

# GUIDANCE

## Priority Buildings

A guide to the earthquake-prone building provisions of the Building Act





**MINISTRY OF BUSINESS,  
INNOVATION & EMPLOYMENT**  
HĪKINA WHAKATUTUKI

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## Ministry of Business, Innovation and Employment (MBIE)

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## 1. Introduction

The system for identifying and managing earthquake-prone buildings changed on 1 July 2017, when the Building (Earthquake-prone Buildings) Amendment Act 2016 came into force to create Subpart 6A of Part 2 of the Building Act 2004.

The new system ensures the way our buildings are managed for future earthquakes is consistent across the country by creating a single national policy framework. It also provides more information for people using buildings.

The new system categorises New Zealand into three seismic risk areas: high, medium and low, and sets time frames for each of these areas for identifying potentially earthquake-prone buildings and strengthening earthquake-prone buildings. It also introduces a new concept – **priority buildings**, which accelerates these time frames for buildings that are considered to pose a higher risk to life safety, or that are critical to recovery in an emergency. The priority building provisions do not apply in low seismic risk areas.

## 2. Scope of this guidance

This guidance:

- explains the definition of priority buildings and how to apply this, and
- sets out the key roles in identifying and remediating priority buildings.

This guidance does not cover other aspects of the system for [managing earthquake-prone buildings](#) under the earthquake-prone building provisions of the Building Act 2004, broader guidance on risk resilience, or advice on [how to manage buildings after an earthquake event](#).

The audience for this guidance includes:

- territorial authorities, who must identify potentially earthquake-prone buildings categorised as 'priority buildings' in half the time allowed for other potentially earthquake-prone buildings
- building owners, who own buildings that might be determined as earthquake-prone priority buildings, and who will have less time to carry out seismic work on their buildings
- building professionals, who may provide advice to building owners on their obligations under the [Building Act 2004](#).

This guidance should be read in conjunction with:

- Subpart 6A of Part 2 (the earthquake-prone building provisions) of the [Building Act 2004](#)
- the [EPB methodology](#), set under section 133AV of the [Building Act 2004](#)
- [the Building \(Specified Systems, Change the Use, and Earthquake-prone Buildings\) Regulations 2005 \(as amended\)](#)
- [the Building \(Infringement Offences, Fees, and Forms\) Regulations 2007 \(as amended\)](#).

Resource pages found at:

<https://www.building.govt.nz/managing-buildings/managing-earthquake-prone-buildings/resources/>

## 3. Regulatory context

This section includes information on:

- the broad categories of priority buildings and relevant sections in the Building Act
- information on the EPB methodology, a key document for identifying priority buildings
- information on the interface of priority building provisions with the requirement in certain parts of New Zealand to secure unreinforced masonry (URM) parapets and facades.

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### 3.1 Building Act

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The Building Act 2004 contains the earthquake-prone building provisions.

Section 133AA of the Building Act 2004 sets out the scope of buildings to which the earthquake-prone building provisions apply. All priority buildings must also be within this scope.

Section 133AE of the Building Act 2004 contains the definition of priority buildings. This is also set out in Appendix A of this guidance and includes two broad categories of priority building:

- those that are **prescribed in the Building Act 2004** – these include certain hospital, emergency and education buildings, and
- those that are **described in the Building Act 2004 and determined with community input** – this category includes parts of URM buildings that could fall in an earthquake onto certain thoroughfares with sufficient vehicular or pedestrian traffic to warrant prioritisation, and buildings that could collapse and impede transport routes of strategic importance.
  - Territorial authorities **must** undertake public consultation to identify the thoroughfares with sufficient vehicular and pedestrian traffic where there are parts of URM buildings that could fall in an earthquake.
  - Territorial authorities **have discretion** to identify certain buildings for prioritisation. If a territorial authority identifies that there are buildings that could impede transport routes of strategic importance if they were to collapse in an earthquake, the special consultative procedure needs to be undertaken to identify routes for the purpose of prioritising those buildings.

If only part of a building fits the definition of a priority building, then only that part would be considered as a priority building.

See section 5 of this document for detailed information on how to identify these categories of priority buildings.

Table 1 below sets out other sections of the Building Act 2004 which are relevant to identifying and managing priority buildings.

**Table 1: Priority buildings – relevant sections of the Building Act 2004**

Section 133AD	Defines low, medium and high seismic risk areas
Section 133AE	Defines priority buildings (copy provided in Appendix A)
Section 133AF	Describes the territorial authority's role in identifying certain earthquake-prone buildings (copy provided in Appendix A)
Section 133AG	Sets time frames for territorial authorities to identify potentially earthquake-prone buildings (including priority buildings)
Section 133AM	Sets deadlines for owners to complete seismic work on earthquake-prone buildings (including priority buildings)

## 3.2 EPB methodology

Priority buildings should be identified by territorial authorities through application of the EPB methodology, and in the first instance through identification of potentially earthquake-prone buildings via profile categories as set out in the EPB methodology. This process is set out in more detail in section 5 of this document.

## 3.3 URM securing requirement

The Hurunui/Kaikōura Earthquakes Recovery (Unreinforced Masonry Buildings) Order 2017 (the Order in Council) was made under the Hurunui/Kaikōura Earthquakes Recovery Act 2016. It came into force on 28 February 2017 and will be revoked on 31 March 2018.

