Minutes of a meeting of the Board of the Accident Compensation Corporation held at ACC Boardroom, Level 11, PwC Tower, 188 Quay Street, Auckland on Thursday, 27 November 2019 at 9.00 am.

Present

Dame Paula Rebstock	Chair	
Ms Anita Mazzoleni**	Member	(until 5.00 pm)
Mr James Miller	Temporary Deputy Chair	
Mr David May	Member	
Ms Kristy McDonald QC	Member	
Dr Tracey Batten	Member	
Mr John Brabazon	Member	

In attendance

Mr Scott Pickering	Chief Executive	
Mr Mike Tully	Chief Operating Officer	
Mr Peter Fletcher	Chief Technology & Transformation Officer	
Ms Deborah Roche	Chief Governance Officer	
Mr Herwig Raubal**	Chief Actuarial and Risk Officer	
Mr John Healy	Chief Financial Officer	
Ms Emma Powell	Chief Customer Officer	
Ms Sharon Champness	Chief Talent Officer	
Ms Gabrielle O'Connor**	Head of Client Service Delivery	Item 4.1
9(2)(a)	Head of Privacy	Item 4.1
9(2)(a)	Head of Actuarial Services	Items 5.2 & 5.3
9(2)(a)	Head of Provider Service Delivery	Item 6.2(b)
9(2)(a)	Enterprise Advisor – Health Sector Strategy	Item 5.4
9(2)(a)	Head of Injury Prevention	Item 5.5
9(2)(a)	Strategic Advisor, Governance	Item 6.2
9(2)(a)	Senior Policy Advisor	Item 6.2
9(2)(a)	Senior Policy Advisor	Item 6.2
Ms Ainsley Simmonds	Acting General Counsel and Company Secretary	
9(2)(a)	Manager Corporate Secretariat	
9(2)(a)	Senior Associate Company Secretary	

** Attended via telephone / videoconference

1 Procedural Business

1.1 Apologies

There were no apologies received for the meeting.

1.2 Register of Members' Conflicts of Interest Arising

For item 5.6, Mr May declared that he knew the manager of Tenzing Limited very well. Mr Miller noted that he had retired from St Cuthbert's Trust Board.

CONFIRMED: The Board reviewed the Register of Members' Conflicts of Interest Arising and confirmed that it was not aware of any other matters (including matters reported to, and decisions made by, the Board at this Meeting) which would require disclosure.

2 Committee Updates

2.1 Health Sector Strategy Advisory Committee

Dr Batten updated the Board on the key matters from the first Health Sector Strategy (HSS) Advisory Committee meeting held on 26 November 2019:

- The first meeting had been positive, setting the background to the HSS and its renewed focus.
- The independent members had demonstrated engagement and their depth of understanding. Dr Batten would revert to the Board if the member who had been absent from the meeting was now unable to be on the Committee.
- The workplan for the first six months of next year had been discussed. The first meeting for 2020 would focus on the health outcomes framework and engagement strategy.

The Committee Chair noted that the establishment of the Committee had been well received in the sector, as evidence of ACC partnering with the provider network. The Board discussed its expectations about the role to be played on the Committee by the independent members, and the effective communication Mr Pickering had undertaken with providers about the problems with the HSS. The Committee Chair clarified that the independent Committee members had received an induction pack but asked that Corporate Secretariat check whether the Committee needed any further information. She also asked that Management provide the Committee papers two weeks in advance of meetings. The Board agreed that IQA reports on the HSS should be included as Agenda Items for the Committee.

2.2 Risk Assurance and Audit Committee

Prior to the Board meeting, Ms Mazzoleni had sent the Board the following summary of the papers for the Risk Assurance and Audit Committee (RAAC) meeting to be held the following day:

- In general, there was a consistency of poor findings in ICIP benefit realisation, HSS and the provider area. The latest ICIP portfolio assurance had been completed and did not yet have Management's response, which will be completed and considered at the February 2020 RAAC meeting, along with a response to the outstanding HSS initial assessment in May which identified significant gaps. Of the $75 million HSS benefits, there were no benefit realisation plans for $46 million. A big focus going forward will be on benefit shortfalls.

- The status reports and plans to get to best practice on information management capability development, information security capability development and technology business continuity and disaster recovery improvement show there is still work to do, but there is progress.

- The Risk Mitigation Report following the risk reset contained much more focused plans and timeframes. The Committee will review the treatment plan to manage claims costs growth at its next meeting in February.

- The workplan responding to the risk culture survey would be amended to add that the Board needed to be visible and show leadership in risk management. It is expected to call on Members to attend the CEO's quarterly briefings to staff.

- The PBE papers address a few but persistent financial control environment weaknesses and suggests early ideas for low carbon reporting in the Annual Report.

3 Board Only Session

3.1 Board Investment Committee Discussion

RESOLVED: The ACC Board resolved to:

Note the discussion.

3.2 Board Code of Conduct

RESOLVED: The ACC Board resolved to:

(a) **Note** the State Services Commissioner is seeking feedback from the Board on a Code of Professional Conduct for Crown Entity Board Members (the Code).

(b) **Note** the Code does not impact any statutory provisions or limit the ability of an entity or statutory officer to act independently.

(c) **Note** Compliance with the Code is not mandatory, but the State Services Commissioner would have the power to become involved in an investigation of a breach of the code and advise and report to the responsible Minister.

(d) **Note** the Code is broadly consistent with the way that ACC operates under the Board Code of Conduct, ACC Governance Manual and the CE Act, and only minor administrative changes would be required to the Board Code of Conduct and the ACC Governance Manual.

(e) **Agree** that ACC will provide a letter from the Board Chair to the State Services Commissioner in support of the Code.

3.3 Chief Executive's Report

Items raised by Mr Pickering were:

- Half year staff Pulse survey. High level results.
- Property updates. Hamilton (current premises and proposed new site) Dunedin (proposed new site) and Albany (proposed new site). Discussions/next steps.
- ICIP Cabinet Paper. Progress update and next steps for Board engagement.
- NGCM technology go live. Progress update on client payments (CP) and supporting technology for NGCM.
- Investments Team update.
- Surgical mesh briefing with Mike Tully, Dr John Robson and Simon Beattie.

RESOLVED: The ACC Board resolved to:

Note the Chief Executive's Report.

4 Operational Reporting

4.1 (a) ICIP Reporting

Mr Fletcher highlighted the following from the ICIP Report:

- November had been the best month so far for ICIP. The Portfolio was tracking well to the cost profile and Management's focus was shifting to benefits realisation.

- Delivery of CP2 and NGCM through a joint release process had required ACC to deliver seven significant changes over eight weekends, with the seventh having been successfully delivered over the past weekend:

    - CP2 was running successfully. A small issue regarding file sizes would have a fix deployed on 4 December 2019.

    - The new capability for NGCM was implemented on Monday 25 November 2019 in the Southern region. The results were significant, even after only two days.

- For HSS, the focus was on capability building to execute the strategy, and progressing ECP.

- The Investments Team's technology issues were coming to a close. The spreadsheets issues were now being dealt with. Remote access capability would be rolled out for the Investments Team which was important also for business continuity.

Ms O'Connor briefed the Board on the key statistics for performance under the new capability for NGCM over the first two days. Comparing productivity against the average from the previous week, 12% more tasks were completed on Day 1, and 16% more on Day 2. The new tool set was proving to be very effective for managing staff workloads.

The Board's discussion focused on the following:

- Whether there had been any unexpected issues with the NGCM and CP2 release process, and how well staff had kept up with the changes. Ms O'Connor described the small issues that had arisen, and reported that nothing had prevented staff from achieving their work. She explained the daily staff/team check-ups used by leaders to determine how to support staff. Ms O'Connor reported confidence in the engagement with staff who needed extra support.

- Whether the standard of the result for the Investments Team would be state of the art. Mr Fletcher explained that the focus to date had been on achieving desktop and services that were robust and supported work requirements. Under that view, it would be as good as for peers. The question remained as to an appropriate level of technology investment for the Investments Team. The systems would still rely to some extent on the in-house built spreadsheets, so these needed to run well before other technology solutions were considered.

- The extent to which the Investment Team's analysts accepted the changes to spreadsheets. Mr Fletcher explained that they were relatively accepting, but there was some resistance to having secure boundaries on the spreadsheets. However, the analysts, including in the front office, were positively engaged with the changes. Mr Healy reported on his recent engagements with the front office on a longer-term technology strategy, and that 9(2)(a) [redacted] would determine the next priority after the spreadsheets.

- Whether the Investments Team would have migrated off spreadsheets by year end. Mr Fletcher explained that some spreadsheets were appropriate and would be retained, albeit with tighter controls. Migrating off all spreadsheets was not the right target.

- Whether the reduced WC days paid targets could achieve Amber status. Mr Fletcher acknowledged the difficulty, but confirmed Management's confidence that NGCM and CP would have a positive impact.

RESOLVED: The ACC Board resolved to:

(a) **<u>Note</u>** the ICIP October 2019 Monthly Update.

(b) **<u>Note</u>** the Investments Technology Issues Report.

4.1 (b) Operational and Financial Performance including Claims Costs

Mr Healy reported that Injury Prevention (IP) would be below target for at least the next quarter. Ms Powell explained the reasons for the fluctuations in ROI for IP, including ACC's investment with WorkSafe. She described the pipeline of programmes underway. There would be a report to the Board around March 2020 on how IP was progressing.

The Board noted that ACC could not afford to miss the IP target, especially since ACC had considerable control over IP, and encouraged Management to challenge WorkSafe. The Board's discussion focused on the following:

- Progress with the Government's gun buyback and its costs. Mr Healy reported on a recent conversation

- with the Head of Finance at Police, who had explained that the funding went directly to Treasury.

- Whether Management was aware of the level of sophistication of the Police anti-terrorism unit's approach to social media, and what the level of communication was between Management and Police. Ms Powell briefed the Board on her meeting with the Deputy Commissioner: National Operations, and the communications between IP staff and Police.

- The level of investment with WorkSafe. Ms Powell reported that it was $10-15 million per year. She explained the agreement with WorkSafe to allow it to run the investment as a portfolio while its internal capability was developed, and that she had regular meetings with the CEO of WorkSafe and discussed opportunities to make improvements.

- The forecast impact of use of investments cash income to cover claims costs, noting that this reflected that ACC was not receiving enough in levies. Mr Healy reported that, although the Ministers supported an increase to the NEA appropriation, it would not be as much as was needed to get back to full funding. The Board asked Management to work out how far below New Year costs plus Pay-as-you-go the result would be. [Management reported later in the day that the result would be $300 million above Pay-as-you-go.]

Mr Healy drew the Board's attention to the additional information relating to changes in forecast results submitted for HYEFU compared to BEFU 2019. Board discussion focused on the following:

- The extent to which the Scheme was at a tipping point, as New Year costs were being covered by taking the money out of investments. This needed to be better highlighted to the Board and should be in the CEO's Report.

- The need to present the current situation more starkly, to enable Treasury to better support ACC. Mr Healy would write a succinct explanation for the Treasury, to highlight the urgency of the problem.

- The extent of the un-funded cash outflow for operational performance. Mr Healy explained that, excluding investments income, the bottom line had been negative for the last couple of years. The Board would be updated when the Cabinet decision was made, but the forecast assumed levies would increase in line with the Funding Policy.

- The extent to which it was appropriate to use investments income for current Scheme costs. Mr Raubal explained that, if everything was in a steady state, investment income should be used to meet part of the claims costs. Care needed to be taken to not confound two separate issues—the solvency position was the key issue. The Board referred to the need to clearly explain to Government the problem of levy income being below New Year costs.

- The extent to which the Accounts would be under or over solvency target under the new Funding Policy. The Board agreed that Mr Healy should add further insight to the explanation of the financial position and coverage of New Year costs. Subject to that, the Board would agree to the release of the additional information.

ACTION: Management to provide Board training on key accounting points of the HYEFU/BEFU.

RESOLVED: The ACC Board resolved to:

(a) **Note** the Claims Cost performance.

(b) **Note** the Operational and Financial Performance.

(c) **Note** the additional information for October 2019.

(d) **Approve** the release of section 5 (high level analysis of the key changes in forecast results submitted for HYEFU 2019 compared to BEFU 2019) to the Treasury.

4.1 (c) Customer Dissatisfaction and Complaints Reporting – Quarter 1, 2019/20

Ms Powell highlighted the information that had been included in response to Board requests at the previous quarterly report. Board discussion focused on the following:

- The outstanding recommendation from the OAG's 2014 report on ACC's management of complaints, regarding the publishing of complaints information. The Board indicated a preference for commencing publication of information as soon as possible. Management confirmed that a report would be ready for publishing by the time of the March 2020 review.

- The serious impact that some of the issues highlighted in the report have had on people, especially regarding WC payments; this was likely due to so many people living hand to mouth.

- Whether the privacy issues described in the Severity 2 complaints were included in the Privacy Breach reporting numbers. Ms Powell confirmed that they were.

- The extent to which complaints to the Associate Minister and via other channels were captured in the report's statistics. Ms Powell explained that the complaints that went to Resolution Services were captured in the statistics; the goal was ultimately to capture all complaints in one place, to ensure complete reporting.

- Why systemic issues were not identified in the case studies. Ms Powell explained that new staff had recently been appointed to undertake root cause analysis for reporting.

RESOLVED: The ACC Board resolved to:

(a) **Note** the key insight themes, contributing factors, and actions being taken by the organisation as outlined within the Quarter 1, Customer Dissatisfaction and Complaints report.

(b) **Note** that there were 21 Severity two and two Severity three customer complaint cases (including those escalated to the Customer Resolutions team and those dealt with by the Issues Management and Media teams) during Quarter 1, and that management has taken the appropriate actions (outlined in **Appendix 2**, Board Dossier of Complaints and Issues – Quarter 1) to address them.

(c) **Note** that the three actions (outlined in Section 3.1) arising from the Board meeting in August 2019 have been actioned accordingly.

4.1(d) Privacy Assurance Dashboard – Quarter 1, 2019/20

9(2)(a) drew the key highlights of the Report to the Board's attention.

RESOLVED: The ACC Board resolved to:

(a) **Note** that we have changed our quarterly reporting, and have not provided a Compliance Dashboard this quarter. Metrics in the Dashboard have consistently shown a high level of compliance, and therefore consider that it no longer needs to be brought to your attention. However, we will continue to monitor performance across the full range of measures and will raise any emerging concerns through this memo that accompanies the KRI report.

(b) **Note** that we are continuing to see a reduction in the number of reported breaches from Q3 and compared to this time last year

(c) **Note** that continued focus is required on two of the KRIs (number of staff completing privacy training and breaches from a failure to follow process) to bring them within our self-imposed target

(d) **Note** that the Privacy Team's focus is on the implementation of the NGCM, including an increased level of visibility in all Tranche One sites and maintaining ACC's strong privacy culture. The KRIs focussed on breaches, and the cause of breaches will be good indicators of any change.

4.1(e) Quarterly Enterprise Risk and Compliance Report

Mr Raubal drew the highlights of the Report to the Board's attention. The Board's discussion focused on the following:

- The Zero Carbon Bill, noting that it created a significant strategic risk for the Fund and the way investment is undertaken. The Board asked that the significance be reflected in the risk register. The Chief Executive reported that a programme of work would be provided to the Board to support the approach to the Bill, and a similar programme for taking a health and safety position in investments.

- The target date for the target risk ratings. Mr Raubal explained that June 2020 was the target date and that and each risk rating had a lead Executive owner. This information was shown fully in the RAAC papers. Mr Fletcher explained the quantum and meaning of ACC's 'technical debt', and Mr Raubal assured the Board it was being managed appropriately.

- The trending down of the business interruption risk. Mr Raubal explained that this was due to a management plan being in place for it.

- In terms of controlling the OCL, giving a higher priority to, and visibility to the Board of, Management's OCL Management Group. Mr Raubal explained that the Mitigation Report to RAAC reported on the Group's actions. However, the Group had not yet had an impact on the trend; the RAAC would receive a report in February 2020. Mr Healy noted that the Group had achieved a clearer understanding of what was driving the OCL. Ms Powell noted that this was also discussed at ACC's Quarterly Business Review (QBR) meetings.

- Whether the 25% of letters not being sent via the automated claims process had been sent via manual intervention. Mr Tully reported on the work in place to improve the data capture, and that people had been sent the letters where their address was known.

ACTION: Management to report to the Board on work programmes for the Zero Carbon Bill and taking a health and safety position in investments.

RESOLVED: The ACC Board resolved to:

<u>Note</u> the Quarterly Enterprise Risk and Compliance Report.

5 Board Papers

5.1 Options for Risk-based Levying of E-Mobility Services

Ms Powell introduced the paper. She reported that each option identified in the paper required legislative or regulatory change and that public engagement would test the appetite for levying. The paper recommended a trip-based levy on the rider.

The Board discussed the expectation that e-scooters in particular, and mobility devices in general, would quickly expand into new areas, and noted the importance for ACC to position itself for this. The Board suggested that, in Management's engagement with policy officials, referring to the scooter companies' own growth trajectory information would help to highlight the likely burgeoning of the problem. While the immediate focus was e-scooters, e-bike rentals were also on the rise. Management would seek bike usage data from the courier companies.

The Board agreed that the preferred recommendation of the paper proposed the right way forward, and should be pitched broadly at e-mobility devices; Management needed to ensure that any levy data relied upon was properly auditable. Further Board discussion focused on the following:

- The fact of insurance costs being priced-in overseas, which provided a supporting argument for levying for ACC.
- The differing degrees of responsibility taken by the various e-scooter business owners, which could be reflected through a risk-rating type of approach to levies whereby those who, e.g., provided helmets, would pay a lower levy. There was also discussion on how to incentivise good practices such as providing helmets, limiting operating hours, and speed limiters.
- The statistics for alcohol-related injuries; an alcohol levy charged to liquor companies would be appropriate and already had a precedent in the petrol levy. Ms Powell responded that this was something ACC was thinking about.

RESOLVED: The ACC Board resolved to:

(a) **Note** that the cost of ACC claims associated with e-mobility is currently recovered primarily via the Motor Vehicle, Earners' and Non-Earners' Accounts, and therefore is not contributed to by the e-mobility industry.

(b) **Note** that planned public engagement on 2021/23 ACC levy rates offers a chance to signal possible future levying directions to ACC's customers and the e-mobility industry.

(c) **Note** that the Minister for ACC has directed ACC to work with MBIE officials on any levying options developed.

(d) **Note** that all options for levying e-scooters require changes to the current legislative or regulatory settings. These are either:

- changes to ACC's legislation which fall outside the scope of the regulation-making powers exercised in the biennial levy-setting process, and which therefore require separate consideration by Parliament, or

- withdrawal by NZTA of the gazette notice declaring e-scooters not to be motor vehicles (followed by a change to Schedule 2 of the ACC Motor Vehicle Account regulations).

(e) **Agree** that ACC will use the 2020 levy engagement round to test public appetite for legislative reform to enable levying of e-mobility services.

5.2 Draft Financial Condition Report 2019

The Board took the Report as read. The Board Chair explained for the benefit of newer Board Members that, although the Board could make suggestions, this was an independent report produced by Mr Raubal's team. Board discussion focused on the following:

- Whether there were sufficient recommendations from past reports to capture the investigation of the OCL strain. Mr Raubal responded that Management had already committed to undertake a number of actions and these were listed in the Report, including a feedback loop on them. These promised activities seemed appropriate, so no specific recommendations were made regarding them.

- Whether the OCL Management Group and the new outcome measures could be given greater prominence in the report (and that the Board be given regular reporting on the progress of the OCL Management Group).

- Whether there was any 'sugar coating' of the issues. Mr Raubal and 9(2)(a) [redacted] confirmed that they had not toned down for the public audience of the Report anything that the Board needed to know about; the report was factual.

- Whether the historical levels of levies could be shown, as against the present day, and the impact of only a 7.5% increase in levies. Mr Raubal responded that he would look at this but needed to ensure that the structural change (to levy for full funding) was presented correctly.

- The impact of the 'ordinary consequences' litigation. Mr Raubal reported that, given there was a large range for the potential impact, he was wary of including any estimate in the Report.

- To clarify that the 'claims prevented' count on page 6 of the Report was an estimate.

Mr Raubal noted that he would consider the Board's feedback for the final version of the Report which he would provide in tracked changes to Mr May, and that if there was any significant feedback from officials the Board would be advised.

ACTION: Management to provide regular reporting to the Board on the progress of the OCL Management Group, including the action plan.

RESOLVED: The ACC Board resolved to:

(a) **Note** there is one new recommendation in this year's report to develop a strategic organisation-wide outcomes framework.

(b) **Note** the predominant messages in the report are

i. ACC's financial position is under pressure – large impact from falling interest rates and increasing claim volumes and costs.

ii. Requested increases in levies and appropriations have not been approved. This is putting extra pressure on the financial position, and is not sustainable in the long term.

iii. The organisation is focused on the delivery of better outcomes and experience for our customers. More is needed to ensure spend is achieving outcomes for clients, at a cost that is reasonable and sustainable for levy and tax payers.

(c) **Note** the final FCR will be sent to Treasury, MBIE and DPMC following Board review. The FCR will be presented to the Minister for ACC as soon as practicable following finalisation in December.

5.3 OCL Strain Deep Dive – Performance Over the Last Five Years

Mr Raubal briefed the Board on the highlights of the paper. The Board requested that the monthly performance report include data on claims of more than five years' duration. Ms Powell noted that the customer base would need to be segmented by those who were clearly serious injuries versus those in active claims management. Mr Tully confirmed that clients who are with ACC for life are also regularly assessed to ensure they are achieving rehab expectations.

In response to a Board query regarding the extent to which the paper guided the work of the OCL Management Group, Mr Raubal confirmed that the Group had been involved in developing the analysis in the report. The Board requested that Management provide an action plan for the OCL, showing issues, actions, timeframes and the Executive lead. The plan should identify the actions that Management had prioritised to actively work on. After discussion with Management as to the best way to present this information, the Board agreed with Mr Pickering's suggestion that the information be built into the QBR reporting.

RESOLVED: The ACC Board resolved to:

Note the information in this paper on the drivers of the five years of OCL strain.

5.4(a) Integrated Service for Sensitive Claims (ISSC)

Mr Tully introduced the paper. Board discussion focused on the following:

- The extent to which funding levels were sustainable for providers, balanced against ensuring providers did not make super-profits. Mr Tully responded that providers had high workloads, but he was confident there was no manipulation of the system.

- Whether, given the level of underreporting of sensitive claims, the forecast growth of 14% was accurate. Mr Tully noted that the numbers were based on the information available, but future budget setting would carefully forecast the growth of the portfolio.

- The extent to which client satisfaction data could be built into the contract. Ms Powell explained that often the suppliers were NGOs who did not have the capacity to provide that information. However, better measures of trust and confidence between provider and client, and client outcomes, were being sought for the service and ultimately to be added to the contract.

- Whether high caseloads for staff had been addressed. Ms Powell responded that, under NGCM increased FTE had been put into sensitive claims throughout the country. In order to deal with the stress of the role, special provisions were in place for these staff.

RESOLVED: The ACC Board resolved to:

(a) **Note** that the Integrated Services for Sensitive Claims (ISSC) contract has been in place since 2014, and that since that time the context this service operates in has changed. Significant changes include the formation of the Family Violence and Sexual Violence Joint Venture, increased emphasis on prevention efforts, changes in the external climate and significant growth in claim numbers by an average increase of 25% per annum.

(b) **Note** that ACC has exercised all right of renewals on the current contract which expires in November 2020.

(c) **Approve** a new ISSC contract, in order to ensure continuity of service while ACC positions for changes in the strategic environment, for an initial period of two years and seven days from 24 November 2020 to 30 November 2022, with two rights of renewal of one year each (2+1+1).

(d) **Note** that the Whole of Life Cost (WoLC) of the service is estimated to be no more than $514.1 million for the period 24 November 2020 to 30 November 2024.

(e) **<u>Note</u>** that the OCL impact due to contractual improvements is estimated at no more than $70 million**.**

(f) **<u>Note</u>** that Board approval is required due to WoLC being above the authority level delegated to the Chief Executive.

(g) **<u>Note</u>** that, instead of tendering the new service, the new ISSC contract will be offered to incumbent suppliers, once due diligence is completed, and opened to new suppliers where service gaps have been identified, in accordance with the Government Procurement Rules and ACC procurement policy.

(h) **<u>Note</u>** that ACC procurement policy states that where an exemption from or opting out of applying the Rules does not apply, approval is required by the delegated authority, being the Board.

(i) **<u>Approve</u>** the new contract on the basis that no exemption from or opt out of the Government Procurement Rules (the Rules) can be applied to the proposed procurement approach.

(j) **<u>Delegate</u>** authority to the Manager Health Procurement and Contracting to approve:

i. the issue of contracts to successful incumbent suppliers at the conclusion of due diligence activities;

ii. the Recommendation to Select and subsequent contract award, as a result of the open application process for service gaps during the term of the contract.

5.4(b) Clinical Services Contract Renewal

Mr Tully introduced the paper, noting that the purpose of the changes was to make it simpler for stakeholders. The Board acknowledged the logic of rolling six contracts into one, but queried how commissioning for outcomes under the HSS was included. Mr Tully explained that there was some crossover between Clinical Services and ECP. After further questioning from the Board, Mr Tully agreed that ACC would get commissioning for outcomes in this contract.

RESOLVED: The ACC Board resolved to:

(a) **<u>Note</u>** that the current contract for Clinical Services expires on 30 June 2020.

(b) **<u>Note</u>** that feedback from stakeholders indicates that having multiple versions of the Clinical Services contract is administratively burdensome and that contract consolidation will make it is easier for both ACC and contract holders to manage.

(c) **Approve** a new Clinical Services contract commencing 1 July 2020 for an initial three-year term with two rights of renewal of two years each (3+2+2).

(d) **Note** that the Whole of Life Cost (WoLC) of the service including renewals is $793.4 million.

(e) **Note** that Board approval is required due to WoLC being above the authority level delegated to the Chief Executive.

(f) **Note** that the current contract for Clinical Services consists of six contract versions, with approximately 300 unique contract holders.

(g) **Note** that a fixed term trial of a Sports and Exercise version of the contract will end on 30 June 2020, and any relevant review findings will be incorporated into the new contract.

(h) **Note** that scope changes are not proposed for the contract at this stage.

(i) **Note** the current Clinical Services contract is open and will remain open so new suppliers can apply at any time during the life of the contract.

(j) **Note** that it is planned to undertake incumbent supplier due diligence checks in early 2020 prior to awarding new contracts to those suppliers that pass.

(k) **Note** the term of the Clinical Services contract aligns with the Elective Surgery Contract and Escalated Care Pathways programme. This will ensure we can apply learnings from the Escalated Care Pathways programme at the appropriate stages of contract renewal.

(l) **Note** the proposed new Clinical Services contract has no material impact on the Outstanding Claims Liability, Levies or the Non-Earners' appropriation.

(m) **Note** that the proposed tender process is compliant with the Government Procurement Rules and ACC's Procurement Policy.

5.4(c) Vocational Rehabilitation Service – Return to Market and New Contract

Mr Tully introduced the paper, noting that ACC was undertaking an evaluation to ensure it was getting the right outcomes through the service, which was likely to result in some negative response from providers. The Board's discussion focused on the following:

- Why there had been problems with the last procurement process, and how the new model was being benchmarked against best practice. Mr Tully explained the past problems with the process and that these had been resolved for this round. He confirmed that the sector would be involved in the co-design of the new contract.

- The extent to which individual provider performance was being monitored. Mr Tully responded there were currently no individual performance measures against providers but that HSS technology improvements would enable this, including the ability to provide feedback to suppliers as to how they compared with others.

- The factors behind the forecast savings of $44 million. Mr Tully explained that this related to changing the gateway into the service, and Mr Pickering added that part of it was also a change to the business model. The Board noted that paragraph 6.2 of the paper should have attributed the savings partly to the contract and partly to the change to the gateway change.

- Management's proposals for ameliorating provider unrest. Mr Tully explained that he and 9(2)(a) [redacted] would engage with providers, and that providers would have input into the co-design of the contract.

RESOLVED: The ACC Board resolved to:

(a) **<u>Note</u>** that the current contract for Vocational Rehabilitation Services (VRS) has been in place since 29 August 2017 and is due to expire on 31 August 2020.

(b) **<u>Approve</u>** a new VRS contract commencing 1 September 2020 for an initial term of three-years, plus two rights of renewal, each for one year (3+1+1).

(c) **<u>Note</u>** that the Whole of Life Cost from 1 September 2020 to 31 August 2025 for this service is estimated at $403.25M.

(d) **<u>Note</u>** that Board approval is required due to WoLC being above the authority level delegated to the Chief Executive.

(e) **<u>Delegate</u>** authority to the Head of Provider Service Delivery (PSD) to approve the recommendation to select and award contracts, following an open tender process.

(f) **<u>Note</u>** the proposed new VRS contract has a $23M positive impact on the Outstanding Claims Liability, Levies or the Non-Earners' appropriation.

(g) **<u>Note</u>** that the proposed tender process is compliant with the Government Procurement Rules and ACC's Procurement Policy.

5.4(d) Health Sector Strategy Update

Mr Tully took the Board through the HSS presentation. Board discussion focused on the following:

- The disparity that Mr Tully had referred to, between those in the consortium who wanted technology funding and those that did not. Mr Tully explained that four of the consortia were on the same platform, while the two large ones were on their own separate platforms.
- The extent to which the project was being driven by ACC employees. Mr Tully explained that the role of contractors was limited to rallying the thinking and providing validation.
- The cost savings and reporting for HSS under ICIP. Mr Tully confirmed that reporting would come through the HSS Advisory Committee and up to the Board, and that it would be clear well before the end of the financial year if the targets were at risk; there was no expectation that HSS benefits would increase beyond the forecast $75 million.
- The meaning of 'regularisation' in the slides, and the savings attributed to it. Mr Tully explained that it related to savings on home and community support following the pay equity deal. Further information would be provided to the Board on this.
- The reduced results of the HTI Proof of Concept (POC) and the questions this raised regarding Gravel Road's modelling for the POC. Mr Tully explained that, although it was not clear why, GPs were under-utilising the service. Mr Tully explained that the Board had previously approved the rollout of the model to eight further providers, but Management was unwilling to undertake the rollout until the benefits realisation was achieved, and that was looking unlikely. He reported on the improved access for Māori and Pasifika under the POC, and that, although it was much less than projected, the POC still generated benefits of $2 million per annum. After further discussion, Mr Pickering proposed a reframing of the issues, e.g., the POC might be rolled out only in Auckland. The Board suggested that the POC needed to lead to better outcomes.

ACTION: Management to provide an explanation for the Board of the poor results with the HTI POC.

RESOLVED: The ACC Board resolved to:

Note the Health Sector Strategy update.

5.5 Falls and Fractures Business Case

Ms Powell explained the background to the funding request, supported by 9(2)(a) [redacted] who was calling in from Australia. Board discussion focused on the following:

- The extent to which ACC had invested money with the DHBs without being involved in the control mechanisms. Ms Powell confirmed that ACC's involvement related to partnering with DHBs to build system-level/population-level measures. Some DHBs had finished the programme. Management was now asking the Board to agree to extending the programme to enable all DHBs to go through to the end. This was not a straightforward IP investment, as ACC was not in control. The Board cautioned Management to probe beneath the data DHBs were providing regarding their success rates.

- The extent to which the programme should be focused solely on DHBs. 9(2)(a) [redacted] explained the DHBs' role being to coordinate services across stakeholders at the local level, creating cross-sector alliances. He explained that the Australian Injury Prevention Conference he was attending had a dedicated workstream on falls and fractures and that the current collaborative cross sector approach seemed to be the best investment.

- The difficulties of making a system-level change. The Board noted that Appendix 3 to the paper showed the quantum change that had already been achieved in how DHBs were managing falls. Since only another few months were required to obtain the necessary data, on balance it made sense to continue. Moreover, ACC would lose credibility if it dropped out now, and particularly for this older demographic for whom the consequences of a fall were so high.

RESOLVED: The ACC Board resolved to:

(a) **<u>Note</u>** falls and fractures in people over the age of 65 cost ACC $195m PA (up 47% on 2013), and the annual cost of claims is growing faster than population growth for this cohort.

(b) **<u>Note</u>** that in 2015, ACC entered into a partnership with Ministry of Health (MoH), Health Quality & Safety Commission (HQSC) and health system leaders to collectively resource the design, establishment and delivery of an evidenced-based falls and fracture prevention system targeting over 65-year-olds.

(c) **<u>Note</u>** that in 2016, the Board approved a 3-year, whole-of-life investment contribution of $31.7m in the Live Stronger for Longer Falls and Fracture Prevention Programme; $27.2m of which has already been invested in the following areas, with the remaining approved investment contractually committed.

(d) **Note** the 2016 investment case forecast claims savings of $80.6m ($2.36 ROI) by year 10.

(e) **Note** unexpected delays in some health systems/DHB's commencing the Live Stronger for Longer Programme mean we are no less than 9-months behind where we expected to be in terms of system maturity.

(f) **Note** that ending the Live Stronger for Longer Falls and Fracture Prevention Programme now will limit claims savings to $43m ($1.10 ROI) due, in a large part, to health systems/DHB's not being able to sustain the current level of falls prevention services provided across local health systems without continued ACC investment.

(g) **Note** additional investment of $7.3m between now and 31 December 2020 will enable the Live Stronger for Longer Falls and Fracture Prevention Programme to increase forecast claims savings to $63m ($1.34 ROI), determine whether the system established can be transitioned to a sustainable delivery state that is materially less dependent on ACC, and assist in making a more informed decision on the future of the Live Stronger for Longer Programme and related health system partnership.

(h) **Note** that the Live Stronger for Longer investment and resulting system wide collaboration is providing valuable insights and learning that will improve ACC's ability to drive whole-of-government and strategic injury prevention programmes that "address the barriers to long-term, sustainable reductions in injury and severity across the life course" by influencing "at a system level".

(i) **Note** that the success of Live Stronger for Longer is dependent upon the willingness and ability of local health systems/DHB's to deliver on our requirements. DHB's have indicated they are willing and able to continue participating in the programme provided ACC continues to invest.

(j) **Note** that Injury Prevention believes it can off-set the impact of reducing the Live Stronger for Longer ROI from $2.36 to $1.34 and achieve Injury Prevention's 2019-20 ROI target.

(k) **Note** that Board approval is required in accordance with Corporate Delegations Schedule B, as the whole-of-life investment exceeds $30 million.

(l) **Approve** $7.3m additional investment to continue delivery of the Programme until 31 December 2020.

5.6 Tenzing Contract

Mr May noted the conflict he had raised at the start of the meeting. The Board Chair suggested he participate in the discussion but not vote on the Resolution.

Mr Fletcher briefed the Board on the proposed changes to the contract. He confirmed to the Board that there were no risks that needed to be drawn to the Board's attention. In response to a Board query, Mr Fletcher explained that Tenzing's work for ACC was so unique to ACC that there was no real opportunity to monetise the intellectual property.

RESOLVED: The ACC Board resolved to:

(a) **Approve** the execution of the new Service Schedule for the value of $55.5 million for the duration of the new Schedule (an initial term of three years with a right of extension for two further periods of three years each), if both rights are exercised.

(b) **Approve** Variation 2 to the Master Services Agreement dated 04 August 2016 which changes the per claim aggregate limit to align with ACC standards.

(c) **Note** that Legal Services has reviewed the new Service Schedule and the amended Master Services Agreement.

(d) **Note** that approval for the revised Service Schedule is required from the Board because the whole of life cost exceeds the Chief Executive's delegations.

(e) **Delegate** authority to the Chief Executive to sign the new Service Schedule.

5.7 Hamilton Consolidated Accommodation Approval

Mr Healy introduced the paper and reported on his meeting the previous day with a representative from Tainui Group Holdings. The meeting had indicated Tainui's commitment to the deal, and it appeared that resolution of the rent review mechanism was close. Mr Healy referred the Board to the hardcopy design concept that had been distributed.

Board discussion focused on the following:

- Whether there had been external assurance / probity on the development proposal—there had.
- Who was handling the deal on the Investments side—9(2)(a) [redacted] for both Hamilton and Dunedin. Due to the information barriers operating under the probity arrangements, no announcement

would be made yet. 9(2)(h) [redacted]

- The risk to ACC if the development was delayed—there was no financial risk (it rested with the developer). However, ACC did need the rental space.
- The reasons for the reduction in rental area under the matured proposal, as compared to the draft the Board had seen in August 2019—Mr Healy explained that there was flexibility in the design, in that an additional wing may be added to the build. Mr Pickering added that ACC's current use of space was not efficient, and the new build better utilised the available space.
- Whether clients would be coming to the building for appointments, and if so, whether there were sufficient carparking spaces—Mr Pickering confirmed that clients would come to the building and that there would be challenges, especially for staff, given the smaller number of carparks by comparison with the current Te Rapa site (which had an unusually large number of carparks). Offsetting the reduced number of carparks was the central city location of the build.
- Whether ACC had a person on the ground micro-managing the details of the build—it did.
- Ensuring the partnership with Tainui was represented in the final design and fitout.
- The strategic importance of the decision for ACC in undertaking the project.

The Board acknowledged the work of Mr Healy and the Property Team in achieving the outcome.

RESOLVED: The ACC Board resolved to:

(a) **Note** that on 29 August 2019 the Board approved for the Project Team to enter final negotiations with the intention of entering into a Development Agreement with Tainui Group Holdings [Tainui] for the supply of a new-build leased accommodation solution in Hamilton;

(b) **Note** that a commercial position has now been agreed with Tainui and the financial delegation levels require ACC Board approval, based on the whole-of-life-costs;

(c) **Note** that the key commercial terms are:

i. 8,500m^2 of office area leased, with a further 387m^2 available on the ground floor for private retail tenants such as a café and/or health-related providers;

ii. 9(2)(ba)(ii) [redacted];

iii. 9(2)(ba)(ii) [redacted]

iv. Rent review mechanism based on a combination of 1.5% per annum increases and regular market reviews to ensure alignment to market conditions for ACC; and

v. Completion of the building in October 2022.

(d) **Note** that there is the ability for the Landlord to build a fourth 'wing' of approximately 2,000m^2 to provide options for future growth for ACC or the Crown;

(e) 9(2)(ba)(ii) [redacted]

(f) **Note** the key changes to the capital costs from what was previously provided to the Board in **February 2019**:

Item	February 2019 Board Paper	November 2019 Position	Change
Capital fit-out	9(2)(ba)(ii) [redacted]		
Capital fit-out / m^2	9(2)(ba)(ii) [redacted]		

*** The changes are explained in the Financial section of this paper.*

(g) **Note** the key changes to the terms from the Board approval paper in **August 2019**:

Item	29 August 2019 Board Paper	November 2019 Position	Change
Commencement rent per annum	9(2)(ba)(ii) [redacted]		
Area leased	9,324m^2	8,500m^2	-824m^2
Rent / m^2	9(2)(ba)(ii) [redacted]		
Initial lease term	9(2)(ba)(ii) [redacted]		
Rights of renewal	9(2)(ba)(ii) [redacted]		
Rent review mechanism	1.5% increase p.a., market review every three years, but hard ratchet from previous review	1.5% increase p.a. until 6th year, then combination of market reviews and fixed 1.5% adjustments **	
Building completion	April 2022	October 2022	+ 6 months

*** This provision was still being finalised as at 20 November 2019.*

(h) **Note** that the change between the existing Hamilton buildings leased compared to the new building is:

Item	Existing portfolio	New building	Change
Area leased	8,585m^2	8,500m^2	-85m^2

Gross rent per annum	9(2)(ba)(ii) [redacted]		
Gross rent / m^2	9(2)(ba)(ii) [redacted]		
Seismic standard	45 – 70% NBS**	~133% NBS	+63% - +88% NBS

*** 45% planned to be remediated to 80% in near term*

(i) **Note** that there is signing ceremony of the Development Agreement provisionally booked for 17 December 2019 in Hamilton, and that there is expected to be VIP and media interest in the announcement;

(j) **Approve** the existing two delegated Board members to resolve any final negotiation matters; and

(k) **Approve** the delegation to execute the Development Agreement to the Chief Executive, expected to be done in conjunction with Tainui on 17 December 2019.

6 Performance Reports

6.1 Health, Safety and Wellbeing Report

Mr Miller chaired this Item, as the Board Chair had to leave the room. Ms Champness highlighted the section in the Report on ACC's HS&W innovation fund. 9(2)(a) [redacted] briefed the Board on the applications that had been made for grants from the fund and indicated the range of ideas that would be funded, noting the strong cultural elements that supported diversity and inclusion.

RESOLVED: The ACC Board resolved to:

(a) **Note** progress toward becoming a leader in heath, safety and wellbeing.

(b) **Note** there were no notifiable events in October 2019.

(c) **Note** the health, safety and wellbeing performance indicators.

6.2 Legal Report and Policy Update

(a) Legal Report – LEGALLY PRIVILEGED

The Acting General Counsel reported on progress with the *Larkin* and *Ng* cases. The Board discussed the backlog of District Court appeals awaiting a hearing, and encouraged Management to ensure everything possible was being done to resolve the issue. The Board agreed with Ms Roche's suggestion to add the issue to the Weekly Report to the Minister, to bring it to his attention. Ms Simmonds would report further to the Board on strategy for dealing with the backlog.

RESOLVED: The ACC Board resolved to:

(a) **Note** the legal team is reviewing recent or proposed legislation that potentially impacts on ACC.

(b) **Note** the Court has reallocated the February hearing date in Ng (treatment injury) and the parties are seeking another date.

(c) **Note** the increasing backlog in the District Court due to insufficient judicial resources and the resulting access-to-justice concerns.

(b) **Policy Update**

Ms Roche briefed the Board on a recent meeting with the Minister regarding the future of ambulance services. She reported that there would be no radical changes.

The Board discussed with whom (NASO or the MoH) the funding and service agreement should be. There was also discussion about the governance arrangements with NASO, and ACC's limited ability to influence outcomes through those arrangements, particularly since the reporting line was to the MoH. The Board encouraged Management to keep asserting ACC's voice on NASO.

There was discussion about St John Ambulance's response to the review of its performance. 9(2)(a) explained that ACC had very limited influence in the day to day operations of the service; ACC monitored the KPIs and service expectations of providers. However, the service was too important to fail, so there were limited options for ACC when KPIs were not met. The Board noted that a new Chair with financial qualifications was being appointed to the St John Board and that this was likely to support improvements. The Board encouraged Management to arrange a meeting with the new Chair to talk through service improvements.

Ms Roche briefed the Board on the other matters covered in the Policy Update, particularly with respect to the Public Service Bill. Ms Roche would provide written advice to the Board on the changes that had been made to the Bill.

RESOLVED: The ACC Board resolved to:

Future of ambulance services and proposed Budget 2020 bid

(a) **Note** that the Minister for ACC and Minister of Health met on 13 November 2019 to discuss a first-principles approach to the future of ambulance services.

(b) **Note** that Ministers requested advice about initiatives that will address known risks, particularly to improve integration within the health and emergency systems, rather than large-scale structural reform in the first instance.

(c) **Note** that Cabinet has agreed to the release of $8.6 million, for the first of three tranches of sustainability funding for road ambulance providers.

(d) **Note** that the release of further sustainability funding to road ambulance providers will be subject to St John delivering and following a financial and performance delivery plan.

(e) **Note** that, on 19 November 2019, Management sought the Board's in principle endorsement for the ACC portion of a joint Ministry of Health and ACC Budget 2020 bid for St John and Wellington Free Ambulance.

(f) **Note** that, on 20 November 2019, Board members requested further information about the impact on the Levied Accounts.

(g) **Delegate authority** to the Board Chair, Dr Batten and Mr May, or to the Board Chair and one or two other Board Members (as determined by the Board Chair) to make decisions through the Budget 2020 process on issues related to the funding and future direction of ambulance services, should out of cycle decisions be required.

Other proposed Budget 2020 initiatives

(h) **Note** that Management will work with the Ministry of Health on the implications for ACC of several of their Budget 2020 bids, where consistency across the ACC and public health systems may be required, including consideration of Non-Earners' Account and Levied Accounts impact.

(i) **Note** that MBIE has recommended that the Minister for ACC submit Budget bids for those Ministerial priorities for legislative change that have identified cost impacts on the Non-Earners' Account, and Management will also consider Levied Accounts impacts.

(j) **Note** that the Budget bids recommended by MBIE will be subject to later decisions on the Government's 2020 legislation programme, and on the specific policy proposals, and would likely not have cost impacts until Budget 2021.

Regulated payments to treatment providers

(k) **Note** that Cabinet has agreed to consult publicly on proposed changes to regulated payments to treatment providers, and that MBIE intends to conduct this consultation between 22 November and 13 December 2019.

Cross-government reviews and initiatives

(l) **Note** that the National Strategy for eliminating violence – te Hau Tangata – will be lodged for Cabinet consideration in December 2019.

(m) **Note** that the Public Service Legislation Bill was introduced on 18 November 2019, and several changes have been made to the Bill that reflect ACC's previous feedback to the State Services Commission.

(n) **Note** that work is underway to assess the implications of the Climate Change Response (Zero Carbon) Amendment Act as it affects ACC.

(c) **Health and Disability Review**

Ms Roche briefed the Board on the background to the paper, including the work that had been done across ACC as illustrated in Appendix 1 of the paper. The Board considered the extent to which the options set out in Appendix 1 might be discussed with the Review Secretariat. The Board's discussion focused on the following:

- The extent to which the Working Together option would be appropriate and would allow customers to go from one part of the system to another without barriers. Although it appeared appealing on its face, the Board noted that ACC's approach to buying quality products may conflict with constraints on actors in the rationed health system.

- Regarding the Joint Purchasing option, whether removing the Commerce Act barrier would have solely upside consequences. The Board queried whether ACC obtains drugs at the subsidised price, and suggested that this be confirmed to inform decision-making if ACC were to go further into these options. None of the options should be pursued without further information; even the apparently innocuous proposal of having a single shared assessment for clients may be problematic, as ACC would need to be able to trust the thoroughness of an assessment undertaken by another agency, when ACC's purposes would often be very different.

- Regarding the Case Study (*c.*60 children per annum with neo-natal encephalopathy) and how that might operate under the options in Appendix 1, the Board expressed concerns about the likelihood of ACC being expected to fund the increased services that would be provided for the non-ACC funded children. A similar concern arose in respect of the Joint Funding option.

The Board requested more analysis of risks and benefits before a decision could be made on its risk appetite for pursuing any of the options. Ms Roche explained the tight timeframe, with Board decisions being required by February 2020 at latest. After further discussion about whether undertaking cost benefit analysis of the options would be an efficient use of time, it was agreed to instead change the conversation with the Secretariat to a discussion of how ACC could collaborate on commissioning for outcomes and IP.

RESOLVED: The ACC Board resolved to:

(a) **Note** that ACC is developing future-focused approaches to prevent injury and provide rehabilitative services that can be shared with the Health and Disability Review.

(b) **Note** that Management will signal to the Health and Disability Review ACC's willingness to work with other health sector entities on developing shared approaches to commissioning for outcomes and prevention initiatives.

7 Board Administration

7.2 Minutes of Meeting held on 31 October 2019

APPROVED: the ACC Board approved the minutes of the meeting held on 31 October 2019, subject to the following changes being made:

- Omitted Procedural Business Items (Apologies and consideration of the Register of Members' Conflicts of Interest) be included.
- 9(2)(h) [redacted]
- The final sentence of Item 3.1 ACC Engagement Strategy: delete the word "*each*" and change the word "*build*" to "*built*", so that the sentence reads: *The Board expressed that the Team had the Board's support, particularly in ensuring that the foundation of the strategy was built first, and asked that the Board's feedback on provider and business be taken on board*".
- Management Actions be added to Items:
  - 3.1 ACC Engagement Strategy: Management to ensure that future reporting to the Board incorporates ROI into the KPIs; and
  - 3.3 Accredited Employers Programme Redesign: Management immediately explore means to escalate poor audit performance to Boards and Governance Committees.

7.3 Schedule of Matters Arising

The Board **noted** the Schedule of Matters Arising.

7.4 Confirmation of Decisions Made Out of Cycle

RESOLVED: the ACC Board resolved to:

Confirm the one decision made out of cycle for the period of 25 October 2019 to 21 November 2019.

7.5 Annual Work Programme

NOTED: The ACC Board **noted** the annual work programme.

8 General Business

There was no General Business.

9 Confirmation of Next Meeting

To be held via video/audio conference on Thursday, 19 December 2019 at 9.00 am.

Closure

The meeting closed at 5.15 pm.

Approved

Chair ………………………………………………………….   Date ………………………………