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Palmerston North City Council

Draft Dangerous, Affected, and Insanitary
Buildings Policy 2024

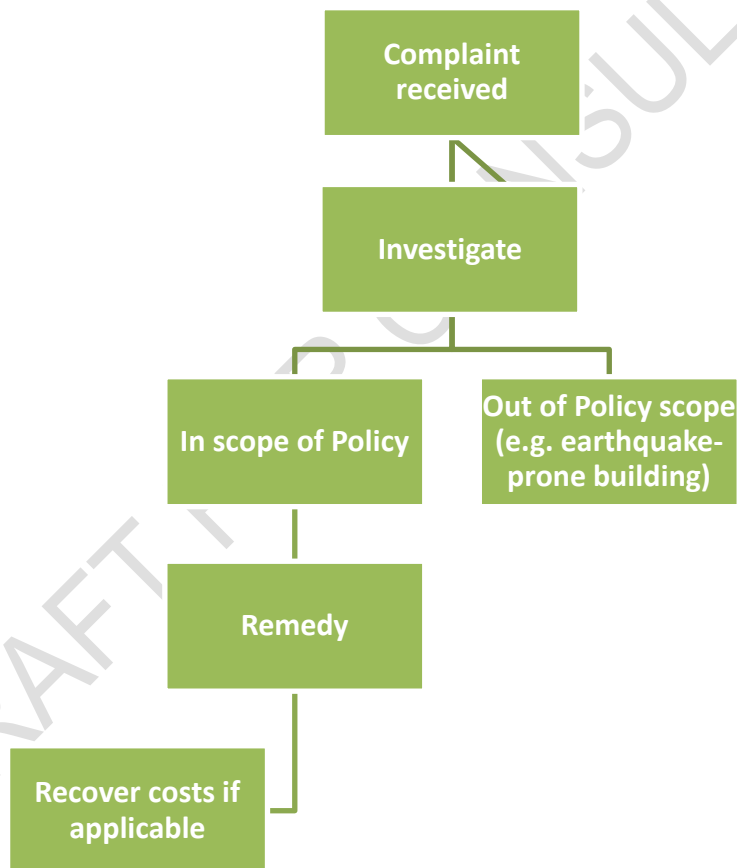
Statement of Proposal

Introduction

This proposal is to adopt a Dangerous, Affected, and Insanitary Buildings Policy to replace the current Policy. A policy is required by the Building Act 2004 (the Act) and the current one was adopted in 2006.

The purpose of the Policy is to enable a local response to identify and remedy buildings that fit the Act's definition of dangerous, affected, and insanitary. This will contribute to the Act's objectives to ensure that buildings do not endanger the health, safety and wellbeing of the people who use them.

Council relies on complaints from the public and emergency services to identify buildings of concern. Below is a high-level outline of the typical process that Council follows when implementing the Policy:



The intent of the proposed Policy remains the same, but we are proposing some improvements:

- To take account of legislative requirements.
- Improve transparency and consistency.

- Update the policy structure and strategic direction.

The Proposal

The proposed Policy includes a number of changes. Many of these proposed changes are minor, but a few are more significant, and these are detailed below:

Policy reference	Explanation
Section 2 - Strategic context	This section has been amended to align with Council's Long-Term Plan 2024-2034.
Section 3 - Policy purpose	This new section explicitly states the purpose the Policy will fulfil.
Section 4 - Policy objectives	These explicitly states the outcomes the Policy seeks to achieve.
Section 5 - Principles	The principles in the current Policy were general policy principles approved by elected members at that time (2006). We propose that the Policy reflects the Act's requirements to develop the Policy with consideration of the principles and purposes of the Act.
Section 6 – Guidelines Inclusion of “affected buildings” in the Policy.	Section 132A of the Act requires Council to amend any existing policies to take account of affected buildings. This means that for any building that is in close proximity to a building that is determined as ‘dangerous’ or to a ‘dangerous dam’, Council has the ability to determine whether it fits the definition of ‘affected’ and to seek to mitigate any risk if it is. The draft Policy includes provisions on ‘affected’ buildings and the name of the draft Policy has been changed to include ‘affected’ buildings.
Section 6 – Guidelines Subheading – <i>Assessment criteria</i>	This section is to increase transparency about the factors that Council may consider when deciding whether an identified building fits the definition

	within the Act of 'dangerous, affected and/or insanitary'.
Section 6 – Guidelines Subheading - <i>Taking action under the Building Act 2004</i>	This section of the Policy has been amended to be more transparent about the process that Council will undertake when deciding on the action it will take to prevent a building from remaining dangerous, affected and/or insanitary.
Section 6 – Guidelines Subheading – <i>Recording the status of dangerous, affected, or insanitary buildings.</i>	This section sets out Council's intention to keep a register of the status of dangerous, affected, and/or insanitary buildings in the City. It will also give Council the ability to consider whether to list the information on the Land Information Memorandum and/or Property Information Memorandum until the matter has been rectified.

