
REPORT 2
(1215/52/IM)

SCOPING PAPER

REVIEW OF COUNCIL'S RESPONSE TO EARTHQUAKE PRONE BUILDINGS

1. Purpose

This scoping paper seeks feedback and/or direction from the Committee on four key areas that will guide the review of Council's response to earthquake prone buildings: Council's objectives for the performance of the built environment in earthquakes; scope of the review; the intended outputs from the review; and timelines for reporting. Advice and recommendations are provided on each of these areas.

The paper also provides information and analysis on what the Council's current approach does and does not achieve, and on the constraints and uncertainties facing the Council in the current environment.

2. Recommendations

It is recommended that the Committee:

1. *Receive the information.*
2. *Agree to undertake a broad-based review of the Council's approach to earthquake prone buildings, and that the review considers the following indicative objectives for the performance of the built environment in earthquakes:*
 - a) *Safety in and from commercial buildings during moderate and major earthquakes*
 - b) *Safety in and from private dwellings*
 - c) *Preservation of heritage buildings*
 - d) *Maintaining and enhancing economic and community vitality*
 - e) *Maintaining and enhancing character and streetscape values*
 - f) *Minimising economic disruption from a major event*
 - g) *Ensuring building failures do not impede emergency responses following a major event.*

3. *Agree that the review focus on the current building stock and not on issues of general emergency response to earthquakes, land use planning for future development, infrastructure and dams, or the Council's response as a building owner to earthquake risk.*
4. *Agree that the review provide the following outputs:*
 - a) *identifying the potential economic impacts, trade-offs and risks factors, especially to the CBD*
 - b) *recommendations for an overarching strategy on the performance of the built environment in earthquakes*
 - c) *recommendations on key objectives and principles of a strategy*
 - d) *recommendations on any initial priority areas and actions for the Council*
 - e) *recommendations for the provision of robust independent information; for example on the earthquake strength of individual buildings*
 - f) *recommendations for addressing heritage and options for prioritising buildings or groups of buildings for preservation*
 - g) *identifying options to change the business case for building owners to take remedial action, including possible incentives, regulatory responses, and the funding options available to building owners*
 - h) *identifying options for changes to the Council's existing EQPB Policy (note that changes may not be implemented until there is more certainty over any changes to relevant legislation)*
 - i) *identifying options for changes to other regulatory instruments, particularly the District Plan*
 - j) *identifying any other areas for future Council action*
 - k) *identifying gaps in the existing regulatory framework and provisions available to Councils, and making recommendations to Government to address such gaps.*
5. *Agree that the review report in two-stages: stage one in early 2012 would provide recommendations to Government, any initial actions for Council to implement, and discuss areas for further work; stage two in July 2012 to propose a draft strategy in light of the Royal Commission of Inquiry's findings and any indication from Government of the changes it intends to make.*
6. *Note that the Earthquake Prone Buildings Policy itself may need to be reviewed should Parliament pass new legislation related to the Council's powers and obligations in respect of earthquake prone buildings.*
7. *Note that there will be ongoing engagement with Government and stakeholders throughout the review process, including between the Mayor and Portfolio Leader and Government Ministers, as appropriate.*

8. *Note that there will be resource implications in undertaking this review, implementing potential Council interventions, and continuing the existing EQPB project, and that these will be further reported based on the scope of the review agreed by the Committee.*

3. Executive Summary

Strategy and Policy Committee asked for a review of Council's response to earthquake prone buildings. A key part of the review is the Committee's consideration of this scoping paper.

The review could take a broad or narrow view of the earthquake prone buildings (EQPBs) issue. A narrow view would be limited to the current definition of EQPBs, and would focus on the existing EQPB Policy. A broad review would also consider the EQPB Policy, but would go further to consider issues like:

- the Council's objectives for how buildings perform in earthquakes
- the effect of building performance on the resilience of the city
- the full range of interventions available to Council
- areas where legislation and/or other Government policy should change.

Officers propose the review takes a broad view of the issues. This is consistent with the feedback received during five informal stakeholder workshops in July and August 2011. It is also consistent with the Council's wider objectives for the city.

