

## 26. REVIEW OF EARTHQUAKE-PRONE, DANGEROUS AND INSANITARY BUILDINGS POLICY

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### PURPOSE OF REPORT

1. This report is to advise the Council of the deliberations of the Earthquake-Prone, Dangerous and Insanitary Buildings Policy Panel, and to recommend an amended Policy to be adopted by the Council (refer **Appendix 1**).

### EXECUTIVE SUMMARY

2. When the Council adopted its original Earthquake-Prone, Dangerous and Insanitary Buildings Policy in May 2006, it resolved to review the Policy in 2010. An amended Policy was released for consultation, using the Special Consultative Procedure, on 30 March 2010 (**Attachment 2**). 26 submissions were received by the closing date of 7 May, and a hearing was called on 14 June to hear submissions. The Panel reconvened on 22 June, 30 July and 5 August to consider submissions and agree changes to the Policy.
3. The Panel confirms that Option 1 as proposed in the consultation document, involving the introduction of timeframes for the strengthening of earthquake-prone buildings, is the preferred approach. This is because unless timeframes are imposed, it is likely that a large number of the city's earthquake-prone buildings will remain unstrengthened for many years, posing an unacceptable risk to the public. The Panel also considers that the benefits of strengthening to the city—in terms of death and injury prevented and increased economic resilience in the event of an earthquake—outweigh the costs (see paragraphs 27-29).
4. The Panel does, however, recommend a number of changes to the Policy as released for consultation. These are primarily to make the Policy easier to understand or to clarify its intent, but also include the following substantive amendments in response to submissions:
  - The definition of significant alteration has been changed to allow older, lower-value buildings to undergo a moderate amount of non-structural upgrading without the requirement to strengthen being triggered.
  - All unreinforced masonry buildings that are not in Category A (buildings with post-disaster functions) have been placed in Category B, meaning that they will have a maximum of 20 years to upgrade. This is in response to submissions highlighting the danger posed by these buildings and the fact that they have been known to be an earthquake risk for some decades.
  - The 15, 20 and 30 year timeframes now run from the date that the building owner is notified that the Council considers their building to be potentially earthquake-prone, rather than from 1 July 2012. This is because it will take some time for staff to review the over 7000 property files and contact owners.
  - More detail has been provided on the process for identifying and recording the status of buildings in the Council's property files.

The Panel sought legal advice on whether further consultation was required on the Policy as a result of these changes. It was advised that further consultation was not required, as the changes arise logically from submissions and are in line with the general approach that the Council was taking in the consultation version of the Policy.

### FINANCIAL IMPLICATIONS

5. In order to ensure the effective implementation of the Policy, the Panel recognises that additional staff resources will be required to identify and record the status of earthquake-prone buildings, and work with owners to get strengthening work done within the timeframes. This is likely to cost approximately \$100,000 per annum from 1 July 2012.

6. The Panel also notes that the introduction of timeframes for strengthening will place increased pressure on the city's historic building stock, and in particular could drive increased rates of demolition of unreinforced masonry buildings in the central city. It therefore recommends that in developing the 2012-22 Long-Term Plan, the Council consider the introduction of a package of incentives to support the upgrading of priority heritage and character buildings. Additional staff resources, again costing around \$100,000 per annum, would be required to administer the incentives programme and provide advice to owners of heritage buildings.
7. The imposition of timeframes for strengthening will also impose costs on the Council as a building owner. The Council cannot consider these costs in deciding whether or not to adopt the Policy, however.

**Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?**

8. The recommendations would see additional expenditure from 1 July 2012 onwards, which will need to be considered in the development of the 2012-22 Long-Term Plan.

**LEGAL CONSIDERATIONS**

9. The Council adopted its Earthquake-Prone, Dangerous and Insanitary Buildings Policy in May 2006 in accordance with the Building Act 2004. The Act requires that the Policy include:
  - (a) The approach that the Council will take in performing its functions under the Act;
  - (b) The Council's priorities in performing those functions; and
  - (c) How the policy will apply to heritage buildings.

