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Proposals for a methodology to identify earthquake-prone buildings & Proposals for Regulations under the Building (Earthquake-prone Buildings) Amendment Act 2016

Local Government New Zealand's submission to the Ministry of Business Innovation and Employment (MBIE)

10 February 2016

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We are. LGNZ.

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

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

Introduction

Thank you for this opportunity to submit on the "Proposals for a methodology to identify earthquake-prone buildings" and "Proposals for Regulations under the Building (Earthquake-prone Buildings) Amendment Act 2016" discussion documents.

While this submission has been prepared on behalf of New Zealand's local authorities, LGNZ acknowledges that territorial authorities (TAs) are well placed to provide feedback on aspects of the proposals that they engage in on a daily basis when implementing earthquake-prone building policy in their communities (eg proposals for regulations on substantial alterations).

We also acknowledge the local government technical advisory group established by MBIE and the opportunities this has provided for TA representatives to advise on the development of the regulations.

Overall LGNZ supports the proposals in the discussion documents. In previous submissions on earthquake-prone building policy, we have sought clarity to provide certainty to building owners and ease of implementation for TAs. We acknowledge that many of the proposals in the current discussion documents deliver this.

Specific comments

The expression of risk – priority and parts of buildings

Further refining the definition of risk has been a theme throughout the development of the earthquake-prone buildings policy; from the amendments announced to the Earthquake-prone Building Bill by Minister Smith in May 2015 (including varying the timetable for strengthening relative to earthquake risk and priority buildings) to the introduction of parts of buildings in September 2015.

LGNZ has previously requested the provision of clear and unambiguous guidance, either through regulations or supporting guidance, to ensure the primary participants in the implementation of this Act (TAs and building owners) are clear about their responsibilities and that decision-making is legally robust.

Priority buildings and parts of buildings

The relationship between the application of risk as expressed in priority buildings and parts of buildings could be more robust. Further guidance is proposed for priority buildings. This will need to address section 133 AF (Role of Territorial Authority) in identifying certain priority buildings.

In section 4.2 (Description of Parts of Buildings (pages 24 and 25 of Proposals for a methodology to identify earthquake-prone buildings)) concepts such as “*significant life safety hazard*” are introduced. These are further defined as “*a significant life safety hazard is a hazard resulting from the loss of gravity support of a member/element of the primary or secondary structure, or of the supporting ground, or of critical non-structural item that would reasonably affect a number of people*”. These could include URM parapets, pre-cast cladding panels, heavy items of plant and heavy partition walls, but the discussion document does not provide further clarification of “*reasonably affect a number of people*”.

There are several other sections in the revised earthquake-prone building regulations that include numbers of people as part of the overall policy approach to managing risk and it is vital that the rationale for these provisions is unambiguous.

For example in the Act section 133AE (d)(a) (Meaning of a priority building), priority building means buildings that are located in medium to high seismic risk that is regularly occupied by at least 20 people and that is used as any of the following:

- i. an early childhood education and care centre licensed under Part 26 of the Education Act 1989:
- ii. a registered school or an integrated school (within the meaning of the Education Act 1989):
- iii. a private training establishment registered under Part 18 of the Education Act 1989:
- iv. a tertiary institution established under section 162 of the Education Act 1989:

The draft provisions for exemptions (section 5.4 of Proposals for Regulations under the Building (Earthquake-prone Buildings) Amendment Act 2016) also discuss concepts of the consequences of failure in terms of proposed occupancy bands and frequency bands as guidance to TAs in the application of exemptions. Is there a relationship between these frequency and occupancy bands and the commentary on significant life safety hazard and “*reasonably affect a number of people*” in the discussion on parts of buildings?

When the addition of parts of buildings was announced by Minister Smith (2015) he stated “*We do not want this new priority status being applied to buildings in areas where there are few people being put at risk. Councils will have the task of identifying those areas with sufficient vehicle or pedestrian traffic to justify the new priority category. Our expectation is that all commonly used retail areas like central business districts will be included*”. This was reinforced by Minister Smith’s announcement on 25 January 2017 regarding the Order-in-Council to fix facades and parapets in Wellington, Hutt, Marlborough and Hurunui by 2018. If this is the case, then further definition of the description of parts of buildings is a moot point and MBIE should regulate for this activity. Noting that provisions currently require TAs to use the special consultative process to identify these certain priority buildings (section 133 AF) this would save ratepayer funding and council time and provide building owners with clarity on what is expected in terms of timeframes for strengthening.

Recommendation

1. That the guidance on the implementation of priority buildings and parts of buildings provides unambiguous guidance on determining life safety hazard or provision is made for parts of buildings in the regulations.

Ongoing co-ordination role for MBIE

Central government property portfolios

LGNZ supports MBIEs proposal to arrange a meeting where central government property portfolio managers can outline what actions they are taking to identify and strengthen earthquake-prone buildings. We are aware that the Ministry of Education has been working through its portfolio for some time.

In order to provide certainty to both central and local government, and members of the public that use these properties, Government property portfolio managers should provide TAs with information on the earthquake-prone buildings in their district.

Recommendation

1. That central government agencies provide TAs with information on earthquake-prone buildings.

Managing the engineering demand

LGNZ notes the desired intention for TAs to manage the resource demands on engineers by spreading the identification of earthquake prone buildings within the timeframes specified with the Act. This is not realistic without co-ordination.

Once again, LGNZ thanks MBIE for the opportunity to make this submission and work with you on the development of these regulations.