



Briefing to the Incoming Minister Responsible for the Earthquake Commission

February 2022

Toka
Tū Ake **EQC**

New Zealand Government

IN CONFIDENCE

Contents

Letter from the Chair	3
Introduction	4
Key areas of focus for 2023.....	4
Toka Tū Ake EQC scheme	6
Toka Tū Ake EQC's Role and Responsibilities.....	6
How we provide cover for New Zealanders.....	8
Managing the Natural Disaster Response Model	9
Organisation and Governance	10
Organisational overview	10
Key contacts	11
Board of Commissioners.....	11
Executive Leadership Team	14
Background Information and Ministerial Directions	15
Toka Tū Ake EQC's Role as a Crown agent.....	15
The Minister's role, responsibilities and powers	16

Letter from the Chair

Congratulations on your appointment as Minister Responsible for the Earthquake Commission. We look forward to supporting you in this important role.

Toka Tū Ake EQC is a unique organisation that exists because of the natural hazard profile of our country. We support Aotearoa New Zealand to be resilient in the face of natural hazard risks, by investing in research, education and building resilience before an event and by supporting homeowners with their claims after an event.

The recent severe weather events in the Upper North Island have provided a stark reminder of the risks posed by natural hazards. We are helping those affected through these challenging events, working closely to support private insurance claims staff who manage claims on our behalf under the Natural Disaster Response Model (NDRM).

The NDRM is a claims model that we have established in partnership with eight private insurers, in response to the lessons learned from the Canterbury earthquakes. It means homeowners work directly with their insurer for all damage claims, whether these fall under the private insurance policy or the Earthquake Commission Act 1993. It is intended to streamline the homeowner's insurance claim experience, enable early contact with all affected homeowners and extend our nationwide claims management capacity for a major event.

We look forward to the Natural Hazards Insurance Bill soon being passed into law. We are actively planning the implementation of these changes, which will include working closely with our insurer partners to ensure we are fully prepared when it comes into force in mid-2024.

Our strategic priorities for the year ahead are focused around our '4 Rs' – ensuring our readiness for a natural hazard event; supporting homeowner recovery after an event; improving our country's resilience to the impacts of natural hazards through investments in research and education; and risk financing to ensure the EQC scheme is sustainable.

Resolving claims from the Canterbury Earthquake Sequence remains a priority for the organisation, including managing outstanding canterbury claims on behalf of Southern Response. The open-ended nature of the legislation means people can reopen their claims for earthquake damage now, almost 12 years after the events. We also administer the Canterbury on-sold scheme on behalf of the Crown, which offered homeowners a limited time to apply for assistance if they discovered hidden earthquake damage in a house they had purchased since 2011.

We look forward to engaging with you soon on the matters above and to identify how we can best support you in your role.

Yours sincerely,



Chris Black

Chair

Introduction

This briefing provides you with an overview of the Toka Tū Ake EQC Scheme, our organisation, and the key areas of focus for you to be aware of over the coming months. This briefing will be supported by supplementary briefings, and discussions over the coming weeks on the following areas:

- Managing EQCover claims through the NDRM, including those from recent weather events.
- Resolving claims associated with the Canterbury Earthquake Sequence, including the On-sold Programme, and southern response claims.
- Our Resilience strategy and areas of focus, including the Natural Hazard Portal, the National Seismic Hazard Model, and research funding.
- Risk financing and managing the Natural Disaster Fund. Related to this is the level at which the EQC levy is set.

In addition to these supplementary briefings, we provide you with a fortnightly report covering current and upcoming issues, media releases and queries, regular updates on claims and other relevant matters on a 'no-surprises' basis.

We will also provide you with updates on progress with transitioning to our new name and how we are implementing the expectations for Crown entities (pay equity, building cultural capability and the Government's carbon neutral programme).

In the past, the Chair and Chief Executive have met with the Minister monthly. We look forward to discussing your preferences with you. We would also be keen to arrange for you to come to visit our offices, and to meet the Board in the near future.

Key areas of focus for 2023

Over the coming months we will be engaging with you and your office on a range of matters that impact the governance and administration of the Toka Tū Ake EQC scheme. Specific areas include:

- **Recent natural hazard events** – in particular, our response to the on-going severe weather events in the upper North Island.

Expected claims numbers: As at 8:30am on Wednesday 8th February 2023, 1,424 EQCover claims have been received, with expectations we could get between 1,500 and 2000 claims for the current event. We will continue to revise our estimates as data becomes available.

Supporting customers: We are supporting the timely provision of consistent information to homeowners on standard EQCover through the National Emergency Management Agency (NEMA), local authorities, the Residential Advisory Service (RAS) and welfare groups. We are also using our social media channels and media queries to communicate consistent messages.

Engaging with insurers: Our focus is working behind the scenes to support insurers as part of the insurance response.

- The **Natural Hazards Insurance Bill** – the Bill is currently awaiting its Third Reading. We are planning for the implementation of the Bill, which includes internal planning to operationalise the changes in the Bill and supporting the Treasury on the Regulations needed to give effect to aspects of the Act once it commences.
- Continuing to embed the **NDRM** – we are 18 months into our new operating model. Our experience over this time, particularly with complex events in Nelson and Auckland, is helping us embed the NDRM to support a fair, transparent and responsive claims experience.
- The launch of the **New Zealand Claims Resolution Service (NZCRS)** following Cabinet decisions last week. The Ministry for Business, Innovation and Employment is preparing to launch the NZCRS in mid-February, to support homeowners with an insurance claim for natural hazard damage. Initially this will involve advisory, information and early resolution services, with dispute resolution functions planned to be added later in 2023. Toka Tū Ake EQC is working through what changes are needed operationally to support this.
- The development of the **Natural Hazards Portal** – the first phase of the Portal, will make EQCover claim information publicly available for all properties across New Zealand. This responds to a recommendation of the Public Inquiry into the Earthquake Commission. Development of the Portal is also an action under the National Adaptation Plan.
- Our **engagement in cross-government priorities** impacting on natural hazard risk management – including on resource management reform, climate change adaptation and managed retreat.
- **Risk financing** – we will engage with you on our investment strategy and global reinsurance programme, s9(2)(b)(ii).

Upcoming activities

- The **2021-22 Annual Review** of the Earthquake Commission – we are preparing for our hearing with the Environment Committee on 13 February 2023. Your office has received Toka Tū Ake EQC's responses to the Committee's standard annual review questions.
- **2023/24 business planning processes** – we are preparing our annual Statement of Performance Expectations and will provide you with a draft by 28 April 2023, to be finalised by 30 June 2023.

Overview of the Toka Tū Ake EQC Scheme

Toka Tū Ake EQC provides homeowners with first-loss insurance cover against natural disasters in a format that is affordable and costs the same nationwide. By international standards, this means New Zealand homeowners have high levels of catastrophe insurance protection. Such a high rate of insurance means homeowners and the Government are better placed to meet the costs of natural disasters.

Toka Tū Ake EQC's Role and Responsibilities

Toka Tū Ake 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 EQC Act) and insurance cover for war damage ceased.

Toka Tū Ake EQC is a Crown agent governed by a Board of Commissioners. Further information on the Toka Tū Ake EQC Board and Executive Leadership Team is contained on pages 11-14 of this briefing.

Toka Tū Ake EQC's functions under Section 5 of the EQC Act are:

- administering the insurance against natural disaster damage provided under the EQC Act
- collecting premiums for the insurance provided under the EQC Act
- administering the Natural Disaster Fund (NDF), including the investment of money held in the NDF
- obtaining reinsurance in respect of the whole or part of the insurance provided under the EQC Act
- facilitating 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
- such other functions as may be conferred on it by:
 - the EQC Act or any other Act; or
 - 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.

Further detail on Toka Tū Ake EQC, including the functions that have been conferred by Ministerial direction is set out in the appendix to this briefing.

Toka Tū Ake EQC's strategic areas of focus

Our statutory functions translate into four key roles:

- Readiness for an event
- Recovery after an event
- Improving resilience through research and education
- Risk financing to ensure the scheme remains sustainable.

These roles inform Toka Tū Ake EQC's strategic framework as shown in the diagram below:



Further information can be found in our [2022/2023 Statement of Performance Expectations](#)

