



Dangerous, Affected and Insanitary Buildings Policy Review 2022 Statement of Proposal

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1. Introduction

Thames-Coromandel District Council (the “Council”) proposes to amend the current Dangerous and Insanitary Buildings Policy 2018 (the Policy).

The Building Act 2004 (the ‘Act’) requires all territorial authorities to have a policy on dangerous and insanitary buildings and that this be reviewed every five years.

The Council is now reviewing the Policy, and is taking this opportunity to incorporate new direction about how Council will respond to potentially or notified, dangerous, affected or insanitary buildings in an area affected by a state of emergency. This reflects Council’s new powers under special provisions for buildings affected by emergency introduced by the Building Amendment Act 2019 which took effect from 17 December 2019.

1.1 Overview

When the Building Act 2004 first came into force, it required Councils to adopt a policy on earthquake-prone, dangerous and insanitary buildings by 31 May 2006. Council adopted its Earthquake-prone, Dangerous and Insanitary Buildings Policy in 2006. A five yearly review was required, and a revised Policy was adopted in 2011.

The next five yearly review, due in 2016 was delayed due to expected changes to the legislation. The Building (Earth-quake prone Buildings) Amendment Act 2016, which came into force on 1 July 2017 created a national policy framework for managing earthquake-prone buildings, meaning the Council was no longer required to maintain a policy on earthquake-prone buildings but was still required to have a policy on dangerous and insanitary buildings.

Following a consultation process through which no submissions were received, Council adopted its Dangerous and Insanitary Buildings Policy (the Policy) at its meeting on 11 December 2018. The Act requires a five yearly review of the Policy. This means that our Policy review is due to be completed in 2023.

A report was taken to Council’s 8 November 2022 meeting regarding the review. The recording of the meeting is on our website at www.tcdc.govt.nz/meetings as is the full agenda, including reports.

We are now seeking your feedback on the review of the Policy, and welcome your submission.

2. Council’s proposal

Council is proposing to:

- Amend the Policy to include direction on how it will respond to potentially or notified dangerous, affected or insanitary buildings in an area affected by a state of emergency; and
- Format the Policy to reflect an updated policy template. This will improve the Policy’s readability and consistency.

A copy of our Dangerous, Affected and Insanitary Buildings Policy is included at the end of this Statement of Proposal.

3. Have your say

3.1 How to have your say

The consultation period for the Dangerous, Affected and Insanitary Buildings Policy review **will begin on Friday 11 November 2022 and conclude on Monday 12 December 2022.**

This is your opportunity to let the Council know what you think of the review of the Dangerous, Affected and Insanitary Buildings Policy.

You can:

- read further information and submit using our online consultation portal at www.tcdc.govt.nz/Have-Your-Say/
- email us at consultation@tcdc.govt.nz
- complete a submission form and post it to us at Thames-Coromandel District Council, Private Bag 1001, Thames 3540; or
- drop it into one of our offices in Thames, Coromandel, Whitianga or Whangamatā.

Submission forms and hard copies of the statement of proposal are available on request at all our offices.

If you have any questions about this proposal or about how to make a submission, please contact us on 07 868 0200 or email customer.services@tcdc.govt.nz

3.2 What happens next

Submissions must be received by 12 December 2022.

Following the end of the public consultation period, we will invite submitters who wish to speak to Council in support of their submission to present their submissions at a Council meeting. The meeting is likely to be scheduled during January or February 2023 and will be held both in-person and online via video conferencing.

Submitters wishing to be heard will be contacted to confirm the approximate time of the hearing of their submission.

The Council will then consider all the submissions made and make decisions. If no further changes are required, the Council is expected to adopt the Dangerous, Affected and Insanitary Buildings Policy in early 2023.

