

He Arotakenga o te Kaupapa Here mō ngā
Hanganga Mōrearea, Tūtata, Paru hoki

Dangerous, Affected, and Insanitary Buildings Policy Review Statement of Proposal



MASTERTON
WHAKAORIORI
DISTRICT COUNCIL

Contents

Horopaki Background	2
What is a Dangerous, Affected and Insanitary Buildings Policy?	2
Why are we updating the Policy?	3
Tā tātou tono Our proposal	4
Key proposed changes	4
Ngā āhuatanga i whakaarohia Options considered	8
Te āhua o tō tuku kōrero How you can have your say	10
Hearing	10
He aha atu anō? What happens next?	11
Supporting documents	11
Kaupapa Here mō ngā Hanganga Mōrearea, Tūtata, Paru hoki Draft Dangerous, Affected, and Insanitary Buildings Policy	13

This Statement of Proposal has been prepared in accordance with Section 83 of the Local Government Act 2002.

Background

Our Dangerous, Affected, and Insanitary Buildings Policy is now due for review, and we would like your feedback.

Consultation is open from 21 February to 21 March 2025.

This proposal is to adopt an amended Dangerous, Affected, and Insanitary Buildings Policy. A policy is required by the Building Act 2004 (the Act) and the current policy was adopted in 2018.

The intent of the Dangerous, Affected and Insanitary Buildings Policy is to reduce the risk of injury, death, ill health or damage that may occur as a result of dangerous, affected, and/or insanitary buildings (at risk buildings). We have undertaken a review of our policy to make sure it is still effective and are proposing some changes to bring the Policy up to date.

The draft Policy is attached to this Statement of Proposal and is available on our website. More information about the policy, key changes, and how to have your say can be found further in this document.

What is a Dangerous, Affected and Insanitary Buildings Policy?

Each Council must have a Dangerous, Affected and Insanitary Buildings Policy.

This policy outlines how buildings deemed to be potentially dangerous, affected and/or insanitary will be identified and categorised, and what action shall be taken in the Masterton District. This must include:

- the approach the Council will take in relation to at-risk buildings
- the Council's priorities for this approach
- how the policy will apply to heritage buildings.

This Policy does not cover dams, or any part of a building that is a dam, or earthquake-prone buildings as these have their own requirements under the Act.

Why are we updating the Policy?

The Policy must be reviewed every five years, in consultation with the community. The Policy is now due for review.

The existing policy approach to dangerous and insanitary buildings is reactive, meaning that a Council response only occurs when a complaint or information is received. Council does not undertake regular inspections of such buildings. We think that our current approach is working well for the Masterton community, but we are proposing some improvements to:

- take account of legislative requirements
- improve transparency and consistency
- update the policy structure and clarify how the policy is applied within the Council's broader strategic context.

While the wording of the policy has been revised for clarity, the practical implementation remains unchanged. The proposed Policy will continue to enable a local response in meeting Council's obligations under the Act to identify and remedy dangerous, affected and insanitary buildings. The proposed Policy will contribute to Council achieving the objective of the Act to ensure that buildings do not endanger the health, safety of the people who use them.

We are keen to hear from building owners and our wider community about what you think.

Our proposal

We are proposing some improvements to the policy to:

1. take account of legislative requirements
2. improve transparency and consistency
3. update the policy structure and clarify how the policy is applied within the Council's broader strategic context.

Key proposed changes

Proposal 1: Take account of legislative requirements

Description	Inclusion of “affected buildings” in the Policy title and more explicit references in the Policy
Reason	Section 132A of the Act requires the Council to amend any existing policy to take account of affected buildings. This means that for any building that is in close proximity to a building that is determined as ‘dangerous’, the Council has the ability to determine whether it fits the definition of ‘affected’ and to seek to mitigate any risk if it is. The draft Policy includes provisions on ‘affected’ buildings and the name of the draft Policy has been changed to include ‘affected’ buildings.
Description	Explanation of how the Policy functions in relation to an Emergency Designation (interaction with other provisions of the Act)
Reason	In 2019, a series of changes were made to the Act to provide new powers to manage buildings following an emergency event. The policy now includes explanation of how subpart 6B of the Act applies when a building is affected by an emergency. The inclusion of these updates in the draft Policy provides procedural clarity for the community and staff in case of an emergency.