The Act also stipulates that the Policy must be adopted and amended using a Special Consultative Procedure under section 83 of the Local Government Act 2002, and that it must be reviewed at intervals of not more than five years.

**Have you considered the legal implications of the issue under consideration?**

10. The proposed Policy has been reviewed by the Legal Services Team at each stage, to ensure the intent of proposed changes is suitably presented and that the Policy meets the requirements of the Building Act 2004.
11. A legal opinion has also been sought on whether the consultation requirements of the Local Government Act 2002 have been met. The legal opinion received confirms that these requirements have been met and that no further consultation is required before the Council adopts the revised Policy.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

12. The Policy supports the achievement of the Safe City Community Outcome, in particular the management and mitigation of risks from hazards. It will guide aspects of the Council's Regulatory Approvals and Enforcement and Inspections activities and is consistent with the Council's objectives for City Planning and Development, and in particular for Heritage Protection.

**Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?**

13. The review of the Policy was provided for in the Regulatory Approvals Activity Management Plan in the 2009-2019 Long-Term Council Community Plan, although it is not noted as a specific level of service.

## ALIGNMENT WITH STRATEGIES

14. The proposed Policy primarily responds to Building Act requirements and does not align directly with any current Council strategy. The treatment of heritage buildings in the Policy aligns with the Council's Heritage Conservation Policy and the heritage provisions of the Christchurch City and Banks Peninsula District Plan. The upgrading of historic buildings also supports Urban Development Strategy and Central City Revitalisation Strategy objectives of cultivating a distinct identity by retaining these buildings and enabling new uses to be found for them.
15. There is a risk, however, that imposing timeframes for strengthening will drive increased rates of demolition of these buildings. The Central City Revitalisation Strategy notes that "because of the potential costs associated with [seismic strengthening] work, owners of heritage buildings may decide it is more economic to simply demolish their building than to strengthen it. Unless the Council is proactive and provides some kind of assistance to heritage owners, the City is extremely vulnerable to losing tracts of its heritage resource and subsequent changes in its civic identity."
16. This issue cannot be resolved within the Earthquake-Prone, Dangerous and Insanitary Buildings Policy itself, however; it will need to be addressed through the provision of incentives and support for the upgrading of priority buildings and areas. As noted above, this will need to be considered in the process of developing the 2012-22 Long-Term Plan.

### Do the recommendations align with the Council's strategies?

17. Yes. To address the risk of demolition of heritage and priority character buildings, the Panel recommends the introduction of incentives for the upgrading of these buildings.

## CONSULTATION FULFILMENT

18. The requirements of the Building Act 2004 and Local Government Act 2002 regarding consultation on the proposed Policy have been met.

## HEARINGS PANEL RECOMMENDATIONS:

The Panel recommends that the Council:

- (a) Adopt the revised Earthquake-Prone, Dangerous and Insanitary Buildings Policy.
- (b) Resolve that to effectively implement the revised Policy the Council will consider, as part of the 2012-22 Long-Term Plan:
  - (i) establishing a package of incentives from 1 July 2012 to support the upgrading of priority heritage and character buildings and areas; and
  - (ii) providing additional funding from 1 July 2012 for:
    - (a) the review of property files, identification of buildings that may be earthquake-prone, and liaison with building owners; and
    - (b) the administration of the incentives programme for heritage and character buildings, and the provision of specialist heritage advice on upgrading to building owners.
- (c) Write to the Government requesting:
  - (i) legislative clarification of owners' obligations to contribute to the cost of upgrading party walls; and
  - (ii) clearer policy guidance on, and financial support for, seismic strengthening.

## BACKGROUND (THE ISSUES)

### Legislative framework: Building Act requirements

19. The Building Act 2004 (the Act) requires territorial authorities (TAs) to have a policy on dangerous, insanitary and earthquake-prone buildings. This policy must include:
- (a) The approach that the TA will take in performing its functions under the Act;
  - (b) The TA's priorities in performing those functions; and
  - (c) How the policy will apply to heritage buildings.

The Policy must be adopted and amended using a Special Consultative Procedure under section 83 of the Local Government Act 2002.

