



Earthquake Commission

# Briefing to the Incoming Minister Responsible for the Earthquake Commission

October 2017



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## Purpose

This paper sets out the functions and role of the Earthquake Commission, along with its current situation and recent history. The briefing covers:

- decisions and actions required over the next three months;
- key issues and priorities for the Earthquake Commission (EQC);
- EQC's role as a Crown Agent, and the roles and responsibilities of EQC and the responsible Minister;
- EQC's response to the Canterbury and Kaikoura earthquakes, including progress to date, work still to do and lessons learnt;
- an introduction to EQC's other strategic priorities:
  - EQC underpins an efficient insurance market in New Zealand;
  - EQC is a leader for a risk aware New Zealand; and
  - EQC has an operating model that makes us easy to do business with.

There is also supplementary information contained within the annexes to this briefing as follows:

- Annex 1 – EQC's role, functions and operating environment;
- Annex 2 – Legislation relevant to EQC;
- Annex 3 – Key legal decisions and cases;
- Annex 4 – Illustration of EQC Insurance Cover;
- Annex 5 – EQC Board members; and
- Annex 6 – EQC Executive Leadership Team.

## Executive summary

EQC's focus since 2010 has been its response to the devastating effects of New Zealand's largest natural disaster claims events (the 2010 and 2011 Canterbury earthquakes), its response to the Kaikoura earthquake in November 2016, and a host of smaller events that have affected other communities up and down the country. This has been a period of immense challenge and change for EQC. EQC has grown significantly in size and taken on substantial responsibilities, in particular managing the repair of almost 68,000 earthquake damaged homes as part of the Canterbury Home Repair Programme (CHRP), and negotiating an insurer-led response to the Kaikoura earthquake.

Prior to the Canterbury earthquakes, EQC had been geared towards settling claims in cash.

However, tens of thousands of Canterbury homeowners, each with an EQC cheque and trying to find a builder, would have been likely to have caused repair cost inflation and variable quality of repairs, as well as creating a significant burden for Canterbury residents who were already under stress. For these reasons, soon after the 4 September 2010 earthquake, the Government requested that EQC take direct responsibility for the repair of customers' houses where the cost fell within the EQC cap of \$100,000 (plus GST). EQC in turn contracted Fletcher Construction to manage the repairs on its behalf. The bulk of EQC's insurance claims and home repair work in Canterbury has been completed, although some particularly complex claims and home repairs are taking longer to resolve. We are not aware of any other insurer-led managed repair programme of this scale in response a major natural disaster, and there is no precedent internationally that we can find for a CHRP-type response.

As with any completely new and significant programme, such as CHRP, mistakes and missteps have been made. EQC has learnt a lot from its experience in Canterbury which is being implemented in the future design of the organisation, and its response to subsequent events. Some of those lessons relate to the organisation's operational response to large scale events, how EQC communicates with customers, and what customers expect from EQC. Other lessons concern areas of the EQC Act that have created complexity or uncertainty in responding to the types of damage caused by the Canterbury earthquakes, such as certain forms of land damage encountered and the appropriate repair methods for damage to multi-unit buildings. These and other lessons from more than 20 years of operational activities under the current EQC Act contributed to the Treasury-led review of the EQC Act, with decisions on the main proposed changes to the EQC Act announced in June 2017.

EQC's position and role is unique internationally. It is fully supported by international reinsurance markets, which helps directly to underpin EQC itself, but also private insurers and the home lending system, indirectly. In comparison with natural disasters overseas such as Hurricanes Katrina, Harvey, and Irma, and earthquakes in Japan, Haiti and Nepal, New Zealand has a much higher penetration of insurance coverage which has made a significant contribution to the recovery from the Canterbury earthquakes. Additionally, New Zealand's well-regulated financial markets have meant there have been relatively few insurance company failures, and the regulatory environment around building and construction has ensured appropriate standards around residential buildings being repaired or rebuilt following earthquake damage.

The Canterbury response, the more recent earthquakes in Kaikoura, and floods and landslips across the country, have also resulted in some valuable lessons about New Zealand's approach to natural hazard risk management at the national level. These lessons have created an opportunity, in EQC's view, to revisit current national arrangements for natural hazard risk management. Among things that could be considered is the role that EQC might play in future arrangements alongside other entities in central and local government, and the private sector, to ensure that arrangements across all four elements of natural hazard risk management – Reduction (of risk), Readiness (for an event), Response (when an event occurs), and Recovery (post event) – have been appropriately considered in light of domestic and international events and lessons learnt from previous events. EQC is actively participating in a number of multi-agency initiatives currently underway aimed at making improvements to natural hazard risk management frameworks and practice. EQC is a key leader in natural disaster research in New Zealand, especially through its partnerships with GNS Science and universities. This research into understanding our natural hazard risk, especially seismic and volcanic risk, is an indispensable support to our ability to source ongoing reinsurance on appropriate terms, and to informing and enhancing risk management nationally.

Other issues and priorities for the Earthquake Commission portfolio include:

- Ensuring that EQC underpins an efficient insurance market in New Zealand;
- EQC being a leader for a risk aware New Zealand; and
- EQC having an operating model that makes us easy to do business with.

In the wake of the Canterbury earthquakes, EQC has made significant adaptive changes to its organisational structure and processes as the response and recovery has progressed. EQC is currently undergoing a substantial transition to ensure its organisational capability and operating model are fit for purpose into the future.



## Key messages

- **Canterbury recovery** - the bulk of EQC's work in Canterbury has been completed but there are still challenging issues to resolve including claims for complex forms of land damage, current litigation, some home repairs, and working out with insurers an agreed approach for attribution of final costs.
- **Financial risk** – the Natural Disaster Fund (NDF) is forecast to be fully exhausted by the Canterbury and Kaikoura earthquake claims. Based on current premium levels it will take about 30 years to rebuild to the level of the current reinsurance deductible of \$1.75 billion. The recently announced premium increases from 1 November 2017 reduce this period to 10 years (assuming no further major events occur in the interim). Decisions are required on the level of financial risk from future natural disasters that the Crown is willing to hold while the NDF rebuilds, and the best way of managing that risk.
- **Reinsurance** - maintaining the confidence of international reinsurance and risk capital markets in New Zealand's ability to manage the risks associated with natural disasters and EQC's ability to resolve insurance claims efficiently is critical to managing Crown financial risk from natural disasters. EQC currently has a total reinsurance capacity of \$4.8 billion.
- **Review of the EQC Act** – a range of operational and technical improvements has already been identified through the EQC Act reform process undertaken by the outgoing Government that EQC considers would enhance the scheme. EQC supports the ongoing development of an EQC Act reform bill.
- **Natural hazard risk management** - the Canterbury and Kaikoura recoveries have highlighted opportunities for EQC to work better alongside other core agencies to improve natural hazard risk management nationally, in a broader capacity than advising on risk financing. A key challenge will be ensuring the various cross-government initiatives currently underway are sufficiently co-ordinated and aligned to deliver timely and meaningful improvements in New Zealand's management of natural hazard risk.
- **Organisational capability and customer focus** - while EQC has made significant adaptive changes to its organisational structure during the last few years, translating the lessons from Canterbury into a stronger, more resilient and scalable organisation that better meets the needs and expectations of its customers and other stakeholders is a key task for EQC in the coming months. EQC is expected to continue to downsize over the next year as workloads decline.

## Decisions and actions required in the next three months

There are two decisions and actions required within the EQC portfolio over the next three months. These are outlined briefly below, and we will provide you with further briefings in due course.

9(2)(f)(iv) and 9(2)(j)

2. Further policy work needs to be undertaken on second order and technical issues arising from the Review of the EQC Act – see pages 28 and 29 of this briefing for more information. EQC supports the ongoing development of an EQC Act reform bill but recognises that this

work may need to pause to take account of any insights or recommendations arising from the proposed inquiry.

Additionally, due to the expiry of the term of a current Board member, decisions about appointments or reappointments to the Board of EQC are likely to be required in late 2017; this process is run by The Treasury, and they will provide you with advice at the appropriate time.

## **EQC's role as a Crown Agent**

### **Relevant legislation**

EQC's role, form and operations are covered by a range of legislation. The two primary pieces of legislation, the Earthquake Commission Act 1993 and the Crown Entities Act 2004, are outlined below. Annex Two contains details of other legislation relevant to EQC.

#### ***Earthquake Commission Act 1993 ("EQC Act")***

Under the EQC Act, EQC continues to be a Crown entity (section 4, EQC Act). It is the same entity as the former Earthquake and War Damage Commission that existed immediately before the EQC Act came into force on 1 January 1994. The EQC Board is the governing body of EQC. The Board must have no fewer than five, and no more than nine, members (section 4B, EQC Act).

EQC's prescribed functions are:

- to administer the insurance against natural disaster damage provided under the EQC Act;
- to collect premiums for the insurance provided under the EQC Act;
- to administer the NDF (including the investment of money held in the NDF);
- to obtain reinsurance in respect of the whole or part of the insurance provided under the EQC Act;
- to facilitate research and education about matters relevant to natural disaster damage, methods of reducing or preventing natural disaster damage, and the insurance provided under the EQC Act; and
- such other functions as may be conferred on it by
  - i. the EQC Act or any other Act; or
  - ii. the Minister, in accordance with Section 112 of the Crown Entities Act 2004, which gives the responsible Minister power to add to the functions of a Crown entity. The Minister may direct the entity to perform any additional function that is so added and that is consistent with the entity's objectives.

#### ***Crown Entities Act 2004***

EQC is a type of Crown entity called a "Crown Agent". Crown entities are legal entities in their own right and are separate from the Crown. However, because they spend public funds, the Government maintains some specific powers in respect of them under the Crown Entities Act 2004.

Good governance of Crown entities is important in performing their functions and achieving results in a fiscally prudent, fair and transparent way. Governance in this context includes the processes by which the Crown entities are directed, controlled and held to account, and the delivery and leadership of their functions.

Crown entities are usually created through their own enabling Act (in EQC's case, the Earthquake Commission Act 1993 and its predecessors). The EQC Act sets out EQC's specific functions, including the insurance cover provided, and the Crown Entities Act establishes a governance framework within which EQC must work.

The Crown Entities Act clarifies the accountability relationships between the Crown entity, its Board members, the responsible Minister and the House of Representatives. Furthermore, the Crown Entities Act outlines the roles, responsibilities and requirements of Board members, including:

- the method of their appointment and removal;
- their collective and individual responsibilities to the entity;
- processes related to conflicts of interest; and
- the reporting requirements (such as the production of the Statement of Intent and Annual Report).

There are three basic categories of Crown entities under the Crown Entities Act 2004. These are:

- Crown Agents. EQC is a Crown Agent;
- Autonomous Crown Entities (ACEs);
- Independent Crown Entities (ICEs).

The differences between the categories (see table 1 below) include the nature of the work they do; the provisions governing board member appointments and dismissals; and the power of their Minister to direct them on Government policy and other matters.

It can be seen from this table that EQC, as a Crown Agent, is in the category of Crown entities over which the Crown has the tightest control.

**Table 1: Categories of Crown entities**

	<b>Crown Agent (EQC)</b>	<b>Autonomous Crown Entity</b>	<b>Independent Crown Entity</b>
<b>Power for Minister to appoint Board Members?</b>	Yes	Yes	No, Governor-General appoints on recommendation of Minister
<b>Power for Minister to remove Board Members?</b>	Yes, at Minister's discretion	Yes, by Minister for justifiable reason in Minister's opinion	No, by Governor-General, for just cause, on Minister's advice. Attorney-General consulted.
<b>Power to direct on Government policy of the day?</b>	Must 'give effect to' government policy when directed by Minister	Must 'have regard to' government policy when directed by Minister	No, unless specifically provided for in another Act
<b>Whole of Government Direction?</b>	Must comply with whole of government direction from the Minister of State Services and Minister of Finance	Must comply with a whole of government direction from the Minister of State Services and Minister of Finance	Must comply with a whole of government direction from the Minister of State Services and the Minister of Finance

## EQC's functions

### *EQC's functions*

Under section 14 of the Crown Entities Act, the functions of EQC are:

- the functions set out in the EQC Act;

- any functions that the responsible Ministers have added in accordance with the EQC Act and section 112 of the Crown Entities Act; and
- any functions that are incidental or related to, or consequential on, EQC's functions.

### *Functions set out in the EQC Act*

The functions of EQC are set out in section 5 of the EQC Act and have been outlined on page 5 of this briefing.

