membership*

- 9 Note that up to 10 Tribunal members will be appointed, with suitable knowledge, skills and experience, including significant legal experience in an appropriate area of law.

- 10 Agree that the Tribunal will sit as a single-member panel.
- 11 Agree that the Chair and other members of the Tribunal be appointed by the Governor-General for terms not exceeding five years, on the recommendation of the Minister of Justice, in consultation with the Minister of Greater Christchurch Regeneration.
- 12 Agree that the remuneration of the Chair and other members of the Tribunal be set in accordance with the Cabinet Fees Framework.
- 13 s9(2)(f)(iv) [REDACTED]

*Financial implications*

- 14 s9(2)(f)(iv) [REDACTED]

*Legislative drafting*

- 15 Note that the Minister of Justice is s9(2)(f)(iv) [REDACTED] for a bill, provisionally titled the Canterbury Earthquakes Insurance Tribunal Bill, on the 2018 Legislation Programme.
- 16 Note that the Minister of Justice and Minister for Courts intends to seek agreement from the Cabinet Legislation Committee to introduce the Canterbury Earthquakes Insurance Tribunal Bill in May 2018.
- 17 Invite the Minister of Justice and Minister for Courts to prepare drafting instructions for Parliamentary Counsel Office to give effect to these recommendations.
- 18 Authorise the Minister of Justice and Minister for Courts to take any detailed policy decisions that may arise during the drafting of the legislation, in consultation with the Minister for Greater Christchurch Regeneration where necessary.

*Publicity*

- 19 Note that the Minister of Justice and Minister for Courts will make an announcement on these policy decisions in due course.
- 20 Note that following the Minister of Justice and Minister for Courts' public announcements, the Ministry of Justice will publish a copy of this paper on its website, subject to any necessary redactions.

*Budget 2018*

- 21 Agree that recommendations 2 to 20 are subject to decisions made by Budget Ministers during the decision-making process for Budget 2018.

Authorised for lodgement

Hon Andrew Little  
Minister of Justice and Minister for Courts