

Office of the Minister for Building and Construction
Cabinet Economic Growth and Infrastructure Committee

Improving the system for managing earthquake-prone buildings

Proposal

- 1 This paper seeks decisions on proposals to improve the system for managing earthquake-prone buildings.

Executive summary

- 2 The earthquake-prone building policy review (the review) seeks to ensure earthquake-prone building policy settings and standards adequately balance life and safety against economic, heritage and other considerations, and are effectively implemented and administered [EGI Min (12) 4/7 and Cab Min (12) 10/7A refer].
- 3 This is a large scale issue with a high level of public interest:
 - 15,000 to 25,000 buildings across New Zealand could be earthquake-prone (approximately 8% to 13% of all non-residential and multi-storey/multi-unit residential buildings)
 - New Zealand has listed in District Plans (prepared under the Resource Management Act 1991) around 7,161 non-residential heritage buildings which are subject to earthquake-prone building policy. This includes, for example, churches, wharehau and memorials. There is insufficient information to determine accurately how many of these buildings may be earthquake-prone
 - 535 submissions were received on the consultation document released in December 2012 outlining proposals to improve the system for managing earthquake-prone buildings, and more than 1,000 people attended public and stakeholder meetings held around New Zealand on this issue in February 2013.
- 4 Individual risk from earthquakes is small when it is averaged over the whole population – other day-to-day activities pose more immediate risks to life safety, for example, fatality risk from road accidents. Outside the Canterbury region earthquake risk has not changed following the Canterbury Earthquakes. However, while rare, in New Zealand major earthquakes stand out from other hazards in terms of the very large impact they have had as single events, both in terms of fatalities and injuries, as well as economic losses.
- 5 Typical new buildings in New Zealand, e.g. a typical hotel, office building or apartment building, are designed for a one-in-500 year earthquake. New Zealand Society of Earthquake Engineering guidelines suggest that buildings at the current earthquake-prone building threshold present about 10 times the

relative risk to occupants compared to a new building (buildings below the current earthquake-prone building threshold present greater risk).

- 6 Both the Canterbury Earthquakes Royal Commission and the review identified problems with the current system for managing earthquake-prone buildings, including significant information gaps and consistency of practice issues. A clear view has emerged that from a societal perspective the current system for managing earthquake-prone buildings is not achieving an acceptable level of risk. Many earthquake-prone buildings are not being dealt with in a timely and cost-effective manner.
- 7 The proposals in this paper have been informed by a range of information, including how other countries deal with these issues¹.
- 8 The proposals move to a system that has a significantly greater role for central government, particularly in providing leadership and direction, to make better use of the capability and resources of central and local government. A significant role for the market is also retained. In summary, this paper proposes amendments to the Building Act 2004 (the Act) to:

Better information and disclosure

- require territorial authorities (TAs) to undertake a seismic capacity assessment of non-residential and multi-storey/multi-unit residential buildings in their districts within 5 years from commencement (with certain buildings prioritised for assessment), using a cost-effective methodology to be specified and published by the Ministry of Business, Innovation and Employment
- provide for a national register of information on earthquake-prone buildings to be held by the Ministry of Business, Innovation and Employment

Earthquake-prone building definition and strengthening level required

- clarify the current threshold for defining an earthquake-prone building (i.e. 33%), and that it applies to parts of buildings as well as whole buildings
- clarify that the level of strengthening required for earthquake-prone buildings is only so that the building, or the affected part, is no longer earthquake-prone (i.e. 34%)

Timeframes for addressing earthquake-prone buildings

- require earthquake-prone buildings to be strengthened within one national timeframe – within 20 years of the legislation taking effect (i.e. assessment by TAs within 5 years, strengthening within 15 years of assessment)
- provide for certain buildings to be prioritised for strengthening, i.e. buildings likely to have a significant impact on public safety (including buildings with high risk elements such as falling hazards) and strategically-important buildings

Exemptions from strengthening timeframes

- provide for exemptions (or extensions) from the national timeframe for strengthening buildings where the consequence of failure of the affected building is low

¹ Approaches in other jurisdictions are discussed in more detail in the attached Regulatory Impact Statement.

Heritage buildings and strengthening timeframes

- provide for owners of category 1 and 2 listed earthquake-prone heritage buildings to apply for extensions of time to strengthen their buildings where risk is being managed/reduced

Upgrades to access and facilities for people with disabilities

- facilitate required earthquake strengthening works being carried out on buildings that are earthquake-prone, by amending provisions in relation to upgrades to access and facilities for people with disabilities

Role of central government

- provide for a much greater role for central government in providing direction and guidance to TAs, owners and the public (including better information on risk), and to monitor overall system performance.

- 9 It is expected that these proposals will give rise to incremental benefits and costs beyond those of the current system for managing earthquake-prone buildings. In some cases, the proposals may place additional pressure on some communities where underlying economics may make strengthening difficult.
- 10 Monetary NPV analysis comparing estimates of indicative quantifiable direct costs of strengthening with direct benefits of reduced fatalities and injuries (and estimates of reduced property damage) indicates that the direct costs of the proposals strongly outweigh the direct benefits (based on the best available information and reasonable assumptions) under any scenario, including under the current system. It is important to note that many of the costs and benefits associated with the proposals are difficult to quantify (see discussion later in this paper). This paper also highlights the limitations of monetary NPV analysis when considering low probability/high impact risks. Identifying a preferred approach requires a judgement to be made about whether the expected benefits are justified given the anticipated costs/risks.
- 11 Overall, the proposals are expected to:
- address the problems identified and better meet the review objectives than the current system for managing earthquake-prone buildings, including better meeting public expectations for achieving acceptable risk
 - better ensure that earthquake-prone buildings are dealt with in a timely manner nationwide
 - help manage the associated costs/risks of dealing with earthquake-prone buildings, and
 - help ensure information necessary to support effective market decision-making is available.
- 12 A Bill to give effect to these proposals has been included on the 2013 legislative programme.
- 13 While these proposals address many of the recommendations made by the Canterbury Earthquakes Royal Commission in relation to earthquake-prone buildings, some of their recommendations relating to earthquake-prone buildings extend beyond these proposals (e.g. recommendations in relation to houses). I

propose that these recommendations be addressed by guidance, information and education, rather than by regulatory change.

- 14 Appendix 1 of this paper outlines the main features of the current system, the proposed system, and the system recommended by the Canterbury Earthquakes Royal Commission.
- 15 Since January 2012, the Government Property Management Centre of Expertise (PMCoE) has been undertaking a co-ordinating function in relation to the seismic assessment of buildings across 160 State sector agencies. The latest information received from agencies (as at 11 April 2013) is that of 4,775 buildings assessed to date, 536 have been identified as requiring further assessment. Indicative costing of impacts to the Crown, with a degree of accuracy, is not possible at this time due to:
 - the programmes of work being undertaken in agencies with significant portfolios will take up to a number of years to mature
 - agencies are indicating a substantial portion of remediation works will be integrated with capital asset planning and there is no measure of incremental change
 - agencies will consider their continuing tenure at locations with major issues, and potentially exercising the next available exit opportunity rather than remediating.
- 16 On-going updates on impacts to the Crown as a building owner/occupier will be provided by officials to relevant Ministers.

Background

- 17 On 5 December 2012, the Cabinet Economic Growth and Infrastructure Committee (EGI), having been authorised by Cabinet to have Power to Act [CAB Min (12) 40/24]:
 - agreed to release the consultation document *Building Seismic Performance: Proposals to Improve the New Zealand Earthquake-Prone Buildings System*, which sought the public's view on a series of proposals developed as part of the earthquake-prone building policy review, as well as views on matters recommended by the Canterbury Earthquakes Royal Commission in Volume 4 of its final report that differ from the review proposals
 - invited the Minister for Building and Construction to report back to EGI in April 2013 on the outcome of the earthquake-prone building policy review, following the completion of the public consultation process
 - directed PMCoE, in consultation with the Ministry of Business, Innovation and Employment, to report back on progress in identifying the number of Crown owned buildings that are earthquake-prone, and the indicative strengthening costs to the Crown, as part of the April 2013 report back [EGI Min (12) 28/15 refers].
- 18 These report backs to EGI were subsequently deferred until 31 July 2013.

- 19 The consultation document was released on 7 December 2012, with a closing date for submissions of 8 March 2013².
- 20 The proposals in the consultation document were informed by:
- evidence submitters provided to the Canterbury Earthquakes Royal Commission, and Volume 4 of the Royal Commission's Final Report
 - analysis of approaches adopted in other jurisdictions, including parts of the United States of America (California, Washington, Oregon, Alaska), Japan, Chile, Taiwan, Turkey, Italy, Canada, and Australia
 - advice from GNS Science and international risk experts
 - a Sector Reference Group³, an Officials Reference Group, and targeted meetings with a range of interested parties (including a heritage workshop)
 - technical investigations undertaken by the former Department of Building and Housing into four buildings that performed poorly in the 22 February 2011 Christchurch earthquake (Pyne Gould Corporation building, Canterbury Television building, Forsyth Barr building, and the Hotel Grand Chancellor).
- 21 On 10 June 2013, the Cabinet Strategy Committee considered an A3 outlining the outcome of the consultation, and invited the Minister for Building and Construction to include in the EGI report back:
- proposals based on the Royal Commission's recommendation that building consent authorities (BCAs) should be able to issue building consents for strengthening work without requiring upgrades to access and facilities for people with disabilities
 - options for Cabinet to consider on the appropriate timeframes in which earthquake-prone buildings must be strengthened to the required threshold (or demolished), noting that the final proposal may include different timeframes from those outlined in the consultation document (within 15 years from commencement)
 - options for Cabinet to consider on the appropriate treatment of heritage buildings, including proposals related to unreinforced masonry [STR Min (13) 3/2 refers]

