

25 April 2022

Hon Poto Williams
Minister for Building and Construction
Parliament Buildings

Kia ora Minister Williams

Thank you for your time on Monday evening, the 4th of April 2022, when you met with Craig Sengelow and I, along with Hon Grant Robertson, Wellington Central MP. This letter follows on from that meeting and your letter to us, dated 31 March 2022, regarding grants to support strengthening of Residential Earthquake Prone Buildings (REPBs). This letter is focused on:

1. The review of the Residential Earthquake-prone Buildings Financial Assistance Scheme (Scheme)
2. Addressing other barriers as part of the earthquake-prone building work programme, including further discussions regarding the need for grants for owners of REPBs.

Review of the Residential Earthquake-prone Buildings Financial Assistance Scheme

We are very pleased to see the changes made to the Scheme. We were pleased to see that the report generally reflects and acknowledges the challenges faced, and communicated, by owners.

We have communicated these changes through the ICW's mail-lists. The Body Corporate Chairs' Group has also communicated these changes. These are all positive and move the Scheme closer to one that is fit for purpose. As we advised at the meeting, the Scheme will be generally fit for purpose when:

- All owners of REPBs who need to, can access the Scheme
- Accessing the Scheme does not affect the income and outgoings of the owner who needs to use it.

We are also pleased to hear that you have asked for advice on further changes. We note that you are expecting to get that advice very soon. In particular, continued access to the accommodation supplement is essential for any user of the Scheme who also relies on that as part of their income. It is good to hear that this is being looked at. In addition, we are seeking clarity on:

- What does "insurable level" mean? We suggest it should not be more than 34% of the NBS, which is the legislated minimum. We seek clarity as the Government's response to the review states that *'The insurance requirement has been adjusted to require that ...where full cover is not feasible a loan may be granted where the building has fire cover and where strengthening will bring the building to an insurable level.'*

An earthquake could destroy or damage the building during remediation work. If this occurs, can you please confirm that the Cabinet decision that the Scheme will not pursue negative equity will apply.¹

¹ Paper referred to in CBC-20-MIN-0002, para 32, table 3, no.11. ICW has frequently raised concerns in previous letters and submissions that the written off debt is treated as taxable income for the borrower by Inland Revenue.

- Company share ownership: We do not think that owners of buildings should be expected to change their ownership structure so that they are eligible for this fund. We say that because:
 - There is a significant cost involved in doing this. We would estimate \$1,500 -3,000 per unit. For those on fixed incomes this may be a barrier and could undermine the scheme being fit for purpose as outlined above.
 - There is significant time involved in doing this, for example writing proposals to shareholders, running special meetings to vote on the change. This work would need to be led by the same people (directors) who are dealing with the earthquake-prone issues.
 - Some owners prefer the benefits of company share ownership over unit title. For example it gives them more control over who can occupy the building.
 - Any ownership change needs to be done for all owners of the building. For example, if one owner wants to use the Scheme, but others do not need to, then that owner may struggle to get other owners to agree to the change. If it was a 28-unit building, the cost is likely to be over \$30,000 for the sake of lending for one unit.
 - Banks, most notably Westpac, do lend against company shares, without requiring registration of the shares. We do not see why the government cannot lend against something a bank can.

Addressing other barriers as part of earthquake-prone building work programme, including further discussions regarding the need for grants for owners of REPBs

We also welcome MBIE's consideration of other barriers as part of a broader earthquake-prone building work programme. Many of the wider barriers are preventing owners from progressing their strengthening projects. Addressing these issues cannot wait as deadlines are looming and many owners are struggling to find a reasonable pathway to complete this work. For example, from our 2020 survey of apartment building representatives, we know of buildings that are required to be strengthened by 2023, 2025, 2027, 2028 and beyond.²

In addition, we continue to have concerns for owners of buildings for which it is not economic to meet the legislated requirements. There are around 60 owners in Wellington alone who have had to sell their homes to a developer, with the significant financial and social impacts that entails. While it was good to see them acknowledged in the report³, central and local government need to address this urgently.

We briefly discussed grants at our recent meeting. You had responded to our letter of 22nd of February 2022 with a letter dated 31 March 2022. As we advised at that meeting, we were disappointed that your letter did not address the 10 key reasons why the Scheme is not reasonable nor affordable. Your letter also raised points that were mainly addressed in our letter.

We were heartened by your offer to meet with us in the near future to discuss the grant funding proposal. We look forward to hearing from your office on a suitable time.

We see serious consideration of providing grants as priority for the work programme. However, we also consider that the following needs further work as soon as possible:

- Providing certainty to owners who have or are complying with the legislation, including the Building Code in place at 1 July 2017
- The Government's response when deadlines start expiring.

² 2027 is the deadline 228 buildings out of approximately 590 earthquake-prone buildings in Wellington with nearly 40 of those being residential of some form (WCC data, Dec 2021).

³ pg 25.

Providing certainty to owners who have or are complying with the legislation, including Building Code in place at 1 July 2017

We are pleased to hear your assurance that owners who have strengthened their buildings will not be captured again under a future, updated Building Code. However, it is important that this assurance also applies to:

- Owners of buildings that have been confirmed as not being earthquake-prone and removed from the register.
- Owners who are in the process of complying with the legislation, under the Building Code in place at that time. Without this assurance, there is a risk that owners who have progressed/agreed concept designs, detailed specifications, resource consents (if required), at substantial cost, would have to rework some or all of the work under a new Building Code, with further costs.⁴

We ask that your assurance be communicated to owners, councils and the engineering community. ICW can help communicate this through our mailing lists.

The Government's response when deadlines start expiring

At the meeting, Grant Robertson raised the question of the timeframes, and whether these should be extended. You indicated that you were keen for buildings to be strengthened as quickly as possible. ICW does not consider that extending the timeframes is a solution to the fundamental problems with the legislation. Responses to ICW's 2020 survey of owners indicate that owners want to move on with their lives; extending the timeframes does not help that.

However, extending the timeframes is likely to become a necessity due to the capacity constraints in the sector and rising costs. Both factors existed prior to COVID and are being exacerbated by COVID impacts. I advised you of a building that had one company out of 11 interested in submitting a tender, one company only wanted to do a negotiated proposal, and nine said no. Obtaining competitive tenders is a challenge for some apartment building owners; moving forward without it on high cost projects is another risk for owners.

Wellington City Council has begun drafting its enforcement policy. We suggest that territorial authorities should not implement enforcement policies that are not consistent with a national policy. We would like to see clear directives to territorial authorities given by you and/or MBIE.

Continued engagement

We look forward to meeting with you in the near future to discuss the grant funding proposal. We also welcome any chance to discuss further with you how we can best support the ongoing work on future proofing the earthquake-prone building system, particularly around the implications for existing buildings.

Nga mihi nui



Geraldine Murphy, Spokesperson on Seismic Matters, 0274 507804

cc: Hon Grant Robertson, Wellington Central MP; Craig Sengelow, MacAlister Heights Body Corporate

⁴ This could also affect owners who have obtained a building consent but have not been able to begin construction by the expiry date and would have to seek an extension. In Wellington, building consents are issued for 12 months.