

Attachment Two: Summary of Submissions for the Draft Dangerous and Insanitary Buildings Policy

| Sub # | Submission Summary | Staff Comments | Recommendations |
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| <i>Section One: Submissions relating to the Draft Dangerous and Insanitary Buildings Policy</i> | | | |
| <i>Issue 1: Councils approach in performing its functions</i> | | | |
| 3 | Supportive of Council inspecting and assessing information, or a complaint, regarding possible dangerous or insanitary buildings. | <p>We believe this approach of using information from the community is the most efficient and pragmatic approach to identifying potentially dangerous and insanitary buildings.</p> <p>We hope consultation on the draft policy has helped get the message out to the community that we need people to get in touch right away if they have concerns about a building. This information is essential to help us identify any potential risks to the community.</p> | No change required. |
| 3 | Recommends that the policy include a proactive and planned approach to identify dangerous and insanitary buildings to improve the state of housing throughout the city. | <p>The draft policy clarifies that Council will use external sources to inform us of dangerous, affected and insanitary buildings (e.g. building occupants, neighbours, Fire and Emergency New Zealand, NZ Police and other agencies).</p> <p>A reactive approach based on complaints (as opposed to a proactive one where Council would need to send staff to inspect each building in the city on a regular basis) is the most efficient use of resources.</p> <p>This is consistent with the guidance from the Ministry of Business, Innovation and Employment that says any attempt to identify these buildings proactively is</p> | No change required. |

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| | | <p>unlikely to be successful unless Council has considerable resources to undertake inspections and evaluations of buildings. The guidance also reports that:</p> <p><i>'Relying on complaints to provide information concerning potential dangerous or insanitary buildings may be the only practical way in which TA's can identify these buildings within their districts and undertake their statutory responsibilities'.</i></p> | |
| Issue 2: Principles | | | |
| 3 | That principle 4.4 of the draft policy recognise that building owners have a responsibility to ensure their buildings are safe and healthy. | It is important to specifically highlight the importance of ensuring that buildings are healthy for the community. Recognising that buildings must also be healthy also better aligns with the principles in the Building Act. | <p>Recommendation: Amend the policy to reflect that owners have a responsibility to ensure their buildings are safe and healthy.</p> <p>Amend section 4.4 adding the words 'and healthy.'</p> |
| Issue 3: Assessment of occupants of a possible insanitary building | | | |
| 3 | Section 7.1 includes liaison with Bay of Plenty DHB in relation to infirm or neglected persons. It is recommended that Council liaise with the Medical Officer of Health in this regard as identified in Section 126 of the Health Act. | It is important that the policy be specific about who Council will work with to identify those building occupants at risk of being neglected or infirm in a possible insanitary building. Therefore, we recommend the policy be amended to include the correct reference to the Medical Officer of Health as set out in section 126 of the Health Act. | <p>Recommendation: Amend the policy to reference the Medical Office of Health in relation to the assessment of whether occupants of a possible insanitary building are neglected or infirm.</p> <p>Amend section 7.1 (d) by replacing "Bay of Plenty District Health Board" with "the Medical Officer of Health".</p> |

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| Issue 4: Correction to the name of Heritage New Zealand Pouhere Taonga | | | |
| 4 | Change reference in section 8.1 from “Historic Places Trust’ to “Heritage New Zealand Pouhere Taonga” to recognise the name change to the crown entity. | Agree that the policy should contain the correct name of Heritage New Zealand Pouhere Taonga. We appreciate this being identified and will amend the policy accordingly. | <p>Recommendation: Amend the policy to reflect the correct name of the crown entity.</p> <p>Amend section 8.1 by replacing “Historic Places Trust” with “Heritage New Zealand Pouhere Taonga”.</p> |
| Issue 5: Definition of Heritage Buildings | | | |
| 4 | <p>Inclusion of a reference to Marae buildings within the definition of Heritage Building as this would support and align with the reference in clauses 8.2 (a) and (b) of recognising special traditional or cultural aspects of the intended use of the building.</p> <p>Consideration should be given to character buildings or heritage buildings not yet formally recognised as found in the “Central Tauranga Heritage Study- Part 1 and 2 prepared for Tauranga City Council and Environment Bay of Plenty by Matthews and Matthews Architects Ltd 2008.</p> | <p>The heritage nature of buildings is addressed and recognised in the City Plan. Therefore, the Dangerous and Insanitary Building Policy is not the appropriate place to consider marae buildings, character buildings and heritage buildings identified in the Heritage Study from 2008. The policy’s focus is on Council’s approach to potentially dangerous and insanitary buildings rather than heritage buildings.</p> <p>Having different definitions in the Policy and City Plan will result in inconsistency and confusion. Considering heritage buildings through the City Plan also means that building owners including hapu have the opportunity to be consulted and understand any potential impacts on them.</p> <p>Staff recommend that HNZPT direct their submission to the City Plan review process to recognise Marae</p> | No change required. |

