

COUNCIL POLICY

TITLE:	DANGEROUS AND INSANITARY BUILDINGS
MEETING:	Regulatory & Services
EFFECTIVE DATE:	16 August 2011
FILE REFERENCE:	304860
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1. BACKGROUND

The Building Act 2004 (the Act) requires territorial authorities to adopt a policy on dangerous and insanitary buildings. The policy must state the approach a council will take to performing its functions under the Act, its priorities in undertaking these functions, and how the policy applies to heritage buildings.

This policy will be reviewed every five years.

2. APPROACH

Kawerau District Council (Council) has chosen to adopt a moderate approach to its functions relating to dangerous and insanitary buildings. This is more than a passive, do-nothing approach, but less stringent than inspecting the entire stock of buildings in Kawerau. A moderate approach coincides with Council's response procedures for public complaints and the inspection regime for Building Warrants of Fitness (BWofF) audits.

3. POLICY OBJECTIVES

The objectives of this policy are to reduce the risks of ill health and danger being caused to the Community by dangerous and insanitary buildings, by identifying and taking appropriate action to remediate those risks.

4. PRINCIPLES

All decisions and activity relating to dangerous and insanitary buildings should be guided by the provisions and principles contained in the Building Act, the Building Code, the Health Act and any relevant standards.

Of particular relevance are those principles which:

- Protect the safety of people
- Prevent or minimise any harmful effect on human health resulting from the use of particular building methods, products, design or work
- Protect other property from physical damage resulting from the construction, use and demolition of a building
- Recognise any cultural and traditional aspects of the intended use of a building, and
- Preserve buildings with significant cultural, historical or heritage value.

There is a need to reduce the risks posed by dangerous and insanitary buildings in a timely manner and within the context of the broader social and economic issues affecting the Community.

5. DEFINITIONS

Dangerous building means a building which:

- a) In the ordinary course of events (excluding the occurrence of an earthquake), 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 because of fire hazard or the occupancy of the building.

Insanitary building means a building which:

- a) Is offensive or likely to be injurious to health:-
 - i) Because of how it is situated or constructed; or
 - ii) Because 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.

Notice means a written notice requiring work to be carried out on the building, within a time stated in the notice (which will not be less than 10 days after the notice is given), to:

- i) Reduce or remove the danger; or
- ii) Prevent the building from remaining insanitary.

6. POLICY STATEMENT

6.1 Identifying potentially dangerous and insanitary buildings

Most potentially dangerous or insanitary buildings will be notified to Council through reports or complaints from building occupants or neighbours, members of the public, or from inspections by the Police, the Fire Service or other government agencies authorised to inspect buildings. Others may become evident to Council Officers in the course of their duties.

6.2 Assessing whether buildings are dangerous or insanitary

Council will investigate all buildings identified as being potentially dangerous or insanitary. When first made aware that a building is potentially dangerous or insanitary, the Council Officer will attempt to determine the potential for risk or harm to people and property. A building will be investigated within 24 hours where the potential for risk or harm is immediate and/or severe.

Every investigation of a potentially dangerous or insanitary building will establish the building's risk level using the risk assessment checklist in Appendix 1.

Investigation results will be recorded in a written report outlining any required remedial work and containing guidelines and a timeframe within which the remedial work must be completed. The report template in Appendix 2 will be used as a guideline for the report. When an investigation is concluded, the Council Officer will give the report and if necessary, issue a notice to the building owner.

A copy of the report will be kept in that part of the relevant property file which is available for public inspection until all the required work has been completed. Information regarding the dangerous or insanitary status of a building will also be made available through a Land Information Memorandum (LIM). For Project Information Memoranda, such information will only be provided while the required remedial work has yet to be completed.

6.3 Taking action

Council will take action on dangerous and insanitary buildings according to its powers under the Act.

Where a dangerous or insanitary building poses an immediate risk or its use is to be prohibited, Council may instruct the owner to carry out remedial work and/or to erect a hoarding to prevent people approaching the building. Alternatively, Council may elect, as provided by the Act, to remove the immediate danger or fix insanitary conditions itself.

In every case where a notice has been issued, if an owner fails to commence any required remedial work or progress is slow, Council may intervene as permitted under the Act.

Where an owner does not meet the timeframe stated in the notice, or is unable to carry out the required remedial work, Council may apply to the district court for an order authorising Council to carry out the work. Council will advise the building owner of its intention to apply to the court at least ten (10) days before making the application.

In every case where Council conducts any of the remedial work required of a building owner, all associated costs will be recoverable from the owner and the amount will become a charge against the land on which the building is situated.

