
COMMENTS GUIDE FOR EQC DISPOSAL SCHEDULE EXTERNAL CONSULTATION

Background

The disposal of Earthquake Commission (EQC) information and records must be authorised by the Chief Archivist as per the requirements of the [Public Records Act 2005](#). This is usually done through the development of a disposal schedule. Once signed-off, the schedule will provide continuing authority for the disposal of EQC information and records; whether existing or yet to be created. It will also provide agreement between the Chief Executive of EQC and the Chief Archivist about the transfer of information and records to Archives New Zealand.

Why are we seeking external feedback?

When developing a schedule, it is important to take into consideration a spectrum of opinions. The value and accessing needs of records over time, are different for various groups and individuals. The purpose of this consultation is to offer stakeholders that may wish to be involved and have an interest in what happens to EQC records, an opportunity to provide input on the recommendations we have made.

What does “disposal” mean in this context?

For each type of information or record that EQC creates we have recommended one of two disposal actions, to occur once the business need for the specific record have ceased. These are to “Retain as Public Archive” (i.e. which may or may not result in transfer to Archives New Zealand) or “Destroy”.

We have also recommended a length of time for which the records must be retained by EQC *before* the disposal action can take place.

How does EQC decide which records to retain as public archives?

The criteria EQC uses for assessing the value of its records are outlined in Archives New Zealand’s [Public Sector Archival Selection Statement](#).

Several different perspectives are considered, including those of owners, creators, contributors, or subjects of the records, and both current and future users. For information and records to be considered for retention as public archives their enduring value to the people of New Zealand needs to clearly outweigh the cost to the taxpayer of ongoing management.

For each sub-class (type) of records the schedule details:

- A reference number, title and description of the sub-class
- The trigger point at which the records become non-current, and the retention period kicks in
- The minimum period for which the records must be kept*
- The final disposal action on the records (The final disposal action on the record of D – Destroy, A – Retain as public archives).

*Records cannot be legally disposed of before the minimum time period has expired. Once that period has expired, they *can* be kept by EQC for longer if there is still a business need.

Appraisal report and schedule spreadsheet

The Appraisal Report is required by Archives New Zealand to provide detail on the context in which the information and records are created and used, and the justification for the disposal action recommended. The disposal schedule itself is the spreadsheet which details the disposal rules that EQC are proposing.

FEEDBACK FORM

Name of respondent	Jane Brown
Email address of respondent	jane@icnz.org.nz
Organisation Name <i>(if applicable)</i>	Insurance Council of New Zealand / Te Kāhui Inihua o Aotearoa
Job title of respondent <i>(if responding on behalf of your organisation):</i>	Legal Counsel
<p>Please note: We are required to provide the name and job title of everyone who submits feedback to Archives New Zealand in the appendices to our report. They will remove this information from the final version of the report before making it publicly available.</p>	

General comments

1. Do you have any general comments about the Appraisal Report?
If so, please outline below.

ICNZ broadly agrees that the contents of the Appraisal Report, including the appraisal criteria, and the proposed timeframes in the Disposal Schedule, are appropriate. However, we believe that EQC needs to provide greater clarity about what information is made available, and in what form, when it is retained as public archives. For example, is the information retained wholly unredacted, or are redactions made, and if so, who is responsible for deciding what should be redacted.

ICNZ agrees that there is value, and likely to be public interest, in the classes of information recommended to be retained in archives, but wants to ensure that personal information, or commercially sensitive information is not disclosed. For example, Class 3 information such as claim forms, claim notifications, and claim reports will likely contain a claimant's personal information. While ICNZ is confident that EQC would not make any information publicly available that would risk breaching their Privacy Act obligations, it is not clear from the Appraisal Report how information is archived.

As a further example, it appears that the bilateral agreements negotiated between private insurers and the EQC subsequent to the Natural Disaster Response Agreement could be retained as public archives. Even if those agreements were no longer in force, given the information has arisen from commercial negotiations, insurers would be concerned if they were made publicly available without their agreement or without appropriate redactions.

We therefore request that EQC provide additional information on the form in which information provided to public archives is made available. We note that if it is not intended that redactions are made before documents are retained as public archives, we would request the opportunity to provide further feedback.

2. Do you have any general comments about any of the disposal recommendations?
If so, please outline below.

No comment.

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3. Do you have any general comments about any of the retention periods (i.e., how long EQC must retain records before disposal can take place)?
If so, please explain below.

ICNZ agrees that the retention periods appear to be appropriate.

Section specific comments

1. Provide specific comments (if any) on Class 1 Governance and Strategic Management.

No comment.

2. Provide specific comments (if any) on Class 2 Management of the Natural Disaster Fund, Risk Transfer, and Administration of the Earthquake Commission Act Insurance Scheme.

No comment.

3. Provide specific comments (if any) on Class 3 Claims Handling and Management.

ICNZ agrees that there is value in the types of documents that fall within Class 3, and sub-class 3.1 in particular, and that they should be retained as public archives (other than sub-classes 3.5 and 3.6, as set out in the Disposal Schedule). However, we reiterate the concerns raised in response to Question 1 that any possible release of personal information is done so in accordance with the Privacy Act. For example, in relation to sub-class 3.2, we would expect that names of any insurer staff members would be redacted. Additionally, not every legal proceeding will result in a court decision as a number will settle. We would therefore expect that consideration would be given to the need to comply with any confidentially clauses in the settlement agreements before the documents were made available as public archives.

3A: Regarding sub-class 3.1:

Our previous disposal authority recommended the destruction of some individual claim records (related to significant events). However, EQC regards such records as having great research value. The new disposal schedule proposes to keep these records as archives to support greater knowledge and understanding of natural disaster events in New Zealand, and their impact on land, buildings and community.

Do you have any specific comment to support or disagree with this proposed change?

Please see the above response.

4. Provide specific comments (if any) on Class 4 Capability Management.

No comment.

5. Provide specific comments (if any) on Class 5 Procedures, Guidelines, Instructions and Training.

No comment.

6. Provide specific comments (if any) on Class 6 Operational Contract Management.

No comment.

7. Provide specific comments (if any) on Class 7 Public Education and Sponsorship.

No comment.

8. Provide specific comments (if any) on Class 8 Research Management.

No comment.

9. Provide specific comments (if any) on Class 9 Policy Advice.

No comment.

10. Do you have any other comments?

No further comments.

Please send your feedback and comments to DAConsultation@eqc.govt.nz by **5pm, Monday 30 August 2021.**

Thank you.