

The Treasury

Earthquake Commission (EQC) Act Review Submissions Information Release

Release Document

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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.

11 September 2015

Review of EQC Act
The Treasury
PO Box 3724
WELLINGTON 6140

Dear Sir/Madam

CHRISTCHURCH CITY COUNCIL'S SUBMISSION TO THE TREASURY ON THE REVIEW OF THE EARTHQUAKE COMMISSION ACT 1993

1. Introductory comments

The Christchurch City Council (the Council) welcomes the opportunity to provide a submission on proposed changes to the Earthquake Commission Act 1993 (the EQC Act).

The respected lawyer Dr Duncan Webb was quoted in the Press¹ as recently as 7th September 2015 as saying:

'The focus on business, cost and efficiency, and the silence on the fundamental purpose of the Act to protect individuals from loss and restore their homes to a safe and sound condition suggests that Government has lost sight of who it should be looking after and how'.

We concur with Dr Webb's comment. It is now five years since the Canterbury earthquake sequence started; and three and a half years since the last major aftershock. A significant number of homes in greater Christchurch remain in unsafe and unsound condition; additionally many household insurance claims remain unresolved which highlight the flaws with the current Act (and as a flow-on, recovery processes) and the need for this review.

The Council notes the Government is wishing to avoid solutions aimed at addressing particular challenges from the narrow applications of the last major (earthquake) event. However, in the broader sense, there are solutions which the Council and the wider city from its earthquake experiences can aid the review process. As the Christchurch community repairs and rebuilds its city, it is firmly in the regeneration phase and wanting to apply 'lessons learned' to any review of the EQC Act being undertaken.

Furthermore, Christchurch is also in the process of developing a resilience framework to address the physical challenges that may be posed to communities and the built environment by unknown or unpredictable future natural hazard events.

The Council has concerns about the inevitable impact of changes on the health and wellbeing of a local community, still under stress in the earthquake aftermath. The speed with which house assessments were undertaken since February 2011 has led to ongoing challenges for both residents and the Earthquake Commission (EQC), with the rapid assessments for many homeowners shown to be woefully deficient.

¹ Source: <http://www.stuff.co.nz/the-press/opinion/71771196/late-inadequate-and-frequently-defective> (Christchurch Press, Saturday 7th September)

Under the EQC Act, homeowners are entitled to reinstatement of earthquake damage back to an 'as new' standard (effectively, the Building Code). In many cases this has not happened, and there has been inconsistency displayed by the insurance industry.

The Council acknowledges the practical successes achieved by the Government and its agencies in the immediate aftermath of the earthquakes, for example, the unstable chimney replacement programme. It also recognises the successful public education efforts put into EQC's 'Fix, Fasten, Forget' programme. However, there is a sense of an 'opportunity lost'.

While we recognise the EQC Act cannot address building code matters, the Council believes more support should be provided by EQC in terms of educating the public (and owners of rental properties) around future-proofing (for example, installation of heating and insulation solutions). The 'insured' (the insured party or homeowner) should then be allowed or enabled to undertake the work to be done, at the insured's cost, when outside their cover.

2. General comments on proposal document

Research and education

While not a matter discussed in any detail in the main body of the proposal document, the Council supports the proposal for the Earthquake Commission (EQC) to continue their role in supporting research and education.

Council would, however, like to see this funding support for research increased so that local authorities are able to provide greater direct benefit to communities from available funding including feeding information (e.g. web-based, collateral and communication strategy support) into community groups and residents' associations, with whom the Council has strong connections.

Purpose statement

In Section 6.1 (p.19), in reference to the four points in the proposed Purpose statement being proposed, the Council considers the statement should include a fifth point:

'Supports insured residential homeowners in the timely recovery from natural disasters.'

Our reasoning is that following the Canterbury earthquakes, the responses to the Canterbury Earthquake Recovery Authority's wellbeing surveys have illustrated the importance of insurance settlements to people's recovery. Recovery is used here in a broad sense to mean financial, physical and emotional recovery.

The Council notes the timely and effective responses undertaken by governments internationally, particularly the responses to the 2011 floods in Queensland. As a result, changes were implemented in Queensland to assist and expedite the settling of claims and better support the recovery process.

We urge the government to consider incorporating elements of the Queensland processes, particularly in reference to timeframes, within the current terms of the EQC Act review.

Geophysical and technical data collection and use:

On p. 37, we support the continued collection of technical data by EQC because of the significant value of this data for research purposes. We also consider that the technical data should be shared with both the private insurer and the local authority, and made available to prospective property purchasers via the Land Information Memorandum. (Also, see our response to Question 23.)

