

**REPORT 2**  
(1215/52/IM)

**SUBMISSION TO THE MINISTRY OF BUSINESS, INNOVATION  
AND EMPLOYMENT ON BUILDING SEISMIC PERFORMANCE**

**1. Purpose of report**

The Council's draft submission to the Ministry of Business, Innovation and Employment (MBIE) on Building Seismic Performance is attached for Councillor's feedback and support.

The submission is due to be received by MBIE on March 8<sup>th</sup> 2013.

**2. Executive summary**

MBIE has requested feedback on its consultation document on Building Seismic Performance, which has been released in response to the Canterbury earthquakes and the release of the Royal Commission's reports on this event.

The MBIE proposals in general follow the Royal Commission's findings and recommend establishing national earthquake strengthening timeframes within the Building Act, and consider reducing some regulatory areas which are perceived to be barriers to strengthening buildings.

While Wellington is relatively advanced in addressing earthquake risk and could work within the proposed timeframes, the proposals will impact on smaller regional centres and large metropolitan areas like Auckland. In some cases, these centres do not share the same seismic risk, but would have to work to the same national timeframes and standards.

There are a number of areas where there is tension between the different objectives, such as balancing heritage against strengthening for life safety, and providing a framework that encourages building owners to strengthen promptly while meeting the wider obligations in the Act such as fire safety and accessibility.

**3. Recommendations**

Officers recommend that the Strategy and Policy Committee:

- 1. Receive the information.*
- 2. Agree to the attached submission to the Ministry of Business, Innovation and Employment (attached as Appendix 1).*
- 3. Agree to delegate to the Chief Executive and the Built Environment Portfolio Leader, the authority to amend the proposed submission from Wellington City Council to the Ministry of Business, Innovation and*

4. *Employment to include any amendments agreed by the Committee and any associated minor consequential edits.*

#### **4. Background**

With the lessons of Canterbury and the completion of the enquiry by the Royal Commission, the Government has released a consultation document to consider what policy changes are required to the system controlling the seismic performance of New Zealand's building stock.

*Currently, buildings are subject to earthquake-prone building requirements if they are likely to collapse in a "moderate" earthquake. A moderate earthquake is defined as generating shaking at a building site that is one-third as strong as what a new building at the same site would be designed to withstand. A building's seismic performance is affected by many factors, including its construction – for example, older, unreinforced masonry buildings are much less likely to withstand earthquakes than modern buildings.*

*A typical new building, for example a hotel, office building or apartment building, is designed to resist a one-in-500 year earthquake. The actual strength of a one-in-500 year earthquake varies around the country – such an event in Wellington would be significantly larger than in Auckland. Because of this, new buildings in higher seismic risk areas like Wellington are stronger than in other, lower-risk parts of the country. New Zealand Society for Earthquake Engineering (NZSEE) guidelines suggest that earthquake-prone buildings are at least 10 times greater risk to occupants than a new building<sup>1</sup>.*

The Royal Commission on the Canterbury earthquakes made a number of wide ranging recommendations, including bringing residential buildings within the scope of earthquake strengthening, prioritising strengthening of unreinforced masonry buildings, and allowing councils, in consultation with their communities, to require shorter timeframes or higher seismic strengths for defined classes of buildings.

The Government has reviewed the Royal Commissions recommendations and released a proposal for consultation that strengthens the requirements, but does not go as far as the recommendations of the Royal Commission. The key features of the discussion document are;

- A seismic strength baseline for buildings at 33% of the requirement for new buildings based on meeting life safety objectives;
- A national timeframe for all buildings covered by the Building Act,
  - to be assessed for seismic strength within 5 years
  - for those assessed as earthquake prone to develop a plan to address this within 12 months of assessment; and
  - to comply with this standard within 10 years of assessment.

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<sup>1</sup> Page 7 Background Building Seismic Performance – Consultation Document December 2012.

- A national database to improve the quality of building information, and
- Improved information for building owners and the public.

The proposal from MBIE proposes a range of changes as a result.

## 5. Discussion

The proposed policy changes the Council's existing earthquake prone buildings policy in the following areas:

	<b>Existing Council Policy</b>	<b>Proposed National Policy</b>
Level of seismic strength	Buildings will need to be assessed to determine whether they are earthquake-prone. As a general guidance, an earthquake-prone building will have strength that is 33% or less of the seismic loading standard NZS 1170.5: 2004.	The current national earthquake-prone building threshold (one-third of the requirement for new buildings, often referred to as 33 per cent NBS) would not be changed. However, it is proposed to establish a mandatory national requirement for all buildings to be strengthened to above the current threshold, or demolished, within a defined time period.
Priority for assessment	Buildings are prioritised for assessment based on age, construction and function.  These priorities are set out in Table 1 of the policy - <i>Priority for assessing and strengthening earthquake-prone buildings</i>	Local authorities would be required to make a seismic capacity assessment of all non-residential and multi-unit, multi-storey residential buildings in their districts within five years of the legislation taking effect, using a standard methodology developed by central government, and to provide the resulting seismic capacity rating to building owners.  Assessments would be prioritised faster for certain buildings (e.g. buildings on transport routes identified as critical in an emergency).
Maximum Timeframe To Strengthen A Building	The maximum timeframes for undertaking strengthening work for a building that has been determined as earthquake prone, are: <ul style="list-style-type: none"> <li>○ High priority - 10 years</li> <li>○ Moderate priority - 15 years</li> <li>○ Low priority - 20 years</li> <li>○ Passive - No maximum.</li> </ul>	Owners of buildings assessed as earthquake-prone would have to submit a plan for strengthening or demolition within 12 months.  All buildings will have 10 years from the time of assessment to meet the strengthening requirement.  Strengthening would be carried out faster for certain buildings (e.g. buildings on transport routes identified as critical in an emergency).  Certain buildings could be exempted or be given longer time to strengthen, e.g., low-use rural churches or farm buildings

		with little passing traffic.
Availability of Earthquake-prone Building Information	The database of potentially earthquake-prone buildings is publicly available upon request and includes information that is already provided in Land Information Memoranda. The database will provide a summary of the data and also the current status of the building as potentially earthquake-prone or earthquake-prone.	Building information would be entered into a publicly accessible register maintained by MBIE.  Central government would have a much greater role in guiding and supporting local authorities and building owners, as well as in public education and information.

In addition to these core changes proposed by MBIE, views are sought on some wider policy issues that have been raised by the Royal Commission. These include;

**Decoupling wider Building Act requirements (s 112) when strengthening**

- o *Whether the current Building Act fire and disability upgrade requirements are, in practice, a barrier to building owners deciding to carry out earthquake strengthening work.*

In general, officers agree that this can be a barrier to seismic strengthening of some buildings and provided that the building is safe, the council should continue to have some discretion in this area. There is a potential balance or tradeoff to be reached here between being an earthquake safe and an accessible country.

An estimated 21,600 working-age Wellingtonians have disabilities (12 percent – Quality of Life Survey 2008) and this will increase as the population ages. There are 3,500 mobility card holders in Wellington City – most of whom are over 65. The Council wants to build on our reputation as an inclusive and socially responsible city that is accessible, safe and easy to get around<sup>2</sup>. As a result the MBIE proposal needs to be considered alongside national and local disability/access strategies.

Disabled access is not defined and monitored in the same way as Fire Service compliance. Accordingly the Council would welcome the opportunity to contribute to a discussion that would achieve this minimum standard, allowing the Council to make informed compliance related decisions in this area.

This will need clear guidance from MBIE on how any discretion is applied and any decoupling cannot be used to avoid required modifications. We would also recommend that MBIE consider the implications of the Bill of Rights Act on this proposal.

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<sup>2</sup> Wellington City Council - Accessible Wellington Action Plan 2012–2015 Promoting inclusion

## **The Priority of Heritage Buildings**

- *How important heritage buildings can be preserved while also being made safer.*

There are a large range of factors to consider in how to strengthen and retain heritage buildings. A primary issue is that the 33% NBS baseline is based on life safety and not building retention and it is likely that heritage buildings that meet the minimum standard may need to be demolished following a moderate earthquake.