### *Functions conferred by Ministerial Direction*

Several functions have been conferred on EQC under section 112 of the Crown Entities Act. These include:

- requirements for how EQC should invest and manage the NDF, and when EQC should consult with the Minister of Finance (dated November 2001), allowing EQC to diversify the investment of NDF to include (up to certain limits) New Zealand Government securities, global equities and New Zealand bank bills. This direction was modified for a period of 24 months between September 2010 and September 2012 to enable EQC to modify its investment limits in order to maintain the liquidity required to meet claims arising from the Canterbury earthquakes, and a further direction was given effective 27 July 2015 to ensure EQC invests the NDF conservatively and maintains its liquidity to meet claims in the aftermath of the Canterbury earthquake sequence;
- functions in relation to additional land remediation activities to certain parts of Christchurch and Waimakariri districts. This enabled EQC to: investigate options to remediate certain land in these areas to a higher standard than the statutory minimum; prepare a Concept Design Report for land remediation works in "Zone C" land; and carry out work to mitigate lateral spread in Spencerville (effective 14 December 2010);
- functions in relation to entering into and carrying out its roles and responsibilities under a Memorandum of Understanding (MoU) with the Waimakariri District Council relating to certain additional land remediation works in the district (effective 18 April 2011);
- functions of repairing or paying for the repair of claimants' residential buildings for damage that has been apportioned by EQC to earthquake events in Canterbury for which claimants have not made claims (dated December 2012); a subsequent amendment in December 2013 that no excess applies in respect of the unclaimed for event; and a further extension of this function to include land damage.

The Crown Entities Act contains safeguards for the independence of EQC in carrying out its functions and other business. Under section 113 of the Crown Entities Act, the Minister may not require EQC (by means of a Ministerial Direction) to perform or not perform a particular act, or bring about a particular result in respect of a particular person or persons.

### **The Minister's role, responsibilities and powers**

The responsible Ministers for EQC are the Minister of Finance and the Minister Responsible for the Earthquake Commission.

These Ministers are responsible to the House of Representatives for EQC's performance and they are answerable for any problems or controversies arising in connection with EQC. This responsibility can include the Ministers responding to questions and participating in debates and reviews.

The Ministers oversee and manage EQC in accordance with the Crown Entities Act and the EQC Act. EQC's Board is responsible for giving effect to government policy. In practice, this is effected through the Statement of Intent (SOI) and the Statement of Performance Expectations under which the Minister and EQC agree specific deliverables. The current SOI covers the period from 1 July 2014 to 30 June 2018, and was last updated in July 2016. A copy is attached to this briefing for your information.

Treasury is EQC's monitoring department, and supports the responsible Minister to fulfil their role and undertakes other statutory functions such as administering appropriations and legislation as required. A productive three-way relationship is required between the responsible Minister, the statutory entity and the monitoring department, and Treasury and EQC have worked well together over recent years to provide advice to Ministers. The monitoring department assists the Minister and the entity with planning, monitoring and reporting organisational performance. Treasury is also the lead agency on the Review of the EQC Act, and is responsible for managing the Board appointment process for EQC and providing necessary advice to Ministers.

The Ministers are required to table EQC's SOI, Statement of Performance Expectations and Annual Report in the House. The annual Select Committee process to review EQC's performance is generally attended by EQC's Chair, Chief Executive and other senior EQC staff in support of Ministerial accountability. From time to time, Ministers may be asked to appear before Select Committees to comment on EQC's activities.

### *Ministers' functions under EQC Act*

The Ministers' key functions under the EQC Act are to:

- hold the shares issued by EQC in accordance with section 7 of the EQC Act;
- determine the amount of any dividend payable by EQC (section 9, EQC Act);
- determine sums payable by EQC to a Crown Bank Account in lieu of income tax (section 10, EQC Act);
- provide out of public money such sums that are necessary to meet deficiencies in the NDF (section 16, EQC Act).

### *Ministers' role under Crown Entities Act*

The Crown Entities Act sets out the role of the responsible Ministers to oversee and manage the Crown's interests in, and relationship with, EQC. This includes the Ministers' functions and powers in relation to —

- appointing and removing Board members (see generally sections 28 to 41);
- determining the remuneration of Board members (section 47);
- giving directions to EQC (section 103 to 115A);
- reviewing the operations and performance of EQC (section 132);
- requesting information from EQC (sections 133 and 134);
- participating in the process of setting and monitoring EQC's strategic direction and targets (section 27, and Part 4 of the Crown Entities Act).

### ***"No surprises" approach***

The previous Government issued an Enduring Letter of Expectations to Crown entities in July 2012 that sets out expectations for all statutory Crown entities. This Letter from the Minister of Finance and the Minister of State Services to Crown entity Boards expects Boards to adopt a "no surprises" approach with their responsible Ministers. Any protocols adopted in this respect need to recognise that what a Board may consider "business as usual" may be seen by the Minister to come within the requirement of "no surprises".

"No surprises" means that the Government expects a Board to:

- be aware of any possible implications of their decisions and actions for wider government policy issues;
- advise the responsible Ministers of issues that may be discussed in the public arena or that may require a Ministerial response, preferably ahead of time or otherwise as soon as possible; and
- inform the Minister in advance of any major strategic initiative.

### ***Ministers' power to request information***

Under the Crown Entities Act, the responsible Ministers have the power to request information (section 133), although it should be noted that EQC has always been happy to provide information as required, and Ministers have never had to rely on section 133 to receive information.

Section 133 states that EQC's Board must supply to its responsible Ministers any information relating to the operation and performance of EQC that the Ministers request – except where there is a good reason to refuse to supply information requested by a responsible Minister, for example, privacy of a person. The reason must outweigh the Ministers' need to have the information in order for them to discharge their Ministerial duties.

The EQC Board must supply to the Minister of Finance any information requested by the Minister in connection with the exercise of his or her powers under Part 4 of the Crown Entities Act.

The EQC Board must also supply the Minister of State Services any information requested by the Minister, where that information is requested for the purpose of assessing the capability and performance of the State services, and the request is made to a group of at least three entities that have in common at least one significant characteristic that relates to the information requested.

## Key issues and priorities

The following section discusses the key issues and priorities for EQC in the short to medium term.

### Canterbury earthquakes – progress to date

As at 30 June 2017, the amount settled in claims by EQC was close to NZ\$9.8 billion, a figure which is equivalent to nearly 30% of the level of GDP for Canterbury in 2016, and is equivalent to paying around \$4 million per day since 4 September 2010.<sup>1</sup> Further information will be available in EQC's 2016/17 Annual Report and 2017/18 Statement of Performance Expectations (SPE).

### Canterbury earthquakes – work still to do

The bulk of EQC's claims-related work in Canterbury has been completed. Work to complete the remaining claims is ongoing, including some particularly complex claims and callbacks<sup>2</sup> as a result of the managed repair programme.

#### Canterbury workstream

The focus of the Canterbury workstream is the resolution of claims, and the prompt resolution of customer complaints. In addition, initiatives are being implemented to manage the continued inflow of claims appropriately. It is expected in any large scale event that there will be a tail of claims due to the volume and complexity of issues being dealt with, but EQC is working hard to ensure that remaining customer claims are being dealt with appropriately and without undue delay. Customers may choose to delay resolution of their callback repair or complaint for a variety of reasons including personal circumstances or deciding to enter into litigation, but EQC's focus is on engaging with our remaining customers to ensure that they receive their full and correct entitlement under the EQC Act.

It is anticipated that if the inflow of Canterbury callback claims continues at the current rate, and the associated rate of settlement continues, there will be approximately 2,500 claims outstanding at the end of this year. Table 2 shows the position of outstanding Canterbury claims as at 30 September 2017.

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<sup>1</sup> Statistics New Zealand, *Regional GDP, 2016 – Canterbury*.

<sup>2</sup> Also referred to as remedial repairs, 'callbacks' refers to any contact from a customer who went through the managed repair programme where there are queries about missed damage or scope, damage identified but not repaired, or the failure of repair strategies or of materials used.



Table 2: Outstanding Canterbury claim issues as at 30 September 2017

Function	Remaining end of August	September – Claims received	September Monthly Net Resolved	Remaining as at 30 September 2017	
				Currently Unworkable	Currently Workable
Canterbury Home Repair Programme	2,113	216	568	3	1,758
CEDAR <sup>3</sup>	725	0	164	0	561
Subtotal Home Repair Issues	2,838	216	732	3	2,319
Land	605	2	27	384	196
Drainage	293	109	292	0	110
Subtotal Other Issues	3,736	327	1,051	387	2,625
Customer Resolution (complaints)	1,380	233	258	13	1,342
<b>TOTAL ISSUES</b>	<b>5,116</b>	<b>560</b>	<b>1,309</b>	<b>400</b>	<b>3,967</b>
<i>Properties</i>	<i>4,979</i>	<i>496</i>	<i>1,167</i>	<i>400</i>	<i>3,908</i>

The Customer and Claims team continues to reshape and refocus to drive the completion of claims. Teams are now co-located and managed as a programme rather than individual teams across multiple locations, meaning that there has been less internal movement of claims between teams which is providing a more seamless customer experience. External resource including loss adjusting, engineering, assessing and claims management staff are helping to supplement the numbers directly employed by EQC.

Since 2010, EQC has received 591 litigation cases, 334 of which have been closed as at the end of September 2017. While it is regrettable that any claims should proceed to litigation, it should be noted that the number of claims where litigation proceedings have been received represents 0.004% of all Canterbury claims.

### *Callbacks (also referred to as remedial repairs)*

EQC currently manages callbacks and any associated defect or remedial repair issues through in-house teams. Previously, these were managed by Fletcher EQR as part of the CHRP programme. These teams receive, assess and respond to call back requests and enquiries from customers and property owners. Valid call back requests are either cash settled or repaired, generally at the customer's choice.

These call backs largely relate to:

- a) Missed damage or scope;
- b) Damage identified but not repaired; or
- c) Failure of repair strategies or of materials used.

<sup>3</sup> The Ministry of Business, Innovation and Employment (MBIE) surveyed homes that were repaired as part of the Canterbury Rebuild, including homes in the EQC Canterbury Home Repair Programme (CHRP) and those that opted out. MBIE carried out the survey as the building and construction industry regulator, calling this survey CEDAR (Canterbury Earthquake Damage and Repair) in 2015.



For all new callback requests, customers are required to submit information upfront to enable faster claims management. If CHRP repairs were completed more than 12 months ago, customers are responsible for providing information to support their callback request. Once the information is received, EQC will review the callback request.

### *Residential Red Zone properties*

The Crown purchased approximately 7,000 properties from Canterbury homeowners where the land was so badly damaged by the earthquakes that it was considered unlikely that it could be rebuilt on for a prolonged period of time. Collectively, these properties are known as the Residential Red Zone (RRZ). The Crown took assignment of any outstanding EQC land settlements for these properties. The Canterbury Earthquake Recovery Authority (CERA) previously managed these RRZ properties; when CERA was disestablished, management of these claims transferred to Land Information New Zealand (LINZ). EQC has been working with LINZ to settle this portfolio of claims.

Both EQC and LINZ are in agreement that:

- payments from EQC to LINZ (in effect, Crown to Crown) must not be made on more favourable terms than EQC made to its Green Zone customers; and
- in reaching a settlement, EQC and LINZ should both act in ways that avoid generating unnecessary costs to taxpayers.

EQC made an interim payment to LINZ in early May 2017 of \$114.5m which represented its then best estimate of EQC's minimum liability to LINZ. Work has continued as a priority to establish the final settlement position with LINZ. This work has two streams: a portfolio based approach to 'flat land' claims (the vast majority of the Red Zone); and manual assessments of a small number of Port Hills properties.

### *Handing overcap claims to private insurers*

Building on an earlier joint approach to reviewing claims that were approaching the EQC cap, in September 2016, EQC and insurers committed to working in a more coordinated and streamlined way to speed up the process of agreeing claim ownership of unresolved claims, and a joint accelerated review team (JART) was put in place. Limited insurer access to EQC's Claims Management System was enabled and weekly meetings began involving EQC and all major insurers which were focused on agreeing the total number of claims remaining.

With consistent reporting and agreed operational protocols in place, industry activity is now limited to joint reporting, with all other JART related activities occurring bilaterally (insurer/ EQC). A coordinated effort has seen a continued downward trend of unresolved claims.

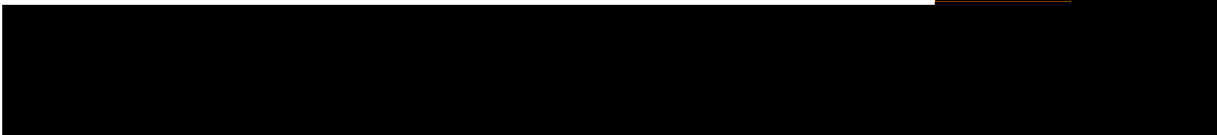
In May 2017, EQC entered into a Memorandum of Understanding arrangement with Southern Response whereby EQC and Southern Response have agreed to share resources in an effort to more quickly settle customers' residential building claims in applicable cases. EQC and Southern Response believe this will have positive outcomes, enabling customers to get on with any remaining earthquake repairs sooner.

