

20 December 2016

Ministry of Business, Innovation and Employment
15 Stout Street
PO Box 1473
Wellington 6140
Attention: Earthquake-prone buildings consultation

Dear Sir/Madam

Re: Regulations for Earthquake Prone Buildings

Please find Wellington City Council's submissions on the *Proposals for a Methodology to identify earthquake-prone buildings* and *Proposals for Regulations under the Building (Earthquake-prone Buildings) Amendment Act 2016* attached.

The Council has submitted on the legislation these relate to at each opportunity and is pleased to continue working with the Ministry on these issues.

We are still analysing the Kaikoura sequence of earthquakes beginning on 14 November 2016. Where that process provides any additional material relevant to these submissions, we will send that through to you separately.

While we realise it is outside the scope of these submissions, the Council remains concerned that the financial impact of these changes on owners, the economy, local government and central government has not been considered fully. The successful implementation of the legislation will be reliant on the Government considering those wider implications and assisting building owners and Councils to enable the provisions to be implemented.

Around the world earthquake-prone countries and cities have proactively taken steps to share the significant costs of strengthening between building owners, central government and local government. It is our view that a broader discussion about financial assistance is still required here.

We also have some confidence that the new legislation will be effective in protecting life safety but we consider that the full costs of dealing with earthquakes need to be taken into account. Buildings need to be designed and strengthened where possible to survive earthquakes so communities can rebuild as quickly as possible. The legislation resolves a number of the issues or risks that earthquake-prone buildings pose however the broader economic and social functionality of our cities is important to consider.

For the two submission documents attached, the Council agrees in principle with most of the proposals. We have noted several instances where we recommend defining terms used or further consideration. These are complex matters, often involving significant costs, so providing as much clarity as possible at the start would benefit each party concerned.

Further to that, the Council recommends providing readily accessible information to building owners about the process, where to look for further information, and where possible an estimate or range of timeframes and costs to enable owners to budget and plan.

As this is a complex area of work, the Council recommends a review of the methodology and regulations 12-18 months after entry into force to ensure they are leading towards the desired outcomes.

Yours sincerely



Councillor Iona Pannett
CHAIR
CITY STRATEGY COMMITTEE



Kevin Lavery
CHIEF EXECUTIVE

ATTACHMENT ONE:

PROPOSALS FOR A METHODOLOGY TO IDENTIFY EARTHQUAKE-PRONE BUILDINGS

Identification of potentially earthquake-prone buildings via profile categories

Proposal at a glance	What this does	Why
<p>Identification of potentially earthquake-prone buildings via profile categories (section 3.2)</p>	<p>Establishes the profile categories (by seismic area and then by building characteristics) for the buildings that TAs must classify as potentially earthquake prone</p>	<p>TAs must identify potentially earthquake-prone buildings in their region within the time frames defined in the Amendment Act</p>

1. Do you agree with the proposal to specify types of buildings that are potentially earthquake prone based on readily identifiable characteristics? If not, how should potentially earthquake-prone buildings be identified in the methodology?

In principle, yes. The profile categories identified will, we expect, identify approximately 80% of earthquake-prone buildings. It will be important to provide sufficient guidance to identify the outliers, the 20% or so of earthquake-prone buildings that do not fall within the categories A-C.

Characteristics including location, ground condition and composition should be included. The Council has previously raised the issue of ground condition, which is referred to in section 133AB of the Building (Earthquake-prone Buildings) Amendment Act 2016. The Kaikoura sequence of earthquakes beginning with the 7.8 quake on 14 November 2016 have shown how damage to an area or city may be localised due to ground condition rather than construction type.

This is discussed in more detail below.

2. Do you agree with the use of building age or era of construction, construction type, and number of storeys or height being the parameters used? If not, what parameters should be used?

We agree with these parameters and recommend the addition of further categories, as below.

