Engineering New Zealand Te Ao Rangahau
hello@engineeringnz.org
www.engineeringnz.org
04 473 9444
PO Box 12 241
Wellington 6144

16 February 2026

Committee Secretariat
Transport and Infrastructure Committee
Parliament Buildings
Wellington

Tēnā koutou katoa

# Submission on the Building (Earthquake-prone Buildings) Amendment Bill

## Overview

Thank you for the opportunity to submit on the Building (Earthquake-prone Buildings) Amendment Bill. Many of Engineering New Zealand's members, across a range of engineering disciplines, interact with the earthquake prone building (EPB) system and are well accustomed to the existing challenges and implications on life-safety.

In principle Engineering New Zealand is strongly supportive of moving to a system that prioritises the buildings with the highest life-safety risk and takes a pragmatic approach to the identification and remediation of EPBs. We would like to thank the Ministry of Business, Innovation and Employment (MBIE) officials for their work on this complex issue and for providing opportunities to engage and inform the sector wherever possible.

The following submission has been developed in collaboration with the New Zealand Geotechnical Society, New Zealand Society for Earthquake Engineering, Structural Engineering Society of New Zealand, Timber Design Society, the Concrete New Zealand Learned Society and HERA. Together we represent engineers working across the earthquake prone building system.

Our comments focus on ways to improve the proposed framework and enhance workability for engineers. In saying this, it is challenging to be able to accurately comment on the implications or impact of the proposed framework as it relies heavily on the technical detail that has yet to be developed or consulted on.

Due to the nature of the changes proposed by the Bill, is important that the Transport and Infrastructure Committee (the Committee) understands the perspectives and concerns of the engineering profession. We have taken great care in developing clear points of commonality to support your deliberations.

## The proposed framework will likely be more efficient, effective and reduce cost barriers to remediate the highest-risk buildings

Overall, we support the Government's intention to focus on the highest-risk building typologies to ensure buildings that pose the greatest life-safety risk are remediated as quickly as possible. Efforts to simplify and target the regulatory system are welcomed. We note that this is largely through improvements to the processes to identify and retrofit buildings and making the system easier to understand and navigate. The current system is comprehensive and complex, which can make it difficult for building owners to comply with.

A transition from blanket seismic strengthening to a more cost-effective, targeted, and risk-focussed approach should help enable a focus on remediating the buildings that pose the highest-risk to life-safety. We note that this approach does not fully remove the life-safety risk that these buildings pose but believe some level of strengthening is better than building owners doing nothing due to prohibitive costs. Related to this, we support enhanced standardisation, where appropriate, to further reduce barriers and increase efficiency.

It is our opinion that the move to exclude compulsory strengthening mandates for 1 or 2 storey unreinforced masonry (URM) buildings in small towns will support lowering cost related barriers for building owners. This better reflects the lower risk that these buildings pose to life-safety and will support smaller communities to more effectively balance EPB risk, as well as reduce the commercial impact of abandoned buildings in town centres because building owners cannot afford to remediate lower-risk buildings.

The proposal to allow mandatory seismic strengthening works to proceed without "As Nearly As is Reasonably Practicable" (ANARP) requirements for Fire and Egress will likely help remove another barrier to seismic remediations - if strengthening works do not negatively impact current accessibility or fire protection systems or fire performance.

An EPB identification system that does not rely on %NBS could improve outcomes and make the process simpler and easier to understand. However, success will rely on a robust, well consulted methodology that adequately captures seismic risk. As the sector does not have this detail, it is difficult to accurately comment on the merits of moving away from %NBS as an identification tool.

## The EPB methodology is vital to the success of the proposed framework

The success of this Bill relies fundamentally on the EPB methodology that has not yet been developed or consulted on. The effectiveness of the proposed framework is highly dependent on this methodology being clearly defined, robust, and accompanied by explicit guidance on intent and interpretation of the methodology. The lack of supporting technical detail makes it difficult to comment on the enabling framework. Having this detail would have helped support the industry to provide robust analysis of this Bill.

