

<b>Central Hawke's Bay District Council</b>	<b>POLICY MANUAL</b>	
	<b>Document #</b>	2.6
<b><i>DANGEROUS, EARTHQUAKE-PRONE AND INSANITARY BUILDINGS POLICY</i></b>	<b>Approved by:</b>	Council
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## 1. INTRODUCTION

Section 131 of the Building Act 2004 requires territorial local authorities to adopt a policy on dangerous, earthquake-prone and insanitary buildings by 31 May 2006. Such a policy must state the Council's approach to performing its functions under the Act, Council's priorities in performing those functions; and how the policy will apply to heritage buildings.

It should be noted that the provisions of this policy pertaining to earthquake-prone buildings does not apply to buildings used primarily for residential purposes unless they have two or more storeys containing at least three household units.

## 2. DEFINITIONS

The following definitions, contained in the Building Act 2004, will be used to determine whether a building is dangerous, earthquake-prone or insanitary:

***Dangerous:*** in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or damage to other property; or 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.

***Earthquake-Prone:*** if, having regard to its condition, the ground, and its construction, a building will have its ultimate capacity exceeded in a moderate earthquake (as defined in the regulations); and would be likely to collapse causing injury or death to persons in the building or on any other property; or damage to any other property.

***Insanitary:*** offensive or likely to be injurious to health because of how a building is situated or constructed; or 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 or sanitary facilities that are adequate for its intended use.

## 3. PURPOSE OF POLICY

The purpose of this Policy is primarily to ensure that Council appropriately discharges its statutory obligations under the Building Act 2004 in relation to buildings in Central Hawke's Bay that are suspected or confirmed as dangerous, earthquake-prone or insanitary. The Policy also assists in ensuring public safety, assisting Council to achieve the two Community Outcomes of ***Safe and Secure Communities*** and ***A Lifetime of Good Health and Wellbeing*** by ensuring homes and other structures are safe to live in or visit and aren't injurious to occupant's health.

## 4. POLICY

### 4.1 Overall Policy Approach

#### a) Dangerous Buildings

Dangerous buildings may come about due to a change of use (for example a commercial building used for residential purposes), or unauthorised alterations being made, or as a result of its use by an occupant. Once buildings that are dangerous come to the attention of Council, either via notification of other parties such as building tenants or following the receipt of a building consent application or during any other process such as an audit of an Independent Qualified Person's inspection, Council does not have much discretion other than to immediately act to ensure the safety of persons and property. Council will follow the process laid down in the Building Act 2004 in dealing with dangerous buildings.

#### b) Earthquake-Prone Buildings

Central Hawke's Bay is in a zone of moderate seismicity and its buildings comprise a range of types and ages reflecting steady development for well over 150 years (Waipawa being New Zealand's first inland town) from un-reinforced masonry buildings to modern steel and concrete buildings.

The 1931 Hawke's Bay Earthquake caused damage to buildings in the District. The buildings that survived that earthquake have been subject to many earthquakes since with little apparent damage. Buildings erected after the 1931 earthquake have been constructed under more strict building requirements.

The Central Hawke's Bay District Council's Policy here reflects Council's determination to reduce the earthquake risk over time in a way that is acceptable in social and economic terms to its ratepayers and citizens and recognises the resources presently available to Council.

Accordingly, Council will:

- i) Review its building stock in the two main urban areas of Waipawa and Waipukurau to identify buildings that fall within the scope of potential earthquake-prone buildings under the Building Act 2004.
- ii) Once likely earthquake-prone buildings are identified advise the owners of these buildings of the results of the Council's broad assessment and invite them, within a limited time-frame, to meet with and/or obtain further details from Council on future requirements.
- iii) Once the deadline for meeting with Council has passed and, subject to the results of discussions, give written notice to all owners of earthquake-prone buildings to be aware that when a Building Consent application is received for significant upgrading or alteration of the building then Council will require that the building be strengthened or fixed as necessary to comply as nearly as practicable with the provisions of the Building Code.
- iv) Allow owners a right of appeal as defined in the Building Act 2004 which can include applying for a determination under Section 177.

**c) Insanitary Buildings**

Buildings may become insanitary due to a number of reasons, such as following a natural disaster, after flooding or as a result of poor maintenance, or misuse by the occupant. Once buildings that contain insanitary conditions come to the attention of Council, either via notification of other parties such as building tenants or following the receipt of a building consent application or during any other process such as an audit of an Independent Qualified Person's inspection, Council does not have much discretion to act to ensure the health and wellbeing of the occupants. Council will follow the process laid down in the Building Act 2004 in dealing with insanitary conditions.

**4.2 Identification of Dangerous, Earthquake-Prone and Insanitary Buildings**

**a) Dangerous Buildings**

Council will take a necessarily passive approach to the identification of dangerous buildings in the District. Actively inspecting every building on a regular basis is prohibitively expensive. Council relies on the notification of other parties such as building tenants, following the receipt of a building consent application or during any other process such as an audit of an Independent Qualified Person's inspection in order to identify dangerous buildings.