How we provide cover to New Zealanders

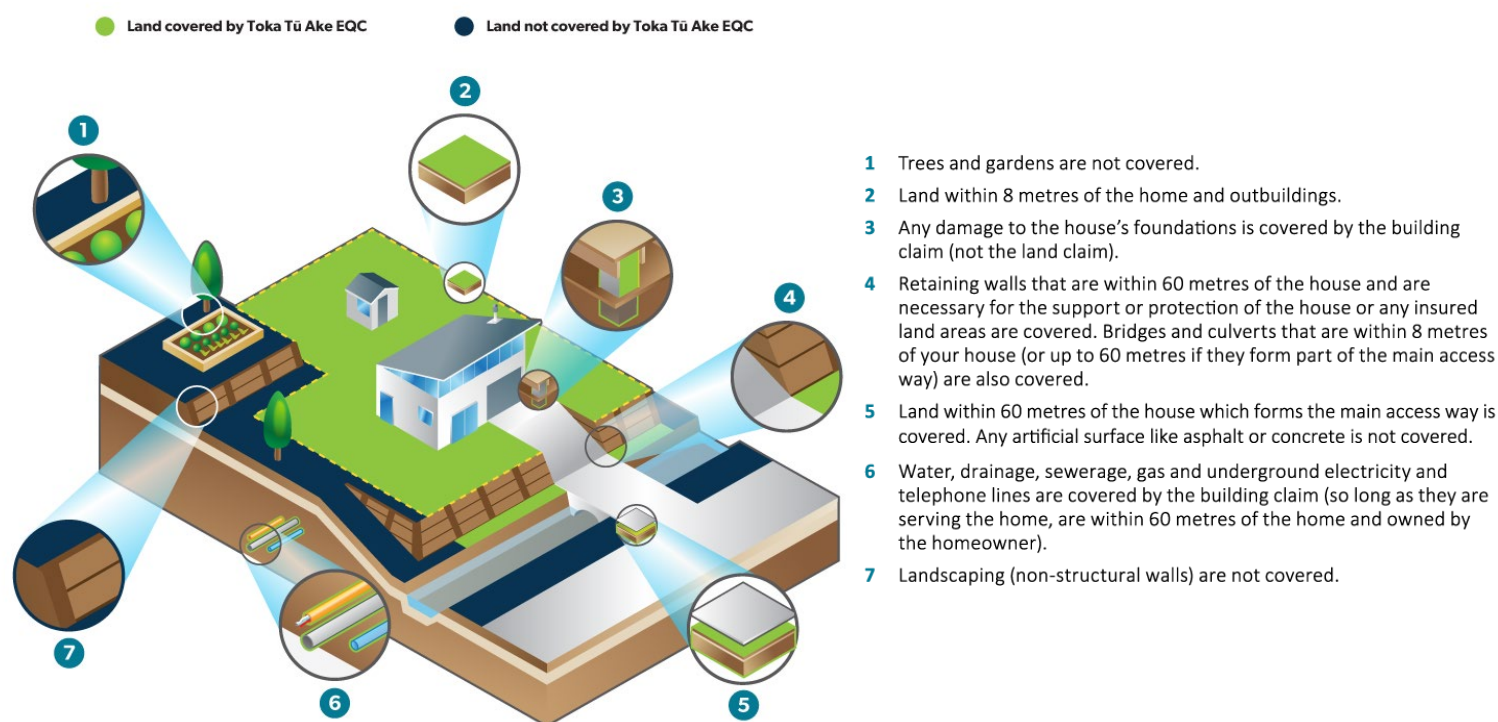
Toka Tū Ake EQC provides natural disaster insurance for damage to residential buildings and residential land. EQC insures against damage caused by specified perils—namely earthquake, natural landslip, volcanic eruption, hydrothermal activity, tsunami, storm or flood (for land damage only) or fire caused by any of these.

Cover under the EQC Act (EQCover¹) is obtained automatically when a customer takes out a fire insurance policy for a residential building as defined by the EQC Act. The premium paid to the customer's insurance company includes the levy for EQCover².

The value of EQCover is limited by caps³ and subject to the payment of an excess or excesses⁴, as specified in the EQC Act and Regulations. An individual's private insurance policy 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 originally set in 1993. The building cap was increased from \$150,000 (+ GST) to \$300,000 (+ GST) from 1 October 2022. From 1 October 2022, the building cap will change to the higher amount as homeowners renew their private insurance policy.

The diagram below shows how EQCover applies to a typical house and section:



¹ EQCover is the name of Toka Tū Ake EQC's earthquake and natural disaster insurance for dwellings and land.

² From October 2022, the annual premium amount is 16c per \$100 of the EQCover amount, up to a maximum of \$480 (+ GST).

³ From October 2022, the residential building cap is set at \$300,000 (+ GST). This change affects customers as they renew or purchase new policies from 1 October 2022. The cap for residential land is capped at the value of the land, as EQCover cannot pay any more than what the damaged land is worth. This amount of insurance is available for each event of natural disaster damage.

⁴ The current excess for a residential building claim is the larger \$200, or 1% of the claim value. For land, the excess is the larger of \$500 or 10% of the claim value, up to a maximum of \$5,000 per claim. Different calculations apply for residential buildings and land with more than one dwelling.

Section 22 of the EQC Act (voluntary insurance against natural disaster damage) provides that Toka Tū Ake EQC may offer cover directly to individuals for natural disaster damage up to the same EQC caps and coverage as set out in the EQC Act. Currently there is a very small number of people with such cover in place.

Managing claims – the Natural Disaster Response Model

The NDRM went live in June 2021. Under the NDRM, insurers manage EQCover claims on our behalf. The NDRM model is designed to make things easier and improve outcomes for customers. There is one point of contact for natural disaster claims, which gives customers simplicity and certainty.

We have partnered with eight private insurance companies, representing more than 20 insurance brands. The eight insurers partnered with Toka Tū Ake EQC are:

- AA Insurance
- Hollard
- Chubb
- FMG
- IAG
- MAS
- Vero
- Tower

Together, these insurers cover 99% of the residential insurance market. Toka Tū Ake EQC continues to directly manage claims from the remaining 1% of the market.

We will provide you with a supplementary briefing with detail on the NDRM in the coming weeks. In the interim, further information on the model can be found [here](#).

Organisation and Governance

Organisational overview

Our people

Toka Tū Ake EQC has over 300 employees, with office locations in Christchurch and Wellington.

We recognise that our staff are our most valuable asset and are committed to supporting the health and wellbeing of staff, and pay equity, to ensure we can deliver high quality results.

Our te ao Māori Journey

Toka Tū Ake EQC recognises that Te Tiriti o Waitangi – the Treaty of Waitangi, is the founding document for relationships between the Crown and Māori.

Toka Tū Ake EQC continues to focus on growing our cultural capability, as we develop our te ao Māori strategy to improve outcomes for Māori and improve Crown-Māori relationships.

Working towards carbon neutrality

Achieving carbon neutrality is a key priority for Toka Tū Ake EQC as we work to meet the Government's goal to be carbon neutral by 2025.

Key contacts

Board of Commissioners



Chris Black – Board Chair
CA, PGDip Accounting,
BSurv, MInstD

Chris brings more than 25 years' governance and executive experience with a strong background in insurance, banking and investment management.

He was previously Chief Executive of FMG (Farmers Mutual Group) from 2008 to 2021, has been the President of the Insurance Council of New Zealand (ICNZ) and served on the Board of the Insurance & Financial Services Ombudsman (IFSO) Scheme. Chris has expertise in corporate strategy, customer service, financial and risk management, and leading cultural change. Chris was appointed to the Toka Tū Ake EQC Board in April 2022 and as Chair from 1 July 2022.

Term ends: 31 March 2025



Hon Ruth Dyson – Deputy Chair
QSO

Ruth Dyson has had a lengthy political career, serving as President of the NZ Labour Party from 1988 to 1992 and as a Member of Parliament from 1993 to 2020 representing the electorates of Lyttleton, Banks Peninsula and Port Hills. She was a Cabinet Minister between 1999 and 2008, serving as Minister for Social Development, ACC, Labour, Disability Issues and Senior Citizens amongst others. She has a strong public policy background and a track record of working for her constituents following the Canterbury earthquakes. She was Opposition spokesperson for Earthquake recovery, Chief Whip and Assistant Speaker prior to her retirement. Ruth joined the Toka Tū Ake EQC Board in May 2021 and was appointed Deputy Chair in April 2022.

Term ends: 30 April 2026



Alastair Hercus
BA (Hons), LLB, CMInstD

Alastair has been a Partner at Buddle Findlay since 1995, following an earlier career as a diplomat in the Ministry of Foreign Affairs and Trade. He brings legal, governance and government sector experience. He has insurance sector experience as former Deputy Chair of the Medical Assurance Society and is currently Chair of Co-operative Life Ltd. He is also a Director of Invercargill Airport Ltd, and Chair of the Risk & Advisory Committee at the Ministry of Business, Innovation and Employment. Alastair brings a focus on Toka Tū Ake EQC's policy, regulatory and commercial environment, including responses to the Public Inquiry, regulatory changes, and the Toka Tū Ake relationship with the private insurance industry. Alastair joined the Toka Tū Ake EQC Board on 1 March 2020, and is Chair of the Audit and Risk Committee.

Terms ends: 30 June 2025



Alister James
SO LLB

Alister is a Christchurch barrister with significant public sector governance experience, whose active involvement in the community and voluntary sector was recognised by his appointment as a Companion of the Queen's Service Order in 2004. Alister was a Christchurch City councillor for 20 years and a member and former Chair of the Canterbury District Health Board. He has also previously served as British Honorary Consul, Deputy Chair of the State Housing Appeal Authority, Director and Chair of Christchurch City Holdings Limited, Chair of the Nga Hau e Wha Christchurch National Marae, and until recently, independent Chair of the Greater Christchurch Public Transport Joint Committee. Alister is the Chair of Southern Response Earthquake Services and joined the Toka Tū Ake EQC Board in May 2021.

Term ends: 30 April 2024



Emma Dobson

Emma is a New Zealander who has returned after many years working at a senior level with Westpac in Australia. Her career included work on the Australian Federal Government's Digital Business

Council and the Australian Tax Office's Digital Strategy Working Group. Emma brings a strong focus on strategic opportunities and risks, and pursuing digital transformation to meet customer expectations. She has transferable skills and extensive experience working at a high level within government and the private sector. Emma joined the Toka Tū Ake EQC board in March 2020.

Term ends: 28 February 2023



Erica Seville

PhD, BE (Hons), CMInstD, Hon FBCI

Erica brings a strong focus on building broader resilience for Toka Tū Ake EQC, as well as preparing for our role during a disaster recovery. She is the co-founder of Resilient Organisations, a social enterprise undertaking both public-good research and consulting to help organisations and communities to improve their resilience. Erica has a PhD in risk management and has experience leading several major research programmes in the fields of disaster management, economic and business recovery, and the efficacy of insurance. In addition to her role with Toka Tū Ake, Erica is also a director for Resilient Organisations, BRANZ, and is Chair of RRANZ. Erica joined the Toka Tū Ake EQC Board in 2018 and is the Chair of the People and Culture sub-committee.

Term ends: 30 June 2024



Fiona Wilson

B.Sc, M.Sc, GradDipApplStats, CMInstD

Fiona, originally from Australia, now a New Zealand citizen, has held Chief Information Officer and Chief Executive Officer roles in Australia and New Zealand. Having been Chief Information Officer for major organisations in the Australian health sector, she

brings experience leading technology related changes across complex organisations to deliver benefit to diverse stakeholder groups. Fiona has also worked with a large consulting firm and led an analytics business in New Zealand. Fiona brings a track record of bridging technology, data, and business needs, and building business capability to deliver in both the public and private sectors.

