



**Basis for oral submission by Geraldine Murphy, Spokesperson on Seismic Matters in support of Inner City Wellington's petitions calling for a review of the earthquake prone building legislation and a comprehensive support for residential owners in earthquake-prone buildings**

The oral submission outlines the harms being experienced by owners and the actions Inner City Wellington is calling for to address those harms.

The impacts of the current earthquake-prone building provisions on apartment owners are unreasonable, unfair, harmful and morally indefensible. And COVID-19 has just increased the challenges for many.

Keeping people safe from harm when disasters strike is important, but if how we do that is by ruining the lives of more people than will be saved, and forcing apartment owners out of their homes then we must think again.

Home owners in apartment buildings deemed to be earthquake-prone:

- are being forced to make decisions that are not in their best interests, over-capitalising their homes and using tax-paid income and savings to comply
- face compliance burdens that other home owners do not face even though there are known issues with some residential homes
- are funding public safety outcomes even though their buildings are not used by the public
- are expected to manage complex and expensive construction projects, in a known high-risk environment, when owners are unlikely to have the knowledge to understand and assess the technical options being put to them
- face losing their homes as the only viable option is to sell the whole building on the commercial market at a discounted price.

Our latest survey shows that the average cost of strengthening for an owner is nearly 10 times higher than the \$25,800 estimated in the 2012 cost benefit analysis. This level of increase is not reasonable or affordable. Based on the 2012 analysis, the costs per owner in one building should be around \$18,000 but the costs are well over \$200,000.

The impact on owner-occupiers is much greater than for commercial owners. Their apartment is their home. Current owners will not increase the value of their homes. The value of their homes dropped once deemed EQP and they are paying to recover that lost value – it does not add additional value.

The majority of apartment owners cannot claim GST paid against GST received, will not benefit from the cash flow advantages of the recent depreciation changes for commercial buildings and cannot charge increased lease costs.

Around 23% of the costs paid by owners accrue to the Crown in the forms of GST and taxes paid by various professionals and contractors.

ICW acknowledges the Government's funding for the Financial Assistance Scheme in Budget 2019 but we are still waiting for this to be implemented. We are concerned that it won't provide the backstop that was intended and some criteria are unreasonable. For example, applicants are charged a low equity margin for the duration of the loan as they are considered high risk because their regular lender is not prepared to lend to them, when some owners are currently mortgage free. And these owners, along with many others, are being forced to take on debt to retain their homes.

The treatment of apartment owners facing these compliance costs is morally indefensible. The gun buyback compensation scheme was implemented because this Government was changing the rules and taking away gun owners' property rights.

Apartment owners who chose to buy a home in a compliant building must have their property rights respected and be afforded the right to decide for themselves whether to accept the risks in the event of an earthquake as other home owners do, or be compensated for having those rights removed.

Extending the timeframes will not address the fundamental flaws in this legislation which have been apparent since the 2004 Building Act came into force.

The Government must:

- Commission an independent review of the impact on home owners of this policy
- Put a moratorium on the identification of any further multi-owner residential buildings as potentially earthquake prone or earthquake-prone until the review is completed
- Amend the legislation to remove multi-owner residential buildings from the earthquake-prone provisions.
- Compensate owners who have or are now incurring financial losses and impacts due to this legislation.
- Provide a proactive, effective and comprehensive support service that is independent of territorial authorities and MBIE for owners progressing mandatory strengthening.

The legislation does not just affect Wellington. It will affect home owners around the country living in residential buildings that are 2 or more levels with 3 or more households.

We need to stop and think about what we are doing.

In 2013, Cabinet was asked to agree that the proposals will result in expectations on building owners to strengthen earthquake prone buildings that are generally reasonable and affordable. This is wrong – the costs are not reasonable or affordable.

We call on this Committee to exercise your powers to the fullest extent and make a recommendation that an independent review is urgently commissioned by this Government and that the other solutions are implemented. Home owners should not be forced out of their homes or suffer significant financial impacts that affects their wellbeing by flawed legislation.

## Other supporting information

*Other residential buildings not covered under the EQP Building legislation.*

The Royal Commission into the Canterbury Earthquakes identified elements such as unreinforced chimneys as a risk. The Commission recommended territorial authorities, following consultation with communities, be given the powers to adopt and enforce policies to require the remediation of specific hazardous elements. This recommendation was not agreed to by the Government.

More recently, BRANZ has identified that foundations in hillside dwellings are likely to be a risk. <https://www.eqc.govt.nz/news/hillside-foundations-get-a-shake-up-in-cutting-edge-testing>

The project is testing of timber houses on hillsides. It has found that houses with different heights and types of foundations can result in a twisting motion making earthquake damage more likely. Timber building standards are based on historic practices and testing on level sites, with loadings below those on a sloping site.

The project manager hopes the project will provide approximate costs for different techniques that homeowners can use to strengthen foundations under existing houses.

No research has been done by any agency or institution to assist owners in earthquake prone apartments to identify or cost remediation solutions.

### *Residential Earthquake Prone Building Financial Assistance Scheme*

Interest rate: - RBNZ B20 (New Residential Standard Interest Rate) 5yr rate is updated each month, but the Low Equity Margin (LEM) stays the same for the life of the loan. The rate for borrowers is based on 60% of the total of the 5year rate and the LEM. The rate is fixed for 5 years.

<b>Example month</b>	<b>B20 – 5 yr</b>	<b>LEM</b>	<b>Total</b>	<b>Borrowers pay</b>
May-20	4.48%	1.25%	5.73%	3.44%

The application of the LEM is inconsistent with how it's applied in the retail bank sector, where the LEM is only applied if the amount borrowed is more than 80% of the borrower's equity in the property, and it reduces as the equity in the property increases. ICW does not accept there should be any additional component as the owners are forced to borrow or sell their homes, and many of the potential applicants will have been mortgage free.

Write-off of negative equity: if the sale of an apartment does not recover enough to repay the loan and interest, the remaining debt can be written off. However, IR treats the written off debt as income and sends the borrower a tax bill.

The interest creates a significant additional debt for owners particularly those who may need to sell to move to retirement facilities or residential care. This combined with the risk of a tax bill, when they may have little choice as to when to sell is unreasonable and unfair when it is an imposed compliance cost.