



INNER-CITY
WELLINGTON Te Reo Pokapū o Pōneke
VOICE OF TE ARO AND WELLINGTON CENTRAL

Submission to the

Governance and Administration Select Committee

in support of two petitions to Parliament:

1. Review of the earthquake-prone building provisions of the Building Act 2004
2. Comprehensive support for residential owners in earthquake-prone buildings

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Executive Summary

He aha te mea nui o te ao. He tāngata, he tāngata, he tāngata
What is the most important thing in the world? It is people, it is people, it is people

Keeping people safe from harm when disasters strike is important, but if how we do that is by ruining the lives of more people that will be saved, then we must think again.

This submission calls on the Governance and Administration Select Committee to consider the people who have faced and are facing the unreasonable, unfair, harmful and morally indefensible effects of the earthquake-prone building provisions of the Building Act 2004-

This submission calls on the Governance and Administration Select Committee to hear directly from the affected owners.

Hundreds of people in Wellington alone are suffering the consequences of owning an apartment home in a building that has been assessed as *earthquake-prone*. They are being forced to manage and bear the full costs and risks of delivering a public benefit without any protections or compensation.

As a consequence, these apartment home owners are dealing with life changing financial losses, disruption and health problems, and in many cases facing the loss of their homes. Few if any will ever recover the full cost of strengthening and the original capital value of their homes.

Thousands of home owners will find themselves in this situation as the perverse consequences of the legislation become apparent in other parts of the country.

Why we focus exclusively on multiple-ownership residential buildings (MORBs)

In this submission and based on extensive research¹, Inner City Wellington (ICW) highlights numerous generic problems with the EPB policy, legislation and implementation system that have implications for owners of all types of EPBs. All of these problems should be addressed for the sake of all stakeholders.

However, we are specifically concerned with the very particular impacts of the EPB regime on the owners of private homes in multiple-ownership residential buildings (MORBs), which we define as buildings that:

¹ An outline of the methodology is covered in the Introduction section in the submission.

- a. Have two or more storeys and contain three or more units
- b. Are wholly or predominantly residential
- c. Contain individual apartments homes
- d. Are in multiple-ownership – unit titles or cross lease/company share on a single title

MORBs are distinct from all other building in that they are not open to or used by the general public, and owners of homes in MORBs are a specific stakeholder group. In Wellington, we estimate there are over 380 apartments currently in EPBs.

12 good reasons for the Government to take urgent action

1. The policy attempts to externalise responsibility for public safety, a core purpose of government, to private individuals

Public safety is a core purpose of government, yet the EPB funding model is unique and iniquitous in that it forces private individuals to take responsibility for delivering (very small) long range public benefits, at their own cost and risk, no matter how great those costs and risk might be.

As the cost benefit ratio was negative in the 2012 cost benefit analysis, the programme would not have met Treasury requirements if it was going to be funded from public funds.

The model forces a massive and involuntary shift of capital from home owners to the building industry, government GST revenues, lawyers, and developers.

2. Implementation of the policy amounts to extortion

Home owners are made liable for the limitless costs and risks of compliance with potentially devastating effects on home owners' financial position, life choices and health.

To force them to make decisions that are not in their interests, home owners are threatened with non-compliance penalties of \$200,000 fines and compulsory demolition of their homes, at their cost

No discernible benefits accrue to home owners.

3. The system does not recognise home owners

Home owners' interests are not the same as those of public or commercial owners.

Owner occupiers and small-scale rental owners have to pay more than commercial building owners because they cannot claim back GST or set expenses against income for tax purposes.

Home owners are vulnerable. Most do not have the competence or confidence to be strong clients in a hostile environment and to manage complex, high risk, commercial scale building projects.

Approaches to Government and WCC to consider the impact on apartment home owners have largely been met mainly with disrespect, closed ears and closed minds.

4. The policy is based on unreliable data and weak analysis

The 2012 policy analysis and advice was poor quality. It depended on unreliable data and unfounded assumptions in some areas. It did not include any analysis of the financial or social impacts on the funding stakeholders, building owners. There was no stakeholder analysis or risk assessment.

5. Real costs are 10x higher than the 2012 estimates

It appears that the actual costs of strengthening are ten times more than the estimates of costs in the 2012 cost benefit analysis and costs are rising at around 5% a year.

In recognition that some affected owners will not be able to afford or borrow their share of the costs, the Government has put \$10m in Budget 2019 to support suspensory loans, subject to eligibility criteria yet to be announced. This scheme will only be useful to a small number of owners in buildings where strengthening is progressing.

6. Strengthening rarely meets the critical criteria of financially viable, practically feasible, and low risk

Retro-strengthening of residential buildings, is prohibitively expensive, technically complicated, and has impacts on the lives and owners and their families far beyond any value it delivers. For most owners, strengthening is not financially viable, not practically feasible, and is far too risky. Selling is likely to be the best worst solution but even this is likely to result in significant losses with lifelong consequences. Inevitably, owner will suffer stress and maybe worse mental health problems.

7. Including MORBs in the EPB regime has almost no impact on public safety

The risk posed by buildings that are not used by the public is negligible, yet these buildings are treated as posing the same risk to public safety as public and commercial buildings.

An estimated 12% of all EPBs are private residential buildings, not public spaces. Exempting them from the mandatory requirement to strengthen or demolish, except to secure non-structural elements, would have an infinitesimally small impact on public safety outcomes and remove an unnecessary imposition on the lives of private individuals.

8. Remediating existing building is much more complicated than has been acknowledged

Compliance timeframes are unrealistic. The decision-making process in MORBs is complex with owners having different personal and financial circumstances. Even with concerted effort, it can take years to progress to a decision.

Home owners are being expected to make decisions about complex, technical, and expensive construction projects without any effective supports. This places unreasonable stress on a few individuals who step up to take the lead and is impacting on their wellbeing.

Building companies willing to take on multiple-owner clients and work on earthquake strengthening projects are few and their order books may be full for some time.

9. Emerging issues increase the risks

Rising costs, collapsing building companies, newly identified structural problems, and a building industry with capacity problems all adds up to a very risky environment for home owners to be considering strengthening projects.

Almost daily new revelations appear about yet another building that has been found to be earthquake-prone, or to have dangerous faults due to the use of substandard materials, methodologies and workmanship, or both. This increases the risks for owners in residential EPBs as they try to navigate and understand the impacts of these emerging issues across the sector.

The insurance sector is ignoring the seismic rating of buildings that have been strengthened and are actively advocating for a new building standard that includes 'recovery'. This raises further questions about the policy basis for the EPB legislation and the implications of any new standard for existing buildings.

10. Overseas experiences were misrepresented but offer solutions

No other country has a mandatory retro-strengthening and demolition regime for residential buildings like the one New Zealand has and there are good reasons for that. However, there are examples of alternative approaches focused less on enforcement of the almost impossible and more on incentivising voluntary strengthening and redevelopment.

11. The implementation system is flawed and needs to be tightened if owners are to have confidence in it

The use of % NBS as an indicator of real risk, the integrity of the assessment methodology, the use of the term 'earthquake-prone', and the definition of 'moderate

earthquake' have been issues of contention since well before 2016. They are still problematic. Submissions on these topics received during the policy consultation and the committee stage of the bill should be revisited and further work done on these elements of the system.

Home owners' lives turn on an engineer's decision whether a building is less than or more than 34% NBS. There is a widespread lack of confidence in DSA, NBS ratings, engineers and other professionals in the building sector, and building companies. There appear to be no quality assurance processes or protections for MORB clients.

The assessment methodology may allow wide safety margins for engineers to protect themselves from later prosecution. If this is the case, the effect will be to produce 'false positive' results, so some buildings will be assessed as earthquake-prone when they are not.

The system does not anticipate any financial impact on home owners and offers no guidance eg likely capital and utility value losses and lifelong impact of losses, issues relating to existing mortgages and loan commitments, access to finance for compliance work, multiple-ownership project funding mechanisms eg escrow scheme, potential for bankruptcy, etc.

The system does not anticipate any social impacts on home owners eg need for alternative accommodation, potential need for social housing, impact on owners with disabilities or dependents who have disabilities, impact on owners with fixed incomes, impact on eligibility for school registration, impact on owners who rely on local health facilities, need for counselling and other support for the effects of stress.

Almost none of the Government's Expectations for Good Regulatory Practice have been or are being met. Regulatory stewardship is not taken seriously.

MBIE's external building sector advisors on EPB policy and system design are industry insiders and have conflicts of interest. MBIE's external advisors do not include any representatives of home owners.

12. The current policy is creating a no-win situation for owners and territorial authorities

Home owners are stuck, unable to comply and frightened of the penalties. In most cases, compliance is not financially viable, not practically feasible, and/or too risky to attempt. Many are thinking of selling but are afraid of what buyers' market might mean for them.

Compliance or selling could incur lifetime losses as much as \$1m per owner, plus the associated social impacts of that.

If the legislation is not amended, this deadlock situation could last a very long time, corroding home owners' lives with every day the EPB notice hangs over them.

When compliance deadlines pass, WCC will be entitled to enforce the regulations imposing fines, closing buildings and fencing sites, and ultimately evicting occupants and demolish buildings, charging the owners for doing so. No doubt attempts to the enforce the regulations would lead to court action on both side and protests by owners. This kind of situation would be very costly and time consuming for WCC.

This pattern could become commonplace, in Wellington and across the country if the Government does not accept the effect of the EPB legislation on home owners is unreasonable, unfair, harmful and morally indefensible.

It is in everyone’s interest to find a solution before compliance deadlines come around.

Conclusion

Based on our research, ICW believes:

- That the impacts of the legislation on apartment home owners are unreasonable, unfair, harmful and morally indefensible.
- That to address the situation, the Government must take the following steps:

1.	<p>Commission an independent, comprehensive review of the impact on home owners of the EPB policy, legislation and implementation system, which:</p> <ul style="list-style-type: none"> a. Addresses our claim that that the impacts on apartment home owners of Subpart 6A of the Building Act 2004 are unreasonable, unfair, harmful and morally indefensible b. Addresses our claim that there are issues with the integrity of the implementation system, and includes an independent scientific assessment of the claims made for its key components c. Draws on the knowledge and experiences of owners of homes in multiple-ownership residential buildings who have been or are currently in the EPB system d. Makes recommendations for amendments to Subpart 6A of the Building Act in respect of MORBs e. Makes recommendations for how home owners who have been or are currently in the EPB system can be compensated for their losses and where appropriate, assisted to exit the system
2.	<p>Put a moratorium on any further identification of potentially earthquake-prone MORBs, and requirements to provide Detailed Seismic Assessments, to prevent harm to more home owners, pending the outcomes of the review</p>
3.	<p>Contact all home owners who have been or are currently in the EPB system individually to:</p> <ul style="list-style-type: none"> a. Inform them about the review including its terms of reference, so that they can decide whether to pause whatever they are currently doing to

	respond to the legislation b. Invite them to make submissions to the review
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- That amendments to the Building Act should be considered, to remove the requirement for apartment home owners to comply with the requirement to strengthen or demolish their MORBs, but enable an encouragement rather than an enforcement approach to the earthquake resilience of MORBs that would be reasonable, fair and more effective than the current regime.
- That apartment home owners who have been or currently are victims of the EPB regime, should be compensated for losses and assisted to exit the regime by their chosen route.

Appendix 4 provides an intervention logic diagram for the proposed legislation changes and compensation package.

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Glossary

This glossary contains abbreviations used in the submission and clarifies how specific terms are used for the purpose of this submission.

Apartment home owners	The apartments affected by this legislation are ‘homes’ for the owner-occupiers or tenants, just as a standalone house in the suburbs is someone’s home. This term is used consciously to reinforce this to the Select Committee.
BCCG	Body Corporate Chairs’ Group https://www.bccg.org.nz/
BWoF	Building Warrant of Fitness
DSA	Detailed seismic assessment – an engineering report that establishes the seismic rating (%NBS) for a building
EPB	Earthquake-prone building
ICW	Inner City Wellington. http://www.innercitywellington.nz/ It previously operated under Inner City Association and some of the submissions use this name.
MORB	Multiple-ownership Residential Building MORBs are wholly or predominantly residential and owned by multiple unit title owners, or on a single title cross lease/company share basis
MBIE	Ministry of Business, Innovation and Employment
NBS	New Building Standard: the standard which new buildings must meet or exceed. Existing buildings are assessed against this standard to determine if they withstand shaking of a moderate earthquake.
RV	Rating valuation or rateable valuation
WCC	Wellington City Council

Introduction

Inner City Wellington

Inner City Wellington (ICW) was founded on 3 November 2008. ICW seeks to serve as a progressive and influential voice, of and for the residents, organisations, businesses and property owners in the suburbs of Te Aro and Wellington Central. The impact of mandatory seismic strengthening on home owners has been a focus since the inception of ICW.

Our website contains information on ICW's recent activities www.innercitywellington.nz

ICW engagement on earthquake-prone building legislation

ICW's activities in representing the interests and concerns of home owners affected by EPB legislation include:

- Research on the development of the Building Act 2004 leading to Wellington City Council developing its Earthquake-Prone Building Policy
- Submissions to Wellington City Council Committees on policy proposals that affect owners of earthquake-prone buildings, including Annual Plan and Long Term Plan processes calling for support mechanisms for affected owners
- Submissions to Select Committees on the Buildings (Earthquake-prone Buildings) Amendment Bill and Interim Report
- Submission to Inland Revenue on tax deductibility of seismic assessment costs 2016 for home owners
- Submissions to the Tax Working Group 2018 and 2019 on tax relief for all home owners facing seismic strengthening
- Proposal on lender of last resort in conjunction with the Body Corporate Chairs' Group in 2017 (this formed the basis of the Government's Financial Assistance Scheme)
- Proposals for advisory support in 2015 to WCC and 2017 and 2019 to central and local government politicians
- Media releases and engagement on the impacts on home owners of the EPB legislation
- Letters to Ministers (Williamson, Smith and Salesa) responsible for the EPB legislation calling for support for home owners facing mandatory seismic strengthening and requesting meetings with previous and current Ministers (which did not take place)

- Series of seminars for home owners in EPBs in 2012/13 and 2016, in conjunction with the Body Corporate Chairs' Group. Wellington City Council supported the 2016 seminars
- Survey of owners of homes in MORBs to collect strengthening cost and qualitative data
- Strengthening cost calculator (verified by an independent quantity surveyor) to assist bodies corporate and owners to understand the full costs of strengthening (2019)
- Public meeting for owners with homes in residential earthquake prone buildings to provide results of survey (6 June 2019)
- Two petitions asking Parliament to consider a comprehensive support package for home owners and review of the EPB legislation (July 2019)
- Extensive research and analysis covering all aspects of the impact of the EPB regime on home owners.

Since ICW's first submission on the Government's proposals following the Canterbury earthquakes, the enormous scale of the problem for apartment home owners has become apparent. The costs and other impacts have escalated, and continue to do so.

ICW's earlier submissions focused on preventing an increase in the threshold to 67%NBS, taking a pragmatic approach to the policy, preventing territorial authorities being given ability to increase the threshold, and highlighting the need for financial and advisory support for residential owners.

However, ICW's view has shifted from purely 'what help can owners' get', to a realisation that the whole policy with respect to apartment home owners needs to be reviewed. The impact is significantly beyond what is reasonable for Governments to expect of apartment home owners.

This submission is submitted by ICW but is informed by the research and input of a number of owners of apartments in MORB EPBs.

Limitations

To the best of our knowledge, what we say in this submission is correct and the numbers are accurate. However, like most home owners grappling with the baffling complexities of the EPB, we are not experts in the field. We are not statistics experts either and we do not have the time to undertake the full breadth and depth of research and analysis that should be done. An independent review commissioned by Government is needed to do that.

We do have more knowledge and material than we are able to include or discuss in this submission. If invited by the Select Committee to do so, we stand ready to provide more input at the appropriate time.

Responses of politicians and officials have been disappointing

Before the legislation was passed, ICW and many individual home owners have attempted to alert Government to the potentially disastrous effects Subpart 6A of the Building Act 2004 would have on owners of homes in EPB,. Our fears have proved well founded. The effects have been much worse than we expected.

We have made strenuous efforts to alert the Government and Wellington City Council to the evidence that is now readily available, that the EPB regime is a looming disaster for hundreds home owners and has already been a disaster for many. We have tried to warn of the risks not only for home owners but also for Government, WCC and ratepayers.

We have been disappointed by the responses of Government and Wellington politicians. One of the barriers to getting our message across is a mistaken view amongst some politicians and official that people who own apartments are wealthy and can afford the costs involved.

