



## COVERSHEET

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|-------------------------------|--|-----------------------------|--|
| <b>Minister</b>               | Hon Dr Duncan Webb   | <b>Portfolio</b>            | Commerce and Consumer Affairs – Previously Earthquake Commission |
| <b>Title of Cabinet paper</b> | Establishment of a national standing mechanism to support homeowners with insurance issues following natural disasters | <b>Date to be published</b> | 13 April 2023  |

### List of documents that have been proactively released

| <b>Date</b>    | <b>Title</b>   | <b>Author</b>   |
|----------------|--|---|
| August 2022    | Establishment of a national standing mechanism to support homeowners with insurance issues following natural disasters                           | Office of the Minister of Commerce and Consumer Affairs |
| 24 August 2022 | Establishment of a National Standing Mechanism to Support Homeowners with Insurance Issues Following Natural Disasters<br>DEV-22-MIN-0199 Minute | Cabinet Office  |

### Information redacted

**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 the 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.

## **In Confidence**

Office of the Minister Responsible for the Earthquake Commission  
Cabinet Economic Development Committee

## **Establishment of a national standing mechanism to support homeowners with insurance issues following natural disasters**

### **Proposal**

1. This paper seeks Cabinet agreement to institutional and funding arrangements to support the establishment of a national insurance claims resolution service.

### **Relation to government priorities**

2. This proposal advances the Government's commitment to consider and implement the recommendations of the Public Inquiry into the Earthquake Commission (EQC).

### **Executive Summary**

3. In response to recommendation 8.1.1 of the Public Inquiry into EQC, I propose that a standing mechanism named the New Zealand Claims Resolution Service (NZCRS) be established, with the overarching purpose of supporting homeowners to achieve timely, fair, and enduring resolution of residential insurance claims resulting from natural disasters.
4. The new service will provide support to homeowners with a Toka Tū Ake EQC and/or private insurance claim against a residential property that has been damaged by any natural disaster event, with no limit on the value of a claim.
5. The NZCRS will replace the Greater Christchurch Claims Resolution Service (GCCRS) and the Residential Advisory Service (RAS), with current GCCRS and RAS claimants being transferred.
6. I am seeking Cabinet agreement to the following establishment and funding arrangements for the NZCRS:
  - 6.1 Ministerial portfolio responsibility: Commerce and Consumer Affairs;
  - 6.2 Host government agency: the Ministry of Business, Innovation and Employment;
  - 6.3 The establishment and initial operation of NZCRS to be funded by repurposing \$4.000 million of funding agreed through the Budget 2022 Insurance Claims Resolution initiative.

- 6.4 Outyear funding for a baseline level of service will be sought through future Budgets. If required, additional funding will be sought from Cabinet following any major natural disaster.
7. Subject to Cabinet approval and operational requirements, the NZCRS can launch from October 2022 to provide, in the first instance, early resolution, advisory and case managed support services. Introducing bespoke dispute resolution services will be considered once further policy work has been completed.

## Background

8. New Zealand is prone to natural disasters and needs to be prepared for the consequences of future events, including the insurance disputes that will inevitably arise.
9. Where people have trouble reaching a settlement to repair their home, they may be forced to live in substandard conditions. Homeowners may reach settlements that do not fully reflect their policy and/or cover repairs or rebuilding, which directly impacts the availability and quality of housing stock.
10. The lack of understanding about insurance-related issues for some of the New Zealand public leaves many homeowners feeling ill-equipped to manage their claims. The situations people find themselves in, and the claims processes they are asked to follow, can have detrimental effects on relationships, whānau, and people's general wellbeing. The Canterbury Earthquake Sequence (CES) showed there is a need for greater consumer protection in relation to insurance issues.

