



COVERSHEET

Minister	Hon Carmel Sepuloni	Portfolio	ACC
Title of Cabinet paper	Proposals for the 2021 Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill	Date to be published	27 September 2021

List of documents that have been proactively released		
Date	Title	Author
4 August 2021	Proposals for the 2021 Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill	Office of the Minister for ACC
30 July 2021	Regulatory Impact Statement: Extending the Accident Compensation Scheme Cover to Obstetric Injuries	Ministry of Business, Innovation and Employment
20 August 2021	Cabinet Minute of Decision, Proposals for the 2021 Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill [CAB-21-MIN-0341.01 refers]	Cabinet Office

Information redacted

YES/NO

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reasons confidential advice to Government.

In Confidence

Office of the Minister for ACC

Chair, Cabinet Social Wellbeing Committee

Proposals for the 2021 Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill

Proposal

- 1 This paper seeks Cabinet agreement to amend the Accident Compensation Act 2001 (the AC Act) to:
 - 1.1 reverse some of the changes made by the previous National Government in 2010
 - 1.2 increase the equity of injuries covered by the Accident Compensation Scheme (the Scheme) by extending cover to some obstetric maternal birth injuries, and
 - 1.3 make straightforward technical changes to clarify the AC Act.

Relation to Government Priorities

- 2 A number of the proposals deliver on the our 2020 Election Manifesto commitment to address 'the changes National made when last in office, which unfairly disadvantaged tens of thousands of New Zealand workers'.
- 3 The proposed extension of cover to a list of maternal childbirth injuries also meets another Manifesto commitment: to return ACC to its original purpose of assisting all New Zealanders who have had an injury.

Executive Summary

- 4 In 2010, the previous National Government made changes to the AC Act to try to lower Scheme costs by restricting access to cover and entitlements.
- 5 We committed to addressing these changes as part of our 2020 Manifesto. Four of my proposals will begin delivering on these commitments, as low-cost, straightforward changes to the AC Act. These four proposals have negligible financial impact on both the Crown and levy payers.
- 6 Data I have obtained from ACC shows that women make less claims than men, are more likely to have their claims declined and are paid less than men by ACC. This reflects inherent gender disparities in the Scheme that are the result of (among other things) its focus on accident-related physical injuries, which are more common among men and in male-dominated types of work.
- 7 As a first step towards a gender rebalancing of the Scheme, I am proposing to extend cover to some maternal childbirth injuries, as they share similar features to other physical injuries covered as accidents under the AC Act.

- 8 However, under current settings, cover for maternal childbirth injuries are only available where an injury is caused by medical treatment provided to the birthing parent. This change is estimated to have a small financial impact on the Crown and levy payers.
- 9 The proposal to extend cover to a list of maternal childbirth injuries also addresses a separate Manifesto commitment to return ACC to its original purpose of assisting all New Zealanders who have had an injury.
- 10 I am also proposing to address an anomaly in how the End of Life Choice Act 2019 (EOLC Act) interacts with a disentitlement provision in the AC Act. This change will clarify that dependants of claimants with a covered terminal condition who have chosen an assisted death can access entitlements under the AC Act. This has negligible financial impact on the Crown and levy payers.
- 11 The remaining policy and technical items will deliver on additional objectives for the Scheme, including making Scheme coverage more equitable, providing greater clarity to claimants and better giving effect to the policy intent of the AC Act.