Grant Robertson, MP for Wellington Central since 2008:

- Has listened to our concerns and evidence.
- Has made provision in the 2019 Budget for a small suspensory loan fund for home owners. However, how the fund will work and who it will benefit is still unclear.
- Despite having compelling evidence from us on the effects of the legislation on home owners, has failed to gain support from the Minister for Building and Housing or the wider caucus for an independent review of the EPB policy, legislation or implementation system

The Minister for Building and Construction:

- Has failed to respond in any meaningful way to owners' questions about the effects of the EPB legislation on them or ICW's or owners' requests for meetings
- Has failed to respond to evidence that the effects are perverse, unfair, harmful and morally unacceptable and present risks for Government, territorial authorities and ratepayers.

Wellington City Council:

- Councillors and officials have met with ICW and individual owners but has not been willing to accept that they should relay to Government that home owners are facing such high costs and difficulties that they cannot possibly comply
- Has not collected critical data relating to implementation of the EPB legislation
- Has done no modelling of the impact of the EPB legislation on home owners or their own services, eg housing and waste management

- Is deeply conflicted as the regulator, provider of advisory support and facilitating development in the inner city.

Methodology

We have gathered publicly available information from numerous sources including government, WCC, and building sector organisations. We have submitted OIAs to MBIE and WCC. We have communicated with Government and WCC politicians and officials. We have communicated with many affected apartment home owner and with the Body Corporate Chairs Group.

In 2018 and 2019 we analysed MBIE, WCC and QV data online to get a better understanding of the characteristics of EPBs in Wellington, particularly multiple-ownership residential buildings.

We identified 35 MORBs and made contact with an owner (ideally a committee member) in as many of those as we could and asked them to complete a survey. Owners from 16 MORBs responded, with 13 providing cost data. From the data collected through the survey we have been able to establish a much clearer picture of the difficulties owners are facing.

We recognised that most owners were focusing on the estimates given by engineers and/or quantity surveyors for the strengthening work and not aware of the quantum of all the other costs that would be involved in getting to the point of a code compliance certificate when the work was completed.

We developed a cost calculator which we had verified by a quantity surveyor, and by entering the basic data provided by survey respondents, we were able to calculator we were able to show what the real costs were likely to be, arriving at an average per owner.

Wellington MORBs that are EPBs

Total number of EPBs in Wellington on MBIE EPB register 19.10.19	585
Total number of EPBs that are MORBs	37 / 6.3%
Total apartments	383

Aro Valley	1	Brooklyn	2	Central	1
Mount Cook	1	Mount Victoria	6	Newtown	3
Oriental Bay	1	Te Aro	14	Thorndon	2
Vogeltown	1	Wadestown	1		

Petition statements

Petition of Geraldine Murphy for Inner City Wellington: Review the earthquake-prone building provisions of the Building Act 2004

Petition request

That the House of Representatives review the earthquake-prone building provisions in the Building Act 2004 to take account of significantly higher costs, stretched sector capacity, and to focus resources on public safety priorities.

Petition reason

We feel that strengthening buildings has been undermined by the insurance sector ignoring the % New Building Standard. Insufficient construction sector capacity has resulted in increased costs. The priority must be on commercial and public buildings that present real public safety risk; timeframes for all other buildings need to be lengthened. Where strengthening is not economic, central and local government must facilitate a buyout for residential apartment owners to allow redevelopment.

Petition of Geraldine Murphy for Inner City Wellington: Comprehensive support for residential owners in earthquake-prone buildings

Petition request

That the House of Representatives provide comprehensive financial, technical and advisory support interventions for residential owners in earthquake-prone buildings facing significant financial costs and personal stress to comply with the current earthquake-prone building legislation.

Petition reason

We feel that the Building Act 2004 (Part 2, subpart 6A) creates an injustice for residential apartment owners by forcing them to manage, fund, and bear the risk of large construction projects. Interventions should include an authoritative assessment body, a technical and legal advice service, retrospective compensation for use of private funds and loss of value, loans and an insurance guarantee for strengthened buildings. We believe that without this support, buildings will not be strengthened.

The impacts of EPB legislation on owners of homes in multi-ownership buildings

For most owners of homes in multi-ownership buildings, the EPB journey begins when Wellington City Council informs them individually that the Council has done an initial (desktop) earthquake assessment (IEA) of their building and believes their building may be earthquake-prone.

The Council requests the owners to provide a Detailed Seismic Assessment (DSA) of their building by a suitably qualified structural engineer, by a deadline. Owners have no choice but to work together to select a structural engineer and pay for the DSA.

If the DSA confirms that the building is earthquake-prone, WCC issues owners with an EPB notice for the building. The EPB notice shows the compliance deadline. For buildings in Wellington which is a high-risk area, the deadline is 15 years from the date of the notice, unless the buildings is a 'priority building', in which case the deadline is 7.5 years away.

Positive impacts of an EPB Notice

There are no positive impacts for home owners.

The EPB policy is not intended to benefit home owners. The policy objective is to reduce the risk to the safety of the entire public presented by the existence of any building or part of a building that could collapse in the event of an earthquake.

Any reduction in the risk to an individual home owner of being killed or injured by their own building or a part of their own building would be incidental and immeasurably small.

No-one has been able to point to any discernible benefits that will accrue to home owners by their compliance with the legislation.

The immediate negative impacts of an EPB Notice

1. *Your home is labelled 'earthquake-prone'*

- Owners must display 'yellow stickers' around the building.
- Owners become afraid of living in their building because the term 'earthquake-prone building' is defined in the Building Act 2004 as a building that is "likely to collapse"

122 Meaning of earthquake-prone building

- (1) A building is **earthquake prone** for the purposes of this Act if, having regard to its condition and to the ground on which it is built, and because of its construction, the building—
- (a) will have its ultimate capacity exceeded in a moderate earthquake (as defined in the regulations); and
 - (b) would be likely to collapse causing—
 - (i) injury or death to persons in the building or to persons on any other property; or
 - (ii) damage to any other property.

The definition of what constitutes 'Earthquake Prone' is arbitrary and potentially misleading to the general public. A building that is not considered earthquake prone can still pose a significant hazard in an earthquake. The word 'prone' indicates to much of the public, that the building is either safe or unsafe, whereas this is not the case.

New Zealand Institute of Architects Incorporated, Submission to the Local Government and Environment Select Committee, [date?]

- Perversely perhaps, an EPB is not considered an unsafe place to occupy or work in. Being an EPB does not stop a residential building having a Building Warrant of Fitness (BWoF) because a BWoF covers health and safety systems such as emergency fire or danger warning systems, emergency lighting systems, lifts, and smoke control systems, but not the state of the building structure.
- WCC includes the EPB notice on the Land Information Memorandum (LIM) for the whole property, regardless of whether the whole property is earthquake-prone.
- WCC adds the building details to MBIE's EPB Register which is publicly searchable online.

2. *You are under a legal obligation to strengthen or demolish your home whatever the cost or risk of doing that*²

The issuing of an EPB notice changes owners lives forever. The notice makes each owner in the building personally liable for complying with the legislation by strengthening or demolishing the building by the deadline, whatever the cost and risk of doing so.

Owners who do not comply by the deadline are committing a criminal offence for which they face \$200,000 fines.

Owners who do not comply face compulsory demolition of their homes and will be liable to pay the Council for the cost of demolition.

<https://www.building.govt.nz/assets/Uploads/managing-buildings/earthquake-prone-buildings/epb-notices.pdf>

3. *The market value of your home drops dramatically*

The EPB Notice has the effect of instantly slashing the market value of homes to between \$0 and land value which amongst MORB EPBs in Wellington is on average 55%. For some it is considerably less.

In September 2018, owners of all homes in Wellington were sent updated rating valuations (RV). The EPB status of residential buildings was not reflected in the valuation of the homes in them, even though the RV is related to market value. The rates on many owners' homes actually rose in line with market values even though they were effectively worthless. Some owners of home in EPB submitted objections to their valuations and their RVs were reduced to land value.

Anecdotally we hear from owners and real estate agents that:

- A home in an EPB is effectively worthless because no-one wants to buy a home, even at land value, when it is impossible to predict the costs and risks of complying with the EPB legislation.
 - A few affected homes have sold for land value or less.
-

4. *You lose control of your most important asset, indefinitely*

An EPB Notice has the effect of freezing people's most important assets – their homes – until compliance or sale has been achieved which could be many years.

Home owners cannot sell their homes, which mean that life changes such as a new job in a different city or country, change of children's school, or move into aged care, may have to be put on hold or significantly amended. This may cause personal difficulties and involve unplanned costs.

Homes owners may be able to continue or start renting their homes, but a 'yellow sticker' may push down rental values.

Home owners' may lose the use their home as security for a mortgage or credit facility for personal or business purposes.

Because the EPB Notice instantly slashes the market value of a home to between \$0 and land value, existing mortgages, loans and credit facilities may be in jeopardy and owners may not be able to raise other loans or get credit. This may have serious implications for owners' personal lives and businesses.

5. *You panic because your whole life is turned upside down. All your plans are on hold. If you can't find (on average) \$440,000 easily and afford to take risks, you know you're going to be in big trouble.*

Our research shows that the estimated cost for a home owner to comply by strengthening ranges from \$56,500 and \$2.2m. The average per owner is \$440,000 for the full costs of the strengthening project. Costs are rising at a rate of around 5% per annum.

6. *And if yours is a 'priority building' too, so you only have 7.5 years instead of 15 years before D-day, you starting asking yourself, how much else are the Government and the Council allowed to take from us private individuals?*

Owners of earthquake-prone buildings, all of which WCC is required to identify by 30 June 2022, have 15 years from the date of issue of the EPB notice to comply, unless their buildings are designated as priority buildings in which case they have 7.5 years to comply.

The 2016 amendments to the Building Act 2004 introduced the concept of 'priority buildings' which are certain types of buildings that are considered to present a higher risk because of their construction type, their use, or their location. Territorial authorities must identify and notify all earthquake-prone priority buildings by 31 December 2019. Owners of priority buildings must comply with the EPB legislation within 7.5 years.

In Wellington, 27% of the 37 buildings we have identified as multiple-ownership EPBs, are on streets identified for the purposes of determining priority buildings'.

For home owners, the difference between 7.5 years and 15 years has a utility value of around \$253,500.

Longer term negative impacts

Once the EPB notice is served the pressure mounts year after year as owners fail to find any way out of the situation the EPB legislation has put them in that will not leave them with significant losses.

In our survey sample there are owners who have been working to achieve a solution since they received their s124 notice as long ago as 2009.

The consequences of long-term uncertainty, inability to get on with normal life, the prospect of significant financial losses and the sheer frustration and anger that comes with finding yourself trapped and being forced to hand over what is yours, for no purpose that anyone can describe, is soul destroying.

Inevitably, some owners or their family members will suffer mental and/or physical effects that could become very serious. There must be a risk that for some the distress will become too great to bear.

Owners' objectives, options and decisions

Objectives

Most owners have one single objective - to get out of the terrifying situation in which the EPB legislation has put them with the least possible losses and lowest possible risk exposure.

Options

When owners consider their options, cost and financial viability, practical feasibility and risk are the key factors that must be established and analysed before a decision can be made.

Owners have four main options:

1. Agree with other owners to comply by strengthening the building

Strengthening is the option that most owners consider first. They hope to find a way to comply by strengthening their building and either return to live in their homes or be able to sell and move on.

2. Agree with other owners to comply by demolishing the building (then hold, rebuild, redevelop or sell the land)

Some owners have considered demolishing their buildings to comply then rebuilding like-for-like or redeveloping the site. But on investigation, those strategies appeared to be very complicated and high risk for a body corporate and were ruled out as practically not feasible.

We are not aware of anyone who has complied by demolishing their building, or anyone who is considering that option.

3. Agree with other owners to pass the legal liability to comply to someone else, by selling the whole property

If strengthening is not economically viable, is practically not feasible, or is risky, selling is the next best option.

4. Act independently, try to sell own unit, or do nothing

A small number of owners have sold their individual homes since their buildings became EPBs. They have sold for very low prices. Others have their homes on the market, but there is little interest.

Our sense, from the owners' ICW has engaged with, is that owners are generally keen to comply because they are afraid of the penalties and that the goal posts will move and put them in a worse situation.

Complex decision making

The EPB legislation applies to the owners of buildings or parts of buildings. In the case of cross lease/company share ownership buildings the legislation applies to a building and the joint owners can make decision using the decision-making processes in their constitutions.

In the case of buildings with unit titled ownership, the legislation applies separately to each individual unit owner and their unit. Owners therefore have to find a way to work together to make decision about how to proceed. Owners cannot make decisions using the body corporate rules under the Unit Titles Act as this only empowers body corporates to make decisions about repairs and maintenance. This does not cover capital improvement, which is what earthquake strengthening is, development or selling. So they must find other legally sound ways to act collectively if they want to strengthen, demolish or sell their buildings.

The legal implications of the legislation will vary depending on the ownership type of the building. Owners of unit titled units in multiple-ownership residential buildings manage their buildings either through a body corporate to which all owners belongs, under the Unit Titles Act 2010.³ A minority of multiple-ownership buildings are owned and managed under cross lease or company share arrangements whereby owners each own a share in the entire property.

In both cases, owners will find that the ways they usually make decisions about how to manage their buildings do not work when owners arbitrarily acquire a legal obligation to strengthen or demolish their homes whatever the cost or risk.

Most owners will decide to reject the demolition and do-nothing options. It will come down choice between strengthening and selling.

³ <http://www.legislation.govt.nz/act/public/2010/0022/latest/DLM1160440.html>

To strengthen or to sell?

An assessment of options will typically consider:

1. Costs and financial viability
2. Financial outcomes – lifetime consequences
3. Practical feasibility
4. Risk

There is almost no difference between average RV at September 2018 (as if not an EPB) and the average total cost of strengthening.

Average RV based on sample of 25 residential EPBs	Average cost of strengthening	Possible value after strengthening	Debt after strengthening	Remaining	Loss
\$483,542	\$440,000	\$483,542	\$440,000	\$43,542	440,000

If strengthening is not financially viable, practically feasible, and/or too risky, selling is the only option to avoid non-compliance penalties.

Average RV based on sample of 25 residential EPBs	Average land value	Possible proceeds	Remaining	Loss
\$483,542	\$269,948	\$269,948	\$269,948	\$213,594

Our research, based on 14 buildings, suggests that in most cases, selling will deliver better financial outcomes in the short term than strengthening, and with much lower risk, but losses will still be significant.

Amongst the risks of strengthening is that new regulation thresholds will be introduced after the work is completed. Despite verbal reassurances to the contrary, history suggests this is a possibility.

The Bill fails to consider the many building owners who have recently (starting in the '70s and '80s to the change in code) strengthened their buildings to the full or partial extent of previous seismic codes and now find themselves facing another round of strengthening before the previous one has paid itself off. There is no guarantee that, if they do the same again in another 10 or 20 years when further information emerges around better ways of determining what will and won't work in an earthquake event.

New Zealand Institute of Architects Incorporated, Submission to the Local Government and Environment Select Committee, [date?]

Financially viable (ie close to breakeven) or low risk examples of strengthening projects are the exception. For some it is likely that what looks like a viable solution when the

strengthening work starts will end in a fire sale as prices escalate, new problems are discovered by builders, contractors go under, and owners need to cut their losses and run.

Lifetime consequences of strengthening or selling

Home owners, particularly those without alternative capital resources, must look not just at the short term financial implications of their choices, but also the lifetime consequences.

Obviously, home owners' homes and circumstances are different, but the scenario below provides a simple illustration of what a typical home owner has to consider when deciding what to do – strengthen or sell, and shows what the lifetime consequences of both options could be.

Remember, no benefits at all accrue to the owner, and the benefits that might accrue to the public of this one person being forced to suffer the consequences of their building being assessed as earthquake-prone, (by a system the integrity of which is questionable), is so small as to be impossible to measure.

This scenario shows just some of the impacts on someone's independence and way of life that financial losses have. This owner, who was living independently and who had life choices, is probably going to find themselves living in a 1-bedroom council flat, always supposing such a thing is available, with no life choices. They are almost certainly going to be suffering mentally and physically from the distress of what has happened to them.

It has been suggested that owners can benefit financially from strengthening because it will increase the value of the home. But that increase will only return the home to the value it had before the EPB Notice was issued, it will not cover the cost of getting there.

This scenario proves beyond doubt that the effects of the EPB regime on home owners are unreasonable, unfair, harmful and morally indefensible.

