

Kaupapa Here mō ngā Hanganga Mōrearea, Tūtata,
Paru hoki

Dangerous, Affected, and Insanitary Buildings Policy



MASTERTON
WHAKAORIORI
DISTRICT COUNCIL

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Horopaki | Context

Councils are required by the Building Act 2004 (the Act) to manage dangerous, affected and insanitary buildings in their districts. Councils are required by sections 131 and 132A of the Act to adopt a policy that states their approach and priorities for doing this and confirm how the policy applies to heritage buildings. The Health Act 1956 (sections 29 and 42) also enables councils to deal with nuisance conditions related to certain matters that are likely to cause injury to the health of people in relation to insanitary buildings.

The Masterton District Council (the Council) first adopted a policy in 2006.

This policy sits within Council's broader cultural, social, environmental, and economic strategic context and community outcomes. Considerations of cost and benefit of action are balanced between minimising threats to health and safety and the wider community impact of removing a building or taking it out of active use. If the building is used for housing, the impact on housing supply and affordability will be considered.

Pūtake | Purpose

The purpose of this policy is to:

- ensure people who use buildings can do so safely and without endangering their health; and
- provide a framework for how the Council will respond to and manage dangerous, affected, and insanitary buildings in the Masterton District.

Whānuitanga | Scope

This policy applies to all buildings within the Masterton District (the District).

The policy sets out:

- the approach that the Council will take in performing its functions under the Act, in relation to dangerous, affected and insanitary buildings;
- the priorities that will be adopted in carrying out those functions; and
- how the policy applies to heritage buildings.

Out of scope

Earthquake prone buildings are not covered within the scope of this Policy. The approach for earthquake prone buildings is covered in Subpart 6A of the Act.

A building that is a dam or any part of a building that is a dam, is also not covered by this Policy. Dams have their own requirements under section Subpart 7 of the Act.

Te tautohu i ngā hanganga mōrearea, tūtata, paru hoki | Identifying dangerous, affected, or insanitary buildings

The Council will not proactively inspect all buildings in the District but will respond promptly to complaints and information received by the community or by staff carrying out other inspections or visits regarding a potentially dangerous, affected or insanitary building.

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

1. On receiving a complaint or information expressing concern that a building is dangerous, affected or insanitary, the Council will consult the owner of the building, inspect the building and site, and may also seek the advice of Fire and Emergency New Zealand (FENZ). Council may also engage a subject matter expert to assist in identifying whether a building is dangerous, affected or insanitary or with determining a course of action.
2. Following the inspection, and taking into account the advice or recommendations of FENZ, the Council will determine whether the building is dangerous, affected or insanitary. In making this decision the Council will assess the information against the definitions provided in sections 121, 121A and 123 of the Act, and any relevant case law or previous Ministry of Business Innovation and Employment (MBIE) determinations.
3. If the Council is satisfied that the building in question is dangerous, affected or insanitary, the Council will then determine the work or action that must be carried out to remedy it.

Te hāpaitanga ki ngā hanganga mōrearea, tūtata, paru hoki | Taking action on dangerous, affected, or insanitary buildings

The Council will consider each identified dangerous, affected or insanitary building and determine the appropriate course of action based on the particular set of circumstances that exist. A flow chart procedure for remedying dangerous, affected, or insanitary buildings is attached to this Policy (Attachment 1).

Priorities

The Council will give priority to buildings that have been determined to be immediately dangerous, affected or insanitary. Immediate action will be required, as outlined in step 5 below.

Our approach: taking action on dangerous, affected, or insanitary buildings

1. In forming a view as to the work or action that is required to be carried out to remedy the building from remaining dangerous, affected or insanitary, the Council will take the following matters into account:
 - a. the size of the building;
 - b. the complexity of the building;
 - c. the location of the building in relation to other buildings, public places, and natural hazards;
 - d. the life of the building;
 - e. how often people visit the building;
 - f. how many people spend time in or in the vicinity of the building;
 - g. the current use of the building, including any special traditional and cultural aspects of the current or likely future use;
 - h. the reasonable practicality of any work concerned;
 - i. any special historical or cultural value of the building; and
 - j. any other matters that the Council considers may be relevant, taking into account the particular set of circumstances.