## **High Risk Features and Residential Buildings**

- *The Royal Commission's recommendation to allow local authorities the power, following consultation with their communities, to adopt and enforce policies to require specific hazardous elements on residential buildings to be dealt with within a specified timeframe.*

While the idea is recommended by the Royal Commission, councils do not have the resources to enforce seismic strengthening of residential properties at this point.

Officers however endorse this recommendation on residential buildings from the Royal Commission and would support that this be included within the legislative framework to allow for the Council to initiate this in the future when resources allow. This work is not currently part of the Council's regulatory environment. Officers would need to fully scope the issue, the cost of implementation and seek funding through the Annual Plan process. It may also be contentious with home owners.

It would be useful to develop an education programme explaining what people should be looking for to strengthen their housing. It would also be useful to consider a mandatory home "structural" inspection check when a house is sold similar to the Wellington City Council home check scheme currently in place it could focus on key points (foundations, chimneys, hot water cylinders etc).

### **5.1 The Council's Draft Submission**

The draft submission on the policy proposals is attached to this paper. The submission responds to the questions posed by the Ministry on its proposed policy.

### **5.2 Consultation and Engagement**

The Council has consulted widely with the community and property groups on issues associated with earthquake strengthening and these are reflected in the views expressed in the draft submission attached to this paper.

The Ministry's consultation has been raised with the Accessibility Advisory group and it is likely that they will also make a submission to the Government. The Group has raised concerns about the proposals around decoupling strengthening from access requirements.

### **5.3 Financial considerations**

There are no immediate financial considerations at this point although there may be a significant financial impact dependent on the extent of the changes proposed for the policy.

The proposed MBIE policy requires an extension of our current assessment process to all buildings that fall under the earthquake provisions of the Building Act as well as providing for tighter controls and timeframes around strengthening. The Ministry is also asking for feedback on;

- whether residential buildings or some features of these should also fall within the scope of the Act; and
- the implementation of a national buildings register.

These will be managed and delivered by local government, which will have a financial implication (generally rates funded) across the country.

Based on Wellington City Council's costs for the pre 1976 assessments, extending our resources to deliver assessments on the post 1976 buildings would cost \$320-\$360k per annum over 4 years or \$1.2- \$1.5m over 4 years assuming the same or similar process was proposed. What is unknown at this point is the cost of implementing a national register and the impact if the scope of the Act is widened to include other buildings.

Financial incentives and the cost of implementation of the outlined proposals are not covered in the MBIE consultation document. Implementation of the proposals will be costly and it would not seem wise to agree the policy principles without understanding the cost to implement them.

### **5.4 Climate change impacts and considerations**

There are no climate change implications.

### **5.5 Long-term plan considerations**

There are no long term plan considerations at this point arising from this paper.

## **6. Conclusion**

This consultation covers a wide range of issues, many of which are interrelated and balance different community objectives. We recognise the need to strengthen buildings to avoid the economic and social impact that has occurred in Christchurch. This needs to also be balanced with the building owners and community's ability to pay, and balance encouraging strengthening of buildings with retaining heritage and addressing issues such as access and fire safety.

The proposals, if they proceed, signal increased obligations for local government that must be funded. If this is not provided by central government as an investment in building national resilience, the burden will fall on local ratepayers.

*Contact Officer: Neville Brown, Manager Earthquake Resilience;  
Geoff Lawson, Principal Advisor Policy.*

## SUPPORTING INFORMATION

### 1) Strategic fit / Strategic outcome

*The response to the MBIE consultation document reflects the Councils priority for city resilience.*

### 2) LTP/Annual Plan reference and long term financial impact

*Earthquake resilience has been identified as a key priority by the Council. If the proposals proceed, there would be an increase in the cost of the IEP assessment process, managing the input into the national register and managing the negotiations with building owners as they proceed to strengthen their buildings.*

### 3) Treaty of Waitangi considerations

*There are no Treaty of Waitangi implications.*

### 4) Decision-making

*This is not a significant decision. The report sets out the Councils views on the policy proposal set out by MBIE.*

### 5) Consultation

#### a) General consultation

*This Council has consulted widely with the public and commercial sectors on the issues of earthquake resilience.*

#### b) Consultation with Maori

### 6) Legal implications

*There are no direct legal implications arising from this report. The decoupling of provisions for fire safety and access under Section 112 of the Building Act may raise concerns under the Bill of Rights Act. This needs to be taken into account by MBIE.*

### 7) Consistency with existing policy

*This report summarises the Councils response to the MBIE consultation document. If the proposals proceed they would introduce significant changes to the Council's Earthquake Prone Buildings Policy.*

*It also raises issues of alignment with the Council's Accessible Wellington Action Plan 2012–2015 Promoting inclusion. For instance it states the Council's goals to be an accessible city with "easy access to buildings with disability options" and that we will "help building owners to understand the benefits of universal access and exceeding the minimum accessibility requirements."*

March 8, 2013

Earthquake-Prone Building Review  
Infrastructure and Resource Market Group  
Ministry of Business, Innovation and Employment  
PO Box 10 729  
WELLINGTON 6143

## **The Wellington City Council Submission on Building Seismic Performance**

Thank you for the opportunity to make a submission on the consultation document on improving the New Zealand Earthquake Prone Building System.

We consider that the document presents a reasonable position for making New Zealand's building stock more resilient. As a country, New Zealand does not have the financial capacity to strengthen every building and it is also accepted that earthquakes will happen, often with severe consequences. The overall aim of the policy must be to set a realistic baseline which, as a country, we can move buildings across as quickly as possible. The policy must enable building owners and local authorities to make realistic and robust decisions on whether buildings should be strengthened or replaced.

### *Building Seismic Performance*

- Wellington City Council supports the overall timeframes in the proposal for assessment and addressing earthquake prone buildings. These timeframes are realistic and we can commit to deliver on the required outcomes.
- The timeframes may be challenging for some councils with limited resources and a large assessment task to achieve. The condensed timeframes will place pressure on available engineering resources and there will be a funding impact on ratepayers that will have to be met.
- Some building owners will struggle to meet these timeframes and may not have the financial capacity to address this issue within the 10 year timeframe. This may result in some leaving the market or the buildings being demolished.
- We are concerned that a blanket level of 33% NBS might set expectations that this level is sufficient and will still leave New Zealand cities exposed to the risk of shut down and economic loss with a moderate or stronger earthquake. Our current policy states that Council "will encourage, but cannot require, strengthening to the higher levels, particularly for buildings serving a specific post disaster function". City resilience is a key concern beyond life safety, which has not been taken into account in setting the level at 33%.
- There should be additional flexibility for Councils to increase the strengthening standard above 33% for particular buildings or classes of buildings, including lifelines, provided that this has community support. This would also need to be enforceable in law.



- We support the public availability of consistent building information on a national basis so that there is a good understanding of the quality of NZ's building stock. We would want to be assured that the costs of a national database do not exceed the amount the Council currently spends on delivering this data online.
- We would like to see an increased focus on information initiatives that assist building owners strengthening buildings rather than merely informing them of their current status. The largest issue that owners will face is how to address the strengthening issues, particularly if they own a heritage building. This will be increased by the proposed requirement for owners of earthquake prone buildings having to submit a plan within 12 months of assessment.
- If the Building Act 2004 (the Act) is changed to require a shorter time frame for strengthening, then the Act needs to be very clear that these new timeframes apply to the existing notices already issued under section 124 of the Act. Our advice is that existing notices are irrevocable and a significant legal risk would result if the Council attempted to amend any notices, or to cancel and reissue new notices without legislative support. The legislation must be clear that the Council does not have to reassess these buildings and issue new notices to have the new regulations apply to them or bear legal liability from changes in the legislative framework.
- We consider that the relationship between the Act and the Resource Management Act 1991 (RMA) needs to be reviewed. These two Acts need to work together and a balance needs to be found between the wider provisions of the RMA and the life safety provisions of the Act. In particular, the relationship between these two pieces of legislation is of key relevance to the management of earthquake prone heritage buildings.
- Building owners also need to be able to strengthen their buildings. Projects that trigger wider provisions of the Act, such as fire safety and accessibility can be a barrier in some cases. Any initiative to allow section 112 of the Act to be suspended for earthquake strengthening will require very clear guidance to ensure that this is used appropriately and cannot be used to avoid required building improvements and obligations to address accessibility or fire safety.

