

# B201 - Dangerous, Affected and Insanitary Buildings Policy

Category	Building	Type	Policy
Policy owner	<a href="#">Executive Director Development &amp; Growth</a>	Approved by	Council
Last approved revision	October 2018	Review date	February 2025

## PURPOSE

[Sections 131](#) and [132A](#) of the Building Act 2004 (the Act) requires territorial authorities to adopt a policy on dangerous, affected, and insanitary buildings within its District.

The policy must state:

- (a) the approach the Territorial Authority will take in performing its functions;
- (b) the Territorial Authority's priorities in performing those functions; and
- (c) how the Policy will apply to heritage buildings.

## THE POLICY

### 1. Policy principles

The Council acknowledges that the provisions of the [Building Act 2004](#) (the Act) in regard to dangerous, affected, and insanitary buildings reflect the Government's broader concern with the health and safety of people who use buildings.

Early detection and rectification of dangerous, affected, and insanitary buildings is strongly connected with the Council's aim of having a safe District, ensuring people and communities who use buildings can do so safely and without endangering themselves and their health.

This policy has been developed following consultation in accordance with section 83 of the Local Government Act 2002.

### 2. Overall approach

[Sections 124](#) and [130](#) of the Act provide the authority necessary for Council to take action on dangerous, affected, or insanitary buildings, and sets out how these actions are to be taken.

Council approach to dangerous, affected, or insanitary buildings is:

- **Preventative engagement:** To encourage the public to discuss their development plans with Council and to obtain building consent for work Council deems to be necessary before any work commences. This aims to minimise the creation of dangerous or insanitary conditions that could be injurious to the health of occupants, or where safety risks are likely to arise from a change in the use of a building.
- **Complaint-driven response:** Passive in terms of follows up on complaints and concerns raised from various sources (e.g. members of the public, agencies such as NZ Police or Fire and Emergency NZ).
- **Proactive monitoring:** Proactive where observations from Council officers are investigated to identify potentially dangerous and/or insanitary buildings.

### 3. Assessment criteria

#### Dangerous buildings

The Council will assess dangerous and affected buildings in accordance with sections 121 and 121(A) of the Act.

[Section 121](#) of the Act provides that:

- (1) A building is **dangerous** for the purposes of this 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 person 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.
- (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.

#### Affected buildings

[Section 121A](#) of the Act provides that:

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](#).

#### Insanitary buildings

Council will assess insanitary buildings in accordance with Section 123 of the Act.

[Section 123](#) of the Act provides that:

A building is **insanitary** for the purposes of the Act if the building:

- (a) is offensive or unlikely 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.

**Note:** **Potable water** means water that is safe to drink; and complies with the drinking water standards.

#### **4. Identifying dangerous, affected, and insanitary buildings**

The Council will actively respond to and investigate all complaints/concerns received and identify from these investigations any buildings that are dangerous, affected, or insanitary.

The building will be assessed to determine:

- if there has been any unauthorised building work and/or unauthorised change of use;
- the standard of maintenance of any specified systems for fire safety, water supply or other building elements that provide amenity;
- the state of repair of the building structure and services; and
- the safety level of the building compared to the relevant performance criteria of the [New Zealand Building Code](#).

An authorised Council officer will decide:

- whether the building or part of the building is dangerous or insanitary, and
- if dangerous, whether any other buildings should be regarded as an affected building.

Council or owners may obtain expert advice where appropriate and explore options to reduce or remove the danger, or to fix the dangerous or insanitary conditions.

In forming its views as to the work or action required to prevent the building from remaining dangerous, affected, or insanitary, Council will consider some, or all, of the following:

- the type, size and complexity of the building and location of the building in relation to other buildings, public places and hazards;
- age and condition of the building;
- how many people spend time in or near the building;
- current and likely future use of the building;
- the expected remaining useful life of the building, including whether proposed work will prolong its life;
- reasonableness and practicality of any work required;
- any special historical or culture value of the building whether Heritage listed under the District Plan or not;
- any other matters, including other Council policies, that Council considers may be relevant considering the particular set of circumstances.