Council will seek advice from the New Zealand Fire Service on making an assessment of dangerous buildings where appropriate, for example on a complex building or on a building that has suffered damage after an earthquake.

**b) Earthquake-Prone Buildings**

Council will:

- i) Undertake an initial desktop review of the Council rating database which contains construction information to assess which buildings could be earthquake-prone.
- ii) Follow this with a primarily visual inspection of the buildings in the commercial centres of Waipawa and Waipukurau to assess which buildings could be earthquake-prone.
- iii) Require building owners to do a detailed assessment on buildings identified as earthquake-prone in the initial evaluation, unless otherwise agreed during discussion following initial evaluation.
- iv) Assemble a list of earthquake-prone buildings according to the results of the assessments.
- v) When there has been a moderate earthquake in the District and damage to buildings has been reported, Council will:
  - v.i. Undertake a primarily visual inspection of the buildings in the commercial centres of Waipawa and Waipukurau to assess whether any damage has been caused to buildings.
  - v.ii. Require building owners to carry out a detailed assessment of buildings identified as earthquake damaged in the initial evaluation in v.i. above.
  - v.iii. Require any damaged buildings to be strengthened to comply as nearly as practicable with the provisions of the Building Code.

### **c) Insanitary Buildings**

Council will take a necessarily passive approach to the identification of insanitary buildings in the District. Actively inspecting every building on a regular basis is prohibitively expensive. Insanitary conditions are most often caused through their use by building's occupants. In such cases Council will identify insanitary buildings only when advised of cases or following a natural disaster such as flooding that Council will be aware of. Council relies on the notification of other parties such as building tenants, following the receipt of a building consent application or during any other process such as an audit of an Independent Qualified Person's inspection in order to identify insanitary buildings.

### **4.3 Assessment Criteria**

Council will assess whether a building is dangerous, earthquake-prone or insanitary according to the criteria specified in the Building Act 2004. For the purposes of this Policy, Council defines earthquake-prone buildings as those that are generally of un-reinforced masonry construction.

### **4.4 Action Taken on Dangerous, Earthquake-Prone or Insanitary Buildings and Dealing with Building Owners.**

Under the Building Act 2004, where the Council is satisfied that a building is dangerous, earthquake-prone or insanitary, the Council may:

- Put up a hoarding or fence to prevent people from approaching the building nearer than is safe.
- Attach in a prominent place on, or adjacent to, the building a notice that warns people not to approach the building.
- Give written notice requiring work to be carried out on the building, within a time stated in the notice (no less than ten [10] days after the notice is given under Section 125), to:
  - (i) Reduce or remove the danger; or
  - (ii) Prevent the building from remaining insanitary.

Any person who fails to comply with a notice given under Subsection (1) (c) is committing an offence and is liable to a fine not exceeding \$200,000.

### **a) Dangerous Buildings**

Where the danger is assessed as immediate, Council will undertake those measures in Section 129 of the Act to remove the danger. Due to the urgent nature of the risk that dangerous buildings pose to users, Council will in the first instance act to ensure no person uses or occupies the building or permits another person to use or occupy the building until such work is undertaken to reduce or remove the danger. Seven days notice will be given.

## **b) Earthquake-Prone Buildings**

Before exercising its powers under Section 124 of the Building Act 2004, Council will at its discretion seek, to discuss options for action with owners with a view to obtaining from the owner a mutually acceptable approach for dealing with the danger, leading to receipt of a formal proposal from owners for strengthening or removal. This upgrade is to be completed within 20 years of receipt of the formal notification of action required.

In the first instance, written notice will be given to building owners, tenants and occupiers. This notice will contain an offer from Council to advise and liaise with owners regarding work to be carried out. This notice will also contain provision for owners to carry out an independent assessment within twelve (12) months. Council will not share the cost of undertaking a detailed assessment of the building.

Following this initial notice, Council will provide a formal notification of action required, which will contain a timetable of action required to remove the danger. This formal notification will contain advice on how to appeal against the earthquake-prone classification within twelve (12) months of the receipt of the notice.

## **c) Insanitary Buildings**

Where immediate action is required to prevent the building from remaining insanitary, Council will undertake those measures in Section 129 of the Act to fix the insanitary conditions. Due to the urgent nature of the risk that insanitary buildings pose to users, Council will in the first instance act to ensure no person uses or occupies the building or permits another person to use or occupy the building until such work is undertaken to fix the insanitary conditions.