Scenario:

- Owner 70 years old
- Apartment in good condition in a well maintained building which has 50% owner occupiers
- No mortgage and no other debts
- Has NZ superannuation and a very small amount of savings

Lifetime consequences - Strengthening Option

	Before EPB Notice	EPB Notice	After strengthening	Consequence
Capital asset	Lives in home with \$483,500 RV ⁴	Nominal value drops to \$265,000 ⁵ Cost of strengthening \$440,000 ⁶	Has home worth \$483,500 ⁷ Has debt of \$440,000 Sells to pay off debt Balance of proceeds of sale \$45,000	Cash +\$43,500
Utility value	Value of living there rent-free or sometimes renting out : \$700 per week 20 years = \$728,000	Value of living there rent-free or sometimes renting out : \$700 per week 20 years = \$728,000	No home	Loss of \$700 per week Over 20 years -\$728,000
	Uses home to secure credit. Plans to get reverse mortgage		Rents 1-bed Wellington Council flat \$266 per week ⁸	Over 20 years -\$276,640
			Cannot get credit facility at bank Has nothing to borrow against	Loss of financial independence and life choices
Total \$ value next 20 years	Capital + utility value \$1,211,500		Only have annuity worth \$190,320	Total loss approx \$961,140 + Loss of increase in value of home
Expects to leave behind	A home worth market value at the time, less any reverse mortgage		Will have nothing to leave	Lost everything

⁴ Average RV of sample units in multiple-ownership residential buildings on Wellington EPB list

⁵ Average land value of sample units in multiple-ownership residential buildings on Wellington list of EPBs

⁶ Average estimated cost of strengthening units in residential buildings in ICW survey sample of 14 buildings

⁷ Original RV

⁸ <https://wellington.govt.nz/services/community-and-culture/housing-support/council-housing/how-to-apply/rent-prices-and-bonds>

Lifetime consequences – Selling Option

	Before selling	EPB Notice	After selling	Consequence
Capital asset	Lives in home with \$483,500 RV	Nominal value \$265,000	Has no home. \$250,000 cash proceeds of sale (after fees, commission and displacement costs)	Capital loss \$233,000
Utility value	Value of living there rent-free or sometimes renting out : \$700 per week	Value of living there rent-free or sometimes renting out : \$700 per week	No home	
	20 years = \$728,000	20 years = \$728,000	Buys annuity with \$250,000 That pays \$264 per week for life ⁹	Loss of \$436 per week – over 20 years \$453,400
	Uses home to secure credit. Plans to get reverse mortgage		Rents 1-bed Wellington Council flat \$266 per week ¹⁰	Over 20 years \$276,640
			Cannot get credit facility at bank Has nothing to borrow against	Loss of financial independence and life choices
Total \$ value 20 years	Capital + utility value \$1,288,000		Only have annuity worth \$190,320	Total loss Approx. \$963,040 + Loss of increase in value of home
Expects to leave behind	A home worth market value at the time, less any reverse mortgage		Will have nothing to leave	Lost everything

⁹ <https://www.lifetimeincome.co.nz/calculators/lifetime-income-calculator/>

¹⁰ <https://wellington.govt.nz/services/community-and-culture/housing-support/council-housing/how-to-apply/rent-prices-and-bonds>

No effective assistance or impartial advisory interventions

No impartial advice available for owners

In all cases, before getting to the point of deciding whether to comply or sell, owners will struggle over years, some putting in thousands of hours of unpaid and stressful work as they negotiate a minefield, from the first DSA, through getting advice from numerous costly professionals, making decisions, then trying to forecast costs. The environment is hostile and the owners vulnerable. A free and independent advice service for home owners should have been included in the implementation system design.

WCC has claims it is offering such a service, but it is deeply conflicted. Council officers' role is primarily enforcement. It is impossible for them to see things from the owners' point of view. The Council has close and collaborative relationships with developers and building companies, and is focused on delivering its future development strategy which relies on clearing low-density and older properties from the city.

Government and Council assistance to home owners

One way or the other, the home owner in our scenario above would suffer total losses over their lifetime of around \$1m and have their independence taken away from them. It is disingenuous of politicians and ignorant of politicians and officials to talk of addressing 'hardship' and providing rate rebates, as if that is an adequate response to losses on this scale.

ICW has long campaigned for Government to provide loans to help people pay for strengthening and the \$10m the Government put in Budget 2019 to support suspensory loans is a positive move, but it could only benefit very few owners.

WCC politicians proudly draw attention to the assistance the Council offers building owners - rates remission, rebates on building consent fees, Built Heritage Fund grants, and Building Resilience Fund grants for assessments, all subject to eligibility, and much of these rely on owners having the funds to progress the work.

Case studies of strengthening projects

ICW urges the Select Committee to hear directly from the many affected owners who wish to present their stories. All owners missed the opportunity for the Building Bill 2003¹¹ and did not have the full understanding of the impact on them when the policy was revised following the Canterbury earthquakes or the Buildings (Earthquake-prone Buildings) Amendment Bill was considered by the Select Committee, so they did not make submissions

A small subset of case studies from the respondents to the ICW survey undertaken in May 2019 are included on the following pages. These provide details of the costs and other impacts being experienced by apartment home owners.

A few owners have been actively lobbying central and local government politicians and speaking to the media. Not everyone feels they can do this, but it does not mean that others do not share the same view. Two letters from one individual to central and local government politicians are included as an example of those that have been sent.

As this submission is likely to be made public, we have not identified any buildings or owners. While some owners are comfortable with the name of the building being known, other owners are not. Some owners are already considering or may have to consider selling the whole building and are concerned that publicity could further discount the sale price.

These case studies and letters are reinforced by the qualitative feedback to ICW's May 2019 survey in Appendix 1.

¹¹ See the section on the policy development process from 1991 to 2012.

Case study 1 (costs excl GST)

<p>About the building and owners</p>	<ul style="list-style-type: none"> • Purpose built reinforced concrete residential block circa 1927 of 3 stories in height with part basement. • Between 5-10 owners who are a mix of owner-occupiers and investors. • Two owners are bearing the responsibility and personal stress of the investigation work as others do not have the capability, or personal circumstances do not allow.
<p>Costs and investigations to date</p>	<ul style="list-style-type: none"> • Two detailed seismic assessments were undertaken (2013, 2017) at a cost of ~\$77,000. • The second report was required as the first engineer passed away, but was also under investigation by Engineering NZ. A fact known to those in the sector, but not to residential home owners. • Insurance costs have increased around 290% in 8 years, with the latest increase bringing it to \$7,000 per owner, per annum. Insurance is now 80% of building's annual operating budget.
<p>Costs of next stages</p>	<ul style="list-style-type: none"> • Estimate of further \$25,000 to further develop the concept solution, to establish indicative costs to comply. • Initial estimates are \$100,000 per owner to achieve around 70% NBS.
<p>Impacts</p>	<p>Owners have agreed to sell once the concept solution work is completed. They recognise they will lose money, but the decision has been taken due to:</p> <ul style="list-style-type: none"> • Cannot afford ongoing insurance cost increases and ongoing costs for EPB investigation. • There are no funds available for maintenance which has been long deferred. • Owners are ill-equipped to manage the project, as no assistance has been provided and are at the mercy of costly advisors with no guarantees of quality of advice. • Stress and anxiety for owners has become too much • Risks associated with remediation are too high as it is unlikely fixed price construction contracts will be given, there is great uncertainty over construction sector and lack of protections there-in, as well as the continual law and regulatory changes that keeps the baseline moving.

Case study 2 (incl GST)

<p>About the building and owners</p>	<ul style="list-style-type: none"> • Constructed circa 1970, with between 25-30 residential units, mostly owner-occupiers. • Complex ownership structure required effort and funding to change to facilitate potential borrowing for the strengthening project • Most owners are in low-to-medium income brackets and over 60 years old.
<p>Costs and investigations to date</p>	<ul style="list-style-type: none"> • Body Corporate Committee has been working for over 7 seven years and spent more than \$200,000 on investigation and design work
<p>Costs of next stages</p>	<ul style="list-style-type: none"> • Indicative costs (based on quantity surveyor costings) have increased from \$30,000 per owner (2013) to over \$240,000 per owner in 2019, based on the detailed design
<p>Impacts</p>	<ul style="list-style-type: none"> • Cost of the upgrade will almost certainly be higher than any uplift in value and will erode most of the equity that owners hold in their apartments; for most their major asset. • The noise and vibration over four months of the 18-month construction period will make the apartments unliveable during the day; if owners vacate for that period they will incur additional costs. • The requirement to strengthen is a significant personal burden on committee members who are leading this challenging work • Some owners will require access to the Government’s Financial Assistance Scheme (which has yet to be open to applications) but it is likely that a cap may mean the full amount cannot be obtained. • Research into selling the whole building and land indicate an uncertain market, a likely low price achieved, and legal risks in achieving the sale • Research into selling apartments ‘as is’ indicate low interest and therefore a ‘fire sale’ price likely would be achieved • Owners feel that they are unable to find a pathway to fund the work needed and unable to sell at a reasonable price and move on with their lives • A recent owner meeting indicated that owners feel trapped and stressed by the situation they are in

Case study 3 (excl GST, unless specified)

<p>About the building and owners</p>	<ul style="list-style-type: none"> • Heritage, unreinforced masonry building, with between 15-20 owners • Body Corporate Committee has been investigating EPB remediation since 2007 in association with a neighbouring heritage building and in 2018 both completed URM façade and parapet strengthening
<p>Costs and investigations to date</p>	<ul style="list-style-type: none"> • 3 detailed seismic assessments have been completed • 3 engineers, 2 quantity surveyors, 2 project managers have been involved in past efforts to progress the project • Estimated remediation costs increased from \$500,000 in 2008 to \$1.1m for 34%NBS or \$3.6m for 67%NBS in 2010 • Following Canterbury earthquakes professional advisers recommended putting project on hold pending outcome of reviews • At least \$200,000 (incl GST) estimated costs for investigation and professional fees since 2008 • Insurance has risen from \$28,000 to \$128,000 over 10 years • Body Corporate investigated options of selling or partnering with a developer without success
<p>Costs of next stages</p>	<ul style="list-style-type: none"> • Building consent obtained and strengthening project being finalised with full owner support. The neighbouring building also supports strengthening although a minority of its owners do not • Body Corporate's 2019 estimate of its own project cost is \$6.6m incl GST • Average cost per owner estimated to be around \$370,000
<p>Impacts</p>	<ul style="list-style-type: none"> • Apartments have to be vacated for an extended period while the work is completed; additional costs for owners in pack-out, storage, transport and accommodation etc • EPB remediation is a large, costly and highly complex process with many moving parts. In every respect it is at the limit of the capability of most if not all owners and is a lengthy and highly stressful process • One owner with a discounted rateable value of \$430,000 (2018) faces a share of EPB remediation costs of over \$475,000. On top of which the owner has paid \$7,000 towards the URM façade and parapet strengthening and nearly \$9,000 towards an annual insurance premium.

Case study 4 (incl GST)

<p>About the building and owners</p>	<ul style="list-style-type: none"> • S124 notice on part in 2011 • Over 30 units
<p>Costs and investigations to date</p>	<ul style="list-style-type: none"> • Spent perhaps \$100,000 incl GST altogether between us without getting anywhere near building work – structural engineers, geotechnical engineers, architects, quantity surveyors, project managers, lawyers - and in the end there was no feasible solution. • Don't have complete confidence in all the consultants, their methods or their advice. They are not used to dealing with clients who are being forced against their will to do a project. They are used to willing commercial clients. Conflicts of interest.
<p>Costs of next stages</p>	<ul style="list-style-type: none"> • Cost estimates to strengthen astronomic. More than the building would be worth afterwards • Risk assessment would fill many pages • No option but to sell
<p>Impacts</p>	<ul style="list-style-type: none"> • Eight years of massive distress for all owners. Significant effects on people's lives. Small number carrying huge workload as volunteers. • Lack of synergy between Unit Titles Act and Building Act has been a problem. • Obvious that home owners should not be expected to manage this size and complexity of highly technical project. Felt like we were very exposed and open to being taken for a ride. • Concerned about insurance, ongoing maintenance, possible regulation changes. • In the end we are all going to be very badly hit financially – by hundreds of thousands. For those on fixed incomes the future is bleak. • No-one can understand how this could be happening in New Zealand, land of the fair go and kinder government.

Letters from an individual owner to central and local government politicians

16 September 2019

[Address of building omitted]

Hon Jenny Salesa
PB 18041
Parliament Buildings
Wellington 6160

Earthquake Strengthening Legislation

Dear Hon Jenny Salesa

Thank you for your letter dated 4 April 2019, in response to mine of 28 February 2019.

I am still waiting for a response to my email dated 13 June 2019. This email was acknowledged by Monique Reuelu on 17 June 2019, pending a reply 'in due course'. I enquired about the lack of reply on 18 July 2019. To date, I have heard nothing. (Perhaps each citizen is only allocated one response from a Minister of the Crown? I hope this is my little joke!)

The present Labour led government is committed, to its credit, to housing New Zealanders. The quake legislation will ensure some New Zealanders will be ousted from their homes. The present Labour led government is committed to well-being and kindness. The staff at Wellington City Council has said that private citizens who cannot meet the costs of tens to hundreds of thousands of dollars required to strengthen their homes, will be subject to certain sanctions. These can include barriers, legal action, fines, demolition, and liens on property. Not at all 'kind'. Not at all conducive to 'well-being'.

Your letter dated 4 April 2019, stated 'The earthquake-prone building system was not developed lightly.' With respect, I challenge this. One example; our researcher at Inner City Wellington trawled for documentation that underpinned the legislation. Alarming, she found very little. One interesting fact she did uncover was that the Ministry of Business, Innovation and Employment calculated in 2012, that the price over-all, for strengthening units in NZ, would be around \$26K. Our researcher found the cost when every expense was accounted for, would be approximately \$242K to \$484K. Her research can be provided to you.

If the above is even roughly correct, then our belief that the legislation was knee-jerk, a seemed-a-good-idea-at-the-time is well founded. The complications, the unforeseen consequences, the egregious impact on the health and lives of a group of private citizens, the injustice of the demands, were simply not considered. The *impossibility* of compliance was not considered.

I would appreciate an answer to the questions I posed in my email dated 13 June 2019.

- (Our building has proved resilient to all earthquakes since it was erected in the late 1920s.) If you do not agree that my building withstood the test for quake-prone and could be considered not-quake-prone, what is your justification for not agreeing?
- On what basis have you decided that we apartment owners, and no other private citizens, can be legitimately compelled to do what the legislation is demanding?
- Why is the government demanding of a small number of private individuals that they fund a public benefit?

I am happy to be put in a holding pattern. If there is serious consideration being given to this legislation, if the implications of this legislation are finally being realised and treated seriously, then I do not mind being patient. I do not appreciate being ignored. My life, in this so-called democracy is no longer my own. I am metaphorically, but in truth, un-free to get on with living as I wish and expected to do. At my time of life, my years are limited. The state is oppressing good citizens who have contributed to society in all sorts of positive ways. We deserve better.

I would appreciate acknowledgement of this letter and look forward to a substantial response. Thank you.

(I enclose a letter to the editor, Dominion Post, 27 August 2019, for your information.)

Sincerely

[Name and phone number of owner omitted]

10 November 2018

[Name and address of building omitted]

Chairperson
C S C and P L, I and S [refer to Council committees]
Wellington City Council
PO Box 2199
Wellington 6140

Dear Iona Pannett

Submission on earthquake prone priority buildings 19 October – 23 November 2018

[Name of Chair and Building omitted], Chair of the Owners' Committee, and I met with you some years ago. You were sympathetic to our concerns. We are both retired and we each own one property only, our flats in [Name of building and address omitted] in which we live. My submission is in respect of myself and others in the same position.

Background:

Personal: My job was made surplus in 2011, when I was 66. Though disappointed, I was not too troubled by this event as by good luck and good management, I had paid off my flat at [Name of building omitted] - purchased in the 1980s - and intended to live there for the rest of my life. I had modest savings – I have only ever had an income slightly above the average – but with care and the odd part-time job, I was confident of a secure retirement.

General: The Christchurch earthquakes in 2010 and 2011 were followed by what some of us believe was an egregious overreaction by the government of the day. More people are harmed and killed by road accidents every year than were harmed and killed by any or all the recorded earthquakes in New Zealand. Nevertheless, perhaps in an attempt to be seen to be righteously acting, the government of the day decided that numerous buildings in New Zealand must be strengthened. Unfortunately, [Name of building omitted] was one such.

Action by [Name of building omitted] Committee Regarding Quake-Strengthening Requirements:

Starting in 2012, the Committee set a new earthquake levy for the owners of the building. We each had to find an extra \$6000 per annum. Two years later, the levy was reduced to \$4000 each per annum. This was not easy for those on a pension. Nevertheless, we have built up a considerable amount, more than half a million dollars. This amount has been drawn upon for the various experts (one hopes) who have done preparatory work on our building. It was understood each owner would need to pay an extra lump sum when the actual work commenced. The cost of the earthquake strengthening was originally estimated to be between one and two million dollars. A recent estimate has put the cost at between three and four million dollars.

