

The Treasury

Material Provided to the Public Inquiry into EQC Information Release

August 2021

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Treasury Report: The Crown Guarantee

Date:	20 December 2016	Report No:	T2016/2487
		File Number:	CM-1-3-15

Action Sought

	Action Sought	Deadline
Minister of Finance (Steven Joyce)	<p>note the timing of the forecast asset deficiency in this paper</p> <p>agree to provide funding to EQC for the currently forecast asset deficiency via the Crown Guarantee in the form of an operating grant, or meet with officials to discuss other solutions</p>	Tuesday, 10 January 2017
Minister Responsible for the Earthquake Commission (Hon Gerry Brownlee)	<p>note the timing of the forecast asset deficiency in this paper</p> <p>agree to provide funding to EQC for the currently forecast asset deficiency via the Crown Guarantee in the form of an operating grant, or meet with officials to discuss other solutions</p>	Tuesday, 10 January 2017

Contact for Telephone Discussion (if required)

Name	Position	Telephone	1st Contact
Bradley Woods	Senior Analyst, Commercial Operations – Strategy and Policy	[39]	[23]
Craig Weise	Manager, Commercial Operations – Strategy and Policy	[39]	[23] ✓

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

Return the signed report to Treasury.

Note any feedback on the quality of the report

Enclosure: No

Treasury Report: The Crown Guarantee

Executive Summary

As a result of the Kaikoura/Culverden earthquakes, the Earthquake Commission (EQC) are forecast to potentially exhaust their cash assets in March/April 2017. There are three options available to Ministers for meeting this asset deficiency under the Earthquake Commission Act 1993 (the EQC Act):

- **An Operating Grant** - made to EQC under the permanent appropriation authority of section 16 of the EQC Act that would not be required to be repaid. (*Equity Equivalent*)
- **An Advance** - given to EQC under the permanent appropriation authority of section 16 of the EQC Act that would be repayable from its future operating surpluses. (*Debt*)
- **A Capital Grant** - established via an annual appropriation authority that would facilitate the purchase of EQC share capital by the Crown as permitted under section 7 of the EQC Act. (*Equity*)

Officials believe an **operating grant** represents the best method for addressing the current forecast asset deficiency. Compared with other options, an operating grant:

- provides the necessary flexibility to allow EQC to discharge its claims obligations,
- provides a mechanism by which to minimise the guarantee being called again in the short term,
- avoids levy payers paying twice for the guarantee, as would be the case with an advance, and thereby allows for fairer sharing of costs and risks between tax and levy payers,
- avoids issues associated with repayment timeframes and ongoing administration burden of an advance,
- aligns with official's view that, historically, the quantum of guarantee fee paid by EQC is more consistent with a grant being provided, rather than an advance,
- obviates the administrative burden and time pressures associated with a capital grant, and
- facilitates more rapid replenishment of Natural Disaster Fund (NDF) balances from EQC operating surpluses.

Beyond these considerations, analysis of EQC's forecast cash flows and a timetable for funding resolution are presented.

Recommended Action

We recommend that you:

a **note** the timing of the forecast EQC asset deficiency in this paper

and

b **agree** to provide funding to EQC for the currently forecast asset deficiency via the Crown Guarantee in the form of an operating grant, the specific detail of which will be provided in subsequent advice

Agree/disagree.
Minister of Finance

Agree/disagree.
Minister Responsible for the
Earthquake Commission

or

c **meet** with Treasury officials to discuss alternative solutions to allow EQC to meet the currently forecast asset deficiency

Agree/disagree.
Minister of Finance

Agree/disagree.
Minister Responsible for the
Earthquake Commission

Craig Weise
Manager, Commercial Operations – Strategy and Policy

Steven Joyce
Minister of Finance

Hon Gerry Brownlee
Minister Responsible for the Earthquake Commission

Purpose of Report

1. The purpose of this report is to detail the options available to Ministers for meeting the forecast asset deficiency of the Earthquake Commission (EQC). Solutions under section 16 (the Crown Guarantee) of the Earthquake Commission Act 1993 (the EQC Act) are explored along with a possible section 7 intervention (capital grant). An update on the expected quantum and timing of EQC's asset deficiency is also provided.

