

# **Dangerous, Affected and Insanitary Buildings Policy Review**

This document summarises key changes we're proposing to our Dangerous, Affected and Insanitary Buildings Policy.

**We want to know what you think.**

**Feedback is open until 5pm,  
Monday 18 December, 2023**

0800 WAIPADC (924 723)  
[waipadc.govt.nz](https://waipadc.govt.nz)

**This document summarises the key changes we're proposing to our Dangerous, Affected and Insanitary Buildings Policy.**

**You can view this:**

 **Online** at [waipadc.govt.nz/dangerousbuildings](https://waipadc.govt.nz/dangerousbuildings)

 **Hardcopies** from Council offices and libraries

This Statement of Proposal has been prepared in accordance with Section 83 of the Local Government Act 2002 and Sections 131 and 132A of the Building Act 2004.

# Introduction

**The Building Act 2004 (Act) requires every council to have a Dangerous, Affected and Insanitary Buildings Policy. Every five years we are required to review our Policy. This review will ensure our Policy is fit-for-purpose and will better reflect the requirements set out in the Building Act.**

This draft Policy sets out rules to make sure people can live and work in buildings without compromising their health or safety. The draft Policy outlines the steps Council will take when one of these buildings is identified or reported. It also covers how heritage buildings will be managed if they are dangerous, insanitary or affected.

## What do we consider as dangerous, affected and insanitary?

### A building is dangerous if:

- the building is likely to cause injury or death to someone or could cause damage to other property, excluding in the event of an earthquake. Earthquake-prone buildings are addressed by the Ministry of Business Innovation and Employment's national earthquake-prone building system.
- in the event of a fire, the injury or death to any persons in the building or on another property, is likely.

### A building is affected if:

- the building is next to or near a building that is dangerous. One example is a poorly built farm shed that is in a dangerous state so could fail and damage a house, meaning the house would be the affected building.

### A building is insanitary if:

- it's offensive or likely to cause damage or harm to health because of its state of disrepair or poor construction. One example of an offensive building could be a failed septic tank where untreated wastewater is on the ground, impacting human health.
- it doesn't have a supply of drinking water.
- it has high levels of dampness due to poor construction, such as no ventilation, including when that dampness affects other buildings.
- it doesn't have sanitary facilities such as toilets, washing and bathing facilities.

These definitions would be applied on a case-by-case basis and the situations included above are just some examples. The definitions are set out in full in the Building Act 2004.

Council must strike a balance between the threats posed by these types of buildings and the broader social and economic issues affecting our communities.

We have a responsibility to reduce the risks these types of buildings can have on our communities.

You can take a look at the full draft Policy at [waipadc.govt.nz/dangerousbuildings](https://waipadc.govt.nz/dangerousbuildings)

Now's the time to have your say on what we're proposing to change to our current policy, we would appreciate your input before final decisions are made.

# What we're proposing

**We're proposing to make a number of changes to the current policy. The changes help define Council's procedures and criteria for classifying these types of buildings. As well as these changes, we're adding key points from the Building Act and have rewritten the policy to make it easier to read and understand.**

## Council's role

The draft Policy explains Council's role in managing dangerous, affected or insanitary buildings in Waipā and outlines how it will act.

We're proposing to add in the following:

If a building is found to be dangerous, affected or insanitary, Council will work with the building owner(s), and if necessary, take appropriate action to make the building, its occupants and our community safe.

This is because we have a statutory responsibility to act promptly to ensure the safety of people or property when such a building is brought to our attention.

## Related Legislation

Council will maintain the right to use legislation other than the Building Act as a set of tools to address non-compliance.

## Council policies

The draft Policy provides detail of **how and when** Council will respond when we're made aware of a building that's in bad shape. Some of this detail isn't included in the current policy.

We're proposing that when Council receives information regarding a possible dangerous, affected or insanitary building, we'll respond quickly and efficiently and investigate the extent of the issues.

Heritage buildings are treated in the same way as any building. Buildings that are listed as heritage items in our District Plan will now also be covered by this draft Policy. When Council is made aware of a heritage building at risk, we also seek advice from Heritage New Zealand Pouhere Taonga when addressing the building's issues. The draft Policy recognises the importance of heritage buildings

and will protect the value of these buildings and seek to avoid demolition wherever possible, without compromising public health and safety. We're proposing to add to the draft Policy that we'll also consider working with the building owners when creating management plans to protect the building's heritage, where possible, while protecting people and other property.

We're also proposing to take into account professional advice or documentation relating to the building, the traditional and cultural importance of the building and whether the owner has done recent building work. We've included the option to engage qualified professionals when managing or fixing the heritage building.

## Procedures

These proposed changes follow the expectations set by the Building Act. If you'd like to understand more, you can [view the Building Act online](#). The procedures have the most proposed changes, and these will ensure we're better aligned with the Building Act.

These changes outline **how** Council will act when processing and actioning information received on a potentially dangerous, affected or insanitary building.

