



16 July 2015

BUILDING (EARTHQUAKE-PRONE BUILDINGS) AMENDMENT BILL

**SUBMISSION ON THE INTERIM REPORT OF THE
LOCAL GOVERNMENT AND ENVIRONMENT COMMITTEE**

Name of submitter

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The New Zealand Institute of Architects Incorporated (NZIA)

1. The New Zealand Institute of Architects Incorporated, which was founded in 1905, is the professional body that represents more than 90 per cent of New Zealand's registered Architects, as well as hundreds of architecture graduates and students. The Institute promotes high standards of building design and professional performance. It produces material essential to architects' practice, operates design and technical programmes to educate its members, and runs a rigorous, peer-reviewed awards programme that sets the benchmark for New Zealand architecture. The Institute seeks to collaborate with central and local government, other professional organisations and the wider construction industry in order to achieve its purpose: The NZIA champions the built environment and supports its members in their creation of better buildings, places and communities.

General comments

2. The NZIA congratulates the Local Government and Environment Committee on many of its proposed changes to the original Bill. These changes are significant and are considered responsive to the views, experience and recommendation of submitters.
3. We are supportive of Government efforts to improve the safety of New Zealand's building in a timely manner.

4. The NZIA considers that the revised Bill finds a more appropriate balance between life, safety and affordability and the consequential impacts on local, regional and national economies. We see positive benefits from the changes to the original Bill, particularly, the introduction of high, medium and low seismic risk areas, the related extensions of both the assessment timeframes and the landowner timeframes, the development of an agreed methodology for the assessment of buildings and publishing of a register of building information.
5. The Bill changes are a significant improvement but do rely heavily on adequate engineering resource across the country. The NZIA would encourage the Government to consider the adequacy of engineering resources across the country in regard to implementation and the consistency of implementation.
6. There is a significant role for Architects in the delivery of pragmatic and affordable earthquake prone building solutions. The Institute and its members look forward to working with Government, engineers and Territorial Local Authorities (TLAs) on this issue and the detailed guidance and advice to be developed. If we can be of further assistance, please contact Teena Hale Pennington, Chief Executive on thalepennington@nzia.co.nz or 027 527 5273.

Key issue: Commencement

7. The NZIA supports the Bill's proposed prioritisation of development of a methodology for the identification of earthquake-prone buildings. The early consultation being undertaken by the Ministry of Business, Innovation and Employment (MBIE) with the New Zealand Society for Earthquake Engineering (NZSEE), GNS Sciences, other engineers and experts and local government is supported by the NZIA.
8. The provisions (section 133AZ) allowing the Chief Executive of MBIE to set a methodology for identifying earthquake-prone buildings whilst supported, needs to be developed such that it can be implemented across New Zealand, noting differences in the varying access to skilled professionals in a consistent manner.
9. The NZIA would also strongly encourage Government to ensure that the methodology for the earthquake-prone buildings also adequately identifies the risks presented by non-structural building elements. It is widely acknowledged across industry that there are variances in the design, consenting, building standards, performance/assessment of these non-structural building elements which are possible contributors to risks to life and severe business interruptions. An MBIE methodology would provide a level of rigour and consistency for this issue.
10. Given the importance of this methodology to the Bill's operational effectiveness, we would encourage the Government to consider a more pragmatic timeframe, possibly no later than three months after the Act comes into force.

*Recommendation: That the officials recommendation 1.2 be reviewed to potentially, no later than three months after the Act comes into force. One of the objectives of the methodology should be to ensure there is consistent application in assessments across New Zealand.
That the officials recommendation 1.2 make adequate provision for the issues associated with non-structural building elements.*

Key issue: The definition of earthquake-prone building

11. The NZIA in principle supports the changes made to the definition of earthquake-prone building in clause 23, new section 133AB. The proposed exemptions respond to the request in submissions for a practicable and pragmatic implementation of the Act, which the NZIA supports.
12. The NZIA would encourage MBIE to review the list of exemptions under section 133AA, particularly retaining walls and bridges. The NZIA considers that the current definitions could cover a diverse variety of structures in terms of construction scale and location which may not justify an exclusion from the Act.
13. For example, bridges are an essential part of transportation routes and key to the initial response where a 'major event' has occurred. As such, the NZIA would recommend that bridges on routes and/or part of routes deemed to be 'critical lifelines' should be subject to the Act provisions. Similarly, the NZIA considers that there will be retaining walls associated with bridges and/or critical lifelines and/or of a size that could pose significant impacts to life and safety.

