

The Treasury

Treasury Advice Related to Modernising the EQC Act Information Release

December 2021

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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:

- [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
- [27] 9(2)(ba)(ii) - 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 otherwise to damage the public interest
- [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
- [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: EQC Act review stakeholder consultation

Date:	18 August 2020	Report No:	T2020/2811
		File Number:	TY-2-1-17-3

Action sought

	Action sought	Deadline
Hon Grant Robertson Minister Responsible for EQC	<p>Agree to the Treasury undertaking targeted consultation.</p> <p>Refer to the Minister for Greater Christchurch Regeneration.</p>	20 August 2020

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Elizabeth Bolton	Senior Analyst, Earthquake Commission Policy Team ^[39]	n/a (mob)	✓
Helen McDonald	Manager, Earthquake Commission Policy Team	^[35]	

Minister's Office actions (if required)

Return the signed report to Treasury and **refer** to the Minister for Greater Christchurch Regeneration.

Note any feedback on the quality of the report

Enclosure: No

Treasury Report: EQC Act review stakeholder consultation

Executive Summary

This report updates you on the Treasury's proposal for targeted stakeholder consultation to support the review of the Earthquake Commission Act 1993 (EQC Act). The Treasury also seeks your agreement to the proposed approach.

Recommended Action

We recommend that you:

- a **note** the Treasury's proposed approach to consultation on the modernisation of the EQC Act
- b **agree** to the Treasury undertaking targeted stakeholder consultation, including with the groups listed in paragraphs 5 and 6 of this report, to support the review of the EQC Act
Agree/disagree.
- c **refer** to the Minister for Greater Christchurch Regeneration for her information
Refer/not referred.

Helen McDonald
Manager, Earthquake Commission Policy Team

Hon Grant Robertson
Minister Responsible for the Earthquake Commission

Treasury Report: EQC Act review stakeholder consultation

Purpose of Report

1. The purpose of this report is to outline the Treasury's approach to consultation as part of the policy development process to support the modernisation of the Earthquake Commission Act 1993 (EQC Act) and seek your agreement to the proposed approach.

Analysis

How will consultation take place?

2. The Treasury is currently undertaking a review of the EQC Act. You have previously decided not to undertake formal public consultation [T2020/1766 refers]. Instead, the Treasury plans to undertake targeted consultation with relevant stakeholders on a case by case basis.
3. Consultation will involve face to face (including virtual) meetings. In addition, depending on the stakeholder and the topic, stakeholders will also be provided with written material to review, including options analysis. Earthquake Commission (EQC) representatives will be present where appropriate.

Who will be consulted?

4. In addition to routine consultation with the EQC and relevant government agencies, the Treasury intends to consult with representatives from a number of interested and potentially affected parties.
5. The following groups will be targeted for consultation:
 - the Insurance Council of New Zealand (ICNZ) and individual insurers
 - reinsurers
 - insurance brokers
 - banks
 - the legal profession, for example, the New Zealand Insurance Law Association, the New Zealand Law Society and representatives of community law providers
 - Local Government New Zealand, in order to gather views from a broad range of councils, and
 - councils who have previously submitted on the information sharing provisions of the EQC Act.
6. We are also considering how to get the perspective of homeowners. This may include the representatives of owners of particular types of properties, for example, discussions with body corporates in relation to mixed-use buildings (MUBs). Officials may also consult with the EQC's Canterbury based Claimant Reference Group and the Greater Christchurch Claims Resolution Service Homeowner Advisory Group. We note that both of these groups have specific areas of interest. In the absence of a national or

broader interest group, however, these groups may provide the best option in terms of engaging with representatives of sub-sets of homeowners.

7. Depending on further decisions and policy work, other stakeholders, such as engineering firms and Wellington and Christchurch based developers, may be consulted.

When will consultation take place?

8. The Treasury will commence targeted consultation following your agreement. Consultation will commence in late August and finish in approximately mid-October.
9. As consultation will be targeted and does not involve advertising, we consider that it complies with the State Services Commission guidance on advertising during the pre-election period.

What will the Treasury be consulting on?

10. The Treasury will be consulting on various discrete policy issues with stakeholders, depending on the likely areas of interest and impacts. The policy issues fall into the following broad categories:
 - the intervention model and institutional issues
 - what EQC insures
 - claims handling and settlement, and
 - EQC funding and risk financing.

Regulatory Impact Analysis requirements

11. Consultation is a Regulatory Impact Analysis (RIA) requirement. This includes identifying: if consultation has taken place and who has been consulted; limitations on consultation; how consultation has affected the options analysis; and issues relating to implementation that may have been raised during consultation.
12. If we do not undertake targeted consultation at during the policy development process, then we may not meet the RIA requirements and the analytical benefits associated with undertaking adequate consultation. We consider more formal public consultation is probably unnecessary as targeted consultation will provide the requisite information where it is well-directed.

Consultation with Māori

13. We are investigating options for consulting with Māori, including whether and to what extent Māori wish to be consulted. We will work through the options with your office. At this stage we are not aware of any features of the existing options for change that may disproportionately affect Māori.

Risks

14. The decision to undertake targeted consultation could lead to a perception that the views of certain groups or people have been favoured over others. This will be managed by ensuring a range of sectors and representatives from those sectors are included in the consultation process.

15. Due to the timeframes for consultation, there is a risk that some stakeholders who may otherwise want to be consulted won't be able to fully engage with the process. This will be managed as much as possible by ensuring that all targeted stakeholders are provided with adequate information about the issues and options being considered and are fully aware of the timeframes associated with the review.
16. There is also a risk that the lack of formal public consultation may mean that the general public feels excluded from the process, particularly homeowners. Formal public consultation on a number of the proposals covered by the review took place in 2015. Other proposals were consulted on again in 2018 as part of the development of the 2019 EQC Act amendments. The recent Public Inquiry into the Earthquake Commission (the Inquiry) involved significant consultation with the people of Canterbury and provided Cantabrians with an opportunity to share their experiences with the EQC regime. The recommendations from the Inquiry form an integral part of the review. The public will also be able to participate in the select committee process.
17. Consulted groups may publicly release or discuss details of options being considered prior to Ministers making decisions. This will be managed by emphasising with consulted parties that the options and analysis are not public, and ensuring that parties are aware of the confidentiality of the information provided.

Next Steps

18. Subject to your agreement, the Treasury will start undertaking targeted consultation as part of the policy development process for the review of the EQC Act.