

Briefing to the Public Inquiry into the Earthquake Commission

Title	External reviews of the Earthquake Commission since 2010
Date	4 March 2019

External reviews of the Earthquake Commission since 2010

Purpose

- 1 This briefing responds partly to the Inquiry's 29 January 2019 request for information on external reviews of the Earthquake Commission by summarising the reviews and inquiries that have occurred since late 2010 and the measures that have been taken to implement them.

Summary

- 2 EQC has identified over 50 external reviews of EQC since 2009 (see **Appendix 1**). Of the reviews of EQC since 2010 considered in this paper, there were multiple reviews each year, with the exception of 2017, when only one review was carried out. The highest number of reviews per year was in 2012 and 2015, when seven external reviews were carried out¹, and six reviews per year occurred in 2013 and 2018.
- 3 Just over half of the external reviews were commissioned by EQC. The remainder were commissioned by an Officer of Parliament, the House of Representatives or a Statutory Officer (e.g., Privacy Commissioner or State Services Commissioner).

¹ The date that has been used for this analysis is either:

- the date on the finalised report, or
- in the case of reviews by the Finance and Expenditure Committee or the Governance and Administration Committee, the date of the last meeting of the Committee to consider the financial review was used, or
- in the case of the Acuo series of reviews for the Kaikōura event, the date used is the date of the final report, or
- in the case where it has not been possible to identify a date, it was categorised as 'Date Unknown'.

- 4 This briefing summarises six key themes² that arose from 46 of the reviews³:
- a improve the quality of repairs carried out in the Canterbury Home Repair Programme and EQC's approach to the project management services provided;
 - b improve EQC's customer experience, particularly communications with individual homeowners;
 - c improve EQC's relationship with private insurers and the ways in which EQC and private insurers could more efficiently manage their shared insurance obligations for individual properties;
 - d improve the operational practices and governance and operational structure of EQC;
 - e improve the external monitoring arrangements over EQC; and,
 - f identify lessons, tools and information from events that could usefully support responses to future natural disasters.

Context

- 5 EQC has identified over 50 reviews that have been undertaken. We used the list of reviews presented to the Independent Ministerial Advisor in 2018 as a starting point, and have added further reviews as we came across them in our review of EQC's filing system and discussions with current EQC staff. We may come across further reviews as in discussions with former staff and Commissioners. If we do, we will promptly inform the Inquiry.
- 6 We summarised the key recommendations from the 46 reviews,⁴ and tabulated this information in a working document. This document is not attached to this briefing, but we can provide it to the Inquiry if you wish.

² Other themes raised include:

- improve the clarity of the legislative provisions under which the EQC insurance scheme operates
- improve the quality of the data and understanding of risk and exposure, and
- ensure that commercial and regulatory arrangements do not impact on an effective response in times of crisis.

³ For the purposes of this paper, we have not considered the reviews numbered 1 and 47-51 in **Appendix 1**. This is because report 1 predates 2010 and is the subject of a separate report to the Inquiry, and reports 47-51 are categories of other external reviews.

⁴ With such a large number of reviews focusing on nearly all aspects of EQC's work and environment, there are further recommendations that are not covered in this paper.

- 7 The reviews we did not consider in detail included a review which predates 2010 and five categories of reviews which had a materially different purpose, such as actuarial reports on EQC's insurance liability valuation, and peer reviews of valuation and engineering methodologies (several of these categories include multiple reviews).
- 8 We then reviewed EQC's Board minutes and, in some cases, Board papers to identify EQC's response at Board level, and to capture what EQC has done, not done, or is doing, to implement the recommendations made. In the time available, we have not interviewed current or former EQC staff involved with any of the external reviews and reports and the associated implementation of recommendations.
- 9 Through this analysis, we can see that record keeping of Board decisions and actions taken in response to recommendations by external reviews improved over time. The focus of the organisation in the years immediately following the 2010-2011 Canterbury earthquake sequence was on claims management. It has therefore been difficult to identify what (if any) Board decisions and actions were taken in response to some of the earlier reviews. We have stated where this is the case. In these instances, it is possible that EQC's response to recommendations were made at an operational level and not reported to the Board. If there are external reviews or recommendations of particular interest to the Inquiry, we would be happy to seek to identify what (if any) actions were taken at an operational level through reviewing additional material (such as papers to Board Subcommittees, Executive Leadership Team (ELT), ELT Subcommittees, etc).
- 10 We have attached some relevant EQC Board papers in their entirety. We can provide copies of full Board papers or minutes referred to in this paper if the Inquiry wishes.
- 11 Some time has passed since some of the external reviews were carried out and recommendations implemented. We have not undertaken a review of whether EQC still has the processes or procedures in place that it implemented in the period immediately following the completion of the external report or review. Such processes or procedures may have been superseded by other recommendations.

Six key themes from external reviews

12 The key external reviews are discussed below under the six key themes. There may be other external reviews not listed under a particular theme(s) which include some material or recommendations relevant to that theme(s).

A. Improve the quality of repairs carried out in the Canterbury Home Repair Programme and EQC's approach to the project management services provided

13 There are five key external reviews that relate to the project management, quality and audit of repairs carried out in the Canterbury Home Repair Programme (CHRP).

REPORTS BY THE CONTROLLER AND AUDITOR-GENERAL (2013 AND 2015)

14 One of the first external reviews of EQC's management of the CHRP was carried out by the Controller and Auditor-General in October 2013 (*the 2013 OAG report*). This report provided an independent assessment of EQC's performance in the management of CHRP and highlighted where EQC could improve services and prepare better for future events.

15 The 2013 OAG report made five recommendations:

- a improve the approach to auditing CHRP repairs to ensure that repair quality risks can be identified and mitigated where possible, and resourcing of quality assurance processes can be matched to significant risks;
- b improve communication with homeowners so they have as much certainty as possible as early as possible;
- c refine key performance indicators to consistently and meaningfully cover cost, time, quality, and safety, with targets where practicable;
- d continue to review and, if necessary, adjust the configuration of repair and project management services to deliver the best value and results in the circumstances and treat homeowners fairly and consistently; and,
- e prepare for the future by identifying and recording lessons, tools, and information that could usefully support responses to future large-scale natural disasters.

- 16 The EQC Board and the Audit and Risk Committee considered the 2013 OAG report, its recommendations and progress made in implementing those recommendations meetings between November 2013 and November 2015⁵ (see **Appendices 2-4** for copies of the key Board papers).⁶
- 17 In November 2015, the Controller and Auditor-General released a follow up report outlining the actions taken by EQC to implement the five recommendations (*the 2015 OAG report*). The 2015 OAG report also considered EQC's management of complaints, which related to one of the original five recommendations from the 2013 OAG report (improving communication with homeowners). Overall, the 2015 OAG report indicated that EQC had demonstrated commitment to making improvements, so that it is better able to deal with large scale events. The 2015 OAG report also highlights some issues of concern and room for improvement.⁷

WORKSAFE NEW ZEALAND – INVESTIGATION INTO EQC'S AND FLETCHER EQR'S ASBESTOS MANAGEMENT PRACTICES (DECEMBER 2014)

- 18 An investigation into EQC and Fletcher EQR's asbestos management practices was commissioned by Worksafe due to confidential informant 'A' making allegations regarding the management of asbestos in CHRP (*the Worksafe Investigation*).

⁵ Minutes of EQC Board meeting 14 November 2013, Minutes of Audit and Risk Committee meeting 13 December 2013, Chief Executive's report to the EQC Board meeting dated 17 February 2014, Paper to the Audit and Risk Committee titled 'External Reviews' dated 28 February 2014, Minutes of Audit and Risk Committee meeting 10 March 2014, Minutes of EQC Board meeting 14 April 2014, Minutes of EQC Board meeting 23 June 2014, Minutes of Audit and Risk Committee meeting 8 December 2014, EQC Board paper titled 'Canterbury Home Repair Programme Quality Assurance Overview' dated 15 July 2015, Minutes of EQC Board meeting 27 July 2015, EQC Board paper titled 'EQC Quality Assurance Team' dated 10 September 2015, Minutes of EQC Board meeting 21 September 2015, EQC Board paper titled 'Quality Assurance for the CHRP Programme' dated 10 November 2015, Minutes of EQC Board meeting 23 November 2015.

⁶ **Appendices 2 and 3** also refer to other external reviews completed at the end of 2013: report by the Human Rights Commission 'Monitoring Human Rights in the Canterbury Earthquake Recovery' (December 2013), the State Services Commission 'Independent Review of the Earthquake Commission's Customer Satisfaction Survey' (December 2013) and the Ombudsman and Privacy Commission: 'Information fault lines: accessing EQC information in Canterbury' (13 December 2013).

⁷ The Finance and Expenditure Committee's 2014/2015 annual review of the Earthquake Commission also included a review of the 2015 OAG report: <https://www.parliament.nz/media/2647/ar-1415-vol-1.pdf> (see page 117-124).

- 19 Worksafe identified that asbestos management practices did not ensure the presence of asbestos was systematically identified prior to repair works commencing prior to mid-2012. However, potential exposures were generally likely to have been well below the Workplace Exposure Standard and no significant risk to worker or public health was found. This conclusion was based on an independent review of the risk of asbestos exposure.⁸
- 20 Worksafe also identified gaps in guidance materials relating to the management of asbestos, particularly in relation to identification and sampling methodology and safe working methods.
- 21 While the Worksafe investigation was underway EQC engaged Cosman Parkes to audit EQC's health and safety practices in October 2014.⁹
- 22 The EQC Board received updates on the outcome of the Worksafe investigation in October and November 2014.¹⁰ No charges were laid by Worksafe. Following the Worksafe Investigation, EQC launched additional training and focused on asbestos risks as part of its 'Safe 6' initiative.¹¹

COSMAN PARKES – HEALTH AND SAFETY LESSONS LEARNT FROM THE CANTERBURY EARTHQUAKE RESPONSE (NOVEMBER 2015)

- 23 Cosman Parkes considered:
 - a the adequacy of the health and safety processes and procedures that were in place across EQC prior to the Canterbury earthquakes and whether they were sufficiently developed and implemented;
 - b the operationalisation of health and safety immediately following the earthquakes and the adequacy of the health and safety response; and,

⁸ 'Investigation of Airborne Asbestos Exposure Related to Removal of Textured Coatings, Three Residential Properties, CHRP, New Zealand', Noel Arnold & Associates, July 2014.

⁹ EQC Board paper titled '*Board Report for September 2014*' dated 7 October 2014.

¹⁰ Minutes of EQC Board meeting 20 October 2014, EQC Board paper titled '*Health and Safety Performance Report for October 2014*' dated 7 November 2014, Minutes of EQC Board meeting 17 November 2014.

¹¹ The 'safe 6' safety campaign was launched by EQC and Fletchers in February 2013, which focused on six key fatal risks including asbestos exposure: <https://www.eqc.govt.nz/news/safe6-rules-to-live-by> and <https://www.eqc.govt.nz/news/safety-with-safe6>.

- c the adequacy of EQC’s management of health and safety in its role as an employer and principal following its internal staff growth and engagement of its agent, Fletcher EQR, to manage residential repairs.
- 24 The 11 recommendations contained in the Cosman Parkes report were incorporated into EQC’s 2016 Health and Safety business plan. This business plan was considered by the EQC Board in February 2016.¹²

MBIE – EARTHQUAKE REPAIRS TO CANTERBURY HOMES – HOME INSPECTION SURVEY REPORT (AUGUST 2015) (THE CEDAR REPORT)

- 25 In the first two quarters of 2015, MBIE conducted a survey to assess the Building Code compliance of structural repairs carried out through CHRP. This was in response to concerns raised regarding the quality of structural repairs that were exempt from a building consent under Schedule 1 of the Building Act.
- 26 The August 2015 CEDAR report found that 32 of the 90 homes surveyed fell within the “non-compliant” category. Non-compliance issues generally related to jack and pack foundation repairs which were considered to be relatively minor and easy to fix.¹³
- 27 MBIE concluded that the quality control, quality assurance and sign-off processes for repair work exempt from building consent were inadequate and made recommendations to address the repair quality issues.¹⁴ One of the recommendations was that agencies and/or their PMOs undertake a review of completed repair work exempted from a building consent, targeting houses where the repair works involved jacking and packing repair, to ensure compliance with the Building Code. In response to this recommendation, EQC and Fletcher EQR investigated further properties that had underfloor repairs involving the Fletcher Technical Hub.¹⁵

¹² EQC Board Paper titled ‘*Health and Safety Lessons Learnt – Recommendations from the Cosman Parkes Report Incorporated into the Health and Safety Business Plan 2016*’ dated 11 February 2016 records each of the recommendations and the related action incorporated into EQC’s 2016 Health and Safety business plan. See **Appendix 5** for a copy of this Board paper and the Health and Safety business plan. See also the Minutes of EQC Board meeting on 22 February 2016, which recorded an action for management to consider posting the Cosman Parkes report on the EQC website and sharing it with other interested parties including the Office of the Auditor-General, WorkSafe and the Department of the Prime Minister and Cabinet.

¹³ <https://www.mbie.govt.nz/assets/9993cf73bd/home-inspection-survey-report.pdf>.

¹⁴ See pages 4 and 16 of the MBIE CEDAR report.

¹⁵ EQC Board paper titled ‘*Complete Canterbury Programme Update*’ dated 11 February 2016.

- 28 EQC responded to MBIE’s recommendations in a letter to MBIE’s manager of engineering, design and science on 27 April 2016 (see **Appendix 6** for a copy of this letter).
- 29 The EQC Board considered EQC’s quality assurance mechanisms in the third and fourth quarters of 2015.¹⁶ See in particular **Appendix 4**¹⁷ for an outline of the CHRP quality assurance framework.

B. Improve EQC’s customer experience, particularly communications with individual homeowners

- 30 Ten key external reviews (including three Kaikōura Acuo reports)¹⁸ provide recommendations to improve EQC’s communications to homeowners. These reviews also have implications for and related to EQC’s operational practices and the theme of ‘Improving the Operational Practices of EQC’.

LINKING STRATEGY TO IMPLEMENTATION (LSI) – CONSULTING REVIEW OF CUSTOMER INTERACTIONS (NOVEMBER 2014) (2014 LSI REPORT)

- 31 The most notable external review is the 2014 LSI report, which undertook a comprehensive review of the customer interaction model (excluding Fletcher EQR and any events outside Canterbury) in order to understand key issues and gaps.
- 32 The Board sought ongoing updates from EQC’s Customer Solutions team throughout 2014-2016 about EQC’s progress towards implementing the 2014 LSI report’s recommendations.¹⁹ Customer Solutions focussed on the initiatives that would deliver the greatest impact on the customer experience.

¹⁶ EQC Board paper titled ‘*Canterbury Home Repair Programme Quality Assurance Overview*’ dated 15 July 2015, Minutes of EQC Board meeting 27 July 2015, EQC Board paper titled ‘*EQC Quality Assurance Team*’ dated 10 September 2015, Minutes of EQC Board meeting 21 September 2015, EQC Board paper titled ‘*Quality Assurance for the CHRP Programme*’ dated 10 November 2015, Minutes of EQC Board meeting 23 November 2015.

¹⁷ Aspects of the material may be subject to legal privilege.

¹⁸ A number of external reviews refer to communications with homeowners. For the purposes of this paper we have only included key reviews in this area.

¹⁹ Minutes of EQC Board meeting 20 October 2014, EQC Board paper titled ‘*Overview of the customer complaints process and a break-down of complaints figures*’ dated 10 September 2015, Minutes of EQC Board meeting 21 September 2015, EQC Board paper titled ‘*Progress update on the LSI report*’ dated 12 November 2015, Minutes of EQC Board meeting 23 November 2015, Minutes of EQC Board meeting 14 December 2015, Chief Executive’s report to the EQC Board meeting in February 2016, Minutes of EQC Board meeting 22 February 2016, Chief Executive’s report to the EQC Board meeting in April 2016, Minutes of EQC Board meeting 26 April 2016.



CHRISTINE STEVENSON, INDEPENDENT MINISTERIAL ADVISOR 'REPORT OF THE INDEPENDENT MINISTERIAL ADVISOR TO THE MINISTER RESPONSIBLE FOR THE EARTHQUAKE COMMISSION' (APRIL 2018) (STEVENSON REPORT)

- 33 Another key report in this area was the Stevenson Report, which made the following recommendations in relation to EQC's relationship with claimants:
- a establish a Claimant Reference Group comprised of claimants and community representative advocates who are paid for their time and expertise, and with whom EQC senior management meets regularly;
 - b make all information on a claimant's file available to claimants on request;
 - c ensure the case management approach includes the development of communication standards for EQC with claimants, which set out that communications are respectful, empathetic, honest, timely, and that EQC staff do what they say they will do;
 - d review EQC's Canterbury-specific webpage to ensure it is easy to read and is updated on a regular basis;
 - e work with the Treasury on a proposal to the Minister Responsible for the Earthquake Commission regarding a Ministerial Direction that would allow EQC to reimburse legitimate claim-related costs in certain circumstances; and,
 - f extend the Residential Advisory Service for two more years to 30 June 2020 and expand its role to provide a "one-stop-shop" for claimants, incorporating psycho-social support for claimants.
- 34 EQC commissioned KPMG to undertake an independent review of progress against the recommendations.²⁰ The November 2018 KPMG report²¹ found that all recommendations have actions against them and have either been addressed or have ongoing actions in progress. Recommendations that have not yet been completed in full will be monitored and reported against as part of business as usual (BAU) work rather than continuing to report separately on the IMA report recommendations.

²⁰ Minutes of the Audit and Risk Committee dated 26 November 2018.

²¹ KPMG – Earthquake Commission – Tracking of Recommendations Raised in the Independent Ministerial Advisors Report, November 2018



AUDITS OF EQC'S INTERNAL PROCESSES FOLLOWING THE DISCLOSURE BY EQC OF AN INCORRECTLY ADDRESSED EMAIL (2013)

35 The disclosure triggered temporary closure of EQC's email systems, website, claims processing systems and social media channels. The Board sought ongoing updates on the steps EQC was implementing to improve its internal processes.²² These steps included, for example, introducing a two-step message release system for all outgoing emails.

THE OMBUDSMAN AND PRIVACY COMMISSIONER REPORT – INFORMATION FAULT LINES: ACCESSING EQC INFORMATION IN CANTERBURY (13 DECEMBER 2013)²³

36 This report was produced following a joint investigation by the Ombudsman and Privacy Commissioner into EQC's handling of information requests in the context of the Canterbury earthquake sequence. EQC accepted all 13 of the report's recommendations. Progress towards implementation of these recommendations was reported to the Board throughout 2014.²⁴

NIELSEN STAKEHOLDER ENGAGEMENT REPORTS (SEPTEMBER 2014 AND MAY 2015)

37 These reports provided feedback on the experiences and views of key stakeholders. A number of these stakeholders were customer support, community or advocacy groups, which provided comments on what they considered could be done in the context of customer communications.²⁵

²² Minutes of EQC Board meetings 12 April 2013, 17 May 2013, 13 June 2013.

²³ The Ombudsman and Privacy Commissioner's Report acknowledges that EQC accepted all of the recommendations (see page 57, para 272 of the report). Board papers at **Appendices 2** and **3** track implementation of the recommendations.

²⁴ Chief Executive's report to EQC Board dated 17 February 2014, EQC Board paper titled '*External Reviews – recommendations and implementation*' dated 3 April 2014, Minutes of EQC Board meeting 14 April 2014, EQC Board paper titled '*Statutory External Reviews*' dated 12 June 2014, Minutes of EQC Board meeting 23 June 2014, Minutes of EQC Board meeting 17 November 2014.