It only applies in certain council jurisdictions: Wellington City, Hutt City, Marlborough District and Hurunui District. The Order in Council requires that URM buildings on certain streets in these locations with street-facing parapets or facades that have not been secured or strengthened to an acceptable standard be secured within 12 months of the date of notice from the council.

This provision does not replace the provisions for managing earthquake-prone buildings under the Building Act 2004 including priority buildings. Buildings that are required to secure parapets and/or facades under the Order in Council may be earthquake prone, even after the securing work has been completed. These buildings may also come under the priority buildings provisions of the Building Act 2004 if they have a part of a URM building that could fall in an earthquake onto roads or thoroughfares that have sufficient vehicular or pedestrian traffic to warrant prioritisation.

Securing work is considered the first stage of strengthening work. If an owner has undertaken strengthening work in excess of the securing requirement set by the Order in Council, and can provide evidence to the territorial authority that the URM facade and/or parapet are no longer earthquake prone, then the (URM) factor that makes it a priority building may have been addressed. If the building does not fall within another category of priority building (eg buildings used for education purposes), it may still be an earthquake-prone building but no longer a priority building. The rest of the building will still be required to be strengthened if it is determined to be earthquake prone under the Building Act 2004. The time frame for remediation in this situation would be the standard time frame for the particular seismic risk area that the building is in rather than the reduced time frame for priority buildings.



## 4. Overview of roles and time frames

This section includes information on:

- time frames for territorial authorities in high and medium seismic risk areas to identify priority buildings
- time frames for owners to remediate, ie strengthen or demolish priority buildings in high and medium seismic risk areas
- when the time frame for remediation may differ.

### 4.1 Territorial authorities are required to identify priority buildings in set time frames

Territorial authorities must identify priority buildings that are potentially earthquake prone in half the time than that allowed for all other buildings. These time frames are set out in section 133AG of the Building Act 2004 and begin from 1 July 2017.

Further detail on identifying priority buildings is provided in section 5 of this document.

**Table 2: Time frames for territorial authorities to identify potentially earthquake-prone buildings**

Seismic risk area	Priority buildings	All other buildings
High	2.5 years	5 years
Medium	5 years	10 years

Note: priority buildings are not required to be identified in low seismic areas, and therefore only the standard time frame of 15 years is applicable for identifying potentially earthquake-prone buildings in these areas.

There may be circumstances when a territorial authority identifies a priority building after the applicable time frame. Territorial authorities can identify a building as potentially earthquake prone under section 133AG(3) of the Building Act 2004 after the applicable time frames above, and at that time, also identify the building as a priority building if it meets the definition set out in section 133AE of the Building Act 2004 (and explained in section 5 of this document).

Territorial authorities are not required to monitor the ongoing use or tenancies of buildings already confirmed as earthquake prone in case of a change to the priority building status of the building. See section 6.1 of this guidance for more information on changing priority building status.

## 4.2 Owners are required to remediate priority buildings in set time frames

Building owners must undertake the necessary seismic work on any priority buildings determined to be earthquake prone in half the time available for other buildings. Time frames for the necessary seismic work are set out in section 133AM of the Building Act 2004. The applicable time frame will be prescribed on the EPB notice issued to the building owner by the territorial authority, and begins from the date on the notice.

**Table 3: Time frames for owners to remediate earthquake-prone buildings**

Seismic risk area	Priority buildings	All other buildings
High	7.5 years	15 years
Medium	12.5 years	25 years

Note: priority buildings are not required to be identified in low seismic areas, and therefore only the standard time frame of 35 years is applicable for undertaking the necessary seismic work on earthquake-prone buildings in these areas.

For buildings that were issued notices under section 124 of the Building Act 2004 prior to the commencement of the new system on 1 July 2017, the time frame for remediation may differ.

Existing section 124 notices are covered by Schedule 1AA of the Building Act 2004. This requires territorial authorities to determine whether the priority building time frame or the existing deadline for remediation is applicable, based on whichever is shortest. In some cases, a building may be identified as a priority building and be assigned a shorter time frame than stated above.

More information on how to identify priority buildings that have existing section 124 notices is provided in section 5 of this document.

## 5. Territorial authorities identify priority buildings

There are several different starting points for territorial authorities when identifying priority buildings. In some cases, territorial authorities will need to consult their community to help identify certain priority buildings.

This section includes information on:

- the key steps to identifying priority buildings using the EPB methodology (5.1.1)
- checking whether buildings with existing section 124 notices are priority buildings (5.1.2)
- how to identify priority buildings based on their function as either hospital, emergency or education buildings (5.2)
- how to identify priority buildings with community input, including detail on when a special consultative procedure is required (5.3)
- notifying owners of priority buildings (5.4).

Territorial authorities are required to identify potentially earthquake-prone buildings within set time frames. As set out in section 133AG of the Building Act 2004 and explained in section 4 of this document, these time frames are reduced for priority buildings. Territorial authorities are then required to determine whether those buildings determined as earthquake prone require a priority building time frame for remediation, as set out in section 133AM of the Building Act 2004 and explained in section 4 of this document.

### 5.1 Key steps to identifying priority buildings that are potentially earthquake-prone

Territorial authorities may have different starting points for identifying priority buildings, based on the information they hold as a result of their individual earthquake-prone building policies in place before commencement of the new system.

#### 5.1.1 Buildings not yet identified as earthquake prone

Territorial authorities should identify priority buildings using this guidance in conjunction with the EPB methodology, and specifically the requirement to identify potentially earthquake-prone buildings via profile categories.