### *The Financial Environment for Earthquake Strengthening*

Central government also needs to consider the operating environment for building owners. There needs to be a positive financial environment integrated with this regulatory framework that encourages building owners to take action on this issue. Obtaining insurance cover at a reasonable cost is an increasing issue for building owners in Wellington. A recent survey by the Council indicated that around half of the earthquake prone building owners had difficulty getting cover and the majority of those faced premium increases of greater than 50%.

Our view is that there are public benefits from having towns and cities that can quickly recover from an earthquake and central government, on behalf of the public, should be prepared to invest to ensure that the country has the capacity to withstand these events.

### *Tax deductibility of earthquake strengthening.*

The tax treatment of the strengthening expenses needs to be reviewed. These could include:

- Allowing seismic strengthening costs to be expensed/amortised over a period of 10 years for tax purposes for non-residential property classes;
- Allowing deductibility in full for eligible seismic strengthening costs;
- Imposing the following eligibility criteria:
  - Strengthening work to be completed within a 10 year timeframe (with deductibility continuing 10 years from completion),
  - A greater tax benefit weighted towards seismic strengthening completed to a +70% of NBS; and
- Considering a tax rebate or other financial incentive for seismic strengthening work on residential (private owner occupier) property classes.

### *Improved security and risk models to facilitate property owners access to finance.*

Wellington City Council would like to work with central government and the banking sector to come up with a more productive and economic way to meet risk and security requirements to allow better access to finance for property owners, particularly focussing on the period until buildings are appropriately strengthened.

Areas to look at and discuss are appropriate risk sharing models for the period of strengthening earthquake prone buildings, alternative insurance options for property owners and banks, alternative options for providing security to banks for lending on earthquake prone buildings, alternative options for an Earthquake Commission (EQC) like fund targeting prevention and targeted rates schemes.

### *Residential Apartments and Unit Title Buildings*

We are concerned about the earthquake strengthening options for unit title buildings and residential apartment buildings. This issue has been consistently raised with the Council by inner city resident groups and over the five year period 2007-2011 central city apartments has been the largest area of housing growth (41% of new dwellings).

Due to the ownership structures, there are particular issues with this sector's ability to respond to changes in the regulatory environment, which we also consider need to be addressed in this wider review. Funding issues are also paramount given that residential owners do not have the same opportunities for revenue generation as business owners.

### *The role of the Earthquake Commission.*

We understand that the Government is undertaking a review of the Earthquake Commission. This is an important review. The Government needs to consider whether the role of EQC should in part become preventative, assisting in the strengthening of buildings rather than funding insurance costs after the event.

## **Conclusion**

The response to earthquake prone buildings, and building a resilient economy and infrastructure across New Zealand is a national issue. The regulatory framework needs to consistently address the issues that have emerged from Christchurch to enable Councils to respond quickly to the needs of the property sector and where possible, remove the barriers that are preventing them from acting to strengthen their buildings.

There are a large number of issues that need to be considered in implementing these changes. We would like to continue to work with the Ministry of Business Innovation

and Employment (MBIE) on the issues involved so that the final policy establishes a clear strategic position for strengthening buildings to withstand earthquakes and also is well grounded in the issues involved in putting the policy in place.

We would welcome the opportunity to present our submission orally as part of the policy development.

**Celia Wade-Brown**  
**MAYOR**  
**Wellington City Council**

## Submission on Building Seismic Performance

### Compulsory seismic capacity assessment of buildings

- Proposal 1:** Local authorities would be required to make a seismic capacity assessment of all non-residential and multi-unit, multi-storey residential buildings in their districts within five years of the legislation taking effect, using a standard methodology developed by central government, and to provide the resulting seismic capacity rating to building owners. An owner could have their building's seismic capacity rating changed by commissioning their own engineering assessment.
- Proposal 2:** Assessments would be prioritised faster for certain buildings (eg, buildings on transport routes identified as critical in an emergency).

**The Royal Commission recommends** that local authorities complete assessments within two years of the effective date of the law change for all unreinforced masonry buildings in their districts, and within five years of the effective date of the law change for all other potentially earthquake-prone buildings. (Recommendation 82, Vol. 4, Final Report).

1. Should local authorities be required to assess the seismic capacity of all buildings covered by the earthquake-prone building system in their areas and to issue seismic capacity ratings to owners?

We support this proposal. As a starting point, to mitigate the risk of social and economic loss from a moderate or major earthquake, a complete assessment of the seismic capacity of the current building stock<sup>3</sup> must be completed. Given the failure of a number of "modern" buildings during the Canterbury earthquakes, it is important to understand the existing structural performance of all buildings, not just older unreinforced masonry buildings.

What is not clear in the consultation document is who pays the cost for delivering this assessment process. In the event of a major earthquake, the cost is borne by both the local and national economy. The factors that support a nationally funded approach is that the location of disasters are not predictable and the cost of remediation is born nationally. The impact of Christchurch will be reflected nationally in increased building costs and insurance premiums. The mitigation of this should also be borne nationally to ensure that the assessment process is completed and the risk of future costs is mitigated.

A particular issue to be considered will be whether there is sufficient engineering resource to achieve this timeframe nationally.

<sup>3</sup> Buildings covered by the earthquake provisions of the Building Act 2004.

2. Do you think five years is a reasonable and practical time to require local authorities to carry out assessments in their districts?

This proposal is supported. In most cases five years is a reasonable time to require local authorities to carry out seismic assessments in their districts. For Wellington, the Council is well advanced in these assessments, so will be able to complete this within this timeframe. However, Auckland Council will have the largest issue with the scale of the assessment project and smaller councils may not have the resources to dedicate to the assessment process. Whether or not five years is reasonable in all cases, will need to be considered at a council level.

For those councils with less capacity or experience there is a lot of expertise and resources within local authorities already that can be shared. This may make the five year time frame achievable; however it will require coordination and leadership across councils and there is a concern the country will not have sufficient technical capacity to undertake this work. We would recommend areas of low seismic risk (Auckland, Hamilton, Far North) be given 10 years to complete the assessment.

We understand that there is a proposal for a desktop assessment tool to be developed to undertake this initial assessment that aims to aid the process. However the assessment process must be consistent with existing processes and not require the buildings that have been assessed to be reassessed.

3. Should unreinforced masonry buildings be assessed faster than other buildings?

In the scale of risk, this is a priority. However, the level of detail held by councils on buildings will not necessarily identify whether or not a building is of unreinforced masonry (URM) construction. As a proxy, the age of building can be used to identify buildings more likely to be of this construction type. We recommend that buildings constructed pre 1935 fall within this category as there was no national standard prior to 1935 and anecdotally these can be considered earthquake prone.

This requirement should apply nationally, including low seismic risk areas and we would recommend that this should have a shorter timeframe with a maximum of 2 years from the date of the legislation is enacted in high seismic risk areas, and within 4 years in other areas. (Auckland, Hamilton, Far North).

Alongside this there are a number of other building types that would also have a high priority for assessment. This might include buildings;

- Located on strategic routes - for urban areas such as Wellington, access must be maintained in the event of a moderate or stronger earthquake and buildings along these routes need to be of sufficient standard to mitigate this risk;
- Of non-ductile column construction - any other high risk construction types must also be identified and prioritised for assessment;
- That are high density high rise buildings that could impact on neighbouring properties if not strengthened adequately; and
- That have particular hazardous elements - this includes items that represent falling hazards like chimneys, veneers, gables, parapets, cornices, canopies and ornamentation, water tanks, tower like appendages, fire escapes, lift wells, facades, plaster and other heavy renders.