Background

Section 16

2. Section 16 of the EQC Act, sets out the obligation of the Crown to fund any deficiency in the assets of EQC:

"If the assets of the Commission (including the money for the time being in the Fund) are not sufficient to meet the liabilities of the Commission, the Minister shall, without further appropriation than this section, provide to the Commission out of public money such sums by way of grant or advance as may be necessary to meet the deficiency upon such terms and conditions as the Minister determines."

3. In 2011, Treasury and EQC [36] to clarify the definition of asset deficiency within section 16 (refer T2011/2050). EQC's position was that a negative equity position was sufficient to trigger the guarantee. Treasury's position was that the Act allowed for remedy by way of an advance, which would not correct a negative equity position as an equal and offsetting liability would be created against any asset payment.
4. As a result, on 29 September 2011 the Minister of Finance wrote to the Chair of EQC stating that the Minister would fulfil the obligation under section 16 to meet the liabilities of the Commission as they fall due. That is, on a cash flow rather than balance sheet basis. Since that time EQC has run a negative equity position and has not required additional funding to meet its cash flow obligations.

Section 17

5. Under section 17 of the EQC Act, in return for the Crown Guarantee, EQC must pay a guarantee fee to the Crown that is "determined from time to time by the Minister". This fee is intended to compensate the Crown (taxpayers) for the risk of providing funds to EQC to meet its liabilities. If this fee is appropriately priced, it will ensure that catastrophe risk covered by EQC is being fairly shared between tax payers and levy payers. That is, taxpayers are not subsidising the levy payers or vice versa.
6. A complicating factor in setting the guarantee fee at an appropriate risk-priced level is that the EQC Act is ambiguous as to whether the fee is in return for a grant or an advance. Currently, under section 16 of the Act, the guarantee can take either form at the Minister's discretion. Officials have considered this issue and believe that the Crown guarantee fee paid by EQC to date is consistent with the provision of a grant. That is, in paying the guarantee fee, EQC have been essentially paying a reinsurance

premium for the Crown to reinsure its residual risks that are not covered by the NDF or its reinsurance programme.

7. This view also accords with Treasury conversations with Mr David Middleton, ex-Chief Executive Officer of the EQC (between January 1993 and March 2010) whom indicated that EQC's view, both at the time of implementation of the guarantee and subsequently, was that the guarantee was akin to a further layer of reinsurance.
8. As originally envisioned, the guarantee fee was seen as a key mechanism for transmitting total Crown risk appetite signals to EQC. However, since 1998 the guarantee fee has remained unchanged at \$10m per annum despite significant changes in the Crown's fiscal position, Crown risk tolerance and EQC's balance sheet. Given this, a re-evaluation of the guarantee fee, in light of broader risk financing considerations aimed at improving the EQC scheme, is currently being undertaken by EQC and Treasury (refer T2016/2514).

Guarantee Options

9. There are three options for meeting an asset deficiency within the EQC Act.

An Advance (repayable)

10. An advance represents a loan from the Crown to EQC that would be repayable from its future operating surpluses. It would be provided to cover EQC's asset deficiency as cash was required and could include any conditions the Minister sees fit to impose, e.g. an interest rate, maximum loan tenor, fixed repayment timetable. How the cost was shared between taxpayers and levy payers, and how fast the NDF replenished, would depend on whether the EQC levy is adjusted upwards to repay the advance.
11. If the levy was not adjusted upwards to repay the advance, the advance would be economically equivalent to a grant. That is, the advance would not change the sharing of costs and risks between EQC policy holders and taxpayers. Repaying the advance would simply suppress the recovery of the NDF balances, opening the Crown to an offsetting increase in the potential future exposure associated with the Crown Guarantee. For reporting and budget purposes, however, it would still be treated as an advance if repaid within 10 years i.e. it would not count against budget allowances.
12. It should be noted that EQCover premiums currently are not set with regard to having to cover the burdens imposed by an advance such as interest. Consequently, the only mechanism EQC would have of meeting the costs of an advance post-event would be a levy increase. Failing this, Crown net debt would be higher forever.
13. If the levy was adjusted upwards, the cost of the advance would be fully borne by levy payers. Net debt would increase initially as the advance was drawn but would then decline over time as EQC made repayments, ultimately resulting in a fiscally neutral outcome. An increased levy would reduce the delay before the NDF replenished and would also flow through to an increase in OBEGAL and the operating balance.
14. Despite these advantages, it should be stressed that levy payers would effectively be paying twice for the guarantee with an advance if the levies were increased. Officials are strongly supportive of a levy that is appropriately risk-priced and incorporates all relevant long run costs of the EQC scheme. In principle, this means the levy should only be changed to reflect and incorporate new information on the appropriate long run costs and risks of the scheme. Officials are, therefore, strongly against raising the levy post event to cover the short term burden imposed by any one event, and where long term scheme costs were effectively unchanged, i.e. as would be the case with an advance and levy increase.

