

# STATEMENT OF PROPOSAL

## Review of Dangerous and Insanitary Buildings Policy

### Waitomo District Council



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## PURPOSE

Waitomo District Council's (Council) vision is to be a vibrant District. Council policies to support this vision and the community outcomes.

The purpose of the Dangerous and Insanitary Buildings Policy is to:

- Reduce the potential risk posed to residents in the District by dangerous, affected and insanitary buildings;
- Provide a clear framework of how Council will manage dangerous, affected, and insanitary buildings.

## BACKGROUND

Section 131 of the Building Act 2004 (the Act) requires Council to adopt a policy on dangerous and insanitary buildings within its district.

The Policy must state –

- The approach that the Council will take in performing its functions under this Part (of the Building Act), and
- The Council's priorities in performing those functions, and
- How the policy will apply to dangerous, affected, insanitary and heritage buildings.
- Section 132 of the Act states that the policy must be reviewed every 5 years and can only be amended or replaced in accordance with the special consultative procedure.
- Section 132A (2) states that Council must amend an existing policy to take into account affected buildings at the latest within a reasonable period following the next review of the policy.

## REASON FOR PROPOSAL

The Dangerous and Insanitary Buildings Policy was first introduced in 2006 and last reviewed in 2016. Council is required to review its current Dangerous and Insanitary Building Policy now. This scheduled review of the

Dangerous and Insanitary Buildings Policy has provided the opportunity to streamline and enhance the Policy in addition to meeting the review requirements of Section 132A (2) of the Act to make our communities safer.

Council want's your feedback on the changes proposed to this policy.

### Key dates

WHEN	WHAT
8 September 2021	Submissions open
8 October 2021	Submissions close
19 October 2021	Hearings (should people wish to speak to their submissions)
19 October 2021	Deliberations – Council discusses feedback from the community and changes are agreed to if appropriate
26 October 2021	Council adopts the final Policy

**This Statement of Proposal has been prepared to fulfil the requirements of section 83 and 87 of the Local Government Act 2002 (LGA).**

## WHAT WE ARE PROPOSING

Council is committed to ensuring that Waitomo District is a safe place to live, visit and work in. Council has reviewed and updated its existing Dangerous and Insanitary Building Policy as required under the Act and is seeking your views.

This is a proposal to adopt the Waitomo District Council Dangerous and Insanitary Buildings Policy 2021 and revoke and replace the Dangerous and Insanitary Buildings Policy 2016.

### **Summary of Key changes**

The policy remains largely unchanged, however the following key changes have been made in order to provide more clarity, to comply with the Act and make the policy more user friendly.

- An introduction to the policy has been created to explain the reason why Council is required to have this policy.
- The purpose and scope of the policy has been extended to include 'affected' buildings, as this is a requirement of the Act. The purpose and scope have also been streamlined to provide clarity on what Council wishes to achieve through the policy.
- The Definitions section has been expanded to include key terminology used within the policy.

# **Waitomo District Council**

## **Proposed Dangerous and Insanitary Buildings Policy**

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First adopted	<b>25 July 2006</b>
Last Reviewed	<b>2016</b>
Review Date	<b>25 July 2021</b>
Associated documents	<b>N/A</b>
Responsibility	<b>GM Strategy and Environment</b>

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## Introduction | Kupu Arataki

The provisions of the Building Act 2004 (the Act) reflect the governments concern with the safety of the public in buildings and in terms of dangerous and insanitary buildings, the need to reduce the danger to the public posed by such buildings. The Act also requires the Policy to state the Council's policy approach regarding affected buildings, which are buildings adjacent to, adjoining or nearby to a dangerous building or dam.

The Building Act 2004 leaves it up to each territorial authority to determine the approach to be taken to the management of dangerous and insanitary buildings. The approach can either be active or passive.

