

BCCG Submission - EQ Prone Building Regulations and Methodology

Introduction

This document aims to inform BCCG members of the key submission points that the BCCG will make in the submission to MBIE, in response to the proposals for Regulations under the Building (Earthquake-prone Buildings) Act 2016, and the associated proposal for a methodology to identify earthquake-prone buildings (EQBs). For a full copy of the BCCG submission document, contact wellington.chair@bccg.org.nz.

A copy of the proposal documents can be obtained from:

<http://www.mbie.govt.nz/info-services/building-construction/consultations/consultation-earthquake-prone-building-regulations-and-methodology>

Disclaimer: This document reflects the BCCG interpretation of the MBIE proposals. BCCG members should read the relevant section of the source MBIE proposal documents before taking action on any statements made in this document.

This document is for the use of BCCG members only.

BCCG Members are encouraged to make their own submissions before 10th Feb 2017. A submission can be made in the form of a simple email (even on a single point) to EPBconsultation@mbie.govt.nz or using the supplied submission form. See the above website for further details.

EQ Prone Building Regulations

Earthquake ratings categories

Currently buildings are deemed to be earthquake prone if they have a %NBS (percentage of the current New Building Standard) of less than 34% ie <34%NBS.

MBIE are proposing that there be two rating categories for EPBs, one for those under 20%NBS and another for those between 21%NBS and 33%NBS.

BCCG view:

- This is overly complicated – keep it simple
- There may also be a greater stigma placed on buildings under 20%: could significantly impact on businesses/rentals impacting turnover and having a flow-on effect on ability to raise the necessary money to do the strengthening.

EPB Notices

The proposal is for three different types of notices, two for each of the proposed rating categories and one to replace any existing s124 notices. MBIE propose that the notices have different colours and designs.

BCCG view:

- Notices should be much simpler and clearer than the current S124 notices.
- Recommend a single style of notice for all EPBs, with large lettering (minimal or no fine print), simple wording and the EPB rating (% of NBS) or the words “Not Yet Rated” clearly identifiable. If this approach is taken, then don’t need the categories or a variety of different notice formats.

Criteria for ‘Substantial Alterations’

The Act requires EPBs to be strengthened as part of any ‘substantial alteration’ i.e. any building consent for a substantial alteration will not be granted unless seismic strengthening is undertaken. The Regulations must define what a ‘substantial alteration’ is, and are looking at a fixed dollar value or a percentage of the value of the building.

BCCG view:

- Agree in principal that building owners should be forced to undertake strengthening if other significant work is to be undertaken – prevents other “cosmetic” capital improvements being done in favour of strengthening.
- Building work related to fire protection systems and disabled access should also be excluded when considering whether the Substantial Alteration criteria have been met (to assist with progressive delivery of strengthening and associated work).
- A fixed value approach should not be used as this will change over time.

Methodology to identify EPBs

Identification of potentially EPBs via profile categories

The proposal is to use profile categories based on age and construction type. The Territorial Authority (TA e.g. City Council) will use these categories to decide that a building is potentially earthquake prone and will then require the owner to provide a seismic assessment.

MBIE propose that the profile categories will depend on the risk profile of the area: one for high and medium seismic risk areas (such as Wellington, Christchurch, Napier and Wanganui, Invercargill respectively) and another for low risk areas such as Auckland and Dunedin. Key elements of profiling in each of these areas indicate that a building will be deemed to be earthquake prone if the building is:

- a unreinforced masonry (URM) building (ie constructed of brick, block or stone) or
- built prior to 1976.

If the TA defines a building as earthquake prone, the responsibility (and cost) will be left to the building owners to prove that it isn't earthquake prone. This usually requires a Detailed Seismic Assessment that (in Wellington) usually costs in excess of \$25,000 and can easily be double this depending on the complexity and age of the building.

BCCG view:

- The profile categories are very simplistic – possibly too broad a brush, identifying too many buildings, some of which will not be EQ Prone, incurring unnecessary expense for owners.
- It moves initial assessment costs from the TA to owners – the onus will be on owners to prove that the building is not EQ prone, rather than on the TA to prove that it is.

Note: the Wellington City Council does not intend to reassess Wellington's buildings under this new methodology and so this will not apply to Wellington.

Identification of potentially EPBs at any time

In addition to applying profile categories, the proposal allows Territorial Authorities to determine that a building is potentially EQ prone at any time based on information received. It seems that even a tenant would have the power to say that the building was dangerous and the TA would then declare it to be so.

BCCG view:

- The discussion document uses phrases “if the TA becomes aware of issues” and “other material” which are quite vague. There have been instances made known to the BCCG where individuals have provided incorrect information to the TA and that TA has acted upon it without any discussion with the BC and with no evidence of the validity of the information.
- The onus of proof of the validity of the information received must lie with the TA and must be obtained before a building owner is notified that their building is potentially EQ prone.
- The due process that TAs must go through to verify the information should be included in the methodology to protect owners from malicious or unreliable informants.
- Owners should not have to incur any costs if the TA has acted upon incorrect information.

