

DRAFT Dangerous, Affected, and Insanitary Buildings Policy 2023

Group Responsible: Building Solutions

Date Approved:

Effective from:

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Purpose

The purpose of this policy is to identify and manage dangerous and affected, and insanitary buildings in the Southland District.

This policy meets the requirements of sections 131, 132 and 132A of the Building Act 2004 (the Act). This is a review of existing policy under Section 132 of the Act.

The policy sets out:

- the approach that Council will take in performing its functions under the Act in relation to dangerous, affected and insanitary buildings;
- Council's priorities in performing these functions; and
- how the policy will apply to heritage buildings.

Objective

The overall objective of this policy to ensure that people who use buildings can do so safely and without endangering their health.

This policy fulfils Council's responsibilities under the Act, with respect to dangerous, affected, and insanitary buildings. Council's responsibility is to ensure that when:

- dangerous and affected buildings are found, that the danger is appropriately reduced or removed in an acceptable timeframe.
- insanitary conditions are found, that appropriate measures are undertaken to remedy the conditions within an acceptable timeframe.

Scope

This policy applies to all buildings in the Southland District, even though a code compliance certificate may have been issued previously, as the current use and/or maintenance of the building can impact on the safety of occupants.

Earthquake-prone buildings are addressed under the Act, and are therefore excluded from this policy.

Definitions

The following definitions are used in this policy.

- affected building - has the meaning outlined in section 121A of the Act
- Council – means Southland District Council
- dangerous building - has the meaning outlined in section 121 of the Act
- heritage building – has the meaning outlined in section 7 of the Act and means a building which is on the New Zealand Heritage List/Rārangi Kōrero in accordance with the Heritage New Zealand Pouhere Taonga Act 2014 and identified in Schedule 5.2 of the Southland District Plan 2018
- insanitary building - has the meaning outlined in section 123 of the Act
- owner – has the meaning outlined in section 7 of the Act.

Part 1- Dangerous and Affected Buildings

Identifying and assessing Dangerous and Affected Buildings

On receiving information or a complaint regarding a possible dangerous or affected building, Council will quickly and efficiently respond to information received to ascertain the extent of any issues.

Council will:

- investigate all information received about dangerous and affected buildings (this includes when Council receives reports from members of the public or building occupants, or if a Council officer observes a potentially dangerous or affected building through their usual duties);
- assess and identify any dangerous or affected buildings in accordance with sections 121 and 121A of the Act;
- liaise with Fire and Emergency New Zealand when Council deems it is appropriate, in accordance with section 121(2) of the Act.

When an assessment is undertaken and a building is not deemed to be a dangerous or affected building, Council may not take action under this policy or the Act.

Taking action on Dangerous and Affected Buildings

When a building is deemed to be a dangerous building, but it is not immediately dangerous, Council will, before taking action under the Act, liaise and consult with the relevant owners and encourage the owners to produce a mutually acceptable formal proposal on how the problem will be rectified.

If, after a reasonable time-period, a mutually acceptable formal proposal has not been achieved, Council will take further steps to address the problem by following the procedures set out in the Act.

When a dangerous or affected building is deemed to be immediately dangerous, Council will act immediately, by following the procedures set out in the Act.

When Council undertakes work to address problems relating to a dangerous building, pursuant to either a Court Order or Chief Executive Warrant, the Council reserves the right to appoint an independent contractor to carry out the required work.

Priorities

Council will act on buildings deemed to be immediately dangerous, as a matter of urgency. In these circumstances immediate action may be required to remove the danger and could include prohibiting any person occupying or using the building and, where needed, boarding the building up to prevent entry, or erecting a suitable barrier.

Buildings that are determined to be dangerous, but not immediately dangerous, will be subject to the minimum timeframes for reduction or removal of the danger (i.e. not less than 10 days) as set out in the Act.

Part 1 of this Policy and the Act

Under section 41 of the Act, building consents are not required in certain cases. Where a building is assessed as being immediately dangerous the Council may not require that a building consent be obtained for any of the immediately necessary building work. However, prior to any action being taken, Council will require a discussion with owners, and a written scope of the work.

