



# **Dangerous, Affected and Insanitary Buildings Policy 2024**

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# 1 Introduction

This policy has been prepared in accordance with section 131 of the Building Act 2004 (**Act**) and applies to all buildings within the Tararua District.

## 1.1 Purpose of the Policy

The purpose of the policy is to clearly outline:

- The approach that Tararua District Council (**Council**) will take in performing its functions under the Act.
- Council's priorities in performing those functions.
- How the policy will apply to heritage buildings.

## 1.2 Policy Principals

The provisions of the Act in respect to dangerous, affected and insanitary buildings reflect the government's broader concern with the safety of the public in buildings. The Council is committed to ensuring that the Tararua District is a safe place in which to live and work. This is one of the outcomes sought by the Tararua community.

## 1.3 Economic Impact

The intent of this policy is to protect the health and safety of people who use buildings. However, Council needs to be conscious of the costs of any work required to remove dangerous or insanitary conditions in the broader social and economic context of the community.

## 1.4 Review

This policy was first adopted in 2006. This version of the policy comes into force on \*\*\*\*\* . Council must complete a review of the policy within 5 years after it is adopted and then at intervals of not more than 5 years.

# 2 Definitions

All definitions have the same meaning as the Act, with some meanings set out here for ease of reference:

### **Dangerous building:**

*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.*

**Affected building:**

*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.*

**Insanitary building:**

*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 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.*

### **3 Identifying Dangerous, Affected or Insanitary Buildings**

From time-to-time Council becomes aware, through various sources, of buildings that under certain circumstances could pose a danger to occupants or members of the community. These buildings may have been damaged by fire, a natural disaster, not been maintained or may have been illegally converted for residential use.

It is impractical to inspect every building in the District on a regular basis. Instead Council will:

- 1) Respond to and investigate all building complaints received;
- 2) Respond to and investigate any notification from Horizons Regional Council of a dangerous dam located within the Tararua District that may trigger affected buildings under the Act;

- 3) Identify from these investigations any buildings that Council considers may be dangerous, affected or insanitary (which will include inspecting buildings which are adjoining, adjacent or nearby dangerous buildings).

In determining whether a building is dangerous, affected or insanitary, Council will assess the building in accordance with sections 121, 121A, 123 and/or 123A of the Act; and any other relevant provisions of the Act or the New Zealand Building Code. Council's assessment may also consider the following:

- 1) Advice from Fire and Emergency New Zealand in accordance with s121 (2) of the Act (for a dangerous building);
- 2) Any information available from the Medical Officer of Health within the local office of the National Public Health Service to assess whether the occupants may be neglected or infirm (for an insanitary building);
- 3) In terms of potential insanitary buildings, the use to which the building is put and whether the insanitary conditions are offensive or likely to be injurious to the health of any occupants.

## 4 Taking Action

If Council is satisfied that a building is either dangerous, affected or insanitary Council will endeavour to consult with the owners and occupiers of the building to determine the circumstances and decide the appropriate course of action. Such consultation may not always be possible, particularly in situations involving immediate danger.

The following matters will usually be taken into account when determining what remedial action is necessary:

- The size and complexity of the building;
- The location of the building in relation to other buildings and public places;
- The expected life of the building;
- The use of the building, including the number of people likely to be present at any one time;
- The reasonable practicality of any work concerned;
- Any special cultural or historic values associated with the building; and
- Any other matters considered relevant.

Following inspection of the building, after receiving advice from Fire and Emergency New Zealand if relevant and taking into account the matters listed above, Council will then decide whether immediate action should be taken to avoid the danger or fix the insanitary conditions pursuant to section 129 of the Act.

If Council decides that immediate action is not required, a notice will be issued under section 124 of the Act requiring the owner to carry out the necessary work within an appropriate timeframe, generally not exceeding six months.

If the work is not carried out within the stated time frame and after having given no less than 10 days' written notice to the owner, Council may apply to the District Court for an order authorising Council to carry out the work pursuant to section 126 of the Act. The property owner will be liable for the full cost of carrying out the work.

## 4.1 Priorities

Priority will be allocated to buildings that have been deemed to require immediate action to remediate immediate danger or insanitary conditions. Immediate action may include the erection of hoardings, demolition of all or part of a building, and prohibiting people from using the buildings.

## 5 Recording

Council will keep a record of all dangerous, affected and insanitary buildings on the property database, noting the repairs required or the results of work carried out, whichever is appropriate.

This information will be available for recording on land information memorandums.

## 6 Heritage Buildings

In cases where heritage buildings are dangerous, affected or insanitary, in addition to consulting with the building owner, Council will seek advice from Heritage New Zealand – Pouhere Taonga in developing an appropriate remedy. However, the fact that a building has heritage status does not mean that it can be left in a dangerous, affected or insanitary condition.

## 7 Related Legislation

In considering how to address non-compliance Council must be mindful of any matters that require consideration under other legislation or compliance mechanisms. In addition to the Act Council will consider the following legislation (and any amendments):

- Local Government Act 2002
- Resource Management Act 1991
- Civil Defence Emergency Management Act 2002
- Heritage New Zealand Pouhere Taonga Act 2014
- Protection of Personal and Property Rights Act 1988
- Health Act 1956
- Mental Health (Compulsory Assessment and Treatment) Act 1992

**Note:** Provisions also exist in the Health Act 1956 to deal with nuisance conditions related to certain matters associated with housing (under section 29(f), overcrowding likely to be injurious to health, and under section 42, insanitary conditions likely to cause injury to the health of persons, or a dwelling that is otherwise unfit for human habitation). Council may decide to use powers under the Health Act instead of, or in addition to, the Act.