20. The Building Act does not specify what approach a TA must take to the upgrading of these buildings, but the government's intention was that the risk to the public posed by earthquake-prone buildings should be reduced over time. A legal opinion sought by Local Government New Zealand from Simpson Grierson in 2005 advised that there may be an implied obligation under the Act for TAs to take more than a passive approach to the strengthening of earthquake-prone buildings—i.e., that they should do more than wait for buildings to be strengthened as owners choose to do so. In carrying out this and other functions under the Act, TAs must also take into account “the importance of recognising any special traditional and cultural aspects of the intended use of the building”, and “the need to facilitate the preservation of buildings of significant cultural, historical, or heritage value” (Section 4(2)(d) and (l)).
21. Dangerous and insanitary buildings are defined in sections 121 and 123 of the Act respectively. An “earthquake-prone” building is defined in section 122 of the Act as one which:
- (a) will have its ultimate capacity exceeded in a moderate earthquake (as defined in the regulations); and
  - (b) would be likely to collapse causing –
    - (i) injury or death to persons in the building or to persons on any other property; or
    - (ii) damage to any other property.

As a general rule, this means that a building that has a strength less than 33 per cent of the current seismic loading standard in NZS 1170.5: 2004 will be earthquake-prone. Residential buildings are excluded unless they comprise two or more storeys and contain three or more household units. Therefore, the primary focus of the earthquake-prone provisions of the Act (and of the Policy) is commercial buildings built before 1976 when the Design Loading Standard was substantially revised.

### The Council's existing Policy

22. The Council's existing Policy, adopted in May 2006, essentially follows the provisions of the Act relating to dangerous and insanitary buildings. For earthquake-prone buildings, it follows the Act in requiring upgrading to “as near as is reasonably practicable” to Full Code Level (FCL) (i.e. the current seismic loading standard) where a building changes use, but adds a requirement to upgrade to 33 per cent of FCL where a building undergoes “significant alteration” (as defined in the Policy). The current Policy signals an intention to introduce timeframes by which *all* earthquake-prone buildings must be strengthened at the first review of the Policy in 2010.
23. The existing Policy divides earthquake-prone buildings into four categories, in order of priority for strengthening:
- Category A: Buildings with special post-disaster functions as defined in AS/NZS 1170.0: 2002, Importance Level 4, and buildings constructed of unreinforced masonry or unreinforced concrete.
  - 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.
  - 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.

Any building that falls within more than one category is assigned to the highest category: for example, a listed heritage building constructed of unreinforced masonry would be in Category A.

24. The Council deferred the introduction of timeframes for strengthening buildings until the first review of the Policy. This has meant that since 2006, buildings have been strengthened as owners have elected to change their use or undertake renovations.

#### **Extent of earthquake hazard and numbers of earthquake-prone buildings in Christchurch**

25. A study prepared in 2005 by the Institute of Geological and Nuclear Sciences found that Christchurch lies in an intermediate seismicity zone some distance from a zone of high seismic activity (J. Cousins, "Estimated Damage and Casualties from Earthquakes Affecting Christchurch", Institute of Geological and Nuclear Sciences Ltd, Client Report 2005/057, May 2005). However, known earthquake sources, in particular the Ashley, Springbank and Pegasus fault zones, are large enough and close enough to cause significant damage throughout the city. It should also be noted that the intent of the Building Act 2004 and associated regulations and standards is to reduce the risk to the public from building failure evenly across the country: accordingly, seismic loading standards vary depending on the level of hazard, with higher standards set for Wellington than for Christchurch, for example.
26. On the basis of studies carried out since 2006, Christchurch has 7,600 buildings built before 1976 which might be "earthquake-prone" as defined in the Act. This number includes around 490 listed heritage buildings, and 960 unreinforced masonry and unreinforced concrete buildings (295 of them listed), built from the 1860s to the mid-1940s, which are at significant risk of collapse in a moderate earthquake. Around 220 buildings have been strengthened to some extent, but few would reach the 33 per cent of the current Code now required. Since the introduction of the current Policy in 2006, 26 buildings have been strengthened to 33 per cent or more of the current Code.

