



**IN CONFIDENCE**

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# **EQC's submission to the Public Inquiry into the Earthquake Commission**

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# EQC's submission to the Public Inquiry into the Earthquake Commission

## I: Introduction

- 1 This submission presents the Earthquake Commission's (EQC) overarching response to the Public Inquiry into the Earthquake Commission. It supplements the initial briefing provided in October 2018, the briefings provided since then addressing specific topics in detail, and the matters discussed with the Public Inquiry during interviews to date.
- 2 There are broadly three components to this submission:
  - a **EQC's readiness** for the Canterbury earthquake sequence (Part III);
  - b **What happened in Canterbury** following those earthquakes (Parts IV, V and VI); and
  - c **The post-Canterbury period and the future** (Parts VII, VIII and IX).

### *Overview of EQC*

- 3 The nature of EQC, providing first loss natural disaster insurance, dates back to 1944 when the War Damage Commission was expanded to become the Earthquake and War Damage Commission. This broader scope was spurred on by earthquakes in Murchison (1929), Hawke's Bay (1931) and Wairarapa (1942), at a time when many properties were not insured against earthquake damage.
- 4 In 1993, EQC became what it is today, a Crown entity known as the Earthquake Commission, with a Board of Commissioners accountable to a Minister. The Earthquake Commission Act 1993 sets out EQC's functions, which are to:
  - a administer the insurance provided under the Earthquake Commission Act 1993;
  - b collect premiums for the insurance provided under the Earthquake Commission Act 1993;
  - c administer the Natural Disaster Fund;
  - d obtain reinsurance;
  - e facilitate research and education about matters relevant to natural disaster damage; and
  - f carry out other functions that may be required, by legislation or Ministerial direction.

## II: Executive summary

- 5 EQC has a key role in contributing to recovery after natural disasters. It is the organisation set up to provide first loss natural disaster insurance for residential property, administer the Natural Disaster Fund and fund research and education on natural disasters.
- 6 Prior to 2010, EQC had planned for a large-scale earthquake. Like other government agencies, EQC relied on modelling and scenario planning. EQC's planning assumed that we would respond to a single natural disaster event, and would settle claims by cash payment. Both assumptions were proven incorrect in the extreme circumstances of the Canterbury earthquake sequence, which generated three times more claims than had been anticipated in EQC's worst-case scenario planning.
- 7 When assessing the readiness of EQC prior to the Canterbury earthquake sequence, it is important to avoid hindsight bias. It is also important to acknowledge that we were not adequately prepared for a catastrophe of the scale or nature of the Canterbury earthquake sequence.
- 8 Prior to the Canterbury earthquake sequence, New Zealand was considered to be a global leader in planning for disaster response. However, New Zealand as a whole was not adequately prepared for a whole-of-government, coordinated approach to recovery from a natural disaster the size, scale and complexity of the Canterbury earthquake sequence.
- 9 What happened in Canterbury was unprecedented. Not just in New Zealand's experience, but internationally. As is apparent from information already provided to the Public Inquiry, the scale of the Canterbury earthquake sequence tested EQC's processes and capabilities and overwhelmed us. It exposed those areas where we needed to change and/or improve. We tried to adapt and respond to the changing circumstances, but not always quickly enough, and our systems and processes let us down.
- 10 At the same time that EQC was struggling to cope with a sequence of events that far exceeded what we had planned for, we were being directed to take on new and expanding roles and functions for which we were also not prepared. This further overwhelmed the organisation at a time when EQC was learning as it was responding. Our response was to scale up the number of our staff from 22 in September 2010, peaking in October 2011 at approximately 1,600.
- 11 It is easy to look back on actions and decisions from a place of calm rationality. The reality was that EQC and its staff were doing their best to make the right decisions during a period of uncertainty and constant change, when they themselves were under significant personal and professional stress (many staff were themselves living in damaged homes). In a recovery environment it is not uncommon for people to become overly focused on the tyranny of the urgent, and view longer-term issues from an emergency perspective.
- 12 Our staff faced constantly shifting priorities, competing demands, distractions, and external pressures from customers, members of Parliament, other agencies, media and others. It was inevitable that we would make mistakes, and we did. As a result, at times there were instances of staff behaviour that did not reflect what the community would reasonably expect from a government organisation, in a time of crisis or otherwise.

- 13 Despite the efforts of staff, who were doing their best in the challenging circumstances they had to operate in, we were not always easy to deal with when we should have been. We acknowledge that shortcomings in our response to the Canterbury earthquake sequence too often made already stressful situations worse for our customers, their families, and the wider Canterbury community. This resulted in a significant loss of trust and confidence in EQC.
- 14 Our responses to subsequent natural disasters, including the second largest in EQC's history (the Kaikōura earthquake), the Seddon and Eketāhuna earthquakes, and Edgecumbe flood, demonstrate that we are continuing to adapt and improve. The organisation has taken a range of steps to learn from these events and it acknowledges more change is still required.

### *What EQC has learned and is already doing to improve*

- 15 As a result of our experience during the recovery from the Canterbury earthquake sequence, we have learned that:
  - a customers and communities must be at the centre of everything we do;
  - b EQC should work with government to clarify its mandate and priorities as soon as possible and on a regular basis;
  - c EQC needs to maintain ongoing active and constructive relationships with agencies across central and local government;
  - d EQC needs to maintain ongoing active and constructive relationships with private insurers;
  - e EQC needs to maintain ongoing active and constructive relationships with iwi/Māori, non-governmental organisations and other community groups;
  - f the managed repair model requires a joined-up approach between central government, local government and the private sector insurers, and a lead agency with strong procurement and contract management capability;
  - g readiness planning needs to be broader, with plans for predictable scenarios as well as flexibility and agility to effectively respond to the unknown. EQC needs to recognise that change will be a constant after a natural disaster – readiness planning needs to take this into account, including building in time to pause, reflect and refresh the approach, and account for new functions, if directed by government;
  - h EQC needs to be prepared to listen, engage and respond to people affected by a disaster and stress;
  - i responsive and open communication is the best way of maintaining public confidence, and setting realistic expectations is a critical component of this;

- j EQC needs to listen as much as it communicates, and that communication needs to be frequent and up front, acknowledging delays as well as progress. EQC needs to keep communicating during periods of uncertainty, even if it does not know the answer or have information yet;
  - k staff need to be trained to communicate effectively and empathetically;
  - l it is important to ensure core people capability and capacity is accessible, with a mix of skills and experience;
  - m interoperable systems and processes need to be in place in advance, able to cope with more than one event, and work seamlessly with others (e.g. private insurers); and
  - n customers need to be able to access a low cost, low stress dispute resolution route which is focused on sorting out problems at the earliest opportunity, preferably without being burdened with legal expenses.
- 16 We have progressively identified areas for improvement and have introduced a range of initiatives to address these lessons, including:
- a a customer-centric approach, which includes a case management model and a claimant reference group;
  - b a larger network of relationships with central and local government;
  - c improved relationships with private insurers, including as shown through the responses to natural disasters after the Canterbury earthquake sequence;
  - d supporting community resilience through developing a *Resilience Strategy for Natural Hazard Risk Reduction*;
  - e a more proactive communications policy;
  - f a broader range of core capabilities and functions within EQC (such as communications, human resources, finance, procurement and legal teams); and
  - g improved processes and procedures to enable claims to be resolved in the most consistent, efficient and effective way.

### *The future*

- 17 In EQC's view, there is more work to do within the wider natural disaster management system to optimise New Zealand's ability to respond to and recover from future natural disasters, particularly catastrophic natural disasters. Improving whole-of-system readiness will, in turn, improve our readiness for future natural disasters. We are well placed to collaborate with other agencies to address and provide advice to government on these wider systemic issues.

### III. Readiness

- 18 In the period between the commencement of the Earthquake Commission Act 1993 and the first of the sequence of Canterbury earthquakes on 4 September 2010, EQC made preparations to respond to what it, and others in New Zealand and internationally, considered to be catastrophe-level scenarios and all that they may entail. These included:
- a managing the Natural Disaster Fund (which is used to fund all of EQC's work, including settling insurance claims and purchasing reinsurance);
  - b annually securing reinsurance to provide additional financial resource (separate to the Natural Disaster Fund or Crown funding) for settling claims in the event of a major natural disaster;
  - c facilitating and funding research and education to improve understanding and national resilience to the effects of natural hazards;
  - d partnering with GNS Science and Land Information New Zealand to establish New Zealand's world-leading geological hazards monitoring system, GeoNet;
  - e conducting scenario testing exercises, training sessions and seminars with key partners including claims management providers, loss adjusters, engineers and service providers; and
  - f developing and maintaining EQC's Catastrophe Response Programme from the late 1990s.
- 19 These steps are described in detail in the briefing papers to the Public Inquiry on the *Catastrophe Response Programme 2009/10*,<sup>1</sup> *Research and Education*<sup>2</sup> and *Managing Risk – Premiums, Reinsurance and the Natural Disaster Fund*.<sup>3</sup>

#### *Pre-2010 readiness planning*

- 20 Our Catastrophe Response Programme was the basis for the plan to scale up our claims management functions following a major natural disaster.

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<sup>1</sup> Briefing to the Public Inquiry into the Earthquake Commission, *Catastrophe Response Programme 2009/10* (13 March 2019).

<sup>2</sup> Briefing to the Public Inquiry into the Earthquake Commission, *Research and Education* (10 July 2019).

<sup>3</sup> Briefing to the Public Inquiry into the Earthquake Commission, *Managing Risk – Premiums, Reinsurance and the Natural Disaster Fund* (4 July 2019).

- 21 Any catastrophe response planning starts with an assumption about the event or events the plan will need to respond to. By 2010, EQC's catastrophe response planning was based on four assumptions:
- a EQC would be responding to a single event with a series of smaller aftershocks – in effect, our planning was based on “one major natural disaster at a time”. This reflected the pattern of New Zealand's major earthquakes in the nineteenth and twentieth centuries, and the experience of other countries that had responded to major natural disasters (including the 1994 Northridge earthquake in California). EQC had no first-hand experience, nor had it observed from New Zealand's modern seismic history or other international experiences, an earthquake sequence that included a series of major events in short succession in an urban area;
  - b the most likely major event (such as a Wellington earthquake, a volcanic eruption in Auckland or tsunami on the east coast of New Zealand) would result in as many as 150,000 claims;
  - c EQC would continue its preferred approach of settling claims by cash payment, with rebuilding left to the homeowner; and
  - d claims settlement would be made in accordance with the Earthquake Commission Act 1993, which was drafted on the same “one natural disaster at a time” assumption.<sup>4</sup>
- 22 A core principle of the Catastrophe Response Programme was that our response to a catastrophe would involve scaling up claims management (assessment, processing and settlement) functions to cash settle claims, rather than introducing new systems. On that basis, EQC estimated that settling the expected 150,000 claims from a major disaster could take four years (which would equate to about 37,500 claims annually).<sup>5</sup> At the same time, EQC's staff composition was geared towards the management of the Natural Disaster Fund, insurance and reinsurance functions. There was no plan to put in place and/or scale up the broader functions that would be needed in the event of a catastrophe, especially one requiring a large-scale managed repair programme.
- 23 The Catastrophe Response Programme was supported by exercises and training for staff and third-party providers.<sup>6</sup> We also used computer modelling to predict the likely resource requirements based on a range of different disaster scenarios. Our belief, based on the four assumptions above, was that we were adequately prepared to deal with the predicted worst-case scenario. However, after the 6.8 magnitude earthquake in Gisborne on 20 December 2007, EQC decided to review the organisation's readiness to respond to a major natural disaster that would result in 150,000 claims.

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<sup>4</sup> EQC cover was deemed to be “aggregate” – an EQC customer was entitled to claim a maximum of \$100,000 + GST for property damage and \$20,000 + GST for contents damage over the course of an annual insurance policy year irrespective of the number of events.

<sup>5</sup> Information provided by a former Chief Executive. This information was supplied after the *Catastrophe Response Programme 2009/10* briefing was provided to the Public Inquiry on 13 March 2019, and was therefore not included in that briefing. For completeness, it is acknowledged that there were differing estimates of annual settlement capacity both before and after the 2009 review.