3. What, if any, profile categories of buildings should be included that are not?

To capture a group currently falling outside the categories A to C, we recommend including additional characteristics:

- Pre 1976 buildings, over one story other than URMs, with brick veneers*
We recommend including these buildings because experience from the Christchurch earthquakes showed that the ties behind these bricks are unlikely to have been strengthened. In those 2010 and 2011 earthquakes the bricks fell off many such buildings. These falling bricks create the same potential danger as URMs, therefore including them as earthquake-prone buildings would be mitigating the same type of risk.
- One and two storey buildings built 1935-1976*
Recommended because between 10% and 15% have been found to be less than 34% NBS by DSA

- *Location, ground condition and ground composition*

As above, buildings which may not be earthquake-prone after only structural assessment, may be earthquake-prone when the ground condition is also taken into account. Both must be considered. To assist with this, it will be important to have the national Geotech database MBIE is setting up, established and functioning as soon as possible.

We recommend reviewing how the prioritisation has performed after 12-18 months because Territorial Authorities may have identified categories or characteristics after assessing buildings, high traffic routes, and strategic traffic routes that should be included.

4. What, if any, profile categories of buildings shouldn't be included that are?

The Council does not believe any of the suggested profile categories should be excluded as there is evidence to show all categories are likely to have earthquake-prone buildings.

However, within this it is likely there will be issues specific to buildings that the current profile tool may not identify. The tool would identify about 80% of buildings with problems, which is consistent with the statements that the legislation is designed to capture 'the worst of the worst.'

To capture the remaining 20%, those not identified by this tool, more information would be need to be provided by MBIE to territorial authorities, owners, engineers need to look at.

To achieve this, amendment to the Civil Defence Emergency Management Act 2002 and Building Act 2004 may be needed to require building owners to provide information about the status/strength of their building post-event. Recognising the recently passed Civil Defence Emergency Management Amendment Act 2016 Amendment Bill and the restrictions on use and recording of information. It is now possible to require assessments to be completed and passed on to a territorial authority but that information cannot be recorded on a property file. The practical relationship between these pieces of legislation and identification of earthquake-prone buildings needs to be considered. Legislative amendments may be required as a result.

5. Are the profile categories adequately defined to allow TAs to identify potentially earthquake-prone buildings? If not, what other information is needed?

Further analysis is required to identify potentially earthquake-prone buildings missing as part of this process and we recommend a review of the operation of the methodology and regulations in approximately 12-18 months from entry into force.

6. Is the information required by a TA to identify a building as potentially earthquake prone adequate?

For some categories such as URM buildings, the information will be adequate. However, for buildings of other construction types the available information is unlikely to identify all buildings in these categories that may be earthquake prone. The land the building is on also needs to be considered, for example ground condition, slopes etc.

The tool does not identify buildings at risk from seismic pounding either, and the Council has identified some buildings as earthquake-prone because of their risk from pounding.

7. Do you have any comments on how this proposal will work in practice and its impact? What are the pros and/or cons?

Yes. In practice this is a good place to start but the Council does have concerns about the smaller percentage of buildings that won't be picked up using this tool. Further analysis is needed as the project begins as to whether the prioritisation tool requires modification. To do that requires an answer to the question of whether the aim is to identify all earthquake-prone buildings within scope of the Act – if so, the importance increases for providing further guidance on what additional features or characteristics need to be assessed. Noting that the purpose of the Act itself is not to identify every earthquake-prone building that exists but only those which fall under the definition in section 133AB.

8. Do you have any other comments on these proposals?

The Council does not have any other comments to make at this point.

Identification of potentially earthquake-prone buildings at any time

Proposal at a glance	What this does	Why
Identification of potentially earthquake-prone buildings at any time (section 3.3)	Establishes how TAs may identify a building as potentially earthquake prone in other circumstances	Clarifies when a building outside the profile categories could be identified as potentially earthquake prone and require assessment

9. Do you agree with the TA's powers to identify a potentially earthquake-prone building at any time, being applied by drawing upon either existing knowledge or information received, or through activities such as the building consent process? If not, why not?

