



2020

Draft Dangerous and Insanitary Buildings Policy

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1. Introduction

- 1.1. This Dangerous and Insanitary Buildings Policy (the policy) provides a framework of how the Hauraki District Council will manage dangerous, affected and/or insanitary buildings in the Hauraki District. The Council is required by law to adopt this policy in accordance with the Building Act 2004 and set out:
- the approach it will take in relation to at risk buildings in performing its functions under the Building Act 2004,
 - its priorities in performing those functions, and
 - how this policy applies to heritage buildings.¹
- 1.2. This policy does not apply to dams.

2. Objective

- 2.1. In managing dangerous, affected and/or insanitary buildings in the District, the Council's objectives are to:
- ensure buildings are safe for use,
 - enable people to use a building without endangering their health,
 - ensure people can escape from a building in a fire, and
 - reduce the potential risk posed to people and property by these buildings.

3. Definitions

- 3.1. Unless the context requires otherwise, the definitions of words or terms used in this policy that are also used in the Building Act 2004 are those defined in that Act.

Affected Building	A building adjacent to, adjoining, or nearby – a) a dangerous building, or b) a dangerous dam.
Dangerous Building	A building is dangerous 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.

¹ In accordance with section 131 of the Building Act 2004.

Insanitary Building	<p>A building is insanitary if it -</p> <ul style="list-style-type: none"> a) is offensive or likely to be injurious to health because— <ul style="list-style-type: none"> (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.
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Urgent action	<p>Urgent action means action taken for the purpose of saving or protecting life or health or preventing serious damage to property. Also see section 41(1)(c) of the Building Act 2004.</p>
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4. Policy

4.1. Approach to identifying buildings as dangerous and/or insanitary

- a) The Council will take a reactionary approach to inspecting buildings within the district. When a complaint is received, or an authorised officer has concerns, the Council will make it a priority to investigate whether or not the building concerned is dangerous and/or insanitary.²
- b) In all instances an authorised officer will investigate the information received and undertake an inspection of the building in question as soon as possible. This will involve an assessment of the buildings condition in terms of the Building Act 2004, the Health Act 1956 and the current building code requirements. In doing this, the Council may seek advice from Fire and Emergency New Zealand, or any other professional or organisation deemed appropriate.
- c) When a building consent application is received to alter, change the use or add to a building, an authorised officer will decide whether the building is dangerous and/or insanitary. Where a building is considered dangerous and/or insanitary, the building consent will identify further building work to be undertaken to such an extent that the building will not continue to be dangerous and/or insanitary after the alteration.

4.2. Priorities for remedying dangerous and/or insanitary buildings

- a) Once the building has been assessed and Fire and Emergency New Zealand notifications are complete, an authorised officer will identify if the action required to remediate the building is urgent or non-urgent.

² Identifying dangerous and insanitary buildings across the District would require investing considerable resources to undertake inspections and evaluations of buildings. Consequently, many councils take the 'reactionary' approach of responding to complaints.

4.2.1 Urgent action

- a) When a building is considered to be immediately dangerous the Council will act urgently, for the purpose of saving or protecting life or health or preventing serious damage to property.³
- b) An authorised officer will make contact with the owner(s) of the building to discuss options and will take action. The action will include:
 - issuing a notice requiring work to be carried out on the building to reduce or remove the danger, or prevent the building from remaining insanitary,⁴ and
 - where necessary, issuing a notice restricting entry to the building for particular purposes or restricting entry to particular people or groups.⁵
- c) An authorised officer may also take the following action where necessary:
 - attaching a notice to the building that warns people not to approach it, and
 - where needed, requiring a hoarding or fence be put up to prevent people from approaching the building nearer than is safe.
- d) The owner(s) of the dangerous and/or insanitary building will be contacted at the expiry of the time period set down in any notice issued (as referred to above), in order to gain access to the building to ascertain whether it has been complied with.
- e) If the building is considered immediately dangerous, and the required work is not undertaken, the Council will decide on a case-by-case basis if it will:
 - undertake works to remove the danger and take action to recover costs from the owner(s), and
 - inform the owner(s) the amount recoverable by the Council will become a charge on the land on which the building is situated.⁶

