



te kaunihera ā-rohe o
matamata-piako
district council



Kaupapahere mō ngā Whare Mōrearea me ngā Whare Kahuakore 2025 | Dangerous and Insanitary Buildings Policy 2025

For Council Adoption

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Part 1 Kupu Whakataki | Introduction

1. Introduction

- 1.1 The Dangerous and Insanitary Buildings Policy 2025 has been prepared by *Council* to comply with section 131 of the Building Act 2004, which states that *Council* must adopt a policy on *Dangerous* and *Insanitary Buildings* within its *District*.
- 1.2 A *Building* 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*.
- 1.3 *Affected Buildings* are defined as *Buildings* which are adjacent to, adjoining, or nearby to a *Dangerous Building* and may arise where a *Dangerous Building* is physically close enough to potentially pose a danger to people within the *Affected Building*.

2. Purpose

- 2.1 The purpose of this *Policy* is to:
 - a) Reduce the potential risk posed to residents in the *District* by *Dangerous*, *Affected* or *Insanitary* buildings;
 - b) Improve the control of, and encourage better practice in design and construction; and,
 - c) Provide a clear framework of how *Council* will manage unsatisfactory *Building* conditions.
- 2.2 This *Policy* sets out:
 - a) The approach that *Council* will take in performing its functions under the *Act* in relation to *Dangerous*, *Affected* and *Insanitary Buildings*;
 - b) *Council's* priorities in performing these functions; and
 - c) How the *Policy* will apply to *Heritage Buildings*.
- 2.3 The relevant principles of section 4 of the *Act* have been taken into account in preparing this *Policy*, and in the performance of *Council's* functions, powers and duties.

3. Scope

- 3.1. This *Policy* applies to all *Buildings* within the Matamata-Piako *District*.
- 3.2 Earthquake-prone *Buildings* are managed under the Building (Earthquake-prone Buildings) Amendment Act 2016 and are therefore excluded from this *Policy*.

4. Context

- 4.1 *Council* is committed to ensuring that the *District* is a safe place to live and work in. This *Policy* is consistent with *Council's* approach to deliver on the current and future social, economic, environmental, and cultural wellbeing of its communities.
- 4.2 *Council* is expecting moderate growth over the next 30 years with an expected increase in population and *Building* stock that is ageing in some areas.
- 4.3 Lack of maintenance and unauthorised *Building* alterations can cause serious *Building* problems for occupants. Dangers could include inadequate fire protection or means of escape, or danger of collapse.

4.4 This *Policy* has been developed to reflect the local context. In doing so, *Council* has endeavoured to strike a balance between the threats posed by *Dangerous, Affected and Insanitary Buildings*, and the broader social and economic issues affecting the community that are involved.

5. Principles

5.1 This *Policy* has been developed with the intent of a passive approach to implementation. *Council* will not actively inspect all *Buildings* within the *District*; however, when *Buildings* that may be *Dangerous* or *Insanitary* come to the attention of *Council*, *Council* has a statutory responsibility to act promptly and will prioritise these to ensure the safety of persons or property and investigate.

5.2 If a *Building* is determined to be *Dangerous* or *Insanitary*, *Council* will ensure that the *Building* is made safe through working with the *Building* owner and utilising its powers under the *Act*.

5.3 *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.

5.4 *Council* will work with other agencies including Heritage New Zealand Pouhere Taonga, Fire and Emergency New Zealand (FENZ), and the New Zealand Police to achieve the purpose of the *Act*.