Term ends: 31 August 2024



Scott Lewis

BBS, FIAA, FNZSA, CMInstD

Scott has had a career in insurance and actuarial work in New Zealand and overseas. He provided expertise to Lumley Insurance from 2012 to 2014 with its response to the Canterbury Earthquakes before joining IAG as Head of Insurance Risk and Reinsurance. More recently, he spent two years at Oranga Tamariki – Ministry for Children, working on a data driven approach to better understand wellbeing for the Child and Youth Wellbeing Strategy. He is a Fellow of the Institute of Actuaries of Australia and the NZ Society of Actuaries and also currently sits on the Council of the NZ Society of Actuaries.

Term ends: 28 February 2026


Ziena Jalil

MA (Hons), BCS, DipIntlTrade,
MInstD

Ziena brings a rich experience as an accomplished business and public sector leader with a focus on delivering equity and opportunity for those with diverse cultures, abilities and experiences.

A champion of customer and community centricity, Ziena has consulted for some of New Zealand's largest businesses and organisations on their strategies, building their stakeholder relationships, reputations and revenue.

She advocates for outcomes that make a difference and is passionate about supporting the growth of women and young people from Māori, Pacific and ethnic communities.

Ziena holds several governance positions across public, private and charity sectors. These include roles with Education New Zealand, Manukau Institute of Technology, Unitec Institute of Technology, DNA Design, Asia New Zealand Foundation, and the Cancer Society of New Zealand.

She has received several international awards for her work promoting New Zealand trade and education in Asia, and advises businesses looking to grow in the region. Ziena joined the Toka Tū Ake EQC Board in July 2022.

Term ends: 30 June 2025


Jacqui Apiata (Future Director)

BPhEd, PGDip Business
Management, MInstD,
PMNZISM

Jacqui joins the Toka Tū Ake EQC Board as a Future Director under the Institute of Directors in New Zealand's Future

Directors development programme, which is designed to identify and grow the next generation of New Zealand directors.

Jacqui's areas of strength lie in organisational risk, strategy and leadership. Her governance experience includes roles with the United Fire Brigades Association (UFBA), Public Service Association (PSA), Forest Industry Safety Council

(FISC), Tai Tokerau Polynesian Canoe Association (Deputy Chair), Tai Kotuku Incorporated (Founder and Chair).

Jacqui has a track record of leadership and business success. Along with astute business and managerial skills, across the public and private sectors, Jacqui brings a long history of community involvement - with a particular focus on youth development, organisational and workforce development and hapu development, and rich community insight.

Jacqui also brings a deep cultural awareness, a deep-rooted understanding of He Whakaputanga (Declaration of Independence of New Zealand) and Te Tiriti o Waitangi, cultural capability and understanding of te ao Māori.

Executive Leadership Team



Tina Mitchell
Chief Executive

Tina leads the organisation by working with our Board, stakeholders and staff to deliver on Toka Tū Ake EQC's strategy. She reports to Ministers and the public on Toka Tū Ake EQC's work.

Michala Beacham
Acting Chief Strategy Officer

Michala leads Toka Tū Ake EQC's Strategy Group, which includes strategy, policy, government relations, communications, media, stakeholder engagement and legal services.

Kate Tod
Chief Readiness and Recovery Officer

Kate leads our Readiness and Recovery group, working with teams to build our readiness for natural hazard events and provide EQCover to homeowners.

Chris Chainey
Chief Financial Officer

Chris leads the Risk and Financing group to provide financial, risk and procurement expertise to the organisation as well as managing agreements with international reinsurers and Direct EQCover.

Dr Jo Horrocks
Chief Resilience and Research Officer

Jo's team contributes to a programme of around \$24 million investment in scientific data, research and education to help us better understand New Zealand's natural hazards risks.

Rob Hodgson
Chief Data Officer

Rob leads Toka Tū Ake EQC's Data & Information Technology Group responsible for data engineering, actuarial services, risk modelling, loss modelling, analytics, IT operations and services, information security, information management, and enterprise portfolio management.

Hamish Wall
Strategic Advisor to the Chief Executive

Hamish is the Strategic Advisor to the Chief Executive responsible for the provision of executive leadership support and strategic advisory services on the delivery of Toka Tū Ake EQC strategic priorities and objectives.

Pip Andrews
Head of On-Solds

Pip leads a team administering the On-Sold Government Support Package, providing assistance for Canterbury homeowners.

Kate Antonievich
Chief People Officer

Kate leads the People, Culture & Capability (PC&C) Group. Based in both Wellington and Christchurch this group includes our Organisational Development, Business Partnering and Health, Safety, Security & Wellbeing teams.

Appendix - Background Information and Ministerial Directions to Toka Tū Ake EQC

Toka Tū Ake EQC's role as a Crown Agent

Crown Entities Act 2004

Toka Tū Ake EQC is 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 powers in respect of them under the Crown Entities Act 2004.

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

Toka Tū Ake EQC's functions

Under section 14 of the Crown Entities Act, the functions of Toka Tū Ake 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
- any functions that are incidental or related to, or consequential on, Toka Tū Ake EQC functions.

The Crown Entities Act contains safeguards for the independence of Toka Tū Ake EQC in carrying out its functions and other business. Under section 113 of the Crown Entities Act, the Minister may not require Toka Tū Ake 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.

Several functions have been conferred on Toka Tū Ake EQC under section 112 of the Crown Entities Act under the direction of previous Ministers. These directions are:

- **Investments (30 October 2001)** – Requiring Toka Tū Ake EQC to produce and comply with a Statement of Investment Policies, Standards and Procedures.
- **Damage apportioned to unclaimed events (December 2012)** – A direction allowing Toka Tū Ake EQC to make payment in relation to building damage apportioned to events that formed part of the Canterbury earthquake sequence, even where the insured person did not notify Toka Tū Ake EQC of damage for each event in the sequence. This direction was amended in December 2013 – Amending the previous direction that no excess applies in respect of the unclaimed event.
- **Natural Disaster Fund investment policies (July 2015)** – A direction to ensure Toka Tū Ake EQC invests the Natural Disaster Fund only in New Zealand Government stock and bank deposits. The direction also includes requirements to notify the Minister when the Fund reaches certain financial limits.
- **Land damage apportioned to unclaimed events (October 2015)** – A direction allowing Toka Tū Ake EQC to pay out on land damage apportioned to events that formed part of the Canterbury earthquake sequence, even where the insured person did not notify Toka Tū Ake EQC of damage for each event in the sequence.
- **Administering the On-sold programme (October 2019)** – A direction to administer the support package established by the Crown for qualifying owners of on-sold properties.

- **Acting as agent for Southern Response Earthquake Services Limited (SRES)** – A direction to Toka Tū Ake EQC that Toka Tū Ake EQC may act as agent for SRES for the purposes of administering open insurance claims against SRES in respect of damage arising from the Canterbury earthquakes, being claims that exceed, or may exceed, the cap. In performing the additional function under this direction, Toka Tū Ake EQC must act in accordance with the terms and conditions of the agency agreement dated 21 October 2019 between Toka Tū Ake EQC and SRES (as varied by agreement between the parties from time to time following consultation with the Minister).
- **Replacing certain storm water and sewerage services and structures under the Canterbury sequence** – A direction to pay the amount of the damage to, or replace or reinstate (at Toka Tū Ake EQC's option), any storm water and sewerage services and structures appurtenant to them that suffered damage as the direct result of one or more of the 2010-2011 Canterbury earthquake sequence.

Directions to support a whole-of-government approach:

- **New Zealand Business Number (NZBN)** - A direction from the Minister of State Services and the Minister of Finance sets out requirements for agencies to implement the NZBN. EQC records NZBN numbers as part of new supplier registration. Our finance system has a searchable NZBN field. Existing suppliers have had their NZBN numbers updated wherever possible.
- **Carbon Neutral Government Programme** - A direction from the Minister of State Services and the Minister of Finance sets out requirements for agencies to implement the Carbon Neutral Government Programme.

Toka Tū Ake is also subject to whole-of-government directions.

The Minister's role, responsibilities and powers

The Minister Responsible for the Earthquake Commission is responsible to the House of Representatives for Toka Tū Ake EQC's performance and oversees Toka Tū Ake EQC in accordance with the Crown Entities Act 2004 and the EQC Act 1993.

Toka Tū Ake EQC's Board is responsible for giving effect to government policy. In practice, this is achieved through the Statement of Intent (SOI) and the Statement of Performance Expectations under which the responsible Minister and Toka Tū Ake EQC agree specific deliverables. The current SOI covers the period from 1 July 2021 to 30 June 2025.

Treasury is Toka Tū Ake 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 Toka Tū Ake EQC work closely 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 Natural Hazards Insurance Bill and associated regulations, and is responsible for managing the Board appointment process for Toka Tū Ake EQC and providing necessary advice to Ministers.

You are required to table Toka Tū Ake EQC's SOI, Statement of Performance Expectations and Annual Report in the House. The annual review of Toka Tū Ake EQC's performance is usually undertaken by the Finance and Expenditure Committee and the associated hearing is generally attended by Toka Tū Ake EQC's Chair and Chief Executive. From time to time, Ministers may be asked to appear before Select Committees to comment on Toka Tū Ake EQC's activities.

Minister's functions under the EQC Act

Ministers' key functions under the EQC Act are to:

- hold the shares issued by Toka Tū Ake EQC in accordance with section 7 of the EQC Act
- determine the amount of any dividend payable by Toka Tū Ake EQC (section 9, EQC Act)
- determine sums payable by Toka Tū Ake 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).

There will be changes to these functions under the Natural Hazards Insurance Bill.