Background

- 12 In January 2021, I submitted a legislative bid to include an Accident Compensation Amendment Bill (the Amendment Bill) on the 2021 legislative programme, with a priority four rating (to be referred to a select committee in 2021). I proposed that the Amendment Bill contain 11 amendments, made up of four policy changes and seven technical changes.
- 13 Cabinet has already approved four of these technical changes (DEV-19-MIN-0190 refers), which are set out in paragraph 46.
- 14 I am now including two additional proposals, making 13 in total, of which six are policy (including the four in the legislative bid) and seven are technical proposals. The six policy proposals are:
- 14.1 extend cover to a specified list of maternal childbirth injuries caused to birthing parents during labour and delivery
 - 14.2 clarify the section 30 test for work-related gradual process, disease or infection cover, and restore the more claimant-friendly test that was in place before 2010
 - 14.3 require that occupational assessors 'must' (rather than 'may') consider pre-incapacity earnings when undertaking occupational assessments
 - 14.4 reduce the threshold for injury-related hearing loss cover from 6% hearing loss to 5% hearing loss
 - 14.5 increase the size of the ACC Board from no more than eight members to no more than nine, and
 - 14.6 provide legislative certainty for dependants of claimants who have chosen assisted death under the EOLC Act.

- 15 I will continue to progress work to deliver on our other Manifesto commitments over the course of this term of government.

I seek Cabinet agreement to include cover for maternal childbirth injuries in the AC Act

- 16 Women make fewer claims than men, have fewer injuries covered by the Scheme than men (48% compared to 52% of accepted claims respectively), and each woman's claim costs the Scheme a third less than a man's on average in entitlements.
- 17 As a first step towards a gender rebalancing of access to the Scheme, I am proposing to amend the AC Act to include a list of maternal childbirth injuries in the definition of accident, as childbirth injuries have many similar features (including tearing and bruising) to injuries already covered as accidents.
- 18 The defined list of maternal childbirth injuries has been developed with ACC and medical experts to focus on acute maternal childbirth injuries suffered by a birthing parent, caused by mechanical trauma during labour and delivery. These injuries include:
- 18.1 Levator avulsion
 - 18.2 Uterine prolapse
 - 18.3 Obstetric fistula (includes vesico-vaginal, colo-vaginal and uretero-vaginal)
 - 18.4 Labial, vaginal, vulval, clitoral, cervical, rectal and perineal tears
 - 18.5 Ruptured uterus during labour
 - 18.6 Obstetric haematoma of pelvis
 - 18.7 Pudendal neuropathy
- 19 The AC Act currently excludes these injuries because they do not meet the definition of *accident* in the AC Act.¹ Unlike other injuries, maternal childbirth injuries are not considered to be caused by "the application of a force (including gravity), or resistance, **external to the human body**". This is because, until a foetus is born, it is legally considered to be internal to the human body.
- 20 This extension of cover will result in an estimated 17,000 – 18,000 more women receiving cover for maternal birth injuries per year. Scheme cover will improve the support available to birthing parents suffering childbirth injuries, in particular more timely access to surgeries and to pelvic physiotherapy. For those few severe cases where individuals are incapacitated for the longer term, the additional benefits of the Scheme include access to non-means-tested weekly compensation, home help, and rehabilitation.

¹ The definition of accident in the AC Act includes, relevantly, the application of a force external to the body, sudden movement of the body to avoid an external force and a twisting movement of the body.

- 21 This proposed change will require funding of at least \$25 million per year, including Crown appropriations and levy-funding. Just over half of the cost is estimated to support earners and just under half will support non-earners. The financial implications of this proposal are detailed on page 8 and 9.

I seek Cabinet agreement to clarify the Section 30 test for work-related gradual process, disease, or infection cover

