

# Dangerous and Insanitary Buildings Policy



Responsibility:	Group Manager Environmental Development
First Adopted:	22 June 2006 (307/06)
Review Date:	June 2011
Review Frequency:	Five yearly, or as required

## Policy Objectives

The objectives of this Policy are to:

- Improve the control of, and encourage better practice in, design and construction of buildings.
- Reduce the danger to the population caused by Dangerous and Insanitary Buildings.
- Establish the approach Council will take in performing its functions under Section 131 of the Building Act 1004 (the Act).
- Establish the priorities that Council has in performing these functions.

## Principles

One of the key purposes of the Act is to ensure that people who use buildings can do so safely and without endangering their health.

In setting this policy, 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 that are involved.

## Definitions

### Dangerous Building (Section 121 of the Act)

A building is **dangerous** for the purposes of this Act if:

- (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.*
  - ii) *Damage to other property.*
- (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.*

## **Insanitary Building (Section 123 of the Act)**

*A building is insanitary for the purposes of this 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.*

## **Background**

This policy has been prepared by Council to comply with Section 131 of The Building Act 2004 (the Act). Section 131 requires that each territorial authority prepares a Policy on Dangerous, and Insanitary Buildings.

In preparing this policy, Council has chosen to adopt a moderate approach of inspecting buildings to coincide with its annual inspection regime of Building Warrants of Fitness Audits.

## **Policy Statement**

### **1. Identifying Dangerous and Insanitary Buildings**

Council recognises that most Dangerous and Insanitary buildings will be identified by complaints received from members of the public and adjoining property owners, or through investigations by Police or the Fire Service.

Council Building Officers may become aware of Dangerous and Insanitary Buildings in the day to day performance of their duties. Such buildings will be addressed as required.

### **2. Responses to Complaints**

All complaints shall be investigated by Council Building Officers. Each complaint shall, in the first instance, be assessed as to the severity of the problem and the potential for harm to people and property. The time taken to respond to complaints will depend on the risk and will vary from within 24 hours for high risk to within five working days for low risk, frequently occurring as public nuisance complaints.

### **3. Assessing Buildings**

Each building complaint will be investigated according to the timeframe stated in this policy. A report will be prepared detailing the investigation and assessment of the building. A Dangerous and Insanitary Building Checklist (Appendix 1) will be completed for the building. Upon completion of the checklist the complaint shall be categorised according to the level of risk by completing the Building Risk Assessment (Appendix 2). This will provide a level of intervention required along with guidelines and timeframes for remedial work that is required.

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The completed report will then be forwarded to the Owner with a Notice of the required work. A copy of the report will be placed on the property file and this will be made available to the public until the matter has been resolved and this has been confirmed in writing to the Owner, after which it will be moved to the confidential property file.

### 4. Taking Action

Council will take action on Dangerous and Insanitary Buildings according to the powers set out in section 124 of the Building Act 2004.

#### 4.1 Approach to Taking Action

- In the event of the risk being immediate or to prohibit the use of a Dangerous or Insanitary building, Council may instruct the Owner:
  - i) To erect a hoarding or fence to prevent people from approaching the building nearer than is safe.
  - ii) To erect a warning notice.
  - iii) By giving written notice, require work to be carried out within a certain time (not less than 10 days from the date of notice).  
or :
  - iv) Council may decide to carry out (i) or (ii) above itself.
  - v) Council may elect to exercise the powers under Section 129 of the Act to remove the immediate risk.
- Owners and Occupants will be advised of the risk and issued with a Dangerous and Insanitary Building Notice, stating the remedial works required to comply with the Building Code and the required timeframe.
- Where there is slow progress or failure to commence on any remedial work, Council may intervene as permitted under the powers conferred in sections 126 and 129 of the Act.
- In the event of a building having historical significance, either from being an actual listing with the Historic Places Trust or so deemed by Council, then advice will be sought from the Historic Places Trust with regards to any intervention directly affecting the building structure.
- With regard to any building of cultural significance, advice on the action to be taken will be sought from suitably qualified persons.
- Where the Owner does not meet the stated timeframe or is unable to carry out the work, then Council shall obtain a Chief Executive's Warrant to carry out such work to remove any immediate danger or fix immediate insanitary conditions.
- Where the Owner does not meet the stated timeframe or is unable to carry out the work then Council shall obtain a District Court Order, authorising Council to carry out such work as required to achieve compliance with the Dangerous and Insanitary Building Notice. Council shall advise the Owner in writing no less than ten (10) days prior to obtaining a Court Order for the work.
- All costs associated with Council works shall be recovered from the Owner and this recoverable amount becomes a charge against the land on which the building is situated.
- Council will, where deemed appropriate, obtain advice from the New Zealand Fire Service, and such advice shall be given due regard in determining whether a building is dangerous.

