

OIA 20210422

Information for release

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Treasury Report: Southern Response: Facilitating the Treasury's Progression of Potential Options

Date:	20 April 2020	Report No:	T2020/1070
		File Number:	CM-1-3-112-2-1

Action sought

	Action sought	Deadline
Minister Responsible for the Earthquake Commission (Hon Grant Robertson)	Agree to have a discussion with the Chair of EQC	4 May 2020
Minister for Greater Christchurch Regeneration (Hon Dr Megan Woods)	Note the contents of this report	4 May 2020

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Lisa Wood	Senior Analyst, Commercial Performance	s9(2)(k)	N/A (mob) ✓
Shelley Hollingsworth	Manager, Commercial Performance	s 9(2)(g)(ii)	(mob)

Minister's Office actions

Return the signed report to the Treasury.

Note any feedback on the quality of the report

Enclosure: No

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Treasury Report: Southern Response: Facilitating the Treasury's Progression of Potential Options

Purpose

1. This report seeks your agreement to have a discussion with the Chair of the Earthquake Commission (EQC) ahead of the Treasury's engagement with management. The Treasury would like to assess the entity's suitability and willingness to undertake the role of implementation agent for any potential proactive package for Southern Response Earthquake Services Limited's (Southern Response's) customers.

Background

2. Earlier this year, you and the Minister for Greater Christchurch Regeneration, as shareholding Ministers of Southern Response, asked the Treasury to begin exploring implementation agent options ahead of the Government considering any potential proactive package for Southern Response customers who are in the same position as Mr and Mrs Dodds.
3. The Treasury has identified three Crown entities and a hybrid arrangement as potential options for the role of implementation agent which we would now like to explore in more detail. The options are:
 - a EQC;
 - b the Ministry of Business, Innovation and Employment (MBIE);
 - c the Treasury; and
 - d a hybrid, specific purpose arrangement, in conjunction with, an insurance loss adjustor.
4. We are at the stage where we would like to engage with EQC to carry out an assessment of its suitability for, and willingness to undertake, the role. However, before we do so, it would be beneficial if you could engage with the Chair, Sir Michael Cullen. The EQC board has previously indicated that it would prefer not to be involved in matters related to Southern Response's litigation.

Suggested Talking Points

5. Below we summarise the main points that we consider useful to include in your discussion with the EQC Chair.
 - a **The Crown took over the Dodds case to gain greater clarity:** As the Chair will know, the Crown took over control of the proceedings in the Dodds case. The appeal against the High Court decision is intended to gain greater clarity from the Court of Appeal on a number of matters which are also likely to have implications for many other Southern Response customers whose claims were previously considered settled on a full and final basis. As you have publicly stated, it is intended that following an appellate court decision, the Crown will engage with Southern Response to find a proactive solution for others in the same situation as the Dodds.
 - b **Ministers prefer an organisation independent of Southern Response as the implementation agent:** While the contractual obligation to policyholders is Southern Response's, there is merit in the party implementing any proactive package being independent of Southern Response.

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- c **A Crown entity is desired:** Given the potential sums of public money involved and the reasons behind any proactive package, it is also preferable that any implementation agent be within the Crown or owned by the Crown.
- d **There is already a close working relationship between the two entities:** While it is clear that EQC is navigating a number of significant challenges, the Treasury needs to evaluate each option on its merits. Two of the key benefits of EQC as the implementation agent, are its familiarity with residential insurance claims settlement processes and the close working relationship with Southern Response. This is particularly important since administration of any package will require substantial input from Southern Response. Therefore, any review of options which did not include EQC would be incomplete.
- e **Whoever the implementation agent is, they will be provided with support to fulfil the requirements of the role:** Whichever option is finally determined to be most appropriate, there is unlikely to be a heavy demand on the implementation agent's resources for the following reasons:
 - i Southern Response is working on ensuring its customer records are in an accessible form;
 - ii the principles for any package will be determined by the Government in consultation with the Board of Southern Response;
 - iii experienced labour resources will need to be contracted as no entity has sufficient suitable surplus capacity; and
 - iv it is anticipated that the agent will be paid for its services, and supported by Southern Response.
- f **The implementation agent will not take on liability in respect of the underlying customer claims.** The liability in relation to paying customers, remains a contractual one between Southern Response and its customers. Therefore, it is anticipated that the arrangement between Southern Response and the implementation agent would be limited to claims processing.

