

The Treasury

Material Provided to the Public Inquiry into EQC Information Release

August 2021

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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:

- [23] 9(2)(a) - to protect the privacy of natural persons, including deceased people
- [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
- [26] 9(2)(ba)(i) - to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied
- [31] 9(2)(f)(ii) - to maintain the current constitutional conventions protecting collective and individual ministerial responsibility
- [33] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
- [34] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions
- [35] 9(2)(g)(ii) - to maintain the effective conduct of public affairs through protecting ministers, members of government organisations, officers and employees from improper pressure or harassment;
- [36] 9(2)(h) - to maintain legal professional privilege
- [37] 9(2)(i) - to enable the Crown to carry out commercial activities without disadvantage or prejudice
- [38] 9(2)(j) - to enable the Crown to negotiate without disadvantage or prejudice
- [39] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage

Where information has been withheld, a numbered reference to the applicable section of the Act has been made, as listed above. For example, a [23] appearing where information has been withheld in a release document refers to section 9(2)(a).

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Treasury Report: EQC Investment Direction

Date:	21 August 2014	Report No:	T2014/1350
		File Number:	CM-1-3-15-2

Action Sought

	Action Sought	Deadline
Minister of Finance (Hon Bill English)	Note the report	None
Minister Responsible for the Earthquake Commission (Hon Gerry Brownlee)	Sign letter to EQC Chair Sign Direction	As soon as practicable

Contact for Telephone Discussion (if required)

Name	Position	Telephone	1st Contact
Gerry Verhaart	Investment Advisor, Strategy and Policy	[39]	[23] ✓
Dominic Milicich	Acting Manager, Strategy and Policy	[39]	

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

Return the signed report to Treasury.

Arrange for a copy of the direction to be presented to the House of Representatives as soon as practicable.

Send signed letter and signed direction to Chair of EQC and copies to CEO of EQC.

Enclosure: Yes (attached)

Treasury Report: EQC Investment Direction

1. The Earthquake Commission (the Commission) has requested a new Ministerial direction with respect to investment of the Natural Disaster Fund (the Fund). The composition of the Fund has changed significantly following the Canterbury earthquakes. The Fund is now invested solely in shorter term fixed interest securities in preparation for payment of claims, which are expected to exhaust the Fund within the next 12-18 months.
2. Until December 2011 Ministerial responsibility for the Commission's investment policies resided with the Minister of Finance. As you are aware, in December 2011, the Prime Minister's warrant delegated to you "any of the Minister of Finance's functions, duties or powers under the Earthquake Commission Act 1993". Notably that did not exclude investment policies. Accordingly it is your responsibility to consider, and if you agree, to issue the proposed direction. We note that we consider that the proposed direction is a relatively minor administrative matter to ensure that it is consistent with the Fund's current investment strategy.
3. The existing direction dated 30 October 2001, and amended 15 September 2011, permits the Commission to invest up to 35% of the Fund in global equities. It also required the Commission to invest the Fund with the objectives of:
 - achieving a rate of return of at least 1% per annum over the Crown's cost of borrowing over a rolling ten year period.
 - subjecting the Fund to no more than 1 chance in 4 that over any 10 year period the annual rate of return will be less than the Crown's cost of borrowing; and
 - ensuring there is no more than 1 chance in 30 of the Fund incurring an investment return of less than negative 2% in any one financial year.
4. Given the Fund's liquidity requirements the above objectives are not relevant anymore and need to be amended to reflect the current situation. Accordingly we recommend that you issue a new direction which removes the ability of the Commission to invest in global equities and changes the investment objective to:
 - achieve an average rate of return of at least the rate of change in the ANZ 90-day Bank Bill Index for each financial year less 25 basis points per annum.
5. Some other minor changes from the existing direction are also made.
6. Treasury has consulted the Commission, as an affected organisation, on your behalf.
7. A letter to the Chair of the Commission informing him of the new direction, and that the existing direction no longer applies (except that the statement of investment policies, standards, and procedures produced under that direction shall continue and be subject to the new direction), is attached for your signature.
8. Note that Treasury will arrange for the direction's publication in the New Zealand Gazette.
9. In future, if you and/or the Minister of Finance consider that responsibility for the Commission's investment policies should be transferred back to the Minister of Finance, we are happy to provide advice on how that would be achieved. We note that it would require the Prime Minister's agreement and input from Cabinet, and would therefore take some time.

Recommended Action

We recommend that you:

- a **sign and date** the attached direction

Agree/disagree

- b **present** a copy of the direction to the House of Representatives as soon as practicable

Agree/disagree

- c **agree** to sign the attached letter to the Chair of the Commission, advising EQC of the new direction and of the revocation of the 30 October 2001 direction

Agree/disagree

- d **indicate** if you wish to receive advice on transferring responsibility for the Commission's investment policies back to the Minister of Finance

Yes/no

Dominic Millicich
Acting Manager, Strategy and Policy

Hon Gerry Brownlee
Minister Responsible for the Earthquake Commission

Sir Maarten Wevers
Chair
Earthquake Commission
PO Box 790
WELLINGTON 6140

Dear Sir Maarten

Natural Disaster Fund: Investment Direction

Please find enclosed a new direction for investment of the Natural Disaster Fund (the Fund) which reflects the current status of the Fund following the Canterbury earthquakes. I understand that over the next 12-18 months EQC will have paid out claims that are likely to exhaust the Fund. I am aware that EQC is currently managing the Fund having regard to those short term liabilities.

I note that, on my behalf, my officials have consulted with EQC on the content of the new direction.