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| | | buildings and consider character buildings or heritage buildings within the City Plan | |
| Issue 6: Greater discussion relating to heritage buildings | | | |
| 4 | <p>Concerned that the references to heritage could be expanded to include alternative methods to avoid demolition.</p> <p>The proposed policy does not address the role of prevention in section 8 that relates to heritage buildings. Therefore, greater discussion relating to heritage in the policy is needed.</p> | <p>While the proposed policy does not contain prescribed measures to avoid the demolition of heritage buildings it specifically states that consideration will be taken of the need to facilitate the preservation and ongoing use of buildings and areas of significant cultural, historical or heritage value.</p> <p>Council will consider the nature and importance of the building and the level of risk it poses to the community. However, the fact that a building has heritage status does not mean it can be left in a dangerous or insanitary condition.</p> | No change required. |
| Issue 7: Priorities | | | |
| 3 | The priorities in clause 9.1 are supported but recommend clause 9.2 be amended to include the potential risk of harm to human health. | It is important to specifically state the potential risk of harm to human health as a consideration when prioritising work on buildings. | Recommendation: Amend policy by amending section 9.2 to include the potential risk of harm to human health. |
| Issue 8: Importance of heritage buildings to the City | | | |
| 4 | Recommend a statement of the importance of heritage buildings to the City, which could be included at section 4 of the policy. | Heritage buildings are important. We believe the proposed policy and our City Plan acknowledges their importance. Section 8.2 recognises the importance of | No change required. |

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| | | <p>recognising special traditional or cultural aspects of heritage buildings and the need to facilitate the preservation of buildings and areas of significant culturally historical or heritage value.</p> <p>Section 7A.1.1 of the City Plan also states the objective of the factors, values and associations that define the City's historic heritage are identified and protected.</p> | |
| <i>Issue 9: Maintenance of heritage buildings</i> | | | |
| 4 | <p>Recommend a statement to encourage owners to conserve their heritage buildings by undertaking maintenance and upgrades so the building does not become dangerous or insanitary.</p> | <p>The purpose of the policy is to ensure people who use buildings can do so safely without endangering their health. Sections 4.3 and 4.4 state that Council will endeavour to make sure all buildings are maintained and made safe in conjunction with the owner and that owners have a responsibility to ensure their buildings are safe.</p> | No change required. |
| <i>Issue 10: Reference to other policies</i> | | | |
| 4 | <p>Include the type of action that may be taken to secure a building, such as fence, hoardings, warning notices, or issuing notice to the owner to fix the issue.</p> | <p>Section 6.2 states that 'Council will work with the building owners and if necessary, use powers it has available, to ensure appropriate action is taken to make the building, its occupants and the public safe'. Section 124 of the Building Act 2004 sets out the actions that Council may take if it is satisfied that a building is dangerous, affected or insanitary building.</p> | No change required. |

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| <i>Issue 11: Reference to other policies</i> | | | |
| 4 | <p>Reference any council heritage policy or strategy document.</p> <p>Include information on council funding programmes or policies, and other assistance the council may be able provide owners in relation to heritage buildings to undertake works to prevent the building from becoming dangerous.</p> | <p>The City Plan is Council’s key document relating to heritage buildings and this is referenced in the definition of heritage building.</p> <p>We will investigate ways of informing building owners of funding sources such as the HNZPT Incentive Fund, and Heritage Equip and NZ Lotteries funds. This work could be carried out in conjunction with HNZPT.</p> | No change required. |
| <i>Issue 12: Inclusion of Councils legislative ability</i> | | | |
| 3 | <p>Notes clause 7.2 and supports the inclusion of Council’s legislative ability to rectify situations when building owners may not.</p> | | No change required. |
| <i>Issue 13: Reference to the Health Act 1956</i> | | | |
| 3 | <p>Supports the inclusion of the reference to the Health Act 1956 as relevant legislation.</p> | | No change required. |

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| <p>Section Two: Other issues raised by submissions <i>These issues are not directly related to the development of the policy</i></p> | | | |
| <p>Issue 1: Council's Implementation of the Building (Earthquake-prone Buildings) Amendment Act 2016</p> | | | |
| <p>1</p> | <p>TCC wrote a letter to a large group of commercial property owners saying that your building is no longer on the earthquake prone register, but your building may still be earthquake prone. Some of these property owners had already commissioned an engineer to complete an IEP, resulting with them knowing that their building is below 34% of the new building standard. There is nothing in the Council's letter stating that a property owner has a legal obligation to inform the Council if they become aware that their property is below 34% of the new building standard. I'm aware of many buildings in this situation, with one regularly having over one hundred children inside it."</p> <p>Is this an actual gap within the Tauranga regulations that needs to be tidied up?</p> | <p>The system for identifying and managing earthquake-prone buildings changed on 1 July 2017 when the Building (Earthquake-prone Buildings) Amendment Act 2016 came into force.</p> <p>All provisions relating to earthquake-prone buildings have been removed from the draft Dangerous and Insanitary Buildings policy as these are now provided for under new and/or revised provisions of the Act.</p> <p>Tauranga City Council has identified all potentially earthquake-prone buildings in line with the new legislation and building owners have been advised. These building owners were also provided with a link to the MBIE (Ministry of Business, Innovation and Employment) website for further information of the methodology for removing the buildings from Council's register.</p> <p>Tauranga currently has 40 buildings that are considered earthquake-prone and are required to comply with the new regulations. Some building owners are currently working on this upgrade. Eleven of the 40 remaining earthquake-prone buildings are located in the CBD.</p> | <p>No change to the policy.</p> |

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| | | <p>These buildings are included in a public database: https://epbr.building.govt.nz/</p> | |
| <p><i>Issue 2: Specific concern about a possible insanitary building</i></p> | | | |
| 2 | <p>Concern that the building rented by the submitter is insanitary and that Council has not been helpful in addressing this matter.</p> | <p>In accordance with our current Earthquake-prone, Dangerous and Insanitary Buildings Policy, Council staff have responded to the complaint regarding a possible insanitary building. We have documented the visits and our findings. The building was not assessed as being insanitary.</p> | <p>No change to the policy.</p> |