Minister's role under the 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, Toka Tū Ake 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 Toka Tū Ake EQC (section 103 to 115A)
- reviewing the operations and performance of Toka Tū Ake EQC (section 132)
- requesting information from Toka Tū Ake 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

In 2019, the Minister of Finance and Minister for State Services issued an updated enduring letter of expectations to Crown Entities, noting the expectation that Crown Entity Boards regularly and transparently report to Ministers on entity performance, risks and opportunities. The 'no surprises' principle found in the Cabinet Manual states that, as a general rule, entities should inform their Minister promptly of any matters of significance within their portfolio responsibilities, particularly where these matters may be controversial or become the subject of public debate.

Minister's power to request information

Under the Crown Entities Act, any responsible Minister(s) have the power to request information (section 133), although it should be noted that Toka Tū Ake 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 Toka Tū Ake EQC's Board must supply to its responsible Ministers any information relating to the operation and performance of Toka Tū Ake 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.

Toka Tū Ake EQC's 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.

Toka Tū Ake EQC's 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.



Southern Response Earthquake Services Limited

PO Box 9052, Tower Junction, Christchurch 8149
P: 0800 501 525 E: claims@southernresponse.co.nz

www.southernresponse.co.nz

3 February 2023

Hon Dr Deborah Russell
Minister Responsible for the Earthquake
Commission
Parliament Buildings
Wellington

Copy to :
Hon Grant Robertson
Minister of Finance
Parliament Buildings
Wellington

Copy to :
Matthew Beilan
The Treasury
PO Box 3724
Wellington

Dear Minister Russell

Briefing for incoming shareholding Minister – February 2023

As a new shareholding Minister of Southern Response Earthquake Services Limited, the Company is looking forward to working with you and your officials.

To support you to understand more about the Company, we have prepared the enclosed briefing, which consists of:

- a background to the Company;
- an overview of the Company's achievements to date; and
- the current status and future direction of the Company.

Please contact me if additional information is required or you have any queries. I am available to attend any meeting of shareholding Ministers and your officials to speak to this briefing.

Yours sincerely

Alister James
Chairman
Contact mobile [REDACTED]
alister.james@southernresponse.co.nz



Southern Response Earthquake Services Ltd

**Briefing for incoming shareholding Minister
February 2023**

3 February 2023

Contents

1. About the Company	1
1.1. Background & Purpose	1
1.2. Funding arrangements & Forecasts	1
1.3. Accountability framework	2
1.4. Life of the Company and wind-down	2
2. Glossary of terms	4
3. Achievements and recent developments	5
3.1. Crown Package	5
3.2. Claims settlement	5
Appendix A – Key contacts	7
Appendix B – Board and Chief Executive’s professional bios	8
Appendix C – Current accountability framework	10

1. About the Company

1.1. Background & Purpose

Southern Response Earthquake Services Ltd (the 'Company' or 'Southern Response') exists as a result of the Crown providing support to customers following the failure of AMI Insurance that occurred during 2011 to 2012. On 5 April 2012, the Company became a Crown-owned Company and was named in Schedule 4A of the Public Finance Act. This occurred following the sale of its non-earthquake claim related business to IAG (NZ) Holdings Limited.

The Company is responsible for settling the claims of AMI residential policyholders arising from earthquakes that occurred in the Canterbury Earthquake Sequence up to 5 April 2012. The Company's core purpose is to settle its remaining customers' claims in a timely and fair manner, within the terms of the insurance policy and existing funding arrangements. It has not, and will not take on any new insurance business, except to the extent that it is ancillary to its claims management business.

In addition to this, in December 2020, the Government announced that the Company would be responsible for the implementation of a package for eligible policyholders who settled with the Company prior to October 2014 (the 'Package'). The Package was developed in response to the *Dodds*¹ judgment and is intended to provide eligible policyholders who cash settled prior to October 2014 with an option to receive an additional payment in relation to certain professional fees, contingency sums, interest on these amounts and in certain circumstances, a contribution to legal fees. There are approximately 2,700 eligible overcap and 7,500 out-of-scope ('OOS') only claims that could be eligible for a Package payment.

The ability for the Company to deliver the Package was initially impacted by court proceedings however, following the discontinuance of the *Ross*² class action in December 2021, the Company was able to directly engage with policyholders to settle Package related claims.

1.2. Funding arrangements & Forecasts

Claim settlement payments made to date as at 31 December 2022 are \$3,252 million on over 49,500 claims. Following the utilisation of all of its reinsurance recoveries, proceeds from the sale of the non-earthquake related insurance business to IAG and the liquidation of the investment portfolio held at the time of the earthquakes, the Company's operational funding is now solely provided from the Crown under the terms of a Crown Support Deed and Deed of Indemnity.

The Crown, through the Minister of Finance, entered into a Deed of Indemnity dated 26 September 2018 that was amended and restated on 28 June 2019 and extended on 11 December 2020 (the 'Indemnity'). Under the Indemnity the Crown agrees to indemnify the Company in relation to any present or future legal proceeding or claim against the Company that the Company and the Crown have agreed is covered by the Indemnity. The Indemnity covers, among other things, the Company's financial exposure under the Crown Package.

Utilisation of the Crown's \$1,480 million funding commitment as at the end of December 2022 was:

- (a) A preference share facility of \$500 million (which was fully drawn down by the end of FY2016); and
- (b) An uncalled capital facility totalling \$980 million has \$54 million remaining, following quarterly calls received up to 31 December 2022.

The first claim of \$75 million on the Crown indemnity was made by the Company in June 2022.

The outstanding net claims liability as at 31 December 2022 is \$133 million which includes a risk margin of \$37 million. The outstanding Package liability as at 31 December 2022 is \$77 million which includes a risk margin of \$7 million.

¹ *Dodds v Southern Response* [2020] [NZCA 395](#) [7 September 2020]

² *Ross v Southern Response* [2021] [NZHC 3497](#) (discontinuance judgment), [NZHC 2453](#) (judgment approving Southern Response's proposed Package communications), [NZHC 2452](#) (judgment approving the plaintiffs' proposed communications about the class action), [NZHC 2454](#) (judgment declining plaintiffs' application for a set-aside order)

Overall, on the assumption that the risk margins will be required for both the outstanding earthquake claims and payment Package, it is forecast that the uncalled capital facility will be fully called upon and Crown indemnity drawdowns will total a further \$141 million over the course of the 2023 and 2024 years.

The Board continues to actively monitor the Company's capital position, to ensure the Company can continue to operate and report its financial performance and financial position as a going concern. The Company works closely with the Treasury in this regard.

1.3. Accountability framework

Guiding documents

In addition to certain Crown Entities Act requirements, the nature and scope of Southern Response's day-to-day operations are governed by the Companies Act 1993, which provides that the Board, each Director and the Shareholding Ministers have the rights, powers, duties and obligations set out in the Act. This is except to the extent that they are negated or modified, in accordance with the Companies Act, by Southern Response's Constitution.

Certain activities of the Company are also governed by the Crown Support Deed.

Governance

Southern Response currently operates as a Crown company with four directors. The current directors were appointed by shareholding Ministers following agreement by Cabinet.

The Board has appointed Casey Hurren as Chief Executive of the Company and he is responsible for the Company's day-to-day operations.

The Board also has an Audit and Risk Committee to support the efficient management of the Board's work. It provides recommendations, counsel and information on accounting, reporting, risk management and responsibilities under legislation and provides oversight of internal audit.

Appendix A provides contact details for key company personnel and Appendix B provides professional bios of the Board and Chief Executive.

Shareholding Ministers

Southern Response is accountable to its shareholding Ministers. The Treasury assists the shareholding Ministers in monitoring the Company's performance against the Crown's objectives for the Company. This is both in terms of delivery against the financial and non-financial performance measures set out in the Company's Statement of Intent. Appendix C sets out the Company's current accountability framework.

Southern Response operates on a 'no surprises' basis and keeps the shareholding Ministers, along with other key stakeholders, well informed of matters impacting the Company on a timely basis. This includes advising the responsible Minister well in advance of any known material or significant events, transactions, media or official information requests, and other issues that could be considered contentious or attract wide public interest, whether positive or negative.

Appointed Actuaries

Finity Consulting, actuarial and insurance consultants based in Sydney, are Southern Response's appointed actuaries and provide quarterly valuations of the claims liability, as well as providing advice on capital requirements and other aspects of the project.

1.4. Life of the Company and wind-down

The Company's purpose will have been achieved once the insurance claims associated with the Canterbury earthquake events up until 5 April 2012 have been settled and the Company has discharged all of its obligations, including any obligations arising from its build programme and the resolution of any legal disputes and/or proceedings in respect of those settled claims. This includes the completion of the delivery of a package for eligible policyholders who cash settled with the Company prior to October 2014 (the 'Package').

As the claims settlement process and delivery of the Package nears completion, the Company will continue to work towards the wind-down and closure of its operations to ensure it fully discharges its obligations.

Delivery of the majority of the overcap related Package claims is expected to be completed by the end of the 2023 financial year with the majority of remaining claims completed by the end of the 2024 financial year.

The Company continues to receive new overcap claims from Toka Tū Ake EQC and there remains significant uncertainty as to how many new claims will be received by the Company in the coming years. Current actuarial forecasts project re-openings to continue until 2027. The Company remains responsible for the settlement of these claims and will continue to ensure it has the appropriate capacity and capability, including managing litigation and any warranty matters arising from the Company's construction programme. This will be done through its contracting arrangements.

The Treasury has recently been asked to explore options for the eventual closing of Southern Response, due to extending timelines surrounding the company's activities. The Company will continue to work with the Treasury and any other relevant parties to provide them any assistance as they assess the future options for the Company. Identifying any risks or impediments to an expedited wind down and assisting in identifying whether options proposed are practical and achievable.