²⁵ EQC Management provided quarterly updates to the Board on EQC's reputation. In October 2014, a presentation was given by EQC Management to the Board on EQC's reputation in October 2014. An associated CE report to the Board dated October 2014 addresses stakeholder engagement and reputation including EQC's 'In the Know' – Land Hubs, a seminar series covering changes to the land in Canterbury, NZ Red Cross helping in the Canterbury recovery, increased liquefaction vulnerability, the ground improvement pilot and increased flooding vulnerability and social media and electronic communications such as EQConnects (electronic newsletter sent to Canterbury customers in October 2014, EQConversation (electronic newsletter) and EQC Twitter.

ACUO – EXTERNAL REVIEWS OF THE RESPONSE TO THE KAIKŌURA NOVEMBER 2016 EARTHQUAKE (KAIKŌURA ACUO REPORTS)

- 38 These staged reports provided some customer focussed recommendations such as:
- a single lodgement with the insurer for residential claims with a process to respond to customers with multiple exposures to EQC for management (land and building);
 - b keeping a clear focus on customers and a proactive approach to the affected community (including councils and community groups);
 - c spending time at an early stage agreeing a communications approach; and,
 - d developing a more common set of definitions and data requirements for potentially vulnerable customers.
- 39 It does not appear that the Kaikōura Acuo recommendations were considered at Board level.

ACUO – POST IMPLEMENTATION REVIEW – VALENTINE’S DAY EQC/VERO INTEGRATION PILOT (AUGUST 2016)

- 40 EQC engaged Acuo to provide a post implementation review of the joint EQC/Vero trial that tested a more collaborative approach to the settlement of the Valentine’s Day (14 February) 2016 earthquake in Christchurch, which involved a trial with Vero where Vero completed claim assessments and pricing for a group of Vero customer claims. The report identified that the trial had highlighted a set of issues to be addressed in relation to data access and information sharing, and a range of lessons relating to the development of solutions by EQC and private insurers for responding to future events.²⁶
- 41 EQC management gave a presentation to the Board on the response following the release of this report.²⁷

²⁶ See pages 11- 13 of the report.

²⁷ See presentation titled ‘Event Update – Valentine’s Day, 2016 event response update’, August 2016.

ACUO – EXTERNAL REVIEWS OF EQC’S RESPONSE TO THE VALENTINE’S DAY 2016 EARTHQUAKE (JULY 2017)

- 42 This report by Acuo considered EQC’s response to the Valentine’s Day (14 February) 2016 earthquake focusing on customer satisfaction, cost, risk to EQC and innovation lessons. Acuo concluded that EQC’s approach to the Valentine’s Day earthquake delivered benefits in terms of improved customer satisfaction and claim resolution times whilst keeping claims handling costs at a minimum. It identified a number of potential lessons and areas for development relating to process design and management, customer engagement and use of claim data, which Acuo considered would be useable for the response to other events.²⁸
- 43 It does not appear that the Acuo report on EQC’s response to the Valentine’s Day 2016 earthquake was considered at Board level.

C. Improve EQC’s relationship with private insurers and the ways in which EQC and private insurers could more efficiently manage their shared insurance obligations for individual properties

- 44 Seven key reports (including the three Kaikōura Acuo reports) make recommendations to improve EQC’s relationship with private insurers.

ACUO – EXTERNAL REVIEWS OF THE RESPONSE TO THE KAIKŌURA NOVEMBER 2016 EARTHQUAKE (KAIKŌURA ACUO REPORTS), ACUO – POST IMPLEMENTATION REVIEW – VALENTINE’S DAY EQC/VERO INTEGRATION PILOT (AUGUST 2016) AND EXTERNAL REVIEWS OF EQC’S RESPONSE TO THE VALENTINE’S DAY 2016 EARTHQUAKE (JULY 2017)

- 45 The purpose of these reviews was to identify lessons that could be applied to improve the effectiveness of a response in future events. The reports contain a summary of potential lessons and areas requiring development (see each of the three stages of the Kaikōura Acuo reports for a summary of the potential lessons and recommendations). It does not appear that any of the Acuo recommendations were considered at Board level.

²⁸ See page 23 of the report.



PWC - 'STRATEGIC REVIEW OF EQC RESPONSE TO KAIKŌURA (NOVEMBER 2018) (INTERIM REPORT)

46 The Interim report was primarily focused on the Kaikōura agency response model pilot, and the strengths and weaknesses of that model. In developing the Interim Report, PWC made a range of observations, which are set out in full at Appendix 9 of the interim report.²⁹

STEVENSON REPORT

47 The Stevenson report made the following recommendations:

- a senior management should schedule regular, formal meetings with each private insurer to remove any barriers to resolving claims;
- b share information about all claims with the relevant private insurer with the aim of settling claims more quickly (the recently-passed Earthquake Commission Amendment Act 2019 implements this recommendation); and,
- c work with private insurers to extend the existing Protocol 1 to allow EQC to make cash settlements above the EQC cap, which would then be recovered from the private insurers.

48 The Treasury continues to work with the insurance industry and EQC to test the viability of a new model which could see the management of all new Canterbury earthquake-related claims from insurance entities (EQC, Southern Response, other private insurers) consolidated into one vehicle from a future date.

COSMAN PARKES – HEALTH AND SAFETY LESSONS LEARNT FROM THE CANTERBURY EARTHQUAKE RESPONSE (NOVEMBER 2015)

49 One of the eleven recommendations in the Cosman Parkes report was for EQC to take a leadership role in developing consistent Health and Safety approaches across public and private sector stakeholders in any future residential repair programme.³⁰

50 The 11 recommendations contained in the Cosman Parkes report were incorporated into EQC's 2016 Health and Safety business plan. This business plan was considered by the EQC Board in February 2016 (see **Appendix 5**).

²⁹ Please refer to theme of: Identifying lessons, tools and information from events that could usefully support responses to a future large scale natural disaster where this report is discussed in greater detail.

³⁰ See paragraphs 23 and 24 above for EQC's response to this recommendation and incorporation of the recommendation into its 2016 Health and Safety Business Plan.

D. Improve the operational practices and governance and operational structure of EQC

51 The majority of external reviews contain recommendations about how EQC can improve its operational practices. Listed below are some of the key reports.³¹

KPMG - EARTHQUAKE COMMISSION: CATASTROPHE RESPONSE QUALITY ASSURANCE & INTERNAL AUDIT (5 MAY 2011) (KPMG INTERNAL AUDIT REPORT)

52 The KPMG review was commissioned given the Board's concern to maintain an adequate control environment despite the rapid growth and changes caused by the Canterbury earthquake in September 2010. KPMG's brief had been to review claims processing and claims administration expenditure and offer views and recommendations on maintaining or improving controls.

53 KPMG found that the control environment could be strengthened and there were some areas of risk for incorrect payments and/or fraud. While incidences of incorrect payments were few and there was no evidence of fraud, KPMG made recommendations on field office assessments, claims processing, validation and payment and information management which EQC management accepted.

54 The Board noted KPMG's report and the actions taken by management.³²

LINKING STRATEGY TO IMPLEMENTATION (LSI) – EQC CLAIMS REPORTING REVIEW: STAGE ONE (AUGUST/SEPTEMBER 2011)

55 This report was commissioned by EQC and set out recommendations for a proposed framework for management level reports for EQC, with a particular focus on Canterbury earthquakes claims management.

³¹ Other reports relevant to this theme which have already been addressed in this paper are the 2014 LSI report, the Worksafe investigation, the Acuo reports on EQC's reports to the Kaikōura and Valentine's Day 2016 events, the Stevenson report and the Cosman Parkes report.

³² EQC Board paper titled 'KPMG Internal Audit Reports' dated 5 May 2011, Minutes of EQC Board meeting 10 May 2011.

- 56 The key recommendations noted were:
- a implement a reporting management framework that reflects:
 - i the multi-tiered management and operational framework of EQC;
 - ii the key operational elements required to support the reporting management framework;
 - iii the strategic management requirements of the framework;
 - b ensure one single management oversight body by:
 - i confirming a ‘single source of truth’ information management unit (this was implemented via the Business Information Unit);
 - ii confirming a ‘single source of truth’ information platform (this was implemented via the Claims Management System v4);
 - c develop a performance management framework that clearly defines critical control points of the reporting framework and any components, including:
 - i initiation of daily and weekly operational planning and review meeting elements;
 - ii definition of critical operational and review reporting requirements;
 - iii definition of data elements, including business wide agreement on the data definitions and their meaning to the business; and,
 - d ensure critical management information points are clearly defined within the reporting management framework and are agreed by the strategic users of that information and reporting.
- 57 EQC is currently not aware of whether the recommendations in this report were dealt with at Board level.



ROYAL COMMISSION OF INQUIRY INTO BUILDING FAILURE CAUSED BY CANTERBURY EARTHQUAKES FINAL REPORT – PART 2, SECTION 1: VOLUME 4 (ROYAL COMMISSION OF INQUIRY INTO BUILDING FAILURE).

- 58 The Royal Commission’s specific recommendation in relation to the Earthquake Commission Act 1993 was that section 32(4) should be amended to allow for disclosure of information that could affect personal safety. This section of the Act precludes recording or communicating information gathered during the exercise of statutory powers to inspect property, obtain information, and enter land. EQC confirmed at the Royal Commission of Inquiry that it had implemented a dangerous building policy in October 2011.
- 59 EQC has continually reviewed and updated this policy. The current version of the policy is dated 19 April 2017. The Building (Earthquake-prone Buildings) Amendment Act 2016, has implemented the Royal Commission’s recommendations.

STATE SERVICES COMMISSION – ‘INDEPENDENT REVIEW OF THE EARTHQUAKE COMMISSION’S CUSTOMER SATISFACTION SURVEY’ (DECEMBER 2013)

- 60 The SSC was asked to review EQC’s handling of the customer satisfaction survey and the associated advice provided by EQC to the Minister, which informed his answers to the House. Additionally, SSC was requested to review EQC’s information protocols and processes to ensure they are suitable to enable the Minister to fulfil his full range of portfolio interests and responsibilities. KPMG conducted the review for the SSC and provided recommendations relating to three themes:
- a engagement with the office of the Minister Responsible for the Earthquake Commission;
 - b communications planning and reporting; and,
 - c knowledge of systems and processes within EQC.
- 61 The EQC Board monitored progress of the recommendations in meetings between December 2013 and June 2014³³ (see **Appendices 2 and 3**).

³³ Chief Executive’s report to EQC Board dated 13 December 2013, Minutes of EQC Board meeting 13 December 2013, EQC Board paper ‘*External Reviews*’ dated 3 April 2014, Minutes of EQC Board meeting 14 April 2014, EQC Board paper ‘*Statutory External Reviews*’ dated 12 June 2014, Minutes of EQC Board meeting 23 June 2014.

KPMG – PRIVACY MATURITY REPORT (JULY 2015)

- 62 KPMG assessed EQC’s privacy maturity against the all-of-government Privacy Maturity Framework. The recommendations made by KPMG indicated that EQC should focus on four areas in order to improve its privacy maturity:
- a defining EQC’s appetite or tolerance for privacy-related risks;
 - b proactive communication on privacy best practice and ‘lessons learned’ from incidents;
 - c incorporating privacy/information management practices into accountability frameworks, performance management processes, and performance measures reporting; and,
 - d an emphasis on Privacy by Design (PbD) by raising awareness and understanding of PbD principles, and expanding the use of tools such as Privacy Threshold Assessments and Privacy Impact Assessments into business improvement and change management practices.
- 63 These recommendations informed revisions to the roadmap for implementing EQC’s Privacy Strategy, which was developed in 2014 to align with organisational strategy and the Privacy Act.³⁴

KPMG – ‘EARTHQUAKE COMMISSION – INDEPENDENT REVIEW OF CHRISTCHURCH CLAIMS DATA’ (JULY 2018)

- 64 On 23 April 2018 Canterbury open claims data was migrated from Claims Management System v4 to Claims Management System v8. Subsequent reporting identified 949 claims which had not previously been reported. KPMG was commissioned to provide confidence that the data and reporting was reliable. KPMG concluded that a high level of confidence could be taken that the data residing in the data warehouse was complete and that that all open claims had been uploaded to Claims Management System v8. The report did not provide any recommendations.
- 65 The Board was informed of KPMG report and the conclusion reached.³⁵

³⁴ EQC Board paper ‘*Privacy Strategy and Maturity Assessment*’ dated 16 July 2015 (see **Appendix 8** for a full copy), Minutes of EQC Board meeting 27 July 2015.

³⁵ Chief Executive’s Report to EQC Board dated July 2018, Minutes of EQC Board meeting 9 July 2018.

9(2)(b)(ii)

E. Improve the external monitoring arrangements over EQC

67 Findings in relation to external monitoring arrangements over EQC were included in the Stevenson report, the 2013 and 2015 OAG reports and the Cosman Parkes report.

68 We have not covered the details of these recommendations here as, in many cases, they are recommendations to agencies other than EQC. For example, the Stevenson report makes recommendations to the Treasury and MBIE regarding monitoring of EQC.

F. EQC identifies lessons, tools and information from events that could usefully support responses to future natural disasters.

69 The majority of the external reviews provide lessons learned, tools and information that EQC can use to support the response to future events.³⁷

³⁶ EQC Board paper titled '*Legal and Litigation Update*' dated 9 July 2018 (subject to legal privilege), Minutes of EQC Board meeting 9 July 2018, EQC Board Paper titled '*Dispute Resolution Strategy for Canterbury Claims*' dated 17 August 2018, Minutes of EQC Board meeting 22 August 2018, EQC Board paper titled '*Canterbury Claims Dispute Resolution Strategy – Update*' dated 19 September 2018, Minutes of EQC Board meeting 24 September 2018, EQC Board paper titled '*Dispute Resolution Update*' dated 24 October 2018, Minutes of EQC Board meeting 29 October 2018, EQC Board paper titled '*Progress update on the implementation of the Canterbury Claims settlement strategy*' dated 21 November 2018, Minutes of EQC Board meeting 26 November 2018.

³⁷ Reports already addressed in this paper which are relevant to this theme are: the Neilson Stakeholder Engagement Reports (September 2014) and (May 2015), Acuo reports for the Kaikōura and Valentine's Day 2016 events, 2013 OAG report and 2015 OAG report, Cosman Parkes Report, Annual Reviews by the Finance and Expenditure Committee (previously the Commerce Committee), the 2014 LSI report, KPMG 'Earthquake Commission - Catastrophe Response Quality Assurance & Internal Audit' (5 May 2011), and Martin Jenkins and Associates Limited Draft Report 'EQC Response to Canterbury Events' (1 March 2012).



HUMAN RIGHTS COMMISSION – ‘MONITORING HUMAN RIGHTS IN THE CANTERBURY EARTHQUAKE RECOVERY’ (DECEMBER 2013)

- 70 The Human Rights Commission made recommendations about housing affordability, housing habitability, accessibility and housing, housing security of tenure, government participation in health issues, and the involvement of businesses in human rights. EQC’s internal audit team reviewed the report and defined the main themes³⁸ and corresponding recommendations relating to EQC.³⁹ Refer to **Appendices 2 and 3**.

THE TREASURY – NEW ZEALAND’S FUTURE NATURAL DISASTER INSURANCE SCHEME (JULY 2015) – PROPOSED CHANGES TO THE EARTHQUAKE COMMISSION ACT 1993 DISCUSSION DOCUMENT

- 71 In the early stages of preparation of Treasury’s report, an EQC Board paper⁴⁰ provided the Board with the final terms of reference for the Treasury-led review of the Earthquake Commission Act 1993 (the EQC Act) and a summary of information provided to Treasury on lessons learned to date about the application of the EQC Act in responding to the Canterbury earthquakes (see **Appendix 7** for a copy of this Board paper).

PWC – ‘STRATEGIC REVIEW OF EQC RESPONSE TO KAIKŌURA’ (NOVEMBER 2018)

- 72 The Interim Report was primarily focused on the Kaikōura agency response model pilot, and the strengths and weaknesses of the agency model pilot involving private insurers. The Final Report builds on some of the observations set out in the Interim Report and develops a set of hypotheses to support informed decisions by the EQC Board and management on:
- a The core role of EQC in a natural disaster;
 - b Options available to improve EQC’s preparation and readiness to respond to an event including access to, and use of, industry sector resource; and,

³⁸ These themes were: human rights, owner-driver versus agency driven reconstruction, transparency and accountability, vulnerability, decision making and preparation for the future. See EQC Board paper titled ‘*Statutory External Reviews*’ dated 12 June 2014, Minutes of EQC Board meeting 23 June 2014.

³⁹ EQC Board paper titled ‘*Statutory External Reviews*’ dated 12 June 2014, Minutes of EQC Board meeting 23 June 2014.

⁴⁰ EQC Board paper titled ‘*Treasury- led review of the Earthquake Commission Act 1993: Lessons learned about the EQC model during the Canterbury response*’ dated 10 October 2012, Minutes of EQC Board meeting 12 October 2012, Chief Executive’s report to EQC Board dated November 2012, Minutes of EQC Board meeting 17 November 2012.



- c The work required over the coming years to support a scalable, pre-selected, pre-trained, pre-accredited, integrated response model that is ready to be activated under the direction and decision of EQC.

73 PWC made a number of recommendations which were noted by the Board.⁴¹

⁴¹ EQC Board paper dated 21 November 2018, Minutes of EQC Board meeting 26 November 2018.

List of External Reviews of EQC

Set out below is the list of external reviews. The list is in chronological order of date of Report of each external review. That date is included in the list (where known). There are some categories of other external reviews at the foot of the list.

1. Independent review of the EQC Catastrophe Response Programme (CRP) (2009)
2. Impac Risk & Safety Management Solutions “Report on Earthquake Commission Field Offices in Canterbury” (September 2010)
3. McHale Group Limited – ‘Retrospective Assurance Over the Probity of the Emergency Procurement Tender Process for the Provision of Reinstatement Project Management Services’ (December 2010)
4. Melville Jessup Weaver “Earthquake Commission – Canterbury Earthquake – Estimated Liabilities” (10 December 2010)
5. Impac Risk & Safety Management Solutions ‘Report on Earthquake Commission Field Offices in Canterbury’ (January 2011)
6. 2009/10 Financial review of the Earthquake Commission - Report of the Commerce Committee
7. KPMG “Earthquake Commission - Catastrophe Response Quality Assurance & Internal Audit” (5 May 2011)
8. Linking Strategy to Implementation (LSI) “EQC Claims Reporting Review: Stage One” (August/September 2011)
9. 2010/11 Financial review of the Canterbury Earthquake Recovery Authority and the Earthquake Commission - Report of the Finance and Expenditure Committee
10. KSJ Associates: Review Report: Christchurch 2012 Recruitment Processes
11. Malcolm Inglis, Director of Inglis and Broughton Ltd – ‘Peer Review of EQC report on Christchurch 2012 Recruitment Processes’ (28 February 2012)
12. Letter dated 1 March 2012 from the State Services Commission to EQC regarding ‘Peer Review of EQC report on Christchurch 2012 Recruitment Processes ‘
13. Martin, Jenkins & Associates Limited – Draft Report ‘EQC Response to Canterbury Events’ (1 March 2012)
14. Royal Commission of Inquiry into Building Failure Caused by Canterbury Earthquakes – Final Report – Part 2, Section 1: Volume 4 – see page 11
15. Deloitte – ‘Report on the Earthquake Commission’s procurement procedures for contracting resources to undertake land assessments with Mainland Claims Management Limited and Cerno Limited’ (19 December 2012)
16. 2011/12 Financial review of the Earthquake Commission – Report of the Finance and Expenditure Committee

17. Audit of EQC internal processes following the disclosure by EQC of an incorrectly addressed email (which triggered the temporary closure of EQC's email systems, website, claims processing systems and social media channels)
18. Controller and Auditor-General report: 'Earthquake Commission: Managing the Canterbury Home Repair Programme' (October 2013)
19. Ombudsman and Privacy Commissioner: 'Information fault lines: Accessing EQC information in Canterbury' (13 December 2013)
20. State Services Commission – 'Independent Review of the Earthquake Commission's Customer Satisfaction Survey' (December 2013)
21. Human Rights Commission – 'Monitoring Human Rights in the Canterbury Earthquake Recovery' (December 2013)
22. 2012/13 Financial review of the Earthquake Commission - Report of the Finance and Expenditure Committee
23. Nielsen – 'Stakeholder engagement report' (September 2014)
24. Linking Strategy to Implementation (LSI) Consulting review of customer interactions (November 2014)
25. WorkSafe New Zealand – Investigation into EQC's and Fletcher EQR's asbestos management practices (December 2014)
26. 2013/14 Annual review of the Earthquake Commission - Report of the Finance and Expenditure Committee
27. Nielsen – 'Stakeholder engagement report' (May 2015)
28. The Treasury – 'New Zealand's Future Natural Disaster Insurance Scheme' (July 2015)
29. KPMG – Privacy maturity assessment (10 July 2015)
30. MBIE – 'Earthquake Repairs to Canterbury Homes Home Inspection Survey Report' (August 2015)
31. Controller and Auditor-General report: 'Earthquake Commission: Managing the Canterbury Home Repair Programme- Follow-up audit' (November 2015)
32. Cosman Parkes - 'Health and Safety Lessons Learnt from the Canterbury Earthquake Response' (November 2015)
33. '2014/15 Annual Review of the Earthquake Commission and Report from the Controller and Auditor-General, Earthquake Commission: Managing the Canterbury Home Repair Programme – follow-up audit' - Finance and Expenditure Committee
34. Morrison Lowe - 'Managing Complaints about Staff Conduct' (April 2016)
35. 2015/16 Annual Review of the Earthquake Commission – Report of the Finance and Expenditure Committee
36. 2016/17 Annual Review of the Earthquake Commission – Report of the Governance and Administration Committee

37. Acuo – External Reviews of the Response to the Kaikōura November 2016 Earthquake
38. Acuo – Post Implementation Review – Valentine’s Day EQC/Vero Integration Pilot (August 2016)
39. Acuo – External Review of EQC’s Response to the Valentine’s Day Earthquake (July 2017)
40. KPMG – ‘Earthquake Commission – Fraud and Corruption Strategy – Roadmap’ (24 April 2018)
41. Christine Stevenson, Independent Ministerial Advisor ‘Report of the Independent Ministerial Advisor to the Minister Responsible for the Earthquake Commission’ (April 2018).

