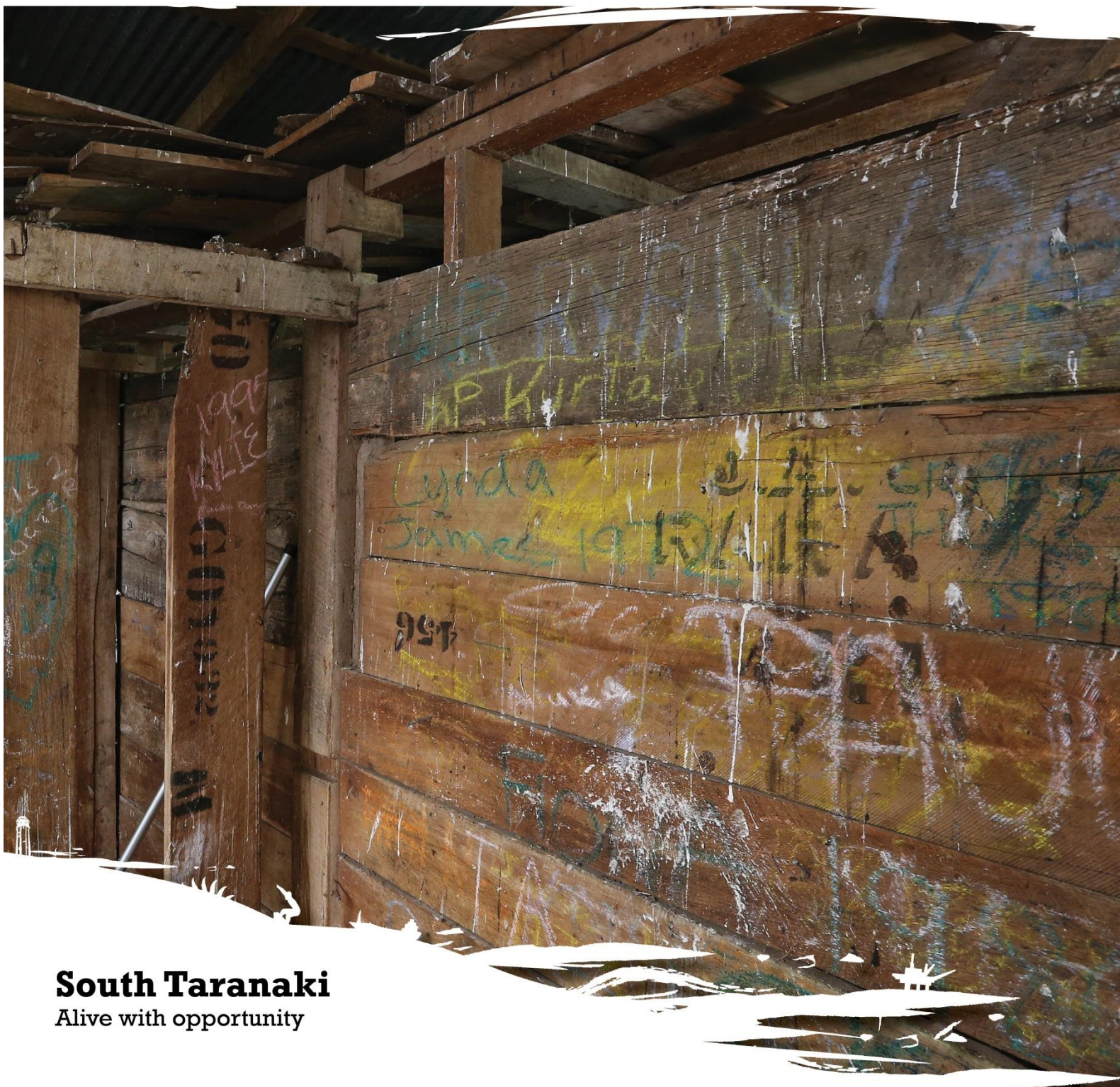


Dangerous, Affected and Insanitary Buildings Policy

South Taranaki District Council



Executive Summary

The Council has a statutory responsibility to act promptly to ensure the safety of persons or property when buildings that may be dangerous or insanitary come to the Council's attention. The Dangerous, Affected and Insanitary Buildings Policy ("the Policy") has been prepared by the Council to comply with section 131 of the Building Act 2004 ("the Act"), which requires Council to have a policy on Dangerous, Affected and Insanitary Buildings.

