HUTT VALLEY DISTRICT HEALTH BOARD

HERETAUNGA BUILDING, HUTT HOSPITAL

BOARD DECISION OF 13 MAY 2022

Notes:
Please note that the resolutions decided at the Board meeting on 13 May 2022 (page 2) differ from the recommendations on the cover page of the Board Paper dated 13 May 2022 (page 4).

The 2DHB Chief Executive and Chair, HVDHB, approved the release of the legal advice referred to in the Board paper and included at Appendix 1 of the Board paper.

RESOLUTIONS FROM HVDHB Board meeting dated 13 May 2022 (note the minutes from this meeting will be considered for confirmation at the HVDHB meeting on 22 June 2022)

13 May 2022
Hutt Valley DHB (HVDHB)- Heretaunga Building, Hutt Hospital

The Hutt Valley District Health Board agreed:

a) following a review of the engineering assessments received to date, legal advice and analysis in this paper, the option to stay in the Heretaunga building for any longer than is required to vacate practicably is not appropriate or viable;

b) subject to any material change in engineering advice, the Heretaunga building be decanted to the maximum extent practicable and as soon as reasonably practicable;

c) the action in (b) must be executed in a planned, appropriate and systematic way, taking into account:
   a. continued service provision;
   b. patient and whanau safety; and
   c. health and safety considerations for staff, users of our facilities and visitors
   d. equity of health care services.

d) to direct the Executive to complete the planning required, including analysis of the financial implications, to give effect to these decisions ('the Implementation Plan') working with Capital and Coast District Health Board (CCDHB), other partners and stakeholders and in particular the Ministry of Health, Interim Health New Zealand, and the Māori Health Authority;

e) to direct the Executive to work with engineers to identify and implement temporary mitigation steps to the maximum extent practicable to minimise life safety risk while giving effect to these decisions;

f) to report to the HVDHB Board on the Implementation Plan as is required, and no later than 22 June 2022 (the next scheduled ordinary meeting of the HVDHB Board);

g) to direct the Executive to identify a date on which to proactively release this decision paper and its attachments, subject to redactions as appropriate under the Official Information Act 1982 once implementation of the decision has occurred;

h) recommends to Interim Health New Zealand, and the Māori Health Authority that they prioritise development of the facility in a way that ensure quality, safety and equity of health care for the people of the Hut Valley.

The Hutt Valley District Health Board noted:

a) options that involve decanting the building (all or in part) will have flow on implications for the wider Wellington hospital network, CCDHB, Wairarapa DHB and other DHBs in the region; as well as community providers, private hospitals, and aged residential care facilities and that consultation and engagement on the Implementation Plan is essential;

b) development of the Implementation Plan will be led by the HVDHB in collaboration with other key stakeholders including CCDHB, and in particular the Ministry of Health, Interim Health New Zealand, and the Māori Health Authority.

Board Decision – Public Excluded

13 May 2022

Hutt Valley DHB (HVDHB)- Heretaunga Building, Hutt Hospital

Action Required

The Hutt Valley District Health Board agrees:

(a) following a review of the engineering assessments, legal advice and analysis in this paper, the option to stay in the Heretaunga building for any longer than is required to vacate practicably is not appropriate or viable;

(b) the Heretaunga building be decanted to the maximum extent practicable and as soon as reasonably practicable;

(c) the action in (b) must be executed in a planned, appropriate and systematic way, taking into account:

  a. continued service provision;

  b. patient safety; and

  c. health and safety considerations.

(d) to direct the Executive to complete the planning required, including analysis of the financial implications, to give effect to these decisions ('the Implementation Plan') working with Capital and Coast District health Board (CCDHB), other partners and stakeholders and in particular the Ministry of Health, Interim Health New Zealand, and the Māori Health Authority;

(e) to direct the Executive to work with engineers to identify and implement temporary mitigation steps where possible to minimise life safety risk while giving effect to these decisions;

(f) to report to the HVDHB Board on the Implementation Plan as is required, and no later than 22 June 2022 (the next scheduled ordinary meeting of the HVDHB Board);

(g) to direct the Executive to identify a date on which to proactively release this decision paper and its attachments, subject to redactions as appropriate under the Official Information Act 1982 once implementation of the decision has occurred.

The Hutt Valley District Health Board note:

(h) options that involve decanting the building (all or in part) will have flow on implications for the wider Wellington hospital network, CCDHB, Wairarapa DHB and other DHBs in the region; as well as community providers, private hospitals, and aged residential care facilities and that consultation and engagement on the Implementation Plan is essential;

(i) development of the Implementation Plan will be led by the HVDHB in collaboration with other key stakeholders including CCDHB, and in particular the Ministry of Health, Interim Health New Zealand, and the Māori Health Authority.

Strategic Alignment	CCDHB Health System Plan 2030, Our Vision for Change HVDHB Te Pae Amorangi, Taurite Ora, Sub-Regional Disability Strategy Pacific Health and Wellbeing Strategic Plan for the Greater Wellington Region.
Presented by	Fionnagh Dougan, 2DHB Chief Executive
Developed by	Chief Executive & Executive Leadership Team
Purpose	Advise the Board on options considered to support the response to the Detailed Seismic Assessment of the Heretaunga Building at Hutt Hospital.

Executive Summary

1. HVDHB commissioned and received a draft Detailed Seismic Assessment (DSA) of the Heretaunga Block at Hutt Hospital from consulting engineers, Aurecon, issued 8 March 2022. The draft DSA confirms that, when compared with a new building with the same use on the same site, the Heretaunga building is 15% of New Building Standard at IL3.
2. The draft peer review and our ongoing engagement with HVDHB's appointed engineering advisors (Aurecon and Silvester Clark) and the advisor to Interim Health New Zealand (iHNZ), Mr Dave Brunsdon, has confirmed that the final DSA is unlikely to materially change, and the overall rating will remain at 15% NBS (IL3).
3. We are advised that the building will be determined by Hutt City Council to be 'earthquake prone' meaning that as a priority building, HVDHB (and its successor, HNZ) has 7.5 years under the Building Act 2004 to carry out work to address the seismic status of the building.
4. Legal advice from Buddle Findlay (attached as Appendix 1) is that:
    - based on the risks identified in the DSA, HVDHB's health and safety duties, and its responsibilities more broadly as an employer, landlord, health care provider and public entity, HVDHB would need compelling reasons to support a decision to remain in the Building for any longer than is necessary to vacate safely and effectively.
    - that HVDHB, and its 'officers' (the Board and the Executive) hold the legal responsibility for responding to the risks identified through the reports and advice received and is the decision maker until 30 June 2022, with decisions after that moving to Health New Zealand when it is established from 1 July 2022.
    - a decision ought to be made with some urgency, acknowledging that the decision is significant and complex. The decision requires a delicate balancing of a range of competing considerations.
    - it is for the HVDHB (through its Board) to determine the overall assessment of risk, decision on occupancy, and appropriate timing for the execution and communication of any decision made.
    - HVDHB is to take into account the direct impact on the delivery of medical services, social and economic impacts, opportunities for seismic risk mitigation, health and safety, community impacts, and operational and strategic feasibility, including availability of alternative locations and service provision (on and off campus).
5. A range of options have been identified and range from status quo, to partially vacating, to fully vacating the building over time. Further planning work is required, and will be progressed urgently to give effect to the decisions made in response to the advice in this paper and received at the Board meeting.
6. Aurecon has provided high level information regarding works to upgrade the building to a more acceptable performance level and possible cost of those works. Early estimates indicate that the works would require 24-36 months– (however this assumes an ideal scenario from a construction perspective of a fully vacant and accessible building). Initial engineering advice is that remediation is not likely to be a viable or cost effective option – especially as the results of a program of remediation work would be to achieve a 67%NBS standard (IL3). While this would reduce life-safety risk factors in a design-level event, the challenge would remain following a material seismic event resulting in significant damage to the building.
7. Options that involve decanting the building (all or in part) have flow on implications for the wider Wellington hospital network, CCDHB, Wairarapa DHB and other DHBs in the region; as well as community providers, private hospitals, and aged residential care facilities.

