

Department of the Prime Minister and Cabinet

Inquiry into the Earthquake Commission Proactive Release November 2018

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**Minister Responsible for the Earthquake
Commission (Hon Dr Megan Woods)**

Establishing the Earthquake Commission Inquiry - progress and next steps

Date	30 May 2018	Priority	Routine
Report Number	DPMC-2017/18-1258	File Reference:	PMC-AGS-3-17-1, 4053937_1

	Action Sought	Deadline
Minister Responsible for the Earthquake Commission (Hon Dr Megan Woods)	Note the contents of this briefing; and Discuss with officials your preferred option for announcement of the Inquiry's Chair and membership.	Friday 8 June 2018

Contact for Telephone Discussion (if required)

Name	Position	Telephone	1st Contact
Anne Shaw	Director	+64 3 903 0578	[1] <input checked="" type="checkbox"/>
Peter Martin	Project lead		[1]

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 Withdrawn 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 <hr/>	<p>Comments</p>
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Establishing the Earthquake Commission Inquiry - progress and next steps

Purpose

1. To update you on progress towards establishing the Public Inquiry into the Earthquake Commission (the Inquiry) and next steps. This briefing also includes information on two options for announcements of the Chair and membership of the Inquiry, to support a discussion with officials.

Background

2. On 21 March 2018, the Cabinet Economic Development Committee (DEV) agreed in principle to establish a statutory inquiry into the Earthquake Commission (EQC), under the Inquiries Act 2013 (DEV-18-MIN-0021 refers, confirmed by Cabinet 26 March 2018).
3. The Inquiry will examine EQC's approach to the land and residential claims management process and the related outcomes for the Canterbury earthquake events. Its purpose is to ensure that lessons are learned from the past Canterbury Earthquake experiences and that EQC has the appropriate policies and operating structures in place to ensure improved claims management experiences in the future. It was agreed the Inquiry will report back by 31 March 2019.
4. Cabinet invited you to report back in April 2018 on the form of the statutory inquiry (Public or Government Inquiry), the final Terms of Reference, Inquiry membership, members' fees, and any other matters that may be required. You will now report back to DEV in June 2018. Officials have updated the Cabinet Office on the new report back date and provided the paper is lodged in June, there is no need for a formal process to inform the Chair of the delay.

Current work on establishment

5. As you know, your office is progressing discussion with a potential Chair for the Inquiry to establish their suitability and availability for the role. Nominations for members of the Inquiry have also been sought from a variety of sources including other Members of Parliament and Government agencies. A list of high calibre candidates, which we have previously discussed with you, is available for consultation with yourself and the Chair.
6. We understand that the preferred Chair may have limited time available to commit to the Inquiry over the next few months. If correct, this may prolong the establishment period. To mitigate this risk, you may want to consider working with the Chair to identify a suitable Deputy who would work with the Chair and officials to advance key aspects of the establishment process during this period and handle the day-to-day leadership of the Inquiry.
7. In parallel, officials have been undertaking work to finalise establishment of the Inquiry. This includes:
 - i. drafting of the second Cabinet paper which will seek agreement on the form of the Inquiry, its membership and confirm its Terms of Reference;

- ii. drafting the Order in Council to establish the Inquiry;
- iii. drafting a letter from you to the Minister of State Services seeking agreement to the fee for the Chair (draft letter attached as Attachment A, and can be altered to also include member's fees as necessary);
- iv. drafting other documents to support the Cabinet appointments process, such as conflict of interest declarations and biographical information templates; and
- v. consideration of the administrative support required for the Inquiry both in standing it up and for the length of its term.

Options for the announcement of the inquiry Chair and membership

8. There are two options for announcements on the Inquiry.
- i. The first option would be to make an initial announcement on the Chair of the Inquiry, with a second announcement of the other inquiry members to follow at a later date, following Cabinet approval.
 - ii. The second option would be to wait until the Cabinet paper confirming the full membership of the Inquiry is agreed on to make an announcement of both the Chair and members of the Inquiry. Pros and cons for both options are discussed below.
9. For either option, support will be provided to both yourself and the Chair on identifying and appointing the other members of the Inquiry. Officials would also work with the Chair, whether proposed or formally appointed, on finalising the Inquiry's Terms of Reference. Communications support would also be provided as necessary.

Announcement of Chair first, with membership to follow

10. This option would require the taking of either an oral item, or a short briefing paper, direct to Cabinet to advise your colleagues on the appointment, and announcement, of your proposed Chair. This would also require you to advise that decisions on the other members, and details for the establishment of the Inquiry, will follow in a subsequent Cabinet paper.
11. Benefits of this option include that it will show that progress is being made on the Inquiry. It will also allow for ease of engagement with the Chair on matters such as finalisation of the Terms of Reference for the Inquiry and its membership.
12. However, this approach will require a two-step process for the appointments and establishment of the Inquiry, rather than one. This will mean you will need to seek Cabinet agreement twice on appointments to the Inquiry.
13. It will also require two processes for other parts of the establishment of the Inquiry, such as the letter to the Minister of State Services on the fees for the Chair and members. There is also a risk that expectations from the public are raised and engagement is sought with the Chair and Inquiry before it is fully set up.