2. For all buildings, Council will inform the building owner(s), tenants (if any) and any other relevant person directly impacted of the inspection results and the Council's intended course of action.
3. If Council has determined that a building is dangerous, affected or insanitary, Council may do any or all of the following (section 124):
 - a. Erect a hoarding or put up a fence around the building;
 - b. Attach a notice warning people not to approach the building;
 - c. Issue a written notice restricting entry to the building for particular purposes or to particular groups of people for a maximum period of thirty (30) days. Such notice may be reissued once for a further maximum period of thirty (30) days.
4. Following the inspection of the building, the Council will decide whether immediate action should be taken to avoid the immediate danger or to fix the insanitary conditions, pursuant to the provisions of section 129 of the Act.
5. If immediate action is required by Council to remove the immediate danger or fix insanitary conditions, a warrant will be issued by the chief executive to cause any action to be taken that is necessary in their judgment to remove that danger or fix those insanitary conditions.
6. On completion of the action stated in the warrant, the Council will apply to the District Court to endorse the issue of the warrant in accordance with section 130 of the Act, unless the building owner does not dispute the entry into the owner's land; agrees confirmation of the warrant by the District Court is not required; and the owner pays the costs of the action taken.
7. If the Council decides that immediate action under section 129 of the Act is not required to remove danger or fix insanitary conditions, the Council will issue a notice under section 124(2)(c) of the Act, requiring the owner to carry out the necessary work to reduce or remove the danger or prevent the building from remaining insanitary. The notice will state whether a building consent is required before commencing work. The time required to obtain a building consent and commence work will depend on the particular set of circumstances but shall not exceed six 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.
8. Where the building work is not completed, or not proceeding with reasonable speed in a notice issued under section 124 of the Act, the Council may apply to the District Court, for an order authorising it to carry out the work, pursuant to section 126 of the Act. Before the Council applies to the District Court, it will provide 10 days written notice to the building owner of its intention to do so. The full costs of carrying out such works will be recovered from the property owner.

Taipitopito hānga ki ngā hanganga mōrearea, tūtata, paru hoki | Information relating to dangerous, affected, or insanitary buildings

All information relating to a dangerous, affected, or insanitary building will be filed on the relevant property file. This will include a copy of the original inspection record and any actions taken against the property to remedy the matter.

If a notice is still being actioned by the property owner, this notice will also be included on any Land Information Memorandum (LIM) or Project Information Memorandum (PIM) prepared for the property.

Hanganga Aronehe | Heritage Buildings

The Wairarapa Combined District Plan and section 6(f) of the Resource Management Act 1991 (RMA) reflect that historic heritage is a matter of national importance. Those documents, and section 4(2)(l) of the Act collectively anticipate that work on a heritage building will be done in a manner that protects its heritage value.

When heritage buildings are determined to be dangerous, affected or insanitary, the Council will seek to ensure, as far as reasonably practicable, that work carried out will not diminish the heritage value of the building. Property owners must take all reasonable steps to ensure that this objective is achieved.

If a notice under section 124 of the Act is issued to the owner of a heritage building listed by Heritage New Zealand Pouhere Taonga (HNZPT), the Council will send a copy of the notice to HNZPT. Council will work closely and consult with HNZPT for buildings that are listed in the New Zealand Heritage List/Rārangi Kōrero.

If the building is listed in the Wairarapa Combined District Plan as a heritage building or item, the Council will ensure the heritage value of the building is taken into account when forming a view as to the work or action that is required.

If demolition is proposed to a building that was constructed before 1900, the building may be an archaeological site under the Heritage New Zealand Pouhere Taonga Act 2014 (Heritage Act) and the relevant archaeological provisions under the Heritage Act apply. Advice must be sought from HNZPT on relevant approvals and other requirements under the Heritage Act.

Dangerous, affected or insanitary buildings of significance to Māori

This section applies to buildings that are of significance to Māori such as marae, wharehūi, or buildings on wāhi tapu, urupā, or Pā sites etc.