Yes, for example as referred to in question 1, the recent earthquakes have shown buildings not previously identified as earthquake-prone can be affected and it is important to have that ability. The Council looks forward to receiving MBIE's guidance on what the "reasonable grounds" are to suspect a building is earthquake-prone. This will provide certainty and a level of assurance for all parties involved. It is important that the *reasonable grounds* includes a clear evidence base and that there is a just process in this case so that these building owners can operate with some certainty and are not left operating in an uncertain regulatory environment.

10. Do you have any comments on how this proposal will work in practice and its impact? What are the pros and/or cons?

We agree in principle with the proposal, recognising special circumstances can arise. For example where previously non-earthquake-prone buildings become earthquake-prone. In Wellington we can point to 5 examples of buildings that weren't earthquake-prone before the 14 November earthquake, but that are now.

11. Do you have any other comments on these proposals?

While the Council agrees with the ability to identify buildings at any point, the practicalities of identifying buildings at any time need to be considered.

One example is the relationship between a Building Consent application and the identification of a building as earthquake-prone. Is there an expectation that a territorial authority will be able to exercise discretion in situations where a Building Consent application is lodged identifying the building as earthquake-prone, but that has not already been identified as earthquake-prone through this process? It would not make sense, that as written, after the Building Consent application was lodged, the Council to then write to the owner saying they have 12 months to show whether their building is earthquake-prone or not.

Description of parts of buildings

Proposal at a glance	What this does	Why
Description of parts of buildings (section 4.2)	Describes the scope of parts of buildings that engineers are required to consider when carrying out engineering assessments	Clarifies what 'parts of buildings' means

12. Do you agree with how parts of buildings are described? If not, how do you think parts of buildings should be described?

The Council agrees in principle but recommend further refinement of guidance to ensure territorial authorities and engineers do not get caught up interpreting the meaning of "no practical mitigation". As currently presented we question how this would be monitored? Whether an office building could become earthquake-prone if desks were removed (removing the 'practical mitigation') and replaced with an open break-out space?

The Council also questions the reference to '...that would reasonably affect a number of people' in the description of a 'significant life safety hazard'. We are uncomfortable with this description. It is ambiguous and concerning - does this mean that if it would 'reasonably affect one person' that is acceptable? We don't think everyone would agree.

If it does refer to more than one person, what is the relevant number – where is the threshold? How would it be monitored? Can there reasonably be a threshold?

The Council would be happy to work with MBIE on developing this.

13. Do you think further examples are needed of parts that may have the potential to create a significant life safety hazard?

Providing additional examples would make it easier for those assessing and would increase the likelihood of a uniform approach being taken nationwide.

We suggest providing guidance about how party walls will be treated or assessed.

14. Do you think examples should be provided of parts that would be unlikely to have the potential to create a significant life safety hazard?

Yes, as in Q12 we recommend providing examples through guidance for what will and will not be considered 'practical mitigation.'

15. Do you have any comments on how this proposal will work in practice and its impact? What are the pros and/or cons?

To ensure consistency nationwide we recommend providing engineers clear questions to be answered when assessing parts.

16. Do you have any other comments on these proposals?

The Council does not have any other comments at this point.

Type of engineering assessment required

Proposal at a glance	What this does	Why
Type of engineering assessment required (section 4.3)	Sets out the acceptable types of engineering assessments and the engineer's role in determining whether to undertake an Initial Seismic Assessment (ISA) or Detailed Seismic Assessment (DSA) for a building	Helps to make sure the appropriate type of engineering assessment is carried out to provide sufficient information to determine whether or not a building is earthquake prone

17. Do you agree with incorporating the Engineering Assessment Guidelines by reference for the types of assessment required?

Yes, the Council agrees but depending on the complexity of the building, other assessment models may be required in order to identify all potentially earthquake-prone buildings.