<sup>6</sup> Briefing to the Public Inquiry into the Earthquake Commission, *Catastrophe Response Programme 2009/10* (13 March 2019), page 14.

- 24 In 2009, the Board commissioned an external *Review of New Zealand Earthquake Commission's Catastrophe Response Operational Capability*. The findings were prescient. The 2009 review panel made a series of recommendations that are as relevant today as they were when they were first published.<sup>7</sup> For example, the panel recommended that EQC:
- a canvass and confirm with its Minister, the Treasury and wider government agencies, their expectations of EQC's role and responsibilities after a major natural disaster, including in relation to a managed repair programme;
  - b consider promoting the establishment of a cluster of agencies likely to have complementary roles in reconstruction following a large-scale event;
  - c promote realistic timelines and expectations for the settling of claims after moderate and large-scale events;
  - d improve EQC's relationship with private sector insurers;
  - e encourage EQC to share resources with the insurance industry, strengthen its relationships with large engineering firms, and assess the viability of recruiting temporary staff in New Zealand rather than using Gallagher Bassett in Brisbane; and
  - f ensure better alignment with the Ministry of Civil Defence and Emergency Management.
- 25 The EQC Board asked Management for a work programme to address the findings and recommendations of the review. EQC, and other government agencies, were still working through the 2009 recommendations when the Canterbury earthquake sequence began.<sup>8</sup>
- 26 We had plans in place to scale up our claims management functions following a major natural disaster, including engaging a number of key third-party providers to ensure their services would be available to assist with our response to a major natural disaster. For example, loss adjusting firms were placed on an annual retainer in return for their commitment of availability and priority to EQC claims in future events. The testing of EQC's ability to activate a response in accordance with its Catastrophe Response Programme became a regular occurrence. The Catastrophe Response Programme had been activated in response to natural disasters on a number of occasions and it had been effective – a view shared by the 2009 review panel.
- 27 However, the four assumptions we had based our Catastrophe Response Programme on (see paragraph 21 above) turned out to be incorrect. We did not prepare for the particular combination of sequencing, location and impact of the Canterbury earthquake sequence, for the number of claims arising from multiple events, the complexity of the claims arising from residential land damage, or the additional functions and responsibilities EQC was directed to take on. This was principally because such a complex and extended sequence of major, damaging earthquakes had not occurred in modern, global history.

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<sup>7</sup> *Review of New Zealand Earthquake Commission's Catastrophe Response Operational Capability* (May 2009), pages vii-viii, (report #1 in in Appendix 1, Briefing to the Public Inquiry into the Earthquake Commission, *External Reviews of the Earthquake Commission since 2010*, dated 4 March 2019).

<sup>8</sup> Briefing to the Public Inquiry into the Earthquake Commission, *Catastrophe Response Programme 2009/10* (13 March 2019), page 14.

## *The situation immediately prior to Canterbury*

### THE STATE OF EQC

- 28 At the time of the 4 September 2010 earthquake, EQC was a very small Crown entity employing just 22 staff (supplemented as described in paragraph 30) and processing between 4,000 to 5,000 claims, on average, per year, mostly for landslips, storm and flood damage. The largest single event the organisation had ever responded to was the Inangahua earthquake in 1968, which generated 10,500 claims.
- 29 The Natural Disaster Fund had grown to just over \$6 billion in accumulated investment assets, and EQC's reinsurance programme provided \$2.5 billion of cover. Access to these funds mitigated the adverse economic effects of the Canterbury earthquake sequence, providing benefits to Canterbury and New Zealand more broadly.
- 30 EQC's staff composition largely reflected its Natural Disaster Fund, insurance and reinsurance functions. The organisation had a strong research and modelling capability, and long-standing relationships with geotechnical and legal experts. In addition, we had arrangements with a number of third-party providers for additional capacity after a natural disaster. For example, EQC contracted Gallagher Bassett, a global claims administration company with significant capacity located in Brisbane, Australia, to provide claims administration services. EQC also had loss adjusting firms across New Zealand and Australia on retainer to provide claims assessment services following a natural disaster.<sup>9</sup>
- 31 The claims that EQC managed were mainly for damage from landslips, storms and floods (as noted above), and were generally settled by cash payment. This was pragmatic and largely effective. Where damage is less serious or widespread, cash settlement provides a relatively quick and simple way to resolve claims.
- 32 Against that background, on the eve of the 4 September 2010 earthquake, EQC had:<sup>10</sup>
- a relatively basic core information technology functionality;
  - b claims management software designed for the cash settlement of EQC's average annual level of claims, scalable for one natural disaster generating 150,000 claims;
  - c no in-house legal function;
  - d no human resources team;
  - e no audit and risk function;
  - f no policy (strategic, responsive, or operational) function;
  - g no fraud and integrity function;

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<sup>9</sup> Briefing to the Public Inquiry into the Earthquake Commission, *Catastrophe Response Programme 2009/10* (13 March 2019), page 6.

<sup>10</sup> Some of the functions above, in particular (d) – (h), were folded into the responsibilities of EQC's 22 staff, but EQC did not have dedicated or specialist staff in these areas.

- h no procurement function;
- i no in-house engineering or construction management capability;
- j some engagement with private insurers in general; and
- k limited information from private insurers, in particular:
  - i no external information sharing systems and processes, so EQC could not access necessary information from private insurers without their consent (which they had been unwilling to provide); and
  - ii EQC had no oversight of the full extent of its liability, or the properties which were eligible for cover under the Earthquake Commission Act 1993. This meant EQC only learned of its potential liability once a claim was filed and then only after EQC had sought confirmation from private insurers that the property had a fire insurance contract.

This meant EQC was unable to communicate directly with its customers, as it did not know who they were until a claim had been made or a private insurer advised EQC of the claim.

- 33 Each of these factors had consequences in terms of our responsiveness and effectiveness in the period after September 2010.
- 34 We relied on the premise that in the event of a large-scale natural disaster we could scale up our staff and processes to respond. This remains a cornerstone of the way EQC is funded and organised. The nature of EQC's work means that we need to be flexible to respond to the full range of natural disasters, since each disaster will differ in type, scale, effect and the degree of damage caused. EQC will always inherently need an 'ebb-and-flow' workplace capability.<sup>11</sup>
- 35 While we had planned for the possibility of a major earthquake, we had no first-hand experience of scaling up after a major natural disaster. We did not have all of the capability, first-hand experience of large operational process-driven organisations, or the plans in place to build an organisation of the scale eventually required in Canterbury to facilitate our customers' recovery.
- 36 We wrongly assumed that large-scale disaster recovery would simply involve business as usual but on a greater *scale*, and would be based on a cash settlement approach (EQC's preference to date). But, as is now readily apparent, to respond to a natural disaster on the scale of Canterbury, and to take on a range of additional functions (some never before undertaken in New Zealand), EQC needed additional expertise, more sophisticated systems and processes, as well as broader and more productive relationships with others, including private insurers, community groups, and central and local government agencies. These were particularly challenging lessons for us to learn while we were responding to the largest natural disaster in our history, which generated significantly more claims than we had ever experienced, and three times the number of claims we had anticipated for a single catastrophic event.

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<sup>11</sup> See Briefing to the Public Inquiry into the Earthquake Commission, *People and Capability* (24 July 2019), page 47, for more on lessons relating to the need to be prepared for a range of possible futures from a people resource perspective.

## LITTLE OR NO PREPARATION FOR A LARGE-SCALE MANAGED REPAIR PROGRAMME

- 37 The Earthquake Commission Act 1993 provides three options for settling claims made under the Act – cash payment, replacement, or reinstatement.
- 38 As noted above, before 2010, EQC’s preference was to settle claims by cash payment.<sup>12</sup> The reasons for this were that EQC:
- a saw itself primarily as a Crown financial institution, focused on its Natural Disaster Fund, insurance and reinsurance functions;<sup>13</sup>
  - b considered that taking on the financial liability and other risks associated with undertaking managed repairs would be inconsistent with responsibly managing the Crown’s financial risk, as set out in successive ministerial letters of expectation; and
  - c viewed the provisions in the Earthquake Commission Act 1993 allowing for claims settlement by reinstatement as *enabling* rather than directive, to provide flexibility to undertake managed repair in exceptional circumstances only.<sup>14</sup>
- 39 For these reasons, we had directly managed the repair of damage in only 71 out of 13,500 claims since March 2008.<sup>15</sup> These were mainly complex land reinstatements involving multiple properties. EQC did not employ staff or have arrangements in place with third-party providers with the training and skills to procure, set up, or run a large-scale managed repair programme.
- 40 In October 2003, the Board considered whether to add managed repair to the Catastrophe Response Programme, so that EQC could be prepared to undertake a managed repair in response to a large number of residential building claims arising from one event. The Board rejected the recommendation on the basis that such an arrangement would be outside the scope of the Earthquake Commission Act 1993, would expose EQC to potential liability, and could be viewed as anti-competitive.<sup>16</sup>

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<sup>12</sup> See Briefing to the Public Inquiry into the Earthquake Commission, *Canterbury Home Repair Programme* (24 June 2019), page 22.

<sup>13</sup> This view was shared at the time by successive responsible Ministers (Ministers of Finance) and EQC’s monitoring agency, the Treasury.

<sup>14</sup> Information provided by two former Chairs of the EQC Board. This information was provided after the *Canterbury Home Repair Programme* briefing was provided to the Public Inquiry on 24 June 2019, and was therefore not included in that briefing.

<sup>15</sup> Earthquake Commission, *Draft Catastrophe Response Programme Strategy Overview* (July 2010), page 2. Some claims were settled through a claimant managed repair approach where EQC would pay the claimant after work had been signed off or, if requested, pay the repair invoices directly.

<sup>16</sup> See Briefing to the Public Inquiry into the Earthquake Commission, *Canterbury Home Repair Programme* (24 June 2019), page 23.

- 41 Our preference to cash settle was questioned in the 2009 review of the Catastrophe Response Programme (see paragraph 24 above). The review panel identified the possibility that EQC might be expected to take on a more hands on role in support of reconstruction activities following a large-scale event. The review panel recommended that EQC should canvass and confirm government expectations of its role in this respect and consider promoting a cross-agency group of those likely to be involved in reconstruction.<sup>17</sup>
- 42 In August 2010, EQC Management informed the Board that plans to facilitate discussions with other government agencies about the roles, responsibilities and resourcing to undertake a managed repair programme following a natural disaster would not be completed until after September 2011 (i.e. 12 months away). However, we did not see it as our role to plan for such a programme in the absence of a clear advance direction from the government. The following month, the Canterbury earthquake sequence began.

#### LIMITED WHOLE-OF-GOVERNMENT PLANNING FOR COORDINATED RECOVERY

- 43 Prior to the Canterbury earthquake sequence, New Zealand was considered a leader in disaster response planning. Scenario testing exercises, such as Exercise Capital Quake in 2006 and Exercise Rūaumoko in 2008, were run to test New Zealand's arrangements for responding to a major natural disaster. Planning was, however, largely focused on coordination of emergency response. There was limited whole-of-government planning for a coordinated recovery. This was partly because prior to 2010, whole-of-government disaster planning had been focused on the response phase and had not foreseen or planned for a recovery from a catastrophe of the type or scale of the Canterbury earthquake sequence.
- 44 The 2009 review of EQC's Catastrophe Response Programme found the government had not provided a clear direction to EQC about its role in the event of a major disaster, and in particular how it would fit into a whole-of-government process of disaster management.<sup>18</sup> While work had commenced to address this, no substantive progress had been made by the time the first Canterbury earthquake struck.
- 45 The state sector reforms of the late 1980s meant that the majority of the capacity and capability required to respond to a catastrophe from an insurance and construction perspective (including construction project management) sat outside of the public sector.

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<sup>17</sup> Briefing to the Public Inquiry into the Earthquake Commission, *Catastrophe Response Programme 2009/10* (13 March 2019), page 15, and Briefing to the Public Inquiry into the Earthquake Commission, *Canterbury Home Repair Programme* (24 June 2019), page 24.