## Purpose and scope | Te aronga me te korahi

~~This document sets out WDC's policies in relation to dangerous and insanitary buildings, in particular this of policy contains:~~

- The purpose of this policy is to:**
  - Reduce the potential risk posed to residents in the District by dangerous, affected and insanitary buildings; and
  - Provide a clear framework for how Council will manage dangerous, affected, insanitary and heritage buildings.
- The policy sets out:**
  - The approach Waitomo District Council takes in performing its functions under the Building Act 2004;
  - Waitomo District Council priorities in performing those functions; and
  - How the policy applies to dangerous, affected, insanitary and heritage buildings
- This policy applies to all buildings within the Waitomo District Council territorial authority district.

## Definitions | Ngā whakamāramatanga

### **Affected Building**

Defined in s121A of the Act;

A building is an affected building for the purpose of this Act if it is adjacent to, adjoining, or nearby:

- A dangerous building as defined in section 121; or
- A dangerous dam within the meaning of section 153.

### **Authorised officer**

has the same meaning as section 222 of the Act, as follows: means an officer of a territorial authority to whom either or both of the following applies:

- he or she is authorised to carry out inspections; or
- he or she is authorised to enter the land –
  - by this Act; or
  - by an order of the District Court made under section 227.

<b><u>Building owner</u></b>	<p><u>Defined in section 7 of the Act;</u></p> <p><u>Owner in relation to any land or buildings on the land,</u></p> <p><u>(a) means the person who –</u></p> <ul style="list-style-type: none"> <li><u>(i) is entitled to the rack rent from the land; or</u></li> <li><u>(ii) would be so entitled if the land were let to a tenant at a rack rent; and</u></li> </ul> <p><u>(b) includes –</u></p> <ul style="list-style-type: none"> <li><u>(i) the owner of the fee simple of the land; and</u></li> </ul> <p><u>for the purposes of sections 32,44,92, 97 and 176 (c) any person who has agreed in writing, whether conditionally or unconditionally, to purchase the land or any leasehold estate or interest in the land, or to take a lease of the land, and who is bound by the agreement because the agreement is still in force.</u></p>
<b>Council</b>	Means the Waitomo District Council
<b>Dangerous Building</b>	<p>Defined in section 121 of the Act;</p> <p>(1) A building is dangerous for the purposes of this Act if;</p> <ul style="list-style-type: none"> <li>(a) in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause – <ul style="list-style-type: none"> <li>(i) injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or</li> <li>(ii) damage to other property; or</li> </ul> </li> <li>(b) in the event of fire, injury or death to any persons in the building or to persons on other property is likely.</li> </ul> <p>(2) For the purpose of determining whether a building is dangerous in terms of subsection (1)(b), a territorial authority:</p> <ul style="list-style-type: none"> <li>(a) May seek advice from employees, volunteers, and contractors of Fire and Emergency New Zealand who have been notified to the territorial authority by the board of Fire and Emergency New Zealand as being competent to give advice; and</li> </ul> <p>If the advice is sought, must have due regard to the advice</p>
<b>Heritage Building</b>	<p>Defined in section 7 of the Act;</p> <p>Means a building that is included on:</p> <ul style="list-style-type: none"> <li>(a) the New Zealand Heritage List / Rarangi Korero maintained under section 65 of the Heritage New Zealand Pouhere Taonga Act 2014; or</li> </ul> <p>the National Historic Landmarks / Ngaa Manawhenua o Aotearoa me onaa korero Tuturu list maintained under section 81 of the Heritage New Zealand Pouhere Taonga Act 2014.</p>



<b><u>Immediate danger</u></b>	<p><u>Defined in section 129 of the Act;</u></p> <p>(1) <u>This section applied if, because of the state of the building;</u></p> <p>(a) <u>Immediate danger to the safety of people is likely in terms of section 121 or 123; or</u></p> <p><u>Immediate action is necessary to fix insanitary conditions.</u></p>
<b>Insanitary Building</b>	<p>Defined in section 123 of the Act;</p> <p>A building is insanitary for the purposes of this act if the building;</p> <p>(a) Is offensive or likely to be injurious to health because;</p> <p>(i) of how it is situated or constructed; or</p> <p>(ii) it is in a state of disrepair; or</p> <p>(b) has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or</p> <p>(c) does not have a supply of potable water that is adequate for its intended use; or</p> <p>does not have sanitary facilities that are adequate for its intended use.</p>
<b><u>Property file and register</u></b>	<u>A record of legal information the Council is required to maintain in terms of section 216 of the Act.</u>
<b><u>Territorial Authority</u></b>	<u>Within the context of this policy means Waitomo District Council.</u>
<b><u>The Act</u></b>	<u>The Building Act 2004</u>

