

POLICY

Buildings

DANGEROUS, AFFECTED AND INSANITARY BUILDINGS POLICY

1 INTRODUCTION

Section 131 of the *Building Act 2004* (the Act) requires Territorial Authorities to develop a policy on dangerous and insanitary buildings. The Act defines dangerous and insanitary buildings as follows:
Meaning of *Dangerous Buildings* (section 121)

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; or*
 - ii. *damage to other property; or*
- b) *in the event of fire, injury or death to any person in the building or to persons on other property is likely.*

Meaning of *Affected Building* (section 121a)

A building is an affected building for the purpose of this Act if it is adjacent to, adjoining, or nearby

- a) *a dangerous building as defined in section 121; or*
- b) *a dangerous dam within the meaning of section 153(b).*

Meaning of *Insanitary Buildings* (section 123)

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*
 - 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.*

The policy is required to state:

- the approach that the Waimakariri District Council will take
- the priorities in applying the policy
- how the policy will apply to heritage buildings.

2 POLICY CONTEXT

The Dangerous, Affected and Insanitary Buildings Policy (Policy) has been prepared by the Waimakariri District Council to comply with section 131 of the *Building Act 2004*. The Act requires Council to have a policy on Dangerous, Affected and Insanitary Buildings.

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This policy supersedes Council's Dangerous and Insanitary Buildings Policy 2016 and sets out the policy adopted by Waimakariri District Council in accordance with the requirements of the Act.

3 POLICY OBJECTIVE

The purpose of the policy is to:

- Reduce the potential risk posed to people by dangerous, affected and insanitary buildings.
- To provide a clear framework for Council's decision making when managing potentially dangerous, affected and insanitary buildings.
- Earthquake prone buildings are managed under the Section 121 of the *Building Act 2004* and are therefore excluded from this policy.

4 POLICY STATEMENT

4.1 Assessment Criteria

Council will not actively inspect all buildings in the District, but will make it a priority to quickly and efficiently respond to any information or complaints received regarding potentially dangerous, affected or insanitary buildings.

Assessment will be made in accordance with sections 121 and 123 the *Building Act 2004*. Assessment will include:

- if the building is occupied;
- the use of the building;
- if the building is likely to cause injury or death to people;
- if the building is likely to damage other property;
- if the building condition presents a danger to the health of occupants;
- if the building constitutes a fire hazard;
- If the building is an affected building.

4.2 Taking Action on Dangerous Affected and Insanitary Buildings

The Council will:

- Notify the owner, or the owner's agent, of the building if it is found to be dangerous or insanitary;
- May request a report from the Fire and Emergency New Zealand (FENZ);
- Attach a notice to the building requiring work to be carried out within a time stated to be not less than 10 working days, to reduce or remove the danger or prevent the building from remaining insanitary;
- Give copies of the notice to the owners, owner's agent, occupiers and every person who has an interest in the land, and if the building is a heritage building, to Heritage New Zealand;
- Contact the owner, or the owner's agent, at the expiry of the time period set down in the notice to that access to the building can be gained to assess compliance with the notice;
- Determine if enforcement action should be pursued under the Act if the requirements of the notice are not met;
- Consult with the owner of any affected buildings and decide on an appropriate course of action.

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If immediate action is required, the Council will:

- cause action to be taken to remove the danger or fix the insanitary conditions, which may include excluding people from the building;
- take action to recover all costs from the owner, or the owner's agent;
- inform the owner, or the owner's agent, that the amount recoverable by the Council will become a charge on the land on which the building is situated.

4.3 Costs

Council may issue a notice under Section 124(2)(c) of the action requiring work to be carried out on Dangerous or Insanitary buildings to reduce or remove the danger, or to prevent the building from remaining Insanitary. If work required under such a notice issued by Council is not completed or proceeding with reasonable speed, Council may invoke its powers under Section 126 of the Act and apply to the District Court to gain authorisation to carry out building work required in the notice.

If Council carries out building work, it is entitled to recover costs associated with that work from the building owner Set out in Section 126(3) of the Act.

4.4 Record-Keeping

Any building identified as dangerous, insanitary or affected will have a note placed on the property file.

The Land Information Memorandum (LIM) will note that:

- the building is dangerous, insanitary or affected;
- include a copy of the notice;
- include any report on how the matter is to be rectified.

4.5 Access to Information

Information will be on the LIM. The requirements of the *Local Government Official Information and Meetings Act 1987*, and *Local Government Act 2002* will apply.

4.6 Heritage Buildings

Heritage buildings will comply with this policy.

4.7 Priorities

Priorities will be assigned by risk. Generally, because the number of dangerous and insanitary building complaints is few, a high priority is assigned to these complaints.

Priority will be given where immediate action is required to remove danger and fix insanitary conditions. Where immediate action is not required, Council action will be subject to the timelines of any notice.

5 LINKS TO LEGISLATION, OTHER POLICIES AND COMMUNITY OUTCOMES

Local Government Official Information and Meetings Act 1987

Local Government Act 2002

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Community Outcomes:

There is a safe environment for all

- *Harm to people from natural and man-made hazards is minimised and our district has the capacity and the resilience to respond to natural disasters.*

The distinctive character of our towns, villages and rural areas is maintained

- *The centres of our main towns are safe, convenient and attractive places to visit and do business.*

6 ADOPTED BY AND DATE

Adopted by Council on 7 December 2021

7 REVIEW

In accordance with section 132 (4) of the *Building Act 2004* this policy will be reviewed within five years from adoption, or sooner by resolution of Council.