#### 4.2 Issuing Notices

Any notice required under the Act will be as established and issued as per Section 125 of the Act.

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A Dangerous and Insanitary Building Notice will be served on an Owner either in person or to their last known address as per the Rating Database held by Council, or alternatively to their Legal Counsel if known.

As required by Section 125 of the Act a copy of the notice will be provided to:

- a) The owner of the building.
- b) The occupier/s of the building.
- c) Every person who has an interest in the land on which the building is situated under a mortgage or other encumbrance registered under the Land Transfer Act 1952.
- d) Every person claiming an interest in the land that is protected by a caveat lodged and in force under Section 137 of the Land Transfer Act 1952.
- e) Any statutory authority, if the land or building has been classified.
- f) The New Zealand Historic Places Trust if the building is a heritage building.

The notice, if fixed on the building, is not invalid should a copy not be given to any or all of the above persons. It will be deemed to have been served on the Owner by way of fixing the notice upon the building.

The notice shall clearly set out the work that is to be carried out and the timeframe in which to do so. The notice shall further state whether it is permitted to use or occupy the building during the time or whether it must remain vacant.

In the event that a building is in such a state as to cause immediate danger to people or property, Council may take action prior to consulting with the Owner and such consultation will be carried out as soon as practicable.

### ***4.3 Consultation with Owners***

Council will, in all cases, make contact with the Owner of any affected building. This shall be prior to, or at the same time as, the issue of a notice complying with Sections 12 and 125 of the Act.

The Owner will be given the opportunity to discuss with Council their circumstances or future plans for the building and these will be taken into consideration.

Whilst the underlying intent of this Policy is the safety of occupants and users of the building and improvement in the health of users, every attempt will be made to consider the impact of the cost of required works against the value of the building. Where it is obvious that remedial work will be such as to place an unreasonable cost burden on the Owner then this will be discussed with the Owner and other alternatives, including demolition or temporary hoardings, will be considered.

Where there is no alternative accommodation for the occupants, Council will encourage the Owner and Occupants to work together to secure an acceptable solution.

### ***4.4 Fixing Dangerous and Insanitary Buildings***

Upon deciding that a building is Dangerous or Insanitary the notice either placed upon the building or served on the Owner shall state the work that is required and the timeframe. In all cases a building consent will be required and this will allow Council to carry out normal inspections in accordance with the conditions stated in the consent.

The notice will not be lifted until all work has been completed to the satisfaction of Council, meaning that it meets the building code and is no longer Dangerous or Insanitary.

When the Owner fails to undertake the work or to complete it within the timeframe Council can obtain District Court approval to enter the building to carry out the work as stipulated in

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Section 126 of the Act. This work may include, as per section 127 of the Act, the demolition of the building.

Section 129 of the Act sets out the powers that Council has to take action to avoid immediate danger.

### ***4.5 Building Work to Reduce or Remove Danger***

When building work is required to reduce or remove the risk of danger to the public, Council will discuss with the Owner the most suitable approach. In most cases the use of hoardings or shuttering to a building will be sufficient until remedial works can be carried out.

In extreme cases, or cases where hoardings will not satisfactorily reduce or remove the risk, the option of demolition will be adopted.

Council will consider the following when making its decision:

- The occupancy and use of the building.
- Any relevant cultural impacts.
- Any historical issues.
- The surrounding environment and properties.
- The location of the building and type of construction.