Where the two organisations agree a residential building claim listed with Southern Response as the private insurer is likely to be overcap, Southern Response may manage the EQC claim on EQC's behalf. Southern Response would act as EQC's agent in these applicable cases, completing the

assessment and settling the EQC claim in accordance with the EQC Act, along with any entitlements the customer may have under their insurance policy.

### *Arrangements to manage residual Canterbury claims beyond 2017*

Settling some claims through a managed repair programme creates future obligations in the form of implied building warranties and other associated contingent liabilities that may arise in the future, as well as a comparatively small inflow of callbacks or remedial works requests. 9(2)(f)(iv)



A range of options is currently under consideration, and EQC will engage with you further as the Board determines its preferred option.

## **Kaikoura earthquake**

The following section outlines the new pilot approach to settling claims resulting from the Kaikoura earthquake in November 2016, as well as progress to date.

### *Arrangements for settling claims*

In December 2016, EQC and New Zealand's major private insurers signed a Memorandum of Understanding (MoU) whereby the insurers would act as EQC's agents in settling most building and contents claims arising from the event. EQC retained responsibility for managing any land claims, as well as any claims from properties with prior EQC earthquake damage that are still open or otherwise unresolved (including outstanding callback claims, complaints and litigation from the Canterbury earthquake sequence). It is worth noting that this arrangement was able to be implemented under the provisions of the current EQC Act and Ministerial delegations, and without the need for a Ministerial Direction or amended legislation.

Under the terms of the MoU, private insurers are receiving, assessing and settling home and contents claims for earthquake damage from their own customers, including those claims that are under the EQC \$100,000 building cap and \$20,000 contents cap. The intention of this simplified pilot approach is to reduce the double handling of claims and to speed up settlements for earthquake-affected customers. This arrangement currently only applies to the Kaikoura event, and EQC and insurers will assess the efficacy of the approach as the programme progresses.

### *Progress to date and work still to be completed*

The expectation (based on performance) is that 95% of all residential claims from the Kaikoura earthquake event will be settled by March 2018.

EQC is tracking ahead of programme on its portfolio of claims. As at 30 September 2017, EQC has assessed 98% of its claims and settled 90%, and insurers have assessed 87% of the claims they are managing, and settled 54%.

The initial focus has been on assessing the worst affected areas of Kaikoura, Marlborough, and Hurunui/ North Canterbury. With assessments in these areas largely complete, the expectation is that the rate of assessment and settlement will improve as insurers progress settlements in the larger regions, where claim volume is high but the claim value is typically low.

Table 3: Kaikoura event claims completed as at 30 September 2017 (excludes contents)

Insurer	Total Claims	Assessed	% complete	Settled	% complete
IAG	9(2)(b)(ii)				
Vero/AAI					
Tower					
FMG					
MAS					
QBE					
Youi					
<b>Subtotal - Insurer Managed Claims (Buildings)</b>	<b>31,685</b>	<b>27,409</b>	<b>87%</b>	<b>17,110</b>	<b>54%</b>
<b>EQC (all claims)</b>	<b>5,430</b>	<b>5,320</b>	<b>98%</b>	<b>4,887</b>	<b>90%</b>
<b>TOTAL CLAIMS</b>	<b>37,115</b>	<b>32,729</b>	<b>88%</b>	<b>21,997</b>	<b>59%</b>

Commercially sensitive information on individual insurer claims totals is not included

## EQC's other strategic priorities

### EQC underpins an efficient insurance market in New Zealand

#### *How EQC underpins the private insurance market*

New Zealand is highly vulnerable to natural hazard risks. According to a recent study for Lloyds, the London based insurance specialist, New Zealand is one of the most vulnerable economies in the world to the impact of natural disaster as a percentage of GDP. In the Lloyds' study, New Zealand ranked third most vulnerable of 42 countries.<sup>2</sup> On the other hand, Lloyds' research indicates that New Zealand is the second-most highly insured country in the world, as a proportion of GDP, after the Netherlands. High levels of residential, council and commercial insurance in Canterbury – more than 70% of all insurable losses – has been a major facilitator of the rebuild. This factor is absent in most other recent natural disasters overseas.

Those risks will almost certainly be increased by long-term underlying trends, such the increasing occurrence and severity of weather-related events, and population growth (along with a corresponding increased concentration of assets) in main centres that are themselves exposed to natural catastrophes. Together, these trends mean losses are likely to be higher in the future.

Internationally, private markets for catastrophe insurance tend to be marked by low rates of insurance uptake and fluctuations in supply of this type of cover, resulting in significant levels of under-insurance or non-insurance among property owners.

EQC provides capped first-loss insurance to homeowners against a limited range of natural hazards. With the government taking the first-loss for residential properties, an attractive "top-up" market has been created for private insurers to provide additional cover and has led to a degree of certainty for global reinsurers to provide cover in New Zealand. As a result, all other property insurance is provided by private insurers, including cover for commercial, industrial and agricultural property against the hazards that EQC covers homeowners and tenants (for contents) for.

As Treasury has noted, when there are large numbers of under-insured or uninsured property owners, the experience elsewhere in the world is that governments face pressure to provide financial assistance to affected property owners. When a disaster occurs in that environment, property owners face large, often personally catastrophic, losses. Homeowners' fortunes then depend on personal savings and/or the uncertainties of ad hoc government assistance packages, and governments are exposed to the fiscal and policy risks of funding those assistance packages.

Ad hoc assistance packages for property owners can encourage the assisted and other owners not to buy insurance against those hazards, generating larger future risks for homeowners and governments.

Schemes such as EQC can eliminate these dynamics, benefiting homeowners, insurers and the Government. In return for paying their EQC premiums, homeowners are no longer reliant on uncertain ad hoc government assistance following a natural disaster. Instead they have the certainty

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<sup>2</sup> Lloyd's Global Underinsurance Report compiled by the Centre for Economics and Business Research Ltd, October 2012.

of a legislated right to catastrophe insurance with pre-established terms, backed by a Crown funding guarantee.

Homeowners in higher risk areas benefit from EQC's current flat-rate pricing structure, which keeps private insurance premiums affordable nationwide. That in turn helps keep national homeowner take-up rates of insurance against natural hazards very high – perhaps one of the highest in the world. That is of direct benefit to homeowners and private insurers.

High rates of private insurance take-up also greatly reduce the likelihood that governments will intervene to provide assistance to uninsured homeowners in the event of a natural disaster, and allows the government to make decisions about how best to deploy resources in the event of recovery from a natural disaster.

Table 4 shows New Zealand's very high rates of disaster insurance, compared to other countries affected by destructive earthquakes since 1980.

**Table 4: Ten costliest earthquakes worldwide 1980 – 2014 (Ordered by percent of loss insured)<sup>3</sup>**

	Date	Event	Area	Losses, in Original Value		Percent of Losses Insured
				Overall Loss \$USm	Insured Loss \$USm	
1	13.6.2011	Earthquake	New Zealand	2,700	2,100	78%
2	4.9.2010	Earthquake	New Zealand	10,000	7,400	74%
3	22.2.2011	Earthquake	New Zealand	24,000	16,500	69%
4	17.1.1994	Earthquake	USA: CA, Northridge	44,000	15,300	35%
5	27.2.2010	Earthquake, tsunami	Chile	30,000	8,000	27%
6	11.3.2011	Earthquake, tsunami	Japan: Tohoku	210,000	40,000	19%
7	20/29.5.2012	Earthquake (series)	Italy	16,000	1,600	10%
8	26.12.2004	Earthquake, tsunami	Indonesia, Indian Ocean	10,000	1,000	10%
9	17.10.1989	Earthquake	USA: CA, Loma Prieta	10,000	960	10%
10	17.1.1995	Earthquake	Japan: Kobe	100,000	3,000	3%

### *The move from total replacement to sum insured policies*

Following the Canterbury earthquakes in 2011, most residential insurers in New Zealand moved home insurance policies from 'full replacement' to a capped 'sum insured' value.

The sum insured model provides some financial stability benefits as, prior to a natural disaster, insurers are able to more accurately predict their expected overall liabilities.

Sum-insured policies effectively transfer responsibility for assessing risk to homeowners. The evidence collected by Treasury in 2015 shows that many homeowners are not willing or able to

<sup>3</sup> Data sourced from Munich Re download centre for statistics on natural catastrophes at <http://www.munichre.com/>. Losses include commercial and residential losses. Published in the Treasury released Discussion Document on the Review of the EQC Act, July 2015

calculate an accurate rebuild cost for their home. This potentially leaves them exposed to underinsurance where the insurance policy would not pay out enough to rebuild a home fully after a natural disaster. This unexpected loss for individual policyholders could lead to pressure for government intervention if underinsurance occurred on a widespread basis after a major event.

Treasury's work in 2015 showed the difficulties in measuring underinsurance. Every house is different and there is no single right answer about how much it would cost to rebuild after a disaster. Treasury explored a range of measures and concluded that there appears to be a degree of underinsurance across New Zealand. Treasury estimated that 40 to 85 percent of homes could be underinsured by 10 to 50 percent.

That said, even after a major event, most houses are unlikely to suffer so much damage as to reach the limits of their cover, so the impact would be more limited than the figures suggest, though still serious for some individuals. In addition, depending on the nature of the event, it is unlikely that every underinsured property would be affected by a natural catastrophe. Treasury estimated that underinsurance shortfall varies between 0.3 and 7 percent of the total loss for a modelled 7.5 magnitude Wellington earthquake event, with its best estimate being about \$135 million. It should be noted that this situation potentially has implications for the banking sector (including banking and insurance supervision) if properties are not insured to the level of any outstanding mortgage or other loan obligations.

Treasury's discussions with insurers as part of the Review of the EQC Act have shown that insurers recognise the risk to their reputations from widespread customer underinsurance. Insurers have commented that they are continuing to work to encourage customers to assess their rebuild values carefully and there are developments in the valuation market which could provide tools which would make this easier.

### *Rebuilding the Natural Disaster Fund – EQC's risk financing strategy*

New Zealand has provided insurance against natural hazard perils, through the Earthquake Commission and its predecessor, the Earthquake and War Damage Commission, since 1945. The current EQC scheme has existed since 1993 and provides cover for insured residential property damaged by earthquakes, volcanic eruption, hydrothermal activity, landslip, tsunami or fire caused by natural disasters. EQC also provides defined land cover for damage arising from the hazards covered above as well as storm or flood.

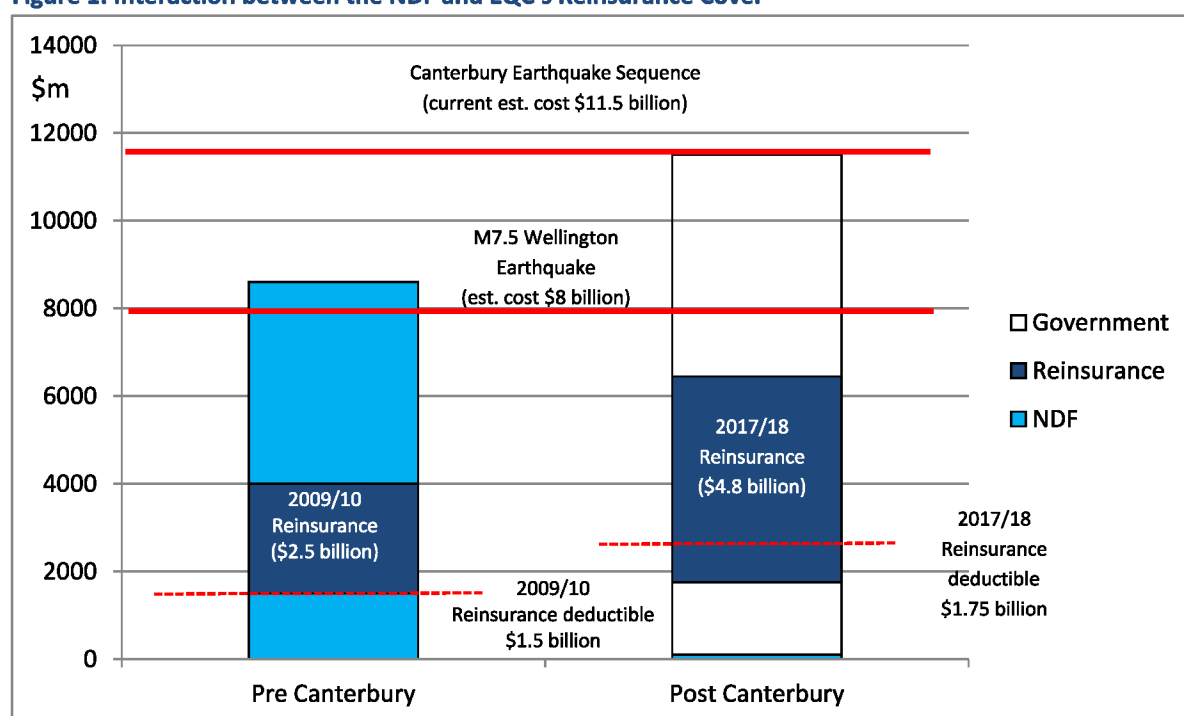
Homeowners currently pay a community-rated (i.e. single-rate) EQC premium as part of their private insurance cover up to statutory limits or "caps". This premium is collected by each homeowner's private insurer and then passed onto EQC.