#### **5. Acting on dangerous and insanitary buildings**

In accordance with [section 124](#) and [section 125](#) of the Building Act 2004 (the Act) Council:

- (a) will advise and liaise with the owner(s) of buildings once a building has been identified as dangerous or insanitary as per clause 4 above;
- (b) may request a written report on the building from [Fire and Emergency New Zealand Whakaratonga Iwi](#);
- (c) may request reports from other parties with relevant expertise to be supplied at the owners expense.

If the building is found to be dangerous, or insanitary, Council may do any or all of the following:

- (a) put up a hoarding or fence to prevent people approaching the building;
- (b) attach in a prominent place, on or adjacent to, the building a notice that warns people not to approach the building;
- (c) attach a written notice to the building requiring work to be carried out on the building within a time stated in the notice, being not less than 10 days, to reduce or remove the danger, or prevent the building from remaining in an insanitary condition;
- (d) issue a notice restricting entry to the building;
- (e) endeavour to give copies of that notice to the building owner, occupier, and every person who has an interest in the land, or is claiming an interest in the land, as well as [Heritage New Zealand](#) Pouhere Taonga, if the building is a registered heritage building;
- (f) contact the owner at the expiry of the time in the notice to gain access to the building to ascertain whether the notice has been complied with;
- (g) where the danger or insanitary condition is the result of unauthorised building work, the owner will be formally requested to provide a written explanation as to how the work occurred, who carried it out, and under whose instructions;
- (h) pursue enforcement action under the Act if the requirements of the notice are not met within a reasonable period of time.

If the building is considered to be of immediate danger (as defined in [section 129](#) of the Act), Council may:

- (a) by warrant, undertake any action to remove that danger, which may include prohibiting persons from using or occupying the building or demolition of all or part of the building; or fix the insanitary conditions; and
- (b) undertake action to recover costs from the owner(s) when Council carries out works to remove the danger; and
- (c) inform the owner that the amount recoverable by Council will become a charge on the land on which the building is situated.

All owners have a right of appeal as defined in the Act, which can include applying to the Ministry of Business, Innovation and Employment for a determination under [section 177\(3\)](#) of the Act.

## **6. Acting on affected buildings**

When a building is determined to be dangerous, Council will assess if any adjacent, adjoining, or nearby building is affected (an affected building) as defined in [section 121A](#) of the Act.

The owner of the affected building will be provided with:

- a copy of any notice issued for the dangerous building under [section 124\(2\)\(b\),\(c\) or \(d\)](#); and
- information relating to Council's monitoring and enforcement actions in relation to the dangerous building in accordance with [section 128A](#).

Council may, at its discretion, exercise any of its powers under [section 124\(2\)\(a\), \(b\), or \(d\)](#) in relation to the affected building.

## **7. Priorities for action by Council**

Council uses a matrix to determine the timeframe within which the assessment will be completed based on the information known/provided about the situation.

**Table 1. Definitions**

Level of risk/likelihood	
<b>Very high</b>	Accessed daily by large groups of people (e.g. hospital, education facility, police station, prison, community centre, supermarket).
<b>High</b>	Accessed regularly by small groups of people (e.g. office, shops, apartment building).
<b>Medium</b>	Accessed daily by a low number of people (e.g. dwelling, small business).
<b>Low</b>	Infrequent access, or exposure to hazard (e.g. detached domestic garage, workshop, sleepout).
<b>Very low</b>	Unlikely to be occupied, space typically used for storage only (e.g. farm shed, hay barn).

Consequence of failure	
Negligible	No injuries, no inconvenience to building users, no impact on adjacent buildings/property.
Minor	No injuries, some inconvenience to building users, likely impact on adjacent buildings/property.
Moderate	No injuries, inconvenience to building users, likely to impact on adjacent building/property.
Major	Serious injury or death (including injurious to health), evacuation or short-term sheltering may be required.
Extreme	Multiple deaths/serious injuries, failure of building likely to impact on adjacent building/property, evacuation or short/long term sheltering is required.