The new direction takes effect from the date on which I signed it.

I have revoked the direction dated 30 October 2001 (as amended on 15 September 2011) with effect from the date on which I signed the new direction, except that the statement of investment policies, standards, and procedures prepared under that direction shall continue and be amended subject to the new direction.

Yours sincerely

Hon Gerry Brownlee
Minister Responsible for the Earthquake Commission

cc Ian Simpson, CEO Earthquake Commission

DIRECTION BY THE MINISTER RESPONSIBLE FOR THE EARTHQUAKE COMMISSION TO THE EARTHQUAKE COMMISSION PURSUANT TO SECTION 103 OF THE CROWN ENTITIES ACT 2004 – NATURAL DISASTER FUND INVESTMENT POLICIES

1. Under section 103 of the Crown Entities Act 2004 and in accordance with section 12 of the Earthquake Commission Act 1993 (“**the Act**”), the Minister Responsible for the Earthquake Commission (“**the Minister**”) directs the Earthquake Commission (“**the Commission**”) to give effect to government policy as specified in this direction (“**the Direction**”).
2. This Direction comes into effect on ____ September 2014 (“**the Commencement Date**”).
3. On the Commencement Date, the direction issued by the Minister to the Commission on 30 October 2001 under section 12 of the Act (as subsequently amended) is revoked, except as provided for in paragraphs 10 and 11 of this Direction.

Purpose

4. The purpose of this Direction is to ensure the Commission invests the Natural Disaster Fund (“**the Fund**”) conservatively and maintains its liquidity to meet claims in the aftermath of the Canterbury earthquake sequence.
5. Prior to making the Direction, the Minister consulted with the Commission.

Investment Policies

6. The Commission shall invest the Fund in any or all of the following:
 - a. Treasury bills, Government nominal bonds and Government inflation indexed bonds (“**New Zealand Government Securities**”), such New Zealand Government Securities to be traded only through the New Zealand Debt Management Office; and
 - b. New Zealand bank securities, including New Zealand bank bills and deposits, held only in banks which (“**New Zealand Bank Securities**”):
 - i. are registered under the Reserve Bank of New Zealand Act 1989;
 - ii. have a short term credit rating of A-1, Prime 1 or higher; and
 - iii. if rated by both the Moody’s and Standard & Poor’s credit rating agencies, ratings from both which equal or exceed the foregoing ratings.
7. Funds invested in New Zealand Bank Securities shall be held across a number of banks.
8. The Commission shall invest the Fund with the objective of achieving an average rate of return of at least the rate of change in the ANZ 90-day Bank Bill Index (or any successor to that index) for each financial year less 25 basis points per annum.

9. The Commission must invest the Fund on a prudent, commercial basis, and in doing so, must manage and administer the Fund in a manner consistent with:
 - a. best practice portfolio management;
 - b. maximising return without undue risk to the Fund as a whole; and
 - c. avoiding prejudice to New Zealand's reputation as a responsible member of the world community.
10. Subject to paragraph 11, the Commission must continue to adhere to the statement of investment policies, standards, and procedures ("**SIPSP**") for the Fund, prepared pursuant to the direction issued by the Minister to the Commission on 30 October 2001 under section 12 of the Act.
11. Subject to paragraph 14, and as soon as practicable after the Commencement Date, the Commission must review and, if necessary, amend the SIPSP to ensure it satisfies the requirements of this Direction.
12. The Commission must review the SIPSP on one or more occasions in each financial year.
13. The SIPSP must address or outline the following matters:
 - a. the classes of investments in which the Fund is to be invested and the selection criteria for investments within those classes;
 - b. the determination of benchmarks or standards against which the performance of the Fund as a whole, and classes of investments, will be assessed;
 - c. standards for reporting the investment performance of the Fund;
 - d. ethical investment for avoiding prejudice to New Zealand's reputation as a responsible member of the world community;
 - e. the balance between risk and return in the overall Fund portfolio;
 - f. the fund management structure;
 - g. the use of options, futures, and other derivative financial instruments;
 - h. the management of credit, liquidity, operational, currency, market, and other financial risks;
 - i. the retention, exercise, or delegation of voting rights acquired through investments;
 - j. the method of, and basis for, valuation of investments that are not regularly traded at a public exchange;

- k. prohibited or restricted investments or any investment constraints or limits;
and
 - l. any other matters the Commission considers relevant to the SIPSP.
14. The Commission must consult with the Minister if it intends to modify the SIPSP to any substantive degree.
15. The Fund's investments must comprise any or all of the following ("**the Portfolio Composition**"):
- a. New Zealand Government Securities; and
 - b. New Zealand Bank Securities, which must not be worth more than \$2,000 million in value.
16. The Commission must consult with the Minister before it modifies the Portfolio Composition.
17. The Commission must not cover its pre-disaster currency exposures through a hedging strategy without the Minister's approval.
18. Should the net assets of the Fund decrease to less than \$200 million, the Commission must notify the Minister of this fact as soon as practicable after the occurrence of this event.
19. In the event of a natural disaster likely to involve claims on the Commission in excess of \$250 million, the Commission must consult with the Minister before liquidating any part of the investment portfolio of the Fund apart from the holdings of New Zealand bank bills.
20. If the Commission considers at any time that any provision in this direction is inconsistent with another provision in this direction or any other direction under Section 12 of the Act or any provision under that Act it shall advise the Minister of that inconsistency.

Hon Gerard Anthony Brownlee
Minister Responsible for the Earthquake Commission

____ September 2014