

The Treasury

Modernising the Earthquake Commission Act: Proactive Release of Recent Policy Papers Information Release

May 2022

This document has been proactively released by **Minister of Finance (Hon Grant Robertson) Minister Responsible for the Earthquake Commission (Hon Dr David Clark)** on the Treasury website at <https://treasury.govt.nz/publications/information-release/finance-portfolio-cabinet-material>

Cabinet Document Details

Title: **Cabinet Minute: CAB-22-MIN-0067.01: Natural Hazards Insurance Bill: Approval for Introduction**

Date: **14 March 2022**

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Cabinet

Minute of Decision

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Natural Hazards Insurance Bill: Approval for Introduction

Portfolio **Earthquake Commission**

On 14 March 2022, following reference from the Cabinet Legislation Committee, Cabinet:

- 1 **noted** the Natural Hazard Insurance Bill 2022 (the Bill) modernises the Earthquake Commission Act 1993 by, among other things, giving greater emphasis in its revised title to the cover for covered natural hazards other than earthquakes;
- 2 **noted** that the Bill renames the Earthquake Commission to Toka Tū Āke (the Natural Hazards Commission);
- 3 **noted** that the Minister Responsible for the Earthquake Commission is seeking a category [33] priority on the 2022 Legislation Programme (must be passed in 2022) for the Bill;
- 4 **noted** that the Bill includes the amendments agreed by Cabinet to modernise the Earthquake Commission Act 1993 (EQC Act) that respond to the findings of the Public Inquiry into the Earthquake Commission and lessons learnt from the Canterbury earthquake sequence [DEV-21-MIN-0062, DEV-21-MIN-0150, CAB-21-MIN-0177];
- 5 **noted** that in May 2021, Cabinet authorised the Minister Responsible for the Earthquake Commission to make decisions on any additional policy, implementation and commencement, drafting or minor technical issues that arise during the development of the Bill and associated regulations for the Cabinet Legislation Committee [CAB-21-MIN-0177];
- 6 **noted** the additional policy decisions that the Minister Responsible for the Earthquake Commission has taken under the delegation referenced in paragraph 5, which include:
 - 6.1 introducing a code of conduct that confers rights on insured persons and obligations on Toka Tū Āke, which will include a procedure for how breaches of the code will be dealt with, including a right for claimants to seek an independent review;
 - 6.2 clarifying the exclusion of building upgrades, including earthquake strengthening, the claimant was legally required undertake prior to a natural disaster;
 - 6.3 changes to the definition of volcanic events to separately define how natural hazards insurance cover applies for purely hydrothermal events;
 - 6.4 clarifying that cable cars can be covered by Toka Tū Āke as appurtenant structures;
 - 6.5 changes to the determination of land cover to cover a pro-rated fraction of the underlying land calculated with respect to the share of residential property within an entire mixed- used building (i.e. a building with commercial and residential premises);

- 6.6 inclusion of new regulation-making powers to allow the government to define measurement standards to guide the apportionment of natural hazards cover for mixed- used buildings;
- 6.7 provision of insurance cover for items located wholly or partly outside of the insured landholding including in circumstances where the claimant may use or maintain a service but does not own the asset (e.g. stormwater);
- 6.8 standardised treatment under natural hazards land cover for items located wholly or partly outside the insured landholding, including retaining walls, bridges, or culverts;
- 6.9 updating the requirement to reinstate a building within one year to instead require that the building is reinstated by Toka Tū Āke as soon as is practicable, to provide a more realistic timeline for the response to larger-scale events;
- 7 **noted** that in March 2020, the Cabinet Economic Development Committee (DEV), agreed that where a building is below the 50 percent threshold in the residential building test, EQC cover will extend to common areas on a proportionate basis, determined using the residential floor area in the building [DEV-20-MIN-0039];
- 8 **rescinded** the decision in paragraph 7, and instead agreed that where a building is below the 50 percent threshold in the residential building test, cover will extend to common property on a proportionate basis, determined using the residential insured owner(s)' interests, rather than the residential floor area, unless the ownership interest cannot be ascertained;
- 9 **noted** that in March 2020, DEV agreed to amend the residential building test to account for the floor area of the dwellings, appurtenant structures, and the homeowners' proportionate interest in common areas [DEV-20-MIN-0039];
- 10 **rescinded** the decision in paragraph 9, and instead agreed to amend the residential building test to account for the floor area of the dwellings and appurtenant structures, but not common property, as excluding common property from the test simplifies its application with no change to the outcome for insured persons compared to the pro-rata test previously agreed by Cabinet in paragraph 9;
- 11 **approved** the Natural Hazards Bill 2022 [PCO 22619/27.4] for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 12 **agreed** that the Natural Hazards Insurance Bill be introduced;
- 13 **agreed** that the government propose that the Bill be:
- 13.1 referred to the Finance and Expenditure Committee for consideration;
- 13.2 enacted the later of either one year after this Bill gains Royal assent, or 1 December 2023.

Michael Webster
Secretary of the Cabinet

Secretary's Note: This minute replaces LEG-22-MIN-0024. Cabinet agreed to the rescinding recommendations in paragraphs 8 and 10.