<sup>18</sup> *Review of New Zealand Earthquake Commission's Catastrophe Response Operational Capability* (May 2009), page 8 (report #1 in in Appendix 1, Briefing to the Public Inquiry into the Earthquake Commission, *External Reviews of the Earthquake Commission since 2010*, dated 4 March 2019).

## A STATUTE WITH GAPS

- 46 While the Earthquake Commission Act 1993 had provided a suitable framework for the claims faced by EQC up to the Canterbury earthquake sequence, it became apparent, particularly after the 22 February 2011 earthquake, that there were gaps. In particular, the Earthquake Commission Act 1993:
- a did not anticipate there being a *series* of natural disasters in quick succession, in the same location, with equal or greater amounts of damage;
  - b did not address the extent of coverage for different types of land damage;
  - c did not either define, or provide a mechanism to address, recovery roles and functions across different government agencies; and
  - d did not provide mechanisms for information sharing, or to provide EQC with authority to access the information it needed from other agencies and private insurers.
- 47 Some of the definitions in the Earthquake Commission Act 1993 were a source of ambiguity that, in some cases, led to litigation after 2010.<sup>19</sup>
- 48 There are also some significant differences between what is covered under the Earthquake Commission Act 1993 and private insurance policies. For example, damage to driveways, and consequential losses such as the costs of temporary accommodation and loss of rents on investment properties, are explicitly excluded from EQC cover but may be covered by private insurers.
- 49 These gaps and ambiguities had major implications for the recovery effort. They hampered our responsiveness and communication, which led to disputes and operational hurdles. Trust and confidence in EQC suffered as a result.<sup>20</sup>

## IV: What happened in Canterbury

### *An unprecedented and highly destructive earthquake sequence*

- 50 The Canterbury earthquake sequence was both highly destructive and unprecedented. Never before had there been five significant earthquakes in close proximity, a matter of months apart, with one (and not the first one) being centred in a major urban area with the continuation of thousands of aftershocks. The Insurance Council of New Zealand advised that the Canterbury earthquake sequence at the time was the fourth most expensive insured global natural disaster to occur, and total economic losses for the entire sequence are estimated to be more than NZD \$45 billion.

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<sup>19</sup> See Briefing to the Public Inquiry into the Earthquake Commission, *EQC and the private insurer interface* (19 July 2019), page 22, and Briefing to the Public Inquiry into the Earthquake Commission, *Resolving disputes with customers arising from the Canterbury earthquakes* (18 July 2019), page 43, for the example relating to the definition of “dwelling”.

<sup>20</sup> For more on the implications of these gaps and ambiguities, see Briefing to the Public Inquiry into the Earthquake Commission, *EQC and the private insurer interface* (19 July 2019), and Briefing to the Public Inquiry into the Earthquake Commission, *Resolving disputes with customers arising from the Canterbury earthquakes* (18 July 2019).

- 51 Among other things, the Canterbury earthquake sequence led to:
- a extensive damage to housing stock, both in the number of houses damaged and the severity of the damage. This required a major rebuild of unprecedented scale and complexity in New Zealand;
  - b approximately 460,000 claims to EQC – more than three times the anticipated worst-case scenario EQC had planned for. Each EQC claim can be made up of sub-claims (also called exposures) for different types of damage covered by EQC – land, building and contents. EQC received just over 757,000 sub-claims from the Canterbury earthquake sequence (comprising approximately 416,300 building exposures, 186,500 contents exposures, and 154,000 land exposures).<sup>21</sup> In part because damage was inflicted upon damage, many more claims than expected exceeded EQC’s cap and required joint EQC/private insurer settlement;
  - c the need to apportion damage to specific earthquakes, requiring multiple assessments by EQC and in some cases by private insurers;
  - d new kinds of land damage on a large scale that had not been experienced in New Zealand or internationally;<sup>22</sup>
  - e significant economic disruption to the second largest city in New Zealand; and
  - f extensive secondary stressors.<sup>23</sup>

### *Large-scale managed repair programme*

- 52 The extent and type of damage in Canterbury required EQC to work in ways that it had never anticipated and was not designed for. For example, because of the scale of the rebuilding and repair task, the suitability of the cash settlement model (our preferred mode of settlement) became uncertain.
- 53 There was concern that cash settlements on such a large scale could cause repair cost inflation and inequitable access to trade-qualified resources, and would add to homeowners’ stress trying to find builders and to manage their own repairs. A managed repair programme would mitigate the risk that homeowners might not use their cash settlement funds to fully repair structural damage, given other financial pressures – if this had occurred on a large scale, it would have had a significant effect on the quality of housing stock in Canterbury.<sup>24</sup>

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<sup>21</sup> Briefing to the Public Inquiry into the Earthquake Commission, *Earthquake Commission Data* (1 April 2019), page 30.

<sup>22</sup> See Briefing to the Public Inquiry into the Earthquake Commission, *Canterbury Land Programme* (24 May 2019).

<sup>23</sup> “Secondary stressors were indirectly related to the earthquakes, for example difficulties progressing insurance claims or frustrations caused by commuting through damaged roads,” in Canterbury Earthquake Recovery Authority, *Understanding Social Recovery* (April 2016), <https://www.egrecoverylearning.org/assets/downloads/res101-understanding-social-recovery.pdf>.

<sup>24</sup> Report of the Controller and Auditor-General, *Earthquake Commission: Managing the Canterbury Home Repair Programme* (October 2013). See also Briefing to the Public Inquiry into the Earthquake Commission, *Canterbury Home Repair Programme* (24 June 2019), pages 27-28.

- 54 Discussions between the government and EQC about these risks led to an agreed view that we should establish a managed repair programme to settle certain residential building claims. As a result, claims where EQC's initial assessment indicated that the cost to repair would be between \$15,000 (plus GST) and the cap (generally \$100,000 plus GST) would be settled through a managed repair programme (the Canterbury Home Repair Programme).
- 55 The decision to establish the Canterbury Home Repair Programme marked a significant departure from our usual practice for settling claims. The decision was made in September 2010, before the 22 February 2011 earthquake. At that time, although EQC was facing an unprecedented number of claims (approximately 150,000), this was close to the worst case scenario that we had planned for in the Catastrophe Response Programme. We considered the situation was challenging, but manageable. We also knew we (and/or other state sector organisations) did not have the skills or experience to undertake a large construction project on our own, but had confidence that a major private sector construction company could manage the rebuild under contract. At the time, there were few other options available to government to mitigate the risks of cash settlements at a large scale (see paragraph 53 above), so EQC considered setting up the Canterbury Home Repair Programme was the right thing to do.
- 56 To implement the Canterbury Home Repair Programme, we procured Fletcher EQR, a division of the Fletcher Construction Company Limited, to act as our agent to engage contractors to carry out repairs in Canterbury. The Canterbury Home Repair Programme resulted in the repair of over 67,000 homes (28% of the housing stock in Canterbury) at a total cost of \$2.962 billion (as at February 2019). The scale and complexity of the programme were unprecedented in New Zealand.
- 57 The extensive additional damage to residential buildings caused by the 22 February 2011 earthquake increased the scope and complexity of the Canterbury Home Repair Programme. The government directed EQC to take on additional roles that were outside the scope of its core business, including inspecting residential premises (insured or uninsured) and carrying out emergency repairs on houses (insured or uninsured) that were dangerous or insecure. The Canterbury Home Repair Programme assisted with this work, and took over installing clean heat sources from the Energy Efficiency and Conservation Authority (the winter heat programme).
- 58 The Canterbury Home Repair Programme faced a range of challenges, including:
- a delays due to the need to apportion damage to different events (including resolving questions about interpretation of Earthquake Commission Act 1993 through the courts);
  - b EQC's and Fletcher EQR's data and claims management systems did not align or communicate, meaning that it was difficult to provide tailored and timely information to individual customers about their claims and rebuild; and
  - c EQC lacked the internal capability and capacity to set up effective monitoring and quality control over the programme from the outset.

- 59 The Canterbury Home Repair Programme successfully mitigated some of the key risks that it was set up to address. The programme effectively limited repair cost inflation, which contributed to retaining reinsurers' confidence in the New Zealand insurance market. A managed repair approach also meant that large numbers of customers did not have to compete directly with each other for trade-qualified resources. For some customers, particularly elderly or vulnerable people, having their repairs managed for them would have been one less thing they had to sort out in the aftermath of the earthquakes.
- 60 These achievements must be balanced against the fact that, for many customers, the Canterbury Home Repair Programme is associated with feelings of anger, frustration, and mistrust. For much of the programme's duration, we were not able to provide customers with certainty about when their homes would be repaired. Customers experienced long periods with no contact about their repairs. Customers who approached EQC or Fletcher EQR sometimes received contradictory, or patchy, information about their claim. We missed opportunities to communicate well to customers, and to set realistic expectations from the outset about how long it would take before their homes would be repaired.
- 61 Generally speaking, all post-disaster housing construction programmes face challenges.<sup>25</sup> Overseas experiences that may be considered successful from a timing or cost perspective, may not be considered successful in a New Zealand context. For example, following an earthquake in the Sichuan province, China in 2008, central government managed the repair of most urban areas, and a large proportion of displaced families were rehoused within two years of the earthquake. The speed of this rebuild meant that other matters such as consulting residents about their desires or needs for housing, reviewing building codes, or environmental review of site selection for housing were not prioritised.<sup>26</sup> This would not have been desirable in a New Zealand context.

### *Retaining reinsurance*

- 62 After such a significant natural disaster, New Zealand needed to maintain and renew reinsurance contracts. EQC secured backup reinsurance contracts shortly after the 4 September 2010 earthquake to protect against further events within the same contract year. This proved beneficial given the sequence of earthquakes which followed. EQC secured further reinsurance contracts after the 22 February 2011 earthquake. This was a key success, which provided a level of stability within the insurance market after the earthquakes and reduced the risk that we would need to call on the Crown guarantee.

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<sup>25</sup> A.A. Bilau, E. Witt, and I. Lill, *A framework for managing post-disaster housing reconstruction*, *Procedia Economics and Finance* 21 (2015), pages 313-320, <https://core.ac.uk/download/pdf/82016192.pdf>.

<sup>26</sup> M.C. Comerio, *Resilience, Recovery and Community Renewal*, Fifteenth World Conference on Earthquake Engineering, Lisbon, Portugal (2012).

- 63 At the time of the Canterbury earthquakes, global reinsurers held concerns about the size of their exposure, and the time it would take to quantify final liability. This in turn prompted concerns that reinsurers would not just increase premiums, but could walk away from the New Zealand market.<sup>27</sup> Without continued support from reinsurers there would have been either more domestic insurers in financial difficulty as a result of the Canterbury earthquake sequence, or reduced levels of insurance coverage nationally.
- 64 Our role in continuing to secure increasing levels of reinsurance also supported the private residential insurance market more broadly, with private insurers able to obtain reinsurance in the aftermath of the Canterbury earthquake sequence. The domestic residential insurance market has remained relatively stable since the Canterbury earthquake sequence, compared to the commercial insurance market, which saw some insurers withdraw. There were also flow-on effects for other sectors, for example the banking sector, in ensuring residential insurance was still available to the New Zealand market.

### *Identifying new forms of land damage*

- 65 EQC instructed its geotechnical engineers to undertake a proactive assessment programme after each main earthquake, and to co-ordinate engineering resources. EQC also created extensive data sets using modern techniques, including airplane LiDAR surveys of land levels and geotechnical investigations. Investigations commissioned by EQC resulted in the identification and assessment of new forms of land damage (Increased Flooding Vulnerability and Increased Liquefaction Vulnerability).
- 66 Much of this work was commissioned through EQC's research function, which has a broad purpose not limited to the administration of the EQC insurance cover. This enabled data to be collected that could be used for multiple purposes to support the recovery more broadly. These data sets also underpinned the work of other government agencies, including the determination of the residential red zones by the Canterbury Earthquake Recovery Authority, and determination of technical categories (TC1, TC2 and TC3) by the Department of Building and Housing. The data sets and techniques developed will also be valuable to EQC and other government agencies in the future.<sup>28</sup>

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<sup>27</sup> Department of the Prime Minister and Cabinet, *Whole of Government Report: Lessons from the Canterbury earthquake sequence* (2017), <https://dpmc.govt.nz/sites/default/files/2017-07/whole-of-government-report-lessons-from-the-canterbury-earthquake-sequence.pdf>.