Due to the level of importance placed on the methodology, the consultation requirements set out in clause 133ZJ are not strong enough. The drafting needs to be more directive and definitive as language such as ‘reasonably practicable’ or ‘extent practicable’ leaves too much room for interpretation. This terminology has caused challenges across other legislative regimes and can result in needing courts to provide interpretations. As the success of this Bill relies on the methodology, the success of the methodology will rely on engagement and technical support from experts. It is important that sufficient emphasis, time and resourcing is provided to support this consultation. Therefore, we recommend that this clause is strengthened and prescribes minimum consultation requirements.

We note that Engineering New Zealand, in partnership with MBIE, is coordinating the drafting of the new EPB methodology through its **Building Resilience in Design Guidance for Engineering (BRiDGE)** programme.

## There is a risk that severely deficient buildings remain unaddressed and will continue to pose a life-safety risk

Collectively we have significant concerns that genuinely high-risk buildings will be excluded from the proposed framework, with no mechanism to ensure they are remediated or ensure people are aware of the risks these buildings pose.

**Low seismic zones**

The removal of low seismic zones from the EPB system (particularly Auckland) means that severely deficient buildings with known structural issues will remain a risk to the public. It is important to note that a low seismic zone does not mean there are no earthquake risks in this area. There is still a risk that these regions experience a seismic event. In Auckland the risk of seismic event due to volcanic activity is higher than other parts of the country. We are concerned that severely deficient buildings in these regions still pose a risk in high use areas, such as Queen Street[1], where the risk of masonry falling off a building onto pedestrians is much greater. It is our view that the removal of low seismic zones from the EPB system creates a regulatory gap for these deficient buildings.

[1] It is our understanding that approximately 60,000 people walk along Queen Street daily, and according to the EPB register there are currently 21 EPB listed buildings on Queen Street.

Façade and parapet securing is a cost-effective means for reducing risk to the population. We recommend high-risk buildings (ie. URM) in densely populated areas with high levels of pedestrian traffic be required to secure façades and parapets to mitigate life-safety risks. These thresholds should be defined in this Bill and use a measure based on population density within defined areas (ie. over 10,000 people use the defined area daily).

A less effective alternative would be to have a 'risk register' where high-risk buildings in low-seismic zones are kept on a publicly available register. This would help encourage remediation over time and enable the public to make informed decisions about their use of these buildings.

**Narrowing of the 'at any time' pathway**

Expanding on our concerns of a regulatory gap, it is our view that the narrowing of the EPB framework (specifically the 'at any time pathway') reduces the ability for territorial authorities to effectively manage buildings that are severely deficient and/or have a very high seismic risk. This could be because of location (in a low-seismic zone) or because the building deficiencies do not wholly relate to seismic risk. While it is likely appropriate that many of these buildings are not managed through the EPB framework, it is important that they are managed in some way due to the life-safety risk involved.

There is also a concern that the exclusion of buildings built before 1 January 1976 means that URM buildings that were miscategorised as a non-URM buildings, or URM buildings whose existence were only discovered by a territorial authority after the identification period, will be unable to be captured by the EPB regime.

The 'at any time' pathway should be amended to ensure territorial authorities have the necessary mechanisms they need to manage buildings that are severely deficient. Use of this pathway could require agreement from the Chief Executive of MBIE to mitigate concerns that the pathway could be misused.

We also recommend expanding dangerous building provisions within the Building Act to ensure there are clearly defined life-safety triggers that include all forms of severely deficient buildings (including seismic), where risks are demonstrably high but are not otherwise captured by the proposed earthquake-prone buildings framework.

Alternatively, further work could be done to consider how these buildings could be captured within the proposed reform to the emergency management system as there is a strong link between deficient buildings and life-safety risks in an emergency context.

## Building change of use and 'as nearly as is reasonably practicable' provisions require additional refinement to ensure unintended risks are managed

There is a concern that Section 115 as currently drafted will carve out *any* building whose use has changed from needing to undergo a review for seismic performance. We understand the intention of this clause is to only apply to EPBs but recommend clarifying this. In practice, the provision as it is currently drafted would allow changes of use to occur with seismic assessments or retrofits, including for buildings with known or potential structural vulnerabilities. We recommend that amendments are made to this proposal to clarify that the carve out only applies to buildings classified as earthquake prone.

In principle we support the proposed ANARP carve-out for lower-risk buildings, recognising that building changes- of- use (ie. converting the upper levels of a URM building into apartments) can act as a financial mechanism to increase a building's value, which can in turn enable building owners increased access to capital to fund seismic strengthening. However, targeted seismic retrofit requirements should be extended to include all URM buildings (ie. including low seismic zones and outside of urban centres) undergoing a change-of-use, given the building typologies well-established risk to life-safety.

