

# Attachment A

## Draft Dangerous, Affected and Insanitary Buildings Policy

### Legislative process, analysis and consultation requirements

This document summarises all relevant legislative requirements for the process of replacing Council's current Dangerous and Insanitary Buildings Policy 2013 with a new Policy. It provides an overview of the associated analysis undertaken during the review and includes the consultation activities proposed in accordance with legislative requirements.

Noting these steps are based on Council resolving to accept all recommendations in the main agenda report as tabled relating to the proposed process.

#### 1. Legislative Process

- 1.1. The Building Act 2004 (the Act), specifically ss131(1), requires every council to adopt a Dangerous, Affected, and Insanitary Buildings Policy (DIAB Policy).
- 1.2. Council's current DIAB Policy was last reviewed in 2013.
- 1.3. Section 132(4) states that policies made under s 131 of the Act must be reviewed at intervals of no more than 5 years.
- 1.4. Section 132 (5) provides that in the case where a section 131 policy made under the Act is due or being reviewed that the policy does not cease to have effect.
- 1.5. Section 132 (2) provides for Council to amend or replace a policy made under section 131(1) of the Act.
- 1.6. Section 132(1) stipulates that a policy made under section 131 of the Act must be adopted in accordance with section 83 of the Local Government Act 2002 (LGA).
- 1.7. Section 83 of the LGA requires Council to adopt a Statement of Proposal (SOP) for consultation purposes.
- 1.8. Section 87(1)(a) of the LGA outlines the content requirements for an SOP that is required to be used under the Act, and in the case of a proposed policy, the SOP need only contain a draft of the proposed policy.

#### 2. Application of the legislative process requirements

- 2.1. Staff completed a review of the current Policy as required by section 132(4) of the Act.
- 2.2. The review indicated that the Policy must be changed to accommodate legislative changes relating to the content of the Policy and is also appropriate to provide a more user friendly document.
- 2.3. Due to the broad range of the required and recommended changes, a new Policy to replace the existing Policy in accordance with S132(2) of the Act was drafted, instead of only proposing amendments to the current DIAB Policy.
- 2.4. The draft DIAB Policy was presented to Council at the August Council Briefing for consideration and feedback. The proposed DIAB Policy is designed to meet all current legislative requirements that have come into force since the Policy was last reviewed in 2013.

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- 2.5. As a result of the review process, Council has two reasonably practicable options to consider. Keeping the Policy in its current format is not an option as it does not meet legislative requirements.

Section 132(2) provides that Council may amend or replace a Policy. The option of amending the Policy is not considered a reasonably practicable option, the changes required to meet the legislation alone means substantial changes to the text of the existing Policy which would be difficult to consult on as an amendment through a track changes version. Further, there are no technical differences in the process or outcome when replacing the Policy as opposed to amending it, and as such there is no value in choosing this approach.

Option	Advantages	Disadvantages
<b>Option 1</b> Propose to replace the Policy by adopting the SOP in Attachment B to this report for consultation.	Policy meets legislative requirements and has been revised for readability and clarity.	Nil
<b>Option 2</b> Request further changes to the proposed Policy prior to consultation	Unknown	Delays the finalisation of the Policy to meet statutory requirements.

Staff recommend Option 1. The cost of consultation will be covered through existing operational costs and staff resources.

- 2.6. Due to the nature, scope and relative short length of the proposed DIAB Policy, it is not considered necessary to develop a Summary of the SOP to enable public understanding of the proposal in accordance with section 83(1)(a)(ii) of the LGA.

## 3. Summary of consultation activities

This section details the proposed process and activities designed to meet the consultation requirements of section 83 of the LGA for the proposed replacement Policy.

- 3.1. Council resolves to adopt the SOP as provided in **Attachment B** to this report to meet the requirements of sections 83 and 87 of the LGA. The SOP contains the proposed replacement Policy to meet these requirements, as well as additional supporting information.
- 3.2. Council establishes a Dangerous, Affected, and Insanitary Buildings Panel of three elected members with the delegated authority to undertake the necessary engagement activities and report back to Council with a final recommendation.
- 3.3. Public notices of the proposal are published in the Kaipara Lifestyler and the Mangawhai Focus.
- 3.4. Council further advises of the proposal on Council's website and through the various social media channels available to Council.

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- 3.5. The SOP is made available for public inspection on Council's website, at the Council offices in Dargaville and Mangawhai and at Council's public libraries.
- 3.6. Feedback will be invited through written submissions, attendance at a hearing, or both.
- 3.7. The submission period for the proposal is scheduled to start at 9:00am 2 November 2020 and close at 5:00pm on 2 December 2020.
- 3.8. Email notifications will be sent to People's Panel members as well as Council's database of contacts who have asked to be advised of Council consultations.
- 3.9. A hearing is scheduled for 15 February 2021 to provide an opportunity for persons to present their views in person to the Panel.
- 3.10. The Panel will consider all feedback received and any other comment or advice sought from staff or other persons and deliberate on these matters at a public meeting. This meeting is yet to be scheduled.
- 3.11. Based on the decisions made at the deliberations meeting, staff will make any necessary further amendments to the proposed draft DIAB Policy and will prepare a final report on behalf of the Panel to present to Council.
- 3.12. Subject to the above process and all associated decisions of Council, the final Policy is scheduled to be adopted at the March 2021 Council meeting.