There are three key steps to identifying priority buildings:

- identifying whether or not the building meets the characteristics of a priority building set out in section 133AE of the Building Act 2004, and explained in sections 5.2 and 5.3 of this document

- identifying whether or not the building is potentially earthquake prone in accordance with the EPB methodology
- determining whether or not the building or part of the building is earthquake prone using the EPB methodology.

A key part of identifying priority buildings is undertaking the special consultative procedure required under section 133AF of the Building Act 2004 to identify priority thoroughfares and routes, explained in section 5.3 of this document. It is recommended that territorial authorities start with this part of the process.

### **5.1.2 Buildings identified as earthquake prone with existing section 124 notices**

Notices issued under section 124 of the Building Act 2004 prior to 1 July 2017 are subject to the transitional arrangements in Schedule 1AA of the Building Act 2004. This means that buildings or parts of buildings with existing section 124 notices are deemed to be earthquake prone unless they are no longer within scope of the earthquake-prone building provisions, which is set out in section 133AA of the Building Act 2004.

Territorial authorities are required to issue EPB notices for buildings with existing section 124 notices as soon as is reasonably practicable after 1 July 2017. Before issuing these EPB notices, territorial authorities need to check whether any of these buildings are also priority buildings meeting the definitions set out in section 133AE of the Building Act 2004 and explained in sections 5.2 and 5.3 of this document.

The recommended starting point is undertaking the special consultative procedure required to identify priority buildings on certain thoroughfares and routes, set out in section 5.3 of this document.

If a building with an existing section 124 notice is a priority building, the territorial authority needs to consider which time frame is applicable for remediation when issuing the new EPB notice (as detailed in section 4.2 of this document).

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## **5.2 Identifying priority buildings with prescribed definitions**

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Section 133AE(1)(a) to (d) of the Building Act 2004 details a number of circumstances when certain potentially earthquake-prone buildings and earthquake-prone buildings should be prioritised based on their function.

In this section, more detail is provided on:

- hospital buildings
- emergency buildings
- education buildings.

For buildings that meet one of the prescribed definitions of priority building in section 133AE of the Building Act and explained in sections 5.2.1, 5.2.2 and 5.2.3 of this document, territorial authorities must also:

- identify whether the building is potentially earthquake prone using the profile categories set out in the EPB methodology, and
- determine whether the building or part of the building is earthquake prone, and if so, whether it requires a priority building time frame for remediation, and whether this time frame applies to the whole building or only part of the building.

### Identifying whether the building is potentially earthquake prone

Where a building is identified as a priority building by way of meeting the definition for hospital building, emergency building or education building set out in section 133AE of the Building Act 2004, the territorial authority must also identify whether the building is potentially earthquake prone using the EPB methodology. The building owner must then be notified in accordance with the requirements set out in section 133AH of the Building Act 2004, explained in section 5.4 of this document.

Building owners of potentially earthquake-prone buildings, whether identified as a priority building or not, have 12 months to provide an engineering assessment.

### Determining whether the building is an earthquake prone building and requires a priority building time frame for remediation

Upon receipt of an engineering assessment for a potentially earthquake-prone building that also meets the definition of a priority building, the territorial authority must undertake the steps set out in the EPB methodology to determine whether or not the engineering assessment meets the requirements of the EPB methodology, and if it does, whether or not the building or part of the building is earthquake prone.

If the building or part of the building is determined to be earthquake prone, the territorial authority must assign a priority building time frame for remediation in accordance with section 133AM of the Building Act 2004. This time frame may apply to either part of the building or the building as a whole depending on the extent to which the element which makes the building earthquake prone affects the structure as a whole or only one area (information provided in the engineering assessment). This also needs to be considered alongside information about which area of the building meets the definition of priority building (eg one tenancy in a building or the use of the whole building).

#### 5.2.1 Hospital buildings

Section 133AE(1)(a) of the Building Act 2004 says that a priority building means:

- (a) A **hospital building** that is **likely to be needed in an emergency** (within the meaning of the Civil Defence Emergency Management Act 2002) to provide –
- emergency medical services; or
  - ancillary services that are essential for the provision of emergency medical services.

### **What is a hospital building that is 'likely to be needed in an emergency'?**

Hospital buildings designated for use in an emergency are relative to:

- the national Civil Defence Emergency Management Plans under the Civil Defence Emergency Management Act 2002 (CDEMA) and National Health Emergency Management Plans, and
- the group plan under the CDEMA that covers the particular region in which the hospital is located.

Hospital buildings that meet the definition of priority building will therefore be public buildings on district health board (DHB) land that are necessary for the hospital to provide emergency services in an emergency. Table 4 sets out the extent to which different areas within hospital buildings are likely to be needed in an emergency.

### **What does 'provide emergency services' mean?**

There may be variances in the interpretation and application of emergency services depending on the policies of the relevant DHB and the function of the hospital building. It is important for the DHB and the territorial authority to be coordinated in the application of this definition, with consideration given to the specific context.

Territorial authorities should engage with the DHB to ascertain key information about the function of the hospital building to determine if the building is to be prioritised. For example, the department or area of the hospital designated by the DHB to provide emergency medical services, ie where a person should report when in need of emergency medical care, whether at the time of an emergency event (eg an earthquake) or not.

### **The building as a whole**

Where a hospital building contains a mixture of services (eg some are emergency medical services and some are patient wards and/or administrative services) the complete building facility will be considered a priority building by virtue of the emergency usage. The exception to this approach is when, from a structural point of view, the structural weakness causing the building to be earthquake prone can be isolated. Engineering assessments will inform the extent to which the structure as a whole is affected by the earthquake-prone elements, and this should be taken into account when determining whether a priority building time frame for remediation applies to the building as a whole or one section.

