
REPORT 1
(1215/52/IM)

AMENDMENTS TO THE EARTHQUAKE-PRONE BUILDINGS POLICY 2006

1. Purpose of Report

To report on the special consultative procedure undertaken for proposed amendments to Council's Earthquake-prone Buildings Policy 2006. The special consultative procedure included oral submissions heard by Council in August and September 2008 and further stakeholder workshops in October 2008. This report recommends that the Committee consider the feedback and refer an amended policy, *Earthquake-prone Buildings Policy 2009*, to Council for approval.

2. Executive Summary

Council's Earthquake-prone Buildings (EQPB) Policy 2006 established an active process to identify EQPBs. Council has funded an initial assessment to identify these structures. Approximately one third of these assessments have been completed on 3,800 targeted buildings.

In June 2008, the Strategy and Policy Committee approved consultation on a proposal to:

- extend the timeframes for strengthening compliance
- remove the *one third of capital value* trigger requiring strengthening in advance of the maximum timeframes otherwise required
- provide for a portfolio approach to strengthening for owners of two or more buildings
- provide for delegated powers to officers to change timeframes.

Thirty written submissions were received and the Strategy and Policy Committee heard 10 oral submissions in August and September 2008. In general there was strong support for the proposed changes to the EQPB Policy 2006 with 24 submitters confirming they agreed with the proposed amendments and 6 against.

As a result of oral submissions, Council officers were asked to host workshops with key stakeholders to explore issues raised, particularly around the interface between heritage protection and earthquake strengthening as well as process issues.

Further information on the written and oral submissions can be found in appendix 3 and the workshop discussions in appendix 4.

As a result of the analysis of submissions and further workshops, the original recommendations proposed have been confirmed as appropriate by officers and are resubmitted in this paper for Committee approval. Further changes to the policy arising from the consultation and officer discussions are:

- a new provision for partial targeted or staged strengthening proposals as specific matters that may be considered for an extension in timeframe to complete strengthening work
- new text to clarify the potential use of a further assessment in addition to a standard IEP before confirming the earthquake-prone status of a building.

In summary, the recommendations represent a moderate relaxation of the maximum strengthening timeframes for buildings identified since 2006 as earthquake-prone, while ensuring an appropriate balance with public safety concerns.

A recommendation for action outside the policy document is for officers to jointly organise and facilitate a Special Interest Group consisting of people involved in heritage and property management and development. The purpose of the group would be to facilitate the identification and promotion of cost effective strengthening solutions. While the group would consider buildings of all types, an expected focus would be to resolve the strengthening challenges presented by heritage structures. This group would assist to deliver Council's commitment to stakeholder relationship development under the Built Heritage Policy 2005.

3. Recommendations

Officers recommend that the Committee:

1. *Receive the information.*
2. *Note that 30 written submissions were received, 10 oral submissions heard by the Strategy and Policy Committee in August and September 2008 and two stakeholder workshops held in October 2008 as part of the special consultative procedure for review of the Council's Earthquake-prone Buildings Policy 2006.*
3. *Recommend to Council that it:*
 - a. *Agree that the special consultative procedure for review of Council's Earthquake-prone Buildings Policy 2006 has been completed pursuant to section 83 of the Local Government Act 2002.*
 - b. *Agree to the amended policy, Earthquake-prone Buildings Policy 2009, attached as Appendix 1 to this report.*

- c. *Agree that the Earthquake-prone Buildings Policy 2009 will be operational from 1 July 2009.*
- 4. *Note that Council's Built Heritage Policy 2005 is the principle means by which built heritage issues in the city are managed.*
- 5. *Note that Officers from the Building Control and Heritage units will jointly organise and facilitate a Special Interest Group consisting of a group of interested people involved in heritage and property management and development to facilitate the identification and promotion of cost effective strengthening solutions for buildings of all types.*

4. Background

The Building Act 2004 required the Council to develop a policy on EQPB. The resulting EQPB Policy 2006 established an active Council process to identify EQPBs and the Council has funded an assessment programme to identify these structures.

The final report back on the EQPB Policy 2006 consultation (11 May 2006) noted that the policy would need to be reviewed when the assessments were completed and the extent of the strengthening challenge for Wellington City was more accurately identified. Council reassessment of the proposed deadlines was envisaged in the light of further information on the expected total economic and urban amenity impacts of the assessments.

Approximately one third of 3,800 buildings potentially deemed to be earthquake-prone under the increased strengthening requirements of the Building Act 2004 have now received an initial assessment. These initial assessments are considered to be broadly representative of the full range of earthquake-prone buildings to be considered.