2. Glossary of terms

<i>Covered Claims</i>	Southern Response is responsible for Covered Claims, which are defined as: <ul style="list-style-type: none">a. 'Any Retained Claim' – any claim made by or on behalf of a policyholder under any customer insurance contract relating to any Retained Claim Event, irrespective of whether the claim is made prior to, on or after 5 April 2012. 'Retained Claim Event' means the Canterbury earthquake events recognised by Toka Tū Ake EQC as occurring from 4 September 2010 through 9 October 2011; and any other event that occurred prior to, or was continuing in progress, as at 5 April 2012 which entitles Southern Response to make a reinsurance claim.b. Any other claim for which Southern Response is or may be liable pursuant to Clause 13 of the IAG Sale Agreement (relating to customer insurance contract indemnities and retained claims not clear at 5 April 2012 – essentially claims for which AMI was entitled to make a reinsurance claim and which are being managed on its behalf by IAG).c. Any claim arising in respect of any Covered Insurance Contract.
<i>Covered Insurance Contract</i>	means any contract works or similar insurance policy under which Southern Response is or may be liable from time to time; and any other insurance policy under which Southern Response may be liable from time to time and which has been approved by the Crown (either individually or as a class of insurance business).
<i>Interim payment</i>	a payment to a person with a claim against the Company who is not ready to reach a full and final settlement of their claim. These people are paid the benefit of the "SR settlement amount" and can continue to engage with Southern Response to seek an additional amount or to access additional benefits that may be available under their claim (and the AMI policy).
<i>Non-SPE claim</i>	A claim that have already settled but have re-opened due to post settlement issues / events. These claims do not form part of targets described in the SPE.
<i>Out of Scope claim ('OOS')</i>	A claim for earthquake damage to items that are not covered by the Earthquake Commission Act 1993, but are covered under the terms of an AMI policy. Examples include driveways, fences and swimming pools.
<i>Overcap claim</i>	A claim for earthquake damage to a Residential Building (as defined by the Earthquake Commission Act 1993) that will exceed \$100,000 (excluding GST) for an earthquake event.
<i>Protocol 1 claim</i>	A claim that involved Toka Tū Ake EQC managing the reinstatement of the Residential Building to completion, and the cost of repair has exceeded Toka Tū Ake EQC's statutory liability of \$100,000 for any one earthquake event.
<i>SOI</i>	Statement of Intent (Pursuant to Crown Entities Act 2004).
<i>SPE</i>	Statement of Performance Expectations (Pursuant to Crown Entities Act 2004).

3. Achievements and recent developments

3.1. Crown Package

The Company's goal is to contact as many eligible policyholders as possible and there have been, and continue to be, direct contact initiatives and marketing campaigns underway to ensure as high a take-up rate as possible is achieved.

During the December 2022 quarter the team celebrated the milestone of settling 2,000 overcap Package claims.

Overcap take-up rates and settlements remain ahead of the Company's 2022/23 SPE forecasts and continue to be the primary focus for the team. This has subsequently impacted the progress of OOS settlements, which continue to be processed when registrations are received but are behind SPE forecasts.

Interim results have been received in relation to the Package customer survey which show high levels of customer satisfaction in relation to their claims. The interim results identify that overall, respondents were satisfied with the interactions they had with Southern Response. 84% of respondents were satisfied (30%) or extremely satisfied (54%) with the timeliness of their settlement and 84% were satisfied (35%) or extremely satisfied (50%) with the quality of communication and involvement from Southern Response throughout their application process.

The implementation and delivery of the Package is overseen by an Independent Oversight Committee (IOC) appointed by the Crown. The Company regularly engages with the Committee in an open and transparent manner to allow it to carry out its role. The December 2022 report from the IOC highlighted the Committee's view that the Company is meeting its objective of implementing and delivering the Package in accordance with the principles and processes for the Package agreed between the Company and the Crown; and with due consideration being given to the interests of affected policyholders.

The Company's delivery of the Package is also subject to ongoing reporting obligations to the High Court with the Company's last quarterly Package Dashboard filed with the High Court on 16 December 2022.

3.2. Claims settlement

At the end of the 2019 calendar year, the Company had settled the majority of its Covered Claims portfolio. As the number of open claims were at that stage forecast to continue to reduce, and in order to minimise the impact on customer experience and retain the Crown capability, day-to-day management of claims was outsourced to Toka Tū Ake EQC to act as the Company's agent for a two year period, which has since been extended until October 2023.

The Company retains ultimate responsibility and liability for its Covered Claims and works with Toka Tū Ake EQC to deliver a single Crown claims resolution process to ensure the Company meets its objectives of strong settlement momentum and an improved customer experience. The Company shares its office premises with the Christchurch Toka Tū Ake EQC personnel in support of this relationship.

A series of workshops lead by KPMG were held with Toka Tū Ake EQC to refine and document the single Crown claims resolution process. This was to ensure Toka Tū Ake EQC met Southern Response's objectives of strong settlement momentum, improved customer experience and consistency.

The Company continues to ensure that the customer is at the centre of its processes, communications and systems and actively works to facilitate alternative settlement pathways in a transparent and collaborative way. The Company looks to identify flexible solutions and to work proactively with customers to reduce disputes.

The Company continues to receive new overcap claims from Toka Tū Ake EQC and there remains significant uncertainty as to how many new claims will be received by the Company in the coming years.

The following table shows the total number of claims that had been opened and settled to date, as well as the number that have been opened and settled during the most recent quarter (ending 31 December 2022) and in the last 12 months. This includes both Covered Claims, as per the Company's current SPE, and other claims that the Company may also be liable for. The Company also continues to manage its litigated claims and other disputes.

Claim type	Open as at 31/12/22	Settled as at 31/12/22	Total as at 31/12/22	Opened in Q2	Settled in Q2	Opened in last 12mths	Settled in last 12mths
Overcap	73	6,330	6,464	29	29	105	134
Interim payment made	61						
Construction	2	2,572	2,574	1	1	3	3
Litigated overcap	3	67	70	1	3	3	4
Other claims	7	40,549	40,556	4	9	37	43
Total Covered Claims as per Statement of Performance Expectations (SPE)	146	49,518	49,664	35	42	148	184
Post settlement – Overcap	61	673	734	14	14	49	39
Post settlement – Protocol 1	1	276	277	-3 ²	-3 ²	-11 ²	-10 ²
Post Settlement – OOS	4	81	85	2	3	10	14
Litigated undercap	1	16	17	-1	0	-1 ²	0
Total non-SPE claims¹	67	1,046	1,113	12	14	47	43

1. Non-SPE claims are claims that have already settled but have re-opened due to post settlement issues / events and do not form part of targets set-out in the SPE.
2. Claims can move between reporting categories and therefore the net "opened" or "settled" can show as a negative if more claims have been transferred to another claim type than have been opened of that claim type.

To date, the Company has settled approximately 49,500 claims, including over 8,960 overcap claims. As shown in the above table, the number of claims entering the business are broadly similar to those that have been settled.

Although the preference is to cash settle claims, the Company also maintains a construction programme for customers where appropriate. The programme is now significantly reduced and there remains only a small number of active construction sites (two open claims). The Company continues to monitor, review and have input into the health and safety aspects of these sites.

Greater Christchurch Claims Resolution Service ('GCCRS') remains the most widely used service by Southern Response customers that have unresolved claims with the Company and the Company remains supportive of any alternative dispute resolution service that helps to provide efficient and expedient pathways towards claim settlement.

Appendix A – Key contacts

Alister James

Chairman of the Board

Mobile: [REDACTED]

Email: alister.james@southernresponse.co.nz

Casey Hurren

Chief Executive

Mobile: [REDACTED]

Email: casey.hurren@southernresponse.co.nz

Kelsey Church

Company Secretary

Mobile: [REDACTED]

Email: kelsey.church@southernresponse.co.nz

Appendix B – Board and Chief Executive’s professional bios



Alister James – Chair

Term ends 30 June 2024

Alister is an experienced lawyer, currently practising as a Barrister. Alister has had previous experience in local government and health, as a former Christchurch City Councillor serving for twenty years, including as Chair of the Strategy and Finance Committee, and a former Member and Chair of the Canterbury District Health Board. Alister is a former director and Chair of Christchurch City Holdings Limited (Council holding company for Orion, Lyttelton Port, Christchurch International Airport, and other commercial interests), and until recently, the independent Chair of the Greater Christchurch Public Transport Joint Committee.

Alister has had wide experience in the community and voluntary sector, and became a Companion of the Queen’s Service Order (QSO) in the 2004 New Year Honours List for community services. He has also served as a British Honorary Consul. Alister is currently a Commissioner on the Toka Tū Ake EQC Board.

Following the February 2011 earthquakes, Alister’s own home in Central Christchurch was severely damaged and demolished two months later. He understands from personal experience the difficulties faced by other residents following the earthquakes.



Bevan Killick – Deputy Chair

Term ends 30 June 2024

Christchurch born and educated, Bevan Killick is a chartered accountant, a chartered insurance practitioner (UK) and a chartered member of the Institute of Directors.

During his professional career, Bevan held senior positions in the Lloyd’s Insurance Market for 12 years. Christchurch based, Bevan is a professional director where his roles include being Chair of the Defence Employer Support Council and an honorary Captain in the Royal New Zealand Navy.

In the post-earthquake era Bevan also worked with Recover Canterbury, the organisation responsible for helping businesses recover from the Canterbury earthquakes.



Fiona Pimm – Director

Term ends 30 June 2024

Fiona has extensive experience in governance and strategy roles in the health, government, and NGO sectors, and also with local iwi and runanga. She was recently appointed to the new Maori Health Authority.

Fiona is interested in bringing different perspectives to the work of Southern Response, and she has experience in leading an organisational closure.

Fiona is of Ngai Tahu descent with affiliation to Arowhenua.



**Aedeon Boadita-
Cormican – Director**

Term ends 30 June 2024

Originally from Ireland, Aedeon is a Barrister, based in Wellington.

Aedeon has governance experience at NGOs and extensive commercial and senior in-house legal and leadership experience in New Zealand and overseas. Her New Zealand roles have included Senior Crown Counsel at Crown Law, General Counsel & Company Secretary at ACC, and Acting Treasury Solicitor. At ACC Aedeon led initiatives to develop customer-centric claims resolution and litigation practices and policies, in close consultation with customer advocates and legal representatives.