#### **Costs and benefits of seismic strengthening**

27. The cost of strengthening a building varies considerably depending on its size, construction type and other factors. A study of strengthening costs for Christchurch's 490 listed heritage buildings has estimated that the cost of strengthening these to 33per cent of FCL would be \$169 million, plus or minus 25 per cent. The 295 unreinforced masonry buildings alone would require \$137 million, with the generally larger Group 1 buildings accounting for a disproportionate amount of that cost (Holmes Consulting Group, "Heritage Earthquake Prone Building Strengthening Cost Study", June 2009).
28. The cost of seismic strengthening itself is only one element of the cost. Strengthening works also trigger the Building Act requirement to comply with the provisions of the Building Code relating to means of escape from fire and disabled access (if the building is one to which members of the public are admitted), adding a further 20-100per cent to the cost. The income foregone for the period that the building is being upgraded can also be a significant consideration.
29. However, upgrading can lead to a substantial rise in rental income, and experience from the 2007 Gisborne earthquake has shown that businesses in newer or strengthened buildings recovered much more quickly than those in buildings that had not been upgraded. The Council has continued to rely, in this review of the Policy, on a study undertaken in 2002 for the Department of Internal Affairs, which estimated the net benefit of strengthening the city's earthquake-prone buildings to be \$97.2 million (in 2002 dollars) ("Strengthening Existing New Zealand Buildings for Earthquake: An Analysis of Cost Benefit Using Annual Probabilities").

## CONTENTS OF DRAFT POLICY RELEASED FOR CONSULTATION

30. The key issue considered in the review of the Policy was the introduction of timeframes within which different categories of building would need to be upgraded to meet minimum seismic standards, or demolished. The preferred option included in the draft Policy involved simplifying the categories to which buildings are assigned, and the introduction of timeframes ranging from 15 to 30 years for their strengthening (or demolition), as follows:
- Category A: Buildings with special post-disaster functions as defined in AS/NZS1170.0:2002—Importance Level 4. **Must be strengthened within 15 years from 1 July 2012.**
  - Category B: Buildings that contain people in crowds or contents of high value to the community as defined in AS/NZS1170.0:2002—Importance Level 3. **Must be strengthened within 20 years from 1 July 2012.**
  - Category C: Buildings with an importance level less than 3 as defined in AS/NZS1170.0:2002. **Must be strengthened within 30 years from 1 July 2012.**

The reason for this change to the categories was to bring them into line with the Importance Levels set out in the Standard, which concentrate on the function of the building and the numbers of people likely to be in or near them in an earthquake. The change did have the effect, however, of moving almost all unreinforced masonry buildings from the current Category A to the new Categories B and C, depending on their function. Heritage buildings also no longer had their own category, but were included in the general categories.

31. The timeframes were proposed to commence from 1 July 2012 to give the Council time to consider, as part of the development of the 2012-22 Long-Term Plan, the provision of incentives to support the upgrading of priority heritage buildings, and the allocation of staff resources to support the implementation of the Policy itself and of any incentive scheme.
32. Other, more minor, amendments were made to:
- clarify the definition of “significant alteration”, and to tighten strengthening requirements when a significant alteration is undertaken;
  - require owners to take action if a building is damaged in an earthquake; and
  - update contextual information included in the Policy.
33. No amendments were proposed to the sections of the Policy relating to dangerous or insanitary buildings, except to note that where these buildings are heritage buildings their heritage values will be taken into account in determining possible courses of action.

## OVERVIEW OF SUBMISSIONS

34. Twenty-six submissions were received; copies have been circulated separately. The majority of these were from building owners or agents of building owners; heritage organisations and structural engineers were also represented amongst submitters. Of those who indicated whether or not they supported the proposed Policy, seven were in favour and seven were opposed; most of those who were opposed preferred the Council to retain the current “passive” approach rather than introduce strengthening timeframes. As in 2006, the most frequently mentioned concern was the cost of seismic strengthening works.
35. The submissions, both for and against the proposed Policy, raised a number of issues besides the desirability of introducing timeframes for strengthening and the cost of upgrading. These include:
- the process used to determine and record the earthquake-prone status of buildings;
  - incentives that should be offered;
  - special considerations relating to heritage buildings—both financial issues and the level of strengthening needed to protect heritage fabric;
  - the appropriateness of the timeframes proposed, especially for post-disaster function and unreinforced masonry buildings;
  - what level of alteration should be deemed “significant” and so trigger the requirement to strengthen the building;
  - the level of compliance with the Building Code that should be required;

- the problems posed by shared walls and multiple ownership; and
- the place of the Policy in the Council’s wider strategic framework, especially in relation to central city revitalisation and urban consolidation.

