



Dangerous, Affected and Insanitary Buildings Policy

Statement of Proposal

To make our communities safer, legislation requires councils across New Zealand to have a Dangerous, Affected and Insanitary Buildings Policy. This policy must include specific information outlined under the Building Act. Council last reviewed this policy in 2017 and it is now due for review. We've made a few changes and need your feedback so we can make a policy that reflects the views of the community.

Dangerous, Affected and Insanitary Buildings

The **Building Act (2004)** requires every Territorial Authority to have a **Dangerous, Affected and Insanitary Buildings policy**. This is to ensure that Council has a mechanism to identify dangerous and insanitary buildings and clearly states what action will be taken to ensure they do not pose a public safety or health risk.

Section 132 of the Buildings Act 2004 requires Councils to review their Dangerous, Affected and Insanitary Buildings Policy every 5 years. If changes to the policy are proposed, then Council is required to consult with the community using the Special Consultative Procedure.

1. Our proposal

The Dangerous, Affected and Insanitary Buildings policy remains largely unchanged however we have made a few updates to align with changes to the Building Act (2013 and 2016) and make sure the policy is easy to understand by the community and council staff.

2. Summary of key changes

- A purpose statement and policy principles have been added to increase the clarity of the policy.
- The separate requirements for earthquake-prone buildings have been included.
- 'Affected' buildings and priorities for dangerous, affected, or insanitary buildings have been added to the policy, as these are requirements under the Act.
- Minor editorial and formatting improvements have been done to make the policy easier to understand.

3. Proposed policy

A draft of the proposed policy is included in this statement of proposal.

4. How you can have your say

Tell us what you think before 10 July 2023 by:

- filling out the online feedback form on our website www.swdc.govt.nz
- emailing your feedback to submissions@swdc.govt.nz
- dropping your feedback form at the Council Office at 19 Kitchener Street Martinborough or any of the district libraries
- posting your submission to: Policy and Governance Team, South Wairarapa District Council, PO Box 6, Martinborough 5741

Please include your name and email address if you want to speak in support of your submission at a Hearings Committee meeting so we can contact you to arrange a time for you to present on 19 July 2023.

Privacy statement

Your name and feedback will be in public documents. All other personal details will remain private.

The Privacy Act 2020 applies when we collect personal details. Any details that are collected will only be used for the purposes stated. You have the right to access and correct any personal information we hold.



SOUTH WAIRARAPA
DISTRICT COUNCIL

Kia Reretahi Tātau

Dangerous and Insanitary Buildings Policy

Date of Last Approval	DD MMM 2023
Policy ID	PI-AMS-002
Next Review	DD MMM 2028 In accordance with section 132 of the Building Act 2004, this policy is required to be reviewed at intervals of not more than five years.
Version History	First adopted 24 May 2006 Reviewed August 2017 (H903)

Contents

Dangerous and Insanitary Buildings Policy	3
1. Relevant Legislation	3
2. Purpose	3
3. Scope	3
4. Principles	3
5. Approach to dangerous, affected and insanitary buildings	3
6. Priorities	5
7. Heritage buildings	5
8. Definitions	5

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Dangerous and Insanitary Buildings Policy

1. Relevant Legislation

- » [Building Act 2004](#)
- » [Health Act 1956](#)
- » [Heritage New Zealand Pouhere Taonga Act 2014](#)
- » [Local Government Act 2002](#)

2. Purpose

- 2.1 This policy has been prepared in accordance with sections 131 and 132 of the Building Act 2004 (the Act) which requires councils to adopt a policy on dangerous and insanitary buildings.
- 2.2 The purpose of this policy is to set out:
- » the approach that South Wairarapa District Council (SWDC) will take in performing its functions under Part 2 of the Act
 - » SWDC's priorities in performing those functions; and
 - » how the policy will apply to heritage buildings.

3. Scope

- 3.1 The policy applies to all buildings within the South Wairarapa district. Requirements for Earthquake-prone Buildings are covered separately by sections 133AG – 133AY of the Act.

4. Principles

- 4.1 The relevant principles of section 4 of the Act are taken into account in preparing and applying this policy.
- 4.2 In considering these principles SWDC seeks to ensure that:
- » people who use buildings can do so safely and without endangering their health.
 - » buildings have attributes that contribute appropriately to the health, physical independence, and well-being of the people who use them.
 - » people who use a building can escape from the building if it is on fire.

