



Ref. No. DOIA 2223-0786

14 November 2022

Geraldine Murphy
icwseismicproject@gmail.com

Dear Geraldine Murphy

Thank you for your email of 16 October 2021 to the Ministry of Business, Innovation and Employment (MBIE), requesting the following information under the Official Information Act 1982 (the Act):

Work to take into account the NSHM outcomes in the building design standards for new buildings

- 1. Will a comprehensive cost-benefit analysis be undertaken to inform the regulatory impact statement for the consultation on the 'initial proposed changes' planned for mid-2023? Will any cost-benefit analysis be undertaken by internal MBIE resources or be outsourced?*
- 2. Is any work being done to identify and consider the impact on society (buildings, infrastructure, people) - the risk to inform the public's and Cabinet's consideration of the revised building design standards for new buildings? If so, when will this work be made available?*
- 3. How will MBIE ensure that a revised (and inevitably tougher) building design standard for new buildings does not drive a demand for new detailed seismic assessments by banks (in response to potential purchasers), by insurers, by tenants (for commercial leases) of existing buildings?*
- 4. Is MBIE doing any work on breaking the connection between earthquake-prone buildings and the 'new building standard' in the earthquake-prone building policy?*
- 5. The NZ Herald article referenced the '2023 New Building Standard', which implies it will be published by the end of the 2023. Is this the proposed timeframe for the revised standard to be published? Is this an official name?*
- 6. Is the 'building design standard for new buildings' part of the wider Building Code or is it effectively the Building Code? The terms seem to be used interchangeably and it would be useful to clarify.*

'No planned changes to the EPB system' and similar statements

- 1. Will the debate over the Yellow Book v Red Book be resolved as part of the 'revised building design standards for new buildings' and consequently be included in the prescribed assessment methodology?*
- 2. How will the profile categories (section 1.2 in the assessment methodology for existing buildings) be impacted by the 'revised building design standards for new buildings'?*
- 3. How will section 1.3 (how to identify at any time) in the assessment methodology be impacted by the 'revised building design standards for new buildings'? It seems that a*

revised standard could fall within section 1.3 ix - or is it that the work to get to a new standard is already identifying those buildings, hence newer buildings (post 1976) being deemed earthquake-prone?

'Owners who have assessed or remediated their buildings cannot be asked to do so again' (NZHerald article, attributed to Dave Gittings)

This sounds promising, but the devil is in the detail. ICW is seeking assurance that this statement applies to following buildings:

- 1. buildings that have been strengthened and removed from the Register of Earthquake-Prone Buildings (the Register)*
- 2. buildings where the owner has provided further information, since the building was put on the Register, and the building is now removed from the Register*
- 3. buildings where further information was provided in response to a letter from a territorial authority that the building was potentially earthquake-prone, which confirmed the building was not earthquake-prone*
- 4. buildings where owners took action in response to a letter from a territorial authority (TA) under the TA's own Earthquake-Prone Building Policy pursuant to the Building Act 2004, and prior to the 1 July 2017 changes, and:*
 - provided further information to confirm the building was not earthquake-prone; or*
 - strengthened the building in response to a s124 notice, which was subsequently removed by the TA.*

ICW also wants clarification on the implications for owners where work is in train. There are many residential buildings where owners have spent significant sums of money as part of the investigation of the building and site, identification of remediation options, costing and assessing the viability of those under the standards in place right now, confirming owners ability to fund, lodging or waiting for resource and/or building consents, tendering and/or contracts before the work can even begin.

- 1. What is going to happen in this scenario?*

Extension of timeframes for strengthening or demolition

ICW has publicly raised the issue of sector capacity to do the strengthening work since early 2021 and we have raised it with our local MP Grant Robertson, who has raised it with his colleagues. Deadlines for residential buildings are looming and despite significant effort by many owners at huge personal wellbeing and financial costs, many buildings are still not strengthened. MBIE is fully aware of the challenges faced by residential owners through its review of the wider barriers as part of the review of the Financial Assistance Scheme and information provided in the 2020 ICW survey.

- 1. Is MBIE doing any work internally or externally commissioned any work on providing for extensions to seismic deadlines in certain circumstances (in addition to where the owner of a certain category of heritage building is already eligible to apply for an extension under the Act)?*
- 2. When will this work be completed and implemented?*

3. *What steps is MBIE taking to ensure there is a consistent approach by territorial authorities when seismic deadlines expire and it takes into account the different uses of the buildings (eg, residential v commercial/public)?*

Please find MBIE's response to your questions set out in the table below.