4. What cost and other implications do you see with these proposals to assess the seismic capacity of buildings?

There are significant cost implications for local authorities in implementing this process and should engineers be required to evaluate buildings in cases of dispute, this will add to existing resource pressures.

These costs include the:

- Cost of an assessment team to undertake this process;
- Availability of engineers and other technical staff to undertake assessments on top of business as usual; and
- Costs of engineering assessments for more complex buildings.

There needs to be a clearer, improved & standardised process to ensure agreement is reached with property owners on the strength of any building. It is possible that in some cases the IEP assessment and the building owners own assessments may not agree.

The consistency of assessment process across assessors and regions needs to be considered. It is proposed that MBIE will provide guidance documents and processes to assess buildings. However, consistency in interpretation of information and completion of assessments will be a challenge.

The process to assess modern structures needs to be developed. Older buildings can be more easily assessed as they have simpler construction methods and engineers can more easily assess how they are built. Modern buildings are more challenging, with reinforcing playing a big part in providing strength. If buildings haven't been built to standard, a site inspection will not identify this and a more detailed technical assessment will be required. An example of this is concealed fixing. Many large modern buildings (1980's onwards) use curtain wall construction for the exterior cladding. The fixtures for these claddings systems are concealed with no obvious means of maintenance and monitoring. There is a concern that a visual assessment of building will not identify problems with these fixings.

The Council has approximately 1,200 pre-1976 buildings left to assess. We calculate that there will be approximately 3,000<sup>4</sup> post 1976 commercial and multi unit residential buildings to assess city-wide when these amendments are enacted. The Council would need to maintain its assessment team for a further five years to complete this role.

Based on our costs for pre 1976 assessments, to extend our resources to deliver assessments on these building would cost \$320-\$360k per annum over 4 years or \$1.2-\$1.5m over 4 years assuming the same or similar process was proposed. These estimated costs can only be refined when MBIE have finalised the proposed processes.

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<sup>4</sup> Based on Quotable Value New Zealand property numbers with age of construction post 1980. This does not account for multiple buildings on a property, structures that will need to be assessed and which are not included in the QV database, and those buildings constructed between 1976 and 1980..

## Public register

**Proposal 3:** Building information would be entered into a publicly accessible register maintained by MBIE

5. Do you agree that local authorities should be required to enter information on the seismic capacity of buildings into a publicly accessible central register to be managed by MBIE?

It is our understanding that the purpose of this register is to increase the quality and availability of building information across the country.

It is assumed that the purpose of placing this information in a public register is to ensure that people are fully informed about the risk and/or seismic status of any building. We support MBIE managing such a register; however, the quality of the data is a major issue.

The advantage of this proposal is that it becomes a legislative requirement to display agreed building data on this public register.

The questions that need to be addressed are;

- Will this information “inform” the public? Would those people who suffered injury or death in Christchurch have made different decisions if this register was available? Do people need to be informed about the status of buildings in areas where they don’t live or visit?
- Will a public register change building owner behaviour? Tenants are demanding a higher level of information and may seek professional advice rather than rely on a public register.
- The risk of a national register is that it is reliant on the quality of the data entered into the system. To standardise this may require only closely defined information to be entered e.g. address, building name, number of floors, date of construction, type of construction.

If the information is not accurate and current, this will limit the value of the register, while imposing a regulatory burden on councils and building owners.

6. Should information other than the building’s seismic capacity rating be entered into the register – for example, agreed strengthening actions or information from an agreed building ratings system?

We support the proposal if it improves national building information but submit that this register should start simply in the first instance. Additional detail can be added at a later time. Adding supplementary information onto the register could be beneficial as it may help to identify trends as buildings are being assessed and strengthened. However, the concerns (from question 5) remain as to whether this information informs the public.

There will be a cost to maintain the database. The agreed actions may change and the effort to keep both internal systems and national systems up to date and accurate may

well exceed the desired benefit. This information would have to be maintained accurately as it would be accessible for commercial parties such as insurers, banks, neighbouring property owners, tenants and prospective tenants or purchasers. This information may then be taken into account when assessing insurance risk or finance security risk. This may be an unintended consequence of providing additional information on the register.

The Council also recommends that MBIE develops with local authorities a comprehensive assessment of heritage buildings and a plan of action to be used in the event of an emergency. Having this available in the event of an emergency will enable informed decisions to be made on retention or demolition of any building. This can then be done irrespective of the experience in heritage management of the personnel involved.

7. Rather than a central register, should local authorities be responsible for both collecting and publishing this information?

A central register is preferred so that all councils provide consistent data. Given a council's access to local information, it is logical for them to be responsible for collecting the information and passing it onto MBIE. While we support the concept of council's making information available to the public, for consistency the register needs to be managed by MBIE.

8. Should there be any other information disclosure requirements – for example, should building owners be legally required to display information on the building itself about the building's seismic capacity?

We support, in principle, an owner having to display information. However MBIE will need to develop and provide a comprehensive public education programme to support this.

There are a number of implementation issues that would need to be considered:

- If this information was displayed who would police it for accuracy?
- How often would this information need to be updated?
- Should it be part of the Building Warrant of Fitness and be monitored by the council?
- Who would pay for the compliance costs of ensuring that the information is displayed correctly?

This Council's observation is that it is very difficult to ensure section 124 notices remain displayed on a building. We see no difference in this case particularly if this information is not favourable for the building. The minimum could be to display the IEP assessment if this is <34% of NBS as this is the public safety threshold. The section 124 notices already provide the public with information on earthquake risk, so unless there is additional information to display, we feel the s124 notices are sufficient for communicating earthquake prone building risk.



9. What costs and other implications do you see resulting from the proposal to put seismic capacity information in a register?

As noted above, we must consider who will have interest in such a register, whether the information can be maintained with sufficient accuracy to achieve the outcomes sought, and whether the cost of maintaining the information justifies this. For this database to be effective, the data will need to be accurate and current. It will need to be refreshed on an ongoing basis. This will impose a cost on the Council. We see this as being new work and we believe the existing level of phone/email enquiries will not diminish. We believe enquirers will want to assure themselves that the data they need is absolutely current.

The purpose of such a register needs to be very clear.

## A mandatory national requirement

**Proposal 4:** The current national earthquake-prone building threshold (one-third of the requirement for new buildings, often referred to as 33 per cent NBS) would not be changed. However, it is proposed to establish a mandatory national requirement for all buildings to be strengthened to above the current threshold, or demolished, within a defined time period

**The Royal Commission's view** is the same as the conclusion in these proposals that, in general, the current earthquake-prone building definition should be retained. To quote its report: "Overall, we do not consider that the experience of the Canterbury earthquakes should lead to the abandonment of the current one-third rule, which we have concluded should remain as the appropriate standard." (Section 7.4.1, Vol.4, Final Report)

**The Commission also recommends** that, for unreinforced masonry buildings, "the out-of-plane resistance of chimneys, parapets, ornaments and external walls to lateral forces shall be strengthened to be equal to or greater than 50 per cent Ultimate Limit State" (that is, 50 per cent of the standard required for a new building). (Recommendation 84, Vol.4, Final Report).

**Further, it recommends** that, after consulting with their communities, local authorities be able to require strengthening within shorter timeframes to achieve the minimum standard required by legislation for some or all of the buildings in its district (Recommendation 86, Vol.4, Final Report).

**It also recommends** that, after consulting with their communities, local authorities be able to require higher strengthening standards for:

- Some or all buildings in its district;
- High importance or high-occupancy buildings;
- Where public funding is to be contributed to building strengthening; or
- Where the public safety hazard justifies a higher standard. (Recommendations 87 and 88, Vol.4, Final Report).