Proposal 1 continued

Description	Inclusion of information regarding the heritage legislative and policy framework including any relevant District Plan policies and section 6(f) of the Resource Management Act 1991 (RMA) to reflect that historic heritage is a matter of national importance
Reason	<p>We must outline how the policy applies to Heritage Buildings. Preserving the unique heritage of Masterton is a part of our strategic goals and outcomes outlined in Cultural Development Strategy (a part of our Wellbeing Strategy He Hiringa Tangata, He Hiringa Whenua) and in our Long-Term Plan 2024-34 (outcome: pride in our identity and heritage). Heritage Buildings in the district contribute to the cultural life and heritage of our community, contributing to a sense of connection and belonging.</p> <p>We have expanded the Heritage Buildings section to include relevant references to the Heritage New Zealand Pouhere Taonga Act 2014 that are triggered during the remedial or demolition process. Updated wording provides procedural clarity for both building owners and Council staff during remediation works.</p>

Proposal 2: Improve transparency and consistency

Description	Inclusion of a statement on our approach to identifying at-risk buildings
Reason	<p>Makes clear the Council's position on identifying buildings that are at risk. We consider our current approach (reactive) is working well for our community.</p> <p>Dangerous and insanitary buildings are uncommon in the Masterton District. Identifying these buildings proactively may be difficult unless resources to undertake inspections and evaluations of buildings are increased.</p>

Proposal 2 continued

Description	Inclusion of a statement covering the recording of the status of dangerous, affected, and insanitary buildings and whether this information will be disclosed in any land information memorandum or, where it affects any proposed building work, whether the information should be disclosed in a project information memorandum
Reason	Makes it clear to the community and building owners how their information will be recorded. Ensures prospective new building owners have access to relevant information about the property.
Description	Inclusion of a Heritage Building definition
Reason	Including a definition in the draft Policy provides clarity for the community and staff. The definition aligns with the definition in the Act and is provided alongside other building definitions that are already in the Policy.
Description	Inclusion of when we will consult relevant iwi, hapū or hapori Māori
Reason	It is important that we consult with relevant iwi, hapū or hapori Māori when we are forming a view as to the appropriate action for buildings that are of significance to Māori. This is to ensure that cultural matters are considered. This does not preclude the relevant action being undertaken to ensure health and safety and reduce risk.

Proposal 3: Update the policy structure and clarify how the policy is applied within the Council's broader strategic context

Description	Context updated to reflect strategic context
Reason	Inclusion of wording that recognises that social, economic, environmental, and cultural factors may impact implementation of the provisions of the Act and Policy.

Alongside these key proposals, we have also proposed updates to improve the flow and readability of the policy. As part of these changes, we have included a flow chart to help support greater understanding of how we will determine and take action of dangerous, affected, and insanitary buildings.

Options considered

The Masterton District Council has considered the reasonably practical options for the future of the Dangerous, Affected and Insanitary Buildings Policy. The advantages and disadvantages of each option are outlined on the following pages. We are proposing to proceed with Option 1.

Option 1

Adopt the proposed Dangerous, Affected, and Insanitary Buildings Policy - This is our preferred option.

Advantages

- The policy has been developed based on latest available information and guidance from the Ministry of Business Innovation and Employment (MBIE).
- The policy takes into account feedback received through the early engagement period.
- It more accurately reflects our approach and current practice.
- The flow and readability of the policy has been improved and includes a flow chart to assist both staff and community to understand the process.

Disadvantages

- Aspects of the policy may be unfamiliar to, or unsupported by, the community.
-

Option 2

Make other changes to the Dangerous, Affected, and Insanitary Buildings Policy.

Advantages

- Advantages would depend on the suggested changes.

Disadvantages

- Disadvantages would depend on the suggested changes.
 - Dependent on extent of changes, may require further consultation which could delay a new Policy.
-

Option 3

Retain the current Dangerous and Insanitary Buildings Policy.

Advantages

- The current policy is familiar to the community.

