

# Dangerous, Affected and Insanitary Buildings Policy 2024

## 1. Relevant legislation

Building Act 2004  
Heritage New Zealand Pouhere Taonga Act 2014  
Health Act 1956

## 2. Policy objective

- 2.1 To reduce the risk of injury, death, ill health or damage that may occur as a result of dangerous, affected and/or insanitary buildings.
- 2.2 The objective of the policy is to describe the manner in which buildings deemed to be potentially dangerous, affected 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. Definitions

<b>The Act</b>	Refers to the Building Act 2004 and its amendments.
<b>Building</b>	Any temporary or permanent movable or immovable structure (including a structure intended for occupation by people, animals, machinery or chattels).  (As defined under Section 8 of the Building Act 2004).
<b>Authorised Officer</b>	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 land— (i) by the Building Act; or (ii) by an order of the District Court made under section 227  (As defined under Section 222 of the Building Act 2004).
<b>Dangerous Buildings</b>	A building likely to cause injury, death or damage to other property, or A building likely to cause injury or death due to fire hazard or building occupancy.  (As defined under Section 121 of the Building Act 2004).
<b>Affected Buildings</b>	A building is an affected building for the purposes of this Act if it is 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 of the Act.  (As defined under Section 121A of the Building Act 2004).
<b>Insanitary Buildings</b>	A building is insanitary for the purposes of this Act if the building: <ul style="list-style-type: none"><li>• 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</li></ul>

- 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.

(As defined under Section 123 of the Building Act 2004).

### **Heritage Buildings**

Heritage buildings are those structures as scheduled in the District Plan as 'Identified Significant Historic Heritage Features', or those which are registered under the provisions of the Heritage New Zealand Pouhere Taonga Act 2014.

## **4. Policy context**

4.1 Section 131 of the Building Act (2004) requires territorial authorities to adopt a policy on Dangerous and Insanitary Buildings by 2006 and review every five years.

4.2 Western Bay of Plenty District Council developed a policy in 2006 and reviewed it in 2011, 2017 and 2024. 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.

## **5. Policy approach**

5.1 To identify dangerous, affected and insanitary buildings across the District would require investing considerable resources to undertake inspections and evaluations of buildings. Buildings are identified as potentially dangerous, affected 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.

5.2 Council recognises that social, economic and cultural factors may impact implementation of the provisions of the Act. When approaching these situations, Council will ensure a sensitive approach to building compliance to balance public safety with other factors.

## **6. Investigating Dangerous, Affected and Insanitary Buildings**

6.1 When potentially dangerous, affected or insanitary buildings are brought to attention, Council will:

- investigate all potentially dangerous, affected and/or insanitary buildings that are brought to Council's attention;
- determine from these investigations any buildings that are dangerous, affected 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 Fire and Emergency New Zealand when deemed appropriate, in accordance with s121 of the Building Act 2004<sup>1</sup>.
- If it is found that the building is dangerous, affected and/or insanitary, Council will follow the procedure set out in Sections 121-130 of the Building Act 2004 for remedying dangerous, affected and insanitary buildings as outlined in the attached flow chart.

## **7. Disputes**

7.1 Owners have a right of appeal as defined in the Building Act 2004 to apply to the Ministry of Business, Innovation and Employment for a determination under s177.

## **8. Access to dangerous, affected and insanitary building information**

8.1 The following information will be placed on the property file:

- The notice issued informing the owner that the building is dangerous, affected 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, affected and/or insanitary.
- A copy of the notice given under section 124 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.

## **9. Priorities**

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

9.2 When a building is assessed as requiring work to be carried out urgently 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.

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<sup>1</sup> 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 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."

9.3 Buildings that are determined to be dangerous, affected 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 of the Building Act 2004.

## 10. Heritage Buildings

10.1 Heritage buildings will be assessed in the same way as other potentially dangerous, affected and/or insanitary buildings.

10.2 Where a dangerous and/or insanitary building notice is issued for a heritage building a copy of the notice will be sent to Heritage New Zealand Pouhere Taonga as required by s125 of the Building Act 2004.

10.3 Discussions will be held with owners and Heritage New Zealand to identify a mutually acceptable way forward. This will require consideration of the significance of the building balanced with the level of risk to public safety.

## 11. Interaction between the policy and the Building Act 2004

11.1 Where a building is assessed as requiring work to be carried out urgently to address the dangerous and/or insanitary conditions, Council may not require that a building consent be obtained for any of the immediately necessary building work.

11.2 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.

### Associated Policies

N/A

### Associated Procedures

Procedure for remedying dangerous, affected and insanitary buildings (flowchart).

<b>Group</b>	Regulatory Services	<b>Contact (3<sup>rd</sup> Tier Manager)</b>	Building Services Manager	
<b>Supersedes</b>	Dangerous and Insanitary Buildings Policy 2017			
<b>Creation Date</b>	2006			
<b>Last Review Date</b>	December 2024	<b>Resolution Reference</b>	SPC24-8.2	
<b>Review Cycle</b>	Five yearly/legislative revisions, not later than		<b>Date</b>	December 2029
<b>Authorised by</b>	Council		<b>Date</b>	December 2024

# Procedure for remedying dangerous, affected and insanitary buildings