There is a proposal to be put to our forthcoming annual meeting that the earthquake levy be raised again, possibly to an amount over \$6000 per annum for each owner.

Some General Concerns:

- [Name of building omitted] has had various contractors pull out over the years. It is not always easy to find replacements. Money has been spent on specialists who then walk away from the project.

- Earthquake strengthening engineering does not seem to be an exact science. A report recently had various firms offering various degrees of quake-strength to the same building.
- Furthermore, certain new builds in Wellington suffered so much damage in the 2016 quake that they had/have to be demolished. Presumably they were built to code.
- [Name of building omitted] has withstood every quake thrown at it since the late 1920s, when it was erected.
- The amounts of money being demanded by the state of ordinary citizens are extortionate. I can think of no other instance where individuals, of relatively modest means, who take a pride in being largely independent, who have provided – as they are frequently urged to do – for their old age, are being pressured in this way.

Conclusion:

I have recently received a modest inheritance. Without that, I would not have been able to finance my share of the earthquake strengthening requirements for this building. In fact, due to the escalating estimates of the cost, I am wondering whether I will have enough even with that. From where does the government – local or central – think the average citizen can conjure up \$30,000 or \$50,000 or \$100,000 or more? Especially when those citizens are in their sixties, seventies and over?

Many of us are prepared to take our chances in this building. We sleep well at night and are no more fearful of it crashing down than when we moved in, when it met the then current building code. We are also aware that no matter how much money is eventually spent, a severe enough shake would bring it down anyway. On the other hand, no such earthquake may materialise. We accept our private safety as our responsibility.

If the powers-that-be are exercised by [Name of building omitted] proximity to, '**a) high traffic routes in the city** and **b) emergency transport routes in the city**', then that brings in the issue of public health and safety. This should mean that almost every private dwelling place be required to strengthen. I realise that this would be so politically unpopular that it is unlikely to be demanded. Surely though justice demands that the public helps to pay for its own safety. It is grossly unfair that an individual has to shoulder such a public burden. Has such a demand ever occurred in this country before?

This submission is a request for public assistance with quake-strengthening, and a longer period for meeting the requirement to strengthen, especially for retirees who have one property only, in which they live.

Thank you for the opportunity to submit. I would like to make a short oral submission.

Faithfully

[Name and contact details omitted]

copy: Prime Minister

How did we get to this point?

Earthquake-prone buildings policy and legislation 1991 – 2012

We have reviewed the history of earthquake-prone buildings policy and legislation from the Building Act 1991, to the Building Act 2004, and up to the point at which the Government of the day commissioned a review of the EPB policy in 2012.

In 1991 the EPB policy applied to buildings where the construction was ‘wholly or substantially of unreinforced concrete or unreinforced masonry’ and where the ultimate load capacity would be exceeded in a moderate earthquake. A moderate earthquake was defined as an ‘earthquake that would subject a building to seismic forces one-half as great as those specified in the NZ Standard Model Building Bylaw NZS 1900 Chapter 8:1965 ... for the zone ... in which the building is situated’. In terms of residential buildings, the policy applied to those that were ‘of 2 or more storeys and contains 3 or more household units’.¹²

The 2004 policy expanded the scope of the buildings covered to all building construction types without any data on number of buildings, costs, and lives saved being provided to Cabinet.

In 2004, the 1991 was replaced by the Building Act 2004. The 2004 legislation expanded the scope of buildings from unreinforced masonry and unreinforced concrete to ‘all buildings irrespective of the type of materials from which they were constructed’. The Cabinet paper on this change does not contain any data: no data on the number of buildings, no indicative costs, nothing about the number of lives that would be saved, nor the types of owners who would be impacted.¹³

The Cabinet paper also proposed changes to the definition of a moderate earthquake to the current definition, which is now understood as buildings must have a seismic rating of 34% New Building Standard or higher. The regulatory impact statement was only done for the regulation to define a moderate earthquake, not the impact of broadening the scope of buildings covered. The regulatory impact statement looked at three alternatives: 16%; 33% (proposed) and 50% of the new building standard (NBS). The 50% option was the same level as the 1991 Act.

The Cabinet paper expected that territorial authorities would take into account local economic, social and other factors on the implementation of the new provisions and the development of any earthquake-prone building policies. This did not take place in Wellington.

¹² Building Act 1991, s66 Buildings which are deemed to be earthquake prone

¹³ Minister of Commerce. Application of the Building Act to existing buildings. [no date; around 2002-2003 as it fed into the Building Bill 2003 with Lianne Dalziel as Minister]

The guidance¹⁴ provided by the Department of Building and Housing included an expectation under a section titled 'Economic impact of policy' that territorial authorities would 'consider the short-term and long-term costs of the work while giving appropriate considerations to issues of public safety'. That the section is titled 'economic impact' reflects a commercial focus as residential owners would be considered the personal financial impact on them; it highlights that residential owners were not factored into the analysis.

The Wellington City Council (WCC) cost-benefit analysis was requested from WCC under the Local Government Official Information and Meetings Act 1987. WCC responded that it was not held by WCC; rather the request should be made to the Department of Building and Housing. A subsequent OIA was made and the Department advised that doing a cost-benefit analysis was the responsibility of the territorial authority. The Department's Guidance document refers to a 2003 Pacific Conference on Earthquake Engineering paper and University of Canterbury link as a source of guidance on a cost benefit analysis. Apartment home owners would not consider that earthquake engineers are best placed to provide guidance for a public policy cost benefit analysis. A request for the cost-benefit analysis for the 2004 changes was submitted to MBIE but no document was provided.

The development of the 2004 Building Act excluded apartment home owners, an affected group of owners, from engaging and removed any opportunity for them to make a submission on the proposed changes and the impacts on them.

There was no consultation with the residential apartment owners who would be impacted; only government agencies and departments, along with the Building Industry Authority and Local Government NZ (and its members) were consulted. Information provided by MBIE in response to an Official Information Act request¹⁵ for information on the communication and media around the changes showed that only the building sector channels were used: *Codewords* and *Building Control Updates*. A search through the submissions by individuals to the Building Bill 2003 only found one submission from an individual on the earthquake-prone changes, and that was from an engineer.

The discussion document on the proposed regulations released in October 2004 only went to territorial authorities, building practitioners, building product manufacturers and government agencies and departments. The Cabinet paper on the proposed regulations, which included the definition of a moderate earthquake states the discussion document was 'widely distributed electronically and by mail'.¹⁶ This is not correct as it was not readily available to the general public or all affected owners.

Affected owners were unable to engage in this process as the department did not take any steps to make them aware of the proposed policy. The only media coverage found on the

¹⁴ Department of Building and Housing. Earthquake-prone building provisions of the Building Act 2004: policy guidance for territorial authorities. 2005.

¹⁵ Personal correspondence from MBIE, Document ID: OIA 0206. 30 October 2013

¹⁶ Minister for Building Issues (Margaret Wilson). Regulations under the Building Act 2004: paper and regulatory impact statement to the Cabinet Economic Development Committee. [no date, circa late 2004/early 2005)

earthquake-prone changes in the Bill was a 2003 and 2004 article in the Dominion Post in the business sections. This lack of engagement was likely due to the implementation of the proposed policy being the responsibility of territorial authorities and an expectation that the territorial authority would consult. However, by that stage the expansion of the scope of buildings was already in the legislation and beyond the scope of any local consultation.

Role of the NZ Society of Earthquake Engineers (NZSEE)

The NZSEE was instrumental in developing the policy advice that went to Cabinet. The Building Industry Authority, with advice from a study group within the NZSEE recommended all the key amendments relating to the expansion of construction types, the change to the threshold for a moderate earthquake¹⁷ and including the development of Guidelines to introduce a grading scheme and to allow each territorial authority to set its own approach.

In August 2004, two NZSEE members presented to a conference¹⁸ outlining the improvements in proposed legislation and the Society's role. The paper noted the divided opinion on the threshold for a moderate earthquake, with some considering it too high and others considering it is too low. The prevailing NZSEE view was for 67% NBS (the figure noted in the RIS), however, there was concern that insistence on a higher level could result in the legislation not being passed. This was presented differently in the RIS: 67% NBS was not proposed as it would result in a larger number of buildings being determined to be earthquake-prone.

The NZSEE paper contained summary of the analysis considered in the policy development, including a cost-benefit analysis. None of this material found its way into the Cabinet paper or regulatory impact statement, though the paper notes that the full details are contained in an unpublished report for the Department of Internal Affairs.¹⁹

The paper states that the cost benefit analysis, as undertaken by the NZSEE – which acknowledged that it had promoted the legislation – ‘lends support to the intuitive view of earthquake engineers that a programme of retrofitting is needed to reduce earthquake risk over time.’

NZSEE has a valid technical role in the development of EPB policy. However, it is not the policy agency responsible for the cost-benefit analysis and development of trade-offs made in imposing costs on owners. The Department of Building and Housing failed to do its policy role effectively and comprehensively.

The result of this poor policy process underpins the development of the revised policy following the Canterbury 2011 earthquakes.

¹⁷ See footnote 2.

¹⁸ Hopkins, DC and Stuart, GF. Improving the performance of existing buildings in earthquake proposed legislation in New Zealand. Paper presented at 13th World Conference on Earthquake Engineering, 2004 (Paper no. 2625).

¹⁹ Cited in paper as ‘NZ Department of Internal Affairs. Report on cost benefit of improving the performance of buildings in earthquake. David Hopkins Consulting. March 2002.

Basis for the 2016 legislation changes

The proposals developed for consultation resulted from a review of the EPB provisions in the Building Act 2004 undertaken by MBIE following the Canterbury Earthquakes of 2010 and 2011 to inform the Government's response to the recommendations of the Royal Commission of Inquiry into Building Failure caused by the Canterbury Earthquakes. As a result, the system implemented in the Building (Earthquake Prone Buildings) Amendment Act 2016 was passed with the following key components:

- Earthquake prone status threshold of \leq 34% New Building Standard (already in 2004 legislation)
- All building construction types and residential buildings (2 or more levels and 3 or more households (already in 2004 legislation)
- Definition of a moderate earthquake in regulations linked to the new building standard that was in force on 1 July 2017 (already in 2004 legislation)
- Standard assessment methodology to determine whether a building in earthquake prone
- National register of all EPB
- Three seismic areas with differing timeframes for identification of EPB and priority buildings and strengthening
- Priority buildings (unreinforced masonry on high vehicular or pedestrian traffic routes or on strategic routes for emergency response purposes) had half the timeframes of other EPB.

There was no discussion or consideration of the impacts on private owners who were funding this work, particularly residential owners, in the policy development process. ICWs submissions all highlighted the need financial and advisory support for these owners of EPB.²⁰

This submission does not provide an analysis of the findings of the MBIE review or the findings of the Royal Commission of Inquiry. Nor does Inner City Wellington wish to minimise the deaths and injuries that occurred in Canterbury in those events. The submission outlines key points that need to be considered when looking at the impacts on private owners, particularly residential owner-occupiers of the EPB provisions that require pre-emptive strengthening prior to any earthquake.

The low risk of fatalities from earthquakes and the performance of the existing building stock were acknowledged by MBIE, the Royal Commission of Inquiry and the author of the risk framework. The Select Committee noted 'society's aversion to large losses of life from

²⁰ Inner City Wellington. (2015) Submission on the Building (Earthquake-prone Buildings) Amendment Bill, Interim Report.

an individual earthquake event' but did not address who should pay for the preventative strengthening of existing buildings to mitigate that risk, when current owners bought compliant buildings.

The Background section (page 5) of the consultation document²¹ states:

'The risk of major life-threatening earthquakes remains very low in New Zealand. The risk of dying in an earthquake is around one in a million annually, averaged across the whole population, compared with a one in 10,000 risk of dying in road accidents'.

The Canterbury Earthquakes section (page 9) of the consultation document states:

'The Canterbury earthquakes were unusual in their size, large number and ongoing frequency. ... The forces from the 22 February 2011 earthquake were much bigger than those new buildings are designed to withstand – GNS has equated them to a one in 2,500 year seismic event.

Given the severity of the 22 February 2011 earthquake, the city's buildings generally performed well in terms of protecting life. The number of deaths and injuries was large, although lower than might have been expected from such a massive event. Most buildings in Christchurch were sufficiently resilient for their occupants to get out of them alive'.

The executive summary of the risk framework report (page 2-3)²² stated:

'Earthquakes stand out from other hazards in New Zealand in terms of the frequency of very large impact events and the individual risk they present to people in high risk locations. But averaged over the whole population and long periods of time they have a lower impact than some other hazards such as road accidents.'

'The primary objective of public policy in relation to EPBs should be to control life risk to the lowest reasonably practicable level – balancing reduction in risk with the cost of doing so, subject to the constraint that tolerable life risk thresholds are not exceeded'.

The Select Committee's Interim Report²³ referred to:

'society's aversion to large losses of life from an individual earthquake event'.

Neither the Select Committee nor previous Governments or Parliament has addressed who should pay for this aversion. It is not reasonable to place the cost of responding to society's aversion on the current owners who bought compliant buildings.

²¹ MBIE. (2012) Building seismic performance: proposals to improve the New Zealand earthquake-prone building system: consultation document.

²² Taig, T. (2012) A risk framework for earthquake prone building policy: a report produced for the New Zealand Ministry of Business, Innovation and Employment.

²³ Local Government and Environment Committee (2015) Interim report on the Building (Earthquake-prone Buildings) Amendment Bill (182-1) para 41
https://www.parliament.nz/en/pb/sc/reports/document/51DBSCH_SCR63267_1/interim-report-on-the-building-earthquake-prone-buildings

The emerging knowledge on the state of our existing building stock places significant costs and risks on the current residential owners. Increasingly it appears that the strengthening will also remediate faults from the original construction that potentially are not directly related to any critical structural weakness. It is likely that once known about by the territorial authority owners will have no choice but to remediate.

The current state of the construction sector is creating a heightened state of uncertainty and risk for residential owners of previously compliant and now EPB, and placing them in an unreasonable position of having to bear the costs of that risk. Following the announcement of 'voluntary guidance' to address precast and hollowcore floors, the sector (and their clients) appear to be lurching from risk to risk: with major companies are failing, where technical and professional participants are calling out failures in the sector in response to investigation findings²⁴, and where a single engineering firm has designed, and at least participated in the oversight of construction, a number of now potentially or deemed earthquake-prone buildings.²⁵

These wider compliance and quality issues increase costs for the owners of EPB. They are potentially paying for poor construction that was signed off by territorial authorities at the time. Is it the poor construction that now makes the building EPB or was it the design itself did not comply with the code at the time? Is it reasonable that current owners should have to pay for upgrades to a new building standard, even if it is only to 33% of that standard? Why should this apply to earthquake standards when it does not apply to the electrical industry, where there are risks of fire from electrical failure in every building?

There is increasing uncertainty about the implications of a revised building standard that addresses both life safety and recovery. While a new building standard that includes recovery is appropriate for new builds, there is no discussion of the implications for owners of EPB.

The legislation itself creates further uncertainty around the definition of a moderate earthquake and its link to the new building standard in place as at 1 July 2017. The Cabinet paper and Minute stated that the intention of this link was to give transparency, but tempers this with 'unless the regulations are changed'.²⁶ The inclusion of the moderate earthquake definition in regulations was advocated for by the NZSEE as part of the Building Bill 2003 ... 'thus allowing more flexibility of application – it will not be necessary to change an Act of Parliament in order to make a change to the trigger level at some time in the future'.²⁷

²⁴ <https://www.stuff.co.nz/business/industries/116557551/new-zealands-defective-concrete-crisis-revealed-by-investigators>

²⁵ <https://www.rnz.co.nz/news/national/401068/two-thirds-of-buildings-investigated-by-palmerston-north-city-council-may-have-structural-problems>

²⁶ Minister for Building and Construction. (2013) Improving the system for managing earthquake-prone buildings: paper to Cabinet Economic Growth and Infrastructure Committee and Minute (CAB Min (13) 26/7).

²⁷ Hopkins, DC and Stuart, GF. (2004) Improving the performance of existing buildings in earthquake proposed legislation in New Zealand. Paper presented at 13th World Conference on Earthquake Engineering.

This uncertainty is now increased with the Insurance Council of NZ stating that the current building standard, which focuses on life safety, is inadequate. The Council, along with the engineering fraternity is advocating for the building standard to include recovery. ICW agrees that this is sensible for new builds, but there has been no discussion on what this would mean for existing buildings, including those EPB that have been strengthened or are in the process of being strengthened.

2012 Cost Benefit Analysis versus reality

Rhetoric abounds amongst politicians and officials about the risk to the public of death due to the collapse of buildings or parts of buildings when earthquakes happen and the public demand for the reduction of those risks.

