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Building (Earthquake-prone buildings) Amendment Bill Interim Report

Local Government New Zealand's submission to Local Government
and Environment Select Committee

16 July 2015

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We are. LGNZ.

LGNZ is the national organisation of local authorities in New Zealand and all 78 councils are members. We represent the national interests of councils and lead best practice in the local government sector. LGNZ provides advocacy and policy services, business support, advice and training to our members to assist them to build successful communities throughout New Zealand. Our purpose is to deliver our sector's Vision: "Local democracy powering community and national success."

This final submission was endorsed under delegated authority by Lawrence Yule, President, and Local Government New Zealand.

Introduction

Thank you for the opportunity to submit on the proposed amendments to the Building (Earthquake-prone buildings) Amendment Bill. This submission has been prepared on behalf of New Zealand's local authorities.

We support the overall approach proposed in the amendments to the Bill for the management of buildings that are a risk in an earthquake. Prioritising parts of the country where the seismic risk is greatest and schools and buildings that are required for emergency services addresses the variable risk and supports community resilience in seismic events.

We also strongly support the proposed amendments in the Bill that clarify roles and responsibilities of territorial authorities (TAs) and building owners, and the process to identify earthquake prone buildings. The provision of clear unambiguous guidance, either through regulations or supporting guidance, is vital to ensure that the primary participants in the implementation of this Bill (TAs and building owners) are clear about their responsibilities and decision making is legally robust.

Comments in response to Select Committee request for feedback

Timeframes for identification and remediation of earthquake prone buildings and priority buildings

LGNZ supports the applicable timeframes (Clause 133AF (4) (a)) for assessment of buildings. The approach outlined in the Bill enables TAs to progress assessments, and hence remediation of earthquake prone buildings where there is sufficient expertise available to undertake detailed assessments of buildings.

The amendments propose that timeframes for assessment and remediation of buildings is linked to the existing Building Code seismic hazard factor (commonly referred to as the Z factor).

While at the highest level this means:

- low seismic risk areas TAs have 15 years to complete assessments and building owners have 35 years to undertake strengthening;
- medium seismic risk areas TAs have 10 years to complete assessments and building owners have 25 years to undertake strengthening work; and
- high seismic risks areas TAs have 5 years to complete assessments and building owners have 15 years to undertake strengthening;

the time frame for remediation or strengthening an earthquake prone building begins when the territorial authority issues an earthquake prone building notice.

LGNZ supports the provision of clear, unambiguous regulations and supporting guidance to ensure that the process of declaring a building earthquake prone is legally robust eg TAs should not be required to undertake further assessment of engineering assessments.

Priority Buildings

LGNZ also supports halving of the applicable timeframes for assessment and strengthening of priority buildings including hospitals, schools, pre-schools (regularly occupied by at least 20 people) and emergency service facilities.

The definition of priority buildings (133AC (e)) also encompasses buildings that are used for a range of educational activities and that are “regularly occupied by at least 20 people”.

The term “regularly occupied” requires clarification. The ambiguity of this term used in the same line of Clause 133AC(e) as “at least 20 people” suggests that this directive became difficult to define. TAs should not be left to interpret what “regularly occupied” means.

We support further work to define “regularly occupied”.

Extensions to timeframes

LGNZ supports the proposal for the owners of Category 1 heritage buildings or National Historic Landmarks buildings to apply to the territorial authority for an extension of 10 years to complete strengthening work. As per our previous submission to the Bill we confirm the requirement for written applications and a fee.

The provision of guidance or a template on applications for an extension to the timeframe to complete strengthening is also supported.

Reducing the scope of buildings covered by the Bill

LGNZ supports proposals to reduce the scope of buildings covered by the Bill acknowledging the ability to exempt other buildings that meet criteria to be defined in regulations 401C(b)).

Noting the addition of Clause 133AS(3) “the territorial authority must deal with the application (for exemption) promptly” we reiterate the need for unambiguous direction in these regulations.

Substantial alterations and disability and fire access

LGNZ supports the provisions as outlined in the amended bill Clauses 133AX and 133 AX(2). These provide greater certainty for owners of earthquake prone buildings.

We support further work to define “substantial alterations” in the regulations.

Other comments

Notices and placarding

Under Subpart 6A Special Provisions Clause 133 ABA (3), it states that an earthquake rating may be expressed as a percentage or a percentage range. Examples provided in the amended Bill discuss two categories – buildings that meet 25 per cent of the requirements of the building code and buildings between 0-10 per cent of the requirements. While we understand the rationale for the enhanced notice regime or rating of buildings into what is in effect the worst (below 10 per cent NBS) and other buildings below the earthquake prone building threshold, practically the implementation of the enhanced notice regime will undoubtedly meet with resistance from building owners.

As it stands it is the building owner's responsibility to provide the detailed assessments for buildings within 12 months of the TA identifying a building as potentially earthquake prone and requesting an engineering assessment. From a TA perspective, implementation of these ratings will only be feasible if other proposed amendments remain unchanged. The rating proposed in the discussion document and the limited ability for building owners to litigate decisions (particularly given the engineers report is at their own cost) acknowledges this and provides a well thought out solution to what could be a significant problem.

Significant public communication on what the rating placards mean will also be necessary.

Finally, given the extended timeframes for assessment and remediation of buildings in low seismic zones it is questionable that placarding anything but the worst (ie those in the 0-10 per cent rating) buildings in these areas will have any substantive benefit.

Earthquake prone building database

LGNZ supports the amendments to the information requirements (earthquake prone building register) to only buildings that are earthquake prone noting that interested parties may also wish to know which buildings have been assessed and are not earthquake prone.

Transitional provisions Schedule 1AA Clause 2(5)

Transitional provisions enable TAs to issue an EPB notice where there is an existing Section 124 at commencement date. LGNZ supports this provision.

Offence provisions

LGNZ reiterates support for offence provisions in the Bill including the new provisions outlined in new Sections 133AV and 133AY.

Conclusions

LGNZ thanks the Select Committee for a pragmatic response to the draft Bill. We reiterate the importance of the same approach to the regulations and guidance. Territorial authorities are working closely with MBIE as these are being developed and will continue to advocate strongly for the provision of clarity and certainty for both building owners and TAs in the regulations.