

# Departmental Disclosure Statement

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Building (Earthquake-prone Buildings) Amendment Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Business, Innovation and Employment.

The Ministry of Business, Innovation and Employment certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

3/12/2025

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## Part One: General Policy Statement

The Bill's key purpose is to establish a more proportionate and risk-based regulatory system for managing earthquake-prone buildings. The system will regulate only high-risk building types in medium and high seismic zones. Buildings that are in low seismic zones (Auckland, Northland, and the Chatham Islands) or are not of those building types will no longer be designated as earthquake-prone and cannot be designated earthquake-prone in future.

Coastal Otago (including Dunedin) and part of Stewart Island will move from a low seismic risk area to a medium seismic zone, to reflect the greater understanding of seismic hazard in that area.

The pathway used by territorial authorities to identify new earthquake-prone buildings after the initial identification period will be narrowed so that it captures only high-risk post-1976 buildings of heavy construction that were completed before commencement of this Bill, with authorisation required from the chief executive of the Ministry of Business, Innovation, and Employment.

In addition, earthquake ratings will no longer be used in the earthquake-prone building system, and the Bill introduces tiered and more cost-effective mitigation requirements to better reflect the actual level of risk of individual buildings. Some building types will have no remediation measure, while other buildings will require either targeted retrofit, façade securing, or full retrofit. This targeted approach will ensure that resources are focused on mitigating life-safety risk in the highest risk buildings and areas.

To further reduce the cost of remediation, where a building consent application for an alteration to an earthquake-prone building relates only to seismic work, there will no longer be a requirement to comply with building code provisions relating to means of escape from fire and disability access and facilities as nearly as is reasonably practicable. However, territorial authorities will be required to consider and notify building owners of those provisions.

Similarly, earthquake-prone buildings undergoing a change of use will only be required to meet their mitigation requirement under the earthquake-prone building system rather than to be strengthened to a higher standard.

To ensure that building owners have sufficient time to carry out remediation, territorial authorities will be able to grant seismic work deadline extensions of up to 15 years.

The definition of priority building will be narrowed so it only includes buildings that could fall onto or impede thoroughfares or emergency routes. This will ensure that remediation is prioritised for buildings that pose a higher risk to the public.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?</b>	<b>YES</b>
<p>“Earthquake-prone building system and seismic risk management review”, Ministry of Business, Innovation and Employment, June 2025.</p> <p>Accessed via: <a href="https://www.mbie.govt.nz/dmsdocument/31204-earthquake-prone-building-system-and-seismic-risk-management-review-proactiverelease-pdf">https://www.mbie.govt.nz/dmsdocument/31204-earthquake-prone-building-system-and-seismic-risk-management-review-proactiverelease-pdf</a>.</p>	

### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	<b>NO</b>

<b>2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?</b>	<b>N/A</b>
N/A	

### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	<b>YES</b>
<p>“Regulatory Impact Statement: Effectively managing seismic risk in existing buildings”, MBIE, 22/8/2025.</p> <p>Accessed via: <a href="https://www.mbie.govt.nz/dmsdocument/31202-regulatory-impact-statement-effectively-managing-seismic-risk-in-existing-buildings-proactiverelease-pdf">https://www.mbie.govt.nz/dmsdocument/31202-regulatory-impact-statement-effectively-managing-seismic-risk-in-existing-buildings-proactiverelease-pdf</a>.</p>	

<b>2.3.1. If so, did the Ministry for Regulation provide an independent opinion on the quality of any of these regulatory impact statements?</b>	<b>NO</b>
The RIS did not meet the threshold for the Ministry for Regulation’s assessment.	

<b>2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?</b>	<b>YES</b>
<p>The RIS proposal for deadline extensions was to set the maximum deadline of up to five years. This was amended to 15 years by the Cabinet Economic Policy Committee meeting. To avoid creating an inconsistency with the current up-to-10-year deadline extension already available to heritage EPBs, the minister is seeking Cabinet’s agreement to remove the 10-year heritage extension. Owners of heritage EPBs will be able to apply for the same 15-year extension as all other EPBs. This change will mean that before granting an extension for heritage buildings, territorial authorities must have regard to the same matters as they would for non-heritage EPBs.</p>	

## Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b>	<b>NO</b>

<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	<b>YES</b>
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	<b>NO</b>
<p>The most up-to-date information can be found in the “Regulatory Impact Statement: Effectively managing seismic risk in existing buildings”, MBIE, 22/8/2025.            Accessed via: <a href="https://www.mbie.govt.nz/dmsdocument/31202-regulatory-impact-statement-effectively-managing-seismic-risk-in-existing-buildings-proactiverelease-pdf">https://www.mbie.govt.nz/dmsdocument/31202-regulatory-impact-statement-effectively-managing-seismic-risk-in-existing-buildings-proactiverelease-pdf</a>.</p>	