6. Definitions

6.1 For the purposes of this *Policy* the definitions in the table below shall apply.

6.2 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.

| Term | Definition |
|---------------------------|---|
| <i>Affected Building</i> | Has the same meaning as section 121A of the <i>Act</i> , as follows: a <i>Building</i> is an <i>Affected Building</i> for the purposes of this <i>Act</i> if it is adjacent to, adjoining, or nearby – a) a <i>Dangerous Building</i> as defined in section 121; or b) a dangerous dam within the meaning of section 153. |
| <i>Authorised Officer</i> | Has the same meaning as section 222(4) of the <i>Act</i> , as follows: means an officer of a <i>Territorial Authority</i> to whom either or both of the following applies: a) he or she is authorised to carry out <i>Inspections</i> ; or b) he or she is authorised to enter land – i. by this <i>Act</i> ; or ii. by an order of the <i>District Court</i> made under section 227. |
| <i>Building</i> | Has the same meaning as section 8 of the <i>Act</i> , as follows: In this <i>Act</i> , unless the context otherwise requires, <i>Building</i> – a) means a temporary or permanent movable or immovable structure (including a structure intended for occupation by people, animals, machinery, or chattels); and |

| Term | Definition |
|---------------------------|--|
| | <ul style="list-style-type: none"> b) includes – <ul style="list-style-type: none"> i. a mechanical, electrical, or other system; and ii. any means of restricting or preventing access to a residential pool; and iii. a vehicle or motor vehicle (including a vehicle or motor vehicle as defined in section 2(1) of the Land Transport Act 1998) that is immovable and is occupied by people on a permanent or long-term basis; and iv. a mast pole or a telecommunication aerial that is on, or forms part of, a <i>Building</i> and that is more than 7m in height above the point of its attachment or base support (except a dish aerial that is less than 2 m wide); and c) includes any 2 or more <i>Buildings</i> that, on completion of <i>Building</i> work, are intended to be managed as one <i>Building</i> with a common use and a common set of ownership arrangements; and d) includes the non-moving parts of a cable car attached to or servicing a <i>Building</i>; and e) after 30 March 2008, includes the moving parts of a cable car attached to or servicing a <i>Building</i>. |
| <i>Building Owner</i> | <p>Has the same meaning as Section 7 of the <i>Act</i> as follows: <i>Owner</i> in relation to any land or any <i>Buildings</i> on the land, –</p> <ul style="list-style-type: none"> a) means the person who – <ul style="list-style-type: none"> i. is entitled to the rack rent from the land; or ii. would be so entitled if the land were let to a tenant at a rack rent; and b) includes – <ul style="list-style-type: none"> i. the owner of the fee simple of the land; and ii. for the purposes of sections 32, 44, 92, 96, 97, and 176(c), any person who has agreed in writing, whether conditionally or unconditionally, to purchase the land or any leasehold estate or interest in the land, or to take a lease of the land, and who is bound by the agreement because the agreement is still in force. |
| <i>Council</i> | <p>Means the governing body of the Matamata-Piako District Council or any person delegated to act on its behalf.</p> |
| <i>Dangerous Building</i> | <p>Has the same meaning as section 121 of the <i>Act</i>, as follows:</p> <ul style="list-style-type: none"> 1) A <i>Building</i> is dangerous for the purposes of this <i>Act</i>, if – <ul style="list-style-type: none"> a) in the ordinary course of events (excluding the occurrence of an earthquake), the <i>Building</i> is likely to cause – <ul style="list-style-type: none"> i. injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or |

