

LOCAL GOVERNMENT FORUM

17 April 2014

Clerk of the Committee
Local Government & Environment Select Committee
Parliament Buildings
WELLINGTON 6140

SUBMISSION: BUILDING (EARTHQUAKE-PRONE BUILDINGS) AMENDMENT BILL

Introduction

The Local Government Forum welcomes the opportunity to make a submission to the Local Government & Environment Select Committee on the Building (Earthquake Prone Buildings) Amendment Bill.

The Forum comprises organisations that have a vital interest in the activities of local government. Its members include BusinessNZ, the Electricity Networks Association, Federated Farmers of NZ, NZ Initiative, NZ Chambers of Commerce, and NZ Retailers' Association. The Forum was established in 1994 to promote greater efficiency in local government and to contribute to the debate on policy issues affecting it.

Some individual members of the Forum will be making their own submissions on the Bill and we acknowledge their submissions.

Given that our points will be raised by individual Forum members in their submissions, the Forum itself does not need to be separately heard by the Committee.

Background

The Building (Earthquake Prone Buildings) Amendment Bill is intended to improve the earthquake-prone building system, by requiring nationally consistent, more active approaches to identifying and dealing with earthquake-prone buildings. It is the result of a review of the system undertaken by building officials in 2013 in response to the Canterbury Earthquakes Royal Commission.

Territorial authorities will be required to undertake seismic capacity assessments of all non-residential buildings and all multi-storey, multi-unit residential buildings in their areas within five years of the legislation commencing, and a seismic capacity register will be created so the public can see whether a building is earthquake-prone. Earthquake-prone buildings will need to be strengthened or demolished within 20 years of the legislation commencing, although a 10 year extension will be available for Category 1 historic places.

Comment

The Forum understands the motivation for the approach taken by the Bill and that it reflects a determination to prevent future loss of life from strong earthquakes. It is important to learn from experience and to seek to prevent future harm but, like any regulatory 'fix' to address a potential harm, action rarely comes without cost, and in this case considerable cost, whether it is to councils, to building owners and to their tenants, and to local economies and communities.

The Forum agrees with other significant submitters, including from within the local government sector, that the Bill has an overly narrow focus on 'life safety'. Life safety is of course important but the Bill's approach fails to adequately take into account the wider social and economic impacts. We therefore recommend that the Committee take whatever time it needs to carefully consider these impacts and come up with a more workable solution.

In doing so we recommend the Committee consider the following problems with the Bill:

- **Inadequate cost benefit analysis (CBA):** The CBA states the costs will be \$1.7 billion and the benefits just \$37 million. This is striking enough, but the actual situation is likely to be far worse as the CBA did not take account of economic losses to businesses. An alternative analysis suggests the total economic costs to be \$10.5 billion¹.
- **Disproportionate response:** The Bill's response to the risk to life caused by earthquake-prone buildings seems disproportionate compared to responses to other 'risk' activities, for example road safety. More than 300 people die per year on our roads but no one has seriously suggested banning motor vehicles or imposing a speed limit of 10kph. A more proportionate national response might be to focus on particularly risky parts of buildings such as parapets and verandas.
- **One-size fits-all:** A nationally determined, 'one-size fits-all' approach to earthquake-prone buildings is problematic given that different parts of the country have different levels of risk of large earthquakes. We understand that no other country has taken such an approach². What is appropriate for Wellington is likely to be 'over the top' for Auckland. Councils should retain discretion to determine what level of response is right for the risk they face.
- **(In) ability to pay:** The cost of the Bill will fall most heavily on those least able to pay, the owners and tenants of older buildings in small rural and provincial towns. Many of these towns have populations with below average incomes and many of their older buildings are tenanted by small businesses, the vast majority of which have much lower turnovers than their city counterparts. They simply cannot afford large rent increases to meet the costs associated with earthquake strengthening. The fear is that many will be driven out of business, damaging the local economies and social fabric.

¹ *Error Prone Bureaucracy, Earthquake Strengthening Policy Formulation in New Zealand 2003-13: A study in failure*, Tailrisk Economics, March 2014.

² *Ibid.*

- **Is it feasible?** The Bill will place onerous timeframes on councils and building owners, both in terms of seismic assessments and the work needed to repair or demolish. We question whether it is physically possible to complete 193,000 seismic assessments within five years given the number of qualified engineers and their distribution around the country. And this is before considering the likelihood of inflating costs (associated with supply and demand) and whether second opinions will be possible, let alone at reasonable cost.
- **Unfunded mandate:** The Bill lands the implementation and administration costs squarely on to councils. This is an example of central government imposing a new or changed regulation without any corresponding funding – an unfunded mandate. The most affected councils will be rural and provincial councils, many of which are already contending with small and declining populations and competition for limited resources, such as renewing and maintaining ageing infrastructure.
- **No compensation:** The Bill will place a heavy cost burden on owners of existing buildings on the grounds of protecting the wider public. There will be an adverse impact on property values and at the very least the imposition of significant costs just to maintain a property's value. Yet no consideration has been given to compensating building owners for what is a 'regulatory taking'
- **No sign of the regulations:** The implementation of this Bill, and the burden it eventually places on councils, building owners and tenants, and local economies and communities, will be heavily dependent on what will be in the regulations. However, so far there has been no sign of draft regulations so uncertainty prevails as to how and in what circumstances they will apply. This is very poor practice.
- **The market is working:** Finally, it is important to recognise that insurance companies are already re-pricing risk, with earthquake-prone buildings attracting higher premiums and motivating building owners to strengthen or demolish. Is this heightened regulation therefore necessary?

In summary, the Local Government Forum has serious concerns with this Bill and we recommend that the Committee should seriously consider the points made in our submission so a more workable solution can be found. In the meantime, we recommend that the Bill should not proceed.

Thank you for considering our submission.

Yours sincerely



Michael Barnett
Chair