### ***4.6 Policy on Dangerous and Insanitary Buildings and Interaction with other provisions of the Act***

When an Owner applies for a building consent for alteration to an existing building, Council shall have the ability to deem a building to be either Dangerous or Insanitary, if the alterations affect the means of escape from fire, the ability for the building to be used by disabled persons, or the ability of the building to continue to meet the Building Code. Council may also use this opportunity to ensure the Owner meets any outstanding Dangerous and Insanitary Building Notices before the consent is issued or during the consented works.

When applying for a building consent to remedy the work as listed on a Dangerous and Insanitary Building Notice, Council will use the opportunity to obtain compliance with the Building Code in relation to facilities and access for people with disabilities.

### ***4.7 Recording Dangerous and Insanitary Buildings***

All Dangerous and Insanitary buildings shall initially be recorded on the working file for the property.

The Property File shall have all relevant documents relating to the issued Notice whilst work is progressing or until such time as the building is compliant or removed. Once this position has been reached all information will be removed from the working file but shall remain on the confidential file for that property.

Information regarding the Dangerous or Insanitary building shall be made available through a Land Information Memorandum (LIM). For Project Information Memoranda, such information will only be provided while the listed works required to remove any danger are yet to be completed.

## ***4.8 Priorities for Action***

Priorities for dealing with Dangerous and Insanitary Buildings will be assessed as per the Risk Rating Matrix. Situations will receive a high risk rating where there is an immediate risk of injury or death.

Civil Defence emergencies may result in the instigation of special procedures under the Civil Defence Emergency Management team and Council will work in accordance with its Emergency Management Plan.

In certain situations, a building that has been identified earthquake-prone under the Council's Earthquake-Prone Buildings Policy 2006 may be classified as dangerous under this Policy.

All other Dangerous or Insanitary Buildings will be dealt with in normal situations as per clause 4.1 of this policy and action will be taken as appropriate according to the risk and situation.

## ***4.9 Dealing with Heritage Buildings***

All known heritage buildings, as listed by the Historic Places Trust (HPT) that become classified as Dangerous or Insanitary Buildings, shall include HPT in the decision-making process as to remedial work required. The HPT will be contacted prior to any action being taken, with the exception of making a building safe through the removal of access to the Building.

In the event of a listed building being issued a Dangerous or Insanitary Building Notice, a copy shall be sent to the HPT.

Where a building is not listed but may have historical significance, the Historic Places Trust shall be invited to assist with recommendations as to how to remedy any Dangerous or Insanitary Buildings in keeping with the historical features and to ensure public safety.

## **Relevant Delegations**

Group Manager Environmental Development

## **References and Relevant Legislation**

Building Act 2004

South Waikato District Council Earthquake Prone Buildings Policy 2006.

## **Annotations**

<b>Res No</b>	<b>Date</b>	<b>Subject/Description</b>
307/06	22/06/06	Policy adopted

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Appendix 1

DANGEROUS AND/OR INSANITARY BUILDING INSPECTION RECORD	
Address of building	
Building name	
Name of person allowing access	
Relationship to building	
Time and date of inspection	
Contact details of at least two tenants (continue on reverse if necessary):	
Name	
Relationship	
Address (Other than the address of	
Phone (Home)	
Phone (Work)	
Phone (Mobile)	
<b>Building warrant of fitness-current:</b>	Displayed:
Current use described as?	
Is current use and described use the same?	Number:
<b>List fire protection/detection system(s) present</b>	
	<b>Operational?</b>
	yes/no
	yes/no
	yes/no
*Note on rear of page if system has obvious defects in relation to relevant New Zealand Standards.	
<b>Building features</b>	
1. Number of floors	8. Adequate potable water supply?
2. How many flats ?	9. Adequate sanitary facilities for intended use?
3. How many beds (total)?	10. Has the cladding failed?
4. How many means of escape?	11. Is the nature of the building likely to be
5. Can you identify safe paths?	12. Do safe paths lead to exterior ground?
6. Have you walked the escape routes?	13. Are any escape doors hired with locks?
7. Any uncontrolled sources of ignition ?	14. Is any other building likely to be affected by
Describe <b>the building's construction:</b>	
Describe <b>means of escape:</b>	
Describe <b>purpose groups</b> within the building:	
Describe <b>water and sanitary facilities:</b>	
Describe <b>why building is "offensive" and/or "likely to be injurious to health":</b>	
<b>High Hazard backflow prevention:</b>	
Required	Installed?