<sup>28</sup> See Briefing to the Public Inquiry into the Earthquake Commission, *Canterbury Land Programme* (24 May 2019).

### *Responding as the Minister directed*

- 67 The relevant Minister can direct EQC to carry out additional functions.<sup>29</sup> Twelve Ministerial Directions were issued to EQC during the Canterbury recovery from October 2010 to August 2016. Some of these introduced new functions for EQC that were outside of its core business, and generally had a social recovery focus. For example:
- a After it was recognised that in some areas of Christchurch it would be impossible to rebuild without carrying out significant area-wide works and that the additional area-wide work was beyond the scope of EQC's land insurance, EQC was tasked with leading an area-wide land repair programme, to be funded separately by the government (this work would later be overtaken by the 22 February 2011 earthquake).
  - b EQC was directed to carry out inspections of residential premises (insured and uninsured) and undertake emergency works to repair damage to dangerous or insecure residential premises (insured and uninsured) after the 22 February 2011 earthquake.
- 68 Until 2010, EQC focused primarily on its statutory functions. EQC had no mandate nor expectation from government that it would have a social recovery function during recovery from a natural disaster. As the range of its functions increased, EQC found itself being regarded as 'the face of government' and as the first port of call for many Cantabrians. Staff found themselves fielding questions about things EQC was not responsible for (for example, when a local school would re-open, or what additional support people might be entitled to). In those cases, staff did their best to contact the relevant responsible agencies to help the people involved.
- 69 Ultimately, the expansion of our roles and functions through a series of Ministerial Directions enabled us to support the broader recovery of communities. At the time of each Direction, it appears that there was no other agency within the broader state sector that was deemed to have the necessary skills to support recovery in the way that EQC was directed. This meant, however, that we took on multiple roles and functions that we were not prepared for, in an environment in which we were already overwhelmed by the number of claims that we were dealing with. It is unclear whether EQC, or the Treasury (as EQC's monitoring agency), in developing advice to government on these Directions, considered their cumulative effect on our capacity and capability to undertake our statutory functions as well as the new functions we were being directed to undertake.

### *Gaps start to show*

- 70 As the scale of the disaster was realised, gaps came into sharper relief. These included:
- a poor role definition both within EQC and with other agencies EQC worked with;
  - b poor and/or incompatible information technology and other systems and processes;
  - c the lack of protocols dealing with information sharing and document management;

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<sup>29</sup> Briefing to the Public Inquiry into the Earthquake Commission, *Ministerial Directions since 1 January 1994* (13 March 2019), pages 1-2.

- d poor communication with customers;
- e the lack of clear, previously agreed, standards to manage repair and reinstatement;<sup>30</sup>
- f the lack of a clear and accessible alternative disputes resolution process to allow customers to have their disagreements about individual assessments and/or claims resolved quickly and without high legal costs; and
- g the limitations of the Earthquake Commission Act 1993.

71 Gaps across the broader recovery system were also starting to show, including:

- a poor or weak linkages between essential sectors – government, the private insurance industry, the construction industry, etc;
- b the lack of whole-of-government disaster recovery planning prior to the earthquakes; and
- c EQC did not have a prominent role in broader government recovery plans that were put in place after the Canterbury earthquakes (for example, the *Recovery Strategy for Greater Christchurch*<sup>31</sup>).

72 On top of these gaps, we were also dealing with new issues that had not been (or needed to be) contemplated before – apportioning damage to specific earthquakes, and responding to new forms of land damage. We used the declaratory judgment process to obtain guidance from the court on these issues, which would allow us to resolve large numbers of otherwise contested claims.<sup>32</sup> These processes took time, however, and resulted in significant delays to progressing claims.

73 The effects that the above issues had on EQC’s customers is discussed in paragraphs 85 to 103.

### *The environment for EQC staff*

74 All staff that came to work at EQC arrived with a keen willingness to do their best and to contribute to an effective and efficient recovery. In essence, they came to work at EQC to serve and help Cantabrians recover from the worst natural disaster New Zealand had ever experienced. We thank them for their contributions and service.

75 Many people describe working at EQC in the years following the earthquakes as “a blur”. Turnover and burnout was high, and often attributed to having to manage work under a combined weight of uncertainty and community expectation.<sup>33</sup>

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<sup>30</sup> For example, there appeared to be no common understanding of what constitutes reinstatement of a house to pre-earthquake standard.

<sup>31</sup> Canterbury Earthquake Recovery Authority, *Recovery Strategy for Greater Christchurch: Mahere Haumanutanga o Waitaha* (2012).

<sup>32</sup> See Briefing to the Public Inquiry into the Earthquake Commission, *Resolving disputes with customers arising from the Canterbury earthquakes* (18 July 2019).

<sup>33</sup> Earthquake Commission, *Reflections from the Fault Line – Seven EQC staff tell their stories of the Canterbury earthquakes* (Draft)(2016).

- 76 We needed to be mindful of staff wellbeing given the chaos inherent after a catastrophe. No amount of preparation can remove that chaos from the equation, but through appropriate mechanisms, a more supportive environment for staff could have been provided.
- 77 EQC expanded rapidly in response to the scale of damage from the Canterbury earthquake sequence. In less than three months it went from an organisation supporting 22 permanent staff, to an organisation supporting over 1,000 staff, with the majority employed on a short-term or temporary basis. Staff numbers peaked in October 2011 at approximately 1,600.<sup>34</sup>
- 78 The majority of staff were based in Christchurch. The benefit of this was that staff understood the context and what was happening in a way that would not have been possible had EQC been primarily based elsewhere. This meant, however, that the day-to-day work environment included earthquakes and aftershocks, exposure to damaged property, negative media coverage, increasingly negative public perception of EQC, dealing with stressed customers, and threats made against staff or the organisation.
- 79 All of this was on top of having to work using processes and procedures which were overwhelmed both by the scale of the disaster and by EQC's changing roles. EQC was being asked to do work it was not set up for, and did not have the capability to do. Staff were also dealing with the emergence of new issues such as apportionment and new forms of land damage that complicated and delayed our response.
- 80 This environment made it challenging to build a consistent organisational culture, and impossible to develop the organisational maturity needed to support such a large entity, as these are organic elements of an organisation that would normally develop over time.
- 81 Staff were also going through their own recovery journeys. For many this included dealing with their own insurance and EQC claims, supporting stressed friends and family, and living in damaged homes. We were careful to ensure that our staff's EQC claims were not prioritised – however (like other EQC customers) this may have contributed to staff stress. In many cases, stressors continued long after the early response and recovery phases.
- 82 Despite the challenging circumstances in which they were working, staff had a common purpose and good intentions. Staff worked long hours in difficult conditions, in an operational environment where staff support and welfare systems were less developed than other human resource functions. As a result, staff were not always supported to do their jobs.
- 83 Experiencing multiple stressors was likely to have had a compounding effect on staff. Staff were sometimes abused and vilified. At times this meant that staff responded to customers, or others, in ways which were neither appropriate nor acceptable for a government agency, whatever the circumstances.<sup>35</sup> This tarnished many Cantabrians' perception of EQC, even if their own experience was a positive one.

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<sup>34</sup> See Briefing to the Public Inquiry into the Earthquake Commission, *People and Capability* (24 July 2019).

<sup>35</sup> See Briefing to the Public Inquiry into the Earthquake Commission, *People and Capability* (24 July 2019), page 33, for more on managing employees.

84 It is easy to look back on actions and decisions in retrospect. The reality was that EQC and its staff were working hard to make the right decisions during a period of chaos, uncertainty and constant change, when they themselves were under significant personal and professional stress. Our staff faced constantly shifting priorities, competing demands, distractions, and external pressures.

## **V: Our customers' experience of EQC**

85 Trust and confidence in institutions is a key element of social capital, one of the four capitals that contribute to wellbeing now and into the future, as set out in Treasury's Living Standards Framework.<sup>36</sup> As a key contributor to wellbeing, trust and confidence in institutions is also important in disaster recovery. During recovery, the community's environment is constantly changing. The number of repeated significant events (including earthquakes and flooding) and aftershocks in Canterbury meant that the phases of recovery were often overlapping or being reset.<sup>37</sup> In this time of chaos and constant change, the community, more than ever, needed to have trust and confidence in EQC and other government agencies to facilitate a positive and efficient recovery for the community.

86 The Public Inquiry has heard first hand from customers of EQC, and it is not our intention to speak on their behalf in this submission. But EQC does want to acknowledge the negative effect that its shortcomings had on customers. Reviews and surveys undertaken by various parties, including the Canterbury Earthquake Recovery Authority, Office of the Auditor-General, and Human Rights Commission have highlighted these shortcomings and/or the effect they have had on EQC's customers.

87 We know we let people down. EQC was not easy to deal with or to access information from – we should have been. This has resulted in a significant loss of trust and confidence in EQC from the relatively high levels of trust and confidence that people had in EQC prior to the Canterbury earthquakes. A number of factors contributed to this, which in turn have significantly affected the reputation of EQC and wider government recovery systems. They have also affected public confidence that those systems are well equipped to respond to future natural disasters.

### *Poor communication with customers*

88 Our processes were not able to cope with the demand for information – EQC struggled to provide timely and consistent information to customers, and was not listening to customers. This caused frustration for customers and at times led them down a pathway of disputes against EQC (see paragraphs 101 to 103 below).

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<sup>36</sup> The Treasury, *The Start of a Conversation on the Value of New Zealand's Social Capital* (February 2018), <https://treasury.govt.nz/sites/default/files/2018-02/dp18-04.pdf>.

<sup>37</sup> Canterbury Earthquake Recovery Authority, *Walking the Recovery Tightrope: Learning and insights from the Canterbury Earthquake Recovery Authority* (April 2016), <http://www.eqrecoverylearning.org/assets/downloads/Res0071-Walking-the-Recovery-Tightrope2.pdf>.

- 89 There was uncertainty about what customers were entitled to under the Earthquake Commission Act 1993. While EQC and the private insurers sought to address this by seeking declaratory judgments from the High Court (paragraph 72 above), questions such as whether EQC cover reinstates after each natural disaster, the types of land damage covered, and how to apportion the degree of damage were complex and caused delay and frustration. We did not adequately explain these circumstances to our customers, creating an information void which exacerbated frustration.
- 90 We were developing and refining our processes as events unfolded. This meant the processes being applied varied over time. In some cases, an individual customer experienced different or changing processes applied to the same property.<sup>38</sup> This was confusing and further eroded public confidence in our processes.
- 91 EQC was implementing multiple assessment programmes (rapid assessment and more in-depth assessments), at some points simultaneously. We failed to set realistic expectations and communicate adequately with customers about what assessment(s) applied to their property, why assessment models had changed, why multiple assessments were necessary and what timelines were appropriate.
- 92 We needed to rely on new staff to provide key services. Many of them were not effectively trained to manage and explain the complex and dynamic conditions, which had negative flow-on effects for customers. This could have been mitigated by seeking advice from psychosocial experts in developing our approach to engaging with customers, and having a strong ongoing training programme for new staff in place ahead of a natural disaster.
- 93 We were inconsistent in the way we communicated matters to our customers compared with other parties, for example private insurers or other government agencies. This meant that customers suffered from gaps in information and/or were receiving a different message from EQC than from, for example, their private insurer. The onus was on us to train and prepare our staff for conveying messages, particularly on complex matters, in an appropriate and consistent way.

### *Vulnerable customers*

- 94 EQC, along with other public sector agencies, recognised the need to identify and assist vulnerable people soon after the September 2010 earthquake. Referral networks were established with government agencies, local authorities, non-governmental organisations and local members of Parliament, so that support and assistance could be provided to people who needed it.

