

ICW commentary and questions on Insurance Council of NZ letter to Wellington Central Candidates

ICW has provided some commentary on some of the points raised and identified a number of points that need to be clarified with the Insurance Council. We hope that you are able to follow up with them on this as part of your future investigations into the wider insurance issues for Wellington and the implications for mandatory seismic strengthening and Unit Titles Act requirements.

1. The letter refers to insurers using geocodes to plot building locations on soil maps to inform exactly what type of soil a property is located on (para 5, p2). What data source is being used by insurers to determine the type of soil a building is located on? The NZ Geotechnical Database can be accessed by insurers as registered users and is a property specific database, but it is unlikely to include all properties. How is the soil class data available translated across all the buildings in a broker's portfolio? Can the Insurance Council confirm that the sector is not applying a standard soil class across an area based on the available geotechnical assessments for only some buildings in the area?

2. The soil maps developed for the 'It's our fault' project have a disclaimer to say 'This map provides a starting point for geotechnical investigations but does not replace the need for professional consultation and site specific investigations'. Can the Insurance Council confirm if brokers/insurers are using these soil maps to determine the soil class for buildings in their portfolios?

3. A Cabinet paper in 2013 referred to property owners having a commercial incentive to address their earthquake prone building (EPB) to reduce operating costs as EPB are harder to insure and cost more to insure. (The reference to 'commercial incentive' further reinforces the officials and ministers' focus; residential home owners don't refer to commercial incentives.) A briefing to Ministers in 2013 referred to reduced damage to property during and after a major seismic event as being a benefit to those owners who had to fund the strengthening.

It is not unreasonable that owners expected that strengthening would result in a reduction in insurance premiums. The insurance sector messaging following the Canterbury and subsequent earthquakes did not refer to the inadequacy of the building standard as being a factor in high premiums - this has only been publicly discussed by the Insurance Council since 2019. Previous messaging was about the global hit on re-insurers from a number of events that was impacting on NZ premiums.

Even base isolation, which has been talked about as the 'rolls royce' of seismic resilience solutions does not guarantee any better insurance premiums (see Georgina Campbell's Comment article (NZH Online 3/9/2020)).

4. It is disingenuous to say that insurers and insurance brokers would not be aware of strengthening work being funded (2nd para p3). For EPB, insurers should be proactively identifying this themselves and will be asking their clients; there is at least one example of the provision of indemnity insurance being linked to the body corporate progressing seismic strengthening within the year.

One example from a non-EPB, was that the Body Corporate Committee was requested by its broker to provide a current valuation and seismic report. The insurance report said 'It is important that the Body Corporate reviews and keeps me updated on possible EQ re-strengthening work. Any increased availability of EQ capacity will favour those buildings undertaking re-strengthening work and higher

NBS ratings. The broker said insurers would start to look with interest only after 80% NBS had been achieved.'

5. A new building standard for 'new buildings' may be justified if the Government wishes to achieve economic resilience by fewer buildings being closed for long periods or demolished after a major event. The discussion on a low damage standard indicates that building costs will be higher. But higher standards cannot continually be retrospectively applied to all existing buildings, particularly multi-owner residential buildings - it will be even more unaffordable and uneconomic than the current situation is.

6. It is incorrect to say that 'those in structures with low NBS today have clearly not upgraded in the past' (middle of p3). In Wellington, many current EPB had already been strengthened as part of the building conversions to apartments, which were consented and a code compliance certificate issued by WCC, and insured by insurers. The owners of these buildings are now forced to do a second round of strengthening.

A much wider group of buildings are now covered under the earthquake prone provisions. This is because officials put forward a recommendation by an advisory group, which included the NZ Society of Earthquake Engineers, to expand the scope of building construction types that would be covered by the provisions when the Building Act 2004 was introduced, along with enabling councils to set their own EPB policies.

Cabinet was not given any data on the number of buildings, types of owners or costs of this change. Parliament was not advised of this change at all in the explanatory note to the Bill. Owners who would be affected did not know it was happening. The NZ earthquake prone building policy is an outlier compared to other earthquake prone jurisdictions.

7. We don't think the statement (bottom of p4) regarding the requirement for 100% agreement among co-owners for the way damage is repaired is correct for unit title apartment buildings. The UTA states that decisions must be made by ordinary resolution (50% + majority) or by special resolution (75% + majority). Owners who voted against a proposal can seek minority relief, but this can end up in the High Court depending on the costs involved. This process of going to court can be a stumbling block and costly, and is one of the challenges in multi-owner residential buildings.

8. Ability to retain more risk by owners who invest in high levels of seismic resilience such as base isolation (para 6, p4). The need for options for earthquake insurance cover goes further than those situations. One option is to have full cover for 'fire and general' and indemnity cover only for earthquakes. If a building is written off in an earthquake, the concept of 'replacement' in a multi-owner residential building is unlikely to be a real option as it is very unlikely.

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