

PAPAKURA DISTRICT COUNCIL DANGEROUS AND INSANITARY BUILDINGS POLICY 2006

Papakura District Council

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Introduction and background

Section 131 of the Building Act 2004 requires territorial authorities to adopt a policy on dangerous and insanitary buildings by 31 May 2006.

The definition of a dangerous building is set out in Section 121 of the Building Act 2004, and the definition of an insanitary building is set out in Section 123 of the Building Act 2004.

This document sets out the policy adopted by Papakura District Council in accordance with the requirements of the Building Act 2004. The policy is required to state:

1/ the approach that the Papakura District Council will take in performing its functions under the Building Act 2004

2/ Papakura District Council's priorities in performing those functions

3/ how the policy will apply to heritage buildings.

In developing and adopting its dangerous and insanitary buildings policy, Papakura District Council is following the consultative procedure set out in Section 83 of the Local Government Act 2002.

Papakura District Council has made extensive use of the Department of Building and Housing's guidance document.

DANGEROUS AND INSANITARY BUILDING PROVISIONS OF THE BUILDING ACT 2004

1/ Policy approach

1.1 Policy principles

Papakura District Council has noted that provisions of the Building Act in regard to dangerous and insanitary buildings reflect the government's broader concern with the life safety and health of the public in buildings.

Papakura District Council has also noted that the development of dangerous and insanitary building policies is up to each TA and has responded accordingly.

This policy has been finalised after due consultation with Papakura District Council ratepayers and stakeholders in accordance with Section 83 of the Local Government Act 2002.

1.2 Overall approach

1.3 Identifying Dangerous and Insanitary buildings

1.4 Assessing buildings

1.5 Taking action on dangerous and insanitary buildings

Dangerous and insanitary buildings within Papakura District are currently identified in response to complaints. Over the last two years there have been less than 20 complaints to Papakura District Council about the structure of existing buildings or insanitary conditions.

Given the low number of complaints and Council's limited inspection resources, it is not considered necessary to adopt a policy of inspection of all buildings in Papakura District on a regular basis to check whether they are dangerous or insanitary.

Papakura District Council's dangerous and insanitary building policy under the Building Act 2004 will therefore be a continuation of the current approach, in response to complaints, which reflects the Council's determination to reduce safety and health risks over time in a way that is acceptable in social and economic terms to its ratepayers.

Papakura District Council will:

- respond to complaints to identify buildings that fall within the scope of potential dangerous and insanitary buildings under the Building Act 2004
- assess those buildings in relation to the meaning of dangerous and insanitary buildings under the Building Act 2004. This assessment will be done at the Council's cost, and may include seeking advice from members of the New Zealand Fire Service and / or other appropriate organisations on an as required basis at the discretion of the inspecting officer in consultation with the Regulatory Services Manager.

1.6 Fixing dangerous and insanitary buildings

- in cases of immediate danger to people's safety, Council may take action to remove the danger or fix insanitary conditions (Section 129 Building Act 2004), and recover the costs of that action from the owners
- Papakura District Council will:
 - advise owners of these buildings of the results of the Council's assessment
 - give written notices to all owners of dangerous and insanitary buildings to carry out work to reduce or remove the danger or prevent the building from remaining insanitary
 - If the building is shown to be dangerous or insanitary, then the Council will require that the building be made to comply as nearly as is reasonably practicable with the provisions of the Building Code.
 - allow owners a right of appeal as defined in the Building Act 2004, which can include applying for a determination under section 177.

1.6.2 Section 115: Change of use

Whenever a building consent application is received for change of use of a building that is or could be dangerous or insanitary, then, it will be a requirement of the building consent that the building does not remain dangerous or insanitary.

1.7 Interaction between a policy on dangerous and insanitary and other provisions of the Building Act 2004

Whenever a building consent application is received for significant upgrading or alteration of a building that is or could be dangerous or insanitary, the Council will not issue a building consent unless it is satisfied that the building will not remain dangerous or insanitary and that the building work will not detrimentally affect the building's compliance with the Building Code.

1.8 Dealing with building owners

1 Before exercising its powers under Section 124, Papakura District Council will seek, within a defined time-frame, to discuss options for action with owners with a view to obtaining from the owner a mutually acceptable approach for dealing

with the danger, or insanitary nature of the building, leading to receipt of a formal proposal from owners for reduction or removal of the danger, or to prevent the building from remaining insanitary.

2 In the event that discussions do not yield a mutually acceptable approach and proposal, Papakura District Council will serve a formal notice on the owner to reduce or remove the danger, or prevent the building from remaining insanitary.

1.9 Recording the status of a dangerous or insanitary building

Papakura District Council will keep a register of all dangerous or insanitary buildings noting the status of requirements for improvement or the results of improvement as applicable.

In addition, the following information will be placed on the land Information Memorandum (LIM) and Project Information Memorandum (PIM) for each dangerous or insanitary building:

- address and legal description of land and building
- statement that the building is on the Council's register of dangerous or insanitary buildings
- date by which reduction or removal of the danger, or prevention of the building from remaining insanitary is required
- statement that further details are available from the Council's property file.

Information concerning the dangerous or insanitary status of a building will be contained on the relevant LIM and PIM.

Papakura District Council may not require all dangerous or insanitary buildings to have an identifying plaque but Papakura District Council reserves the right to prohibit the use of dangerous or insanitary buildings under Section 128 of the Building Act 2004. Council may erect a hoarding or fence in relation to a building or attach a notice warning people not to approach a building under Section 124(1).

In granting access to information concerning dangerous and insanitary buildings, the Council will conform to the requirements of the relevant legislation.

1.10 Economic impact of policy

Over the last two years there have been less than 20 complaints to Papakura District Council about the structure of existing buildings or insanitary conditions. The economic impact of adopting this policy is therefore minimal.

2/ Priorities

2.1 Priorities for action

Papakura District Council will prioritise inspections relating to complaints about dangerous and insanitary buildings, in particular to determine those which are causing immediate danger.

3/ Heritage buildings

3.1 Dealing with heritage buildings

Papakura District Council does not intend to exempt heritage buildings from Building Act requirements for dangerous and insanitary buildings.

It is noted that if a notice pursuant to Section 124 of the Building Act 2004 is served on a heritage building, a copy of the notice must be given to the New Zealand Historic Places Trust. Discussions will be entered into with the owner, and with the Trust, where relevant, to identify a mutually acceptable way forward.

There is a requirement with heritage buildings for special effort to identify solutions that meet heritage objectives as well as the Building Act requirements, with methods that respect heritage values supported and encouraged by the Council.

For heritage buildings, demolition is an option of last resort.

Waivers and modifications of the building code will be considered on a case by case basis to allow for appropriate works to heritage buildings that respect the existing heritage values.

Any works on heritage buildings must take into account the principles of the International Council on Monuments and Sites (ICOMOS) NZ Charter, any advice from Council's heritage staff or heritage professionals or organisations.

4 Approaches to identification of dangerous and insanitary buildings

Actions Required By Council:

- 1. Compile a register of dangerous and insanitary buildings***
- 2. Instigate a system whereby dangerous and insanitary building notices and correspondence are placed on the file for the property***
- 3. Instigate a system whereby dangerous and insanitary building information is recorded on LIMs and PIMs***
- 4. Instigate an inspection template for dangerous and insanitary buildings***