9(2)(h)

43. KPMG – ‘Earthquake Commission – Independent Review of Christchurch Claims Data’ (July 2018)
44. Tenzing – ‘EQC IT-CMF Capability Assessment’ (August 2018)
45. KPMG – ‘Earthquake Commission – Tracking of Recommendations Raised in the Independent Ministerial Advisor’s Report’ (November 2018)
46. PwC – ‘Strategic Review of EQC Response to Kaikōura’ (November 2018)

Categories of other External Reviews

47. Melville Jessup Weaver (Actuaries) – ‘Insurance Liability Valuation Reports’ (ILVRs)
48. Successive monthly telephone surveys of customers conducted by UMR Research on behalf of EQC
49. Various external peer reviews of valuation and engineering methodologies for assessment and settlement of Increased Liquefaction Vulnerability (ILV) and Increased Flooding Vulnerability (IFV) land damage claims
50. Until 2016/17 financial year, annual external reviews of the SIPSP (Statement of Investment Policies, Standards and Procedures)
51. Reviews conducted by Reinsurers.²

9(2)(h)

² These are reviews conducted by Reinsurers for their own purposes.

Board Paper

IN CONFIDENCE

To	The Board of the Commission
From	Jane Thomassen, Manager Risk and Assurance
Date	03 April 2014
Prepared By	Morné van Zyl, Manager Audit
Subject	External Reviews

Recommendation

It is recommended that the Board:

- **Note** this update on recommendations made following External reviews completed at the end of 2013.

Introduction/Executive Summary

1. This report provides an update on the progress in identifying and tracking recommendations and corrective actions for the following four external reviews that were published at the end of 2013:
 - State Services Commission
 - Ombudsman
 - Office of the Auditor General
 - Human Rights Commission





Background

2. Internal Audit has undertaken to identify and track all issues and recommendations from the above external reviews. Recommendations will be allocated to appropriate managers for action and setting of completion dates. Management action will be updated monthly to track progress and ensure all issues are addressed. This paper includes:
 - Progress on recommendations where these have been mapped;
 - Commentary on work still to be completed by Internal Audit on the mapping of issues and recommendations.



Comment

3. Internal Audit has been tracking the progress made on issues and recommendations with the appropriate management. Business can recommend “for closure” of recommendations but final closure is at the discretion of the external parties who performed the review.
4. Based on this we have established a tracking indicator which provides an indication of progress made on addressing the issues and recommendations as follows:

	Progress has been made on addressing issues identified and recommendations, delivery has mostly been achieved.
	Some progress has been made on addressing issues identified and recommendations made, delivery is achievable. Some resource allocation required.
	Limited progress has been made on addressing issues identified and recommendations made, delivery is unlikely. Resource allocation required.
	No progress has been made on addressing issues identified and recommendations made, delivery is highly unlikely. Significant resource allocation required.

**State Services Commission**

5. The State Services Commissioner (SSC) was requested to review EQC’s handling of the customer satisfaction survey and the associated advice provided by the EQC to the Minister, which informed his answers to the House. Additionally SSC was requested to review EQC’s information protocols and processes to ensure they are suitable to enable the Minister to fulfil his full range of portfolio interests and responsibilities. KPMG conducted the review.
6. The report made 10 recommendations for improvement which relates to the following themes:
 - Engagement with Minister’s Office
 - Communications Planning and Reporting
 - Knowledge of Systems and Processes within EQC
7. Based on updates received from management, we are confident that recommendations are being considered to address the recommendations and initiatives are underway. Refer to appendix 1 for more details.



Ombudsman

8. The Privacy Act and the Official Information Act (OIA) provide individuals with rights of access to information held by the public sector. The Ombudsman undertook an investigation into the reasons for EQC was not responding to such requests within the required 20 days.
9. The report made 13 recommendations with themes as follows:
 - Process improvement
 - Guidance, policy and communication
 - Reporting
10. Based on a review of updates received from management, the business has made good progress to address the backlog and meet statutory timeframes for new requests. Limited progress has been made to address the overall scope of the recommendations by the Office of the Ombudsman and Privacy Commissioner, as the business has initially addressed the specific actions raised. EQC has committed to reporting to the Ombudsman and Privacy Commissioner every two months on progress addressing the recommendations in the report. Refer to appendix 2 for more details.



Office of the Auditor General







11. The Office of the Auditor General (OAG) prepared a report on how EQC has performed in managing the home-repair programme. It provides an independent and balanced assessment given the context and circumstances, and highlight where EQC can improve services for those still affected and in preparation for future events.
12. The report makes 5 broad recommendations relating to:
 - Quality of repairs and liability of substandard work
 - Communication with homeowners
 - Key performance indicators
 - Ongoing improvement
 - Preparing for the future
13. The 5 recommendations have been mapped to the underlying issues as identified in the detailed report and where appropriate, to previous completed internal audits reports issued. This will inform which managers we will be obtaining monthly progress updates from going forward. Such comments will be included in future ELT updates. An Internal Audit follow up review is scheduled for June 2014.
14. The recommendations relate to continuous improvement of the Canterbury Home Repair Programme (CHRP) to which both EQC and EQR are committed and continued progress has been made. Refer to appendix 3 for more details.





Human Rights Commission







15. The Human Rights Commission (HRC) prepared a report on the human rights aspects of the Canterbury recovery. The core purpose of the report is to encourage influencers and decision-makers to apply a human rights approach to the recovery.
16. Internal Audit has defined the specific issues and corresponding recommendations relating to the EQC. These issues and recommendations will now be socialised and agreed with appropriate management throughout the organisation to collate responses and track progress. The progress will be reported on monthly going forward.
17. From the summary of recommendations the main themes identified relate as follows (refer to appendix 4 for more details.):
 - Human rights
 - Owner- driven versus agency driven reconstruction
 - Transparency and accountability
 - Vulnerability
 - Decision making
 - Preparation for future




APPENDIX 1 - State Service Commission





Finding	Recommendation	Tracking	Comments
Engagement with Minister's Office	<ul style="list-style-type: none"> Review of relationships between EQC Stakeholder Communications and the Minister's. 		<ul style="list-style-type: none"> Changes made include: <ul style="list-style-type: none"> ➤ Regular face to face meeting ➤ Weekly written briefing on proactive initiatives Contribution from Stakeholder Communications to fortnightly Minister updates
	<ul style="list-style-type: none"> Media protocols to establish clear lines of accountability. 		<ul style="list-style-type: none"> Protocols were in place and have again been distributed to staff to ensure consistency.
	<ul style="list-style-type: none"> A template for responding to oral questions and an independent review of such responses before it is submitted. 		<ul style="list-style-type: none"> This was finalised on 5 December 2013. Feedback to date from the Office is that the template provides them with the key information needed at a glance. Decision needs to be made who performs the independent review.
	<ul style="list-style-type: none"> Purpose, methodology and where results of all surveys can be accessed to be documented. 		<ul style="list-style-type: none"> A table of surveys has now been completed. This includes the purpose, methodology and where the results can be found
	<ul style="list-style-type: none"> Issues processed, tracked and reported in ClaimCenter should not impact on the "satisfaction survey" status of a claim. 		<ul style="list-style-type: none"> Process improvement has been identified and scoped with IT. The implementation approaches are being reviewed by the business owner.
Communications Planning and reporting	<ul style="list-style-type: none"> Review communications planning protocols to ensure that they are proactive and risk-based. 		<ul style="list-style-type: none"> This remains a key focus of the Stakeholder Communications Team. However, more resource has been allocated to issues management and planning through to the end of 2014.

Finding	Recommendation	Tracking	Comments
<p>Knowledge of systems and processes in EQC</p>	<ul style="list-style-type: none"> Establish engagement protocols between the Minister’s Office and EQC’s newly created Ministerial Services team. 		<ul style="list-style-type: none"> Engagement protocols have been under development since the appointment of the EQC Private Secretary. This includes: <ul style="list-style-type: none"> ➤ Weekly meetings between the Ministerial Services and the EQC Private Secretary to discuss matters arising ➤ Expectations clarified regarding timing and quality of information provided to the Minister Other matters which have been raised but not yet confirmed include: <ul style="list-style-type: none"> ➤ Moving to a weekly cycle for the regular written update. ➤ The Minister’s EQC diary being provided to Ministerial Services ➤ Proactive engagement with customers in response to Ministerial correspondence ➤ Feedback process for on-going improvements to templates/responses
	<ul style="list-style-type: none"> Regular face-to-face meetings between the Minister and the Chairman of the EQC Board and, as appropriate, with the Chief Executive Officer and executive management. 		<ul style="list-style-type: none"> Monthly meetings between Minister, Chairman of the EQC Board and CEO have been diarised for 2014.



APPENDIX 2 - Ombudsman




Finding	Recommendation	Tracking	Comments
Process improvement	<ul style="list-style-type: none"> Expedite implementation of the software fix 		<ul style="list-style-type: none"> The software fix, though delayed, has dramatically reduced the time it takes to import documents. Recommended to the Ombudsman and Privacy Commissioner for closure.
	<ul style="list-style-type: none"> Review the process for preparing claim files for release 		<ul style="list-style-type: none"> EQC plans to undertake a comprehensive review of the end-to-end response process once the request backlog has been cleared. A project plan for a comprehensive review of the end-to-end response process has been prepared as part of the Business Improvement Initiative and is likely to commence in early May. The software fix to provide bulk downloading addresses the collation of documents.
	<ul style="list-style-type: none"> Reconsider the design of the peer review process 		<ul style="list-style-type: none"> EQC intends to review the peer review process as part of the Business Improvement Initiative commencing in early May.
	<ul style="list-style-type: none"> Urgently consider options for minimising the disparities in response times while the backlog is cleared. 		<ul style="list-style-type: none"> Decision made to progress with disparity and to treat clearing the backlog as a project. Target set to eliminate backlog by 30 April 2014. Where a backlog customer resubmits their request, this is treated as a new request and responded to within statutory timeframes. Prioritisation of requests where customer has complained about delay to Ombudsman.
	<ul style="list-style-type: none"> Consider contacting all requesters to clarify the scope of their request where request is overdue 		<ul style="list-style-type: none"> As EQC works through the backlog of requests, call centre staff are contacting groups of customers with overdue requests to check the scope of the request.
	<ul style="list-style-type: none"> Devise a system for providing regular updates to requesters outside the statutory timeframe. 		<ul style="list-style-type: none"> As above, EQC has been contacting groups of customers with overdue requests as it works through the backlog. However, a system for providing regular updates has not yet been developed.

Finding	Recommendation	Tracking	Comments
<p>Guidance, policy and communication</p>	<ul style="list-style-type: none"> Review the training and guidelines material 		<ul style="list-style-type: none"> There has been a series of meetings between Compliance, the Technical and Statutory Complaints Team, Legal, and the Business Improvement Team to clarify whether the Privacy Act or the Official Information Act will apply in which instances when EQC withholds information. Once this work is completed, EQC will be in a position to review its guidance, policies and communication.
	<ul style="list-style-type: none"> Review the range of information that is authorised to be release 		<ul style="list-style-type: none"> EQC intends to complete this review work as part of the Business Improvement Initiative commencing in early May. Customer Channels staff can now release the costed Scope of Work (SoW) to customers, whose claim is settled and to CHRP customers following the start of repairs. There is an approved list of documents that staff are able to release.
	<ul style="list-style-type: none"> Review the possibility of proactively releasing uncosted assessment reports. 		<ul style="list-style-type: none"> As a matter of course, EQC now provides the scope of work, along with other relevant documentation, to the customer along with their settlement. As part of the Business Improvement Initiative commencing in early May, EQC will consider whether proactive release of information may be incorporated into the claims process as standard practice.

Finding	Recommendation	Tracking	Comments
	<ul style="list-style-type: none"> Clarification of various aspects in the internal and external guidance material 		<ul style="list-style-type: none"> Two recommendations relate to clarification of the application of the Privacy Act and the Official Information Act. As above, a series of meetings have been held between Compliance, the Technical and Statutory Complaints Team, Legal, and the Business Improvement Team to clarify which of the Privacy Act and the Official Information Act will be relied on in which instances when EQC withholds information. Once this work is complete, EQC will be in a position to review its guidance, policies and communication. EQC has clarified on its website that information held by Fletcher EQR and Tonkin and Taylor are “held” by EQC and will be considered when responding to requests. Incorrect information about charging remains on EQC’s website. EQC’s website has not been amended to clarify the limited circumstances under which costing information will be withheld.
	<ul style="list-style-type: none"> Review the breadth and depth of content on the EQC website 		<ul style="list-style-type: none"> A review of all information on both the public and internal websites is to be conducted and updated as part of the Business Improvement Initiative, which is likely to commence in early May.
	<ul style="list-style-type: none"> Include a mock-up of at least one typical claim file on the website 		<ul style="list-style-type: none"> A request has been made to the Communications Team to include the file that is annexed to the Ombudsman’s report on EQC’s website.
Reporting	<ul style="list-style-type: none"> Report weekly TSC Team statistics 		<ul style="list-style-type: none"> EQC is submitting weekly reports on TSC Team statistics. Recommended to the Ombudsman and Privacy Commissioner for closure, subject to on-going reports being provided.

APPENDIX 3 - Office of the Auditor General

Finding	Recommendation	Tracking	Comments
Effectiveness of the Home Repair Programme	<ul style="list-style-type: none"> Continue to improve its approach to auditing repairs in the home-repair programme so the Commission is well informed about the scale and type of repair quality risks, can mitigate those risks where possible, and can match the resourcing of its quality assurance processes to the significance of those risks. 		<ul style="list-style-type: none"> EQC and EQR regularly review the risks associated with CHRP including quality risks, to ensure appropriate mitigations are in place. A risk workshop involving all senior managers was held on 26 March 2014, and a report is being presented to the April PCG and EQC Board meetings. A review has recently been completed to streamline the quality assurance process with the sign-off of the completion of repairs. A pilot sample was extracted from historic repairs to identify quality issues. The pilot outcomes were used to inform the issues which need to be focused on during joint sign off review. Joint sign off outcomes are documented and attended by the EQC quality team (qualified builder), the contractor and contract supervisor.
Homeowners' experience of the Home Repair Programme	<ul style="list-style-type: none"> Continue to improve communication with individual homeowners about their claims, giving homeowners as much certainty as possible as early as possible 		<ul style="list-style-type: none"> EQC continues to refine and target customer communications to ensure customers know where they stand in relation to their claim(s). Current work programmes underway or rolling out in the next six weeks include customers in Multi-Unit Buildings, those with land identified as at increased vulnerability to liquefaction or flooding, and repair timeframes by quarter for all CHRP customers. EQR has developed 10 letters, dependent on status tracking and planned repair dates. These cover estimated timeframe, an explanation of EQR's role as project manager and for quarter 3 & 4 repairs there is a push for them to get in touch if they believe the repair should be escalated. It was confirmed at the CHRP risk workshop on 26 March 2014 that EQR has now communicated with all customers.

Finding	Recommendation	Tracking	Comments
<p>Governing and monitoring the Home Repair Programme</p>	<ul style="list-style-type: none"> Continue to refine key performance indicators for the home repair programme to consistently and meaningfully cover cost, time, quality and safety, with targets where applicable. 		<ul style="list-style-type: none"> In conjunction with annual business planning, key performance indicators and Board and Management dashboards are being reviewed and revised as appropriate. Performance indicators are being reviewed not only with the December 2014 completion targets in mind, but also in consideration of the success criteria of the overall closure of CHRP. Underpinning all performance indicators and success factors is consideration of the key objectives of time, cost, quality and safety It remains a concern that KPIs have not yet been embedded into the reporting for this programme.
<p>Lessons from Home Repair Programme – Ongoing Improvement</p>	<ul style="list-style-type: none"> Continue to review and, if necessary, adjust the configuration of repair and project management services in the home repair programme to deliver the best value and results in the circumstances and treat homeowners fairly and consistently 		<ul style="list-style-type: none"> EQC and EQR are continuing to review all activities. Most recently, the restructuring and consolidation of the hubs involved a review of CHRP’s processes; this has enabled the implementation of consistent end to end processes across all locations, along with a centrally managed monitoring programme. The Technical Hub Red Book containing guidelines regarding repair decisions and repair details has been implemented across HUBs. This now allows the Hub staff to make repair decisions rather than referring these to the Technical Hub and eases consequential delays.
<p>Lessons from Home Repair Programme – Preparing for the Future</p>	<ul style="list-style-type: none"> Identify and record the lessons, tools, and information from the home-repair programme that could usefully support responses to future large-scale natural disasters. 		<ul style="list-style-type: none"> EQC has established a programme of continuous improvement and design for the future operating model. This programme includes; <ul style="list-style-type: none"> ➤ Formal approach to capturing lessons learned by engaging independent expertise ➤ Documenting the Canterbury processes and capturing strengths and weaknesses Leveraging learning from our response to each event (Canterbury, Cook Strait and Eketahuna) , implementing incremental improvements with each response

APPENDIX 4 - Human Rights Commission

Finding	Recommendation	Tracking	Comments
Human rights	<ul style="list-style-type: none"> • Human Rights approach should be imbedded and a disaster recovery plan should be guided by: <ul style="list-style-type: none"> ➤ Prioritisation of vulnerable groups and non-discrimination ➤ Participation and empowerment ➤ Transparency and accountability 		
Owner-driven versus agency driven reconstruction	<ul style="list-style-type: none"> • A human rights-based solution may be to enable and provide Canterbury residents with more choice about how and when they wish to proceed with their repairs. • The Human Rights Commission suggests that this could be achieved by expanding and improving the existing provisions of opting out. 		
Transparency and accountability	<ul style="list-style-type: none"> • It is recommended that in future, in response to a natural disaster in New Zealand, private insurers should take the lead role with EQC having a very limited role under the Earthquake Commission Act 1993 • The active and informed participation of affected people can result in those most affected being able to have input into decisions about how they will be treated. • For authorities to be genuinely accountable, interventions should be monitored to ensure they fairly and equitably deliver what affected communities require (communication and public information campaigns) 		
Vulnerability	<ul style="list-style-type: none"> • An understanding of vulnerability and a demographic profile of the affected areas - including an assessment of vulnerability - is vital to ensuring that any response is equitable and addresses the needs of all sectors of the community. This is particularly important since the poor, the elderly, the disabled and other marginalised groups inevitably fare worst in such situation. 		
Decision making	<ul style="list-style-type: none"> • The Prime Minister's Chief Science Advisor, has emphasised that Canterbury residents need to be involved in - not excluded from decision-making in order to mitigate the sense of powerlessness that follows a natural disaster and mitigate psychosocial harm. • The advantage of a people-centric or rights-based approach is its 'value added' quality that sets it apart from other approaches based on economic recovery goals. It provides qualitative data that offers a more reliable understanding of individual and group vulnerabilities and capabilities. 		
Preparation for future	<ul style="list-style-type: none"> • Public entities needed to sensibly prepare for potentially catastrophic but unlikely events. 		