4.2.2 Non-urgent action

- a) Where there is a mutual agreement with the building owner(s) to rectify any non-urgent deficiency with a dangerous or insanitary building, an authorised officer may choose to waive the issue of a formal notice described above.
- b) Where a mutually acceptable agreement with the building owner cannot be reached, a formal notice will be issued and action taken where needed as per clause 4.2.1 above.⁷

4.2.3 The Process

- a) Attached as Appendix One is an example of the steps that can be taken by authorised officers and the Council when inspecting, identifying and enforcing the remediation of dangerous and insanitary buildings.

³ A building consent to do this urgent work for this purpose is not required as set out by section 41(1)(c)(i) of the Building Act 2004.

⁴ The notice must comply with section 125(1) of the Building Act 2004. This includes setting out the time within which the building work must be carried out (which must not be less than a period of 10 days after the notice is given) and state whether a building consent is needed.

⁵ The notice must comply with section 125(1A) of the Building Act 2004 and can be issued for a maximum period of 30 days and reissued once after that.

⁶ Section 126 of the Building Act 2004.

⁷ Section 124 of the Building Act 2004.

4.3. Affected Buildings

- a) An authorised officer will contact the owner(s) of any building adjacent, adjoined or near to the dangerous building (also called an affected building) and provide them with a copy of any notice served on the dangerous building.
- b) The affected building may need to be inspected. This will only be done in consultation with the owner(s) of that building. Where necessary an authorised officer may:
 - put up a hoarding or fence to prevent people from approaching the building nearer than is safe,
 - attach to the building a notice that warns people not to approach the building.

4.4. Heritage Buildings

- a) Heritage Buildings will be dealt with on a case-by-case basis. The Building Act 2004 recognises that heritage buildings may require a variation to the standard approach outlined in this policy if their particular heritage values are not to be compromised. For instance, the council can consider dispensations and waivers for issues of safety and sanitary conditions for heritage buildings and consider lateral or innovative approaches to achieving the desired level of compliance.
- b) Where repair, alteration or demolition of the heritage building is proposed (in whole or in part) to prevent immediate danger to life or potential excessive damage to adjacent property, the owner of the heritage building or feature must obtain:
 - a report by a registered structural engineer on the state of the building, and
 - a report from a suitably qualified and experienced conservation architect.⁸
- c) Urgent work can only proceed without a resource consent if the reports confirm the urgency needed.
- d) Where the Council receives information on buildings that have a heritage classification under Heritage New Zealand Pouhere Taonga, the Council will seek advice from Heritage New Zealand Pouhere Taonga as well as consulting with affected owners.

4.5. Right of Appeal

- a) Building owners have the right of appeal as outlined in the Building Act 2004.

4.6. Building Information

- a) The Council will keep a record of all dangerous and insanitary buildings on the property files. The record will be updated once the required actions have been completed and the building is no longer considered to be dangerous or insanitary.
- b) Access to this information will be available through a Land Information Memorandum (LIM) application or formal request for information through the Local Government Official Information and Meetings Act 1987 (LGOIMA).

⁸ See section 6.1.5(1)(d) of the Hauraki District Plan.

5. Enforcement

- 5.1. The Council is responsible for the enforcement of this Policy.
- 5.2. In accordance with the Building Act 2004, the Council may decide to prosecute a person(s) if:
 - work is not undertaken on a building to reduce or remove the danger, or prevent the building from remaining insanitary, and/or
 - a person(s) use or occupy the building, or permit another person to use or occupy the building where a notice requires otherwise.
- 5.3. If the Court decides an offence has been committed the owner(s) could receive a fine.⁹

6. Review

- 6.1. This policy must be reviewed within five years after the policy is adopted by the Council.
- 6.2. This policy does not cease to have effect because it is due for review or is being reviewed.¹⁰