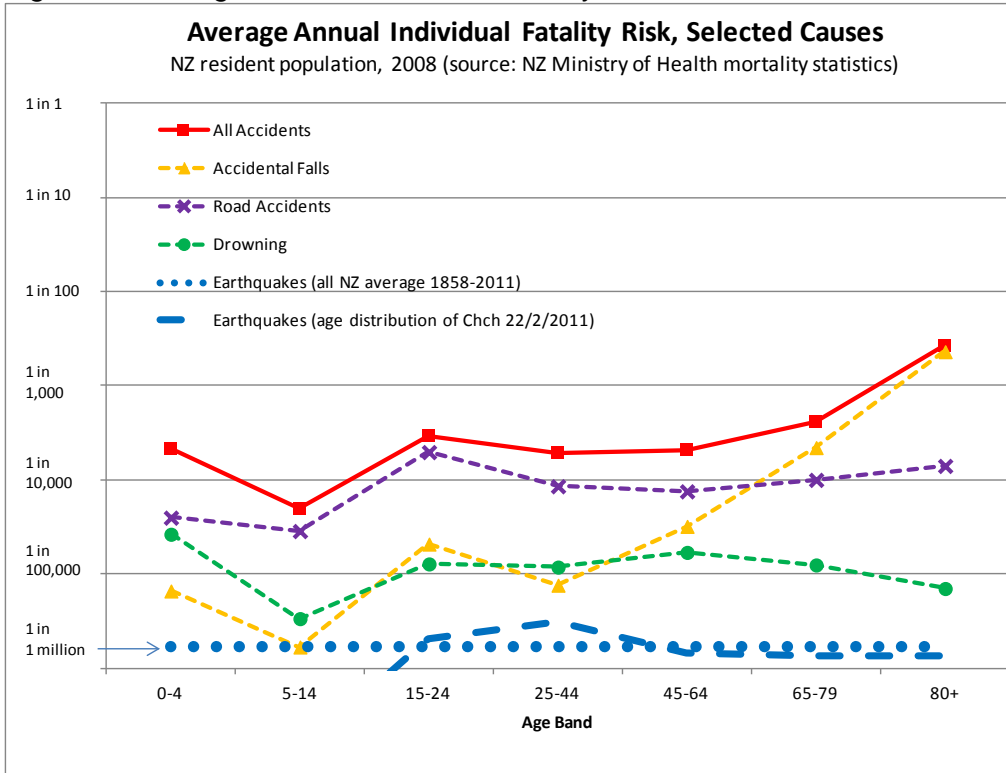
Risk of harm to people from earthquakes

- 22 Advice from GNS Science and international risk experts is that individual risk from earthquakes is small when it is averaged over the whole population – other day-to-day activities pose more immediate risks to life safety, for example, fatality risk from road accidents (see Figure 1 on the following page).

² Public meetings were held in Auckland, Wellington, Christchurch, Dunedin, Hamilton, Palmerston North, and Napier in February 2013 to support the consultation process. A range of targeted stakeholder meetings were also held, including with territorial authorities, the Property Council, and engineers.

³ The Sector Reference Group included representation from local government, building owners, the engineering and construction sector, the heritage sector, and the insurance industry.

Figure 1: Average Annual Individual Fatality Risk, Selected Causes



- 23 Outside the Canterbury region earthquake risk has not changed following the Canterbury Earthquakes.
- 24 However, while rare, in New Zealand major earthquakes stand out from other hazards in terms of the very large impact they have had as single events (both in terms of fatalities and injuries, as well as economic losses). For example, the worst ever road traffic accident in New Zealand was the Northland bus accident killing 15 people in 1963; the vast majority of the road fatalities involve one, two or three fatalities per event. The 1931 Napier Earthquake killed 256 people, and 185 people were killed in the 22 February 2011 Christchurch Earthquake.
- 25 The Canterbury Earthquakes demonstrate that there can be significant health and safety risks to society arising from buildings in earthquakes:
 - unreinforced masonry (URM) buildings can be particularly hazardous, not only for those in the buildings, but also for those in the path of falling masonry outside the buildings. In Volume 4 of its Final Report, the Royal Commission notes that of the 42 fatalities from the 22 February 2011 earthquake associated with individual buildings (other than the Canterbury Television building or the Pyne Gould Corporation building):
 - 35 were the result of the façade or walls of URM buildings collapsing onto:
 - pedestrians or persons in vehicles (26)
 - people in a neighbouring building (6)
 - people who had run out of a building to escape (3)
 - 4 people were killed inside a URM building

- parts of buildings can be particularly vulnerable in an earthquake (parapets for example) – the overall seismic performance of the whole building is not the only consideration when assessing risk.

The current system for managing earthquake-prone buildings

- 26 The Act provides a legal framework to manage risk to building occupants and the public from harm from buildings in the event of an earthquake. It:
- requires new buildings to meet the performance requirements in the Building Code
 - provides a threshold to define whether an existing building is earthquake-prone
 - provides TAs with powers to enter existing buildings to determine whether they are earthquake-prone
 - provides TAs with powers to require owners to “reduce or remove” the danger their earthquake-prone building presents⁴. This includes powers for TAs to directly undertake strengthening or demolition work where the owner fails to do so (and to recover costs)
 - requires TAs to develop policies in consultation with their communities on how they will exercise these powers (including how the policy will apply to heritage buildings).
- 27 The Act defines an ‘earthquake-prone’ building as one that will have its ultimate capacity exceeded in a ‘moderate earthquake’ and that would be likely to collapse causing: injury or death to persons in the building or to persons on any other property; or damage to any other property. Residential buildings are excluded unless they comprise two or more storeys and contain three or more household units.
- 28 Regulations made in 2005 define a ‘moderate earthquake’ for the purposes of the Act as one that would generate shaking at the site of the building that is of the same duration, but a third as strong, as the earthquake shaking used to design a new building at the same site (earthquake shaking determined by normal measures of acceleration, velocity and displacement)⁵. Because the definition relates to the site of the building, it takes into account the different levels of seismicity around New Zealand.
- 29 In practice, the definition of an earthquake-prone building has become condensed over time to the shorthand of 33% or less of the new building standard (NBS).
- 30 In 2012, the former Department of Building and Housing issued a Determination that concluded that where the provisions in the Act relating to earthquake-prone

⁴ A building owner who does not comply with a notice requiring them to “reduce or remove” the danger their earthquake-prone building presents commits an offence and could be fined up to \$200,000.

⁵ NZS 1170:5 2004 is referenced in Compliance Documents issued by the Ministry for Business, Innovation and Employment for designing new buildings for earthquake loadings.

buildings referred to a building, they can also be applied to part of a building (such as parapets)⁶.

- 31 Aside from the provisions relating to earthquake-prone buildings, the only other circumstance where a TA may 'require' a building upgrade that improves seismic performance is where the use of the building is changed.

Other legal obligations

- 32 It is important to note that the Act does not set out all of the legal obligations of an owner of an earthquake-prone building. Building owners have other legal obligations, for example, a building owner may have legal obligations under other legislation in particular the Health and Safety in Employment Act 1992, at common law or under contract, for example conditions in their lease agreement. Requirements under District Plans (prepared under the Resource Management Act 1991 (RMA)) may also apply, particularly in regard to heritage buildings.

The consultation document

- 33 Both the Canterbury Earthquakes Royal Commission and the review identified problems with the current system for managing earthquake-prone buildings. A clear view has emerged that from a societal perspective the current system for managing earthquake-prone buildings is not achieving an acceptable level of risk. Many earthquake-prone buildings are not being dealt with in a timely and cost-effective manner.
- 34 Issues identified with the current system for managing earthquake-prone buildings include:
- too much variability in local practice
 - individual TAs have very different approaches to implementing the current policy requirements. Some TAs are not actively identifying earthquake-prone buildings or requiring building owners to deal with them. Other TAs have taken some action, but have given building owners very long timeframes to resolve problems. Still other TAs have taken strong action, including requiring higher strengthening than required by law. Variable approaches have also been taken with managing heritage buildings. Generally, however, TAs have been more active about dealing with earthquake-prone buildings since the Canterbury Earthquakes
 - public confusion about risk
 - poor understanding of the risks posed by earthquake-prone buildings, and of how these compare to other risks commonly faced in life
 - lack of good data
 - poor-quality information on the number and specific location of earthquake-prone buildings across the country, due to inadequate data collection

⁶ A determination is a binding decision made by the Ministry of Business, Innovation and Employment. It provides a way of solving disputes or questions about the rules that apply to buildings, how buildings are used, building accessibility, health and safety.

- poor information on individual buildings
 - information on building strength is not widely available or easy to find and use, making decision-making difficult for local authorities, building owners and building users
 - inconsistent market responses
 - because information on building strength and public understanding of the risks associated with buildings of different strengths is poor, the property and rentals markets have responded inconsistently – sometimes too cautiously, sometimes not cautiously enough – but often with little direct reference to the actual risks posed by individual buildings
 - lack of central guidance
 - central government has provided limited information and guidance to local authorities to support good practice and decision making in support of stronger buildings. A related problem is limited central monitoring and oversight of the sector.
- 35 The consultation document outlined 9 proposals for improving the system for managing earthquake-prone buildings to better ensure that affected buildings are dealt with in a timely manner nationwide. The proposals were also expected to manage the associated costs/risks, and help to ensure information necessary to support market decision making is available.
- 36 The proposals in the consultation document were broadly in line with the recommendations in Volume 4 of the Canterbury Earthquakes Royal Commission Final Report. The consultation document also sought views on Royal Commission recommendations that extended beyond the proposals.

Outcome of consultation

Most consultation document proposals supported by submitters

- 37 Most of the proposals in the consultation document were generally supported by submitters, albeit with some concerns.
- 38 However, the proposal that buildings be strengthened or demolished within 15 years (and the related proposal for owners to submit a plan within 12 months) was not supported by a majority of submitters. Many of the concerns relate to workforce pressures (insufficient capacity and capability) and costs/affordability. There is also a perception the timeframe proposal is a 'one size fits all approach' that does not adequately consider issues such as location risk, people at risk, economics and heritage.
- 39 The Royal Commission recommendations that extend beyond the proposals in the consultation document were either not supported or there was no clear majority view, with the exception of one recommendation relating to requirements for upgrades to access and facilities for people for disabilities.
- 40 Appendix 2 and 3 of this paper outline the proposals consulted on in more detail (and the Royal Commission recommendations that extend beyond the proposals), the overall themes from submission and comments/concerns of submitters.