18. Are there other assessment methods that you think should be recognised? If so, what are they?

We comment further on this in Q34 but the Council believes that both geotechs and structural engineers should be assessing buildings. In the methodology involving a geotech is not mentioned until the section on *recognising previous assessments* yet their assessment of the ground condition is essential to provide an accurate assessment of whether a building is earthquake-prone.

19. Do you have any comments on how this proposal will work in practice and its impact? What are the pros and/or cons?

Please see Q20 for suggestions to make this easier in practice.

20. Do you have any other comments on these proposals?

Yes, the Council recommends providing good detailed advice for building owners to ensure they are informed about the process from start to finish, the range of outcomes and estimates of costs involved where possible. Most people do not deal with this process frequently and the assessments involve a lot of technical language. The process can also be expensive. While consideration of broader financial assistance is a matter outside the scope of this submission, including any such information along with the process information in a package for building owners would this easier for all parties concerned.

Criteria for accepting engineering assessments

Proposal at a glance	What this does	Why
<p>Criteria for accepting engineering assessments (section 4.4)</p>	<p>Establishes criteria for TAs to accept assessments and what else is required (eg qualifications of the assessor, inspections etc)</p>	<p>Helps TAs to make sure that engineering assessments are of suitable quality and contain sufficient information for them to assist with determining whether or not a building is earthquake prone</p>

21. Are the acceptance criteria adequate?

The Council agrees with the creation of common documents and coversheets.

22. What, if any, acceptance criteria, should be included that aren't?

None at this point. The Council recommends this question be included as a part of a review in approximately 12-18 months. This would ensure interpretation is consistent throughout the country, one of the purposes of this legislation.

23. What, if any, acceptance criteria, shouldn't be included that are?

None at this point. The Council recommends this question be included as a part of a review in approximately 12-18 months. This would ensure interpretation is consistent throughout the country, one of the purposes of this legislation.

24. Do you have any comments on how this proposal will work in practice and its impact? What are the pros and/or cons?

Given this is a complex issue thought should be given to how we can assist people unfamiliar with the issues and process to have effective discussions with their engineers. Our suggestion in Q20 could form part of this.

25. Do you have any other comments on these proposals?

In addition to the above, the Council recommends clarifying where liability for costs sits where an assessment is not accepted or where peer review is required.
The Council recommends amending the methodology to include a clause stating that where an owner is requested to get further advice and/or where peer review of an engineering assessment is required, the territorial authority will not be held liable for costs involved.

Determining if a building is earthquake prone

Proposal at a glance	What this does	Why
Determining if a building is earthquake prone (section 4.5)	Sets out the basis for TAs to determine whether a building is earthquake prone under section 133AB of the Amendment Act	Helps TAs to fulfil their requirements under section 133AK of the Amendment Act to determine whether a building is earthquake prone by clarifying what is required for a building to meet this legal test

26. Do you agree with the description of how the section 133AB(1)(a) test will be applied? If not, why not?

Yes.

27. Do you agree with the description of how the section 133AB(1)(b) test will be applied? If not, why not?

Section 133AB(1)(b) raises a similar issue to that the Council raised in response to Q12 about the number of people affected.

Section 133AB(1)(b) refers to “injury or death to persons in or near”.

The Council recommends providing clarification about what is meant by this term

To repeat those questions:

- Does this mean that if it was one person that would be acceptable? We don't think everyone would agree.
- If it refers to more than one person, what is the relevant number, that is, what is the threshold? Can there reasonably be a threshold?

28. Do you have any comments on how this proposal will work in practice and its impact? What are the pros and/or cons?

Please refer to our response to Questions 12-16 and 27.

29. Do you have any other comments on these proposals?

To ensure consistent application and interpretation, the Council recommends providing guidance on the interpretation of the terms:

- “foreseeable occupancy” of a building
- “close proximity” to a building
- “difficult, limited or infrequent access” to a building

If left undefined they could lead to delays as agreement is reached, or inconsistent application.

