



# Dangerous and Insanitary Building Policy

<b>Department:</b>	Regulatory
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<b>Approved by:</b>	<Council resolution/CEO/ET and date>
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## Purpose:

This policy has been prepared in accordance with section 131 of the Building Act 2004.

It is important that Council protects public health through a balanced risk-based approach to ensuring buildings are structurally sound, do not pose health risks and perform their function without putting the health of building users, residents or visitors at risk.

## Principles and objectives:

To meet the Council's responsibilities under the Act that relate to dangerous, affected and insanitary buildings.

To clearly outline:

- Council's approach to identifying dangerous, affected or insanitary buildings.
- what authority Council can exercise when such buildings are found; and
- how Council will work with building owners to prevent buildings from remaining dangerous or insanitary, particularly where a dangerous building is affecting or potentially affecting another building.

To explain Council's approach where the building concerned is a District Plan scheduled, or Heritage New Zealand listed heritage building or landmark.

To ensure building owners understand that the Council may exercise its authority to take remedial action on the owner's behalf and may recover any resulting costs from the owner.

## Scope:

The Policy applies to all buildings within the Central Otago District. The Policy sets out:

- the approach that Council will take in performing its functions under the Building Act 2004;
- Council's priorities in performing those functions;
- Council's approach to dangerous, affected and insanitary heritage buildings.

## Definitions:

The Act	Dangerous Building	The Building Act 2004
		<ol style="list-style-type: none"> <li>1. A building is dangerous for the purposes of the Act if—               <ol style="list-style-type: none"> <li>a. in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause—</li> <li>b. injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or damage to other property; or</li> <li>c. in the event of fire, injury or death to any persons in the building or to persons on other property is likely.</li> </ol> </li>   <li>2. For the purpose of determining whether a building is dangerous in terms of subsection 1 (b) above               <ol style="list-style-type: none"> <li>a. a territorial authority—                   <ol style="list-style-type: none"> <li>i. may seek advice from employees, volunteers, and contractors of Fire and Emergency New Zealand who have been notified to the territorial authority by the board of Fire and Emergency New Zealand as being competent to give advice; and</li> <li>ii. if the advice is sought, must have due regard to the advice.</li> </ol> </li> </ol> </li> </ol>
Insanitary Building		<ol style="list-style-type: none"> <li>1. A building is insanitary for the purposes of the Act if the building—               <ol style="list-style-type: none"> <li>a. is offensive or likely to be injurious to health because—                   <ol style="list-style-type: none"> <li>i. of how it is situated or constructed; or</li> <li>ii. it is in a state of disrepair; or</li> <li>iii. does not have a supply of potable water that is adequate for its intended use; or</li> <li>iv. does not have sanitary facilities that are adequate for its intended use.</li> </ol> </li> </ol> </li> </ol>

Affected building	1.	<p>A building is an affected building for the purposes of the Act if it is adjacent to, adjoining, or nearby—</p> <ul style="list-style-type: none"> <li>a. a dangerous building as defined in section 121; or</li> <li>b. a dangerous dam within the meaning of section 153.</li> </ul>
Household Unit	1.	<p>A household unit—</p> <ul style="list-style-type: none"> <li>a. means a building or group of buildings, or part of a building or group of buildings, that is— <ul style="list-style-type: none"> <li>i. used, or intended to be used, only or mainly for residential purposes; and</li> <li>ii. occupied, or intended to be occupied, exclusively as the home or residence of not more than 1 household; but</li> <li>iii. does not include a hostel, boarding house, or other specialised accommodation</li> </ul> </li> </ul>

## Policy:

1. Council acknowledges there are situations that arise from time to time across the district where buildings have become dangerous and/or insanitary for various reasons including neglect, inadequate maintenance, earthquake / fire damage or through non-compliance with the building code.
2. In such situations, Council's first approach will be to endeavour to achieve a resolution with the building owner. However, where this fails or an immediate hazard exists Council may, at its discretion, take appropriate action to mitigate the dangerous and/or insanitary conditions to protect public safety.
3. Council has endeavoured to balance the risks posed by dangerous, affected and insanitary buildings and the broader social and economic issues involved.
4. Council will take a pragmatic approach to administering the building act and this Policy in a fair and consistent manner.
5. Council will act in accordance with the attached procedures.
6. The policy and procedures will be reviewed at least every five years.
7. Council may decide to review the policy at any time within the five-year review requirement.