Heritage buildings

41 Key themes raised by submitters regarding heritage buildings include:

- cost/affordability was seen as a key barrier to strengthening earthquake-prone heritage buildings – there is a risk of significant loss of heritage as a result
- District Plans were perceived by some as a complicating factor in strengthening heritage buildings
- there was no clear majority view on whether earthquake strengthening should take precedence over heritage issues
- many submitters believed heritage buildings should have different consideration to other buildings.

Out of scope issues

42 The key out of scope issues raised by submitters included:

- concerns about insurance costs and availability
- financial assistance/incentives
- concerns about Health and Safety in Employment Act requirements being misaligned with requirements under the Building Act – this issue is being dealt with separately
- concerns about buildings with key vulnerabilities that could result in catastrophic collapse in a ‘major earthquake’ (e.g. the Canterbury Television building). Because these buildings are unlikely to collapse in a ‘moderate earthquake’ they are not currently defined as earthquake-prone. Advice on how best to deal with these buildings is being developed as part of the wider response to the Royal Commission recommendations.

Proposals to improve the system for managing earthquake-prone buildings

43 This paper outlines a range of proposals to improve the system for managing earthquake-prone buildings.

44 The proposals move to a system that has a significantly greater role for central government, particularly in providing leadership and direction, to make better use of the capability and resources of central and local government (note that a significant role for the market is retained). This is in contrast to the current system, which relies on a model that is largely devolved to TAs. I therefore propose that the Act be amended to remove the requirements in sections 131 and 132 for TAs to have policies in relation to their powers regarding earthquake-prone buildings.

45 Where there are certain building-specific issues that require management on a case by case basis, this paper proposes to retain an ability for TA discretion, but within bounds set by, and with guidance from, central government.

Better information and disclosure

- 46 A critical issue identified with the current system for managing earthquake-prone buildings is that overall there is poor-quality information on the number and specific location of earthquake-prone buildings across the country.
- 47 To help address this issue, the consultation document proposed that TAs be required to undertake a seismic capacity assessment of all non-residential and multi-storey/multi-unit residential buildings (i.e. those currently within the scope of section 122 of the Act) in their districts within 5 years of the legislation taking effect, using a standard methodology developed by central government.
- 48 A similar recommendation was also made by the Royal Commission⁷.
- 49 The consultation document proposal was generally supported by submitters, however there were some concerns. Many of these concerns related to the mechanics of how the assessments would be undertaken and potential costs (e.g. questions were raised by some submitters as to whether the proposed assessments should instead be undertaken by owners and provided to TAs, and some concerns were also raised about assessment tools and sector capacity/capability).
- 50 I consider the proposal to be a function that sits appropriately with TAs. However, I also consider that an owner should be able to commission their own engineering assessment should they disagree with the assessment of the TA.
- 51 While there was no clear majority view from submitters on whether 5 years would be sufficient to undertake the assessments, I am informed that following a workshop between officials from the Ministry of Business, Innovation and Employment, Local Government New Zealand and selected TAs in late May 2013 there is now more comfort that the proposed timeframe for assessments can be achieved.
- 52 The consultation document also sought views on whether certain buildings should be prioritised for assessment. The consultation document identified the following buildings for prioritisation:
- buildings located on transport routes identified as critical in an emergency
 - buildings with important public, social and economic functions (such as schools and police stations)
 - buildings with post-earthquake recovery functions, such as civil defence centres and hospitals.
- 53 This proposal was generally supported by submitters. However, during the review concerns were also expressed that buildings likely to have a significant impact on public safety (including buildings with high risk elements such as falling hazards) should also be prioritised for assessment.
- 54 Taking these issues into account, I therefore propose that the Act be amended to:
- require TAs to undertake a seismic capacity assessment of all non-residential and multi-storey/multi-unit residential buildings (as currently defined under

⁷ The Royal Commission recommended that TAs assess URM buildings within 2 years and all other potentially earthquake-prone buildings within 5 years from enactment.

section 122 of the Act) in their districts within 5 years from commencement, using a methodology specified and published by the Ministry of Business, Innovation and Employment

- require TAs to prioritise for assessment, according to a framework to be specified and published by the Ministry of Business, Innovation and Employment: (i) buildings likely to have a significant impact on public safety (including buildings with high risk elements such as falling hazards), and (ii) strategically-important buildings (with both (i) and (ii) defined in regulations made under the Act)
- require TAs to provide the results of the assessments to the relevant building owner
- require owners who are notified that the outcome of the seismic capacity assessment is that their building is earthquake-prone to strengthen (or demolish) their building within the statutory timeframe.

55 I also propose that the Act be amended to provide that an owner will be able to provide an engineering assessment of a type to be specified and published by the Ministry of Business, Innovation and Employment, should they disagree with the outcome of the seismic capacity assessment undertaken by the TA.

56 To provide better disclosure of information, the consultation document also proposed the seismic capacity assessment collected would be entered into a publicly accessible register maintained by the Ministry of Building, Innovation and Employment. This proposal was generally supported by submitters.

57 Concerns were expressed by some submitters about the quality of information to be disclosed and potential impacts on building values. Some submitters also supported TAs maintaining their own registers instead of, or in addition to, a national register (note: some TAs (e.g. Wellington) currently have publicly accessible registers of earthquake-prone buildings, however many do not).

58 Taking these issues into account, I propose that the Act be amended to:

- provide for a national register of information on earthquake-prone buildings to be established, held and maintained by the Ministry of Business, Innovation and Employment
- require TAs to enter the results of each seismic capacity assessment into the national register (as well as updated information if this becomes available to the TA)
- provide the circumstances in which the national register may be updated being where there is new information (e.g. remediation or demolition) or if there is an error or mistake
- provide that the national register contain information identifying each building, its location and the outcome of the seismic capacity assessment
- provide that the national register may also include other information as specified in regulations made under the Act (if any)
- provide that the purpose of the register is to enable members of the public to know information about the seismic capacity of buildings (including their location) and other related information

- provide that members of the public will be able to search the register, but that certain information may not be publicly available if not considered appropriate by the Ministry of Business, Innovation and Employment
- provide that the Ministry of Business, Innovation and Employment may provide the full range of information available on its register to TAs, government departments and state sector monitoring agencies.

Definition of earthquake-prone building

- 59 Setting the threshold for defining an earthquake-prone building threshold involves balancing life and safety considerations, on the one hand, with the economic cost of dealing with earthquake-prone buildings on the other. The consultation document proposed retaining the current threshold for defining an earthquake-prone building (i.e. 33%). The Royal Commission reached the same conclusion in Volume 4 of its final report⁸.
- 60 Retaining the current threshold for definition of an earthquake-prone building was generally supported by submitters.
- 61 However, during the review some issues were identified around the clarity of the current definition of an earthquake-prone building in the Act, and the transparency of the process for incorporating new knowledge into the definition.
- 62 To address issues around the clarity of the definition, I propose that the definition of an earthquake-prone building in the Act be amended to clarify that:
- it applies to parts of buildings as well as whole buildings
 - the requirement in section 122(1)(b) that the building be “likely to collapse causing” injury, death or damage to other property is about the possible consequence of building failure, not the likelihood of collapse, as the likelihood of failure is addressed by the test in section 122(1)(a).
- 63 To increase transparency around the process for incorporating new knowledge into the definition of an earthquake-prone building, I propose that the Building (Specified Systems, Change of Use, and Earthquake-prone Buildings) Regulations 2005 be amended so that the definition of ‘moderate earthquake’ is fixed at a set point in time and does not change as building standards change over time (unless the regulations are changed).

Strengthening level required for earthquake-prone buildings

- 64 To provide greater clarity as to the level of strengthening required of earthquake-prone buildings, the consultation document proposed that the Act be amended so the level of strengthening required is so the building is no longer earthquake-prone (i.e. 34%). This proposal was generally supported by submitters.
- 65 While strengthening buildings above this level is desirable, it becomes more about preserving buildings or reducing the broader social and economic impacts associated with earthquake damage.
- 66 I therefore propose that the Act be amended to clarify that the level of strengthening required for earthquake-prone buildings is only so that the

⁸ Note: setting the threshold at a higher level, for example 67%, would have some additional safety (and other) benefits, but would also result in substantially greater costs and risks (see attached Regulatory Impact Statement for more information).

building, or the affected part, is no longer earthquake-prone (i.e. 34%). Decisions on strengthening above the earthquake-prone building threshold will be driven by a better informed market.

Maximum timeframe for addressing earthquake-prone buildings

- 67 Under the current system, timeframes for strengthening earthquake-prone buildings are set in TA policies and vary around New Zealand (e.g. timeframes in Wellington are shorter than in Whanganui). Overall, the average timeframe for strengthening earthquake-prone buildings under the current system is estimated at 28 years (note: some TAs allow longer timeframes than this).
- 68 In light of submissions on the consultation document, and the report of the Royal Commission, I do not consider retaining the current system to be a viable option as a clear view has emerged that from a societal perspective the current system for managing earthquake-prone buildings is not achieving an acceptable level of risk.
- 69 The consultation document proposed that buildings be strengthened (or demolished) within 15 years of the legislation taking effect (i.e. assessment by TAs within 5 years, strengthening within 10 years of assessment). This proposal was consistent with the Royal Commission's recommendation for non-URM buildings. A related proposal in the consultation document was for owners to submit a plan within 12 months of assessment.
- 70 The timeframe proposals in the consultation document were not supported by submitters. Key concerns relate to workforce capacity and capability, and costs/affordability. There is also a perception the timeframe proposal is a 'one size fits all approach' that does not adequately consider issues such as location risk, people at risk, economics and heritage.
- 71 Because the definition of an earthquake prone building in the Act relates to the site of the building, I consider that issues of location risk are already adequately recognised as part of the decision to classify a building as being earthquake-prone. However, I accept that there are very real concerns around workforce capacity and capability, and costs/affordability. Extending timeframes for addressing earthquake-prone buildings can help to address these concerns.
- 72 The table below compares estimates of indicative quantifiable direct costs of strengthening with direct benefits of reduced fatalities and injuries (and estimates of reduced property damage), under different timeframe options. It is important to note that the table on the following page is only a partial analysis – it does not compare all of the costs and benefits of the proposals in a quantitative manner (a more detailed examination of costs and benefits is outlined later in this paper).
- 73 Identifying a preferred option requires a judgement to be made about whether the expected benefits are justified given the anticipated costs/risks.
- 74 The table suggests that one national timeframe of 25 years will produce roughly similar (but lower) benefits compared to the current system (note the distribution of benefits across TAs will be different)⁹. I am also not convinced that an

⁹ Note that the figures in the table are midpoint estimates based on extrapolated local authority data and are indicative only (e.g. they do not consider the proposed transitional provisions outlined in this paper and assume earthquake-prone heritage buildings are treated the same as other earthquake-prone buildings).

approach involving TA specific timeframes based on risk profiles (see Option 4 in the table below) would necessarily be more appropriate than one overall national timeframe. One overall national timeframe is consistent with the approach recommended by the Royal Commission, and the reliability of NPV estimates for the TA specific approach below is highly uncertain.