Assigning earthquake ratings

Proposal at a glance	What this does	Why
Assigning earthquake ratings (section 4.3)	States that the earthquake rating of an earthquake prone building will be assigned based on the %NBS outcome specified in the engineering assessment	Makes it clear how TAs assign these ratings

30. Do you agree with basing the rating on the %NBS outcome specified by the engineer in the engineering assessment report for those buildings confirmed as earthquake prone? If not, what method should be used?

Yes.

31. Do you have any comments on how this proposal will work in practice and its impact? What are the pros and/or cons?

The Council recommends clarification of liability for costs of a DSA if the engineer is not confident the ISA reflects the building's expected behaviour.

32. Do you have any other comments on this proposal?

Not at this point.

Criteria for recognising previous assessments

Proposal at a glance	What this does	Why
Criteria for recognising previous assessments (section 5.2)	Establishes criteria for TAs to recognise and accept previous assessments (ie any carried out that have not led to an earthquake-prone building notice under the current Act)	Spells out when assessments carried out before the commencement date of the Amendment Act can be recognised

33. Do you agree with the criteria specified for the recognition of previous assessments? If not, why not?

Please see Q34.

34. What, if any, criteria, should be included that aren't?

As referred to in our response to Q18, this is the first instance where involvement of a geotechnical engineer is mentioned. The Council recommends geotechs be included from the start of the assessment process because the performance of the building also depends on the type on ground beneath it. To assess only the building is to look at only half the picture. To make the process efficient and most effective, geotechnical and strategic engineers should assess jointly. The coversheet of the engineer's report to include a check that both have been involved.

35. What, if any, criteria, shouldn't be included that are?

The Council does not have any criteria to add at this point.

36. Do you have any comments on how this proposal will work in practice and its impact? What are the pros and/or cons?

The Council does not have any additional comments on the criteria for recognising previous assessments at this point.

37. Do you have any other comments on these proposals?

Regarding the methodology and this package as a whole:

It will be important to ensure the information provided to building owners is readily accessible and provides where possible an estimate or range of timeframes and costs, in order to enable owners to plan.

In this light the Council recommends a broader discussion take place about financial assistance for building owners for earthquake strengthening.

The Council recommends there is a review of the effects of and working of the methodology and regulations 12-18 months after they come into force to gauge whether they are in fact leading towards the desired outcome and to make any amendments required to improve processes and/or operations.

ATTACHMENT TWO:

WELLINGTON CITY COUNCIL SUBMISSION ON PROPOSED REGULATIONS FOR THE BUILDING (EARTHQUAKE-PRONE BUILDINGS) AMENDMENT BILL

Objectives for all regulations

Objectives for regulations

- Promote clarity and transparency
- Be workable and efficient
- Be effective
- Promote consistency with other applicable requirements
- Promote equity and fairness

1. Do you agree with the objectives for making regulations?

Yes, these objectives consider the relevant objectives. It is important that they have equal standing to ensure all are sought to be adhered to, rather than for example one at the expense of another.

2. Are there any other objectives that should be considered?

The Council believes the proposed regulations consider the relevant objectives.

Ultimate capacity

Proposal at a glance	What this does	Why
<p>Definition of ‘ultimate capacity’ (section 5.1)</p>	<p>Clarifies the level of building performance required to help determine whether or not a building is earthquake prone</p>	<p>Promotes more consistent identification of earthquake-prone buildings by territorial authorities</p> <p>Note: this term is used in the definition of an earthquake-prone building in the Building Act, but is currently not defined</p>

3. Do you agree that defining ‘ultimate capacity’ will help to achieve the objectives for all regulations? What are the reasons for your views?

Yes, because the current definition of ‘ultimate capacity’ is ambiguous and subject to challenge.

4. Do you agree with the suggested definition? Please give reasons for your views.

Yes, because the current definition of ‘ultimate capacity’ is ambiguous and subject to challenge.

5. Are there any other technical criteria that should be included in the definition of ‘ultimate capacity’? If so, what are these and why do you think they are relevant?

We have not identified any additional criteria to be included.