Questions	Response
<p><i>Firstly, thanks for the opportunity to attend the webinar, Amy. I found it informative and have since been to the website and listened to the webinar and looked at some of the resources.</i></p> <p><i>Similarly to the request made by the Property Council at the webinar on 29 September, ICW asks that we be involved in any stakeholder forums that are established as the work progresses to consider how the NSHM is taken into account in the building design standards for new buildings.</i></p> <p><i>My main focus at the webinar was to understand the potential impact on residential apartment owners. The statements made at the webinar and in the subsequent NZ Herald article raised a number of questions for me that I've set out below.</i></p> <p><i>I'm writing to you both as the questions seem to cover your respective building standards and earthquake-prone policy areas.</i></p>	<p>MBIE will be undertaking consultation on various different seismic matters over the course of 2023-2024 and will ensure that interested parties are aware of when and what is being consulted on so they can participate.</p>
<p><i>Work to take into account the NSHM outcomes in the building design standards for new buildings</i></p>	
<p><i>1. Will a comprehensive cost-benefit analysis be undertaken to inform the regulatory impact statement for the consultation on the 'initial proposed changes' planned for mid-2023? Will any cost-benefit analysis be undertaken by internal MBIE resources or be outsourced?</i></p>	<p>A cost-benefit analysis will be made as part of the impact assessment for the Building Code Update process.</p> <p>No decision has been made as to the extent of internal/external involvement at this stage.</p>
<p><i>2. Is any work being done to identify and consider the impact on society (buildings, infrastructure, people) - the risk to inform the public's and Cabinet's consideration of the revised building design standards for new buildings? If so, when will this work be made available?</i></p>	<p>A risk assessment will be made as part of the public consultation process. No date for this work has been confirmed at this stage.</p>
<p><i>3. How will MBIE ensure that a revised (and inevitably tougher) building design standard for new buildings does not drive a demand for new detailed seismic assessments by banks (in</i></p>	<p>The process and technical guidelines for assessing existing buildings is separate to the process for design of new buildings.</p>

Questions	Response
<p><i>response to potential purchasers), by insurers, by tenants (for commercial leases) of existing buildings?</i></p>	<p>MBIE does not have any direct control over how the market uses seismic risk information. MBIE does, however, seek to help the sector understand seismic risk through documents, such as the recent seismic risk guidance.</p>
<p>4. <i>Is MBIE doing any work on breaking the connection between earthquake-prone buildings and the 'new building standard' in the earthquake-prone building policy?</i></p>	<p>The Building Act 2004 defines an earthquake rating as the degree to which the building or part of the building meets the requirements of the Building Code for a hypothetical new building, built on that site, on 1 July 2017. This ensures that, even as the relevant Building Code standards are progressively improved, our understanding of what an earthquake-prone building is remains static and benchmarked to 2017.</p> <p>MBIE has no current plans to change the definition of an earthquake-prone building.</p>
<p>5. <i>The NZ Herald article referenced the '2023 New Building Standard', which implies it will be published by the end of the 2023. Is this the proposed timeframe for the revised standard to be published? Is this an official name?</i></p>	<p>The term %NBS does not refer to a specific standard, i.e. a specific document. It is a term used in the assessment of existing buildings. The NBS was specifically developed to support the implementation of earthquake-prone building legislation. The %NBS determines what buildings are legally required to be remediated.</p> <p>%NBS for earthquake prone buildings will always be assessed relative to the requirements for new buildings in 2017 when the earthquake-prone building system came into effect. Any changes to the standards used to design new buildings will not change this.</p> <p>For all other (non-earthquake-prone building) building assessments, MBIE has advised that engineers continue to use the same 2017 earthquake loading.</p> <p>MBIE is currently planning to consult on potential changes to the design standards for new buildings in mid-2023. There is no set timing yet for when any changes might be implemented in the building regulatory system.</p>

Questions	Response
<p>6. <i>Is the 'building design standard for new buildings' part of the wider Building Code or is it effectively the Building Code? The terms see to be used interchangeably and it would be useful to clarify.</i></p>	<p>Any standards relating to seismic design of new buildings that are accepted as verification methods are listed in the Building Code Clause B1 Structure. This is one of a number of clauses that make up the wider Building Code.</p> <p>This information may be useful for clarification:</p> <p>https://www.building.govt.nz/building-code-compliance/how-the-building-code-works/</p> <p>https://www.building.govt.nz/managing-buildings/managing-earthquake-prone-buildings/how-the-system-works/</p> <p>MBIE is not currently considering changes to the earthquake-prone building system.</p>
<p><i>'No planned changes to the EPB system' and similar statements</i></p>	
<p>1. <i>Will the debate over the Yellow Book v Red Book be resolved as part of the 'revised building design standards for new buildings' and consequently be included in the prescribed assessment methodology?</i></p>	<p>Matters related to the Yellow Chapter and the Red Book will not be impacted by work on potential new design standards. The two matters are unrelated.</p> <p>The 'Yellow Chapter' is a proposed revised chapter of the <i>Seismic Assessment of Existing Buildings</i> (known as the Guidelines, or the Red Book). The Guidelines are used to identify seismic risk in existing buildings – they are not related to new building design standards.</p> <p>MBIE is still, separately, considering the status of the Yellow Chapter.</p>
<p>2. <i>How will the profile categories (section 1.2 in the assessment methodology for existing buildings) be impacted by the 'revised building design standards for new buildings'?</i></p>	<p>The profile categories will not be impacted by work on potential new design standards. The two matters are unrelated.</p> <p>Any changes to building design standards will only impact how new and future buildings are designed and built.</p>
<p>3. <i>How will section 1.3 (how to identify at any time) in the assessment methodology be impacted by the 'revised building design standards for new buildings'? It seems that a revised standard could fall within section 1.3 ix - or is it that the work to</i></p>	<p>Section 1.3 of the Earthquake-prone Building Methodology will not be impacted by work on potential new design standards.</p> <p>Any changes to building design standards will only impact how new and future buildings are designed and built.</p>