- 75 After considering the issues discussed earlier (including the workforce capacity/capability issues), and following the outcome of the Cabinet Strategy Committee meeting on 10 June 2013 [STR Min (13) 3/2 refers], on balance I propose that the Act be amended to require buildings to be strengthened so they are not earthquake-prone (i.e. 34%), or demolished within 20 years of the legislation taking effect (i.e. assessment by TAs within 5 years, strengthening within 15 years of assessment).

Table 1: Indicative direct costs of strengthening (to 34%) compared to direct benefits of reduced fatalities and injuries (and estimates of reduced property damage), under alternative timeframe options

| | Costs (NPV \$m) | Benefits (NPV \$m) | Net (NPV \$m) |
|--|--------------------|-----------------------|------------------|
| Current system (timeframes vary across New Zealand – est. average of 28 years) | 958 | 25 | -933 |
| Option 1 – one national timeframe (15 years) (consultation document proposal) | 1,717 | 37 | -1,680 |
| Option 2 – one national timeframe (20 years) | 1,359 | 29 | -1,330 |
| Option 3 – one national timeframe (25 years) | 1,075 | 23 | -1,052 |
| Option 4 – Timeframes specific to each TA based on a risk profile generated by central government (e.g. including: location risk, building profiles, number of people at risk) | 1,206* | 36* | -1,170* |

* A range of assumptions (beyond those used for Options 1 to 3) were made to generate these estimates, and their reliability is highly uncertain.

Certain buildings to be prioritised for strengthening

- 76 In addition to seeking views on whether certain buildings should be prioritised for assessment (e.g. buildings on transport routes identified as critical in an emergency), the consultation document also sought views on a proposal that TAs be able to choose to require that owners deal with these buildings (either by strengthening or demolition) more quickly than other earthquake-prone buildings. This proposal links in with TA civil defence and emergency management planning functions, and was generally supported by submitters.
- 77 During the review concerns were also expressed that buildings likely to have a significant impact on public safety (including buildings with high risk elements such as falling hazards), should also be prioritised for strengthening.

78 While these buildings will be prioritised for strengthening to some extent because they will be assessed as a priority, I propose that the Act be amended to provide that TAs can require (i) buildings likely to have a significant impact on public safety (including buildings with high risk elements such as falling hazards) and (ii) strategically-important buildings, to be strengthened (or demolished) more quickly than other earthquake-prone buildings (with both (i) and (ii) defined in regulations made under the Act). For transparency, I also propose that TAs be required to set a framework for dealing with these buildings after consulting with their communities (using the special consultative procedure in section 83 of the Local Government Act 2002).

Exemptions from strengthening timeframes

79 Some earthquake-prone buildings may be used infrequently by small numbers of people and located well away from passers-by. In these cases, the costs of strengthening might be unreasonable in relation to the risks to life and safety they present. Examples might include farm sheds, small rural community halls or rural churches.

80 The consultation document proposed exemptions (or extensions) from strengthening timeframes where the consequence of failure of the affected building is low. The Royal Commission also made a similar recommendation. This proposal was generally supported by submitters, however several submitters noted that any exemptions (or extensions) from strengthening timeframes needed to be clearly defined and risk based.

81 I propose that the Act be amended to provide that owners of earthquake-prone buildings are able to apply to the TA in their district for an exemption from the national timeframe for strengthening buildings where the consequence of failure of the affected building is low (with detailed criteria for providing exemptions defined in regulations made under the Act).

82 While exempt from strengthening timeframes, affected buildings will still be identified as earthquake-prone on the national register.

Heritage buildings and strengthening timeframes

83 Cost/affordability is seen as a key barrier to strengthening heritage buildings (under the current system or any proposed changes), which could give rise to a significant loss of heritage values¹⁰. In addition, many submitters believe heritage buildings should have different consideration to other buildings.

84 One way to address these concerns is to provide heritage buildings more time to strengthen than other buildings. However, providing a blanket exemption for all heritage buildings from strengthening timeframes is not recommended as it creates on-going life safety risks, and also creates a significant risk of 'demolition by neglect'.

85 A judgement needs to be made about whether the expected benefits of providing earthquake-prone heritage buildings more time to strengthen than other earthquake-prone buildings are justified given the anticipated costs/risks.

86 After considering the issues above, and following the outcome of the Cabinet Strategy Committee meeting on 10 June 2013 [STR Min (13) 3/2 refers], where

¹⁰ Heritage values can have significant social and economic worth, for example, tourism related benefits.

heritage buildings are not already covered by the general exemptions outlined earlier, to address concerns about potential loss of heritage values I propose the Act be amended to provide:

- that owners of category 1 and 2 historic buildings listed on the register of historic places under the Historic Places Act 1993 may apply to the TA in their district for an extension of time to strengthen their building
- the extension of time be agreed by the TA and the owner on a case by case basis
- as a condition of being granted an extension of time, the owner will be required to manage/reduce the risk their building presents to users of the building, passers-by, and other property, to the satisfaction of the TA (e.g. by placing warning notices on the building, restricting use, and/or interim securing of high risk elements such as falling hazards).

87 Including a maximum limit to the extension of time that can be granted by the TA would help owners manage costs while still ensuring affected buildings are dealt with in a timely manner nationwide, and the risk of demolition by neglect is reduced. An on balance decision is required on this matter. I propose that:

Either

(a) the extension of time is limited to a maximum of an additional 10 years

Or

(b) there is no limit to the extension of time that can be granted by the TA.

88 The Ministry of Business, Innovation and Employment will provide guidance to TAs to support the application of these provisions.

89 While being provided more time to strengthen, affected buildings will still be identified as earthquake-prone on the national register.

Upgrades to access and facilities for people with disabilities

90 Under section 112 of the Act, a BCA must not grant a building consent for the alteration of an existing building unless it is satisfied the altered building will:

- comply as nearly as is reasonably practicable with the Building Code provisions for means of escape from fire, and access and facilities for people with disabilities
- continue to comply with the other provisions of the Code to at least the same extent as before the alteration.

91 Because the current Act involves a test of what is 'reasonably practicable' there is some flexibility in how BCAs can apply the provisions, but there is also a lack of consistency between BCAs. If an affected owner disagrees with the BCA's decision, they can apply to the Ministry of Business Innovation and Employment for a Determination that is binding on the parties. Although there have been a number of Determinations on the application of this section which set out general issues and principles, comprehensive guidance on the test has never been provided by the Ministry of Business, Innovation and Employment. However, guidance alone may not be sufficient to address the issues identified by the Royal Commission or in submissions on the consultation document (discussed on the following page).

- 92 The Royal Commission heard evidence that the upgrade provisions for people with disabilities can operate as an impediment to owners strengthening their buildings, particularly for old or historic buildings.
- 93 The Royal Commission recommended that section 112 of the Act be amended to enable BCAs to issue building consents for earthquake strengthening works without requiring access and facilities upgrades for people with disabilities. They considered that such an amendment would strike an acceptable balance between cost and strengthening work, and the desirability of the latter actually being carried out.
- 94 The Royal Commission did not recommend any change to the upgrade provision related to fire in section 112. They considered it important that egress from a building at a time of fire or earthquake remains subject to this rule¹¹.
- 95 Views on the Royal Commission's recommendation were polarised. It was supported by a majority of submitters on the consultation document including some TAs, owners and businesses who cited the high cost (including consultancy fees) as a barrier to strengthening – evidence provided was anecdotal. However, it was opposed by disability advocacy groups, the Human Rights Commission and some engineers. The Commission suggested the proposed changes to disabled access could be inconsistent with the Human Rights Act 1993. There are also concerns by some submitters that the Royal Commission's recommendation could be inconsistent with the United Nations Convention on the Rights of Persons with Disabilities.
- 96 While upgrades to access and facilities for people with disabilities are desirable and should be encouraged (as they generate both social and economic benefits, including benefits for people without disabilities), after considering the issues above and following the outcome of the Cabinet Strategy Committee meeting on 10 June 2013 [STR Min (13) 3/2 refers], I consider that amending the provisions in the Act in relation to access and facilities upgrades for people with disabilities strikes an acceptable balance between cost and strengthening work, and the desirability of the latter actually being carried out.
- 97 I propose that the Act be amended:
Either
- (a) to enable TAs (that are BCAs) to issue building consents for earthquake strengthening works for buildings that are earthquake-prone without requiring upgrades to access and facilities for people with disabilities
 - Or
 - (b) so that no upgrades to access and facilities for people with disabilities are required when earthquake strengthening works are undertaken on buildings that are earthquake-prone.
- 98 Under Option (a) above TAs would determine whether, and the extent to which, they wish to require upgrades to access and facilities for people with disabilities when owners undertake earthquake strengthening works on buildings that are earthquake-prone. Option (b) would remove any doubt for owners about whether, and the extent to which, an upgrade is required – it will be up to building owners to determine.

