NEXT STEPS FOR RESPONDING TO CHRISTCHURCH CITY COUNCIL CONSENTING ISSUES

Purpose

1. This paper sets out the proposed terms of reference and appointment of a Crown Manager to address issues relating to Christchurch City Council's building consenting functions.

Executive summary

2. Christchurch City Council (the Council) have had their building consent authority accreditation revoked, effective from Monday 8 July, after a long documented history of compliance and performance issues. In recognising the seriousness of the issues identified and the urgency of addressing them we are bringing this matter straight to Cabinet.

3. A Ministry of Business, Innovation and Employment (MBIE) team of technical experts has been assisting the Council with consents since mid-June. They have noted some improvements in building control performance. However, I am of the view that these are not sufficient to meet consenting demands as the recovery gathers pace.

4. On Thursday 4 July, the Council passed a resolution to invite the Minister of Local Government to appoint a Crown Manager to manage the Council's consenting issues. I received a written request from the Council confirming the request on 4 July.

5. I have developed a Terms of Reference for the Crown Manager and discussed this with the Council (see attachment 1).

6. The Crown Manager is authorised to direct the Council to address the issues set out in the Terms of Reference and provide any relevant information. The Crown Manager does not replace or supplant the councillors or council management. The Council will also retain legal liability for any and all operations while the Crown Manager is in place.

7. Cabinet agreement is sought to appoint Douglas Martin as the Crown Manager at a rate of $2,000 per day. The costs of the Crown Manager will be met by the Council under section 258W of the Act (Recovery of expenses from local authority).

8. The Crown Manager will provide the Minister for Canterbury Earthquake Recovery, Minister of Local Government and Minister for Building and Construction with an initial action plan within four weeks of the beginning of the management period and thereafter will report monthly (unless directed otherwise) to these Ministers.
Background

9 The Council has a documented history of issues relating to the quality and speed of its building consent processes and decisions under the Building Act 2004 and related accreditation regulations.

10 In May 2013, International Accreditation New Zealand (IANZ)\(^1\) issued an accreditation assessment which identified several areas where the Council was failing to meet the accreditation criteria. IANZ gave the Council until 28 June 2013 to clear the corrective actions, or accreditation would be withdrawn.

11 On 19 June 2013, MBIE sent a team of technical experts to the Council to improve the flow of consents. During their time at the Council, the MBIE team observed that there had been a marked improvement in Building Consent Authority (BCA) performance since the IANZ accreditation report to the Council was issued in May 2013, but that there were still significant issues that needed to be addressed.

12 The MBIE team also observed that Council's senior management did not realise the extent of the changes that needed to be made to meet consenting demands as the recovery gathers pace.

13 On 1 July 2013, IANZ made the decision to withdraw the Council's accreditation, as it had not adequately addressed the corrective actions identified.

14 It is important to note that even after accreditation is formally revoked, the Council will still be registered as a building consent authority, so it is still legally able to issue building consents. If the Council could not issue building consents, this would mean no consents could be issued for Christchurch City.

Appointing a Crown Manager to manage Council's consenting issues

15 On Thursday 4 July the Council passed a resolution to invite the Minister of Local Government to appoint a Crown Manager to manage the Council's consenting issues. I received a written request from Council confirming this on 4 July.

16 The Crown Manager will be appointed under s 258D of the Act. As required under the Act, I have developed a Terms of Reference for the Crown Manager including an outline of the problem in relation to which the Crown Manager has been appointed, the extent of the Crown Manager's authority and the term of the management period.

17 Local authorities must comply with the directions of a Crown Manager, and comply with any reasonable request of the Crown Manager to provide relevant information. The Crown Manager does not replace or supplant the councillors or Council management. The Council will also retain legal liability for any and all operations while the Crown Manager is in place.

18 The term for the Crown Manager and the management period will commence on 15 July 2013. The appointment will, unless I otherwise advise, expire on 31 December 2014.

