



Department of
Building and Housing
Te Tari Kaupapa Whare

Earthquake Prone Building Policy Review Terms of Reference

March 2012

Context

The Canterbury earthquakes of September 2010 and February 2011 and the resulting Royal Commission have resulted in public scrutiny of the:

- adequacy of current policy settings and regulations for addressing earthquake-prone buildings
- effectiveness of their implementation and administration.

The Building Act 2004 provides a legal framework to protect building occupants and the public from harm in the event of an earthquake. It:

- provides for Building Code performance requirements that new buildings must be built to
- provides a threshold to define whether an existing building is earthquake-prone - currently one third of the new build standard (NBS) requirements
- provides local authorities with duties and powers to inspect existing buildings to determine whether they are earthquake-prone and dangerous
- provides local authorities with powers to prevent earthquake-prone and dangerous buildings being occupied and to require owners to strengthen or demolish them, or for the local authority to directly undertake strengthening or demolition work
- requires local authorities to develop policies in consultation with their communities on how they will exercise these duties and powers.

Buildings at the earthquake-prone building threshold (one-third of the new building requirement) are at least 10 times more likely to structurally fail in an earthquake than a new building. Buildings below the threshold are at even greater risk. With local policies due for their first five-yearly review, and the Canterbury earthquakes highlighting the significant life and safety risk from existing buildings, it is timely to review the current earthquake-prone building policy settings.

Objectives and Outcomes

The current earthquake-prone building policy framework was established by the Building Act 2004 with the intent of reducing death and injury in a major earthquake. Policy settings are directed at existing buildings that fall short of the strength required for a new building and are at risk of serious damage or collapse in a major earthquake. The Act devolves policy administration to local authorities in order for them to take account their area's particular seismic, economic and social conditions.

In light of recent experience of the Canterbury earthquakes, the Review aims to ensure that:

- **Policy settings and standards adequately balance life and safety considerations against economic, heritage and other considerations** – by determining whether current policy settings and regulations provide an adequate level of safety when balanced against other considerations and, if not, what changes are required to achieve the desired level of safety and create certainty for property owners and tenants.
- **Policies and standards are effectively implemented and administered** – by determining whether there is sufficient oversight, technical support, capacity and guidance for those administering the policies and regulations, and whether policy is being effectively and consistently administered across New Zealand.

By taking a robust and transparent approach to addressing each of the above objectives, the review aims to increase public confidence in the Government's policies on earthquake-prone buildings and the effectiveness of their implementation.

Scope

Within scope of the review are:

- Government policies relating to earthquake-prone buildings
- Legislative and regulatory settings
- Related performance requirements and thresholds, compliance documents and guidance materials
- Implementation and administration.

Specific factors to be considered by the review include the following:-

Policy framework

- The adequacy of the policy framework provided in the Building Act 2004
- Whether different classes and uses of buildings should be treated similarly or differently (e.g. commercial, multi-unit residential, heritage, schools and other public buildings)
- Whether current regulatory requirements are adequate (i.e. the one-third NBP definition of an earthquake-prone building)
- Whether there should be regulations to specify the level or levels of upgrade required of earthquake-prone buildings
- The process through which regulations are made
- The respective roles of central and local government and the relationship between the two in developing, implementing and administering earthquake-prone building policies and regulatory requirements
- Application of the policies and regulations to Crown owned properties.

Implementation

- The roles of central and local government, including consideration of funding, incentives, information availability, and resourcing
- The level of support and guidance provided to agencies implementing and administering policy and regulatory requirements
- The development of technical regulations and associated guidance material, including consideration of verification methods
- The transition to future safety requirements (if changes are made), including timeframes and support measures (including issues for heritage buildings)
- Capability and capacity of the sector to administer and comply with policies and regulatory requirements
- The adequacy of guidance and support to building owners

- The adequacy of information to building occupants and users.

Out of scope

The areas outside the scope of this review include:

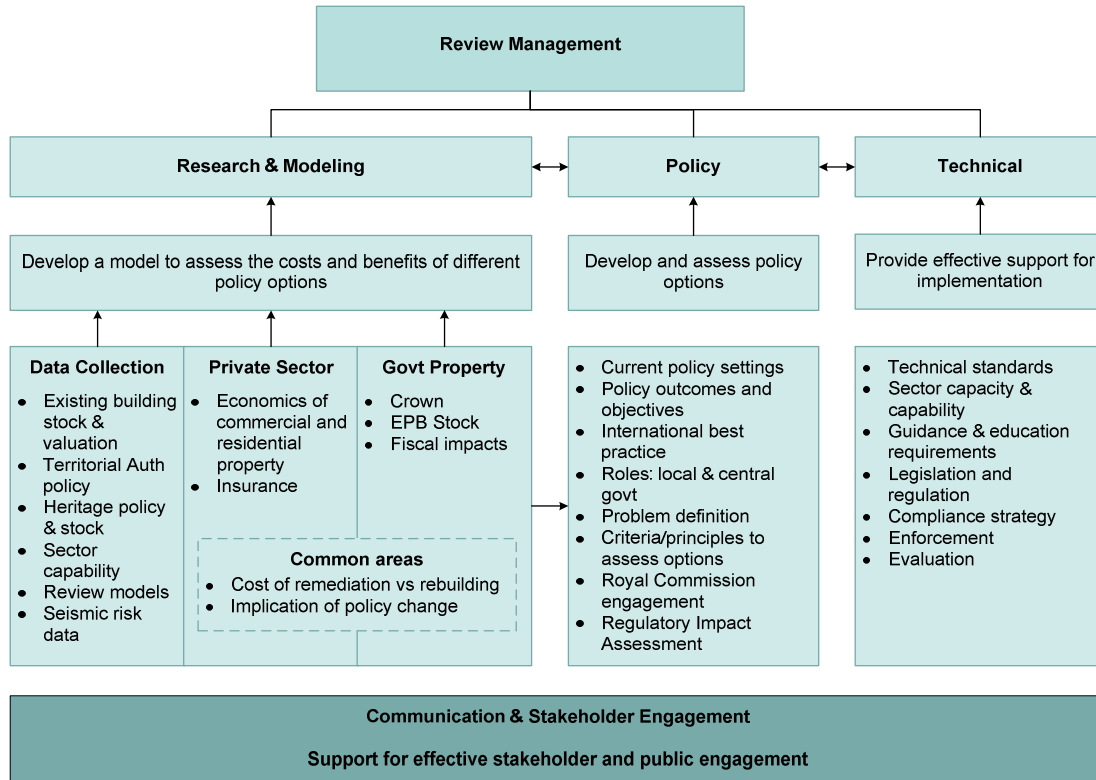
- The Building Code, because changes to the Code are being considered separately. This review will need to take account of any proposed changes to the Code requirements for new buildings
- Residential properties (unless they are two or more storeys and contain three or more households), because they are generally considered to have performed relatively well in the Canterbury earthquakes and are not subject to the earthquake-prone provisions of the Building Act.

Approach

For purposes of management, the review is grouped into four main components:

- Research and modelling
- Policy review
- Technical support and implementation
- Communications and stakeholder engagement.

The following diagram shows the components and how they relate:



Over its course, the review will:

1 Describe current policy settings

Describe current policy settings and their implementation, as well as the relative roles and responsibilities of the Department of Building and Housing, other central government agencies and local authorities. The review will review existing DBH and local authority policy guidelines and policy documents and data collected from territorial authorities.

2 Collect baseline information

Pull together baseline information to assess current policy settings and the implications of possible changes to current policy settings, and to develop and model these changes in order to assess the costs and benefits of different policy approaches. This will include information on:

- Seismic risk and how to consider related life safety, economic and other risks in a building policy context
- The size and characteristics of the existing building stock, including a breakdown of buildings that are earthquake-prone and information on their use, ownership (public or private), capital value, heritage status and location)
- Local authority earthquake-prone building policies
- Lessons from the Christchurch earthquakes (technical and other information on the performance of buildings and the adequacy of existing policies)
- Business drivers associated with property ownership and management
- Practicalities and costs of carrying out earthquake strengthening work on earthquake-prone buildings
- Insurance approaches to earthquake-prone buildings
- Implications of earthquake resilience in the valuation of commercial property
- Capacity and capability of the sector to apply policy settings
- Heritage policy and outcomes
- Costs of earthquake events.

3 Develop a model to assess the costs and benefits of different policy options

Based on the information and data collected in (2), a model will be developed and used to assess the costs and benefits of different policy approaches. This will involve reviewing existing models for assessing the costs and benefits of changes to earthquake standards and either refining an existing model or developing a new model for the purposes of this review.

4 Identify and examine different policy approaches

Examine policy approaches in other relevant jurisdictions for approaches and lessons that could be applied to inform policy development in New Zealand. Particular jurisdictions of interest include North America (Los Angeles and San Francisco), Hawaii, Chile, Japan and the Mediterranean.

5 Identify problems with current policy settings

Use information collected in phases (1) and (2) to identify issues with current policy settings and their implementation and administration.

6 Develop and assess policy alternatives

Consider:

- Principles to guide the development of policy options, and criteria to assess these options against
- Outcome versus prescriptive approaches to policy and its administration
- Central versus devolved responsibility for policy implementation and administration
- Linkages between decision-makers and risk-takers
- Balancing economic resilience objectives with life and safety objectives
- Trigger standards and requirements to upgrade buildings
- Balancing culture and heritage values with safety and cost factors in maintaining those buildings to an appropriate standard
- Market responses
- Approaches adopted in other jurisdictions
- Transitional issues.

The analysis would look at the impact on:

- Building owners
- Life and safety of building owners
- Heritage
- Community viability
- Local government
- The Crown.

7 Scope and advise on the support needed for effective policy implementation and administration

Consider technical and other support needed to successfully implement policy, including:

- Technical information and associated guidance material
- Policy guidance and support for local government
- Drafting amendments to legislation and regulations
- Compliance strategy
- Capacity to implement and administer
- Appropriate enforcement measures
- An evaluation framework for future assessment of the policy settings.