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Recommended Action

We recommend that you:

- a **agree** to discuss the implementation agent role with the EQC Chair

Agree/disagree.

Minister Responsible for the Earthquake Commission

- b **note** the contents of this report

Noted.

Minister for Greater Christchurch Regeneration

Shelley Hollingsworth
Manager, Commercial Performance

Hon Grant Robertson
Minister Responsible for the Earthquake Commission

Hon Dr Megan Woods
Minister for Greater Christchurch Regeneration

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Treasury Report: Southern Response: Court of Appeal's *Dodds* decision

Date:	17 September 2020	Report No:	T2020/3145
		File Number:	CM-1-3-112-2 (Projects)

Action sought

	Action sought	Deadline
Minister Responsible for the Earthquake Commission (Hon Grant Robertson)	s9(2)(h) Agree to the attached interim messages for public communications about the <i>Dodds</i> outcome Agree to forward a copy of this report to the Attorney-General for his information	24 September 2020
Minister for Greater Christchurch Regeneration (Hon Dr Megan Woods)	s9(2)(h) Agree to the attached interim messages for public communications about the <i>Dodds</i> outcome	24 September 2020

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
David Stanley	Principal Advisor, Commercial Performance	s9(2)(k)	s 9(2)(g)(ii) ✓
Shelley Hollingsworth	Manager, Commercial Performance		

Actions for Ministers' offices

Return the signed report to the Treasury

Note any feedback on the quality of the report

Enclosures:


- Yes (attached)
- Appendix 1: s9(2)(h)
- Appendix 2:
- Appendix 2:
- Appendix 4: Recommended public communication messages
- Appendix 5: Potential questions that media may ask

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Treasury Report: Southern Response: Court of Appeal's *Dodds* decision


Purpose

1. s9(2)(h)



Court of Appeal decision

2. s9(2)(h)



3.

4.

s9(2)(h)

5. s9(2)(h)



6.

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7. s9(2)(h)

8.

9.

s9(2)(h)

10. s9(2)(h)

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12.

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13. s9(2)(h)

14.

15.

16.

17.

Public communications

18. s9(2)(h)

Southern Response will issue a similar media statement at the same time. We also provide further messages as well as answers to questions that the media may ask (Appendix 5).

Next steps

19. We are currently undertaking work on the design of a proactive package. If you decide not to appeal the Court's decision, we will provide further advice on the design of the package within the next three weeks. Following the election we will provide advice on the implementation of a package, including options for an Independent Oversight Committee. We expect to consider wider implementation and cost implications for Southern Response in both pieces of advice. At this stage we estimate that up to 3,000 Southern Response policyholders could be affected at a total cost likely to be \$200-\$300 million. The actual cost will depend on elements included or excluded from any package.

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Recommended action

We recommend that you:

a

s9(2)(h)

Agree/disagree.
Minister Responsible for the
Earthquake Commission

Agree/disagree.
Minister for Greater Christchurch
Regeneration

b **agree** to the interim messages for public communication about the *Dodds* case (Appendix 4)

Agree/disagree.
Minister Responsible for the
Earthquake Commission

Agree/disagree.
Minister for Greater Christchurch
Regeneration

c **agree** to forward a copy of this report to the Attorney-General for his information.

Agree/disagree.
Minister Responsible for the
Earthquake Commission

Shelley Hollingsworth
Manager, Commercial Performance

Hon Grant Robertson
**Minister Responsible for the
Earthquake Commission**

Hon Dr Megan Woods
**Minister for Greater Christchurch
Regeneration**

Appendix 1, 2 and 3 withheld in full under s9(2)(h)

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Appendix 4: Recommended public communications

Media statement for issue by Ministers

The Crown has today announced that it will not appeal the Court of Appeal decision in the K. & A. Dodds v Southern Response Earthquake Services Ltd case.