15. As detailed in paragraph 7 above, an advance with a levy increase is inconsistent with official's view that EQC has historically paid a guarantee fee that is commensurate with a grant from the Crown. A further issue with an advance lies in determining what an appropriate repayment period for the advance might be. Assuming levies were increased to repay the advance, having a short repayment period would impose a higher burden on current, rather than future, levy payers. Conversely, the longer the repayment period, the more the outcome would resemble the outcome of a grant. That is, having little impact on current levy payers or the future level of levies.

An Operating Grant (non-repayable)

16. In contrast with the foregoing, under an operating grant, the asset deficiency would be funded entirely by taxpayers and would not need to be repaid by EQC. That is, levy payers would not be paying twice for the guarantee as in the case of an advance. Although this would result in an increase in net debt initially, over the long term net debt would be unaffected if the guarantee was fairly priced. That is, guarantee fees would offset the guarantee provision.
17. Whilst OBEGAL would not be effected by the provision of an operating grant, as it is simply a transaction within the government reporting entity, it is an open question as to whether Ministers would "count" it against budget allowances. Traditionally, any grant would be counted given the effect on net debt. However, given section 16 is a permanent legislative authority that does not require a new appropriation, Ministers may decide against this.
18. Beyond these advantages, an operating grant would avoid the issues associated with repayment timeframes and ongoing administration associated with an advance. It would also facilitate more rapid replenishment of NDF balances from EQC operating surpluses and align with official's view that, historically, the guarantee fee paid by EQC is more consistent with a grant being provided.

A Capital Grant (non-repayable)

19. Under section 7 of the EQC Act, the Government may contribute equity to EQC. Compared to an operating grant or an advance payable under section 16, an amount larger than the estimated liability deficiency could be paid. That is, a capital grant is the only mechanism for reseeding the NDF under the EQC Act, beyond the accumulation of operating surpluses which an operating grant and an advance may impact only tangentially.
20. The fiscal effects of a capital grant are the same as an operating grant, however, a capital grant would need to be appropriated via a budget bid, and thus require cabinet approval. In contrast, an operating grant or advance could be provided immediately under the permanent legislative authority established by section 16 of the EQC Act.
21. To facilitate a capital grant before the forecast cash flow deficiency eventuates (March/April 2017, see below) would incur significant administrative burden given the advanced stage of the current budget process. It would also introduce undesirable uncertainty for EQC in terms of its ability to effectively plan and discharge its obligations. Although it might be argued this burden is worthwhile to achieve the greater oversight and control of spend that an appropriation structure allows, it should be noted that both an operating grant and an advance can be structured in such a way to achieve similar ends.
22. In the case of Southern Response, for instance, the Crown has utilised a combination of a capital grant (preference shares) and an operating grant (callable cash facility) to meet claims liabilities. The latter has been set such that every quarter the liability estimate is updated and further provisioning provided via a delegation to Treasury officials. This has the advantage of limiting the potential for overcapitalisation, ensures

appropriate oversight of claims disbursements and avoids the need to revisit a cabinet process to secure additional funding. It also provides certainty to Southern Response on its funding whilst balancing Crown considerations around the timing and cost of capital provision.