These initial assessments indicate that approximately one quarter (i.e.: a total of 800 to 1,000) of the total 3,800 potential EQPBs could fail to meet the minimum standard under the Building Act 2004 of at least 33% of current regulation requirements for a new building.

In June 2008, the Strategy and Policy Committee (SPC) agreed to consult on amendments to Wellington City Council's EQPB Policy 2006. The amendments proposed were:

- extending the timeframes for strengthening compliance in the EQPB Policy 2006 by a further five years for each importance category as follows:

⇒ High priority	Change from 5 to up to 10 years
⇒ Moderate priority	Change from 10 to up to 15 years
⇒ Low priority	Change from 15 to up to 20 years

- ⇒ **Passive** **No maximum – unchanged.**
- removing the ‘one third’ of capital value trigger requiring strengthening in advance of the maximum timeframes
- allowing owners of two or more earthquake-prone buildings a portfolio approach to strengthening
- provision to allow Council Officers with appropriate delegations to issue an EQPB notice with a timeframe different to the policy.

The proposed changes would not affect the Change of Use provisions under the Building Act 2004, which requires strengthening to as nearly as is reasonably practicable to the current requirements of the Building Code.

The review of the EQPB Policy 2006 required the Council to follow the special consultative procedure pursuant to section 83 of the Local Government Act 2002.

The consultation document was publicly notified in the Dominion Post public notices and ‘Our Wellington’ page. It was also placed in libraries and service centres, was accessible via the Council’s website and was sent to interested parties and submitters identified in the 2006 policy development process.

At the conclusion of the consultation period thirty written submissions (11 individuals and 19 organisations) were received. SPC heard eight oral submissions at its meeting of 27 August 2008 and a further two submissions at the 11 September 2008 meeting. The oral submissions in general reinforced and highlighted the themes noted from the written submissions.

At the 11 September SPC meeting, Councillors resolved that the report, ‘Amendment to the Earthquake-Prone Building Policy – Report on Consultation’, be left to ‘lie on the table’. Officers were asked to host workshops with appropriate stakeholders to explore issues around the interface between heritage and earthquake strengthening as well as process issues. The workshops were attended by a number of submitters and technical advisers.

At the 13 November SPC meeting Council Officers withdrew the previous report that was ‘lying on the table’. SPC resolved that Council Officers *report back in February 2009 with options for progressing the Earthquake-prone Building Policy.*

5. Discussion

The discussion in sections 5.1 to 5.9 lists the key issues identified in the written, oral and workshop feedback received between June and October 2008. The officer analysis, policy options and recommendations in response to each issue are also discussed. Table 1 summarises the recommended changes to the EQPB Policy 2006.

Table 1: Summary of officer recommendations

<p>Changes now proposed to the EQPB Policy 2006</p> <ul style="list-style-type: none">a) Extension of the timeframes for strengthening compliance in the EQPB Policy 2006 by a further five years for each importance category to a maximum of twenty years.b) Removal of the one third of capital value trigger requiring strengthening in advance of the maximum timeframes otherwise required.c) A new provision allowing owners of two or more earthquake-prone buildings a portfolio approach to strengthening, provided the overall level of public safety otherwise required by the policy is maintainedd) A new provision to allow Council Officers with appropriate delegations to issue an EQPB notice with a timeframe different to the policy.e) A new provision to allow partial, targeted or staged strengthening proposals as specific matters that may be considered for an extension in timeframe to complete strengthening work.f) New text in methodology steps 2, 3 and 4 to clarify the potential for further assessment in addition to a standard IEP before issuing of letters indicating a building is <i>potentially</i> earthquake prone or issuance of a section 124 notice confirming the earthquake-prone status of a building. <p>Recommendations for action outside the policy document framework</p> <ul style="list-style-type: none">g) That Officers from the Building Control and Heritage units will jointly organise and facilitate a Special Interest Group consisting of a group of interested people involved in heritage and property management and development to facilitate the identification and promotion of cost effective strengthening solutions for buildings of all types.

5.1 Extension of strengthening compliance timeframes

The Statement of Proposal for the special consultative procedure proposed to extend the timeframes for strengthening compliance in the EQPB Policy 2006 by a further five years for each importance category as follows:

High priority	Change from 5 to up to 10 years.
Moderate priority	Change from 10 to up to 15 years.
Low priority	Change from 15 to up to 20 years.
Passive	No maximum – unchanged.

Submitters variously commented that the proposed timelines were both too short and too long. The workshop participants considered the existing timeframes to be reasonable, but sought Council flexibility in their application. At the same time, submitters said that building owners who refused to

strengthen their buildings following reasonable notice should be followed up more rigorously by Council.