6. If you did not agree with the suggested definition, what definition do you think should be used? Please give reasons for your views.

We agree with the suggested definition.

7. Do you have any other comments on the proposals about the definition of ultimate capacity?

Not at this point.

Categories of earthquake ratings

Proposal at a glance	What this does	Why
Earthquake ratings categories (section 5.2)	Prescribes two categories of earthquake ratings for earthquake-prone buildings and expresses these in terms of %NBS	Provides information about the risk of specific buildings, allows prospective building users to make decisions about building use

8. Do you agree that establishing categories of earthquake ratings will help to achieve the objectives for all regulations? What are the reasons for your views?

We understand one purpose of categorisation is to inform the public of the potential risk of a building. However, given the complexity and level of uncertainty present in assessment methods such as an ISA and DSA (for example two engineers can agree a building is earthquake-prone but disagree as to the percentage), the categories become about interpretation, particularly when the amount a building is earthquake-prone is usually between a range between X% and Y%.

We are not convinced two categories for earthquake-prone buildings will assist achieving the goal of encouraging building owners to strengthen their buildings. It may have the unintended consequence of stigmatizing them in the mind of the public, detracting from their ability to trade and earn.

We recommend that MBIE develop a means, such as a webpage, to provide information to building owners and the public about the building assessment process and what notices mean. This could be developed as part of the information package we recommend in our response to Question 20 in the Methodology proposal.

9. Do you agree that regulations are required to prescribe categories of earthquake ratings or do you think some other mechanism should be considered? What are the reasons for your views?

If these categories are retained, regulations are a logical way to manage it.

10. Do you agree with the proposal to create two bands of earthquake ratings for buildings? What are the reasons for your views?

Please see our response to question 8.

11. Do you agree with the proposal to delineate the categories of ratings as 'less than 20%NBS' and '20-33%NBS'? What are the reasons for your views?

Please see our response to question 8.

12. Are there any other risk parameters that could be taken into consideration in establishing the earthquake ratings categories?

No, the Council believes the relevant risk profiles have been taken into account here and in the rest of the legislation.

13. Do you have any other comments on the proposals about categories of earthquake-ratings?

No, not at this point.

Notices

Proposal at a glance	What this does	Why
<p>EPB notices (section 5.2)</p>	<p>Establishes the 'look' of notices applied to buildings in each category</p>	<p>Provides information about the risk of specific buildings, creates more incentive for owners to address the highest risk buildings</p> <p>Note: the content of these notices is prescribed in the Amendment Act</p>

14. Do you agree that issuing different forms of EPB notices will help to achieve the objectives for all regulations? What are the reasons for your views?

Yes, the Council agrees with having notices for buildings assessed as earthquake-prone under previous territorial authority policies, but as per question 8, we do not believe having 3 separate notices for buildings over or under 20% NBS will achieve the desired outcome of encouraging building owners in these categories to strengthen their buildings.

This process has shown the difficulties involved in achieving a clear and simple way of communicating the necessary information. We would be pleased to continue working with you to develop this. It is important that the notices are clear and easy for the public to understand and increasing the number of notices may not achieve this purpose.

15. Do you agree with the proposal to issue three forms of notice? Do you think this number and type is sufficient? What are the reasons for your views?

Please see our response to question 14.

16. If you did not agree that there should be three forms of notice, how many and what type of forms do you suggest we should use?

The Council recommends there be two types of notices:

1. For buildings assessed using the new methodology and existing territorial authority policies.
2. Using the new methodology where no assessment has been undertaken of the property.

17. Is the information layout clear and easy to read? If not, what would you suggest to improve the forms?

At this point the council is unable to answer this question as we need to know more about how the information will be laid out than has been proposed. We would like to discuss this with you as that develops.

18. Should we make the forms more distinctive? If so, what do you think would achieve this?

Given the wider context and current conflicts around the types, colours and form of notices used, public education will be critical so people understand what the notices say, rather than simply recognise a notice.

