

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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TREASURY REPORT COVER SHEET

REPORT NO: T95/3835

DATE: 11 December 1995

SUBJECT: Earthquake Commission: Investment
Management Directive

ACTION SOUGHT: Sign letter to EQC

DEADLINE: Gazette publishing deadline: Tuesday 12
December 1995

11 December 1995

Minister of Finance

EARTHQUAKE COMMISSION: INVESTMENT MANAGEMENT DIRECTIVE

Executive Summary

- Following discussions with the Earthquake Commission (EQC) on hedging its foreign-currency exposure, you advised the Chairman that you would issue a direction on hedging.
- The Earthquake Commission Act 1993 requires the direction to be published in the Gazette and laid before the House of Representatives.
- We expect the direction to result in some public debate. We will liaise with your staff in preparing a suitable press statement to be used if required.
- We recently met with the General Manager of the EQC and discussed a workplan for the remainder of 1995/96. Included in this workplan is the opportunity for EQC and the Treasury to discuss investment policy issues.

Background

1. In T95/3460, dated 10 November 1995, we set out a proposed direction to the EQC on hedging its foreign-exchange exposure for your consideration. During your meeting with the Chairman of EQC on Monday 20 November 1995, you showed a copy of the draft directive on hedging the EQC's foreign-currency exposure to Mr Bruce Christmas. He reviewed the proposed direction and indicated that it was acceptable.

2. Following that meeting, we wrote to Mr Christmas and attached a further copy of the proposed direction for his information. We indicated that we would arrange for the direction to be signed by you and forwarded to the EQC by early December 1995. We copied this letter to Mr David Middleton, General Manager, of EQC and to your office. On Tuesday 5 December 1995 the EQC called to acknowledge that they were expecting the direction.

3. We now believe it is timely for you to issue a direction to the EQC now that both the EQC and the Crown Law Office have been consulted.

Formal Direction

4. Section 12 of the Earthquake Commission Act 1993 enables the responsible Minister to give *“to the Commission in writing such directions as the Minister thinks fit as to the policy to be followed by the Commission in exercise of its functions or powers”*. After a direction is given it must be published in the Gazette and tabled in the House. The cut-off date for publishing information in the last Gazette for 1995 is Tuesday 12 December 1995. The EQC would also publish this direction in its next annual report i.e., the 1995/96 Annual Report.

Existing Direction

5. The EQC is currently subject to a direction which has been in force since 1988 that says:

“that the Commission is to continue with the existing investment policy using the Treasury’s facilities until further notice;

that the Commission consult with the Treasury in order to determine an appropriate investment policy for funds now under its control”.

Proposed Directive

6. The following proposed direction has been drafted in conjunction with the Crown Law Office:

“Pursuant to Section 12 of the Earthquake Commission Act 1993, I make the following direction as to the policy to be followed by the Commission in the exercise of its investment powers:

The Commission is not to undertake any financial transactions to hedge any foreign-exchange exposure arising from investments in Foreign Bond Linked Notes.

This direction supplements previous ministerial directions relating to investment policy (in particular the directions of 30 September 1988, 16 August 1993 and 17 January 1994).”

Communications

7. The tabling in the House of any new direction to the EQC may result in some public debate. We suggest that a press statement be prepared which explains the background to the new direction. We will liaise with your staff in preparing a suitable press statement to be used if required.

Current State of Relationship and Future Workplan

8. We met with EQC on Monday 4 December 1995 to discuss the future workplan for the remainder of the 1995/96 year. At this meeting it became clear that the relationship is beginning to improve in comparison with the relationship both parties have experienced over recent months. It seems that EQC wants an opportunity to have detailed and open discussions with the Treasury on investment policy matters. The EQC considers that its position on investment policy has never been properly understood by the Treasury and that the Treasury has not articulated its position clearly.

9. The workplan we have agreed with EQC includes the opportunity for such discussions to take place in an open and constructive manner. We do not believe that issuing the direction, as we recommend, will prejudice those discussions or impact adversely on the current relationship. We have discussed our views on this matter with EQC and they confirm our assessment of the situation.

Recommendation

10. We recommend that you:

- a **note** the contents of this report;
- b **agree** to sign the attached letter to the EQC; and
(agree/disagree)

c **agree** to table the attached direction in the House of Representatives.

(agree/disagree)

Dean Rea
for Secretary to the Treasury

Deputy Minister of Finance

Referred: Yes/No

Minister of Finance

Mr Bruce Christmas
Chairperson
Earthquake Commission
P O Box 311
WELLINGTON

Dear Bruce

In my letter to the Earthquake Commission (EQC) of 14 June 1995, I informed the Commission of policy decisions which had been taken by the Government regarding the EQC's hedging and investment policy.

In response, the Board of EQC advised that it still wanted to hedge its foreign-exchange exposure. At our meeting on Monday 20 November 1995, I showed you a copy of the draft direction on hedging the exposure arising from EQC's Foreign Bond Linked Notes. You reviewed the proposed direction and indicated that it was acceptable to you. The Treasury subsequently wrote to you indicating that you should expect to receive the direction by early December 1995. I believe it is now appropriate to issue a direction on hedging as provided for in the Earthquake Commission Act 1993.

Section 12 of the Earthquake Commission Act requires me, before giving a direction, to consult with those affected. There has now been extensive consultation between myself and the EQC on the EQC's hedging and investment policy.

"Pursuant to section 12 of the Earthquake Commission Act 1993, I make the following direction as to the policy to be followed by the Commission in the exercise of its investment powers.

The Commission is not to undertake any financial transactions to hedge any foreign-exchange exposure arising from investments in Foreign Bond Linked Notes.

This direction supplements previous ministerial directions relating to investment policy (in particular the directions of 30 September 1988, 16 August 1993 and 17 January 1994)."

This direction should clarify the current situation regarding the hedging of foreign-exchange exposure of the EQC.

I understand that the Treasury and the EQC met on Monday 4 December to discuss a proposed workplan for the remainder of 1995/96. The Treasury will write to you separately on this matter.

Yours sincerely

Rt Hon W F Birch
Minister of Finance

NOTICE OF DIRECTION

for

THE GAZETTE

I hereby give notice that a direction has been given to the Board of the Earthquake Commission regarding the hedging of the Earthquake Commission's foreign-exchange exposure.

"Pursuant to section 12 of the Earthquake Commission Act 1993, I make the following direction as to the policy to be followed by the Commission in the exercise of its investment powers:

The Commission is not to undertake any financial transactions to hedge any foreign-exchange exposure arising from investments in Foreign Bond Linked Notes.

This direction supplements previous ministerial directions relating to investment policy (in particular the directions of 30 September 1988, 16 August 1993 and 17 January 1994)."

Rt Hon W F Birch
Minister of Finance