Option Summary

23. The table below compares the three options against various considerations.

	ADVANCE	OPERATING GRANT	CAPITAL GRANT
Fairness	Unfair if levies are increased	Fair	Fair
Consistency with Guarantee Fee Payment	Inconsistent	Consistent	Consistent
NDF Replenishment	Only possible via impact on operational surpluses with speed determined by the amount of levy increase	Only possible via impact on operational surpluses, faster than an advance unless levies are raised substantially	Full replenishment possible without need to rely on operational surpluses
Control over Disbursement	All options can be structured to allow appropriate oversight and disbursement control		
Administrative Burden	High	Low	Highest
Net Debt	Permanent increase in net debt if levies are not increased. If levies are increased, net debt will increase initially before falling as the advance is repaid	Increased initially but unaffected over the long term if the guarantee fee is appropriately priced	Increased initially but unaffected over the long term if the guarantee fee is appropriately priced and/or if equity is sold and/or dividends paid
Budget Allowances	Unaffected if levies are increased and repaid within 10 years, otherwise there may be need to appropriate funding to EQC	Potentially lowered	Potentially lowered
OBEGAL	Potentially higher if levy increases result	Unchanged	Unchanged

EQC's Forecast Cash Deficit

24. As at June 30 2016, EQC cash balances were forecast to decline below \$200m from June 2017 as a result of the settlement of all but a small residual of Canterbury earthquake claims.

Fiscal year forecast (as at 30 June) \$m					
	2016	2017	2018	2019	2020
BEFU 2016					
Cash balance	317	303	156	141	180
Latest Update HYEPU 2016					
Cash balance	548	131	86	73	75

25. The latest liability estimates from EQC (13 December 2016) on the Kaikoura/Culverden earthquakes are shown below. For reference, EQC typically base their claims liability valuation on the 85th percentile which incorporates the median estimate plus a risk margin. This would put the EQC estimated claims liability at \$910m.

Percentile	Building claims	Contents claims	Land claims	Total claims	EQC building loss (\$m)	EQC contents loss (\$m)	EQC land loss (\$m)	Total EQC loss (\$m)
Median	25,000	1,500	1,000	27,500	340	50	3	390
70	35,500	2,500	1,500	39,500	530	70	6	600
75	39,500	3,000	2,000	44,000	600	80	7	680
80	44,000	3,500	2,000	49,500	680	100	7	790
85	49,000	4,000	2,500	56,000	790	110	8	910
90	57,500	5,000	3,000	65,000	950	130	10	1090
95	71,500	6,000	3,500	81,000	1240	170	14	1420

26. EQC has undertaken cash flow modelling to evaluate the impact of the above on its balance sheet. Major assumptions include:

- Kaikoura claims will be cash settled by December 2017,
- Canterbury claims will be settled by June 2018,
- The LINZ payment, if it goes ahead (see below), will occur in March 2017,
- Kaikoura claims handling expenses will be 15%,
- Normal attritional losses of \$50m per annum for smaller events, and
- Premium revenues of \$280m per annum.

27. 18 different scenarios have been modelled by EQC which explore the effect of:

- the rate at which existing Canterbury claims are settled,
- whether the LINZ payment is required,
- the rate at which Kaikoura claims are settled, and
- the claims liability of the Kaikoura event settling at different percentiles.

28. EQC has an obligation to pay LINZ \$600m dollars for red-zoned properties in Christchurch. This is currently scheduled to take place in March 2017. However, EQC has requested that this payment to be delayed or obviated so as to allow reseeded of the NDF. Analysis of this issue is outside the scope of this paper except to note that separate advice from Treasury officials on this will be forthcoming in the New Year.
29. As shown in Appendix 1, the most negative scenario shows EQC's earliest cash deficiency occurring in March 2017 with a maximum deficiency of \$900m incurred by December 2017.
30. If the LINZ payment is presumed to go ahead, then in 8 of 12 scenarios EQC will have an asset balance of less than \$100m by the end of March 2017. This is the minimum level at which EQC considers it can effectively operate given quarterly reinsurance commitments, ongoing operating costs and attritional losses from smaller natural events.
31. If the LINZ payment is indefinitely delayed or obviated entirely, then in only one scenario will EQC require funding by March 2017. However, even if this eventuates, EQC will still fall below the \$100m threshold by December 2017 in 9 of 12 scenarios.
32. Appendix 2 illustrates the cumulative balances of the NDF by scenario.

