



## **Dangerous and Insanitary Buildings Policy 2006 (Amended November 2017)**

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## **Introduction and Background**

Section 131 of the Building Act 2004 requires territorial authorities (TA's) to adopt a policy on Dangerous, Insanitary buildings by 31 May 2006.

### **131 Territorial authority must adopt policy on dangerous and insanitary buildings**

- (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.

This document sets out the policy adopted by Nelson City Council in accordance with the requirements of the Building Act 2004 by resolution of the Environment Committee at its meeting on 2 May 2006, and confirmed by Council at its meeting of 18 May 2006.

The policy is required to state:

- the approach that the Nelson City Council will take in performing its functions under the Building Act 2004,
- Nelson City Council's priorities in performing those functions, and
- how the policy will apply to heritage buildings.

Nelson City Council has made extensive use of the Department of Building and Housing's guidance document and, for ease of reference, the policy has been set out in the same format as its policy template.

## **Glossary of Terms**

LIM.....	Land Information Memorandum
PIM .....	Project Information Memorandum
NRMP .....	Nelson Resource Management Plan
HNZ.....	Heritage New Zealand
NZHPAct.....	New Zealand Historic Places Act 1993
TA .....	Territorial Authority

## Dangerous or Insanitary Buildings

### 1.0 Identifying Dangerous or Insanitary Buildings

The Council will:

- a. Respond and investigate all building complaints about dangerous or insanitary buildings.
- b. Identify from these any buildings that may be dangerous or insanitary.
- c. Notify the owners of the building to take appropriate action.
- d. Consult with the Medical Officer of Health as required. (This is especially the case if occupants are considered neglected or infirm.
- e. Liaise with the NZ Fire Service when appropriate in accordance with section 121(2) of the Building Act 2004.

### 1.1 Assessment Criteria

Assessment will be made in accordance with the Building Act 2004 Sections 121 or 123 and the NZ Building Code. Assessment will include:

- a. If the building is occupied
- b. The building use
- c. If the building is likely to cause injury or death to people
- d. If conditions present a danger to the health of occupants
- e. Potential for damage to other property
- f. Whether a fire hazard exists

Where a building is occupied an assessment of insanitary conditions will include a review of:

- a. The adequacy of sanitary facilities for the use. NZ Building Code G1, Personal Hygiene
- b. The adequacy of potable water, NZBC G12 Water Supplies
- c. The extent of separation of kitchen from other sanitary facilities
- d. Evidence of moisture penetration, NZBC E2 External Moisture
- e. Defects in cladding to roof
- f. Construction materials
- g. If the building is offensive or likely to be injurious to health because of how it is situated or constructed or whether or not it is in a state of disrepair

### 1.2 Taking action on insanitary buildings

The Council will:

- a. Notify the owner of the building of the assessment findings
- b. Attach a notice to the building requiring rectifying work to be carried out within a time stated to be not less than 10 working days

- c. Give copies of the notice to the owners, occupiers and every person who has an interest in the land, and if the building is a heritage building, to the New Zealand Historic Places Trust
- d. Contact the owner at the expiry of the time period set down in the notice so that access to the building can be gained to assess compliance with the notice
- e. Determine if enforcement action should be pursued under the Building Act if the requirements of the notice are not met.

If immediate action is required, the Council will:

- a. Cause action to be taken under Section 129 of the Building Act 2004, to fix the insanitary conditions
- b. Take action to recover all costs from the owner
- c. Inform the owner that the amount recoverable by the Council will become a charge on the land on which the building is situated.

If owners dispute the Council's actions, they can seek a Determination from the Department of Building and Housing. That decision can be subject to appeal at the District Court.

### **1.3 Taking action on dangerous buildings**

The assessment of whether or not a building is considered to be a dangerous building will include a review of:

- a. If the building is occupied
- b. The building use and occupancy
- c. If the building is likely to cause injury or death to people
- d. If the building is likely to cause damage to other property
- e. Whether a fire hazard exists

The Council will:

- a. Notify the owner of the building of the assessment findings
- b. Attach a notice to the building requiring rectifying work to be carried out within a time stated to be not less than 10 working days
- c. Give copies of the notice to the owners, occupiers and every person who has an interest in the land, and if the building is a heritage building, to the New Zealand Historic Places Trust
- d. Contact the owner at the expiry of the time period set down in the notice so that access to the building can be gained to assess compliance with the notice
- e. Determine if enforcement action should be pursued under the Building Act if the requirements of the notice are not met.

If immediate action is required, the Council will:

- a. Cause action to be taken under section 129 of the Building Act 2004 to fix the dangerous conditions
- b. Take action to recover all costs from the owner
- c. Inform the owner that the amount recoverable by the Council will become a charge on the land on which the building is situated.

If owners dispute the Council's actions, they can seek a Determination from the Department of Building and Housing. That decision can be subject to appeal at the District Court.

#### **1.4 Record-keeping**

Any building identified as dangerous or insanitary will have a note placed on the property file. That note will be uplifted once the issues conditions have been addressed.

LIM's and PIM's will note that the building is dangerous or insanitary, and include

- a. Copy of the notice
- b. Any report on how the matter is to be rectified

#### **1.5 Access to Information**

Information concerning the dangerous or insanitary status of a building will be set out in the relevant LIM. The requirement of the Local Government Official Information and Meetings Act 1987, and Local Government Act 2002 will be met.

#### **1.6 Economic Impact of the Policy**

The Council receives very few complaints about dangerous or insanitary buildings. At this level, and having in mind not all complaints are upheld, the economic impact of the policy is considered to be negligible, but no specific assessment has been carried out.

#### **1.7 Heritage Buildings**

Heritage buildings will have to comply with this policy.

#### **1.8 Priorities**

Priorities will be assigned by risk. Generally, because of the life safety issues involved, a high priority is assigned to the matter.

Priority will be given where immediate action is required to remove and fix dangerous conditions.

Where immediate action is not required, Council action will be subject to the timeframe set in any notice.

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