

 <small>Kaipara te Orangahui</small> KAIPARA DISTRICT <small>Two Oceans Two Harbours</small>	Title of Policy	Dangerous and Insanitary Buildings Policy		
	Sponsor	General Manager Operations		
	Written By	Policy and Planning Manager	Authorised/Adopted by	
	Type of Policy	Regulatory	Date Adopted	
	File Reference	3118.02	Review Date	

1 Background

Section 131 of the Building Act 2004 requires Councils to review its Policy on Dangerous and Insanitary Buildings.

The definitions of "dangerous" and "insanitary" buildings are set out in Sections 121 and 123 of the Act respectively (refer Appendix). In general terms, dangerous buildings are those which are liable to collapse or to be a fire hazard with the potential to cause loss of life, whereas insanitary buildings have problems with moisture, drinking water or human waste disposal.

2 Objective

This Policy endeavours to ensure that Council complies with the Building Act 2004 and is able to ensure that any remedial work required on identified buildings is carried out in a timely way, while taking into consideration any social or economic implications.

3 Definitions

The following are extracts from the Building Act 2004:

121 **Meaning of dangerous building-**

- (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 New Zealand Fire Service who have been notified to the territorial authority by the Fire Service National Commander as being competent to give advice; and*
 - (b) *if the advice is sought, must have due regard to the advice.*

123 **Meaning of 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.*

4 Policy Statement

4.1 Policy Principles

Kaipara District Council has noted that provisions of the Building Act 2004, in regard to dangerous and insanitary buildings, reflect the Government's broader concern with the safety of people in buildings. The purposes of the Building Act 2004 as set out in s3 include ensuring that:

- a) people who use buildings can do so safely and without endangering their health; and
- b) buildings have attributes that contribute to the health, physical independence and well-being of the people who use them; and
- c) people who use a building can escape from the building if it is on fire.

It is recognised that a balance must be struck between the need to address the risk posed by dangerous and insanitary buildings and other priorities, taking into account the social and economic implications of implementing any policy.

4.2 Overall Approach

It is recognised that the Act provides several statutory tools. These tools include issuing formal notices to carry out remedial work, the Council doing the remedial work itself or ordering demolition. Council will always in the first instance seek the co-operation of the landowner concerned to achieve compliance, without having to resort to the formal notice provisions of the Act.

A flexible approach must be taken to achieve the objective of this Policy because of the diversity of situations which result in buildings being dangerous or insanitary.

Factors to take into account when determining the approach to be taken include:

- an assessment of the scale and immediacy of risk to the public, and to the occupiers
- an assessment of the likelihood of harm to adjoining properties, including contamination of water bodies
- the availability and viability of alternative accommodation options.

Council recognises that it is not well-placed to offer alternative accommodation. Council is nevertheless committed to the "Whole of Government" approach contemplated in the Community Outcomes process and thus it has a close working relationship with Housing New Zealand and other social agencies.

4.3 Identifying Dangerous and Insanitary Buildings

This Council does not have the resources to carry out a systematic survey of the standard of buildings across the District. Council will rely on the observations of its Staff as well as information provided to Council by members of the public and other agencies.

4.4 Assessment

In assessing whether or not a building may be dangerous with respect to fire hazard, Council will seek the advice of the NZ Fire Service as provided for in s121(2) of the Act.

In assessing whether or not a building may be insanitary with respect to drinking water and waste disposal, Council will seek the advice of its Environmental Health service providers.

In all other cases, Council Staff will assess the extent to which buildings may be dangerous or insanitary. This will be undertaken with the assistance of a suitably qualified engineer if required.

4.5 Interaction Between Dangerous and Insanitary Buildings Policy and Related Sections of Building Act 2004

4.5.1 Section 112: Alterations to Existing Building

- (a) This section applies when a Building Consent application is received for any work on a building which is subject to a notice pursuant to s124(1)(c) of the Act. Irrespective of the general priorities set by Council for dealing with dangerous and insanitary buildings, Council will require the owner to then include in the application any work necessary to make the building safe and sanitary.
- (b) This section applies when a Building Consent application has been received for significant upgrading or alteration of a building which is not subject to a notice pursuant to s124(1)(c) of the Building Act 2004 and Council has grounds for believing that the building may be dangerous or insanitary. Then, irrespective of the general priorities set by Kaipara District Council for dealing with dangerous and insanitary buildings, the Council will require the owner to provide a detailed assessment of the dangerous and insanitary performance of the building in its existing condition. This is to be prepared by a suitably qualified and experienced person.