It is proposed that the review focuses on the current building stock and not on issues like general emergency response and recovery from earthquakes and land use planning for future development in high-risk areas. These issues, while important, are addressed under other Council processes. These include the ongoing programme for city resilience and civil defence preparedness (refer Report 2 of the SPC agenda of 23 June 2011 for more details) and a review of the District Plan about which the Committee will consider an initial scoping paper in October 2011.

The Council's actions as a building owner are not proposed to be part of the review, other than to assume the Council takes a leadership role. This is because the review deals with the Council's governance and regulatory roles, and the outcomes of the review are expected to apply to all buildings regardless of their ownership. The Council's interests as a building owner are considered and addressed as part of Long-term Plan and asset management plan processes.

Timing of outputs from the review is also critical – especially balancing the competing pressures of waiting for Government's response and taking a considered, informed view with meeting expectations that action will be taken now and taking advantage of raised awareness of the issues.

Officers propose a two-stage report process. The first stage in early 2012 would provide SPC with the chance to agree recommendations to Government, any initial actions, and discuss areas for further work (Phase 1). Consultation would be part of this process. A further report in July 2012 would propose a draft strategy in light of the Royal Commission's findings and any indication from Government of the changes it intends to make (Phase 2). The Committee should also note that the EQPB Policy itself may still need to be reviewed once Parliament passes new legislation (a possible Phase 3).

4. Background

4.1 Key Questions on the Scope of the Review

The Strategy and Policy Committee requested “*a review – in light of the Canterbury earthquake (February 2011) and Government responses – of the effectiveness of Council's current earthquake prone buildings approach and other relevant policies and implementation measures*”.

This raises a number of key questions that are the subject of this scoping paper, including:

- **Objectives** - to assess “effectiveness” it is first necessary to understand the outcomes the Council is seeking in terms of how buildings perform in earthquakes. Only then is it possible to assess whether the current approach is effective in meeting or likely to meet those objectives.
- **Coverage** - what is meant by “Council's current earthquake prone buildings approach”? Does this, for example, only include earthquake prone buildings as defined under the Building Act 2004. In which case the review would focus on commercial buildings¹ below 33.3 percent of current code. Or does the Committee wish the review to take a more generic approach to all buildings that pose risks from a significant earthquake event. In this case the review would look at broader issues such as residential buildings, earthquake “risk” buildings, specific elements on buildings that pose risks, securing heritage values, enhancing investor and user confidence, and physical and economic resilience. Also, to what extent are the Council's actions as a property owner included or excluded from the review? To what extent are issues like emergency response to an event and future intensification/development on high-risk sites also covered by the review?
- **Outputs** – what is expected from the review? Is the Council seeking, for example, recommendations in respect of the full suite of its potential interventions; a broad-based strategy and action plan; recommendations

¹ In this paper “commercial buildings” is used to include all buildings covered by the Building Act 2004 definition of “earthquake prone buildings” – meaning multiunit multi-storeyed residential buildings are also included.

in respect of the EQPB Policy; identification of issues for further consideration or research; identification of recommendations for Government; or some combination of these.

- **Timing and report back** - what is expected in terms of timing on any new activities, particularly given the uncertainty of the outcomes of inquiries into Christchurch and the Government's response to these? How can reports and recommendations be phased to take account of these external processes?

The Committee's answers to these questions will set the "scope" of the review. In section 5 of this paper, officers analyse the implications of various responses to the questions above. Officers also provide recommendations on each of the questions.

4.2 Early Engagement with Stakeholders

Officers held five initial stakeholder meetings with building owners, users, engineers, heritage interests and financiers. Feedback was remarkably consistent.

A key message was that the Council needs to take a broad view of these issues so that its response to EQPBs helps create a resilient and safe city where people can live, work and invest in confidence. It was also clear that stakeholders expect the Council to take decisive action and a key leadership role – including with central Government. Somewhat paradoxically, most stakeholders appeared generally comfortable with the rollout of Council's current EQPB Policy, though there was a message that Council needed to take a consistent position and follow through with building owners that did not take the necessary actions.