¹¹ Note that there are issues in relation to these provisions that are being considered separately.

- 99 If Option (a) above is chosen, I propose including a regulation making power in the Act that may be used to specify criteria for TAs to apply when making decisions about whether or not to require upgrades to access and facilities for people with disabilities, to help address some of the issues identified above.
- 100 Under both approaches, requirements for upgrades to access and facilities for people with disabilities will continue to apply when other alterations are made to existing buildings (including earthquake strengthening works where buildings are not earthquake-prone), or the building has a change of use. However, the proposals are likely to mean that upgrades will not be carried out on a significant number of buildings when required earthquake strengthening is undertaken. There is a risk that this could have a long-term legacy impact, if no other building work that triggers the upgrade provisions is ever undertaken on these buildings.
- 101 The options presented above do not appear to alter the existing obligations of building owners under the Human Rights Act 1993. BCAs are required to comply with the New Zealand Bill of Rights Act 1990. Option (b) could limit the right to be free from discrimination affirmed in section 19(1) of that Act. This is because the BCA would not be able to consider whether it is reasonable to require upgrades to access and facilities upgrades for people with disabilities when issuing a building consent. A final determination as to the consistency of the proposal with the Bill of Rights Act will be possible once the legislation has been drafted.

Roles, advice, information and education

- 102 As noted earlier, central government involvement in the current system has been limited and there is a need for a much greater role for central government in providing direction and guidance to TAs, owners and the public (including better information on risk), and to monitor overall system performance.
- 103 There was general support from submitters for a greater leadership role for central government in the system.
- 104 I propose that the functions, duties and powers of the chief executive of the Ministry of Business, Innovation and Employment under the Act be extended to include:
- providing direction and guidance to TAs, owners and the public in relation to managing earthquake-prone buildings
 - monitoring overall performance of the earthquake-prone building system
 - specifying and publishing a methodology for seismic capacity assessments, including a framework for prioritisation of buildings for assessment, which may include other requirements and guidance for TAs on how to carry out their earthquake-prone building functions.

Transitional Provisions

- 105 To help manage the transition to the new system, I propose the Act be amended:
- to recognise building assessments already undertaken where they have been undertaken using a methodology consistent with, or recognised by, that to be specified and published by the Ministry of Business, Innovation and Employment

- so that notices issued under section 124 of the Act for earthquake-prone buildings remain in force where the time remaining on the notice is shorter than the overall national timeframe
- so that notices issued under section 124 of the Act for earthquake-prone buildings be reissued by the TA where the time remaining on the notice is longer than the overall national timeframe.

Overall implications of proposals to improve the system for managing earthquake-prone buildings

- 106 It is expected that the proposals will give rise to incremental benefits and costs beyond those of the current system for managing earthquake-prone buildings.
- 107 Monetary NPV analysis comparing estimates of indicative quantifiable direct costs of strengthening with direct benefits of reduced fatalities and injuries (and estimates of reduced property damage) indicates that the direct costs of the proposals strongly outweigh the direct benefits (based on the best available information and reasonable assumptions) under any scenario, including under the current system (see Table 1 on page 14). It is important to note that many of the costs and benefits associated with the proposals are difficult to quantify. Identifying a preferred approach requires a judgement to be made about whether the expected benefits are justified given the anticipated costs/risks.
- 108 Some of the benefits associated with the proposals are difficult to quantify but can be very significant, as is evident following the Canterbury Earthquakes. Qualitatively, the benefits associated with the proposals include:
- improved confidence in the system for managing, and the quality of, New Zealand's existing building stock in relation to seismic performance
 - reduced fatalities and injury costs during and after a major seismic event
 - reduced damage to property during and after a major seismic event
 - reduced social costs and other impacts associated with earthquakes – these cost/impacts include:
 - impacts on sense of community and identity through loss of gathering places, places of employment, schools, hospitals, homes, heritage buildings and places to recreate and create (i.e. sports grounds, performance venues, galleries, museums etc.)
 - costs/impacts associated with the displacement of households
 - improved post-earthquake functioning of towns and cities and reduced economic loss¹².
- 109 These benefits accrue directly to building owners and occupiers, as well as to insurers and wider society (including the public, and local and central government).

¹² At higher levels of strengthening these benefits can become very significant.

110 Qualitatively, the costs associated with the proposals include the following:

- identification of seismic performance of buildings (i.e. non-residential and multi-storey/unit residential buildings as defined under section 122 of the Act), and notification costs
- planning and strengthening (or demolition) costs
- enforcement costs
- information, education and monitoring costs
- set up and on-going costs of a national register of earthquake-prone buildings
- because there is a risk that strengthening some earthquake-prone buildings may not be viable (demolition may be the only practical option), there could be a loss of heritage values from the loss of heritage buildings
- it is likely that upgrades to access and facilities for people with disabilities will not be carried out on a significant number of buildings when required earthquake strengthening is undertaken¹³. There is a risk that this could have a long-term legacy impact, if no other building work that triggers the upgrade provisions is ever undertaken on these buildings.

111 Initial identification and notification costs will largely fall on local and central government, however there are also likely to be some costs for affected owners. Planning and strengthening costs will fall directly on building owners (including local and central government as building owners). Enforcement, information, education and monitoring costs will fall on local and central government. Costs associated with a national register will fall on local and central government.

112 There may also be some associated costs for some TAs in relation to reviewing planning and heritage listing processes under the RMA.

113 It is difficult to quantify all of the cost impacts of the proposal at this time. In part, this is because many of the cost impacts will depend on detailed design of many aspects of the system which is yet to be undertaken (this process will attempt to mitigate these costs as far as practicable). In addition, some of the costs identified have already been met (or would have been met) under the current system.

114 However, compared to the current system there will be additional costs. For example, in addition to the extra costs to central and local government, in some cases, decisions about the viability of certain buildings may be brought forward, putting financial pressure on owners who may have previously anticipated a longer timeframe.

115 The distribution of costs around the country will depend in part on the number of earthquake-prone buildings in a particular district, the extent to which the relevant TA has already taken an active approach to identifying these buildings, and the extent to which owners of earthquake-prone buildings have already been active in addressing the risk their buildings present. In some cases, the proposals may place additional pressure on some communities where underlying economics may make strengthening difficult, e.g. Oamaru and Whanganui.

¹³ Assuming that strengthening work would have otherwise been undertaken under the current system for managing earthquake-prone buildings.

116 It is expected that the vast majority of building owners will comply with the requirement to address the danger their earthquake-prone buildings present. However, there is a risk that a small number of affected owners may refuse to deal with the issue (note that existing offence provisions under the current system for managing earthquake-prone buildings will continue to apply where an owner fails to comply – this includes a maximum fine of \$200,000). While the responsibility for dealing with earthquake-prone buildings rests with owners of the affected buildings, existing powers under the current system for managing earthquake-prone buildings that enable TAs to undertake work themselves (where the owner fails to do so) and recover costs from owners will also continue to apply. Work taken can include demolition.

117 Overall, the proposals are expected to:

- address the problems identified and better meet the review objectives than the current system for managing earthquake-prone buildings, including better meeting public expectations for achieving acceptable risk
- better ensure that affected buildings are dealt with in a timely manner nationwide
- help manage the associated costs/risks of dealing with earthquake-prone buildings, and
- help ensure information necessary to support effective market decision-making is available.

Other Royal Commission recommendations on earthquake-prone buildings

118 The Royal Commission's recommendations that extend beyond these proposals include:

- additional recommendations in relation to unreinforced masonry buildings (e.g. requiring higher levels of strengthening than 34% for certain parts of these buildings), and
- recommendations that TAs be given powers to:
 - require higher levels of strengthening than mandated by central government
 - require hazardous elements on houses to be dealt with in a specified timeframe, e.g. URM chimneys.

119 These recommendations were either not supported or there was no clear majority view by submitters on the consultation document. However, I consider that there is merit in progressing the Royal Commission's recommendations that extend beyond the proposals for regulatory change outlined in this paper. I propose that these recommendations be progressed through guidance, information and education, rather than by regulatory change, at this time.

Crown owned/leased buildings that may be earthquake-prone

120 Since January 2012, Government Property Management Centre of Expertise (PMCoE) has been undertaking a co-ordinating function in relation to the seismic assessment of buildings across 160 State sector agencies. This work is

ongoing. PMCoE has issued guidance to State sector agencies to support this process, and a template for reporting. The guidance was developed in conjunction with the Ministry of Business, Innovation and Employment, and the New Zealand Society of Earthquake Engineers, and is based on a three stage process:

- Stage 1: a simplified desktop assessment, to determine whether or not assessment by a qualified structural engineer is warranted
- Stage 2: obtaining a structural engineers assessment to determine what (if any) critical structural weakness exist, and whether a more detailed assessment is required to determine extent of remedial action
- Stage 3: obtaining a detailed assessment from a structural engineer clearly identifying the building critical structural weakness, offering options for remedial work, and outlining cost estimates for options.

121 In September 2012, the Cabinet Committee on State Sector Reform and Expenditure Control (SEC) received advice on assessment results PMCoE had received from agencies. That advice noted that the majority of responses PMCoE had received had been from agencies with small, less complex property portfolios and that seismic assessment work programmes for large agencies would require up to 3 years to complete, and until this is completed an accurate assessment of the scale and cost of remedial activities would not be known [SEC (12) 73 refers].

122 The latest information received from agencies (as at 11 April 2013) is as follows:

| | | |
|--|------|------|
| Total agencies | 160 | |
| Results received to date ** | | 142 |
| Agencies with work programmes in place ++ | | 18 |
| | | |
| ** Building Summary | | |
| Total buildings assessed to date | 4775 | |
| Buildings with no issues (no further assessment required) | | 4239 |
| Buildings identified as requiring further assessment | | 536 |
| | | |
| Earthquake-prone (leased buildings) identified | 23 | |
| Earthquake-prone (crown owned) identified | 124 | |
| Note: 120 are in a single portfolio and have already been remediated | | |

++ Note: Agencies with significant portfolios of crown owned property included in the group undertaking programmes of work are: Department of Corrections, Housing New Zealand Corporation, Ministry of Education, Ministry of Justice, NZ Defence Force, NZ Fire Service Commission, NZ Police, Tertiary Education Commission, Ministry of Health (DHB portfolio), NZ Historic Places Trust, NZ Post, and NZ Railways Corporation.