- 22 ACC provides cover for work-related gradual process, disease or infection. These are personal injuries caused by exposure to a work task or environment. There are two pathways to cover for gradual process injuries; either under a list of specific occupational diseases in Schedule 2 of the AC Act, or through the three-step test in section 30. To receive cover under the three-step test, a claimant must have performed a work task, or been employed in a work environment, that caused or contributed to their injury.
- 23 The three-step test was changed in 2010 with the aim of reducing the number of claims. The main feature of the 2010 change was to require ACC to establish that **there is** a significantly greater risk of sustaining an injury in a claimant's employment (on the balance of probabilities) in order to accept a claim. Previously, ACC needed to establish that there **was not** a significantly greater risk (on a balance of probabilities) in order to decline a claim.
- 24 Regardless of which version of the test applies, ACC is required under section 57(2) of the AC Act to investigate gradual process claims to the extent reasonably necessary. This means that the 2010 change did not affect the obligation on ACC to investigate a claim, and did not require claimants to undertake this investigation.
- 25 The opaque nature of the change, however, saw concerns being raised amongst stakeholder groups, including the New Zealand Professional Firefighters Union and Sawmill Workers Against Poisons, that it was difficult to obtain cover given the evidential requirements and burden of proof.
- 26 There is no evidence that the changes to the test in 2010 have disadvantaged claimants in general, or these occupations specifically. Stakeholder concerns do highlight that the legislation lacks clarity and transparency on how ACC evaluates claims, and might discourage claimants from coming forward.
- 27 I am seeking Cabinet's agreement to amend the AC Act to require ACC to prove that a disease or infection is not work related. This would enhance stakeholder confidence in decision fairness and ensure the process has greater transparency, without incurring additional costs.
- 28 I am also proposing to amend the drafting of section 30 to clarify that ACC's assessment of gradual process claims focuses on employment tasks and environments (i.e. the causes of illness), as distinct from specific occupations. This will provide greater transparency on how claimants' exposures are considered, and better enable access to ACC for claimants.

Pre-incapacity earnings should be a mandatory consideration for the purpose of occupational assessments

- 29 ACC provides vocational rehabilitation to help claimants obtain and maintain employment, or become ready for work following an injury. It uses occupational and medical assessments to identify the types of work that may be appropriate for the claimant and inform a decision on whether a claimant is vocationally independent. Once vocationally independent, a claimant will no longer receive weekly compensation and vocational rehabilitation services.
- 30 Prior to the 2010 amendments, the AC Act provided that: 'in considering the suitability of the types of work [...] the occupational assessor **must** take into account, among other things, the claimant's earnings before the claimant's incapacity'. In 2010, the word '**must**' was changed to '**may**' to make it easier for ACC to decide that a claimant has reached vocational independence. This was considered as a cost containment opportunity by the National Government [SOC (09) 65 refers]. This change could be considered to have removed an obligation for ACC to justify a decision on appropriate work for a claimant, when it will earn them less than their pre-incapacity earnings.
- 31 Currently, it is not mandatory in the AC Act for occupational assessors to take into account a claimant's pre-incapacity earnings when determining what kind of work is suitable for them, and whether they are able to return to that work. However, as a result of District Court decisions, occupational assessors always take into account a claimant's pre-incapacity earnings.
- 32 To support certainty and transparency, I am proposing to amend the AC Act to provide an explicit requirement for ACC's occupational assessors to consider a claimant's pre-incapacity earnings.

I propose to reduce the threshold for injury-related hearing loss cover from 6% to 5%

- 33 ACC only funds hearing aids when they are needed due to an injury. As clinicians' views on when a hearing aid is necessary will vary, the AC Act contains features designed to ensure that claimants receive effective treatment and consistent outcomes. These include a minimum cover threshold of 6% injury-related hearing loss and an age scale.
- 34 Prior to 2010, there was no threshold. This resulted in variable provision of hearing aids by individual clinicians, based on differing views on the threshold for clinical benefit from hearing aids. For example, in some cases a claimant with 4% injury-related hearing loss would receive hearing aids, while another with 7% injury-related hearing loss would not.
- 35 The 6% injury-related hearing loss cover threshold was introduced to provide a more consistent outcome for claimants, and to address the unsustainable growth in hearing loss claims for ACC (11% per annum). However setting the threshold at 6%, rather than 5%, restricts the legitimate needs of some claimants to access hearing devices funded by ACC.

- 36 Lowering the threshold to 5% will provide cover for claimants with 5-5.9% injury-related hearing loss, who have legitimate needs for hearing aids. It is estimated that an additional 200 people per year would benefit from this.
- 37 I am seeking Cabinet's agreement to amend the AC Act to lower the 6% threshold to 5% to ensure greater support to those with low-level hearing loss. This will provide greater equity within the Scheme and is expected to have a minimal financial impact (detailed in the Financial Implications section below).