10. Does the current earthquake-prone building threshold (33 per cent of the requirement for new buildings) strike a reasonable balance between protecting people from harm and the costs of upgrading or removing the estimated 15-25,000 buildings likely to be below this line?

Yes we consider that this provides the right balance. There is evidence from the Canterbury quakes to show that many buildings above 33% performed relatively well. On this basis, 33% should be considered reasonable. This needs to continue to be monitored and adjusted for any future changes to the structural standard.

However, we consider that, as proposed by the Royal Commission, there needs to be some ability for councils, in consultation with their communities, to require higher standards in some instances.

This could be achieved through the local earthquake prone building policy by ensuring these policies are enforceable.

11. Should the requirement for earthquake-prone buildings to be strengthened or demolished take precedence over all other legal, regulatory and planning requirements, such as those designed to protect buildings of heritage or local character?

It is unclear from the question at what point the removal of any other legislative requirement would occur – at IEP stage, once the section 124 notice has been issued, once it has expired, some other point in time? This has quite a bearing on the community's tolerance around what efforts have been made to strengthen an EQP building that is of public interest, such as a heritage building.

There will need to be a legislative check and balance to ensure that building owners aren't allowed to undertake wholesale alteration or destruction of heritage buildings. While the Council supports strengthening and has a long history of seeking to protect heritage buildings, it does want to be able to give city resilience objectives equal, if not more, weight in some circumstances. This should be the case if not strengthening a building also puts other city resilience outcomes at risk (i.e. a high priority heritage building might be strengthened regardless).

It is appropriate that a resource consent process (with allowance within District Plans to enable these trade-offs to be considered) decides on this balance. This also means that where consent is sought by an applicant for demolition, full consideration can be given to what replaces the building. In Wellington, the provisions of the District Plan focus not only on the building itself, but in the event of it being demolished what might replace it as empty spaces can also impact on a city's vitality and economic performance. This may not be the case for all councils. A key principle is to ensure that local authorities have the autonomy to manage the Building Act/RMA processes themselves under the overall strategic policy settings set by central government.

In relation to listed heritage buildings that reach the end of the Building Act process and require Council to obtain a court order to strengthen or demolish (section 126), it would be more appropriate to set up a joint hearing approach or similar mechanism to make these decisions, rather than forgoing the RMA process altogether. There will often be subtleties about each situation that require careful consideration, rather than a blanket approach that more often than not may result in demolition. However, any process has to have judicial powers that bind the parties to any decisions. This might avoid building owners running their buildings down to a stage where they know demolition will be the inevitable result. A key element in this is the ability for Councils to negotiate with building owners and resolve a Building Act/RMA dispute within the 10 year time period and before buildings reach this stage.

From a wider public policy view point, care needs to be taken on what assumptions are made about some heritage buildings that have a high public profile. In situations where strengthening may have the result of adversely affecting the heritage values of a building, there could well be community tolerance for this outcome as opposed to losing the building altogether. In some cases, visible earthquake strengthening methods can become part of the story of the building, its context and Wellington as a resilient city.

12. Should local authorities have the power to require higher levels of strengthening than the earthquake-prone building threshold, or strengthening within shorter timeframes than the legally defined period?

In some cases consumer demand and market forces are driving higher strengthening standards.

We believe that this is a reasonable requirement with provision that the community also agrees or supports this is a public safety and city resilience issue. The situations where a Council might require higher standards or shorter timeframes include:

- Buildings located on lifelines or strategic routes identified as critical in an emergency;
- Buildings with important public, social, economic or post-earthquake recovery functions. The CBD area in Wellington is vital to the regional economic performance and could be considered for a higher level of strengthening;
- When providing public funding is linked to incentivising an owner to undertake strengthening; and
- For heritage buildings. Strengthening to 33% will not necessarily preserve the heritage values of a building in the event of a moderate earthquake.

A local authority (and the community it represents) should have the ability to prioritise which buildings it wishes to have strengthened to a higher standard and have the mandate to work with building owners to achieve this.

13. Should certain features of unreinforced masonry buildings, such as chimneys and parapets, be required to be strengthened to a higher level?

We support the strengthening of high risk features to a higher level than 33%. Experience of the Gisborne & Christchurch earthquakes has shown these high risk elements can fail even in moderate quakes and despite the 33% life safety requirement for the building.

High risk features on buildings are items that represent falling hazards like chimneys, veneers, gables, parapets, cornices, canopies and ornamentation, water tanks, tower like appendages, fire escapes, lift wells, facades, plaster and other heavy renders. These are not restricted to older buildings with newer construction also contributing high risk features in their construction.

Buildings with such features exist on both vehicle and pedestrian routes around the central city area, and on a number of buildings in the suburban centres. There are also a large number of chimneys on residential dwellings and there is a particular issue with street verandahs on commercial buildings that represent potential hazards. Street verandahs are often required on buildings as part of a building consent and may need either strengthening or removal to protect the public. While they are attached to the building, they are over public land and may not be well maintained.

Currently in Wellington, building owners can undertake some strengthening or replacement of high risk features on heritage buildings that constitute 'Repairs and Maintenance' without the need for resource consent. However, external works to buildings apart from this requires a restricted discretionary activity resource consent.

For residential buildings within pre-1930s areas, a resource consent (restricted discretionary activity) is required to remove a chimney if it is located on a primary elevation.

Councils will need to review their planning documents to also reduce the obstacles to building owners taking action to improve the safety of their buildings. This could include:

- Refining the definition of 'Repair and Maintenance' to be clear what can be permitted in relation to making buildings with high risk features safe;
- Providing specific provisions within the Heritage rules to enable building owners to strengthen or replace high risk features without the need for resource consent; and/or
- Changing any pre-1930s provisions to allow demolition of chimneys without the need for resource consent.

The Council is seeking technical/engineering advice on the options for replacement of some dangerous elements with acceptable alternatives, such as replica features made from safer materials, including the use of new technologies. The proposed central government education and advice services should take this into account.

The desired outcome is to have both a regulatory and advocacy response so that there are appropriate strengthening standards for these features, building owners are informed about the options for making high risk features safe, and the planning documents facilitate an outcome that balances heritage values with public safety.

### **Other comments:**

In this section of the report, it was noted that the Government thinks that in the current rental market, buildings with higher seismic capacity are earning premium rentals. This conflicts with the research conducted and advice the Council has received. We understand that strengthening is a bottomline requirement for many tenants, with no evidence to support the argument tenants pay anything additional for this. Premium rentals are seen to be achieved only for premium location and amenity. Life safety is seen as an entry requirement rather than a rental negotiation point.

## Enforcing the mandatory national requirement

**Proposal 5:** All buildings would be strengthened to be no longer earthquake-prone, or be demolished, within 15 years of the legislation taking effect (up to five years for local authorities to complete seismic capacity ratings, followed by 10 years for owners to strengthen or demolish buildings).

**Proposal 6:** Strengthening would be carried out faster for certain buildings (eg, buildings on transport routes identified as critical in an emergency).

**Proposal 7:** Owners of buildings assessed as earthquake-prone would have to submit a plan for strengthening or demolition within 12 months.

**The Royal Commission recommends** timeframes be set nationally and that unreinforced masonry (URM) buildings be treated separately and strengthened more quickly than other earthquake-prone buildings. It recommends that all URM buildings be strengthened within seven years of the law change, and that other earthquake prone buildings be strengthened within 15 years. (Recommendation 83, Vol.4, Final Report)

14. Is it reasonable and practicable for owners of earthquake-prone buildings to meet the following timeframes:

- 12 months to submit plans for either strengthening or demolishing a building?
- 10 years from the date of the seismic capacity rating to strengthen or demolish?