In forming a view as to the work or action that is required to be carried out to remedy the building from remaining dangerous, affected or insanitary, consultation will be undertaken with relevant iwi, hapū or hāpori Māori, where appropriate, to ensure special historical or cultural value and tikanga are considered. Staff will be guided by the Significance and Engagement Policy and Pou Ahurea Māori on appropriate consultation.

Hanganga paru me te Ture Hauora | Insanitary buildings and the Health Act

Sections 29 and 42 of the Health Act 1956 also enable Council to deal with nuisance or insanitary conditions related to certain matters that are likely to cause injury to the health of people in relation to insanitary buildings.

Council will work with appropriate parties and use the most effective legislative mechanism in addressing potential health related issues.

Wherawhera i ētahi atu ritenga o te Ture | Interaction with other provisions of the Act

When a building is located in an area that has been designated as affected by an emergency under Part 2, subpart 6B of the Act, then dangerous, affected, or insanitary notices shall not apply if issued while the designation is in force. However, any action taken, or notices issued prior to any emergency designation shall continue to apply.

Notices issued while there is a designated emergency in force may continue to apply when the Responsible Person (as defined by section 133BK) decides, before the state of emergency or transition period ends, that any notice should continue in force.

Arotake Kaupapa Here | Review of Policy

This policy will be reviewed every five years.

The Ministry of Business, Innovation and Employment (Hīkina Whakatutuki) is provided a copy of the Policy.

Kuputaka | Definitions

The following definitions are from the Building Act 2004. Where a definition has the same meaning as a definition in the Act, the definition for the purposes of this policy includes any subsequent amendment to the definition in the Act. For the avoidance of doubt, where a definition in the Act differs from a definition in this policy, the definition in the Act has precedence.

Affected Building: In accordance with section 121A of the Act, a building is defined as affected if it is adjacent to, adjoining or nearby:

- a dangerous building as defined in section 121 of the Act; or
- a dangerous dam as defined in section 153 of the Act.

Dangerous Building: In accordance with section 121 of the Act, a building is defined as dangerous if:

- in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause -
 - 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
- in the event of fire, injury or death to any persons in the building or to persons on other property is likely.

Insanitary Building: In accordance with section 123 of the Act, a building is defined as insanitary if it:

- is offensive or likely to be injurious to health because -
 - of how it is situated or constructed; or
 - it is in a state of disrepair; or
- has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or
- does not have a supply of potable water that is adequate for its intended use; or
- does not have sanitary facilities that are adequate for its intended use.

Heritage Building: In accordance with section 7 of the Act, means:

- a building that is included on the New Zealand Heritage List/Rārangi Kōrero maintained under section 65 of the Heritage Act; or
- a building that is included on the National Historic Landmarks/Ngā Manawhenua o Aotearoa me ōna Kōrero Tūturu list maintained under section 81 of the Heritage Act; or
- a place, or part of a place, that is subject to a heritage covenant under section 39 of the Heritage Act and is registered under section 41 of that Act; or
- a place, or part of a place, that is subject to a heritage order within the meaning of section 187 of the Resource Management Act 1991; or
- a place, or part of a place, that is included in a schedule of the Wairarapa Combined District Plan because of its heritage value.

Tuhinga Hāngai | Related Documents

Wairarapa Combined District Plan

Dangerous, affected and insanitary buildings: Guidance for developing policies on dangerous, affected and insanitary buildings, Ministry of Business Innovation and Employment (2024)

Ngā Tohutoro | References

Building Act 2004

Heritage New Zealand Pouhere Taonga Act 2014

Health Act 1956

Resource Management Act 1991

Whakahaere Kōnae | Version Control

Version	Date	Summary of Amendments	Approved By
1	2006	New policy	Masterton District Council
2	12/12/2018	Updated to include reference to 'affected' buildings, clarification of MDC priorities and how the policy applies to heritage buildings, minor amendments to improve readability.	Masterton District Council
3	X/X/2025	TBC	

Āpitianga | Attachment

Attachment 1: Procedure for remedying dangerous, affected, or insanitary buildings flow chart

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Attachment 1: Procedure for remedying dangerous, affected and insanitary buildings