3. Responses to specific proposal questions

Question 1

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

Concerning the EQC role in natural hazard mitigation, while we support this idea generally, further discussion is required, and specifically on how this would work alongside existing local authority roles and responsibilities, hazard management programmes, and other Council projects and programmes of work.

The Council would be happy to undertake further discussion with officials on these matters.

Question 2

That EQC continue to insure against the same perils (earthquake, natural landslip, volcanic eruption, hydrothermal activity, tsunami, and storm and flood as it currently does.

Yes, we agree with this. However, we suggest that natural landslip' is reworded to read 'slope instability' as the latter is a more encompassing term. We would also like to see clarification around the category 'storm and flood (residential land only)'. We are not certain if this includes both river and coastal flooding? Also, does it include the erosion of land?

The hazards defined are not consistent with those in various other pieces of legislation. While not suggesting that the definitions in the other legislation should be adopted *per se*, there is the opportunity now to provide a more comprehensive list with clearer and more widely accepted terminology.

Question 5

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

In the table on p. 33, we support the aspect in the proposed scheme that *the entire section is covered to extent siteworks are necessary*. This is a more pragmatic approach than the current provision of land under and within 8m of an insured building.

Question 7

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

The Council suggests that a more frequent review period of the monetary cap is desirable. It suggests the maximum period of five years between reviews be changed to a maximum period of *three* years between reviews.

The Council would also like to see the EQC's role be one of 'first funder' and leave the active assessments of claims to the insurance companies which host the relevant expertise.

Question 17

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

Any changes made to the Act need to ensure that EQC's current ability and capacity to carry out recovery tasks such as emergency repairs, identifying vulnerable households and ensuring the Winter

Heating Programme remains as the evidence has provided in the aftermath of the Canterbury earthquakes.

The Christchurch City Council supports private insurers processing EQC claims with EQC acting as the 'first funder' and providing improved public service. Private insurers would manage an entire claim even if it was under the proposed \$200,000 cap. The insured would then have to deal only with their insurance company; and the insurance company would liaise with EQC regarding the insured's over-cap or under-cap payment.

The Council also seeks assurances that an appropriately resourced independent body will oversee this work by private insurers and provide an avenue for residential home owners to seek intervention if they are not satisfied with the progress of their EQC claims.

Question 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 that all EQC claims be lodged with claimants' private insurers.

The Council supports the risk-based approach to EQC premiums. The insurance industry has an important part to play in hazard management and through a risk-based approach, EQC would provide strong signals to inform people about risk. Risk-based premiums and risk-based excesses are supported, as well as providing no cover in very high risk locations.

Question 20

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

Given that disaster events can have inequitable impacts on communities, there would be negative outcomes if there is a significant move away from flat-rate charging. For example, this could mean that low income vulnerable communities end up with higher premiums, are less able to afford them, and less able to move to more affluent areas with lower premiums.

Question 23

Technical issues / other feedback

23a: Disaster insurance could be used as a mechanism for managed retreat from areas of unacceptable risk to life and/or property. This would enable risk reduction across the community as a whole and reframe disaster recovery as an opportunity for improving the resilience of our urban settlements.

The Council considers that constraints in the EQC Act (Section 32 [4]) make it difficult to know the hazards history of a property. We are in alignment with the Canterbury Regional Council in strongly recommending that, in the public interest, all relevant data and information gathered and held by the EQC be made accessible to councils (naturally, with safeguards to protect personal and commercially details). Such a change will assist the Council in its long-term planning and hazard management roles.

23b: Historical patterns of residential development throughout the country have resulted in homes being located in areas of very high risk from natural hazards. In addition, there is an increasing risk from coastal hazards – both inundation and erosion – due to ongoing climate change and sea level rise.

Disaster insurance could be used as a mechanism to retreat from very high risk areas (noting that thresholds would need to be established), in a similar manner to the establishment of the residential red zones for cliff collapse and rock fall in Christchurch city following the earthquakes.

4. Concluding Remarks

The Council again would like to thank The Treasury for the opportunity to make this submission and trusts the information provided by the Council will assist the Government in reshaping the EQC Bill for introduction to Parliament in (early) 2016.

The Council would like to invite government officials to meet with the Council (Elected Members and staff) so that we may communicate Councils' and our communities' range of experiences with EQC during the last 4-5 years in Canterbury.

If you require clarification on the points raised in this submission, or additional information, please contact Mike Theelen, Chief Planning Officer,^[1]

Yours faithfully



Dr Karleen Edwards
CHIEF EXECUTIVE
Christchurch City Council



Cr Ali Jones
Chair, Submissions Panel
Christchurch City Council