Southern Response has said that it accepts the findings of the Court of Appeal, and the Minister Responsible for the Earthquake Commission, Hon Grant Robertson, says that he is pleased for Mr and Mrs Dodds that this process is now concluded for them. Southern Response will be paying the damages awarded by the Court to Mr and Mrs Dodds shortly, and arrangements have already been made to cover their legal costs.

“We acknowledge that this has been a difficult process for Mr and Mrs Dodds, and I have again extended a sincere apology to them for the fact that they have had to go through this appeal process.

“As we explained when the decision was made to appeal the High Court decision, this appeal was never about just Mr and Mrs Dodds’ individual case, but about needing greater clarity from the courts on how to fairly apply the findings to other policyholders in a similar situation.

“This Government wants to find a fair and enduring resolution for the outstanding Canterbury earthquake claims, and that means being able to use the findings of the Court of Appeal to help inform and proactively respond to other policyholders who are in a similar situation to Mr and Mrs Dodds.

“Now that the Court of Appeal has provided us with greater clarity on this issue, the Government has asked Southern Response to prepare options for how it could best respond to other affected policyholders using the principles of this Court decision.”

Media statement for issue by Southern Response

Southern Response accepts the findings of the Court of Appeal in the case of K. & A. Dodds v Southern Response Earthquake Services Ltd and the Crown’s decision not to appeal that judgement.

Southern Response will be paying the damages awarded to Mr and Mrs Dodds by the Court shortly, and arrangements have already been made to cover their legal costs.

Southern Response’s General Manager, Casey Hurren, said: “We accept the Court of Appeal’s findings and, while we regret that Mr and Mrs Dodds have been in the middle of this, we are pleased that this court decision has provided us with some of the principles on which we will be able to base our response to other affected policyholders. We are now working closely with the Government to formulate that response in more detail.”

Further comment

If media are wanting further comment at this phase, responding now to questions around misconduct by Southern Response will mean that, by the time the payment package is announced, those issues will have been addressed and will not detract as much from the positive news of the payment package.

Comments will need to be restricted to what has been decided at this point and not venture into details of the payment package that are not yet confirmed. For example:

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- *We accept the Court's findings and will pay Mr and Mrs Dodds in accordance with the findings of the Court.*
- *We have apologised again to Mr and Mrs Dodds as this has no doubt been a difficult process for them, and we have of course covered their legal costs. By going through this, Mr and Mrs Dodds have helped to ensure that we will now be able to respond to other policyholders in a similar situation without them needing to also go through the courts.*
- *The Government and Southern Response are working closely together to formulate the response to other potentially affected policyholders.*
- *We are not in a position to provide any more detail about that until the work is complete, other than to say that the intention is to use the principles in this court decision to inform a fair and enduring resolution for other affected policyholders.*

Customer communications

Any customers querying how this decision affects them will need to be told the following.

The Government and Southern Response are currently working through what the response to affected policyholders will be and who those policyholders are. We will be able to provide more information once those decisions are finalised.

At the broadest level, policyholders that may potentially benefit are those who settled an over-cap claim with Southern Response between 4 September 2010 and 1 October 2014. More information will be publicly released as soon as decisions around this response have been made.

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Appendix 5: Potential questions that media may ask

Court of Appeal outcome

- Why aren't you appealing against the Court of Appeal's decision?

The purpose of the appeal was to gain greater clarity on aspects of the High Court decision so that the Crown could work with Southern Response to find a proactive solution for other affected policyholders. The Court of Appeal decision does provide the greater clarity that we sought and, therefore, we are now working to determine an appropriate solution.

- Does Southern Response now accept that it misled customers?

Southern Response has accepted the Court's findings that the representations it made at the time have been found to be incorrect. Southern Response has also accepted that, although its opinions were genuinely held, for the purposes of the Fair Trading Act, the Court has found this to be misleading and deceptive conduct.