The Council will not issue a building consent unless it is satisfied that the building is not dangerous or insanitary and that the building work involved in the Building Consent application will comply with the Building Code in all aspects.

If the building is shown to be dangerous or insanitary, then the Council will require that remedial work be carried out to ensure that it will comply as near reasonably practicable with the provisions of the Building Code.

4.5.2 Section 115: Change of Use

- (a) This section applies when a Building Consent application is received for change of use of a building that is subject to a notice pursuant to s124(1)(c) of the Act. Then, irrespective of the general priorities set by Council for dealing with dangerous or insanitary buildings, Council will require the owner to include in the application any work necessary to make the building safe and sanitary.
- (b) This section applies when a Building Consent application has been received for change of use and the building is not subject to a notice pursuant to s124(1)(c) but Council has grounds for believing that a building may be dangerous or insanitary. Then, irrespective of the general priorities set by Kaipara District Council for dealing with dangerous or insanitary buildings, it will be a requirement of the building consent that the owner provide a detailed assessment of the safety or sanitation of the building in its existing condition. This is to be prepared by a suitably qualified and experienced person.

If the building is shown to be dangerous or insanitary then the Council will require that remedial work be carried out to ensure that it will comply as near reasonably practicable with every provision of the Building Code that relates to structural performance as required by s115(b)(i)(A) of the Building Code.

4.6 Recording a Building's Dangerous or Insanitary Status

Kaipara District Council will keep a register of all dangerous and insanitary buildings for which it has issued a notice pursuant to s124(1)(c) of the Building Act 2004 noting the status of requirements for improvement or the results of improvement as applicable.

In addition, the following information will be placed on the relevant property file for each dangerous and insanitary building:

- a description of the building, and if there is more than one on the property (so that the building is correctly identified) a statement that the building is on the Council's register of dangerous and insanitary buildings
- the date by which remedial work or demolition is required or was undertaken (if known).

4.7 Economic Impact of Policy

Council will take into account the cost of undertaking remedial work in assessing the various means of reducing the hazard to human life presented by a building which has been identified as dangerous or insanitary. Council will also take into account the availability of alternatives to continued use and occupation of the building, both in the short and long term. It is considered likely that Housing New Zealand and other social agencies will become involved in such an assessment.

4.8 Access to Dangerous and Insanitary Building Information

Information concerning the safety and sanitation status of a building will be contained on the relevant Land Information Memorandum (LIM) or Project Information Memorandum (PIM).

In granting access to information concerning dangerous and insanitary buildings, the Council will conform to the requirements of the relevant legislation.

5 Priorities

Recognising that a building will only be classified as dangerous if it is likely to cause injury or death, and insanitary if it is likely to be injurious to health, Council has prioritised the requirement to repair or demolish buildings as follows, in descending order of priority:

- 1 The building is likely to cause injury or death to the public using a public place or another building
- 2 The building, being a building to which the public has access, is likely to cause injury or death to people in it
- 3 The building, not being a public building, is likely to cause injury or death or be injurious to the health of its occupants
- 4 The building is likely to be injurious to the health of the public using adjacent land or waterways.

Despite the priorities listed each case will be considered on its own merits. It may be possible, therefore, that a Category Four building might require immediate response if the nature of the effect is believed significant enough.

6 Heritage Buildings

6.1 Special Considerations and Constraints

Kaipara District Council believes it is important that its heritage buildings continue to have the opportunity to contribute to the social and cultural fabric of the District.

However, Council does not wish to see the intrinsic heritage values of these buildings unnecessarily affected by structural improvement measures.

Heritage buildings will be assessed in the same way as other dangerous and insanitary buildings and discussion held with owners and the Historic Places Trust to identify a mutually acceptable way forward. Special efforts will be made to meet heritage objectives.