EQC currently finances its risk through a savings vehicle, the Natural Disaster Fund (NDF), and a programme of reinsurance purchases. The liabilities of EQC are government-guaranteed by section 16 of the Earthquake Commission Act 1993 (the EQC Act). This clause provides assurance to customers that if EQC has a very large number of claims, for example, after a major natural disaster, and cannot cover its obligations from the capital available in the NDF or from its reinsurance, then the Government will pay the shortfall.

Immediately prior to the Canterbury earthquakes the NDF held \$NZ6.1 billion. The costs of the Canterbury earthquake series and the 2016 Kaikoura earthquakes are expected to fully exhaust the NDF and raise the possibility that EQC may need to call on the Government guarantee under section 16 of the EQC Act.

Figure 1 below provides an example of the interaction between the NDF and EQC's reinsurance both pre and post-Canterbury. In the figure below, the amount estimated for the "Wellington Earthquake", is an estimate of the maximum probable loss for EQC from a single major event in Wellington (under the current EQC scheme). The Canterbury figure is to provide a comparison. The Wellington scenario informs EQC's approach to assessing its risk and from this the amount of reinsurance it should seek to purchase.

**Figure 1: Interaction between the NDF and EQC's Reinsurance Cover**



Over the past year, the Board has overseen the development of a risk financing strategy for EQC. The cornerstone of the EQC risk financing strategy has been that the premiums charged to customers should match the expected liabilities of the scheme and the cost of administering the EQC scheme. This has not been the case in the past.

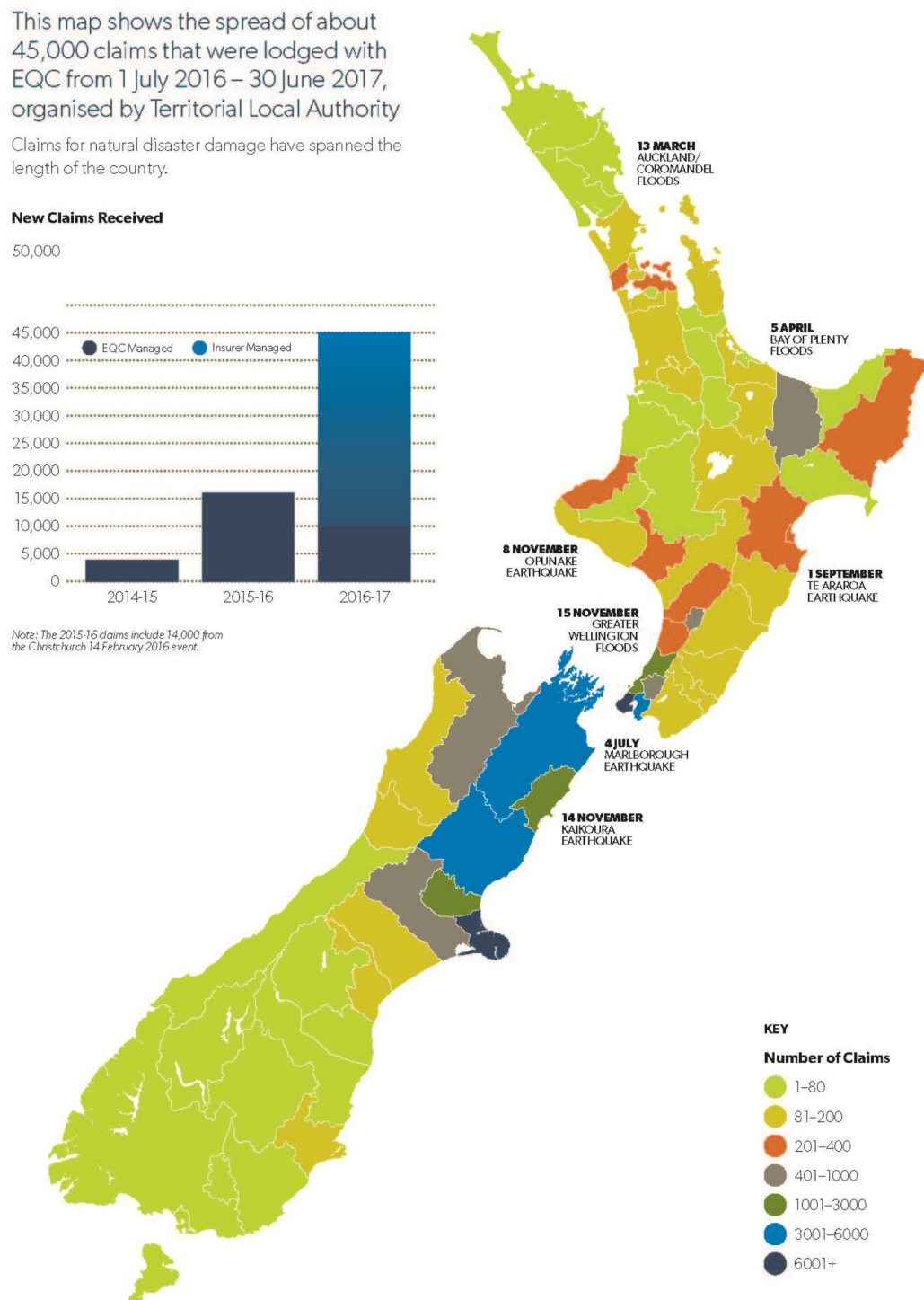
In May 2017, the Government announced that EQC premiums would increase from 15 cents (plus GST) to 20 cents (plus GST) per \$100 of cover with effect from 1 November 2017. The increase in the EQC premium will enable EQC to rebuild the NDF. At the current premium, it is expected to take more than three decades before the NDF reaches EQC's current reinsurance deductible of \$1.75 billion. In the absence of any significant natural disaster, the new premium will mean the NDF will reach EQC's reinsurance deductible within 10 years.



### EQC provides national coverage

While much focus in recent years has understandably been on EQC's response to the Canterbury and Kaikoura earthquakes, EQC also receives many claims each year from across the country in response to events such as floods, landslips and other natural disaster damage. Figure 2 below shows the number of claims received from across New Zealand during the 2016/17 financial year.

**Figure 2: EQC claims lodged during 2016/17**





### *Levy discount and insurer information*

Homeowners currently pay a single-rate EQC premium or levy as part of their private insurance cover up to statutory limits or “caps”. This premium is collected by each homeowner’s private insurer and then passed onto EQC. The EQC Act requires every insurance company to keep all records of the relevant contracts of fire insurance (Section 26, EQC Act) to support the calculation and payment of the levy. Since the original Earthquake and War Damage Act 1944 came into force, EQC has paid a commission to insurers (known as the ‘levy discount’), which has been used by insurers to cover administration and other costs.

EQC considers that improved information flows between EQC and insurers would be of benefit to both parties. For EQC, information on the number and types of policies (dwelling or contents), geographical location and further information on the dwelling type and construction would support a wide range of EQC functions including research, reinsurance and claims management. For insurers, the recent announcements on the Review of the EQC Act would require all EQC claims to be lodged with insurers under the new legislation.

9(2)(j)



### *Direct cover*

Section 22 of the EQC Act (Voluntary insurance against natural disaster damage) provides that EQC may offer cover directly to individuals for natural disaster damage up to the same EQC caps and coverage as individuals receive with a private insurance policy. In the context of the current Review of the EQC Act, Treasury has commented that it does not intend to substantively change the direct cover provisions.

EQC currently has a very small number of customers who receive direct EQC cover, and this coverage has generally been offered on an ad hoc basis. EQC has recently reviewed its policy on the provision of direct cover.

Although the EQC Act empowers EQC to make decisions around the provision of direct EQC cover, in the aftermath of a large scale natural disaster, EQC would need to consider the impact a range of operational decisions, including the widespread provision of direct EQC cover, would have on the insurance industry, EQC’s reinsurers and any broader government response to the event as a whole.

### *Reinsurance programme*

The efficient and effective management of the Crown’s EQC insurance liability is a core function for EQC, and with wider considerations of treatment options for Crown risk, could become an important determinant of New Zealand’s overall resilience to natural disasters.

EQC currently finances risk by investing premium income in New Zealand government stock, bonds and global equities to build a pool of assets (i.e. the NDF); and by purchasing reinsurance in the

international insurance market, in one of the largest reinsurance programmes for a single-entity in the world. This approach diversifies risk to New Zealand through accessing offshore capital. EQC's investments are governed by the EQC Act, the Crown Entities Act 2004, and Ministerial direction.

EQC's reinsurance programme has been critical in meeting the Canterbury earthquake insurance liabilities; during a period of global economic uncertainty, EQC has absorbed an estimated NZ\$11.5 billion liability. EQC is of the view that its expertise in the negotiation and setting of a substantial reinsurance programme could be used more broadly across the government sector to provide wider support for other asset classes on the Crown balance sheet.

EQC's reinsurance programme is negotiated annually. Premiums increased significantly in 2011 and 2012 following a range of global influences, including the impact of the global financial crisis and a series of large scale natural disasters elsewhere in the world. There was also a move away from three-year contracts – which helped smooth premiums year-to-year – to more volatile one-year contracts.

9(2)(j)

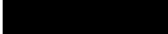


#### *Crown Guarantee*

Section 16 of the EQC Act provides a guarantee that all of the liabilities of EQC will be met by the New Zealand government in the event the assets held by the Natural Disaster Fund are not sufficient to meet them.

Following the November 2016 Kaikoura earthquake, modelling of the expected liabilities suggested that the Crown's guarantee under section 16 of the Act might be triggered for the first time since EQC was created in 1945. Since November 2016, EQC has been engaged with Treasury to develop an agreed set of processes that would allow for EQC to call on the Crown's guarantee in a timely and efficient manner. While a drawdown on the Crown guarantee seems unlikely in the short term (in the absence of another significant event), EQC and Treasury agree there is benefit in agreeing the trigger and mechanism for calling on the Crown guarantee ahead of it being required.

EQC is working with Treasury on the development of a funding deed between EQC and the Crown that would cover the operation of the Crown's section 16 guarantee. 9(2)(f)(iv) and 9(2)(j)



9(2)(f)(iv) and 9(2)(j)



9(2)(f)(iv)

### *Finalising the cost of the Canterbury Earthquakes*

Every six months since 2011, independent professional actuaries have produced an estimate of EQC's liabilities, as is normal practice when insurers cannot be certain of the final cost of claims from events which have occurred. When the first estimate of the liability post-February 22 was carried out, EQC had undertaken a large number of assessments, but due to ongoing aftershocks, few actual repairs had been finalised. Important court cases relating to the extent of EQC's insurance cover, including apportionment and what forms of land damage are covered by EQC, had not occurred. The final cost of the claims was therefore very uncertain, and therefore the actuaries' estimate of liabilities had prudent margins built in.

As claims have been settled, this has provided more certain information on the actual cost of claims to the independent actuaries. As the claims settlement process advances, the independent actuaries can more accurately estimate the final cost of claims using more actual data. Due to the margins in the first estimate, subsequent estimates of the expected total cost to EQC of settling all claims ("the ultimate liability") have tended to reduce.

For example, as a result of the greater certainty provided by the Declaratory Judgment on land in December 2014, actuaries were able to refine the estimated costs relating to land settlements. This is an example of the system working as expected: better data leading to better estimation of risk and ultimate costs.

To be clear: EQC's obligation is to make sure that customers receive their full entitlement, and that will always be the case. The actual claim settlement amounts drive changes in the liability estimate, not the other way around.

There is external oversight of liability estimates: the Auditor-General audits EQC's liability estimates and final accounts, and Treasury reviews and monitors EQC. The estimates of liability are prepared by independent actuaries with professional obligations. The estimates are also scrutinised by international reinsurers who inspect and audit EQC's processes and accounts.