Officer analysis, policy options and recommendations

The proposed timeframe extensions are considered an appropriate balance between public safety and economic feasibility. The hearings process in the Policy provides Council with the flexibility to consider a wide range of special circumstances, including heritage status and previous strengthening work, and if appropriate grant a timeframe extension. It is recommended that the timeframes be extended as proposed.

5.2 *Removal of the “one third of capital value of works to trigger strengthening” requirement*

Two written submitters questioned the benefit of removing the one third of capital value strengthening trigger. They noted the loss of public safety benefits and that initiation of major works is the best time to achieve strengthening. Participants at the workshops acknowledged the financial benefits of undertaking strengthening work at the same time as refurbishment work.

Officer analysis, policy options and recommendations

It is agreed that strengthening is best achieved when completing other major works. However the proposed change would allow building owners the full timeframes in which to make financial provision for strengthening works. In any case, Council’s EQPB policy will continue to encourage strengthening to the highest practical standard when other significant work is undertaken. In addition, sections 112 (alterations to existing buildings) and 115 (change of use) of the Building Act 2004 will continue to impose consequential upgrade requirements in appropriate cases.

It is recommended that the capital value trigger be removed.

5.3 *Portfolio approach*

A portfolio approach recognises that building owners may have several earthquake-prone buildings requiring strengthening within the same period. Adopting a portfolio approach in such cases may allow building owners increased flexibility in terms of the order and timing of strengthening of their earthquake-prone buildings within their portfolio provided the overall level of public safety otherwise required by the policy is maintained

Required conditions would be:

- There must be no reduction in the net overall level of public safety otherwise required by the policy across the portfolio. Council will need to be satisfied that any extensions in timeframes for one or more earthquake-prone buildings are sufficiently offset by shortened timeframes for one or more other earthquake-prone buildings in the portfolio;

- Buildings assessed as earthquake-prone must be category two, three or four (category one buildings are excluded as there is no maximum timeframe for these buildings);

The workshop participants were in general agreement with this proposal.

Officer analysis, policy options and recommendations

It is recommended that two new provisions be inserted into the existing EQPB Policy 2006.

a) Insert new text at the end of section 3:

“Portfolio approach: *Owners of multiple EQPBs can work with Council using the hearings process in attachment 2, to agree on a building portfolio strengthening plan.”*

b) Insert a new bullet point into *Attachment 2, Hearings Process – specific matters that may be considered for an extension in timeframe to complete strengthening work:*

- *proposals by an owner of more than one earthquake-prone building to modify the order and timeframes in which the portfolio of buildings is strengthened provided there is no reduction in the net overall level of public safety otherwise required by the policy across the portfolio. Council will need to be satisfied that any loss in public safety from any extensions in timeframes for one or more earthquake-prone buildings are sufficiently offset by shortened timeframes for one or more other earthquake-prone buildings in the portfolio.”*

5.4 Heritage issues

Workshop participants in particular believed that the Council’s Built Heritage Policy 2005 and EQPB Policy 2006 as well as other policies and operations should be well aligned. Actions proposed by various submitters included establishment of a strategic plan or framework and an advisory focus group to achieve better alignment, particularly with respect to heritage and EQPB issues.

The importance of public funding and incentives was noted, particularly for heritage buildings.

5.4.1 Policy option: Strategic framework for built heritage and earthquake-prone buildings

The Built Heritage Policy 2005 (BHP 2005) is required as a matter of national importance under the Resource Management Act. The BHP 2005 clearly articulates the role for the Council in recognising, protecting and conserving heritage buildings and precincts, within the overall context of ensuring a vibrant and sustainable economic environment in the city. In particular the Built Heritage Policy affirms the Council’s commitment to:

- promote appropriate levels and methods of earthquake strengthening that minimise the negative impact on the heritage values of a listed building (section 2.8)
- maintain and develop relationships with key stakeholders and interested parties e.g. NZHPT, Wellington Regional Council, property owners, appropriate government and non-government agencies, and local community groups to ensure wider heritage goals are met (section 6.3).

The current EQPB Policy 2006 supports the BHP 2005 and balances the requirements of public safety with providing some flexibility for owners by:

- requiring strengthening as for any other type of building
- requiring a management plan outlining how strengthening will preserve the heritage fabric of buildings
- discouraging demolition
- providing for consideration of heritage characteristics as grounds for a timeframe extension.

Officers advise that the intent of the two policies is reasonably well aligned. The core issue underlying submitters' concerns is more related to funding, as increased strengthening costs arise in a heritage structure. The submissions point towards arguments for some public funding of the public good benefit arising from heritage protection. Public funding is an annual plan issue discussed below.

