

Dangerous and Insanitary Buildings Policy



Approved 12 December 2018

CONTENTS

- 1. Purpose 1
- 2. Scope 1
- 3. Identifying and Taking Action on Dangerous, Affected or Insanitary Buildings 1
- 4. Priorities..... 2
- 5. Heritage Buildings 2
- 6. Review of Policy..... 2
- 7. Definitions..... 2
- 8. Related Documents 3
- 9. References..... 3
- 10. Version Control..... 3

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1. PURPOSE

1.1 The purpose of this policy is to ensure that:

- people who use buildings can do so safely and without endangering their health; and
- buildings have attributes that contribute appropriately to the health, physical independence, and wellbeing of the people who use them.

2. SCOPE

2.1 This policy applies to all buildings within the Masterton district.

2.2 The policy sets out:

- the approach that Masterton District Council (MDC) will take in performing its functions under the Building Act 2004 (the Act), in relation to dangerous and insanitary buildings;
- the priorities that will be adopted in carrying out those functions; and
- how the policy applies to heritage buildings.

3. IDENTIFYING AND TAKING ACTION ON DANGEROUS, AFFECTED OR INSANITARY BUILDINGS

3.1 Whether a building is considered dangerous, affected or insanitary under the Act, will depend on the individual circumstances of each case. MDC will consider each case and determine the appropriate course of action based on the particular set of circumstances that exist.

3.2 MDC must first be satisfied that the building in question is dangerous, affected or insanitary. To determine this, MDC will carry out the following steps:

- a. On receiving a complaint or information expressing concern that a building is dangerous, affected or insanitary, MDC will consult the owner of the building, inspect the building and site, and may also seek the advice of Fire and Emergency New Zealand (FENZ).
- b. Following the inspection, and taking into account the advice or recommendations of FENZ, MDC will determine whether the building is dangerous, affected or insanitary. In making this decision MDC will take into account the provisions of sections 121, 121A and 123 of the Act.
- c. If MDC is satisfied that the building in question is deemed to be dangerous, affected or insanitary, MDC will then determine the work or action that must be carried out to prevent it from continuing to be dangerous, affected or insanitary.
- d. In forming a view as to the work or action that is required to be carried out to prevent the building from remaining dangerous, affected or insanitary, MDC will take the following matters into account:
 - i. the size of the building;
 - ii. the complexity of the building;
 - iii. the location of the building in relation to other buildings, public places, and natural hazards;
 - iv. the life of the building;
 - v. how often people visit the building;
 - vi. how many people spend time in or in the vicinity of the building;
 - vii. the current or likely future use of the building, including any special traditional and cultural aspects of the current or likely future use;
 - viii. the expected useful life of the building and any prolongation of that life;
 - ix. the reasonable practicality of any work concerned;
 - x. any special historical or cultural value of the building; and
 - xi. any other matters that MDC considers may be relevant, taking into account the particular set of circumstances.

- e. Following the inspection of the building, after receiving advice from FENZ (if applicable), and taking into account the matters listed above, MDC will decide whether immediate action should be taken to avoid the danger or to fix the insanitary conditions, pursuant to the provisions of section 129 of the Act.
- f. If MDC decides that immediate action under section 129 of the Act is not required, MDC will issue a notice under section 124 of the Act, requiring the owner to carry out the necessary work and to obtain a building consent before commencing work. The time required to obtain a building consent and commence work will depend on the particular set of circumstances, but shall not exceed six months from the time notice was served on the owner. Completion of the work for which a building consent has been issued shall depend on the particular set of circumstances of each case but shall not exceed a period of six months from the time the building consent was issued.

3.3 Where a property owner has failed to carry out the work within the time specified, MDC may apply to the District Court for an order authorising it to carry out the work, pursuant to section 130 of the Act. The full costs of carrying out such works will be recovered from the property owner.

4. PRIORITIES

- 4.1 Priority will be given to buildings that have been determined to be immediately dangerous, affected or insanitary. Urgent action will be required, as outlined in 3.2(e) above.

5. HERITAGE BUILDINGS

- 5.1 With regard to heritage buildings that are determined to be dangerous, affected or insanitary, MDC will seek to ensure, as far as reasonably practicable, that work carried out will not diminish the heritage values of the building. Property owners must take all reasonable steps to ensure that this objective is achieved.
- 5.2 If a notice is issued under section 124 of the Act, to the owner of a heritage building listed by Heritage New Zealand Pouhere Taonga (HNZ), a copy of the notice will also be sent to HNZ.
- 5.3 If the building is listed in the Wairarapa Combined District Plan as a heritage item, MDC will ensure the heritage value of the building is taken into account.

6. REVIEW OF POLICY

- 6.1 This policy will be reviewed every five years.

7. DEFINITIONS

Affected Building: In accordance with section 121A of the Act, a building is defined as affected if it is adjacent to, adjoining or nearby:

- a. *a dangerous building as defined in section 121 of the Act; or*
- b. *a dangerous dam as defined in section 153 of the Act.*

Dangerous Building: In accordance with section 121 of the Act, a building is defined as 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.*

Insanitary Building: In accordance with section 123 of the Act, a building is defined as insanitary if it:

- a. *is offensive or likely to be injurious to health because -*
 - 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.*

8. RELATED DOCUMENTS

Wairarapa Combined District Plan

9. REFERENCES

Building Act 2004

10. VERSION CONTROL

Date	Summary of Amendments	Approved By
2006	New policy	Masterton District Council
12/12/2018	Updated to include reference to 'affected' buildings, clarification of MDC priorities and how the policy applies to heritage buildings, minor amendments to improve readability.	Masterton District Council