8. While planning is well underway to support and inform the decant options, detailed planning requires direct engagement with these service providers which has not yet been undertaken given the sensitivities involved.
9. Development of any implementation plan will be led by the HVDHB in collaboration with other key stakeholders, and in particular the Ministry of Health, Interim Health New Zealand (iHNZ), and the Māori Health Authority - noting that this engagement is critical given the timing of this decision in relation to the establishment of Health New Zealand.
10. Communication and stakeholder engagement planning is well advanced with options to support the proposed decision pathway including information being cascaded through all stakeholders including staff, unions, community, and iwi groups.

Strategic Considerations

Service	The outcome of any decision may require considerations of what services are provided on which sites. There are opportunities to consider integrated care continuums in our communities and localities.
People	This paper sets out implications for people in the Heretaunga building and presents options to continue achieving health equity while supporting an aligned workforce.
Financial	There will be implications for our capital investment and maintenance investment requirements balanced against our long term operational cost profile and its contribution to wellbeing.
Governance	This is a programme of work supported by expert engineering, emergency management, legal, analytical, communication and assurance advisors working with a project team governed through a steering group and with the support of the executive leadership team.

Engagement/Consultation

Patient/Family	Given the sensitivities of the information, no patient or family engagement or consultation has occurred but there is a detailed communication and engagement approach that will be implemented at the right time following the Board's decision.
Clinician/Staff	Service Group Managers and Clinical Directors have been briefed and have supported detailed options analysis and testing. A full internal communications approach has been prepared.
Community	Given the sensitivities of the information, no community engagement or consultation has occurred but there is a detailed communication and engagement approach that will be implemented at the right time following the Board's decision.

Identified Risks (Current top 5 operational risks)

Risk Description	Risk Owner	Current Control Description	Current Risk Rating	Projected Risk Rating
There is insufficient capacity and capability to decant in a safe and timely manner	Director Provider Services	Finalise and test draft plans with key audiences, regular reporting to Steering Group, resource planning, and procurement of additional capability	Very High (24)	High (22)
There is a regional health emergency, COVID-19 or winter seasonal illness outbreak that requires a large-scale response	2DHB Chief Executive	Contingency plan built into project plan, stakeholder engagement and emergency management plan	High (21)	High (18)
Information leaks result in reduced confidence in the health and safety of the building	2DHB Chief Executive	Develop and implement communication and stakeholder engagement plan, project team briefed and Code of Conduct agreed, confidentiality agreements.	Very High (24)	High (18)
Following proactive communication, people accessing the HVDHB campus have reduced trust and confidence in the campus	Director of Communications and Engagement	Develop and implement communication and stakeholder engagement plan In particular, tailored messages directly promoting the DHB's focus on health & safety & key messaging	High (21)	High (18)
There is a material seismic event before the project outcomes are achieved	2DHB Chief Executive	Update of emergency management plan. In particular, to take into account engineering advice on the likely failure hierarchy of building. In addition, real time post event reports on building health (following non-material seismic events)	High (15)	High (15)

Appendices

1. **Legal Advice from Buddle Findlay dated 11 May 2022**
2. **Building use**
3. **Options Analysis**
4. **Communications approach**

Expert advice (not attached but to be uploaded to the Board resource centre)

1. **DSA**: "*Hutt Hospital – Detailed Seismic Assessments Heretaunga Block DSA*" from Aurecon issued 8 March 2022
2. **Failure Hierarchy Advice**: "*Hutt Hospital - Heretaunga Block Detailed Seismic Assessment Summary*" Failure Hierarchy report from Aurecon dated 29 March 2022
3. **First Peer Review**: "*Hutt Hospital Heretaunga Block DSA Peer Review - High-level review comments*" from Silvester Clark dated 3 May 2022
4. **Seismic Risk Review**: "*Seismic Risk Review of the Heretaunga Block, Hutt Hospital*" from Dave Brunsdon dated 9 May 2022
5. **Second Peer Review**: "*Hutt Hospital Heretaunga Block DSA Peer Review - High-level review comments*" Second Memo from Silvester Clark dated 11 May 2022
6. **Remediation Advice**: "*Heretaunga Block Strengthening Hutt Valley District Health Board*" from Aurecon dated 11 May 2022

Introduction

1. The purpose of this paper is to advise the HVDHB Board on options and actions in response to the Detailed Seismic Assessment (DSA) of the Heretaunga Building at Hutt Valley Hospital.

Background

2. The Heretaunga building is a facility from which a range of clinical services are provided to the community. There are 210 physical bed spaces in the building. This is 79% of the total bed stock on the Hutt Hospital site.
3. The building houses 25% of the physical capacity across Hutt, Kenepuru, and Wellington Hospitals (excluding Mental Health and addictions services). More detail on the building use is attached as Appendix 2.
4. Following major seismic events in Christchurch, a Detailed Seismic Assessment (DSA) was undertaken by Aurecon in 2011 using guidelines from the time. The 2011 DSA focussed on the primary structure of the building and determined that the Heretaunga building had a rating of 43% NBS IL3 at that time.
5. In 2017, building standards changed to improve standards for new buildings and earthquake-resistant design. These standards were to guide the undertaking of assessments, rather than to guide timing of when those assessments should occur. The management and review of our campus infrastructure continued to occur in a planned and systematic way in collaboration with the Ministry of Health.

Engineering reports

6. HVDHB commissioned and received a draft DSA for the Heretaunga Block at Hutt Hospital from consulting engineers, Aurecon, issued on 8 March 2022. The draft DSA confirms that, when compared with a new building with the same use on the same site, the Heretaunga building is 15% of New Building Standard (IL3).

7. The building was assessed as an Importance Level 3 building which is the current rating set by the Hutt Valley District Health Board. The 15% NBS rating reflects new seismic assessment guidelines that were introduced in 2017 following a full revision of the 2006 guidelines.

8. The draft DSA notes that the building has an E grade rating which is described in MBIE's guidelines as "very high risk". The draft DSA confirms that the building has five key structural components that have been rated as 15% NBS (IL3):

    - Columns part of moment-resisting frame
    - Beams part of moment-resisting frame
    - Concrete floor diaphragm
    - Precast concrete façade panel connections
    - Stairs.

9. The draft DSA also notes that the following components within the building were also classified as earthquake-prone (i.e. less than 34% NBS IL3):

    - Concrete shear walls (30% NBS)
    - Foundation system (20% NBS).

10. HVDHB commissioned further advice from engineers and external legal advisors to support consideration of next steps for the Heretaunga Building including:

    - Further engineering advice from Aurecon on how the building may behave during a large earthquake including which elements may fail first.
    - Peer reviews of the DSA from consulting engineers, Silvester Clark.
    - Analysis by Aurecon of the potential remedial works and the impact of those works on the buildings reported %NBS score and indicative costs.
    - Legal advice from Buddle Findlay on the key legislative regimes relating to the seismic risk assessments and factors to consider as part of the Board's decision making process.

11. In addition, the Ministry of Health and interim Health New Zealand engaged Dave Brunsdon, an engineer specialising in seismic issues, to review the engineering advice from Aurecon and Silvester Clark and advise on seismic risk. Mr Brunsdon provided his report "Seismic Risk Review of the Heretaunga Block, Hutt Hospital" on 9 May 2022. That report notes:

    - the annual probability of an earthquake of the magnitude that is likely to cause structural failure is low, so the overall risk to occupants (taking into account event likelihood, structural vulnerability, and consequence of failure) over the next one to two years is considered low
    - from an engineering perspective, there is considered to be no reason why this building should not continue to be used in the short-term while options to provide delivery of medical services in alternative locations are developed.

12. Following receipt of the final peer review, Aurecon will provide the final DSA. The draft peer review and our ongoing engagement with Aurecon, Silvester Clark and Dave Brunsdon have confirmed that the final DSA is unlikely to materially change, and the overall rating will remain at 15% NBS (IL3).

13. Engineering discussions on the detailed elements of the assessments will continue – this helps us to understand the scope of the likely failure points and ways to temporarily mitigate life safety risk. It

also helps clarify failure point nuances which can help inform the planning and feasibility of decanting options. While discussions may change detailed elements of the assessment, it will not change the overall rating of 15% NBS (IL3).

14. At 15% NBS (IL3), the Heretaunga building would be an earthquake prone building, subject to determination by the Hutt City Council. MBIE's guidance provides that:

> *an earthquake-prone building is one that will have its ultimate capacity exceeded in a moderate earthquake, and if it were to collapse, would do so in a way that is likely to cause injury or death to persons in or near the building or on any other property, or damage to any other property*.