Alignment between the two policies can be strengthened by:

- the special interest group proposed below which would provide a forum to identify and promote cost effective strengthening solutions
- the increases in timeframe flexibility for owners of heritage buildings proposed in section 5.4.3 below.

Officers believe that a focus on Council's *Built Heritage Policy 2005* is an appropriate mechanism to demonstrate Council's commitment in this area.

5.4.2 Policy option: more flexible approach

Officers have investigated other Territorial Authorities' approaches to heritage buildings.¹ The Napier City Council approach to heritage buildings provides for waived or varied standards in order to protect the heritage fabric of buildings.

The Building Act 2004 creates limits to a flexible approach in that Council must demonstrate a reasonable response to buildings known to be earthquake-prone.

The current approach in Wellington City provides that the heritage status of a building is a specific matter that may be considered for an extension of timeframes, but standards are not waived. A possible option to encourage more

¹ Officers investigated the approaches of Hutt, Upper Hutt, Porirua, Napier, Hastings, Christchurch, Manukau, and Auckland City Councils and Rotorua District Council.

flexibility by Council could be to make further provisions in the matters that may be considered for a time extension.

The hearings process in Step 6 of section 4.0 of the Policy could include consideration of targeted strengthening where there is a high likelihood of extensive loss of heritage values. The hearings process could also consider staged strengthening for buildings with heritage characteristics.

It is recommended that Attachment 2, *Hearings Process – specific matters that may be considered for an extension in timeframe to complete strengthening work* of the EQPB Policy 2006 includes a new bullet point:

- *consideration of work that has been undertaken on, or that otherwise affects, a building providing partial, targeted or staged strengthening.*

This new provision would allow consideration of time extensions where, for example, work had been undertaken to secure parapets (a part of a building which is known to fail in earthquakes and can cause injury to the public) but the building is still earthquake prone. The time extension may allow technology to be sourced that allows strengthening to be undertaken without a detrimental impact on the heritage values of the building.

5.4.3 Policy option: Heritage Incentives

A strong theme from the submissions and the workshops was the request for additional funding or other incentives for owners, particularly heritage owners, to support their strengthening work. The proposals included:

- rates relief
- rates differential
- accelerated depreciation rates. This would require liaison with the Inland Revenue Department
- fast tracking of the consents process
- grants
- rebates on consents
- incentive payments for listed buildings.

Officer analysis, policy options and recommendations

Grants are a preferred method for providing public funding as they are the most transparent approach and the desired value of support can be most accurately determined in each case.

Council's Long Term Council Community Plan (LTCCP) process is the best means to determine the extent if any of financial assistance for earthquake strengthening of heritage buildings. The Council has a Heritage Incentive Fund which currently supports heritage buildings in a variety of ways, including strengthening works. It is recommended that this fund continue to provide grant support at a level to be determined by the Annual Planning process.

5.4.4 Other heritage issues

Heritage vs Building Safety

In some circumstances, a conflict between the Council requirements for heritage and strengthening for public safety may arise. The Building Act requires councils to ensure public safety is put first. The Council may need to take a pragmatic approach to protection of heritage values when considering solutions to achieve the required level of strengthening.

Non-Heritage buildings in District Plan Heritage Areas

Some buildings in heritage precincts, while not listed structures themselves, are noted as contributors to the heritage character of an area. These contributing buildings may face similar increased complexities and costs to achieve strengthening as listed structures. It is recommended that any Council Built Heritage fund assistance be available to both listed and contributing buildings in heritage precincts.

Loss of property rights from heritage listings was raised by some submitters. Officers advise that the District Plan is the appropriate forum to address these concerns.

One submitter asked that ***heritage buildings be placed in a shorter strengthening timeframe category***. Officers consider that this would place unreasonable cost pressure on owners. Concerns were also raised about the level of heritage protection. These are district plan issues and are not addressed in the EQPB Policy.

5.5 Process issue – improvement of dialogue between Council and building owners

An underlying theme of the workshops was that the processes for dealing with heritage and earthquake strengthening issues could be improved. The need for improved face-to-face dialogue between building owners, Council and technical experts was identified as well as calls for a more flexible process.

Officer analysis, policy options and recommendations

5.5.1 Policy Option: Special Interest Group

The original policy development for the EQPB Policy 2006 included consultation with technical groups. The Council also continues to engage two independent engineering consultancies on earthquake prone building and other structural engineering matters.

A Special Interest Group may be a useful forum for Council and interested parties to meet on issues related to earthquake strengthening. The aim of the Special Interest Group would be to encourage a dialogue between interested parties and to develop practical solutions to identified issues.