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\(^1\) IANZ is an autonomous, independent accreditation body established in 1972 and operates under the requirements of the Crown Entities Act 2004. It undertakes the independent audit and assessment of building consent authorities, such as the Council.
Crown Manager's Terms of Reference

19 I have agreed the Crown Manager's Terms of Reference (see attachment 1) and have discussed these with Council. Key features of the Terms of Reference include:

- The management period will commence on 15 July 2013 and expire on 31 December 2014;
- The Crown Manager will focus on the urgent need for implementing broad performance improvements ensuring the Council has adequate processes and capability to fulfil its building control functions to the extent necessary to facilitate a timely, high quality and cost efficient rebuild of Christchurch;
- The Crown Manager's role will include overseeing the Council's building control functions and ensuring that the Council regains accreditation as a building consent authority;
- The Crown Manager will take into account the interface of building control functions with other related Council regulatory functions; and
- The Crown Manager may request assistance from MBIE, the Department of Internal Affairs and other parties as necessary to fulfil the terms of reference (MBIE's current level of assistance will remain in place for the time being).

Appointing the Crown Manager

Appointment criteria

20 I intend to appoint Mr Martin as a Crown Manager under section 258D(1)(b) of the Local Government Act 2002, for a period commencing on 15 July 2013 and expiring on 31 December 2014, to address consenting issues within the Council.

21 I consider Mr Martin to be well qualified to undertake the role of Crown Manager. Mr Martin is one of New Zealand's most experienced and respected advisors on improving the performance of public sector agencies in New Zealand. He has an extensive track record in advising New Zealand and oversees governments on organisational restructuring and change management.

22 Mr Martin has taken a leading role in a number of public sector reviews, including issues with Environment Canterbury's performance and a review of the New Zealand Qualifications Authority performance with the implementation of the National Certificate in Educational Achievement.

Conflicts of interest

23 Appropriate enquiries concerning conflicts of interest have been carried out in accordance with State Services Commission guidelines. No conflicts relating to Mr Martin's appointment as Crown Manager have been identified.

24 Mr Martin has agreed to declare any conflicts, perceived or otherwise, that may arise during his term of appointment and to manage them in accordance with the appropriate guidelines.

Consultation

25 The Council has written to the Minister of Local Government requesting appointment of a Crown Manager. I have consulted both the Minister for Canterbury Earthquake Recovery and the Minister for Building and Construction in recommending Mr Martin for appointment.
Remuneration

23 The position of Crown Manager is classified as a Group 4, Level 1 body in the Cabinet Fees Framework [CO (12) 6] (Fees Framework). The maximum remuneration provided for under the Framework is $1,062 per day.

27 I am proposing a daily rate to a maximum of $2,000 given the complexity of the functions and the expertise required for this role. This is regarded as an exception to the Fees Framework, which normally requires consultation with the Minister of State Services. I propose that Cabinet agree that the Minister of Local Government and Minister of State Services will agree the final rate of remuneration up to $2,000.

28 The cost of the Crown Manager’s remuneration and disbursements will be met by the Council under section 258W of the LGA (Recovery of expenses from local authority).

CAB 50 form

29 A curriculum vitae form (CAB 50) for Mr Martin is attached (attachment 2).

Next steps

30 Following Cabinet approval of Mr Martin’s appointment and remuneration, I will write to the Council informing them of the name of the Crown Manager and the management period and will proceed to publish notice of the appointment. The notice must include:

- the Terms of Reference of the Crown Manager;
- the start and end dates of the Crown Manager’s appointment;
- the start and end dates of the management period; and
- the name of the Crown Manager.

31 This notice must be published on the Department of Internal Affairs website, in a local newspaper (in this case, the Christchurch Press) and in the New Zealand Gazette. The earliest the notice can be published in the New Zealand Gazette is Thursday 11 July.

32 The Crown Manager will provide an initial action plan to the Minister for Canterbury Earthquake Recovery, Minister of Local Government and the Minister of Building and Construction within four weeks of the beginning of the management period. The Crown Manager will then provide monthly progress reports (or other intervals as determined by Ministers) to this group of Ministers.