## **4.5 Interaction Between this Policy and Related Sections of the Building Act 2004**

### **Section 112: Alterations to Existing Building**

Whenever a building consent application is received for significant upgrading or alteration of a building that is or could be dangerous, earthquake-prone, or insanitary then, irrespective of the general priorities set by Council for dealing with dangerous, earthquake-prone or insanitary buildings, Council will not issue a building consent unless it is satisfied that the building is not dangerous, earthquake-prone or insanitary and that the building work will not detrimentally affect the building's compliance with the Building Code.

If the building is shown to be dangerous, earthquake-prone or insanitary, then the Council will require that the building be strengthened or fixed as necessary to comply as nearly as is reasonably practicable with the provisions of the Building Code.

### **Section 115: Change of Use**

Whenever a building consent application is received for change of use of a building that is or could be earthquake-prone, then irrespective of the general priorities set by Council for dealing with earthquake-prone buildings, it will be a requirement of the building consent that the owner make a detailed assessment of the earthquake performance of the building to determine whether or not it is an earthquake-prone building in its existing condition.

If the building is shown to be dangerous or earthquake-prone then the Council will require that the building be strengthened to comply as nearly as is reasonably practicable with every provision of the Building Code that relates to structural performance as is required by Section 115(b) (i) (a). (In this instance the requirement for earthquake-prone buildings would be the same as that for non-earthquake-prone buildings).

#### **4.6 Recording the Status of Dangerous, Earthquake-Prone and Insanitary Buildings and Access to this Information**

If a building has been assessed as being dangerous, earthquake-prone, or insanitary, its status as such will be recorded in the following manner:

- On Council's property files
- In Land Information Memoranda

The information will include the address and legal description of the land and building, the status of the building, the date when strengthening or demolition of the building is required (if known), or the results of improvement where appropriate.

Further information is made available from Council to those who can demonstrate a genuine interest in the property. In granting access to information concerning earthquake-prone buildings, Council will conform to the requirements of the relevant legislation.

In addition, Council may put up a hoarding or fence to prevent people from approaching the building nearer than is safe and/or attach in a prominent place on, or adjacent to, the building a notice that warns people not to approach the building as provided for under Section 124 of the Building Act 2004.

Council will not require earthquake-prone buildings to have an identifying plaque unless the building represents an immediate danger to persons and property. Council believes that having information available at the Council offices is sufficient notice at present.

Council encourages all owners of significant buildings to have them assessed and graded. Council recognises the long-term benefits of increased public awareness.

### **5. IMPACT OF POLICY**

#### **5.1 Economic**

The Central Hawke's Bay District Council does not have the resources to carry out a review of its possible stock of earthquake-prone buildings in terms of the cost benefit of strengthening earthquake-prone buildings. Council believes the number of potential earthquake-prone buildings is limited and the cost of structural improvements will not present a significant impact on building owners.

#### **5.2 Social**

Taking action on dangerous, earthquake-prone and insanitary buildings is one way in which Council acts to ensure the safety and health of persons. Council believes the safety of people is of paramount importance and this policy reflects this duty.

#### **5.3 Cultural**

While this policy seeks to make special provision for heritage buildings and maintaining of character of townships, the primary consideration at all times will be for the safety and health of people and property.

#### **5.4 Environmental**

No environmental issues are considered to impact on this policy, timeframes and priorities.

## 6. PRIORITIES

### 6.1 Identification

The Council does not have a priority for the identification of differing types of buildings in the District.

### 6.2 Action

The timeframes for identification and notification are described in sections above. The timeframes for building owners to undertake work to fix dangerous, earthquake-prone or insanitary buildings is as follows:

#### a) Dangerous Buildings

All building owners will have ten (10) days to remove the danger following the date notice is given under Section 125 of the Building Act 2004.

#### b) Earthquake-Prone Buildings

Buildings identified as being earthquake-prone will be required to be strengthened when a Building Consent application is received for significant upgrading or alteration of the building. The level of structural improvement is defined as 67% of New Building Standard in compliance with Standard NZS 1170 Part 5: 2004.

#### c) Insanitary Buildings

All building owners will have ten (10) days to fix insanitary conditions following the date notice is given under Section 125 of the Building Act 2004.

## 7. HERITAGE BUILDINGS

Council believes it is important that heritage buildings within the District do not pose a risk to the safety of occupants or other buildings and have a good chance of surviving a major earthquake. However, Council does not wish to see the intrinsic heritage value of such buildings adversely affected by structural improvement measures.

Heritage buildings (that is those buildings identified in Appendix B of the District Plan Schedule of Heritage Items) will be assessed in the same way as other dangerous or insanitary buildings. Where heritage buildings have been identified as earthquake-prone, discussions will be held with owners and the historic places trust to identify a mutually acceptable way forward. Special efforts will be made to meet heritage objectives specified in the District Plan. The requirements of the Historic Places Act and the provision of incentives for owners to upgrade may be considered by Council. In particularly important cases, public consultation will be included.

Following this, notice will be served requiring improvement or demolition within a stated and preferably agreed timeframe.