

# DANGEROUS AND INSANITARY BUILDINGS POLICY 2020



<b>Policy type</b>	Council		
<b>Authorised by</b>	Council		
<b>First adopted</b>	March 2006	<b>Minute reference</b>	<b>M06/15.6</b>
<b>Revisions/amendments</b>	March 2011 11 February 2020	<b>Minute references</b>	<b>M11/13.6</b> <b>XXXXXX</b>
<b>Review date</b>	March 2024		

## 1. PURPOSE

- 1.1 To set out Council's approach to identifying and managing dangerous, affected and insanitary buildings.
- 1.2 To help ensure people who use buildings can do so safely without endangering their health.

## 2. SCOPE

- 2.1 This policy applies to all buildings within Tauranga.
- 2.2 This policy sets out:
  - the approach that Council will take in performing its functions under Part 2 of the Building Act 2004;
  - Council's priorities in performing those functions;
  - Council's approach to dangerous, affected and insanitary heritage buildings.

## 3. DEFINITIONS

Term	Definition
Affected Building	A building that is at risk of damage or other impact from a dangerous building or dam that is adjacent to, adjoining, or nearby. (Section 121A Building Act 2004 or any subsequent amendments)
Authorised officer	An officer of Council to whom either or both of the following applies: <ol style="list-style-type: none"> <li>(a) he or she is authorised to carry out inspections; or</li> <li>(b) he or she is authorised to enter the land –                             <ol style="list-style-type: none"> <li>(i) by the Building Act; or</li> </ol> </li> </ol>

	<p>(ii) by an order of the District Court made under section 227.</p> <p>(Section 222 Building Act 2004 or any subsequent amendments)</p>
Building	Is defined under section 8 of the Building Act 2004 (or any subsequent amendments) and means any temporary or permanent movable or immovable structure (including a structure intended for occupation by people, animals, machinery or chattels).
Dangerous Building	Is defined under section 121 of the Building Act 2004 (or any subsequent amendments). In summary it is a building that, for reasons other than earthquakes, is likely to cause injury or death, by collapse or otherwise; or it is likely to cause damage to other property.
Heritage Building	<p>A building that is included on:</p> <ul style="list-style-type: none"> <li>(a) Appendix 7A, 'Register of Built Heritage, Chapter 7 of the Tauranga City Plan;</li> <li>(b) the New Zealand Heritage List/Rārangi Kōrero maintained under section 65 of the Heritage New Zealand Pouhere Taonga Act 2014; or</li> <li>(c) the National Historic Landmarks/Ngā Manawhenua o Aotearoa me ōna Kōrero Tūturu list maintained under section 81 of the Heritage New Zealand Pouhere Taonga Act 2014.</li> </ul> <p>(Section 7 Building Act 2004 or subsequent amendments)</p>
Insanitary Building	<p>A building that:</p> <ul style="list-style-type: none"> <li>(a) is offensive or likely to be injurious to health because – <ul style="list-style-type: none"> <li>(i) of how it is situated or constructed; or</li> <li>(ii) it is in a state of disrepair; or</li> </ul> </li> <li>(b) has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or</li> <li>(c) does not have a supply of potable water that is adequate for its intended use; or</li> <li>(d) does not have sanitary facilities that are adequate for its intended use.</li> </ul> <p>(section 123 of the Building Act 2004 or any subsequent amendments)</p>

#### 4. PRINCIPLES

- 4.1 The relevant principles of section 4 of the Building Act (the Act) have been taken into account in preparing this policy.
- 4.2 Council has a legislative responsibility to ensure the safety of the community when they are in buildings.

- 4.3 Council will endeavour to make sure existing buildings are maintained and made safe in conjunction with the owner of a building.
- 4.4 Building owners have a responsibility to ensure their buildings are safe **and healthy**.