123 Indicative costing of impacts to the Crown, with a degree of accuracy, is not possible at this time due to:

- the programmes of work being undertaken in agencies with significant portfolios will take up to a number of years to mature
- agencies are indicating a substantial portion of remediation works will be integrated with capital asset planning and there is no measure of incremental change
- agencies will consider their continuing tenure at locations with major issues, and potentially exercising the next available exit opportunity rather than remediating.

124 On-going updates on impacts to the Crown will be provided by officials to relevant Ministers.

Consultation

125 The following agencies have been consulted on this paper:

- The Treasury, Canterbury Earthquake Recovery Authority, Ministry for the Environment, Ministry for Culture and Heritage, Department of Internal Affairs, Inland Revenue, Government Property Management Centre of Expertise, Ministry of Health, Ministry of Education, Ministry of Justice, Ministry of Civil Defence & Emergency Management, Office for Disability Issues, Tertiary Education Commission, Ministry of Social Development, and Land Information New Zealand.

126 The Department of the Prime Minister and Cabinet has been informed.

127 535 submissions (174 group/361 individual) were received on the consultation document released in December 2012 outlining proposals to improve the system for managing earthquake-prone buildings, and more than 1,000 people attended public and stakeholder meetings held around New Zealand on this issue in February 2013.

Comment from the Office for Disability Issues

128 The Office for Disability Issues does not support Recommendation 35. The recommendation would enable Territorial Authorities to issue building consents without requiring upgrades to access and facilities for people with disabilities or to exempt building owners from any requirement to upgrade access and facilities for people with disabilities when earthquake strengthening works are undertaken on buildings that are earthquake-prone. This would mean that 15,000 to 25,000 non-residential and multi-storey residential buildings in New Zealand (those that are earthquake-prone) will be unlikely to have their access improved for building users in the foreseeable future.

- 129 This recommendation is contrary to commitments the Government has made by ratifying the Convention on the Rights of Disabled Persons to take appropriate measures to ensure that disabled people have access, on an equal basis with others, to the physical environment including facilities and services open or provided to the public, including to refrain from engaging in any act or practice that is inconsistent with the Convention and to take all reasonable steps to ensure that reasonable accommodation is provided.
- 130 Section 112 of the current Act provides sufficient flexibility to ensure access and facilities for people with disabilities are considered in a manner that is proportionate to the circumstances – it allows for a test of what is “reasonably practicable”. We consider that guidance to TAs on how to apply this test for earthquake-prone buildings undergoing strengthening would ensure greater consistency, and better processes, across TAs and provide building owners with more certainty.

Comment from the Ministry for Culture and Heritage

- 131 In general the Ministry for Culture and Heritage supports the approach to heritage buildings. However, the Ministry for Culture and Heritage does not support the option of an unlimited time extension as there is a real risk strengthening of heritage buildings will be deferred indefinitely. This may result in demolition by neglect (i.e. allowed to deteriorate to the point where conservation is not feasible).
- 132 The Ministry for Culture and Heritage also does not support the proposal in recommendation 26 that only category 1 and 2 buildings on the NZHPT Register (not all of which are protected) can apply for extensions of time. The approach does not reflect the current or proposed systems for heritage protection in New Zealand and would create implementation difficulties. The approach could have unintended consequences. It would exclude non-registered buildings on the proposed National Historic Landmarks List (being established through the Heritage New Zealand Pouhere Taonga Bill). Given this list will identify the most important heritage in New Zealand, there is a risk some of this heritage may be lost if it is not given time extensions for earthquake-strengthening. The approach would also be seen as unfair by many building owners whose properties are protected (for example scheduled on District Plans), but are not on the Register. These owners face the same costs of strengthening as owners of registered buildings, but will not be entitled to the same relief. There is also a likelihood owners will seek to register their buildings resulting in a ‘goldrush’ of applications to NZHPT for registration.
- 133 The Ministry for Culture and Heritage recommends that buildings on the National Historic Landmarks List and all other protected buildings (whether registered or not) be eligible to apply for an extension of time. While the pool of buildings that can be considered for extensions is larger, it is more equitable. In addition the Ministry for Culture and Heritage believes the ‘opt-in approach’ along with the requirement for owners to manage or reduce the risks will effectively reduce the number of extensions granted by territorial authorities to manageable numbers.

Comment from the Ministry of Education

- 134 The Ministry of Education advises that consideration needs to be given as to how assessment of timber framed building asset class is undertaken in the future as these buildings often score conservatively low when compared to the New

Building Standard and may be classified as earthquake-prone buildings that require strengthening work, with consequent costs. However, evidence from testing and the earthquakes demonstrates that “timber framed buildings” such as typical school buildings are not earthquake-prone and therefore there will need to be changes to assessment approaches to reflect this evidence.

Comment from the Ministry of Business, Innovation and Employment

135 The Ministry of Business, Innovation and Employment advises that the issues raised by the Ministry of Education will be dealt with as part of the development of the methodology for the seismic capacity assessment of buildings.

Financial implications

136 It is anticipated that additional capital funding will be required for the national register of information on earthquake-prone buildings.

137 It is not possible to determine the amount of additional capital funding required at this time, as this will depend on the detailed scheme design underpinning the register which is still to be developed.

138 A bid for additional capital funding for the register will be prepared at the appropriate time.

Human rights

139 The proposals in this paper to amend the Building Act 2004 in relation to upgrades to access and facilities for people with disabilities do not appear to alter the existing obligations of building owners under the Human Rights Act 1993. BCAs are required to comply with the New Zealand Bill of Rights Act 1990. Amendment Option (b), outlined on page 18, could limit the right to be free from discrimination affirmed in section 19(1) of that Act. This is because the BCA would not be able to consider whether it is reasonable to require upgrades to access and facilities for people with disabilities when issuing a building consent. A final determination as to the consistency of the proposal with the Bill of Rights Act will be possible once the legislation has been drafted.

Legislative implications

140 A Bill is required to implement the proposals. A Building Amendment Bill has been given a priority 5 rating on the 2013 legislation programme (to be referred to a Select Committee in 2013) to give effect to the proposals.

141 The proposed Act will bind the Crown.

Regulatory impact analysis

142 The Regulatory Impact Analysis (RIA) requirements apply to the proposal in this paper and a Regulatory Impact Statement (RIS) has been prepared and is attached.

143 The Regulatory Impact Analysis Team (RIAT) has reviewed the RIS prepared by the Ministry of Business, Innovation and Employment and associated supporting

material, and considers that the information and analysis summarised in the RIS meets the quality assurance criteria.

Disability perspective

144 The Government has made a range of commitments (both nationally and internationally) to progressively improve building accessibility:

- Article 9 of the United Nations Convention on the Rights of Persons with Disabilities (ratified by New Zealand on 26 September 2008) requires State Parties to take appropriate measures to ensure that disabled people have access, on an equal basis with others, to the physical environment including facilities and services open or provided to the public. This is part of enabling disabled people to live independently and participate fully in all aspects of life.

Article 4 requires States Parties to adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the Convention, and to refrain from engaging in any act or practice that is inconsistent with the present Convention.

- Cabinet has recently made particular commitments in relation to building accessibility in Canterbury. Cabinet agreed in 2012 that one of its priority areas for including people in the Canterbury recovery would be to: improve the accessibility of the built environment by actively working to support accessibility for disabled and older people as a key focus for the repair and rebuild of property and infrastructure in Canterbury [SOC Min (12) 6/4 refers]
- On 2 May 2012, the Ministerial Committee on Disability Issues agreed that one of the three priority areas for cross-government action in its Disability Action Plan 2012-14 would be: “Rebuild Christchurch – the Christchurch rebuild is inclusive of disabled people”.

145 However, to facilitate required earthquake strengthening works being carried out on buildings that are earthquake-prone, this paper proposes amending provisions in the Act in relation to upgrades to access and facilities for people with disabilities (these upgrades generate both social and economic benefits, including benefits for people without disabilities).

146 These proposals are likely to mean that upgrades to access and facilities for people with disabilities will not be carried out on a significant number of buildings when required earthquake strengthening is undertaken. This could have a long-term legacy impact, if no other building work that triggers the upgrade provisions is ever undertaken on these buildings. Note that under the proposed amendments, upgrades for access and facilities for people with disabilities will continue to apply when other alterations are made to existing buildings (including earthquake strengthening works where buildings are not earthquake-prone), or the building has a change of use.

147 For the reasons outlined above, the proposed amendments to the Act are likely to meet with significant resistance from the disability sector, particularly if the Option (b), outlined on page 18 and in recommendation 35, is chosen.

Publicity

- 148 A communications strategy is being developed to support the announcement of decisions on proposals for change. As part of this strategy, a press statement from the Minister for Building and Construction will be made once decisions on proposals to improve the system for managing earthquake-prone buildings have been taken.
- 149 I propose that this Cabinet paper also be published as part of the communications strategy.
- 150 The Ministry of Business, Innovation and Employment intends to publish a summary of submissions received on the consultation document on its website once decisions have been taken.