4. Dangerous and Insanitary Buildings Policy for consultation



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Dangerous, Affected and Insanitary Buildings Policy 2022

Policy type (**governance**)

Policy Owner	Corinne Hamlin, Building Unit Manager		
Adopted by	Council 11 December 2018		
Description of policy	This policy sets out Council's approach in performing its functions under the Building Act 2004 in relation to dangerous, affected and insanitary buildings, including its priorities and how it will apply to heritage buildings.		
Keywords	Dangerous, Affected and Insanitary Buildings		
ECM doc set number	To be confirmed		
Date policy first adopted	31 May 2006	Date this version adopted:	To be confirmed
This version effective from:	To be confirmed	Date of next review:	Five years after last review

Policy Amendments

Amendment(s)	Date	Updated by & Authority
Adopted	31 May 2006	Council
Amended	11 December 2018	<p>Council</p> <p>The previous Earthquake-prone, Dangerous and Insanitary Buildings Policy has been amended to remove the Earthquake-prone section. As from 1 July 2017 the "Building (Earthquake-prone Building) Amendment Act 2016 took effect and created a national policy framework for managing earthquake-prone buildings. Other amendments include combining dangerous and insanitary sections that were previously separated and the proposed Dangerous and Insanitary Buildings Policy has been transferred into the new Council template</p>
Amended	To be confirmed	<p>Council</p> <p>As from 17 December 2019 the "Building Amendment Act 2019 took effect. This bill amends the Building Act 2004 and introduces improved methods of managing buildings after an emergency.</p>

THAMES COROMANDEL DISTRICT COUNCIL DANGEROUS, AFFECTED AND INSANITARY BUILDINGS POLICY 2022

Information

This policy was developed to meet the requirements of section 131 of the Building Act 2004 (Act), which requires the Council to have a policy on Dangerous and Insanitary Buildings.

Sections 132A of the Act requires the Policy to state the Council's approach when dealing with affected buildings; and section 131(c) of the Act mandates the Council to state how the policy will apply to heritage buildings.

The policy sets out:

1. The approach that Council will take in performing its functions under the Act in relation to dangerous and insanitary buildings; and
2. Council's priorities in performing those functions; and
3. How the policy will apply to heritage buildings.

This policy was adopted using the special consultative procedure under the Local Government Act 2002.

This policy has a tenure of five years from the adoption date before it must be reviewed.

Amendments to this policy must also be made in accordance with the special consultative procedure.

Objectives

The relevant principles of section 4 of the Act have been taken into account in preparing the Policy. In considering these principles the Policy seeks to:

1. Establish a framework for identifying, assessing and acting on identified dangerous and insanitary buildings.
2. Ensure that people who use buildings can do so safely and without endangering their health.
3. Ensure people who use a building can escape from the building if it is on fire.
4. Prevent damage to other property in the ordinary course of events.

Policy

Context

The Dangerous and Insanitary Buildings Policy contributes to the following Council outcome:

A liveable district – The Coromandel Peninsula is a preferred area of New Zealand in which to live, work and raise a family and have a safe and satisfying life.

The Council's priority is to ensure that people who use buildings in the ordinary course of events can do so safely and without endangering their life or health. A secondary priority is to prevent damage to other property. This will guide the action to be taken in individual cases.

Identifying dangerous, affected or insanitary buildings

1. The Council will inspect buildings within the Thames Coromandel District when prompted by a complaint, or if an authorised Council officer identifies a potentially dangerous, affected or insanitary building during their normal day to day duties.
2. The Council will promptly respond when a potentially dangerous, affected or insanitary building is identified and will undertake an inspection to determine whether the building or part of the building is dangerous, affected or insanitary and what risk there is to human life, health or other property.
3. If a dangerous building has other buildings adjoining or nearby, these buildings will also be inspected to consider if they are affected buildings.
4. The Council may seek an opinion from a suitably qualified person(s) or agencies as necessary. This may include, but not limited to, the opinion of a structural or geotechnical engineer, or a person deemed competent to give advice by Fire and Emergency New Zealand.