Where a building has heritage value, Council will consult the Historic Places Trust about any remedial work directly affecting the building's structure. With regard to any building of cultural significance, Council will seek advice from suitably qualified persons. Council will obtain and consider advice from the New Zealand Fire Service to determine whether a building is likely to be dangerous in the event of a fire. If there is any evidence to suggest the occupants of a building may be neglected or infirm, Council may also liaise with the Medical Officer of Health.

6.4 Priorities for action

Council considers that all buildings, regardless of whether they are community/public or private buildings have equal priority. Where Council does need to prioritise work on buildings, the following issues will be taken into account:

- Potential risk to human life and health
- Potential risk to adjoining property
- The importance of the building to the Community e.g. hospital, school, cultural heritage
- The level of use and number of people using the building
- The vulnerability of people using the building
- The location of the building in relation to key infrastructure components
- The size of the building
- The age of the building and its expected life

In civil defence emergencies, Council will take a co-operative approach with the civil defence management team and work in accordance with its emergency management plan.

6.5 Notice of dangerous and insanitary buildings

Every notice will be issued according to Council's powers under the Act. In addition to clearly setting out the remedial work that is to be carried out and the timeframe in which to do so, a notice will also state whether the building is permitted to be used or occupied during the timeframe and whether a building consent is required to carry out the work.

Council will serve notice on an owner in person, or to his/her last known address on Council's rating database, or to his/her legal counsel, if known. Where none of these methods is practicable, notice will be deemed to have been served on the owner by way of Council fixing it upon the dangerous or insanitary building.

In addition to the owner, Council will also provide a copy of the notice to:

- The occupier/s of the building;
- Every person who has an interest in the land on which the building is situated under a mortgage or other encumbrance registered under the Land Transfer Act 1952;
- Every person claiming an interest in the land that is protected by a caveat lodged and in force under the Land Transfer Act 1952;
- Any statutory authority, if the land or building has been classified; and
- The New Zealand Historic Places Trust if the building is a heritage building.

Notice will not be invalid only because a copy is not given to any or all of the above persons.

A notice will remain in place until Council is satisfied that the remedial work has restored the building to a state where it meets the Building Code and is no longer dangerous or insanitary.

6.6 Consulting with building owners

In every case where Council takes action in relation to a dangerous or insanitary building, it will make contact with the building owner. A reasonable attempt will be made to contact the owner before or at the same time as the issue of a notice. Where a dangerous or insanitary building poses an immediate risk, Council may take remedial action first and then consult with the owner as soon as is practicable thereafter.

Council will give owners the opportunity to discuss their circumstances and future plans for their buildings and will take these into consideration. Where it is obvious that the expense of remedial work will place an unreasonable cost burden on the owner, this will be discussed with the owner and other alternatives, such as demolition or temporary hoardings will be considered.

6.7 Remedial work

Where a notice requires remedial work, Council will discuss with the owner the most suitable approach. When making its decision, Council will consider the following:

- The occupancy and use of the building
- Any relevant cultural impacts
- Any historical issues
- The surrounding environment and properties
- The location of the building and type of construction

In most cases it will be sufficient to use hoardings or similar to prevent the public from approaching the building until the remedial building work has been carried out.

If an owner fails to either undertake remedial work or to complete the work within the required timeframe, Council may obtain a district court order to carry out the work. The work may include the demolition of the building.

6.8 Relationship with other provisions of the Building Act

When a building owner applies for a building consent to alter an existing building, Council may assess the building as dangerous or insanitary if the alterations would affect:

- The means of escape in the event of a fire, and/or
- The ability of disabled persons to use the building, and/or
- The ability of the building to continue to meet the Building Code.

When a building owner applies for a building consent for remedial work required by a notice, Council will ensure the owner also makes the building compliant with Building Code requirements for people with disabilities.

A building owner will be required to comply with any outstanding notice before Council will issue a building consent for any work unrelated to the notice.

6.9 Heritage buildings

There are no buildings in Kawerau carrying heritage classification and Council has yet to assess Kawerau's built heritage or develop a heritage strategy. While this is a reflection that Kawerau has a relatively young building stock, Council will nevertheless consider the heritage values of buildings on their merits.

A heritage building will be assessed in the same way as other potentially dangerous or insanitary buildings.

The Historic Places Trust will be contacted prior to any action being taken in relation to a heritage building, except where the building must be made safe by preventing access or is in a state which poses an immediate risk of injury or death to people.

Where a building is not listed, but has been identified as having heritage significance, the Historic Places Trust shall be invited to make recommendations for remedial work which ensures public safety and is in keeping with the building's heritage features.

7. RELEVANT DELEGATIONS

The Chief Executive Officer or his/her nominee has delegated authority for the implementation of this policy.

8. REFERENCES AND RELEVANT LEGISLATION

Building Act 2004
Health Act 1956
Historic Places Act 1993
Kawerau District Plan

Appendix 1: Risk Assessment of Dangerous and Insanitary Buildings

Address.....

