

The Treasury

Material Provided to the Public Inquiry into EQC Information Release

August 2021

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Key to sections of the Act under which information has been withheld:

- [23] 9(2)(a) - to protect the privacy of natural persons, including deceased people
- [25] 9(2)(b)(ii) - to protect the commercial position of the person who supplied the information or who is the subject of the information
- [26] 9(2)(ba)(i) - to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied
- [31] 9(2)(f)(ii) - to maintain the current constitutional conventions protecting collective and individual ministerial responsibility
- [33] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
- [34] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions
- [35] 9(2)(g)(ii) - to maintain the effective conduct of public affairs through protecting ministers, members of government organisations, officers and employees from improper pressure or harassment;
- [36] 9(2)(h) - to maintain legal professional privilege
- [37] 9(2)(i) - to enable the Crown to carry out commercial activities without disadvantage or prejudice
- [38] 9(2)(j) - to enable the Crown to negotiate without disadvantage or prejudice
- [39] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage

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Date: 8 February 2012

To: Minister Responsible for EQC

Aide Memoire: Time limit for EQC claims settled by managed repair

Cabinet agreed in September 2011 that regulation be made via the Canterbury Earthquake Recovery (CER) Act 2011 to suspend the deadline for the Earthquake Commission to settle claims within one year, as required by the Earthquake Commission Act 2003 (CBC Min (11) 9/1).

An Order in Council reflecting this decision was distributed to members of the CER Act cross-party forum last week. Feedback has indicated that members prefer an extension to the settlement timeframe, rather than an indefinite suspension.

Advice

Our advice is to retain the current approach, but to emphasise the sun-setting mechanism in the CER Act, which has the effect of suspending the requirements for a finite period. The OiC is proposed to be made under s 71 of the CER Act and therefore, under s 93 of the same Act, the regulations will expire when the Act does, on 18 April 2016.

The effect of this sun-setting clause is that the extension is for up to around four and a half years (4 Sept 2011 to 18 April 2016). In practice, because the time limit applies only once EQC has 'duly determined' the damage for which it is liable, the timeline for the repairs themselves will be significantly shorter.

EQC is required to determine its liability "as soon as reasonably practical" in accordance with the EQC Act. This wording is explicitly reiterated in the draft OiC.

Previous discussions on repair timelines

During preparation of our September advice, EQC advised its preference for a three year extension to the timeline, rather than a suspension. It advised, however, that under current policy it would take around six years to complete repairs (a five year extension). It further advised that this timeframe could be compressed to three years with (unspecified) changes to immigration and accommodation policies.

Our view at that time was that a six year timeframe would not be publically tenable. We also did not want the regulations to state a timeframe dependant on future and unquantified policy decisions. Our preferred approach was for EQC to review the PMO parameters and associated timeline and report back at a later date. A three month timeline was specified for this report back, but no report has been received.

Current information on repair timelines

EQC advise that its current commitment is to complete 80 percent of managed repairs by 2014. Neither EQC nor its project management office, Fletcher Building, have publically committed to a timeframe for the remaining 20 percent of repairs.

COMU to add further detail if available

Marianna Kennedy, Analyst, Earthquake Coordination Team, ^[39]

Tom Hall, Manager, Earthquake Coordination Team, ^[39]