**Table 2. Assessment priority matrix**

*Risk calculator (level of risk/likelihood x consequences of failure).*

*Determine the level of risk/likelihood and the consequence of failure using the definitions provided in Table 1 above. Input these into the table below.*

Consequence of failure					
Level of risk	Negligible (1)	Minor (2)	Moderate (3)	Major (4)	Extreme (5)
Very high (5)	5	10	15	20	25
High (4)	4	8	12	16	20
Medium (3)	3	6	9	12	15
Low (2)	2	4	6	8	10
Very low (1)	1	2	3	4	5

**Table 3. Assessment timeframe**

*The score from Table 2 informs the timeframe in which initial action will be taken by Selwyn District*

*Council staff.*

Priority	Score	Working days
Immediate	≥15	1
High	10-+14	3
Medium	6-9	10
Low	≤5	20

## 8. Interactions with building owners and Building Act sections

Before exercising its powers, Council will seek to discuss options for action with owners on a mutually acceptable approach. This will lead to a formal proposal from the owners for dealing with dangerous, affected or insanitary situations, or where appropriate action may also be taken under the [Health Act 1956](#).

Where ongoing discussions do not result in a mutually acceptable approach and proposal, Council must proceed to take formal action under [section 124](#) of the Building Act 2004.

Where parties other than the building owner have access to the building (eg; tenants, workers, or the general public), Council will act without delay to protect public safety. The owner will be kept fully informed throughout the process.

Council recognises that exercising these powers requires careful judgement to ensure the right balance is struck to address safety issues, but also be mindful of other relevant considerations, including, but not limited to:

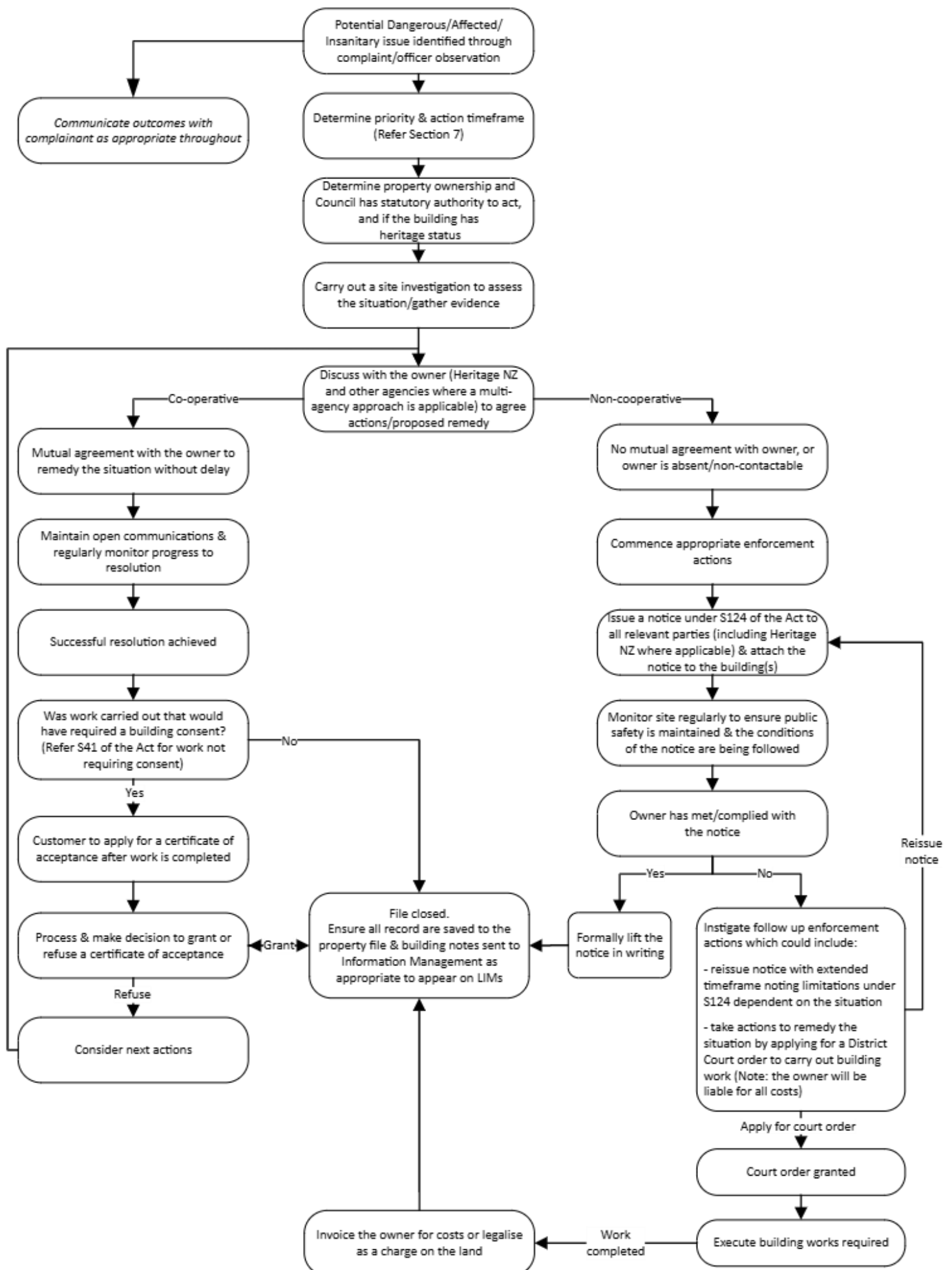
- The practicality of continuing to occupy a building versus the need for immediate evacuation.
- The cost of short-term disruption arising from the evacuation of a building may be greater than the long-term danger.
- The feasibility of addressing issues over an extended period of time, dependent on the specific circumstances.
- The potential economic impacts of any actions required.
- Judgement concerning the cultural, historical, or heritage significance of the building.