The Council resources needed for the group would include staff time to facilitate 3-4 meetings per year, and to develop an information sharing forum on the Council's website.

The workshop participants expressed strong interest in and support for the introduction of such a group.

Officers recommend that this Special Interest Group be established by BCLS and Heritage Staff within existing budget provisions. The Group would not report directly to Council, but its discussions would be an important contribution to assisting to identify and promote cost effective strengthening solutions for buildings of all types.

5.6 Retention of existing timeframes for strengthening notices issued under previous legislation.

Three submitters believe that retention of existing timeframes for strengthening notices issued under previous legislation is unfair.

Officer analysis, policy options and recommendations

The existing notice period already given on these buildings ranges from at least four, and up to 30 years. All recipients of these notices have also been given an opportunity to seek time extensions from Council's regulatory sub-committee. Given the fair notice period and opportunity to seek review, officers consider that retention of existing notice periods is reasonable.

5.7 Buildings strengthened under prior notices.

One submitter sought that buildings strengthened under prior notices be exempt from further upgrade.

Officer analysis, policy options and recommendations

Under the Council's building safety policy in the 1990's, a significant number of buildings were strengthened to between 67% and 100% of the 1965 loading standard in compliance with the policy of that time. More recent changes in legislation and the loading standard have meant that the seismic performance of these buildings is generally somewhere between 15 and 40% of the current code requirements. Of the previously strengthened buildings that have been assessed to date approximately 65% were identified as potentially EQP. Given the possible extent of the public safety risk indicated by these initial results, officers recommend that these buildings should continue to be selected for assessment.

Other Territorial Authority's have decided not to assess buildings that have been previously strengthened on the basis that this is unfair on building owners who complied in good faith with the requirements of the time. The current building code requirements vary around the country depending on seismicity. In some areas the new code requirements are not as onerous as in Wellington and previously strengthened buildings can be safely assumed unlikely to be earthquake prone. While it is preferable that regulation changes do not create

swift or dramatic changes in circumstances, this is a risk for any asset owner that cannot be completely avoided.

Officers recommend that the existing policy is adequate as the extent and timing of previous strengthening is already a matter for consideration for the extension of timeframes (attachment 2 to the EQPB Policy 2006).

5.8 *Appropriateness of the methodology Council is using for initial assessment of buildings.*

Under the EQPB Policy 2006 Council uses the IEP process set out in the New Zealand Society for Earthquake Engineering *Recommendations for the Assessment and Improvement for the Structural Performance of Buildings in Earthquakes* as the assessment methodology to determine the structural performance of buildings in relation to NZS1170.5: 2004. Buildings with a score of less than 34 are considered to fall within the definition of an earthquake prone building.

The IEP procedure is a qualitative assessment technique that is widely used by other Councils as their initial assessment methodology and has been endorsed by the Department of Building and Housing as a way of identifying buildings that are potentially earthquake prone.

Some submitters and workshop attendees questioned whether Council is legally able to issue notice on an earthquake-prone building (S124 notices under the Building Act 2004) on the basis of an IEP alone.

The process for the identification of potentially earthquake-prone buildings is outlined in section 4 of the Policy. This process allows the provision of further information from the building owner to address any aspect of the IEP they believe is inaccurate. This process could include clarification from the building owner or a detailed engineering assessment on behalf of the building owner.

Concern was also expressed that any initial notification of the IEP results prior to formally issuing a section 124 notice may unreasonably impact valuations. This concern arises because once Council has written to property owners informing them that their building is potentially earthquake prone, this correspondence forms part of the Council records on the building and will be included in Land Information Memoranda. Other workshop participants however, noted that lower values would reflect in lower rates and values would increase again once the strengthening work had been completed.

Officer analysis, policy options and recommendations

The IEP process is considered a quick and cost effective way of undertaking initial assessments of buildings to determine whether or not the building may be potentially earthquake-prone. Alternative assessment methodologies appropriate for New Zealand conditions, are not readily available and the alternative of a detailed assessment is both expensive and time consuming.

In most cases the use of the standard IEP process is considered to be sufficient grounds for Council to issue a letter under step 3 indicating that a building is *potentially* earthquake-prone. However, there may be some cases where further assessment of the building is required before letters under step 3 can be issued. Examples of these circumstances may include: buildings that have been strengthened after 1991 to 100% of the 1965 Code, or buildings receiving initial IEP scores of between 25 and 34.

Any further information required by Council before issuing a letter under step 3, in most circumstances is likely to be sourced from a review of Council's own records undertaken by council officers, in conjunction with Council's contracted technical experts.

