

# The Treasury

## 2014 Briefings to Incoming Ministers Information Release

### Release Document

November 2014

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- [1] 9(2)(a) - to protect the privacy of natural persons, including deceased people
- [2] 9(2)(b)(ii) - to protect the commercial position of the person who supplied the information or who is the subject of the information
- [3] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
- [4] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions
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- [ ] Not relevant

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In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.

## Treasury Report: Briefing to Incoming Minister for ACC

<b>Date:</b>	14 October 2014	<b>Report No:</b>	T2014/1706
		<b>File Number:</b>	CM-1-3-1

### Action Sought

	<b>Action Sought</b>	<b>Deadline</b>
Minister for ACC (Hon Nikki Kaye)	<b>Note</b> the report <b>Refer</b> to the Minister of Finance	None

### Contact for Telephone Discussion (if required)

<b>Name</b>	<b>Position</b>	<b>Telephone</b>		<b>1st Contact</b>
Tim Stewart	Senior Advisor	04 890 7222 (wk)	[1] (mob)	✓
Fiona Chan	Manager	04 917 6103 (wk)	[1] (mob)	

### Actions for the Minister's Office Staff (if required)

<b>Return</b> the signed report to Treasury. <b>Refer</b> to the Minister of Finance
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**Enclosure:** No

## **Treasury Report: Briefing to Incoming Minister for ACC**

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### **Executive Summary**

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This report supplements the briefings you will receive from the Ministry of Business, Innovation and Employment (MBIE) as your policy advisors and the Accident Compensation Corporation (ACC).

It briefs you on your role as the responsible Minister for ACC, the role of the Board of ACC, the role of Treasury as your monitoring agency and some related information.

### **Recommended Action**

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We recommend that you:

- a **note** the contents of this report, and
- b **refer** a copy of this report to the Minister of Finance

*Refer/not referred*  
Minister for ACC

Fiona Chan  
**Manager**

Hon Nikki Kaye  
**Minister for ACC**

## Treasury Report: Briefing to Incoming Minister for ACC

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### Purpose of Report

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1. This report provides background on the work of the Treasury Commercial Operations group (Treasury) for the Minister for ACC. MBIE and ACC will also brief you.
2. This document is structured as follows:
  - ACC is a Crown Agent and a Crown Entity
  - The Minister, the Board and the Treasury
  - Key monitoring processes

### ACC is a Crown Agent and a Crown Entity

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3. ACC is a statutory Crown Entity (established by the Accident Compensation Act 2001) and a Crown Agent (pursuant to the Crown Entities Act 2004) that must give effect to Government Policy when directed by the responsible Minister.
4. Particularly relevant legislation is the Crown Entities Act 2004, the Accident Compensation Act 2001, the Public Finance Act 1989, and the State Sector Act 1988.

### The Minister, the Board and the Treasury

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#### **A three-way relationship**

5. Crown entities operate at arm's length from Ministers and Government departments but are still expected to observe the 'no surprises' convention in their dealings with the responsible Minister and their advisors. Crown entities can also be required to report on performance to Parliament and to appear before Select Committees.
6. The Crown entity system relies on Ministers, monitoring advisors (Treasury's role) and entities working well together. Their particular responsibilities are set out in the Crown Entities Act 2004 and other legislation, and in guidance material issued by the State Services Commission.<sup>1</sup>

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<sup>1</sup> Statutory Crown Entities: A Guide for Ministers, SSC, June 2014  
Summary of levers available to responsible Ministers to achieve desired performance by Statutory Crown Entities, SSC, August 2014

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

7. The responsible Minister is generally responsible for managing any issues of concern, or risks to the Crown, arising from the activities of the entity. They are answerable to Parliament for the performance of the entity.
8. You oversee and manage the Crown's interests in, and relationship with, ACC and exercise statutory responsibilities including functions and powers:
  - to appoint and remove Board members to ensure an effective Board is in place
  - to determine the remuneration of Board members
  - to give directions to the entity
  - to review the operations and performance of the entity
  - to request information from the entity
  - to participate in the process of setting the entity's strategic direction and performance expectations and monitoring the entity's performance, and
  - in relation to other matters in the Crown Entities Act, the Accident Compensation Act or another Act.
9. The Minister for ACC appoints up to eight members to the ACC Board. Treasury advises you on these appointments.