Recommendation: That the officials recommendation 2.2 be reviewed, in particular the nature of exemptions applying to section 133AB, that is, retaining walls and bridges. The NZIA would recommend that bridges and retaining walls part of 'critical lifeline' routes (in full or in part) be included within the provisions of the Act.

Key issue: Application of the definition of earthquake-prone building areas in low seismic risk

14. The NZIA supports the finding that no change be made to the definition of earthquake-prone buildings in relation to its application in areas of low seismic risk.
15. Whilst not an area of NZIA expertise, we are seeking an assurance that the low seismic rating acknowledges volcanic activity and the recently released work of [Massey University, Auckland's volcanic hazard zones](#).

Recommendation: That the officials recommendation 3.1 be reviewed, to ensure that it adequately acknowledges volcanic activity and the recent research of Massey University into Auckland's volcanic hazard zones.

Key issue: Seismic capacity assessments, outcome notices, the seismic capacity register and seismic work notices

16. The NZIA supports the extended timeframes offered in the Bill as they seem reasonable and practicable. We do however hold reservations on the capacity of all territorial authorities to identify potentially earthquake-prone buildings within the required two years and six months from the commencement date in the high seismic risk areas.
17. Currently the Bill allows for building owners to seek a time extension for assessments under section 133AI, whilst territorial authorities do not appear to be afforded the same provision. As territorial authorities are significant building owners, of significant public use, the NZIA would consider it practicable to offer territorial authorities the same opportunity to apply for an extension from the Ministry.
18. Assessing older buildings, in particular, according to the methodology is a specialist skill requiring a series of judgements, highlighting the importance of training to improve the consistency of approach and the consistency of assessments.

Recommendation: That the officials recommendation 5.3, such that section 133AF be amended to allow territorial authorities the ability to apply for an extension to the timeframes for priority buildings to the Ministry of Business, Innovation and Employment, in areas of high seismic risk.

That officials consider developing industry advice for the benefit of owners, territorial authorities and professional services (e.g. engineers, architects) on engineering assessments, particularly for older buildings. This would be of significant benefit to the assessments given the poor knowledge of New Zealand's non-residential and multi-storey buildings with respect to seismic strength and the number of earthquake-prone buildings across the country.

Key issue: Remediation timeframes

19. The NZIA supports the identification of hospital buildings, school buildings, emergency service facilities and corridor buildings as a high priority. We do however believe that the definition of 'corridor buildings' could be improved with respect to, "impede transport routes of strategic importance". If the intention is to protect and maintain "critical lifeline routes" post an event and/or during recovery, than the NZIA believes this should be made clearer in the Bill.

Recommendation: That the officials recommendation 6.3, specifically the definition of a priority 'corridor building' (section 133AC(1)(d)) be improved to recognise its role as a critical lifeline post and event and/or during recovery.

Key issue: Remediation timeframes for heritage buildings

20. The NZIA welcomes the flexibility introduced in the Bill to allow owners of buildings on the National Historic Landmarks List the opportunity to apply for an extension of time of up to ten years to complete seismic work. Such flexibility is likely to be beneficial in the preservation of heritage listed buildings in provincial towns and in high risk areas with low occupation and use and no means of re-purposing buildings because there is no economic demand for these buildings.
21. The NZIA however remains concerned about the timeframes and provisions included in the Bill for Category 2 buildings and the lack of acknowledgement of other heritage buildings included in District Plans and/or other associated legislation, for example:
- *Any heritage building or Actively Managed Historic Place listed in an Historic Resources Strategy or Conservation Management Strategy and Conservation Management Plan prepared under the Conservation Act 1987.*
 - *Any heritage building listed in a reserve management plan prepared under the Reserves Act 1977.*
 - *Any building established by the Maori Land Court under Te Turi Whenua Maori Land Act 1993 for historic and cultural purposes.*
 - *Any building of importance to tangata whenua listed in an Iwi Management Plan*
 - *Any structures or buildings associated with an historic cemetery or memorial.*
 - *Any building managed for heritage purposes by agencies such as New Zealand Historic Places Trust, Ministry of Culture and Heritage, Department of Conservation or Local Authorities.*
 - *Any building that is subject to a heritage order, heritage covenant or other protective covenant.*
22. The Resource Management Act has shifted the obligation for the recognition and protection of heritage from Heritage New Zealand to the responsibility of Territorial Authorities. Accordingly, the ability to apply for the extension of time of up to 10 years to complete seismic work (section 133AT) appears to only cover a fraction of those buildings needing such an option. The NZIA would encourage the Government to consider extending this provision to heritage buildings identified under legislation broader than the *Heritage New Zealand Pouhere Taonga Act 2014*.
23. The NZIA would also encourage the Government to consider the development of appropriate financial incentives to assist and enable landowners of heritage buildings in high seismic risk areas to undertake the appropriate works in a timely manner. Whilst time extensions, are useful to landowners of such buildings, financial incentives may also stimulate timely redevelopment, which creates jobs and economic activity in parts of New Zealand with modest economic growth as well as ongoing management and use of heritage buildings.
24. Currently the Resource Management Act 1991 and Heritage New Zealand Pouhere Taonga Act 2014 oblige owners to fund the majority of costs to preserve New Zealand's significant heritage largely for the benefit of the public and local communities. Acknowledging that many historic buildings around New Zealand are earthquake-prone, means that the private landowner is often funding public good outcomes and consequentially having their private property rights restricted.