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<sup>38</sup> See Report of the Controller and Auditor-General, *Earthquake Commission: Managing the Canterbury Home Repair Programme* (October 2013). See also Briefing to the Public Inquiry into the Earthquake Commission, *Canterbury Home Repair Programme* (24 June 2019), page 19, for an example in relation to scope of works documentation.

- 95 We aimed to prioritise assessments, emergency repairs, claim settlement and home repairs for our vulnerable customers. Vulnerability was identified using a wide range of criteria that evolved over time, but usually included elderly people, people with physical or mental health conditions, and recently bereaved people. We found it challenging to identify vulnerable people, despite many proactive initiatives that sought the assistance of others, including because many vulnerable and elderly people were stoic and did not seek prioritisation.<sup>39</sup>
- 96 Although we had determined that a case management approach would not have been possible for all claims arising from the Canterbury earthquake sequence, vulnerable customers' claims represented a small enough proportion to allow them to be case managed. In November 2012, we began to formally allocate repair slots for repairs to vulnerable customers' homes through the Canterbury Home Repair Programme.<sup>40</sup> The Auditor-General considered this took too long and so did we.<sup>41</sup>
- 97 Our delayed response to vulnerable customers exacerbated diminishing levels of trust and confidence in EQC, not only for vulnerable customers, but for customers more broadly, many of whom would have known a vulnerable person.

### *Remedial repairs*

- 98 From 2016 onwards, there was a significant increase in the number of claims being reopened arising from customer complaints about first time repairs through the Canterbury Home Repair Programme. There were a number of different causes of remedial repairs, including missed scope, scope not completed, new damage, incorrect and/or failed repair strategies, or work quality. Based on data EQC has available, the single largest cause of remedial repairs from the Canterbury Home Repair Programme was missed scope, accounting for 49% of EQC's expenditure on remedial repairs.<sup>42</sup> Missed scope is damage not identified and included in the original scope of works document drawn up after the full assessment done by EQC. Damage may have been missed because the damage was inaccessible or not visible at the time of the assessment (under floor coverings), or was overlooked.<sup>43</sup>
- 99 The effect of remedial repairs, and claims needing to be reopened, on home owners, and on public confidence in us, was significant. These claims have led to drawn out engagement with EQC, dispute, acrimony and frustration.

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<sup>39</sup> See Briefing to the Public Inquiry into the Earthquake Commission, *Customers' Experience of the Earthquake Commission's Claims Management Processes* (17 July 2019), pages 13-14.

<sup>40</sup> See Briefing to the Public Inquiry into the Earthquake Commission, *Canterbury Home Repair Programme* (24 June 2019).

<sup>41</sup> Report of the Controller and Auditor-General, *Earthquake Commission: Managing the Canterbury Home Repair Programme* (October 2013). See also Briefing to the Public Inquiry into the Earthquake Commission, *Canterbury Home Repair Programme* (24 June 2019).

<sup>42</sup> See Briefing to the Public Inquiry into the Earthquake Commission, *Canterbury Home Repair Programme* (24 June 2019), pages 19-20.

<sup>43</sup> See Briefing to the Public Inquiry into the Earthquake Commission, *Canterbury Home Repair Programme* (24 June 2019), pages 57-58.

100 In the future, any government organisation tasked with undertaking a managed repair programme needs to ensure robust monitoring and quality control processes are put in place ahead of time before commencing a managed repair programme. Government should also consider whether it is reasonable to expect that customers are responsible for identifying damage in all circumstances, as is currently the case under the Earthquake Commission Act 1993. In any event, EQC did not adequately communicate this, leading to a perception that assessors were responsible for identifying all damage.

### *Dispute resolution processes*

101 We had no formal complaints process prior to the Canterbury earthquake sequence. Prior to that time we had received only a very small number of complaints in any year and these could easily be managed by the organisation's staff.

102 From 1 January 2010 until 31 May 2019, our records indicate that we received 51,638 complaints.<sup>44</sup> EQC did not have adequate processes, policies or staff to manage these. We were also overwhelmed by the number of Official Information Act requests we were receiving, which further slowed our responses to questions and complaints, particularly before we had a dedicated team in place to respond to such requests.

103 It is now evident that our approach to processing and responding to complaints was ineffective and not suited to sorting out problems at the earliest opportunity. The processes we used left customers taking costly court action for what was essentially a settlement dispute, and this led in some cases to customer frustration, stress and suffering. Litigation is costly and time consuming, including for our customers. We accept that litigation should only have been used as a last resort to clarify points of law, or where all reasonable settlement attempts have failed.

## **VI: EQC acknowledgements and apology**

104 The Canterbury earthquake sequence was unlike anything we had anticipated or prepared for. Although we settled approximately 460,000 claims, oversaw the repair of more than 67,000 homes, delivered programmes such as emergency repairs and the home heating programme, supported the broader recovery through our land programme, and delivered significant benefits for Canterbury and for New Zealand through our reinsurance, research and education functions and managing the Natural Disaster Fund, there were shortcomings, some significant, in both our recovery planning and performance.

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<sup>44</sup> Briefing to the Public Inquiry into the Earthquake Commission, *Resolving disputes with customers arising from the Canterbury earthquakes* (18 July 2019), page 12.

105 Our shortcomings affected the trust and confidence the public had in EQC, and created a secondary source of stress for our customers, compounding the stress that was already present as a result of the ongoing earthquakes:

- a We knew the number of claims would increase markedly very shortly after the disaster and that customers would want the comfort of speedy and certain outcomes. We needed to have better systems and processes in place to manage claims and communications, and set realistic expectations.
- b We knew our claims management function would need to be scaled up in the immediate aftermath of any large-scale natural disaster, and had plans to do this. However, we did not have adequate plans for scaling-up and adding critical supporting functions such as information technology, information management, legal, human resources, audit and risk, policy, fraud and integrity, and procurement.
- c We knew that a managed repair programme might be required as part of a future catastrophe response. In 2010, we established the Canterbury Home Repair Programme. This was unplanned and we lacked specialist expertise in relevant areas including procurement and contract management. We could have done more to ensure quality control of the repairs, provided better information and support for our customers, and done better at prioritising repairs for the vulnerable.
- d We knew that EQC would need good communication and information sharing channels with private sector insurers. We needed to do more before and during the Canterbury earthquake sequence to ensure these relationships were in place and maintained.
- e We knew that customers and the wider community would need clear, accessible information about what they were entitled to and what to expect. We took too long to provide this.
- f We did not have a dispute resolution process in place to ensure we could address disputes in a consistent, constructive, customer focused manner. The processes we used left customers taking costly court action for what was often a settlement dispute, and this led in some cases to customer frustration, stress and suffering.
- g We ought to have recognised in advance, and certainly from 2010, that any large-scale natural disaster causes stress for the whole community. We could have done more to be better prepared to support our customers and staff in an appropriate way in these circumstances.

106 We recognise EQC's shortcomings in our response to the Canterbury earthquake sequence, and that they have had a significant negative effect on our customers, their families, the wider Canterbury community and our staff. For that, we unreservedly apologise.

## VII: What happened in natural disasters after Canterbury

107 The Canterbury earthquake sequence produced the largest number of claims (approximately 460,000) in EQC's history, by a substantial amount. Subsequently, we have also responded to the second largest event in our history, the Kaikōura earthquake (approximately 40,000 claims). While the scale of the Canterbury earthquake sequence provided an overwhelming environment in which to learn, subsequent responses demonstrate that EQC is continuing to learn, adapt and improve as it goes. There is, however, a common theme in all of EQC's responses – that people were doing their best in the environment they had to operate in.

### *Seddon earthquakes (2013) and Eketāhuna earthquake (2014)*

108 On 19 July 2013, a 5.7 magnitude earthquake struck Seddon, Marlborough. This was followed on 21 July 2013 by a 6.5 magnitude earthquake, and a 6.6 magnitude earthquake on 16 August 2013. Each of these earthquakes was treated by EQC as separate events for insurance purposes. In total, the Seddon earthquakes generated approximately 12,000 claims, the majority of which were for residential building damage. On 20 January 2014, a 6.2 magnitude earthquake struck Eketāhuna in the northern Wairarapa, generating approximately 5,000 claims.

109 The Seddon and Eketāhuna earthquakes were closer in scale to events we had been used to responding to prior to the Canterbury earthquake sequence. We were able to build on lessons we had already learned from our experience in Canterbury. For Seddon and Eketāhuna, we used a claims management model that meant each customer had one EQC person to discuss their entire claim with. EQC assessments were scheduled so that customers were given certainty about when their assessments would occur, and a single assessment of damage was undertaken of residential building, residential land, and contents damage (unless an additional specialist visit was needed). Quality control processes were improved, including strong training for assessors and estimators, and introducing quality checks to improve the accuracy of assessments.

110 After the events, we identified that having more lead-in time before beginning assessments, which gave more time to prepare, resulted in better training outcomes, better processes, and better quality assessments. Although we had worked to improve the customer-centricity of our work, after Seddon and Eketāhuna we identified that further improvements were required in terms of providing customers with certainty (such as providing timely information to customers post-assessment).

### *Kaikōura earthquake (2016)*<sup>45</sup>

111 The Kaikōura earthquake on 14 November 2016 was the second largest event in EQC's history in terms of the number of claims. The Kaikōura earthquake was centered some distance from larger population centres and was a single main event, rather than a sequence.

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<sup>45</sup> See Briefing to the Public Inquiry into the Earthquake Commission, *The Kaikōura earthquake* (4 July 2019).

- 112 The Kaikōura earthquake had a significant effect on the main land transport routes through the South Island – the damage caused to the Main North Line railway and State Highway 1 was unprecedented in New Zealand. The government set up an alliance partnership between the New Zealand Transport Agency, KiwiRail, and civil construction contractors to restore the earthquake damaged infrastructure between Picton and Christchurch.<sup>46</sup>
- 113 Claims from the Kaikōura earthquake were widely dispersed geographically, and damage was clearly apportioned to the one earthquake. In addition, with a very small number of exceptions, the damage sustained to most customers’ homes was not as extensive as that sustained in Canterbury. There were also very few claims for land damage, and they generally were not as complex as those seen in Canterbury.
- 114 We initiated a collaborative model of claims settlement known as the ‘agency model’ to manage the majority of claims from the Kaikōura earthquake. This model was developed at speed, following a pilot that had previously been tested in collaboration with the private insurer Vero and based on principles that had been developed before the Canterbury earthquake sequence.<sup>47</sup>
- 115 Under this model, EQC and most of the private insurers agreed that the private insurers would act as EQC’s agents in assessing and settling claims, regardless of whether the damage was under or over the EQC cap. The private insurer would cash settle the claim and EQC would reimburse the insurer. As agents of EQC, the participating private insurers agreed to act as they normally would as professional managers of claims and in accordance with the Earthquake Commission Act 1993 and EQC’s policies.
- 116 In general terms, this collaboration has worked well, with a faster settlement process for customers and fewer complaints. On average, customers felt more satisfied with claims settlement effectiveness under the agency model than was typical for other EQC-managed events.<sup>48</sup>
- 117 The majority of private insurers were willing to collaborate (this may not always be the case depending on the location and scale of damage). Insurers indicated very early on after the Kaikōura earthquake that they were only interested in managing dwelling claims on behalf of EQC if they were settled by cash payment, not through a managed repair programme. In a large-scale event, it may be necessary or appropriate for claims to be settled on a managed repair basis, including for reasons such as ensuring equitable access to contractors, managing repair cost inflation, and protecting the quality of housing stock.
- 118 Each natural disaster is different – physically, contextually, and in terms of response required – and presents different challenges. The agency model is untested for a large-scale event, such as was experienced in Canterbury.

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<sup>46</sup> New Zealand Transport Agency website: <https://nzta.govt.nz/projects/kaikoura-earthquake-response/>.

<sup>47</sup> See Briefing to the Public Inquiry into the Earthquake Commission, *EQC and the private insurer interface* (19 July 2019), page 24.