Notices issued by Council must specify:

- (a) the work that is required to be done by the building owner,
- (b) the reasonable time in which it should be completed, and
- (c) whether the building owner is required to obtain a building consent to carry out the work, noting this would trigger [section 112](#) of the Act which requires:
  - the building's overall compliance with the Building Code (including other applicable clauses in addition to fire and accessibility, such as structure) must not be less than what it was prior to the alteration taking place; and
  - the whole building to be upgraded so that it complies as is reasonably practicable with the current Building Code clauses for fire and accessibility (if applicable under [section 118](#) of the Act).

These requirements are in place in the legislation to ensure that over time buildings undergoing alterations are upgraded to better meet current Building Code requirements.

The flowchart below sets out the interactions with building owners and the applicable sections of the Building Act 2004 depending on the situation.



## 9. Multi agency co-ordination

In carrying out its obligations under the Building Act 2004 the Council will work proactively with Heritage New Zealand Pouhere Taonga, Fire and Emergency New Zealand, the New Zealand Police, Health New Zealand Te Whatu Ora, and other relevant agencies to achieve a co-ordinated multi agency approach to ensure building owners, residents, and any affected community are provided with the appropriate support.

In cases where infirmed, neglected, or vulnerable persons as defined by section 126 of the Health Act 1956 are involved; or a nuisance as defined under section 29 of the Health Act 1956 exists, Council will work closely with support agencies and the Medical Officer of Health in respect of cleansing orders and abatement notices, closing orders, and committal orders issued under sections 41 and 42 of the Health Act 1956.

Council recognises that best practice particularly in insanitary conditions requires a multi-agency response to support the health and welfare of individuals to ensure they can remain living as independently as possible without compromising their personal health or the health of the public. Such response may extend to other health care providers and services such as general practitioners, health of older persons services and/or mental health service providers and relevant community support organisations.

Council will provide guidance, support, and where applicable, access to funding mechanisms (eg; rates relief, heritage grants) to assist owners in remedying issues.

In cases of hardship, Council will consider extended compliance timeframes or support services to avoid disproportionate impact on vulnerable individuals or property owners.

## 10. Heritage buildings (Pouhere Toanga)

In the implementation of procedures under the Act with regards to dangerous, affected, or insanitary buildings, Council will consider any historical or cultural aspects of the building, and the need to facilitate the preservation of buildings of significant cultural, historical or heritage value.