To be agreed with management during April and May 2014 and tracked going forward

Board Paper

IN CONFIDENCE

To	BOARD OF THE COMMISSION
From	Gillian Dudgeon, Chief Risk Officer
Date	12 June 2014
Prepared By	Morné van Zyl, Manager Audit
Subject	Statutory External Reviews

Recommendation

It is recommended that the Board:

- **Note** this update on recommendations made following Statutory External reviews completed at the end of 2013.

Introduction/Executive Summary





1. This report provides an update on the progress in identifying and tracking recommendations and corrective actions as per the following external reviews issued at the end of 2013 by the:
 - State Services Commission (SSC)
 - Ombudsman
 - Office of the Auditor General (OAG)
 - Human Rights Commission (HRC)

Background

2. Internal Audit has identified all issues and recommendations relating to the SSC and Ombudsman external review. Recommendations were allocated to appropriate managers for comment and follow up and this paper includes progress on the recommendations.
3. The OAG Performance Audit on the Canterbury Home Repairs Programme provided recommendations and this paper outlines EQC's approach to a follow up review.
4. Unlike the other 3 external reviews, the HRC was not specific to EQC, but looked at Human Rights across the Canterbury Recovery. This paper provides commentary on the recommended approach to incorporating the lessons learned into EQC's future operations.

Comment

5. Internal Audit has been tracking the progress made on issues and recommendations with the appropriate management. Business can recommend issues “for closure”, but final closure is at the discretion of the external parties who performed the review.
6. Based on this we have established a tracking indicator which provides an indication of progress made on addressing the issues and recommendations as follows:

	Progress has been made on addressing issues identified and recommendations, delivery has mostly been achieved.
	Some progress has been made on addressing issues identified and recommendations made, delivery is achievable. Some resource allocation required.
	Limited progress has been made on addressing issues identified and recommendations made, delivery is unlikely. Resource allocation required.
	No progress has been made on addressing issues identified and recommendations made, delivery is highly unlikely. Significant resource allocation required.

**State Services Commission**

7. The State Services Commissioner was requested to review EQC’s handling of the customer satisfaction survey and the associated advice provided by the EQC to the Minister, which informed his answers to the House. Additionally SSC was requested to review EQC’s information protocols and processes to ensure they are suitable to enable the Minister to fulfil his full range of portfolio interests and responsibilities. KPMG conducted the review.
8. The report made 10 recommendations for improvement which relate to the following themes:
 - Engagement with Minister’s Office
 - Communications Planning and Reporting
 - Knowledge of Systems and Processes within EQC
9. Management has taken on board recommendations made in the report and have various initiatives underway to address the issues. All recommendations made are being addressed by management and some progress has been made since the last management comments. Subject to the collation of evidence, 5 recommendations can be recommended for closure to the SSC. Refer to appendix 1 for more details.



Ombudsman

11. The Privacy Act and the Official Information Act (OIA) provide individuals with rights of access to information held by the public sector. The Ombudsman undertook an investigation into the reasons for EQC was not responding to such requests within the required 20 days.
12. The report made 13 recommendations with themes as follows:
 - Process improvement
 - Guidance, policy and communication
 - Reporting
13. The business has focused on addressing the backlog and meeting statutory timeframes for new requests. The backlog was cleared prior to the target date of 30 April. Some progress has been made to address the guidance, policy and communications recommendations. Content updates for the EQC website are in draft and being circulated for review and approval. Work is underway with the business to confirm timeframes for delivery of agreed initiatives. Since the previous management update 5 issues are likely to be recommended for closure to the Ombudsman and Privacy Commissioner; this is dependent upon the availability of appropriate evidence of the changes made. Refer to appendix 2 for more details.
14. EQC is due to report to the Ombudsman and Privacy Commissioner on progress addressing the recommendations as at 31 May 2014. We have been advised that the Ombudsman will be formally responding to our initial report shortly. EQC intends reporting following receipt of the response, as this is expected to influence how we report our progress, and what evidence is provided in support, in the next update.



Office of the Auditor General

15. The Office of the Auditor General prepared a report on how EQC has performed in managing the home-repair programme. It provides an independent and balanced assessment given the context and circumstances, and highlight where EQC can improve services for those still affected and in preparation for future events.
16. The report makes 5 broad recommendations relating to:
 - Quality of repairs and liability of substandard work
 - Communication with homeowners
 - Key performance indicators
 - Ongoing improvement
 - Preparing for the future
17. The recommendations relate to continuous improvement of the Canterbury Home Repair Programme (CHRP) to which both EQC and EQR are committed and continued progress has been made. Refer to appendix 3 for more details.
18. The business is addressing and has continued to address the recommendations made in the report. The restructuring and consolidation of the hubs included a review of CHRP's processes and has enabled the implementation of consistent end to end processes across all locations,

along with a centrally managed monitoring programme. Both EQC and EQR regularly review the risks associated with CHRP including quality risks, to ensure appropriate mitigations are in place. Targeted customer communication was undertaken. EQC has established a programme of continuous improvement and design for the future which includes lessons learned.











19. During a meeting with OAG on 21 May 2014 the approach and focus of the EQC review was agreed. The OAG is interested in 'the journey' and the outcomes achieved of ongoing initiatives rather than information on all activities. They will endeavour to rely on EQC's work and reporting and not re-perform an audit, this should minimise any potential disruption to the achievement of the December 2014 targets. The 4 key areas of interest that they are likely to focus on in their follow-up work later in the year are:
 - Vulnerable customers;
 - Cost and KPIs;
 - Cash Settlement; and
 - Forward planning/lessons learned
20. We are in the planning stages of the review, which will be a risk review substantiated by the gathering of evidence. Issues and recommendations have been mapped, with the next steps being to determine what evidence needs to be gathered and the best source thereof. All audit evidence required from EQR will be requested once a complete list has been compiled to avoid continuous interruptions.
21. For further information on progress against the 5 broad recommendations, refer Appendix 3.









Human Rights Commission











22. The Human Rights Commission prepared a report on the human rights aspects of the Canterbury recovery. The core purpose of the report is to encourage influencers and decision-makers to apply a human rights approach to the recovery.
23. Internal Audit has reviewed the report and defined the specific issues and where possible corresponding recommendations relating to the EQC. The main themes identified relate as follows (refer to appendix 4 for more details.):
 - Human rights
 - Owner- driven versus agency driven reconstruction
 - Transparency and accountability
 - Vulnerability
 - Decision making
 - Preparation for future
 - The recommendations in this report do not translate easily into a standard "audit" approach. The formal recommendations in this report were primarily directed to "Government" and "government agencies" rather than to EQC per se. Following a discussion at the Executive leadership team meeting on Tuesday 10th June the recommended next steps are for the Risk and Assurance team to review all correspondence which EQC had with the Human Rights Commission in relation to the draft and final Report and compile a summary of both the themes identified in the final report and EQC's response to each of these. This report will be completed by 31 August 2014.









APPENDIX 1 - State Service Commission









Finding	Recommendation	Tracking	Comments	Previous Tracking
Engagement with Minister's Office	<ul style="list-style-type: none"> Review of relationships between EQC Stakeholder Communications and the Minister's. 		<ul style="list-style-type: none"> Subject to the collation of evidence, this recommendation can be recommended for closure to the SSC. Changes made to the engagement with staff in the Minister's Office include: <ul style="list-style-type: none"> ➤ Regular face to face meetings; ➤ Weekly written briefing on proactive initiatives; and ➤ Contribution from Stakeholder Communications to fortnightly Minister updates. 	
	<ul style="list-style-type: none"> Review media protocols to establish clear lines of accountability. 		<ul style="list-style-type: none"> Subject to the collation of evidence, this recommendation can be recommended for closure to the SSC. Protocols were in place and have again been distributed to staff to ensure consistency. 	
	<ul style="list-style-type: none"> A template for responding to oral questions and an independent review of such responses before it is submitted. 		<ul style="list-style-type: none"> Subject to the collation of evidence, this recommendation can be recommended for closure to the SSC. Based on the positive feedback from the Minister's Office, the current template format will be retained as it provides them with the key information needed at a glance. The documented procedures for responding to Parliamentary questions have also been reviewed and a risk rating of subject matter for the basis for approval is proposed. Only critical risk matters would go to the CE for approval after review by a GM (preferably the relevant GM) first. All responses will be reviewed by Manager Ministerial Services, who will also approve lower risk responses. Higher risk responses will be approved by either Manager Policy, Manager OCE and/or a GM. 	
	<ul style="list-style-type: none"> Purpose, methodology and where results of all surveys can be accessed to be documented. 		<ul style="list-style-type: none"> This recommendation can be recommended for closure to the SSC. A table of surveys which includes the purpose, methodology and where the results can be found has been completed. 	
	<ul style="list-style-type: none"> Issues processed, tracked and reported in ClaimCenter should not impact on the "satisfaction survey" status of a claim. 		<ul style="list-style-type: none"> Technical solution to prevent the possibility of closed claims being excluded from the survey (albeit a very small number) has been developed. Business owners have been consulted and agree with the solution. Change is to be progressed through the next CMS stage-gate. 	

Finding	Recommendation	Tracking	Comments	Previous Tracking
Communications Planning and reporting	<ul style="list-style-type: none"> Review communications planning protocols to ensure that they are proactive and risk-based. 		<ul style="list-style-type: none"> Further enhancements to issues planning include increasing frequency of briefings on media contact to twice daily, and holding a number of proactive media briefings on issues that are likely to result in media coverage, including MUBs, flooding and completion of the CHRP. 	
Knowledge of systems and processes in EQC	<ul style="list-style-type: none"> Establish engagement protocols between the Minister's Office and EQC's newly created Ministerial Services team. 		<ul style="list-style-type: none"> Regular reporting to the Minister remains in place. The EQC Private Secretary, Manager Ministerial Services and Stakeholder Engagement and Reputation Managers now also meet on a weekly basis to discuss matters arising. Manager Ministerial Services and EQC Private Secretary are also working to document respective processes to ensure alignment and understanding. Work has also begun to ensure information passing between EQC and the Minister is funnelled through the EQC Private Secretary and the Ministerial Services Team. 	
	<ul style="list-style-type: none"> Regular face-to-face meetings between the Minister and the Chairman of the EQC Board and, as appropriate, with the Chief Executive Officer and executive management. 		<ul style="list-style-type: none"> Subject to the collation of evidence, this recommendation can be recommended for closure to the SSC. EQC Management continues to meet with the Minister at his discretion to brief him on specific issues. The Minister, Chairman of the EQC Board and Chief Executive Officer continue to meet monthly. 	







APPENDIX 2 - Ombudsman

Finding	Recommendation	Tracking	Comments	Previous Tracking
Process improvement	<ul style="list-style-type: none"> Expedite implementation of the software fix 		<ul style="list-style-type: none"> Awaiting confirmation from Ombudsman that this recommendation can be closed. 	
	<ul style="list-style-type: none"> Review the process for preparing claim files for release 		<ul style="list-style-type: none"> End-to-end process was documented in October 2013. Process areas reviewed for efficiency are: <ul style="list-style-type: none"> ➤ bulk download of documents (implemented), ➤ automatic redaction of staff names (rejected), and ➤ peer review process (rejected). Conclusion reached that existing process is most efficient given cost of implementing additional benefits. Additional improvements to process would not significantly improve outcomes. On-going monitoring of incoming requests and response times, with adequate resourcing of the TSCT team, will be used to prevent breaches of the statutory timeframes. Likely to be recommended for closure subject to sufficient documented evidence being available. 	
	<ul style="list-style-type: none"> Reconsider the design of the peer review process 		<ul style="list-style-type: none"> Business owner considers the peer review process is proportionate and appropriate to address the privacy and quality risks identified. Likely to be recommended for closure subject to sufficient documented evidence being available. 	
	<ul style="list-style-type: none"> Urgently consider options for minimising the disparities in response times while the backlog is cleared. 		<ul style="list-style-type: none"> 'Backlog' cleared by 30 April 2014. Awaiting comment from Ombudsman and Privacy Commissioner that steps taken to address the disparity were sufficient to address the issue. Awaiting confirmation this recommendation can be closed. 	
	<ul style="list-style-type: none"> Consider contacting all requesters to clarify the scope of their request where request is overdue 		<ul style="list-style-type: none"> End-to-end process includes step to review request details. The step notes that it "May require customer contact if request or scope is unclear or if extension is deemed necessary." 'Backlog' customer contact process completed by 30 April. Likely to be recommended for closure. 	

Finding	Recommendation	Tracking	Comments	Previous Tracking
	<ul style="list-style-type: none"> Devise a system for providing regular updates to requesters outside the statutory timeframe. 		<ul style="list-style-type: none"> Process updated to include a step where a business unit must contact the requestor to advise of delays if the request was not provided to the TSCT team within two days of receipt. Likely to be recommended for closure. 	
Guidance, policy and communication	<ul style="list-style-type: none"> Review the training and guidelines material 		<ul style="list-style-type: none"> A recommendation that these steps address part of the action point will be included in the next update to the Ombudsman. Training for Customer Channels staff delivered in April 2014. Guidance and training material for 'Request for Documents' updated on Intranet on 8 May 2014. Intranet now states "A customer can make a request for any information held by EQC. This is considered a request under the Official Information Act (OIA) or the Privacy Act, depending on the subtleties of the request." This was updated on 13 May 2014. A comparison of the request provisions in the Privacy Act and OIA, and how these are applied to the information EQC commonly withholds was completed in April. Amendments to systems are to be implemented by 30 June. 	
	<ul style="list-style-type: none"> Review the range of information that is authorised to be release 		<ul style="list-style-type: none"> EQC has put in place a set of approved documents that Customer Channels staff members are able to release. These applied from May 2014. Redaction software licences have been provided to Customer Channels staff members for responding to requests for documents. Where redaction software is not available or is not as efficient, processes are in place to manually redact information from documents prior to release. Likely to be recommended for closure. 	
	<ul style="list-style-type: none"> Review the possibility of proactively releasing uncosted assessment reports. 		<ul style="list-style-type: none"> Scope of Works (SOW) proactively released to customers at settlement. Certain SOWs can be released on request by Customer Channels. Guidance is available to Customer Channels staff on when a costed or uncosted SOW can be released. Training on how to create a costed SOW from COMET is available on Insite. This information was updated on 19 May 	

Finding	Recommendation	Tracking	Comments	Previous Tracking
	<ul style="list-style-type: none"> Clarification of various aspects in the internal and external guidance material 		<ul style="list-style-type: none"> Intranet now states "A customer can make a request for any information held by EQC. This is considered a request under the Official Information Act (OIA) or the Privacy Act, depending on the subtleties of the request. The Customer does not have to refer to the Official Information or Privacy Act to 'officially' request the information." This was updated on 13 May 2014. EQC website content has been drafted and is with the Business Owner for approval prior to being circulated internally to interested stakeholders. The website content is to be published by 30 June. It is anticipated that the amendments to the website will address this action point. Internal guidance material updated to include information held by EQR and Tonkin and Taylor. "All information" requests clarifies that this includes all information from EQR. This information was updated on 13 May. The next report to the Ombudsman will recommend that this point has been addressed. Advice on when costing information will be withheld is available on the Intranet. This was updated on 31 March 2014. 	
	<ul style="list-style-type: none"> Review the breadth and depth of content on the EQC website 		<ul style="list-style-type: none"> EQC website content has been drafted and is with the Business Owner for approval prior to being circulated internally to interested stakeholders. The website content is to be published by 30 June 2014. It is anticipated that the amendments to the website will address this action point. 	
	<ul style="list-style-type: none"> Include a mock-up of at least one typical claim file on the website 		<ul style="list-style-type: none"> As above 	
Reporting	<ul style="list-style-type: none"> Report weekly TSC Team statistics 		<ul style="list-style-type: none"> Weekly statistics are provided to Ombudsman and Privacy Commissioner. Statistics will continue to be provided until advised by Ombudsman they are no longer necessary. Awaiting confirmation that this recommendation can be closed. 	

APPENDIX 3 - Office of the Auditor General

Finding	Recommendation	Tracking	Comments	Previous Tracking
Effectiveness of the Home Repair Programme	<ul style="list-style-type: none"> Continue to improve its approach to auditing repairs in the home-repair programme so the Commission is well informed about the scale and type of repair quality risks, can mitigate those risks where possible, and can match the resourcing of its quality assurance processes to the significance of those risks. 		<ul style="list-style-type: none"> EQC and EQR regularly review the risks associated with CHRP including quality risks, to ensure appropriate mitigations are in place. A risk workshop involving all senior managers was held on 26 March 2014, and a report was presented to the April PCG and EQC Board meetings. A review has recently been completed to streamline the quality assurance process with the sign-off of the completion of repairs. A pilot sample was extracted from historic repairs to identify quality issues. The pilot outcomes were used to inform the issues which need to be focused on during joint sign off review. Joint sign off outcomes are documented and attended by the EQC quality team (qualified builder), the contractor and contract supervisor. 	
Homeowners' experience of the Home Repair Programme	<ul style="list-style-type: none"> Continue to improve communication with individual homeowners about their claims, giving homeowners as much certainty as possible as early as possible 		<ul style="list-style-type: none"> EQC continues to refine and target customer communications to ensure customers know where they stand in relation to their claim(s). Current work programmes underway or rolling out in the next six weeks include customers in Multi-Unit Buildings; those with land identified as at increased vulnerability to liquefaction or flooding, and repair timeframes by quarter for all CHRP customers. EQR has developed 10 letters, dependent on status tracking and planned repair dates. These cover estimated timeframe, an explanation of EQR's role as project manager and for quarter 3 & 4 repairs there is a push for them to get in touch of they believe the repair should be escalated. EQR has now communicated with the majority of customers. 	
Governing and monitoring the Home Repair Programme	<ul style="list-style-type: none"> Continue to refine key performance indicators for the home repair programme to consistently and meaningfully cover cost, time, quality and safety, with targets where applicable. 		<ul style="list-style-type: none"> In conjunction with annual business planning, key performance indicators and Board and Management dashboards are being reviewed and revised as appropriate. Performance indicators are being reviewed not only with the December 2014 completion targets in mind, but also in consideration of the success criteria of the overall closure of CHRP. Underpinning all performance indicators and success factors is consideration of the key objectives of time, cost, quality and safety Visibility of KPI reporting is improving following detailed work to confirm numbers within CHRP. 	