Increasing the maximum size of the ACC Board by one will assist the ACC Board in representing a wider range of specialists and stakeholders

- 38 Under the AC Act, the ACC Board is currently limited to no more than eight members. It is important for the Board to have a variety of skills and diversity, given that ACC's functions range from supporting injured New Zealanders to rehabilitate and return to work, to managing a fund of more than \$50 billion.
- 39 The cap of eight Board members reduces the Board's ability to develop and maintain key skills and experience when transitioning between members. The cap also makes it more difficult to ensure that the Board is sufficiently diverse while maintaining an appropriate skills balance.
- 40 I recommend increasing the ACC Board from no more than eight members to no more than nine. Increasing the cap to nine will assist me in appointing a more diverse Board that will better serve all New Zealanders.

I seek Cabinet agreement to provide legislative certainty for dependants of claimants who have chosen assisted death under the EOLC Act

- 41 There is currently a technical anomaly in how the AC Act interacts with the EOLC Act. Where a claimant with a terminal illness covered by ACC chooses assisted death under the EOLC Act, their dependants may potentially be disentitled to fatal injury entitlements under the Scheme due to the current drafting of a disentitlement for wilfully self-inflicted personal injury and suicide.
- 42 An operational approach has been developed so that disentitlement would not apply in these circumstances, because amendments to the Coroners Act 2006 mean that a Coroner would not make a suicide finding following an assisted death.
- 43 However, I recommend an amendment to ensure legislative certainty that dependants would be eligible for fatal injury entitlements under the Scheme following assisted death for a covered terminal condition.

I propose seven minor and technical items for inclusion in the Amendment Bill

- 44 Four of the seven technical changes previously obtained Cabinet approval [DEV-19-MIN-0190 refers], and were previously set for inclusion in the Regulatory Systems (Immigration and Workforce) Amendment Bill No.3 (RSB3). Cabinet noted that these items were removed from RSB3 to be included in an upcoming Amendment Bill [DEV-21-MIN-0088 refers].

- 45 For clarity, I propose that the following four items are included in the Amendment Bill:
- 45.1 enabling ACC to use the latest employer filing to Inland Revenue when determining a claimant’s weekly compensation
 - 45.2 aligning ACC’s penalty rules with Inland Revenue’s rules, by charging the one percent monthly interest rate from the date a levy invoice is due, rather than 30 days after the payment is due
 - 45.3 excluding Veterans’ Support Act 2014 weekly compensation top-up from abatement against ACC’s weekly compensation payments, and
 - 45.4 aligning the definitions of ‘moped’ and ‘motorcycle’ in the Accident Compensation Act 2001 with the definitions in the Land Transport Act 1998 to ensure legal clarity.

I also seek Cabinet agreement to three minor and technical changes to the AC Act

- 46 I propose three additional items in the Amendment Bill to improve the clarity and usability of the AC Act. Details of these proposals are in **Table 1** below.

Table 1: Three proposed technical changes:

Proposed change	Rationale
Move the definition of ‘medical practitioner’ to the Accident Compensation (Definitions) Regulations 2019	Cabinet previously noted that the definition of ‘medical practitioner’ was not moved to the Definitions Regulations at the time of its implementation [LEG-19-MIN-0109 refers]. Substituting the definition of ‘medical practitioner’ in the AC Act with a cross-reference to the Definitions Regulations will allow the definition to be more easily updated in future via regulations.
Update the definitions of ‘child’ and ‘other dependant’	The existing definitions of ‘child’ and ‘other dependant’ were introduced in the AC Act in the context of fatal injury claims and relate to ‘deceased claimants’. However, they are used elsewhere in the AC Act outside of this context, for example in the coverage of dependents of employees posted overseas. In 2019, coverage in the AC Act was explicitly provided for employees posted overseas. The existing definitions are incompatible with this change, as they do not cover a ‘child’ or ‘other dependant’ of an employee who was posted overseas. Updating the definitions will address this, as well as providing clarity to a treatment injury provision that refers to ‘child’ in the context of a claimant passing an infection in the course of treatment onto family members.
Enable regulations to prescribe a method for setting the rate of interest for levy overpayments on interim assessments	The AC Act currently provides the ability to set a rate for this payment. The rate is currently set at 6% per annum in the Accident Compensation (Work Account Levies) Regulations 2019. Enabling regulations to prescribe a method for setting the credit interest rate would mean that the rate could change to reflect different circumstances, without amending the Work Account Regulations, making the process more efficient.