*The CES highlighted a need for Government-coordinated support for insurance claimants following natural disasters*

11. In November 2018, the Government appointed Dame Silvia Cartwright to undertake a Public Inquiry into EQC (the Inquiry). The Inquiry's report was publicly released on 9 April 2020. The Government accepted, accepted in principle, and/or committed to further consideration of all 70 of the Inquiry's recommendations [DEV-20-MIN-0116 refers].
12. Inquiry recommendation 8.1.1 is intended to promote more efficient and fair resolution of insurance disputes in the event of other major natural disasters:

*Develop a standing dispute resolution mechanism that is robust, accessible, timely and responsive to complainants, drawing on the experience of the Canterbury earthquakes, including the experiences of EQC and claimants; this may include enacting legislation to support such a mechanism.*

13. Significant system improvements have been made since the CES but most of the common issues experienced by homeowners remain. This is largely due to the often-complex nature of claims, a lack of homeowner knowledge about how to navigate the insurance system, and the heightened level of stress experienced by people who have either been displaced by a natural disaster or who are living in a damaged home.
14. Following initial scoping work by the Treasury, I directed the Ministry of Business, Innovation and Employment (MBIE) to provide advice on options for a standing dispute resolution mechanism to provide support for homeowners with residential insurance claims after a natural disaster has occurred.

*Rationale for a permanent resolution service for natural disaster insurance issues*

15. MBIE undertook targeted consultation in September and October 2021, and analysed claimant experiences following past natural disasters. Domestic and international evidence, operational experience, and stakeholder feedback supports the view that there is a clear need for permanent, government-led claimant support that provides:
  - 15.1 independent, free, timely and accessible expert advice and information;
  - 15.2 claims support, navigation of services, and case management; and
  - 15.3 efficient, effective, and flexible mechanisms for dispute resolution.
16. Currently, people who experience significant damage to their homes have no out-of-court resolution options available to them if their insurance dispute is above the financial cap for existing financial dispute resolution schemes. A standing service would enable them to reach resolution at a lower cost in a timelier way. Stakeholders (including insurers, consumer advocates and dispute resolution experts) support a permanent standing mechanism.
17. As part of the Government's broader response to the Inquiry, I have introduced the *Natural Hazards Insurance Bill* to modernise Toka Tū Ake EQC, and incorporate lessons learned from the CES. This Bill requires Toka Tū Ake – Natural Hazards Commission (currently Toka Tū Ake EQC) to be a member of an approved dispute resolution scheme. There is an obvious overlap in purpose and function, with potential for the standing mechanism discussed in this proposal to serve as this approved scheme. I intend to consider this further.

*Early resolution to support better outcomes for homeowners*

18. Evidence shows that homeowners having difficulties with their insurance claims will receive the greatest benefit through a combination of mechanisms that take a tiered approach to claims resolution, with different services tailored to the needs of parties at various stages of the insurance claim process, including:
  - 18.1 early resolution measures, such as the provision of case management support, information, and access to expert advice;

- 18.2 consensual processes (where the parties reach agreement themselves), which could include facilitation, mediation, or conciliation;
  - 18.3 determinative processes (where decisions are made for the parties), which could include out-of-court dispute resolution services that are already in existence, or new bespoke determination mechanisms.
19. With this broader approach to dispute resolution, there are multiple possible points where effective interventions can be made. A broader definition captures preventative and early resolution measures. It focusses efforts on preventing insurance issues from escalating to become insurance disputes.

### **The development of a new claims resolution mechanism**

20. I propose the establishment of a new national mechanism called the 'New Zealand Claims Resolution Service' (NZCRS). In the first instance, this mechanism would provide early resolution, advisory and support services to residential homeowners after a natural disaster has occurred, while further policy work is conducted on options for supporting dispute resolution services. I am due to receive advice on options for dispute resolution services in September 2022.
21. The new service would be permanently available (that is, 'standing') and government-funded, with the ability to scale up and down as necessary in response to the frequency and severity of natural disasters. The NZCRS will be an evolution of GCCRS and RAS, two existing MBIE services.

