

POLICY	STATUS	AT	DATE	DOC ID
<i>Dangerous, Affected and Insanitary Buildings Policy</i>	<i>Adopted</i>	<i>Ordinary Council Meeting</i>	<i>12 November 2019</i>	<i>A186494</i>



OPOTIKI DISTRICT COUNCIL

Dangerous, Affected and Insanitary Buildings Policy

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1 BACKGROUND

Section 131(1) of the *Building Act* requires a territorial authority to adopt a policy on dangerous and insanitary buildings within its district. The policy is required to state (section 131(2):

- (a) the approach that Ōpōtiki District Council will take in performing its functions under this Part; and
- (b) its priorities in performing those functions; and
- (c) how the policy will apply to heritage buildings.

The Ōpōtiki District Council Dangerous and Insanitary Buildings Policy was first adopted in 2006 and then reviewed in 2011.

2 PURPOSE

1. To ensure that buildings are safe for the purpose for which they are being used
2. To state Ōpōtiki District Council's approach to managing Dangerous, Affected and Insanitary Buildings

3 DEFINITIONS

The following definitions are used in this Policy:

Dangerous Building has the same meaning as in the Building Act 2004

Explanatory note

- According to section 121 of the Building Act 2004, a dangerous building means
 - (1) 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.*
 - (2) *For the purpose of determining whether a building is dangerous in terms of subsection (1)(b), a territorial authority—*
 - (a) *may seek advice from members of the New Zealand Fire Service who have been notified to the territorial authority by the Fire Service National Commander as being competent to give advice; and*
 - (b) *if the advice is sought, must have due regard to the advice.*

Insanitary building has the same meaning as in the *Building Act 2004*

Explanatory note

- According to section 123 of the *Building Act 2004* A building is insanitary for the purposes 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.

Affected building has the same meaning as in the *Building Act 2004*

Explanatory note

- According to section 121A of the *Building Act 2004*, a building is an affected building for the purposes of this Act if it is adjacent to, adjoining, or nearby—
 - (a) a dangerous building as defined in section 121; or
 - (b) a dangerous dam within the meaning of section 153.

Heritage building for this policy means:

- a building listed in the Ōpōtiki District Plan schedule
- a building constructed prior to 1900
- a building on the New Zealand Heritage List/Rārangi Kōrero maintained under section 65 of the *Heritage New Zealand Pouhere Taonga Act 2014*

4 POLICY

4.1 Identification of dangerous, affected and insanitary buildings

Ōpōtiki District Council will:

- Investigate buildings that Council staff have become aware of in undertaking Council functions
- Investigate all complaints from the community and referrals from organisations (for example from the Police, Toi Te Ora-Public Health Unit or Fire and Emergency New Zealand (FENZ))
- Council will seek an immediate or early resolution to the issue so that any potential risk to public health or safety is minimised.

4.2 Assessment of dangerous, affected and insanitary buildings

- The assessment of dangerous buildings will be in accordance with Section 121 of the *Building Act*
- The assessment of insanitary buildings will be in accordance with Section 123 of the *Building Act*

4.3 Taking action on dangerous, affected and insanitary buildings

- On being advised of conditions that are alleged to be insanitary within the provisions of Section 123 of the *Building Act*, the buildings will be inspected and a determination made whether action in terms of Sections 124 or 129 of the Act will be taken
- In deciding upon what action should be taken Council may take advice from other agencies such as FENZ, Toi Te Ora-Public Health Unit or other specialist authority deemed appropriate.
- Council may use the powers given in Section 124 of the *Building Act* to take action regarding dangerous, affected or insanitary buildings to take action

4.4 Working with building owners of dangerous, affected and insanitary buildings

- Whilst Council will work with building owners until the building is no longer considered dangerous or insanitary, a notice under section 124 under the *Building Act* will be issued so that the work to remedy the problem and timeframes for completion are recorded
- If the notice requirements are not met within a reasonable period of time as well as any other non-compliance matters, Council will pursue enforcement action under the *Building Act* taking into account the *Ōpōtiki District Council Enforcement Policy*

4.5 Requirement for immediate action dangerous and insanitary buildings

If it is considered that immediate action is required (section 129, *Building Act*), the Council will:

- Take any action necessary to remove the danger. This may include prohibiting persons using the building, boarding the building to prevent entry and demolition of all or part of the building
- Take action to recover costs from the owner(s) if the Council must undertake works to remove the danger
- In urgent cases the Council may at the outset serve formal notice under the *Building Act*

4.6 Recording a building's dangerous, affected or insanitary status

- In granting access to information concerning dangerous buildings, Ōpōtiki District Council will adhere to the requirements of the *Local Government Official Information and Meeting Act 1987* and the *Local Government Act 2002*
- All dangerous, affected and insanitary buildings shall be recorded on the property file and a Council maintained dangerous, affected and insanitary buildings internal register
- The following information will be placed on the Land Information Memorandum:
 - the notice issued informing the owner that the building is dangerous, affected or insanitary and if applicable the notice of the requirement to evacuate
 - a copy of the notice given under section 124 of the *Building Act* that identifies the work to be carried out on the building and the timeframe give to reduce or remove the danger

4.7 Heritage buildings

- Heritage buildings will be assessed and managed in the same manner as other dangerous, affected or insanitary buildings
- In determining the management of a building in regard to it being dangerous or insanitary, Council will recognise the heritage status of the building and will work with owner(s) of the building and agencies such as Heritage New Zealand Pouhere Taonga or the Department of

Conservation to develop a management plan in association with any requirements under section 124 of the *Building Act*

5 RELEVANT LEGISLATION

Building Act 2004

6 REVIEW

Section 132 of the *Building Act* requires that the Policy is reviewed every five years. If an issue arises consideration will be given to the review of the Policy. The next review of the Policy will be due in 2024.

The Planning and Regulatory Group Manager is responsible for the review of the Policy.