

The Treasury

Earthquake Commission (EQC) Act Review Submissions Information Release

Release Document

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Key to sections of the Official Information Act 1982 under which information has been withheld.

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- [1] 9(2)(a) - to protect the privacy of natural persons, including deceased people;
- [2] 9(2)(b)(ii) - to protect the commercial position of the person who supplied the information or who is the subject of the information.

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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

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Dear Sir

Re: Review of the Earthquake Commission Act

QBE is a member of the Insurance Council of New Zealand and by and large supports its submission. QBE also supports the purpose of the EQC, which established a Crown-owned natural disaster insurance scheme for residential land and buildings in New Zealand. This recognises the importance of reinstating homes following a natural disaster. QBE also supports the EQC being involved with putting in place an efficient approach to manage the natural hazard risks and the Crown fiscal risks associated with this. Although insurers can be involved in consultation, putting in place a statutory framework detailing how territorial local authorities and New Zealanders manage the natural hazards to which New Zealand is exposed, is very much a Crown function.

QBE would like to expand on the Council's submission by suggesting that the EQC work far more closely with insurers in the event of a natural disaster. Collaboration between EQC and the private insurer should reduce many of the frustrations and duplications experienced by affected homeowners following the Christchurch earthquakes.

Specifically,

1. **EQC to no longer provide contents insurance.** QBE supports EQC no longer providing cover for contents. Presently we are reviewing what rate adjustment needs to be made to accommodate the additional exposure.
2. **Access to EQC Building insurance** – QBE agrees that the EQC cover should continue to attach to fire insurance. In respect of those home owners that do not have fire insurance but wish to purchase EQC cover, this would be a matter for EQC to manage - including any claims that may attach to such covers.
3. **EQC cover** – QBE suggests EQC having its own wording, appended as a Schedule to the revised Act. This would provide consistent benchmark for cover to each homeowner who pays a levy, with the added benefit of providing a clear and concise description of the cover for homeowners and claims handlers alike. (On this point QBE differs from the Council's position, which suggests the EQC cover align to each insurer's suite of policies). Ideally such a policy would align with the private insurers' on common matters such as definitions of "reinstatement" and claims handling. Developing this would require the EQC and private insurers to work together.

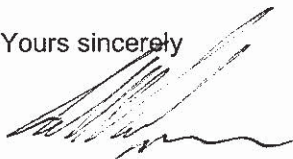
4. **EQC to deny claims.** This is something that the EQC or the government can consider when drafting their wording as far as what obligations they may wish to impose on the insured.
5. **Perils EQC cover.** QBE supports the EQC continuing to provide cover for earthquake, natural landslip, volcanic eruption, hydrothermal activity, tsunami, storm and flood (residential land only), including fire following any of the aforementioned.
6. **Redefining volcanic eruption as volcanic activity.** Volcanic activity has a much wider meaning to that of volcanic eruption and if it is changed there needs to be a full understanding of the implications of such a change. This could be dealt with at the time EQC developed their wording with contribution from the private insurers.
7. **Property EQC insure.** QBE supports cover to be available for residential buildings and dwellings in non-residential buildings where the dwellings constitute 50% or more of the total area of the building, including every building or structure appurtenant to a dwelling and water supply, drainage, sewerage, gas, electrical, and telephone services and structures appurtenant thereto etc., this being the status quo.
8. **EQC land cover only be available for land associated with residential buildings.** QBE supports the status quo, where land cover is provided in respect of residential buildings. This supports rehousing people after a natural disaster.
9. **Extending building cover to include siteworks and main access way.** QBE does not support the building cover being extended to include siteworks and the main access way. The concern here is that if these were included in the 'building' cover they could erode the EQC cover available to reinstate the building. This could in turn result in the insured not having sufficient sum insured for full reinstatement, or even worse, insufficient cover and incomplete siteworks. The latter would make building reinstatement works impossible. Siteworks and access ways need to be part of the land cover.
10. **Restricting land cover to situations where the site cannot be built on.** Accepting that it is a priority to rebuild on the site when economically viable we agree that land cover be restricted to a site that cannot be built on. Whether a site can be rebuilt on should be determined by either a joint decision between the EQC and the private insurer, suitably aided by expert and independent engineering advice, or Crown edict (as for example occurred post 22 February 2011 with the creation of Red Zones).
11. **EQC limit.** QBE supports an increase in the EQC cover, whether \$150,000 or \$200,000, but does not support this limit being extended to include any sitework and main access way.
12. **Company Natural Disaster rate adjustment - Buildings.** The bulk of the discount has already been passed on to the insured under the current arrangement where EQC provides \$100,000 cover. In the current environment increasing the EQC limit to \$150,000 or \$200,000 would only generate a modest saving for the insured on the Natural Disaster rate.