8. If, following the review, or at any other time, Council decides to amend or replace the policy it must do so by using the special consultative procedure in section 83 of the Local Government Act 2002.
9. The policy does not cease to have effect because it is due for review or is being reviewed.

## Relevant legislation:

- 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 Act 1992

## Related documents:

The Policy supports the following Community Outcomes from the [Long-term Plan](#):



The Policy supports the following:

- Strategic Priorities
  - Maximising opportunities to develop a vibrant, prosperous and sustainable 21st century region.
  - Informed and proactive approaches to natural hazard risks.
- Central Otago District Plan
  - Heritage objectives, policies and rules.

## Appendix One: Dangerous and Insanitary Building Procedure

### Council's role

- 1.1. A building may become dangerous, affected or insanitary due to a number of reasons, such as unauthorised alterations being made, fire, natural disaster or other external factors, or as a result of its use by an occupant.
- 1.2. When Council becomes aware that a building may be dangerous, affected or insanitary, it will investigate and determine whether the building is dangerous, affected or insanitary.
- 1.3. If a building is found to be dangerous, affected or insanitary, Council will work with the building owner(s) to remedy the building, and if necessary, use powers it has available, to ensure appropriate action is taken to make the building, its occupants and the public safe.

### Working with other agencies

- 2.1 Council will work with Heritage New Zealand Pouhere Taonga, Fire and Emergency New Zealand, the New Zealand Police and other relevant agencies to achieve the purpose of the Building Act as outlined in section 9.2.

### Approach to identifying dangerous, affected or insanitary buildings

- 3.1 Council will not actively inspect all buildings within the district but may from time to time undertake proactive inspections on possible dangerous, affected or insanitary buildings.
- 3.2 On receiving information or a complaint regarding a possible dangerous, affected or insanitary building, Council will investigate to determine the extent of any potential issues.

### Heritage buildings

- 4.1 The Policy applies to heritage buildings in the same way it applies to all other buildings. Where Council is assessing a building that is listed on the New Zealand Heritage List/Rārangi Kōrero Council will seek advice from Heritage New Zealand Pouhere Taonga where practicable.
- 4.2 When considering heritage buildings under the Policy, account will be taken of:
  - 4.2.1 the importance of recognising any special traditional or cultural aspects of the intended use of the building;

- 4.2.2 the need to facilitate the preservation and ongoing use of buildings and areas of significant cultural, historical, or heritage value;
- 4.2.3 the circumstances of each owner and each building, including whether the building has undergone any recent building work.
- 4.3 When considering what action to take with a listed or scheduled heritage building that is deemed dangerous or insanitary, Council will take into account the heritage values of the building in determining possible courses of action and seek to avoid demolition wherever possible. Suitably qualified professionals with heritage expertise will be engaged where necessary to advise and recommend on possible actions.

## Costs

- 5.1 Council may issue a notice under Section 124(2)(c) of the Building Act requiring work to be carried out on a dangerous or insanitary building to reduce or remove the danger, or to prevent the building from remaining insanitary.
- 5.1 If work required under such a notice issued is not completed or proceeding with reasonable speed, Council may use its powers under Section 126 of the Building Act and apply to the District Court to gain authorisation to carry out the building work required in the notice.
- 5.2 Where Council carries out building work, under Section 126 of the Act or under a warrant issued under Section 129, it is entitled to recover costs associated with that work from the building owner.

## 6 Disputes

- 6.1 If a building owner disputes a Council decision, or proposed action, relating to the exercise of Council's powers under sections 124 or 129 of the Building Act, the owner may apply for a determination from the Chief Executive of the Ministry of Building, Innovation and Employment, as set out in the Building Act.
- 6.2 Such a determination is binding on all parties.

## 7 Information disclosure

- 7.1 The Local Government Official Information and Meetings Act 1987 (section 44A) requires Council to include information concerning any consent, certificate, notice, order, or requisition affecting the land or any building on the land previously issued by the territorial authority on the Land Information Memorandum (LIM) for a property.
- 7.2 Council will include information relating to notices that have been issued by Council regarding dangerous and insanitary conditions or affected building status that are not resolved.

7.3 Council is required (under section 216 of the Local Government Official Information and Meetings Act) to hold a summary of any written complaint concerning alleged breaches of the Local Government Official Information and Meetings Act, and Council's response. This information will be provided upon request, subject to the requirements of section 217.