Recommendations

- 151 The Minister for Building and Construction recommends that the Committee:

Background

- 1 note that the earthquake-prone building policy review (the review) seeks to ensure earthquake-prone building policy settings and standards adequately balance life and safety against economic, heritage and other considerations, and are effectively implemented and administered [EGI Min (12) 4/7 and Cab Min (12) 10/7A refer]
- 2 note that on 5 December 2012, the Cabinet Economic Growth and Infrastructure Committee (EGI), having been authorised by Cabinet to have Power to Act [CAB Min (12) 40/24]
 - agreed to release the consultation document *Building Seismic Performance: Proposals to Improve the New Zealand Earthquake-Prone Buildings System*, which sought the public's view on a series of proposals developed as part of the review, as well as views on matters recommended by the Canterbury Earthquakes Royal Commission in Volume 4 of its final report that differ from the review proposals
 - invited the Minister for Building and Construction to report back to EGI in April 2013 on the outcome of the earthquake-prone building policy review, following the completion of the public consultation process
 - directed the Government Property Management Centre of Expertise, in consultation with the Ministry of Business, Innovation and Employment, to report back on progress in identifying the number of Crown owned buildings that are earthquake-prone, and the indicative strengthening costs to the Crown, as part of the April 2013 report back [EGI Min (12) 28/15 refers]
- 3 note that these report backs to EGI were subsequently deferred until 31 July 2013
- 4 note that on 10 June 2013, the Cabinet Strategy Committee considered an A3 outlining the outcome of the consultation, and invited the Minister for Building and Construction to include in the EGI report back, proposals and options around upgrades to access and facilities for people with disabilities,

timeframes for strengthening earthquake-prone buildings, and dealing with earthquake-prone heritage buildings [STR Min (13) 3/2 refers]

- 5 note that both the Canterbury Earthquakes Royal Commission and the review identified problems with the current system for managing earthquake-prone buildings – a clear view has emerged that from a societal perspective the current system for managing earthquake-prone buildings is not achieving an acceptable level of risk (many earthquake-prone buildings are not being dealt with in a timely and cost-effective manner)

Outcome of consultation

- 6 note that 535 submissions were received on the consultation document, with most of the proposals generally supported by submitters, albeit with some concerns
- 7 note that cost/affordability was seen as a key barrier to strengthening earthquake-prone heritage buildings – there is a risk of significant loss of heritage as a result
- 8 note that many submitters believed heritage buildings should have different consideration to other buildings
- 9 note that the Canterbury Earthquakes Royal Commission recommendations that extend beyond the proposals in the consultation document were either not supported or there was no clear majority view, with the exception of one recommendation relating to upgrades to access and facilities for people with disabilities
- 10 note that the Ministry of Business, Innovation and Employment intends to publish a summary of submissions received on the consultation document on its website once decisions have been made

Improving the system for managing earthquake-prone buildings

- 11 note that the proposals outlined below move to a system that has a significantly greater role for central government, particularly in providing leadership and direction
- 12 agree to amend the Building Act 2004 (the Act) to remove the requirements in sections 131 and 132 for territorial authorities (TAs) to have policies in relation to their powers regarding earthquake-prone buildings

Better information and disclosure

- 13 agree to amend the Act to require:

- TAs to undertake a seismic capacity assessment of all non-residential and multi-storey/multi-unit residential buildings (as currently defined under section 122 of the Act) in their districts within 5 years from commencement, using a methodology specified and published by the Ministry of Business, Innovation and Employment
- TAs to prioritise for assessment, according to a framework to be specified and published by the Ministry of Business, Innovation and Employment: (i) buildings likely to have a significant impact on public safety (including buildings with high risk elements such as falling

hazards), and (ii) strategically-important buildings (with both (i) and (ii) defined in regulations made under the Act)

- TAs to provide the results of the assessments to the relevant building owner
 - owners who are notified that the outcome of the seismic capacity assessment is that their building is earthquake-prone to strengthen (or demolish) their building within the statutory timeframe
- 14 agree to amend the Act to provide that an owner will be able to provide an engineering assessment of a type to be specified and published by the Ministry of Business, Innovation and Employment, should they disagree with the outcome of the seismic capacity assessment undertaken by the TA
- 15 agree to amend the Act to:
- provide for a national register of information on earthquake-prone buildings to be established, held and maintained by the Ministry of Business, Innovation and Employment
 - require TAs to enter the results of each seismic capacity assessment into the national register (as well as updated information if this becomes available to the TA)
 - provide the circumstances in which the national register may be updated being where there is new information (e.g. remediation or demolition) or if there is an error or mistake
 - provide that the national register contain information identifying each building, its location and the outcome of the seismic capacity assessment
 - provide that the national register may also include other information as specified in regulations made under the Act (if any)
 - provide that the purpose of the register is to enable members of the public to know information about the seismic capacity of buildings (including their location) and other related information
 - provide that members of the public will be able to search the register, but that certain information may not be publicly available if not considered appropriate by the Ministry of Business, Innovation and Employment
 - provide that the Ministry of Business, Innovation and Employment may provide the full range of information available on its register to TAs, government departments and state sector monitoring agencies

Earthquake-prone building definition and strengthening level required

- 16 agree to amend the definition of an earthquake-prone building in the Act to clarify that:
- it applies to parts of buildings as well as whole buildings
 - the requirement in section 122(1)(b) that the building be “likely to collapse causing” injury, death or damage to other property is about the possible consequence of building failure, not the likelihood of collapse, as the likelihood of failure is addressed by the test in section 122(1)(a)

- 17 agree to amend the Building (Specified Systems, Change of Use, and Earthquake-prone Buildings) Regulations 2005 so that the definition of 'moderate earthquake' is fixed at a set point in time and does not change as building standards change over time (unless the regulations are changed), to increase transparency
- 18 agree to amend the Act to clarify that the level of strengthening required for earthquake-prone buildings is only so that the building, or the affected part, is no longer earthquake-prone
- 19 note that decisions on strengthening buildings above the earthquake-prone building threshold will be driven by a better informed market

Timeframes for addressing earthquake-prone buildings

- 20 note that the consultation document proposal that earthquake-prone buildings be strengthened (or demolished) within 15 years of the legislation taking effect (i.e. assessment by TAs within 5 years, strengthening within 10 years of assessment) was not supported by submitters, with key concerns relating to workforce capacity and capability, and costs/affordability
- 21 agree to amend the Act to require buildings to be strengthened so they are not earthquake-prone (or demolished) within 20 years of the legislation taking effect (i.e. assessment by TAs within 5 years, strengthening within 15 years of assessment)
- 22 agree to amend the Act:
 - to provide that TAs can require (i) buildings likely to have a significant impact on public safety (including buildings with high risk elements such as falling hazards) and (ii) strategically-important buildings, to be strengthened (or demolished) more quickly than other earthquake-prone buildings (with both (i) and (ii) defined in regulations made under the Act)
 - to require TAs to set a framework for dealing with these buildings after consulting with their communities (using the special consultative procedure in section 83 of the Local Government Act 2002), for transparency

Exemptions from strengthening timeframes

- 23 agree to amend the Act to provide that owners of earthquake-prone buildings are able to apply to the TA in their district for exemptions from strengthening timeframes where the consequence of failure of the affected building is low
- 24 agree that detailed criteria for providing exemptions be defined in regulations made under the Act
- 25 note that while exempt from strengthening timeframes, affected buildings will still be identified as earthquake-prone on the national register

Heritage buildings and strengthening timeframes

- 26 agree to amend the Act to provide:
 - that owners of category 1 and 2 historic buildings listed on the register of historic places under the Historic Places Act 1993 may apply to the TA in their district for an extension of time to strengthen their building

- the extension of time be agreed by the TA and the owner on a case by case basis
 - as a condition of being granted an extension of time, the owner will be required to manage/reduce the risk their building presents to users of the building, passers-by, and other property, to the satisfaction of the TA (e.g. by placing warning notices on the building, restricting use, and/or interim securing of high risk elements such as falling hazards)
- 27 note that including a maximum limit to the extension of time that can be granted by the TA would help owners manage costs while still ensuring affected buildings are dealt with in a timely manner nationwide, and the risk of demolition by neglect is reduced
- 28 agree to amend the Act to provide that:
- Either
- (a) the extension of time is limited to a maximum of an additional 10 years
- Or
- (b) there is no limit to the extension of time that can be granted by the TA
- 29 note that while being provided more time to strengthen, affected buildings will still be identified as earthquake-prone on the national register

Upgrades to access and facilities for people with disabilities

- 30 note the Government has made several previous commitments both nationally and internationally to improving the accessibility of the built environment, and in relation to the Canterbury rebuild
- 31 note that upgrade requirements for access and facilities for people with disabilities under section 112 of the Act can be an impediment to required earthquake strengthening works being carried out
- 32 note that because the upgrade provisions involve a test of what is 'reasonably practicable' there is some flexibility in how building consent authorities (BCAs) can apply the provisions
- 33 note that the Canterbury Earthquakes Royal Commission recommended that the Act be amended to enable BCAs to issue building consents for earthquake strengthening works without requiring upgrades to access and facilities for people with disabilities
- 34 note that while views on the Canterbury Earthquakes Royal Commission recommendation were polarised in submissions on the consultation document, it was supported by a majority of submitters

35 agree to amend the Act:

Either

(a) to enable TAs (that are BCAs) to issue building consents for earthquake strengthening works on buildings that are earthquake-prone without requiring upgrades to access and facilities for people with disabilities

Or

(b) so that no upgrades to access and facilities for people with disabilities are required when earthquake strengthening works are undertaken on buildings that are earthquake-prone

36 agree, if option (a) above is chosen, to include a regulation making power in the Act that may be used to specify criteria for TAs to apply when making decisions about whether or not to require upgrades to access and facilities for people with disabilities, to help address uncertainty issues for owners

Role of central government

37 agree to amend the Act to extend the functions, duties and powers of the chief executive of the Ministry of Business, Innovation and Employment to include:

- providing direction and guidance to TAs, owners and the public in relation to managing earthquake-prone buildings
- monitoring overall performance of the earthquake-prone building system
- specifying and publishing a methodology for seismic capacity assessments, including a framework for prioritisation of buildings for assessment, which may include other requirements and guidance for TAs on how to carry out their earthquake-prone building functions

Transitional provisions

38 agree to amend the Act to recognise building assessments already undertaken where they have been undertaken using a methodology consistent with, or recognised by, that to be specified and published by the Ministry of Business, Innovation and Employment