This will be achieved by:

- (a) recognising the range of heritage buildings that exist in the District, including those listed in the New Zealand Heritage List / Rārangī Kōrero (which also comprises historic places, historic areas, wāhi tapu, wāhi tūpuna and wāhi tapu areas, and other places identified by iwi as a place of cultural significance, and scheduled in the District Plan;
- (b) consultation with owners and [Heritage New Zealand](#) Pouhere Taonga in relation to any proposed written notice requiring work;
- (c) informing and involving relevant statutory organisations, including [Heritage New Zealand](#) Pouhere Taonga, with regard to any heritage building identified as at risk;
- (d) considering heritage values and conservation best practice measures when developing and managing upgrading proposals;
- (e) consideration of alternative methods to avoid unnecessary demolition of heritage buildings including;
  - partial demolition;
  - temporary propping/support of the structure;
  - hoardings to restrict access;
  - partial deconstruction to make safe and salvage materials.



Under the Heritage New Zealand Pouhere Taonga [Act 2014 \(HNZPTA\)](#), the permission of Heritage New Zealand Pouhere Taonga [must be sought prior to the modification or destruction of any](#) archaeological site, whether the site is unrecorded or has been previously recorded. An archaeological site is described in the HNZPTA as a place associated with pre-1900 human activity, which may provide evidence relating to the history of New Zealand. These may include buildings built prior to 1900. It is advised to seek further information from Heritage New Zealand Pouhere Taonga if this is anticipated.

Selwyn District Council also values all heritage properties with important features/characteristics up until the 1940s.

After undertaking the actions outlined above, Council will serve notices requiring upgrading or removal within reasonable timeframes, in consultation with building owners.

## **11. Record keeping/LIM Information**

Where dangerous, insanitary conditions or affected building status are confirmed, the following information will be recorded on the relevant property file and any land information memorandum (LIM) for a property:

- (a) any written notice under [section 124\(2\)](#) of the Act; and
- (b) explanatory information of the Act's requirements and,
- (c) whether or not the issue has been resolved.

Information on these matters may still be available in response to a request under the [Local Government Official Information and Meetings Act 1987](#).

## **12. Protections, transparency, awareness and reporting**

Council will take all reasonable steps to ensure that this policy is not used inappropriately or maliciously. Investigations initiated through complaints must be assessed for credibility and substance prior to enforcement action, particularly where complaints may be strategic, vexatious, or made in bad faith.

This policy shall not be used to exert de facto control over buildings or land where Council has no clear statutory authority, including land under Treaty settlement, Crown ownership, or disputed title, unless jurisdiction is confirmed.

Council will promote widely public awareness of building safety and maintenance best practices, including education campaigns aimed at early prevention of dangerous or insanitary conditions.

An annual public report will be issued summarising the number of buildings assessed, notices issued, appeals lodged, and resolutions achieved under this policy. Any concerns of disproportionate use or patterns of potential misuse will be addressed.

## **13. Policy review**

This policy was adopted in 2018 and reviewed in February 2025. [section 132\(4\)](#) of the Act requires the Council to review this policy at intervals of not more than five years.

The policy does not cease to have effect because it is due for review or is being reviewed.

Next review is required on or before February 2030.

The TA must, in accordance with [section 132\(3\)](#), as soon as practicable after reviewing the policy, provide a copy of the policy to the Chief Executive of MBIE.

## DELEGATION

The implementation of this policy is delegated to the [Executive Director Development and Growth](#).

## RELATED POLICIES, PROCEDURES AND FORMS

In considering how to address non-compliance the Council must be mindful of any matters requiring consideration under other legislation. In particular, in addition to the [Building Act 2004](#), the Council needs to consider the following:

- [Civil Defence Emergency Management Act 2002](#)
- [Health Act 1956](#)
- [Heritage New Zealand Pouhere Taonga Act 2014](#)
- [Local Government Act 2002](#)
- [Local Government Official Information and Meetings Act 1987](#)
- [Resource Management Act 1991](#)

## CONTACT FOR FURTHER INFORMATION ABOUT THIS POLICY

If you have queries about the content of this policy, contact the [Head of Building](#) or [Executive Director Development and Growth](#).

## POLICY REVIEW TABLE

Date of last review	Status/summary of changes made
December 2018	Reviewed and approved by Council
February 2020	Reviewed by staff with no amendments made
November 2020	Reviewed by staff with minor amendments made
February 2023	Reviewed by staff with minor amendments made
July 2025	<b>Reviewed and approved by Council</b>