| Term | Definition |
|--------------------------|---|
| | <ul style="list-style-type: none"> ii. damage to other property; or b) in the event of fire, injury or death to any persons in the <i>Building</i> or to persons on other property is likely. <p>2) For the purpose of determining whether a <i>Building</i> is <i>Dangerous</i> in terms of subsection (1)(b), a <i>Territorial Authority</i> —</p> <ul style="list-style-type: none"> a) may seek advice from employees, volunteers, and contractors of Fire and Emergency New Zealand who have been notified to the <i>Territorial Authority</i> 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. |
| <i>District</i> | Refers to the Matamata-Piako <i>District</i> . |
| <i>Heritage Building</i> | <p>Has the same meaning in section 7 of the <i>Act</i>, as follows:</p> <ul style="list-style-type: none"> a) in subpart 6B of Part 2, — <ul style="list-style-type: none"> i. a <i>Building</i> that is included on the New Zealand Heritage List/Rārangi Kōrero maintained under section 65 of the Heritage New Zealand Pouhere Taonga Act 2014; or ii. a <i>Building</i> that is included on the National Historic Landmarks/Ngā Manawhenua o Aotearoa me ōna Kōrero Tūturu list maintained under section 81 of the Heritage New Zealand Pouhere Taonga Act 2014; or iii. a place, or part of a place, that is subject to a heritage covenant under section 39 of the Heritage New Zealand Pouhere Taonga Act 2014 and is registered under section 41 of that Act; or iv. a place, or part of a place that is subject to a heritage order within the meaning of section 187 of the Resource Management Act 1991; or v. a place, or part of a place, that is included in the schedule of a district plan because of its heritage value. <p>At its discretion <i>Council</i> may also consider recognised character <i>Buildings</i>, such as from within the Te Aroha Special Character Area under the Operative Matamata-Piako <i>District</i> Plan (as at the date of this Policy) and Marae buildings as <i>Heritage Buildings</i>.</p> |
| <i>Household Unit</i> | <p>Has the same meaning as section 7 of the <i>Act</i>, as follows:</p> <ul style="list-style-type: none"> a) means a <i>Building</i> or group of <i>Buildings</i>, or part of a <i>Building</i> or group of <i>Buildings</i>, that is — <ul style="list-style-type: none"> i. used, or intended to be used, only or mainly for residential purposes; and |

| Term | Definition |
|----------------------------|---|
| | <ul style="list-style-type: none"> ii. occupied, or intended to be occupied, exclusively as the home or residence of not more than 1 household; but b) does not include a hostel, boarding house, or other specialised accommodation. |
| <i>Immediate Danger</i> | <p>Has the same meaning as section 129 of the <i>Act</i>, as follows:</p> <ul style="list-style-type: none"> a) This section applies if, because of the state of a <i>Building</i>, – <ul style="list-style-type: none"> i. <i>Immediate Danger</i> to the safety of people is likely in terms of section 121 or 123; or ii. immediate action is necessary to fix <i>Insanitary</i> conditions. |
| <i>Insanitary Building</i> | <p>Has the same meaning as section 123 of the <i>Act</i>, as follows: a <i>Building</i> is <i>Insanitary</i> for the purposes of this <i>Act</i> if the <i>Building</i> —</p> <ul style="list-style-type: none"> a) is offensive or likely to be injurious to health because — <ul style="list-style-type: none"> 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 <i>Building</i> or in any adjoining <i>Building</i>; 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. |
| <i>Inspection</i> | <p>Has the same meaning as section 222 of the <i>Act</i>, as follows: means the taking of all reasonable steps —</p> <ul style="list-style-type: none"> a) to determine whether – <ul style="list-style-type: none"> i. <i>Building</i> work is being carried out without a <i>Building</i> consent; or ii. <i>Building</i> work is being carried out in accordance with a <i>Building</i> consent; or iii. section 162C is being complied with; or iii. a notice to fix has been complied with: b) to ensure that, – <ul style="list-style-type: none"> i. in relation to <i>Buildings</i> for which a compliance schedule is issued, the inspection, maintenance, and reporting procedures stated in the compliance schedule are being complied with; or ii. in relation to <i>Buildings</i> that have specified systems, the requirement for a compliance schedule is being complied with: c) to enable a <i>Territorial Authority</i> to — <ul style="list-style-type: none"> i. identify <i>Dangerous</i>, earthquake-prone, or <i>Insanitary Buildings</i> within its <i>District</i>; and ii. carry out its functions or duties in relation to those <i>Buildings</i>: |