Financial Implications

Extending Cover to Maternal Childbirth Injuries

- 47 Officials estimate that extending cover to a specific list of maternal childbirth injuries would require at least \$25 million per year from both levy-funded accounts and Non-Earners' Account appropriations.
- 48 Due to a lack of reliable data in this area, estimates of the cost of extending Scheme cover are uncertain. Officials will continue to work through potential cost implications in discussion with health experts.
- 49 ACC's Earners Account is funded from levies, and officials estimate that a little over half of birthing parents will be considered as earners (including some birthing parents on paid parental leave). This levy cost will need to be included in the 2024 levy round. It is not possible to cost it into the 2021 levy round due to the legislative process of this Bill occurring outside of the levy round consultation and decision on levy rates. This proposal is unlikely to have an appreciable impact on account solvency for the levied Earners Account in the interim, enabling additional time for detailed costings.
- 50 ACC's Non-Earners Account (NEA) funds entitlements for those who are not earning and just under half of birthing parents are estimated to fall into this category. The NEA is funded by the Crown and will require an estimated \$13 million per year.

Table 2: Summary Impact Table

Vote Labour Market Minister for ACC	\$m – increase/(decrease)			
	2021/22	2022/23	2023/24	2024/25
Non-departmental Output Expense: ACC – Rehabilitation Entitlements and Services	-	9.750	13.000	13.000

Reducing the injury-related hearing loss threshold from 6% to 5%

- 51 The proposal to reduce the threshold for injury-related hearing loss from 6% to 5% carries minor financial implications, as set out in **Table 3**.

Table 3: Financial impacts from lowering the injury-related hearing loss cover threshold from 6% to 5%

Year	Outstanding Claims Liability (OCL) impact ²	Cash cost ³	Work Account Levy impact ⁴
2023	\$4m	\$0.5m	\$0.00 ⁵
2024	\$5m	\$0.5m	\$0.00
2025	\$6m	\$0.5m	\$0.00

52 These cost estimates can be read in the context of existing costs for hearing loss claims and are based on an assumption that this proposal will not result in any behavioural change (such as claimants lodging more claims). At June 2020, the Outstanding Claims Liability (OCL) for work-related hearing loss claims was \$550 million and the 2020/21 average levy rate for the Work Account is 67 cents.

53 Given the shared responsibility between ACC and the health sector for hearing loss, a joint cost apportionment model was introduced in 2010 for people with both injury-related and health-related hearing loss. The Vote:Health appropriation was increased by \$5m to meet the cost (CAB Min (10) 35/13 refers). As at 31 May 2021, the Health contribution to hearing aid services is \$5.82 million, which exceeds the \$5 million appropriated.

54 The proposed change in threshold from 6% to 5% is likely to increase expenditure by up to \$0.5 million. Confidential advice to Government

[Redacted text]

55 The other proposals carry no, or negligible financial implications.

Legislative Implications

56 These proposals would be given effect through the Amendment Bill, which, subject to Cabinet approval, will hold a category four priority on the 2021 Legislation Programme (to be referred to a select committee in 2021).

57 The 2021 Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill, if passed by Parliament, would bind the Crown.

² The OCL is the actuarially-estimated lifetime cost (up to 80 years) of all claims incurred at a given point in time.

³ This is the amount ACC will pay out to claimants in a year.

⁴ This is the change needed to levy rates to fund additional costs.