Table 4 provides some examples of what this means when applied to certain types of hospital buildings.

**Table 4: hospital buildings used for emergency purposes**

Type of hospital building	Likely to be included or excluded as a priority building	Reasons
Operating theatre	Included	Used for emergency medical services
Emergency room (ER)	Included	Used for emergency medical services
Integrated Family Health Centre or community services	Excluded	No linkage to emergency medical services or providing emergency services
Maternity ward	This depends on the internal practices of the DHB	Only included if it provides emergency medical services
Mental health facilities	Excluded	No linkage to emergency medical services or providing emergency medical services
Aged residential care facility	Excluded	No linkage to emergency medical services or providing emergency services
Ancillary services	Included, but only those essential for the provision of emergency medical services	<p>For example, a building that holds the back-up power generator for the hospital is likely to be included but a building that serves as a kitchen/laundry or other ancillary service is likely to be excluded</p> <p>Facilities such as the pipe connections for heat, steam or power are not in scope of the earthquake-prone building provisions</p>

## 5.2.2 Emergency buildings

Sections 133AE(1)(b) and (c) of the Building Act 2004 prescribe that a priority building means:

- (b) *A building that is likely to be needed in an emergency for use as an **emergency shelter** or **emergency centre**,*
- (c) *A building that is used to **provide emergency response services** (for example, policing, fire, ambulance, or rescue services).*

### What is an 'emergency shelter'?

An emergency shelter is used by the general public and is designated as such under a territorial authority's civil defence emergency management plan.

Buildings adopted for use by communities in times of need that are not designated under a territorial authority's civil defence emergency management plan are not considered emergency shelters for the purpose of identifying priority buildings.

### What is an 'emergency centre'?

An emergency centre is used by Civil Defence and Emergency Management for coordination purposes and is designated as such under a territorial authority's civil defence emergency management plan. This includes a local emergency operations centre (EOC) and a regional emergency coordination centre (ECC).

Buildings adopted for use by communities in times of need that are not designated under a territorial authority's civil defence emergency management plan are not considered emergency centres for the purpose of identifying priority buildings.

### What buildings are considered to provide emergency response services?

Buildings that are used to provide emergency response services are the buildings that enable New Zealand's key emergency services to carry out their job in the event of an emergency.

The distinction needs to be made between training or meeting rooms contained in buildings for firefighters or ambulance staff, and which do not facilitate the provision of emergency response services, and a communications tower, which does.

### What are civil defence emergency management plans?

These plans are described in the CDEMA. They provide details of territorial authority procedures in the event of an emergency (at any level) such as an earthquake. It is a requirement of the CDEMA that these plans are kept up to date and in operational effect.



## Case study

A community hall has been designated as an emergency shelter with provisions for food, water and back-up electricity for Shaky District Council, which is in a high seismic risk area. The building has been determined as earthquake prone in accordance with the EPB methodology. The owner is required to complete seismic works to ensure the building is no longer earthquake prone within a time frame set by the Council.

This building is a priority building due to its emergency function. The time frame issued by Shaky District Council to the owner of the community hall for seismic work will be 7.5 years (the national time frame for priority earthquake-prone buildings located in a high seismic risk area).

### 5.2.3 Education buildings

Section 133AE(1)(d) of the Building Act 2004 prescribes that a priority building means:

- (d) *A building that is **regularly occupied** by at least 20 people and that is used as any of the following:*
- (i) *an early childhood education and care centre licensed under Part 26 of the Education Act 1989*
  - (ii) *a registered school or an integrated school (within the meaning of the Education Act 1989)*
  - (iii) *a private training establishment registered under Part 18 of the Education Act 1989*
  - (iv) *a tertiary institution established under section 162 of the Education Act 1989.*

#### What buildings are used for education purposes?

These include (refer to the Education Act 1989 for definitions):

- early childhood education and care centres
- registered or integrated schools
- private training establishments
- tertiary institutions.

#### Alert:

It is important for building owners to be aware that not all education buildings captured by the definition are owned by or have an affiliation with the Ministry of Education.

Building owners should also be aware of any tenants occupying their buildings that this definition might apply to.

### What does 'regularly occupied' mean?

The establishment must have capacity to enrol, or already have enrolled, at least 20 people in a certain building. The building must also be regularly occupied by at least 20 people. Teaching spaces in schools generally have capacity for over 20 people. Determining whether the building is regularly occupied may require consideration of use over an educational 'period', such as a school year, a university semester or the length of a course in a particular training establishment, and planned use in the period following.

Another measure may be looking at the intended or capable capacity of a particular course. For example, if a private training establishment has over 20 available spaces on its course, irrespective of how many people attend on any particular day, there is a clear intention and capacity for at least 20 people to regularly occupy the facility.

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## 5.3 Identifying priority buildings with community input

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Sections 133AE(1)(e) and (f) of the Building Act 2004 describe when certain buildings should be prioritised based on community consultation. These are:

- parts of URM buildings that could fall in an earthquake onto certain thoroughfares with sufficient vehicular or pedestrian traffic to warrant prioritisation, and
- buildings that could collapse and impede transport routes of strategic importance.

Territorial authorities **must** undertake public consultation to identify the thoroughfares with sufficient vehicular or pedestrian traffic to warrant prioritisation onto which part of a URM building could fall in an earthquake.