There was concern that the business community (domestic and international) saw Wellington as high risk, though there was also acknowledgement of the generally good job the Council had done over many years. A number of stakeholders noted this was a major issue – "bigger than leaky buildings".

Stakeholders noted the considerably heightened awareness on earthquake risk, combined with a great deal of uncertainty over the Government's response to the events in Christchurch. There was acknowledgement that, while changes to legislation would profoundly affect the Council's response to EQPBs, the Government probably will not decide on such changes for a many months, perhaps even years.

The property market is reportedly responding to an increased demand for modern/and or high performing buildings, but is operating in an uncertain regulatory and economic environment. Many people, including property owners, insurers, financiers, prospective tenants and buyers, are looking for robust independent information upon which to base decisions. It is clear that

the earthquake strength of buildings is an important factor for 'A-grade' tenants as well as insurers and financiers. The public are also looking for good reliable information.

The value to the community of heritage buildings and character areas was appreciated by all stakeholders. However, a number of heritage building owners' noted that in many cases there was little or no business case to invest considerable sums to strengthen heritage buildings, as this would be unlikely to translate into increases in rental returns or improved capital value. It was also noted that even strengthening to well beyond the minimum level required by law would not preserve many buildings after a major earthquake. There was a degree of pragmatism about both the need to prioritise buildings for preservation and the need for more flexibility in allowing solutions to make heritage buildings safe.

It is also clear that market conditions are very challenging, particularly for owners of smaller buildings. The loss of insurance for some buildings and flow on effects for financing will add to this pressure. For many buildings there is not a compelling business case for taking remedial action. Unless this can be addressed, the city faces some key challenges, including the trade-off between the speed and degree of earthquake risk mitigation versus the possibility of derelict, vacant buildings and/or loss of character, heritage and empty lots.

Many stakeholders acknowledged that finding this balance will be a key challenge for the review.

4.3 Summary of the Current Environment

What has changed since Christchurch?

A number of critical factors have changed in light of the February Christchurch quake. These include:

- a new perception of risk - especially amongst the public and buildings users - posed by earthquakes
- an apparent heightened acceptance and expectation of the Council and Government taking firm action on buildings at risk from earthquake
- a reported loss of confidence from investors in Wellington due to perceived earthquake risk
- uncertainty over the regulatory framework for EQPBs, especially the enforceable level of strengthening beyond the legal threshold for "earthquake prone" and possible changes to the earthquake performance requirements of the Building Code
- significantly increased costs for insurance, especially for earthquake prone buildings where insurance may be limited or not available at all
- Government expenditure targeted to Christchurch recovery

- greater understanding of the link between the performance of buildings during an event and the ability of the city to recover following an event
- greater understanding of the trade-offs between issues such as preserving heritage values in a pure sense and reducing risk to the community.

Some of these changes may be temporary, but at this stage it is impossible to say how long they will prevail.

What has stayed the same?

Having noted recent developments, some key things have not changed, including:

- The physical risk to the city from a significant event
- The considerable work already undertaken in Wellington to reduce the number of earthquake prone buildings – for example, Wellington does not have the same level of risk from unreinforced masonry buildings as Christchurch did as many such buildings have been strengthened or removed over the last 20 or so years
- The rollout of the 2009 EQPB Policy
- The ongoing preparation of the city for a major event and applying a continuous improvement approach to preparedness and resilience.

There are a number of other key drivers that are not earthquake related but nonetheless are important changes in the business environment. These include:

- The general economic climate, putting pressure on businesses and investors and limiting development
- High vacancy rates for office buildings giving tenants greater opportunity to relocate to higher quality buildings
- A Government deficit and spending cap
- Significant pressure on the Council's budget.

4.4 Legislation and the Council's Powers and Limitations

The current EQPB Policy implements the Council's obligations and powers under the Building Act 2004 (refer sections 122 – 132).

