

**Local Government
New Zealand**
te pūtahi matakōkiri

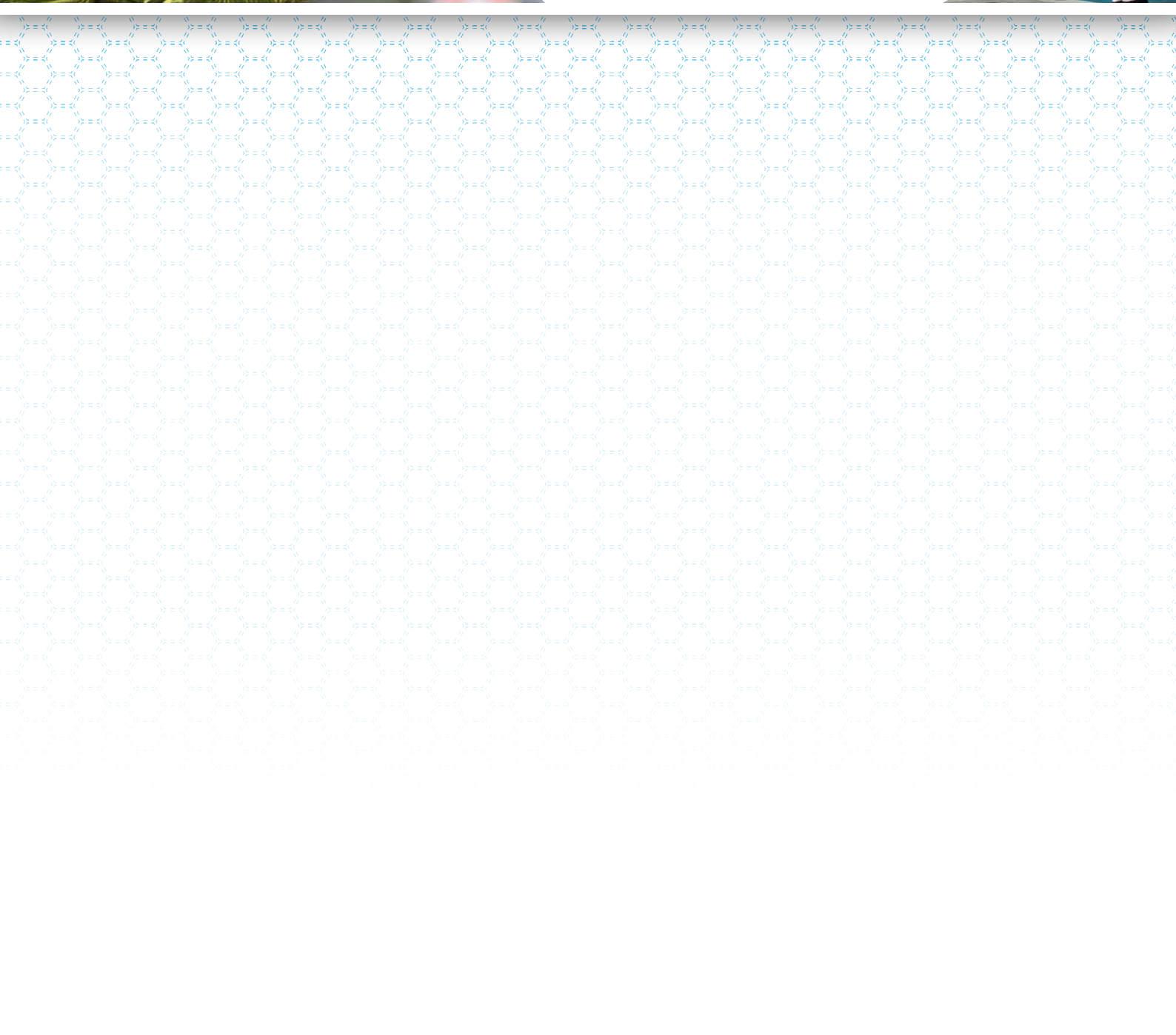


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Introduction

1. *Local Government New Zealand* thanks Royal Commission for the opportunity to make this submission in relation to the Canterbury earthquakes.
2. *Local Government New Zealand* makes this submission on behalf of the National Council, representing the interests of all local authorities of New Zealand.

It is the only organisation that can speak on behalf of local government in New Zealand. This submission was prepared following consultation with local authorities. Where possible their various comments and views have been synthesised into this submission.

In addition, some councils will also choose to make individual submissions. The *Local Government New Zealand* submission in no way derogates from these individual submissions.

3. This final submission was endorsed under delegated authority by:
 - Eugene Bowen, Chief Executive, LGNZ
4. *Local Government New Zealand* wishes to be heard by the Royal Commission to clarify the points made by this written submission as necessary.