## **Other Ministers**

10. The Minister of Finance is interested in ACC's operational performance as it can materially impact the Crown's overall financial performance. Treasury also regularly reports to the Minister of Finance on the performance of ACC's approximately \$27 billion of investment assets alongside the other Crown Financial Institutions.
11. The Minister of State Services and the Minister of Finance have the power to jointly direct ACC to support a whole of government approach. ACC is currently subject to ICT and property functional leadership directions. It will be subject to the Procurement Direction from 1 February 2015. ACC is informed of these directions and is responsible for ensuring compliance. The directions are available at: [www.ssc.govt.nz/whole-of-govt-directions-dec2013](http://www.ssc.govt.nz/whole-of-govt-directions-dec2013)
12. The ICT Direction establishes the Government Chief Information Officer's (GCIO's) functional leadership for Government ICT. It requires ACC to secure the GCIO's agreement to its strategic ICT plans and ICT investment intentions before finalising or implementing them. Subject to contractual obligations, ACC must adopt the Government's specific common ICT capability within timeframes negotiated with the GCIO. ACC must also provide any information requested by the GCIO for the purposes of assurance, and work with the GCIO to address any concerns about ICT assurance.
13. The Property Direction establishes the Functional Leader for Property (the Chief Executive of the Ministry of Social Development) and grants them and their delegated agent (the Government Property Management Centre of Expertise (PMCoE)) significant powers in relation to all offices and public interface areas. However it excludes operational areas and areas under the direct control of ACC's investment function that are not occupied by ACC itself. The powers include a requirement that

ACC must seek PMCoE approval for all acquisitions or disposals of leased or owned areas. The direction also requires ACC, at the soonest practicable opportunity, to implement an average workplace density of 12-16 sqm per full-time equivalent.

14. The procurement direction requires ACC (from 1 February 2015) to comply with the Government Rules of Sourcing and take guidance from MBIE as Procurement Functional Leader.

### **The Board's role**

15. The board of an entity has the primary responsibility for the entity's performance.
16. Crown entity boards are the governing bodies of their organisations. As the responsible Minister, you can firmly place responsibility with the Board of ACC for setting strategy, setting, monitoring and achieving key performance indicators, for entity performance, for responsible financial management, and for high quality performance reporting. You can also expect the Board and management of ACC to engage constructively with you and Treasury, and to work collaboratively with other public entities to achieve wider Government goals.
17. Crown entity boards are expected to have good-practice self-monitoring processes in place to assess the individual and collective performance of board members and identify opportunities for development.

### **Treasury Commercial Operations' role**

18. We assist Ministers to carry out their role. We provide advice and support to you on matters such as:
  - the appointment, induction, and remuneration of Board members
  - strategic direction and performance expectations of entities (including assisting with the preparation of ministerial letters of expectation, and advising on the draft Statement of Intent (SOI) and Service Agreement (ACC's equivalent to a Statement of Performance Expectations).
  - entity performance and capability
  - the efficiency and effectiveness of entity spending
  - significant business cases
  - any existing or emerging financial and other risks
  - any situations in which it may be appropriate to require a more intensive level of monitoring and oversight, or to use more exceptional legal powers and performance levers available to you as Minister under the Crown Entities Act or the Accident Compensation Act 2001.
19. Treasury advise you on ACC's performance and issues to do with the governance of the entity. We take the policy and legislative environment largely as a given and advise on how well ACC performs within those constraints.

20. We do not advise you on policy, legislation and levies (MBIE's responsibility), nor do we advise the Minister of Finance on the fiscal implications of ACC performance (Treasury Vote Health team responsibility). However we collaborate with MBIE and Treasury Vote Health officials so we are aware of each other's activities and where interests cross-over these are discussed.
21. We monitor ACC's 'Shaping our Future' (SOF) business transformation programme in partnership with the Treasury Investment Management and Asset Performance (IMAP) group and the Government Chief Information Office (GCIO) – both of whom bring specialist project assurance expertise that we need.