Territorial authorities have **discretion** to identify buildings that have the potential to impede routes of strategic importance if the buildings were to collapse in an earthquake. However, if buildings do need to be identified for this type of prioritisation, the special consultative procedure needs to be undertaken.

Community input is important to decide on the thoroughfares and routes to be prioritised due to the variation in local circumstances between territorial authorities. Undertaking public consultation enables communities to decide the appropriate level of risk to accept as a community, informed by their knowledge of the local economy, portfolio of buildings and their uses.

The special consultative procedure is described under section 83 of the Local Government Act 2002 and is the statutory procedure a territorial authority must follow when making these decisions.

This section provides assistance to identify thoroughfares with sufficient vehicular or pedestrian traffic to warrant prioritisation and transport routes of strategic importance to inform the consultation process. These thoroughfares and routes can be identified simultaneously in the same consultation process.

See Appendix B for supporting information to undertake the special consultative procedure.

**Alert:**

Consultation and identification of any priority buildings as a result must be completed within the priority building time frames provided in section 133AG of the Building Act 2004.

### 5.3.1 Parts of URM buildings on thoroughfares with sufficient vehicular and pedestrian traffic to warrant prioritisation

Section 133AE(1)(e) the Building Act 2004 says that a priority building means:

- (e) Any part of an unreinforced masonry building that could –
- (i) fall from the building in an earthquake (for example, a parapet, an external wall, or a veranda), and
  - (ii) fall onto any part of a public road, footpath, or other thoroughfare that a territorial authority has identified under section 133AF(2)(a).

Territorial authorities must identify parts of URM buildings on thoroughfares with sufficient vehicular and pedestrian traffic to warrant prioritisation using the following key steps. Using the special consultative process to identify any part of a public road, footpath or other thoroughfare:

1. with sufficient vehicular or pedestrian traffic to warrant prioritisation; and
2. on which there are URM buildings or parts of URM buildings that could fall in an earthquake (note: territorial authorities are not required to identify the specific URM buildings in the consultation documentation).

Territorial authorities are then required to:

3. identify whether the URM buildings on those thoroughfares are potentially earthquake prone (within the applicable time frame); and
4. determine if the potentially earthquake-prone building and/or relevant street-facing part is earthquake prone and therefore requires a priority time frame for remediation.

#### Identifying public roads, footpaths or other thoroughfares with sufficient pedestrian or vehicular traffic to warrant prioritisation

Sufficient traffic indicates use, and where the use of an area or building is greater, the exposure to the risk posed by that particular building also increases.

To prepare for the special consultative procedure, territorial authorities can apply the following criteria to identify roads, footpaths or other thoroughfares with sufficient pedestrian or vehicular traffic, upon which they must then consult with their communities.

Note: thoroughfares meeting the following criteria must also have a URM building located on them whereby there is the potential for a URM part to fall onto the identified thoroughfare.

**High pedestrian areas** (*people not in vehicles*)

Note: high pedestrian areas are those areas where people are concentrated or routes with high foot traffic.

Description of use	Description of area	Example of application to city or metropolitan area	Example of application to small town or rural area
Areas relating to social or utility activities	Areas where shops or other services are located	City and suburban areas with shops, cafes, restaurants, bars, theatres and malls	Areas such as the shopping area on the main street, the local pub, community centre
Areas relating to work	Areas where concentrations of people work and move around	Areas around office buildings or other places of work where there is a concentration of workers	Areas around businesses in small towns and rural areas where there is a concentration of workers in numbers larger than small shops or cafes
Areas relating to transport	Areas where concentrations of people access transport	Areas around transport hubs, train stations, bus stops, car parks	Areas around bus stops, train stations, tourist centres
Key walking routes	Key walking routes that link areas where people are concentrated	Routes from transport hubs or other areas relating to transport to areas where shops, other services or areas people work are located	Routes from bus stops or other areas relating to transport to areas where shops, other services or areas people work are located

**Areas with high vehicular traffic** (people in motor vehicles/on bikes)

Description of use	Description of area	Example of application to city or metropolitan area	Example of application to small town or rural area
Key traffic routes	Key traffic routes regularly used by vehicles including public transport	Central business district streets, well trafficked suburban streets, arterial routes, heavy use bus routes	Well trafficked main streets or sections of state highways, arterial routes
Areas with concentrations of vehicles	Areas where high concentrations of vehicles build up	Busy intersections, areas where traffic builds up at peak hours	Busy intersections

**Identifying URM buildings on these thoroughfares**

A URM building has masonry walls that do not contain steel, timber or fibre reinforcement. URM buildings are older buildings that often have parapets, as well as verandas, balconies, decorative ornaments, chimneys and signs attached to their facades (front walls that face onto a street or open space).

The EPB methodology sets out street-scape characteristics to assist with identifying URM buildings.

Note: territorial authorities are not required to identify the likelihood or nature of parts of URM buildings falling in earthquakes for the purposes of the special consultative procedure.

If the territorial authority decides that there is no reasonable prospect of any thoroughfare in its district having sufficient traffic and a URM building located on it so as to warrant prioritisation, the criteria in section 133AF(2)(a) of the Building Act 2004 are unlikely to be met. Consultation should be undertaken to finalise this conclusion. The templates introduced in Appendix 2 provide supporting information.

### **Identifying whether the URM building is potentially earthquake prone**

Note: For buildings with an existing section 124 notice, this step is not applicable.