| Term | Definition |
|------------------------------|---|
| | d) to satisfy a <i>Territorial Authority</i> as to whether a certificate of acceptance for <i>Building</i> work should be issued under section 96. |
| <i>Policy</i> | Means The Dangerous and Insanitary Buildings Policy 2025. |
| <i>Territorial Authority</i> | Has the same meaning as section 7 of the <i>Act</i> , as follows: <ul style="list-style-type: none"> a) means a city <i>Council</i> or District <i>Council</i> named in Part 2 of Schedule 2 of the Local Government Act 2002; and, — <ul style="list-style-type: none"> i. in relation to land within the <i>District</i> of a <i>Territorial Authority</i>, or a <i>Building</i> on or proposed to be built on any such land, means that <i>Territorial Authority</i>; and ii. in relation to any part of a coastal marine area (within the meaning of the Resource Management Act 1991) that is not within the <i>District</i> of a <i>Territorial Authority</i>, or a <i>Building</i> on or proposed to be built on any such part, means the <i>Territorial Authority</i> whose <i>District</i> is adjacent to that part; and b) includes the Minister of Conservation or the Minister of Local Government, as the case may be, in any case in which the Minister of Conservation or the Minister of Local Government is the <i>Territorial Authority</i> under section 22 of the Local Government Act 2002. |
| <i>The Act</i> | means the Building Act 2004. |

Part 2 Kaupapahere I Policy

7. Identification of Potentially Dangerous, Affected or Insanitary Buildings

7.1 The need to undertake an inspection may be triggered by any of the following: the observations of staff or contractors;

- b) information or complaints received from members of the public or members of professional bodies;
- c) events arising following natural disasters;
- d) notification from the Ministry of Business, Innovation and Employment (MBIE);
- e) notification from FENZ.

7.2 When *Council* receives information regarding a potentially *Dangerous, Affected or Insanitary Building* it will:

- a) Check the details of the property against *Council* records;
- b) Have an *Authorised Officer* undertake an inspection of the *Building* in question to assess the condition of the building. In doing this, *Council* may seek advice from FENZ, or any other professional or organisation deemed appropriate by *Council*; and,
- c) Prepare an inspection record.

8. Assessment of Potentially Dangerous, Affected or Insanitary Buildings

- 8.1 All inspections of potentially *Dangerous, Affected or Insanitary Buildings* will involve an assessment of the *Building*'s condition in terms of the definitions in sections 121 (*Dangerous Buildings*), 121A (*Affected Buildings*) and 123 (*Insanitary Buildings*) of the *Act* and the current *Building* code requirements.
- 8.2 *Council* may engage a subject matter expert to assist with determining the course of action.
- 8.3 *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, *Council* must either obtain consent of the *Occupier* of the household unit or obtain an order from the *District Court*.
- 8.4 In considering how to address non-compliances, *Council* may consider other legislative requirements or compliance mechanisms in addition to the Building Act 2004. This may include in particular, consideration of the following: Local Government Act 2002, Resource Management Act 1991, Civil Defence Emergency Management Act 2002, Heritage New Zealand Pouhere Taonga Act 2014, Health Act 1956.

9. Prioritising Actions for Dangerous, Affected or Insanitary Buildings

- 9.1 The priority for action for a *Dangerous, Affected or Insanitary Building* will be decided after the initial assessment of the *Building* and recorded as either:
- Urgent: *Building* is considered to be immediately *Dangerous*, *Council* will act urgently, for the purpose of saving or protecting life or health or preventing serious damage to property;
 - Non-urgent: *Building* is not considered to pose an immediate danger to life or health and no other *Buildings* will be immediately *Affected*, *Council* will act efficiently to respond; or
 - Not considered to be *Dangerous, Affected or Insanitary*.
- 9.2 Where notification has been received from FENZ of a *Dangerous Building*, *Council* will contact them to discuss proposed action.
- 9.3 If *Council* is satisfied that a *Building* is *Dangerous, Affected or Insanitary* it will:
- Consult with the owners of the relevant *Building* to further determine the circumstances and decide on an appropriate course of action.
 - Take appropriate measures to secure the *Building*. This may include but is not limited to, fences, hoardings or warning notices.
 - Except for an *Affected Building*, issue a notice under section 124(2)(c) requiring the *Building Owner* to undertake *Building* work to reduce or remove the danger, or prevent the *Building* from remaining *Insanitary*.
 - Work with the *Building Owner* to achieve a mutually acceptable outcome. Where the situation requires, *Council* may invoke its powers under the *Act*, including but not limited to sections 124, 126, 128A and 129 of the *Act*.
 - Take any action that is necessary to remove any *Immediate Danger* to the safety of people, or immediate action that is necessary to fix *Insanitary* conditions (section 129 of the *Act*). The *Building Owner* is liable for the *Council's* costs in doing so, and the amount recoverable becomes a charge on the land.

