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Agenda for a hearing by the Policy & Regulatory Committee (to hear and consider submissions and make recommendations on the Dangerous, Affected & Insanitary Buildings Policy 2018) to be held in the Council Chambers, District Office, 15 Galileo Street, Ngaruawahia on **TUESDAY 21 AUGUST 2018** commencing at **12.30pm**.

*Information and recommendations are included in the reports to assist the Board in the decision making process and may not constitute Council's decision or policy until considered by the Board.*

**1. APOLOGIES AND LEAVE OF ABSENCE**

**2. CONFIRMATION OF STATUS OF AGENDA ITEMS**

**3. DISCLOSURES OF INTEREST**

**4. REPORTS**

- 4.1 Submissions on the proposed Waikato District Council Dangerous, Affected and Insanitary Buildings Policy 2018

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**CHIEF EXECUTIVE**

### **Open Meeting**

<b>To</b>	Policy and Regulatory
<b>From</b>	Mervyn Balloch Acting General Manager Customer Support
<b>Date</b>	13 August 2018
<b>Prepared by</b>	Amy Murphy Corporate Planner
<b>Chief Executive Approved</b>	Y
<b>Reference #</b>	GOV1318
<b>Report Title</b>	Submissions on the proposed Waikato District Council Dangerous, Affected and Insanitary Buildings Policy 2018

## **I. EXECUTIVE SUMMARY**

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On 15 May 2018 Council resolved to consider and approve the proposed Waikato District Council Dangerous, Affected and Insanitary Building Policy for public notification and consultation. This process was undertaken in accordance with section 83 of the Local Government Act 2002 (special consultative procedure) provisions.

The proposed bylaw was notified for public consultation and commenced on 18 June 2018 with submissions closing on 18 July 2018. In total, three submissions were received and supported the proposed Waikato District Council Dangerous, Affected and Insanitary Building Policy. No submitters have indicated they wish to speak to their submission.

The purpose of this meeting is to consider submissions and make a decision on the proposed Waikato District Council Dangerous, Affected and Insanitary Building Policy 2018.

The following documents are included as appendices to this report:

- Appendix I – Proposed Waikato District Council Dangerous, Affected and Insanitary Building Policy 2018 (which incorporates the updated name change from the Historic Places Trust to Heritage New Zealand)

## **2. RECOMMENDATION**

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**THAT the report from the General Manager Customer Support be received;**

**AND THAT** pursuant to section 83 of the Local Government Act 2002, the Committee considers submissions received on the notified Proposed Waikato District Council Dangerous, Affected and Insanitary Buildings Policy 2018;

**AND FURTHER THAT** subject to any amendments; recommend the Waikato District Council Dangerous, Affected and Insanitary Buildings Policy 2018 for final adoption.

**AND FURTHER THAT** the Waikato District Council Earthquake Prone, Dangerous and Insanitary Buildings Policy 2006 be revoked on the day the Waikato District Council Dangerous, Affected and Insanitary Building Policy 2018 comes into effect.

### **3. BACKGROUND**

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Waikato District Council is required under the Building Act 2004 (“the Act”) to adopt a policy on dangerous and insanitary buildings. In 2013 the Act was amended to require councils to also consider ‘affected buildings’ in their policies. The Act defines an affected building as a building that is adjacent to, adjoining, or nearby a dangerous building.

The proposed policy would replace the current Earthquake Prone, Dangerous and Insanitary Buildings Policy 2006.

The policy has two main purposes:

1. To reduce the potential risk posed to residents by dangerous, affected or insanitary buildings;
2. To provide a clear framework on how Council will manage unsatisfactory building conditions.

### **4. DISCUSSION AND ANALYSIS OF OPTIONS**

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#### **4.1 RESULTS OF CONSULTATION**

In total, three supporting submissions were received on the proposed Waikato District Council Dangerous, Affected and Insanitary Buildings Policy 2018.

Name	Do you support the proposed Policy	Please tell us why?
Liam McGrath	Yes	The policy is being brought in line with the current time and clearly states what each parties roles and responsibilities are.
Darien McGrath	Yes	It identifies councils responsibilities within the policy
(Requested name suppression)	Yes	I know of two households living in insanitary and dangerous accommodation one family

		with children living in a disused cowshed with unsafe electrical and sanitary conditions. And another group of at least 5 adults living in an old service station without proper cooking and bathing facilities with a dangerous fireplace fitted and no linings on walls. (Please note: staff have followed this up)
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### 4.3 HERITAGE NEW ZEALAND

The Historic Places Trust is now called Heritage New Zealand and they operate under the Heritage New Zealand Pouhere Taonga Act 2014.