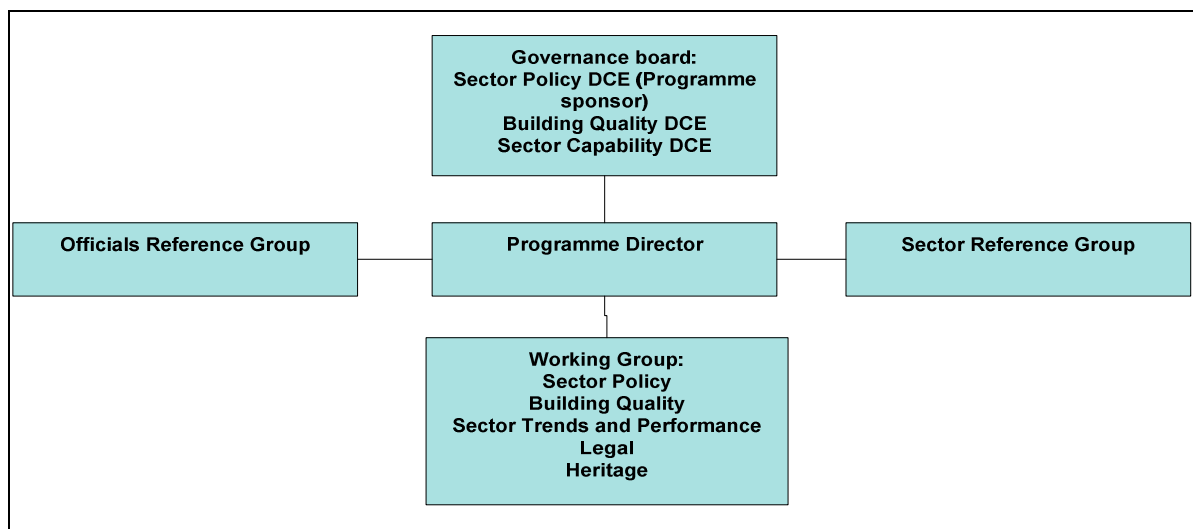
Linkages

The review is situated within the context of the Government's wider public sector reform and policy work programme, as well as its specific responses to the Christchurch earthquakes. The review will need to take into account and link with related work, including:

- The Canterbury Earthquakes Royal Commission – the review enables evaluation of the Commission's recommendations and forms the basis of the advice to Government on whether or not any Royal Commission recommendations for changes to earthquake-prone policy settings should be agreed to.
- The wider Building Act Reforms – the review will need to consider the implications of changes to the Building Code for earthquake-prone building policies and standards. It will also need to consider the implications of changes to the operation of the building consent system and the licensing and regulation of building practitioners and designers.
- Stock-take of Crown-owned earthquake-prone buildings – the Government Property Management Centre of Expertise (located in the Ministry of Social Development) is coordinating a stock-take of Crown-owned earthquake-prone buildings, including government responses to the management of these buildings.
- Review of sections 6 and 7 of the Resource Management Act 1991 to potentially include natural hazards as a matter of national importance.
- Review of post disaster evaluation of buildings and the relationship between Civil Defence Emergency Management Act and the Building Act.
- Public sector reform – the Government is committed to improving the focus, quality of services and efficiency of public sector service providers.
- Amendments to the Local Government Rating Act, to enable Councils apply targeted rates to those obtaining a loan to pay for earthquake strengthening.

Review management

The following diagram sets out the management for the review:



The review will be overseen by a small governance board, who will consider the initial work programme, sector engagement and other arrangements, and then periodically provide governance oversight (as opposed to management oversight) of the review at key points.

The review will require input from across the Department. It will involve technical inputs from Building Quality, research and data inputs from Sector Trends and Reporting, policy inputs from Sector Policy, and legal issues from the Legal team. Each of these inputs is managed by a team leader.

The Ministry for Culture and Heritage are providing direct input into the review relating to heritage buildings.

The Programme Director will be responsible for overseeing the work of the Working Group, engaging with relevant stakeholders and reporting progress to the Project Sponsor.

Stakeholder engagement will be through:

- Sector Reference Group – comprising senior and experienced individuals from areas such as local government, property ownership and management (private and government), heritage and other significant interests.
- Officials Reference Group – comprised of government agencies with a policy interest in earthquake-prone buildings.

The main outputs of the review will include:

- a stocktake of information on the earthquake-prone status of New Zealand's building stock **June 2012 + ongoing refinements.**
- a comparative study of international approaches dealing with earthquake-prone buildings **February 2012.**
- a model to assess the costs and benefits of changes to the minimum threshold that determines whether a building is earthquake-prone or not (currently set at 33% NBS) **June 2012 +ongoing refinements.**
- Cabinet paper(s) detailing the results of the review, including responding to the Royal Commission's recommendations concerning earthquake-prone buildings. **July-September 2012. Aiming for a Building Amendment Bill with the regulatory changes to be passed May 2013.**