

Department of the Prime Minister and Cabinet

Inquiry into the Earthquake Commission Proactive Release

January 2021

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Public Inquiry into the Earthquake Commission

Minute 5:

Clarification on application of Official Information Act and Local Government Official Information and Meetings Act

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Introduction

1. This Minute reinstates a procedural matter relating to the application of the Official Information Act and the Local Government Official Information and Meetings Act, relating to the conduct of the Public Inquiry into the Earthquake Commission ("**Inquiry**").

Official Information Act and Minute 2

2. When issued, paragraphs 13 and 14 of Minute 2 provided as follows:
 13. *For the avoidance of doubt, the Inquiry's [non-publication] orders attach only to release of the material held in the Inquiry's own records and do not apply to copies of the same material independently held by individuals or organisations submitting such material.*
 14. *Accordingly, in making the above s15(1)(a) orders, the Inquiry does not intend that any information received by it from an agency subject to the Official Information Act 1982 ("OIA") should cease to be "official information" within the meaning of the OIA in the hands of that agency.*
3. The Inquiry was initially concerned that these paragraphs would not be effective to enable the Inquiry to make qualified non-publication orders over material received from organisations subject to the OIA with the consequence that such non-publication orders would make certain information cease to be "official information". Accordingly, the Inquiry deleted paragraphs 13 and 14 of Minute 2.
4. Having reconsidered the matter, the Inquiry believes that its initial approach was correct so that the Inquiry may make a non-publication order over certain material held by the Inquiry and may clarify that that information will not cease to be "official information" in the hands of the originating agency. In addition, the Inquiry believes the relevant paragraphs should be extended to the Local Government Official Information and Meetings Act 1987.
5. Accordingly, paragraphs 13 and 14 are to be reinstated and amended into Minute 2 as follows:
 13. *For the avoidance of doubt, the Inquiry's orders attach only to release of the material held in the Inquiry's own records and do not apply to copies of the same*

material independently held by individuals or organisations submitting such material.

14. Accordingly, in making the above s15(1)(a) orders, the Inquiry does not intend that any information received by it from an agency subject to the Official Information Act 1982 ("OIA") or the Local Government Official Information and Meetings Act 1987 ("LGOIMA") should cease to be "official information" within the meaning of the OIA or LGOIMA in the hands of that agency.

Public Inquiry into the Earthquake Commission

Issued under the authority of the Inquiry Chair, Dame Silvia Cartwright, on 19 February 2020.