Ultimately, the final cost of the Canterbury earthquakes will not be known until the final claim is settled and closed.

## **EQC is a leader for a risk aware New Zealand**

### *EQC's role in research and natural hazard risk management*

Natural hazard risk management in New Zealand involves a number of different central government portfolios<sup>4</sup>, local government, non-government organisations (e.g. research institutions), and the private sector (e.g. insurers, reinsurers, the science and engineering sectors). The large number of stakeholders involved means that effective, unified leadership and robust, constructive and enduring

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<sup>4</sup> Relevant portfolios include: Building and Construction, Civil Defence, Earthquake Commission, Environment, Finance, Health, Local Government, Research, Science and Innovation, and Transport.

relationships between the key stakeholders are essential for achieving recovery outcomes and effective natural hazard risk management more generally.

Much of the discussion and focus in the aftermath of Canterbury has been on risk transfer through insurance (e.g. future insurability, pricing of insurance, and the performance of insurance markets). However, the Victorian Managed Insurance Authority (VMIA) in Australia has suggested, for example, that only about 20 per cent of natural hazard risk can be transferred efficiently to risk capital markets (e.g. through insurance).<sup>5</sup> The remaining 80 per cent must be managed in other ways such as, for example, controlling and avoiding risk through rules on land use and building standards.

Many hazard risk management functions are devolved to local government through legislation such as the Resource Management Act 1991, the Building Act 2004, and the Civil Defence Emergency Management Act 2002. Decisions such as where and how to build, and investment in critical infrastructure, all determine the level of community resilience to natural hazards. In some cases, decisions are made years before an event occurs, and based on very limited data about the actual likelihood of an event occurring and its potential impact. In other cases, there is adequate data, but insufficient incentive or capability to mitigate natural disaster risk.

We believe EQC has an important role to play in natural hazard risk management, working alongside other core agencies to help strengthen community resilience to natural disaster risk. Our role includes:

- contributing expert advice on the options and trade-offs for natural hazard risk management, drawing on the full range of risk management tools (i.e. avoid, control, transfer, and accept)
- facilitating greater co-ordination in natural hazard risk management at the national, local and community levels
- working directly with key stakeholders, such as local government, to improve their capacity and capability in natural hazard risk management.

### **Research and Education**

Research and education informs risk management decisions taken by EQC. EQC's research programme, into which EQC invests around \$16m annually, aims to grow New Zealand's knowledge and capacity to monitor and manage those hazard risks.

In the three decades prior to the Canterbury earthquakes, EQC has been at the forefront of investment in understanding geological hazards, including seismic hazard in Christchurch. The application of knowledge from those studies significantly reduced the infrastructure losses in the Canterbury earthquakes for organisations which had chosen to invest in mitigation many years earlier.

### **EQC supports New Zealand's national monitoring system**

A belief in the importance of good data and shared information was behind EQC's decision in 2001 to enter a partnership with government research institute GNS Science to establish New Zealand's

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<sup>5</sup> [www.vmia.vic.gov.au](http://www.vmia.vic.gov.au)

geological hazards monitoring system GeoNet, with EQC as funder and GNS as technical manager. This public-to-public partnership has delivered dividends well beyond what was first envisaged. GeoNet uses a network of geophysical instruments across New Zealand to gather data and disseminate information about New Zealand earthquakes, volcanic activity, large landslides and the slow deformation that precedes large earthquakes. GeoNet's publicly available data enables high-quality research and provides coverage that allows research to make gains in applicability and confidence, as well as opportunities for the increased research collaboration required to effectively analyse such a large data resource. Further to Cabinet consideration of an indicative business case in August 2017, and the announcement of \$19.5 million funding over four years in Budget 2017, the Government announced on 4 September 2017 that Cabinet had approved plans to implement an upgraded 24/7 monitoring system that will significantly improve the quick and accurate detection and communication of geological hazards. EQC is working with MBIE, MCDEM, LINZ and GNS Science on a detailed business case to give effect to this decision.

#### **Development of the Canterbury Geotechnical Database**

After the earthquakes in Canterbury, EQC needed to understand the behaviour of soils to guide reconstruction and to find innovative and practical ways to reduce the risk of liquefaction. To do that, EQC and many others needed much better data than was currently available. Obtaining the data and sharing it in a way that others could use became an important factor in the recovery, leading to the development of the Canterbury Geotechnical Database as a repository for the extensive data collected. The database has provided a platform for geotechnical professionals to store, share and readily assess the data files of geotechnical investigations during the rebuild. It now contains over 45,000 records, or in the order of \$100 million worth of investigation information, and the data has on average been reused 30 times over. MBIE has taken over stewardship of the database in partnership with EQC and geographic constraints have been removed with data to be entered and accessed for anywhere in New Zealand.

#### **Ground improvement research**

In 2013, EQC embarked on a ground improvement research programme (GIP) to inform appropriate integrated solutions for building houses on land vulnerable to liquefaction. GIP identified, developed and trialled practical and affordable shallow ground improvement methods that could mitigate the potential for liquefaction and associated damage to houses built on land vulnerable to liquefaction. The GIP and subsequent changes to regulatory guidance have provided more affordable ground improvement options for building or rebuilding houses on residential land.

#### **Contributing expert advice**

EQC has traditionally contributed to the development of wider government policy and regulation associated with natural hazard risk management through the sponsorship of research and education and its application to codes and standards. The Canterbury and Kaikoura earthquakes confirmed the importance of EQC's investment in hazard risk assessment and mitigation over many years, and the extent to which these have delivered enormous value to New Zealand. For example, the EQC-

funded GeoNet provided early indications of the probable distribution of impacts, contributing to effective decision-making about engineering safety and damage assessments.<sup>6</sup>

In the future, there is an opportunity for EQC to further develop its role in providing expert advice on natural hazards and risk management to other government agencies by actively looking for opportunities to turn 'science into practice'. This involves ensuring that information and knowledge generated through EQC funded research and our operational response to natural disasters is used by other government and non-government agencies to inform the development of efficient and effective policies, regulations, standards, guidelines and practices relevant to managing natural hazard risk.

As well as the work we are already doing with other core agencies such as DPMC, the Ministry for the Environment (MfE), Treasury and the Ministry for Business, Innovation and Employment (MBIE) noted above, additional areas of government policy where EQC can usefully contribute include:

- regulation of the building, construction and engineering sectors;
- national risk assessment, Crown risk financing, and loss modelling capability;
- insurance market regulation;
- land use planning for mitigating hazard risk;
- the development of national science capability in natural disaster risk management;
- national and local natural hazard risk management; and
- sharing reinsurance expertise to support the wider Crown balance sheet.

A number of work programmes have been initiated across government to address some of the lessons learned across government from Canterbury. EQC is actively involved in many of these initiatives as part of our broader role in natural hazard risk management, including:

- work by MfE to consider what national level guidance (statutory or non-statutory) may be required to better manage the risks from natural hazards;
- a review of recovery legislation in the Civil Defence Emergency Management (CDEM) Act 2002 by the Ministry of Civil Defence and Emergency Management;
- work by MfE and MBIE to address situations where existing buildings are identified as being at risk as a result of a change in the risk profile of land due to a hazard event/s, such as an earthquake, or where new information about hazard risk becomes available;
- work on infrastructure resilience by the National Infrastructure Unit in Treasury;
- early scoping of possible national approaches to resilience by DPMC; and
- assisting as required with managing the risk across the wider Crown portfolio.

### *Disaster Risk Financing in the Pacific*

The role of insurance as an important tool in a government's disaster preparedness kit has been recognised by a wide range of international agencies. In 2015, the New Zealand Government played a central role in ensuring that the importance of insurance in disaster preparedness was given

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<sup>6</sup> GeoNet consists of a network of about 550 geophysical sensors throughout New Zealand. The introduction of GeoNetRapid means information on the magnitude, location and depth of quakes in New Zealand is available within about two minutes or so.

prominence in the United Nations Sendai Declaration. Leading global economists have also commented that a global system of disaster insurance could save many lives and livelihoods in the years ahead.

Pacific island nations are amongst the most vulnerable group of nations to the perils arising from natural hazards, and are also economically fragile. This was highlighted following the devastation wrought by Cyclone Pam in Vanuatu (March 2015) and Cyclone Winston in Fiji (February 2016). The damage arising from Cyclone Winston was estimated to have caused damage totalling the equivalent of more than 40 percent of Fiji's annual GDP.

In 2015, Treasury, the Ministry of Foreign Affairs and Trade (MFAT) and EQC undertook an initial feasibility study for a natural hazard insurance scheme for the Pacific. The results of this initial study were encouraging, suggesting that the development of further risk financing could make a significant difference in supporting Pacific countries to rebuild and recover from natural disasters. In addition, the development of mechanisms such as insurance provides strong incentives for governments to invest in mitigation and adaptation measures that increase resilience, limit potential future losses and reduce the cost of future insurance premiums through the pricing of premiums.

EQC continues to work with MFAT and Treasury in this area, and will provide you with additional briefing information at the appropriate time.

### *Perceptions of EQC*

EQC monitors the external perceptions of EQC, including those of the New Zealand public. Understanding the public perception is important as the public is more likely to trust and act on messages from organisations that they believe to be credible.

EQC's monitoring of its public perception shows that while there is reasonable awareness of the steps people can take to secure homes against possible damage from natural disasters, fewer than half of New Zealanders are taking action.

Key findings from EQC research are that:

- 86% of New Zealanders believe EQC has important messages that need to be communicated;
- 23% of New Zealanders use EQC as a source of natural disaster information;
- 63% of New Zealanders know EQC provides natural disaster insurance, for homes, land and contents;
- 47% of New Zealanders know insurance cover must be valid for EQC cover to apply;
- 39% of New Zealanders view EQC favourably, 35% are neutral on the topic; and
- 49% of New Zealanders have done nothing to prepare their home for a natural disaster.

### *Stakeholder Relations*

EQC's core stakeholder groups cover: Private Insurers; Local Authorities, government agencies and NGOs, and partners including universities and research institutions.

Private Insurers are both partners and suppliers. EQC regularly engages with insurers at a variety of levels in our respective organisations.



The member body is the Insurance Council of New Zealand (ICNZ) which speaks and acts on behalf of the insurers' collective. From time to time, EQC and ICNZ work together to educate customers, and this year will seek to collectively promote the value of insurance to the wider population, reinforcing the value of both EQC and insurer cover.

The 2017 Statement of Performance Expectation has an objective of EQC working with partners to extend the reach of our messages, particularly so that home owners can prepare their homes for a natural disaster. A key measure is working with all Territorial Local Authorities (TLAs) to optimise reach, and all TLAs will be visited this calendar year. This work is focused on the communications readiness and is intended to increase the reach of our preparedness messages as well as understanding of EQC's role and how EQC and a particular TLA can work together for the benefit of a community when affected by a natural disaster.

Local Government New Zealand (LGNZ) is governed by a National Council, made up of 15 elected members from throughout NZ. LGNZ represents the national interests of councils in NZ and leads best practice in the local government sector.

Since the 2010 and 2011 earthquakes, natural hazard risk and asset risk management has become more of a priority for local territorial authorities and a core focus for LGNZ as its governing agency. Local and central government have been working together to address these issues and to align more with agencies, such as EQC, to identify and manage risks and to strengthen resilience so communities can better prepare for natural disasters and recover more quickly.

From 2015, EQC has worked closely with LGNZ on a business case to establish a Local Government Risk Agency to improve risk management in the local government sector; the LGRA project is jointly funded by LGNZ and Treasury, with support from EQC. The 2010 and 2011 Canterbury earthquakes forced a deeper examination of local authorities' understanding and use of risk profiles, assessment practices, and mitigation techniques. The agency would pool and coordinate local government resources to lower the risk and cost of disasters, and would focus on closing information and capability gaps to bring local authorities up to a consistent and higher standard for risk management. The proposal is currently being considered by the Government.

### **Public Education**

EQC's public education includes a mix of promotion, partnerships and sponsorships. EQC's overall aim is to build trust and awareness and convert this to change behaviour, so that New Zealanders have lessened the impact of a natural disaster event on their property and therefore themselves and their families.

In 2016/17, EQC's paid promotion focused on raising awareness of the steps people can take to make their homes more resilient to natural disaster damage, using our Fix Fasten Don't Forget messaging.

Recently, considerable effort has gone into refocusing EQC's public education activities to deliver information that focuses on the needs of New Zealanders. Over three years, EQC will prioritise its targeting of messages to areas that are considered to be at higher risk of natural disaster, especially earthquakes and storms.