- How is this outcome any different to the High Court decision? Was the Court of Appeal process a waste of time?

The Court of Appeal largely upheld the High Court decision but there were important elements or aspects of the decision that are different. For example, the Court of Appeal provides clearer reasoning that it did not matter that Southern Response communicated what it genuinely believed the Dodds were entitled to under their policy at that time because it was incorrect about these views. This was because the appeals courts decided differently after the Dodds originally settled with the company.

- What are the specific differences between the High Court decision and the Court of Appeal decision?

Once we are in a position to advise affected policyholders on any proactive solution we will be able to elaborate on how the Court of Appeal decision has informed us, but until then it would be inappropriate for me to comment further.

- What happens next?

Now that the Court of Appeal decision has been released, I have asked officials to move forward to provide advice on proactive solution options. I am expecting this advice within the next few weeks.

- What has this process cost Southern Response and the Government?

We will provide you with that information in due course

- How does this outcome affect the Ross case?

The Ross case is currently before the courts and, therefore, it is inappropriate for me to speculate on anything to do with that case.

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- Are Mr and Mrs Dodds included in the *Ross* class action? Does this disqualify them? Is there any risk they would need to give a percentage of their payment to GCA (law firm)?

That is a matter for their own legal representatives to advise the Dodds, and it would be inappropriate for me to comment on such matters.