## **5. COUNCIL'S APPROACH**

- 5.1 Council has a reactive approach to the management of dangerous, affected and insanitary buildings. Council will use external sources such as building occupants, neighbours, Fire and Emergency New Zealand, New Zealand Police and other agencies to inform them of dangerous, affected and insanitary buildings.

## **6. DANGEROUS AND AFFECTED BUILDINGS**

- 6.1 On receiving information or a complaint regarding a possible dangerous building, Council will:
  - (a) inspect and assess the condition of the building in accordance with section 121 of the Act;
  - (b) identify any buildings that are dangerous;
  - (c) assess whether there are any potentially affected buildings (in accordance with section 121A of the Act) and consult with the owners and occupiers of any affected buildings regarding appropriate risk management approaches before taking action under section 124 of the Act.
  - (d) liaise with Fire and Emergency New Zealand (FENZ) when Council deems it appropriate, as outlined in section 121 (2) of the Act.
- 6.2 If a building is found to be dangerous or affected, Council will work with the building owner/s and if necessary, use powers it has available, to ensure appropriate action is taken to make the building, its occupants and the public safe.
- 6.3 The building owner's responsibility is to undertake works to remove or reduce the danger, make the building safe and assume full financial responsibility.

## **7. INSANITARY BUILDINGS**

- 7.1 On receiving information or a complaint regarding a possible insanitary building, Council will:
  - (a) inspect and assess the condition of the building in accordance with section 123 of the Act;
  - (b) identify from these investigations any buildings that may be considered to be insanitary;
  - (c) inform the owner(s) of the building to take action to prevent the building from remaining insanitary; and
  - (d) liaise with the **Medical Officer of Health** ~~Bay of Plenty District Health Board~~ when required to assess whether the occupants may be neglected infirm.
- 7.2 If a building is found to be insanitary, Council will work with the building owner/s and if necessary, use powers it has available, to ensure appropriate action is taken to make the building, its occupants and the public safe.
- 7.3. The building owner's responsibility is to undertake works to make the building safe and sanitary and assume full financial responsibility.

## **8. HERITAGE BUILDINGS**

- 8.1 If a building which is deemed to be dangerous, affected or insanitary is also classified as a heritage building the approach is the same as for dangerous affected or insanitary buildings which are not heritage buildings. However, Council and the building owner/s will work in conjunction with the **Heritage New Zealand Pouhere Taonga** ~~Historic Places Trust~~ to remedy the building.
- 8.2 When considering heritage buildings under the policy, consideration will be taken of the:
- (a) importance of recognising any special traditional or cultural aspects of the intended use of the building; and
  - (b) need to facilitate the preservation and ongoing use of buildings and areas of significant cultural historical or heritage value.

## **9 COUNCIL'S PRIORITIES UNDER THE BUILDING ACT**

- 9.1 Priority will be given to buildings requiring work urgently to address dangerous, affected and/or insanitary conditions. Clause 41(1)(c) of the Act defines this as for the purpose of saving or protecting life or health or preventing serious damage to property.
- 9.2 Where Council does need to prioritise work on buildings, the following issues will be taken in to account:
- 1) Potential risk to human **health and life**
  - 2) The importance of the building to the community e.g. hospital, school
  - 3) The level of use and number of people using the building
  - 4) The location of the building in relation to key infrastructure components
  - 5) The size of the building
  - 6) The age of the building.

## **10. DISPUTES**

- 10.1 If a building owner disputes a Council decision or proposed action, relating to the exercise of Council's powers under sections 124 or 129 of the Act, the owner may apply for a determination from the Chief Executive of the Ministry of Building Innovation and Employment, as set out in the Act.

## **11. RELEVANT DELEGATIONS**

- 11.1 The Chief Executive has delegated authority and the authority to subdelegate the implementation of this policy.

## **12. REFERENCES AND RELEVANT LEGISLATION**

Building Act 2004

New Zealand Pouhere Taonga Act 2014

Tauranga City Plan

Health Act 1956