Risk and assurance

33 IANZ have identified some building consents might not meet Building Code requirements. One of the first and very important tasks of the Crown Manager will be to commence an audit, including a technical review, of consents issued, to ensure buildings are safe. MBIE’s initial assessments have shown, however, that it is highly unlikely any recently consented buildings would have to be demolished.

Insurance and liability

34 RiskPool, a mutual insurer for local authorities, is in discussion with the Council over the insurance implications arising from their loss of accreditation and the appointment of a Crown Manager. I understand that Treasury officials will report to Ministers on these issues shortly.
Consultation

35 This paper has been prepared by the Department of Internal Affairs. The Canterbury Earthquake Recover Authority, the Ministry of Business, Innovation and Employment, and the Ministry for the Environment have been consulted in the development of this paper. The Minister for Canterbury Earthquake Recovery, the Minister of Building and Construction have been consulted. The State Services Commission has been advised of the appointment.

36 The Department of the Prime Minister and Cabinet and Crown Law Office have been informed.

Human rights

37 The proposals in the paper are not inconsistent with the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.

Legislative implications

38 There are no legislative implications arising from this paper.

Regulatory impact analysis

39 A regulatory impact statement is not required because no regulatory changes are proposed.

Gender or disability implications

40 No gender or disability implications have been identified.

Publicity

41 Prior to the publication of the Gazette notice and public notice of the appointment and terms of reference, I will issue a press statement announcing the appointment of Mr Martin.

Recommendations

42 I recommend that Cabinet:

1 note that Christchurch City Council have had their building consent authority accreditation revoked, effective from today, after a long documented history of compliance and performance issues;

2 note that on Thursday 4 July the Council requested the Minister of Local Government to appoint a Crown Manager under section 258D(1)(b) of the Local Government Act 2002 to manage Council’s consenting issues;

3 note that I have developed a Terms of Reference (attachment 1) for the Crown Manager with the following key features:
3.1 The management period will commence on 11 July 2013 and expire on 31 December 2014;

3.2 The Crown Manager will focus on the urgent need for implementing broad performance improvements ensuring the Council has adequate processes and capability to fulfil its building control functions to the extent necessary to facilitate a timely, high quality and cost efficient rebuild of Christchurch;

3.3 The Crown Manager’s role will include overseeing the Council’s building control functions and ensuring that the Council regains accreditation as a building consent authority; and

3.4 The Crown Manager will take into account the interface of building control functions with other related Council regulatory functions;

4 note the Crown Manager may request assistance from MBIE, the Department of Internal Affairs and other parties as necessary to fulfil the terms of reference;

5 note the Crown Manager is authorised to direct the Council to address the issues set out in the Terms of Reference and provide any relevant information;

6 note the Crown Manager does not replace or supplant the councillors or Council management and the Council retains legal liability for any and all operations while the Crown Manager is in place;

7 note that I intend to appoint Douglas Martin to the role of Crown Manager for a period commencing on 10 July 2013 and expiring on 31 December 2014, to address consenting issues within the Council;

8 note the position of Crown Manager is classified as a Group 4, Level 1 body in the Cabinet Fees Framework [CO (12) 6] (Fees Framework). The maximum remuneration provided for under the Framework is $1,062 per day;

9 agree that the Minister of Local Government and Minister of State Services will agree the final rate of remuneration up to $2,000;

10 note the costs of the Crown Manager’s remuneration and disbursements will be met by the Council under section 258W of the Local Government Act 2002 (Recovery of expenses from local authority);

11 note the Crown Manager will provide the Minister of Canterbury Earthquake Recovery, Minister of Local Government and Minister for Building and Construction with an initial action plan within four weeks of the beginning of the management period and thereafter will report monthly (unless directed otherwise) to these Ministers;

12 note the Crown Manager will commence an audit, including a technical review, of consents issued;

13 note that RiskPool, a mutual insurer for local authorities, is in discussion with the Council over the insurance implications arising from their loss of accreditation and the appointment of a Crown Manager;
note that prior to the publication of the Gazette notice and public notice of the
appointment and terms of reference, I will issue a press statement announcing the
appointment of Mr Martin.

