

# The Treasury

## Treasury Advice Related to Modernising the EQC Act Information Release

December 2021

This document has been proactively released by the Treasury on the Treasury website at:

<https://www.treasury.govt.nz/publications/information-release/treasury-advice-related-modernising-egc-act-information-release>

### Information Withheld

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:

- [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

Where information has been withheld, a numbered reference to the applicable section of the Act has been made, as listed above. For example, a [25] appearing where information has been withheld in a release document refers to section 9(2)(b)(ii).

## **Copyright and Licensing**

Cabinet material and advice to Ministers from the Treasury and other public service departments are © **Crown copyright** but are licensed for re-use under **Creative Commons Attribution 4.0 International (CC BY 4.0)** [<https://creativecommons.org/licenses/by/4.0/>].

For material created by other parties, copyright is held by them and they must be consulted on the licensing terms that they apply to their material.

## **Accessibility**

The Treasury can provide an alternate HTML version of this material if requested. Please cite this document's title or PDF file name when you email a request to [information@treasury.govt.nz](mailto:information@treasury.govt.nz).

## Treasury Report: Modernising the Earthquake Commission Act: Claims Excesses on EQC Land Cover

---

<b>Date:</b>	24 March 2021	<b>Report No:</b>	T2021/758
		<b>File Number:</b>	TY-2-1-17-2

### Action sought

---

	Action sought	Deadline
Hon Grant Robertson <b>Minister of Finance</b>	Note	None.
Hon Dr David Clark <b>Minister Responsible for the Earthquake Commission</b>	<p><b>Agree</b> that excesses on EQC building and land claims continue to apply per dwelling</p> <p><b>Agree</b> that, in the case of EQC land cover claims, the current \$5,000 maximum excess continue to apply.</p>	Prior to your meeting with officials on Thursday 25 March 2021

### Contact for telephone discussion (if required)

---

Name	Position	Telephone	1st Contact
Steve Cantwell	Principal Advisor, Earthquake Commission Policy Team	[39]	[35] ✓
Helen McDonald	Manager, Earthquake Commission Policy Team		

### Minister's Office actions (if required)

---

**Return** the signed report to Treasury.

Note any feedback on the quality of the report

**Enclosure:** No.

# Treasury Report: Modernising the Earthquake Commission Act: Claims Excesses on EQC Land Cover

---

## Purpose of Report

---

1. The purpose of this report is to clarify one of the decisions you recently made on EQC excesses. Officials consider that one decision may not align with your intention, as we understand it, to retain the status quo regarding the structure of EQC claims excesses, while dropping the current percentage-based element from the excess calculation.

## Analysis

---

2. When we met on Wednesday 17 March 2021, you decided (on advice, T2020/3814 refers) that the future excesses for EQC land and building cover be \$500 per dwelling claim for both building and land cover.
3. In the case of multi-unit buildings (MUBs), you decided that the excess for building claims would be \$500 multiplied by the number of dwellings in the residential building (so, say, a 100 apartment building would pay building and land excesses of  $\$500 \times 100 = \$50,000$  each (GST inclusive)).
4. We have now noted two gaps in the recommendations. We did not seek confirmation to continue to apply EQC excesses per-dwelling, nor a decision on the excesses applicable to EQC land claims arising from land associated with MUBs.
5. The regulations establishing excesses on EQC land cover say:

“residential land—\$500 multiplied by the number of dwellings in the residential building which is situated on the land, or 10% of the amount payable under section 29 of the Act, whichever is greater, to a maximum of \$5,000”
6. Note the \$5,000 is an absolute dollar maximum, not a maximum per dwelling. Therefore, if there is land damage to say a 100 unit MUB, the maximum land cover excess is currently \$5,000 (not  $\$5,000 \times 100$ ). In contrast, the current EQC building excess does not include a defined maximum excess per claim. We do not know why the structure of building and land claims excesses differs in this regard.
7. The two options for excesses on land cover applicable to MUBs that we consider best fit your decisions to date on EQC excesses are:
  1. the future land excess be the current land excess, except for removal of the current “10 percent of claim” rule. This would result in a land claim excess of \$500 per dwelling, with a maximum excess of \$5,000 per land claim, irrespective of the number of dwellings (**Action: agree to the recommendation (e) of this report**); or
  2. the future land excess be the same as the future building excess, namely \$500 times the number of dwellings, with no maximum dollar value (**Action: disagree with recommendation (e) of this report**);
8. Our understanding, based on the discussion at the meeting of 17 March, is that you made decisions regarding excesses on the basis that you wanted to retain the current structure of the excesses for MUBs, except with the current percentage-based

elements of the excesses being removed. Option (1) most closely aligns with that design approach.

9. EQC has been consulted on this issue and agrees with the substance of the advice. Due to time pressures they have not had an opportunity to comment on this report.

## Recommended Action

---

We recommend that you:

- a **note** that, on 17 March 2021, you agreed to these two recommendations in T2020/3814:
- “w **agree** to change the EQC claims excesses to establish a flat-rate excess amount of \$500 (GST inclusive) for both a residential building claim and a residential land claim (that is, a combined total of \$1,000 when there is both an EQC building and land claim)
- y **agree** to establish the flat-rate excess to all residential buildings without limiting the maximum amount of the excess for MUBs”
- b **note**, as worded, it is unclear if the \$500 excess you have agreed to is intended to apply per dwelling, or per residential building
- c **agree** that excesses on EQC building and land claims continue to apply per dwelling  
*Agree/disagree.*
- d **note** that, at present, the maximum excess payable on an EQC land claim is \$5,000
- e **agree** that, in the case of EQC land cover claims, the current \$5,000 maximum excess continue to apply.  
*Agree/disagree.*

Helen McDonald  
**Manager, Earthquake Commission Policy Team**



Hon Dr David Clark  
**Minister Responsible for the Earthquake Commission**