### 4.4 OPTIONS

To adopt the proposed Waikato District Council Dangerous, Affected and Insanitary Buildings Policy with the following change.

- I. Council is required to update The Historic Places Trust in the Policy to read Heritage New Zealand in the Policy:

Update to: *Where Council receives information regarding buildings which have a heritage classification, either in the District Plan or under ~~the Historic Places Trust~~ Heritage New Zealand, in addition to consulting with affected owners Council will consider seeking advice from ~~the Historic Places Trust~~ Heritage New Zealand.*

## 5. CONSIDERATION

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### 5.1 FINANCIAL

This financial impact of consulting on this policy is within budget allocations.

### 5.2 LEGAL

Waikato District Council is required by section 131 of the Building Act 2004 to adopt a policy on dangerous and insanitary buildings. Section 132 of the Building Act 2004 states that this policy must be adopted using the special consultative procedure in section 83 of the Local Government Act 2002, and that it must be reviewed at least every five years.

### 5.3 ASSESSMENT OF SIGNIFICANCE AND ENGAGEMENT POLICY AND OF EXTERNAL STAKEHOLDERS

The development of the Dangerous, Affected and Insanitary Buildings Policy triggers the Significance and Engagement Policy through the community interest threshold.

Highest levels of engagement	Inform	Consult	Involve	Collaborate	Empower
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<p><i>Tick the appropriate box/boxes and specify what it involves by providing a brief explanation of the tools which will be used to engage (refer to the project engagement plan if applicable).</i></p>	<p>Consultation details were publically notified. Information including the statement of proposal, proposed policy and submission form was available at the Waikato District Council offices and Waikato District Council Libraries. The Waikato District Council 'Say it' page had the consultation information including an online tool. Key stakeholders were sent information and there was information in the June 2018 Link.</p>
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State below which external stakeholders have been or will be engaged with:

NZ Fire Service (FENZ)  
 NZ Police  
 Oranga Tamariki – Ministry for Children  
 District Health Board  
 Heritage New Zealand

Planned	In Progress	Complete	
		Y	Internal
			Community Boards/Community Committees
			Waikato-Tainui/Local iwi (provide evidence / description of engagement and response)
		Y- mentioned in the Link	Households
			Business
		Y	Other Please Specify – key stakeholders

## 6. CONCLUSION

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Council is required to hear and consider submissions on the proposed Waikato District Council Dangerous, Affected and Insanitary Buildings Policy 2018 in accordance with the requirements of the Local Government Act 2002.

## 7. ATTACHMENTS

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Appendix I: Waikato District Council Proposed Dangerous, Affected and Insanitary Building Policy 2018

# Proposed Dangerous, Affected and Insanitary Building Policy 2018

Policy Owner:	General Manager, Customer Support
Date approved:	Tbc
Next review date:	Tbc
Document number:	P&R 1805/05
Engagement required:	Yes

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## I Introduction and Background

I.1 Under Section 131 of the Building Act 2004 (the Act) all territorial authorities are required to adopt a policy on dangerous and insanitary buildings. Council adopted such a policy in 2006. In 2013 the Act was amended to require councils to also consider 'affected buildings' in their policies.

This policy replaces Councils Dangerous and Insanitary Building Policy 2006.

A building is defined as being dangerous in Section 121 of the Act if:

- "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
- 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."

## I.2 Legislative Provisions

Section 121A of the Act defines a building ..... (A building is defined) as affected (in Section 121A 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.

Section 123 of the Act defines a building as insanitary if it: 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
  - has insufficient or defective provisions against moisture penetration so as so cause dampness in the building or in any adjoining building; or
  - does not have a supply of potable water that is adequate for its intended use; or
  - does not have sanitary facilities that are adequate for its intended use."



This document sets out Waikato District Council's response to the policy requirements of the Act in relation to Dangerous and Insanitary buildings.

The policy includes:

- The approach that Waikato District Council will take in performing its functions under the Building Act 2004
- Waikato District Council's priorities in performing those functions
- How the policy will apply to heritage buildings.