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TE TAI ŌHANGA
THE TREASURY

Reference: T2020/3504 CM-1-3-112-1

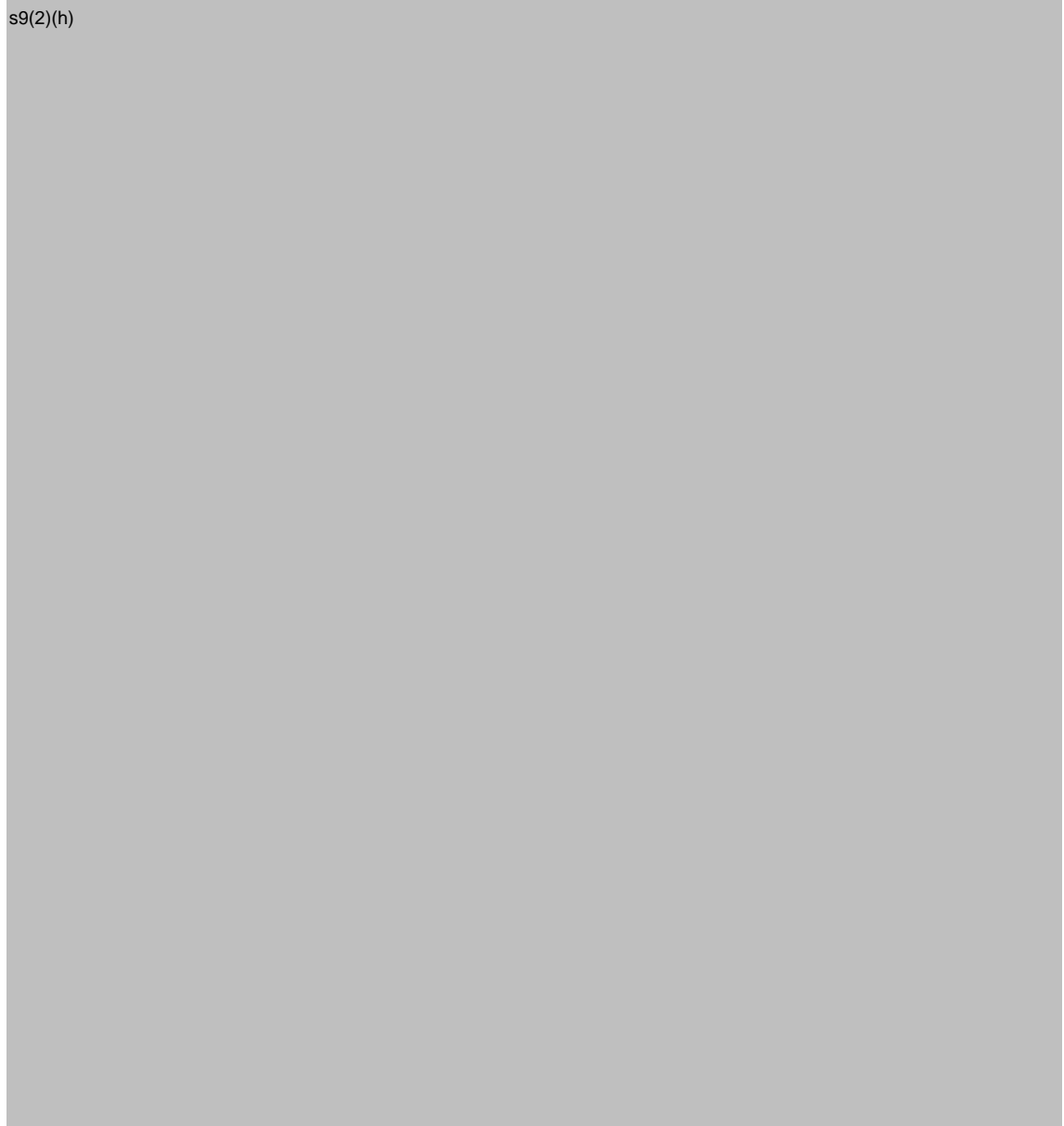
Date: 18 November 2020

To: Minister of Finance (Hon Grant Robertson) Minister Responsible for the
Earthquake Commission (Hon Dr David Clark)

Deadline: None
(if any)

**Southern Response: Update following Supreme Court decision
in *Southern Response Earthquake Services Ltd v Ross*
released on 17 November 2020 [Legally privileged]**

s9(2)(h)



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s9(2)(h)



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s9(2)(h)



Re advice to you: We are currently preparing a paper for you regarding a proactive solution for Southern Response policyholders who cash-settled with the company before 1 October 2014, and that paper will include more information about the Ross representative action. Our expected timing for this report is Wednesday 25 November 2020. There will be a draft Cabinet paper attached which we would like you to consider and amend as appropriate. If you approve, the Cabinet paper should enable presentation of the proposed proactive solution – and the risks associated with that solution – to your colleagues at either the 7 December or 14 December 2020 Cabinet meeting. Southern Response is expected to consider (and likely approve in-principle) a proactive package on 23 November 2020.

s9(2)(h)



David Stanley, Principal Advisor, Commercial Performance, 
Shelley Hollingsworth, Manager, Commercial Performance, 

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Reference: T2020/3525 CM-1-3-112-2-1

Date: 19 November 2020

To: Minister of Finance (Hon Grant Robertson)
Minister Responsible for the Earthquake Commission (Hon Dr David Clark)

Deadline: None
(if any)

Southern Response: Flow Chart to Support Recent and Forthcoming Advice [Legally Privileged]

Following the update provided to you on 18 November 2020 regarding the Supreme Court decision in *Southern Response Earthquake Services Ltd vs Ross* [T2020/3504 refers], s9(2)(h)

A flow chart diagram has been provided on the following page in order to support Ministers in considering recent and forthcoming advice in relation to Southern Response Earthquake Services.

Lisa Wood, Senior Analyst, Commercial Performance, s9(2)(k)
Shelley Hollingsworth, Manager, Commercial Performance, s9(2)(k)

s9(2)(h)



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TE TAI ŌHANGA
THE TREASURY

Reference: T2020/3624 CM-1-3-112-2-1

Date: 30 November 2020

To: Minister of Finance (Hon Grant Robertson)
Associate Minister of Finance (Hon Dr Megan Woods)
Associate Minister of Finance (Hon David Parker)
Minister Responsible for the Earthquake Commission (Hon Dr David Clark)

Deadline: N/A

Southern Response: Cost of Proactive Settlement Package

Introduction

This aide memoire provides indicative estimates for the cost of the proposed settlement package that is being considered for Southern Response policyholders following recent court decisions. It follows our report T2020/3029 *Southern Response: Proposed parameters for a proactive settlement package* dated 25 November 2020. The Minister Responsible for the Earthquake Commission requested an estimate of the costs ahead his meeting with Crown officials at 5:30pm on Tuesday 1 December 2020.