25. By way of example, Heritage New Zealand has estimated that there may be 3,000 listed (Category 1 and 2) earthquake-prone buildings. With the level and quality of information about these buildings across the country variable, New Zealand's building heritage (Category 2) appears to be under considerable threat.

As currently drafted, the provisions for Category 2 buildings is the same as others in the high seismic risk areas – which is 15 years. These areas include Wellington, Napier and Hastings. In response to a variable quality of information and the important role such Category 2 and other heritage buildings may play in regional economies, the proposed 15 year timeframe appears problematic.

26. Take for example, Oamaru. The Heritage New Zealand Register shows that in Oamaru there are 17 Category 1 and 44 Category 2 historic places which are buildings in the main retail district and important to the local tourism industry. We understand that the Institution of Professional Engineers (IPENZ) raised this issue with the Select Committee during their submission.

The implication of this Bill is that many of these 44 Category 2 buildings may have to be demolished in 15 years. The NZIA considers there would be significant benefits in providing up to an extra 10 years on top of the 15 years (section 133AZ) in areas of at least high seismic risk, therefore providing 25 years before the strengthen/demolish deadline is reached.

27. NZIA members understand that ground shaking from motorway impacts has a similar effect on the structural integrity of buildings to that generated by repeat earthquakes. This type of shaking is immediate. Providing potentially up to 35 years for remediation of Low Risk areas with Historic or Protected earthquake-prone buildings where they are in close proximity to ground shaking generated by vehicle movement appears to have been overlooked. The NZIA would encourage MBIE to develop appropriate policy wording to address this issue.

28. Some of our members have been involved in projects along motorways where damage from repeated shaking has had severe impacts both on structural integrity and weather tightness. NZS 1170.5:2004 does not address ground shaking from other sources such as traffic impact. It would be prudent to consider the timing of a review of this standard, given the provisions of the Bill.

Recommendation: *That the officials recommendation 7.1, also consider the effects and impacts of ground shaking from motorway impacts on Historic or Protected earthquake-prone buildings. It would also be prudent for the Ministry's officials to review NZS 1170.5:2004 and its potential to include a standard on ground shaking from other sources, relative to the priority of other NZ Standards to be reviewed/updated.*

That officials review the extension of time provisions to complete seismic work applicable to Category 2 and other identified heritage buildings. The NZIA would recommend that an extension of time of up to 10 years to complete seismic work in at least, high seismic risk areas be adopted as a minimum. In addition, the NZIA would encourage officials to consider relevant financial incentives to support owners of heritage buildings, invest in strengthening programmes which offer public good outcomes and often consequentially restrict private property rights.

Key issue: Upgrade requirements

29. The NZIA recognises that the new section 133AX provides a greater level of flexibility for territorial authorities with respect to upgrades to either the means of escape from fire or upgrades to access and facilities for persons with disabilities, or both.
30. The NZIA whilst supportive in principle of this flexibility would encourage the Ministry of Business, Innovation and Employment (MBIE) in collaboration with Local Government New Zealand (LGNZ) to publish advice and/or guidance for professional services and Clients (i.e. architects, engineers) on how such provisions are interpreted across the country. Projects require certainty and the discretion being exercised by territorial authorities under section 133AX under the test outlined in section 133AX(c)(ii) could be vastly different across the country.

There is an opportunity for the industry to learn from the applied application of these provisions, because ultimately a decision not to require upgrades, impacts on project costs and Client/Owner decisions. Therefore the timely exchange of lessons learnt across industry, will assist with interpretations and consistent applications.