

Mayor and Councillors
COUNCIL

14 JUNE 2018

Meeting Status: **Public**

Purpose of Report: For Decision

DANGEROUS AND INSANITARY BUILDINGS POLICY

PURPOSE OF REPORT

- 1 This report seeks approval of the Dangerous and Insanitary Buildings Policy 2018 following review.

DELEGATION

- 2 Council has the authority to consider this matter.

BACKGROUND

- 3 The Building Act 2004 required that Territorial Authorities adopt a policy on Earthquake-prone, Dangerous and Insanitary Buildings (the Policy). The Council adopted the Policy following public consultation in May 2006.
- 4 The need for policy with respect to Earthquake-prone buildings was removed by the Building (Earthquake-prone Buildings) Amendment Act 2016.
- 5 The Building Act 2004 required periodic review of policies. Review of this Policy is overdue.

ISSUES AND OPTIONS

Issues

- 6 Since the adoption of the Earthquake-prone, Dangerous and Insanitary Buildings Policy, May 2006, there have been legislative amendments which this proposed revision incorporates:
 - 6.1 Removal of earthquake-prone building scope from the Policy following the Building (Earthquake-prone Buildings) Amendment Act 2016;
 - 6.2 Updated cited legislation to reflect legislative changes to the Building Act 2004 (Building Act); and
 - 6.3 Updated references to external agencies referenced in the Building Act (New Zealand Fire Service becomes Fire and Emergency New Zealand, and Historic Places Trust becomes Heritage New Zealand Pouhere Taonga).
- 7 A further change is proposed to reference the Quality Assurance System now used, rather than specific operational documents and systems directly. The proposed change will future-proof the Policy.

Option

- 8 The Policy was originally adopted following public consultation as required by the Building Act.
- 9 The Building Act also requires special consultative procedures to be adopted when the Policy is amended or replaced.
- 10 A review of the Policy is required by the Building Act at intervals of not more than five years. The Policy has not been reviewed since adoption.
- 11 A review was undertaken by Council officers who were of the opinion that the substance of the Policy was sound and that amendment or replacement was not required.

CONSIDERATIONS

Policy considerations

- 12 The need to review the Policy is required by the Building Act. There is no:
 - significant change to existing Council policies; or
 - impact on future Council policies.

Legal considerations

- 13 The review has been undertaken as required by the Building Act 2004 section 132.
- 14 Legal advice was sought about the need or otherwise to undertake a special consultative process. It was confirmed that no consultation was required as there was no substantial change proposed.

Financial considerations

- 15 There are no financial considerations.

Tāngata whenua considerations

- 16 The Policy provides, if time permits, for consultation with the owner. For marae and other iwi owned buildings owners include trustees or the marae committee.

SIGNIFICANCE AND ENGAGEMENT

Significance policy

- 17 This matter has a low level of significance under the Council Policy.

Publicity

- 18 There are no publicity considerations. The Policy will be available on the Council website.

RECOMMENDATIONS

19 That the Council adopts the revised Dangerous and Insanitary Buildings Policy 2018 as attached.

Report prepared by **Approved for submission** **Approved for submission**

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ATTACHMENT

Appendix 1: The Revised Dangerous and Insanitary Buildings Policy 2018

APPENDIX 1



KĀPITI COAST DISTRICT COUNCIL
DANGEROUS AND INSANITARY
BUILDINGS POLICY 2018

May 2018

INTRODUCTION AND BACKGROUND

1. The Building Act 2004 required that Territorial Authorities (Local Authorities) adopt a policy on Earthquake-prone, Dangerous, and Insanitary Buildings by 31 May 2006.
2. The Building (Earthquake-prone Buildings) Amendment Act 2016 removed the need for Council Policies with respect to Earthquake-prone buildings.