Finding	Recommendation	Tracking	Comments	Previous Tracking
Lessons from Home Repair Programme – Ongoing Improvement	<ul style="list-style-type: none"> Continue to review and, if necessary, adjust the configuration of repair and project management services in the home repair programme to deliver the best value and results in the circumstances and treat homeowners fairly and consistently 	●	<ul style="list-style-type: none"> EQC and EQR are continuing to review all activities. Most recently, the restructuring and consolidation of the hubs involved a review of CHRPs processes; this has enabled the implementation of consistent end to end processes across all locations, along with a centrally managed monitoring programme. The Technical Hub Red Book containing guidelines regarding repair decisions and repair details has been implemented across HUBs. This now allows the Hub staff to make repair decisions rather than referring these to the Technical Hub and eases consequential delays. 	●
Lessons from Home Repair Programme – Preparing for the Future	<ul style="list-style-type: none"> Identify and record the lessons, tools, and information from the home-repair programme that could usefully support responses to future large-scale natural disasters. 	●	<ul style="list-style-type: none"> EQC has established a programme of continuous improvement and design for the future operating model. This programme includes; <ul style="list-style-type: none"> ➤ Formal approach to capturing lessons learned by engaging independent expertise ➤ Documenting the Canterbury processes and capturing strengths and weaknesses Leveraging learning from our response to each event (Canterbury, Cook Strait and Eketahuna), implementing incremental improvements with each response 	●

APPENDIX 4 - Human Rights Commission

Finding	Recommendation	Tracking	Comments
Human rights	<ul style="list-style-type: none"> • Human Rights approach should be imbedded and a disaster recovery plan should be guided by: <ul style="list-style-type: none"> ➤ Prioritisation of vulnerable groups and non-discrimination ➤ Participation and empowerment ➤ Transparency and accountability 		
Owner-driven versus agency driven reconstruction	<ul style="list-style-type: none"> • A human rights-based solution may be to enable and provide Canterbury residents with more choice about how and when they wish to proceed with their repairs. • The Human Rights Commission suggests that this could be achieved by expanding and improving the existing provisions of opting out. 		
Transparency and accountability	<ul style="list-style-type: none"> • It is recommended that in future, in response to a natural disaster in New Zealand, private insurers should take the lead role with EQC having a very limited role under the Earthquake Commission Act 1993 • The active and informed participation of affected people can result in those most affected being able to have input into decisions about how they will be treated. • For authorities to be genuinely accountable, interventions should be monitored to ensure they fairly and equitably deliver what affected communities require (communication and public information campaigns) 		
Vulnerability	<ul style="list-style-type: none"> • An understanding of vulnerability and a demographic profile of the affected areas - including an assessment of vulnerability - is vital to ensuring that any response is equitable and addresses the needs of all sectors of the community. This is particularly important since the poor, the elderly, the disabled and other marginalised groups inevitably fare worst in such situation. 		
Decision making	<ul style="list-style-type: none"> • The Prime Minister's Chief Science Advisor, has emphasised that Canterbury residents need to be involved in - not excluded from decision-making in order to mitigate the sense of powerlessness that follows a natural disaster and mitigate psychosocial harm. • The advantage of a people-centric or rights-based approach is its 'value added' quality that sets it apart from other approaches based on economic recovery goals. It provides qualitative data that offers a more reliable understanding of individual and group vulnerabilities and capabilities. 		
Preparation for future	<ul style="list-style-type: none"> • Public entities needed to sensibly prepare for potentially catastrophic but unlikely events. 		

The recommendations in this report do not translate easily into a standard “audit” approach. The formal recommendations in this report were primarily directed to “Government” and “government agencies” rather than to EQC per se. Following a discussion at the Executive leadership team meeting on Tuesday 10th June the recommended next steps are for the Risk and Assurance team to review all correspondence which EQC had with the Human Rights Commission in relation to the draft and final Report and compile a summary of both the themes identified in the final report and EQC’s response to each of these. This report will be completed by 31 August 2014.

Board Paper

Appendix 4

To	BOARD OF THE COMMISSION
From	Gillian Dudgeon – General Manager – Shared Services
Prepared By	Gillian Dudgeon – General Manager – Shared Services
Decision date	23 November 2015
Paper date	10 November 2015
Title	Quality Assurance for the CHRP Programme

Proposal

1. At its meeting of 27 July 2015 the Board was presented with a paper titled “Canterbury Home Repair Programme Quality Assurance Overview”. That paper provided a high level overview of the Canterbury Home Repair Programme claims process and quality assurance.
2. Management was asked by the Board to report back on the adequacy of the quality assurance process for EQC and to the extent necessary, EQR.
3. The Board has also asked Management to provide clarity on the roles and responsibilities of EQR and EQC in the Quality Assurance framework.
4. This paper provides the Board with a summary of the inspection and quality assurance procedures which sit across the Canterbury Home Repair Programme (CHRP), and the current status of EQC’s role in the overall Quality Assurance framework.

Strategic alignment

5. This paper aligns with EQC’s strategic objective for Canterbury completion.

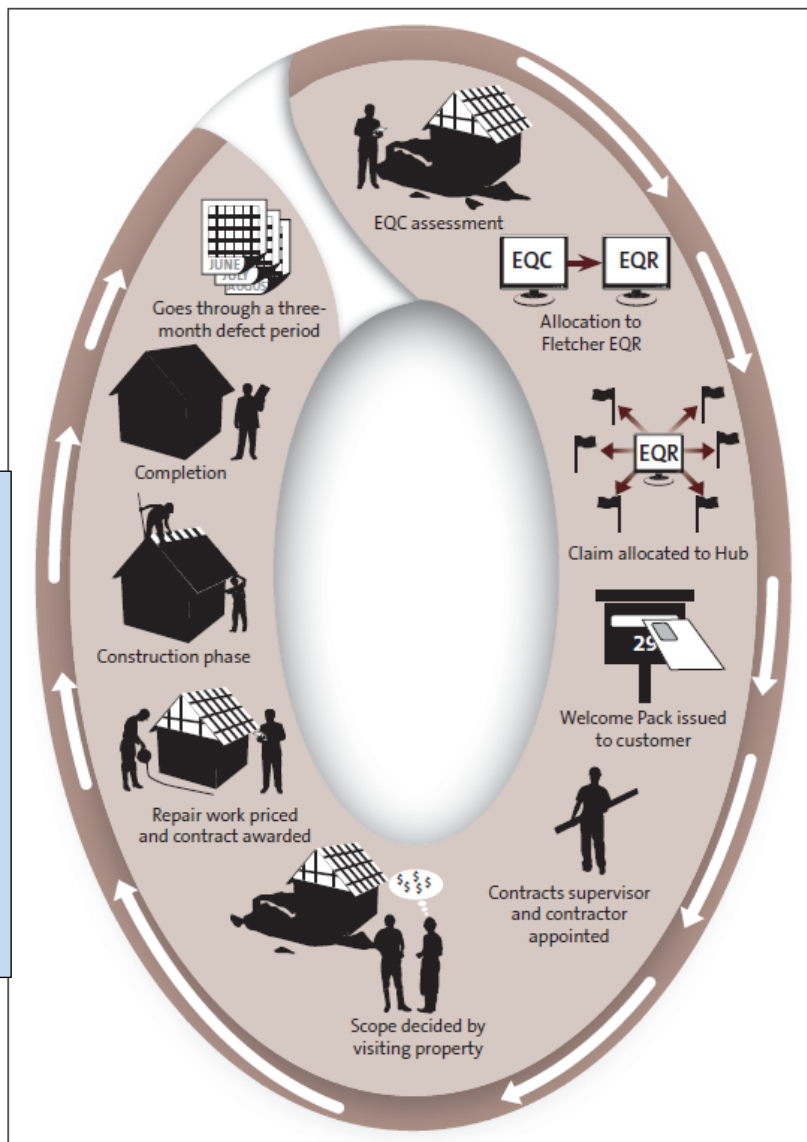
Recommendations

6. It is recommended that the Board:
 - a. **note** the overview provided in this paper of the overall CHRP Quality Assurance framework which consists of a three tier framework comprising:
 - i. **Performance Assurance**, the key responsibility of EQR
 - ii. **Review Assurance**, the responsibility of EQC and Territorial authorities (where applicable)
 - iii. **External Assurance**, undertaken by external parties



Background

7. The overall CHRP Quality Assurance programme has oversight across the overall repair process. The three tiered assurance processes target key parts of the process as shown on the picture below:



Repair work is monitored through:

- Contractor Performance management
- Live site inspections
- Hub QA processes
- EQR&EQC sign off process
- C3 finalisation
- External reviews

Monitoring of processes for Contractor:

- accreditation
- allocation

Source: Based on EQC's depiction in *Your guide to the Canterbury Home Repair Programme* (August 2012). "Fletcher

8. The table on the following page details the key elements of each of the three tiers which combine to deliver the overall Quality Assurance Framework:
- Performance Assurance**, the key responsibility of EQR
 - Review Assurance**, the responsibility of EQC and Territorial authorities (where applicable)
 - External Assurance**, undertaken by external parties

Key Elements of the Quality Assurance Framework			
	Responsibilities of:	Framework Components	Comment
Performance Assurance	EQR	<ul style="list-style-type: none"> • Contractor accreditation and performance management processes, procedures and training • Contract supervisor appointed to each job to monitor progress of repairs and checks that quality standards are being met • C3 finalisation process which covers both contractor finalisation and the reconciliation of repairs invoiced. 	<ul style="list-style-type: none"> • EQR complimented these mechanisms with dedicated Quality Assurance resources until mid 2014 who performed reviews on Hubs to assure process and procedures were being followed. • EQR provided updated guidance to contractors and supervisors on the back of the results of their QA programmes (e.g. Claim Completion Guide to support more robust and consistent sign off processes) • Responsibility for any defects identified was initially with the contractor as per standard market practice and obligations (including retention payments). • EQR's independent complaint resolution team was a source of feedback on contractor performance and led to establishment of a dedicated EQR remediation team
Review Assurance	EQC	<ul style="list-style-type: none"> • Quality Assurance Inspection team 	<ul style="list-style-type: none"> • Inspections occur at 2 points: <ul style="list-style-type: none"> ○ <i>Live sites</i> prior to sign off focussing on safety conversations and compliance related issues (against trade standards and MBIE guidelines) - 331 completed between 1 January 2015 and 31 March 2015. ○ <i>Attend joint first time sign off</i> meetings with EQR. Inspections have ranged from 25% of properties in mid 2013 to 30-40% in the past year. Target for 2015/16 is 60-80% of sign offs. Weekly reporting provides insights into quality issues and processes. Over the past 18 months approximately 56% of sites could be signed off on the first visit.

Key Elements of the Quality Assurance Framework			
	Responsibilities of:	Framework Components	Comment
Review Assurance	Territorial Authorities	<ul style="list-style-type: none"> • Internal reviews 	<ul style="list-style-type: none"> • EQC has completed internal audits across the contractor accreditation and allocation processes of EQR. • EQC ran a quality assurance pilot in mid 2013 to review retrospective and current state samples of completed repairs. This comparative study focussed on the overall quality of repairs and robustness of sign off processes. As a result a joint sign off process was established with EQC's Quality Assurance Inspection team. • The Investigations Team (formerly the Claims Review Team) has assessed the performance of 151 contractors post concerns about potential fraud identifying and reporting on a range of quality issues. • Exceptions/incomplete files from C3 finalisation process are reviewed by EQC to confirm status (e.g. was consent required) • Risk & Assurance ran a self-assessment review of progress of the overall quality framework in advance of the OAG follow up review (presented to ARC in December 2014) • At times these external consents have been taken to provide broader assurance over the validity of the repairs- i.e. as a second line assurance.
		<ul style="list-style-type: none"> • Consentable work 	
External Assurance	External Stakeholder reviews	<ul style="list-style-type: none"> • Performance audits by the Officer of the Audit General (2012/13 with a follow up review in 2014/15) • Ministry of Business Innovation and Enterprise (MBIE)'s Canterbury Earthquake defect and Repair (CEDAR) review (2015) • Independent review of response to CEDAR to be commissioned • IPENZ investigation into 11 complaints made against a senior EQC engineer (initial findings all overturned on appeal) 	<ul style="list-style-type: none"> • Each of these reviews has been used to improve the quality assurance processes across the CHRP programme.

Current Status

9. The overall quality framework for the CHRP programme has continued to evolve across the life of the programme. The multi layered assurance processes have given rise to a continuous improvement approach whereby as issues are identified processes are adapted and improved.
10. It is recognised that there are inherent challenges with achieving first time quality repairs within the construction industry and noting that this is recognised within the Building Act, EQC has ensured that there are avenues by which customer can have any remediation work addressed.
11. As a result of the MBIE review EQR has had to review its processes associated with work undertaken through the Technical Hub, specifically in relation to jack and pack repairs. An external specialist was brought in by EQR to review all processes and confirm these were appropriate to deliver the necessary standard of repairs and quality.
12. To provide assurance to EQC and its key stakeholders that the approach taken by EQR to address the findings of the MBIE report is satisfactory an Assurance Review of the Technical Work and Underfloor Repairs within CHRP is being undertaken by the Risk and Assurance team. As agreed with the Minister, an independent review of all the work undertaken in response to the CEDAR review will be undertaken at an appropriate time.
13. EQC's Quality Assurance Inspection team are currently reviewing their focus given the decreasing numbers of first time repairs available for inspection. The results of this work will determine the ongoing resource requirements for this team. The focus of the team will be:
 - a. Achieving the 60-80% inspection rate on first time repairs (as per the target detailed in the Statement of performance for EQC)
 - b. Agree an appropriate approach to providing assurance across the remediation work being managed by the Post Repair enquiry team. The potential reputational risks associated with outputs of this work require EQC to establish a "fit for purpose" inspection framework for remedial activity.

Consultation

14. The ELT have reviewed and provided input into the preparation of this paper.

Board Paper

To	BOARD OF THE COMMISSION
From	Lynda Jelbert, GM People and Capability
Through	Alison Jarvis, Senior Health and Safety Advisor
Prepared By	Alison Jarvis, Senior Health and Safety Advisor
Decision date	N/a
Paper date	11 February 2016
Title	Health and Safety Lessons Learnt Recommendations from the Cosman Parkes Report Incorporated in to the Health And Safety Business Plan 2016

Proposal

1. The purpose of this paper is to inform the Board of the Cosman Parkes 'Health and Safety Lessons Learnt' report recommendations and the incorporation into the Health and Safety Business Plan 2016.

Recommendations

2. It is recommended that the Board:
 - a) **note** the Cosman Parkes report (see Appendix 1);
 - b) **note** the 11 recommendations should not be limited to implementation by Health and Safety functions alone; some will require multifaceted input from all areas and levels of the EQC business streams; and
 - c) **note** the EQC Health and Safety team business plan (see Appendix 2).

Executive Summary

3. The Health and Safety Lessons Learnt paper outlines 11 recommendations and suggested actions to implement. The recommendations are currently being reviewed by Health & Safety (H&S) and other parts of the business on how to integrate these for the future.

#	Recommendation	HS business Plan 2016
1	Develop an overarching strategic vision for post-event health and safety recognising that huge projects such as the Canterbury rebuild present opportunities not just to repair, but also to make better. This could be modelled on the London 2012 Olympic Delivery Authority Legacy approach of 'safe (no fatalities, low accident rate), healthy (no occupational ill health) and wellbeing (everyone healthier for working on the programme)'.	Health and Safety has been working to consolidate and build on the work done to date while incorporating the requirements of the new legislation. This will be achieved by establishing strong links between Health, Safety and Well-being, employee engagement, and having the business senior management endorse elements of the programs and initiatives to embed our vision in our organisations culture. [covered in HS Business plan 2016 Safety Leadership, Lessons learnt and Post Canterbury Structure]
2	Develops a decision making model or set of principle to help guide it through the various procurement and delivery options for responding to a range of future events that treats health and safety as one of the critical success factors.	The HS team will continue to maintain is high standard in 'care and maintenance mode' - while working to effectively integrate safety with the work being undertaken so that safety becomes an indistinguishable part of the work itself. [A body of work surrounds contractor and supplier management and associated hazard and risk mitigation. Work to be done in conjunction with other business streams; Contractor Engagement + Monitoring Management]



3	Engages construction client experts to advise it during the scoping, letting, negotiation and monitoring of significant contracts to ensure that the commercial and health and safety considerations are considered in tandem.	Commercial and HS working in tandem [Contractor Engagement and Monitoring , Safety Key Performance Indicators and Pre-Qualification of Contractors all w Work to be done in conjunction with other business streams]
4	Engages senior level, professional health and safety advisors at the earliest opportunity post-event with a specific focus on ensuring contracting arrangements (whether with a PMO, assessors, surveyors, engineers or building/civil engineering contractors) have health and safety at their core. One role should report directly to the CEO and assist in managing strategic and governance issues while another should report to the Chief Operations Officer (or equivalent) responsible for delivery.	HS Business plan has a deliverable for the team to complete a review of the current Health and Safety position descriptions and provide an accompanying established method sheet (procedure sheet) of tasks to enable the rapid assembly and activation of project Health and Safety Team to work collaboratively within the business in Critical Events
5	Ensures any contracts it lets are explicit about the respective roles and responsibilities of each party and the means by which they will be monitored and held account for agreed standards of performance. This should build on the new legal concept of the PCBU's role in relation to all those at work under its influence, direction or control and the requirement for PCBU's to cooperate, coordinate and collaborate.	Captured in Contractor Management, Risk Management and Contractor Engagement and Monitoring and the requirement for Pre-Qualification in the HS Business Plan [Work to be done in conjunction with other business streams]
6	Take a leadership role in developing consistent Health and Safety approaches to be adopted across public and private sector stakeholders in any future residential repair programme (e.g. with housing NZ and other social housing providers, TLAs, private insurers and PMOs, CERA equivalent, etc.)	The role of HS Manager EQC is has recently been filled and the team has ensured support and representation at internal and external meetings to positively represent and enhance the profile of Health and Safety in EQC. External meetings are based around CHRP work and engagement with ACC, WorkSafe, CERA, Canterbury Rebuild Safety Charter and Forum as well as Governance and oversight of Fletcher EQR and T&T [Safety leadership and the HS Lessons learnt from the Canterbury event]
7	Developing strategic level relationships with WorkSafe NZ designed to ensure clarity of expectation during critical phases of a post-event response.	Preventing negative interaction while conducting work as we close out the Canterbury Project and moving forward to business as usual; Health and Safety would like to focus not only on compliance, but on developing positive EQC business engagement with the regulator. This will be done by putting professionalism into practice and actively interfacing with WorkSafe at engagement forums.
8	Incorporates Health and Safety as a specific element of its strategic risk matrix.	Health and Safety appears on the EQC risk register and has effective mitigation strategies in place. These have been reviewed by Risk Management for 2016. Following on Health and Safety also carries a Hazard and Risk register as outlined in The Health and Safety Management System Manual [Sec 3] which has been reviewed for 2016 on the back of the Tertiary ACC Accreditation
9	Retains and updates its existing health and safety systems on a 'care and maintenance' basis so that they are available to be deployed at short notice.	The HS team has updated plans and objectives and is maintaining operation oversight in Christchurch Rebuild Projects and preparing for Business as Usual. [legislative update and Hazard and Risk Mitigation}
10	Formally develops plans to address the risks of short and long term psychological harm for staff exposed to and responding to a future disaster.	Health and safety will work with other EQC business streams to facilitate resilience in psychosocial areas of concern. Many of the programs and initiatives will require collaboration, support and participation across EQC to ensure effectiveness [Work to be done in conjunction with other business streams on wellness and resilience]
11	Develops an implementation plan to respond to the changes outlined in the Health and Safety Reform Bill – in particular around the duties of 'officers'.	Health and Safety team will discuss and support the development of any Plan with regard to safety roles and responsibilities for officers within EQC. [Work to be done in conjunction with other business streams]

Comment

4. The H&S Manager and the team are resolute in their mission to create and maintain a workplace culture of safety, caring and cooperation across EQC to enhance awareness and help everyone to stay safe while at work or engaging with EQC.
5. The H&S team are central to processes to prevent and manage injury, illness as well as stress and fatigue related issues and are fundamental to ensuring that the risk of work related injury illness stress and fatigue is properly identified and managed.
6. The H&S team will collaborate with the wider organisation in mitigating health, safety, wellness and resilience issues. Depending on how the organisation wants to divide responsibilities, different tasks may be more the Health and Safety Managers responsibility or rest with other teams managers'.
7. While the Cosman Parkes report is focused on the health and safety lessons learnt, implementation of the recommendations cannot be achieved by the health and safety team alone.