Balancing life safety, costs and impacts of heritage is what the Minister of Building and Construction says the EPB regime is attempting to do, by way of justifying the impacts on the apartment home owners who raise their concerns with her.

But where is the evidence that the legislation will, or even can, produce life safety outcomes that will justify the ever-escalating costs and risks (financial and otherwise) that home owners are being forced to suffer, the damage to or loss of heritage features of our communities, and the impacts on ratepayers as territorial authorities' implementation costs rise?

After numerous enquiries to WCC, ICW realised there was not reliable data about how the EPB regime was affecting home owners and what costs there were facing. So ICW developed a cost calculator, conducted survey of owners who provided basic cost estimate data, and from that data were able to create a picture of the real cost implications.

The average per unit strengthening costs is around 10 times higher than was estimated in the 2012 cost-benefit analysis.²⁸ The May 2019 survey undertaken by ICW, and summarised in Appendix 2, shows the average costs below:

The cost-benefit analysis did not use the full costs of strengthening that apartment home owners must fund. Instead, the authors stated that the length of time given for each building would compensate for that. That does not work. Costs increase by 5% pa.

We know that politicians and officials reviewing the EPB policy and developing amendments to the Building Act relied heavily on the costs benefit analysis commissioned by MBIE.

Those who relied on the cost benefit analysis did not take into account the consultants' warnings that:

- Much of the baseline data they had to work with was unreliable, implying their conclusions could be wrong
- The benefit cost ratio was negative, 0.02651, and in all cases, even with extreme sensitivity scenarios, costs substantially exceed benefits.

Politicians and officials also failed to heed (or dismissed) the warnings of many experts who made submissions to the policy consultation and to the select committee on the

²⁸ Martin Jenkins. (2012) Indicative CBA Model for Earthquake prone building review, Summary of methodology and results.

amendment bill, raising concerns about the reliability of the estimates of the scale of the problem, costs and benefits, but most of these concerns were ignored.²⁹

The Cabinet paper in 2013 on financial incentives for building owners to comply with the EPB legislation, determined that it would not provide any incentives to non-heritage building owners despite acknowledging the 'relatively weak incentives for owners'. It did agree to financial incentives for heritage building owners (ie, what became the Heritage EQUIP Programme) recommending that Cabinet 'agree that the revised proposals [ie, for strengthening of EPB] will result in expectations on building owners to strengthen EPBs that are generally reasonable and affordable'.³⁰

ICW does not agree that the costs being imposed are at all reasonable and affordable.

The flaws in the regime may be the result of:

- An emotional response to the Canterbury earthquakes that blinded politicians and officials to the facts and logic
- Reliance on inaccurate estimates in the 2012 Cost Benefit Analysis
- Poor understanding of the real costs; as an example costs in the Aide Memoire for the Minister of Building and Construction³¹ on financial incentives for heritage buildings used 'a rough average of \$200,000 to \$400,000' to remediate a heritage building.³² These figures were not included in the Cabinet paper.
- The influence of industry insiders close to MBIE whose interests conflict with those of owners, and an unwillingness to listening to dissenting voices
- Reliance on untested assumptions including that private individuals should be responsible for providing public benefits and are ready, willing and able to accept the costs and risks
- Huge gaps in the policy work, for example no stakeholder analysis, no impact analyses, no logic modelling, outcomes framework or evaluation indicators, and no testing of the implementation system

Our research suggests there are very large discrepancies between the estimates in the policy work and the reality.

²⁹ TailRisk Economics Ltd presented several detailed submissions about the risk modelling used for the policy review. These are listed in the references section. These submissions appear to have been dismissed by MBIE. It would be useful to have an expert review this work given the substantial increases in costs and financial impacts on apartment home owners.

³⁰ Minister for Building and Construction. (2013) Financial incentives to encourage strengthening or demolition of earthquake-prone buildings.

³¹ MBIE. (2013) Aide memoire: financial and non-financial incentives (support) for seismic strengthening of earthquake-prone heritage buildings

³² ICW's cost survey in May 2019 shows that individual owners in some heritage buildings are paying substantially more (ranging from \$150,000 to \$600,000) than the total estimated cost in 2012/2013.

Components	CBA estimate	More likely
Total number of buildings less than 34% NBS	Range -15,000 and 25,000 Number used for modelling 17,424	Lower. There are 2,804 on the MBIE EPB register as at 1.11.19*
Buildings less than 34% NBS in Wellington	4,000	Much lower. (WCC must identify all priority EPBs by 1 January 2020 and all EPBs by 1 January 2022. From 2006 to date has identified around 1,000.)
Cost per square metre to strengthen – building costs only	\$300	Significantly higher. (ICW Wellington survey sample - \$2,800)
Total cost per home owner to strengthen	\$25,800	\$440,000
Total cost to strengthen all EPBs using CBA estimates of total square metres	Total real \$3.598 million	\$33.483 billion (using CBA estimates of total m2 and our estimate of real cost per m2)
Benefit - Lives saved as a result, over 75 years	173	Lower
Benefit - Buildings not collapsing as a result, over 75 years	24	Lower
Value of benefits	\$25m	Lower

Where is the rationale for strengthening residential buildings?

It is reasonable for the public to expect that public buildings and commercial buildings into which they might go and in which employees might work, should meet a high threshold of safety including upgrades in seismic strength, or they should be demolished. Equally, they should expect to be reasonably protected from building elements falling into public spaces in an earthquake.

But is it the business of Government to protect the public from every possible risk?

There is no demand, from the public or politicians, for closing roads or to put speed limiters on cars to slash the road toll (over 300 deaths in 2018), to fence off the sea, lakes and rivers to reduce the number of drownings, or to ban electricity, gas, cooking oil and alcohol to reduce the number of house fires.

And how far should Government interfere in the lives of private individuals to squeeze a little bit more public safety benefit? In submissions on the amendment bill, many of those who had suffered themselves or had loved ones killed or injured in the Canterbury earthquakes supported the call for strengthening of all buildings. Media were actively calling for the immediate strengthening of buildings, with one Radio NZ host calling owners who did not immediately progress the strengthening 'immature'. But in recent times, comments

on media and other websites about the challenges facing EPB apartment home owners have shown an increasing realisation that the impact on this group of owners is unreasonable.³³

Among the majority of politicians and officials, there is no real understanding or acknowledgement of the size, costs and complexity of the projects home owner are expected to manage and pay for. Property rights of apartment home owners have been removed without compensation, while the owners of recently prohibited firearms are being fairly compensated.

The cost benefit analysis did not determine the number of lives that might be saved by strengthening or demolishing buildings with different uses. Such an assessment would surely show a significant difference between the impact on public safety of strengthening or demolishing public and commercial buildings, the impact on public safety of strengthening or demolishing private residential buildings.

Our research suggests that:

- The priority for mandatory strengthening should be public and commercial buildings where there is less real choice for individuals to be in those buildings or not. This would be an efficient use of resources and address areas of higher potential risk.
- Home owners are likely to voluntarily strengthen if there were appropriate financial incentives and advisory support to do so
- Many home owners would be prepared to accept the lower life safety risk of their buildings and any impact on value, and make their own choices about strengthening
- More options on insurance where strengthening results in a substantial decrease in premiums could provide an incentive
- The increase in life safety risk for the public of exempting residential buildings currently subject to the EPB legislation is so small as to be almost impossible to measure
- The market would automatically reduce the number of older buildings over time

³³ Owners fear losing homes because of unaffordable quake strengthening costs, 7 June 2019
<http://wellington.scoop.co.nz/?p=119412>

Proportionality, fairness and equity

Current policy settings

Proportionality, fairness and equity are reasonable standards against which to test everything the Government does. The **Government Expectations for Good Regulatory Practice, Part A: Expectations for the design of regulatory systems** states that regulatory systems should be, amongst other things, *proportionate, fair and equitable in the way it treats regulated parties*.

The EPB regime is not proportionate, fair and equitable in the way it treats its regulated parties, particularly home owners. For example:

1. The policy treatment of owners of homes in buildings of 2 or more storeys containing 3 or more units, relative to all other owners of homes

		All home owners	
		A	B
		Owners of homes in building that is 2 or more storeys high containing 3 or more units	Owners of all other homes
Impact on home owners		Subject to EBP legislation	Not subject to EBP legislation

2. The treatment of owners of homes buildings assessed as earthquake-prone – NBS 33% or less, and the treatment of owners of homes in the same type of buildings that are assessed as not earthquake prone – NBS 34% or more.

		Owners of homes in buildings with 2 or more storeys and 3 or more units	
		A	B
		Homes in buildings assessed as earthquake-prone (EPB) NBS 33% or less	Homes in buildings assessed as not earthquake-prone NBS 34% or more
Impact on home owners		Required to strengthen or demolish and will suffer any of the immediate and lifetime financial, practical and health consequences of that comes with that assessment	Not required to strengthen or demolish
		Lifetime financial losses as much as \$2m	No financial losses

3. The financial treatment of owners of homes in EPBs, relative to the treatment of commercial owners of EPBs.

	Owners of EPBs	
	A	B
	Owners of homes in EPBs	Commercial owners of EPBs
GST	Owner occupiers and many rental owners cannot claim back GST	Can claim back GST
Tax	Owner occupiers cannot claim costs against tax	Costs are classed as business expenses and can therefore be set against tax
Cost recover	Owner occupiers cannot recover costs Rental owners may be able to recover costs over many years	Commercial owners can recover costs through business activity
Depreciation	Property improvements cannot be depreciated	Property improvements cannot be depreciated
Lending	May be in a weak position to borrow or negotiate favourable borrowing terms	Many commercial owners will be in strong position to borrow and negotiate favourable borrowing terms
Financial assistance	Small grants for heritage buildings	Small grants for heritage buildings

4. The owners of homes in EPBs and the owners of prohibited firearms

	NZ population – private individuals	
	A	B
	Owners of homes in EPBs	Owners of prohibited firearms
Policy objective	To reduce life safety risk to the public presented by buildings	To reduce life safety risk presented to the public by assault firearms
Government intervention	Legislation is designed to remove or reduce the risk by strengthening or demolishing buildings of 2 or more storeys containing 3 or more units	Legislation designed to reduce or remove the risk by taking specific firearms out of circulation
Owner situation	Buildings comply with the Building Code and has a Building Warrant of Fitness. Owners maintain building, insurance and pay EQC levies.	Firearms bought and held legally
Impact on owners	Owners required to strengthen or demolish their homes at their own cost and risk. Lifetime financial losses of as much as \$2m	Owners required to surrender their firearms in return for a Government payment, based on condition of the firearm as a percentage of market value. The Government stated it was compensating for taking away a property right.
Eligibility for financial assistance	Small grants for heritage buildings	n/a

5. The owners of homes in EPBs and the owners of homes with weathertight issues

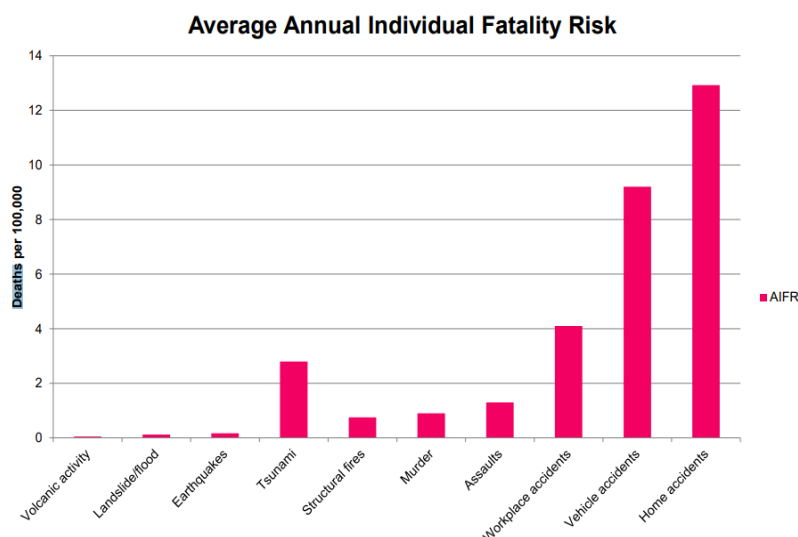
	NZ population – private individuals	
	A	B
	Owners of homes in EPBs	Owners of homes with weathertight issues
Policy objective	To reduce life safety risk to the public presented by buildings	To compensate for systemic failure of building regulatory system
Government intervention	Legislation is designed to remove or reduce the risk by strengthening or demolishing buildings of 2 or more storeys containing 3 or more units	Legislation establishes an advisory services, mediation services and financial support
Owner situation	Buildings comply with the Building Code and has a Building Warrant of Fitness. Owners maintain building, insurance and pay EQC levies.	Homes built in compliance with legislation and subsequently bought legally
Impact on owners	Owners required to strengthen or demolish their homes at their own cost and risk. Lifetime financial losses of as much as \$2m	Owners can seek compensation from Government or sue product manufacturers, builders and/or councils
Eligibility for financial assistance	Small grants for heritage buildings; yet to be delivered Financial Assistance Scheme (Budget 2019) of \$10m for loans and \$13.3 for administration	Owners can apply to Government support fund Lawyers also taking class actions on behalf of owners

Some buildings in Wellington have been identified as being earthquake-prone and with weathertight issues.

Future policy settings: tsunamis more of a risk than earthquakes

A report for the Earthquake Commission by the New Zealand Institute of Economic Research³⁴, August 2015, on the tsunami risk facing New Zealand shows that the risk of death due to a tsunami is many times higher than the risk of death due to an earthquake.

Figure 1 Tsunami risk comparison



Source: NZIER, based on Gisborne District Council 2013

A GNS Science report, published in September 2014, *Estimated earthquake and tsunami losses from large earthquakes affecting Wellington Region*³⁵, a document that WCC relies on for its risk information, shows estimated deaths in two different earthquake scenarios, the first for a 'Wellington Earthquake', and the second for a 'Subduction-Cook Earthquake'. In the second scenario, by far the greater number of deaths is due to tsunami.

Surely there is public demand for the Government and WCC to address this threat with as much evangelism as they are addressing the threat of collapsing buildings. Which begs the questions, what steps are being taken in the Wellington region to reduce the life safety risk posed by tsunamis, what are the costs, and who is paying for an event of this scale? Presumably not private individuals having to take pre-emptive action to protect themselves in the event that a tsunami occurs.

³⁴ https://www.eqc.govt.nz/sites/public_files/Report%20on%20Tsunami%20Risk%20facing%20New%20Zealand%20Aug%202015.pdf

³⁵ Cannot be found online. Available from WCC.

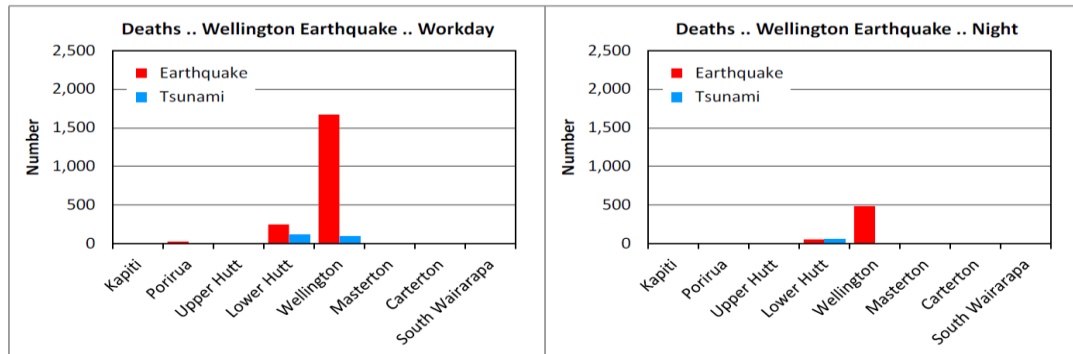


Figure 4.4 Deaths due to earthquake shaking (red bars) and subsequent tsunami inundation (blue bars) for a Wellington Earthquake, for typical workday (left) and night-time (right) scenarios.