13. **Reinstatement of EQC cover.** Of the two options proposed the first option being the status quo is preferred. The second option of reinstating with the renewal of the insurance would potentially leave the insured under insured.
14. **Definition of an event.** QBE's definition of Event is a series of losses arising from any one accident during a period of 72 consecutive hours. This is line with the insurance industry norm and is something to be considered when drafting an EQC policy.
15. **Handling of EQC claims.** QBE believes that private insurers should manage the entire natural disaster claim with EQC handling only those claims received from homeowners who have elected to purchase only natural disaster cover from the EQC without private fire insurance. There would need to be express authority allowing private insurers to accept, access and settle claims, with a provision for EQC and or their reinsurers to conduct audits. How the EQC is to reimburse private insurers for its portion of any claims also needs to be expressly set out. This detail should be contained within the regulations or as a Schedule to the Act, and must be agreed at the outset.
16. **Disputes.** On the basis that private insurers manage the EQC portion of any claim along with theirs, any dispute resolution should follow the private insurers', which includes that provided in-house and if not resolved to the insured's satisfaction, with the option to take the matter up with the ISO or FSCL. This is in accordance with the statutory requirements set out in the Financial Advisors Act, as well as the Council's Fair Insurance Code.
17. **Aligning EQC and private insurers' standard of repair.** QBE believes this can be dealt with when aligning the EQC and private insurers' wordings referenced above.
18. **EQC claims excess.** QBE supports a \$2,000 (GST inclusive) EQC claims excess, which should apply to all claims from one event, whether it is damage to the building, site works and main access ways, or land.
19. **Deadline for reporting claims.** QBE submits that this should be removed. It is inconsistent with the standard set for the insurance industry, which is set out in the Insurance Law Reform Act 1977 at section 9. Allowing the EQC to keep a deadline could result in homeowners having otherwise valid EQC claims for their land, site works and access ways, and building cap disallowed. Without the means to fund those works, homeowners and private insurers alike will be unable to repair the home itself. In making this submission QBE acknowledges that the deadline was extended in the wake of the Christchurch earthquakes.
20. **Assignment of benefits of a claim.** This should be contained within the regulations and allow assignment to the private insurer to facilitate repairs and recovery.
21. **Payments to mortgagees or insurers.** This should be contained in the regulations allowing payments to be made direct to insurers when damage is to be repaired, and to mortgagees only when a building or site is deemed at total loss. Note that the Property Law Act may need consequential amendment where it touches on the rights of mortgagees.

22. **EQC salvage rights.** Right to salvage should be dealt with equitably; where a loss exceeds the EQC cap(s) it should be used to offset any loss above this amount first. Note that private insurers are already required to allocate salvage in priority to the insured to the extent of their uninsured losses.
23. **Area-wide repairs.** QBE appreciates that there may well need to be area-wide repairs but these costs should not diminish the cover available to the individual homeowners that have suffered damage. After all, they have paid for the cover.
24. **Transitional arrangement.** There is much to be done following this type of change and a lead in time of 18 months would allow for a seamless transition and should be aligned with the planned changes to the Fire Service Levy.
25. **Disclosure of information.** Provision within the regulations needs to be made to give the private insurer access to EQC information to enable them to manage claims. Note that the Official Information, Human Rights and Privacy Acts may need consequential amendment, particularly where assessment of "vulnerable" insureds is being carried out in order to establish priority of claims resource allocation.

QBE will be more than happy to provide any further assistance or explanation, should you wish to contact us.

Yours sincerely



Ross Chapman
General Manager of NZ Operations