27 April 2016

Mr Larry Bellamy
Manager, Engineering, Design & Science

By email: Larry.Bellamy@mbie.govt.nz

Dear Larry

Thank you for your letter of 24 February 2016 asking about the Earthquake Commission's (EQC) follow up actions to the Ministry of Business, Innovation, and Employment's (MBIE) report *Earthquake Repairs to Canterbury Homes: Home Inspection Survey Report* (the CEDAR report). Thank you also for meeting with EQC on 4 March 2016 to discuss progress on the CEDAR report; and for informing us of the date of the April 2016 MBIE/Project Management Office (PMO) workshop to discuss issues with application of the Building Code to underfloor work. Reports from EQC staff that attended the MBIE/PMO workshop were that it was useful in understanding the application of the Building Code to underfloor repairs. It is possible that EQC will be in contact with MBIE to get further clarification of the Building Code.

MBIE recommendations:

Home inspection survey issues

1. *Agencies and/or their PMOs to rectify Building Code compliance issues identified by the survey*

(The following completion rates are as at 31 March 2016.)

Of the 26 properties repaired through the Canterbury Home Repair Programme (CHRP), and identified in the CEDAR report as having 'non-compliant' repairs, EQC and Fletcher Earthquake Recovery (Fletcher EQR) have remediated 22 properties to the Building Code. Of the remaining four properties, two properties have remediation work underway; one property's remediation work is complete, but the work has not yet been signed off; and work at the remaining property is 'on-hold' at the owner's request.

EQC and Fletcher EQR have completed all necessary work on 28 of the 29 properties repaired in CHRP and identified as having 'minor' defects in the CEDAR report. Remediation work has begun at the final property.

Wider home repair programmes

2. *Agencies and/or their PMOs to undertake a review of completed repair work that has been exempted from a building consent, targeting houses where the repair works involved jacking and packing repair, to ensure compliance with the Building Code.*

EQC and Fletcher EQR are reviewing 2,325 properties, where underfloor repairs were completed as part of the CHRP repair to ensure the repairs meet Building Code.

EQC and Fletcher EQR are reviewing 2,325 properties, where underfloor repairs were completed as part of the CHRP repair to ensure the repairs meet Building Code.

As at 7 April 2016:

Status of Review Process	Number of properties
Inspection complete	1,615
Inspection not yet started	710
TOTAL	2,325

Inspection Complete	
Properties that meet the Building Code	324
Remedial work in progress	159
Remedial work completed	22
Awaiting determination (<i>still being reviewed to ensure completed repair meets Building Code or if remedial work required</i>)	1,110
TOTAL	1,615

3. Agencies and/or their PMOs to ensure that inspection and quality assurance procedures for current and future foundation repair work are robust.

As a result of the MBIE review Fletcher EQR contracted BECA engineer Ian Fraser to independently review processes relating to engineering works. The “Fraser Report” identified a number of improvements to Fletcher EQR’s systems that will ensure compliance of jack and pack works against the Building Code. Key to those recommendations was ensuring contractors (Licensed Building Practitioners (LBP) in particular), engineers, and contract supervisors are clear about their roles and responsibilities when undertaking technical works. The report also recommended that engineers attend site commencement meetings to discuss technical requirements with contractors and contract supervisors prior to works commencing, that video footage be taken of subfloor works prior to sign-off to enable structural engineers to review and confirm compliance, and that improvements are made to the technical hub’s file management systems. All of the Fraser Report recommendations have been implemented across Fletcher EQR’s current and future work programme.

EQC continually reviews its quality assurance processes as our work in Canterbury evolves. EQC’s overall Quality Assurance Framework incorporates:

Performance Assurance, the key responsibility of Fletcher EQR

- Contractor accreditation and performance management processes, procedures and training
- Contract supervisor appointed to each job to monitor progress of repairs and checks that quality standards are being met
- Finalisation process that covers both contractor finalisation and the reconciliation of repairs invoiced.

Review Assurance, the responsibility of EQC and local and territorial authorities (where applicable)

- Quality Assurance Inspections at 'live' sites prior to sign off focussing on safety conversations and compliance related issues (against trade standards and MBIE guidelines) and at joint first time sign off meetings with Fletcher EQR
 - Internal audit and assurance reviews
 - At times external consents from local and territorial authorities for work requiring Building Consent have been taken to provide broader assurance over the validity of the repairs – i.e. as a second line assurance.
4. *Agencies and/or PMOs to ensure that only staff experienced or trained for particular repair work are doing that work.*

EQC is in compliance with this recommendation. All engineering work is overseen by LBP qualified contract supervisors and reviewed by a structural engineer prior to sign-off of the repair. Fletcher EQR's processes also require the LBP undertaking the works to attend a site commencement meeting prior to works starting. The pool of contractors undertaking sub-floor works has also been reduced to only proven performers.

5. *Agencies and/or their PMOs should further investigate any non-compliant work signed off by a Licensed Building Practitioners regime (LBP) and consider laying a complaint with the Building Practitioners Board. (sic)*

Identification of non-compliant work signed off by an LBP will be considered during the review of the 2,325 properties, where underfloor repairs were completed as part of the CHRP repair. Where the review of work shows there is non-compliance with the Building Code, contractors are required to rectify works to Building Code at their own cost. Any contractors that refuse to bring work up to Building Code compliance will be considered for referral to the Building Practitioners Board. However, to date contractors have been happy to return and fix non-compliant work at their own cost.

I trust that the information contained in this letter provides sufficient confidence in EQC's management of the issues raised in the CEDAR report for MBIE to conclude the CEDAR project. If you require any further information please contact Tom Dibley, Manager, Government, Board and Executive on tdibley@eqc.govt.nz, or (04) 830 6119.

Yours sincerely



Bryan Dunne
Acting Chief Executive

TO: BOARD OF THE COMMISSION

FROM: Bryan Dunne

DATE: 10 October 2012

SUBJECT: **Treasury-led review of the Earthquake Commission Act 1993: Lessons learned about the EQC model during the Canterbury response**
Author: Henry Dowler

Purpose

1. The purpose of this paper is to provide the Board with the final terms of reference for the Treasury-led review of the Earthquake Commission Act 1993 (the EQC Act) and a summary of information provided to Treasury on lessons learned to date about the application of the EQC Act in responding to the Canterbury earthquakes.

Recommendations

2. It is recommended that the Board:
 - a) **note** information in this paper and in the appended terms of reference for the Treasury-led review of the EQC Act.

Comment

Review terms of reference and EQC involvement

3. As per Treasury advice to the EQC Board strategy day on 17 August 2012, the review of the EQC Act is underway with a view to introduction of amending legislation in mid-2013. On 10 September 2012, Cabinet approved terms of reference for the Review (appended to this paper). The Review and terms of reference were publicly announced by Ministers on 18 September 2012.
4. EQC is already directly involved in Review processes. EQC has provided feedback on draft terms of reference, briefing materials for Ministers and a Treasury background paper on 'Government Interests'. EQC has also provided Treasury with answers to the 'interim stocktake' questions set out in the Review background paper for the 17 August 2012 Board strategy day.
5. It is too early to determine the impact of EQC's initial feedback and advice on Treasury's early thinking about likely Review outcomes. However, EQC is a member of the Review Governance Group and will continue to contribute substantially to the Review by providing significant policy, legal, modelling and other data inputs.

Previous advice in EQC briefings to Incoming Ministers and annual reports

6. Attachment A is a Treasury summary developed several months before the Review terms of reference that:
 - sets out issues identified with the EQC scheme over the past decade in EQC briefings to Incoming Ministers and annual reports; and
 - Treasury's assessment of how/if issues impacted on the Canterbury response.
7. There is some overlap between Attachment A and Attachment B (discussed below), but Attachment A also highlights, in the section about pricing of cover, the current lack of a revenue stream related to land cover.

Information on the application of the EQC Act in Canterbury

8. EQC has provided Treasury information on lessons learned to date about the application of the EQC Act in responding to the Canterbury earthquakes. The 'lessons' are essentially legislative interpretation, practical application challenges and policy issues identified in the course of the Canterbury response. Similar lessons from EQC's business as usual activities were also included in advice to Treasury.
9. Attachment B to this paper sets out the detailed advice provided to Treasury about specific sections of the EQC Act.
10. In summary, the issues outlined in that advice are:
 - a) ***Definitions:*** Defined terms in section 2 (Interpretation), or the use of defined terms, that are unclear or too open to interpretation, including the terms:
 - dwelling
 - insured person
 - natural disaster damage
 - personal property
 - physical loss or damage
 - residential building
 - residential land.
 - b) ***Ministerial directions:*** Policy questions arising from section 12 (Directions by Minister) about the optimal size of the NDF, allocation of NDF investments and how NDF investments should be managed.
 - c) ***Ministerial funding obligations:*** Lack of clarity in section 16 (Deficiency in Fund) around the immediacy, or otherwise, of the Minister's obligation to provide money should EQC not have enough money to meet its liabilities.
 - d) ***Claims per event or aggregated:*** Issues arising from the need for apportionment of damage across multiple events due to the High Court declaration that section 18 of the Act (Residential buildings), read together with clause 6 of Schedule 3, provides cover for each occurrence of natural disaster damage. Similar issues arise in relation to the corresponding declaration about section 20 (Personal property).
 - e) ***Triggers for EQC cover:*** Until the fire policy for what was a 'residential building' lapses or is cancelled (or EQC cover for the building is cancelled), EQC cover will continue, even if a building no longer meets the definition of "residential building.

- f) **Timing of damage assessments:** Lack of clarity in clause 13, Schedule 3 (Amount payable for claims) about the appropriate time to assess the amount of damage (ie, at the time of the natural disaster or at the date of assessment).
- g) **Void fire insurance policy:** Legal position under the EQC Act can be unclear where a private insurer advises EQC (after settlement) that insurance policy has been voided.
- h) **Amount of residential building cover:** It may not be sensible to maintain section 18(1)(b) provision that people may specify a particular EQC Act sum insured (ie, as EQC does not usually see the contracts of fire insurance that insurers and policyholders enter into).
- i) **Amount of land cover:** There is no definition of ‘value’ in the Act or any indication of the basis that valuation is to be undertaken for the purpose of section 19 (Residential land). This has required a major body of valuation, engineering, legal and policy work for EQC – especially where there is no current market for the land.
- j) **Notification of claims:** The EQC Act allows no discretion in any circumstances (including later discovery of damage) for any out of time claims. The experience and priorities of Cantabrians following something as traumatic as the 22 February earthquake suggests that a timeframe longer than 3 months (with no prejudice safeguards) may be appropriate. The issue is getting a balance between what is a reasonable time for a claim to be lodged and to enable EQC to assess the claim at a time as close as practicable to the time of the event.
- k) **Cancelling or limiting EQC cover:** Numerous issues around cancellation/ limitation. Unlike private insurers, EQC generally has no discretion to refuse to insure property. The natural disaster insurance follows the fact of the insurance.¹
- l) **Assignment of claims:** Increased clarity required to avoid potential and actual confusion (eg, around the proper recipient in relationship property matters and sale and purchase agreements).
- m) **Settlement of claims:** Issues around the time taken to settle claims and the settlement approach (eg, additional damage due to delays and cash payment versus managed repair).
- n) **GST payments:** Difficulties arise, particularly in relation to land, from the EQC Act requirement that EQC is satisfied that GST has been or will be payable by an insured in the course of replacing or reinstating property.
- o) **Schedule 2 exclusions:** The list of exclusions in Schedule 2 is, in some cases, difficult to interpret and apply. For example, what is a “work of art”?
- p) **Power to decline claims:** Range of issues arising from clause 3 (declining claims) of Schedule 3 (eg, may decline under paragraph (b) if insured person failed to comply with law/bylaw, but the insured person seldom actually built the dwelling; and the interaction of paragraphs (e) and (f) is unnecessarily complicated).
- q) **Salvage:** Difficulty where EQC either does not insure the whole of the relevant land holding (because the defined residential land comprises a smaller area) or EQC’s land insurance payment is less than the full value of the land holding. Significant uncertainty over salvage rights on buildings arising as a result of the limit of EQC insurance and the interaction with private insurers’ own rights of salvage.

¹ Section 28 (Certificates of certain events to be registered against land) and clauses 4 (cancellation) and 5 (limitation) of Schedule 3 provide a mechanism, along with Schedule 3 declination provisions, for limiting future risk in some circumstances.

- r) **Mitigating damage:** The EQC Act is silent on whether EQC can decline a claim for exacerbated natural disaster damage resulting from a failure by the insured person to discharge their obligation under the Act to take all reasonable steps to preserve the insured property from further natural disaster damage.
- s) **Arbitration:** Currently no recourse for claimants aside from High Court proceedings. There have been many disputes on whether damage is over or under cap (and repair is therefore EQC or private insurer responsibility). Arbitration regime could be used to help resolve such disputes, however, arbitration is not permitted in retail insurance contracts by section 8 of the Insurance Law Reform Act 1977.
- t) **Other matters:** Depending on the overall review outcomes, matters which could also be usefully addressed to help streamline administration, include:
- information sharing with private insurers and with other Government entities;
 - issues arising from 'leaky homes' and homes with asbestos; and
 - liability for faulty repairs that are discovered years after completion.

APPENDIX: TERMS OF REFERENCE FOR THE REVIEW OF THE EQC ACT

ATTACHMENT A: TREASURY SUMMARY OF ISSUES IDENTIFIED WITH THE EQC SCHEME OVER THE PAST DECADE

Issue	When it was raised	Treasury assessment of how/if it impacted on the Canterbury response
What is covered?		
Scope of hazards covered <ul style="list-style-type: none"> Should EQC cover storm and flood damage to buildings and contents? Should EQC cover be triggered by the cause of the event or the result of the event? 	BIM (2005, 2008)	N/A
Building cover <ul style="list-style-type: none"> Inflation has eroded the caps since 1993. Implications are: <ol style="list-style-type: none"> EQC's risk position has increased; the scheme no longer meets its original objective of replacing housing to an adequate standard Scheme needs greater clarity about the treatment of mixed-use buildings (e.g. retirement villages, serviced apartments, residences within commercial buildings, etc). 	BIM (2005, 2008) EQC Proposals (2010)	Most property-owners had private insurance on a replacement basis, so private insurers covered costs over the caps. Costs were far higher than private insurers expected. As a result a market adjustment is underway: we're likely to see shifts in the structure and pricing of cover in the private market over time.
Contents cover <ul style="list-style-type: none"> Is there a need for Govt to provide contents cover? (large handling costs, distracts attention from settling land and building claims) 	EQC Annual Report (2011)	Contents represent ~7% of total claims but account for a disproportionate share of EQC's claims handling costs and staff time.
Land cover <ul style="list-style-type: none"> Current definition of land creates inequitable outcomes depending on the footprint of the building on the property. 	EQC Proposals (2010) EQC Annual Report (2011)	We have yet to see major concerns emerging about the fairness of land cover (noting, however, that large-scale settlement of land claims has not yet begun).
Non-damage expenses <ul style="list-style-type: none"> Should EQC cover more than property? (e.g. temporary accommodation during building repair) 	BIM (1999, 2002, 2005)	EQC has not covered any non-damage expenses. Most private-sector temporary accommodation cover likely to expire in February 2012; unclear what (if anything) Govt response to this will be.
Excesses <ul style="list-style-type: none"> Current excess arrangements impose high admin costs. 	BIM (2008) EQC Proposals (2010)	Impacts?

How is the cover priced?		
Adequacy of levy given EQC's risk exposure and operational requirements. <ul style="list-style-type: none"> Level of levy rate. Lack of risk differentiation. Lack of a revenue stream related to land cover. 	BIM (1999, 2002, 2008) EQC Annual Report (2011)	N/A
Equity of levy arrangements. <ul style="list-style-type: none"> Lack of risk differentiation means low-risk properties subsidise high risk-properties. First loss provisions/low caps mean high value properties are more likely to receive larger payouts than low value properties. 	BIM (1999, 2002, 2008) EQC Annual Report (2011)	N/A
How is the revenue raised?		
How should the revenue be collected? <ul style="list-style-type: none"> Local authority rates? 	BIM (2005)	N/A
How are claims managed and settled?		
Time limit for reporting claims <ul style="list-style-type: none"> Ombudsman ruling that the 3 month limit is unreasonable. 	BIM (2005, 2008) EQC Proposals (2010)	There has been no change to the 3 month limit.
Information <ul style="list-style-type: none"> EQC does not have clear information about who is/isn't covered by EQCover because: <ul style="list-style-type: none"> levy revenue is not tied to specific insureds; and there is no mechanism (e.g. a unique identifier) to link claims to claimants and properties across EQC and the private insurers. Insurers unwilling to provide this information in the past. 	BIM (1999, 2005)	EQC has developed a database to match claimants with claims. This work has been time-consuming and resource-intensive. To what extent did this delay claims processing, or has the timing of claims processing been dictated by other factors? Properties with damage over the cap have been subject to multiple assessments by EQC and private insurers. There may have been inefficiencies due to duplication of efforts.
Claims settlement mechanism <ul style="list-style-type: none"> Should EQC provide cash payments or managed repair? Should property-owners have a choice about the way in which their claim is settled? 	BIM (1999, 2002, 2005) EQC Annual Report (2011)	Govt decided on a voluntary managed repair approach. The key reasons for doing so were: <ul style="list-style-type: none"> Concern about the inflationary impacts of large-scale cash payments across Canterbury; The stress involved for homeowners in contracting and managing repairs

		<p>themselves; and</p> <ul style="list-style-type: none"> The potential for greater population loss in a cash payment model (i.e. people take their money and leave, rather than stay to repair the house).
How is the Crown's risk managed?		
<p>Natural Disaster Fund</p> <ul style="list-style-type: none"> What is the optimal allocation of NDF investments? What is the optimal size of the NDF? How should NDF investments be managed? 	BIM (1999, 2005, 2008)	N/A
<p>Public expectations</p> <ul style="list-style-type: none"> How well do stakeholders understand EQC's role and the nature of the cover it provides? 	BIM (2005, 2008)	<p>Many stakeholders did not understand EQC's role and the nature of the cover it provided.</p> <p>Also, in the absence of any other delivery agencies being available on the ground, EQC was tasked with a number of roles beyond its core responsibilities:</p> <ul style="list-style-type: none"> Design and construction of land remediation works; Emergency repairs and inspections of properties (beyond what is covered by the EQC Act); Winter heating programme.
Governance/structure		
<p>Role of EQC</p> <ul style="list-style-type: none"> Should the EQC be set up as an agent administering a Crown insurance scheme, or as an insurance entity itself? What types of governance/accountability provisions are desirable? What level of parliamentary oversight is desirable? 	<p>Tsy Note (2002)</p> <p>Tsy Report (2002)</p> <p>Tsy Report (2010)</p>	N/A