<sup>48</sup> See Acuo, *External Review of Response to the Kaikōura November 2016 Earthquake: Stage 3: The Effectiveness of Settled Claims* (12 December 2016 – March 2018), May 2018, paragraph 4.2 (report #37 in Appendix 1, Briefing to the Public Inquiry, External Reviews of the Earthquake Commission since 2010, dated 4 March 2019).

### *Edgecumbe flood (2017)*

- 119 On 5 April 2017, ex-Tropical Cyclone Debbie (which had caused damage and flooding in Australia and resulted in 14 fatalities) struck the eastern Bay of Plenty, causing severe wind gusts and torrential rainfall. On 6 April 2017, the Rangitaiki River breached a stop bank in Edgecumbe, causing flooding and silt inundation. Large amounts of debris and silt were left on several hundred properties after the flood waters receded. The flood generated 273 claims to EQC for storm flood damage. Over 257 homes required repair and 16 houses were severely damaged or uninhabitable. This was more akin to the scale of event that EQC had experience in successfully managing prior to the Canterbury earthquake sequence.
- 120 The government directed us to support the clean-up process for all affected properties – residential and commercial, insured and uninsured. A Ministerial Direction conferred additional functions so that we could undertake work on non-residential and uninsured properties, as these are normally outside the remit of the Earthquake Commission Act 1993. We coordinated and managed the clean-up through five local contractors.
- 121 We worked closely with the Whakatāne District Council, and were co-located with other recovery agencies in the recovery hub set up by the Council. This allowed for better alignment and quicker information exchange between agencies involved in the recovery than usual, which improved efficiency and sped up the recovery process for the Edgecumbe community.
- 122 Although this was a comparatively small event, the addition of responsibilities outside the Earthquake Commission Act 1993 meant increased complexity for EQC. However, the additional responsibilities allowed us to take a whole-of-community approach to the clean-up and recovery. A key lesson for EQC from the Edgecumbe event is that its internal capability in partnering with iwi/Māori during recovery, and engaging with individual Māori customers, is low and needs to improve.

### **VIII: What EQC has learned and is doing to improve**

- 123 A lot has changed at EQC since September 2010 when Canterbury's earthquake sequence began. A key question for EQC is what lessons have been learned from recent history and whether we, and the recovery system as a whole, now have the appropriate policies and operating structures in place to manage large-scale natural disasters in the future. No one wants the lessons of Canterbury to go unheeded.

- 124 To some extent, these and related questions have been asked before. In the years since the Canterbury earthquake sequence, EQC has been the subject of over 55 external reviews. This would be a large number of reviews for an organisation in a steady state undertaking business as usual. More than half of these were reviews commissioned by EQC into its own processes, procedures and capability. But there have also been external reviews carried out by the Office of the Auditor-General, an Independent Ministerial Advisor, the Office of the Ombudsman, the Privacy Commissioner, and the State Services Commission, for example. In some cases, private sector organisations have been commissioned to review our actions in response to a completed review.<sup>49</sup>
- 125 The reviews have required EQC's Board and Management to look at the organisation and/or its operating procedures in detail. The reviewers have identified recommendations for improved processes or responses and, to a large degree, those recommendations have been adopted and actions taken in accordance with them.
- 126 We recognise that in the wake of Canterbury, and all that has happened since, New Zealanders will expect the next major disaster to be more effectively managed and with fewer delays and less frustration. We recognise that New Zealanders want to know that if the next major disaster occurs next week, next month or next year, and whether it is an earthquake, volcanic eruption, tsunami, or other natural disaster, we will not repeat old mistakes. The public rightly expects us to work constructively with government and others to ensure that this time New Zealand is prepared.

### *Lessons identified*

- 127 EQC has identified a number of lessons from the Canterbury earthquake sequence and subsequent natural disasters. These lessons have come out of our direct experience, the range of reviews we have been subject to (see paragraphs 124 to 125 above), and customers' feedback. The lessons identified fall into three broad categories:
- a coordination and collaboration;
  - b enablers – people, systems and processes; and
  - c the recovery system (addressed in **IX: the future**).
- 128 The lessons range from the operational issues over which we have authority, to wider systemic issues affecting the whole disaster recovery system, which we either cannot address or cannot address alone.
- 129 From an organisational perspective, since the first Canterbury earthquake in September 2010, change has been a constant state for EQC, to varying degrees. As events have unfolded, we have had to respond, adapt and introduce new procedures and processes. EQC in the present day continues to adapt to the changing environment in which it operates.

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<sup>49</sup> See Briefing to the Public Inquiry into the Earthquake Commission, *External Reviews of the Earthquake Commission since 2010* (4 March 2019).

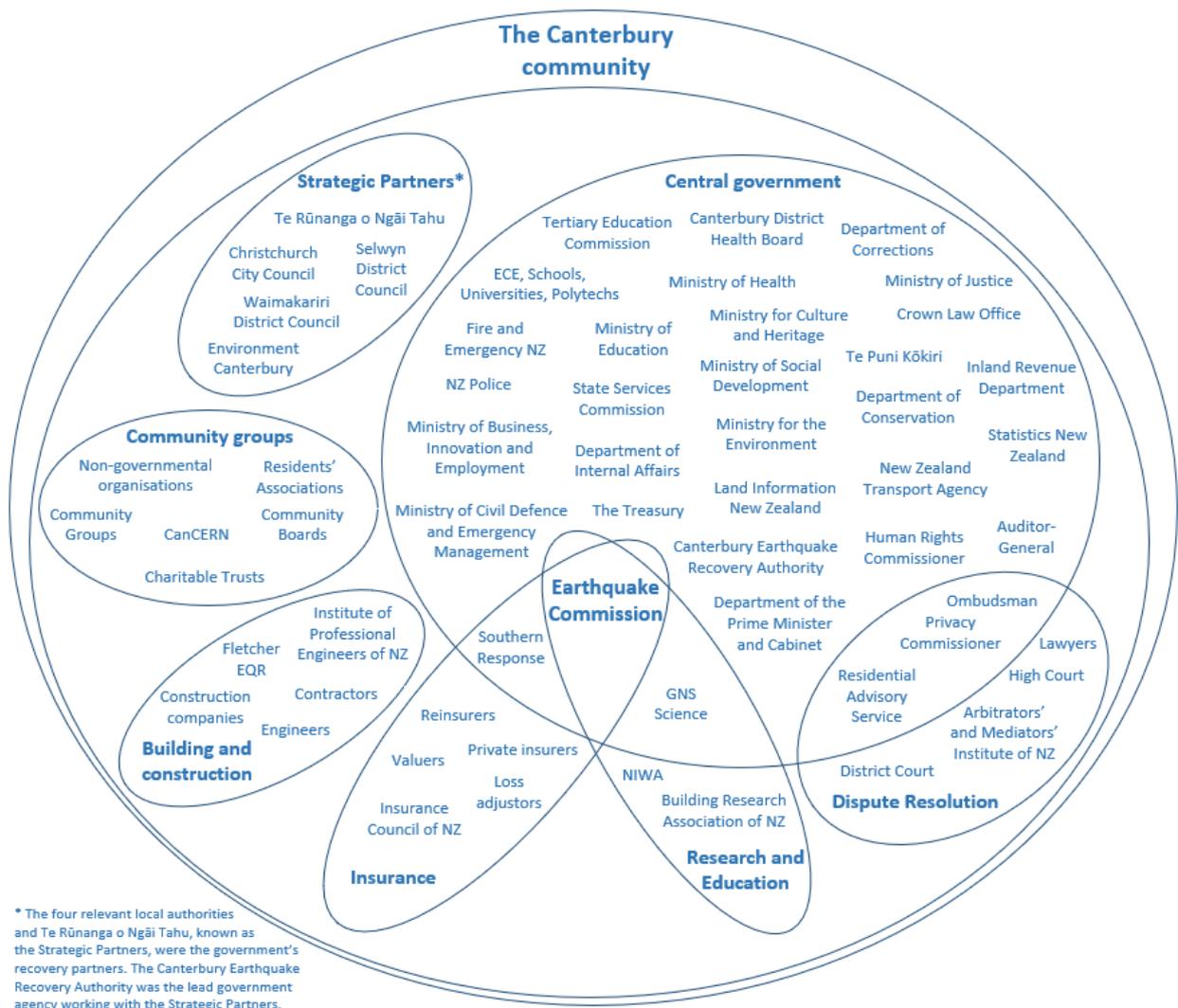
130 We do not have the ability to address wider systemic issues alone, although we are well placed to provide information to decision makers and/or to work with other agencies in both the public and private sector to address them. In some cases, for there to be more certainty and better readiness, legislative change may be required.

*Coordination and collaboration*

131 New Zealand’s recovery system is complex, involving many agencies and organisations. The exact agencies and organisations, and whether they take a leading, coordinating or participating role, will depend on the nature of the event or natural disaster a community is responding to and recovering from. From a government perspective, almost every public sector agency is part of the recovery system to some degree.

132 The recovery system for the Canterbury earthquake sequence, **Figure 1** below, demonstrates the complexity of the system in the case of a natural disaster, and the broad range of stakeholders involved.

**Figure 1: Canterbury earthquake sequence recovery system (as at 2015)**



- 133 A complex system with many players can often lead to confusion about roles and responsibilities. Ambiguity and gaps existed prior to the Canterbury earthquake sequence, and were amplified during the recovery period. Although we engaged with other public sector agencies involved in the recovery (particularly the Canterbury Earthquake Recovery Authority), we maintained a degree of distance. This may in part have been due to our hybrid status, involving elements of both insurance provider and Crown entity (albeit sitting outside of the core public service), and the sheer volume of work we were undertaking.
- 134 The Canterbury earthquake sequence highlighted the gaps and overlaps in the broader natural disaster management system. From our perspective, it highlighted where we needed to have stronger relationships. Notwithstanding this, it would have been challenging for EQC to have had existing relationships with *all* stakeholders in the recovery system.
- 135 Prior to the Canterbury earthquake sequence, EQC had few relationships with other central and local government agencies beyond the Treasury and the Ministry of Civil Defence and Emergency Management. While it would have been challenging for us to coordinate with all stakeholders, the Canterbury recovery highlighted the importance of EQC having active and constructive relationships across a much broader reach within central and local government. For example, we did not have experience in managing or overseeing a large-scale capital construction project. Relationships with other state sector organisations that have such experience could have better positioned us in respect of the Canterbury Home Repair Programme.
- 136 Our interaction with private insurers prior to the Canterbury earthquake sequence was largely with the Insurance Council of New Zealand as the industry body, although some interaction was with each of the private insurers.
- 137 Our internal capability in partnering with iwi/Māori was, and remains, low, as demonstrated through our response to the 2017 Edgecumbe flood (see paragraphs 119 to 122 above). Similarly, prior to the Canterbury earthquake sequence we had limited interaction with non-governmental organisations and community groups.

### Coordination and collaboration: key lessons

- EQC should work with government to clarify its mandate and priorities as soon as possible and on a regular basis.
- EQC needs to maintain ongoing active and constructive relationships with agencies across central and local government.
- EQC needs to maintain ongoing active and constructive relationships with private insurers.
- EQC needs to maintain ongoing active and constructive relationships with iwi/Māori, non-governmental organisations and other community groups.
- A managed repair model, if used, requires a joined-up approach between central government, local government and the private sector insurers. It needs a lead agency with strong procurement and contract management capability, and that agency needs to pre-establish communication channels with all key agencies.