She is committed to supporting fair settlement of outstanding claims by Southern Response through a customer-centric approach, and establishing effective arrangements for the management of legacy issues.



**Casey Hurren – Chief
Executive**

Prior to his appointment at the end of 2019, Casey Hurren was the General Manager of Legal and Strategy for Southern Response. He has been with Southern Response since June 2012, initially as its Legal Counsel.

Casey graduated with an LLB and BSc. from the University of Otago and prior to Southern Response he has worked in various legal roles in the public and private sector.

Casey is well placed to lead Southern Response through its next phase, thanks to his diverse knowledge of the legal, insurance, building and government sectors, coupled with his extensive experience within strategic and executive management roles within Southern Response.

Casey is committed to ensuring that Southern Response continues to fulfil its obligations and play its part in Canterbury's earthquake recovery, while working through a transition that will eventually see this limited-life Crown company complete its purpose.

Appendix C – Current accountability framework

The current accountability framework includes:

- Letter of Expectations issued by the Shareholding Ministers;
- Statement of Intent and Statement of Performance Expectations. The latest SOI and SPE were submitted in May 2022;
- Annual Report. Southern Response's Annual Report 2022 was published in September;
- Quarterly reports submitted to Shareholding Ministers. The latest quarterly report, for the quarter to 31 December 2022, was submitted on 31 January 2023;
- Monthly financial reports submitted to Treasury for incorporation into the Crown accounts; and
- Other information – relating to the affairs of the Company submitted as requested by Shareholding Ministers and as required under the Crown Support Deed and Deed of Indemnity.

The Treasury

Briefing to the Incoming Minister Responsible for the Earthquake Commission

March 2023

This document has been proactively released by the Treasury and released on the Treasury website:

<https://www.treasury.govt.nz/publications/corporate-documents/briefings-incoming-ministers>

Information Withheld

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act).

Where this is the case, the relevant sections of the Act that would apply have been identified.

Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to sections of the Act under which information has been withheld:

- [25] 9(2)(b)(ii) - to protect the commercial position of the person who supplied the information or who is the subject of the information
- [33] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials

Where information has been withheld, a numbered reference to the applicable section of the Act has been made, as listed above. For example, a [25] appearing where information has been withheld in a release document refers to section 9(2)(b)(ii).

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Briefing to the Incoming Minister Responsible for Toka Tū Ake – Earthquake Commission

February 2023

Contents

1	Your responsibilities, and how the Treasury assists you.....	2
1.1	Toka Tū Ake – Earthquake Commission	3
1.2	Southern Response	4
1.3	The board appointments process	6
1.4	Key Treasury contacts.....	8
2	Matters of interest	9
2.1	Toka Tū Ake – Earthquake Commission	9
2.2	Southern Response	13
	Annex One: Toka Tū Ake EQC’s Board.....	14

1 Your responsibilities, and how the Treasury assists you

This briefing outlines your role as the Minister Responsible for the Earthquake Commission, and how the Treasury assists you in your role. It also highlights some considerations relating to the Toka Tū Ake – Earthquake Commission (**Toka Tū Ake EQC**) that we wish to discuss with you.

As the Minister Responsible for Toka Tū Ake EQC, you are also one of two shareholding Ministers of Southern Response Earthquake Services Limited (**Southern Response**), along with the Minister of Finance. This briefing also provides an overview of Southern Response and some of the considerations relating to the company.

1.1 Toka Tū Ake – Earthquake Commission

Toka Tū Ake EQC is a statutory Crown entity and is subject to both the Crown Entities Act 2004 (**Crown Entities Act**) and the Earthquake Commission Act 1993 (**EQC Act**). Toka Tū Ake EQC administers New Zealand's main source of residential natural hazard cover and is a key contributor to the management of natural disaster risk. Toka Tū Ake EQC is a first-loss insurer, covering the cost of settling a claim up to a capped value (the cap). The cap is currently set at \$300,000 plus GST per dwelling. A private insurer typically covers any cost above the value of the cap (the over-cap portion).

Your responsibilities and key opportunities to influence

You are the responsible Minister for the EQC Act. You are required to oversee the Crown's interests in, and relationship with, Toka Tū Ake EQC. You appoint the Board of Commissioners, which is responsible for exercising Toka Tū Ake EQC's powers and performing its functions contained in the EQC Act.

You can also influence Toka Tū Ake EQC through the business planning cycle. This includes communicating your expectations through an annual Letter of Expectations to the Board, and commenting on a Statement of Performance Expectations (that the Board produces each year) and a Statement of Intent that the Board produces at least once every three years.

Under the Crown Entities Act, you can issue a Ministerial direction that requires Toka Tū Ake EQC to give effect to Government policy that relates to its functions and objectives. Eight Ministerial directives, issued since 2001, are currently in effect.

The Treasury is the lead advisor to you on Toka Tū Ake EQC matters

The Treasury is the Government's principal advisor on economic and fiscal policy and is the lead advisor to you on Toka Tū Ake EQC matters. We provide you with independent advice. This perspective is particularly critical with respect to anything that involves financial arrangements, statutory powers or obligations.

The Treasury review and provide comment on Toka Tū Ake EQC's quarterly reports and annual report. These reports are assessed against Toka Tū Ake EQC's business planning documents. We also manage the appointment process of directors on your behalf and provide advice to you on the skills required for the Toka Tū Ake EQC Board.

Treasury administers the EQC Act and advises you on any resulting legislative or regulatory matters.

1.2 Southern Response

Southern Response is listed under Schedule 4A of the Public Finance Act 1989. Previously called AMI Insurance Limited (**AMI**), it became a Crown-owned company (and was renamed) in 2012, when the Crown took over the company to ensure that it could fulfil its obligations to policyholders arising from the Canterbury Earthquake Sequence and the resultant failure of AMI. It has subsequently paid out over \$3 billion to settle claims, of which approximately \$1.4 billion has been funded by the Crown to date.

Your responsibilities and key opportunities to influence

You are required to oversee the Crown's interests in, and relationship with, Southern Response. Similar to Toka Tū Ake EQC, shareholding Ministers appoint the Board, and can influence Southern Response through the business planning cycle.

The Treasury is the lead advisor to you on Southern Response matters

Southern Response is working to wind down its operations in a manner that will allow it to fully discharge its obligations. It will not take on any new insurance underwriting, except to the extent that it is ancillary to its claims management business.

Southern Response has outsourced the management of its claims settlement activities to Toka Tū Ake EQC. It now uses its residual resources to support Toka Tū Ake EQC in delivering, on behalf of Southern Response, fair and enduring settlements for Cantabrians who are yet to resolve their earthquake claims. Acknowledging Toka Tū Ake EQC's role under an Agency Agreement, key decision-making regarding claims settlements remains with Southern Response. Third parties, such as the Greater Christchurch Claims Resolution Service, are also used to assist customers in settling claims and identifying solutions.

The net outstanding claims liability is \$143 million as at 30 September 2022. There is considerable uncertainty around this liability estimate. As claims settlements have progressed, there are fewer claims; however, the main uncertainty relates to the total number of new over-cap claims¹ that ultimately come through from Toka Tū Ake EQC which is responsible for claims the cost of which is under the statutory cap.

In December 2020, the Government announced the Crown Proactive Package (the 'Package'), which is intended to provide eligible policyholders who cash settled their claims prior to October 2014 with an option to receive an additional payment in relation to certain professional fees, contingency sums, interest on these amounts and in certain circumstances, a contribution to legal fees. The focus for the upcoming year and a half will be to resolve the remaining outstanding claims and continue the execution of the Package. As at 30 September 2022, the company has settled approximately 1,800 Package related claims at a value of circa \$173 million. The net outstanding liability for the Package as at 30

¹ Toka Tū Ake EQC insures the first \$100,000 plus GST (\$115,000) of damage to a house (the "cap") for each earthquake event. Toka Tū Ake EQC pays its contribution for each event and the private insurance company takes over responsibility for managing and settling the claim, and paying the amount in excess of the cap that is "overcap".

September 2022 is circa \$100 million. Southern Response anticipates delivering the majority of payments under the Package by June 2024.

Until settlements are completed there will be some uncertainty as to the total cost to the Crown arising from its commitment to support Southern Response to fulfil its obligations to its policyholders. The main uncertainties relate to newly reported over-cap claims coming through from Toka Tū Ake EQC, the ultimate take-up rate of Package payments to eligible policyholders, and the ongoing risk of further litigation.

The Crown has provided financial support to Southern Response through an uncalled capital facility. The balance remaining in this facility as at 30 September 2022 was \$89 million. The Crown has also provided an indemnity in relation to the Package. The first drawdown of this indemnity was made in June 2022 for \$75 million.

The Treasury monitors claims settlement progress (in part through its monitoring of Toka Tū Ake EQC) and engages with Southern Response on the company's funding requirements and the drawdown of its uncalled capital facility and Crown indemnity. We will provide further advice to you as required.

Independent Oversight Committee

The Independent Oversight Committee (**IOC**) was established in December 2020 to oversee the delivery of the Package and provide independent oversight, make recommendations and give advice to the board of directors of Southern Response, and report significant issues to the Crown.

The IOC has so far been satisfied with Southern Response's work delivering the Package. Southern Response attend part of the IOC's monthly meeting to discuss delivery of the Package and any key matters relevant. The minutes of these meetings are publicly available alongside the quarterly reports the IOC produces.

Residual Canterbury claims

The Canterbury Earthquake Insurance Tribunal (**CEIT**) and the Greater Christchurch Claims Resolution Service (**GCCRS**) were set up to assist with the resolution of the remaining outstanding Canterbury earthquake claims. The Ministry of Justice and the Ministry of Business, Innovation and Employment will provide advice on the future of the CEIT and the GCCRS respectively, as the number of residual insurance claims declines. You may be consulted on this advice, given the implications for Toka Tū Ake EQC and Southern Response. We note that it may take several years to resolve all the remaining outstanding Canterbury earthquake claims.