## CONSIDERATION OF SUBMISSIONS

36. The Hearings Panel met on 14 June 2010 to hear oral submissions from 12 submitters. It reconvened on 22 June, 30 July and 5 August to consider the matters raised by submitters and further advice from staff, and agree amendments to the Policy.
37. Changes recommended to the Policy as released for consultation are outlined below. Because of the extent of the changes made, and in particular the decision to set more onerous timeframes for unreinforced masonry buildings (see paragraphs 45-48, below), the Panel sought a legal opinion on whether further consultation was required before the Policy is adopted by the Council. The opinion states that there is no need to consult further, because “the changes proposed to the policy, including the changes regarding unreinforced masonry buildings and the implementation section, have arisen out of submissions made on the consultation version of the policy”, or from officers’ advice on submissions and the proposed Policy as provided for in section 83(3) of the Local Government Act 2002. The changes are in line with the general approach the Council was taking with the consultation version of the Policy. They are not so great that the result is a completely different policy, on which someone who had not made a submission would now want to submit.

### Structure of Policy

38. The Policy has been reorganised to make it easier to understand, reduce repetition and clarify the treatment of earthquake-prone buildings on the one hand, and that of dangerous and insanitary buildings on the other. Specific sections on implementation, disputes, and monitoring and review of the Policy have been added, although most of the material in these sections comes either from the consultation version of the Policy or from the Act.

### Section 1.1: Policy Context

39. A paragraph has been added clarifying that the Earthquake-Prone section of the Policy is primarily targeted at buildings constructed before 1976.

### Section 1.2: Definitions

40. To avoid confusion, a footnote has been added explaining that “capacity”, as used in the Building Act’s definition of an earthquake-prone building, means seismic load-bearing capacity.
41. The definition of “significant alteration”—a trigger for requiring upgrading to 33 per cent of Code—has also been amended. The proposed definition was “work on the structural support of the building, or building work that has a value of more than 25 per cent of the rateable value of the building (not land)”. Some submitters argued that, where a building has a low rateable value, the proposed definition would capture alterations of a very minor nature, and therefore discourage the ongoing use of these buildings with a detrimental effect on building occupancy in the central city in particular. They argued that a dollar threshold (eg \$100,000 of building work) should be used instead. The Panel also noted that “work on the structural support of the building” could capture very minor work such as installing an extractor fan through a load-bearing wall.
42. The Panel was concerned to strike a balance between the need for strengthening to occur and the desirability of enabling the ongoing use of older buildings, especially heritage and character buildings in the central city. “Significant alteration” is now defined in the Policy as:
- any building work that affects the *structural performance* of the building, or
  - building work that has a value of *more than \$50,000 or 25 per cent of the rateable value of the building, whichever is the higher, in any twelve month period.*

This will allow older, lower-value buildings to undergo a moderate amount of non-structural upgrading without the requirement to strengthen being triggered.

43. For consistency, the Policy now includes the Building Act's definitions of "dangerous" and "insanitary" buildings.

## Earthquake-Prone Buildings

### Section 2.1: Background and Overall Approach

44. This section has been amended to:
- consolidate background information on the earthquake hazard and the city's building stock;
  - note that the Policy will impose costs on owners, but that strengthening will also make both individual businesses and the city's economy as a whole more resilient in the event of an earthquake; and
  - clarify that the Council will continue to use a range of methods, including incentives, to encourage seismic strengthening.