Undertaking action on dangerous, affected or insanitary buildings

5. If Council deems a building to be dangerous, affected or insanitary the Council will endeavour to consult with the owners and occupiers of the building to determine the circumstances and decide the appropriate course of action. Such consultation may not always be possible, particularly in situations involving immediate danger.
6. Action to a dangerous, affected or insanitary building may include one or all of the powers available to the Council under s 124 and 125 of the Act, including:
 - a) put up a hoarding or a fence to prevent people from approaching the building;
 - b) attach a notice to the building that warns people not to approach the building;
 - c) give a copy of the notice to the persons listed in Section 125(2) of the Act;
 - d) 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;
 - e) issuing a notice restricting entry to the building for particular purposes or to particularly persons or groups of persons.

9. If a building is an immediate danger to the safety of people, or immediate action is needed to fix insanitary conditions, the Council's Chief Executive may choose not to consult with the building owner and use their powers under Section 129 of the Act. In such circumstances the Chief Executive may authorise work that is necessary to remove immediate danger or fix insanitary conditions arising from the state of a building.
10. As provided by s 123B of the Act, if a dangerous or insanitary building or a building adjacent to, or adjoining, a dangerous building is located in an area that has been designated under subpart 6B of the Act, then the dangerous, affected or insanitary building provisions and powers that are available to the Council under subpart 6 of the Act will not apply to that building while the designation is in force.
11. Despite the above, the following will continue to apply to the building:
 - a) An action taken in relation to the building under section 124(2)(a) or (b) before the designation;
 - b) A notice issued in relation to the building under section 124(2)(c), or work carried out in accordance with the notice or under section 126, before the designation;
 - c) A notice issued in relation to the building under section 124(2)(d) before the designation; and
 - d) An action in relation to the building for which a warrant has been issued under section 129(2) before the designation.

Monitor and enforce

12. The building may require re-inspection to confirm if the required actions have been completed or a written notice has been complied with.
13. Continued failure to comply with a notice can lead to prosecution or an infringement notice being served.
14. If an owner does not comply with a formal notice issued under Section 124(2)(c) of the Act requiring building work to be carried out, the Council, after giving notice of its intention to do so, may apply to a District Court for an order authorising the territorial authority to do the work itself, recover its costs from the owner and the amount recoverable becomes a charge on the land.
15. Where the Council's Chief Executive takes action under Section 129 of the Act, the owner of the building is liable for the costs of the action. The Council may recover the costs from the owners and the amount recoverable becomes a charge on the land on which the building is situated.

Heritage Buildings

15. For the purpose of this policy 'heritage buildings' include:
 - a) Items scheduled in Appendix 1.3 Historic Heritage Items and Area Schedule of the Proposed District Plan - Appeals Version; or
 - b) Buildings on the New Zealand Heritage List/Rārangī Kōrero maintained under section 65 of the Heritage New Zealand Pouhere Taonga Act 2014; or

- c) Buildings on the National Historic Landmarks/Ngā Manawhenua o Aotearoa me ōna Kōrero Tūturu list maintained under section 81 of the Heritage New Zealand Pouhere Taonga Act 2014; or
 - d) a place, or part of a place, that is subject to a heritage covenant under [section 39](#) of the Heritage New Zealand Pouhere Taonga Act 2014 and is registered under [section 41](#) of that Act; or
 - e) a place, or part of a place, that is subject to a heritage order within the meaning of [section 187](#) of the Resource Management Act 1991.
16. Where a heritage building is deemed to be a dangerous, affected or insanitary building the Council will notify the relevant agency.
17. Heritage buildings are not given automatic dispensation under this policy. However, where practical and on a case-by-case basis, Council will adopt and encourage an innovative, preservative and low-impact response to any dangerous, affected or insanitary situation in a heritage building.

Recording the status of dangerous or insanitary buildings

19. The Council will keep a record of all dangerous, affected or insanitary buildings on the relevant property file. The record will be updated once the required actions having been undertaken and the building is no longer considered to be dangerous or insanitary.
20. 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.

Implementation

This policy will be implemented and monitored by Council's Regulatory Services

The policy may be reviewed at any time in response to an issue that may arise; at the request of Council; or in response to changed legislation and statutory requirements. Alternatively, it will be reviewed every five years as required under Section 132 of the Act.