

Dangerous and Insanitary Buildings Policy

Introduction and Purpose

The purpose of this Policy is to protect people who use buildings from harm arising from that use. The Building Act 2004 (the Act) aims to improve control of, and encourage better practices in, building design and construction. The legislation in regard to dangerous and insanitary buildings seeks to reduce the danger to the population posed by these buildings. The Policy has been developed in response to Section 131 of the Building Act 2004, which requires territorial authorities to adopt a policy on dangerous and insanitary buildings by 31 May 2006.

In relation to dangerous and insanitary building policy the similarities between the Building Act 1991 and the Building Act 2004 enable Council to adopt a policy that formalises the current approach taken in dealing with dangerous and insanitary buildings. One important point of difference is the definition of 'dangerous' in section 127 has been widened from the former Act. Section 64(2) of the former Act provided categories of building that had high or abnormal fire hazard, but the building Act 2004 adds the phrase 'is likely to cause injury or death ... to any person in it or to persons in other propriety. This effectively reduces the threshold test for dangerous buildings.

In line with the legislation this Policy states:

- The approach the Palmerston North City Council (the Council) will take in performing its functions under Part 2 of the Act
- The Council's priorities in performing those functions
- How the policy will apply to heritage buildings

The Policy will be reviewed in 5 years

This document sets out the policy adopted by the Palmerston North City Council in accordance with the requirements of the Building Act 2004.

Context

The Act provides legislative guidance to central governments goals in terms of appropriate protection for buildings and built infrastructure and the life and health of the communities in which these buildings are situated, while recognising that the circumstances of individual territorial authorities will vary and that the local economic, social and other factors have an impact on the implementation of these provisions of the Act.

The legislation also acknowledges that reliance on complainants to provide information concerning potentially dangerous may be the only practical way for territorial authorities to undertake their statutory responsibilities. This is because in many cases the dangerous and insanitary status will not be readily apparent and would most likely be identified by a buildings occupants or neighbours, who believe that their amenity is threatened by the state of the building, or as a result of an inspection by the police, the fire service or other agencies authorised to inspect buildings.

The measures in the legislation also recognise the need for a consistent, transparent and accountable approach to the implementation of the provisions in order to protect the health and safety of building users. Accordingly, in developing and adopting its dangerous and insanitary buildings policy, the Palmerston North City Council has followed the consultative procedure set out in section 83 of the Local Government Act 2002.

Policy Principles

The Council has agreed on the following principles, which underlie all its policies. These are:

Sustainability: The Council takes into account the long-term social, economic, environmental and cultural well being of communities, now and for the future.

Participation: The Council supports and encourages opportunities for individuals and groups to actively participate in community life.

Accessibility: The Council is committed to removing barriers that prevent individuals and groups from accessing any aspect of community life.

Diversity: The Council respects the diversity of Palmerston North communities and the differing needs of groups within these communities.

Partnership: The Council acknowledges the benefits of developing relationships with others in the community, and will work in partnership to progress our common goals.

Effectiveness: The Council will allocate resources so that they are directed to where they are most needed.

The Council also acknowledges the status of the Treaty of Waitangi as a founding document of Aotearoa/ New Zealand. The Treaty is between iwi and the Crown, and the Council derives its role from central government. The Council is committed to working with local iwi and the wider Maori community.

Identifying and Taking Action on Dangerous and Insanitary Buildings

Whether a building is considered 'dangerous' or 'insanitary' under the Building Act 2004 will depend on the individual circumstances of each case. Council will consider each case and determine the appropriate course of action based on the particular set of circumstances that exist.

Council must first be satisfied that the building in question is dangerous or insanitary. To determine this Council will carry out the following steps.

- (a) On receiving a complaint or information expressing concern that the building is dangerous or insanitary, the Council will consult the owner of the building, inspect the building and site and may also seek the advice of the New Zealand Fire Service.
- (b) Following the inspection and taking into account the advice or recommendations of the New Zealand Fire Service, Council will determine whether the building is dangerous or insanitary. In

making this decision Council will take into account the provisions of sections 121 and 123 of the Building Act 2004.

- (c) If Council is satisfied that the building in question is deemed to be dangerous or insanitary Council will then determine the work or action that must be carried out to prevent it from being dangerous or insanitary.
- (d) In forming its view as to the work or action that is required to be carried out on the building to prevent it from remaining insanitary or dangerous, Council 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 Council considers may be relevant, taking into account the particular set of circumstances.
- (e) Following the inspection of the building, after receiving advice from the New Zealand Fire Service and taking into account the matters listed above, Council will then 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 Building Act 2004.
- (f) If Council decides that immediate action under section 129 of the Building Act 2004 is not required, Council will issue a notice under section 124 of the Building Act 2004 requiring the owner to carry out the necessary work and to obtain a building consent and to commence work. The time required to obtain a building

consent and commence work will depend on the particular set of circumstances, but shall not exceed 6 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.

Where a property owner has failed to carry out the work within the time specified, Council may apply to the District Court for an order authorizing it to carry out the work pursuant to section 130 of the Building Act 2004.

The full costs of carrying out such works will be recovered from the property owner.

Heritage Buildings

With regard to heritage buildings that are determined to be dangerous or insanitary, Council 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.