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**Appendix 1 (continued)**

DANGEROUS AND/OR INSANITARY BUILDING INSPECTION RECORD (continued)			
<b>Dangerous/hazardous goods:</b>			
Stored/used		in building?	
What	Where	Class	Quantity
<b>ACTION</b>			Complete
On attached blank pages <b>sketch</b> floor plans and record locations of items			
<b>Obtain</b> copy of the current certificate of title			
<b>Obtain</b> copies of lease agreements			
<b>Obtain</b> tenants' contact details			
<b>Obtain</b> name of person tenants deal with			
<b>Obtain</b> expert reports			
<b>Research</b> building warrant of fitness			
<b>Research</b> authorised use/s			
<b>What is your opinion of the building overall?</b>			
<b>Do you believe that the building</b>		Has this been confirmed by another party?	
<b>Is dangerous or insanitary?</b>		yes/no	
yes/no			
Name	Agency	Address	
Reasons for YOUR decision:			
<b>Obtain</b> copies, in writing, from any attending experts eg, fire service, fire engineers, IOPs			
Signed			
Date			

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**Appendix 2 - Building Risk Assessment Dangerous and Insanitary Buildings**

Address.....

Lot No:..... DPS No:..... Building Consent No:.....

<b>Risk Factor</b>	<b>Rating (H/L)</b>	<b>Score</b>
<b>Users</b>		
1. What is the maximum number of users at any one any one time	100 + people (H) = 10 Less than 100 people (L) = 7	<input type="text"/>
2. What is the predominant age group of the building users?	Children or Infants (H) = 10 Adults (L) = 3	<input type="text"/>
3. What is the general capability of the building users?	Mentally handicapped/immobile Physically handicapped but Normal (L) = 3	<input type="text"/>
<b>Usage of the</b>		
4. What is the sleeping activity rating for the building in terms of the building code?	SD, SA, SC, (H) = 10 SR (L) = 3	<input type="text"/>
5. Is the building used for any of the following activities?		<input type="text"/>
a. Education	Children (H) = 10 Adults (L) = 5	
b. Old people's home	Geriatric (H) = 10 Mobile (L) = 5	
c. Hospital (private or public)	Bedridden (H) = 10 Mobile (L) =	
d. Residential institution	Bedridden (H) = 10 Mobile (L) =	
e. Place of Assembly	>100 people (H) = 10 <100 (L) =	
f. Hotels and motels	>20 people (H) = 7 <5 (L) = 3	
g. Backpackers and Home	>20 people (H) = 9 <5 (L) = 5	
h. Attached multi-unit	>5 apartments (H) = 7 3-5 (L)	
6. What is the crowd, working, business or storage activity for the building in terms of the building code?	WD, WM, CL, CM (H) = 10 WL, CS (L) = 3	<input type="text"/>
<b>Building Characteristics</b>		
7. Does the building have common walls with others?	>1 (H) = 5 <1 (L) = 3	<input type="text"/>
8. How many storeys does the building have? 1 2 3 4 5 6 7 8 9 includes	2 = 5 add 5 for every	<input type="text"/>
9. Any historic clarification or significance?	Yes = 2	<input type="text"/>
10. Is the building in the inner city, in a known area or previous seismic activity?	Yes (H) = 10	<input type="text"/>
11. What is the age and condition of the building? e.g. Pre 1940 = Pre 1965=8	Assign score 1-10 accordingly	<input type="text"/>
12. Are there any other factors to be considered? e.g. Parapets, verandahs, attachments or adornments	Assign score 1-10 accordingly	<input type="text"/>
<b>Total Score (out of approx 100)</b>		<input type="text"/>
<b>Note: &lt; 40 Low Risk 40-60 = Moderate Risk) &gt;60 = High Risk)</b>		