### ***Communicating in a Natural Disaster Event***

In a natural disaster event, EQC's role changes to one of information provision, explaining EQC's role and cover, and supporting customers to know what to expect as soon as is practical. The first 48 hours are key for EQC and EQC works to inform and reassure its customers, and its staff, about EQC's role and what they need to know. The importance of communication at this time is reflected in EQC's target to support New Zealanders in a natural disaster event by providing information to reach 90% of home owners in an event area, and to work with key stakeholders to do so.

### **EQC has an operating model that makes us easy to do business with**

#### ***Review of the EQC Act 1993***

In 2012, the Government announced that Treasury would lead a legislative review (the Review) of the Earthquake Commission Act 1993 (the EQC Act). The Review was designed to be a lessons-learned exercise, drawing on the experiences from not only the Canterbury earthquakes but also drawing on lessons over the time the EQC scheme has been in operation.

In 2015, Treasury released a discussion document with a series of reform proposals. The proposals aimed to resolve complexity and uncertainty around interactions between EQC land and building cover (highlighted by the Canterbury earthquake events), and proposed an approach more closely aligned with normal insurance practice. The proposals were expected to clarify and simplify EQC's cover and repair obligations, and lead to a significantly better experience for future EQC claimants. The proposals also looked to focus the EQC scheme on the efficient reinstatement of residential dwellings and the access to them.

In June 2017, the Government announced a number of decisions had been made on the Review. The decisions, which in large part focused on land and building cover, are aimed at simplifying the relationship between the EQC scheme and private insurance and help provide faster and smoother resolution of claims following a major event. The reforms are:

- Increasing the monetary cap from \$100,000 (plus GST) to \$150,000 (plus GST) for EQC building cover;
- Clarifying EQC land cover is for natural disaster damage that directly affects the insured residence or access to it;
- Standardising the claims excess on EQC building cover at \$1,000. This currently ranges from \$200 to \$1,150 depending on the size and type of the claim;
- EQC no longer providing any residential household contents insurance; and
- Requiring EQC claimants to lodge claims with their private insurer who would pass the claim on to EQC (if the property is insured).

Further policy work still needs to be undertaken, including further technical development of the agreed proposals as well as a number of second-order issues identified in the discussion document and in public submissions before a draft EQC reform bill could be finalised for introduction into Parliament.

A range of operational and technical improvements have already been identified through the EQC Act reform process that EQC considers would enhance the scheme. Further insights may also be

generated from the proposed inquiry into aspects of EQC's operations in Canterbury, including the interaction between EQC, insurers, claimants and the construction industry.

EQC supports the ongoing development of an EQC reform bill but recognises that this work may need to pause to take account of any insights or recommendations arising from the proposed inquiry.

Should an EQC reform bill proceed, insurers have sought 18 months' transition time to allow for systems, processes and products to be updated for changes to the new legislation.

### *Lessons learned from the Canterbury earthquakes*

The unprecedented nature and scale of the Canterbury earthquakes has meant that EQC has fundamentally changed as an organisation since September 2010, and has learned many lessons from its journey over the last few years.

There were a number of service delivery lessons for EQC that are being considered and incorporated into the organisation as it reshapes, and which should inform EQC's response to future events. The main lessons were:

- The importance of early, ongoing and effective communication, particularly with affected residents, but also with insurers, and the Government and its agents;
- The need to listen to feedback from the community and engage with them on problem solving and elements of service design/delivery;
- The importance of clear and simple claims processes, and streamlined internal processes, so as not to add additional stress to individuals and families coping with a difficult situation, and also to support more efficient processing of claims by private insurers; and
- Managing scaling up of the organisation in a controlled way so there are sufficient trained frontline staff to manage the volume of claims, and an appropriately sized corporate function to support them.

At a broader level, EQC's observations are that:

- **High insurance penetration rates protected New Zealand.** In the Canterbury context, New Zealand's high penetration rates of residential insurance cushioned the country from the fiscal impact and some of the trade-offs that would otherwise have to be made across other areas of Government spending or activity, particularly given the size of the losses (some 20% of national GDP) and their timing, closely following the global financial crisis. Through the EQC scheme and wider insurance market, New Zealand was able to meet around 80% of the costs from insurance (including reinsurance) remittances;
- **Cash settlement of claims is easier but not always best.** How insurers choose to settle their liabilities can have a direct impact on the recovery in terms of not only the built environment but also the psychosocial recovery of the community. Generally, insurers settle claims by way of payment, reinstatement or relocation, and the EQC Act provides for EQC to settle claims through any of those methods. While EQC had previously generally chosen to settle claims in cash, having tens of thousands of Canterbury homeowners, each with an EQC cheque and trying to find a builder would have been a recipe for repair cost inflation and variable quality of repairs. The search for contractors to carry out repairs, and managing a

contract once secured, would also have been a burden for many distressed Canterbury residents;

- **New Zealand's dual insurance system needs to be more efficient.** Areas identified for improvement include the sustainable pricing of EQC's cover and the clarity of its provisions as well as ways in which EQC and private insurers could more efficiently manage their shared insurance obligations for individual properties. Many stakeholders believe the way in which the dual insurance model operated in Canterbury created unnecessary cost, confusion and complexity;
- **Insurance has its limitations.** Insurance is not a substitute for risk management nor does it, on its own, reduce risk. Insurance generally gives you what you had, not necessarily what you may now want. In Canterbury, community expectations of "build back better" can and did conflict with customer entitlements under policy or statute; and
- **Financial literacy could help with a better understanding of insurance.** EQC sees value in continued investment in community education and financial literacy/risk literacy to ensure people understand their insurance policies and are in a position to make informed decisions about what they do and do not choose to cover, and do not find themselves unexpectedly underinsured in the event of a natural disaster. This is likely to be particularly important with the move towards 'sum insured' policies, particularly how people estimate the rebuild value of their building and replacement value of contents for insurance purposes.

### *Future organisational structure of EQC*

The Customer Centred Operating Model programme was established in April 2017 to determine how EQC should organise itself and operate in order to deliver on its Statement of Intent. EQC has the opportunity to plan for the future, and intends to have a strong focus on collaboration, automation, and customer experience.

The seismic events which began in Canterbury in 2010 have changed how New Zealanders view natural disaster events, New Zealand's insurance risk profile and EQC's role in the recovery process.

In the absence of a major event, EQC expects to deal with 5,000 to 8,000 claims per year. The Canterbury earthquakes in 2010 and 2011 generated more than 750,000 claims for EQC. This was on top of claims for landslips, flooding and earthquake damage, experienced in other parts of the country.

The claims resulting from the Canterbury earthquakes were unprecedented in number, and also brought an extraordinary amount of complexity. Numerous participants and new strategies were involved in resolving claims and implementing recovery plans.

As a result, EQC has a large amount of recent staff, customer and third party colleagues' experience to draw from, and a new appreciation of what damage a natural disaster event might bring. With the workload from Canterbury and Kaikoura earthquakes and other natural disaster events subsiding, the time is right to consider how EQC might work in the future through the development of a new 'customer centred operating model'.

By the end of 2017, a preferred operating model and high level design of what is required to support the model will be presented to the Board, with the intention of beginning the implementation of required changes in 2018.

## Glossary of terms

**Canterbury Home Repair Programme (CHRP):** is EQC's managed repair programme for Canterbury homes with damage between \$15,000 (+GST) and \$100,000 (+GST) per event. The programme is project managed by Fletcher EQR, on behalf of EQC

**Land Information New Zealand (LINZ):** When the Canterbury Earthquake Recovery Authority (CERA) was disestablished in April 2016, LINZ assumed ownership of, and responsibility for, the Residential Red Zone in Christchurch, including negotiating the settlement of remaining claims with EQC

**Managed repair:** residential buildings with earthquake damage from the Canterbury earthquake series, that are part of the Canterbury Home Repair Programme, will have the necessary repairs managed by Fletcher EQR (on behalf of EQC)

**Ministry of Business, Innovation and Employment (MBIE):** MBIE acts as the building and construction industry regulator, and carried out surveys on homes that were repaired as part of the Canterbury rebuild, including homes in the EQC Canterbury Home Repair Programme

**Natural (disaster) hazards:** these are earthquakes, landslips, tsunamis, volcanic eruptions, hydrothermal activity, and (in the case of residential land) flood and storm, and fires resulting from these events

**Remedial repairs:** also known as callback requests, remedial repairs are work carried out on properties in the Canterbury Home Repair Programme to rectify damage not included in the original scope of works (SOW) where it is later found that it should have been included; damage that was included in the original SOW but not repaired; damage from earthquakes subsequent to repairs being completed; failure of materials or a repair solution for a building; or the failure of workmanship to reach the standard required under the EQC Act. Remedial work is counted and monitored separately to claims that have already been recorded as resolved

## **Annex One: EQC's role, functions and operating environment**

### **The Earthquake Commission**

The New Zealand Earthquake Commission (EQC) administers New Zealand's main source of residential natural disaster cover and is a key contributor to the management of natural disaster risk. EQC is a Crown entity under the Crown Entities Act 2004.

EQC has its origins in the Earthquake and War Damage Commission (EWDC), which was established in the 1940s to provide New Zealanders with affordable insurance for damage caused by war and earthquakes. In 1993, EWDC became the Earthquake Commission under the Earthquake Commission Act 1993 (the Act) and insurance cover for war damage ceased. EWDC's assets were continued in existence as the Natural Disaster Fund (NDF) to meet future insurance liabilities.

### **Governance**

EQC is governed by a Board of Commissioners appointed by the Minister Responsible for the Earthquake Commission. A list of the current Commissioners is contained in Annex Five. The Board is responsible for exercising EQC's powers and performing its functions contained in the Act. EQC is monitored by the Treasury.

### **Functions**

EQC works across all elements of natural hazard risk management practice. These are often referred to as the 'four Rs' – Reduction (of risk), Readiness (for an event), Response (when an event occurs), and Recovery (post event). EQC's functions under Section 5 of the Act are:

- administering the insurance against natural disaster damage provided under the Act
- collecting premiums payable for the insurance
- administering the NDF to (as far as is reasonably practicable) protect its value, including investing money held in the fund
- obtaining reinsurance in respect of the whole or part of the insurance provided
- facilitating research and education relevant to reducing and preventing natural disaster damage, and the insurance provided under the Act
- any other functions conferred by the Act, or by the Minister, in accordance with the Crown Entities Act 2004.

As part of the Government's response to the 2010 and 2011 Canterbury earthquakes, EQC's functions have been expanded and/or delivered differently to the historic norms. In particular, instead of the usual cash payment approach to settling claims, EQC is operating a large-scale, managed repair programme known as the Canterbury Home Repair Programme (CHRP). EQC has also been involved in additional activities including:

- facilitating emergency repairs, including a temporary, Crown-funded, expansion of the emergency repair approach to include uninsured residential properties
- identifying, in the course of our rapid assessment work and other customer engagements, households with vulnerable occupants and/or those requiring temporary accommodation support
- implementing the Winter Heat Programme, and chimney replacement and insulation initiatives

- the collection of geophysical and technical data to support the settlement of EQC claims as well as broader recovery activities
- for a period of time, overseeing the design and supervision of additional land remediation activities for work separately funded by the Crown.

### EQC insurance

EQC provides natural disaster<sup>7</sup> insurance for damage to residential buildings, contents, and residential land (Annex Four provides a diagrammatic representation of EQC's residential building and land insurance cover). Cover under the EQC Act (EQCover<sup>8</sup>) is obtained automatically when a customer takes out a home or contents fire insurance policy. The premium paid to their insurance company includes the premium for EQCover. EQCover ceases if the fire insurance policy is cancelled or suspended or is otherwise not in force, or if EQC cancels the EQCover. It is estimated that approximately 90 per cent of New Zealanders are currently covered by EQCover.

The value of EQCover is limited by caps<sup>9</sup> and subject to the payment of an excess or excesses<sup>10</sup>, as specified in the Act and Regulation<sup>11</sup>. An individual's private insurance policy (which must be in place to trigger EQCover) will typically provide cover for damage above the EQC caps (except for land damage, which is generally not covered by private insurance). The cap and excess levels were set in 1993 and are being considered as part of the review of the Act.

EQC generally settles claims via cash payment. The main exception to this is the establishment of the Canterbury Home Repair Programme to manage repair to qualifying damaged residential properties in Canterbury.

### Funding

EQC is funded through compulsory premiums paid by all residential building and residential contents owners who buy private fire insurance<sup>12</sup>. EQC also receives revenue from investment income on the NDF. The value of the NDF as at 30 June 2017 was NZ\$0.83 billion, which is expected to be fully committed to the resolution of the Canterbury earthquake claims (and subsequent events). EQC's investments are governed by the Earthquake Commission Act 1993, the Crown Entities Act 2004, and Ministerial direction.