⁵ The \$0.00 impact is a rounded figure, and is not a nil impact on levy rates. A small impact occurs at a later decimal place (i.e., at less than a tenth of a cent).

Impact Analysis

Regulatory Impact Statement

- 58 A Regulatory Impact Statement has been completed for extending cover for maternal childbirth injuries and is attached in Appendix 1. MBIE's Regulatory Impact Analysis Review Panel has reviewed the attached Impact Statement prepared by MBIE. The Panel considers that the information and analysis summarised in the Impact Statement **Meets** the criteria necessary for Ministers to make informed decisions on the proposals in this paper.
- 59 The Regulatory Impact Analysis Team at the Treasury has determined that the other proposals in this paper are exempt from the requirement to provide a Regulatory Impact Statement on the basis that they have no or minor impacts on businesses, individuals or not for profit entities.

Climate Implications of Policy Assessment

- 60 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as there is no direct emissions impact.

Population Implications

- 61 The proposal to extend cover for maternal childbirth injuries will have a positive impact on women. Currently, women have fewer injuries covered by the Scheme than men (48% compared to 52% of accepted claims respectively), and each woman's claim costs the Scheme a third less than a man's on average in entitlements.
- 62 By extending cover to maternal childbirth injuries, more women will have access to the Scheme (enabling an estimated 17,000-18,000 new covered claims from women per year) and as a result, have improved access to entitlements, including pelvic physiotherapy and surgery.
- 63 This package of proposals will not result in any disproportionate negative impact on any specific population groups.

Human Rights

- 64 All of these proposals are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Consultation

- 65 The following agencies and Crown entities have been consulted on this paper: the Treasury, ACC, WorkSafe New Zealand, Inland Revenue, the Ministry of Health, the New Zealand Transport Agency, the Ministry of Transport, Te Puni Kōkiri, the Ministry for Women, the Ministry for Pacific Peoples, the Ministry of Social Development, the Office for Disability Issues, the Ministry of Justice, Veterans' Affairs, Oranga Tamariki, the Commerce Commission, and the

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Parliamentary Counsel Office. The Department of the Prime Minister and Cabinet has been informed about this proposal.

- 66 The Treasury supports the policy intent of the proposal to extend ACC coverage to obstetric injuries. However, it recommends that the associated funding request (recommendations 7-9) go through the normal Budget 2022 process to allow implementation and cost details to be further developed. This is consistent with approaches for previous changes with funding impacts. The proposal also has implications for the levied accounts (recommendation 10), which are undergoing a review this year. It would be preferable for decisions on Scheme expansion to occur after that is completed in December 2021.
- 67 Targeted consultation has been carried out with the following key external stakeholders: ACC Futures Coalition, the New Zealand Council of Trade Unions, and BusinessNZ. None of them signalled lack of support for the policy proposals. New Zealand Professional Firefighters Union and Sawmill Workers Against Poisons did not respond.
- 68 There has also been targeted consultation on the maternal birthing injuries proposal with certain maternity sector representatives. The experts highlighted several risks, including the unknown number of mental injuries resulting from maternal childbirth injuries which could result in higher costs. There is also a potential lack of pelvic physiotherapy and mental health workforces to meet the demand for entitlements. Officials will continue to work through potential cost implications.

Communications

- 69 Subject to Cabinet decisions, I intend to make a media statement introducing these law changes to the public.

Proactive Release

- 70 I intend to proactively release this Cabinet paper on MBIE's website, subject to any appropriate withholding of information that would be justified under the Official Information Act 1982.