#### *Using the knowledge and experience of RAS and GCCRS as a basis for the new service*

22. The Inquiry report acknowledged MBIE's RAS and GCCRS as successful interventions for insurance issues that arose from the CES, and that these interventions should have been established sooner.
23. RAS was established in 2013 to provide quake-affected Canterbury homeowners with access to free legal advice about unresolved insurance claims.<sup>1</sup> Since the 2016 Kaikōura earthquake, RAS's focus has expanded to include natural disasters in the rest of the country.
24. The GCCRS was established in 2018 as part of a package of initiatives to address unresolved Canterbury insurance claims [DEV-18-MIN-0150 refers]. GCCRS was developed as an expanded version of RAS, with an integrated service model (between Toka Tū Ake EQC, Southern Response and MBIE) to streamline the claims settlement process for claimants and insurers. It provides access to engineering and wellbeing services, and an internal disputes resolution function. These services provide homeowners with the information and support required to unlock their claims.

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<sup>1</sup> Through Community Law Canterbury.

25. GCCRS and RAS have successfully provided information and services to around 10,000 homeowners. The majority of these entered the service through a referral or recommendation from someone they knew.
26. The new standing resolution mechanism will replace the GCCRS and RAS to create a new single national service, building on the resolution model pioneered by the GCCRS. All active cases with RAS and GCCRS at the time the new service is established will be transferred. GCCRS homeowners will experience no changes to the services they currently receive while RAS homeowners will have access to a broader range of support services.

### **Scope and eligibility**

27. The NZCRS will be available to help with residential insurance claims resulting from damage caused by a 'natural disaster' – defined as an adverse event resulting from a natural hazard (for example earthquakes, flooding, or extreme weather events). This definition is broader than the hazards covered by Toka Tū Ake EQC, and could include events where human activity may have played a role, such as:
  - 27.1 wildfires started by sparks from machinery
  - 27.2 landslides in ground weakened by excavation.
28. This definition does not cover gradual erosion that is the result of the prolonged action of the wind or water, or non-natural hazard damage caused by human action (such as civil unrest or transport incidents).
29. The NZCRS will be open to homeowners with a Toka Tū Ake EQC and/or private insurance claim against a residential property that has been damaged by a natural disaster event. There will be no limit on the value of insurance claims that can be taken through the NZCRS.
30. Properties may be owner-occupied or tenanted, including the residential parts of mixed-use properties. Services provided by the NZCRS will not be available in relation to commercial properties.
31. Homeowners will be able to take a maximum of three properties damaged by a single event through the NZCRS.<sup>2</sup> I consider that properties above this limit will primarily be used for a commercial purpose. This limit does not apply to multi-unit buildings.
32. The NZCRS will not deal with contents insurance issues on a homeowner's behalf. The contents claim process is relatively straightforward, and the value of most claims (below the cap for financial dispute resolution mechanisms) means other recourse is available to claimants.

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<sup>2</sup> This would not prevent a homeowner from seeking help on four properties damaged by four separate natural disasters, or limit access if the same properties are damaged multiple times (for example, two houses damaged by flooding events in consecutive years).

33. The additional resources required to support contents claims may limit the NZCRS's ability to fulfil its core service offerings in the aftermath of a disaster.
34. There will be operational discretion in specific and limited cases around the limit on the number of properties and support for contents insurance issues. Experience from the GCCRS suggests that operational discretion is desirable in situations where homeowners are particularly vulnerable.
35. The NZCRS will be available to homeowners affected by any natural disaster event, regardless of size – such as a small landslip affecting one or two properties.

### **Key operational features of the new service**

36. The NZCRS will maintain a small core team to:
  - 36.1 be available to all homeowners with property damaged by a natural disaster event, regardless of scale;
  - 36.2 work with civil defence agencies to respond to larger-scale natural disaster events that have a district- or region-wide impact;
  - 36.3 carry out proactive information and education activities to reduce the likelihood of natural disaster insurance issues emerging; and
  - 36.4 maintain readiness through relationships, memorandums of understanding and funding agreements with support service providers and other stakeholders.
37. The NZCRS will provide a suite of service offerings adapted and scaled from the current GCCRS model, which includes case management processes.
38. MBIE anticipates that it will take a year to fully transition from GCCRS and RAS into the long-term NZCRS model. During the transition period existing GCCRS agreements and contracts will be extended. This will enable a continuity of service for existing claimants and enable the NZCRS to provide services to other eligible homeowners while all permanent arrangements are confirmed through Budget 2023.