## Policy | Kaupapa here

4. Council will not actively inspect all buildings within the District but will make it a priority to quickly and efficiently respond to information received regarding potentially dangerous, **affected or** ~~and~~ insanitary buildings.
5. When Council receives information from any person that indicates that a building is potentially dangerous, **affected** or insanitary it will assess the building in order to determine whether or not it is a dangerous, **affected building** or an insanitary building. This will involve (but not be limited to):
  - a) Checking the details of the property against Council records;
  - b) An authorised officer undertaking a full and extensive inspection of the building;
  - c) Where necessary, seeking advice from the NZ Fire Service; and
  - d) Preparing an inspection record.

6. Where a building is determined to be a dangerous, affected building or an insanitary building, Council will work with the building owners to find a mutually acceptable plan of action before exercising its powers under the Act. Council will however, exercise its statutory powers under the Act where action is required to avoid immediate danger or in circumstances where an acceptable solution cannot be negotiated with the building owner.
7. In forming its view as to the work or action that is required to be carried out on the building to prevent it from remaining an insanitary building or a dangerous or affected building, or where Council needs to prioritise work on buildings, the following issues will be taken into account:
  - a) The size of the building;
  - b) The complexity of the building;
  - c) The location of the building in relation to other buildings, public places and natural hazards;
  - d) The life of the building;
  - e) How often people visit the building;
  - f) How many people spend time in the building;
  - g) How many people spend time in the vicinity of the building;
  - h) The current or likely future use of the building;
  - i) The reasonable practicality of any work concerned; and
  - j) Any other matters Council considers may be relevant, taking into account the particular set of circumstances.
8. The owner of a building which is determined to be a dangerous, affected building or an insanitary building, will bear all costs incurred in meeting the requirements of the Act. These costs include assessment and enforcement costs incurred by Council.
9. This policy applies to heritage buildings in the same way it applies to all other buildings.
10. Where a heritage building is potentially a dangerous, affected building or an insanitary building, Council may seek advice from Heritage New Zealand Pouhere Taonga.
11. Council will retain all information relating to dangerous, affected building and insanitary buildings on the relevant property file. This includes a copy of the inspection record and any action taken.

# Submission Form



## Draft Dangerous and Insanitary Buildings Policy 2021

**Submissions close 5pm 8 October 2021**

Sub No.

*For office use only*

You can share your views by:

- Completing this submission form and returning it to us by:
  - Visiting our office on Queen Street, Te Kuiti
  - emailing it to: [haveyoursay@waitomo.govt.nz](mailto:haveyoursay@waitomo.govt.nz) (scan and pdf or take a photo)
  - Posting to: FREEPOST 112498, Waitomo District Council, PO Box 404, Te Kuiti 3941
- Visiting our website: [waitomo.govt.nz/consultation](http://waitomo.govt.nz/consultation) and fill an online submission form

<b>Full Name:</b>	<input type="text"/>
<b>Organisation:</b> <i>(if responding on behalf of)</i>	<input type="text"/>
<b>Phone:</b> <i>(home/mobile)</i>	<input type="text"/>
<b>Address:</b>	<input type="text"/>
<b>Postcode:</b>	<input type="text"/>
<b>Email:</b>	<input type="text"/>

*The Local Government Act 2002 requires submissions to be made available to the public. Your name and/or organisation will be published with your submission and made available in a report to elected members and to the public. Other personal information supplied (such as address / email address) will be removed from the public copy.*

**I wish to speak to Council about my submission.**

*(Hearings are scheduled for 19 October 2021. We will contact you to arrange a time.)*

Yes  No

### YOUR FEEDBACK

Please give us your feedback on the Draft Dangerous and Insanitary Buildings Policy 2021

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