

The Treasury

Material Provided to the Public Inquiry into EQC Information Release

August 2021

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Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act).

Where this is the case, the relevant sections of the Act that would apply have been identified.

Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

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

Where information has been withheld, a numbered reference to the applicable section of the Act has been made, as listed above. For example, a [23] appearing where information has been withheld in a release document refers to section 9(2)(a).

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Treasury Report: Earthquake Commission - Project Manager Delegations

Date:	22 October 2010	Report No:	T2010/2083
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Action Sought

	Action Sought	Deadline
Minister of Finance (Hon Bill English)	Agree to the Earthquake Commission's delegation of powers Sign the attached letter	Wednesday 27 October 2010

Contact for Telephone Discussion (if required)

Name	Position	Telephone	1st Contact
William More	Senior Solicitor	[39]	[23] <input checked="" type="checkbox"/>
Jane Meares	Treasury Solicitor	[39]	[23]

Minister of Finance's Office Actions (if required)

Send the attached letter once it has been signed by the Minister.

Refer copy of report and letter to Minister Brownlee

Enclosure: Yes (attached)

Treasury Report: Earthquake Commission - Project Manager Delegations

Purpose of Report

The purpose of this report is to seek your approval to the Earthquake Commission (EQC) delegating certain functions to Fletcher Construction Company (FCC).

Analysis

1. In a written briefing dated 15 October 2010 EQC informed you that they had decided to contract FCC to project manage the repair of residential properties damaged during the Canterbury earthquake. A Memorandum of Understanding has been entered into between EQC and FCC and it is intended that formal contractual arrangements will follow.
2. FCC will establish a project management office which will:
 - Agree the programme of repairs with EQC and manage repair costs;
 - Procure and manage suitably skilled sub-contractors and trades people to repair properties;
 - Handle every aspect of repairs for householders;
 - Inspect the repairs to ensure quality and value.
3. These are functions usually undertaken by EQC in accordance with the Earthquake Commission Act 1993 (the Act). EQC has sought your approval under section 73(d) of the Crown Entities Act 2004 to delegate these functions to FCC. Section 73 of the Crown Entities Act provides:

Section 73 Ability to delegate

- (1) The board of a statutory entity may delegate any of the functions or powers of the entity or the board, either generally or specifically, to any of the following persons by resolution and written notice to the person or persons:
 - (a) a member or members;
 - (b) the chief executive or any other employee or employees, or office holder or holders, of the entity;
 - (c) a committee;
 - (d) any other person or persons approved by the entity's responsible Minister;
 - (e) any class of persons comprised of any of the persons listed in paragraphs (a) to (d);
 - (f) a Crown entity subsidiary of the statutory entity.

4. In the report of 15 October 2010 EQC sought your approval to delegating:
 - a the functions and powers of EQC required in connection with the establishment of a project management office and the project management (in accordance with the MOU and any subsequent contract between EQC and FCC, and subject to any other direction of EQC) of certain reinstatement works approved by EQC for full or partial settlement in accordance with clause 9(1) of Schedule 3 of the Earthquake Commission Act of any claim relating to the Canterbury earthquake of 4 September 2010 and aftershock, including:
 - i. entry into contracts as EQC's agent:
 - with contractors, consultants, building suppliers or other persons approved by EQC or accredited against criteria notified by EQC;
 - at payment rates not exceeding rates notified by EQC (either for specific cases or generally);
 - on terms or in a manner approved by EQC; and
 - subject to any other constraint that EQC may notify to FCC, in relation to any of those reinstatement works; and
 - ii. the management and direction of persons carrying out those reinstatement works;
 - b the power to sub-delegate pursuant to section 74(1) of the Crown Entities Act 2004 the functions and powers referred to in paragraph 1 to FCC's officers, employees and representatives performing the project management role.
5. The delegation is required for EQC to implement the agreed project management approach for repair of houses with damage between \$10,000 and \$100,000. Therefore, Treasury recommends that your consent is given to the delegation.

Recommended Action

We recommend that you:

- a. **agree**, pursuant to sections 73(1)(d) and (e) of the Crown Entities Act 2004, to the delegation described in the attached letter to the Earthquake Commission.

Agree/disagree.

- b. **if you agree** with the above then **sign** the attached letter to the Chair of the Earthquake Commission.

Jane Meares
Treasury Solicitor
for Secretary to the Treasury

Hon Bill English
Minister of Finance

Mr Michael Wintringham
Chairman
Earthquake Commission
PO Box 790
WELLINGTON

Dear Michael

Pursuant to sections 73(1)(d) and (e) of the Crown Entities Act 2004 I give my consent, as the responsible Minister for the Earthquake Commission, to the Commission delegating to Fletcher Construction Company:

1. The functions and powers of the Commission required in connection with the establishment of a project management office and the project management (in accordance with the Memorandum of Understanding and any subsequent contract between the Commission and Fletcher Construction Company, and subject to any other direction of the Commission) of certain reinstatement works approved by the Commission for full or partial settlement in accordance with clause 9(1) of Schedule 3 of the Earthquake Commission Act 1993 of any claim relating to the Canterbury earthquake of 4 September 2010 and aftershocks, including:
 - a. entry into contracts as the Commission's agent:
 - i. with contractors, consultants, building suppliers or other persons approved by the Commission or accredited against criteria notified by the Commission;
 - ii. at payment rates not exceeding rates notified by the Commission (either for specific cases or generally);
 - iii. on terms or in a manner approved by the Commission; and
 - iv. subject to any other constraint that the Commission may notify to Fletcher Construction Company,
 - v. in relation to any of those reinstatement works; and
 - b. the management and direction of persons carrying out those reinstatement works;

2. the power to sub-delegate pursuant to section 74(1) of the Crown Entities Act 2004 the functions and powers referred to in paragraph 1 to Fletcher Construction Company's officers, employees and representatives performing the project management role.

Yours sincerely

Hon Bill English
Minister of Finance