- There is a potential for sweeping assessments of multiple buildings based on new technology or new knowledge from earthquake performance, which could designate a recently strengthened building as EQ prone again. There needs to be greater clarity that such retrospective “broad brush” identification across all buildings is not the intention under this provision and that TAs will not be able to do so, especially for buildings already strengthened.
- TAs must have more than just “a reason to suspect” – there needs to be reasonable grounds.
- TAs must not be able to invent their own strategies and criteria under this provision.

Description of Parts of Buildings

The Act has been changed to include a part of building as being EQ prone. There needs to be a definition of what is meant by the part of the building. The proposal refers to individual structural and non-structural elements that could cause a significant life safety hazard if they were to fall. Examples given are URM parapets, precast cladding panels, heavy partition walls.

It is unclear whether the whole of a building will be declared EQP if a (small) “part” of the building is deemed to be EQP. This would be similar to the current requirement where the whole building is given the %NBS figure that relates to the lowest rated part of the building.

BCCG View:

- The use of the term “life safety hazard” conflicts with the Act’s use of the word “injury” (which is undefined).
- More examples are needed to clarify what is or is not a part of a building.
- If a part of a building is deemed to be earthquake prone, will this result in the entire building being classified as such? This seems unreasonable if the part of the building is a very minor portion of the whole building. Perhaps the notices could be used to clarify whether the status applies to the whole building or at least to stipulate the part that is affected.

Types of engineering assessment required

The proposed methodology allows for an Initial Seismic Assessment (ISA), followed by a Detailed Seismic Assessment (DSA) if required.

BCCG View:

- There should be an option of having a DSA without an ISA if it is clear that the building is very likely/certain to be EQ prone.
- How can an owner realistically know whether a DSA is required or whether the engineer is just being ultra-conservative or trying to generate revenue? The TA should be required to provide independent advice at no cost as to whether or not the ISA is enough.
- Building owners need to be given good up-front advice at the time they are notified the building is potentially EQ prone, including how to obtain an assessment and likely costs. MBIE should develop an information pack to be supplied to owners.
- Assessment costs are currently being under-estimated by MBIE.

Criteria of accepting engineering assessments

The methodology includes criteria that defines whether or not a TA can accept an ISA/DSA, including that it has been carried out by a suitable qualified professional, conforms to the Engineering Assessment Guidelines document and has evidence of a site inspection.

BCCG View:

- Site inspection – the level of detail for the inspection needs to be clarified.
- We would like clarification that the TA must accept the report provided it meets the criteria.

- There must be guidance and support (beyond the MBIE determination process) to help owners, engineers and TAs if the TA rejects the assessment report but their engineer is adamant that the assessment meets the criteria.
- The proposal states that Engineers may be asked for a Peer Review. The cost of doing so would no doubt be passed onto Owners. There should be more specification in the methodology for the grounds on which the TA may request a peer review. The TA should have to inform the Owner why a peer review is required, in the same way they have to specify why a report does not meet the criteria.
- It is vital that the Engineering Assessment Guidelines are enough to resolve the significant variation in assessments and ratings on a given building. Owners should be confident that any assessment by any engineer would produce a similar outcome.
- All engineers must be trained in the new processes before they are deemed competent to undertake such assessments – training has been taking place for the technical aspects but engineers seem to be unaware of the new processes and assessment types.
- Guidance should be provided to help owners have confidence that the engineer is suitably trained and is applying the new guidelines.

Determining if a building is EQ prone

The Act stipulates that a TA must determine if a building is EQ prone or not and the methodology aims to clarify the legal test required. The proposal is to use the % of NBS stipulated in the Initial or Detailed Seismic Assessments, with anything below 34% and likely to cause injury or damage to other properties being EQ prone.

Note: the value of the % is not being reviewed – the one-third limit is stipulated in the Act.

BCCG View:

- There is a lot of vague terminology used in the proposed criteria (such as “frequent”, “foreseeable”, “close”, “injury”) that require better definition.
- The Discussion document states “If TAs are unable to make a decision using the information provided in the engineering assessment, they may commission engineering advice”. The methodology must stipulate that the TA must incur any associated costs.

Criteria for recognising previous assessments

The proposal allows for the transition from the current legislation, under which assessments are being conducted now. Any such assessments in progress will not be required to conform to the new criteria, but must still meet some basic requirements.

BCCG View:

- Welcomes the aim to avoid the need for assessments to be redone to conform with the new requirements.
- Given site inspections have not been required in the past, either this criterion needs to be removed or changes made to allow a separate site inspection document to accompany the original assessment. The extent of the site inspection needs to be defined.
- If a TA does not accept an assessment, they must be required to explain in writing what criteria weren’t met and allow the owner a right of response.