### **Establishment arrangements requiring Cabinet agreement**

#### *Portfolio responsibility*

39. Since the disestablishment of the Greater Christchurch Regeneration portfolio, the Finance portfolio has been responsible for the GCCRS and RAS (with responsibility delegated to the Associate Minister of Finance).

40. I propose for the NZCRS to come under the responsibility of the Commerce and Consumer Affairs Ministerial portfolio. The NZCRS's objectives have links to the Commerce and Consumer Affairs portfolio's responsibilities for consumer protection, and the regulation of the insurance sector and approved financial dispute resolution schemes.
41. Responsibility for the *Financial Service Providers (Registration and Dispute Resolution) Act 2008*, which governs existing approved financial dispute resolution schemes, also comes under the Commerce and Consumer Affairs portfolio. There may be benefits from aligning portfolio responsibility for the NZCRS with other dispute resolution schemes.
42. Cabinet direction on the responsible portfolio and Minister will allow detailed decisions to be made in the lead-up to the establishment of NZCRS, such as the transition of GCCRS and RAS cases, 'day one' service offerings, governance arrangements for the service (taking lessons from the value provided by GCCRS's advisory groups), and the implementation of dispute resolution services.

#### *Host agency*

43. The host government agency will be responsible for all operational policy and service delivery relating to the NZCRS. I recommend MBIE as the agency responsible for the NZCRS. MBIE can build on its existing responsibility for the GCCRS and RAS, and leverage existing supplier agreements, relationship processes, systems, and people. This will reduce the time and cost to implement the new service, as well as providing continuity for existing GCCRS claimants.
44. MBIE is already responsible for around a third of dispute resolution schemes in New Zealand, as well as supporting and protecting the long-term interests of consumers.

#### *Funding arrangements*

45. The NZCRS can be established through an existing appropriation. The GCCRS and RAS are funded through the Insurance Claims Resolution appropriation within Vote Building and Construction. The scope of the appropriation is limited to the provision of residential insurance advisory, mediation, determination, and support services for homeowners affected by a natural disaster. While this scope remains fit for purpose for the NZCRS, changes to the appropriation minister and Vote will better align funding responsibilities with other operational responsibilities for the service.
46. I propose to establish a new appropriation in Vote Business, Science and Innovation, under the Minister of Commerce and Consumer Affairs. This will begin in the 2022/23 financial year, to supersede the existing Insurance Claims Resolution appropriation in Vote Building and Construction.

47. The Insurance Claims Resolution appropriation received \$4.000 million funding for the 2022/23 financial year through Budget 2022. I propose that this funding be reprioritised (along with approximately \$0.980 million underspends from the 2021/22 financial year) to fund the establishment of NZCRS and its first year of operation. This funding will be sufficient to continue to service current GCCRS and RAS customers as well as the broader scope proposed for the NZCRS.
48. This is a fiscally neutral adjustment which will have no impact on the operating balance and/or net core Crown debt.

*Ongoing funding for the NZCRS will be sought through Budget 2023*

49. I propose that ongoing funding for the NZCRS's 'standing' core services be sought through Budget 2023.
50. A baseline level of funding would enable the NZCRS to support a certain number of homeowners per year, maintain expertise in its core team, maintain funding agreements with service providers, and carry out information and education activities.
51. The GCCRS was established in October 2018 through MBIE baseline funding and has subsequently been funded a total of \$10.548 million through Budgets 2019 and 2021. This funding has enabled the resolution of over 3,000 claims, with around 670 active cases at the end of July 2022.
52. As part of the Budget 2023 process, decisions on long-term funding arrangements for the individual services available through the NZCRS (such as legal, technical and wellbeing services) will be made.

