Hon Dr David Clark

MP for Dunedin

Minister of Commerce and Consumer Affairs
Minister for the Digital Economy and Communications
Minister for State Owned Enterprises
Minister of Statistics
Minister Responsible for the Earthquake Commission

LEGISLATIVE STATEMENT: NATURAL HAZARDS INSURANCE BILL

Introduction

The Natural Hazards Insurance Bill 2022 (the Bill) will modernise the Earthquake Commission Act 1993 (EQC Act) and its associated natural hazard insurance scheme and governing Crown entity, the Earthquake Commission (EQC).

The proposals draw on lessons learned since the inception of the current EQC Act and the report of the Public Inquiry into EQC.

The proposals retain the current EQC insurance scheme. Key continuing features include:

- natural hazard insurance cover on residential property, provided through cover attached to private fire insurance policies and payment of the associated levy,
- levies are used to pay claims and running costs and otherwise accumulate in a fund,
- a Crown funding guarantee provides assurance claimant entitlements will be met by the Crown if necessary, regardless of the financial state of the fund or entity, and
- the governing entity will continue to be a Crown agent under the Crown Entities Act 2004.

The Bill will also change the name of the *Earthquake Commission* to *Toka Tū Ake – Natural Hazards Commission* to reflect the broad range of hazards covered by the Act and dealt with by Toka Tū Ake (the Commission).

The following is a brief summary of the key policy measures contained in the Bill.

Purposes of Natural Hazards Bill and Toka Tū Ake – Natural Hazards Commission

The purposes of the Bill are to:

- reduce the impact of natural hazards on people, property, and the community by providing first loss insurance cover, contributing to resilience, and encouraging the uptake of catastrophe insurance,
- contribute to managing the financial risk to the Crown of providing natural hazard cover by continuing the collection of the levy, the fund, and the purchase of reinsurance and other risk transfer products in respect of natural hazard cover, and
- enable the Commission to, if required, facilitate (but not pay for) the purchase by the Crown of reinsurance or other risk transfer products in respect of other Crown risks.

The Bill proposes the purpose of natural hazard cover is to contribute to the replacement or reinstatement of dwellings that suffer natural hazard damage. Natural hazard cover also extends to residential land that supports and maintains the integrity and usability of the residential building and access to it.

Private Bag 18041, Parliament Buildings, Wellington 6160, New Zealand
+64 4 817 8709 | d.clark@ministers.govt.nz | beehive.govt.nz

The primary objective for the Commission is *to reduce the impact of natural hazards on people, property, and the community* through administering the scheme. This is supported by three subsidiary function-specific objectives for the Commission: claims management, fund management, and education, research and information functions.

Natural hazards cover

The Bill retains the existing settings for building and land cover largely in their current from. Proposed material changes include:

- **Mixed-use buildings:** A mixed-use building is a building with a least one dwelling where less than 50 percent of the building is used for residential purposes, for instance an office building that includes some apartments.[1] The Bill improves consistency between the rules used to determine if a building is mixed-use and the amount of cover provided for the building.
- **Monetary cap on building cover:** From 1 October 2022 the monetary cap on residential building cover will increase from $150,000 to $300,000 per dwelling (both amounts excluding GST). This change has been made through regulations and is reflected in the Bill.

The Bill also proposes a raft of technical changes, modernisations, and improvements, including:

- defining (or providing more detailed definitions for) important terms such as appurtenant structure, service infrastructure, and the various kinds of natural hazards,
- extending and standardising building cover for items located beyond the boundary of the land on which the residential building is located, such as drains and other services,
- extending the damage period for a volcanic activity event from 48 hours to 7 days (to reflect the fact that volcanic events can continue for extended periods), and
- updating exclusions and allowing some amendments to be made to the schedule of exclusions by Order in Council.

Cover for retaining walls, bridges and culverts

EQC cover currently provides cover based on the indemnity (depreciated) value for damaged retaining walls, bridges, and culverts. To better meet the policy aims of the scheme, the Bill proposes replacing the indemnity value limit on cover of retaining walls, bridges, and culverts with a limit based on undepreciated value, up to monetary caps of $50,000 per dwelling for retaining walls and $25,000 per dwelling for bridges and culverts (both amounts excluding GST).

Claims excesses

The Bill proposes simplifying excesses on building and land claims. It proposes replacing the current excesses with a fixed flat-rate excess of $500 (including GST) per dwelling on both building and land claims. The current $5,000 (including GST) maximum excess per claim for land claims is retained.

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[1] Under the current and proposed scheme, a building that is 50 percent or more residential is entitled to full insurance cover up to the monetary cap (applied per dwelling).

Claims handling

The Bill proposes the Commission must participate in an approved dispute resolution scheme and act in accordance with a *Code of Insured Persons' Rights* (the Code). The Bill also provides an entitlement for insured persons to request an independent review of unresolved complaints relating to a breach of the code.

The Bill proposes several changes to facilitate contracting between the Commission and private insurers, including extending the Commission's ability to delegate claims settlement functions to private insurers.

Information gathering and sharing

The Bill proposes several changes intended to clarify and strengthen the Commission's information gathering powers and facilitate more effective information sharing with government agencies and other persons with a proper interest in receiving it for law enforcement purposes or for performing their functions or exercising their powers.

Offences and penalties

The Bill proposes various changes to clarify and update existing penalties and introduces a new offence for deliberate breaches of the obligation on insurance companies to pay levies to the Commission within the specified period.

Financial governance, roles, and sustainability

The Bill proposes a range of measures intended to update the financial governance of the Commission to reflect modern practice and to require periodic review of the scheme's key financial and risk management settings. Proposals include:

- specifying the purpose for and use of insurance levies, which is to cover the expected cost of insurance claims and associated operating costs, including relevant research and educational expenses,
- requiring reviews of key financial settings, including the insurance levy, monetary cap for residential building cover, at least five-yearly, and requiring the Minister to publish a funding and risk management statement following each review, and
- introducing a statutory funding arrangement (the service agreement) to support the Commission when providing services to government (e.g. in cases where the Commission contributes to wider government priorities falling outside what may be funded by the levy).

Capitalisation and funding

The Bill proposes financial changes to align the funding of the Commission, the relationship between the Minister, the Commission and the fund it manages, with current institutional design and legislative practice applying to other Crown agents. This includes:

- improved accounting and reporting for the Natural Disaster Fund (which becomes the Natural Hazard Fund) separate from the Commission,
- discontinuing provisions in the EQC Act enabling the responsible Minister to require the Commission to make payments in lieu of tax, dividend payments, or payments in recognition of the Crown guarantee (Crown guarantee fee), and

- removing the Commission's discretion to discount levies payable to the Commission by private insurers.

Commencement

The Bill proposes the Act enter into force on the latter of 1 December 2023 or 12 months after Royal Assent. This ensures there is at least a 12-month gap between enactment and entry into force. The Bill also provides for the Governor-General to be able to, by Order in Council, defer commencement.