5. Approach to dangerous, affected and insanitary buildings

- 5.1 Whether a building is considered dangerous, affected or insanitary under the Act will depend on the individual circumstances of each case. SWDC will consider each case and determine the appropriate course of action based on the particular set of circumstances that exist.
- 5.2 SWDC must first be satisfied that the building in question is dangerous, affected or insanitary. To determine this SWDC will carry out the following steps.

- a) On receiving a complaint or information expressing concern that the building is dangerous, affected or insanitary, SWDC will consult the owner of the building, inspect the building and site and may also seek the advice of Fire and Emergency New Zealand (FENZ).
- b) Following the inspection and taking into account the advice or recommendations of FENZ, SWDC will determine whether the building is dangerous, affected or insanitary. In making this decision SWDC will take into account the provisions of sections 121, 121A and 123 of the Act.
- c) If SWDC is satisfied that the building in question is deemed to be dangerous, affected or insanitary SWDC will then determine the work or action that must be carried out to prevent it from being dangerous, affected or insanitary.
- d) In forming its view as to the work or action that is required to be carried out on the building to prevent it from remaining dangerous, affected or insanitary, SWDC will take the following matters into account:
 - i. The size of the building;
 - ii. The complexity of the building;
 - iii. The location of the building in relation to other buildings, public places, and natural hazards;
 - iv. The life of the building;
 - v. How often people visit the building;
 - vi. How many people spend time in or in the vicinity of the building;
 - vii. The current or likely future use of the building, including any special traditional and cultural aspects of the current or likely future use;
 - viii. The expected useful life of the building and any prolongation of that life;
 - ix. The reasonable practicality of any work concerned;
 - x. Any special historical or cultural value of the building; and
 - xi. Any other matters that SWDC considers may be relevant, taking into account the particular set of circumstances.
- e) Following the inspection of the building, after receiving advice from FENZ if applicable, and taking into account the matters listed above, SWDC will then decide whether immediate action should be taken to avoid the danger or to fix the insanitary conditions pursuant to the provisions of section 129 of the Act.
- f) If SWDC decide that immediate action under section 129 of the Act is not required, SWDC will issue a notice under section 124 of the Act requiring the owner to carry out the necessary work and to obtain a building consent before commencing work. The time required to obtain a building consent and commence work will depend on the particular set of circumstances, but shall not exceed six months from the time notice was served on the owner. Completion of the work for which a building consent has been issued shall depend on the particular set of circumstances of each case but shall not exceed any timeframes set out in the issued notice.

5.3 Where a property owner has failed to carry out the work within the time specified, SWDC may apply to the District Court for an order authorising it to carry out the work pursuant to section 130 of the Act. The full costs of carrying out such works will be recovered from the property owner.

6. Priorities

- 6.1 Priority will be given to buildings that have been determined to be immediately dangerous, affected or insanitary. Urgent action will be required, as outlined in 3.2(e) above.

7. Heritage buildings

- 7.1 With regard to heritage buildings that are determined to be dangerous, affected or insanitary, SWDC will seek to ensure, as far as reasonably practicable, that work carried out will not diminish the heritage values of the building. Property owners must take all reasonable steps to ensure that this objective is achieved.
- 7.2 If a notice is issued to the owner of a heritage building, under section 124 of the Act, a copy of the notice will also be sent to Heritage New Zealand Pouhere Taonga.

8. Definitions

Affected building has the meaning as defined in section 121A of the Act:

A building is an affected building for the purposes 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.

Dangerous building has the meaning as defined in section 121 of the Act:

- 1) 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 persons in the building or to persons on other property is likely because of fire hazard or the occupancy of the building.
- 2) For the purpose of determining whether a building is dangerous in terms of subsection (1)(b), a territorial authority -
 - (a) may seek advice from members of the Fire and Emergency New Zealand (FENZ) who have been notified to the territorial authority by the FENZ National Commander as being competent to give advice; and
 - (b) if the advice is sought, must have due regard to the advice.

Insanitary building has the meaning as defined in section 123 of the Act:

A building is **insanitary** for the purpose of this Act if the building -

- (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 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.

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