*Cabinet approval for additional funding following major natural disasters*

53. If a natural disaster causes widespread damage to homes, additional funding may be required for the NZCRS to scale-up case management resource and support services to meet demand above its baseline level.
54. In these situations, the NZCRS would seek event-specific funding from Cabinet. This approach has been used successfully by MBIE's Temporary Accommodation Service, which provides temporary accommodation to households displaced by emergency events.
55. For major disaster events, there would likely be a lag between the event occurring and insurance issues arising, as households and the affected community prioritise their immediate welfare needs during the initial weeks. This would give the NZCRS time to estimate potential demand and seek funding through Cabinet.

### **Financial implications**

56. The NZCRS's establishment can be funded from within appropriations. However, the operation of this service beyond June 2023 will be dependent on permanent funding being secured. I consider that the best approach for long term funding would be to develop an initiative for Budget 2023.

### **Related Inquiry recommendations**

57. The Inquiry made two related recommendations around support and resourcing for Community Law (recommendation 8.1.2) and the regulation of insurance advocates (recommendation 8.1.3). These are being examined by the Ministry of Justice and MBIE respectively.
58. The potential role of community law centres in providing sustainable and timely legal advice under the NZCRS, alongside their ongoing responsibilities under the *Legal Services Act 2011* as legal service providers, is being considered.
59. The establishment of the NZCRS may have an impact on the demand for private advocacy services to assist with resolving disputes arising from a future natural disaster event. Any potential policy response to the issue of insurance advocates, including assessing the need for potential regulation, will be informed by the success of these mechanisms.

### **Legislative Implications**

60. This paper has no direct legislative implications but is related to provisions in *The Natural Hazards Insurance Bill*, which will require the new Toka Tū Ake – Natural Hazards Commission (currently Toka Tū Ake EQC) to be a member of an approved dispute resolution scheme. NZCRS could become an approved scheme for Toka Tū Ake – Natural Hazards Commission.
61. The agency responsible for the NZCRS will continue to engage with the Treasury and Toka Tū Ake EQC as the Bill progresses. For the NZCRS to become an approved scheme, consideration must be given to the relevant provisions in the Bill, and how they relate to the principles and operation of NZCRS.

### **Impact Analysis**

62. The impact statement requirements do not apply to proposals in this paper.

### **Climate Implications of Policy Assessment**

63. The proposal has no climate implications.

### **Population Implications**

64. The proposal has no population implications.

## Human Rights

65. The proposal has no human rights implications.

## Consultation

66. The Department of Prime Minister and Cabinet, The Treasury, the Ministry of Housing and Urban Development, the National Emergency Management Agency, Toka Tū Ake EQC, and the Ministry of Justice have been consulted on this paper.

## Communications

67. The agency responsible for NZCRS will work with the office of the Minister appointed by Cabinet on a communications plan and launch event ahead of the go-live date for the service.

## Proactive Release

68. This paper will be proactively released within 30 business days of decisions being confirmed by Cabinet.

## Recommendations:

The Minister Responsible for the Earthquake Commission recommends that the Committee:

- 1 **note** the Public Inquiry into the Earthquake Commission made recommendations to ensure lessons are learnt from people's experiences following the Canterbury Earthquake Sequence, and other subsequent events. The Government accepted these recommendations in principle, subject to further consideration [DEV-20-MIN-0116 refers];
- 2 **note** that the Ministry of Business, Innovation and Employment was tasked with considering the Inquiry's Recommendation 8.1.1; *Develop a standing dispute resolution mechanism that is robust, accessible, timely and responsive to complainants, drawing on the experience of the Canterbury earthquakes, including the experiences of EQC and claimants; this may include enacting legislation to support such a mechanism;*
- 3 **note** that domestic and international evidence, operational experience, and stakeholder feedback supports the view that there is a clear need for permanent government-led claimant support that provides:
  - 3.1 independent, free, timely, and accessible expert advice and information;
  - 3.2 claims support, navigation of services, and case management;
  - 3.3 efficient, effective, and flexible mechanisms for dispute resolution;

