

Kaupapa Here mo ngā Whare Mōrea,
Pākinō me te Whakapoke

Dangerous, Affected and Insanitary Buildings Policy

Person Responsible: Group Manager Environmental Services
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Status: Current

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Dangerous, Affected and Insanitary Buildings Policy

Purpose of the Policy

The purpose of this policy is to:

- Reduce the potential risk posed to residents in the District by dangerous, affected or insanitary buildings; and
- Provide a clear framework for how the Council will manage unsatisfactory building conditions.

This policy sets out:

- The approach the Council will take in performing its functions under the Act in relation to dangerous, affected and insanitary buildings;
- The Council's priorities in performing these functions; and
- How the policy will apply to heritage buildings.

Policy Scope

This policy applies to any building in the South Taranaki District that is identified as potentially dangerous, affected, or insanitary.

Objectives

The objectives of this policy are to fulfil the Council's statutory responsibility under the Act by:

1. Facilitating negotiated solutions with building owners that ensure their buildings are safe and sanitary for building users and visitors, as well as protecting other property from physical damage.
2. Seeking the protection of heritage buildings and their contents.

Background

The Council has a statutory responsibility to act promptly to ensure the safety of persons or property when buildings that may be dangerous or insanitary come to its attention. The Dangerous, Affected and Insanitary Buildings Policy has been prepared to comply with section 131 of the Building Act 2004, which requires the Council to have a policy on dangerous, affected, and insanitary buildings.

In setting this policy, the Council has endeavoured to strike a balance between the threats posed by dangerous and insanitary buildings and the broader social and economic issues affecting the community.

The relevant principles of section 4 of the Act have been recognised in preparing this policy and will be taken into account in the performance of the Council's functions, powers and duties.

Dangerous, Affected and Insanitary Buildings Policy

Requirements of the Act

The Council is required by section 131 of the Act to have a policy on dangerous and insanitary buildings.

When a building that may be dangerous or insanitary comes to the Council's attention, it has a statutory responsibility to act promptly to investigate and, if determined to be dangerous or insanitary, ensure the building is made safe. A building may become dangerous or insanitary for one or more reasons, such as unauthorised alterations being made, damage from a fire or a natural disaster, or as a result of its use by an occupant.

The Council is also required by section 132A of the Act to consider whether any other buildings may be affected by a dangerous or insanitary building and if so, what action, if any, is appropriate.

An affected building is one that is physically close enough to a dangerous or insanitary building to potentially pose a danger to people in the affected building.

Definitions

Where a definition has the same meaning as a definition in the Act, the definition for the purposes of this policy includes any subsequent amendment to the definition in the Act. For the avoidance of doubt, where a definition in the Act differs from a definition in this policy, the definition in the Act has precedence.

Act means the Building Act 2004

Affected Building is defined in section 121A of the Act as a building "adjacent to, adjoining, or nearby:

- a) a dangerous building as defined in section 121; or
- b) a dangerous dam within the meaning of section 153."

Authorised Officer is defined in section 222 of the Act as "an officer of a territorial authority to whom either or both of the following applies:

- a) he or she is authorised to carry out inspections; or
- b) he or she is authorised to enter the land –
 - i) by the Act; or
 - ii) by an order of the District Court made under section 227."

Building has the same meaning as [section 8 of the Act](#).

Council means the South Taranaki District Council.

Dangerous Building is defined in section 121 of the Act:

- "1) A building is dangerous for the purposes of the Act, if—

Dangerous, Affected and Insanitary Buildings Policy

- a) in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause—
 - i) injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or
 - ii) damage to other property; or
 - b) in the event of fire, injury, or death to any persons in the building or to persons on other property is likely because of fire hazard or the occupancy of the building.
- 2) For the purpose of determining whether a building is dangerous in terms of subsection (1) (b), a territorial authority—
- a) may seek advice from employees, volunteers, and contractors of Fire and Emergency New Zealand who have been notified to the territorial authority by the Board of Fire and Emergency New Zealand as being competent to give advice; and
 - b) If the advice is sought, must have due regard to the advice.”

