

Weathertight and the OIA

Weathertight Services receive a number of Official Information Act, Ministerial and Privacy Act requests. These tend to relate to the buying/selling of properties with claims, financial assistance given and information on the operation of the service.



Process

- Communication with Weathertight needs to be regular – with DOIA number in each email.
- Important to keep in mind people's working arrangements:
 - Pete Hackshaw (National Manager) is based in Auckland
 - All draft and final responses need to be reviewed and signed off by Ops and then Pete.
- Please send Mako links, not copies of documents.

Process step	Responsibility	Timeframe
Contact weathertight (WSG_Ops@mbie.govt.nz) to advise OIA (or information request) has been received and request information/advice as needed.	Ministerials	Same day OIA is received by writer.
Arrange to provide information.	Weathertight	Response within 2 days, indicating timeframe for providing information. May be longer if files are offsite
Review information for redactions, etc	Writer	
Draft letter	Writer	
QA letter	Another Ministerial Services team member	
Draft response provided to Weathertight (email Mako link to Ops)	Writer	Needs to be provided to Weathertight at least 7 working days before due date.
Draft response reviewed by Weathertight	Weathertight	Within 2 days.
Final changes made	Writer	1 day.
Final response provided to Weathertight (Ops/Cameron), with sign-off sheet	Writer	Needs to be provided to Weathertight at least 4 working days before due date.
Sign-off	Weathertight (Erin, Alby, Pete)	Within 3 days.

Tips and Tricks Writing for Weathertight

- It's important to keep in mind who the requestor is, and write the response accordingly. Are they a stakeholder? Claimant? Reporter? Council? Have they made a previous request?
- Claim numbers are all five digits, and should be referred to (for example) as Claim 01234.
- Responses need to be specific and accurate; no ambiguity. It is important to have a consistent template as we tend to get OIA for same claim or from same requester often
- Where the address of the property in question is not provided in the request, we should specify it in the response.
- In the letter, the way we refer to documents being requested and/or released should reflect the wording used in the documents themselves.
- We should aim to be helpful when referencing the information, providing titles and dates where appropriate.

Publicly available information

Statistics on weathertight claims are available on the Ministry's website here:

<http://www.mbie.govt.nz/info-services/building-construction/weathertight-services/weathertight-homes-resolution-service-claims-statistics/?searchterm=weathertight%20statistics>

Some financial information is available through the annual reports, which are also available online.

See the s 9(2)(a) OIA for list of all recent reports. We have also published a recent OIA s 9(2)(a) that looked at the FAP Valuation.

Refining

Even if a requester asks for all of the files for a claim we would look at refining to key, approved documents only. This includes:

- application form,
- the assessment reports,
- the eligibility check form and
- any approved FAP document.

Urgency

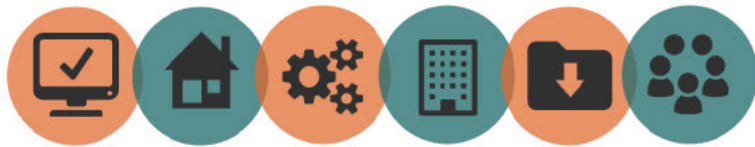
Many of the requests we receive are urgent – usually wanting information on a property before purchasing or selling. The Weathertight claim is on the LIM of all claims and will remain for the life of the property. Therefore, if buying or selling a property is mentioned in a request we would look at refining and providing key information as soon as possible.

Templates/ Previous Requests

We get many requests for the same property or from the same people, it is extremely important to us that everyone receives the same information, in the same format every time. Therefore, please see previous responses we have drafted and the templated response in the appendix for guidance.

See previous responses here:

<http://mako.wd.govt.nz/otcs/llisapi.dll?func=ll&objaction=overview&objid=66462711>



Weathertight Services

Guide for requesting information

Business as Usual (BAU), The Official Information Act (OIA) and Local Government Official Information & Meetings Act (LGOIMA)

BAU

The FAP closed on 25 July 2017

This means anyone considering making a claim after this date can either pursue a claim through the Weathertight Homes Tribunal or seek alternative resolution options through the courts.

✔ For existing claims pursuing the FAP this will not change the flow of information between TA and Weathertight for claim specific information as per our processes.

✔ However, for new claims this means that we cannot share assessment reports or information outside of LIM notifications and reports.

✔ We release monthly statistics on Weathertight claims on MBIE's Website; These show active claims by region and their resolution status.

OIA

When is it an OIA?
Here are some indicators which may help to determine if an OIA request is appropriate to manage this claim:

? If a HOA hasn't been signed; If the participation and contribution status of the council is declined or not participating; If the request is for information related to mediation.

? There are wider questions about the service as a whole such as:
Was the claim closed before 1 April 2007?
Is the request for a list of claims, with claimant details?

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OIAs received and processed by Weathertight Services
May 2017 - June 2018

Information Requests



Who is requesting information?



Claimant or the Representative/Agent. This is someone who has signed an application form.



Council



3rd Party which can include previous, current or prospective owners who are not the claimant. This also includes others in the industry.

How to process it

Business As Usual



Is it for information on their claim only? Is this part of the normal claim process? Would they usually receive this information?



Have they signed an HOA and are participating?
For LIMs - Was the claim active after 1 April 2007?