Discussion and Next Steps

33. On balance, given the costs and benefits of other options, officials believe that an operating grant is the most appropriate mechanism for funding EQC's forecast cash deficiency.
34. Officials consider that this solution:
 - provides the necessary flexibility to allow EQC to discharge its claims obligations,
 - provides a mechanism by which to minimise the guarantee being called again in the short term,
 - avoids levy payers paying twice for the guarantee as they would with an advance and thereby allows for fairer sharing of costs and risks between tax and levy payers,
 - avoids issues associated with repayment timeframes and ongoing administration of an advance,
 - aligns with official's view that, historically, the quantum of guarantee fee paid by EQC is more consistent with a grant, rather than an advance, being provided, and,
 - obviates the administrative burden and time pressures associated with a capital grant, and
 - facilitates more rapid replenishment of Natural Disaster Fund (NDF) balances from EQC operating surpluses.
35. Whilst unlikely, in the event that any undesired overcapitalisation resulted from the proposed, the Crown has power via section 10 the EQC Act to return funding to the centre. That is, surplus grant monies are not lost to the Crown forever.

36. It is envisioned the following actions will result in the timely provision of funding to EQC to meet the forecast asset deficiency.
- i. Ministers communicate their decision on the above to Treasury officials by January 10 2017.
 - ii. In conjunction with EQC management, Treasury officials will update Ministers on the latest EQC cash flow projections and mechanics for payment, as well as provide advice on the LINZ payment, by mid-January 2017.
 - iii. An official letter from the Minister to the Chair of EQC communicating the ministerial decision including the form and mechanics of payment would be provided to the EQC Board prior to their meeting on 31 January 2017.
 - iv. Once cash flow projections are firmed up in January, Treasury officials would work to put in place the necessary arrangements to facilitate funding to EQC by no later than 28 February 2017.
 - v. Once implemented, in conjunction with EQC, quarterly updates to Ministers on the progress of the disbursement and claims resolution would then be provided.
 - vi. A Ministerial decision on the LINZ payment could be incorporated and communicated into the above any time before March 2017. A formal review of the arrangement, including the necessity for any re-seeding of the NDF, could then be completed as part of next year's budget process, or at such time as Ministers decide.

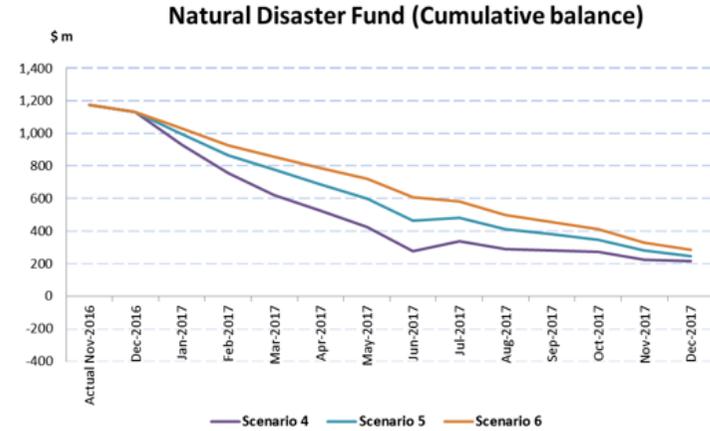
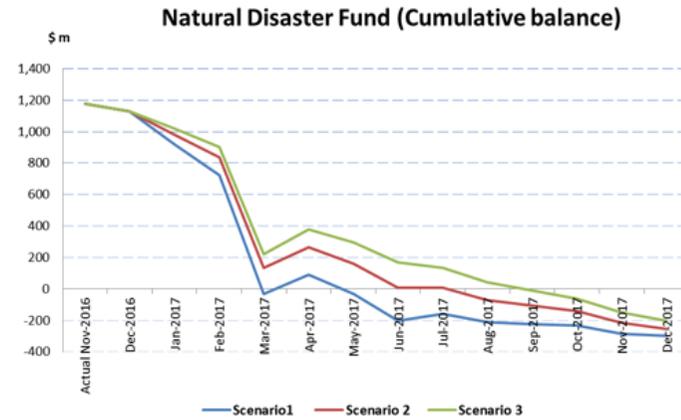
Appendix 1: Cash Flow Scenarios