Considerations

15. The NBS rating of 15% (IL3), while indicating a heightened risk to users in the event of a significant earthquake, is not the only relevant consideration.

16. Other considerations are the direct impact on the delivery of medical services, social and economic impacts, opportunities for seismic risk mitigation, health and safety, community impacts, and operational and strategic feasibility, including the availability of alternative locations and service provision (on and off campus).

17. The legal position is complex and involves a number of considerations across different legislative regimes – (Building Act, Health and Safety at Work Act, NZ Public Health and Disability Act, and Civil Defence and Emergency Act).

Building requirement considerations

18. The Building Act 2004, which imposes requirements on building owners if a building is earthquake-prone. If an Engineer determines a building to be earthquake-prone, then HVDHB should assume that triggers the mandatory upgrade obligations under the Building Act 2004.

19. Section 133AM of the Building Act provides that owners of "priority buildings" (such as the Building) must complete seismic work within 7.5 years from issue of an Earthquake-prone building (EPB) notice by the territorial authority.

Health and safety considerations

20. The Health and Safety at Work Act 2015 (HSWA) relates to the safety of employees, tenants, and other people in and around the Building. In particular, as an employer, HVDHB is a 'person conducting a business or undertaking' (PCBU), and accordingly has a duty of care, so far as is reasonably practicable, to ensure the health and safety of everyone involved with, or affected by, work in the Building.

21. HVDHB, its board members, the Chief Executive, and likely also members of the Executive Leadership Team would be "officers" of HVDHB for the purposes of the Health and Safety at Work Act 2015 (HSWA). "Officers" have duties under the HSWA.

Health service considerations

22. New Zealand Public Health and Disability Act 2000 (NZPHD Act) imposes a general obligation on HVDHB to seek the optimum arrangement for the delivery of health services. The NZPHD Act does not provide a reason to avoid compliance with the HSWA, but it will form part of the decision-making process as to how HVDHB would vacate the premises, the speed at which it does so, and the consideration of any alternatives.

23. The ability for the various patients and staff to vacate the Building following an earthquake should also be considered. This consideration may also need to factor in the likely type of patients in the building and any specific vulnerabilities (e.g. babies, those with mobility issues, post-emergency surgery patients).

Emergency response considerations

24. The Civil Defence Emergency Management Act 2002 (CDEM Act), which imposes a requirement on hospitals to remain operational during an emergency. The HVDHB has obligations (over and above a typical land-owner) under the CDEM Act. This includes being able to provide continuity of care in an emergency. Likely damage to the Building in an earthquake will affect HVDHB's ability to comply with these obligations.

Options

25. The legal advice provided by Buddle Findlay advises that based on the risks identified in the DSA, HVDHB's health and safety duties, and its responsibilities more broadly as an employer, landlord, health care provider and public entity, HVDHB would need compelling reasons to support a decision to remain in the Building for any longer than is necessary to vacate safely and effectively.

26. The advice illustrated the complexity of the decision through the expression of the following two options (this complexity applies to any decision on the continuum between the two options):

- **A decision to stay.** This will require HVDHB to accept the risk and continue to occupy and use the building while it works to the 7.5 year timeframe to remediate (or demolish) the building. HVDHB would need to implement immediate and longer-term mitigations to protect people in and around the building, and consider the risks if those mitigations prove to be insufficient or are considered insufficient by its employees, the tenants it has in the building, the public and other stakeholders.
- **A decision to vacate.** This will require HVDHB to find and plan for alternative premises or service delivery options, and execute that plan in a way that is safe and effective. While there is plainly risk in any decision to stay, there are also risks to patient safety that need to be factored into any decision to vacate, and on how and when to vacate, that HVDHB must take into account.

27. A full range of options have been developed from status quo, to partially vacating to fully vacating the building over time:

	Option
NO DECANT	1. <u>Maintain Status Quo:</u> No immediate action would be taken in relation to the receipt of the DSA. Services would stay in place and long term decisions would sit with HNZ.
	2. <u>Undertake remediation:</u> Remediate the building in the earliest possible timeframe in a way that would minimise service interruption. [*Initial advice is that remediation is not likely to be a viable or cost effective option*]
DE CA	3. <u>Mitigate occupancy – shift inpatient planned care:</u>

	Inpatient planned care services would be shifted to an alternate location. Acute inpatient and ambulatory services would stay in place.
	4. Mitigate occupancy – shift inpatient care: Inpatient services would be shifted to an alternate location. Only ambulatory services would stay in place.
	5. Vacate over a reasonable period: Shift all services to other locations when able to do so safely until the building is vacated entirely.

28. A summary of the analysis across the range of options are set out in Appendix 3. This includes seismic risk mitigation, health and safety considerations, impacts on service delivery, medium and long term options and an overall feasibility assessment.

Commentary on "no decant" options

29. These options focus on either no patient movement or some movement along with remediation of the current building. To support options analysis, Aurecon has provided high level information to the HVDHB of works to upgrade the building to a more acceptable performance level.

30. There would be several ways to approach and programme the construction works for the proposed structural works in the building described in draft DSA. We are advised that all will cause significant disruption to the continued use of the building.

31. Access will be required to most areas of the building to affect the proposed strengthening, this will require strip out of internal linings and finishes, followed by reinstatement. This would include floor linings, ceilings, and wall linings in some locations. Aspects of the building such as façade elements (e.g. the windows) or ceiling grids that would need removal may not be able to be reinstalled due to being damaged when they were removed or because they are not now compliant.

32. In terms of the physical works, the proposed solutions will require concrete cutting and drilling throughout the building which cannot easily be mitigated in terms of noise or vibration. Typically, in commercial buildings, these works would be undertaken at night to avoid disruption to occupants, which is not possible for this building.

33. Options of decanting 2-3 floors (or parts of floors) at once while the works were undertaken could be considered, provided the structural borne noise and vibration was acceptable. If parts of the building were to remain in use, a careful strategy would be required to maintain critical services, access and emergency egress to these areas. We are advised that it would be more likely that the whole building would be required to be empty to undertake the works.

34. The programme to undertake the works would be dependent on any decanting strategy and whether the building was completely empty or approached in a progressive manner. If the building was empty, it would be expected that the works could be undertaken over a period of an estimated 24-36 months. If the works were undertaken on a progressive basis this timeframe would be extended significantly.

35. Initial advice is that a program of remediation work could achieve a 67%NBS standard (IL3) and reduce life-safety risk factors in a design-level event, however, the challenge would remain following a material seismic event resulting in significant damage to the building that could rule out ongoing use.

Commentary on "decant" options

36. All options that involve decanting the building (all or in part) will have flow on implications for the wider Wellington hospital network, CCDHB, Wairarapa DHB and other DHBs in the region; as well as community providers, private hospitals, and aged residential care facilities.

37. The order of any decant will be based on a judgement regarding the clinical acuity of patients and complexities associated with aspects of safe transport and decant from the wards. However the order could be altered, shortened or lengthened depending on final discussions and agreed logistics.

38. Detailed planning is needed for each step of any decant plan, balancing critical health and safety and service delivery priorities. Further work is also required on economic impacts and detailed financial and regulatory implications.

39. Engagement is also required from a combination of service managers and clinicians from both DHBs, working cooperatively together supported by project and emergency management support. The involvement in planning detail will require active engagement with the Integrated Operations Centre at the HVDHB and CCDHB sites who will play key roles in leading any physical decant plan.

Analytics

40. We have developed a dependency model to estimate the impact of the proposed options across the network, based on a variety of metrics. This is based on our current thinking and will need to be continually developed and validated during implementation planning for any Board decision.

41. The model combines expected demand across the three regional hospital sites and models patient flows within each site, as well as out to private health providers. The base assumptions used as input into the network model are consistent with previously developed DHB models and base outputs match closely to current expectations across the network.

42. Assumptions for each option have been developed to represent the patients impacted by the approved decant plan for each option, including the proportion of demand for services that will be transferred from Hutt Hospital to elsewhere in the network. Additional assumptions have also been developed to represent the impact of changes in consumer behaviour and planned management initiatives.