This information along with details on Crown funding options and the Independent Oversight Committee for the proposed package will be contained in a Treasury report we expect to send to you this week.

Estimated cost

Up to now, the level of liability that Southern Response has in respect of policyholders in the same position as Mr and Mrs Dodds (or even all those who cash settled before 1 October 2014) has been unquantifiable. This is reflected and referred to in both Southern Response's and the Treasury's financial statements for the year ended 30 June 2020.

Southern Response has sought advice from its independent actuary, Finity. Following our discussions with Southern Response, we have prepared Table 1 with estimates of the potential cost of the settlement package. The estimates are based on the extent to which the package is offered to groups of policyholders and are cumulative, eg the estimate for category 2 is the total estimated liability for all claims falling under category 1 and then extended to policyholders under category 2.

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The extent of actual costs that arise from any proactive settlement could vary significantly from these indicative estimates depending on factors including:

- the findings upon review of each policyholder’s specific files given the range of different circumstances and the different form of recording matters in the files in the early years following the earthquakes (ie before a more standardised process was implemented), and
- the number of policyholders who apply and are found to qualify for any package being implemented. The figures in Table 1 are based on estimates of the number of qualifying policyholders and a 100% participation of those policyholders in any package.

Table 1: Estimated potential cumulative cost of settlement package (GST incl)

Category 1	s9(2)(h)	\$114 million
Category 2		\$299 million
Category 3		\$326 million

David Stanley, Principal Advisor, Commercial Performance, s9(2)(k)
 Shelley Hollingsworth, Manager, Commercial Performance, s9(2)(k)

**LEGALLY PRIVILEGED
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**TE TAI ŌHANGA
THE TREASURY**

Reference: T2021/410 CM-1-3-112-2

Date: 25 February 2021

To: Minister of Finance (Hon Grant Robertson)
Associate Minister of Finance (Hon Dr Megan Woods)
Associate Minister of Finance (Hon David Parker)
Minister Responsible for the Earthquake Commission (Hon Dr David Clark)

Deadline: None
(if any)

**Southern Response: High Court decision re package
communications**

The Court decision

s9(2)(h)



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Media coverage

There is likely to be media coverage of this decision, and s9(2)(h)

s9(2)(g)(i)

While the package is a Government initiative, it is Southern Response that is the defendant in the Ross class action. We therefore recommend that any queries directed to Ministers are referred to Southern Response for answer.

Next steps

s9(2)(h)

David Stanley, Principal Advisor, Commercial Performance, s9(2)(k)
Shelley Hollingsworth, Manager, Commercial Performance, s9(2)(k)
Philippa Le Couteur, Senior Solicitor, s9(2)(k)
Vincent Schumacher, Senior Solicitor, s9(2)(k)

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Treasury Report: Update on Southern Response [Legally Privileged]

Date:	5 May 2021	Report No:	T2021/954
		File Number:	CM-1-3-112-2-1

Action sought

	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	Note the content of this report	None
Minister Responsible for the Earthquake Commission (Hon Dr David Clark)	Note the content of this report Agree that a copy of this report should be forwarded to the Attorney-General.	None

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Vincent Schumacher	Senior Solicitor, Legal Team	s9(2)(k)	s 9(2)(g)(ii) ✓
Anthea Williams	Treasury Solicitor (Chief Legal Advisor), Legal Team		
Shelley Hollingsworth	Manager, Commercial Performance	s9(2)(k)	

Minister's Office actions (if required)

Return the signed report to the Treasury.
Forward a copy of this report to the Attorney-General (if the Minister Responsible for the Earthquake Commission agrees).

Note any feedback on the quality of the report

Enclosure: Annex 1 and Annex 2

Annex 1 and 2 withheld in full s9(2)(h)

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Treasury Report: Update on Southern Response [Legally Privileged]

Executive Summary

s9(2)(h)



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Recommended Action

We recommend that you:

- a **note** the content of the report.