Announcement of Inquiry Chair and members at the same time

14. The other option, which is officials' preferred approach, would be to make one announcement of the Chair, members and formal establishment of the Inquiry. This would be done following Cabinet consideration in late June 2018.
15. The benefits of this option are that it would provide more time for other establishment tasks to be advanced before the Inquiry attracts a high level of publicity. It is expected that once announced, public interest in participating in the Inquiry will be high. It would therefore, be beneficial for the Inquiry to already have some administration/support functions set up to manage this.
16. This would also simplify the processes required in making the appointments such as only requiring one letter to the Minister of State Services seeking agreement to the fees for the Chair and members.
17. The drawback for this option is that it does not allow for an earlier announcement of the Chair, which would show progress on establishment of the Inquiry.

Key Steps for both options

	Task	Who
1.	Seek agreement to potential appointment of a former member of the judiciary to the Inquiry from the Attorney-General and Ministerial colleagues	Minister with support from officials
2.	Identify, contact and agree on the other four members of the Inquiry	Minister, Chair and officials
3.	Seek agreement for fee levels for the Chair and members from the Minister of State Services	Minister
4.	Declaration of interests and biographical details obtained for each proposed member	Officials
5.	Finalisation of the Terms of Reference	Officials with the Chair
6.	Draft Order in Council for formal establishment of the Inquiry	Officials
7.	Cabinet processes for either phased announcement of the Chair and members or single announcement, paper(s) to include appointments, fees, Terms of Reference, the Order in Council and any other necessary matters	Officials
8.	Agree timing of announcement(s) and support for announcements	Officials with Minister and Chair
9.	Establishment of the Inquiry in full, including appointment of the Manager of the Secretariat, office set-up etc.	Officials

18. A template of the Cabinet paper for this work has been developed, which will be finalised for consideration in late June 2018 as per the timetable provided below.

Action	Date
Draft Cabinet paper provided to the Office for feedback	8 June 2018
Feedback received by officials	12 June 2018
Final Cabinet paper provided to the Office for consultation	13 June 2018
Consultation with other Ministers/parties (one week)	20 June 2018
Date paper needs to be lodged by, for consideration at the Cabinet Economic Development Committee on 27 June 2018	21 June 2018
Consideration by DEV	27 June 2018
Cabinet confirmation and Executive Council signing of OiC	2 July 2018

19. Should you wish to have the Chair appointed before the rest of the membership, with an item direct to Cabinet, this could be completed earlier. As you have already taken a paper requesting agreement in-principle to establishing the Inquiry, these further decisions should be expected by your Cabinet colleagues.

Financial Implications

20. The budget for the Inquiry was confirmed as part of Budget 18. It was noted that the intention was that the Inquiry would commence work before 30 June 2018. However, it was agreed that any unspent funding for 2017/18 be transferred to 2018/19 and authorised the Minister of Finance and yourself to approve this transfer, following completion of the 2017/18 audited financial statements (CAB-18-MIN-0158.24 refers). Officials will support you with this process.
21. With the delay with the establishment of the Inquiry, it is possible that there will be a later reporting date for the Inquiry. Should this occur financial adjustments will be required. Officials will keep you updated on this and support you with any work required.
22. The daily fee suggested for the Chair of the Inquiry is \$1,400 a day, with members to receive \$975 a day. These proposed fees are broadly in line with those provided to the Chair and membership of other inquiries established by the Government.

Recommendations

23. It is recommended that you:

1. **Note** the contents of this briefing; and
2. **Discuss** with officials your preferred option for announcement of the Inquiry's Chair and membership.

YES / NO

Anne Shaw
Director, Greater Christchurch Group

NOTED / APPROVED / NOT APPROVED
Hon Dr Megan Woods Minister Responsible for the Earthquake Commission
Date: / / 2018

Attachment A Draft letter to the Minister of State Services on fees for the Chair of the Inquiry

Attachment A

Draft letter to the Minister of State Services on fees for the Chair of the Inquiry

Hon Chris Hipkins
Minister of State Services
Parliament Buildings
Wellington

Dear Minister,

Public Inquiry into Earthquake Commission (EQC) – Fees for Chair

On 21 March 2018, Cabinet agreed in principle to establish a statutory inquiry into the EQC (DEV-18-MIN-0021 refers, confirmed by Cabinet 26 March 2018) under the Inquiries Act 2013. A report back on further details, including the form of inquiry, members, Terms of Reference and other matters is currently being prepared.

Ahead of this process, I intend to inform/consult Cabinet on [xx] June on the appointment of [name of proposed Chair]. As appointing Minister for the Inquiry, I am writing to seek your agreement to the fees for the Chair. I am seeking an exemption consistent with the Cabinet Office guidance, as the proposed fee level is outside of the parameters of the framework provided in Cabinet Office Circular CO (12) 6, *Fees Framework for Members appointed to bodies in which the Crown has an interest*.

I seek your approval to a payment of \$1,400 per day for the Inquiry Chair.

In support of this level of fee, I have considered the demands on the Chair arising from:

- i. significant public interest in the Inquiry and its deliberations;
- ii. examining a complex range of issues, including the analysis and synthesis of a considerable body of evidence and supporting material;
- iii. the public-facing nature of the exercise, with extensive engagement with a range of diverse stakeholders and their representatives;
- iv. the likely duration of the Inquiry and the intensity of its work programme; and
- v. consistency with the fees paid to Chairs of similar exercises.

Declarations of availability, interests and probity are currently being undertaken with the Chair.

I will write to you separately on fees for members of the Inquiry in due course.

I look forward to your prompt reply.

Yours sincerely,

Hon Dr Megan Woods
Minister for Greater Christchurch Regeneration