43. Indicative results based on a range of assumptions are shown in the table below for a single month:

	Base	Option 1	Option 2	Option 3	Option 4	Option 5
Patient demand for ward beds	7,150	7,150	7,150	7,150	7,000	7,000
Hutt Hospital	2,750	2,800*	2,750	1,800	550	550
Wellington Hospital	3,800	3,800	3,800	4,200	4,750	4,750
Kenepuru Hospital	550	550	550	550	600	600
Private Healthcare Providers	0	0	<50	650	1,100	1,100
Additional load on hospital						
Hutt Hospital		+1%	0%	-36%	-80%	-80%
Wellington Hospital		0%	0%	+10%	+24%	+24%
Kenepuru Hospital		0%	0%	0%	+13%	+13%
Transferred patient demand	0	0	0	0	0	0

Hutt Hospital	0	0	- <50	-1,000	-2,250	-2,250
Wellington Hospital	0	0	0	+350	+1,100	+1,100
Kenepuru Hospital	0	0	0	0	+50	+50
Private Healthcare Providers	0	0	+ <50	+650	+1,100	+1,100

* The model includes an allowance for expected changes in consumer behaviour as a result of the announcement, in particular, the impact here is consistent with prior experience at Hutt Hospital as part of the nurses and RMO strikes.

44. At a network level, the level of patients accessing services is expected to remain relatively steady across all options. By hospital site, there are significant variations in level of demand based on which services could be decanted from Hutt Hospital. Under options with higher levels of services transferred, it is anticipated that around 2,250 patients per month would be shifted from Hutt Hospital to other sites.

45. The majority of these would be absorbed by Wellington Regional Hospital (~1,100) and Private Healthcare providers (~1,100), with a small amount being transferred to Kenepuru Hospital. This represents a reduction in patient demand for beds by around 80% for the Hutt Hospital site under options 4 & 5. The additional load on the other two hospital sites is around +24% of base demand for Wellington Hospital and +13% for Kenepuru Hospital. Further planning will include any service changes required to give effect to this.

46. The population accessing services from the HVDHB includes groups who experience inequitable health outcomes; in particular, Māori, acific peoples, disabled people and those who li e in highly deprived areas. Consideration of equity has been a key component of the development and analysis of options. Even under options with the highest level of service transfer, support for specialties such as Cardiology, DSS, Endocrinology and Diabetic services, and ENT could be retained on site at Hutt Hospital. These services are all heavily accessed by populations who experience inequitable health outcomes.

Next steps

47. Based on the latest engineering advice, we have taken steps to review and change the 3DHB Health Emergency Response Plan to take account of the likely failure hierarchy of the Heretaunga building. This planning work has covered the scenarios that could arise from a significant earthquake event.

48. On receipt of the final DSA, HVDHB will engage with Hutt City Council on the regulatory status of the building under the Building Act 2004. While it is that Council's decision to make, we are advised that the building will be determined as 'earthquake prone' meaning that as a priority building, HVDHB (and its successor, HNZ) would have 7.5 years under the Building Act 2004 to carry out work to address the seismic status of the building.

49. Work is underway on medium and longer term options but the future of the building and the site will be determined in the wider context of Health New Zealand's role to manage nationwide service planning and infrastructure.

50. Further implementation work would be required should the Board decide to decant the building to the maximum extent possible and as soon as reasonably practicable, in a planned, appropriate and systematic way. This would include the need to ensure:

    - continued service provision;
    - patient safety; and
    - health and safety considerations.

51. In addition, implementation options need to be tested for feasibility and appropriate approval and timing pathways need to be developed. This includes considering the financial and regulatory implications. Development of any implementation plan will be led by the HVDHB in collaboration with other key stakeholders, and in particular the Ministry of Health, Interim Health New Zealand, and the Maori Health Authority.

52. We are mindful of the need to ensure transparency and balanced communication. Communication and stakeholder engagement planning is well advanced with options to support the proposed decision pathway. We recommend a focus on the developed communications with a planned public release of these decision papers and engineering reports following the implementation, rather than making, of any Board decision.

53. There is a detailed communications strategy and plan including messaging, a critical path and timeline, announcement run plan, holding statements and reactive communications for stakeholders (summary attached as Appendix 4). As part of that approach, information would be cascaded through all stakeholders including staff, unions, community, and iwi groups.

BUDDLE FINDLAY

Memo

11 May 2022

To: Roger Palairet, Hutt Valley DHB

From: Brannavan Gnanalingam, Charlotte von Dadelszen, Hamish Kynaston, Alastair Hercus

Hutt Valley District Health Board (HVDHB) - Heretaunga Building (Building) – seismic report from Aurecon dated 8 March 2022 (draft issue) (Report) – Memorandum dated 29 March 2022 (Memorandum)

CONFIDENTIAL AND SUBJECT TO PRIVILEGE

Introduction

1. HVDHB is the owner of the Building at Hutt Hospital. HVDHB commissioned and has now received a draft report from Aurecon dated 8 March 2022, which determined the seismic rating of the Building is 15% NBS at Importance Level 3 (**Seismic Rating**). HVDHB commissioned a peer review from Silvester Clark and we understand Aurecon will finalise its Report once it has considered that review. Separately, HVDHB has a received a Memorandum (in draft) from Aurecon, which further clarifies the Report.

2. We have updated our earlier advice of 6 May 2022, after our review of Silvester Clark's summary letter dated 3 May 2022, and advice from engineer Dave Brunsdon dated 9 May 2022 in response to the advice from Aurecon and Silvester Clark (**Additional Reports**). Neither of the Additional Reports challenge the technical findings set out in the Report and they agree, on their face, with the Report's core findings.

3. It is for the HVDHB Board to decide what actions it takes in response to the Report's and Additional Reports' findings. A decision ought to be made with some urgency, acknowledging that the decision is significant and complex. To assist your decision-making, we have set out what we consider to be the key considerations that HVDHB ought to take into account in the first instance.

4. Overall, based on the risks identified in the Report, HVDHB's health and safety duties, and its responsibilities more broadly as an employer, landlord, health care provider and public entity, we consider that HVDHB would need compelling reasons to support a decision to remain in the Building for any longer than is necessary to vacate safely and effectively.

5. This is illustrated by the implications of either decision HVDHB could make:

   (a) *A decision to stay*. This will require HVDHB to accept the risks set out in the Report / Memorandum and a 7.5 year timeframe to upgrade the Building. HVDHB would also need to implement immediate and longer-term mitigations to protect people in and around the Building, and consider the risks if those mitigations prove to be insufficient or are considered insufficient by its employees, the tenants it has in the Building (**Tenants**), the public and other stakeholders.

   (b) *A decision to vacate*. This will require HVDHB to find alternative premises, and to move into those in a way that is safe and effective. While there is plainly risk in any decision to stay,

there will no doubt be risks to patient safety that need to be factored into any decision to vacate, and on how and when to vacate, that HVDHB must take into account.

Report findings

6. Specifically, the Report and Memorandum note the following:

(a) The Building was completed in 1980, and is seven storeys (with a basement level and two plant levels above the roof level). Silvester Clark added that the structural design of the Building took place prior to the introduction of modern seismic design principles in 1976 and that such buildings have significantly less seismic strength and ductility capacity than that required by current design standards.

(b) The seismic assessment was carried out under the "Yellow Book" guidelines – Section C5 – Concrete Buildings – Proposed Revision to the Engineering Assessment Guidelines dated November 2018. While the Yellow Book has not been incorporated into regulations, it reflects best practice for engineers, and will likely be adopted at some point in the future.[1] We note that the Yellow Book guidelines are a more stringent set of guidelines than the previous Red Book.

(c) A Detailed Seismic Assessment carried out in 2011 assessed the Building at 43% NBS.[2] However, the Report is based on latest guidelines, which have been updated following lessons learned from the Canterbury, Seddon and Kaikōura earthquakes.

(d) The assessment does not consider the seismic performance of building services and architectural elements (such as ceilings and partitions). A separate assessment will be required for those elements.