### WORKING WITH CENTRAL AND LOCAL GOVERNMENT

- 138 Collaboration between EQC and other agencies is critical. In recent years, we have adopted a more collaborative way of working. But it takes time to build up trust – if the lessons of Canterbury are to be learned, we need to work better with a range of agencies, and collectively all those with a role in natural disaster management (including EQC) need to do better to work together and as seamlessly as possible.
- 139 Our network of relationships with central and local government is significantly better than it was prior to the Canterbury earthquakes. Managing external relationships is now part of EQC's core business, building on the work that commenced in earnest earlier on in the recovery. This includes developing closer relationships with other government agencies to develop our readiness capability, and working with a number of agencies to investigate opportunities to improve the information we collect and share, and how this could help other agencies with their roles in a recovery.
- 140 During 2018 and 2019, we have undertaken a proactive engagement strategy with territorial and regional councils to build and strengthen relationships. This engagement also ensures that local authorities are familiar with the breadth of work undertaken by EQC and areas of mutual interest can be identified and developed.
- 141 To ensure that our readiness planning is aligned with government's expectations about our role in recovery, and that we are building relationships with the right central and local government agencies, we should seek clarity from government about whether there is an expectation or mandate for EQC to undertake social recovery functions in future. EQC will only ever be able to plan for its known statutory functions. For more on the whole-of-government recovery system, see **section IX: The Future**.

## WORKING WITH PRIVATE INSURERS

- 142 The nature of EQC's insurance scheme, as a first loss insurer, inherently relies on interaction between EQC and private insurers, at a customer, organisational and industry level. EQC and the private insurers have a number of shared interests in assessing and settling claims, for example, the quality of people who are assessing damage, and customers' experience in dealing with both parties. EQC has different drivers, however, to the insurers, which are solely commercial entities.
- 143 EQC is a government organisation, and therefore is not primarily driven by commercial outcomes in the way that private insurers are. EQC must give effect to government policy when directed by the Minister, and the Minister is able to direct EQC to carry out additional functions. In the Canterbury recovery these additional functions were generally driven by social recovery outcomes, such as assessing damage and undertaking emergency repairs to properties regardless of insurance status. Similarly, the decision to undertake a managed repair programme was driven by the potential impact on the construction market and housing stock (see paragraphs 52 to 61). These different drivers create a tension that needs to be carefully managed, in particular to ensure positive outcomes for the insured customer, given EQC and the private insurer's shared relationship with the customer.
- 144 A key example of this tension arises in cases where it is not always clear whether a claim is over or under cap, and EQC and the private insurer can have legitimate but different views on the matter. But in a customer-centric service – which is what EQC is now committed (and expected) to provide – the focus needs to remain on providing clarity for the customer. In some cases, where there have been disputes between EQC and the private insurer as to the respective liability between themselves for the cost of the claim, the two insurers have agreed to settle the claim with the customer and negotiate the final liability among themselves separately.
- 145 While more needs to be done to minimise this source of tension, the recent changes to the Earthquake Commission Act 1993,<sup>50</sup> including increasing EQC's cap and removing cover for personal contents will help to reduce the tension between EQC and private insurers. Additionally, agreement between EQC and the private insurers to settle claims for the customer and resolve liability disputes separately demonstrates a maturity in the relationship that did not exist prior to the Canterbury earthquakes, and builds on the work that commenced in earnest earlier in the recovery to improve relationships with private insurers.
- 146 Operational changes to support our interaction with private insurers are focused on developing relationships with the private insurers and the identification of all remaining claims likely to go over cap as early as possible. Regular reports are provided to insurers and regular meetings are held with each of them.

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<sup>50</sup> See Earthquake Commission Amendment Act 2019, <http://www.legislation.govt.nz/act/public/2019/0001/latest/whole.html>.

- 147 A further source of tension in the EQC and private insurer relationship comes from the differences in cover – a private insurance policy may provide cover for things that the Earthquake Commission Act 1993 does not, and vice versa. For example, the costs of repairing damage to a driveway may be covered by a private insurer but is explicitly excluded from cover under the Earthquake Commission Act 1993. The effect of this tension on the customer can be a misalignment of expectations as to what they have cover for, and the extent of that cover.
- 148 We consider that the effect of the tensions in the EQC and private insurer relationship could be minimised through further improvements in data sharing, supported by further legislative changes, and the development of a robust dispute resolution process (which is well underway). For example, as noted above, EQC has never been able to identify who its customers are until they make a claim. That was and remains today a major impediment to our operational readiness, and requires a legislative solution.
- 149 We are continuously thinking about new ways to work with private insurers for the benefit of our customers. A key challenge for EQC will be maintaining these relationships as claim numbers reduce. The Canterbury recovery, and some of the key challenges that EQC and the private insurers have faced, highlighted the importance of EQC and private insurers having strong relationships *before* a natural disaster occurs.

#### WORKING WITH IWI/MĀORI, NON-GOVERNMENTAL ORGANISATIONS AND COMMUNITY GROUPS

- 150 The Canterbury earthquake sequence and subsequent events have shown us that we need to broaden our partnering relationships beyond the sectors in which we are directly involved – the public sector and the insurance sector. Partnership with iwi/Māori, non-governmental organisations and community groups will help us to support our customers during recovery, and ultimately achieve better outcomes for our customers.
- 151 For example, in the Canterbury recovery, iwi and kaupapa Māori organisations employed Kaitoko Whānau Navigators to liaise with the Canterbury Earthquake Temporary Accommodation Services – a service established to assist those needing temporary accommodation. This was to ensure that affected whānau were supported to navigate the bureaucratic requirements of government and community-oriented recovery efforts.<sup>51</sup>
- 152 We need to do more work in this space. Looking at models such as that undertaken by Kaitoko Whānau Navigators in Canterbury provides a useful starting point, to ensure that we support better outcomes for Māori.

#### *Enablers – people, systems and processes*

- 153 The plans that we had in place at the time of the Canterbury earthquake sequence envisaged a scaling up of normal office routines to manage a large number of claims. These plans did not envisage the introduction of new systems and processes following a major natural disaster. The activation of these plans assumed that systems to support a scaled-up organisation would be in place.

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<sup>51</sup> Te Pūtahitanga o Te Waipounamu, *Rū Whenua Review* (June 2016), <https://www.eqrecoverylearning.org/assets/downloads/res2073-ru-whenua-review.pdf>.

- 154 While EQC scaled-up its resources quickly (including people, office space, and other resources), the enabling systems and processes to support this scale-up were either not in place or not fit-for-purpose.<sup>52</sup>
- 155 Deficiencies with our systems, processes, and training of staff had significant negative flow-on effects, including for our customers. For example, we struggled to provide timely and consistent service to our customers. What this meant in practice was that many people did not know the status of their claims, the timeframes for resolution, or have any clear understanding of the steps needed to resolve their claims. Nor did we do enough to listen to our customers. This in turn fueled unprecedented levels of Official Information Act requests, complaints and litigation. As an organisation, at every level, we are determined that this cycle will not be repeated.
- 156 A significant challenge we faced from early in the recovery was the gap between what we communicated, or were able to communicate, and customers' expectations regarding timely, accurate, and easy to understand information about their claims and/or repairs. The need to provide both general information to a very large group of customers, and claim-specific information to all customers on their individual claims, was also an ongoing challenge. The volume and complexity of claims made it difficult for EQC to provide personalised and meaningful information to customers on their claims on a regular basis. This was exacerbated by the fact that we could not access information about our customers from private insurers until after the natural disaster had occurred. We often did not engage with and respond to customers well during periods of uncertainty. This, understandably, led to customer frustration and confusion.
- 157 We recognise that in the chaotic aftermath of the Canterbury earthquake sequence the organisation was so busy running to keep up that it failed to meet the basic needs of its customers and the wider community. The public's trust and confidence in EQC has been significantly damaged as a result.
- 158 In coping with the Canterbury earthquake sequence, we needed to have effective systems and processes in place to manage the immediate aftermath. Equally, we needed the flexibility and organisational resilience to accommodate our role and functions being expanded by Ministerial Direction.

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<sup>52</sup> See Briefing to the Public Inquiry into the Earthquake Commission, *People and Capability* (24 July 2019).

### **Enablers – people, systems and processes: key lessons**

- Customers and communities must be at the centre of everything we do.
- Readiness planning needs to be broader, with plans for predictable scenarios as well as flexibility and agility to effectively respond to the unknown. EQC needs to recognise that change will be a constant after a natural disaster – readiness planning needs to take this into account, including building in time to pause, reflect and refresh the approach, and account for new functions, if directed by government.
- EQC needs to be prepared to listen, engage and respond to people affected by a disaster and stress.
- Responsive and open communication is the best way of maintaining public confidence, and setting realistic expectations is a critical component of this.
- EQC needs to listen as much as it communicates, and that communication needs to be frequent and up front, acknowledging delays as well as progress – EQC needs to keep communicating during periods of uncertainty, even if it does not know the answer or have information yet.
- Staff need to be trained to communicate effectively and empathetically.
- It is important to ensure core people capability and capacity is accessible, with a mix of skills and experience.
- Interoperable systems and processes to support EQC in recovery need to be in place in advance, capable of coping with more than one event, and able to work seamlessly with others (e.g. private insurers).
- Customers need to be able to access a low cost, low stress dispute resolution route which is focused on sorting out problems at the earliest opportunity, preferably without customers needing to be burdened with legal expenses.

### **CUSTOMER-CENTRIC APPROACH**

159 We have already introduced a range of initiatives to ensure that now, and into the future, our response to and relationship with customers will be managed more proactively, more positively and more openly. Those initiatives include:

- a A case management model – customers now have one case manager overseeing their claims and acting as a single point of contact between customers and the organisation. The purpose of this change is to improve communication and to reduce the prospect of delays and confusion. Customers know who to call and that person is available.

- b A claimant reference group – this group, comprised of customers and community representatives, has met monthly with senior EQC managers since October 2018. It is a direct line between the community and management and it has proven to be a useful forum for managers to hear about potential issues before they develop.<sup>53</sup>
- c Making readily available details of claims in relation to individual properties in Canterbury (to assist the due diligence process for potential and/or future vendors). Anyone thinking about buying a property can easily find out if that property was the subject of claim(s).
- d A more proactive communications policy. Today EQC employs a team of experts who are trained to provide a range of different communications using a much wider menu of techniques, including written material, online communications and community forums. The organisation has committed to being more open, proactive and properly responsive.
- e A greater focus on resolving customers’ disputes at the earliest opportunity, in the least legalistic manner and at the least cost. This includes participating in external initiatives such as the Greater Christchurch Claims Resolution Service. EQC now recognises that in many cases customer disputes were often about engineering solutions, rather than legal disputes. There will inevitably be isolated complex disputes which benefit from the certainty of a court decision. But in general, EQC is responding to disputes on the basis that litigation should only be a last resort.

## READINESS

- 160 Our research and education function delivered significant benefits for Canterbury and for New Zealand in the Canterbury recovery, including informing public policy decisions, and through the GeoNet partnership,<sup>54</sup> allowing information to be gathered and disseminated about earthquake activity. Since then, this function has been broadened to strengthen community resilience.
- 161 Supporting community resilience is a key part of preparing for the next natural disaster, be it an earthquake, volcanic eruption, or tsunami. EQC’s *Resilience Strategy for Natural Hazard Risk Reduction* is focused on “reducing the impact on people and property when natural disaster occurs”.<sup>55</sup> EQC has a mandate to play a key role in addressing New Zealand’s disaster resilience challenges, through a focus on risk reduction actions, driven by EQC’s research and education mandate.
- 162 We are uniquely placed to undertake this work given our combination of related functions – research, risk modelling, obtaining reinsurance and providing insurance (and therefore being on the ground after a natural disaster). We will also take a lead role in coordination across the natural hazard science, risk financing and risk reduction sectors.

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<sup>53</sup> EQC had previous reference groups, which had been disestablished prior to the formation of the current Claimant Reference Group in October 2018.

<sup>54</sup> GeoNet is a partnership between EQC, GNS Science and Land Information New Zealand.

<sup>55</sup> Earthquake Commission, *Resilience Strategy for Natural Hazard Risk Reduction* (September 2018).

163 Our disaster resilience vision for New Zealand is that natural hazards resilience becomes embedded in all aspects of decision-making for our homes, towns and cities. A future resilient New Zealand community is one in which the potential consequences of social and economic disruption by natural hazards are consciously considered, quantified, and included in everyday development decisions.

164 The operational aspects of our improved readiness work is discussed in other parts of this section.

#### COMMUNICATIONS

165 As part of ensuring that customers are at the heart of everything we do, EQC is taking a more proactive and strategic approach to stakeholder engagement. EQC has recently developed a Communications Strategy that recognises that in order to rebuild community trust and confidence, EQC needs to clearly demonstrate the positive impact it has on the New Zealand community.

