

Dangerous and Insanitary Buildings Policy

1. Relevant legislation

Building Act (2004) as amended by the Building (Earthquake-Prone Buildings) Amendment Act 2016.

2. Policy objective

To reduce the risk of injury, death, ill health or damage that may occur as a result of dangerous and/or insanitary buildings.

The objective of the policy is to describe the manner in which buildings deemed to be potentially dangerous and/or insanitary will be identified, categorised and what action shall be taken. The policy will set out Council's priorities in performing its functions and how the policy will apply to heritage buildings.

3. General approach

3.1 Section 131 of the Building Act (2004) requires territorial authorities (TA's) to adopt a policy on Dangerous and Insanitary Buildings by 2006 and review every five years. Western Bay of Plenty District Council developed a policy in 2006 and reviewed it in 2011 and 2017. The policy must state:

1. The approach Council will take in relation to at risk buildings.
2. Council's priorities for this approach.
3. How the policy will apply to heritage buildings.

4. Policy context

4.1 Dangerous and insanitary buildings policy

4.1.1 To identify dangerous and insanitary buildings across the District would require investing considerable resources to undertake inspections and evaluations of buildings. Consequently, many councils take the approach of responding to complaints when they come to their attention in relation to dangerous and/or insanitary buildings.

5. Policy statements

5.1 Dangerous and insanitary buildings (see Appendix 1 for definitions of dangerous and insanitary buildings).

5.1.1 Buildings are identified as potentially dangerous and/or insanitary when its existence is brought to the Council's attention, e.g. as a result of complaints from the public, by other agencies or in the course of Council's work.

5.1.2 Priority will be given to buildings requiring work to be carried out urgently¹ to address the dangerous and/or insanitary conditions.

5.1.3 Heritage buildings will be assessed in the same way as other potentially dangerous and/or insanitary buildings and discussions will be held with owners and if appropriate the New Zealand Historic Places Trust to identify a mutually acceptable way forward.

Associated Policies

N/A

Associated Procedures

Dangerous and Insanitary Buildings Policy implementation procedures.

Group	Policy, Planning and Regulatory Services	Contact (3rd Tier Manager)	Building Services Manager
Supersedes	Dangerous, Earthquake-prone and Insanitary Buildings Policy 2011		
Creation Date		Resolution Reference	Link to minutes
Last Review Date		Resolution Reference	PP6.1
Review Cycle	Three yearly/legislative revisions, not later than	Date	September 2020
Authorised by	Council	Date	September 2017

¹ Building Act (2004) Clause 41 (1)(c)(i) defines this as for the purpose of saving or protecting life or health or preventing serious damage to property.

Dangerous and Insanitary Buildings Policy – Implementation Procedures

1. Dangerous and/or insanitary buildings

1.1 A building will be identified as potentially dangerous and/or insanitary when its existence is brought to the Council's attention e.g. as a result of information received from the public, by other agencies or in the course of Council's work.

The Council will:

- investigate all potentially dangerous and/or insanitary buildings that are brought to Council's attention;
- determine from these investigations any buildings that are dangerous and/or insanitary;
- consider if any of the powers provided in the Act should be invoked. This may include informing the owner and occupier of the building to take action to reduce or remove the danger and/or address the insanitary conditions;
- liaise with the New Zealand Fire Service when deemed appropriate, in accordance with s121 (2) of the Building Act 2004².
- If it is found that the building is dangerous and/or insanitary, Council will follow the procedure set out in Sections 121, 123-130 of the Building Act (2004) for remedying dangerous and insanitary buildings as outlined in the attached flow chart.
- Owners have a right of appeal as defined in the Building Act 2004 to apply to the Department of Building and Housing for a determination under s177 (e).

1.2 Interaction between the dangerous and insanitary buildings policy and the Building Act 2004

Where a building is assessed as requiring work to be carried out urgently³ to address the dangerous and/or insanitary conditions, the Council may not require that a building consent be obtained for any of the immediately necessary building work. However, prior to any remedial action being taken, Council will require from owners, and discuss with them, a written scope of the work. The owner must, as soon as practicable after completion of the building work, apply for a Certificate of Acceptance.

² s121 of the Building Act 2004 says "For the purpose of determining whether a building is dangerous in terms of s121 subsection (1) (b), a territorial authority. a) May seek advice from members of the New Zealand Fire Service who have been notified to the territorial authority by the Fire Service National Commander as being competent to give advice; and (b) If the advice is sought, must have due regard to the advice."

³ Building Act (2004) Clause 41 (1)(c)(i) defines this as for the purpose of saving or protecting life or health or preventing serious damage to property.

1.3 Access to dangerous and insanitary building information

The following information will be placed on the property file:

- The notice issued informing the owner that the building is dangerous and/or insanitary and where necessary notice of the requirement to evacuate.
- A copy of the letter to owner, occupier and any other person advising that the building is dangerous and/or insanitary.
- A copy of the notice given under section 124(1) that identifies the work to be carried out on the building and the timeframe given to reduce or remove the danger or address the insanitary conditions.
- Any report that describes work that has been undertaken to remedy the dangerous and/or insanitary conditions.

1.4 Priorities

When a building is assessed as requiring work to be carried out urgently⁴ Council will act to address the dangerous and/or insanitary conditions. In these circumstances immediate action will be required to remove the danger and/or address the insanitary conditions and could include prohibiting any person occupying or using the building and, where needed, boarding-up the building to prevent entry.

Buildings that are determined to be dangerous or insanitary but not of an urgent nature, will be subject to the minimum timeframes for reduction or removal of the danger (i.e. not less than 10 days) as set out in s125(1)(d) of the Building Act 2004.

1.5 Heritage buildings

For the purposes of this policy, 'heritage buildings' are those structures as scheduled in the District Plan, as 'Identified Significant Historic Heritage Features' which are registered under the provisions of the Historic Places Act 1993.

Where a dangerous and/or insanitary building notice is issued for a heritage building a copy of the notice will be sent to the New Zealand Historic Places Trust as required by s125 (2) (f) of the Building Act 2004.

⁴ Building Act (2004) Clause 41 (1)(c)(i) defines this as for the purpose of saving or protecting life or health or preventing serious damage to property.

Appendix 1

Definitions

The Building Act (2004) defines dangerous and insanitary buildings as follows:

Dangerous Buildings (Section 121)

- A building likely to cause injury, death or damage to other property.
- A building likely to cause injury or death due to fire hazard or building occupancy.

Note: Earthquake-prone buildings are identified, assessed and actioned under the Building Act, as amended by the Building (Earthquake Prone Buildings Amendment Act 2016).

Insanitary Buildings (section 123)

A building is insanitary for the purposes of this Act if the building:

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

Procedure for remedying dangerous and insanitary buildings