Changes to step 2

It is recommended that the Earthquake-prone Building Policy provide further clarification in step 2 of section 4 as follows:

Buildings are evaluated on an area by area basis. Consideration will also be given to the number, classification and potential risk of buildings within an area when deciding the order of areas to be assessed.

Council will, at its own cost, use appropriately qualified engineers, to undertake the IEP.

In some circumstances the standard IEP by itself may not provide sufficient evidence to satisfy officers there is a reasonable probability the building is earthquake-prone. Examples of these circumstances may include: buildings that have been strengthened after 1991 to 100% of the 1965 Code, or buildings receiving IEP scores of between 25 and 34. If any such circumstances arise in relation to a building, Council officers will further research Council records and conduct follow up investigations with the Council's technical advisers before advising the outcome of the initial assessment under Step 3 below.

Changes to step 3

It is recommended that step three include text to clarify that further assessment in addition to a standard IEP may be completed by Council.

Further text is suggested in step three to clarify the standard of further information that a building owner might provide to Council as follows:

This additional information can be completed either in accordance with the NZSEE document or an alternative acceptable standard. It is recommended that presenting any new information other than in accordance with NZSEE is discussed with council officers and confirmed as being acceptable to the Council prior to the work being undertaken.

Changes to step 4

Council officers further advise that the completion of an IEP, followed if necessary by review of Council records and discussion with Council's technical advisers, is likely to provide sufficient evidence to issue a notice to strengthen under section 124 of the Building Act. It is therefore further recommended that the Earthquake-prone Building Policy provide further clarification in step 4 of section 4 highlighted in grey as follows:

Step 4. Issue notice to strengthen building

Where,

- a) after consideration of any further information provided in Step 3 above, the Council is still satisfied that the building is earthquake-prone, OR
- b) Where a building owner has failed to respond to Council's letters under Step 3, and the Council is satisfied from the IEP process the building is earthquake prone

the Council will issue a written notice under Section 124 of the Building Act 2004 requiring a building consent to be obtained and the structural strengthening work to be undertaken.

The financial implications of these proposals is that Council would continue to fund all investigation of Council records by its own technical advisers up to the point at which a section 124 notice to strengthen is issued. There is potential for Council to incur greater costs than budgeted to date as original estimates did not provide for investigation of Council records over and above the IEP process costs. These budget risks are not considered to be significant.

5.9 Other process issues noted by submitters

Officers have noted various operational issues arising from the points raised in the sections below. No specific changes to the existing EQPB Policy 2006 are proposed.

5.9.1. Industry capacity

Ability of the industry to complete the IEPs in a three-year timeframe was questioned by some submitters. Council has approved in the current 2008/09 Annual Plan the extension of the process from three to six years.

5.9.2 Importance categories

Some workshop participants queried whether the policy's importance categories adequately captured all building classifications such as churches and halls. The importance categories are based on a New Zealand Standard and contain provisions for such places of public assembly. It is preferable that the standards development process addresses this issue.

5.9.3 Timing/prioritisation of the IEP process

Some workshop attendees considered that the timing/prioritisation of the IEP process should focus on the most dangerous buildings. The assessment of buildings using the IEP methodology has been undertaken on an area and risk

basis. The first priority was buildings in the central business district as failure in this area was likely to cause danger to a greater number of people in and around the buildings. Subsequently the assessments have been undertaken in several different suburban parts of Wellington. BCLS believe this is the most cost effective methodology to complete the assessment stage of the process.

5.9.4 Council's operational approach

Some workshop participants felt that a more personal approach by Council, involving more phone or face to face contact could yield better compliance results than the current primarily paper-based communication approach. The need to continue to improve the balance between provision of a customer service to rate paying building owners and regulatory requirements is an ongoing challenge that is being addressed by BCLS. The proposed Special Interest Group process is also intended to encourage a more productive dialogue between owners and Council.

5.9.5 Guidance notes

Improved levels of guidance information (outside the policy and therefore readily updateable) were considered useful by workshop participants. The proposed Special Interest Group will discuss cost effective strengthening practice acceptable to Council and these discussions could form the basis for guidance notes. Once the policy is finalised officers advise, they will be working to improve the level of guidance information available to the public.

5.9.6 Acceptability of third party expert opinion

Some workshop participants identified situations where owner's experts believed the building was not earthquake-prone but the Council had continued to raise questions through the assessment process.

Acceptance of expert opinion by officers is considered on a case-by-case basis. When an opinion on the earthquake prone status of a building is provided (by an expert), it is expected by officers that it will be supported by good technical evidence. The Council needs to be satisfied on reasonable grounds that the opinion, supported by the information provided, shows the building is not earthquake-prone.

