

Dangerous and Insanitary Building Policy 2006

Introduction and Background

Under Section 131 of the Building Act 2004 (the Act) all territorial authorities are required to adopt a policy on dangerous and insanitary buildings by 31 May 2006.

A building is defined as being dangerous in Section 121 of the 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 persons in the building or to persons on other property is likely because of fire hazard or the occupancy of the building."*

In making this determination Council may seek advice from notified members of the New Zealand Fire Service.

Section 123 of the Act defines a building as insanitary if it:

- "(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 so 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."*

This document sets out Otorohanga District Councils response to the policy requirements of the Act in relation to Dangerous and Insanitary buildings.

The policy includes:

- 1 The approach that Otorohanga District Council will take in performing its functions under the Building Act 2004;
- 2 Otorohanga District Councils priorities in performing those functions; and
- 3 How the policy will apply to heritage buildings.

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1.0 Otorohanga District Council's Policy Approach

1.1 Policy Principles

The provisions of the Building Act 2004 reflect the governments broad concern with the life safety of the public in buildings and in terms of dangerous and insanitary buildings, the need reduce the danger to the public posed by these buildings. The Act requires 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 Otorohanga District Council's response to the requirements of the Act.

1.2 Policy Approach

In the past Otorohanga District Council has adopted a reactive approach to the management of dangerous 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 Council has been reliant upon external sources such as building occupants, neighbors, police, fire service and other agencies to inform them of dangerous and insanitary buildings. Once a building has been brought to Councils attention, Council has then actively engaged in inspection and assessment of the buildings condition in terms of the Act. Following confirmation of a buildings status as being dangerous or insanitary Council has actively worked with building owners to find a mutually acceptable solution before exercising its powers under the Act.

Under the 2004 Building Act Council will continue to implement a similar approach to these types of buildings. 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 negotiated 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 and insanitary buildings.

2.0 Responding to Complaints about potentially Dangerous or Insanitary Buildings

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

- Check the details of the property against Council records;
- Have an authorized 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 Council; and
- Prepare an inspection record.

2.2 Assessment Criteria

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

2.3 Taking Action on Dangerous or Insanitary Buildings

Once Council is satisfied that a building is dangerous or insanitary it will:

- 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 Section 124, 126 or 129 of the Act.

2.4 Interacting with Building Owners & Complainants

Council will endeavor 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 or insanitary, unless the building is a household unit. In these circumstances Council must either; obtain consent of the occupier of the household unit or an order of a District Court.

Once Council has determined that a building is dangerous or insanitary it will, in the first instance, consult with the owners of the affected 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.

2.5 Recording Information about Dangerous and Insanitary Buildings

All information relating to dangerous 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.

3.0 Interaction with Related Sections of Building Act 2004

In exercising its powers under the Act in relation to dangerous and insanitary buildings 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;
- protecting 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 the requirements relating to dangerous and insanitary buildings.

4.0 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 these situations and empower people to raise concerns about buildings and have these concerns investigated.

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

5.0 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 the Historic Places Trust, in addition to consulting with affected owners Council will consider seeking advice from the Historic Places Trust.