Heritage building is defined as a building listed in Schedule 1A of the District Plan or included on the New Zealand Heritage List maintained under section 65 of the Heritage New Zealand Pouhere Taonga Act 2014 or the National Historic Landmarks list maintained under section 81 of the Heritage New Zealand Pouhere Taonga Act 2014

Insanitary building is defined under section 123 of the Act as:

“A building is insanitary for the purpose of the Act if the building –

- a) is offensive or likely to be injurious to health because –
 - i) of how it is situated or constructed; or
 - ii) it is in a state of disrepair; or
- b) has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or
- c) does not have a supply of potable water that is adequate for its intended use; or
- d) does not have sanitary facilities that are adequate for its intended use.”

Policy

1.0 Council's approach to dangerous, affected, or insanitary buildings

- 1.1 The Council will not actively inspect all buildings in the District but will make it a priority to quickly respond to information received regarding a potentially dangerous, affected or insanitary building.

2.0 Application of policy to heritage buildings

- 2.1 This policy applies to heritage buildings in the same way it applies to all other buildings. Where the Council receives information regarding a heritage building, in addition to consulting with the affected owner(s), the Council will consider seeking advice from Heritage New Zealand Pouhere Taonga.

3.0 Co-operation with other agencies

- 3.1 The Council will work with Heritage New Zealand Pouhere Taonga, Fire and Emergency New Zealand, the New Zealand Police, Te Whatu Ora – Health New Zealand and other agencies to achieve the purpose of the Act.

4.0 Completion of Work and Cost Recovery

- 4.1 The Council may issue a notice under section 124(2)(c) of the Act requiring work to be carried out on dangerous or insanitary buildings to reduce or remove the danger, or to prevent the building from remaining insanitary. If work required under the notice is not completed or proceeding with reasonable speed, the Council can apply to the District Court under section 126 of the Act for authorisation to carry out the work required in the notice.
- 4.2 If the Council carries out the work, it is entitled to recover the costs from the building owner, as set out in section 126(3) of the Act.

5.0 Immediate danger

- 5.1 If a building presents an immediate danger or health hazard to people in and/or around it, or to surrounding buildings, the Council may take action under section 129 of the Act to remove the immediate danger or fix the insanitary conditions and recover the costs from the building owner(s).

6.0 Procedures

6.1 Detect

When the Council receives information regarding a potentially dangerous, affected or insanitary building it will:

Dangerous, Affected and Insanitary Buildings Policy

- (a) Check the details of the property against the Council's records;
- (b) Have an authorised officer undertake an inspection of the building and may seek advice from Fire and Emergency New Zealand or any other appropriate professional or organisation; and
- (c) Prepare an inspection record.

6.2 Assess

- 6.2.1 An inspection of a potentially dangerous, affected, or insanitary building will involve assessment of the building's condition in terms of the definitions in section 121 and 123 of the Act and the current building code requirements.

6.3 Act

- 6.3.1 If the Council is satisfied that a building is dangerous, affected, or insanitary it will consult with the owners of the building to further determine the circumstances and decide on an appropriate course of action.
- 6.3.2 Authorised officers are not required to inform or obtain approval for inspections to determine whether or not a building is dangerous or insanitary, unless the building is a household unit. In this case, the Council must either obtain consent of the occupier of the household unit or an order from a District Court.
- 6.3.3 Where a mutually acceptable outcome cannot be reached, or where the situation requires, the Council may invoke its powers under section 124, 126 and/or 129 of the Act.
- 6.3.4 The Council will inform the building owner(s), tenants (if any) and the complainant(s) of the inspection results and the Council's intended course of action.

6.4 Monitor

- 6.4.1 All information relating to a dangerous, affected, or insanitary building will be filed on the relevant property file. This will include a copy of the original inspection record and any further action taken. This information will also be included on any Land Information Memorandum (LIM) or Project Information Memorandum (PIM) prepared for the property.

7.0 Review of Policy

- 7.1 This policy will be reviewed every five years as required by section 132(4) of the Act.

Dangerous, Affected and Insanitary Buildings Policy

History of Policy

Action	Description	Decision Date	Decision Number	Commencement
New	Adoption of new Dangerous, Affected and Insanitary Buildings Policy	29/10/2018	314/18	29/10/2018
Review	Review of Policy	13/05/2024	52/24	14/05/2024