Note 1 assume \$600m LINZ payment in March 2017.

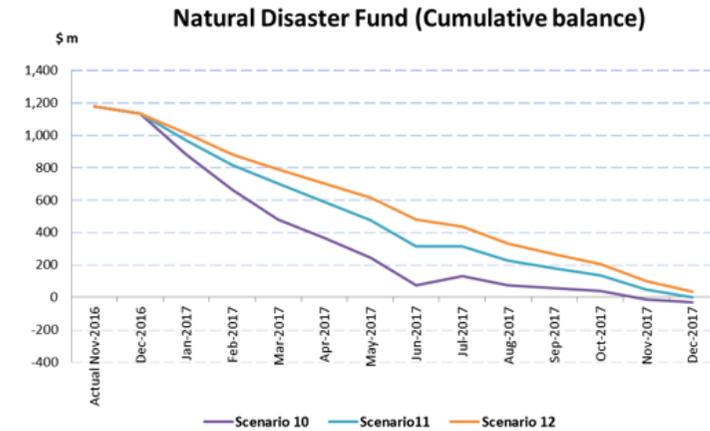
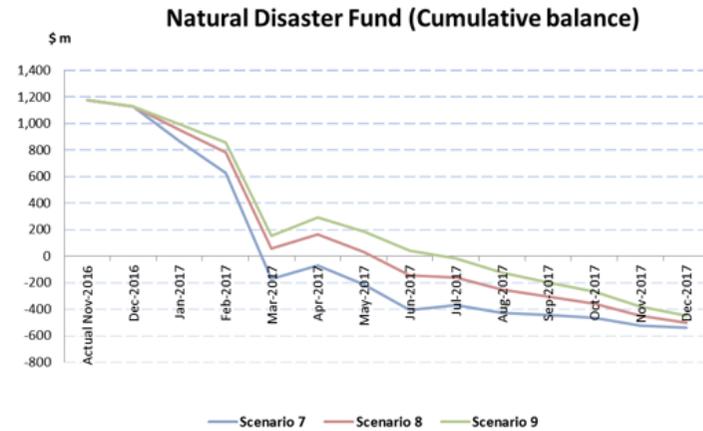
Scenario	LINZ Payment ¹	Canterbury Tail (excl LINZ)	Kaikoura Dwelling Percentile	Rate of Dwellings Overcaps Payment	Rate of Other Dwellings Payments	Contents Payments \$	Rate of Contents Payments	Land Payments \$	Rate of Land Payments	CHE %	Fund Less than \$200m	Fund Less than \$100m	Minimum balance to Dec 2017 \$m
1	Yes	80% by Jun 17; remainder over next 12 months	50	100% by Mar 17	75% by Jun 17; remainder by Dec 17	50	100% by Jun 17	3	100% by Dec 17	15	Mar-17	Mar-17	(296)
2	Yes	66% by Jun 17; remainder over next 12 months	50	75% by Jun 17; remainder by Dec 17	50% by Jun 17; remainder by Dec 17	50	75% by Jun 17; remainder by Dec 17	3	100% by Dec 17	15	Mar-17	Jun-17	(254)
3	Yes	50% by Jun 17; remainder over next 12 months	50	50% by Jun 17; remainder by Dec 17	50% by Jun 17; remainder by Dec 17	50	50% by Jun 17; remainder by Dec 17	3	100% by Dec 17	15	Jun-17	Aug-17	(203)
4	No	80% by Jun 17; remainder over next 12 months	50	100% by Mar 17	75% by Jun 17; remainder by Dec 17	50	100% by Jun 17	3	100% by Dec 17	15	Feb-18	n/a	218
5	No	66% by Jun 17; remainder over next 12 months	50	75% by Jun 17; remainder by Dec 17	50% by Jun 17; remainder by Dec 17	50	75% by Jun 17; remainder by Dec 17	3	100% by Dec 17	15	Jun-18	n/a	249
6	No	50% by Jun 17; remainder over next 12 months	50	50% by Jun 17; remainder by Dec 17	50% by Jun 17; remainder by Dec 17	50	50% by Jun 17; remainder by Dec 17	3	100% by Dec 17	15	Jun-18	n/a	285
7	Yes	80% by Jun 17; remainder over next 12 months	70	100% by Mar 17	75% by Jun 17; remainder by Dec 17	70	100% by Jun 17	6	100% by Dec 17	15	Mar-17	Mar-17	(543)
8	Yes	66% by Jun 17; remainder over next 12 months	70	75% by Jun 17; remainder by Dec 17	50% by Jun 17; remainder by Dec 17	70	75% by Jun 17; remainder by Dec 17	6	100% by Dec 17	15	Mar-17	Mar-17	(502)