Where a URM building is identified as being one that has a URM part that could fall in an earthquake onto a thoroughfare with sufficient vehicular or pedestrian traffic, the territorial authority must then determine whether the URM building is potentially earthquake prone using the EPB methodology. The building owner must then be notified in accordance with the requirements set out in section 133AH of the Building Act 2004, explained in section 5.4 of this document.

Building owners of potentially earthquake-prone buildings, whether identified as a priority building or not, have 12 months to provide an engineering assessment.

### **Determining whether the URM building is an earthquake-prone building and requires a priority building time frame for remediation for the relevant street-facing part**

Upon receipt of an engineering assessment for a potentially earthquake-prone URM building located on one of the priority building thoroughfares, the territorial authority should undertake the steps set out in the EPB methodology to determine whether or not the engineering assessment meets the requirements of the EPB methodology, and if it does, whether or not the building is earthquake prone.

For this type of priority building, only the part of the URM building that has the potential to fall onto the identified priority thoroughfare can be assigned a priority building time frame for remediation.

If the building is **confirmed as earthquake prone**, the territorial authority should undertake the following additional steps to determine whether the relevant part of the building requires a priority building time frame for remediation:

- Consider the part(s) identified as earthquake prone in the engineering assessment report.
- Consider the location of the part(s) identified as earthquake prone in relation to the possibility of it falling onto the identified road, footpath or thoroughfare in an earthquake.
  - If the earthquake-prone part is located in an area of the building where it could fall onto the identified priority thoroughfare, a priority building time frame must be assigned for remediation of that part.
  - If the earthquake-prone part would not fall on the identified priority thoroughfare in an earthquake, standard time frames for remediation apply.

This type of priority building may also meet one of the other categories of priority building prescribed in section 133AE of the Building Act 2004, and explained in section 5.2 of this document, making both the building and the part subject to a priority building time frame for remediation.

### 5.3.2 Buildings on a transport route of strategic importance

Section 133AE(1)(f) of the Building Act 2004 prescribes that a priority building includes:

- (f) *A building that a territorial authority has identified under section 133AF(2)(b) as having the potential to impede a transport route of strategic importance (in terms of an emergency response) if the building were to collapse in an earthquake.*

Territorial authorities can identify buildings that have the potential to impede a transport route of strategic importance using the following key steps.

Use the special consultative procedure to:

1. identify routes of strategic importance where there are buildings that could impede the route if they were to collapse in an earthquake.

Territorial authorities are then required to:

2. identify whether any buildings located on the routes of strategic importance are potentially earthquake prone in accordance with the EPB methodology
3. determine whether these buildings are earthquake prone and require a priority building time frame for remediation.

#### Alert:

It is not mandatory for a territorial authority to carry out the special consultative procedure to identify these strategic routes in its district. A small rural district for example may choose not to undertake this consultation as there are likely to be multiple options for alternative strategic routes in that area. If a territorial authority does choose to identify these buildings, this will be subject to the special consultative procedure under section 83 of the Local Government Act 2002.

#### Identifying strategic transport routes

Access to, and for, emergency services in emergencies is essential for a number of reasons, including to save lives.

Buildings impeding a strategic transport route in an earthquake could inhibit an emergency response to the detriment of the community, ie loss of life, if timely access to emergency care is not possible.

To prepare for the special consultative procedure, territorial authorities can apply the following criteria to identify transport routes of strategic importance in an emergency, upon which they can then determine whether there are buildings located on these routes that could impede them if they were to collapse in an earthquake. They then need to consult with their communities to finalise these routes to inform which buildings are priority buildings.

In central business districts, suburban centres and provincial centres:

### **Emergency routes**

- Routes likely to be used by emergency services in:
  - transiting from their bases to areas of need in a major emergency where there are no alternative routes available, or
  - transiting to central services such as hospitals, where there are no alternative routes available.

These routes may have already been identified for civil defence purposes and could be contained in the district's civil defence emergency management plans.

#### **Alert:**

These routes may be described with different names like 'critical routes' or 'lifeline routes' in civil defence emergency management plans or in the NZTA files.

### **Identifying whether the routes have buildings on them which could impede the route if they collapsed in an earthquake**

These routes of strategic importance must also have at least one building located on them that would impede the route if it collapsed in an earthquake. Territorial authorities are not expected to determine the likelihood or nature of collapse of buildings that could impede the route.

### **Identifying whether the building is potentially earthquake prone**

Note: For buildings with an existing section 124 notice, this step is not applicable.

The EPB methodology sets out the types of buildings required to be identified as potentially earthquake prone within the applicable time frames. Once the routes of strategic importance are finalised following consultation, territorial authorities will need to ensure that they apply the profile categories set out the EPB methodology to identify potentially earthquake-prone buildings located on the strategic routes within the time frames allowed for identifying potentially priority buildings in the applicable seismic risk area.

Territorial authorities must also ensure that where a building is identified as potentially earthquake prone and is located on one of the strategic routes, the building owner is notified in accordance with the requirements in section 133AH of the Building Act 2004, and outlined in section 5.4 of this guidance.

Building owners of potentially earthquake-prone buildings, whether identified as a priority building or not, have 12 months to provide an engineering assessment in accordance with the EPB methodology.

The EPB methodology requires engineers to report on the mode of failure of the building being assessed.