2.1 Section 131 now states that:

- (1) *“A territorial authority must, within 18 months after the commencement of this section, adopt a policy on dangerous, and insanitary buildings within its district.”*
- (2) *“The policy must state:*
 - (a) *the approach that the territorial authority will take in performing its functions under this Part; and*
 - (b) *the territorial authority’s priorities in performing those functions; and*
 - (c) *how the policy will apply to heritage buildings.”*

2.2 Section 121 of the Act defines a building to be dangerous as follows:

- (3) *“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.”*
- (4) *“For the purpose of determining whether a building is dangerous in terms of subsection (1)(b), a territorial authority -*
 - (a) *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*
 - (b) *if the advice is sought, must have due regard to the advice.”*

3. Section 123 of the Building Act 2004 defines an insanitary building as:

*“A building is **insanitary** for the purpose 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.”*

This document sets out the policy adopted by Kāpiti Coast District Council in accordance with the requirements of the Building Act 2004.

DANGEROUS AND INSANITARY BUILDINGS POLICY

1 Policy Approach

Kāpiti Coast District Council has noted that provisions of the Building Act in regard to dangerous and insanitary buildings reflect the Government’s broader concern with the life safety of the public in buildings.

Kāpiti Coast District Council has also noted that the development of dangerous and insanitary buildings policies is up to each Local Authority and has responded accordingly.

The current policy was developed after due consultation with Kāpiti Coast District Council ratepayers and stake- holders in accordance with section 83 of the Local Government Act 2002.

This policy has been reviewed in 2018

2 Determining if a Building is Dangerous or Insanitary

Whether a building is considered ‘dangerous’ or ‘insanitary’ under the Act will depend on the individual circumstances of each case. Council will consider each case and determine the appropriate course of action based on the particular set of circumstances that exist.

Council must first be satisfied that the building in question is dangerous or insanitary. To determine this Council will carry out the following steps:

- (a) On receiving a complaint or information expressing concern that the building is dangerous or insanitary, the Council will consult the owner of the building where time permits, inspect the building and site (following the procedure documented in Council’s Quality Assurance System) and may also obtain advice from Fire and Emergency New Zealand.

- (b) Following the inspection and taking into account the advice or recommendations of Fire and Emergency New Zealand, Council will determine whether the building is dangerous or insanitary. In making this decision Council will take into account the provisions of sections 121 and 123 of the Building Act 2004.
- (c) If Council is satisfied that the building in question is deemed to be dangerous or insanitary Council will then determine the work or action that must be carried out to prevent it from being dangerous or insanitary.
- (d) In forming its view as to the work or action that is required to be carried out on the building to prevent it from remaining insanitary or dangerous, Council will take the following matters into account:
 - (i) The size of the building;
 - (ii) The complexity of the building;
 - (iii) The location of the building in relation to other buildings, public places, and natural hazards;
 - (iv) The life of the building;
 - (v) How often people visit the building;
 - (vi) How many people spend time in or in the vicinity of the building;
 - (vii) The current or likely future use of the building, including any special traditional and cultural aspects of the current or likely future use;
 - (viii) The expected useful life of the building and any prolongation of that life;
 - (ix) The reasonable practicality of any work concerned;
 - (x) Any special historical or cultural value of the building; and
 - (xi) Any other matters that Council considers may be relevant, taking into account the particular set of circumstances.
- (e) Following the inspection of the building, after receiving advice from Fire and Emergency New Zealand and taking into account the matters listed above, Council will then decide whether immediate action should be taken to avoid the danger or to fix the insanitary conditions pursuant to the provisions of section 129 of the Building Act 2004.
- (f) If Council decides that immediate action under section 129 of the Building Act 2004 is not required, Council will issue a notice under section 124 of the Building Act 2004 requiring the owner to carry out the necessary work and to obtain a building consent and to commence work. The time required to obtain a building consent and commence work will depend on the particular set of circumstances, but shall not exceed 6 months from the time notice was served on the owner. Completion of the work for which a building consent has been issued shall depend on the particular set of circumstances of each case but shall not exceed a period of six months from the time the building consent was issued.

3 Council may take Action

Where a property owner has failed to carry out the work within the time specified, Council may apply to the District Court for an order authorising it to carry out the work pursuant to section 130 of the Building Act 2004. The full costs of carrying out such works will be recovered from the property owner.

4 Heritage Buildings

With regard to heritage buildings that are determined to be dangerous or insanitary, Council will seek (in consultation with Heritage new Zealand Pouhere Taonga) to ensure, as far as reasonably practicable, that work carried out will not diminish the heritage values of the building. Property owners must take all reasonable steps to ensure that this objective is achieved.