19. Is there any other comment you would like to make about the forms of notice?

One issue to be considered is how to ensure the notices stay in place and are enduring. The Council laminates notices to protect against damage and fading.

Experience has shown that notices do fade or are removed as windows and glass is cleaned, or if shop owners do not wish to display it. A process needs to be developed to ensure they do stay in place while the building is earthquake-prone.

Substantial alterations

Proposal at a glance	What this does	Why
<p>Criteria for 'substantial alterations' (section 5.3)</p>	<p>Sets criteria for territorial authorities to identify when alterations to an earthquake-prone building trigger requirements for earlier seismic upgrades</p>	<p>Promotes more progressive and earlier upgrades of earthquake-prone buildings, which helps achieve improved building safety</p>

20. Do you agree that establishing criteria for substantial alterations will help to achieve the objectives for all regulations? What are the reasons for your views?

No. The Council disagrees with the principle of substantial alterations as it has been problematic in the past and won't be enforceable.

The Council has previously taken used the rateable value as the measure and found that for several reasons it did not work.

A one third of capital value trigger was established as it is typically more economic to complete strengthening at the time of other major works. However, the level of complexity required to state the trigger point for 'substantial alterations' was too great to be communicated easily or to be workable.

A number of building owners identified the trigger as excessive burden, preventing improvements in the short term that would enable funds to be built up to meet strengthening costs at the otherwise required deadline. If left in place it could have had the unintended consequence of halting investment in upkeep of buildings with possible loss of heritage value and/or an increase in the number of run down or derelict structures.

The Council removed this and has instead sought to encourage ongoing investment in buildings before the maximum timeframes are reached and to leave the question of when to incur strengthening costs up to the building owner. The Council is finding in the Wellington commercial environment that tenants are demanding the strengthening of buildings and that this is having a much greater impact on upgrading of buildings.

This is our response for all questions in this section.

21. Do you agree that the criteria for substantial alterations should be set out in regulations? If not, what other mechanism could be used to define the criteria for substantial alterations and why?

Please refer to question 20.

22. Do you agree with the concept that there should be a single measure only, common to all earthquake-prone buildings across the country, for identifying what building work will be deemed to be 'substantial alterations'? Please give reasons for your views.

Please refer to question 20.

23. If so, do you agree with the proposal that this be 25% of the rateable value of the building (excluding land)? Please give reasons for your views.

Please refer to question 20.

24. If you agree with using a single measure to identify substantial alterations, but do not support using the building value as a denominator, then please state what you think the measure and the value should be (eg a fixed financial threshold of (say) \$200,000 for the total value of the building work, or some other measure or value).

Please refer to question 20.

25. If you disagree with the proposal, and think that there should be more than one measure to identify substantial alterations, what should these be and why?

Please refer to question 20.

26. Should we choose a different approach to setting the threshold for substantial alterations between areas with higher value buildings and areas with lower value buildings (as may occur between some urban and rural areas). If so, what should the approach be?

Please refer to question 20.

27. What are the implications of defining 'substantial alterations' (eg through a percentage of rateable value, and/or a fixed financial value for proposed building work) for mixed use buildings and buildings with multiple titles (eg multi-storey unit title apartments, shopping malls)?

Please refer to question 20.

28. What are the implications of defining 'substantial alterations' (eg through either a percentage of rateable value, and/or a fixed financial value for proposed building work) for owners of heritage buildings?

Please refer to question 20.

29. Are there any situations where it would not be appropriate to impose the 'substantial alterations' criteria on proposed building work? Please explain what situation/s and give reasons for your views.

Please refer to question 20.

30. Do you have any other comments on the proposals about the criteria for substantial alterations?

Please refer to question 20.

Exemptions

Proposal at a glance	What this does	Why
Exemptions (section 5.4)	Prescribes characteristics an earthquake-prone building must have for territorial authorities to consider exempting owners from carrying out seismic work	Allows owners of earthquake-prone buildings to be exempted from upgrading their buildings if the consequence of failure is low

31. Do you agree that establishing prescribed characteristics for exemptions will help to achieve the objectives for all regulations? What are the reasons for your views?