- b **agree** to refer a copy of this report to the Attorney-General.

Referred/not referred.

Minister Responsible for the Earthquake Commission

Anthea Williams
Treasury Solicitor

Shelley Hollingsworth
Manager, Commercial Performance

Hon Grant Robertson
Minister of Finance

Hon Dr David Clark
Minister Responsible for the Earthquake Commission

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Treasury Report: Update on Southern Response [Legally Privileged]

Purpose of Report

s9(2)(h)



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s9(2)(h)



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s9(2)(h)




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s9(2)(h)



SRES's readiness if there is a positive decision from the April hearing

28. We understand that SRES is currently in a good position to 'go live' with the proactive package if decisions from the Court allow. This includes consolidating customer records (from legacy systems), implementing technology that will allow the company to contact customers quickly, having the approved communications to policyholders ready to go, preparing a broader communications plan around statements for both the company and Ministers, along with setting up the operational capability to handle an influx of applications. s9(2)(h)

29. The Independent Oversight Committee is also up and running, and is working closely with SRES on the settlements that the company can make at this time.

³ This may require the Crown formally taking over carriage of the proceedings from SRES.
T2021/954 Update on Southern Response [Legally Privileged]

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s9(2)(h)



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TE TAI ŌHANGA
THE TREASURY

EXTRACT

Treasury Report: Southern Response: Draft Accountability Documents for FY 2021/22

Date:	12 May 2021	Report No:	T2021/1199
		File Number:	CM-1-3-112-0

Action sought

	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	Agree for the Minister Responsible for the Earthquake Commission to sign and send the attached letter to the Chair of Southern Response on behalf of shareholding Ministers	21 May 2021
Minister Responsible for the Earthquake Commission (Hon David Clark)	Sign and send the attached letter to the Chair of Southern Response on behalf of shareholding Ministers	21 May 2021

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Lisa Wood	Senior Analyst, Commercial Performance	s9(2)(k)	N/A (mob)
Shelley Hollingsworth	Manager, Commercial Performance	s 9(2)(g)(ii)	✓

Minister's Office actions (if required)

Return the signed report to the Treasury, with a copy of the signed letter
Minister Responsible for the Earthquake Commission's office: **Send** the attached letter to the Chair of Southern Response once signed

Note any feedback on the quality of the report

Enclosure: [SRES Draft SOI FY2021-22 \(Treasury:4455682v1\)](#)
[SRES Draft SPE FY2021-22 \(Treasury:4455683v1\)](#)
[SRES Draft Business Plan FY2021-22 \(Treasury:4455684v1\)](#)

Annex 3 withheld as out of scope of the request

Annex 1 Publicly available

https://www.southernresponse.co.nz/images/documents/Signed_FINAL_Sthn_Resp_-_2022-2026_Statement_of_Intent.pdf

Annex 2 Publicly available

https://www.southernresponse.co.nz/images/documents/Signed_FINAL_Sthn_Resp_-_2021-2022_Statement_of_Performance_Expectations.pdf

Treasury:4455359v1

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Treasury Report: Southern Response: Draft Accountability Documents for FY 2021/22

Analysis

5. The key strategic objectives identified are to:
 - b implement the pre-October 2014 package (the Package) approved by Cabinet,
6. Operationally, the two main areas of focus will be resolving the remaining unsettled claims and the implementation of the Package. For the first set of claims, the Earthquake Commission (EQC) manages the claims as Southern Response's agent, whereas for the Package, Southern Response is setting up a separate unit inside the company. As outlined in our advice of July 2020 (T2020/1848 refers), a separate business unit within Southern Response, overseen by an independent committee, is technically and operationally best placed to implement the Package. The Package implementation changes aspects of the internal functioning of the company from that which has prevailed since its December 2019 restructuring.