'No surprises' policy

Under the 'no surprises' convention, the boards of Crown entities are expected to:

- be aware of any possible implications of their decisions and actions for wider government policy issues

- advise the responsible Minister 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
- inform the Minister in advance of any major strategic initiative.

This includes information required to answer parliamentary questions, information required by/for parliamentary select committees, and information required for Budget and appropriation processes.

1.3 The board and board appointments process

Governance is the responsibility of the boards of Toka Tū Ake EQC and Southern Response, members of which are appointed by Ministers, subject to Cabinet approval. The boards operate at arm's length from Ministers to develop the overall strategy for each entity and appoint a chief executive officer, to whom they delegate management decisions to implement the strategy. Given the arm's length model, the **two most important levers** available to Ministers to influence the performance of entities and companies are the:

- appointment of effective boards
- annual business planning and reporting process.

A high performing board with the confidence of Ministers is a critical enabler for strong Crown Entity performance. Membership of a high performing board needs a balance of capabilities, skills and experience, and diverse perspectives that work well together to drive performance of the company or entity.

As a responsible Minister, you are responsible for appointing directors to the two boards.

The Treasury's Governance and Appointments team follows the Cabinet Approved Appointment process providing advice, administrative and nomination support throughout this process, and prepares the Cabinet documentation to confirm appointments.

In providing this advice the Treasury considers:

- member composition across the board – ensuring there is a mix of capabilities (governance and executive level experience, skills, and backgrounds), and demographic diversity such as gender, age, ethnicity, and perspectives to achieve portfolio objectives
- director capabilities as outlined in Treasury's Board Governance Capability Framework, giving consideration to whether members have the required:
 - a. **Crown portfolio alignment** - demonstrates awareness of context, understanding of own motivations, and commitment to requirements
 - b. **Skills, Knowledge & Experience** - the expertise that a director brings to the role, and their understanding and applications of practical and theoretical information

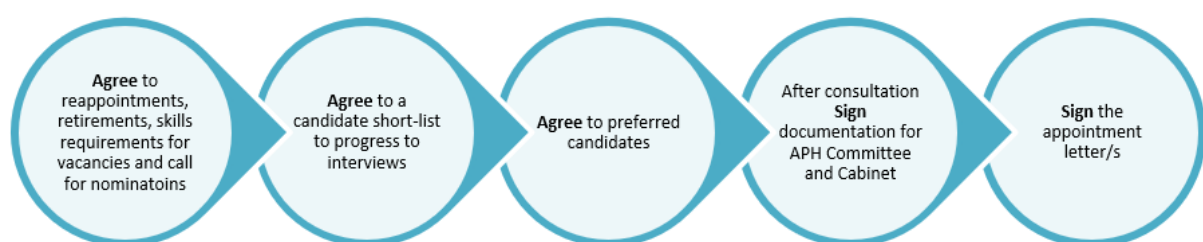
c. **Behaviours, Attributes and Characteristics** - disposition that shapes a director's responses and behaviours

- Entities specific goals in the Letter of Expectations, strategic objectives (current and future), and priorities
- Entities leadership and organisational performance results
- views of the current chair and entity monitors, skills assessments, recent board evaluations, and reviews of the board
- available opportunities for early-stage directors and/or future directors.

Increasing both demographic diversity and wider diversity has been a key focus for appointments to Crown boards. Nominations and expressions of interest are sought from:

- You and your caucus colleagues
- Chairs
- nominating agencies across government
- the public notification of vacancies through the Treasury's database of 6000+ candidates,
- advertising the vacancy on LinkedIn, through CommunityGovernanceNZ website, the Super Diversity Institute membership, Infrastructure New Zealand LinkedIn page and other community or industry groups where particular capabilities are sought.

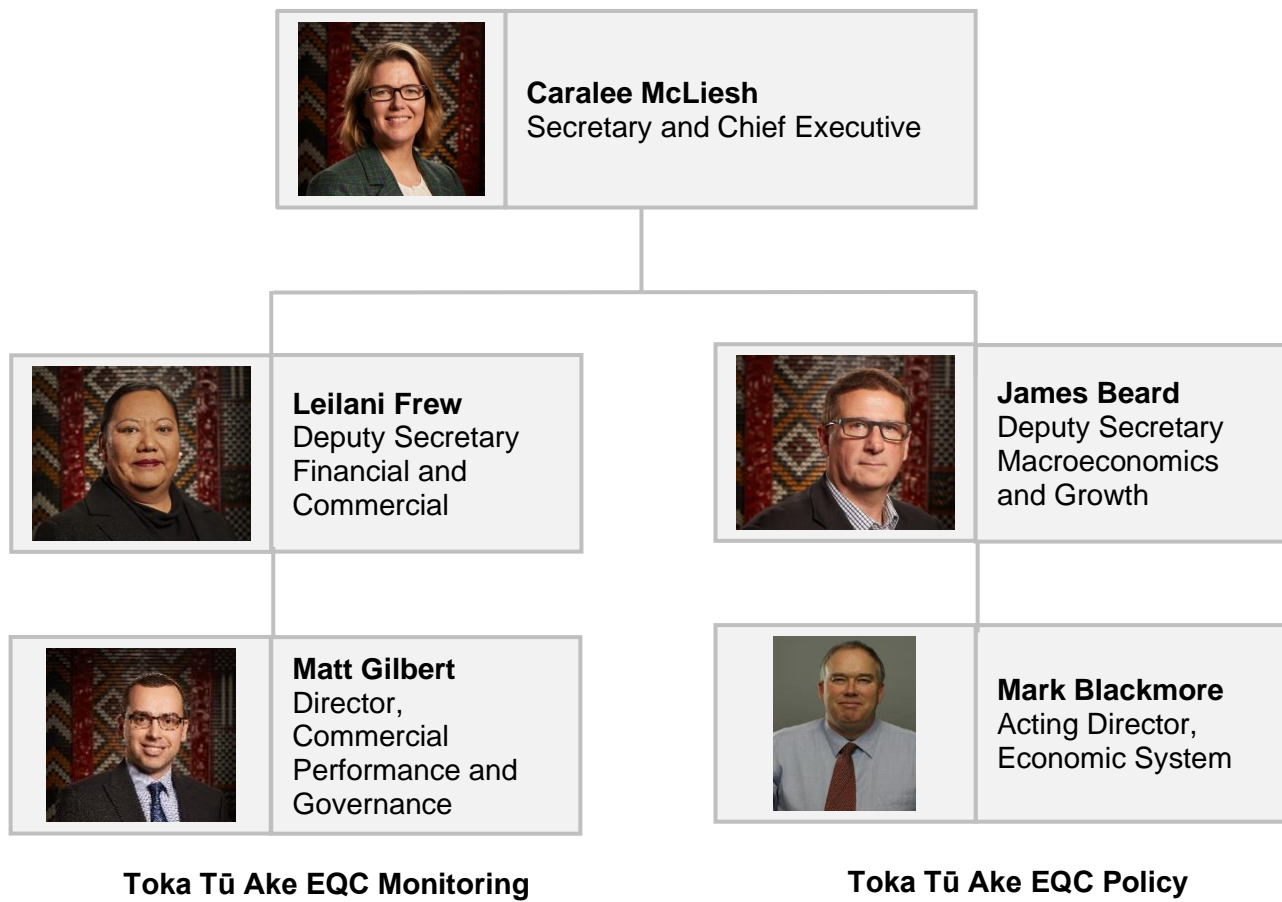
Treasury will engage you throughout the board appointment process and ask for your input and to make decisions at five points as outline below.



Appointments occur throughout the year, and can be driven by the board's composition, term end dates, the length of time directors have been on boards, and whether board members seek reappointment or resign, for example due to changes in their circumstances. A typical appointment round can take five to seven months, from identifying upcoming vacancies, working with the chair to develop the capabilities and skills profile and calling for nominations, to new board members commencing in their role.

The initial term for newly appointed directors is usually three years. Directors are typically reappointed for a further three years if they have performed well and their skills remain relevant. Directors may be reappointed for a third term in exceptional circumstances and there is no maximum number of terms a director can serve.

1.4 Key Treasury contacts



2 Matters of interest

2.1 Toka Tū Ake – Earthquake Commission

Board appointments

There are four board members coming to the end of their term in early-2023. These are:

- **Scott Lewis**; reappointed for further terms of three years from 1 March 2023 up to 28 February 2026;
- **Ruth Dyson**; reappointed for further terms of three years from 1 March 2023 up to 30 April 2026;
- **Fiona Wilson**; reappointed for further 18 months from 1 March 2023 to 31 August 2024;
- **Emma Dobson**; retiring at the end of her term on 28 February 2023.

We will be advising you on the short list to replace Emma Dobson and next steps shortly. Further information on the Board composition can be found in Annex One.

Passage and Enactment of the Natural Hazards Insurance Bill

A Public Inquiry was conducted in 2020/21 to examine the role and work of Toka Tū Ake EQC in the aftermath of the 2010 and 2011 Canterbury earthquakes and subsequent events, and to ensure lessons can be applied to improve how Toka Tū Ake EQC operates in future. One of its recommendations was to modernise the EQC Act, and the Government has made this a priority in its work programme.

The Natural Hazards Insurance (**NHI**) Bill will replace the EQC Act. The NHI Bill was introduced in March 2022 and is awaiting its Third Reading. We recommend passage and Royal assent be completed as soon as reasonably practicable. This ensures that Toka Tū Ake EQC, insurers and other stakeholders are able to undertake the operational, administrative and contractual changes necessary to support its successful implementation, scheduled for the latter of 1 July 2024, or twelve months after Royal assent.

We intend to provide you with advice shortly on the remaining next steps to support successful implementation of the NHI Act. We anticipate this will focus on outlining the advice, process and decisions necessary to implement the supporting regulations and tertiary legislative instruments that will be made under the new Act.