We recommend change-of-use ANARP requirements are retained with limited and clearly defined exceptions. Any exceptions to ANARP requirements must have a clear scope to ensure that change-of-use decisions continue to appropriately manage life-safety risk, particularly where increases in occupant numbers or changes in use intensity are proposed.

Please note the submission of the Society of Fire Protection Engineers. Their submission raises important questions around the means of escape from fire, as well as fire safety requirements. It is important that changes to the EPB framework do not inadvertently impact upon the ability of occupants to evacuate in an emergency or the ability to remedy fire systems of concern.

## The rationale behind changes to priority buildings is unclear and pose risks to the provision of critical services

In practice the proposed changes to priority buildings would provide extended remediation timeframes for hospitals, schools, and emergency facilities. The rationale behind this change is unclear. These facilities accommodate large numbers of people (including individuals who may have limited ability to evacuate quickly) and play a critical role in community response and recovery following an emergency. We consider it essential that these buildings continue to be remediated within the shortest practicable timeframes and, ideally, to a higher standard than the minimum required under the proposed EPB regime.

Additionally, we have concerns that many structures supporting these buildings are made of concrete or other heavy materials and are two-storeys or less meaning they will be excluded from the EPB framework. To manage this, we recommend the EPB methodology include a height limitation in addition to the storey definition, to help ensure that larger buildings (particularly those accommodating large numbers of occupants) are appropriately identified and reviewed.

## There are EPB risks beyond structural deficiencies

We ask that the Committee considers the issues raised by NZSEE and NZGS that relate to natural hazard risks beyond structural considerations. We are concerned that risks relating to things like landslides are outside of the scope of the EPB framework but pose a significant risk to life-safety in the event of an earthquake.

## The removal of %NBS will likely cause confusion as it will continue to be used outside of EPB identification

There is a concern that the removal of %NBS will create confusion across the industry and for the public. %NBS has a range of uses beyond the identification of EPBs (including for insurance and finance purposes, market assessments and to inform retrofits) and these uses will remain in the new system, or at least until an alternative model is developed. This creates a risk of ongoing confusion and inconsistency across the industry, particularly where %NBS continues to influence decisions without a clear or consistent role within the revised EPB framework.

We consider it is important that MBIE, as the steward of the building system, continues to support the %NBS system (or develop a future replacement) to ensure that the assessment procedure is maintained and can continue to be used outside the EPB framework.

## Extension timeframes proposed in the Bill are too long and will unnecessarily prevent the remediation of high-risk buildings

Long extensions of compliance timeframes (up to 15 years) risk undermining the intent of the Bill. Extensions mean prolonging the mitigation of avoidable life-safety risks. While extensions may be appropriate in limited and well-justified circumstances, they should not be applied in such a liberal way. We recommend only applying extensions, in justified circumstances, in 5-year blocks up to a maximum 15-years (i.e. a building owner would need to apply for a second 5-year extension after receiving an initial 5-year extension).

It is acknowledged that our proposal would add administrative burden to building owners. We consider this is warranted due to the life-safety risks involved and the fact that the provisions would still provide relief under specific circumstances.

## Clause for formal review would ensure a comprehensive system review

Engineering New Zealand would like to see the Committee recommend the addition of a formal review clause. It is important that within the next 15- 20 years the entire system is reviewed. This will allow consideration of the success of the proposed framework, whether science has changed, if the risk settings are still appropriate and if any lessons can be learnt/improvements made. While it is likely that some level of review will occur naturally, we think it is an important signal that the work is not done and that potential risks to life-safety warrants a comprehensive review to ensure the settings are right.

Related to this, we also suggest that a provision is introduced that requires the collection and analysis of information on system performance to MBIE from territorial authorities. This should also include the ability for users of the system to provide comments to enable an appropriate feedback loop to inform future review processes. This would support MBIE's stewardship of the system and would improve transparent reporting to the public.

## More consideration is needed to ensure the Bill does not inappropriately increase engineers' liability

There are some concerns that the proposed framework may increase potential liability facing engineers. Examples of concerns include where a URM building that has undergone the prescribed retrofit falls in an event and kills someone, or where other structural issues outside of the scope of this Bill are identified. We suggest the Committee receive additional advice on this issue and explore adding an additional provision to protect engineers from increased liability from situations outside of their control.