Hon Chris Tremain
Minister of Local Government

5 July 2013

Attachment 1: Terms of Reference for a Crown Manager (under section 258D of the
Local Government Act)

Attachment 2: Curriculum vitae form (CAB 50) for Douglas Martin
Terms of Reference for a Crown Manager (under section 258D of the Local Government Act)

1. Background
On 4 July 2013 Christchurch City Council (the Council) resolved to request that the Minister of Local Government put in place a Crown Manager under section 258D of the Local Government Act 2002.

The Crown Manager is being put in place to address significant problems associated with the withdrawal of the Council’s International Accreditation New Zealand (IANZ) Building Consent Authority (BCA) accreditation.

On Monday 1 July 2013, IANZ made the decision to withdraw the Council’s BCA accreditation. IANZ was not satisfied that sufficient progress had been made by the Council in response to the building consenting performance issues it had identified and recommendations it had made in earlier assessments. Specifically, there was insufficient progress on IANZ’s six Corrective Action Requests of 27 May 2013, which IANZ had instructed the Council to address in order for the Council to continue its accreditation as a BCA. To get a better understanding of the issues identified by IANZ, the Ministry of Business, Innovation and Employment (MBIE) sent a team of technical experts to engage with the Council’s consenting group. The team identified a number of critical issues that needed attention in a report dated 1 July 2013.

The Minister of Local Government (the Minister) and the Council agree that the appointment of a Crown Manager is crucial to restore confidence in the robustness of the Council’s building consent processes and correct serious issues of poor building consenting performance.

2. Establishing the Crown Manager

Section 258D(1)(b) of the Local Government Act 2002 provides for the Minister of Local Government to appoint a Crown Manager to a local authority upon receiving a written request from that local authority. The Minister has received a written request from the Christchurch City Council requesting the Minister:

“...appoint a Crown Manager to the Christchurch City Council under section 258D(1)(b) of the Local Government Act 2002, in order to address problems related to the Council’s building consent authority functions under the Building Act 2004 and enabling the Council to regain IANZ accreditation.”

The term for the Crown Manager and the management period will commence on 15 July 2013. The appointment will, unless otherwise advised by the Minister of Local Government, expire on 31 December 2014.
The Minister may choose to extend the period of appointment of the Crown Manager and/or the management period by way of written notice, if there are reasonable grounds to believe that the appointment of the Crown Manager is still required to resolve the problem.

The Crown Manager may request any assistance from MBIE, the Department of Internal Affairs, or other parties he or she considers necessary to fulfil these Terms of Reference.

3. **Roles and Responsibilities**
The Crown Manager will focus on the urgent need for implementing broad performance improvements ensuring the Council has adequate processes and capability to fulfil its building control functions to the extent necessary to facilitate a timely, high quality and cost efficient rebuild of Christchurch.

The role of the Crown Manager will include overseeing the Council's building control functions and ensuring that the Council regains accreditation as a building consent authority.

The Crown Manager will direct the Council to address the issues raised relating to the Council's building control functions under the Building Act 2004 and those raised in the MBIE report of 1 July 2013 and IANZ assessments of the Council's building control functions.

The Crown Manager must ensure, as far as practicable, the organisational capability of the Council is not diminished.

The Crown Manager will take into account the interface of building control functions with other related Council regulatory functions.

4. **Outcomes**
Following the receipt of the Crown Manager's initial action plan the Minister of Local Government, on behalf of the Minister for Building and Construction and the Minister for Canterbury Earthquake Recovery, will write to the Crown Manager and set out specific outcomes, goals, and milestones that the Crown Manager must achieve.

5. **Authority**
The Crown Manager has the following statutory authority to the extent authorised by these terms of reference:

- to direct the Council to act to address problems relating to its building control functions;
- to make recommendations to the Minister as to whether the Minister should take any further action in relation to the Council, including whether the Minister should appoint any other Ministerial body to the Council.
The Council is required under section 258D(6) of the Local Government Act 2002 to co-operate with the Crown Manager so that these terms of reference can be fulfilled, comply with the directions of the Crown Manager, and comply with any reasonable request of the Crown Manager to provide relevant information.