***Local Government New Zealand* (LGNZ) policy principles**

5. In developing a view for the Canterbury Earthquake Royal Commission inquiry we have drawn on the following high level principles that have been endorsed by the National Council of *Local Government New Zealand*: We would like Royal Commission to take these into account when reading this submission.
 - **Local autonomy and decision-making:** communities should be free to make the decisions directly affecting them, and councils should have autonomy to respond to community needs.
 - **Accountability to local communities:** councils should be accountable to communities, and not to Government, for the decisions they make on the behalf of communities.
 - **Local difference = local solutions:** avoid one-size-fits-all solutions, which are over-engineered to meet all circumstances and create unnecessary costs for many councils. Local diversity reflects differing local needs and priorities.
 - **Equity:** regulatory requirements should be applied fairly and equitably across communities and regions. All councils face common costs and have their costs increased by Government, and government funding should apply, to some extent, to all councils. Systemic, not targeted funding solutions.

- **Reduced compliance costs:** legislation and regulation should be designed to minimize cost and compliance effort for councils, consistent with local autonomy and accountability. More recognition needs to be given by Government to the cumulative impacts of regulation on the role, functions and funding of local government.
- **Cost-sharing for national benefit:** where local activities produce benefits at the national level, these benefits should be recognised through contributions of national revenues.

Comments

ISSUE 3 INQUIRY INTO LEGAL AND BEST-PRACTICE REQUIREMENTS

6. We would like to begin by acknowledging the quality of the response to the Canterbury earthquakes by Christchurch City Council, Canterbury CDEM group, local authorities and central government. It was clear that much has been learnt from previous earthquake and flood events that informed the local and national response to the Canterbury earthquake sequence. Undoubtedly there will continue to be improvements to the way we respond to natural disasters but overall the integration with central government agencies, national control, Department of Building and Housing (DBH), Ministry for Environment (MfE), went very well in extraordinary circumstances.
7. The primary focus of this submission is the Building Act (2004) and matters relating to earthquake prone building policy. There are some areas where a lack of integration between the Building Act and Civil Defence and Emergency Management (CDEM) Act could be rectified to address ambiguity and ensure better process in future events. These are outlined briefly in other proposed changes.
8. Local authorities are creatures of statute and, simply put, can only implement established regulation. A key thrust of this submission is the need to review the definition of a moderate earthquake to increase requirements for seismic strengthening of earthquake prone buildings. When considered in a risk management framework the option of national regulation has its own challenges as the risk of natural hazard events is not equal over all of New Zealand. The challenge is to provide sufficient national direction to enable beneficial outcomes without impeding the ability of local authorities who can factor local risk into their decision making, alongside a conversation with their community about what is an acceptable level of risk.

EARTHQUAKE PRONE BUILDING POLICY

9. We note the recommendation for a single, national policy for unreinforced masonry building maintenance and seismic strengthening in the technical report "The Performance of Unreinforced Masonry Buildings in the 2010/2011 Canterbury Earthquake Swarm" (Professors Ingham and Griffith's).
10. Currently the Building Act (2004) Section 122 refers to an earthquake prone building as a building that will have its ultimate capacity exceeded in

a moderate earthquake. A moderate earthquake is defined in the Building (Specified Systems Change the Use, and Earthquake-prone Buildings) Regulations (2005) as an earthquake one-third as strong as the earthquake shaking that would be used to design a new building at that site (33% National Building Specification (NBS)).

11. In general, territorial authorities consider there is a case to review the definition of a moderate earthquake to increase requirements for seismic strengthening of earthquake prone buildings. Many would support a minimum requirement of 67% NBS. Some would support a higher standard.
12. The New Zealand Society for Earthquake Engineering report "Assessment and Improvement of the Structural Performance of Buildings in an Earthquake" equates 20-33 % NBS as 10-25 times the risk of a buildings strength being exceeded. For buildings strengthened to 67-80% NBS the risk is 2-5 times. Department of Building and Housing guidelines infer a preference for earthquake strengthening to as near to NBS as is practical.
13. Regardless of risk and DBH guidelines, territorial authorities cannot require building owners to strengthen to more than 33% NBS.
14. Changes to the law on earthquake-prone buildings were introduced with the intent of reducing casualties in major earthquakes. A national specification for seismic strengthening avoids uncertainty and costly litigation for territorial authorities on the degree to which buildings should be strengthened. This is as relevant after an event to ensure rebuilding is carried out to an agreed standard eg Gisborne District Council came under considerable pressure by the insurance industry who argued that a rebuild to 33% was all that was called for after the 2007 event, even though council policy was 67% NBS.
15. A national approach to seismic strengthening recognises Government's national interest in earthquake events, addressing externalities implicit in the existing definition such as the social and economic costs of injuries and loss of life, social and economic disruption, and loss of amenity.
16. The Building Act requires territorial authorities to have a policy regarding how they will deal with earthquake-prone buildings in their districts. The Act enables each territorial authority to have a policy on earthquake-prone buildings which determines the approach, priorities and timetable to be followed. Varying approaches by different councils throughout the country reflect the open-ended nature of the Act's requirement. Under most policies, strengthening of earthquake-prone buildings can be staged over several years to avoid placing too onerous an economic burden on owners and local economies.
17. It is important that some flexibility is maintained to enable territorial authorities to develop locally appropriate responses which recognise local risk and priorities.
18. There are some local authorities that support nationally established timeframes for upgrades of buildings with special post disaster functions, and buildings, ie those that contain people in crowds or contents of high value as defined in AS/NZS 1170 Importance level 3 and 4. Others are concerned about their inability to mitigate risk of falling hazards from