These powers, while quite broad in respect of buildings legally defined as "earthquake prone", are in fact very limited in terms of the total risks created by and to the built environment. For example, the Council has very little or no power to respond to issues such as:

- buildings not at risk from a moderate earthquake but at risk for a major event (such as the Wellington equivalent of Christchurch's February quake)
- the preservation of heritage buildings (note that the Building Act is designed to preserve life – even strengthened buildings may need to be demolished after an event)
- high-risk elements (such as falling balconies, chimneys, and statues) on buildings that are otherwise not legally earthquake prone
- residential buildings that are very weak and/or have high high-risk or dangerous elements (such a faulty foundations, unreinforced chimneys, or inadequately supported heavy tile roofs).

Moreover, section 18 of the Building Act 2004 explicitly limits the Council's ability to require building owners to address the risk issues identified above. That section provides that building work is not required to achieve performance criteria additional to or more restrictive than the building code (unless expressly provided for in another Act).

This lack of regulatory power to respond to a number of identified risks is a gap in the current regulatory framework set by Government. The implications of this gap will no doubt be an issue examined by the Royal Commission of Inquiry into Building Failure Caused by the Canterbury Earthquakes (the Royal Commission).

Despite the known gaps, the review of the Council's response to EQPBs should consider and make recommendations on broader objectives for the Council's approach to the built environment in earthquakes. This is because:

- this is the clear expectation expressed during initial engagement with stakeholders
- the Council has other interventions it can use to pursue wider objectives (such as providing incentives, education and information)
- the Council may wish to make recommendations to Government about any new legislative framework or Government policies
- the Council may wish to identify and make recommendations on funding priorities for Government.

5. Issues, Options and Implications

The Council will need to manage a difficult situation with this review. There are expectations that additional actions will be taken, but selecting appropriate actions is heavily dependant on Government decisions that are yet to be made.

Ultimately, Government and the Council will need to find ways to change the business case for mitigating earthquake prone buildings. This is especially so

for heritage and lower grade buildings where ‘demolition by neglect’ is a real risk. This may require innovative financing models and some ‘carrot and stick’ responses. There are also a number of particularly challenging issues to address including: dealing with buildings with multiple unit title owners; key precincts like Cuba Street; key groups of buildings; and preserving heritage buildings too important to be lost even after a major earthquake.

5.1 Council’s Objectives for Buildings in Earthquakes

At present the Council’s EQPBs response has an objective of safety for the occupiers of ‘commercial’ buildings during moderate earthquakes. There is also a small contribution to an objective of protecting heritage buildings.

These quite narrow objectives are because the Council’s current approach arises from its obligations and powers under the Building Act 2004, which – as discussed in section 4.3 - are limited in their scope.

Option 1

The Council could maintain its existing focus on implementing its responsibilities and powers under the Building Act. Under this option, the Council’s objective would be almost exclusively “safety in commercial buildings during moderate earthquakes”.

A review under this option would have a narrow focus and would consider issues such as:

- the prioritisation matrix in the 2009 EQPB Policy
- the timelines provided to undertake remediation of an EQPB
- any linking of remediation work with other major works on an EQPB
- the way information on EQPBs is published.

Option 2

Under option 2 the Council would pursue much wider objectives related to the performance of buildings in earthquakes. Indicative objectives might include:

- Safety in and from commercial buildings during moderate and major earthquakes
- Safety in and from private dwellings
- Preservation of heritage buildings
- Maintaining and enhancing economic and community vitality
- Maintaining and enhancing character and streetscape values
- Minimising economic disruption from a major event (that is, contributing to overall city resilience)

- Ensuring building failures do not impede emergency response following a major event.

Most of these indicative objectives are not directly addressed by the current EQPB Policy or other Council interventions. Some are partially addressed, though often to a very limited degree. For example – and to illustrate the point - the current EQPB Policy (even when combined with heritage grants) does not effectively preserve heritage values because:

- once a building is above 33.3% of code the Council can require no further action – buildings between 33.3% and 67% are still at risk of major failure during even a moderate quake
- in some cases buildings may require treatment beyond even 100% of code in order to reasonably protect them from a major event
- building owners cannot practically be required to actually strengthen buildings. Some may elect to “demolish the building by neglect”.
- even strengthened buildings may be at risk from unstrengthened buildings in the surrounding area.