Lot No:..... DPS No:..... Building Consent
 No:.....

<u>Risk Factor</u>	<u>Rating (H/L)</u>	<u>Score</u>
<i>Users</i>		
1. What is the maximum number of users at any one time?	100 + people (H) = 10 Less than 100 people (L) = 7	<input type="text"/>
2. What is the predominant age group of the building users?	Children or Infants (H) = 10 Adults (L) = 3	<input type="text"/>
3. What is the general capability of the building users?	Mentally handicapped/immobile (H) = 10 Physically handicapped but mobile (H) = 6 Normal (L) = 3	<input type="text"/>
<i>Usage of the building</i>		
4. What is the sleeping activity rating for the building in terms of the building code?	SD, SA, SC, (H) = 10 SR (L) = 3	<input type="text"/>
5. Is the building used for any of the following activities?		<input type="text"/>
a. Education	Children (H) = 10 Adults (L) = 5	
b. Old people's home	Geriatric (H) = 10 Mobile (L) = 5	
c. Hospital (private or public)	Bedridden (H) = 10 Mobile (L) = 8 Bedridden (H) = 10 Mobile (L) = 5	
d. Residential institution	>100 people (H) = 10 <100 (L) = 3	
e. Place of Assembly	= 3	
f. Hotels and motels	>20 people (H) = 7 <5 (L) = 3	
g. Backpackers and Home stays	>20 people (H) = 9 <5 (L) = 5	
h. Attached multi-unit buildings	>5 apartments (H) = 7 3-5 (L) = 5	
6. What is the crowd, working, business or storage activity for the building in terms of the building code?	WD, WM, CL, CM (H) = 10 WL, CS (L) = 3	<input type="text"/>

Building Characteristics

7. Does the building have common walls with others? >1 (H) = 5 <1 (L) = 3
8. How many storeys does the building have? 2 = 5 add 5 for every subsequent storey
1 2 3 4 5 6 7 8 9 includes basements
9. Any historic clarification or significance? Yes = 2
10. Is the building in the inner city, in a known geothermal area or previous seismic activity? Yes (H) = 10
11. What is the age and condition of the building? Assign score 1-10 accordingly
e.g. Pre 1940 = 10 Pre 1965=8
12. Are there any other factors to be considered? e.g. parapets, verandahs, attachments or adornments Assign score 1-10 accordingly
- Total Score (out of approx 100)**
- Note: < 40 Low Risk 40-60 = Moderate Risk >60 = High Risk)*

Appendix 2: Check Sheet for Inspections of Dangerous and Insanitary Buildings

DANGEROUS AND/OR INSANITARY BUILDING INSPECTION RECORD		
Address of building		
Building name		
Name of person allowing access		
Relationship to building		
Time and date of inspection		
Contact details of at least two tenants (continue on reverse if necessary):		
Name		
Relationship		
Address (other than building address)		
Phone (home)		
Phone (work)		
Phone (mobile)		

Building warrant of fitness – yes / no		Displayed: yes / no	
Current use described as?			
Is current use and described use the same? yes / no		Number:	
List fire protection / detection system(s) present		Operational?	
		yes / no	
		yes / no	
		yes / no	
<i>*Note on rear of page if system has obvious defects in relation to relevant New Zealand Standards</i>			
Building features			
1. Number of floors	yes / no	8. Adequate potable water supply?	yes / no
2. How many flats?	yes / no	9. Adequate sanitary facilities for intended use?	yes / no
3. How many beds (total)?	yes / no	10. Has the cladding failed?	yes / no
4. How many means of escape?	yes / no	11. Is the nature of the building likely to be offensive or injurious to health?	yes / no
5. Can you identify safe paths?	yes / no	12. Do safe paths lead to exterior ground?	yes / no
6. Have you walked the escape routes?	yes / no	13. Are any escape doors fixed with locks?	yes / no
7. Any uncontrolled sources of ignition?	yes / no	14. Is any other building affected / likely to be affected by these building defects?	yes / no
Describe the building's construction:			
Describe means of escape:			

ACTION		Complete
On attached blank pages sketch floor plans and record locations of items 5-14 in Building features above		
Obtain copy of the current certificate of title		
Obtain copies of lease agreements		
Obtain tenants' contact details		
Obtain name of person tenants deal with		
Obtain expert reports		
Research building warrant of fitness		
Research authorised use/s		
What is your opinion of the building overall?		
Do you believe that the building is yes / no dangerous or insanitary?		Has this been confirmed by another yes / no party?
Name	Agency	Address
Reasons for YOUR decision:		
Obtain copies, in writing, from any attending experts e.g. fire services, fire engineers, IQPs		
Signed		
Date		