

<b>Central Hawke's Bay District Council</b>	<b>POLICY MANUAL</b>	
	<b>Document #</b>	2.6
<b>DANGEROUS AND INSANITARY BUILDINGS POLICY</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 and insanitary buildings. 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.

## 2. DEFINITIONS

The following definitions, contained in the Building Act 2004, will be used to determine whether a building is dangerous 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.

***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 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) 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 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) 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 or insanitary according to the criteria specified in the Building Act 2004.

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

Under the Building Act 2004, where the Council is satisfied that a building is dangerous 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) 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 or insanitary then, irrespective of the general priorities set by Council for dealing with dangerous or insanitary buildings, Council will not issue a building consent unless it is satisfied that the building is not dangerous 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 or insanitary, then the Council will require that the building be fixed as necessary to comply as nearly as is reasonably practicable with the provisions of the Building Code.

## **4.6 Recording the Status of Dangerous or Insanitary Buildings and Access to this Information**

If a building has been assessed as being dangerous, 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 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 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.

## **5. IMPACT OF POLICY**

### **5.1 Social**

Taking action on dangerous 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.

## **5.2 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.

## **5.3 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,

### **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) 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. 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.