**I N C O N F I D E N C E**

- 4 **agree** that the New Zealand Claims Resolution Service (NZCRS) is established to function as a standing national mechanism to provide support to homeowners with a Toka Tū Ake EQC and/or private insurance claim against a residential property that has been damaged by any natural disaster event, with no limit on the value of a claim;
- 5 **note** that, subject to Cabinet decisions and operational requirements, the NZCRS could launch from October 2022; providing early resolution, advisory and case managed support services in the first instance, with bespoke dispute resolution services to be added once further policy work has been completed;
- 6 **agree** that the NZCRS will replace the Greater Christchurch Claims Resolution Service (GCCRS) and the Residential Advisory Service (RAS) as a single permanent national service, with current GCCRS and RAS claimants being transferred;
- 7 **agree** that the Minister of Commerce and Consumer Affairs should be given responsibility for the NZCRS;
- 8 **agree** to appoint the Ministry of Business, Innovation and Employment as the host government agency for the NZCRS;
- 9 **agree** to fund the establishment and initial operation of the NZCRS during the 2022/23 financial year by reprioritising the \$4.000 million of funding agreed through Budget 2022 for the Insurance Claims Resolution initiative (which provides one year of funding for RAS and GCCRS);
- 10 **agree** that, subject to agreement of recommendations 7 and 9 above, the Insurance Claims Resolution appropriation be transferred from Vote Building and Construction to the Commerce and Consumer Affairs portfolio within Vote Business, Science and Innovation;
- 11 **agree** to establish the following new appropriation beginning in the 2022/23 financial year, to supersede the existing Insurance Claims Resolution appropriation in Vote Building and Construction:

| <b>Vote</b>                      | <b>Appropriation Minister</b>             | <b>Appropriation Administrator</b>              | <b>Title</b>                | <b>Type</b>                 | <b>Scope</b>  |
|----------------------------------|---|---|-----------------------------|-----------------------------|---|
| Business, Science and Innovation | Minister of Commerce and Consumer Affairs | Ministry of Business, Innovation and Employment | Insurance Claims Resolution | Departmental Output Expense | This appropriation is limited to the provision of residential insurance advisory, mediation and support services for homeowners affected by a disaster, natural or otherwise. |

- 12 **approve** the following fiscally neutral adjustment to give effect to the decisions in recommendations 10 and 11, with no impact on the operating balance and/or net core Crown debt:

**IN CONFIDENCE**

|  | \$m – increase/(decrease) |         |         |         |                    |
|--|---------------------------|---------|---------|---------|--------------------|
|  | 2021/22                   | 2022/23 | 2023/24 | 2024/25 | 2025/26 & Outyears |
| <b>Vote Building and Construction</b><br><b>Minister of Housing</b><br>Departmental Output Expense:<br>Insurance Claims Resolution<br>(funded by revenue Crown)                              | -                         | (4.000) | -       | -       | -                  |
| <b>Vote Business, Science and Innovation</b><br><b>Minister of Commerce and Consumer Affairs</b><br>Departmental Output Expense:<br>Insurance Claims Resolution<br>(funded by revenue Crown) | -                         | 4.000   | -       | -       | -                  |

- 13 **agree** that the proposed changes 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;
- 14 **note** that the scope and type of the new Insurance Claims Resolution appropriation in Vote Business, Science and Innovation is unchanged from the scope and type of the existing Insurance Claims Resolution appropriation in Vote Building and Construction, therefore the new appropriation can be used if needed to cover residual costs for RAS and GCCRS as these services are wound down and replaced by NZCRS;
- 15 **note** that the operation of the NZCRS beyond June 2023 is dependent on outyear funding for the NZCRS’s baseline level of service being sought through future Budgets;
- 16 **note** that any outyear funding for NZCRS would be assessed as part of the respective Budget process alongside other priorities;
- 17 **agree** that additional funding may be sought from Cabinet following a major natural disaster (or a large number of natural disasters with a regional profile), to enable the NZCRS to scale up its services and meet demand, as required.

Authorised for lodgement

Hon Dr David Clark

Minister Responsible for the Earthquake Commission