(e) The Report concludes that the E (earthquake prone) building grade rating[3] imposes a risk twenty-five times greater than a new building[4] and the Report notes that an E grade building has "*a very high life safety risk*."[5]

(f) The Building has five key structural components that have been rated as 15% NBS:

(i) Columns part of moment-resisting frame;

(ii) Beams part of moment-resisting frame. The Report notes that there is a "high chance" that all floors could "pancake" between two adjacent floors[6];

(iii) Concrete floor diaphragm. The Memorandum notes that this could result in cracks, and cracks opening up progressively under cyclic swap[7];

[1] MBIE has not set out specific timing for when the regulations will be updated.
[2] At 1.1 (page 5 of the Report).
[3] An E Grade building is the lowest rating a building could have, and reflects an NBS rating of less than 20%. Buildings that are D or E are considered earthquake-prone under the Building Act 2004.
[4] At 2.4 (page 7 of the Report).
[5] At 4.1 (page 16 of the Report).
[6] At 4.2.2 (page 17 of the Report).
[7] At 2.2 of the Memorandum

(iv) Precast concrete façade panel connections. The Report notes that the failure of the panel connections could cause panels to detach from the Building and fall to the ground, posing a life safety hazard[8];

(v) Stairs. The Memorandum notes that the stairs could be pulled off the landings as the Building tries to move in an earthquake.[9]

These are specifically identified as "critical structural weaknesses" in the Report.[10]

(g) Further, the following components were also classified as earthquake-prone (i.e. less than 34% NBS)[11]:

(i) Concrete shear walls (30% NBS); and

(ii) Foundation system (20% NBS).

7. The Report identifies a number of potential strengthening options to target 67% NBS. Further discussions will be needed with Aurecon (and a quantity surveyor) to determine likely timing, cost, and disruption to operational services in the Building (and neighbouring buildings).

8. HVDHB will need to factor in the following operational concerns in respect of the Building. We understand that:

(a) If HVDHB immediately vacates the Building, that will have a significant impact on operations, including bed-space, access to the emergency department, and plant room access.

(b) The Building is used by a number of high-risk patients (and staff attending to those patients).

(c) There are a number of Tenants in the Building, including a café, SCL Labs, and doctors using the Building for private practice.

9. Given the findings, you have asked for advice on:

(a) Proposed next steps for HVDHB.

(b) HVDHB's health and safety duties as employer and landlord.

(c) Other relevant considerations.

Key considerations

10. The legal position is complex and involves a number of considerations. There are four key legislative regimes that HVDHB will need to keep in mind as part of its decision-making process:

(a) The Health and Safety at Work Act 2015 (**HSWA**), which relates to the safety of employees, Tenants, and other people in and around the Building.

(b) New Zealand Public Health and Disability Act 2000 (**NZPHD Act)**, which imposes a general obligation on HVDHB to provide optimum health services.

[8] At 4.2.6 (page 18 of the Report).
[9] At 2.4 of the Memorandum.
[10] At 4.3.1 (page 19 of the Report).
[11] At 4.1 (page 16 of the Report).

(c) The Building Act 2004, which imposes requirements on building owners if a building is earthquake-prone.

(d) The Civil Defence Emergency Management Act 2002 (**CDEM Act**), which imposes a requirement on hospitals to remain operational during an emergency.

We set out further detail on the HSWA, NZPHD Act, Building Act, and CDEM Act in the attached Annexure.

11. HVDHB will have to balance satisfying all of these requirements. The most pressing considerations are those between the HSWA and NZPHD Act. The NZPHD Act does not provide a reason to avoid compliance with the HSWA, but it will form part of the decision-making process as to how HVDHB would vacate the premises, the speed at which it does so, and the consideration of any alternatives. As above, there are no doubt risks to patient safety that need to be factored into any decisions on whether, how and when to vacate.

12. In terms of the other Acts, we presume that in its response to the Seismic Rating, HVDHB will likely be responding to the Building Act requirements to improve the Building within 7.5 years, and that HVDHB can work through its requirements under the CDEM Act as part of its mitigation response to the Seismic Rating.

13. Key considerations include the following:

(a) Whether or not HVDHB eliminated risks to health and safety so far as was reasonably practicable will be judged with the benefit of hindsight. It's likely that HVDHB's decision-making will be scrutinised closely in circumstances where people have died or suffered serious injuries.

(b) If an Engineer determines a building to be earthquake-prone, then HVDHB should assume that triggers the mandatory upgrade obligations under the Building Act 2004. Section 133AM of the Building Act provides that owners of "priority buildings" (such as the Building) must complete seismic work within 7.5 years from issue of an Earthquake-prone building (**EPB**) notice by the territorial authority.

(c) Separately, the HVDHB has obligations (over and above a typical land-owner) under the CDEM Act. This includes being able to provide continuity of care in an emergency. Likely damage to the Building in an earthquake will affect HVDHB's ability to comply with these obligations.

(d) HVDHB, its board members, the Chief Executive, and likely also members of the Executive Leadership Team would be "officers" of HVDHB for the purposes of the Health and Safety at Work Act 2015 (**HSWA**). "Officers" have significant duties under the HSWA. In particular:

(i) As an employer, HVDHB is a 'person conducting a business or undertaking' (**PCBU**), and accordingly has a duty of care, so far as is reasonably practicable, to ensure the health and safety of everyone involved with, or affected by, work in the Building.

(ii) Along with HVDHB, Tenants in the Building are also PCBUs under the HSWA. Each of these parties have a legal obligation (as far as is reasonably practicable) to consult,

cooperate with, and coordinate activities with each other. HVDHB will therefore need to consult and work with its Tenants on health and safety matters.

(iii) The Board Members of HVDHB are "officers" for the purpose of the HSWA. Accordingly, they have specific duties to take reasonable steps to ensure that HVDHB complies with its duties under the HSWA.

(e) We think that it is unlikely that the Board members of Capital & Coast District Health Board who attend the concurrent Capital & Coast District Health Board / HVDHB board meetings will be considered "officers" of HVDHB, given the way in which the decision-making is separated and managed. This should continue to be managed by the Chair and the Executive Leadership Team to ensure that the roles and decision-making authority of the two sets of Board members are clear and documented.

14. In addition to the above, HVDHB will need to consider the broader employment law implications of its decision, and how it manages those. We will advise on those separately. For present purposes, there is a risk that some employees will refuse to work in the Building once they learn of the risks. Regardless of the legal rights and remedies HVDHB might have in relation to such a refusal, practically HVDHB should make its decision and plan on the basis that it may not have available its full complement of employees, once the risks are communicated.

Next Steps

15. We recommend that HVDHB work through the following matters:

(a) clarify with Aurecon the following:

(i) Any points in the Report / Memorandum that HVDHB is not sure about, and whether the Report / Memorandum can be finalised. If HVDHB meets with Aurecon in-person, any representations / analysis provided by Aurecon should be followed-up in writing.

(ii) Whether the Building should have been assessed at Importance Level (**IL**) 4, and whether an IL4 assessment would identify any additional areas of concern or change the resulting Seismic Rating. We note Silvester Clark's view that the Building should be assessed at IL4, but that this does not change the NBS rating – MBIE guidelines recommend that the minimum reported capacity should not be below 15% NBS.

(iii) The likely impact that a moderate to severe earthquake would have on the critical structural weaknesses, including potential post-failure behaviour of the structural elements, i.e. What exactly would happen to the Building? (this is partially addressed in the Memorandum). HVDHB may wish to explore with Aurecon what will likely happen to the stairs? What will likely to happen to the floors? To what extent will neighbouring buildings be affected? We also understand that Silvester Clark will be providing additional information on this.

(iv) Whether any temporary stop-gap measures can be used (e.g. mitigation measures, isolating areas) in order to minimise the immediate health and safety concerns and the risks identified? For example, it appears that HVDHB should determine how it can

mitigate the falling panels issue identified in the Report. Aurecon could provide more information about how this can be done.

(v) The scope and nature of the likely engineering work required to increase the Seismic Rating of the Building to an acceptable NBS.

(vi) HVDHB should obtain a Report as to the building services and the likely impact on those in an earthquake (as recommended by Aurecon), as part of its decision-making process to stay in the building (if it elects to do so).

(vii) Whether Aurecon is going to inform Council as to the Seismic Rating. If Aurecon is going to advise Council imminently, that may bring forward HVDHB's timing in terms of communications to employees / Tenants. HVDHB may wish to be proactive in liaising with the Council (as the Council does have the ability to respond unilaterally to an engineer notification, without consulting with the building owner). However, the timing of this will need to be managed in light of the need to communicate as well with employees / Tenants.

(viii) HVDHB may urgently wish to undertake seismic reports on its other buildings in the campus, given further adverse reports could affect contingency plans.

