

7.21 Earthquake-Prone, Dangerous and Insanitary Buildings Policy 2006

Source: Council Meeting 27/4/06

Introduction and Background

Section 131 of the Building Act 2004 required all territorial authorities (TAs) to adopt a policy on earthquake-prone buildings by 31 May 2006.

The definition of an earthquake-prone building is set out in Section 122 of the Building Act 2004 and in the related regulations that define moderate earthquake¹. This definition covers more buildings and requires a higher level of structural performance of buildings than that required by the old Building Act 1991.

This document sets out the policy which was adopted by the Buller District Council (the Council) in accordance with the new requirements of the Building Act 2004.

The policy was required to state:

1. The approach that the council will take in performing its functions under the Building Act 2004,
2. The Council's priorities in performing those functions,
3. How the policy will apply to heritage buildings.

In developing and adopting this policy, the Council followed the special consultative procedure set out in Section 83 of the Local Government Act 2002, and had regard to the principles in Section 4 of the Building Act 2004.

The Council has made use of the Department of Building and Housing's (DBH) guidance document and for ease of reference, the policy was set out in the same format as the DBH policy template.

About this Policy

The Summary was made available for public inspection to submit views on at all Council offices, service centres and libraries. The public was also notified of where the actual draft policy document could be reviewed.

1 Policy Approach

1.1 Policy Principles

The Council has noted that provisions of the Building Act in regard to earthquake-prone, dangerous and insanitary buildings reflect the government's broader concern with the health and safety of the public in buildings and, more particularly, the need to address life safety in earthquakes. The Council has also noted that the development of these policies is up to each TA and has responded accordingly. This policy was finalised after due consultation with Council ratepayers and stakeholders in accordance with Section 83 of the Local Government Act 2002.

1.2 Overall Approach

Buller district lies in a relatively high seismicity zone and is some distance from a zone of highest activity associated with the Alpine fault. However, there are a number of known fault lines within the region which are large and close enough to cause significant damage throughout the district in the event of a significant earthquake.

The district's buildings comprise a range of types reflecting steady development over more than 100 years and range from wood, un-reinforced masonry, and brick buildings to modern two storey timber and reinforced concrete buildings. Refurbishment and redevelopment for new uses has meant some of the un-reinforced masonry and brick buildings have undergone some levels of strengthening.

This policy reflects the Council's determination to reduce earthquake risk over time in a way that is acceptable in social and economic terms to its ratepayers.

The Buller District Council is committed to ensuring that the entire district is a safe and healthy place to live in. The Building Act 2004 provides the means to ensure that the buildings which become dangerous or insanitary are improved to meet the Building Code standards, and the Council wishes to administer the Building Act in a fair and reasonable way.

The Council proposes therefore in this policy to carry out an initial desktop review to ascertain possible earthquake-prone buildings, followed by an evaluation of these buildings. The Council will then follow an implementation programme for buildings identified as 'earthquake-prone' according to a categorised list.

Dangerous and insanitary buildings will be dealt with in much the same way as the Council already deals with these buildings - by responding to

complaints received from the public and advice received from the New Zealand Fire Service.

1.3 Identification Process

Earthquake-Prone Buildings

The Council will undertake an initial desktop review of Council files to assess which buildings could be earthquake-prone and follow this with a brief inspection of each building, where necessary.

A programme to carry out an initial evaluation of performance in earthquakes by using the New Zealand Society of Earthquake Engineers (NZSEE) initial evaluation method will be undertaken over a four-year period beginning in 2007.

Owners will be required to do a detailed assessment on buildings identified as earthquake-prone in the initial evaluation, unless otherwise agreed in discussion following the initial evaluation.

A list will be collated of earthquake-prone buildings according to the results of the assessments. This list will categorise the earthquake-prone buildings according to the following:

Category A: Buildings with special post-disaster functions as defined in AS/NZS 1170.0:2002, Importance Level 4.

Category B: Buildings that contain people in crowds or contents of high value to the community as defined in AS/NZA 1170.0:2002, Importance Level 3.

Category C: Buildings with a Heritage Classification of 1 to 4 under the Council's register.

Category D: Buildings with an Importance Level less than 3 as defined in AS/NZS 1170.0:2002.