ATTACHMENT B: EQC LEGISLATION OR POLICY ISSUES AND POSSIBLE IMPROVEMENTS

Significant issue	Reference in legislation	Improvements	Comments
<p>1. Definition of “dwelling” (see also definition of “residential building”).</p> <p>Range of issues re the scope of the “dwelling” definition (which is critical to EQC land and building cover), including, for example, the following issues:</p> <ol style="list-style-type: none"> (1) What does “self contained” mean? In the modern context, does it for example require the premises to have a hard-wired stove? Is “self contained” limited to discrete households – see “boarding house” issue at (5) below? (2) What is a “home”? EQC has treated it as the insured’s permanent home (except where it is a holiday home). EQC has adopted a “30 day rule” as a rule of thumb to determine the period during which the premises must be lived in to be said to be a “home”. This rule has been tested as landlords in Christchurch have increasingly entered into short term rental arrangements because of the demand for short term accommodation in Christchurch. There may be difficult variations – more examples are available. (3) When does a dwelling cease to be capable of being a home (where for example it is dangerous and unsanitary but still being lived in (and still being insured by the private insurer))? (4) Does a dwelling cease to be capable of being a “home” when it is in the course of repair and temporarily unavailable? (5) Is a boarding house a “dwelling”? Where do you draw the 	<p>Section 2, EQC Act</p>	<p>Clarify definition to remove doubt on key issues in respect of future events</p>	<p>Issue is relevant not only to cover for the residential building, but also for cover of the residential land.</p> <p>Under section 18, the question of whether there is a “residential building” (which directly relates to the issue whether there is a dwelling) must be addressed each time a contract of fire insurance is entered into/renewed (in this regard see section 2(2)).</p> <p>EQC does not have visibility of the issue when policies are written. It only sees the problem when the claim is made.</p> <p>Whether there is an insured “dwelling” within the meaning of the EQC Act is an issue that has arisen in respect of a number of buildings damaged in the Canterbury earthquakes where bedrooms were individually rented to tenants who shared communal facilities in the building for cooking and bathing. This matter is currently the subject of High Court proceedings.</p>

Significant issue	Reference in legislation	Improvements	Comments
<p>line between a flatting situation where facilities are shared; and a boarding house or hostel (which EQC has treated as excluded from the definition of “dwelling” because the building is not the home of a discrete household and the individual rooms are not “self contained”)?</p> <p>(6) What is the nature of the intention required for self-contained premises to be capable of being, and be intended by the owner to be, somebody’s home? For example, what the intention of the owner if he/she has sub-let to somebody else with arguably a different intention? What if there is a long-term intention to use the property as a home but a different and more vague short-term intention?</p>			
<p>2. Use of the defined term “insured person” in the EQC Act.</p> <p>(1) Various references to “insured person” but also to “a person who has an insurable interest” (see section 29) and an “insured (section 29(3)). Should payments be made to persons who are not “insured persons”?</p> <p>(2) Issue about who is the insured person after assignment of a claim (see “Assignment of claims” below).</p> <p>(3) EQC Act does not directly specify who EQC is to pay the amount of the damage? Is it the owner? Owner of road reserve (where property backs onto road reserve)? mortgagee? lessor?</p> <p>(4) The requirement that persons have an “insurable interest” in the property seems anachronistic, given that that requirement is no longer needed to support a contract of insurance providing indemnity against loss (outside of</p>	<p>Section 2, EQC Act. See also section 29,</p>	<p>Improve consistency in language (to apply in respect of future events). The distinction in (1) is explicable – query whether it is appropriate?</p> <p>Specifically address Item (3).</p>	<p>Re (3), there is regulation-making power to direct where proceeds go, but Government has not used that power.</p>

Significant issue	Reference in legislation	Improvements	Comments
marine insurance): see Insurance Law Reform Act 1985, s 7(1).			
<p>3. Definition of “natural disaster damage”</p> <p>Should EQC cover the damage caused by USAR teams fulfilling their authorised activities?</p>	<p>Section 2, EQC Act. See also Sections 109 and 87 of the Civil Defence Emergency Management Act 2002</p>	<p>Making sense of section 109 of the CDEM Act in this context has proved challenging. Clarification of that provision would be welcomed.</p>	<p>The second limb of the definition of "natural disaster damage" in section 2 of the EQC Act includes damage to property occurring "as a direct result of measures taken under proper authority to avoid the spreading of, or otherwise to mitigate consequences of, any natural disaster", but excludes damage "for which compensation is payable under any other enactment".</p> <p>EQC has taken the view that it should include the actions of the USAR teams as being "to mitigate consequences of any natural disaster" even though the overall wording of the definition reads more comfortably by reference to damage to property as opposed to injury to human life.</p> <p>However in terms of this definition, it is also necessary to establish that compensation is not payable under any other enactment.</p> <p>Sections 109 and 87 of the Civil Defence Emergency Management Act 2002 ("the CDEM Act") contemplate the recovery of compensation for loss or damage suffered through the entry into premises by personnel working under instructions within an emergency</p>

Significant issue	Reference in legislation	Improvements	Comments
			<p>situation, but only as a backstop to private insurance arrangements (which would include EQC's obligations). Section 84 of the Canterbury Earthquake Recovery Act 2011 retrospectively validates civil defence actions taken in good faith in the context of the national state of emergency in Christchurch.</p> <p>EQC has formed the view that it will be appropriate for EQC to cover the damage caused by USAR teams fulfilling their authorised activities. But making sense of section 109 of the CDEM Act is challenging. Clarification of that provision would be welcomed.</p>
<p>4. Definition of “personal property”.</p> <p>(1) Issue has arisen whether certain plant and equipment provided by a rest home operator is "personal property". The proviso of the definition excludes from the definition of "personal property" "any property used solely or principally for commercial purposes".</p> <p>(2) “Personal property” is defined in the EQC Act as including property that is “usually located in or on a residential building but is temporarily removed from the building for any reason”. So, EQC cover generally extends to property that is temporarily put in storage, so long as that property is usually located in a residential building and there is an intention to return the property to the home (otherwise the removal is unlikely to be “temporary”). EQC cover on personal property continues so long as the private policy</p>	Section 2, EQC Act.	Clarify definition to remove doubt on this issue in respect of future events	EQC has taken the view that the phrase "any property used solely or principally for commercial purposes" is intended to exclude cover under s 20 only where that property is directly employed for a commercial, as opposed to a domestic, purpose. Plant and equipment used by rest home residents in their day-to-day living is not directly employed for commercial purposes. By contrast, property used directly for income generation purposes or used principally by rest home staff for business or administrative purposes would generally not be covered. EQC considers that the focus is on the use of the property rather than the status of the person who owns the property.

Significant issue	Reference in legislation	Improvements	Comments
<p>for those contents remains in force, but no longer.</p> <p>If the original policy ends but is renewed, the property in storage will continue to be covered by EQC provided there is a definite intention to return the property to the home in the future. However, the Act is less clear on this point.</p>			
<p>5. Definition of “physical loss or damage”</p> <p>(1) What is “imminent loss”?</p> <p>(2) If local authority will not issue building consent (e.g. because of life risk), should the “loss” be covered (even if no physical loss or damage to the actual property)? It is not presently covered.</p> <p>(3) What is damage? Is increased flood risk/liquefaction vulnerability covered? EQC has taken the view that it is.</p> <p>(4) What are the appropriate thresholds for damage?</p>	Section 2, EQC Act.	Clarify definition to remove any doubt on these issues in respect of future events	EQC has used a “12 month rule” for imminent loss – 12 months from to date of the natural disaster damage (to cover all 4 seasons) to establish the time period whether the loss is imminent. This approach has not to date been tested in the Courts.
<p>6. Definition of “residential building”</p> <p>Range of issues on this definition including:</p> <p>(1) What is the meaning of “if the area of the dwelling or dwelling(s) constitutes 50 percent or more of the total area of the building, part, or structure”? What is a “part of the building” – a floor, part of a floor?</p> <p>(2) There is sometimes overlap between the application of para (a) of the definition and paragraph (b) relating to long-term accommodation for the elderly. Clarity on how these provisions fit together would be helpful.</p> <p>(3) Under (c), what is the scope of “building or structure</p>	Section 2, EQC Act.	Clarify definition to remove doubt (in respect of future events) on key issues that have arisen to date	This overlap of (a) and (b) can give rise to difficult issues relating to the extent of the building cover claim. As a general comment, the drafters of the legislation recognised that there would be some uncertainty at the margins about what was a “dwelling”, which is why there is a regulation-making power in cases of doubt under s 36(2). Further, regulations can be made under s 36(1) excluding classes of property from the Act. In retrospect, this safety valve has not worked, because regulation-making simply does

Significant issue	Reference in legislation	Improvements	Comments
<p>appurtenant to a dwelling"? Issues have arisen as to whether clothes lines; dog kennels; tree houses; pagodas; are covered – where do you draw the line? Does the word "structure" add in anything in paras (a), (b) and (c) of the "residential building" definition?</p> <p>(4) Under (d), issues have arisen in respect of the meaning of "all water supply, drainage, sewerage, gas, electrical, and telephone structures and their appurtenant structures". For example the reference in the EQC Act to "water supply ... services" has been treated as the physical infrastructure conveying the water rather than the water itself, any particular source of the water or its quality. An alternative interpretation would have EQC insure the water supply for Canterbury.</p> <p>(5) Issues have arisen as to whether items claimed fall under "residential building" cover or under "personal property" cover. For example, can EQC pay out "personal property" insurance for carpets and drapes; or are they part of the "residential building"?</p>			<p>not get addressed before the event, and public policy does not allow the situation to be retrospectively corrected after the event.</p> <p>Re carpets and drapes etc, despite statutory definitions, the most expedient solution would be to have the item (e.g. carpets and drapes) covered by EQC by the same type of cover as the private insurer (whether that be "personal property" cover or "building" cover).</p>
<p>7. Definition of "residential land"</p> <p>(1) What is the land cover when the part of the building that comprises the "dwelling" is in airspace? - e.g. second storey apartments over shops.</p> <p>(2) Issues have been raised as to whether adjacent parcels of land comprised in separate certificate of titles but held by the same owners comprise a single "land holding" for the purposes of the definition of "residential land". The use of the terms "land holding" in the definition, in preference to the use of a phrase such as "the land within the certificate</p>	Section 2, EQC Act.	Clarify definition to remove doubt (in respect of future events) on key issues that have arisen to date	

Significant issue	Reference in legislation	Improvements	Comments
<p>of title", recognises that the insured residential land under the Act may extend in some cases beyond what is comprised within a single certificate of title. EQC therefore sees nothing in the Act that is inconsistent with the propositions that a "land holding" may include adjacent land held in common ownership on separate certificates of title where that land is used and intended to be used as a single residential property. This approach is consistent with the High Court's decision in <i>Winch v Earthquake Commission</i> (2008) 9 NZCPR 827 (HC).</p> <p>(3) Is there residential land around services (which services are defined as "residential buildings" under (d) of that definition)?</p>			
<p>8. Directions by Minister</p> <p>Natural Disaster Fund (NDF) There are policy questions about</p> <ul style="list-style-type: none"> • What is the optimal allocation of NDF investments? • What is the optimal size of the NDF? • How should NDF investments be managed? 	Section 12, EQC Act		The Canterbury experience will result in better loss modelling that will inform the optimal size of the NDF. The experience is also likely to help inform any adjustment in the Government's risk preference.
<p>9. Deficiency in the Fund</p> <p>Lack of clarity around Minister's obligation should EQC not have enough money to meet its liabilities (does obligation to provide money "kick in" immediately that there is a deficiency)?</p>	Section 16, EQC Act	Clarify to remove doubt in respect of future events	EQC's view is that if the Commission's final financial statements for the year show a deficiency of assets to meet liabilities, this will cause section 16 to apply at that time; the operation of section 16 is not deferred until such time as there is an actual or imminent failure to pay the Commission's liabilities as they fall due.
<p>10. Claims per event or aggregated?</p> <p>The High Court has made a declaration that section 18 of the</p>	Sections 18 and 20, EQC Act; clause 6 of Schedule 3	[Policy decision required]	

Significant issue	Reference in legislation	Improvements	Comments
<p>Earthquake Commission Act 1993, read together with cl 6 of schedule 3, provides cover in the amount specified in s 18(1) which continues for the period that the contract of fire insurance referred to in s 18 is in force. That amount of cover is available in respect of each occurrence of natural disaster damage during that period. Neither the occurrence of, nor the making or payment of a claim for, any natural disaster damage reduces the amount of cover available for a subsequent occurrence of natural disaster damage which occurs during that period.</p> <p>The High Court has made a corresponding declaration in respect of section 20 re personal property.</p> <p>Is the outcome acceptable? Is there a better solution which would reduce/eliminate the need for apportionment of damage across multiple events?</p>			
<p>11. Time at which it must be established that there is a residential building</p> <p>Whether a building is a "residential building" as defined must be determined whenever a contract of fire insurance in respect of that building is made and every time that the contract of fire insurance is renewed. If a building is a "residential building" when the contract of fire insurance is made or renewed, EQC cover for the building will continue, even if the building no longer meets the definition of "residential building", until the fire policy lapses or is cancelled or EQC cover for the building is cancelled. If, when the contract of fire insurance comes to an end, whether for renewal or otherwise, the building no longer meets the definition of "residential building", EQC cover will not continue for the building (or land).</p>	Section 18 to 20, EQC Act	[Policy decision as to whether this remains the optimal approach.]	This issue is also important in relation to land cover. There is a problem of buildings being demolished and therefore losing cover. Also no land cover for sections where there was no habitable dwelling. Is that appropriate?
<p>12. When is the amount of damage assessed?</p> <p>Is the appropriate time to assess the amount of damage at the time of the natural disaster; or the date of assessment? Clause 13(1) refers only to the value of the property not the date of repair. Clause 13(2) suggests calculation of damage which would usually be</p>	Section 18 to 20, EQC Act. Clause 13, Schedule 3, EQC Act	Clarify to remove doubt in respect of future events	

Significant issue	Reference in legislation	Improvements	Comments
<p>at the time of assessment, but that is not express.</p> <p>13. Fire insurance policy voided</p> <p>Position not clear as to correct legal position under the EQC Act where private insurer advises EQC (after settlement) that insurance policy has been voided. EQC would generally request money back from the claimant where the private insurer has avoided the fire policy (whether before or after EQC settles the claim). However, the issue may be complicated by either:</p> <p>(a) the insurer not providing the correct information before the EQC settlement; or</p> <p>(b) the policy being voided after the EQC settlement when new facts come to light.</p> <p>As to (a), if the insurer incorrectly advised that there was a fire policy (when there was not), it is likely that EQC could seek recovery of the money paid. If the insured had also represented that he or she had a valid fire policy, EQC might be able to decline the claim under cl 3(f) of Schedule 3 of the EQC Act (but only if there were fraud on the insured's part, which might be difficult to show).</p> <p>As to (b), the position is more complex. EQC considers that the better view is that EQC could seek recovery, but there is a respectable counter-argument. The general scheme of the EQC Act is for EQC cover to follow fire cover. On that basis, if the insurer avoids the fire policy from the beginning (which has the legal effect - at least as between the insured and the insurer - that the policy was never in force), it would follow that EQC cover should also be treated as never having been in existence.</p> <p>The counterargument is that EQC cover commences under ss 18 and 20 once the relevant fire policy is written and the premium</p>	<p>Section 18 to 20, EQC Act; clause 3(g), Schedule 3, EQC Act</p>	<p>Clarify to remove doubt in respect of future events</p>	

Significant issue	Reference in legislation	Improvements	Comments
<p>becomes payable at that point (with no provision for it to be refunded by EQC if the fire policy subsequently ends early or is avoided). It could be argued that, if the fire policy was in force when EQC paid the claim and was only later avoided, any decision by EQC to pay out on the claim was perfectly correct on the facts as they then were.</p>			
<p>14. Calculation of amount of residential building cover</p> <p>The reality is that EQC does not usually see the contracts of fire insurance that insurers and policyholders enter into. In practice it may only check to see whether there is insurance against fire? Does it make sense therefore to continue to provide that people may specify under s 18(1)(b) a particular EQC sum insured?</p>	Section 18(1)(b), EQC Act	Align Act with practice?	
<p>15. Cap on amount of land cover</p> <p>(1) The "residential land" insured under s 19 is the amount that is the value of the smallest of the three areas of land mentioned (see s 19(a)). If the smallest area of land listed in s 19 happens to be less than the floor area of the residential building on that land, there is nothing in s 19 requiring that area to be "topped up" to match the floor area of the dwelling.</p> <p>(2) The word "value" in section 19(a) is not defined in the Act. Section 19(b) goes on to refer to the need to determine an "indemnity value", but this only relates to specific items that have a depreciable value, such as pipes, bridges and culverts, all of which are deemed to be part of residential land. It, therefore, provides little assistance in determining the meaning of "value" in section 19(a).</p> <p>(3) How is the amount of damage to be assessed – cost of repair? diminution of value?</p>	Section 19, EQC Act	Clarify/simplify in respect of future events?	<p>It is well understood that there is no one single means of determining a "value", whether in relation to real property (land) or any other form of property.</p> <p>As such, in the absence of any express definition of "value" in the Act or any indication as to the basis on which valuation is to be undertaken for the purpose of section 19, under the current legislation, the EQC Board has to determine an appropriate basis of valuation, albeit that this would be guided by relevant valuation, engineering and legal advice. This has given rise to a major body of work for</p>

Significant issue	Reference in legislation	Improvements	Comments
			EQC – especially where EQC has to determine value where there is no market for the land.
<p>16. Notification of claims</p> <p>(1) There is no discretion in any circumstances (including later discovery of damage) for any out of time claims.</p> <p>(2) Is notification to an insurer sufficient to notify EQC?</p>	Section 27; Clause 7 of Schedule 3, EQC Act	Consider whether any element of flexibility should be included in respect of future events. Perhaps a provision like section 9 of the Insurance Law Reform Act 1977 could apply – i.e. EQC can only decline if prejudiced. But the counterpoint is increased uncertainty and the time taken in assessing.	Note that clause 7 does contemplate some discretion in that clause 7(2) provides a three-month discretionary safety valve to the strict time limit in clause 7(1), but the decision to extend the clause 7(1) to three months made clause 7(2) otiose. This position is informed by the High Court decision in <i>Coughlan v EQC</i>
<p>17. Notifying District Land Register where insurance cancelled/limited</p> <p>Numerous issues around implementation of cancellation/ limitation provision paper. These include:</p> <p>(1) If a single contract of fire insurance covers a number of “residential buildings”, EQC must consider each main residential building (and its associated appurtenant buildings, structures and services) separately from every other main residential building when deciding whether to cancel any of the residential building insurances under the EQC Act (or the insurance for the residential land associated with each main residential building).</p> <p>(2) Under clause 5(1), EQC may limit its liability where EQC considers that any property is in imminent danger of</p>	Section 28, EQC Act; clauses 4 and 5, Schedule 3	Clarify to remove doubt in respect of future events	Unlike private insurers, EQC generally has no discretion to refuse to insure property. The natural disaster insurance follows the fact of the insurance. Section 28 and clauses 4 and 5 of Schedule 3 provide a mechanism for limiting future risk in some circumstances (along with Schedule 3 declinature provisions).