9	Yes	50% by Jun 17; remainder over next 12 months	70	50% by Jun 17; remainder by Dec 17	50% by Jun 17; remainder by Dec 17	70	50% by Jun 17; remainder by Dec 17	6	100% by Dec 17	15	Mar-17	Jun-17	(453)
10	No	80% by Jun 17; remainder over next 12 months	70	100% by Mar 17	75% by Jun 17; remainder by Dec 17	70	100% by Jun 17	6	100% by Dec 17	15	Jun-17	Jun-17	(32)
11	No	66% by Jun 17; remainder over next 12 months	70	75% by Jun 17; remainder by Dec 17	50% by Jun 17; remainder by Dec 17	70	75% by Jun 17; remainder by Dec 17	6	100% by Dec 17	15	Oct-17	Nov-17	(1)
12	No	50% by Jun 17; remainder over next 12 months	70	50% by Jun 17; remainder by Dec 17	50% by Jun 17; remainder by Dec 17	70	50% by Jun 17; remainder by Dec 17	6	100% by Dec 17	15	Nov-17	Dec-17	35
13	Yes	80% by Jun 17; remainder over next 12 months	85	100% by Mar 17	75% by Jun 17; remainder by Dec 17	110	100% by Jun 17	8	100% by Dec 17	15	Mar-17	Mar-17	(898)
14	Yes	66% by Jun 17; remainder over next 12 months	85	75% by Jun 17; remainder by Dec 17	50% by Jun 17; remainder by Dec 17	110	75% by Jun 17; remainder by Dec 17	8	100% by Dec 17	15	Mar-17	Mar-17	(860)
15	Yes	50% by Jun 17; remainder over next 12 months	85	50% by Jun 17; remainder by Dec 17	50% by Jun 17; remainder by Dec 17	110	50% by Jun 17; remainder by Dec 17	8	100% by Dec 17	15	Mar-17	Mar-17	(811)
16	No	80% by Jun 17; remainder over next 12 months	85	100% by Mar 17	75% by Jun 17; remainder by Dec 17	110	100% by Jun 17	8	100% by Dec 17	15	Apr-17	Apr-17	(388)
17	No	66% by Jun 17; remainder over next 12 months	85	75% by Jun 17; remainder by Dec 17	50% by Jun 17; remainder by Dec 17	110	75% by Jun 17; remainder by Dec 17	8	100% by Dec 17	15	Jun-17	Jul-17	(361)
18	No	50% by Jun 17; remainder over next 12 months	85	50% by Jun 17; remainder by Dec 17	50% by Jun 17; remainder by Dec 17	110	50% by Jun 17; remainder by Dec 17	8	100% by Dec 17	15	Sep-17	Sep-17	(326)

Appendix 2: Cash Flow Graphs

50th Percentile Scenarios:



70th Percentile Scenarios:



Appendix 2: Cash Flow Graphs

85th Percentile Scenarios:

