

The Treasury

Earthquake Commission (EQC) Act Review Submissions Information Release

Release Document

July 2017

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In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.

New Zealand's Future Natural Disaster Insurance Scheme

Proposed changes to the Earthquake
Commission Act 1993

Submission Form

July 2015



THE TREASURY
Kaitohutohu Kaupapa Rawa

New Zealand Government

New Zealand's Future Natural Disaster Insurance Scheme Proposed changes to the Earthquake Commission Act 1993

Your responses

Please write your response in the template below.

Please note:

- ▶ you **do not** need to answer all sections – just the ones where you have information you would like to contribute
- ▶ please expand or delete boxes as you need to but **do** keep the original question numbers.
- ▶ please **do not** send us reports or other documents but **do** include references or links to supporting evidence or information
- ▶ please submit your response to Submissions.Eqcreview@treasury.govt.nz by 5.00pm on Friday 11 September 2015.

Thank you for your time and effort in making your submission.

Official Information Act 1982

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Grounds for withholding information are outlined in the OIA. Reasons could include that the information is commercially sensitive or that you wish personal information, such as names or contact details, to be withheld. An automatic confidentiality disclaimer from your IT system will not be considered as grounds for withholding information.

We will take your objections into account when responding to requests under the OIA.

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Your contact details

For individuals

Your name:	[1]
[1]	Indicate here if you do not wish your name to be included in any summary of submissions that we may publish.

Email address:	[1]
Phone number:	

What city, town or province do you live in?	Pukekohe, South Auckland
Do you own your own home?	Yes

For organisations

Organisation name:	
Nature of your business:	

Contact person name:	
Position:	
Phone number:	
Email address:	

In what city, town or province is your organisation's New Zealand headquarters?	
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What is the purpose of the EQC scheme?

Proposal for discussion

1 That the purpose of the EQC Act be to establish a Crown-owned natural disaster insurance scheme for residential buildings in New Zealand that:

- ▶ supports, complements and is closely coordinated with the provision of effective private insurance services to the owners of residential buildings
- ▶ recognises the importance of housing in supporting the recovery of communities after a natural disaster
- ▶ supports improved resilience of New Zealand communities and an efficient approach to the overall management of natural hazard risk and recovery in New Zealand
- ▶ contributes to the effective management by the Crown of fiscal risks associated with natural disasters.

What do you think?

1a Do you agree that these purposes are appropriate and complete? **No**

1b If not, what changes would you suggest, and why?

Appropriate yes complete no. The Purpose statement states the resulting “new” Act will be clear and unambiguous. That the existing Act caused issues of interpretation can perhaps be laid at the feet of EQC’s chosen Legal advisors, they were involved in preparing the current Act, but their stance appears to be found wanting in the courts, particularly relating to Christchurch issues. Does the Country need a new Act or does the current document need tidying with better legal advice?

What types of perils will EQC cover?

Proposal for discussion

2 That EQC continue to insure against the following perils: earthquake, natural landslip, volcanic eruption, hydrothermal activity, tsunami, and storm and flood (with, in the case of storm and flood, only residential land being covered).

What do you think?

2a Do you agree that EQC should continue to provide cover against the same perils as it currently does?

Yes, the perils covered are fine, but should the cover be extended to include flood/ storm damage be extended to buildings.

2b If not, what changes would you suggest, and why?

Why is it not possible to cover the consequences of insured damage? Regardless of whether the damage is from landslip or EQ related damage the remedy is the same, the damage requires fixing, Focus on remediation of the consequence, it is easier to determine than arguing about the cause.

What types of property will EQC insure?

Proposal for discussion

3 That EQC building cover continue to be available to residential buildings and dwellings in non-residential buildings.

What do you think?

3a Do you agree that EQC building cover should continue to only be available to residential buildings and

dwellings in non-residential buildings? **No**

3b If not, what forms of accommodation or living arrangements do you think should be added or removed, and why?

If a residential building is less than 50% of the total building area then EQC cover should not apply, the cover should be with the Commercial building Insurer. We question as to whether EQC should provide cover to Residential Rest homes where the “occupant” has sole use of a studio room and maybe toilet facilities, but shares common areas. These are commercial operations in our view, similar to motels and boarding houses, to which no EQC cover should apply as they too are commercial buildings. Of course this exclusion should not apply to self-contained “houses” on Rest home sites.

Proposal for discussion

4 That EQC land cover only be available for land associated with residential buildings. Therefore, dwellings in non-residential buildings would not receive any EQC land cover.

What do you think?

4a Do you agree that EQC land cover should only be available for land associated with residential buildings?

No

Land cover should only apply to buildings that are solely private residential buildings. Multi-level buildings that have a commercial portion should have no land cover. Maybe there should be a cap on the number of “homes” and levels of construction within a building that if exceeded land cover would not apply.

4b If not, what coverage of land cover would you prefer, and why?

Land owned by people with the intention of building and occupying as a private residential building should be covered. Presently land is insured but no premium paid, We believe a premium should be paid, as part of local body rates, based on land value, high value land high premium, supporting user pays.

Extending building cover to include more siteworks and main access way

Proposal for discussion

5 That EQC building cover be extended to include siteworks and the main access to the building.

What do you think?

5a Do you agree that EQC building cover be extended to include siteworks and the main access to the building?

Yes.

However there needs to be careful consideration as to what the site works would be limited to. Should work (A) be as extensive as necessary to stabilise the building and or access way, (B) should they be sited to provide a curtilage, (C) be limited to the minimum sized site in the applicable town plan, (D) or be so sited to maintain the value of the site pre loss?

(D) is our preferred option.

The definition of building should include all services, and the land related to, supporting or protecting these services, water, waste, power etc.

5b If not, what do you think should be done instead, and why?

EQC to no longer provide contents insurance

Proposal for discussion

6 That EQC no longer offer residential contents insurance.

What do you think?

6a Do you agree that EQC should no longer offer residential contents insurance?

YES YES YES, contents claims take time far in excess of the value involved when related to other EQC claim aspects. The research necessary to determine the applicable wording to identify the basis of settlement is very time consuming. The EQC method of cash settlement can alter the basis of settlement applicable under a contents claim, cash can cause a settlement to revert from “replacement” to present day value.

6b If not, what level of contents cover do you think EQC should offer, and why?

6c For insurers, what do you anticipate the impact would be on premiums your company charges for residential contents insurance, if EQC no longer offered residential contents insurance?

Please note the information in section 1.4 regarding the Official Information Act.

How much insurance will EQC offer?

Proposal for discussion

7 That the monetary cap on EQC building cover be increased to \$200,000 + GST.

What do you think?

7a Do you agree with the proposed increase in the building cap to \$200,000 + GST?

Yes

This should have been reviewed regularly from the imposition of the current Act. It is accepted Insurance practice that underwriting and actuary reviews are undertaken regularly. It reflects poorly on Government and EQC senior management that reviews were not carried out regularly in a public and transparent manner under the current Act. We believe prior to Christchurch, the approach of respective Ministers, the EQC Board, and Senior “non-claims” EQC management operated under the management mantra of “Benign neglect and indifference”. Or are we being a little cynical.

As a radical idea, what about reversing the current system, and having the Insurers insuring the first loss, and EQC only insuring the catastrophe aspect. Have the Insurers insure the first \$50,000.00 or \$100,000.00 plus GST. The Insurers have the capability of handling the smaller day to day claims that are currently lodged with EQC. Before the introduction of the EQC retained Loss Adjuster/ Estimator system, was it 2008 or there about, EQC claims were for the most part handled and handled well by Independent Loss Adjusters.

7b If not, what cap would you prefer, and why?

7c Do you have strong views on the merits of a \$150,000 + GST cap versus a \$200,000 + GST cap?

7d If so, what are they?

7e For insurers, what do you anticipate the impact would be on premiums your company charges for residential property insurance, if the proposals in this document regarding changes to building cover were implemented? Please provide this information for a monetary cap for EQC building cover of both \$150,000 and \$200,000.

Please note the information in section 1.4 regarding the Official Information Act.

Reinstatement of EQC cover after an event

Proposal for discussion

8 That EQC building cover reinstate after each event.

What do you think?

8a Do you agree that EQC cover should reinstate after each event? If not, what is your preferred alternative, and why?

Yes.

However the reinstatement of cover should only occur if (a) A claim is settled and repairs completed and signed off by appropriate parties, or (2) if a scope of damage relating to the event has been completed, and agreed by EQC, the Insurer and the property owner.

8b Do you agree with retaining the current definition of an event?

No.

8c If not, what is your preferred definition, and why?

There should be a 168 hour (7days) before a new event can be accepted. Unless the "new" event is from what can reasonably be determined as being from an unrelated EQ/ storm and has caused new and identifiable damage, and is not caused by weakening of the existing structure-sub structure. An event that causes building damage weakens the structure, making it more susceptible to further damage, even from an event that if the structure was not weakened, would not have caused damage. It is our unprofessional view that the extent of structural weakening caused by the September 2010, was not recognised or acted upon. Of course the February 2011 event magnitude, location and depth could not reasonably have been forecast, we still believe the September event damage was not identified or appreciated fully.

EQC land cover

Proposal for discussion

9 That land cover be limited to situations where the insured land is a total loss meaning it is not practicable or cost-effective to rebuild on it.

What do you think?

9a Do you agree that the proposed enhanced building cover, combined with restricting land cover to situations where the site of the insured building cannot be rebuilt on, would resolve, for future events, many of the recent difficulties with the interaction between land and building cover?

No

9b If not, what is your preferred alternative, and why?

See 9d below

9c Do you agree that restricting land cover to situations where the site of the insured building cannot be rebuilt on is appropriate, given the EQC scheme's focus on providing homeowners the resources to repair, rebuild or re-establish homes elsewhere?

9d If not, what is your preferred alternative, and why?

There are situations where an insured building or access way is undamaged but threatened by land damaged from flood or landslip detritus, but if cleaned up the land is restored, it may even need some structure to provide security of occupancy of the land and or building into the future.

The cost to remediate may be considerably less than the value of the land, thus more economic to "fix".

We have commented in question 7 on the land issue, Land should be insured and a premium paid.

The focus should be on repair, whether it be all called building or a land aspect be retained. If EQC field and Claims staff have difficulty in separating "land" and "building" aspects then it reflects on EQC training of their front line and claims handling people.

9e Do you have any concerns regarding the proposed change to the configuration of building cover in light of the move by most insurers to provide sum insured home insurance policies?

No, it will be a matter of time before "replacement" in some form is again the norm. Already some Insurers are offering replacement is from certain perils.

9f If so, what is your preferred alternative, and why?

Better aligning EQC and private insurers' standard of repair

Proposal for discussion

10 That EQC's current statutory repair obligation already appears broadly consistent with industry practice.

What do you think?

10a Do you agree with the Government's assessment that EQC's legislated standard of repair is broadly consistent with current industry norms?

Yes.

In practice the current system appears to work well enough.

10b If so, do you have views on why EQC's standard of repair is seen as markedly different from current insurance industry norms?

10c If not, do you have suggestions for reforms that you consider would move the EQC standard of repair

closer to current insurance industry norms for residential property?

Simplifying EQC's claims excess

Proposal for discussion

11 That EQC has a standard claims excess of \$2,000 + GST per building claim.

What do you think?

11a Do you agree that EQC's building claims excesses should be standardised and simplified to a flat dollar amount?

YES

11b If yes, do you agree that \$2,000 + GST is the appropriate claims excess on building claims?

Yes, it will get rid of nuisance claims

11c If not, what would you prefer, and why?

Proposal for discussion

12 That EQC have no claims excess on land claims.

What do you think?

12a Do you agree that EQC should have no claims excess on land claims?

No

12b If not, what would you prefer, and why?

As we have questioned the "Total Loss" land aspect of the review, with the view there will be claims where there may be quite small land claims when an event occurs that causes partial damage, an excess will remove nuisance low value claims. The excess should follow the house claims thoughts, be a flat sum, suggested sum \$2000.00 plus GST

Regularly reviewing main monetary settings of cover

Proposal for discussion

13 That the EQC Act require monetary caps, premium rates and claims excesses on EQC cover to be reviewed at least once every five years.

What do you think?

13a Do you agree that monetary caps, premium rates and claims excesses on EQC cover should be reviewed at least once every five years?

Yes.

It is accepted good insurance practice to review underwriting in consultation with suitable actuary advice on a regular basis.

It reflects on the responsible minister and EQC senior management that the EQC "premium" cap and related excesses were not reviewed regularly prior to the Christchurch event. It appears that the original Act was replaced following "Abbotsford", the current Act to be replaced as a result of Christchurch 2010-2011. It appears the powers that rule respond to catastrophic events.

13b If not, what alternative would you prefer, and why?

How will homeowners access EQC insurance cover?

Proposal for discussion

14 That EQC cover continues to automatically attach to fire insurance policies on residential buildings, as defined in the EQC Act.

or

15 That EQC cover automatically attach to insurance policies on residential buildings, as defined in the EQC Act, on a peril by peril basis; so if a peril covered by EQC is excluded from the private policy, it is also excluded from the EQC cover.

What do you think?

14a Do you agree that EQC cover should continue to automatically attach to fire insurance policies on residential buildings? Or

YES

15a do you agree that EQC cover should automatically attach to insurance policies on residential buildings, and EQC cover should exclude any natural disaster peril that is excluded from the fire insurance policy it attaches to?

NO

This would allow the Insurers to opt out of providing cover in conflict with the EQC intention of providing equal cover to all who choose to insure.

15b If you do not agree with either of these options, what alternative arrangement do you prefer, and why?

Proposal for discussion

16 That EQC continue to have the ability, but not the obligation, to directly provide EQC cover to homeowners who request it.

What do you think?

16a Do you agree that EQC should continue to be able, but not be obliged, to directly provide EQC cover to homeowners who request it?

Yes,

This aspect has not caused any issues in the past.

16b If not, what alternative arrangement would you prefer, and why?

Who will handle EQC claims in future?

Proposal for discussion

17 That all EQC claims be lodged with claimants' private insurers.

What do you think?

17a Do you agree that EQC claimants should be required to lodge all EQC claims with claimants' private insurers?

Yes,

It should speed up the claims registration process, the exception being those who have chosen to insure the EQC perils directly with EQC, EQC would need a facility to handle such claims.

However the handling of claims, particularly complex claims would require some expertise Insurers may not have in house, EQC may need to maintain a team to manage complex claims. It may be that this can be contracted to "Independent" Loss Adjusters. Example of complex is where a managed claim repair is required, even perhaps involving several properties, or joined houses damaged by EQ. If Insurers were the first loss insurers then this would be the natural process.

17b If not, what alternative arrangement would you prefer, and why?

Deadline for reporting claims

Proposal for discussion

18 That the current three-month time limit for claims notification be retained, but EQC be able to accept claims up to two years after an event, unless doing so would prejudice EQC.

What do you think?

18a Do you agree that the current three-month time limit for claims notification should be retained, but EQC should be able to accept claims up to two years after an event, unless doing so would prejudice EQC?

No

18b If not, what alternative arrangements would you prefer, and why?

Three months is ample time to report a claim, maybe the time for reporting should revert to the pre Christchurch time line of 1 month with an allowance to extend to 3 months in special circumstances. To attempt to ascertain as to whether a claim existed within a 2 year time line is almost impossible. A significant number of EQC claims, particularly land claims are only made when damage is discovered as a pre-sale clean-up is carried out, including building damage. To view an EQC claim at a property with a "for sale" sign out front is quite common.

Ensuring the scheme meets its expected costs

Proposal for discussion

19 That the new EQC Act contain pricing and transparency principles requiring the scheme to adequately compensate the Crown for its expected costs and risks.

What do you think?

19a Do you agree that the new EQC Act should contain pricing and transparency principles requiring the scheme to adequately compensate the Crown for its expected costs and risks?

Yes

19b If not, what alternative arrangements would you prefer, to ensure the scheme's future financial sustainability, and why?

Allow but do not require differentiated EQC premiums

Proposal for discussion

20 That the current legislative flexibility to charge flat-rate or differentiated EQC premiums be retained.

What do you think?

20a Do you agree that the current flexibility to charge flat-rate or differentiated EQC premiums should be retained?

No

20b If not, what alternative arrangement would you prefer, and why?

20c Do you agree with the Government's intention to continue charging EQC premiums at a universal flat rate?

Yes

How will EQC finance its risk?

Proposal for discussion

21 That the Natural Disaster Fund be retained in broadly its current legislative form.

What do you think?

21a Do you agree that the Natural Disaster Fund should be retained in broadly its current legislative form?

Yes

21b If not, what changes would you like to see considered?

Proposal for discussion

22 That the Act enable EQC to use other forms of risk transfer, in addition to traditional reinsurance.

What do you think?

22a Do you agree that the Act should enable EQC to use other forms of risk transfer, in addition to traditional reinsurance?

Yes, as long as the EQC Management jolly trips overseas for Reinsurance discussions is not curtailed.

Do you have any other feedback?

Other feedback

23a Are there any issues not discussed in this document that you would like to bring to the Government's attention at this stage?

Yes

23b What submissions would you like to make on those issues?

1 Is it necessary to write a new Act? The current issues appear to be as a result of Government tinkering with something that worked well for some years, and as a result causing more problems than it fixed.

2 The legal stance of EQC has been found wanting in recent years particularly relating to Christchurch related issues. Has EQC been obtaining the best legal advice? Should the focus now be on in house advice supported by Crown Law?

3 Is it true that the legal Professionals in the big wide world who are involved in Insurance and related matters are rubbing their hands with glee at having a new Act to test?

4 Is it true that even the Insurers are happy that they will be able to manage claims costs by questioning an EQC involvement and thus divert some costs to EQC.

What audit control will EQC have to keep Insurers honest and not allow diversion of their overall costs to EQC.

5 How will EQC avoid the farce of Insurers saying when EQC cover was not in place, saying they, the Insurers made a mistake and cover was put in place after the event, as happened following the Christchurch events? EQC allowing this back dating of cover cost EQC, the Government and thus we taxpayers a lot of money, this must not happen in the future

6 Title tagging should be put in place when a significant event occurs to a property, only removed when a local authority or professional sign off is presented to EQC

7 There are many outstanding issues, but the review is positive, where there is a will there is a way, we hope it works out well.

8 Were or are any people from EQC “grass roots” claim handlers, Loss Adjusters who are or were involved in day to day EQC work involved in the review process or has it been perceived professionals who know little about the good and bad of the present scheme and how it works in the real world, we think not.

9 Nowhere did we see reference made to the Insured, customers, claimants, call them what you will, and how they are treated or responded to. We believe at the coal face EQC field people, particularly in BAU situations, do a very good or excellent job, but when the claim gets into the EQC system, the Claims people within EQC are so gun shy a simple decision and claim settlement is analysed to death, delaying settlement and thus allowing the Insured people to get on with life.

In our view, EQC has become over burdened with people who are so focussed on covering their backs the actual process of customer service and handling claims has become secondary to creating an operation that has lost its way.

10 EQC are now too keen on creating event response for what was previously handled by local Loss Adjusters working hard to manage a claims spike, the initiative has been removed from the front line of the EQC claims handling process.