## **Background on Treasury Commercial Operations**

22. Treasury Commercial Operations was established in early 2014 after the Crown Ownership and Monitoring Unit (COMU) was disestablished. The change is underpinned by a clear Treasury intention to be a significantly more 'active owner' with the ambition of driving value for the Crown.
23. It comprises three teams: Commercial Advice, Governance and Performance, and Strategy and Policy. They provide advice in relation to about 50 entities (SOEs, CRIs, other Crown Companies and Crown Entities) to various Ministers including: the Ministers of Finance, SOEs, ACC, Justice, Internal Affairs, Broadcasting, Health, Science and Innovation, Education, Canterbury Earthquake Recovery and Primary Industries.
24. The Governance and Performance team manages the relationship between the Treasury (as the monitoring agency) and the entity. It seeks to influence performance by undertaking insightful analysis on the performance of entities and providing advice on board governance, membership, skills sets and performance.
25. Treasury is integrating its governance and appointments work with the performance monitoring functions so all our activities are aimed at achieving the strategic goals which we seek to identify and promote with boards and Ministers. Given the importance of governance as a key lever for Ministers to influence performance, our judgement is that integration is important to strengthening the ways these functions connect in providing the strong focus on engagement with boards, consideration of board performance and board composition, and advice to Ministers to enhance the performance and value of entities.

## **Key monitoring processes**

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### **'No surprises', communication and the flow of information**

26. 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, and
  - inform the Minister in advance of any major strategic initiative.

27. More generally, there is an expectation that the Board, the Treasury, and the Minister will maintain a positive and constructive three-way working relationship, and that relevant information will be communicated as freely, frankly, and openly as possible.
28. This includes information required to answer parliamentary questions, information required by/for parliamentary select committees, and information required for government processes such as Budget and appropriation processes.<sup>2</sup>
29. It also includes reporting on strategy and performance, both of the overall business and significant programmes e.g. the Shaping our Future (SOF) business transformation programme.

### **Strategic direction and performance expectations**

30. As the responsible Minister, the convention is that you send an annual letter of expectations to the Board. This letter could include expectations about the alignment of the Board's strategy and activities with wider sector and broader Government goals and priorities.
31. You may also:
  - meet with the Board to discuss strategic direction and performance expectations
  - indicate whether in a particular year there is a need to review or revise the contents of the current SOI
  - invite the Board to provide advice on its proposed strategy and priorities before these are included in a draft SOI or Service Agreement
  - discuss and/or provide written comments on draft SOIs, and/or
  - agree a Service Agreement with the Board.

### **Quarterly performance reporting and review**

32. ACC is responsible for timely reporting to you and Treasury on performance and strategic issues and highlighting areas of concern and risk. The Board will provide scheduled performance reports to you quarterly. These are subsequently published on the ACC website. ACC will also report to you monthly on the Shaping our Future business transformation programme.
33. The quarterly reports provide an opportunity for ACC to reflect and report periodically on:
  - progress towards the strategic goals and priorities set out in the SOI
  - progress in developing the capability and systems
  - progress in collaboration with other agencies and stakeholders to achieve common goals

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<sup>2</sup>

Under the Crown Entities Act the Minister has the power, if necessary, to require the Board to supply any information relating to the operations and performance of the entity that the Minister may request. This power can also be formally delegated by the Minister to the designated monitoring agency. In practice, however, it is expected that information will flow in a collaborative and timely way without the need for such a formal approach to be taken.



- changes in the operating environment and other emerging opportunities and risks, and
  - any other specific issues that may be identified from time to time by the Minister, Treasury or the Board.
34. Treasury will discuss the report with the Executive, and provide advice to you. You could then meet with the Chair, Chief Executive and Treasury to discuss matters arising from the reports.
35. As ACC can have a material impact on the Crown accounts, we recommend that the Minister of Finance also receives copies of Treasury reports to you. ACC is a large Crown Financial Institution (CFI) and the Minister of Finance receives reports on the investment side of ACC as part of Treasury CFI reporting.

### **Monthly Board reports to Treasury**

36. Treasury has recently started receiving the Monthly Board Performance Report. This provides us with an insight into current ACC performance.

### **Weekly reporting**

37. MBIE, Treasury and ACC will also provide you with a weekly operational report for consideration at a weekly meeting between the Minister and MBIE, Treasury and ACC officials.