### Determining whether or not the building is earthquake prone and requires a priority building time frame for remediation

Upon receipt of an engineering assessment for a potentially earthquake-prone building that is located on a route of strategic importance, the territorial authority should undertake the steps set out in the EPB methodology to determine whether or not the engineering assessment meets the requirements of the EPB methodology, and if it does, whether or not the building or part of the building is earthquake prone.

If the building is **determined as earthquake prone**, the territorial authority should undertake the following steps to determine whether the building also requires a priority building time frame for remediation:

- Consider whether the likely mode of failure and physical consequence identified in the assessment report indicates that the building has the potential to impede the strategic route if it were to collapse in an earthquake.
  - If the building is considered to have the potential to impede the strategic route, a priority building time frame must be assigned for remediation.
  - If the building is not considered to have the potential to impede the strategic route, a standard time frame for remediation will apply.

### Case study

Shaky District Council is located in a high seismic risk area and as a result identified several routes of strategic importance using the special consultative procedure.

Shaky District Council determines that a building located on one of the strategic routes is earthquake prone in accordance with the EPB methodology. The building does not meet one of the other definitions of priority building as it is not URM or used as a hospital, emergency or education facility.

When considering which time frame to prescribe for remediation of the building, Shaky District Council notes that the building is set back from the identified strategic route by over four metres. As a result, Shaky District Council does not consider the building has the potential to impede the strategic route if it were to collapse in an earthquake, as key emergency services would still be able to use the route.

This building is not a priority building. The time frame issued by Shaky District Council to the owner of the building for seismic work will be 15 years (the national time frame for non-priority earthquake-prone buildings located in a high seismic zone).

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## 5.4 Territorial authorities notify affected building owners

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Sections 133AH and 133AL of the Building Act 2004 set out the requirements on territorial authorities when they identify a building as potentially earthquake prone and the requirements for issuing EPB notices for earthquake-prone buildings respectively. These sections specify the need to notify the building owner whether the building is also a priority building.

- Territorial authorities are required to identify potentially earthquake-prone buildings within the applicable time frame. The territorial authority must then notify the owner of the building identified and request an engineering assessment from the owner. This request must also state whether the building is a priority building.
- If a territorial authority determines that a building is earthquake prone, the territorial authority must issue an EPB notice, stating whether the building or a part of the building is a priority building. The deadline stated on the EPB notice for completing seismic work will reflect the building's priority status.
- When the territorial authority records the details of the EPB notice and building on the national EPB register, it must also state whether the building is a priority building.

Further information on the above processes can be found in the EPB methodology.

## 6. Building owners remediate priority buildings

Owners of priority buildings located in high seismic risk areas have 7.5 years to strengthen or demolish their building.

Owners of priority buildings located in medium seismic risk areas have 12.5 years to strengthen or demolish their building.

This section includes information on changes in circumstances that may change the status of the priority building.

Building owners of priority buildings are required to remediate their building so that it is no longer earthquake prone in half the time that is permitted for other earthquake-prone buildings. These time frames are set out in section 133AM of the Building Act 2004, explained in section 4.2 of this guidance.

Priority buildings are unlikely to have the prescribed characteristics set out in the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005 (as amended) that would enable the territorial authority to grant an exemption from the requirement to undertake the necessary seismic work.

### 6.1 Changing priority building status

There is nothing explicitly stated in the Building Act 2004 that requires territorial authorities to review the priority building status of a building, unless the building is no longer earthquake prone.

It is accepted however that there will be cases where, over time, an earthquake-prone building will no longer fall within the definition of a priority building due to a change in circumstances, such as occupancy or use changes. For education facilities, this is most likely to occur when private training establishments or in some cases early childhood centres move out of buildings.

If the reason for a building to be prioritised is no longer present, the building owner should be entitled to have this change recognised in terms of the time frames for remediation.

In this situation if the building owner provides new information to the territorial authority and the territorial authority is satisfied with this new information, the priority building status of an earthquake-prone building can be reconsidered by the territorial authority and the EPB notice reissued with standard time frames (ie removing the priority building status). Standard remediation time frames should be applied from the time the notice was issued when the building was determined to be earthquake prone. Any changes will also need to be reflected in the EPB register.

### Case study

What if there is an international business school on the 8th floor of a commercial office building that is potentially earthquake prone?

- a) The territorial authority should check to see how many occupants the school has – is it regularly used by more than 20 people? This can be done by contacting the building owner or the tenant directly.
- b) In this situation, at the point when the territorial authority identifies whether the building is potentially earthquake prone, the presence of the business school will mean the building is also a priority building. If the business school still occupies the building when it is determined earthquake prone, a priority building time frame for remediation will apply.
- c) Once subject to an EPB notice, if the business school stops occupying the building, for example if the commercial lease of the business school ends and the owner of the building does not enter into a new lease, the building owner can inform the territorial authority of this new information.
- d) The territorial authority can then consider whether the building is still a priority building. If it is satisfied it no longer falls within the relevant definition in s133AE, the territorial authority can reissue an EPB notice noting that the building is no longer a priority building and changing the time frame for remediation. The territorial authority will also need to amend the EPB register to reflect those changes.

## 7. Additional advice for building owners

This section contains advice on first steps and planning for building owners, including Crown agency building owners.

### Is this likely to apply to you?

Consider whether your building is likely to be identified as potentially earthquake prone by your local territorial authority and, if so, whether it meets one of the definitions of a priority building.

- Location - check the seismic area for your building (if you are in a low seismic zone the priority building provisions do not apply).
- Use - check definitions and explanations in sections 5.2 and 5.3 of this document as this will give you an idea whether your building is likely to be identified as a priority building.