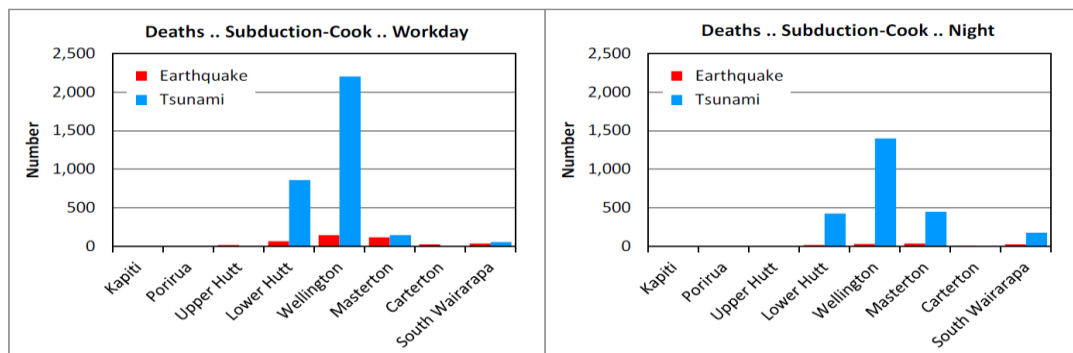


Figure 4.5 Deaths due to earthquake shaking (red bars) and subsequent tsunami inundation (blue bars) for a Subduction-Cook Earthquake, for typical workday (left) and night-time (right) scenarios.

Good Regulatory Practice Expectations and the EPB process

According to The Treasury's **Government Expectations for Good Regulatory Practice**³⁶:

A **regulatory system** is a set of formal and informal rules, norms and sanctions, given effect through the actions and practices of designated actors that work together to shape people's behaviour or interactions in pursuit of a broad goal or outcome.

A **regulated party** is a person or organisation that is subject to behavioural expectations, obligations and/or sanctions within a regulatory system, and

A **regulatory agency** is any agency (other than courts, tribunals and other independent appeal bodies) that has any of the following responsibilities for the whole or part of a regulatory system: monitoring; evaluation; performance reporting; policy advice; policy and operational design; legislative design; implementation; administration; information provision; standard-setting; licensing and approvals; or compliance and enforcement. In setting these expectations, the government is mindful that:

In this case, the regulatory system is the EPB regime, the regulated parties are owners of buildings including owners of parts of buildings, such as home owners, and the regulatory agencies are MBIE and WCC.

Not only are building owners regulated parties, but they are the people expected to fund from their own pockets a national public safety programme the scale of which New Zealand has not seen before, so we might expect that the consequences of the EPB regime for us would have been considered when the policy was being developed, when the bill was being drafted, when the implementation system was being designed and when the implementation system was deployed. But consequences for owners were never considered.

The **Government Expectations for Good Regulatory Practice**, which government department chief executives have a statutory responsibility to meet, provides the benchmark against which we can assess where the regulatory process for the EPB regime is up to standard.

The expectations provide a beautifully clear and concise description of what good regulation is all about and what Government expects of regulation and regulatory agencies in their 'regulatory stewardship' role. The introduction states:

Regulation significantly shapes the everyday lives of New Zealanders. It recognises and protects their wide-ranging rights and interests, and can assist them to interact with others and with the state on clear, fair and efficient terms.

But regulation can also impose costs, limit freedoms, stifle innovation, and give rise to other

³⁶ <https://treasury.govt.nz/sites/default/files/2015-09/good-reg-practice.pdf>

unintended consequences. The well-being of all New Zealanders therefore vitally depends on the quality of our regulatory design and practice.

Good regulatory design and practice requires considerable attention, skill, and collaboration. It must accommodate diversity in people and organisations. It may also need to operate in complex environments in which values, social conditions, markets or technologies may be evolving rapidly, and the behavioural responses are difficult to predict in advance.

Recognising the challenges, the government has, over time, developed some general rules of thumb about what makes a good regulatory system and what is good stewardship practice for a regulatory agency. These are collated and presented below for the reference of government regulatory agencies.

The government expects that government regulatory agencies, both in the public service and the wider state sector, will have regard to, and give appropriate effect to, these good regulation principles and regulatory stewardship responsibilities, within the bounds of their agency resources and mandates.

We have compared the 2013 expectations that were current when the Review of Earthquake-prone Buildings Policy and development of the Buildings (Earthquake-prone Buildings) Amendment Bill were underway, and the current 2017 expectations, with what we know from our research.

Assessment of the design of the EPB system against expectations

Our conclusion is that almost none of the expectations in the Government Expectations for Good Regulatory Practice³⁷ have been or are being met in the case the EPB system.

Key points are discussed in the following sections.

Current expectations Part A: Expectations for the design of regulatory systems	Expectations met?
The government expects any regulatory system to be an asset for New Zealanders, not a liability.	<p style="text-align: center;">No</p> This regulatory system is a liability for home owners from which many will never recover. Politicians and officials consider that the costs of the strengthening will add value to the asset. There is no research data on this for home owners who have strengthened their homes. The research ICW has seen has focused on commercial properties, which can immediately charge higher rents, and standalone houses, where the work is optional
By that we mean a regulatory system should deliver, over time, a stream of benefits or	<p style="text-align: center;">No</p> The maximum net benefit to New Zealanders that

³⁷ <https://treasury.govt.nz/sites/default/files/2015-09/good-reg-practice.pdf>

Current expectations Part A: Expectations for the design of regulatory systems	Expectations met?
positive outcomes in excess of its costs or negative outcomes. We should not introduce a new regulatory system or system component unless we are satisfied it will deliver net benefits for New Zealanders. Similarly, we should seek to remove or redesign an existing regulatory system or system component if it is no longer delivering obvious net benefits.	could be gained directly from the introduction of this regulatory system is the saving of 24 buildings and 168 lives over 75 years. Despite the cautionary advice of the Government’s external consultants and numerous expert submitters, a new regulatory system was introduced without any consideration of the real costs, and other impacts on home owners. For home owners and their families the outcomes are net losses.
The government believes that durable outcomes of real value to New Zealanders are more likely when a regulatory system:	
Has clear objectives	Yes The original policy objectives were clear. However, they were not measurable. Over time, the benefits have been inflated to justify the cost to owners
Seeks to achieve those objectives in a least cost way, and with the least adverse impact on market competition, property rights, and individual autonomy and responsibility	No The precise opposite is true
Is flexible enough to allow regulators to adapt their regulatory approach to the attitudes and needs of different regulated parties, and to allow those parties to adopt efficient or innovative approaches to meeting their regulatory obligations	Not always WCC may use its discretion when deciding which parts of the current Building Code buildings being strengthened must also meet (eg, fire systems and disability access). Heritage officers can place significant constraints on owners in terms of the appearance and impact of strengthening solutions, without considering the costs of those requirements.
Has processes that produce predictable and consistent outcomes for regulated parties across time and place	No There is nothing predictable or consistent about any aspect of the EPB journey for home owners. There have been no resources targeted to residential owners by WCC or MBIE. WCC and MBIE established an advisory service to facilitate the completion of the URM facades and parapets project. This service does not address the full range of support that is required by home owners in multi-owner environments.
Is proportionate, fair and equitable in the way it treats regulated parties	No The precise opposite is true
Is consistent with relevant international standards and practices to maximise the benefits from trade and from cross border flows of people, capital and ideas (except when this would compromise important domestic	N/R

Current expectations Part A: Expectations for the design of regulatory systems	Expectations met?
objectives and values)	
Is well-aligned with existing requirements in related or supporting regulatory systems through minimising unintended gaps or overlaps and inconsistent or duplicative requirements	<p style="text-align: center;">No</p> While the legislation allows for demolition, owners of heritage buildings do not have that choice and face significant challenges to remove the heritage status. The EQUIP and other funds do not provide sufficient assistance to address the costs and are only available for certain buildings. In Wellington, buildings cannot be demolished in the CBD unless there is a plan for the proposed replacement building. In reality, demolition of a whole building is not an option for home owners.
Conforms to established legal and constitutional principles and supports compliance with New Zealand’s international and Treaty of Waitangi obligations	<p style="text-align: center;">No</p> The established principle that public benefits are paid for by public funds has not be adhered to
Sets out legal obligations and regulator expectations and practices in ways that are easy to find, easy to navigate, and clear and easy to understand, and	<p style="text-align: center;">No</p> It is very difficult for home owners, working with their neighbours, to understand and navigate the system or protect themselves from risks. The scale of strengthening projects (complexity, costs and risk) was not envisaged in the Unit Titles Act.
Has scope to evolve in response to changing circumstances or new information on the regulatory system’s performance.	Yes, but the fact that it does have the scope to evolve in response to changing circumstances or new information is a huge risk for home owners who may comply now but find themselves non-compliant later

Assessment of the regulatory stewardship of the EPB system

Part B: Expectations for regulatory stewardship by government agencies

The government expects regulatory agencies to adopt a whole-of-system view, and a proactive, collaborative approach to the care of the regulatory system(s) within which they work. This regulatory stewardship role includes responsibilities for:

- monitoring, review and reporting on existing regulatory systems
- robust analysis and implementation support for changes to regulatory systems, and
- good regulatory practice.

Are these regulatory stewardship expectations being met in the case of the EPB regime?

Monitoring, review and reporting on existing regulatory systems

An OIA was submitted to MBIE to obtain information on how it intended to monitor, report and evaluate the regulatory system. The response advised that the approach to this work

had not been started as the legislation had only come into force on 1 July 2017, and it was too early to undertake this work. This raises concerns on two fronts:

- the collection of reliable and useful data is critical to any monitoring, review or evaluation. Multiple territorial authorities will be setting up systems in the absence of any central guidance or expectations of data.
- The Government and MBIE is ignoring the fact that the core elements of the policy in force from 1 July 2019 (%NBS threshold and the expansion to all construction types) were fundamentally the same as those under which WCC has identified buildings as earthquake-prone. The data available from 10 years of implementation, and the associated impacts, has been ignored.

MBIE's report, *Progress toward identifying potentially earthquake-prone buildings: 2018*, November 2018, is a very lightweight efficiency monitoring report a quantitative exercise; of territorial authorities' progress against one of their deliverables, which does nothing to advance anyone's understanding of system effectiveness.

MBIE is currently undertaking an 'Evaluation of the Earthquake-prone Buildings (EPB) system'³⁸ to provide timely information and early insights to:

- Check how well the EPB system is working and how MBIE and Territorial Authorities are performing
- Identify areas to learn, collaborate and improve on
- Build public awareness and understanding about how New Zealand is addressing EPB risks to public safety
- Enhance relationships between Government, territorial authorities, the building sector and the wider public

The evaluation criteria include:

- Administrative efficiency, eg user-friendly, clear roles and understanding of requirements
- Fit for purpose design, eg national consistency yet responsive to changing situations and needs
- Proportionality and fairness – an appropriate balance between social expectations (life safety) and economic costs (eg remediation costs for individual owners).

Note that:

- The main active stakeholder group, building owners, is not mentioned.

³⁸ MBIE. Information sheet: stakeholder interviews 2019: evaluation of the earthquake prone buildings (EPB) system 2019

- MBIE is evaluating itself.
- The objectives do not seem fit for purpose
- The criteria have no indicators
- There are no terms of reference available from MBIE for the evaluation. Only an Information Sheets relating to stakeholder interviews.

Until ICW contacted MBIE, there were no representatives of home owners on the interview schedule. At the time of writing, the Body Corporate Chairs' Group and the Home Owners and Buyers Association of New Zealand (HOBANZ) are the two representative bodies that have been contacted to participate. ICW, which has engaged with the Government and MBIE throughout the process, was not invited to participate, despite indicating our willingness to be involved.

The Body Corporate Chairs' Group made a joint submission with ICW on the Select Committee's Interim Report and has supported the lobbying work of ICW. HOBANZ does not appear to have actively engaged in the EPB policy development process as it did not make a submission to the Select Committee considering the proposals.³⁹ In response to ICW's request to participate, and MBIE official said 'The evaluation includes information about media coverage of EPBs, which appears to represent your perspective'. The media will provide a perspective, but it does not necessarily fully reflect ICW's perspective.⁴⁰

This selective approach to engagement reinforces the need for an independent review of the policy and its implementation.

Robust analysis and implementation support for changes to regulatory systems

There has been no implementation support for this policy. ICW has raised this in our first submission on the proposals, in our submission on the Select Committee's Interim Report, in media releases and in other communications with politicians and officials.

Home owners in multi-unit EPB are expected to become project managers of complex, expensive, technical and highly risky projects without any independent support or guidance. Home owners are put in a position where there is information asymmetry: the parties being paid to provide advice have the technical knowledge and there is no independent assurance support for the parties without the technical knowledge. This is poor policy implementation.

An expectation in the Government Expectations for Good Regulatory Process is that the regulatory agency is 'making genuine effort to identify, understand and estimate the various categories of cost and benefit associated with the options for change'. MBIE did not do this during the policy design, in the 12 months between being passed and coming into force, or since implementation began on 1 July 2017.

A comprehensive and independent advisory service is required to support home owners

³⁹ HOBANZ's primary focus has been the weathertight issue.

⁴⁰ Email from MBIE, 1 Nov 2019

WCC mayoral and Lambton Ward candidates committed to implementing an advisory support service in the 2016 local elections campaign, but this only eventuated in response to the Government's URM facades and masonry compliance intervention. Since then, the service is now being targeted to owners of priority buildings, when there are other owners who need this support.

In any event, WCC and MBIE both have conflicts of interest in delivering an advisory service for home owners in EPB. Neither organisation can realistically separate their regulatory roles from an advisory support role.

ICW has twice outlined the key requirements for an advisory service – firstly in 2017⁴¹ in a position paper sent to central and local government politicians and officials, and again in 2019⁴², building on the experience of the services established in Christchurch to respond to firstly insurance and then EQC repair issues.⁴³

The following description was included in the 2019 paper.

Key components of an advisory service are:

*Principles:*⁴⁴

- Independence: the management and governance of the Advisory Service(the Service) is separate from MBIE and WCC
- Owner-centricity: the 'customer' of the service (body corporate lead contact) will be supported by the Service to develop an agreed outcome (among owners in the body corporate) and with WCC as the regulator
- Transparency: any criteria for access to the different support interventions is clearly communicated at the start of the engagement
- Flexibility: in processes for achieving the outcomes
- Timeliness: processes support the customer to progress the planning and decision-making for the project within the customer's available resources and capacity, taking into account the deadline for the building

Support interventions

- Resource toolkit: of templates, checklists, a costing tool to include all likely costs that need to be considered⁴⁵, process flow diagrams that outline the steps required in an end-to-end process. These would be available to all owners and used in conjunction with the case managers.

⁴¹ Inner City Wellington and Body Corporate Chairs' Group (2017) Advisory and financial support position paper.

⁴² Inner City Wellington (2019) Proposal for an advisory service for residential EPB

⁴³ WCC has recently (July 2019) made available \$500,000 for non-heritage building owners to apply for funding assistance for engineering reports in cases of hardship. This fund was previously only available to heritage building owners (commercial, charities and residential). Other 'incentives' are available, for example: rebate on building consent up to maximum of \$5,000; work is underway (rates rebates if building is vacated or demolished) or work completed and building removed (rates rebates of 3 – 5 years for non-heritage/heritage), but these are limited and do not address the substantive financial burdens placed on apartment home owners. <https://wellington.govt.nz/services/rates-and-property/building-earthquake-resilience/support-for-building-owners>

⁴⁴ Based on Greater Canterbury Claims Resolution Service Advisory Committee Terms of Reference June 2019

⁴⁵ Costing tool developed by Collaborative Lobby Group/ICW provides a base to start from.

- Case management: technical specialists (eg, project managers) who can work with body corporates as they engage with architects, geotechnical and structural engineers, lawyers, construction contractors and council regulatory teams
- Legal advice: to enable owners to make informed decisions, to obtain relevant technical advice and to resolve disputes among owners at an early stage.
- Technical specialists: access to a panel of engineers and building professionals who can provide assurance to body corporates on the quality of the solutions, designs and plans provided, and can mediate where there are varying opinions.
- Mediation support: to coordinate with the legal advice, to help owners in a building progress through an impasse, and between technical specialists and WCC.

Required competencies and skills

- Owner-centric focus: committed to working in a multi-owner environment to help achieve the best outcome for them (rather than a technically-optimum outcome); being aware of the personal stress being borne by the lead owner(s) undertaking the work on behalf the body corporate, frequently over a long period of time
- Legal: knowledge of Unit Titles Act 2010, Building Act Part 2, Subpart 6A EQPB provisions
- Project management: experienced at managing construction projects and liaising with technical specialists and others to progress the project
- Facilitation: able to meet with owners of a building and help them work through the process to identify information needs, make decisions and implement the decisions
- Mediation: able to mediate among owners in a building to come to a consensus decision

Lack of consistency and quality assurance of technical advice from commercial professionals creates uncertainty and risks for home owners

The feedback received from owners⁴⁶ demonstrates that the complexity of assessment and reliance on assumptions and interpretation by engineers in deciding NBS ratings and proposing strengthening solutions, results in variable advice. Owners are obtaining multiple opinions to try to ensure that they are putting themselves in the best position. Often, a few owners are in practice having to make judgements on behalf of all owners, many of whom will be reliant on the individuals involved in the project itself.