Recommendations

The Minister for ACC recommends that Cabinet:

- 1 **Note** that in January 2021, I submitted a legislative bid for the Amendment Bill on the 2021 legislative programme, with a Parliamentary Counsel Office category priority of four (to be referred to a select committee in 2021)
- 2 **Note** that I proposed that the Amendment Bill should include four policy proposals and seven technical proposals
- 3 **Note** that four of the seven technical proposals were previously approved by Cabinet in 2019 [DEV-19-MIN-0190 refers], which are:

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- 3.1 enabling ACC to use the latest employer filing to Inland Revenue when determining a claimant's weekly compensation
 - 3.2 aligning ACC's penalty rules with Inland Revenue's rules, by charging the one percent monthly interest rate from the date a levy invoice is due, rather than 30 days after the payment is due
 - 3.3 excluding Veterans' Support Act 2014 weekly compensation top-up from abatement against ACC's weekly compensation payments, and
 - 3.4 aligning the definitions of 'moped' and 'motorcycle' in the Accident Compensation Act 2001 with the definitions in the Land Transport Act 1998 to ensure legal clarity
- 4 **Note** that Cabinet previously approved [DEV-21-MIN-0088 refers] the removal of the four items in recommendations 3.1 to 3.4 from the Regulatory Systems (Immigration and Workforce) Amendment Bill No.3 for inclusion in the Amendment Bill
- 5 **Agree** to the following three proposed technical changes to the Accident Compensation Act 2001, for inclusion in the Amendment Bill:
- 5.1 move the definition of 'medical practitioner' to the Accident Compensation (Definitions) Regulations 2019
 - 5.2 clarify the definitions of 'child' and 'other dependant', and
 - 5.3 enable regulations to prescribe a method for setting the rate of interest for levy overpayments on interim assessments
- 6 **Agree** to the final six policy proposals intended for inclusion in the Amendment Bill:
- 6.1 extend cover to the following specified list of acute maternal childbirth injuries to a birthing parent, caused by mechanical trauma during labour and delivery:
 - 6.1.1 Levator avulsion
 - 6.1.2 Uterine prolapse
 - 6.1.3 Obstetric fistula (includes vesico-vaginal, colo-vaginal and uretero-vaginal)
 - 6.1.4 Labial, vaginal, vulval, clitoral, cervical, rectal and perineal tears
 - 6.1.5 Ruptured uterus during labour
 - 6.1.6 Obstetric haematoma of pelvis
 - 6.1.7 Pudendal neuropathy
 - 6.2 clarify the section 30 test for work-related gradual process, disease or infection cover focuses on work tasks and environments, and restore the more claimant-friendly test in place before 2010

- 6.3 require that occupational assessors ‘must’ consider pre-incapacity earnings when undertaking occupational assessments (rather than ‘may’)
- 6.4 reduce the threshold for injury-related hearing loss cover from 6% hearing loss to 5% hearing loss
- 6.5 increase the size of the ACC Board from no more than eight members to no more than nine, and
- 6.6 ensure legislative certainty for dependents of claimants who have chosen to end their life under the End of Life Choice Act 2019.

7 **Approve** the following changes to appropriations to give effect to the policy decision in recommendation 6.1 above, with a corresponding impact on the operating balance and net core Crown debt:

	\$m – increase/(decrease)				
Vote Labour Market Minister for ACC	2021/22	2022/23	2023/24	2024/25	2025/26 & Outyears
Non-departmental Output Expense: ACC – Rehabilitation Entitlements and Services	-	9.750	13.000	13.000	13.000

- 8 **Agree** that the proposed change to appropriations for 2022/23 above be included in the 2022/23 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply
- 9 **Agree** that the expenses incurred under recommendation 7 above be charged as a pre-commitment against the Budget 2022 operating allowance
- 10 **Note** that the earners portion of the costs associated with the policy decision in recommendation 6.1 above will be incorporated into the next Levy setting process in 2024, and in the interim, absorbed by the Earner Account
- 11 Confidential advice to Government
- 12 **Invite** the Minister for ACC to issue drafting instructions to the Parliamentary Counsel Office giving effect to the decisions in this paper, and

- 13 **Authorise** the Minister for ACC to make decisions consistent with the policy framework in this paper, including appropriate transitional provisions on any minor or technical matters and any other issues that may arise during the drafting process.

Authorised for lodgement

Hon Carmel Sepuloni

Minister for ACC