### Section 2.2: Categories and Timeframes

45. Submitters' views on the appropriateness of the timeframes imposed for the three categories of building varied widely, with some arguing they are too generous, especially for unreinforced masonry buildings, and others that no timeframes should be imposed. Heritage organisations were generally supportive of heritage buildings not having their own category, but being included in the general categories.
46. The Panel considers that an active approach involving timeframes for strengthening is necessary to reduce the risk to the public in an earthquake, and that the proposed categories and timeframes are largely appropriate. It is concerned, however, about the level of hazard posed by unreinforced masonry buildings, many of which have been known to be an earthquake risk since the late 1960s or early 1970s. This is the type of building that failed with catastrophic effects, including for people in the streets, in the Napier earthquake of 1931 (see attached images provided by a submitter).
47. The Panel notes that unreinforced masonry buildings pose a significant challenge, because of:
- the large number of these buildings in the city (around 960),
  - their high risk of failure in a moderate earthquake,
  - the fact that nearly 300 of them are heritage listed and a good number of the remainder are significant "character" buildings that many in the community would wish to retain and that contribute substantially to the historic identity of the city,<sup>1</sup> and
  - the high cost of upgrading these buildings.

Given that the focus of the earthquake-prone provisions of the Building Act is public safety, the Panel considers that this should be the primary concern of the Council's Earthquake-Prone, Dangerous and Insanitary Buildings Policy. It notes, however, that if the Council wishes to see heritage and character unreinforced masonry buildings retained rather than demolished, it will need to ensure that support is available to upgrade them (see paragraphs 52-55).

48. This section has been amended to:
- include all unreinforced masonry and unreinforced concrete buildings that are not in Category A because of their function, in Category B;
  - state that timeframes for strengthening (15, 20 or 30 years) will commence from when the building owner is first notified that their building is potentially earthquake prone, rather than from 1 July 2012, as it could take some time for all buildings to be identified and their owners contacted;

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<sup>1</sup> The total number of such buildings is not known, but their significance can be estimated using the 2005 Commercial Urban Conservation Areas study (Opus International Consultants Ltd, *Commercial Urban Conservation Areas Study for Christchurch City Council*, 2005). This study found that, in the central city and Sydenham, there were 127 unlisted buildings that were of primary significance to the character of their areas, and a further 40 that were of contributory significance; the vast majority of these buildings are constructed of unreinforced masonry and will be earthquake-prone. The study only considered streetscapes and areas that were considered to be sufficiently cohesive and intact to be realistic prospects for listing as conservation areas: there will, therefore, be many other character unreinforced masonry buildings in the central city and elsewhere that are not included in these numbers.

- remove reference to specific non-regulatory initiatives that the Council may consider in the development of the 2012 Long-Term Plan; and
- add a note, following a query from a submitter, that “contents of high value to the community” do not include the fabric of the building itself.

49. Material on the three-year extension of time has been moved to the Implementation section. It is also recommended, following a query from a submitter, that the table attached to the Policy (adapted from table 3.2 of AS/NZS 1170.0:2002) be amended to remove single family dwellings as an example of Importance Level 2 buildings, as these are explicitly excluded from the definition of earthquake-prone building in the Building Act 2004.

### **Section 2.3: Implementation**

50. A new section has been added, replacing the current sections 1.4-1.11, to consolidate information on how the Policy will be implemented and make the Policy easier to understand. It contains subsections dealing with:
- identifying and recording the status of earthquake-prone buildings;
  - access to information;
  - taking action on earthquake-prone buildings;
  - extensions of time;
  - the interaction between the Earthquake-Prone Building Policy and other sections of the Building Act 2004; and
  - buildings damaged by an earthquake.
51. Most of the content of this section was included in the consultation version of the Policy. Some changes have been made, however. These are:
- The insertion of material explaining the process of identifying earthquake-prone buildings and recording their status in Council property files, following submissions on how owners can get their buildings removed from the list of earthquake-prone buildings and when a building will be noted as earthquake-prone on the property file. The three stages—potentially earthquake-prone, likely to be earthquake-prone, and earthquake-prone—were noted in the consultation version but the process was not clearly outlined.
  - Clarification that only one three-year extension of time will be granted for each building.
  - Clarification of the process that the Council follows in determining whether a building needs to be upgraded as part of a significant alteration.