(b) HVDHB should clarify any points in the Additional Reports that HVDHB is not sure about with Silvester Clark and Mr Brunsdon. We think it would be useful as proposed by Mr Brunsdon for the three engineers to meet to discuss any points of difference and finalise the understanding of the Building's vulnerabilities between them - noting that there does not seem to be any disagreement on the Report's technical findings.

(c) HVDHB should update emergency plans following the further advice from Aurecon, particularly to account for the critical structural weaknesses (this could include, for example, a strategy to respond to the likely effect on the stairs and whether these could (or should) be used in an emergency).

(d) HVDHB should also update its emergency plans to ensure continuity of care in the context of its obligations under the CDEM Act.

(e) HVDHB should carry out regular inspections of the Building (if it continues to remain in the Building) for internal hazards. HVDHB should also ensure that its Tenants similarly carry out such inspections.

(f) HVDHB should consider all its options, including whether the Building should be vacated immediately. Relevant risk factors include:

(i) Operational constraints on HVDHB and the need for ongoing in-patient services / impact on waiting lists.

(ii) The time it will take to vacate the Building safely and effectively (i.e. we understand that would likely take up to four weeks).

(iii) The existence of any alternatives to using the Building.

(iv) The likely impact on patients and staff if they were to remain in the Building during an earthquake (e.g. would there be risk to their safety in an earthquake?) Aurecon's additional clarification / information will help inform this.

(v) The ability for the various patients and staff to vacate the Building following an earthquake. This consideration may also need to factor in the likely type of patients in the building and any specific vulnerabilities (e.g. babies, those with mobility issues, post-emergency surgery patients).

(vi) Whether any operations could remain on site (subject to engineering advice). For example, HVDHB may not need to relocate its building services / plant rooms if access to those rooms is likely to be limited / can be managed with restricted access.

(g) HVDHB should work with Aurecon (from a structural design perspective) and a quantity surveyor to determine:

(i) The scope of repair works, and their cost and timing.

(ii) The likely impact of Aurecon's proposed strengthening works on existing operations in the Building and neighbouring buildings.

(iii) Whether the redevelopment could be staged i.e. if HVDHB could carry out critical works first, or whether vacant possession will be required.

(iv) A programme for such works.

(h) We note that:

(i) Repair work or demolition / rebuild is likely to be time-consuming and costly.

(ii) HVDHB will also need to factor in likely life expectancy of the Building – we understand that the Building is 40 years old, so may be nearing end of life in any event.

(i) As a landlord, we recommend that HVDHB:

(i) Advises the Tenants of the seismic rating. We recommend doing this as soon as possible.

(ii) Reviews the relevant leases to determine whether there are any specific seismic clauses / redevelopment clauses / rights of termination.

(iii) Ensures that it keeps Tenants informed throughout the process of HVDHB's planned approach.

(iv) Ensures that it coordinates and consults with the Tenants in terms of redevelopment. If the leases cannot be terminated, HVDHB may need to factor in rental abatements, suspensions of the leases, or enter into agreements to surrender existing leases.

(v) Refrains from entering into any new leases in the Building. If HVDHB does negotiate new leases, HVDHB should ensure that prospective tenants have the most up-to-date information and are able to make an informed decision.

(j) Please see our related and more comprehensive advice on the employment considerations. For present purposes, as employer, and in connection with its duty of good faith, HVDHB should:

(i) Advise its employees and their unions of the seismic rating and its plan for managing the risk. We recommend doing this as soon as possible.

(ii) Ensure that it keeps the employees and unions informed throughout the process of HVDHB's planned approach.

(k) HVDHB will likely need a unified (and likely staged as more information comes to hand) communication strategy for Tenants / employees. HVDHB will likely also need a media strategy that progressively outlines the steps being taken, given the likely wider community concern.

(l) HVDHB should also have a strategy to liaise proactively with Council.

(m) HVDHB's decision-making should be robust, well documented and retained, particularly around:

(i) Any strengthening works it will undertake, or not undertake; and

(ii) The information and advice relied on in order to make those decisions.

(iii) Record-keeping. We strongly recommend keeping such information, file notes, board minutes and correspondence in easily accessible folders, so that key decision-makers will have ready access to all relevant information.

16. We understand that a number of the steps outlined above are already in train.

17. We set out our reasoning in further detail in the attached annexure.

ANNEXURE: RELEVANT STATUTORY PROVISIONS APPLICABLE TO EARTHQUAKE PRONE BUILDINGS

Health and Safety

1. As a starting point, it is important to note that the Building Act (which applies as the Building is earthquake-prone)[12] and HSWA duties are not one and the same. Even if a building is not earthquake-prone, a building owner still has duties under the HSWA.

2. However, if the Building is earthquake-prone, and given the definition of earthquake-prone under the Building Act, HVDHB will need to keep both the Building Act and the HSWA in mind.

HVDHB as a PCBU

3. HVDHB is a PCBU for the purposes of the HSWA. Accordingly, HVDHB has primary obligations to ensure, so far as is reasonably practicable:

   (a) The health and safety of HVDHB's workers, while those workers are at work (section 36(1)(a));

   (b) The health and safety of other workers whose activities in carrying out work are influenced or directed by HVDHB (section 36(1)(b)).

   (c) That other people's health and safety is not put at risk from work carried out as part of HVDHB's business or undertaking (section 36(2)).

4. A building owner must ensure, as far as is reasonably practicable, that the workplace, the entry and exit to the workplace, the fixtures, fittings, and plant and anything arising from the workplace do not put a person's health and safety at risk. The lower the NBS rating of a building, the greater the risk of harm to people in an earthquake.

5. It is important to note too that the HSWA duties on HVDHB apply irrespective of whether an event, such as an earthquake, has occurred.

HVDHB as landlord and building owner

6. HVDHB, as a landlord in the Building, has additional duties under the HSWA - HVDHB has a duty of care, so far as is reasonably practicable, to ensure the health and safety of everyone involved with or affected by work on or at the Building.

Relationship between the Building Act and HSWA

7. To clarify the interaction between the Building Act and the HSWA, WorkSafe released a position statement in June 2018 titled "*Information for PCBUs and building owners: Dealing with earthquake-related health and safety risks*". This position statement confirmed WorkSafe's position:

   (a) Owners of workplace buildings must identify and manage risks in the place of work so far as is reasonably practicable, including risks related to the building.

[12] Defined in paragraph 18 below.

(b) The structural integrity of a building to withstand an earthquake is covered by requirements in the Building Act and if a building owner is meeting the requirements of the Building Act, WorkSafe will not enforce a higher standard under the HSWA.

(c) WorkSafe will not pursue enforcement action under the HSWA for serious harm caused by an earthquake prone building, where the Building Act has not been breached.

(d) If a building is found to be earthquake-prone, this doesn't necessarily mean it shouldn't be occupied. The Building Act provides a time period for strengthening or demolition work to be undertaken.

8. While this reflects the regulator's position on enforcement action, and HVDHB can take some comfort from it, it is prudent and best practice in our experience not to treat it as determinative. For one, it is a statement about prosecution, rather than being a statement about what is best from a health and safety standpoint. For another, it won't bar prosecution by WorkSafe necessarily (although it would be a significant hurdle), and certainly would not bar private or Police prosecutions or other legal action. It is also very unlikely to provide the comfort and confidence that your patients, employees and others will be seeking from HVDHB.

Reasonably practicable

9. The HSWA does not impose obligations on HVDHB to make the Building absolutely safe. HVDHB must (together with its Tenants) ensure, *"so far as is reasonably practicable"*, that it minimises the risk of harm the Building might cause in an earthquake. As above, this duty must be complied with to the extent that the duty holder has the ability to influence or control the matter to which the risks relate. Because HVDHB as a landlord and building owner has a high degree of control over the Building, the extent of its duty to mitigate risk will be significant.

10. When considering risk and the reasonably practicable steps that ought to be taken to protect against that risk, HVDHB is able to and should consider the likelihood of the risk occurring. In this regard, we note Mr Brunsdon's advice about the low probability of an earthquake likely to cause structural failure occurring over the next one to two years. He then advises from an engineering risk perspective there is no reason why the Building should not continue to be used in the short term, while alternative service delivery options elsewhere are developed.

11. We did not take it from this advice - and neither should HVDHB take it from this advice - that HVDHB should not act as expeditiously as is reasonably practicable, nor that it would be lawful and appropriate for the process to take one to two years. That is a decision of course for HVDHB, taking into account all of the considerations referred to, including the likelihood of the risk occurring, the gravity of the potential harm arising from the risk, and the practicability (including the safety) of the alternatives.

