



**MARLBOROUGH
DISTRICT COUNCIL**

Building Act 2004

INSANITARY OR DANGEROUS BUILDING POLICY 2015

Document Control

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Author	Neil Morris
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POLICY 2014 – Insanitary or Dangerous Buildings

Introduction

Sections 121 and 123 of the Building Act 2004 (hereafter the “Act”) required a territorial authority (TA) to have policies on Dangerous or Insanitary buildings by 31 May 2006. Council drafted, published and consulted with stakeholders, addressed submissions and then adopted the current policy in 10 August 2006.

The Act requires that the policy be reviewed after 5 years and that the consultative process is pursued. The South Island Earthquake sequence interrupted the review there being an expectation there might be ramifications for the proposed policies but this has not eventuated.

Policy Approach

This review continues Council’s recognition of the Act’s concern for life safety and the approach that was adopted in the 2006 policy. The incidence of Dangerous or Insanitary buildings is very low and based on experience the issue is considered best managed on a case basis.

Key Component of the Policy

Council will respond to complaints about a building to determine its condition and will seek specialist advice pertinent to the situation including advice of the New Zealand Fire Service.

Earthquake Damaged Buildings

In the event a building has been identified previously as earthquake-prone pursuant to Section 124 of the Act and is considered to pose a danger to human safety or endanger adjoining property then any consideration that may have relevant in terms of Section 124 are over-riden by this policy.

Heritage Buildings

The Policy sets no different requirement for dangerous or insanitary heritage buildings than for other potentially dangerous or insanitary buildings. What constitutes a heritage building for the purposes of this Policy and the fact that the Council has chosen to apply the same approach is explained further.

A heritage building includes all buildings listed as a heritage resource in Council’s resource management plans and/or those registered by the New Zealand Historic Places Trust.

Section 4(2) of the Building Act recognises the special traditional and cultural aspects of the intended use of a building (sub-clause (d)) and the need to facilitate the preservation of buildings of significant cultural, historical or heritage value (sub-clause (l)). The resource management plans also require resource consent to alter or demolish a heritage building.

The resource management plans also require resource consent to alter or demolish a heritage building. (Note that the resource management plans are currently being reviewed and the appropriateness of this requirement will be considered as part of the review process). The Building Act does not override the resource management plans on the need for a planning application to be made by a building owner, even if the building is to be demolished for public safety reasons.

It is possible that some heritage buildings will be classified dangerous or insanitary under the Act. The impact on heritage buildings could be significant if it is not financially viable to upgrade the building to a safe standard. A building owner will need to make a direct approach to the Council if financial support is required and that will be treated in terms of current heritage policies in the resource management plans, the Long Term Plan and the Council’s Heritage Strategy. If the building cannot be made safe then demolition is the most probable outcome.

Where a notice is served that a heritage building is dangerous or insanitary the New Zealand Historic Places trust will be notified.

Actions on Advice of a Potentially or actual Insanitary or Dangerous Building

The following sets out the procedure Council will use to establish the status of a building considered to be potentially dangerous or insanitary. Sections 124 to 128 of the Building Act give the Council recourse to a number of remedies if a building is classified as dangerous or insanitary. The process is as follows:

Step 1. Advice of potentially or actual Insanitary or Dangerous or Building

A desk top review of Council files will be undertaken by Council to assess what information is held that would be meaningful in the context.

Step 2. Initial Evaluation process for potentially or actual Insanitary or Dangerous or Building

Council Officers assisted, as considered appropriate, by technical specialists or the New Zealand Fire Service will carry out investigations to establish the nature of the danger or the insanitary state of the building.

Step 3. Advise of inspection and investigation outcome

Information or reports obtained as a result of inspections or investigations will be provided to the owner.

Step 4. Issue of Notice

Where, after consideration of any such information provided in Step 3 above, the Council is satisfied that a building is dangerous or insanitary and the owner has not taken steps to secure or make good then a Notice may issue pursuant to Section 129 of the Act.

Council will adopt an approach that encourages a building owner to pursue voluntary compliance with any notice that has been served. It will pursue legal outcomes if so required as it has statutory obligations to take all practical measures to ensure public safety and well being.

Step 5. Dispute by Owner of Classification

Council has decided not to establish an appeals process in the event of the classification of a building as dangerous or insanitary.

Should an owner dispute the classification, however, an application for a 'Determination' pursuant to Section 176 of the Act may be made to the Chief Executive of the Department of Building and Housing as set out in the Building Act 2004. The determination of the Chief Executive is binding on the Council.

Availability of Information

Any information acquired in the course of investigation or inspection will be publicly available upon request and will be provided in Land Information Memoranda or Project Information Memoranda.