Part 2 - Insanitary Buildings

Identifying and assessing Insanitary Buildings

On receiving information or a complaint regarding a possible insanitary building, Council will quickly and efficiently respond to information received to ascertain the extent of any issues.

Council will:

- investigate all information received about insanitary buildings (this includes when Council receives reports from members of the public or building occupants, or if a Council officer observes an insanitary building through their usual duties); and
- assess and identify insanitary buildings in accordance with the Act or the Health Act 1956 (the Health Act). As part of this process, Council will investigate:
 - if the building is occupied; and
 - what the building is currently being used for, and its legally established use; and
 - whether the insanitary conditions pose a risk to the health of any occupants, or other people.

In determining what an insanitary building is, Council may consult with other agencies and Council staff.

When an assessment is undertaken and a building is not deemed to be an insanitary building, Council may take no further action under this policy, the Act or the Health Act.

Taking action on Insanitary Buildings

When a building is deemed to be an insanitary building, Council will, before taking action under the Act or Health Act, liaise and consult with the relevant owners and encourage the owners to produce a mutually acceptable formal proposal on how the problem will be rectified. If, after a reasonable time-period, a mutually acceptable formal proposal has not been achieved, Council will take further steps to address the problem by following the procedures set out in the Act or the Health Act.

Where, pursuant to the Act, Council undertakes work to address problems relating to an insanitary building, pursuant to either a Court Order or Chief Executive Warrant, Council reserves the right to appoint an independent contractor to carry out the work required.

Part 2 of this Policy and the Act

Under section 41 of the Act, building consents are not required in certain cases. Where a building is assessed as being insanitary, the Council may not require that a building consent be obtained for any of the immediately necessary building work. However, prior to any action being taken, Council will require a discussion with owners, and a written scope of the work.

Part 3 - Heritage Buildings

Part 1 and Part 2 of this policy will apply regardless of whether or not the dangerous, affected or insanitary building is a heritage building.

However, in assessing a heritage building, Council will consult Heritage New Zealand provided that the time required for consultation will not materially increase the risk to occupants or the public.

When considering heritage buildings under this policy, account will be taken of:

- the importance of recognising any special traditional and cultural aspects of the intended use of the building.
- the need to facilitate the preservation of buildings of significant cultural, historical or heritage value.
- the circumstances of each building.

When considering what action to take on heritage buildings that have become dangerous, affected or insanitary, Council will take into account the heritage values of the building in determining possible courses of action. The skills of suitably qualified professionals with heritage expertise will be engaged where possible to advise and offer recommendations for action.

Recording of information

Where a building is identified as dangerous, affected or insanitary, there will be a notice placed on the building file for the property where the building is situated. This notice will remain on the file, along with

any further information showing the dangerous or insanitary conditions have been remedied. In addition, this same information will be placed on any LIM produced for the property.

Information disclosure

Information concerning dangerous or insanitary buildings will be contained on the relevant building property file held by Council, and will be provided on any LIM produced for that land.

In granting access to information concerning dangerous or insanitary buildings, Council will conform to the requirements of the Local Government Official Information and Meeting Act 1987 and the Local Government Act 2002.

Economic impact of policy

The volume of buildings defined as being dangerous, affected or insanitary in any one year, (with the exception of a significant event such as flooding or an earthquake) is likely to be relatively minor. It is therefore expected that the economic impact of this policy is negligible. There is effectively very little change to the manner in which dangerous, affected or insanitary buildings have been treated in the past, and this process is primarily a documentation of the policy.

Costs

Council will hold the owner of any dangerous building liable for the cost of any work required to reduce or eliminate the danger posed by that building to its occupants or to the public. The work may include the demolition of the building and clearance of the site at the owner's cost.

Council will hold the owner of any insanitary building liable for the cost of any work required to eliminate the risk posed by the building to its occupants or to the public because it is insanitary.

Disputes

If a building owner disputes a Council decision, or proposed action, relating to the exercise of Council's power under sections 124 or 129 of the 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 Act. Such a determination is binding on Council.

Policy review

This policy must be reviewed at least every five years.

Council may decide to review the policy at any time within the five year review requirement.

The policy does not cease to have effect because it is due for review or is being reviewed.