In setting this policy, Council has endeavoured to strike a balance between the threats posed by dangerous and insanitary buildings and the broader social and economic issues affecting the community that are involved.

Council's Role and Responsibility

The Council is required, under section 131 of the Act, to have a policy on Dangerous, Affected and Insanitary Buildings.

This policy supersedes the Council's Dangerous, Earthquake-Prone and Insanitary Buildings Policy.

Purpose of the Policy

The purpose of this policy is to:

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

This policy sets out:

- The approach that the Council will take in performing its functions under the Act in relation to Dangerous, Affected and Insanitary Buildings;
- The Council's priorities in performing these functions; and
- How the Policy will apply to heritage buildings.

The relevant principles of section 4 of the Act have been taken into account in preparing this Policy, and will be taken into account in the performance of the Council's functions, powers and duties.

Policy Scope

This Policy applies to all buildings within the South Taranaki District.

The Building (Earthquake-prone Buildings) Amendment Act 2016 amended the Act in regard to councils responsibilities for managing earthquake-prone buildings and the "earthquake-prone" provisions of the previous policy have therefore been superseded by the legislation. Earthquake-prone priority buildings are addressed in the Council's Earthquake-Prone Priority Buildings Policy.



Objectives

The objectives of this Policy are to fulfil the Council's statutory responsibility under the Act by:

1. Facilitating negotiated solutions with building owners that ensure their buildings are safe and sanitary for building users and visitors, as well as protecting other property from physical damage.
2. Seeking the protection of heritage buildings and their contents.

Requirements of the Act

When buildings that may be dangerous or insanitary come to the attention of the Council, the Council will act promptly to investigate and, if determined to be dangerous or insanitary, ensure they are made safe. Buildings may become dangerous or insanitary due to a number of reasons, such as unauthorised alterations being made, from a fire, from a natural disaster, or as a result of its use by an occupant.

The Council has a statutory responsibility to act promptly to ensure the safety of persons or property when buildings that may be dangerous or insanitary come to the Council's attention. The Council is also required to consider whether any other buildings may be affected by a dangerous or insanitary building and if so, what action, if any, is appropriate.

The concept of an affected building arises in the context of a dangerous building that is physically close enough to potentially pose a danger to people within the affected building. Note: affected buildings are defined as buildings which are adjacent to, adjoining, or nearby a dangerous building.

Policy

1.0 Council's approach to dangerous, affected or insanitary buildings

- 1.1 The 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 insanitary buildings.

2.0 Application of policy to heritage buildings

- 2.1 This policy applies to heritage buildings in the same way it applies to all other buildings. Where the Council receives information regarding buildings which have a heritage classification under Heritage New Zealand Pouhere Taonga, in addition to consulting with affected owners the Council will consider seeking advice from Heritage New Zealand Pouhere Taonga.

3.0 Co-operation with other agencies

- 3.1 The Council will work with Heritage New Zealand Pouhere Taonga, the Fire and Emergency New Zealand, the New Zealand Police, the District Health Board and other agencies to achieve the purpose of the Act.



4.0 Costs

- 4.1 The Council may issue a notice under section 124(2) (c) of the Act requiring work to be carried out on dangerous or insanitary buildings to reduce or remove the danger, or to prevent the building from remaining insanitary. If work required under such a notice issued by the Council is not completed or proceeding with reasonable speed, the Council may invoke its powers under section 126 of the Act and apply to the District Court to gain authorisation to carry out building work required in the notice.
- 4.2 If the Council carries out building work, it is entitled to recover costs associated with that work from the building owner, as set out in section 126(3) of the Act.

