

Draft Dangerous, Affected and Insanitary Buildings Policy

Meeting: Council Briefing
Date of meeting: 05 August 2020
Reporting officer: Virginia Smith, Policy Analyst

Purpose/Ngā whāinga

To update Council on amendments to the Building Act 2004, which has changed the statutory requirements for Council to have a policy on dangerous, earthquake-prone and insanitary buildings and to introduce the draft Dangerous, Insanitary and Affected Buildings Policy (The Policy) that gives effect to these changes.

Context/Horopaki

In 2006 Council adopted two policies to meet the statutory requirement under section 131 of the Building Act 2004 (the Act) to have a policy on dangerous, earthquake-prone and insanitary buildings. In accordance with legislative requirements, these policies were reviewed and amended in 2013. These Policies are the Dangerous and Insanitary Buildings Policy (Attachment A) and the Earthquake-Prone Buildings Policy (Attachment C). It is unclear why Council decided to split the single policy requirement into two separate policies. No further reviews have been completed since 2013.

Since these last reviews, the Act has been amended twice. In July 2013, a requirement was added to include 'affected buildings' in the Policy, as well as a directive to update the Policy to give effect to this within a 'reasonable period'.

In 2016, The Building (Earthquake-prone Buildings) Amendment Act 2016, provided further amendments to provide a nationally consistent framework for managing the risks posed by earthquake-prone buildings. These amendments removed the requirement for Council to include earthquake-prone building matters in the Policy, and instead included the regulations within the Act provisions itself. This amendment included a directive to amend the Policy within 18 months of its commencement date to give effect to these changes. This was due in December 2019 (noting the Act also requires a five-yearly review of the Policy under section 132).

While section 132(5) of the Act states 'a policy does not cease to have effect because it is due for review or being reviewed', it is appropriate to address the review and amendment requirements in a timely manner.

In undertaking the review, Council is also required to consult with the community in accordance with section 83 of the Local Government Act 2002, when making amendments to the Policy.

Discussion/Ngā kōrerorero

The Act is the primary legislation governing the building industry. It provides the accreditation and authority for Council to manage the safety of buildings within its District in alignment with the Act's purpose. These generally being that:

- people can use buildings safely and without endangering their health
- buildings have attributes that contribute appropriately to the health, physical independence and wellbeing of the people who use them
- people who use a building can escape from the building if it is on fire
- buildings are designed, constructed, and able to be used in ways that promote sustainable development.

This policy framework within the Act intends to enable Council the flexibility and discretion to work with building owners and /or occupants to ensure that the purpose of the Act is achieved in relation to dangerous, affected and insanitary buildings by directing policy made under section 131 outline:

- the approach that the territorial authority (Council) will take in performing its functions under the sections pertaining to dangerous, affected and insanitary buildings
- Council's priorities in performing those functions
- how the Policy will apply to heritage buildings.

Staff have developed a revised Policy (Attachment B) that meets the requirements of the Act. It is noted that this policy development process was undertaken in consultation and conjunction with staff from Far North and Whangarei District Councils to support alignment and co-ordination of approaches and implementation where appropriate.

The proposed policy and its additional information address the changes and directives of the Act and provides a consistent framework that will assist with monitoring, transparency of assessment, and accountability for all users.

While the amendments are primarily technical in nature to give effect to the changes in the Act, Council must still consult on these amendments in accordance to the special consultative process (section 83) of the LGA as stipulated by section 132(1) of the Act.

As indicated, most councils adopted a single policy to meet the statutory requirements of the Act. In amending their policies as a result of the legislative changes outlined, this will have included removing any references to earthquake-prone buildings and associated content, as the responsibilities of councils for this are now provided in detail in the Act itself.

Kaipara District Council however has a separate policy on this matter. The requirements of the Act now supersede the matters contained within that Policy, it does not inform Council's actions and responsibilities anymore. However, it is proposed that for completeness and as part of this process, Council formally revokes its Earthquake-prone Building Policy.

The Building Control Manager will be present at the meeting to outline the technical details and respond to any questions.

Next steps/E whaiake nei

Based on any feedback received at this briefing, staff will prepare a final draft Policy and a Statement of Proposal to present to Council's September meeting for adoption for consultation.

Attachments/Ngā tapiritanga

	Title
A	Current Dangerous and Insanitary Buildings Policy 2013
B	Draft Dangerous, Affected and Insanitary Buildings Policy
C	Current Earthquake-Prone Buildings Policy 2013