The Crown Package

9. In December 2020, the Government announced that Southern Response would be responsible for the implementation of a Package for eligible policyholders who settled with the company prior to October 2014. The company is preparing for the delivery of the Package, which is currently being impacted by ongoing legal processes. The team that will be stood up under unit manager, Anna Dobson, will have the appropriate skillset and size to deliver the Package effectively and efficiently. The Package's implementation will be overseen by an Independent Oversight Committee (IOC), whose members have already been appointed. The Treasury will continue to closely engage with the company and IOC on behalf of Ministers as this process continues.

Treasury Engagement with Southern Response Regarding its SOI and SPE

10. From our review, we have provided feedback to Southern Response on three matters, which they have subsequently agreed to implement. The three matters are:
 - c **Clarification of the definition of 'timely'**. In processing Package payments, Southern Response proposed dealing with complaints in a timely manner. In the interest of clarity, we suggested that Southern Response be more specific in its definition of 'timely'. Southern Response has agreed to further define 'timely' with regards to dealing with Package payment complaints.

Liability Forecasts

12. Liability forecasts for FY 2020/21 (as at 30 June 2021) include:
 - a the provision of \$242.5 million for the Package payment. This includes a risk margin of \$31.6 million and \$6.6 million in related claims handling costs. The provision has been calculated by the company's actuary, Finity as at 31 March 2021. The risk margin of \$31.6 million (representing 15% of the central estimate) has been established to provide at least 75% probability of sufficiency.

13. s9(2)(h)

Hon Dr David Clark

MP for Dunedin

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

EXTRACT



Mr Alister G James
Chair
Southern Response Earthquake Services Limited
Alister.James@southernresponse.co.nz

Dear Alister

Draft Statement of Intent and Statement of Performance Expectations for FY 2021/22

I also note that Southern Response is preparing for the implementation of the Crown's package to eligible policyholders who cash settled with the company prior to October 2014 (the Package). I understand that you have made good progress in identifying and centralising the most recent contact details for policyholders that may be eligible for the Package. I look forward to the implementation strategy being further progressed once the High Court releases its decision.

Yours sincerely

Hon Dr David Clark
Minister Responsible for the Earthquake Commission

cc: Casey Hurren, General Manager, Southern Response Earthquake Services Limited

IN-CONFIDENCE



Reference: T2021/1686 CM-1-3-112-2

Date: 29 June 2021

To: Minister Responsible for the Earthquake Commission (Hon Dr David Clark)

Deadline: None
(if any)

Aide Memoire: Southern Response package query

We are aware that the Southern Response (SRES) Board and Independent Oversight Committee (IOC) have received correspondence from s9(2)(a), a claimant advocate, arguing that the Crown's proactive package allowance for professional fees should be increased to 10% for rebuilds that were originally designed with the input of an architectural draftsman (rather than an architect). This contrasts with the percentage that has been approved by Cabinet and currently employed by SRES since 1 October 2014 which is an allowance of 6% for non-architecturally designed homes.

In the event that you also receive correspondence from s9(2)(a) (or face similar suggestions from other advocates), s9(2)(h)

The principles for the proactive package were informed by the *Dodds* case and aim to place policyholders who cash settled with SRES before 1 October 2014 in a similar position to those who cash settled with the company after that date. They were developed following a robust process and officials are confident that s9(2)(h)

s9(2)(g)(i)

It was always anticipated that some advocates and homeowners may question the scope of the package or use the package as an opportunity to raise other issues regarding SRES settlements. However, it is important for the integrity of the package that its scope is linked to its purpose, and that it does not attempt to address the myriad of other complaints that policyholders may choose to raise (regardless of merit)¹.

¹ SRES does have some discretion to address individual mistakes that are discovered as a result of reviewing a customer's file for the purpose of determining package entitlement.

IN-CONFIDENCE

Policyholders remain able to take other paths outside of the package.

The role of SRES, with IOC oversight, is to implement the package, pending approval from the High Court to communicate directly with affected homeowners. Any significant alterations to the scope of the package would need to be approved by Cabinet.

Lisa Wood, Senior Analyst, Commercial Performance, s9(2)(k)
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