### **Section 2.4: Other Methods to Encourage Seismic Strengthening of Buildings**

52. A new section has been added, stating that the Council will continue its current provision of Heritage Incentive Grants and rates-funded advice to owners of heritage buildings, and will review whether it should introduce other tools to encourage seismic strengthening in the process of developing the 2012-22 Long-Term Plan.
53. The Panel considers that seismic strengthening is a shared responsibility between building owners and the wider community. Owners have a responsibility to ensure that their buildings meet minimum statutory health and safety standards. Because the Council has other, overlapping, strategic objectives, however—in particular, the retention of heritage buildings and some character buildings as part of the revitalisation of the central city and the development of other centres—the provision of appropriate incentives will be fundamental to the successful implementation of the Policy.
54. The Panel notes that, although decisions on incentives and other support for building owners fall outside the scope of the Policy itself and are to be considered at a later date, if the Council wishes to see the retention rather than the demolition of earthquake-prone heritage and significant character buildings, it will need to consider the introduction of a package of incentives as part of the 2012-22 Long-Term Plan process. Submitters suggested a range of incentives that could be used alongside or instead of grants to support the upgrading of buildings, including:
- low- or no-interest loans;
  - funding for assessments of structural performance;
  - tradeable development rights; and

- rates-based schemes, eg a targeted rate to fund the upgrading of central city precincts.

Submitters also argued that funding might be sought from other sources such as the New Zealand Historic Places Trust, the Earthquake Commission, insurance companies and the government, perhaps via tax relief.

55. The Panel also notes that effective and consistent communication of the responsibilities of owners and of the Council, and adequate staff support for building owners, will be crucial in the effective implementation of the Policy.

### **Section 3: Dangerous and Insanitary Buildings**

56. Material on the overall approach to dangerous and insanitary buildings, and implementation of the Policy, has been consolidated in one section.

### **Section 4: Heritage Buildings**

57. Only minor changes have been made to this section. These are to:
- clarify that the Council intends to continue its support for the upgrading of heritage buildings through the Heritage Incentives Grants Scheme and the provision of rates-funded advice, and
  - recognise, in response to submissions, the significance of *areas* as well as individual buildings of significant cultural, historical or heritage value.
58. The Panel accepts the arguments of submitters that strengthening to 33per cent of Code is unlikely to be sufficient to protect the fabric of heritage buildings in an earthquake. It considers, however, that issues relating to the levels of strengthening required to protect heritage fabric are best dealt with through incentives schemes rather than in this Policy, which deals with public safety. What level of strengthening is technically and economically feasible needs to be determined on a case-by-case basis.

### **Sections 5 and 6: Disputes, and Monitoring and Review of the Policy**

59. Two new sections have been added dealing with these matters. They essentially outline what the Act provides regarding review of the Policy, and owners' rights to apply for a determination from the Chief Executive of the Department of Building and Housing where there is a dispute.

### **OTHER MATTERS**

#### **Additional Resources for Implementation of Policy**

60. Implementing the Policy will require additional staff resources, to review property files, identify buildings that may be earthquake-prone, and work with owners to get strengthening work done within the timeframes. The cost of this is estimated at \$100,000 per annum from 1 July 2012.
61. As noted above, the Panel recommends the development of an incentives package to support the strengthening of heritage and priority character buildings as part of the 2012-22 Long-Term Plan. If such a package were introduced, however, additional staff resources—again, costing around \$100,000 per annum from 1 July 2012—would be required to administer the scheme and provide specialist advice to building owners.

#### **Party Walls**

62. Several submissions noted that shared or party walls present practical challenges for owners wishing to strengthen their buildings. Where a common party wall exists, the respective owners have an obligation in civil law to give the adjacent party "the right of support", and sometimes there is a party wall agreement or arrangement registered on the property title. Although the effect of this is that all parties must contribute towards the strengthening of the party wall, in practice it may be difficult for an owner to enforce this. The Panel considers that the Council should write to the government requesting clarification of owners' responsibility to contribute to the cost of upgrading party walls.