Questions	Response
<p><i>get to a new standard is already identifying those buildings, hence newer buildings (post 1976) being deemed earthquake-prone?</i></p>	
<p><i>'Owners who have assessed or remediated their buildings cannot be asked to do so again' (NZHerald article, attributed to Dave Gittings)</i> <i>This sounds promising, but the devil is in the detail. ICW is seeking assurance that this statement applies to following buildings:</i></p>	
<p><i>1. buildings that have been strengthened and removed from the Register of Earthquake-Prone Buildings (the Register)</i></p>	<p>The Earthquake-prone Building Methodology sets out how territorial authorities must treat buildings that have undertaken previous assessments and remediations, by:</p> <ul style="list-style-type: none"> • excluding any building from being identified as potentially earthquake-prone, that: <ul style="list-style-type: none"> – has previously been strengthening to at least 34%NBS (or equivalent) – a territorial authority has previously notified the owner is not earthquake-prone • allowing territorial authorities to accept previous assessments to determine if a building is earthquake-prone or not. <p>This includes any buildings that have been previously removed from the earthquake-prone building register following remediation or presenting further information that confirmed the building was not earthquake-prone.</p>
<p><i>2. buildings where the owner has provided further information, since the building was put on the Register, and the building is now removed from the Register</i></p>	
<p><i>3. buildings where further information was provided in response to a letter from a territorial authority that the building was potentially earthquake-prone, which confirmed the building was not earthquake-prone</i></p>	
<p><i>4. buildings where owners took action in response to a letter from a territorial authority (TA) under the TA's own Earthquake-Prone Building Policy pursuant to the Building Act 2004, and prior to the 1 July 2017 changes, and:</i></p> <ul style="list-style-type: none"> ○ <i>provided further information to confirm the building was not earthquake-prone; or</i> ○ <i>strengthened the building in response to a s124 notice, which was subsequently removed by the TA.</i> 	
<p><i>ICW also wants clarification on the implications for owners where work is in train. There are many residential buildings where owners have spent significant sums of money as part of the investigation of the building and site, identification of remediation options, costing and assessing the viability of those under the standards in place right now, confirming owners' ability to fund, lodging or waiting for</i></p>	<p>The updated National Seismic Hazard Model and any new design standards for new buildings do not change the requirements of the earthquake-prone building system.</p> <p>Earthquake-prone building owners can have certainty that any seismic assessments or remediation work undertaken will satisfy their legal obligations under the Building Act.</p>

Questions	Response
<p><i>resource and/or building consents, tendering and/or contracts before the work can even begin.</i></p> <p>1. <i>What is going to happen in this scenario?</i></p>	
<p><i>Extension of timeframes for strengthening or demolition</i></p> <p><i>ICW has publicly raised the issue of sector capacity to do the strengthening work since early 2021 and we have raised it with our local MP Grant Robertson, who has raised it with his colleagues. Deadlines for residential buildings are looming and despite significant effort by many owners at huge personal wellbeing and financial costs, many buildings are still not strengthened. MBIE is fully aware of the challenges faced by residential owners through its review of the wider barriers as part of the review of the Financial Assistance Scheme and information provided in the 2020 ICW survey.</i></p>	
<p>1. <i>Is MBIE doing any work internally or externally commissioned any work on providing for extensions to seismic deadlines in certain circumstances (in addition to where the owner of a certain category of heritage building is already eligible to apply for an extension under the Act)?</i></p>	<p>MBIE is not currently progressing any work to extend the statutory deadlines for the earthquake-prone building system. MBIE advises building owners to treat their deadlines as set, they are established in the primary legislation and are mandatory.</p>
<p>2. <i>When will this work be completed and implemented?</i></p>	<p>As the earthquake-prone building system progresses MBIE will continue to monitor compliance.</p>
<p>3. <i>What steps is MBIE taking to ensure there is a consistent approach by territorial authorities when seismic deadlines expire, and it takes into account the different uses of the buildings (eg, residential v commercial/public)?</i></p>	<p>The remediation deadlines are set by legislation. Commercial and residential buildings are not treated differently. Deadlines are set depending on the seismic risk area a building is located in, and priority building have a shorter deadlines remediation.</p>

I trust you find this information useful. However, you have the right to seek an investigation and review by the Ombudsman of MBIE's response to your request, in accordance with section 28(3) of the Act. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Yours sincerely

A handwritten signature in black ink, appearing to read 'AM', with a large, sweeping flourish extending to the right.

Amy Moorhead

Manager Building Policy

Building System Performance