The prescribed methodology was intended to remove the variability in the assessment of seismic ratings to stop a single building getting widely variable ratings. However, this has not worked. Engineering NZ has established a mediation service⁴⁷ where it will facilitate an engineer to mediate between two or more engineers to get an agreement on a rating. If this is not possible, the mediator will give the owner a plain English explanation as to why an agreed rating cannot be reached. The owner, of course, must pay for this.

This situation reinforces for the need for an authoritative assessment service owners can use to minimise the uncertainty and risks imposed on them.

⁴⁶ See Appendix 1; summary of qualitative comments from owners to ICW's survey of costs May 2019

⁴⁷ <https://www.engineeringnz.org/our-work/reconciling-differing-seismic-assessments/>

Comparison with other jurisdictions

NZ is the only jurisdiction that is taking this mandatory approach to seismic strengthening of existing buildings of all construction types. We need to be certain this is the right approach given the costs and risks being borne by owners, especially residential owners, and the capacity and capability of the wider engineering and construction sector to deliver the solutions.

MBIE's regulatory impact statement only provides a very brief summary of the analysis it undertook of 11 other jurisdictions (both national and regional) for the public and to support its proposals and does not make clear how different the NZ approach will be.

Italy has a comprehensive approach across all buildings as part of its National Seismic Prevention Programme. It is only mandatory for strategic buildings (eg, schools, hospitals, police stations, etc) to be strengthened. Financial incentives are used to encourage private owners to undertake strengthening.

The summary states that 'New Zealand and Italy are the two countries for which the requirements for earthquake-prone buildings are not restricted to a particular building use or construction type (eg, masonry buildings).' This implies that the policies are at least similar in implementation. The detailed analysis states that the law passed included funding prevention measures across the country to ensure all new builds abide by specific codes and reinforcing earthquake prone buildings. MBIE's analysis states that the requirements passed in 2009 had not yet been implemented (as at 2012).

Subsequently, ICW has obtained information that indicates the Italian policy is quite different.⁴⁸ The retrospective strengthening is only mandatory for strategic buildings, such as schools, hospitals, police stations, etc. For other buildings, the requirements only apply when there is:

- a change of use that would increase the total load on the foundations by 10 percent
- an extension to the building
- a structural intervention to transform the building substantially.

Private owners are, however, provided with incentives to undertake the strengthening on a voluntary basis with the introduction in 2017 of a tax incentive scheme.⁴⁹ The tax incentive scheme payments increased based on the extent of the upgrade that was achieved. The maximum that could be obtained for a building is 96,000 Euro in 2019. Funding of nearly one billion euro was provided by the Government over a seven year period. There also

⁴⁸ Personal conversations with an Italian engineer who has reviewed material available on Italian websites.

⁴⁹ Polese, M (et al) (2018) Sustainable selective mitigation interventions towards effective earthquake risk reduction at the community scale. Sustainability, 10, 2894.

appears to be funding contribution from state governments, along with owner contributions, to encourage the strengthening of existing buildings.⁵⁰

Articles about the strengthening of buildings, including residential buildings, appear to be primarily about buildings damaged in recent earthquakes that are currently uninhabited. There is an awareness at the government level of the impacts and challenges of strengthening on residential owners to achieve the goals of sustainable cities. This includes: technical feasibility of renovation interventions, costs of seismic renovation, temporary alternative accommodation for occupants, insufficient awareness and skills, consensus to retrofit expenditure in multiple ownership, and the conflict between owner-occupier and owner-landlord interests.⁵¹

California's policy focuses on building types with specific risk profiles (eg, unreinforced masonry or soft storey buildings). While in Oregon and Washington, new policy developments for mandatory strengthening are only focusing on unreinforced masonry, and are addressing the financial impacts of this as part of the policy process.

Other jurisdictions, such as California, do have mandatory seismic strengthening of existing buildings, but only for specific construction types. These include unreinforced masonry buildings and buildings at risk of soft storey failure. California does not have a broad approach across all construction types based on a set threshold as New Zealand does. In the words of a San Francisco structural engineer the buildings that have to be strengthened have been proven to fail in an earthquake.⁵² The engineer noted that a threshold such as xx% NBS creates 'another line, another game'. While he believes that a building below 34% NBS is a legitimate collapse risk, he says the 'question is how much effort and disruption is being imposed to calculate (and then fight over) a number when the same large group of certain buildings can be triaged with easier methods'. The policy in California is to identify specific collapse-prone deficiencies rather than measuring % NBS or compare the existing structure to new building design.'

Of the NZSEE promoted 2004 policy changes he notes 'good intentions alone and even good engineering can often make bad public policy... good engineering being a careful evaluation and a retrofit can be good advice to a willing client, but when multiplied by 10,000 to make it public policy, it should be obvious that it won't always work. That said, it's the policy-makers' job, not the engineers to know this'.

And this is where the NZ 2004 policy changes failed, as the policy makers did not engage in the public policy issues on EPB for residential buildings.

In 2012, when the MBIE analysis was completed, neither Oregon nor Washington had any mandatory requirement for strengthening of existing buildings. Instead, strengthening was required if there were substantial structural changes to the building (including a value

⁵⁰ Dolce, M. (2012) The Italian National Seismic Prevention Program. Paper presented to WCEE 15. <http://www.civil.ist.utl.pt/~mlopes/conteudos/SISMOS/DOLCE.pdf>

⁵¹ La Greca, P and Margani, G. (2018) Seismic and energy renovation measures for sustainable cities: a critical analysis of the Italian scenario. Sustainability: 10 (254). <https://www.mdpi.com/2071-1050/10/1/254>

⁵² Personal communications.

threshold in Oregon or a change of use. Since then, new policy measures are in the legislature process in both states to make strengthening of unreinforced masonry buildings mandatory.⁵³ A February 2019 article notes that 'Portland commissioners are hesitating to carry through with a seismic reinforcement mandate unless there are realistic financial supports for private building owners'.

The governments of both states have recognised the financial impact and are considering financial support to owners. Washington would contribute on the basis of a dollar for dollar (by owner) for eligible work and Oregon would contribute 35% in a grant towards the costs. Washington State estimates it would take US\$100 million in grants to have an impact. A May 2019 report, estimates the costs of retro-strengthening 944 unreinforced masonry buildings will be US\$1.28 billion.⁵⁴

New Zealand's resources (financial for the owners and capacity and capability for the sector) for mandatory seismic strengthening should be invested in buildings that present the highest risk based on known areas of risk (eg, unreinforced masonry, precast and hollowcore floors), strategic building use (schools, hospitals, public libraries) and numbers of people in the building, eg commercial buildings where workers have limited choice about the accommodation.

Financial incentives should be available for other owners who strengthen their buildings to recognise the public benefit that is obtained through safer buildings in areas frequented by the public.

⁵³ Banse, T. (2019) Bricks could rain down on your head during the next major quake. These proposals want to fix that. <https://www.kuow.org/stories/bricks-could-rain-down-on-your-head-during-the-next-major-quake-these-proposals-want-to-fix-that>

⁵⁴ Boiko-Weyrauch, A. (2019) Retrofitting Seattle's vulnerable buildings could cost over \$1 billion. <https://www.kuow.org/stories/retrofitting-vulnerable-buildings-could-cost-over-1>

Other key issues

Tax Relief

ICW has consistently raised the issue of financial assistance, including some form of tax relief, in its submissions on EPB policy. ICW has supported the submissions by the Property Council of NZ for the reinstatement of depreciation for buildings, but has highlighted that this will not be the appropriate mechanism for residential owner-occupiers.

There needs to be an equitable regime for residential owners with commercial property owners. Tax relief mechanisms must apply retrospectively to include those owners who have already complied or are in the process of complying with the legislation

Following the recommendations of the Tax Working Group (TWG) the Ministers of Finance and Revenue released the Government tax policy work programme for 2019-20.⁵⁵ Under the 'Business' section this included the TWG recommendation on 'seismic strengthening (note this also includes consideration of residential policy)'.⁵⁶ This appears under 'Business', which means that the residential aspect is already being given a lesser standing.

Depreciation or claiming expenses related to seismic strengthening of other income, as a mechanism, works well for commercial owners or investor-landlords of residential properties, who are already claiming business-related expenses to reduce their income, and subsequent tax. It does not work well for residential owner-occupiers.

It would impose additional compliance burden, including when the apartment is sold. Many residential owner-occupiers are not required to submit tax returns and have limited income sources to offset these costs against, eg retirees. There needs to be a one-off payment mechanism that enables the owners who have funded the work to move on with their lives.

The tax system can be, and has been, changed to provide for relief in response to earthquakes, eg with the Taxation (Canterbury Earthquake Measures) Act 2011. This included 'tax relief for donated trading stock' among other measures, which could apply to stock donated prior to the legislation being passed. This tax relief has been applied retrospectively. The April 2018 submission outlined a number of other government-funded relief measures: weathertight homes issue, extreme weather events and the Kaikoura earthquakes.

Private funds are paying to deliver public safety outcomes and contribute significant amounts to the Crown revenue through the taxation paid along the chain of suppliers involved.

⁵⁵ <http://taxpolicy.ird.govt.nz/work-programme#business>

⁵⁶ ICW's [submission](#) to the Ministers of Finance and Revenue highlighted that the TWG proposals to only allow depreciation up to 67% New Building Standard (NBS) is not workable as some buildings will have options that would achieve, eg 55% NBS or over 80%NBS due to the specific structural weaknesses of the building. All strengthening has to be eligible for any tax relief.

GST-registered owners are able to claim back GST and commercial owners, including residential owner-landlords are able to claim expenses. Residential owner-occupiers cannot access either of these but are paying the same costs.

The legislation is primarily driven by public safety outcomes. There is a significant public benefit gained from private owners undertaking and funding mandatory seismic strengthening in metropolitan and regional centres to protect the public and for economic resilience of the centres.

The private benefit for commercial owners differs to the private benefit for residential owners. Because of the demand for commercial and public sector tenancies in buildings above 67% NBS, owners are able to immediately begin charging higher rental rates once the work is completed.⁵⁷

This does not apply to the same extent for residential rental properties⁵⁸ and does not apply at all for residential owner-occupiers. Firstly, residential owner-occupiers must sell their homes to recover the money spent. The full costs of strengthening are unlikely to be recovered at the time of sale for many owners as the market, which includes newer buildings, determines the sale price. There has been no research on the validity of the claims of the private benefit from strengthening EPB for owners of residential apartments. ICW provided data to the TWG to demonstrate the contribution being made by residential owners to the Crown revenue. In addition to the costs shown below, some owners will have to vacate their homes while the strengthening occurs.⁵⁹

⁵⁷ Commercial and public sector tenants will not lease buildings under 67%NBS and are closing or vacating buildings now found to be below 67%NBS, even if the building is above 34%NBS.

<https://www.rnz.co.nz/news/national/402403/parliamentary-service-to-move-staff-out-of-bowen-house>

⁵⁸ Some owners in EPB have had to become landlords as personal circumstances have required them to leave Wellington and they have been unable to sell their apartments. This is not a lifestyle choice, but an additional impact of the legislation.

⁵⁹ Inner City Wellington. (2018) [Submission](#) to the Tax Working Group on the Interim Report. The strengthening costs in this table only include two of the buildings included in the cost survey data in Appendix 2.

	Bldg A	Bldg B	Bldg C#	Bldg D*	Bldg E*
Construction costs	\$1,565,319	\$534,817	\$1,528,400	\$7,906,050	\$25,000,000
Professional fees	\$313,064	\$156,532	\$384,725	\$1,976,829	\$6,250,000
Added value	\$173,924	\$178,272	\$319,021		
Other costs			\$68,004		
Contingency					\$5,000,000
Estimated total cost of project	\$2,052,307	\$869,621	\$2,300,150	\$9,882,879	\$36,250,000
Estimated breakdown of costs:					
Profit @ 5%	\$102,615	\$43,481	\$115,008	\$494,144	\$1,812,500
Materials @ 55%	\$1,128,769	\$478,292	\$1,265,083	\$5,435,583	\$19,937,500
Wages @ 40%	\$820,923	\$347,848	\$920,060	\$3,953,152	\$14,500,000
Income tax on profit of contractors @ 28%	\$28,732	\$12,175	\$32,202	\$138,360	\$507,500
PAYE on wages paid @ 17.5%	\$143,661	\$60,873	\$161,011	\$691,802	\$2,537,500
GST on project (only # GST reg Body Corp)	\$169,315	\$71,744	\$189,762	\$815,338	\$2,990,625
Tax Paid/Due* to Government	\$341,709	\$144,792	\$382,975	\$1,645,499	\$6,035,625
Building Levy; Building Research Levy 1.45%	\$22,697	\$7,755	\$22,162	\$114,638	\$362,500

*Project is in planning stages, costs are based on quantity surveyor estimates. Building B and C had a 28% and 16% increase in the tender prices. Strengthening work has not begun.

The legislation is imposing intergenerational costs on the current private sector owners for public safety outcomes. Central and local government are able to share this cost across future generations. This creates an inequity between different groups of owners facing the same compliance burden.

The costs of strengthening existing earthquake-prone buildings for public safety outcomes are intergenerational costs that are being borne fully by the current owners, when the public safety benefits are spread over multiple generations of the public. The current owners bought buildings compliant with the codes at the time in good faith, but changing legislation and new methodologies and technologies for assessing compliance determines them to now be non-compliant.

Central or local government building owners facing mandatory seismic strengthening can incur debt and spread the burden over many generations of beneficiaries. This is not possible for private owners who are spending all their savings or going into debt (often at later stages of their lives) for the benefit of future generations.

This creates an inequity between owners facing the same compliance costs. Mandatory seismic strengthening costs are effectively a tax borne by the current private owners for a long-term public benefit.

Tax relief measures do not address the financial losses incurred by owners who have to sell their buildings when it is not financially viable for the building to be strengthened or the risks of such a project are too great for home owners to take on to comply with the mandatory strengthening of existing buildings. Tax relief mechanisms are one part of a suite of financial measures that are required to address the impacts of this legislation.

Insurance

ICW first raised concerns about the insurance increases in 2013, in the submission on the MBIE consultation document, noting that it is 'time for the Government to be actively considering options that would support and underpin the return of a well-functioning, stable insurance market in NZ.'⁶⁰

ICW raised concerns with MBIE about the lack of competition in the market for residential apartment buildings and the ability for insurance brokers to withhold information on commissions, compared to other financial advisors. MBIE's response was that residential apartment buildings operated in the commercial market and had the information to obtain competitive quotes. This was not the case at that time and has been borne out by the current insurance market and the Insurance Forum and Insurance Taskforce initiated by Wellington's Mayor in mid-2019.

Premium increases

In 2012, ICW received feedback from one owner of insurance increases of 600%. In 2013, another owner (Chair of his Body Corporate) advised a 27% increase, after increases of 100% in each of the two previous years. The latest increase resulted in a \$50,000 increase to the body corporate budget, on top of a 20% increase in other costs (related to strengthening investigations). In addition, there had been no allowance for maintenance fund in the current or previous year. The owner advised that anecdotally he had heard of other body corporates receiving insurance premium increases for that year of 35 – 45%. Generally, servicing maintenance funds for EPB has been put on hold due to insurance increases and funding strengthening investigation work.

Case studies

More recently, the following case studies have emerged:

1. Small residential block of 6 apartments (some owned by retirees, roughly 80 square metres each in size) in an inner suburb:
 - The building was deemed EQP by WCC circa 2013;
 - Building premium in 2012 was \$10,135.00 (costing \$1,689.00 per unit, which is a weekly cost of \$32.00 per unit owner);
 - Building premium in 2019 was \$42,600.00 (costing \$7,100.00 per unit, which is a weekly cost of \$136.00 per unit owner);
 - The value of the building cover has increased by 70% over this time, but this does not justify a hike of 320% in premiums.

2. Building is concrete, built in 1962, converted to apartments in 1994. Strengthened in 2015 (at a cost of over \$1,000,000) and is 45% of NBS, not on reclaimed land. 7 residential apartments
 - Insurance costs incl GST vs valuation over the last 8 years (building valuation shown in brackets):
 - 2010 \$10,007 (\$4,975,800)

⁶⁰ Inner City Association. (2013) Submission on MBIE building seismic performance consultation proposals.

- 2011 \$13,804 (\$5,077,300)
- 2012 \$41,503 (\$5,163,600)
- 2013 \$46,901 (\$5,773,000)
- 2014 \$49,083 (\$5,959,000)
- 2015 \$23,024 (\$6,410,500) - strengthening completed
- 2016 \$21,937 (\$7,159,000)
- 2017 \$37,259 (\$7,159,000 - didn't get a new valuation)
- 2018 \$56,873 (\$9,222,000)

Note: There was no damage in the 2016 quake and only two cracked windows covered by EQC in the 2013 quakes. The Body Corporate has seriously considered indemnity value only in 2019 (about 50% of the valuation, at last renewal), but the Chair was only prepared to do so with unanimous support which wasn't obtained. Some owners are worried about breaches to their mortgage conditions. If premiums remain high next year, the issue will be reconsidered.