7. Document management and control

Title	Draft Dangerous and Insanitary Buildings Policy 2020
Sponsor	Strategic Planning and Regulatory Services
Approved by:	The Hauraki District Council
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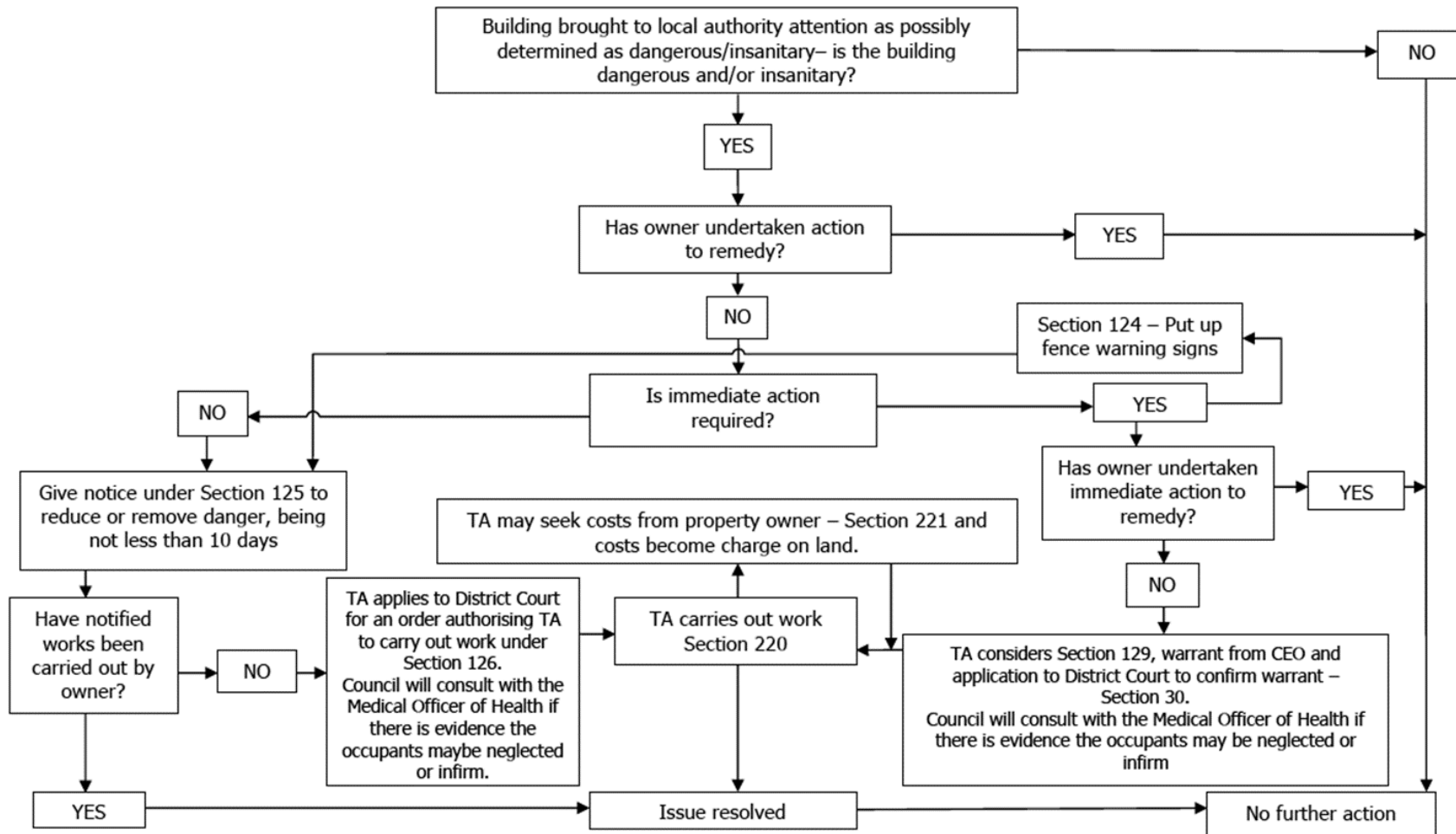
Property of Hauraki District Council

⁹ Section 128A of the Building Act 2004.

¹⁰ Section 132(5) of the Building Act 2004.

8. Appendix One

Procedure for remedying dangerous and insanitary buildings





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