39 agree to amend the Act so that notices issued under section 124 for earthquake-prone buildings remain in force where the time remaining on the notice is shorter than the timeframe in recommendation 21

40 agree to amend the Act so that notices issued under section 124 for earthquake-prone buildings be reissued by the TA where the time remaining on the notice is longer than the timeframe in recommendation 21

Other Royal Commission recommendations on earthquake-prone buildings

41 agree the Canterbury Earthquakes Royal Commission's recommendations that extend beyond the proposals above be addressed by guidance, information and education, rather than by regulatory change

Drafting instructions

- 42 note that on 25 February 2013 the Cabinet Legislation Committee agreed to include a bill on the 2013 legislative programme to amend the Building Act to give effect to decisions arising from the Earthquake-prone Building Policy Review [LEG Min (13) 5/7 refers]
- 43 invite the Minister for Building and Construction to issue drafting instructions to the Parliamentary Counsel Office to give effect to the recommendations above
- 44 authorise the Minister for Building and Construction to approve changes, consistent with the policy framework in this paper, on any issues that arise during the drafting process

Crown owned/leased buildings that may be earthquake-prone

- 45 note that since January 2012, the Government Property Management Centre of Expertise has been undertaking a co-ordinating function in relation to the seismic assessment of buildings across 160 State sector agencies
- 46 note that latest information received from agencies (as at 11 April 2013) is that of 4,775 buildings assessed to date, 536 have been identified as requiring further assessment
- 47 note that indicative costing of impacts to the Crown with a degree of accuracy is not possible at this time – on-going updates on impacts to the Crown as a building owner/occupier will be provided by officials to relevant Ministers

Release of Cabinet paper as part of communications strategy

- 48 agree to publish this Cabinet paper as part of the material to be released to support the announcement of decisions on proposals for change.



Hon Maurice Williamson
Minister for Building and Construction

24/7/2013.

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Appendix 1: Main features of the proposed system, the current system and the system recommended by the Canterbury Earthquakes Royal Commission

| | Current system | Royal Commission | Proposed system |
|---|--|--|---|
| Definition of earthquake-prone building (threshold) | Section 122 of Building Act 2004 and associated regulations – in practice this definition is often referred to as 33% or less of the new building standard | Same as status quo | Same as status quo |
| | | Clarifies that the law applies to whole buildings or parts of buildings | Clarifies that the law applies to whole buildings or parts of buildings. Also clarification of Section 122(1)(b) around 'likely to collapse' |
| Identification of building performance (trigger for upgrade) | Can be active or passive (set by council policies) | Active – seismic capacity assessment by TAs in 5 years (in 2 years for URM buildings) | Active – seismic capacity assessment by TAs in 5 years (certain buildings prioritised for assessment) |
| Notification/ Disclosure | Section 124 notices issued to owners | Section 124 notices issued to owners | Section 124 notices issued to owners |
| | Some TAs have a publicly searchable register (many do not) | Voluntary disclosure and better information sharing, in addition to current system | National register – publicly searchable |
| Exemptions/ extensions of time | N/A – heritage buildings special case in policies (some TAs give them more time) | Exemptions for buildings where consequence of failure is low | Exemptions from strengthening timeframes where consequence of failure low (opt-in) |
| | | Did not specifically recommend any exceptions for earthquake-prone heritage buildings, but noted the importance of heritage values | Opt-in time extension for earthquake-prone heritage buildings. Requirement to manage/reduce risk Either (a) time extension limited to 10 years, or (b) no limit to time extension |

| | Current system | Royal Commission | Proposed system |
|--|--|--|--|
| Mandatory upgrade level | 'Reduce or remove the danger' used in Act – 34% of the requirements for a new building (but not clear) | Strengthen buildings to 34% (certain parts of URM buildings to be strengthened to 50% (e.g. external walls)) | Strengthen buildings so they are not earthquake-prone – 34% of the requirements for a new building (greater clarity) |
| Timeframes for upgrade | Set in council policies. (an estimated 28 years on average) | Within 15 years of legislation taking effect (URM buildings within 7 years of legislation taking effect) | Within 20 years of legislation taking effect (i.e. assessment by TAs within 5 years, strengthening within 15 years of assessment) |
| | | | TA powers to require certain buildings to be strengthened faster (i.e. buildings likely to have a significant impact on public safety (including buildings with high risk elements such as falling hazards) and strategically-important buildings), after following special consultative procedure in LGA 2002 |
| Central government/ local government role | Central government role limited (largely devolved model) | Central government role much greater than status quo, however local government still has critical role | Central government role much greater than status quo, including providing direction and guidance to TAs, owners and the public (including better information on risk), and to monitor overall system performance. However local government still has critical role |

| | Current system | Royal Commission | Proposed system |
|---|-----------------------|--|---|
| TAs able to issue consents for earthquake strengthening without requiring upgrades to access and facilities for people with disabilities | N/A | Yes – TA discretion | Yes (for earthquake-prone buildings only) Either: (a) TA discretion, or (b) de-linked |
| TA powers to require hazardous elements of houses to be dealt with, e.g. URM chimneys | N/A | Yes | N/A – but additional guidance, information and education |
| TA powers to require higher levels of strengthening | N/A | Yes, for all or some buildings, after following special consultative procedure in LGA 2002 | N/A – but additional guidance, information and education |
| TA powers to require faster timeframes for strengthening than mandated by central government | N/A | Yes, for all or some buildings, after following special consultative procedure in LGA 2002 | N/A – with the exception of the certain buildings referred to in the timeframes for upgrade row above |

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Appendix 2: Themes from submissions on the proposals in the consultation document

| Proposal in Consultation Document | Overall Theme | Comments / Concerns Raised in Submissions |
|--|----------------------------|---|
| <p>Proposal 1 and 2:</p> <ul style="list-style-type: none"> • Compulsory seismic capacity assessment of buildings by TAs within 5 years (with certain buildings prioritised) | <p>Generally supported</p> | <ul style="list-style-type: none"> • Many of the concerns relate to the mechanics of how the assessments would be done and potential costs (e.g. questions of whether owners should be required to do this and provide results to TAs instead, concerns about potential assessment tools, and sector capacity/capability) • No clear majority view on whether 5 years is sufficient |
| <p>Proposal 3:</p> <ul style="list-style-type: none"> • Central register | <p>Generally supported</p> | <ul style="list-style-type: none"> • Many of the concerns relate to the quality of information to be disclosed and concerns about potential impacts on building values • Some submitters supported TAs maintaining their own registers instead of, or in addition to, a central register |
| <p>Proposal 4:</p> <ul style="list-style-type: none"> • Retain current threshold for defining an earthquake-prone building (33%) – strengthening ‘required’ so building is not earthquake-prone (34%) | <p>Generally supported</p> | <ul style="list-style-type: none"> • Some submitters noted the market is currently driving higher levels of strengthening • Some submitters thought the proposal could be more aligned with specific areas of risk, others thought the threshold/strengthening level was too low |

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| Proposal in Consultation Document | Overall Theme | Comments / Concerns Raised in Submissions |
|--|----------------------------|---|
| <p>Proposal 5 and 7:</p> <ul style="list-style-type: none"> • Buildings to be strengthened (or demolished) within 10 years of assessment (owners submit plan within 12 months), i.e. within 15 years in total | <p>Not supported</p> | <ul style="list-style-type: none"> • Significant push back, particularly around the proposal to submit a plan within 12 months of assessment (proposal 7) • Many of the concerns relate to capacity/capability, and costs/affordability • Also a perception that the proposal is a 'one size fits all' approach (e.g. does not adequately consider people at risk, location risk, economic issues and heritage issues) |
| <p>Proposal 6:</p> <ul style="list-style-type: none"> • Certain buildings prioritised for strengthening (e.g. high risk/critical buildings, and high risk building elements such as falling hazards) | <p>Generally supported</p> | <ul style="list-style-type: none"> • There is general support for this proposal |
| <p>Proposal 8:</p> <ul style="list-style-type: none"> • Exemptions from strengthening timeframes for certain buildings where consequence of failure is low | <p>Generally supported</p> | <ul style="list-style-type: none"> • Many of the concerns relate to ensuring that any exemptions are clearly defined and risk based |
| <p>Proposal 9:</p> <ul style="list-style-type: none"> • Central government to provide more direction and guidance, and to monitor overall system performance | <p>Generally supported</p> | <ul style="list-style-type: none"> • General support for a greater leadership role for central government |

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Appendix 3: Themes from submitters on the Royal Commission’s recommendations that extend beyond the proposals in Appendix 2

| Royal Commission recommendations that extend beyond proposals in the consultation document | Overall Theme | Comments / Concerns Raised in Submissions |
|---|------------------------|--|
| Unreinforced Masonry (URM) building recommendations (timeframes, and strengthening levels) | No clear majority view | <ul style="list-style-type: none"> No clear majority view on the recommendation that URM buildings be assessed faster than other buildings (within 2 years) |
| | Not supported | <ul style="list-style-type: none"> Recommendation that URMs be strengthened faster than other earthquake-prone buildings (within 7 years) is not generally supported General theme from submissions is that assessment and strengthening should be based on risk |
| | No clear majority view | <ul style="list-style-type: none"> No clear majority view on the recommendation that certain hazardous parts of URM buildings (e.g. chimneys and parapets) be strengthened to a higher level than a minimum of 34% |
| Provide TAs with the ability to require higher levels of strengthening mandated by central government | Not supported | <ul style="list-style-type: none"> Overall theme from submissions is that this recommendation is not supported |
| Provide building consent authorities with the ability to issue building consents for strengthening work without requiring upgrades to access and facilities for people with disabilities | Generally supported | <ul style="list-style-type: none"> Supported by a majority of submitters (including many owners and businesses) – opposed by disability advocacy groups and the Human Rights Commission |
| Provide TAs with the ability to require hazardous elements on residential buildings (houses) to be dealt with in a specified timeframe, e.g. URM chimneys | No clear majority view | <ul style="list-style-type: none"> Of concerns raised, some view the risks as not significant enough to justify regulation, others see guidance/education as appropriate |