The Council will make available and accessible the resources required for the Crown Manager to fulfil these terms of reference.

6. Reporting Procedures
The Crown Manager will provide an initial action plan to the Minister of Local Government, the Minister for Canterbury Earthquake Recovery, and the Minister of Building and Construction within four weeks of the beginning of the management period. The Crown Manager will then provide monthly progress reports (or other intervals as determined by Ministers) to these Ministers. These will be copied to the Christchurch City Council.

The Crown Manager must, as soon as possible following the end of the management period, produce a final report that meets the requirements of section 258U of the Local Government Act 2002. In addition to the matters in that section, the Crown Manager must report on what, if any progress, has been made at the Council in addressing issues identified in the IANZ and MBIE reports. The report must identify any problems that remain, or any new related problems that arose during the management period. The report may make further recommendations to the Minister or the Council or both if appropriate.

(Signature)

Hon Chris Tremain

Minister of Local Government

5/7/2013
## Curriculum Vitae Form

<table>
<thead>
<tr>
<th>Name</th>
<th>Douglas MARTIN</th>
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### The Position

<table>
<thead>
<tr>
<th>Organisation</th>
<th>Christchurch City Council – Statutory position on the authority of the Minister of Local Government</th>
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<tbody>
<tr>
<td>Position</td>
<td>Crown Manager</td>
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<tr>
<td>Term</td>
<td>Commencing on 10 July 2013 and expiring on 31 December 2014</td>
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<tr>
<td>Payment</td>
<td>$2,000 per day</td>
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### How the Candidate Meets the Needs of the Position

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<thead>
<tr>
<th>Skills and attributes the candidate will bring to the position</th>
<th>Mr Martin is one of New Zealand’s most respected advisors on public sector reform with more than 20 years’ experience. He has an extensive track record in management, and advising New Zealand and overseas governments on organisational restructuring and change management.</th>
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<tr>
<td>Possible conflicts of interest</td>
<td>None stated</td>
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<td>Proposals for conflict management</td>
<td>In the event of any actual or potential conflict of interest issue arising, Mr Martin agrees to promptly declare that interest to the Minister of Local Government.</td>
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<tr>
<td><strong>The Candidate</strong></td>
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</tr>
<tr>
<td><strong>Name</strong></td>
<td>Douglas MARTIN</td>
</tr>
<tr>
<td><strong>Address</strong></td>
<td>PO Box 5256, Lambton Quay, Wellington 6145</td>
</tr>
<tr>
<td><strong>Citizenship</strong></td>
<td>New Zealand</td>
</tr>
<tr>
<td><strong>Age</strong></td>
<td>Not stated</td>
</tr>
<tr>
<td><strong>Current or most recent employment</strong></td>
<td>- Partner, Martin Jenkins Ltd (1993–present)</td>
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| **Government board appointments held** | - Chair, Specialist Education Service (past)  
- Deputy Chair, New Zealand Fire Services Commission (past) |
| **Private and/or voluntary sector board appointments held** | - None listed |
| **Qualifications and experience** | **Employment and professional experience**  
- Assisted transition board during establishment of Sport and Recreation New Zealand  
- Governance review of Pacific and Ethnic Advisory Panel, Auckland  
- Reviewed performance of New Zealand Qualifications Authority and implementation of the National Certificate of Educational Achievement  
- Expert adviser to District Health Boards on employment relations negotiations  
- Crown Negotiator for Health Sectors  
- Chief of staff to Prime Minister, the Rt Hon Jenny Shipley (1999–2000)  
- Purchase Advisor to the Rt Hon Jenny Shipley and the Rt Hon Bill Birch (past)  
- Assistant Commissioner, State Services Commission (past)  
**Qualifications**  
- Bachelor of Commerce and Administration (Economics) Honours |

Date: 5 July 2013