Disadvantages

- Does not reflect current approach or practices.
 - Does not align with best practice guidance from MBIE and other stakeholders.
 - Would be silent on aspects of the Building Act 2004 that are relevant to this policy.
 - Does not take advantage of the opportunity to improve the flow and readability of the policy.
-

Te āhua o tō tuku kōrero

How you can have your say

We welcome your feedback on the Dangerous, Affected, and Insanitary Buildings Policy. Submissions close at 4pm Friday 21 March 2025.



Complete our online submission form at: mstn.govt.nz



Download a fillable pdf submission form from our website, and email to: submissions@mstn.govt.nz



Phone the Policy Team on 06 370 6300 between 9am and 4pm Monday to Friday (excluding public holidays) and tell us what you think.



Pick up a submission form from the Masterton District Library or Customer Service Centre at 161 Queen Street. You can also print out our printer-friendly form from the website. Post it to Masterton District Council, PO Box 444, Masterton 5840, or drop it off to our Customer Service Centre.

Submissions close 4pm Friday 21 March

Hearing

For those wanting to present their views to the Council, a hearing will be held on Wednesday 9 April 2025. You will need to indicate on your submission form that you would like to attend the Hearing.

He aha atu anō?

What happens next?

Following the consultation period, all feedback received will be considered by the Hearings Committee of the Council. A hearing will be held on Wednesday 9 April 2025 with a subsequent deliberations meeting on Wednesday 30 April 2025. Following the Hearing and Deliberations meetings, the Council will meet to consider the adoption of a policy in May 2025.

Supporting Documents

Our draft Dangerous, Affected, and Insanitary Buildings Policy can be found on our website and attached to this Statement of Proposal.

In developing this policy, we have taken into consideration the Ministry of Business Innovation and Employment guidance: Dangerous, affected and insanitary buildings: Guidance for developing policies on dangerous, affected and insanitary buildings (2024)¹.

You can find a list of frequently asked questions on our website: www.mstn.govt.nz

¹ www.building.govt.nz/building-officials/guides-for-building-officials/dangerous-and-insanitary-buildings-policies

Kaupapa Here mō ngā Hanganga
Mōrearea, Tūtata, Paru hoki

Dangerous, Affected, and Insanitary Buildings Policy



MASTERTON
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Contents

Horopaki Context	16
Pūtake Purpose	16
Whānuitanga Scope	16
Out of scope	16
Te tautohu i ngā hanganga mōrearea, tūtata, paru hoki Identifying dangerous, affected, or insanitary buildings	17
Te hāpaitanga ki ngā hanganga mōrearea, tūtata, paru hoki Taking action on dangerous, affected, or insanitary buildings	17
Priorities.....	17
Our approach: taking action on dangerous, affected, or insanitary buildings.....	18
Taipitopito hānga ki ngā hanganga mōrearea, tūtata, paru hoki Information relating to dangerous, affected, or insanitary buildings	19
Hanganga Aronehe Heritage Buildings	19
Dangerous, affected or insanitary buildings of significance to Māori.....	20
Hanganga paru me te Ture Hauora Insanitary buildings and the Health Act	20
Wherawhera i ētahi atu ritenga o te Ture Interaction with other provisions of the Act	20
Arotake Kaupapa Here Review of Policy	21
Kuputaka Definitions	21
Tuhinga Hāngai Related Documents	22
Ngā Tohutoro References	22
Whakahaere Kōnae Version Control	23
Āpitianga Attachment	23

Policy number: MDC031

First adopted	2006
Latest version	xxxx
Adopted by	Masterton District Council
Review date	xxxx

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 the 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.

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). The 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.

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 on the following page.

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
 - j. any other matters that the Council considers may be relevant, taking into account the particular set of circumstances.
- 2.** For all buildings, the 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 the Council has determined that a building is dangerous, affected, or insanitary, the 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 the 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.

The 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.

Review of Policy

This policy will be reviewed every five years.

