

# Dangerous, Affected and Insanitary Building Policy 2018

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## I Introduction and Background

I.1 Under Section 131 of the Building Act 2004 (the Act) all territorial authorities are required to adopt a policy on dangerous and insanitary buildings. Council adopted such a policy in 2006. In 2013 the Act was amended to require councils to also consider 'affected buildings' in their policies.

This policy replaces Councils Dangerous and Insanitary Building Policy 2006.

A building is defined as being dangerous in Section 121 of the Act if:

- "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
- 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."

## I.2 Legislative Provisions

Section 121A of the Act defines a building as affected 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.

Section 123 of the Act defines a building as insanitary if it: 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
  - has insufficient or defective provisions against moisture penetration so as so cause dampness in the building or in any adjoining building; or
  - does not have a supply of potable water that is adequate for its intended use; or
  - does not have sanitary facilities that are adequate for its intended use."

This document sets out Waikato District Council's response to the policy requirements of the Act in relation to Dangerous and Insanitary buildings.

The policy includes:

- The approach that Waikato District Council will take in performing its functions under the Building Act 2004
- Waikato District Council's priorities in performing those functions
- How the policy will apply to heritage buildings.

## **2 Waikato District Council's Policy Approach**

### **2.1 Policy Principles**

The provisions of the Building Act 2004 reflect the government's broad concern with public safety in buildings and the need to reduce the danger to the public posed by dangerous and insanitary buildings. The Act requires the Council to develop and adopt a policy for the management of these buildings but provides discretion in the approach to be adopted and implementation of the policy. This policy document is Waikato District Council's response to the requirements of the Act.

### **2.2 Policy Approach**

It is intended that Waikato District Council will maintain a reactive approach to the management of dangerous, affected and insanitary buildings. Identification of these types of buildings is particularly difficult as a building's external appearance does not necessarily reflect its internal condition. For this reason the Council will continue to be reliant upon external sources such as building occupants, neighbours, police, fire service and other agencies to inform them of dangerous, affected and insanitary buildings. Once a building has been brought to Council's attention, Council will then actively engage in inspection and assessment of the buildings condition in terms of the Act. Following confirmation of a buildings status as being dangerous, affected or insanitary Council will actively work with building owners to find a mutually acceptable solution before exercising its powers under the Act.

Council will however exercise its statutory powers under Section 124 of the Act where action is required to avoid immediate danger or in circumstances where an acceptable solution cannot be reached with the building owner. Council will not actively inspect all buildings within the District but will make it a priority to quickly and efficiently respond to information received regarding potentially dangerous, affected and insanitary buildings.

### **3 Responding to Complaints about potentially Dangerous, Affected or Insanitary Buildings**

Once Waikato District Council has received information regarding a potentially dangerous, affected or insanitary building it will:

- Check the details of the property against Council records
- Have an authorised officer undertake an inspection of the building in question. In doing this, Council may seek advice from the New Zealand Fire Service, or any other professional deemed appropriate by the Council
- Prepare an inspection record.

#### **3.1 Assessment Criteria**

All inspections of potentially dangerous, affected or insanitary buildings will involve assessment of the building's condition in terms of the definitions in Sections 121 and 123 of the Act and the current building code requirements. Inspection records will be prepared in all cases.

#### **3.2 Taking Action on Dangerous, Affected or Insanitary Buildings**

Review the inspection record and any information received from the New Zealand Fire Service and consider Sections 4 and 122 of the Act by an authorised Council Officer.

- Where appropriate, try to work with the owner of the building to achieve an acceptable outcome.
- Where a mutually acceptable outcome cannot be reached, or where the situation requires, Council may invoke its powers under Sections 124, 126 or 129 of the Act.

#### **3.3 Interacting with Building Owners and Complainants**

Council will endeavour to work with property owners/occupiers. Warranted officers are not required to inform or obtain approval for inspections to determine whether or not a building is dangerous, affected or insanitary, unless the building is a household unit. In these circumstances Council must either; a) obtain consent of the occupier of the household unit or b) an order of a District Court.

Once Council has determined that a building is dangerous, affected or insanitary it will, in the first instance, consult with the owners of the subject building to further determine the circumstances and decide on an appropriate course of action. However where the situation requires, immediate action will be taken without consultation with the building owner, to remove danger or fix insanitary conditions.

Complainants will be informed of the inspection results and Councils intended course of action to deal with the situation.

### 3.4 Recording Information about Dangerous, Affected and Insanitary Buildings

All information relating to dangerous, affected and insanitary buildings will be filed on the relevant property file. This will include a copy of the original inspection record and any further action taken. This information will also be included on any LIM prepared for the property.

## 4 Interaction with Related Sections of Building Act 2004

In exercising its powers under the Act in relation to dangerous, affected and insanitary buildings the Council will be guided by the purpose of the Act and the principles of its functions as set out in Section 4. Particular regard will be given to:

- harmful effects on human health;
- special cultural, traditional or heritage aspects of a building;
- protection of other property from physical damage resulting from use of a building; and
- preservation of buildings of significant cultural, historical or heritage value.

When issuing building consents Council will also consider any requirements relating to dangerous, affected and insanitary buildings.

## 5 Impact of the Policy

Implementation of this policy will have beneficial effects on the health and safety of people using buildings. The policy provides a clear framework of how Council will manage unsatisfactory building conditions. Implementation of this policy will raise people's awareness of the processes that are in place to address such building issues and empower people to raise concerns about buildings and have these concerns investigated.

The options available to Council under the Act to deal with dangerous, affected and insanitary buildings will be applied with discretion. The situation regarding each building will be different and Council will weigh up all elements when deciding what approach should be taken to deal with the situation and remove or minimise the danger the building presents. The cost of any action taken will be borne by the building owner.

## 6 Application of Policy to Heritage Buildings

This policy applies to heritage buildings in the same way it applies to all other buildings.

Where Council receives information regarding buildings which have a heritage classification, either in the District Plan or under Heritage New Zealand, in addition to consulting with affected owners Council will consider seeking advice from Heritage New Zealand.