3. 1928 building: >70% NBS, 55% increase for this year's premium; three days' notice to accept.
4. Multiple building complex with heritage and non-heritage blocks, at 80%NBS: Not taking out natural disaster insurance as it was a 240% increase over the previous year, and that was only for 73% of cover. The majority of owners could not afford to pay their share of the premiums. There has been nearly 1000% increase in insurance premiums since 2015.
5. 1958 building, reinforced concrete building, 9 levels, Soil Class C; 45-50% NBS, 19% increase in premium and given two weeks out from renewal:
 - 3 insurers, and the main insurer sets fees one month out from renewal
 - changing brokers due to lack of transparency on their fees; the fees of the previous broker were calculated to be nearly \$23k incl GST.
 - negotiated a flat fee (circa \$10k incl GST)
6. Strengthened building to >80%NBS at \$3m project costs; received 40% and then 50% increases in premiums over the next two years.
7. High rise apartment building, completed 2008-2009. Insurance has increased by 67% in the last renewal and owners have been told to expect another 15-20% increase, which is likely to be on an increased valuation.
 - No structural damage in Kaikoura EQ, but a reasonable amount of internal damage.

Relevance of %NBS

Being able to obtain cheaper insurance once strengthened was listed in the Cabinet paper as one of the 'benefits' of strengthening earthquake prone buildings. Now the insurance sector has decided it will ignore the % NBS rating and seemingly the actual strengthening work that was done to obtain it. Insurance Council NZ has stated the sector only considers building age, height, location and ground conditions when setting insurance premiums.

The insurance and banking sector encouraged or required higher %NBS, driving up the strengthening challenges and costs for owners. These sectors used the 'at risk of earthquake' category (developed by NZ Society of Earthquake Engineers) of between 34% and 67%NBS, to justify their demands. Owners who have strengthened over 67% NBS are not gaining that benefit.

The insurance sector is undermining a government policy and owners are caught in the middle of a compliance deadline and huge costs, and being told the work and funds spent won't make any difference to the insurance premium or resilience of the building. The reported outcomes of the Insurance Taskforce are likely to result in a new building standard that provides for recovery (or economic resilience) as well as life safety. There is huge uncertainty about the implications for existing buildings of such an increase.

Unit Titles Act

The Unit Titles Act (UTA) has a requirement for full insurance, which makes body corporates susceptible to high increases when there is a limited market as they cannot opt out. However, there is no definition of full insurance; some body corporates are taking indemnity insurance as that is all they can afford or are being offered. But this appears to be open to interpretation and could present a problem in the future.

Suggestions of changing the legislation so body corporates can self-insure (eg, to a certain level) does not necessarily address the risks. Self-insurance will require special levies to create a fund, which creates its own risks of appropriate management, or have to rely on owners being able to fund their share when the need arises – raising similar issues to funding seismic strengthening costs for some owners.

Role of EQC or similar levy

Another view is that New Zealand has to move away from an expectation of 100% insurance cover and align itself with the rest of the world (e.g. California only allows earthquake insurance up to 30% of the value). ICW supports the proposals reported from the Insurance Taskforce of an increased EQC cap.

The Insurance Council NZ has already come out against this because it reduces the influence it has over the market. There are likely to be concerns about the affordability of increasing the EQC levy - yet politicians and the wider public expect home owners to be able to find hundreds of thousands of dollars (with subsequent financial and personal impacts, including discounted sales of apartments or buildings) to remove or reduce the risk of damage to buildings that are covered by the EQC levy.

It is important to restate here that apartment home owners in EPB are paying out in advance of any earthquake. Canterbury and Kaikoura owners of homes damaged or destroyed were paid out by insurers and EQC – acknowledging that this process alone was unreasonably and unnecessarily stressful for the owners.

Appendices

Appendix 1: Qualitative responses to survey of residential EPBs

ICW Survey, May 2019

Comments from respondents

In the survey, we gave owners the opportunity to “If you wish, tell us about your experience of the process the owners of the building have been going through since the building was found to be ‘earthquake-prone’, and about how the legislation has affected, or will affect owners/residents of the building.”

We have collated comments under common themes.

1. Body corporate volunteers expected to run commercial scale, complex building projects in a hostile environment

- Body Corporate Committee members thrust into governance role that is challenged beyond all expectations.
- In a nutshell, government are forcing apartment owners into committing to a large “construction” project for which the average person is not equipped.
- Nothing to date has been designed to help residents in multi-residential buildings – we’re not a commercial property owner with untold resources to access at or finger tips.
- There has been no funding and no advice (or advisory bodies) to aid us.
- I would say we do not have the tools or the skills to take this kind of job on.
- The WCC need to supply real, practical assistance for BC’s not just send letters to owners with unreasonable deadlines scaring the heck out of them.
- EPB remediation is a large, costly and highly complex process with many moving parts. It is in every respect at the limit of the capability of most if not all owners and thus highly stressful.
- The WCC need to acknowledge each building is unique and each timeline for repair will be unique, not some blanket date.
- Seeking resources at any level for a small block like ours is impossible. They are either unavailable (due to large and priority projects) or unaffordable.
- The WCC has a duty of care to help us get through this tough time and I don’t see or hear anything from our WCC managers making practical assistance available. It’s all self-help and we don’t know or have contacts within the engineering industry to make

informed decisions our stakeholders can rely on. Blind leading the blind through a minefield really.

- There is a lot of work out there for structural engineers, etc, so we have had to wait our place in the queue. I anticipate this will also be the case with contractors.
- Professionals and contractors are in heavy demand (eg engineers and building contractors). There is competition not only from building renovations but also new builds (eg Kiwibuild, apartment construction, etc.)
- General delays with engineers, project managers and interactions with WCC due to high workloads.

2. Lack of confidence in the competence of professional and the quality of advice

- We started the process of initial assessment in 2010however after completing the assessment [the engineer] recommended a second assessment by another engineer. We undertook a second IEA, which confirmed the first We started the process to strengthen in 2011. However, after preparing a proposal (\$600k estimate) the engineer recommended awaiting the outcome of the legislative changes in 2014 to avoid potential reword. Following legislative changes a project manager was retained – [name of project management company], which has since gone out of business. [Name of project management company], did prepare a strengthening scheme and an estimate (\$1.8m). We eventually started all over again with another PM, engineer and architect, meaning costs all over again and delays, while all the time the costs of the work increase significantly.
- We have had some very bad luck with our first engineer having a fatal accident part way into the design process. We approached other engineers but they will not pickup work started by another company due to risk. We have had to start all over again.
- An engineer did an assessment. The BC did not know whether we could trust that assessment and we wanted to be sure we really were under 34%. Also, at the time, WCC seemed keen on peer reviews. So we got another engineering company to do a second assessment. They confirmed the building was under 34% but they found errors in the first engineer's assessment. They gave us new engineering proposals which were much more expensive than the first estimate. A couple of years later the same engineers reviewed their first proposal, with more information available, and the cost estimate increased dramatically. Owners have no way of knowing whether they are being taken advantage of.
- Our first engineers engaged in 2013 left us with no confirmed rating whilst doing their DSA over a period of a couple of years; principal died whilst under investigation (this was unknown to us, yet Wellington City Council were well aware) and firm was wound up leaving us with no recourse and no firm answers. Second engineer engaged in August 2017 to perform a new DSA; due to heavy workload with URM clients has had to delay work for us and we now expect a result in May 2019. In November 2016 we also ran an RFP to engage a specialised Project Manager to take on the EQ programme on behalf of

the Body Corporate, due to our lack of capability. Response was poor due to a number of factors namely, a) We were too small; b) Couldn't afford the "best", c) Balance of respondents were tier 2 operators we had no confidence in.

- The next step from receiving the preliminary drawings was to have them costed the estimate has gone from \$500k to \$2.5m
- Also concerning is news coming out of MBIE that the approaches to assessment and strengthening are being revised all the time, with the potential that any strengthening done, may at some point be deemed insufficient and buildings require further strengthening. There's only sector making money out of all this and that's the sector that designed and built the buildings in the first place.

3. Stress and fear

- Massive shock for owners at the extent of the work required and costs involved.
-this subject is causing great stress to all the owners
- This situation as a whole is incredibly stressing on all owners and more so on the BC committee members. The level of uncertainty is just added to by the WCC's attitude to have random deadlines based on some unknown criteria. Highly charged BC meetings have erupted with members falling out and almost coming to blows.
- No trust or co-operation amongst owners.
- Initial shock of the building being earthquake prone given it was strengthened in the late 90s when it was developed into apartments.
- The stress is crippling for owners who cannot see an end to it. We are forced into a corner with no way out except to sell at a huge loss which many of our owners will not be able to recover from.
- Extremely stressful on owners.
- Seven years of stress so far and now we find there's no way to comply that won't ruin owners financially. And there is a terrible human cost. We are being penalised for just owning a home that happens to be in a shared building as opposed to being on its own plot. The winners are all the professionals we have already paid and WCC which wants to see higher density buildings in place of older buildings like ours.
- There is a large misconception across the board that we are all wealthy commercial property owners – we're not. A lot of us are simple home owners.

4. Financial viability


- There was a delay within the Body Corporate of several months while some owners debated the level to strengthen the building to – 33% or 67%. Eventually the high-level estimates of the costs of strengthening determined a 34% scheme was the only viable

option. This was also confirmed by an assessment by a property consultant, which indicated that strengthening above 34% would not be viable economically.

- All of the owners are worried about resale value of their units and while we are classed as prone any sales are stalled or lost.
- Financial assistance is also required, eg cheap loans for BC's to reduce the stress to owners and some kind of insurance reduction, eg replacement cost is not really practical as we all know we probably won't be able to build in the same location anyway as per much of Christchurch.
- Our insurance has tripled due to estimations for rebuilding costs doubling. The annual insurance cost for our building is \$300k to insure \$20m.
- Even if we did strengthen, it's seems quite possible we won't be able to get full cover insurance.
- The insurance went from about \$7,000 PA to about \$130,000 PA and may not even be available next renewal if strengthening has not proceeded.
- As strengthening is clearly not economically viable owners are likely to decide to sell the building so we'll walk away with land value if we are lucky. Such huge losses just because WCC can use the legislation to open up opportunities for new developments where we used to live – that we won't have the money to buy homes in.

Appendix 2: Summary of costs for strengthening residential EPBs

ICW survey, May 2019

EQPB Cost Estimates for compliance by strengthening Sample of 13 buildings - May 2019					
	Basis	Range across 13 buildings	Average per building	Average per unit	
Number of buildings	From owner survey responses		13		
Number of residential units	From owner survey responses	7 to 32	196	15	
Year of build cost estimate	From owner survey responses	2015 to 2019			
INITIAL PROFESSIONAL FEES					
Fees for detailed seismic assessment (DSA), research, investigation, high level outline proposals, in advance of deciding to proceed with the design stages for the strengthening work - leading to Building Cost Estimate. (ex GST)	Estimate of 4,000 per unit		784,000	4,000	
Total initial professional fees	Inc GST		784,000	4,000	To building industry and GST
BUILDING WORK COSTS					
Total Building Cost Estimate excluding GST for the whole building adjusted for time since date of estimate taken from whole building calculator	From owner survey responses	50,000 to 13,970,000	54,450,000	277,806	
Cost increases since estimate	5% per annum		4,127,347	21,058	
Current Building Work Cost adjusted for time lag since estimate			58,577,347	298,864	To building industry and GST
BUILDING WORK RELATED COSTS					
Risk contingency - on Building Cost Estimate	Estimate 15% on building work cost		8,786,602	44,830	
Professional Fees related to strengthening work - engineers, architects, quantity surveyors, project managers related to preliminary and detailed design stages, and build stage	Estimate 15% of building work cost		8,786,602	44,830	
Risk contingency on Professional Fees related to strengthening work	Estimate 15% on prof fees		1,317,990	6,724	
Building consents	Estimate 0.09% of building work cost		52,720	269	
Construction insurance	Estimate 0.5% on building workcost		292,887	1,494	
Removal of waste	Estimate \$5,000 per unit		980,000	5,000	
Total Building Work Related Costs	Inc GST		20,216,801	103,147	To building industry and GST
DISPLACEMENT COSTS					
Displacement costs - accommodation, packing, storage, car parking	Estimate average \$600 per week per unit for 40 weeks		4,704,000	24,000	
Total Displacement Costs	Inc GST		4,704,000	24,000	To landlords
LEGAL COSTS					
Advice at early stages, collective agreement, administration of escrow/financial management mechanism, contracts, etc	Estimate average of 10,000 per unit		1,960,000	10,000	
Total Legal Costs	Inc GST		1,960,000	10,000	To lawyers and GST
TOTAL COSTS before loan interest	Inc GST	369,520 to 20,419,673	86,242,148	440,011	
Interest on loan	1 year construction loan @ 7%		6,036,950	30,801	To banks
TOTAL COSTS including loan interest		395,814 to 21,849,050	92,279,098	470,812	
			Average RV is	483,500	
			Lost value	97%	
Exclusions					
Additional DSAs - many buildings have had more than one					
Increase in building costs since date of buildng estimate					
Replacement of non structural items					
Removal of asbestos found in process of building work					
Fire protection upgrades to meet current building regs					
Any other requirements to meet current building regs					

Appendix 3: Intervention logic for table of actions

Towards a better approach to the earthquake resilience of multiple-ownership residential buildings (MORBs)

Ultimate Goal		The region/city is resilient to sudden and slow onset disasters	
Impact Objective - MORBs		MORBs do not pose a disproportionate risk to public life safety in the event of an earthquake	
Outcomes – all MORBS		<ul style="list-style-type: none"> Over time, MORBs are strengthened, or demolished for redevelopment The non-structural elements of MORBs that pose a risk to the public are secured 	
Outcomes – MORB owner behaviour		Some owners do nothing	
		Some owners strengthen	
		Some owners demolish and redevelop	
		Some owners sell	
Interventions	Amendments to legislation	Building Act	No longer mandatory for MORBs to strengthen or demolish
			Significant alteration triggers requirement to upgrade to latest code
			Non-structural elements that could fall on members of the public in an earthquake must be secured (not just URM)
		Unit Titles Act	Ability of body corporates to form companies(powers to improve, develop, and sell, change to insurance obligations etc)
	Income Tax Act	Revised treatment of costs of strengthening (incl depreciation)	
	Goods and Services Tax Act	Revised treatment of costs of strengthening	
	Reform the EPB Implementation System	Improve integrity of the system and quality of implementation	
Provide state insurance	Affordable cover for all MORBs		
Design, promote and deliver incentives schemes	(Shift focus from enforcement to incentives) Grants and loans, tax incentives, independent advice and resources		
Inputs		Independent Government Agency for MORBSs	
		Insurance scheme capitalisation	
		Grants and loans capital fund	

Transition - Suggested no-loss approach to exiting owners of homes in EPBs from the existing system

Ultimate Goal	Remove home owners from liability for strengthening MORBs become subject to the new MORB EPB regime MORBs as possible are strengthened or sold for demolition and redevelopment sooner rather than later			
Outcome objectives	Owners with homes in EPB MORBs exit the old regime without losses Owners are incentivised to strengthen voluntarily or sell (to a developer), with the net result that most MORB EPS would exist the EPB regime and be replaced			
Scenarios	A. MORB has an EPB Notice but no contracts for strengthening, demolition or sale have yet been signed (Different terms would apply to owners who have already signed contracts)		B. MORB with an EPB notice has been sold with the EPB	C. MORB with an EPB Notice has been strengthened or demolished
Interventions	Legislation to allow the following interventions:			
	EPB Notice is cancelled		Owners who were party to the sale receive compensation for any negative difference between the net sale proceeds and the latest RV. Subject to conditions.	Owners receive compensation for losses calculated using a formula, and subject to conditions
	New seismic assessment by an independent, structural engineer			
	Owners DO NOT want to strengthen, demolish or sell can use new MORB regime at a later date	Owners who want go ahead with strengthening or demolition receive compensation for losses. Based on a formula and subject to conditions		
Inputs	Mechanism/body to administer transition			
	Compensation fund			

Rough cost of compensation - Wellington

If the 338 owners of the 37 MORBs currently on the Wellington EPB list all chose to sell and use the purchasing scheme	Average RV \$483,500	-\$163,254,000
Add back land value 55% (based on average land value of a sample of EPB apartments)		+\$89,789,700
If 100 homes have already been strengthened	\$473,000	-\$47,300,000
Total compensation		\$120,764,300

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