Yes, the Council agrees that given the lack of risk of these buildings pose to users in the public, the ability to issue exemptions will introduce a level of equity and fairness to the process.

The information provided sets clear parameters about when and how an exemption may be applied for. It is clear that this will be restricted and is not a way to avoid responsibility.

32. Do you agree that the prescribed characteristics for exemptions should be set out in regulations? If not, what other options could be considered and why?

Yes, but clarity is required around what those characteristics are as there is a conflict between the figures used in table 5 on page 41 and those on page 43.

33. Do you agree that territorial authorities should have some discretion to make decisions about exemptions using parameters for building occupancy and use as a guide?

Yes, in addition to considering the combinations of occupancy level and frequency of occupation, the duration of occupation needs to be factored in.

34. Do you think the proposed occupancy thresholds are appropriate to represent life safety risk? (These are: low - 0-50 people, medium - 51-300, high - more than 300.) What are the reasons for your views? If you disagree, what do you think the thresholds should be?

At the higher end of the spectrum decisions will be easier but those in the medium or low range will be more problematic. As in question 33 the occupancy level, frequency of occupation and the duration of occupation needs to be factored in.

35. Do you think the proposed 'frequency of occupancy' thresholds are appropriate to represent life safety risk? (These are: low - <25 times per year, occasional -25-100 times per year, frequent - more than 100 times per year.) What are the reasons for your views? If you disagree, what do you think the thresholds should be?

Further to question 32, the Council supports the process based on the frequency of occupation as set out on page 43 of the discussion document, but not the process set out on page 41.

Therefore we support frequency of use being (per calendar year): seldom – 1-2 times; occasional – 3-10 times; frequent – more than 10 times.

36. Do you think that the exemptions provisions should apply to priority buildings? What are the reasons for your views?

No, given the reasoning behind the classification of priority buildings, allowing exemptions is counterintuitive to the intent of the legislation. They are by definition in medium or high risk areas and many are needed post-event. Their strengthening is a priority. If funding or costs are likely to be a barrier this is a further indication that a broader discussion about financial assistance for strengthening work is required.

37. Do you think that the seismic hazard area of the building should be a consideration for exemptions?

Yes, the seismic hazard area of the building should be a consideration. If a building is in a high risk area it should not be eligible for an exemption. To ensure owners are able to strengthen other measures outside the scope of this legislation need to be considered to assist with the significant financial burden strengthening places on them. On the other hand, for buildings in a low risk area with 35 years a 35-year strengthening timeframe, there is time to raise the funds and to complete the strengthening.

38. Should the occupancy thresholds be lower if the main occupants of a building are young children or people who would require mobility assistance to leave?

Yes.

39. What other factors should a territorial authority consider when considering an application for an exemption under section 133AN?

We do not have any additional factors to raise for consideration at this point. As the project is rolled out we will monitor this and include them in a submission if there is a review in 12-18 months as the Council has also recommended in our submission on the proposed methodology.

40. Do you have any other comments on the proposals about exemptions?

Please see below.

General

41. Do you have any other comment to make on the proposals (for example, matters related to implementation and monitoring)?

The Council recommends that the infringement fees for breaching the Act be reviewed and amended as a priority. The need to ensure life-safety underpins this legislation but a fine of \$1000 or \$2000 for a breach does not reflect the severity of the risks involved or will act as a deterrent.

As the legislation is implemented, it will be important to ensure the information provided to building owners is readily accessible and provides where possible an estimate or range of timeframes and costs, in order to enable owners to plan.

In this light the Council recommends a broader discussion take place about financial assistance for building owners for earthquake strengthening.

The Council recommends there is a review of the effects of and working of the regulations and methodology 12-18 months after they come into effect to gauge whether they are leading towards the desired outcome and to make any amendments required to improve processes and/or operations.