Included in the Bill is a Financial and Risk Management Statement (**FRMS**), which must be in place on commencement of the NHI Act. The FRMS will set out the Government's intended strategy to fund the Natural Hazard Insurance Scheme and address any funding shortfall that may arise. Its objective is to provide transparency as to how the costs of natural disasters will be shared among taxpayers and levy payers. We intend to provide you and the Minister of Finance with preliminary advice shortly on the funding and financing principles that will guide the FRMS's development. Treasury will work with Toka Tū Ake EQC to develop the FRMS and we will seek your guidance throughout on its direction of travel.

Risk-financing and reinsurance markets

Toka Tū Ake EQC purchases reinsurance from international reinsurance markets to transfer residential natural hazard risk off of the Crown's balance sheet. As a result of the reinsurance industry enduring multi-year losses, we are seeing global reinsurance markets harden considerably as global insurers renew their reinsurance programmes. It is likely that Toka Tū Ake EQC will experience significant cost pressures and capacity challenges in renewing its reinsurance programme for the twelve months beginning 1 June 2023. We are engaging with Toka Tū Ake EQC on this matter, including how it intends to manage any financial impact or exposure to the Crown. We will advise you independently on these issues as the Board explores options.

Toka Tū Ake EQC is looking to diversify the sources of global capital that support its reinsurance programme. It is exploring the opportunities presented in capital markets ^[25]. Toka Tū Ake EQC and Treasury will keep you appraised of how this workstreams progresses.

Legal issues

There are a number of outstanding legal cases against Toka Tū Ake EQC related to the 2010 and 2011 Canterbury earthquakes and subsequent events. We have been engaging with Toka Tū Ake EQC's legal team as these cases progress and the liability to Toka Tū Ake EQC (and the Crown) becomes known. Our main concern is that due to the nature of the cases, we cannot estimate costs, and they have not been budgeted for. As of 5 December 2022 there were 15 claims remaining, albeit with different risks. We will engage with your office as these become known.

Natural Disaster Fund

Toka Tū Ake EQC administers the Natural Disaster Fund (**NDF**). Levies collected from insured homeowners are invested, used to pay for operating expenses (including claims management and settlement costs), and to purchase reinsurance. A current Ministerial Direction limits its investments to NZ cash and fixed interest only. ^[33]

Crown Guarantee

Section 16 of the EQC Act provides that, if the assets of Toka Tū Ake EQC are not sufficient to meet its liabilities, the Crown will provide Toka Tū Ake EQC with a grant or advance to meet the shortfall. You can set terms and conditions for this guarantee. Since the Canterbury and Kaikōura earthquakes, Toka Tū Ake EQC has drawn down \$240 million from the Crown, with the last payment made in November 2020. Toka Tū Ake EQC currently pays the Crown an annual fee of \$10 million for this guarantee.

Toka Tū Ake EQC and the Crown have a Deed in place which sets out the terms put in place to operationalise section 16 of the EQC Act. This Deed is renewed annually. Toka Tū Ake EQC can request funds when it forecasts that the balance of the NDF will drop below an operational buffer of \$50 million. The Secretary to the Treasury has been delegated the authority to authorise individual payments of up to \$60 million. Any payment above this amount requires your approval. This delegation remains in place until revoked by you.

We will advise you as soon as it becomes apparent that further funding is required.

On-sold over-cap policy

Toka Tū Ake EQC is administering the on-sold over-cap policy on behalf of the Crown. This policy seeks to reduce litigation while addressing the social issues that arise from people living in unrepaired homes damaged by the Canterbury earthquake sequence. The policy provides an ex-gratia home repair grant to cover the over-cap cost of missed earthquake damage and/or failed Toka Tū Ake EQC -commissioned repairs of houses that have been sold and are not covered by private insurance policies. Current cost projections of the on-sold over-cap policy are expected to be lower than the appropriated amount of \$580 million.

However, due to external market factors Toka Tū Ake EQC are experiencing delays and significant cost pressures. We have included an expectation in Toka Tū Ake EQC's 2022/23 annual Letter of Expectations to keep Treasury informed of any risks impacting timelines and additional costs to the Crown.

Residual Canterbury claims

Toka Tū Ake EQC received around 179,000 claims after 2010 and 2011 Canterbury earthquakes and subsequent events. All have been settled, however under the EQC Scheme claims can be reopened due to poor repair quality and/or missed damage. As of 30 November 2022, Toka Tū Ake EQC advised that there are 818 open claims remaining. We expect that it will take several more years to resolve all the remaining outstanding Canterbury earthquake claims.

Monitoring Insurance Market Response to the Increase in the Toka Tū Ake EQC Monetary Cap

The monetary cap on Toka Tū Ake EQC building cover was increased from \$150,000 (plus GST) to \$300,000 (plus GST) from 1 October 2022, phased in over 12 months as homeowners' insurance policies renew.

Toka Tū Ake EQC has commissioned, on Treasury's behalf, actuarial consultants to periodically monitor insurers' market prices to the change in the Toka Tū Ake EQC cap. The primary purposes of this is to help evaluate if the increase in the Toka Tū Ake EQC cap achieved its policy goals, and to develop an information set on insurance pricing and availability, that will help inform future advice regarding the Toka Tū Ake EQC cap, and other related insurance matters.

Flood Insurance

The Government is considering residential flood insurance issues in the context of increasing risk-based pricing and underlying risks being exacerbated by climate change. Both these trends challenge the insurability of some assets.

In April 2022, Cabinet invited the Treasury to consult on these issues and to examine options to intervene in the insurance market. This work sits alongside other policy work on climate adaptation, which indirectly supports insurance access and affordability. The Treasury's most recent advice was provided in November 2022 and is still being considered by Ministers. Depending on how this work develops, it may have implications for Toka Tū Ake EQC if it is decided that the Government wishes to intervene directly in the flood insurance market.

2.2 Southern Response

Participation in the Greater Christchurch Claims Resolution Service

The Greater Christchurch Claims Resolution Service (**GCCRS**) continues to be the most popular avenue for Southern Response customers to seek support and representation. Southern Response continues to participate fully in the service and has regular claims discussions.

To 30 September 2022 GCCRS had closed a total of 294 Southern Response-related over-cap customer issues (noting that this does not necessarily always mean that a claim has settled) and had 181 open cases that involve an AMI (Southern Response) policyholder. Of these cases:

- 139 are open under-cap claims for which Southern Response is not liable (unless they go over cap)
- 42 claims involve a Southern Response liability.

To 30 September 2022, GCCRS had closed a total of 20 Crown Package related cases and had 4 cases open.

Independent Oversight Committee appointments

The Independent Oversight Committee (**IOC**) was setup in December 2020 to provide independent oversight of Southern Response's implementation and delivery, and to advise Ministers and the SRES board. [33]

Managing the final stages of Southern Response

The Treasury has been asked to explore options for the eventual closing of Southern Response. This work has also been outlined to Southern Response in their 2023/24 Letter of Expectations, including an expectation of working collaboratively and transparently with the Treasury. We will provide further advice on this matter as work progresses.

Annex One: Toka Tū Ake EQC's Board

Member	Start date	End date	Region	Skills
Chris Black (Chair)	5 April 2022 (Chair from 1 July 2022)	31 March 2025	Auckland	Financial and risk management, legal compliance/regulatory, C-Suite, strategic leadership, chair experience, M&A, investments, commercial nous, asset management, sales, business development, change management, organisational transformation, specific sector and industry knowledge – insurance.
Hon Ruth Dyson (Deputy Chair)	1 May 2021 (Deputy Chair from April 2022) Reappointed for 1 March 2023	30 April 2023 30 April 2026	Canterbury	Financial and risk management, legal compliance/regulatory, C-Suite, strategic leadership, chair experience, change management, organisational transformation, stakeholder engagement, knowledge of Te Ao Māori, ESG, sustainability, carbon neutrality, public sector, local government experience.
Alastair Hercus	1 March 2020	30 June 2025	Wellington	Financial and risk management, legal compliance/regulatory, C-Suite, strategic leadership, chair experience, stakeholder engagement, knowledge of Te Ao Māori, public sector, local government experience, specific sector and industry knowledge – insurance.
Alister James	1 May 2021	30 April 2024	Canterbury	Financial and risk management, legal compliance/regulatory, chair experience, human resources, people development, Stakeholder engagement, knowledge of Te Ao Māori, specific sector and industry knowledge – insurance.
Emma Dobson*	1 March 2020	28 February 2023	Wellington	Financial and risk management, legal compliance/regulatory, M&A, investments, commercial nous, asset management, sales, business development, technology, digital transformation, data analytics, change management, organisational transformation, stakeholder engagement, knowledge of Te Ao Māori, public sector, local government experience.
Erica Seville	1 July 2018	30 June 2024	Otago	Financial and risk management, C-Suite, strategic leadership, chair experience, human resources, people development, change management, organisational transformation, stakeholder engagement, knowledge of Te Ao Māori, public sector, Local government experience, specialist skills – actuary.

Fiona Wilson	[1 March 2020] Reappointed 1 March 2023	28 February 2023 31 August 2024	Auckland	Financial and risk management, legal compliance/regulatory, C-Suite, strategic leadership, chair experience, M&A, investments, commercial nous, asset management, technology, digital transformation, data analytics, change management, organisational transformation, stakeholder engagement, knowledge of Te Ao Māori, public sector, Local government experience, health and safety.
Scott Lewis	[1 March 2020] Reappointed 1 March 2023	28 February 2023 28 February 2026	Auckland	Financial and risk management, M&A, investments, commercial nous, asset management, change management, organisational transformation, stakeholder engagement, knowledge of Te Ao Māori, public sector, Local government experience, specific sector and industry knowledge – insurance, specialist skills – actuary.
Ziena Jalil	1 July 2022	30 June 2025	Auckland	Financial and risk management, legal compliance/regulatory, sales, business development, marketing and communications, change management, organisational transformation, stakeholder engagement, knowledge of Te Ao Māori, public sector, local government experience, specific sector and industry knowledge – insurance.

* member is retiring and we will be advising you on the short list for their replacement and next steps shortly.