These appear to be reasonable timeframes, provided that the legislation is introduced to remove regulatory roadblocks such as the requirements for upgrade (section 112 BA 04 and RMA). The areas of concern again relate to implementation issues:

- The Wellington City Council policy has a 10 year limit but only for critical buildings. The Council extended the limit from 10 to 15 years for buildings with a moderate risk profile after consultation with the community. To shift these parameters back to 10 years, the Council would expect the community to be included in consultation.
- These timeframes assume that the building is not already in a state to pose an unacceptable risk to adjoining buildings or people on the street. These buildings may require addressing more quickly. This is covered under the Building Act and this power to act needs to be retained under these policy changes.
- An owner with a property portfolio with multiple buildings needing strengthening may face particular issues to address strengthening within these timeframes. More flexibility may be required for these owners.
- Will owners be able to submit a plan within 12 months? This may be unrealistic given a lack of resources to provide plans as well as the dilemma many property owners will face on their investment and the loss of value this issue presents them.

- Will councils be able to process the volume of plans that this would present in the short term, with all earthquake prone buildings submitting plans within next 6 years?
- How enforceable would this be – what would happen if a property owner decides not to submit a plan within 12 months? How detailed will the plan need to be – full details or just a proposal? Is it for a building consent or a resource consent? Should a lack of decision making become an offence from a legislative viewpoint? What would the next steps be and how would that be resolved? How long would a Council have to assess a plan and what is the process if the plan is declined? How enforceable in practise would this requirement be?
- Given that there is a 10 year period to strengthen a building, why does a plan have to be delivered within 12 months? Would a 24 month period be more achievable or should building owners have up till year 7 to supply the plan, which still allow three years for processing and construction?
- There may be pressure to extend the timeframe with a longer process around decision making in the hope that over that time better solutions and incentives may arise that changes their decision around demolition or strengthening.

15. What additional powers would local authorities require to enforce the proposed requirements?

All local government Earthquake Prone Policies must be enforceable in law. If it is agreed to have shorter timeframes or higher strengthening standards, these must be able to be upheld legally. If councils have to pay for strengthening or demolishing of any building they need to be able to recover the costs from the property owner.

If the Building Act is changed and requires a shorter time frame for strengthening to take place, then the Act needs to be very clear that the legislation is retrospective and that these new timeframes apply to the existing notices already issued under sec 124 of the Act. Our advice is that existing notices are irrevocable and a significant legal risk could result if the Council attempted to amend the notice, or to cancel and reissue new notices without legislative support. The legislation must be clear that the Council does not have to reassess these buildings and issue new notices to have the new regulations apply to them or bear legal liability from changes in the legislative framework.

Parliament could provide better guidance and interpretation of existing legislation that would be used to assist Councils and the Courts. In the event of no action at the end of timeframes, a much simplified and clearer process between the Resource Management Act and Building Act requirements and property owner interests and public safety rights is needed.

Given the scope of the changes proposed, it is recommended that there be a review period in 5 years after the legislation came into force to ensure the changes are having the desired effect.

16. Should local authorities be able to require faster action on buildings of strategic importance, such as those:

- Located on transport routes identified as critical in an emergency
- With important public, social and economic functions, such as schools and

police stations

- With post-earthquake recovery functions, such as civil defence centres and hospitals?

We believe that this is a reasonable requirement with provision that the community also agrees or supports this is a public safety and city resilience issue. This would be built into a Local Earthquake Prone Building and Resilience Policy following consultation. However guidance from MBIE is required to ensure it is applied consistently by councils.

17. Should all unreinforced masonry buildings require strengthening more quickly than other earthquake-prone buildings?

Yes, given the higher risk to people and other property, it is reasonable to expect URM (constructed pre 1935) buildings to be strengthened or demolished more quickly than other types of construction. Given the effects of the critical structural weaknesses on some other buildings, (CTV and Pyne Gould) buildings with similar critical structural weaknesses should also be considered.



## Exemptions and time extensions

**Proposal 8:** Certain buildings could be exempted or be given longer time to strengthen, eg, low-use rural churches or farm buildings with little passing traffic

**The Royal Commission recommends** that the legislation should exempt seldom-used buildings located where their failure in an earthquake would be most unlikely to cause loss of life or serious injury to passers-by. (Recommendation 90, Vol.4, Final Report)

18. Should the owners of certain specified types of earthquake-prone buildings be able to apply to local authorities for exemptions or time extensions to the requirement to strengthen or demolish?

The Council supports this proposal which would allow for buildings with low public safety risk to be exempted from the strengthening provisions. We consider that any exemption should have a time limit at that time it can be renewed so that if circumstances or building use changes then the exemption can be removed. To ensure that this process is applied consistently, there may be a requirement for an MBIE audit or review, where exemptions are granted.

The current Building Act requires a council to advise MBIE if the council issues a modification or waiver of the building code. Issuing an exemption or time extension to strengthen or demolish could be processed in a similar way.

If the exemption requires site visits then there should be an appropriate charge to cover the costs of inspection.

19. If yes, what are your views on the following possible criteria:

- The building is used only by the owner, or by persons directly employed by the owner, on an occasional or infrequent basis
- The building is used only occasionally (less than eight hours per week) and by less than 50 people at any one time

AND in each circumstance above

- All users are notified that the building is likely to collapse in a moderate earthquake
- The building is not a dwelling
- The building is not a school or hospital and does not have a post-disaster recovery function
- There is no risk of the building partially or fully collapsing onto a public walkway, transport route or a neighbouring building or public amenity
- Effective mitigation measures have been put in place to protect building users from the risk of collapse in a moderate earthquake?

The council would support these criteria although these criteria could include the building construction type given that a timber framed light roofed building is a lower risk than a brick veneer or masonry building with a heavy roof.

The strengthening criteria will be onerous for many community based groups which have irregular use of their facilities and lesser ability to finance the upgrade. However, clarity is required for the last bullet point, which may be at odds with the requirements for Health and Safety. Also, the definition of owner and employees may be inconsistent with the types of users of many of these buildings.

The issue will be whether a maximum of 50 people at any one time is set too low. Many small community groups may occasionally exceed a 50 person limit and trigger the strengthening provisions. Is this risk sufficient to trigger earthquake strengthening requirements compared to a commercial building that is occupied 10- 12 hours a day, five days a week?

The trade-off here is hours utilised and number of people using the building at any one time. However, there is also a need to prevent unscrupulous owners coercing or forcing staff or tenants into continuing to use a building. This may be addressed by a building user having to sign a declaration confirming they are aware of the situation and also noting any mitigation measures.

The proposal needs to address who certifies and polices this level of use. If exemption notices are issued, it needs to be clear that the owner accepts the risk and any liability associated with use of the property.

### Roles, advice, information and education

**Proposal 9:** Central government would have a much greater role in guiding and supporting local authorities and building owners, as well as in public education and information

**The Royal Commission recommends** that MBIE should review the best ways of making information about building risk in earthquakes publicly available, and carry out educational activities to develop public understanding about such buildings. (Recommendation 102, Vol.4, Final Report)

**It also recommends** that territorial authorities and subject matter experts share information and research on the assessment of, and seismic retrofit techniques for, different types of buildings. (Recommendation 106, Vol.4, Final Report).

20. Are the advice, information and education activities proposed for central and local government agencies sufficient to help ensure effective implementation of the new earthquake-prone building system?

On the whole - yes however more detail is required.

If the activities are to be increased by councils, then funding needs to be made available by MBIE through the budget process to ensure MBIE can develop an advice, information and education service supported by councils.

A wider brief could be given to BRANZ with additional funding to research and develop new strengthening solutions for the residential market. There also needs to be a mechanism in place to share the learning from these activities.

## Section 4: Other Issues

### Strengthening and other Building Act upgrade requirements

**Views are sought** on whether the current Building Act fire and disability upgrade requirements are, in practice, a barrier to building owners deciding to carry out earthquake strengthening work.

**The Royal Commission recommends** amending the Building Act to enable local authorities to issue building consents for strengthening works, without triggering the Building Act rule to upgrade the building to comply “as nearly as reasonably practicable” with current Building Code requirements for access and facilities for people with disabilities. (Recommendation 98, Vol.4, Final Report).