Significant issue	Reference in legislation	Improvements	Comments
<p>suffering natural disaster damage. However, EQC may limit its liability for that damage only to the amount for which the property is insured under the EQC Act at the time the limitation notice is received by the insured person.</p>			
<p>18. Assignment of claims</p> <p>EQC's obligation under s 29(1) is to have due regard to the respective insurable interests in settling the claim. Although s 29(1) does not expressly say so, EQC considers, when settling any claim, it must have due regard only to the person with insurable interests that existed at the time the natural disaster damage occurred. This person will be the person who will have suffered loss as a direct result of the natural disaster.</p> <p>EQC considers that the following points support this conclusion:</p> <ul style="list-style-type: none"> • Clause 7(1) of the Third Schedule to the EQC Act provides that, on the occurrence of natural disaster damage, the "insured person" (as defined in s 2) shall give notice of the damage; • In context, the reference to "the" contract of fire insurance must be to the contract in existence at the time of any damage. Any subsequent purchaser who takes ownership of a damaged property subject to an EQC claim will be the "insured person" (if at all) under any new contract of fire insurance, but not (at the time of the damage) under the one that gave rise to the EQC insurance on which the claim is being made. <p>Section 29(1)(b) provides that in settling claims EQC must have due regard to the "respective insurable interests". As is plain from section 29(1)(a), only a person who has an insurable interest in the property concerned may make a claim under the Act.</p>	<p>Section 29, EQC Act Clause 7(1) of Schedule 3, EQC Act</p>	<p>Clarification of this position would be helpful in respect of future events.</p>	<p>Issues have arisen (Property (Relationships) Act matters; agreements for sale and purchase etc) where there is confusion around the proper recipient.</p>

Significant issue	Reference in legislation	Improvements	Comments
<p>And clause 7(1) of the Third Schedule provides that it is the insured person who has the obligation to make the claim.</p>			
<p>19. Settlement of claims</p> <p>Length of time taken to settle claims EQC will be in a difficult practical situation if the insured has acted reasonably, but additional damage has resulted because EQC has taken say 3 years to do the work.</p> <p>Claims settlement mechanism Should EQC provide cash payments or managed repair? Should property-owners have a choice about the way in which their claim is settled?</p>	<p>Section 29, EQC Act See also Canterbury Earthquake (Earthquake Commission Act) Order 2012</p>	<p>Clarify EQC's obligation for future events</p>	<p>Length of time taken to settle claims EQC may have a reasonable (but not water tight) legal defence to a claim for the extra costs of repair naturally resulting from the passing of time, but it may be practically difficult for EQC to rely on that defence. See also clause 13 of Schedule 3.</p> <p>Claims settlement mechanism Govt decided on a voluntary managed repair approach. The key reasons for doing so were:</p> <ul style="list-style-type: none"> • concern about the inflationary impacts of large-scale cash payments across Canterbury; • the stress involved for homeowners in contracting and managing repairs themselves; and • the potential for greater population loss in a cash payment model (ie, people take their money and leave, rather than stay to repair the house). <p>The Project Management Office (PMO) approach has been a new challenge for EQC. An outcomes evaluation would be useful once more data is available to identify whether the gains for EQC and the community outweigh the challenges and impositions on the community. Note the managed repair option is “voluntary” in the sense that EQC/Ministers chose it, but is not</p>

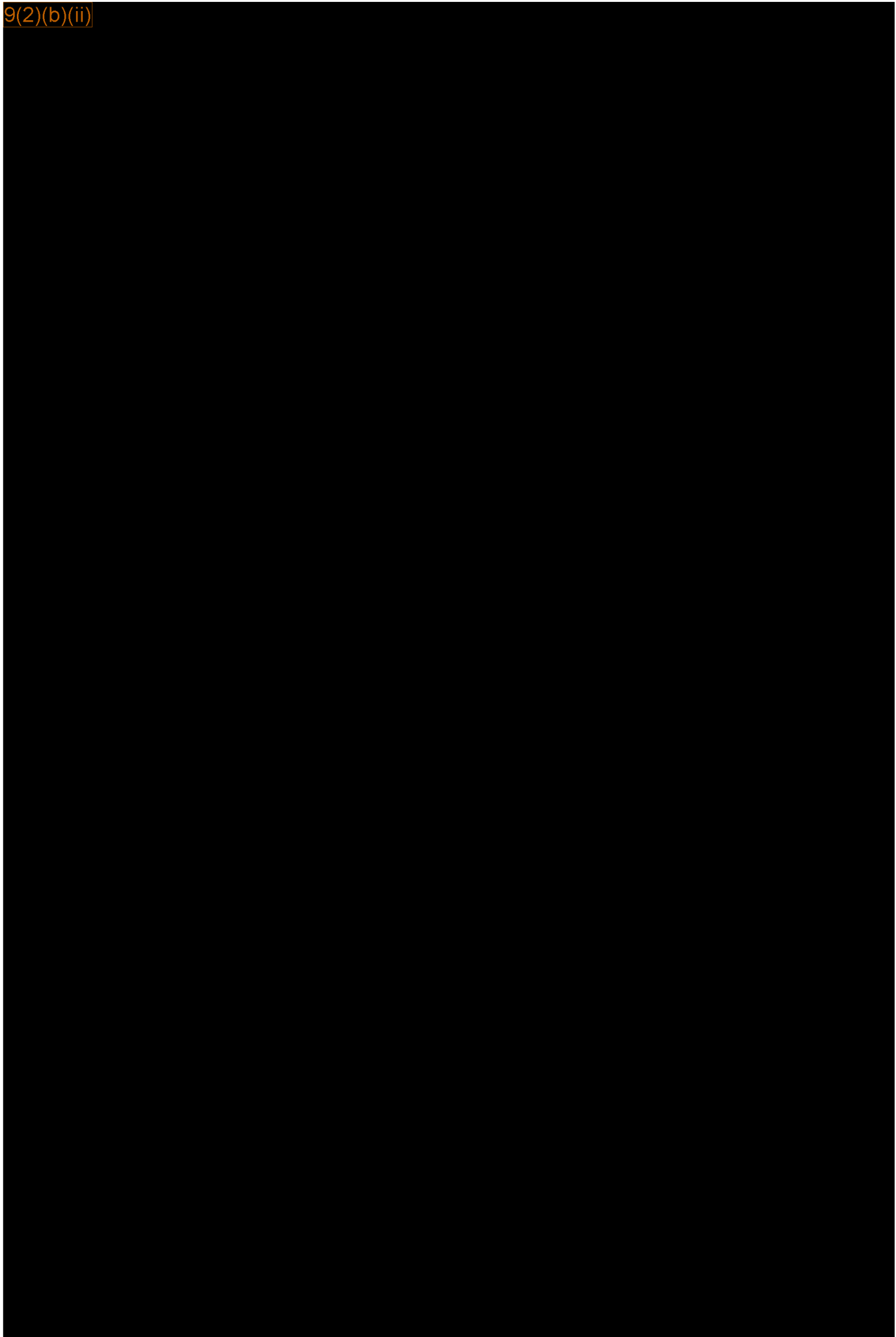
Significant issue	Reference in legislation	Improvements	Comments
			voluntary for customers (ie, as even opt out still requires repair rather than getting cash).
<p>20. GST</p> <p>Issues relating to EQC’s ability to add GST to cash settlements (i.e. ‘gross-up’ the settlements for GST). The EQC Act is ambiguous as to EQC’s liability to increase (gross-up) the amount payable to claimants when cash settling claims based on anticipated repair or replacement cost to cover the GST component of those anticipated costs.</p> <p>If EQC cannot gross-up cash payments for GST, then claimants who use the payout to repair or reinstate their damaged property will have insufficient funds and will have to pay the GST component themselves. Not only will these claimants be out of pocket, but they will have been treated inconsistently with those claimants who have had their repairs completed by EQC through the Project Management Office (<i>PMO</i>). It is clear when EQC incurs the repair costs itself (whether through the PMO or not), it is entitled to pay the GST component of the repair costs.</p>	Section 29, EQC Act	Clarify EQC’s obligation for future events?	<p>The real difficulties are:</p> <ul style="list-style-type: none"> • land; and • the need for EQC to be satisfied that GST has been or will be payable by an insured in the course of replacing or reinstating property.
<p>21. Exclusions in Schedule 2</p> <p>List is in some cases difficult to interpret and apply. For example, “works of art” are excluded. Does that include manufactured Franklin mint items, limited edition collectables, valuable prints of paintings signed by the artist? EQC has taken the view that it does not.</p>	Schedule 2, EQC Act	General review of list could be useful, including clarification of some exclusions (to apply in respect of future events)	
<p>22. EQC power to decline claims</p> <p>Range of issues arising from clause 3 of Schedule 3, including:</p> <ul style="list-style-type: none"> • under para (b), insured person failed to comply with 	Clause 3 of Schedule 3, EQC Act	Clarify to remove doubt in respect of future events	

Significant issue	Reference in legislation	Improvements	Comments
<p>law/bylaw – but insured person seldom actually built the house;</p> <ul style="list-style-type: none"> interaction of paras (e) and (f) is unnecessarily complicated. 			
<p>23. Reporting of Claims</p> <p>Clause 7(1) sets a 30-day limit for reporting of claims. This limit has been extended to 3-months by regulation 6 of the Earthquake Commission Regulations 1993. Subject to meeting certain pre-requisites, a 3-month limit also applies by virtue of clause 7(2).</p>	<p>Clause 7 of Schedule 3, EQC Act</p>	<p>Consider a longer timeframe (with no prejudice safeguards).</p>	<p>The Ombudsman has reportedly expressed a view the 3-month limit is unreasonable – although evidence of this view remains to be found. Nevertheless, the experience and priorities of Cantabrians following something as traumatic as the 22 February earthquake suggests a longer timeframe (with no prejudice safeguards) may be appropriate. The issue is getting a balance between what is a reasonable time for a claim to be lodged and to enable EQC to assess the claim at a time as close as practicable to the time of the event.</p>
<p>24. Salvage</p> <p>Difficulty arises where EQC either does not insure the whole of the relevant land holding (because the defined residential land comprises a smaller area) or EQC's land insurance payment is less than the full value of the land holding.</p> <p>Overall, it appears that EQC may exercise its salvage rights in respect of land where EQC insures the whole of the land holding and has paid the full value of that insured land.</p> <p>Significant uncertainty over salvage rights on buildings arising as a result of the limit of EQC insurance and the interaction with private insurers' own rights of salvage. The Act says that EQC can salvage, but how does this interact with private insurer rights? At common</p>	<p>Clause 8 of Schedule 3, EQC Act.</p>	<p>Clarify EQC's obligation for future events</p>	

Significant issue	Reference in legislation	Improvements	Comments
<p>law, the current default is a “top down” recovery model i.e. private insurers’ losses would be recovered first from any salvage? Is that intended?</p> <p>Generally clause 8 of Schedule 3 appears to give EQC much greater rights than it could have exercised in practice e.g. any damage to insured property is said to give rise to a right for EQC to take possession of the land and building and (potentially) to sell them.</p>			
<p>25. Mitigating damage</p> <p>The insured person has obligations under cl 12 of Schedule 3 of the Act to take at all times "reasonable precautions for the safety of the insured property" and, where the property has sustained natural disaster damage, the insured person must "take all reasonable steps to preserve the insured property" from further natural disaster damage. The EQC Act is silent on whether EQC can decline a claim for exacerbated natural disaster damage resulting from a failure by the insured person to discharge this obligation. Almost certain that it can after the High Court case of <i>Coughlan v EQC</i>.</p>	<p>Clause 12 of Schedule 3, EQC Act</p>	<p>Clarify/confirm EQC’s obligation for future events</p>	<p>Note however that EQC has power to decline a claim under cl 3(g) of Schedule 3 where natural disaster damage is caused or contributed to by the wilful act or negligence of the insured person, which may (in some cases) include failures to safeguard the property pending repair.</p>
<p>26. Arbitration</p> <p>Currently no recourse for claimants aside from High Court proceedings. There have been many disputes on whether damage is over or under cap (and repair is therefore EQC or private insurer responsibility). Arbitration regime could be used to help resolve such disputes.</p> <p>The previous Act provided for arbitration. However arbitration is not permitted in retail insurance contracts by section 8 of the Insurance Law Reform Act 1977.</p>		<p>Should the Act be amended to include an arbitration regime?</p>	
<p>27. Matters not currently addressed in the EQC Act, but which could usefully be addressed to streamline</p>		<p>[Policy decision required]</p>	<p>Information sharing with private insurers</p> <p>Difficulty in associating claims with</p>

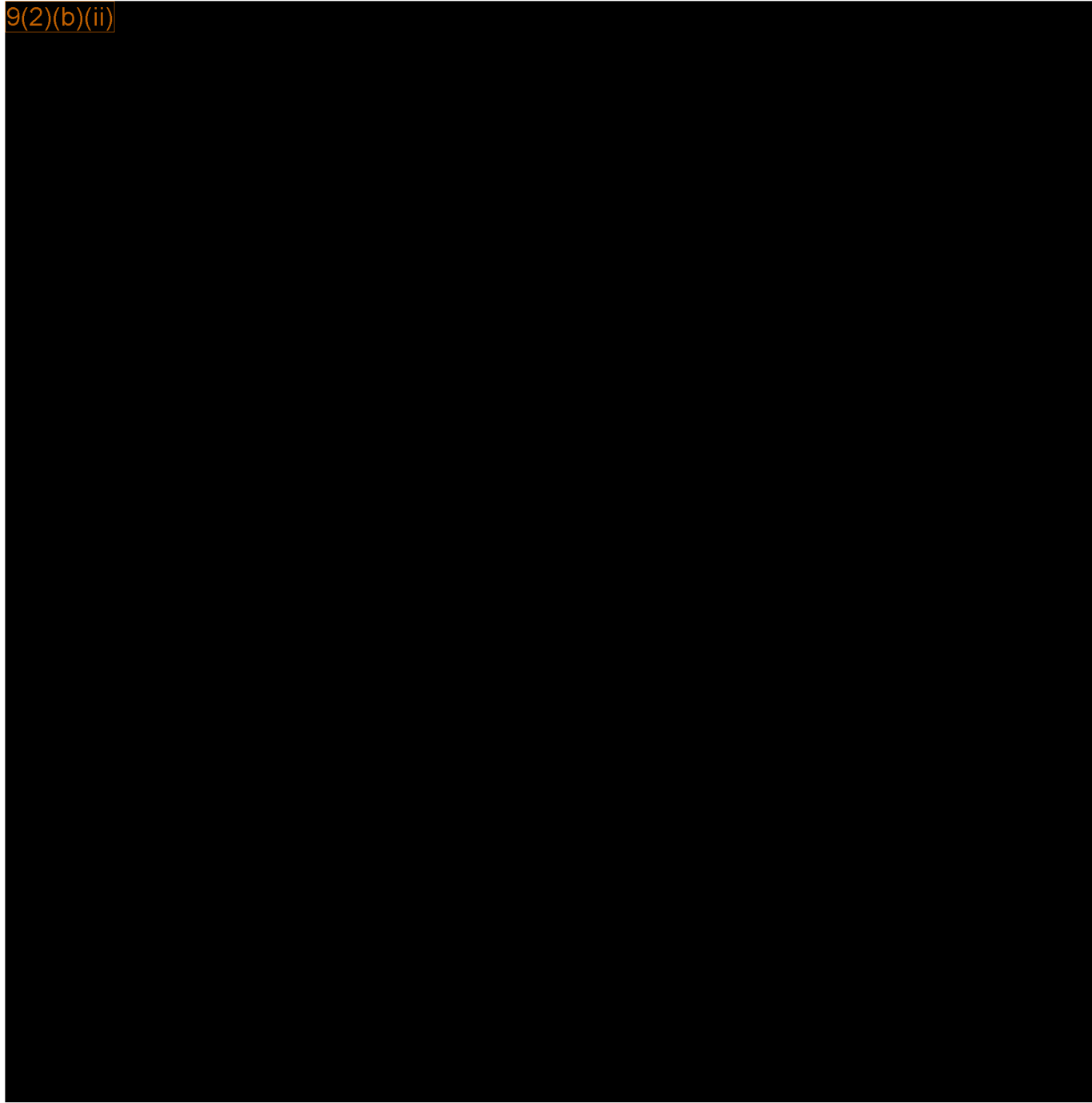
Significant issue	Reference in legislation	Improvements	Comments
<p>administration</p> <p>List of such matters includes:</p> <ul style="list-style-type: none"> • Information sharing with private insurers; • Information sharing with other Government entities; • Issues arising from weathertight homes and homes with asbestos; • EQC liability for any faulty repairs that insureds become aware of some years down the track. 			<p>properties and with specific insurers has resulted in significant confusion, delay, added work, mistakes and other issues. EQC does not have clear information about who is/isn't covered by EQCover because levy revenue is not tied to specific insureds; and there is no mechanism (eg, a unique identifier) to link claims to claimants and properties across EQC and the private insurers. EQC has developed a database to match claimants with claims.</p> <p>Properties with damage over the cap have been subject to multiple assessments by EQC and private insurers. There may have been inefficiencies due to duplication of efforts.</p> <p>EQC accepts insurer full assessments where confident about insurer's processes. This is not the case for a number of insurers whose reserve-setting has not been appropriate for EQC purposes. Consequently, EQC does assess a number of properties and then pass them to private insurers as overcap – but these are a small proportion of total claims.</p> <p>A different issue around duplication may be where the EQC Act excludes items (see Schedule 2 of the Act) that are covered by the private insurer. In</p>

Significant issue	Reference in legislation	Improvements	Comments
			such cases two assessments are likely to be needed regardless of over-cap.

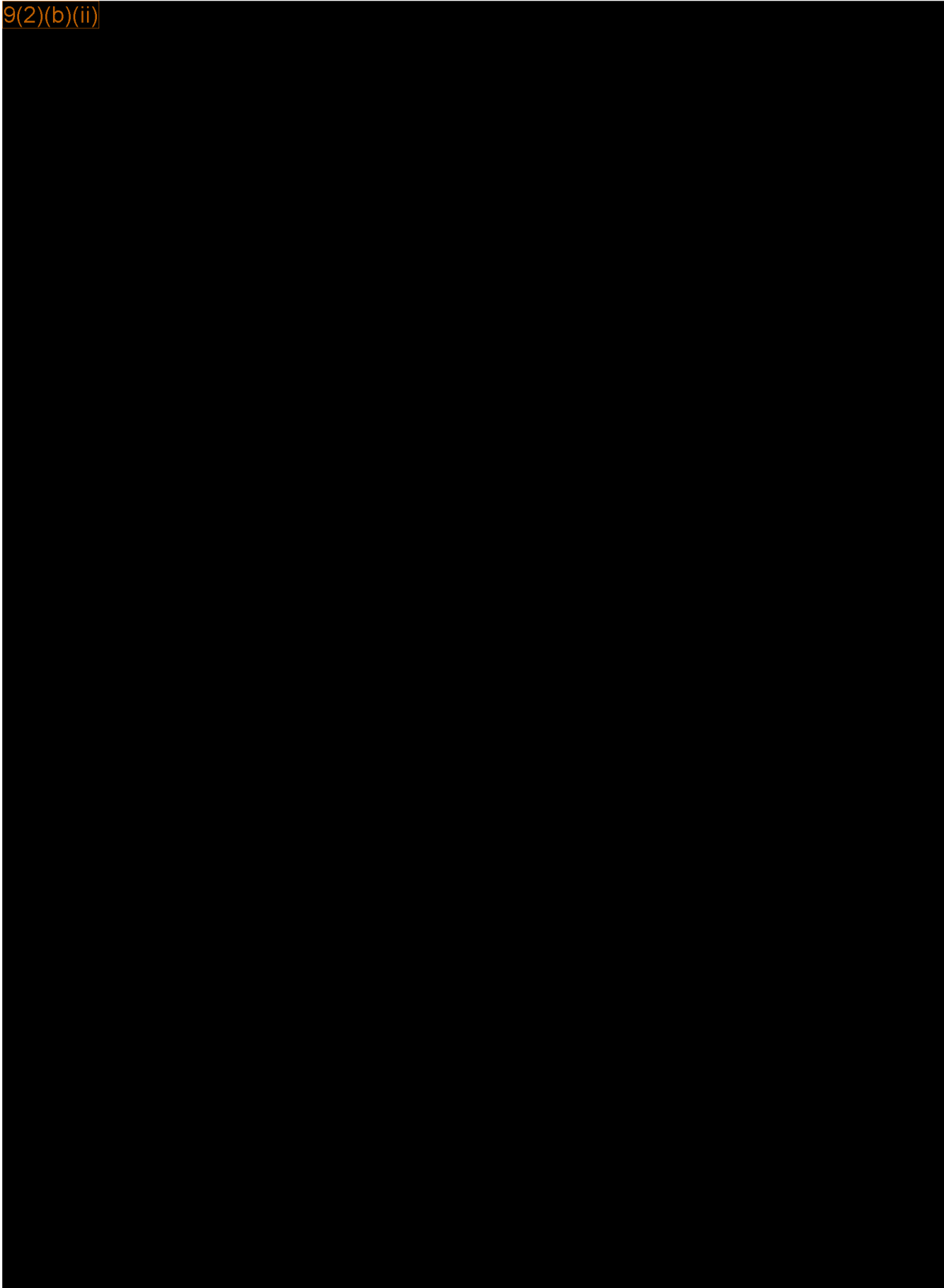


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