<b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:</b>	
<b>(a) the level of effective compliance or non-compliance with applicable obligations or standards?</b>	<b>YES</b>
<b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>	<b>YES</b>
<p>The most up-to-date information can be found in the “Regulatory Impact Statement: Effectively managing seismic risk in existing buildings”, MBIE, 22/8/2025.            Accessed via: <a href="https://www.mbie.govt.nz/dmsdocument/31202-regulatory-impact-statement-effectively-managing-seismic-risk-in-existing-buildings-proactiverelease-pdf">https://www.mbie.govt.nz/dmsdocument/31202-regulatory-impact-statement-effectively-managing-seismic-risk-in-existing-buildings-proactiverelease-pdf</a>.</p>	

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?</b>
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Officials identified that the policy could have implications for the United Nations Convention on the Rights of Persons with Disabilities and assessed that the Bill is not inconsistent with New Zealand's international obligations.
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### Consistency with the government's Treaty of Waitangi obligations

<b>3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?</b>
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Officials undertook desktop analysis and held informal discussions with mātauranga Māori-earthquake resilience researchers.
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### Consistency with the New Zealand Bill of Rights Act 1990

<b>3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?</b>	<b>NO</b>
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### Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>	
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<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?</b>	<b>YES</b>
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<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	<b>NO</b>
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Under the Bill, some earthquake-prone buildings will no longer have a required remediation measure and these buildings will not be required to attach an EPB notice on or adjacent to the building (section 133ZA(2), clause 7). This means the offence and penalty for failing to do so will not apply to such owners.
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Earthquake-prone buildings with remediation deadlines that lapsed prior to commencement will be able to apply for deadline extensions (section 133Z, clause 7). If granted, the extension period will apply from the date of approval. This effectively decriminalises the building owner's failure to complete seismic work by the deadline, so the offence (and penalties upon conviction) could not apply.
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### Privacy issues

<b>3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?</b>	<b>NO</b>
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## External consultation

<b>3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?</b>	<b>YES</b>
<p>The following departments were consulted on the draft Bill: Department of Corrections; Department of Internal Affairs; Department of Prime Minister and Cabinet; Land Information New Zealand; Ministry for Culture and Heritage; Ministry of Disabled People – Whaikaha; Ministry of Education; Ministry for the Environment; Ministry of Housing and Urban Development; Ministry of Justice; Ministry of Pacific Peoples; Ministry of Regulation; Ministry of Social Development (Office for Seniors); Ministry for the Environment Parliamentary Counsel Office, Te Puni Kōkiri the Treasury. The feedback was mainly positive and minor suggestions given. The Ministry for Culture and Heritage suggested we include heritage as a condition for an extension, a we would need Cabinet approval for this we were not able to incorporate. Whaikaha also wanted the recommendation changed in relation to the fire and access provision. However, we are unable to change with going back to ECO.</p>	

## Other testing of proposals

<b>3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?</b>	<b>YES</b>
<p>Most off the policy details have been assessed in "Earthquake-prone building system and seismic risk management review", Ministry of Business, Innovation and Employment, June 2025.</p> <p>Accessed via: <a href="https://www.mbie.govt.nz/dmsdocument/31204-earthquake-prone-building-system-and-seismic-risk-management-review-proactiverelease-pdf">https://www.mbie.govt.nz/dmsdocument/31204-earthquake-prone-building-system-and-seismic-risk-management-review-proactiverelease-pdf</a>.</p>	

## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO

### Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO

### Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO

### Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

### Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO

### Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO

## Powers to make delegated legislation

<b>4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?</b>	<b>NO</b>
There is a Henry VIII clause for transitional matters (clause 24 of Schedule 1). This clause provides flexibility to vary the transitional arrangements in light of new information or events. This flexibility will help ensure an orderly transition from the current to the new EPB system.	

<b>4.8. Does this Bill create or amend any other powers to make delegated legislation?</b>	<b>YES</b>
Section 133ZI (Clause 7) of the Bill amends the power for the chief executive to set the EPB Methodology by extending the scope of what matters the Methodology may cover, and giving a 6-month period for the Methodology to be set. The consultation requirements (section 133ZJ) remain unchanged and continue to act as an important safeguard for the use of this power.	

## Any other unusual provisions or features

<b>4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?</b>	<b>YES</b>
The bill will empower territorial authorities to issue extensions of up to 15 years for EPB buildings, and that those extensions can apply even in the case that a deadline expired before commencement of the extension power.	