For guidance on identifying buildings with heritage features refer to Policy 1.1 of Section 17 of the District Plan which provides a list of criteria for identifying buildings of significant cultural heritage value within the City.

Contribution to Community Outcomes

Nine Community Outcomes were developed for Palmerston North in 2005. The Dangerous and Insanitary Buildings Policy (2006) primarily contributes to three of these Community Outcomes:

- People have lots of fun things to do
- **People feel safe**
- Palmerston North is attractive, clean and green
- Businesses grow here and people have lots of job opportunities
- People have lots of learning opportunities
- People can move easily around Palmerston North
- **Palmerston North's physical infrastructure is reliable**
- The community is supportive and people and organisations work together
- **People are well-housed and healthy.**

This Policy contributes to these Outcomes by ensuring the quality and resilience of the City's buildings and therefore promoting the health and well being of the wider public who live, work and play in those structures. The policy is a key element of the Council's wider regulatory functions, in particular those related to the implementation of the Building Act 2004.

Where are we in 2006?

Building owners have a high level of understanding of their responsibilities under the current building legislation

Council responds in a timely manner to complaints related to dangerous and insanitary building conditions.

The Council recognises the importance of maintaining heritage buildings by working proactively with building owners and the historic Places Trust to ensure strategies are in place to avoid these structures becoming dangerous and insanitary.



Where do we want to be in 2016?

Building owners have a clear understanding of their responsibilities under the new legislation

The Council continues to respond in a timely manner to complaints related to dangerous and insanitary building conditions.

Appropriate work has been completed for heritage buildings identified as dangerous or insanitary, and for all other heritage buildings owners have a clear understanding of their responsibilities and, where appropriate the Council is able to offer advice and support to ensure this status is avoided.

Goals

The Council has developed the following three goals in relation to dangerous and insanitary buildings to ensure the Community Outcomes related to 'Palmerston North's physical infrastructure is reliable', 'People feel safe', and 'People are well housed and healthy', are achieved over the next 10 years. These goals are interconnected and require significant work with the wider community and across the various functions and responsibilities of the Council.

Implementation of these goals will take in to account the following:

- City Contact's Strategic Plan and Business Plan
- The District Plan
- The Earthquake-Prone Buildings Strategy
- Environmental health regulations

Goal 1: Reduce the risks to the public from dangerous and insanitary buildings

Council will ensure high quality services and information is available to building owners and regular promotion directed both at owners and users of the City's buildings to ensure reporting of substandard building conditions.

Council will also Council maintain its capacity to responds in a timely manner to complaints related to dangerous and insanitary building conditions

Current Actions	Key Performance Indicator	Timeframe	LTCCP Reference/cost	Responsibility
1.1 Provide building control, environmental protection and planning services that meet legal requirements and community needs.	<i>City Contact Strategic Plan and Business Plan 2005-2006</i> is implemented	2003-2014	Regulatory	City Contact

Goal 2: Ensure an appropriate balance between managing the risks of dangerous and insanitary buildings while seeking to maintain and protect the important heritage assets of the City

Currently no heritage buildings on the Council's District Plan are rated as dangerous and insanitary. The Council aims to avoid this status being applied to any of these buildings by placing a high priority on keeping building owners informed of their responsibilities, and maintaining positive relationships with them as well as the Historic Places Trust. It is recognised that in some cases Trust members and the wider public who have a particular commitment to the maintenance

of heritage assets have a role in monitoring heritage buildings that the Council can foster and promote.

The Palmerston North City Council, in the implementation of procedures under the Buildings Act with regard to dangerous and insanitary buildings, will take into account any special traditional and cultural aspects of the intended use of the building and the need to facilitate the preservation of buildings of significant cultural, historical or heritage value. This will be achieved by:

- Recognising the range of heritage buildings that exist in the City, including the NZHPT Register, listed heritage places,

buildings of significance to iwi, and other buildings of significance to the wider community;

- Ensuring early consultation with owners of heritage buildings;
- Informing and involving relevant statutory organisations including NZHPT, with regard to any heritage buildings identified as at risk;
- Considering heritage values when developing upgrading proposals.

Current Actions	Key Performance Indicator	Timeframe	LTCCP Reference/cost	Responsibility
2.1 City Council proactively works with owners of the significant heritage assets of the City to ensure a high level of appreciation of the legislative requirements and offers advice and assistance to promote the maintenance of safe and sanitary heritage buildings	No heritage buildings registered on the District Plan are declared dangerous and insanitary during the timeframe of this policy	2003-2014	Regulatory, Strategic Planning	City Future City Contact

Links to Other Policies and Plans

- *Natural and Built Environment Policy*
- *City Contact Strategic Plan and Business Plan 2005-2006*
- *District Plan*
- *Housing Policy*

Appendices

Appendix One: Development of the Policy

Policies, plans, and supporting documents that have contributed to this policy, and the location of these, can be found in the 'Links to Other Policies and Plans' section of this document. These documents are either available electronically or can be requested from the Council.

Appendix Two: Policy Administration

Policy developed and approved by the Council	
Policy to be reviewed by City Future no later than	June 2012

Appendix Three: Monitoring

The City Future Unit of the Palmerston North City Council is responsible for monitoring the progress towards implementing the *Natural and Built Environment Policy*. Progress will be reported annually and these reports will be available from the Council.