A similar analysis could be done on any of the indicative objectives listed above.

Therefore, if the Council wishes to pursue wider objectives it will need to employ a wider set of tools than the current (regulatory-based) EQPB Policy alone. Council would need to consider additional interventions such as providing direct funding, promotion and education, changes to other regulatory tools like the District Plan, and advocating to Government for legislative and policy changes. **Appendix 1** illustrates the way Council’s response to the built environment in earthquakes affects and overlaps with other key strategies and outcomes the Council is seeking.

Appendix 2 provides a table outlining some “indicative objectives” and analysis of the degree to which those objectives are currently being met, and examples of the kinds of interventions and actions that may be needed to fully meet the objectives.

Officers recommend that the review be broad-based and that therefore, it considers the range of indicative objectives as described in appendix 2, as well as other objectives that may be identified during the review. If the Committee agrees, the review would make recommendations on which of those objectives should be incorporated into a strategy on the performance of the built environment in earthquakes. In making such recommendations, the review needs to consider the potential interventions the Council or Government could make to achieve them and the possible costs and benefits of such interventions.

5.2 Coverage of the Review

If the Committee agrees to a broad-based approach, this implies that the review needs to cover a wide range of issues such as:

- residential buildings
- earthquake 'risk' buildings
- heritage priorities
- economic issues
- protection of lifelines
- information and communication issues

There are a number of other areas the review could consider such as:

- additional structures, such as bridges, tunnels, and dams
- the Council's actions as a building owners – such as when and to what degree the Council remediates its own buildings
- general emergency response and recovery from earthquakes
- where future development takes place in relation to areas at high-risk from earthquakes.

It is proposed that the review focuses on the current building stock and not on issues like general emergency response and land use planning. These issues, while extremely important, are addressed under other Council processes. These include the ongoing programme for city resilience and civil defence preparedness (refer Report 2 of the SPC agenda of 23 June 2011 for more details) and a review of the District Plan about which the Committee will consider an initial scoping paper in October 2011.

The Council's actions as a building owner are also not proposed to be part of the review, other than to assume the Council takes a leadership role. This is because the review deals with the Council's governance and regulatory roles, and the outcomes of the review are expected to apply to all buildings regardless of their ownership. The Council's interests as a building owner, including the priorities for remedial action and degree of strengthening it wishes to pursue, are considered as part of Long-term Plan and asset management plan processes.

5.3 Outputs from the Review

It is proposed that the review produce the following outputs:

- identifying the potential economic impacts, trade-offs and risks factors, especially to the CBD

- recommendations for an overarching strategy on the performance of the built environment in earthquakes
- recommendations on key objectives and principles of a strategy
- recommendations on any immediate priority areas and actions the Council should take
- recommendations for the provision of robust independent information; for example on the earthquake strength of individual buildings
- recommendations for addressing heritage and options for prioritising key buildings or groups of buildings for preservation
- identifying options to change the business case for building owners to take remedial action, including possible 'carrots and sticks', and the finding options available to building owners
- identifying options for changes to the Council's existing EQPB Policy (note that these may not be implemented until there is more certainty over any changes to relevant legislation)
- identifying options for changes to other regulatory instruments, particularly the District Plan
- identifying any other areas for future Council action
- identifying gaps in the existing regulatory framework and powers available to Councils and making recommendations to Government

Given the potential breadth of objectives and the interventions needed to achieve them, it is recommended that a strategy be developed to address the performance of the built environment in earthquakes.

The EQPB Policy itself would be a key pillar in such a strategy, but other instruments and policies would also be important.

Such a strategy would make an important contribution to improving the overall resilience of the city, since it is clear that how buildings perform in earthquakes not only affects the safety of people, but also the ability and timeframe for cities to become fully functional after an event.