## **2 Waikato District Council's Policy Approach**

### **2.1 Policy Principles**

The provisions of the Building Act 2004 reflect the government's broad concern with public safety in buildings and the need to reduce the danger to the public posed by dangerous and insanitary buildings. The Act requires the Council to develop and adopt a policy for the management of these buildings but provides discretion in the approach to be adopted and implementation of the policy. This policy document is Waikato District Council's response to the requirements of the Act.

### **2.2 Policy Approach**

It is intended that Waikato District Council will maintain a reactive approach to the management of dangerous, affected and insanitary buildings. Identification of these types of buildings is particularly difficult as a building's external appearance does not necessarily reflect its internal condition. For this reason the Council will continue to be reliant upon external sources such as building occupants, neighbours, police, fire service and other agencies to inform them of dangerous, affected and insanitary buildings. Once a building has been brought to Council's attention, Council will then actively engage in inspection and assessment of the buildings condition in terms of the Act. Following confirmation of a buildings status as being dangerous, affected or insanitary Council will actively work with building owners to find a mutually acceptable solution before exercising its powers under the Act.

Council will however exercise its statutory powers under Section 124 of the Act where action is required to avoid immediate danger or in circumstances where an acceptable solution cannot be reached with the building owner. 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 and insanitary buildings.

### 3 Responding to Complaints about potentially Dangerous, Affected or Insanitary Buildings

Once Waikato District Council has received information regarding a potentially dangerous, affected or insanitary building it will:

- Check the details of the property against Council records
- Have an authorised officer undertake an inspection of the building in question. In doing this, Council may seek advice from the New Zealand Fire Service, or any other professional deemed appropriate by the Council
- Prepare an inspection record.

#### 3.1 Assessment Criteria

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

#### 3.2 Taking Action on Dangerous, Affected or Insanitary Buildings

Review the inspection record and any information received from the New Zealand Fire Service and consider Sections 4 and 122 of the Act by an authorised Council Officer.

- Where appropriate, try to work with the owner of the building to achieve an acceptable outcome.
- Where a mutually acceptable outcome cannot be reached, or where the situation requires, Council may invoke its powers under Sections 124, 126 or 129 of the Act.

#### 3.3 Interacting with Building Owners and Complainants

Council will endeavour to work with property owners/occupiers. Warranted officers are not required to inform or obtain approval for inspections to determine whether or not a building is dangerous, affected or insanitary, unless the building is a household unit. In these circumstances Council must either; a) obtain consent of the occupier of the household unit or b) an order of a District Court.

Once Council has determined that a building is dangerous, affected or insanitary it will, in the first instance, consult with the owners of the subject building to further determine the circumstances and decide on an appropriate course of action. However where the situation requires, immediate action will be taken without consultation with the building owner, to remove danger or fix insanitary conditions.

Complainants will be informed of the inspection results and Councils intended course of action to deal with the situation.



### 3.4 Recording Information about Dangerous, Affected and Insanitary Buildings

All information relating to dangerous, affected and 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 LIM prepared for the property.

## 4 Interaction with Related Sections of Building Act 2004

In exercising its powers under the Act in relation to dangerous, affected and insanitary buildings the Council will be guided by the purpose of the Act and the principles of its functions as set out in Section 4. Particular regard will be given to:

- harmful effects on human health;
- special cultural, traditional or heritage aspects of a building;
- protection of other property from physical damage resulting from use of a building; and
- preservation of buildings of significant cultural, historical or heritage value.

When issuing building consents Council will also consider any requirements relating to dangerous, affected and insanitary buildings.

## 5 Impact of the Policy

Implementation of this policy will have beneficial effects on the health and safety of people using buildings. The policy provides a clear framework of how Council will manage unsatisfactory building conditions. Implementation of this policy will raise people's awareness of the processes that are in place to address such building issues and empower people to raise concerns about buildings and have these concerns investigated.

The options available to Council under the Act to deal with dangerous, affected and insanitary buildings will be applied with discretion. The situation regarding each building will be different and Council will weigh up all elements when deciding what approach should be taken to deal with the situation and remove or minimise the danger the building presents. The cost of any action taken will be borne by the building owner.

## 6 Application of Policy to Heritage Buildings

This policy applies to heritage buildings in the same way it applies to all other buildings.

Where Council receives information regarding buildings which have a heritage classification, either in the District Plan or under [Heritage New Zealand the Historic Places Trust](#), in addition to consulting with affected owners Council will consider seeking advice from [the Historic Places Trust](#) [Heritage New Zealand](#).