12. Obtaining the further information from Aurecon, and from the further discussions between the three sets of engineers, about the level of risk and type of harm certain levels of earthquake may cause will be useful for HVDHB in making its assessment.

13. Finally in this regard, we understand that HVDHB has advanced its planning of alternatives. This is prudent and appropriate in our view, regardless of the decision that HVDHB makes ultimately. Of course, the more advanced and 'more practicable' that the HVDHB's plans to vacate become, arguably the greater the onus is on HVDHB to implement them.

Board members under HSWA

14. Each Board member is an "officer" for the purposes of section 18(a)(iv) of the HSWA, because they are persons "*occupying a position… that is comparable with that of a director of a company*".

15. An officer includes:

> *"any other person occupying a position in relation to the business or undertaking that allows the person to* ***exercise significant influence over the management of the business*** *or undertaking (for example, a chief executive)"*.

16. This will capture the Chief Executive, and likely members of the Executive Leadership Team. It will not cover members of the project steering group. The orthodox view is that only those whose position allows them to exercise significant influence over the *whole* of the business or undertaking are officers. The definition also excludes expressly *"a person who merely advises or makes recommendations to [an officer]"*.

17. For the same reasons, and given the way in which the decision-making of the respective Boards is separated and managed, we think it is unlikely that the Board members of Capital & Coast District Health Board who attend the concurrent Capital & Coast District Health Board and HVDHB board meetings will be caught by this definition. This is something that the Chair (who is the chair of both entities) and Executive Leadership Team should continue to assess and manage to ensure that the roles and decision-making authority of the two sets of Board members are clear and documented.

18. Section 44 of the HSWA requires HVDHB's officers to exercise "***due diligence*** *to ensure that the PCBU complies with that duty or obligation*."

    (a) Due diligence in the case of HVDHB Board members includes taking reasonable steps:

        (i) to acquire and keep up to date, knowledge of work health and safety matters;

        (ii) gain an understanding of the nature of the operations of HVDHB and of the hazards and risks associated with those operations;

        (iii) ensure HVDHB has available for use appropriate resources and processes to eliminate or minimise risks to health and safety;

        (iv) ensure HVDHB has appropriate processes for receiving and considering information regarding incidents, hazards and risks, and for responding in a timely way to that information;

        (v) ensure HVDHB has, and implements, processes for complying with any duty of HVDHB.

19. A failure by HVDHB or its officers to comply with these duties can be significant, including, potentially, criminal liability under the HSWA. From 1 July 2022, Health New Zealand will assume

responsibility for any liability that would otherwise have rested with HVDHB.[13] HVDHB's officers will continue to be liable potentially in their own right for any failure to exercise due diligence, in the same way that directors of a company can be liable after it ceases to exist.

Building Act position

20. Aurecon has determined that the Building is 15% NBS at IL3. We note that a building's NBS rating will be based on its weakest point (i.e. if the remainder of a building is 70% but one component is 15%, the building's NBS rating will be 15%).

21. It would be worth clarifying with Aurecon as to whether the Building should be assessed at IL4 (rather than 1L3 as currently noted), taking into account Silvester Clark's comments. The Building Code notes that IL3 buildings are "*health care facilities with a capacity of 50 or more residents but not having surgery or emergency treatment facilities.*" IL4 however covers, "***hospitals and** other health care facilities having surgery or emergency treatment facilities*."

22. We do not think HVDHB's response will be affected practically by the difference between IL3 and IL4 (i.e. as the Building's NBS rating will not increase). However, Aurecon may be able to advise if its assessment, and any risks identified, are affected by additional criteria used to assess IL4 buildings (if at all).

What happens if a building is earthquake-prone?

23. Under s 133AB of the Building Act 2004, an earthquake prone building is one, "*having regard to the condition of the building or part and to the ground on which the building is built, and because of the construction of the building or part:*

(a) the building or part will have its ultimate capacity exceeded in a moderate earthquake; and

(b) if the building or part were to collapse, the collapse would be likely to cause-

(i) injury or death to persons in or near the building or on any other property; or

(ii) damage to any other property.

24. The definitions of "ultimate capacity" and "moderate earthquake" are defined by regulations.

25. The Building Act specifically notes that a building is "earthquake-prone" if it is below **34**% of NBS. In simple terms, an earthquake-prone building is a building that cannot meet 33% of the structural performance that would be expected from a new building in an earthquake.

26. Given the above, we recommend proceeding conservatively on the basis that the Building is earthquake-prone, unless HVDHB is able to point to technical advice to the contrary.

27. We also note that engineers have an obligation (contained in their professional rules of conduct) to notify the relevant Council if they believe a building to be earthquake-prone. This may result in the Building being "red stickered". HVDHB would want to ensure, from a relationship point of view, that this does not happen prior to advising its employees / Tenants.

[13] Clause 9(1)(f) of the Pae Ora (Healthy Futures) Bill (2021).

28. Because Wellington is a high-seismic risk area, and because the Building is a priority building (as defined in the Building Act),[14] then HVDHB would be obliged to carry out seismic work within 7.5 years from issue of the EPB notice so that the Building is no longer earthquake-prone.

Civil Defence Emergency Management Act 2002

29. HVDHB has obligations under the CDEM Act that may result in it being required to take all necessary steps to provide emergency or surgical facilities from buildings that meet current building standards. We note that this could include relocation of health services to a different building in an emergency.

30. HVDHB is an emergency service under the CDEM Act. Section 59 of the CDEM Act requires emergency services to perform functions and duties set out in any civil defence emergency management plan.

31. The National Civil Defence Emergency Management Plan was made by Order in Council under the CDEM Act. Clauses 47 to 51 of the Plan sets out the duties of DHBs. In particular:

    (a) Health and disability services are "*to ensure that health and disability services are as resilient to the consequences of hazards and risks as is reasonably practicable*."[15]

    (b) DHBs are required (among other obligations) to:

        (i) Develop, maintain, and exercise health emergency plans for significant incidents and emergencies.[16]

        (ii) Ensure that health and disability services are ready to function to the fullest possible extent during and after an emergency by ensuring the continuity of care for existing patients, the management of increased demand for services (including the provision of surge capacity) and that assistance is provided to enable the recovery of services (including business continuity).[17]

        (iii) Activate response and recovery plans in an emergency to minimise the consequences of the emergency on their populations and to maintain services to the fullest practicable extent.[18]

32. The CDEM Act is not prescriptive about the services that the DHB must provide. In our view though:

    (a) The CDEM Act requires HVDHB to take steps to ensure that it has, or will have, buildings from which these services can be provided post-disaster.

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[14] The definition of priority buildings are set out in s 133AE of the Building Act 2004 and include at (1)(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.

[15] Clause 49(c).
[16] Clause 50(3)(b).
[17] Clause 50(3)(d)(i).
[18] Clause 51(1).

(b) If HVDHB has been advised by an expert engineer that its buildings do not meet current standards for performance of these post-disaster functions, then HVDHB's obligations under the HSWA will likely require HVDHB to consider alternative areas to use in an emergency and/or upgrade the Building or construct new buildings.

Appendix 2 – Heretaunga building

1. Today, the Heretaunga Block houses the building and property offices for the DHB and the following health services for the Hutt valley community:

    - Maternity services
    - Special Care Baby Unit
    - Children's inpatient beds
    - General medical and surgical beds
    - ICU surge ward
    - Radiology services
    - Laboratory services
    - Pharmacy
    - Plastics inpatients
    - Outpatient services.

2. Building and Property Trade Teams, the Clinical Engineering team and Central Equipment Pool are also located in the building (Basement).

3. There are 210 physical bed spaces in the Heretaunga Building. This is 79% of the total bed stock on the Hutt Hospital site and is all:

    - general adult medical & surgical wards (145 beds)
    - of the special care baby unit (12 beds)
    - paediatric beds (24 beds)
    - maternity services (29 beds or delivery spaces).

4. Other buildings on campus house the remaining inpatient services. These are the intensive care unit (8 beds), older person's and rehabilitation services (32 beds), and the medical assessment and planning unit (16 beds). They are dependent on the Heretaunga building for inpatient support

5. The Heretaunga building houses 25% of the physical capacity across Hutt, Kenepuru, and Wellington Hospitals (excluding Mental Health and addictions services).