21. Are current requirements to upgrade buildings to “as nearly as reasonably practicable” to Building Code fire and disabled access requirements a disincentive or barrier to owners planning to earthquake-strengthen existing buildings?

There are a number of points that need to be considered in responding to this question:

- Many strengthening projects include the cost of making good following any strengthening and include other upgrades. These are not likely to be hampered by these provisions. These are the cases where the owner has the discretion and financial capacity to undertake this.
- Most buildings built under the current fire standards have two means of egress for fire safety or if they have a single means of egress have sprinkler installed and would be expected to be compliant.
- However, the experience of Wellington City Council is that the requirements to upgrade buildings to “as nearly as reasonably practicable” to Building Code fire and disabled access requirements can be a disincentive or barrier to some owners.
- The buildings where this is more likely to be a greater issue are older buildings particularly where they have changed building use but without seeking approval from the local council.
- For those who are at the limits of financial capacity and who own older buildings, these requirements can provide an additional barrier which is preventing strengthening occurring which is the primary risk. In these cases the current regulatory process under the Building Act supports the demolition rather than the upgrading of buildings.
- There is a balance here from a building owners perspective as increasing accessibility may increase the utility of some buildings for tenants.

22. Should local authorities be able to grant building consents for earthquake strengthening without triggering the requirement to upgrade the building towards Building Code fire escape and disabled access and facilities requirements?

Yes this should be at the discretion of the building consent authority (BCA), provided that the building is not unsafe.

In some cases newer or more modern buildings do not require any further upgrade. However, there will be buildings where there hasn't been a lawful upgrade to the building for many years. In those circumstances there is a need to require a minimum level of fire safety. These minimum requirements could be better defined in any amendment to the Building Act.

That said, the matter of disabled access and facilities is less clear cut and the minimum criteria that must be in place is not well defined. We support an industry discussion that could define the "minimum" disabled access and facilities acceptable for building types that could form a platform on which the BCA could then consider discretion on a case by case basis. This supports the Wellington City Council Accessible Wellington Action Plan 2012–2015 that has a goal of working with the building and local government sectors to clarify aspects of the Building Act 2004 and expectations around accessibility.

23. Should any change apply to both fire escape and disabled access and facilities requirements, or to disabled access and facilities requirements only, i.e., retain the current fire escape upgrade requirements?

Both requirements need to be considered. Wellington City Council has a policy that considers accessibility under the *Accessible Wellington Action Plan 2012–2015 - Promoting inclusion* and which the Council needs to be taken into account in addressing this issue. Nationally the New Zealand Disability Strategy agreed by government includes a range of objectives which have a bearing on this issue and need to be considered by MBIE in this area.

There are significant costs in fire protection addressing life safety issues and disabled access is not defined and monitored in the same way as Fire Service compliance. As noted above we welcome the opportunity to contribute to a discussion that would achieve this minimum standard,

Clear guidance for any decisions in this area would be required from MBIE.

24. What would be the costs and other implications of de-linking earthquake strengthening from current Building Code fire and disabled access requirements?

Anecdotally we believe this would lead to cost reductions in some buildings, but more detailed analysis is required to quantify this. In all cases owners need to make good strengthening, which means that it is a sunk cost regardless of fire or access and facilities.

We would note that any decoupling cannot be used as a way of avoiding justifiable building issues. If this was a blanket provision for all earthquake strengthening

projects, then owners of buildings that are not earthquake prone (>33%) could use this to avoid wider upgrade requirements under the guise of strengthening a building.

We would be willing to work with the Ministry to assist it develop guidance material for council officers and building owners so that they can understand the implications of any discretion in this area.

We expect that advocacy groups will have strong views in this area as it could be seen to be trading their rights off against earthquake strengthening objectives. The ongoing cost to the country of potentially limiting access to buildings needs to be taken into consideration.

## Heritage buildings

**Views are sought** on how important heritage buildings can be preserved while also being made safer.

**The Royal Commission recognises** the importance of heritage considerations: “An important matter that must be taken into account in considering the future of existing buildings is the value communities place on the contributions historic buildings make to cultural values. These values may also have a significant economic worth. Napier and Oamaru are examples in which the local economy is closely aligned to the character of the heritage building stock. Many structures have heritage value and some form a vital part of the built environment. Many heritage buildings are also earthquake-prone”. (Page 208, Vol.4, Final Report).

25. When considering listing heritage buildings on district plans, what factors should local authorities consider when balancing heritage values with safety concerns?

The community places a high value on Wellington’s historic heritage and the Council has committed to assisting preserve and manage these buildings. In recognition of the public value of these buildings, the Council works with buildings owners to assist them with strengthening issues, provides grants to facilitate conservation work, undertake repairs and maintenance, and/or commission specialist professional services, such as engineer’s reports.

Local authorities have the ability to apply criteria in identifying their historic heritage resources, which are then listed in the district plan. Whilst most councils do not include public safety or city resilience as part of the listings criteria, such considerations can be built into the assessment process for resource consents. Wellington City’s District Plan includes resource consent assessment criteria relating to structural stability, continued use of the building, adaptive reuse, reasonable and economic use, and the public interest in enhancing the heritage qualities of the City in promoting a high quality, safe urban environment.

The process for changing district plans is onerous, but they can be amended to include such matters as earthquake-prone status, location, proximity to strategic routes, and public areas, impact on surrounding buildings, types of high risk features, the significance of the building in the public eye, the complexity of building and what can be done to strengthen the building in order to mitigate risk without losing the heritage value of the building.

However, for many local authorities it is too late to have the opportunity of looking at heritage listings in this way. Most council’s already have lists of buildings and objects in their district plans that are subject to provisions around the management of effects on historic heritage. In reviewing the buildings on the heritage list it is likely that councils will have to have a more robust policy for determining what should be regulated through the district plan and meet both its obligations under the RMA to protect heritage as well as achieving building integrity and city resilience outcomes.

The section 32 process under the RMA enables a council to balance all matters before recommending to councillors that regulation is required (as well as or instead of non-regulatory methods). At this point, in developing or reviewing district plan provisions

around heritage, it would be appropriate to take into account a council's other functions under the Building Act and the wider regulatory environment within which district plan provisions would apply. Public safety and overall city outcomes, in this case for resilience, would be matters taken into account in this process. Elevating consideration of natural hazards into Part 2 of the RMA would also empower councils to justify a range of approaches based on balancing heritage with other considerations under the Act.

26. What assistance or guidance will be required for owners, local authorities and communities to make informed decisions on strengthening heritage buildings in their districts?

- Integrated services to building owners so that advice on all aspects of a strengthening proposal can be delivered in one forum, and facilitated on an ongoing basis. Technical and engineering guidance will be important.
- Better guidance in the RMA around defining what is “heritage” compared with a building’s character.
- More scope under the RMA to balance a Council’s role to identify and protect historic heritage with life safety, natural hazard and city resilience considerations.
- A consortia (construction/finance/owner/council) approach that brings all stakeholders together to develop a solution for the building owner.

27. What barriers deter heritage building owners from strengthening their buildings?

- A primary issue is the financial investment required compared to rental return – some heritage buildings require a higher level of investment to strengthen them compared to an unlisted building.
- The lack of certainty and the length of the process to get a decision on strengthening a heritage building.
- The structural cost and complexity, mainly due to age and the need to retain the character/ heritage details of the building as part of a strengthening scheme.
- The cost of preparing for and going through a resource consent process, although for Wellington City Council, free heritage officer advice is available and there is a fund to refund application costs to make it less of a deterrent.
- Access to and cost of additional heritage/engineering expertise and advice required.
- The development potential constraints for commercial heritage properties (e.g. less ability to add additional floor space to offset strengthening costs).