5.0 Immediate danger

- 5.1 If a building presents an immediate danger or health hazard to people within and/or around it, or to surrounding buildings, the Council may choose to invoke its powers under section 129 of the Act.

6.0 Procedures

6.1 Detect

- 6.1.1 Once the Council has received information regarding a potentially dangerous, affected or insanitary building it will:
- a) Check the details of the property against the Council's records;
 - b) Have an authorised officer undertake an inspection of the building in question. In doing this, the Council may seek advice from Fire and Emergency New Zealand, or any other professional or organisation deemed appropriate by the Council; and
 - c) Prepare an inspection record.

6.2 Assess

- 6.2.1 All inspections of potentially dangerous, affected or insanitary buildings will involve assessment of the building's condition in terms of the definitions in section 121 and 123 of the Act and the current building code requirements. Inspection records will be prepared in all cases.

6.3 Act

- 6.3.1 Once Council is satisfied that a building is dangerous, affected or insanitary it will:
- a) Consult with the owners of the affected building to further determine the circumstances and decide on an appropriate course of action.

- b) Authorised officers are not required to inform or obtain approval for inspections to determine whether or not a building is dangerous or insanitary, unless the building is a household unit. In these circumstances the Council must either obtain consent of the occupier of the household unit or an order from a District Court.
- c) Where a mutually acceptable outcome cannot be reached, or where the situation requires, the Council may invoke its powers under section 124, 126 or 129 of the Act.
- d) Inform building owners and tenants of the inspection results and the Council's intended course of action to deal with the situation.
- e) Inform complainants of the inspection results and the Council's intended course of action to deal with the situation.

6.4 Monitor

- 6.4.1 All information relating to dangerous, affected or insanitary buildings will be filed on the relevant property file. This will include a copy of the original inspection record and any further action taken. This information will also be included on any Land Information Memorandum (LIM) or Project Information Memorandum (PIM) prepared for the property.

7.0 Definitions

Where a definition has the same meaning as a definition in the Act, the definition for the purposes of this Policy includes any subsequent amendment to the definition in the Act. For the avoidance of doubt, where a definition in the Act differs from a definition in this Policy, the definition in the Act has precedence.

Act means the Building Act 2004

Affected Building has the same meaning as section 121A of the Act, as follows: a building is an affected building for the purposes of the Act if it is adjacent to, adjoining, or nearby –

- a) a dangerous building as defined in section 121; or
- b) 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:

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

Building has the same meaning as section 8 of the Act.

Council means the South Taranaki District Council.

Dangerous Building has the same meaning as section 121 of the Act, as follows:



- 1) A building is dangerous for the purposes of the Act, 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 because of fire hazard or the occupancy of the building.
- 2) For the purpose of determining whether a building is dangerous in terms of subsection (1) (b), a territorial authority—
 - 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
 - b) If the advice is sought, must have due regard to the advice

Heritage building is defined as a building listed in Schedule 1A of the District Plan or included on the New Zealand Heritage List maintained under section 65 of the Heritage New Zealand Pouhere Taonga Act 2014 or the National Historic Landmarks list maintained under section 81 of the Heritage New Zealand Pouhere Taonga Act 2014

Insanitary building is defined under section 123 of the Act as:

“A building is insanitary for the purpose of the Act if the building –

- 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.”

8.0 Contacts

For further information in regard to this Policy please contact the Environmental Services Unit

South Taranaki District Council 06 278 0555 or 0800 111 323

9.0 Review of Policy

9.1 This Policy shall be reviewed every five (5) years as required by section 132(4) of the Act.

9.2 This Policy may be amended when required subject to the provisions of the Act or reviewed within the timeframe stated in the Act to meet the needs of the Council and best practice.

9.3 This Policy takes effect from 29 October 2018 which is the date it was adopted by the Council.

History of Policy

| Action | Description | Decision date | Decision number | Commencement |
|--------|--|---------------|-----------------|--------------|
| New | Adoption of new Dangerous, Affected or Insanitary Buildings Policy | 29/10/2018 | 314/18 | 29/10/2018 |
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