Dangerous and Insanitary Buildings

The Council will respond to building complaints received from the public and to advice received from the New Zealand Fire Service and then investigate and assess the condition of the building.

1.4 Assessment Criteria

The definition of Earthquake-Prone Buildings is given in Section 122 of the Building Act 2004 and the definition of moderate earthquake is given in Regulation SR 2005/32.

The Council will use the NZSEE Recommendations as its preferred basis for defining technical requirements and criteria. These Recommendations are designed to be used in conjunction with AS/NZS 1170 Loadings Standard, NZS 3101 Concrete Structures Standards, NZS 3404 Steel Structures Standard and Other Materials Standards.

The Council will assess dangerous buildings in accordance with Section 121(1) of the Building Act 2004.

The Council will assess insanitary buildings in accordance with Section 123 of the Building Act 2004.

1.5 Taking Action on Earthquake-Prone Dangerous and Insanitary Buildings

The Council, on being satisfied that a building is earthquake-prone, dangerous or insanitary, will:

- Advise and liaise with owners of buildings identified as earthquake-prone, dangerous or insanitary to discuss action to be taken.
- Encourage owners of buildings identified as earthquake-prone to carry out an independent assessment of the structural performance of those buildings.
- The Council will liaise with the Fire Service to discuss the proposed action when notification has been received from the Fire Service to a dangerous building.
- Use the powers given in Section 124 of the Building Act 2004 to take action regarding earthquake-prone, dangerous or insanitary buildings to serve formal notice in accordance with the Building Act 2004, and consider whether it should also erect a hoarding, fence or warning sign.
- When setting a timeframe for earthquake building action, the timeframes in the outline implementation programme will be taken into account.
- Where it is considered measures are necessary to avoid immediate danger or to fix insanitary conditions, the Council will use the powers given in Section 129 of the Building Act 2004.
- In the case of a building that, due to its structural condition is considered to be dangerous because it is likely to collapse, in whole or in part, potentially causing injury to occupants or persons in areas adjacent to the building, immediate evacuation, the fencing off of the building, shoring up of structures

and the preparation and implementation of a Temporary Protection Plan to ensure security (fire and vandalism) of any vacant buildings will be required.

- On being advised of conditions that are alleged to be insanitary within the provisions of Section 123 of the Building Act, the buildings will be inspected and a determination made as to whether action is required under Sections 124 or 129 of the Act. [Note: Provisions exist in the Health Act 1956 to deal with nuisance conditions related to certain matters associated with housing under Section 29(f) overcrowding likely to be injurious to health or Section 42 because of insanitary conditions likely to cause injury to the health of persons or are dwellings unfit for human habitation.

1.6 Interaction between Earthquake-Prone Building Policy and Related Sections of the Building Act 2004

When an application for a consent for a significant alteration to a building is received and the building has an earthquake-prone strength of less than 10% of the Code, the building will be required to be strengthened to at least 33% of Code as part of the consent.

Owners of buildings with a strength between 10% and 33% will be given consent for alterations and will be served with a notice under Section 124 of the Building Act requiring action with the timetable in the outline implementation programme.

When an application for a consent involving a change of use is received, the requirements of the Building Act, Section 115, for the building to be strengthened to as near as is reasonably practicable to the strength of a new building would be followed.

1.7 Dealing with Building Owners

Before exercising its powers under Section 124, the Council will seek, within a defined timeframe, to discuss options for action with owners with a view to obtaining from the owner a mutually acceptable approach for dealing with the danger, leading to receipt of a formal proposal from owners for strengthening or removal of earthquake-prone buildings, or otherwise dealing with the dangerous or insanitary situation by alterations to the building, removal, or action being taken under the Health Act 1956.

In the event that discussions do not yield a mutually acceptable approach and proposal, the Council will serve a formal notice on the owner in accordance with Section 124 of the Building Act 2004.

1.8 Recording a Building's EPB Status

The Council will keep a register of all earthquake-prone buildings noting the status of requirements for improvement or the results of improvement, as applicable. In addition, the following information will be placed on the LIM for each earthquake-prone building:

- Address and legal description of land and building
- Statement that the building is considered to be earthquake-prone
- Date by which strengthening or demolition is required (if known)
- Statement that further details are available from the Council property file

1.9 Economic Impact of Policy

The Council will review the 2002 report 'Strengthening Existing New Zealand Buildings for Earthquake: An analysis of the cost benefits using annual probabilities' prepared for the Department of Internal Affairs to assist in understanding the economic impacts of the policy.