5.4 Timelines

Timelines for the review are heavily influenced by external process and decisions that are outside Council's control. In particular, the Royal Commission of inquiry into the Christchurch Earthquake, and Government response to its findings, are likely to have a major impact on the Council's legal powers and obligations in respect of EQPBs. These processes may have further implications beyond EQPBs such as regular assessments of all buildings, government policy on heritage, and recovery post-event.

In light of these uncertainties, officers propose a two-phase (and potentially three phases) approach to the review, as described in table 1.

Table 1: Proposed Timelines and Key Dates

Step	Action	Timing
1	Scoping paper to SPC <ul style="list-style-type: none"> Review of Council's approach to EQPBs Outline the current environment and response to the Christchurch earthquakes Outline potential objectives to be achieved in any policy review Identify potential interventions by the Council to meet these objectives 	15 September 2011
2	WCC submission to Royal Commission inquiry	Oct 2011
Key date	Release of DBH technical report on building performance (Building Act related) and Interim report from Christchurch Earthquake Royal Commission	End Oct 2011 but timeline could be extended again
3	Phase 1: Report to agree Council's recommendations to Government and immediate actions <ul style="list-style-type: none"> Advocate issues to government - could include funding, EQPB thresholds, tax treatment, building safety audit system Initial interventions by Council could include economic impact assessment, targeted information, review of District Plan rules Develop a strategic response by Council to buildings in earthquakes 	Report to SPC Feb 2012 Consultation period before finalising phase 1
Key date	Long-term Plan Proposed LTP – may include initial measures for implementation arising from phase 1 and/or decisions about strengthening the Council's own buildings	Feb – March 2012
Key date	Royal Commission Report	End April 2012 (earliest)
Key date	Potentially WCC submission to DBH and Royal Commission Findings	June 2012
4	Phase 2: Report Draft Strategy (Performance of the Built Environment in Earthquakes) Draft Strategy for consultation including consistency with DBH and Royal Commission findings	Report to SPC July 2012
Key date	Government response to DBH and Royal Commission findings	Possibly late 2012
5	Update Report and recommendations for next phase of work	Report to SPC Feb 2013
Key date	Legislative Changes to Buildings Act and potentially other delegated powers to local government	Possibly early 2013
6	(Phase 3) Review WCC EQPB Policy & other interventions <ul style="list-style-type: none"> Draft EQPB policy and other interventions 	Report to SPC Mid 2013

Note that timelines are indicative and depend on external factors such as reporting from Government initiated inquiries.

5.5 Resource Implications

Depending on the scope of the review as agreed by the Committee, there are likely to be cost implications associated with undertaking the review and any implementation activities. These can be indicated as part of the Long-term Plan process and/or the proposed report to SPC in February 2012.

The implementation of the current EQPB Policy and assessment project is budgeted for through to the 2012/13 year. Any decision to hasten this project and/or extend it may need to be accounted for in the Long-term Plan.

5.6 Risks

There are a number of risks arising from this review, including:

- risks around timing of outputs, this is especially so given the importance of external processes to the analysis and recommendations of the review
- not meeting stakeholder expectations and/or stakeholders having unreasonable expectations about the degree of support / intervention the Council can provide
- possible loss of business confidence in the city by deferring further actions until the Government's position and new regulations are known
- ongoing uncertainty for property owners leading to them delaying remedial action until they are certain of the Council's and/or Government's responses
- securing the resources and expertise necessary to undertake the review
- speculation about the Council's responses.

There is little the Council can do to mitigate some of these risks, since they are driven by factors outside Council's control. However, many of the risks may be mitigated by regular updates, contact and discussion between the Council, central Government, stakeholders and the wider community.

6. Conclusion

The Strategy and Policy Committee has requested a review of the Council's response to earthquake prone buildings. Officers recommend that this review takes a broad view of the issues and that it reports its findings in two stages. Officers also recommend that a key output from the review should be recommendations for a strategy on the performance of the built environment in earthquakes.

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Sheet 1: Relationship between a “Strategy on the Performance of the Built Environment in Earthquakes” and some other key objectives and strategies of the Council