Reason for the proposal

The main reason for the proposal is that, in line with legislative requirements, the first review of the current Policy has been conducted and improvements are proposed.

The proposed Policy will continue to enable a local response in meeting Council's obligations under the Act to identify and remedy dangerous, affected and insanitary buildings. The proposed Policy will contribute to Council achieving the objective of the Act to ensure that buildings do not endanger the health, safety and wellbeing of the people who use them.

Consultation process

Anyone can make a submission about the proposals described in this document. We encourage anyone with an interest in the issues raised to make a submission.

This Statement of Proposal, and the submission form can be found at:

- Palmerston North City Council website
<http://www.pncc.govt.nz/yourcouncil/consultations-initiatives-and-projects/consultations/>
- Customer Service Centre, Palmerston North City Council, The Square, Palmerston North; and

- City Library, The Square, Palmerston North, and the libraries at Ashhurst, Awapuni, Roslyn, Linton and Te Pātikitiki/Highbury.

You are welcome to appear before the Council and speak to your submission. Please indicate on your submission form whether you wish to do this. The Council intends to hear submissions on this proposal at a Committee meeting likely to be held in November 2024. The date and time for hearings will be confirmed in the letter acknowledging your submission, and will also be advertised in the Manawatū Standard and Guardian newspapers.

To get your submission to us, either:

Mail to: Draft Dangerous, Affected and Insanitary Buildings Policy 2024, Democracy and Governance Team, Palmerston North City Council, Private Bag 11034, Palmerston North 4442

Deliver to: Palmerston North City Council Customer Service Centre, 32 The Square, Palmerston North

Email to: submission@pncc.govt.nz (subject "Draft Dangerous, Affected and Insanitary Buildings Policy 2024")

Phone: 06 356 8199

Fax to: 06 355 4115

**The submission period runs from
02 September 2024 to 4pm Monday 02 October 2024.**

Please note that all written submissions, including the contact details on the submission, will be made available to the public and media and on the Council's website, unless you request that your contact details are kept private. For further information on this consultation please phone the Council on 06 356 8199 or email us at info@pncc.govt.nz.

Dangerous, Affected, and Insanitary Buildings Policy 2024

1. Introduction

The Building Act 2004 (the Act) permits territorial authorities to take a local approach in identifying and remedying buildings within its boundaries that fit the definition of dangerous, affected, and insanitary.

Palmerston North City Council (the Council) must adopt a policy to give effect to its legislative function to identify and remedy dangerous, affected, or insanitary buildings under the Act. This is in line with the aims of the Act to regulate building work and standards to ensure that buildings do not endanger the health, safety and wellbeing of the people who use them.

2. Strategic Context

The vision for the city is: [He iti rā, he iti pounamu. Small city benefits, big city ambition.](#) Council seeks to fulfill this vision through four goals in the city's Long-Term Plan:

Whāinga 1: He tāone auaha, he tāone tiputipu - Goal 1: An innovative and growing city
Whāinga 2: He tāone whakaihiihi, tapatapahi ana - Goal 2: A creative and exciting city
Whāinga 3: He hāpori tūhonohono, he hāpori haumarū - Goal 3: A connected and safe community
Whāinga 4: He tāone toitū, he tāone manawaroa - Goal 4: A sustainable and resilient city

The Policy contributes to *Whāinga 3: He hāpori tūhonohono, he hāpori haumarū - Goal 3: A connected and safe community*, and specifically to the following outcomes, where we want our communities to have:

- the support they want to live healthy lives;
- access to healthy and affordable housing;
- access to safe and accessible community places.

The Policy contributes to fulfilling the *Mahere haumarū hāpori, hauora hāpori - Community safety and health plan* to make Palmerston North a healthy city, where our community is safe and feels safe.

The Policy acknowledges the Tiriti partnership the Palmerston North City Council has with Rangitāne o Manawātū. Council staff meet regularly with iwi leaders and aim to ensure that Rangitāne values and perspectives have significant weight in decision-making.

3. Policy Purpose

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, and insanitary buildings, that fits the local context.

4. Policy Objectives

In implementing this policy, Council aims to achieve the following objectives:

- The public are aware that complaints about potential dangerous, affected, and insanitary buildings in the city can be made to the Council.
- Complaints about potential dangerous, affected, and insanitary buildings are responded to promptly by the Council.
- The risk to people from dangerous, affected, and insanitary buildings is mitigated.

5. Principles

This policy has been developed considering the purpose and principles of the Act which seek to ensure that:

- People who use buildings can do so safely without endangering their health
- People who use a building can escape from the building if it is on fire.

6. Guidelines

Definitions

The definitions for the following words are taken from the Building Act 2004 and any subsequent amendments.