buildings that do not meet the criteria of a dangerous building under Section 121 or an earthquake prone building (section 122 BA), eg Wellington City Council.

19. There is also a need to ensure national policy does not create perverse incentives which could lead to the loss of heritage buildings. The Oamaru historic precinct for example is home to New Zealand's best example of Victorian commercial buildings and street scape. The Waitaki District Council has a passive approach to earthquake prone building policy and is clear that any national policy must recognise the nature of local circumstances.
20. Many local authorities are reviewing earthquake prone building policy. The legislation requires these policies to be reviewed every five years. With the complexity of issues being addressed through the Inquiry and the potential for recommendations which will influence policy it is difficult for local authorities to know whether to progress their reviews.
21. By way of a solution we draw your attention to the Ingham/Griffiths technical report on unreinforced masonry buildings and the recommendation for a cost effective strategy and incentives to implement upgrades of buildings across New Zealand.
22. We strongly support the development of a country wide strategy to implement upgrades. Together with a national standard for seismic strengthening LGNZ believes this would be a cost effective approach to implementation of earthquake prone building policy to prevent injury and death or damage to other properties.
23. The provision of incentives, central and local, will play an important role in ensuring comprehensive implementation of earthquake prone policy.

OTHER PROPOSED CHANGES

24. Discussions with Christchurch City Council have highlighted a number of areas where there is a need to improve the transition between the Building Act and CDEM Act.

As examples

- Different tests for dangerous or earthquake prone building under the state of emergency and application of the red, yellow, green placards, to that in the Building Act. It is unclear if a local authority can simply replace placards applied under the state of emergency without reassessment of the building.
- Section 121(1)(a) and 121(1)(b) (BA) definitions are not sufficient to cover the range of dangerous situations arising from earthquake, eg there is the risk the building could collapse in a less than moderate earthquake, buildings not captured under earthquake prone building policy such as residential buildings which might be at risk of collapse and where other hazard exists such as buildings nearby that may collapse, rock-fall and cliff collapse.
- The question of what level of risk should be in regulation?
Section 121 (BA) existing definitions of a dangerous building refers

to 'likely to cause' injury or death, damage to other property etc, amendments under the Canterbury Earthquake (Building Act) Order 2010, Section 121(1)(c) say "there is a risk that the building could collapse or otherwise cause injury or death to any person....". Recent determinations for the purposes of section 71-74 (BA) stipulate a 'likely' flood hazard is a flood frequency of 200 years or less. Anything else does not need to be protected against.

- Changes to the seismic hazard factor and how to address this in preparing earthquake prone building policy. The seismic loading factor was changed in Canterbury resulting in many more buildings captured under earthquake prone building policy.
 - Use of Section 72 and the issues with getting insurance.
25. We note Building Amendment Bill (No 4) includes amendments to Sections 121 and 124 of the Building Act. Some other changes have been included in the Canterbury Earthquake (Building Act) Order 2010 and the Canterbury Earthquake Recovery Act 2011. However, it is unclear what, if any, of these latter changes will result in further amendments to the Building Act.

Conclusion

26. *Local Government New Zealand* thanks the Royal Commission for the opportunity to submit to the Inquiry into the Building failure caused by the Canterbury Earthquakes.
27. In general, territorial authorities consider there is a case to review the definition of a moderate earthquake to increase requirements for seismic strengthening of earthquake prone buildings. Many would support a minimum requirement of 67% NBS.
28. *Local Government New Zealand* strongly supports the development of a country wide strategy to implement upgrades. Together with a national standard for seismic strengthening LGNZ believes this would be a cost effective approach to implementation of earthquake prone building policy to prevent injury and death or damage to other properties.
29. The provision of incentives, central and local, will play an important role in ensuring comprehensive implementation of earthquake prone policy.



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