166 To achieve this, we have identified that we need to listen to customers and the wider community. We also need to tell our story consistently and over time, deliver on expectations, and admit fault – taking responsibility and learning from mistakes.

#### PEOPLE AND TRAINING

167 In order to ensure a more streamlined and effective recovery in future, EQC (and other organisations who would foreseeably be involved in recovery and rebuilding) needs to have developed plans for how to scale up without disruption. These plans need to consider having:

- a standing relationships with an external organisation or organisations, including other government agencies, who can provide additional staff on a ‘when necessary’ basis;
- b manuals and training processes developed in advance that can be used in the event that EQC needs to scale up at short notice. For example, during the Kaikōura earthquake recovery, EQC provided private insurers with a manual for how the Earthquake Commission Act 1993 applies. A similar tool could be developed for training EQC staff and others who will be employed in the recovery phase;
- c pre-prepared training materials including clear guidance documents drafted and agreed to which set out the standard of repair required to comply with New Zealand law. After the Canterbury earthquake sequence, the ambiguity about EQC’s standard of repair led to confusion and inconsistent messages for customers and contractors. This was understandable but is avoidable; and
- d draft contracts drawn up that can be engaged quickly with other agencies/providers to ensure the recovery is not slowed down by legal processes.

- 168 Some of this work is already underway as part of EQC's Readiness Programme, which is developing a toolbox of options for recovery, including:
- a Options for claims management: in house managed delivery, third-party providers (including contracts for scaling up); and
  - b Options for managed repair: in house managed delivery, agent-managed delivery (insurer or project manager), hybrid model (construction company acts as agent in managing and delivering repairs).
- 169 As this work progresses, it is likely that staff training (for all parties involved) will become more important. We are training staff from third-party providers who are currently contracted to provide claims management support after a natural disaster.
- 170 For EQC, having a strong ongoing training programme (for new staff, and for private insurers' staff) in place ahead of a natural disaster will ensure that there is a shared understanding and shared knowledge of key sections of the Earthquake Commission Act 1993.
- 171 We also have more functions in the organisation now than we did at the time of the 4 September 2010 earthquake. For example, we now have a communications function, and have worked closely with other organisations in the recovery system from a communications perspective over the last nine years. EQC also has a stronger focus on staff wellbeing, which builds on initiatives that were put in place part way through the Canterbury recovery.

#### SYSTEMS AND PROCESSES

- 172 We continue to work to make sure that the right processes and procedures are in place to enable claims to be resolved in the most consistent, efficient and effective way, including successful management of dispute resolution, insurer finalisation with the private insurers and reinsurer commutation. We are currently upgrading our information technology infrastructure, and improving data quality and analysis systems. This will be an ongoing area of focus in the immediate and medium terms.
- 173 Our focus is not only on internal systems and processes, but also ensuring they are interoperable with key stakeholders' systems and processes. For example, EQC is working with the wider insurance industry to put in place mechanisms to better manage claims arising from significant future events so that claims can be resolved in an efficient and timely manner. This will take time.
- 174 Some changes have already been made to the Earthquake Commission Act 1993 to support this. Section 31A(1) of the Earthquake Commission Act 1993 was recently amended by the Earthquake Commission Amendment Act 2019, enabling EQC to facilitate insurance verification as part of EQC's preparedness for a future event. How this works in practice is still being developed, but by way of example it may mean setting up a live data sharing system between the private insurer and EQC which tracks the private insurer's contracts of fire insurance and enables verification status to be known as soon as a natural disaster occurs.

175 However, more work needs to be done to optimise system and process interoperability with private insurers and third parties. In particular, we need to work with insurers on gaining access to more comprehensive data and information to be able to build a clear picture of risk exposure before an event occurs. To be effective, this will likely require a legislative solution. This would have wide reaching implications as it would enable us to understand who our customers are before a natural disaster, and further support our readiness to respond to future natural disasters, leading to improved outcomes for customers.

### *EQC in 2019*

176 The EQC of today is a better informed organisation than the EQC of 2010. It is better organised and prepared to respond to natural disasters, with the experiences and lessons (many of which were hard learned) of the last nine years behind it. However, there is more work to be done to ensure that EQC optimises its readiness, some of which is set out above.

177 Ultimately neither EQC, nor other agencies across government or in the wider recovery system, can predict the scale and complexities of future natural disasters. In the way that Canterbury was unique and unprecedented, another future natural disaster may be too. In a future event of the same size and scale as the Canterbury earthquake sequence, it is unlikely that EQC or any other agency will respond in a way that is considered perfect by the community at large. However, EQC is in a much better position to respond, and is better at anticipating and preparing for the challenges that it may face in such a recovery.

178 It is not efficient or cost-effective for us to maintain a sizeable organisation to ensure that the appropriate skills, capability, and capacity are permanently on hand for every possible future event. However, since the Canterbury earthquake sequence, more thought has gone into preparing for a range of possible scenarios. Our internal capacity, combined with agreements we have in place with third-party providers, currently enables us to manage approximately 50,000 claims annually, based on primarily settling claims by cash payment.<sup>56</sup>

179 Work is also being undertaken internally, with third-party providers and with the wider insurance sector, to put us in a position where we could have the capacity to manage up to approximately 90,000 claims annually, based on primarily settling claims by cash payment. In addition, arrangements are being put in place to scale-up and supplement existing capacity in the support and enabling functions that would be needed in the event of a catastrophe (such as additional communications, legal, procurement, information technology, finance, risk and assurance, and government relations capability). Surge capacity could also be increased through the international arms of EQC's recovery partners.

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<sup>56</sup> EQC has the internal resource capacity and capability to manage up to 5,000 claims per year, and agreements in place with third-party providers to provide the capacity to manage approximately 45,000 claims per year.

- 180 The number of claims that any future natural disaster could generate, and how quickly claims could be settled, will be dependent on a unique combination of factors such as the type, size, scale and location of the particular natural disaster. In 2009, we considered we were ready to manage an event that would generate 150,000 claims, based on claims from a single event being cash settled (which could be settled over approximately four years, which would equate to about 37,500 claims annually). Today, our capability and capacity are significantly improved. EQC has better systems and processes, a range of support and enabling functions in place, a much better understanding of how to communicate with its customers, and the benefit of improved relationships with other recovery partners.
- 181 Recent changes to EQC cover brought in by the Earthquake Commission Amendment Act 2019 (including that EQC no longer provides contents cover) are expected to simplify and speed up claims management. Removing contents cover from the Act will allow EQC's claims management to focus on residential building and land claims, but also significantly reduce the resource required for fraud investigations (of which the majority have historically related to contents claims). Notwithstanding these improvements, it is likely that claims from a catastrophic natural disaster could take longer to resolve than customers would expect. This is where our improved communications, setting realistic expectations, and the effective and efficient use of specialist resources, could create the most gains.
- 182 There are other changes that could be made to the Earthquake Commission Act 1993 that would improve efficiency and simplify claims management in the future. For example, simplifying how the insurance excess on a claim might be calculated, clarifying the relationship between residential building and residential land cover, and/or simplifying land cover, would all reduce claims settlement times. Introducing data sharing provisions to identify customers ahead of an event would also improve efficiency and reduce claims settlement times.
- 183 The challenge is for EQC to balance the cost of maintaining capability and capacity versus the likelihood that it will be needed. Continuing to work with government to clarify expectations of how quickly we need to respond to natural disasters of different scales and complexity will add greater rigour to our plans.

## **IX: The future**

- 184 If we succeed in addressing all of the lessons set out in the previous section, we will be better prepared to respond to future natural disasters. However, there will still be more to do within the wider natural disaster management system to optimise New Zealand's ability to respond to future natural disasters, particularly catastrophic natural disasters.

### *Opportunity to improve whole-of-system readiness*

- 185 The Canterbury earthquake sequence highlighted gaps, inefficiencies and other challenges in the broader natural disaster management system. Lessons learned exercises undertaken by the Canterbury Earthquake Recovery Authority, the Department of the Prime Minister and Cabinet, and other organisations involved in the Canterbury earthquake recovery, reveal similar themes:

- a there was limited (if any) whole-of-government preparation or planning for long-term recovery from a catastrophe the size of the Canterbury earthquakes – planning was largely focused on emergency response;
- b there were gaps in the existing system that needed to be filled, for example, through the creation of a new government agency to lead and coordinate the recovery (the Canterbury Earthquake Recovery Authority), and EQC taking on new functions (for example, carrying out emergency repairs to non-insured houses); and
- c lack of clarity about different organisations’ roles and responsibilities caused confusion (amongst the public as well as the organisations), tension and inefficiencies.

186 There is an opportunity to significantly improve all-of-system preparedness for natural disaster recovery, particularly preparedness for a Canterbury earthquake-sized catastrophe. This will, in turn, improve our preparedness for future events.

#### **The recovery system: key lessons**

- New Zealand needs a coordinated whole of government approach to natural disaster management. This approach should include:
  - a national focus, with clear direction and a framework for prioritisation;
  - coordinated decision-making;
  - central government policy and legal frameworks being aligned with local government practices; and
  - capability building across the system.
- All organisations involved in the natural disaster management system need clearly defined roles and responsibilities that are understood by all stakeholders and the public.

187 There is work currently underway to address some, but not all, of these issues. For example, the government has recently announced that funding from Budget 2019 will establish a new National Emergency Management Agency, and there is a Community Resilience cross-agency working group, of which EQC is part. However, inefficiency, gaps, and silos persist between and among the organisations working in the natural disaster system. The current proposals for review of the State Sector Act 1988 note that “a range of experiences, including importantly the response to the Canterbury earthquakes, has shown the necessity for greater agility in tailoring functions and services to changing circumstances, often across existing organisational boundaries.”

188 We do not have the ability to address these wider systemic issues alone, although we are well placed to provide information to decision makers and/or to work with other agencies in both the public and private sector to address them, offering our perspective that has been informed by the lessons from the Canterbury earthquake sequence.

- 189 The present Public Inquiry has brought many of these bigger picture questions into focus. Identifying the full set of solutions may be an exercise that continues beyond the Public Inquiry's timeframe. From our perspective the key affected agencies, including EQC, should be directly involved in any policy response to the findings and recommendations of the Public Inquiry. Ideally that work should take place in a structure with appropriate terms of reference and governance, reporting to relevant Ministers.
- 190 In the meantime, we remain willing to contribute to any process the Public Inquiry may contemplate to advance these issues now, to help ensure New Zealand as a whole is as ready as possible for the next major catastrophe, whenever it may occur.

**Key recommendations to optimise EQC's readiness to respond to future events:**

1. Government clarifies EQC's mandate, roles and responsibilities – for example, is EQC expected to undertake social recovery functions in future? Or is it an insurer and fund manager only?
2. Government clarifies and where necessary amends the functions, roles and responsibilities undertaken by agencies in the response and recovery system to ensure they are optimised to address current gaps, overlaps or inefficiencies.
3. Government clarifies its expectations for a future large-scale managed repair programme following a natural disaster, including which agency would be expected to lead this work.
4. Government considers how to optimise accessibility and quality of critical data sets that would be required following a major disaster, including (for example) identifying the most vulnerable members of the community, accurate property and building information, and insurance status.
5. Any policy development process to review roles and responsibilities should include direct input and participation from the affected agencies, including EQC.
6. The Earthquake Commission Act 1993 is amended to ensure the operational changes that EQC is making (or has made) are optimised – for example, including a clear statement of its purpose, considering an appropriate level for the cap, to support EQC's information sharing with private insurers, and consider whether it is reasonable that customers are responsible for identifying damage in all circumstances.
7. EQC continuously reviews its operational practices and capabilities (including supporting functions) to ensure EQC is well placed to deliver in the future in responding to natural disasters of differing scales – for example, ensuring EQC has the capability to effectively coordinate and engage with other agencies, iwi/ Māori, and community groups, and using psychosocial experts to inform EQC's approach to recovery communications and engagement.