5.9.7 Officer discretion

Some workshop participants identified a need for greater officer discretion. It is expected that as the number of decisions from time extension hearings increases a number of precedents will develop to guide officer discretion. The policy provides for a hearing process for proposals that fall outside the policy framework. This gives both officers and the building owner(s) the ability to present their case for discretion and the decisions to be made by the Regulatory Processes Committee on behalf of Council.

5.9.8 Balance of regulatory requirements and incentives

Some workshop participants identified a need for a better balance of "carrot and stick" through use of incentives, greater interaction and flexibility. The recommendations above on the Special Interest Group and considerations for

time extensions address issues of improved interaction and flexibility. The issue of incentives has been addressed above in this report in section 5.4.4.

5.9.9 Council's own buildings

Council was urged by some submitters to take steps to safeguard its own priority buildings. Council has provided for the strengthening work required for our own buildings, where the IEP process has been completed, and funding is included in the draft 2009 - 19 LTCCP.

5.9.10 Provisions for specific building types

Council was asked by one submitter to make specific policy comment on buildings of specific type and to ensure all parties with interests in a building are fully informed. The EQPB Policy 2006 requires a case-by-case assessment of buildings. Once a building is identified as earthquake-prone and a notice issued, the BA04 requires that copies of that notice be given to all owners and occupiers and anyone who has an interest in the building.

5.9.11 Alternative prioritisation framework

Some submitters suggested the use of the IEP score results to determine appropriate strengthening timeframes as a replacement for Council's existing approach based on building age and importance level. The existing process is considered by officers to be more administratively feasible as it provides cut off points that are more precise and less prone to dispute. The importance category of buildings is also considered far more relevant to the determination of timeframes.

5.9.12 Technical and cost sharing concerns

Technical and cost sharing concerns were raised in situations where there are groups of buildings and common walls. The IEPs will need to continue to consider buildings in this situation. The EQPB Policy cannot prescribe cost sharing arrangements, but officers are available to facilitate solutions if requested. This could be an issue addressed by the proposed Special Interest Group.

5.9.13 Strengthening requirements beyond the 33% legal minimum

Some submitters sought strengthening standards beyond the 33% minimum. While Council's EQPB Policy 2006 encourages more complete strengthening it has no enforcement power above the legislative requirement.

5.9.14 Monitoring of new technologies

Benefits from the monitoring of the development of new technologies for earthquake strengthening have been raised. While discovery and adoption of innovations is expected to be sourced through Wellington's community of professional engineering advisers, the proposed Special Interest Group could have an associated role. An inaugural earthquake strengthening conference is scheduled for San Francisco in December 2009 and it could be beneficial if there were participation from Wellington.

5.9.15 Wider criteria for prioritisation

Wider criteria and considerations for prioritisation of the selection of buildings for IEPs and strengthening were raised as an issue in the workshops. Wider criteria and considerations identified included maintenance of access along key thoroughfares, the nature of all buildings in a precinct and the nature of major lease and rent review cycles. Council has limited knowledge of lease or rent cycle reviews and so co-ordination with these factors is difficult at the initial assessment stage. However these are matters that are already provided for in the policy as considerations for a timeframe extension. BCLS has started to look at access along key thoroughfares as an issue in determining priority in undertaking assessments.

Table 1 in the current policy prioritises the order in which the buildings will be assessed and, if necessary, required to be strengthened. The prioritisation in Table 1 is determined by:

- *Importance Level* – whether a building has a post-disaster function, serves a specific community purpose, or is likely to cause injury or damage to other property.
- *Building Age and Condition* – the likely structural performance of a building based on the structural code to which the building was designed or strengthened.

While other assessment classifications are possible, they quickly become complex with a significant number of variables to assess. The advantage of the current system is that it uses information that is readily available and simple to apply.

5.9.16 Transferable development rights

Under the old Wellington City District Scheme (which was operative during the 1980's and early 1990's), new buildings in the Central Area were managed using a combination of maximum height and plot ratios (to manage the total floor area that could be developed on site). One form of bonus available to property owners was to buy additional floor area from a property containing a listed heritage building and therefore unable to develop further - a transferable development right (TDR). Submitters sought such TDR mechanisms to compensate for loss of development rights arising from heritage listing. The current District Plan (introduced in 1994) dispensed with the plot ratio system in favour of managing new buildings using a maximum building height and an urban design assessment. Transferable development rights are therefore no longer a practical option.

5.10 Citywide Seismic Safety Plan

Seismic Safety is a term used predominantly in the United States of America referring to a holistic approach to managing earthquake risk such as strengthening, fire and tsunami hazards, emergency management as well as resilience. The City and County of San Francisco have provided a copy of their project plan for the development of their Community Action Plan for Seismic

Safety (CAPSS), which illustrates the scale of effort required to develop this plan. This project has a 2-year timeframe.