The economic impacts will be able to be assessed in more detail when the first five-yearly review is undertaken. At that stage a database of buildings will be available.

1.10 Access to Information

Information concerning the earthquake status of a building will be contained in the property file and electronic property records. If a notice under Section 124 is issued in respect of any earthquake-prone, dangerous or insanitary buildings then a record of that will also be available on the relevant property file and be included in the relevant LIM.

In granting access to information concerning these buildings, the Council will conform to the requirements of the relevant legislation.

2 Priorities

Earthquake-Prone Buildings

The Council has prioritised both the identification and the requirement to strengthen or demolish buildings as follows:

Figures in brackets indicate the latest date for identification and notification and the maximum time for strengthening or demolition, respectively. Times required for strengthening or demolition commence on the date of issue of formal notice. Specific times will be assigned for action according to the assessment of structural performance and the nature of the concerns.

The order will be as indicated below:

Category A: Buildings with special post-disaster functions as defined in AS/NZS 1170.0:2002, Importance Level 4. (December 2008, 15 years).

Category B: Buildings that contain people in crowds or contents of high value to the community as defined in AS/NZS 1170.0:2002, Importance Level 3. (December 2009, 20 years).

Category C: Buildings with a Heritage Classification of 1 to 4 under the Council's register. (December 2010, 25 years).

Category D: Buildings with an Importance Level less than 3 as defined in AS/NZS 1170.0:2002. (December 2011, 30 years).

Once each category has been reviewed and the earthquake-prone buildings within it identified, the process of liaising with owners and serving notice on them will commence. Identification of buildings in each category will proceed according to the priorities identified above. The overall approach and timetable is summarised in the accompanying Outline Implementation Programme.

Dangerous and Insanitary Buildings

Priority for action will be decided after investigation of complaints and Fire Service notifications are complete.

3 Heritage Buildings

3.1 Special Considerations and Constraints

The Council believes it is important that its District Plan heritage listed buildings, structures and objects are protected and appropriately upgraded to mitigate the risk of loss of life and loss of heritage fabric in the event of a major earthquake. However, intrinsic heritage values of these buildings, places and objects must be protected and not adversely affected by structural improvement measures. However, such protection could come at a cost not otherwise envisaged and the issue may be "who will pay". Heritage buildings will be assessed in the same way as other potentially earthquake-prone buildings. To ensure that the heritage values are retained, protected and adequately secured against earthquakes, every effort will be made to meet the Council's heritage objectives contained in the District Plan.

When considering heritage buildings under the Earthquake-Prone, Dangerous and Insanitary Policy, account will be taken of:

- (a) the importance of recognising any special traditional and cultural aspects of the intended use of a building
- (b) the need to facilitate the preservation of buildings of significant cultural, historical or heritage value.

When dealing with earthquake-prone, dangerous and insanitary heritage buildings, the Council will ensure the development of special and appropriate recovery management and planning for heritage buildings to ensure, where possible, risk mitigation for the protection of heritage fabric and values. The skills of suitably qualified professionals with heritage expertise will be engaged to advise and recommend actions.

Earthquake-Prone Buildings

- When an application for a consent for a significant alteration to a building is received and the building has an earthquake-prone strength of less than 10% of the Code, the building would be required to be strengthened to at least 33% of Code as part of the consent.
- Owners of buildings with a strength between 10% and 33% would be given consent for alterations and would be served with a notice under Section 124 of the Building Act requiring action with the timetable in the outlined implementation programme.

When an application for a consent involving a change of use is received, the Building Act requirements for the building - to be strengthened to as near as is reasonably practicable the strength of a new building - would be followed.

Heritage Buildings

- Heritage buildings are managed, in all aspects, in the same manner as all other buildings, i.e. no special consideration for the protection or retention of heritage values in requirements for seismic upgrading.

Dangerous and Insanitary Buildings

- Dangerous buildings would be investigated on receipt of advice from the Fire Service or when the building came to notice and action taken using Section 124 or 129 of the Building Act, as appropriate. Insanitary buildings would be inspected to determine any necessary action on receipt of complaints and action taken, using Section 124 and 129 of the Building Act, as appropriate.