The Ministry of Business, Innovation and Employment (Hikina 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

Version control

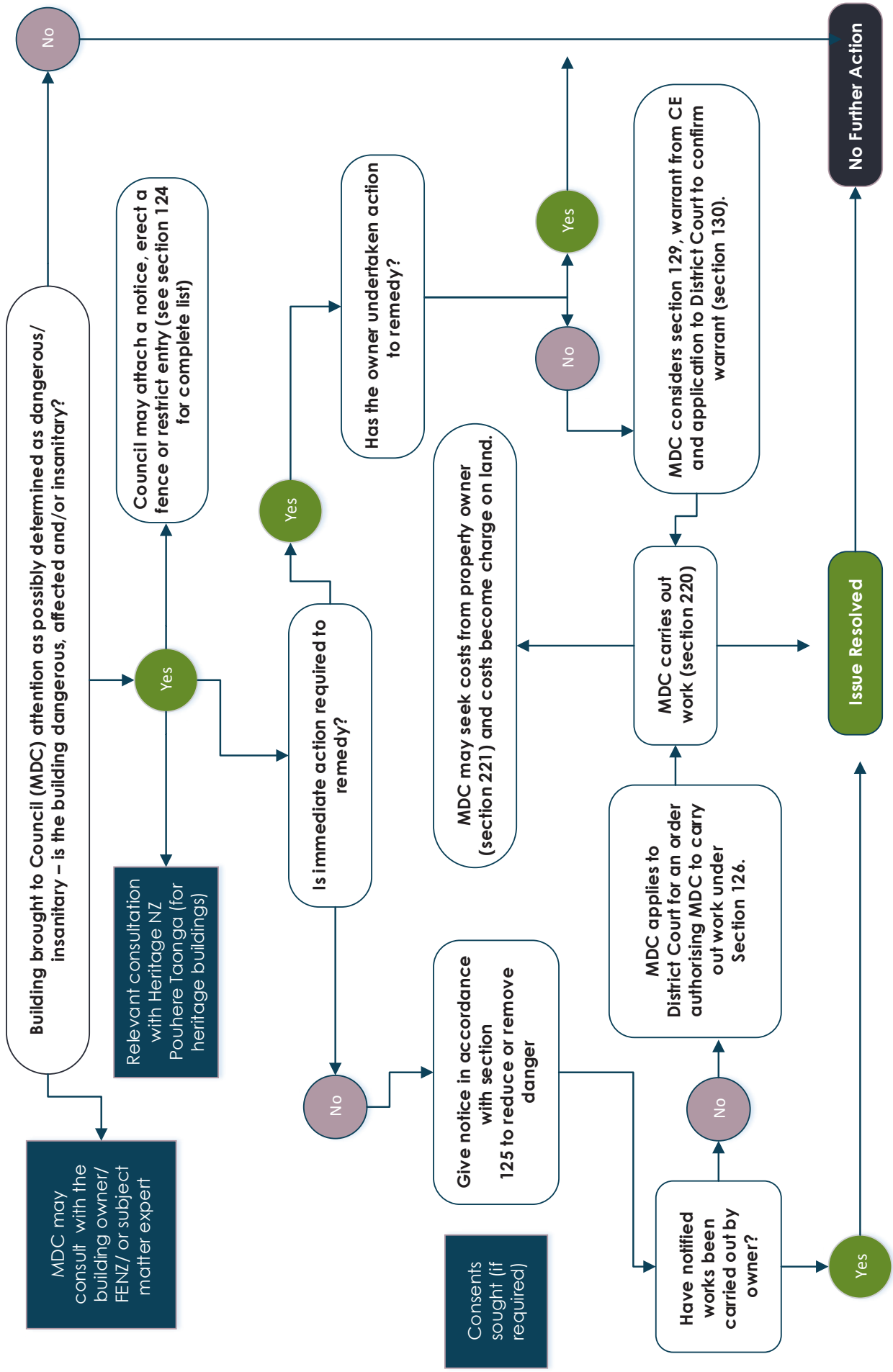
Version	Date	Summary of amendments	Approved by
1	2026	New policy	Masterton District Council
2	12/12/2018	Updated to include reference to 'affected' buildings, clarification of MDC priorities and how the policy applies to heritage buildings, minor amendments to improve readability.	Masterton District Council
3	x/x/2025	TBC	

Āpitihanga

Attachment

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

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



Phone

06 370 6300 - 8am to 5pm except Tuesdays 9am to 5pm
06 378 7752 after hours

Email

submissions@mstn.govt.nz

Call into

Masterton District Council
161 Queen Street, Masterton
9am - 4pm

Write to

Masterton District Council
PO Box 444, Masterton 5840
www.mstn.govt.nz