Affected:

121A Meaning of affected building

A building is an affected building for the purposes 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](#).

Dangerous:

121 Meaning of dangerous building

(1) A building is dangerous for the purposes of this Act if,—

- in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause—
 - injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or
 - damage to other property; or
- in the event of fire, injury or death to any persons in the building or to persons on other property is likely.

(2) For the purpose of determining whether a building is dangerous in terms of subsection (1)(b), a territorial authority—

- 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
- if the advice is sought, must have due regard to the advice.

Insanitary:

123 Meaning of insanitary building

A building is insanitary for the purposes of this 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.

Identifying dangerous, affected, or insanitary buildings

- (a) On receiving a complaint or information about a building that is potentially dangerous, affected and/ or insanitary, the Council will respond promptly by:
 - informing the owner(s) of the building
 - inspecting the building and site and
 - seeking the advice of Fire and Emergency New Zealand (FENZ) where deemed relevant.

Assessment criteria

- (b) Assessment will be made in accordance with sections 121, 121A or 123 of the Act and the New Zealand Building Code. Assessment may include consideration of:
 - Whether the building is occupied
 - The building use
 - Whether the building is likely to cause injury or death to people
 - Whether conditions present a danger to the health of occupants
 - Potential for damage to other property
 - Whether a fire hazard exists
 - Whether the building is affected by a dangerous building or dangerous dam

Where a building is occupied an assessment of insanitary conditions may include a review of:

- The adequacy of sanitary facilities
 - The adequacy of potable water
 - Evidence or likelihood of moisture penetration
 - If the building is offensive or likely to be injurious to health because of how it is situated or constructed or whether or not it is in a state of disrepair.
- (c) Following the inspection and assessment, and consider, any advice or recommendations received from FENZ, Council will:
 - determine whether section 121 (dangerous building), 121A (affected building) and/or 123 (insanitary building) of the Act are satisfied.

- determine whether section 123A (in relation to only parts of a building being deemed dangerous or insanitary) of the Act applies.
- determine whether section 123B (in relation to buildings affected by emergency) of the Act applies.

Taking action under the Building Act 2004

- (d) In forming its view as to the extent of the action that is required to be carried out on the building to prevent it from remaining dangerous, affected and/or insanitary, Council may 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) How many people spend time in or in the vicinity of the building.
 - (v) The current or likely future use of the building, including any special traditional and cultural aspects of the current or likely future use.
 - (vi) The expected useful life of the building and any extension of that life.
 - (vii) The reasonable practicality of any work concerned.
 - (viii) Any other matters that Council considers may be relevant, taking into account the particular set of circumstances.
- (e) Council will determine the necessary action in line with the Act which may include requiring building work and/or restricting access to the building, or in extreme cases demolition of the building. Council will also:
- (i) Notify the building owner(s) of the assessment findings;
 - (ii) Where relevant attach the necessary notices to the buildings according to the Act;
 - (iii) Provide copies of notices to the building owner(s) and every person who has an interest in the land, including Heritage New Zealand if the building has Heritage status;
 - (iv) Contact the owner once a reasonable time has lapsed since the notice was issued so that access to the building can be gained to assess compliance with the notice; and
 - (v) Determine if enforcement action should be pursued under the Act if the requirements of the notice are not met.
- (f) Where immediate action is required, according to section 129 of the Act, Council will:
- (i) Take action to recover all cost from the building owner(s).
 - (ii) Inform the building owner(s) that the amount recoverable by the Council will become a charge on the land on which the building is situated.
- (g) All building owners have a right of appeal as defined in the Building Act, which can include applying for a determination from the Ministry of Business Innovation and Employment. That decision can be subject to appeal to the District Court.

Buildings of cultural heritage value

- (h) Buildings that are defined as having cultural heritage value are identified in section 17 of the Palmerston North City Council District Plan, and the definition provided in the Act.
- (i) Council will seek to ensure that any work carried out on a building of cultural heritage value that is determined to be dangerous, affected, or insanitary will not diminish the cultural heritage value of the building, as far as is reasonably practicable.

- (j) Property owners must take all reasonable steps to ensure that the above provision in (i) is achieved.

Recording the status of dangerous, affected, or insanitary buildings

- (k) Any building identified as dangerous, affected or insanitary will have a note placed on Council's property file until the conditions have been remedied.
- (l) In addition, the following information may be placed on any Land Information Memorandum (LIM) and Property Information Memorandum (PIM):
 - (i) A copy of any notices issued;
 - (ii) Copies of any letters sent to the owner, occupier and/or any other person where a building is deemed dangerous or insanitary, and
 - (iii) Any report on how the matter is to be rectified.

7. Monitoring and review

The policy will be monitored through an implementation plan that will be developed following the adoption of the policy and will be approved by the senior leadership team as set out in Council's policy framework. Review will take place every five years, or earlier if requested by Council