Has the claimant requested this person be included in correspondence? Is it a contractor with a signed SoW?

OIA



Do they want to see correspondence between others? Do they want to see *all* information on their claim including drafts?



Are they asking for a list of claims in a specific region? Are they asking for information on a claim without a HOA?



Is this someone that has not signed any WHRS forms? Do they want information on a property they are looking to buy/sell?

Privacy Act



Are they asking for *all* information on themselves? This can include mediation documents.



Do we hold any information on the individual? Is it a party to a claim requesting information related to themselves?



Provide appropriate information



Email request to: OIA@mbie.govt.nz



Forward request to Ops team ASAP

Requests for Weathertight Services Information under the Official Information Act 1982

There are some common issues which are particular to Weathertight Services information for which we have developed a 'standard' approach; here is an overview – please see the full version here: <http://mako.wd.govt.nz/otcs/llisapi.dll?func=ll&objaction=overview&objid=75486088>

Releasing Lists

From time to time Weathertight Services receives requests asking for lists of claims (property addresses) and owners. We have withheld this information under section 9(2)(ba)(ii) of the OIA. See s 9(2)(a) [redacted] and s 9(2)(a) [redacted] - A list of claims was requested, and subsequently requested again; we refused both requests.

However, an exception to this will apply when the request is made by a Territorial Authority (TA) requesting lists of information on claims which relate to their region and which were active (open or received) after 1 April 2007. Lists of pre-2006 Act claims could be withheld from a TA under section 9(2)(ba)(ii) of the OIA as the 2006 provides for the LIM notifications to TAs.

Privacy - When does section 9(2)(a) of the OIA apply?

This requires looking at who the requester is and who is involved in the claim, and in what capacity. The Assessor's Report (if there is one) and Lotus Notes claims record is a good starting point to gain an overview of people involved.

We may also receive requests from people associated with the building, such as other owners or body corporate representatives, building contractors, etc. In this case it may be necessary to withhold information under section 9(2)(a) of the OIA.

In general we would redact addresses that aren't associated with the Weathertight claim, personal email address and contact details, financial and legal information and claimant comments that may be personal (for example, about their health). However, we release the address of the property, and the name(s) of the owners.

We release financial information such as the estimated cost of repairs; however, information about a claimant's financial standing and whether they could afford repairs would likely be redacted. Body Corporate financial information could possibly be released; the provisions of the Unit Titles Act 2010 and the specifics of the OIA request would need to be considered.

See s 9(2)(a) [redacted]

An interesting example where a different approach needs to be taken is the names of owners of units in a multi-unit complex in a leasehold agreement or a trust or tenancy where we would redact their names.

See s 9(2)(a) [redacted]

Email addresses / contact details

Weathertight Services staff deal directly with claimants and stakeholders; therefore, it would be unreasonable to redact their work email addresses or work phone numbers for privacy reasons. We also have contractors who work with claimants and stakeholders; they are treated as Ministry staff and sign contracts stating so. Therefore any professional email addresses or phone numbers they use in relation to the claim (especially if it appears in the Assessor Report) are likely to be released.

We tend to release information if it is present in an email signature as there is no guarantee of privacy when sending an email with contact details that are able to be forwarded on. This has been tested and agreed with the Ministry's Legal Services. This is especially the case with people acting in a professional capacity in relation to the claim, such as Territorial Authority staff.

When considering contact details for an individual at another business (for example, a law firm) a quick internet search often shows that their details are available publicly. In general, an address that is clearly used for work purposes would be released as it is hard to argue a case for privacy in such circumstances, e.g. joe.bloggs@bloggslawyers.co.nz

Weathertight Mediations

Section 84 of the Weathertight Homes Resolution Services Act 2006 (Section 16(4) of the WHRS Act 2002) discusses confidentiality in relation to mediations under the WHRS Act. Specifically, section 84(5) states that: *Nothing in the Official Information Act 1982 applies to any statement, admission, document, or information disclosed or made in the course of the provision of mediation services to the person providing those services. This includes any statement, admission, or document created or made for the purposes of the mediation (including a settlement under section 85) [s.84(1)(a)].*

Therefore, documents and information created or made for the purposes of mediation can be withheld under section 18(c) of the OIA.

TA Documents

The majority of assessment reports include information from the Territorial Authority's property file. This file contains documents the TA holds on the property and usually includes the building consent, related CCC and other relevant construction documents. Our approach to these is not to redact any information as these are available from TAs under the Local Government Official Information and Meetings Act 2002; anyone is able to request the property file and it is made available. However, it is still important to review these documents as there may be documents which are unrelated to the claim and have simply been misfiled.

Action Notes

We do not release action notes with all OIAs as these are internal notes used to track the progress of claims. However, there may be requests where these are in scope and should be released. We would typically consider releasing action notes for OIA requests that ask for all 'records/correspondence/everything'.

A short description of what these action notes are should be included to provide context. For example, 'action notes are maintained for all open claims to enable claims advisors and the wider Weathertight Services team to manage claims.'

See s 9(2)(a)

Contractor Information

The OIA applies to any information held by Weathertight Services contractors. We should hold all of the information for our claims but there may be times where specific photos or files are requested where we need to go back to the original assessor which may cause delays.

See s 9(2)(a) (this folder includes the legal advice).