28. Do heritage rules (for example, those in district plans) deter owners from strengthening heritage buildings?

In the absence of Council officer advice, the requirement for obtaining a resource consent because of heritage rules in a district plan can present an obstacle to owners strengthening their buildings. However, it is the experience of Wellington that most heritage building owners understand that anything they do to the building is likely to require resource consent, and that it is important that the effects of any proposal on heritage values is a matter appropriate for the Council to manage through a consent process. Proposals to strengthen buildings in most cases have the support of Council's heritage officers as such proposals assist in protecting and prolonging the life of a building that has a greater value to the City.

It is the view of this Council that carefully constructed policies and rules within district plans can in fact enhance the process of balancing effects on heritage values with the need for buildings to be strengthened. Wellington City councillors have recently resolved to have any current barriers to earthquake strengthening within the plan rules reviewed to ensure a proactive stance is being taken to strengthen, alongside other tools it is implementing to financially incentivise strengthening and provide building owners with clear and accurate information and expedient service delivery.

The advocacy role of Councils is crucial to balancing its regulatory functions. Having an emphasis on assisting building owners through the process, rather seeing it as a deterrent is crucial to the success of a resilience policy. Depending on current and future rules within district plans across the country, the resource consent process is a way of ensuring life safety issues can be balanced appropriately with heritage values and economic considerations. This process is important from an urban form and city vitality perspective as much as from a heritage perspective.

A focus for Government could be on dovetailing Building Act changes with RMA changes that elevate natural hazard considerations to a level that is comparable to heritage values.

29. What are the costs and benefits of setting consistent rules across the country for strengthening heritage buildings?

The potential benefits of consistent rules are that uniformity in administration is achieved across the country. This could incentivise building owners to strengthen rather than demolish because there is one clear reference point for regulation. However, what these rules might look like is a major question, including how demolition fits in.

One potential consequence of this approach is there will be a gradually changing built environment of strengthened heritage buildings that have potentially reduced heritage values. For example, if strengthening is in effect a permitted activity under some kind of 'repairs and maintenance' national rule regime, the effect of this could be buildings demonstrating reduced heritage, character and visual amenity values because the most cost effective strengthening scheme has adverse effects on the heritage values of the building. However, this may be a cost that the community is prepared to bear – cultural heritage is in some part retained and we have also attained a more resilient city.

Potentially there would be a large cost to enact such provisions and there are uncertain benefits from a “one size fits all” policy as opposed to individual councils and communities working through what is right for their specific built environments.

As with the Earthquake Prone Building Policy, each Council is grappling with these issues at different scales and in different urban contexts. An overall framework could assist where it requires and enables Councils to set their own policies on how heritage buildings will be strengthened, and how each heritage building can be prioritised within that strengthening programme.

A framework such as this could take some uncertainty and variability out of the process and may reduce decision making time for councils, whilst avoiding the need to introduce specific nationwide rules.

### Inclusion of all residential buildings

**Views are sought** on the Royal Commission's recommendation to allow local authorities the power, following consultation with their communities, to adopt and enforce policies to require specific hazardous elements on residential buildings to be dealt with within a specified timeframe.

30. Should local authorities have the power, following consultation with their communities, to adopt and enforce policies to require specific hazardous elements on residential buildings to be dealt with within a specified timeframe?

While the idea is recommended by the Royal Commission, councils do not have the resources to enforce this process. Given the stand alone (single and duplex) and the light weight timber framed construction of the majority of housing in NZ, this may have little life safety benefit.

To help mitigate this, it could be useful to consider options such as:

- Developing an education programme explaining what people should be looking for to strengthen their housing.
- Introducing a mandatory home “structural” inspection check when a house is sold, like the Wellington City Council home check scheme currently in place it could focus on key points (foundations, chimneys, hot water cylinders etc). The seller could have the right to undertake the work or the purchaser buys at their own risk. Finance and insurance companies might utilise a service such as this and we understand there is a similar process in place in California.
- It could be considered for review and inclusion in the future.

An area that could be reviewed is the compulsory installation of automatic shut off switches/ valves for gas and electricity. We also understand that utility providers in Tokyo have retrofitted these to buildings to reduce the risk of fire.

If this were to become policy, it should be optional for the council and community to agree what the community is happy to pay for this additional level of regulation and safety measures and these should then be captured in a Local Earthquake Prone Building Policy.

## Other questions

31. What would the proposed changes mean for you?

The proposed changes would mean:

- More resources will be required to meet the new policy requirements. That will become an additional cost to ratepayers at a time when councils are required to place limits on rate increases under the Local Government Act 2002. Effectively this mandates these services above other local priorities.
- An increased demand for engineering expertise at a time when there is high levels of demand due to the Christchurch rebuild and infrastructure growth in Auckland. This may make it difficult for the owners to achieve or meet the proposed timeframes.
- There is a significant degree of implementation and planning that needs to be undertaken to ensure that the desired outcomes are achieved from the policy changes. It is not fully established whether there is robust information and processes to support national databases and notification requirements to the extent that it usefully informs the public on the standard of any building. Until it is clear this matter has been addressed, this aspect of the proposals may create a large administrative burden without perhaps achieving the desired outcomes.
- Any information system like this will tend to focus on the current building status and not on options and solutions. The policy proposal needs to take greater account of how to provide solutions to building owners to enable them to make sound decisions to move forward and strengthen buildings.
- The increased policy measures will require increased powers of enforcement by councils. It is not clear what measures will be taken and how they will be enforced if an owner of building assessed as being EQP fails to produce a plan for remediation within 12 months.

The implementation of the policy changes need to be well planned, the enforcement of this policy must be addressed alongside streamlining the processes and support from the courts system. Without this there is considerable potential to create a huge administrative effort without achieving the desired benefits.

Any changes need to:

- Ensure that they do not compromise existing processes. If seismic assessments have been completed under the current regulations, they need to be upheld under the new policy settings or clearly identified if they need to be completed again.
- If section 124 notices have been issued under the current Act and the timeframes for strengthening are different then the policy changes need to clearly identify which timeframe applies for the building owner
- If there are changes in timeframes, or changes in assessment, the changes need to address any potential areas of liability arising from the change.

32. Are you aware of any problems with current policy and practice around earthquake-prone buildings, other than those identified in this document?

The areas of greatest concern that are identified by the Council include;

- Inconsistent policy approaches between councils. However this is currently being mitigated by consumer demand with the public demanding higher standards of building information and building safety.
- The ability of councils to enforce standards higher than 33%.
- The enforcement of section 124 notices.
- Conflict between legislation, particularly between the RMA and the Building Act, which is problematic for councils balancing their regulatory functions under both Acts.
- In light of this, it would be good to have a clear understanding that potential changes to the RMA mooted in advice to the Government are cognisant of the changes proposed in this document and vice versa.

33. Do you agree with the following objectives for changes to the existing earthquake-prone buildings system? If No, what objectives would you propose?

- Reduce the risk – to an acceptable level - of people dying and being injured in or by buildings that are likely to collapse in moderate to large earthquakes.
- Ensure that building owners and users have access to good information on the strength of buildings they own and use, to help them make good decisions about building resilience and their use of the building

What and who defines “an acceptable level” of people dying and being injured? This suggests allowing councils to consult with their communities on local earthquake prone building policies and setting this level in consultation with the community. This policy proposal provides a realistic “an acceptable level” baseline. This consultation would then help ensure that a community has a clear understanding around the values of their heritage buildings in order to make informed decisions on the loss or retention of the particular buildings.

Additional objectives could be to:

- Ensure a focus is placed on addressing critical structure weaknesses to remove or reduce building vulnerabilities.
- Ensure that the policy takes into account the resilience of the local economy and where possible it allows for a rapid recovery after any earthquake event.

Overall the proposed policy is aimed at a life-safety and does not focus greatly on the resilience of local economies and the speed of recovery post event. The experience from Christchurch supports the necessity for buildings to be strengthened to more like 70% of new build standard to allow for a more rapid recovery post earthquake and this may be critical for the Wellington CBD in the event of a moderate earthquake.