The following changes are new additions that we are proposing to add to our draft Policy. The proposed changes include:

### Identifying dangerous and insanitary buildings

- Council won't need to obtain approval for inspections unless the building is a household. In this instance, Council will need consent from the person living in the building or obtain an order from a District Court.
- Following an initial inspection, Council will set priorities for the works that align with the risks the building has.
- The Building Act's definitions of 'dangerous', 'affected' and 'insanitary' will be used for assessment and inspections. Inspection records will be created and maintained, and during the assessment Council can bring on board a subject matter expert to assist.

### Criteria for determining priority of issue

- A building is less likely to be classified as dangerous, affected and insanitary if it isn't occupied, but Council will still consider and factor in the risk to the public and other properties. Council will carefully consider the issues and determine whether they warrant immediate action. Each case will be considered on its own merits.

### **Actions for dangerous, affected or insanitary buildings**

- It's a building owner's responsibility to do the right thing and fix a building's issues, but there may be situations where Council needs to act, for example if we believe a building is dangerous or in an insanitary condition, but an owner cannot make improvements. If Council has to take action, then the owner is liable for the costs.
- Council will consider a building owner's approach to the issue, are they volunteering, being assisted, being directed or enforced to fix the issues. More often than not, a building owner will comply and get the issues sorted, but if they don't, this gives us a standard to follow when things escalate to an enforcement level.
- Following an assessment, if the building is deemed dangerous, affected or insanitary, Council staff will have the ability to:
  - work with the building owner to understand the situation and take the right course of action.
  - place a notice on the building that tells the owner to fix the issue, which may include demolishing all or part of a building. This doesn't apply to affected buildings.
  - put up a fence to prevent people from getting too close to the building.
  - advise those with interest in a building that they are not allowed to enter. These people can include the building owner, occupier or landowner, as set out by the Building Act. The notice can be in place for up to 30 days and can only be reissued once for a further 30 days.
  - take necessary action to remove any immediate danger to the safety of people, including for insanitary conditions. One example could include the building doesn't have the sanitary facilities that are required for the building's intended use or there could be an overflowing septic tank causing the insanitary conditions. The owner is liable for the costs.
  - contact the owner to gain access to the building and check compliance at the end of the time set in the notice attached to a dangerous or insanitary building.
  - take enforcement action if the building owner doesn't fix the building's issues within good time or if other requirements aren't met under the Building Act. One example is if the danger is caused by unconsented building works, enforcement could shut down a building site until the issue is fixed. Council can also enforce other relevant Acts, such as the Local Government Act, Health Act, Heritage New Zealand Pouhere Taonga Act, Civil Defence Emergency Management Act or Resource Management Act.

### **Working with building owners**

- If Council and the owner of the building agree to fix the building issue, Council can choose to not issue a formal notice but will still record information on the property file.
- If Council and the owner cannot agree and the issue is urgent, Council can use its powers to quickly remove the danger.

### **Recording a building's dangerous or insanitary status and access to the information**

- Council will keep a record of all dangerous, affected and insanitary buildings and what needs to be fixed or has been fixed on the relevant property file.
- Any information concerning any consent, certificate, notice, order, or requisition affecting the land or any building on the land previously issued by Council on the Land Information Memorandum (LIM) for a property will be kept, in particular, information relating to dangerous and insanitary conditions, or affected building statuses that are not resolved.
- Council will keep a summary of any written complaint under the Building Act and Council's response.
- This information will be provided upon request.

## **Disputes**

We are proposing to include clarification for when a building owner disagrees with a Council decision by including that the building owner can apply to the Chief Executive of the Ministry of Building, Innovation and Employment for a decision on the issue.

## **Legislative requirements**

Section 131 of the Building Act 2004 requires territorial authorities to adopt a policy on dangerous and insanitary buildings. Section 132A subsequently added a requirement to include affected buildings in that policy. Section 132(4) of the Act requires that the Policy is reviewed every five years. Council's current Policy was adopted in 2017 and has been under review since 2022.



# Over to you!

This document summarises the changes we're proposing to the Dangerous, Affected and Insanitary Buildings Policy but we want to know what you think before any decisions are made.

**We need your feedback by 5pm, Monday 18 December 2023.**

Our draft Dangerous, Affected and Insanitary Buildings Policy is available:

 **Online** at [waipadc.govt.nz/dangerousbuildings](https://waipadc.govt.nz/dangerousbuildings)

 **In hardcopy** from Council offices and libraries

**You can make a submission:**

 **Online:** visit [waipadc.govt.nz/dangerousbuildings](https://waipadc.govt.nz/dangerousbuildings) and complete the online form



## By post:

Complete a hard copy form and post to:

**Freepost 167662** (no stamp necessary)

Waipā District Council  
Attn: Dangerous Buildings  
Private Bag 2402  
Te Awamutu 3840



## By email:

To [haveyoursay@waipadc.govt.nz](mailto:haveyoursay@waipadc.govt.nz)

Subject: Dangerous Buildings  
Policy Review

All feedback will be collated and presented to the Mayor and Councillors (the decision-makers) for their consideration, likely in February 2024.

You are most welcome to have your say in person as part of this process. Let us know if you want to do this when you complete the submission form and then we'll be in touch to arrange the details closer to the time.

If you have any further queries or would like further copies of the draft Policy, please contact Council on **0800 (WAIPADC) 924 723** or call into one of our Council offices.