### Start planning

If you think your building is likely to be classified as a priority building, it is important to note that your territorial authority will be identifying your type of building earlier than others.

- Check what engineering information you already have for your building and be prepared to discuss it with council staff.
- Check the relevant time frames to strengthen or demolish your building under the new system.
- Visit the MBIE website for more information for building owners, here:

<https://www.building.govt.nz/managing-buildings/managing-earthquake-prone-buildings/>

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### 7.1 Actions for Crown agency building owners

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It is recognised that many Crown agency building owners have strengthening programmes already underway and will have a lot of information about their building stock.

It is advised to inform the territorial authority of the information available and work through the information in accordance with the EPB methodology to consider which buildings are likely to be potentially earthquake-prone priority buildings.

# APPENDICES

## Appendix A: Relevant definitions

### 133AE Meaning of priority building

- (1) In this subpart, priority building means any of the following that are located in an area of medium or high seismic risk:
- a) a hospital building that is likely to be needed in an emergency (within the meaning of the Civil Defence Emergency Management Act 2002) to provide—
    - i) emergency medical services; or
    - ii) ancillary services that are essential for the provision of emergency medical services:
  - b) a building that is likely to be needed in an emergency for use as an emergency shelter or emergency centre:
  - c) a building that is used to provide emergency response services (for example, policing, fire, ambulance, or rescue services):
  - d) a building that is regularly occupied by at least 20 people and that is used as any of the following:
    - i) an early childhood education and care centre licensed under Part 26 of the Education Act 1989:
    - ii) a registered school or an integrated school (within the meaning of the Education Act 1989): a private training establishment registered under Part 18 of the Education Act 1989:
    - iii) a tertiary institution established under section 162 of the Education Act 1989:
  - e) any part of an unreinforced masonry building that could—
    - i) fall from the building in an earthquake (for example, a parapet, an external wall, or a veranda); and
    - ii) fall onto any part of a public road, footpath, or other thoroughfare that a territorial authority has identified under section 133AF(2)(a):
  - f) a building that a territorial authority has identified under section 133AF(2)(b) as having the potential to impede a transport route of strategic importance (in terms of an emergency response) if the building were to collapse in an earthquake.

- (2) For the purposes of subsection (1)(a) and (b), the likelihood of a building being needed in an emergency for a particular purpose must be assessed having regard to—
  - a) any national civil defence emergency management plan made under section 39 of the Civil Defence Emergency Management Act 2002; and
  - b) the civil defence emergency management group plan approved under section 48 of the Civil Defence Emergency Management Act 2002 that covers the district in which the building is situated.
- (3) If only part of a building meets the criteria set out in subsection (1), only that part of the building is a priority building. . .

### **133AF Role of territorial authority in identifying certain priority buildings**

- (1) This section applies to a territorial authority whose district includes any area of medium or high seismic risk.
- (2) The territorial authority,—
  - a) for the purpose of section 133AE(1)(e) (prioritising parts of unreinforced masonry buildings), must use the special consultative procedure in section 83 of the Local Government Act 2002 to identify any part of a public road, footpath, or other thoroughfare in an area of medium or high seismic risk—
    - i) onto which parts of an unreinforced masonry building could fall in an earthquake; and
    - ii) that has sufficient vehicle or pedestrian traffic to warrant prioritising the identification and remediation of those parts of unreinforced masonry buildings; and
  - b) for the purpose of section 133AE(1)(f) (prioritising buildings that could impede a strategic transport route),—
    - i) may, in its discretion, initiate the special consultative procedure in section 83 of the Local Government Act 2002 to identify buildings for that purpose; but
    - ii) must not identify buildings for that purpose other than in accordance with the special consultative procedure.
- (3) However, a territorial authority is not required to act under subsection (2)(a) if there is no reasonable prospect of any thoroughfare in its district satisfying the criteria set out in subsection (2)(a)(i) and (ii).
- (4) If a territorial authority is required by subsection (2)(a) or decides under subsection (2)(b) to use the special consultative procedure in section 83 of the Local Government Act 2002, it must use the procedure within a time frame that enables the territorial authority to meet the applicable time frame under section 133AG(4) for identifying potentially earthquake-prone priority buildings in its district.



# Appendix B: Key information to inform the special consultative procedure

## About the templates

Templates have been developed by the Ministry of Business, Innovation and Employment (MBIE). They are designed to assist territorial authorities to identify certain priority buildings (in accordance with section 133AF(2) of the Building Act 2004), using the special consultative procedure set out in section 83 of the Local Government Act 2002. The templates summarise key information and draft proposals to inform consultation. They are designed to be updated by Councils to reflect Council processes and circumstances.

There are two templates, which contain text to support consultation on proposals for *either*:

- **Template one:** for consultation on routes with sufficient traffic **only** (under section 133AF(2)(a)), or
- **Template two:** for consultation on routes with sufficient traffic (under section 133AF(2)(a)) **and** routes of strategic importance (under section 133AF(2)(b)).

Territorial authorities are **not required** to use these templates, and may update and amend the templates as appropriate. Delete any sections that are not relevant to your consultation, and any *advisory text*. Note: these templates are only relevant for territorial authorities in high and medium seismic risk areas.

The templates will be distributed directly to territorial authorities. The templates may also be requested by territorial authorities via email to [EPB@mbie.govt.nz](mailto:EPB@mbie.govt.nz)