6. Based on current DHB use of the building, staffing patterns, and average occupancy rates, the estimated number of people in the building is around:

Time of day	Number of Patients	Number of Staff	Number of other people (including visitors)	Total number of people
8am	198	246	27	471
2pm	205	229	79	513
8pm	165	87	54	306

Appendix 2 – Options analysis

1. The table below summarises the analysis of a range of options to respond to recent seismic assessments. There are a number of considerations that would need to be worked through for these options to support an appropriate implementation plan including continued testing for feasibility and impact and financial and regulatory implications. Consideration of equity has been a key component of the development and analysis of options. Even under options with the highest level of service transfer, support for specialties that are heavily accessed by priority populations, such as Cardiology, DSS, Endocrinology and Diabetic services, and ENT could be retained on site at Hutt Hospital.

	Option	Seismic Risk mitigation (Building)	Health and Safety (People in H Block[1])	Impact on service delivery	Impact on medium and long term options	Feasibility assessment
NO DECANT	1. <u>Maintain Status Quo:</u> No immediate action would be taken in relation to the receipt of the DSA. Services would stay in place and long term decisions would sit with HNZ.	• No immediate reduction in seismic risks identified. • Reduction in risk will be dependent on subsequent decisions. • Emergency Response Plans updated to take account of failure hierarchy.	• No change to the expected **520 people** working or accessing services in H Block: o 210 patients o 230 staff o 80 visitors	• No immediate impact on service delivery. • No people accessing care in another location nor staff shifting place of work.	• Does not limit long term options from being made by health agencies.	• Feasible. No change. • No immediate investment required.
	2. <u>Undertake remediation:</u> Remediate the building in the earliest possible timeframe in a way that would minimise service interruption.	• No immediate reduction in seismic risks until remediation options confirmed. • Reduction in risk levels as remediation work is completed. • Emergency Response Plans updated to take account of failure hierarchy.	• Reduction in number of people in H Block during remediation to **480 people**: o 190 patients o 220 staff o 70 visitors	• No immediate impact on service delivery. • Some impacts on service delivery over duration of remediation works. • Around 15 people access care in different locations per month. • Minimal staff shifting place of work outside of Hutt Hospital.	• Once remediation begins it may be limit long term options such as new build.	• Significant capital investment required for remediation. • Draft advice from engineers indicate that remediation would take 24-36 months and would require full relocation of services. • Remediation in an empty building will incur the opex costs of full decant for this period: [redacted] OIA s 9(2)(b)(ii) s 9(2)(j) • Remediation while occupying the building over a longer time frame will incur opex of around: [redacted] OIA s 9(2)(b)(ii) s 9(2)(j)
DECANT	3. <u>Mitigate occupancy – shift inpatient planned care:</u> Inpatient planned care services would be shifted to an alternate location. Acute inpatient and ambulatory services would stay in place.	• No immediate reduction in seismic risks identified. • Reduction in risk will be dependent on subsequent decisions. • Emergency Response Plans updated to take account of failure hierarchy.	• Immediate reduction in number of people in H Block to **420 people**: o 170 patients o 210 staff o 60 visitors • Further reduction will be dependent on subsequent decisions.	• Planned care services would be delivered in other locations including private hospitals. • Around 1000 people access care in different locations per month. • Most staff supporting planned care services shifting place of work outside of Hutt Hospital.	• May limit some long term options from being made by health agencies.	• Plan in place to shift services. • Feasible with opex of around: [redacted] OIA s 9(2)(b)(ii) s 9(2)(j)

[1] Based on expected occupancy at 2pm on a weekday.

	Option	Seismic Risk mitigation (Building)	Health and Safety (People in H Block[1])	Impact on service delivery	Impact on medium and long term options	Feasibility assessment

	4. <u>Mitigate occupancy – shift inpatient care:</u>
	
	Inpatient services would be shifted to an alternate location. Only ambulatory services would stay in place.
		• No immediate reduction in seismic risks identified.
		• Reduction in risk will be dependent on subsequent decisions.
		• Emergency Response Plans updated to take account of failure hierarchy.
			• Immediate reduction in number of people in H Block to **140 people**:
			  ○ 30 patients
			  ○ 100 staff
			  ○ 10 visitors
			• Further reduction will be dependent on subsequent decisions.
				• Emergency department, core acute services, and ambulatory care maintained at Hutt Hospital.
				• Tertiary and complex services move to Wellington Hospital
				• Some service delivery in private hospital (planned surgery) or community settings staffed by DHB
				• Around 2,250 people access care in different locations per month.
				• All staff other than acute and ambulatory services shifting place of work outside of Hutt Hospital.
					• Limits the long term option of occupying the H Block from being made by health agencies.
					• May limit some other long term options from being made by health agencies.
						• Plan in place to shift services within a reasonably practicable timeframe.
						• Feasible with opex of around: [redacted] OIA s 9(2)(b)(ii) s 9(2)(j)

	5. <u>Vacate over a reasonable period:</u> Shift all services to other locations when able to do so safely until the building is vacated entirely.	• No immediate reduction in seismic risks identified. • Reduction in risk will be dependent on subsequent decisions. • Emergency Response Plans updated to take account of failure hierarchy.	• Immediate reduction in number of people in H Block. • Reduction in risk level as services are moved to other locations over time and building is fully vacated. • **0 people** in building at completion of shift.	• Emergency department and core acute services maintained at Hutt Hospital • Complex services move to Wellington Hospital (e.g. Plastic Surgery & Burns) • Some service delivery in private hospital (planned surgery) or community settings staffed by DHB • Around 2,250 people access care in different locations per month. • All staff shifting place of work outside of Hutt Hospital over time.	• Limits the long term option of occupying the H Block from being made by health agencies. • May limit some other long term options from being made by health agencies. • Opens up the option of rebuilding on the H block site.	• Plan in place to shift services within a reasonably practicable timeframe. • [redacted] OIA s 9(2)(b)(ii) s 9(2)(j)

Appendix 4 – Communications approach

The communications approach has been developed based on the recommendations in the paper and there are options to amend depending on the final Board decision – a summary of the approach is set out below:

Organisational objectives

- Maintain the health and safety of staff, patients and visitors to Hutt Hospital
- Minimise disruption to healthcare service delivery at Hutt Hospital and any impacts to other local DHB providers i.e. Wellington ED who are already under pressure

Communications objectives

- Ensure stakeholders are informed, understand any impacts or actions they may need to take to minimise any alarm or distress, particularly among vulnerable stakeholders
- Help ensure that staff and patients maintain confidence to work at and access healthcare at the Hutt campus and around the region respectively
- Help ensure that staff are confident that the DHB is prioritising their safety and wellbeing and will continue to share information
- Protect the reputation and social licence of HVDHB by mitigating risks effectively

The key phases of communication are:

- Phase One: Announcement
- Phase Two: Communicating specifics on decant plan and changes i.e. what people need to do
- Phase Three: Communicating medium and longer term plans for the Heretaunga Block as information is available and decisions are made

Phase One: Announcement

Friday 13 May

- Board meeting

Monday 16 May

- Pre-announcement meetings to be set up with key stakeholders

Tuesday 17 May

- Announcement and detailed communications with staff, stakeholder, and the community

Communications approach

i. Holding statement has been prepared
ii. People-first, approachable language/tone & manner
iii. Focus communications on the immediate steps/short-term and provide reassurance around access to healthcare services locally. Maintain an eye to the future while managing expectations that there are still areas where we need more information and advice. It will take time to work through this to get it right
iv. Proactive direct communications supported with follow up communications materials shared via integrated channels
v. Monitoring and feedback mechanisms to evaluate and inform ongoing direction and approach

Proactive stakeholder engagement

Stakeholders have been segmented to ensure pre-announcement briefings can occur with key groups. Priority community partners will be contacted on Friday and meetings established for Monday to provide a confidential briefing in advance of the announcement.

We are also providing pre-announcement briefings to local political leaders, including the mayors of Lower Hutt and Upper Hutt, and local MPs.

Unions and senior leaders will also be advised prior to the full staff announcement.

Additional communications supporting materials

- Communications and engagement strategy and plan including messaging;
- Critical path and timeline;
- Announcement Run Plan of Activity;
- Holding statements; and
- Reactive communications for stakeholders.