We had concerns around the interactions between the proposed framework and obligations under the Health and Safety at Work Act 2015. It is pleasing to see these concerns directly addressed in the recently introduced Health and Safety at Work Amendment Bill.

## Cost-barriers remain for building owners and without support, high-risk buildings could continue to pose significant life-safety risks

It is important to note that even though the proposed framework narrows the EPB system and emphasis is given to more cost-effective retrofit solutions, the cost barriers to retrofit buildings remains. While the proposed model will reduce overall costs to remediate buildings, costs will still likely be prohibitive for some building owners. We have concerns that the proposed framework does not provide any support for building owners (i.e. low interest loans). This means the risk of building owners being unable to address buildings that have a high-level of life-safety risk due to insufficient capital remains.

## Success will require a well-resourced transition period that engages the industry through each step

The new system will rely on an effective, well-resourced transition. MBIE will need to provide significant support and training when transitioning to the new system. This includes support for engineers needing to navigate the identification and remediation of the EPBs.

The transition period will need to be clearly explained to members of the public, as it is likely that the increased level of life-safety risk tolerance will spark concern. Relatedly, we have concerns that the public may have a negative reaction to the removal of EPB stickers, as this was a simple and transparent way to quickly engage with the seismic risk of buildings. It is important that MBIE is proactive in this space and it does not fall on the industry to explain and justify the change to the public.

Additionally, the EPB system requires further enhancement to MBIE's stewardship role because of the life-safety risks involved. A model based on higher levels of risk tolerance requires strong enforcement and oversight. It is important that MBIE's role is strengthened within the new system. There should be a strong focus on robust data, process review and enforcement. This will require additional resourcing within MBIE but is warranted to ensure a high-functioning EPB system.

To support the new system, we also recommend establishing a central advisory panel made up of experienced engineers. We envision that this panel would provide technical advice and support to territorial authorities, as well as engineers undertaking assessments, and support MBIE to develop technical content and standards going forward. Access to centralised technical advice would improve the overall capacity and capability of the system, support consistency and help territorial authorities that do not have access to technical expertise.

## Local government capacity is a critical concern and has significant implementation risks

The local government sector is currently facing a significant amount of policy change and will be required to implement a wide variety of systemic changes that will have a profound impact on New Zealanders. For context, some of the changes facing councils include (but not limited to) resource management reform, local water done well, fast-track consenting changes, proposed changes to local government structure, infrastructure funding and financing changes, rates caps, emergency management reform, changes to development levies, upcoming changes on building liability and upcoming changes to Fire Safety regulations. This is not a new trend. Over the past year we have observed a marked increase in policy decisions being left to councils to implement, typically without any additional funding to support or enable the change.

Each of these reform programmes will result in significant changes for councils to implement and manage, each of these changes rely on local government to work. Additionally, these changes are occurring on similar timeframes. Implementing all these changes within a short period creates substantial implementation risks and

could lead to greater inconsistency between councils. This volume of change creates the additional risk that planned development may stall, be delayed or even cancelled while councils focus on imbedding reform changes. This will be difficult in the current environment, with Government signalling council rate caps at four percent and potential sweeping structural change proposed to local government.

Engineering New Zealand has been consistently calling for increased implementation support for local government and a clear plan for how local councils should manage implementation timeframes and phasing across all regulatory regimes.

## Conclusion

Thank you again for the opportunity to provide comment on the Building (Earthquake-prone Buildings) Amendment Bill. In principle we support the approach of the Bill and believe that the proposed framework is an improvement on the status quo. We recommend this Bill is progressed, with amendments. Engineering New Zealand urges the Committee to consider the points made in this submission as they will be important to ensure that the framework is implementable, efficient and gives appropriate consideration to life-safety.

We welcome the opportunity to continue to support the progress of this Bill and will continue to engage with MBIE on its implementation if the Bill passes. Due to the importance of this Bill Engineering New Zealand requests the opportunity to appear at Select Committee. Additionally, we are happy to answer any questions the Committee may have in the meantime.

Nāku iti nei, nā

**Dr Richard Templer**
Chief Executive