Officer analysis, policy options and recommendations

It is recommended that Officers maintain a watch over the progress and results of San Francisco's seismic safety plan with the aim of identifying lessons that can be learned for Wellington. Attendance of Wellington representatives at a seismic safety conference in San Francisco later in 2009 will be considered by officers.

5.11 Amendments to the policy as consulted upon

Material changes to the proposed policy are noted and explained in this section. The amended policy to be titled the *Earthquake-prone Buildings Policy 2009*, with the material changes to the EQPB Policy 2006 highlighted in dark shade, is attached as Appendix 1. Changes of an editorial or minor nature are highlighted in a lighter shade.

5.11.1 New clause 3.5 – delegations of Council Officers

A fourth key change highlighted in the 'Summary of Information' for the special consultative procedure was not included in the draft policy as consulted upon. Therefore, the following is recommended for inclusion as a new subsection within section 3.0 of the EQPB Policy.

Delegations of Council Officers

This section of the policy allows a Council officer with the appropriate delegations to issue an EQPB notice with a timeframe different to the timeframes stated in the policy. This specifically relates to situations where:

- (1) Due to the effects of an earthquake:*
 - A building that was considered earthquake-prone and had been issued a notice under this policy has been affected and requires immediate action to address public safety issues.*
 - A building that was not considered earthquake-prone prior to the earthquake has been affected and requires immediate action to address public safety issues.*
- (2) A building owner(s) has failed to comply with a notice and/or the time frame has expired.*

For the avoidance of doubt, this section does not affect the Council's powers under sections 124 to 130 of the Building Act 2004 in relation to dangerous or insanitary buildings, or the exercise of other enforcement powers under that Act.

5.11.2 New provision: specific matters that may be considered for an extension in timeframe to complete strengthening work.

A new provision is now proposed in Attachment 2, allowing staged and targeted strengthening proposals as specific matters that may be considered for an extension in timeframe to complete strengthening work.

5.11.3 Maximum timeframe to strengthen a building

The EQPB Policy 2006 provided a two-year strengthening timeframe for notices issued under previous legislation. However, timeframes other than two years have been approved by the Regulatory Processes Committee and it is therefore recommended the two year reference is deleted.

5.11.4 Removal of attachment 3 – definition of heritage building

Attachment three provided a definition of heritage buildings found in other legislation and is not considered necessary to be included in the policy document.

5.11.5 Changes to section on “Council Infrastructure”

This section noted, “other network utility operators are similarly covered by asset management plans which include provision for upgrading.” This note is not appropriate in a section covering Council infrastructure.

5.11.6 Step One. Assessment of utility operators

The EQPB Policy 2006 noted that network utility operators would not be subject to an IEP assessment. However, officers do not have sufficient knowledge or confidence in the asset management plans of all network utility operators to make this broad exemption. It is therefore proposed that exemptions from the IEP be limited to Council itself and the New Zealand Transport Agency. We will notify and work with utility operators to ensure that they are aware of the processes to be undertaken.

6. Conclusion

The Council consulted on proposed amendments to the Earthquake-prone Buildings Policy 2006 between July and September 2008 as well as hosting workshops in October 2008. Feedback from the consultation has been considered and a final Earthquake-prone Buildings Policy 2009, with material changes highlighted, is attached. The Committee is asked to consider the revised Policy and recommend its adoption to Council.

Contact Officer: *John McGrath, Manager Policy and John Scott, Manager BCLS*

Supporting Information

1) Strategic Fit / Strategic Outcome

This policy proposal aligns with the following Strategic Outcomes:

(1) More liveable

(9) Safer

2) LTCCP/Annual Plan reference and long term financial impact

The Policy relates to Annual Plan reference 1.4.1: Earthquake Risk and Mitigation.

3) Treaty of Waitangi considerations

No specific Treaty of Waitangi considerations have been identified.

4) Decision-Making

This is not a significant decision as defined by the Wellington City Council Significance Policy.

5) Consultation

a) General Consultation

The special consultative procedure has been used to consult with ratepayers and interested parties and additional specific consultation has taken place with interested parties

b) Consultation with Maori

No issues of specific interest to Maori have been identified.

6) Legal Implications

Legal advice was received in the development of the proposed amendments.

7) Consistency with existing policy

This proposed policy represents a moderate relaxation of the maximum strengthening timeframes for buildings identified since 2006 as earthquake-prone, while ensuring an appropriate balance with public safety concerns. This proposed policy is consistent with Council's Built Heritage Policy 2005.