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<sup>7</sup> EQC insures against damage caused by specified perils, namely earthquake, natural landslip, volcanic eruption, hydrothermal activity, tsunami, storm or flood (for land damage only), or fire caused by any of these.

<sup>8</sup> EQCover is the name of EQC's earthquake and natural disaster insurance for dwellings, personal property, and land.

<sup>9</sup> Caps are currently set at generally \$100,000 (+ GST) for residential building and generally \$20,000 (+ GST) for contents. The cap for land is often (but not always) the value of the minimum allowable lot size under the relevant district plan. This amount of insurance is available for each event of natural disaster damage.

<sup>10</sup> The current excess for contents only claims is \$200 per claim. The current excess for a residential building only or residential building and contents claim is \$200 up to a claim value of \$20,000; and 1% of the total claim value for a claim above \$20,000. For land, the excess is \$500 per claim on claims up to the value of \$5,000 and 10% of the value of a claim above \$5,000, up to a maximum of \$5,000 excess per claim. Different calculations apply for residential buildings and land with more than one dwelling.

<sup>11</sup> The Earthquake Commission Regulations 1993.

<sup>12</sup> The current premium is set at 15 cents (plus GST) per every \$100 of insurance cover, up to a maximum of \$207 (including GST) per annum. This premium is increasing to 20 cents (plus GST) per every \$100 of insurance cover from 1 November 2017, up to a maximum of \$276 (including GST) per annum.

## Organisational structure

As at 30 June 2017, EQC had a staff level of around 600 with offices in Wellington, Christchurch and Hamilton. EQC's functions require expertise in customer services, claims handling (assessment and resolution), research, public education, risk funding, policy advice, and legal and corporate services. Fletcher EQR is contracted by EQC to project manage the Canterbury Home Repair Programme.

EQC's Executive Leadership Team is shown in Annex Six.

## Operating environment

### Natural disasters

New Zealand is relatively prone to the occurrence of natural hazards, including geological (e.g. earthquakes, volcanoes, and landslips) and meteorological (storms and floods following heavy rainfall) hazards. EQC's operating environment is therefore unpredictable. Natural disasters can occur at any time, in any location and with varying magnitude, duration and impact; and their occurrence cannot be predicted easily.

### Community resilience

The level of community knowledge of natural disaster risk and preparedness prior to an event is a key determinant of the likely damage and time taken to recover. It also significantly influences the potential magnitude and cost of any resulting EQC claims. Research indicates that for every dollar spent on hazard risk reduction, the cost savings from avoided losses and reduced disruption is approximately four to eleven dollars<sup>13</sup>. EQC helps build community resilience to the impact of natural disasters through research and education functions.

### Customer expectations

EQC's claimants have experienced loss from a natural disaster. The resulting impact on their lives, families, and communities can be immense. Settling claims quickly, with certainty and sensitivity is paramount. EQC understands that the Government and our customers have high expectations in this regard.

EQC's customers also include all holders of private residential building and contents insurance who pay EQC premiums. They expect EQC to manage the premiums appropriately so they can benefit from EQC natural disaster insurance if they need it in the future.

### Relationships with stakeholders

EQC works with a range of stakeholders<sup>14</sup> in natural hazard risk management. Two key stakeholders are private insurers and reinsurers. As EQC does not generally sell policies directly, EQC relies on private insurers for information about our mutual customers, their policies and for the collection of EQC premiums. As the first loss insurer, EQC must work closely with private insurers to resolve claims that exceed EQC caps.

Building strong long-term relationships with global reinsurers and risk capital markets is critical to EQC's current approach to managing the financial risk to the Crown associated with providing

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<sup>13</sup> "Building our Nation's Resilience to Natural Disasters", Deloitte Access Economics, June 2013.

<sup>14</sup> EQC's stakeholders in natural hazard management include private insurers, central and local government, technical experts, community groups, research institutions and international reinsurers.



disaster insurance. Reinsurers must be confident that New Zealand is competently and effectively managing natural disaster risk and the cost of insurance claims if EQC is to secure access to adequate reinsurance at a reasonable/competitive price, and without certain perils, assets or geographic areas being excluded.

### **Insurance industry**

Changes in insurance and financial markets that affect the incentives for individuals to take out or renew private insurance will have implications for EQC. These range from relatively minor operational implications, to fairly significant impacts on EQC's primary source of revenue (premiums) and the overall effectiveness of the EQC natural disaster insurance scheme. For example, the pricing of risk, types and levels of coverage provided (e.g. moving away from 'total replacement' to 'sum insured' policies) and excess levels, may affect the level of private uptake of insurance. This can have flow-on effects for EQC's revenue and level of coverage. In turn, this can have a bearing on the level of financial risk from future natural disasters the Crown will face either through the EQC scheme or through *ad hoc* responses in the immediate aftermath of any large scale natural disaster event.

### **Global insurance and capital markets**

EQC obtains reinsurance and invests in international insurance and capital markets. Events such as the Global Financial Crisis and major offshore natural disasters can affect EQC's return on investments and the cost of and ability to obtain reinsurance or risk capital.



## **Annex Two: Legislation relevant to EQC**

In addition to the EQC Act 1993 and the Crown Entities Act 2004, the following legislation is relevant to EQC:

### ***State Sector Act 1988***

Under the State Sector Act, the State Services Commissioner's mandate includes the following (which are relevant to EQC, as a Crown Agent):

- review the State sector system in order to advise on possible improvements to agency, sector and system-wide performance;
- review governance and structures across all areas of government in order to advise on:
  - the allocation and transfer of functions and powers;
  - the cohesive delivery of services; and
  - the establishment, amalgamation and disestablishment of agencies;
- promote leadership capability in agencies; and
- promote strategies and practices concerning government workforce capacity and capability.

The State Services Commissioner may draft a government workforce policy for the purpose of fostering a consistent, efficient and effective approach to such matters across the State sector. The Minister of State Services may approve a policy as a Government Workforce Policy Statement (GWPS) that may apply to any or all Crown agents. As a Crown agent, EQC must give effect to a GWPS in order to:

- promote transparent accountability in the State services;
- promote and reinforce standards of integrity and conduct in the State services; and
- set minimum standards of integrity and conduct. The State Services Commissioner has issued a code of conduct that applies to the staff of Crown entities.

### ***Public Finance Act 1989***

The Crown Entities Act specifies most of the provisions relating to a Crown entity's financial powers, accountability and reporting obligations.

However, the following sections of the Public Finance Act apply to Crown entities (and are relevant to EQC):

- sections 19, 26Z, 29A provide for the Secretary of the Treasury to request information necessary to prepare government statements and reporting;
- section 49 provides that the Crown is not liable to contribute towards payments of debts and liabilities of Crown entities;
- section 74 provides that money that has remained unclaimed in an entity's account for six years shall be paid to the Treasury;
- section 80A allows for the Minister of Finance to issue instructions, and Crown entities are required to comply with those instructions. The instructions must be consistent with generally accepted accounting principles; and
- section 81 provides for the Governor-General to make regulations for a variety of purposes.

### *Other legislation*

Other legislation that is important to the day to day running of EQC includes the following.

#### *Official Information Act 1982*

The Official Information Act 1982 applies to EQC.

#### *Privacy Act 1993*

The principles contained in the Privacy Act include:

- how an organisation collects and stores personal information and what procedures are required to protect the security of that information;
- how long an organisation can keep personal information; and
- what personal information can be used for, and when it can be disclosed.

EQC's policies to ensure compliance with the Privacy Act are contained in its Privacy Policy.

#### *Health and Safety Act 2015*

The object of this Act is to promote the prevention of harm to all persons at work and other persons in, or in the vicinity of, a place of work by—

- a. promoting excellence in health and safety management, in particular through promoting the systematic management of health and safety;
- b. defining hazards and harm in a comprehensive way so that all hazards and harm are covered, including harm caused by work-related stress and hazardous behaviour caused by certain temporary conditions;
- c. imposing various duties on persons who are responsible for work and those who do the work;
- d. setting requirements that—
  - i. relate to taking all practicable steps to ensure health and safety; and
  - ii. are flexible to cover different circumstances;
- e. recognising that volunteers doing work activities for other persons should have their health and safety protected because their well-being and work are as important as the well-being and work of employees;
- f. recognising that successful management of health and safety issues is best achieved through good faith co-operation in the place of work and, in particular, through the input of the persons doing the work;
- g. providing a range of enforcement methods, including various notices and prosecution, so as to enable an appropriate response to a failure to comply with the Act depending on its nature and gravity; and
- h. prohibiting persons from being indemnified or from indemnifying others against the cost of fines and infringement fees for failing to comply with the Act.

#### *Protected Disclosures Act 2000*

The Protected Disclosures Act 2000 (as amended in 2009) provides for the reporting of wrong-doing in workplaces (sometimes called 'whistle-blowing') to an appropriate authority, such as an Ombudsman. EQC must have a protected disclosures policy.

Under this Act, current or former employees of an entity, contractors and board members can make a disclosure that will be 'protected' if the information they are disclosing is about serious

wrongdoing in or by the organisation, and they reasonably believe that the information is true or likely to be true.

#### Public Records Act 2005

EQC's records (including those relating to Board matters) are "public records" in terms of the Public Records Act. EQC's obligations under this Act are:

- to create and maintain records;
- to dispose of public records only as authorised by the Chief Archivist or otherwise by law;
- to transfer archival records to Archives New Zealand; and
- to classify the access status of all records.

## **Annex Three: Key legal decisions and cases**

The commentary below outlines the key legal cases and decisions that EQC has either sought or been a party to since the Canterbury Earthquakes.

### ***Re Earthquake Commission (HC) 2 September 2011 – Declaratory judgment on reinstatement of cover (apportionment)***

- EQC cover resets after each natural disaster event, so long as the property remains insured. This means that EQC needs to determine what portion of the damage to a property was caused by each natural disaster event.

### ***Morley v EQC (HC) 18 February 2013 – Declaratory judgment on boarding houses***

- A boarding house will generally be a residential dwelling for the purposes of the EQC Act.
- Cover will be available under the EQC Act to the owners of these boarding houses.

### ***EQC v ICNZ (HC) 10 December 2014 – Declaratory judgment on IFV and ILV damage***

- Increased Flooding Vulnerability (IFV) and Increased Liquefaction Vulnerability (ILV) constitute natural disaster damages under the EQC Act. EQC's IFV policy is consistent with its statutory obligations. Settlement for ILV or IFV damage can be based on Diminution of Value (DOV).
- Claimants may challenge EQC decisions by judicial review or ordinary proceedings.

### ***Kraal v EQC (CA) 13 February 2015 – Determination that physical loss does not extend to a loss of a right to occupy***

- Loss of the right to occupy does not equate to physical loss or damage to the residential property.
- Loss of the right to occupy will therefore not constitute natural disaster damage under the EQC Act.

### ***EQC v Whiting (CA) 4 May 2015 – Awarding of costs by EQC on discontinuance***

- If EQC pays a claim following the commencement of proceedings, and the plaintiff discontinues the proceedings, the Court may - at its discretion - award costs to the plaintiff.
- Where costs are awarded to the plaintiff, EQC will be liable to pay half of the plaintiff's costs up to the point that EQC paid out on the claim.

### ***C & S Kelly Properties Ltd v EQC & Southern Response (10 July 2017) – High Court endorses EQC's floor releveling strategy***

- EQC's floor releveling strategy sufficiently restored "the functionality, aesthetic quality, and amenity value in the house".

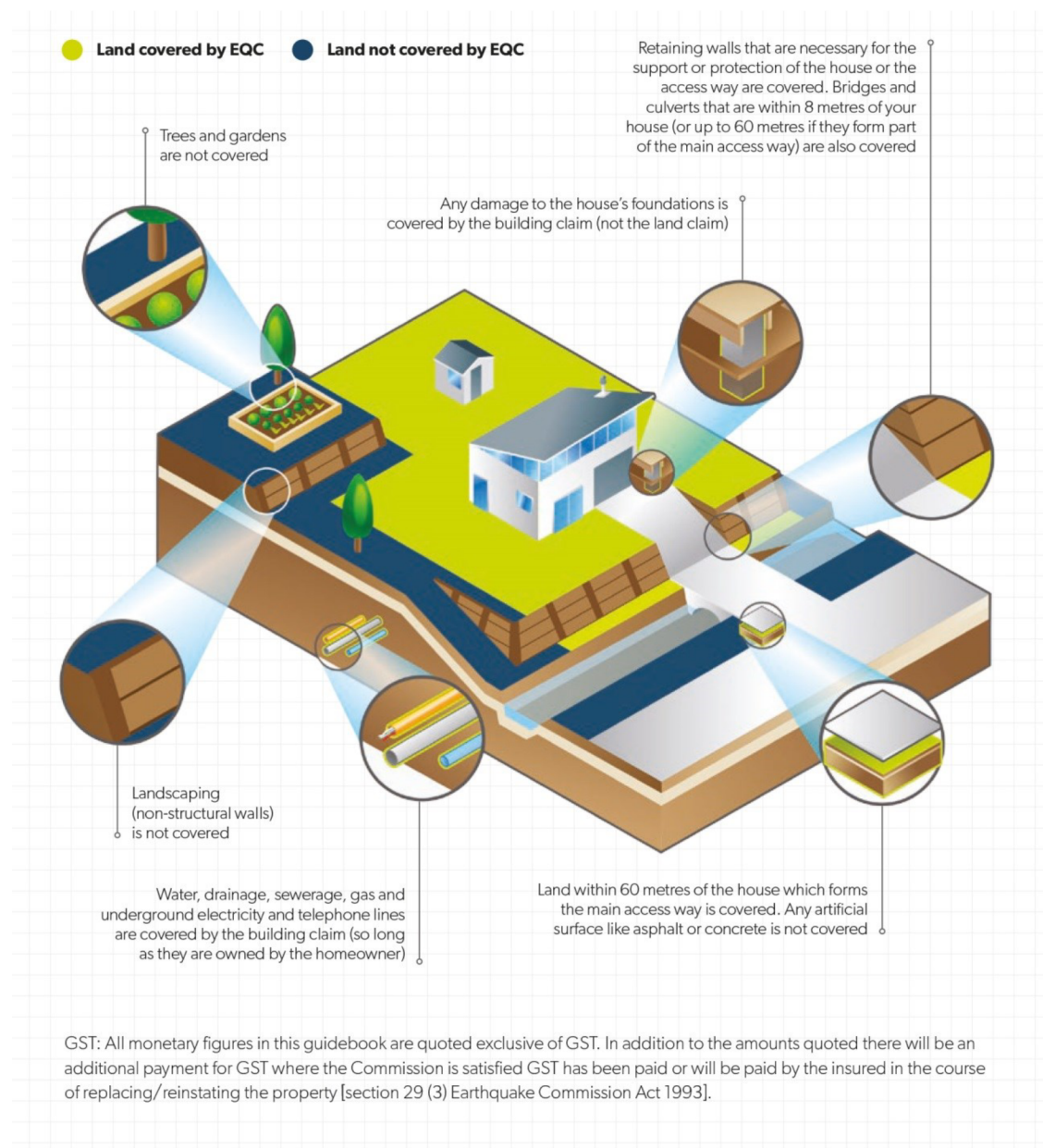
### ***Sadat v EQC (HC) 6 July 2017 – Reaffirmation of EQC's approach to assessing and determining earthquake damage***

- EQC is only liable for physical loss or damage to a home that is the direct result of a natural disaster, and such damage must be more than minimal (de minimis).

***He v EQC & OMPL (HC) 4 September 2017*** – High Court reaffirms EQC’s approach to assessing and determining earthquake damage

- In order for there to be “damage” that is covered by the EQC Act, there needs to be a material physical change to the building element and impairment to its value and/or usefulness.

## Annex Four: Illustration of EQC Insurance Cover



## Annex Five: Earthquake Commission Board members

The Earthquake Commission Act 1993 requires the Commission to have a board of between five and nine members, including a chairperson. Board members are appointed by the Minister Responsible for the Earthquake Commission. The Board members and their term expiry dates are outlined below.



### **Sir Maarten Wevers – Chair and Commissioner**

Sir Maarten Wevers served as Chief Executive of the Department of the Prime Minister and Cabinet from 2004 until 2012. He was formerly Ambassador to Japan and High Commissioner to Papua New Guinea. Sir Maarten is a member of the Audit Committee of the Ministry of Social Development, a trustee of the Fred Hollows Foundation, the National Army Museum and the Victoria University Foundation, a member of the Ministry of Primary Industries Investment Advisory Panel for the Primary Growth Partnership, and the Registrar of Pecuniary and other Specified Interests of Members of Parliament.

Term ends: 31 May 2019



### **Mary Jane Daly – Deputy Chair and Commissioner**

Mary-Jane was appointed to the EQC Board in March 2014. She was formerly Executive General Manager at State Insurance. Prior to this she was Chief Financial Officer for IAG New Zealand, having joined the company in October 2006. Mary-Jane is Chair of the New Zealand Green Building Council, Deputy Chair of Airways Corporation of New Zealand, a Director of Cigna Life Insurance New Zealand Limited, Auckland Transport and Kiwi Property Group Limited.

Term ends: 29 February 2020



### **Dr Alison O'Connell – Commissioner**

Dr Alison O'Connell is an actuary and research consultant. She is a Fellow of the New Zealand Society of Actuaries and the Institute of Actuaries in the UK and has held senior positions at Swiss Re, Mercer, and McKinsey & Co. She was founding Director of the Pensions Policy Institute in London. Alison lives in Christchurch and was an advisor at the Canterbury Earthquake Recovery Authority. She is also a Director at the Education Benevolent Society and the Government Superannuation Fund Authority.

Term ends: 30 June 2018





**Roger Bell – Commissioner**

As past Chief Executive of Vero Insurance, Roger has a passion for organisational excellence. He is a past Director, and long-term Chairman, of the New Zealand Business Excellence Foundation, a not-for-profit body that assists New Zealand organisations to achieve world class levels of performance as measured by the demanding global Baldrige Criteria. Vero Insurance achieved the highest award of 'Gold-World Class' under his leadership. He is a Fellow (by examination) of the Australia & New Zealand Institute of Insurance & Finance and has completed the Executive Program at the University of Michigan Business School. Roger is also a strong advocate for animal welfare as a Director, and Vice Chairman, of SPCA Auckland.

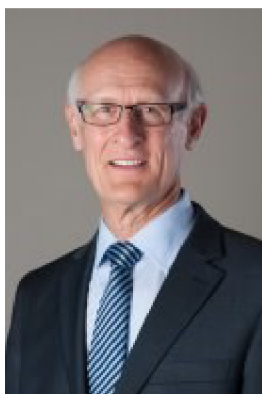
Term ends: 30 June 2018



**Paul Kiesanowski – Commissioner**

Paul is a former partner of KPMG. He brings strong financial management skills, risk management and assurance over a career working with a large number of clients and is currently Acting CFO for City Care Limited. He is also Chairman of the Red Bus Company Limited, a Director of New Zealand Red Cross and Apex Environmental Limited, and a Trustee of the Red Cross Foundation.

Term ends: 29 February 2020



**Gordon Smith – Commissioner**

Gordon Smith is a former Chief Executive Officer of Farmers' Mutual Group and has considerable experience in banking, finance and insurance. He is currently Managing Director of Bureau Specialised Insurance Agency Limited. He is Chair of Vo2 Hawkes Bay Limited, Vo2 Manawatu Limited, Manfield Park Trust, RFL Limited, MALO Limited and Porters Boutique Hotel. He is also Advisory Board Chair of Cole Murray Group Limited in Hastings.

Term ends: Term ended on 30 June 2017, has been extended until reappointed or replaced (action required late 2017)



**Tim Hurdle – Commissioner**

Tim Hurdle is the General Manager Strategy at Downer New Zealand Limited. He worked as Senior Ministerial Adviser to the Minister for Canterbury Earthquake Recovery from 2010 – 2013. Tim has previously worked for IAG New Zealand on insurance public policy issues and regulatory reforms. He is currently, the Chair of the Partnership Board of Wellington ICT Graduate School and is a previous Chair of the Regulatory Committee of the Insurance Council of New Zealand.

Term ends: 30 June 2019

## Annex Six: Earthquake Commission Executive Leadership Team



### **Sid Miller, Chief Executive**

Our Chief Executive works with our Board and managers to provide strategic direction to the business. He reports to Ministers and the public on EQC's work.

Sid was most recently Chief Customer Officer at ACC. He was also previously General Manager Claims Management for two years and headed the People, Communications and Change Teams when he joined ACC in 2012.

Sid joined AXA in 2008 as General Manager People, Projects and Information Systems and then led the integration of AXA and AMP when the two organisations merged in 2011.

He has also worked for Alcatel-Lucent (a telecommunication company) and Air New Zealand.

Sid began his career in the Royal Air Force where he worked in various roles, including as Operations Manager for the Red Arrows Display Team, achieving the rank of Wing Commander.

He is a Chartered Mechanical Engineer. He then joined the UK's NHS leading and delivering commercial programmes before coming to New Zealand.

Sid has a BSC (Hons) from Coventry University and an MBA from Lancaster University. He was awarded an OBE in 2003 for his contribution to defence.



### **Bryan Dunne, General Manager Strategy & Policy**

Bryan's team works with our Board and Executive Leadership team to provide advice and challenge related to the current activities and future direction of EQC.

Prior to joining EQC in 2011, Bryan worked for the New Zealand Treasury, where he focused on state sector management and performance.

He was a member of the Treasury's Strategy Unit, worked for the Commercial Operations unit, and was a senior advisor in the Office of the Chief Executive.

From 2007 - 2010 he was seconded, initially, to the Office of the Leader of the Opposition, and then as an economic advisor to the Deputy Prime Minister and Minister of Finance. In 2010 he was seconded from the Treasury to KPMG New Zealand.

Bryan holds a B.Sc, BA with Honours and MA with Distinction, from the University of Otago. In 2012 Bryan was awarded a New Zealand Leadership Development Centre fellowship and completed studies at the Wharton School, University of Pennsylvania and the London School of Economics.



**Gillian Dudgeon, General Manager Internal Partners**

Internal Partners encompasses the Finance, Legal, Procurement, Facilities, Risk & Assurance and Information Technology portfolios.

Gillian joined EQC in February 2014 as the Chief Risk Officer before moving into her current role in 2015.

She formerly held a number of senior leadership roles in Banking and Finance with ANZ and National Bank having led teams across customer facing, product management, operational, governance and risk management areas.

Gillian holds a BSc (Hons) from Victoria University.



**Hugh Cowan, General Manager Reinsurance, Research and Education**

The Reinsurance, Research and Education team facilitates the placement of EQC's reinsurance programme with global reinsurers. The team also guides EQC's investment in research and education about natural hazards, and its application to improved monitoring, assessment and risk reduction.

Dr Hugh Cowan leads EQC's research function and since 2005, has overseen the EQC reinsurance programme.

His contributions to the Canterbury Recovery Programme have included the facilitation of engineering advice to Government for guidance on repairs to housing and the appointment of a project management office to coordinate repairs to more than 68,000 homes.

Hugh is a Fellow of the NZ Society for Earthquake Engineering and has led post-earthquake investigation missions to Colombia in 1999, Thailand in 2005 and Chile in 2010.

Hugh holds an MSc (First Class Hons) in Engineering Geology and a PhD from the University of Canterbury.



**Suzanne Carter, General Manager Communications & Public Education**

The CPE team helps ensure our staff, stakeholders and customers have information about EQC's role and our ongoing work in a natural disaster even. It also works to grow awareness and to support people to take action to prepare their homes and reduce the impacts when a natural disaster occurs. EQC works with a variety of partners, including government, local government, NGO and community support groups, and use digital and traditional channels, sponsorship and events to inform and engage those groups we are working with across New Zealand.

Suzanne joined EQC in 2015. She formerly led Public Affairs for Tourism New Zealand and previously headed Group Communications and Corporate Responsibility for the New Zealand Post Group.

She has worked for AMP Financial Services in New Zealand and Australia and has been self-employed and provided marketing and communications services to commercial, government and not-for profit organisations.

Suzanne is a former Board member of Relationships Aotearoa and was a Director of Transparency International New Zealand from 2013 to 2015. She holds an MBA from Victoria University and is a Chartered Member of the Institute of Directors.



**Trish Keith, General Manager Customer and Claims**

Customer and Claims is EQC's largest team and is responsible for the efficient management and settlement of claims. It is the role of Customer and Claims to assess the damage to homes and land, to determine the extent of damage and the cost of repairing the damage.

This group oversees all levels of customer interaction either through the call centre, meetings and/or email and also the entire claims process from the lodgement through to processing. The Canterbury Home Repair Programme (now In-House Repair Programme) also sits in this group.

A Cantabrian, Trish joined EQC in 2016 from Spark where, as Spark's General Manager Customer Experience, she led the Spark Earthquake Recovery team.