- f) Inform complainants of the inspection results and *Council's* intended course of action to deal with the situation.
- g) Undertake monitoring and enforcement actions in accordance with the *Act* and *Council's* Enforcement Policy.

10. Application of Policy to Heritage Buildings

- 10.1 This *Policy* applies to *Heritage Buildings* in the same way it applies to all other *Buildings*.
- 10.2 *Council* recognises principles in section 4(2)(d) and (l) of the *Act* which illustrates, “the importance of recognising any special traditional and cultural aspects of the intended use of a *Building*” and “the need to facilitate the preservation of *Buildings* of significant cultural, historical, or heritage value” respectively.
- 10.3 *Council* recognises *Heritage Buildings* as important infrastructure that add character and history to the *District*. This includes *Heritage Buildings* listed with Heritage New Zealand Pouhere Taonga and/or areas that may be referenced in Schedule 1 (Heritage sites) or Schedule 2 (Heritage – waahi tapu) of the operative Matamata-Piako District Plan.
- 10.4 *Council* will work with the *Building Owner* to ensure the development of appropriate management and planning for *Heritage Buildings* for their protection wherever possible. This will be achieved by:
 - a) Recognising the *Heritage Buildings* that exist in the *District*, as per the definition of *Heritage Building* in the *Act*.
 - b) Informing relevant statutory organisations, including Heritage New Zealand Pouhere Taonga, with regards to any listed *Building* identified as *Dangerous* or *Insanitary*.
 - c) Ensuring the consideration of any advice received from Heritage New Zealand Pouhere Taonga or a professional conservation organisation or heritage professional (if relevant).
 - d) Consideration of any relevant conservation report, conservation plan, condition report, management plan, heritage assessment or other document.
 - e) Advising *Building Owners* of any funding assistance that may be available for *Heritage Buildings* to help with any costs to be incurred, either through *Council* (for example, the Natural, Cultural and Built Heritage Grant) or through an external organisation (for example, the Heritage New Zealand Pouhere Taonga National Heritage Preservation Incentive Fund and New Zealand Lotteries funds).

11. Costs

- 11.1 *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 *Council* is not completed or proceeding with reasonable speed, *Council* may invoke its powers under section 126 of the *Act* and apply to the *District* Court for an order authorising the *Territorial Authority* to carry out *Building* work required in the notice.
- 11.2 If *Council* carries out *Building* work required under a notice issued in accordance with section 124(2)(c) of the *Act*, it is entitled to recover costs associated with that work from the *Building Owner*, as set out in section 126(3) of the *Act*.

12. Immediate Danger

12.1 If a *Building* presents an *Immediate Danger* or health hazard to people within and/or around it, or to surrounding *Buildings*, *Council* may choose to invoke its powers under section 129 of the *Act*.

13. Building Owners

13.1 *Building Owners* are legally responsible for ensuring the maintenance and compliance of their buildings. *Council* encourages *Building Owners* to look after their *Buildings* by undertaking timely maintenance to help prevent the *Buildings* from becoming *Dangerous* or *Insanitary*.

14. Building Information

14.1 All information relating to *Dangerous, Affected* or *Insanitary Buildings* will be recorded noting the status of requirement for improvement or the results of improvements as applicable. 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) prepared for the property.

15. Amendments

15.1 This Policy may be amended when required subject to the provisions of the Act.

16. Application and review

16.1 This *Policy* will be reviewed at least every five (5) years, as required by section 132(4) of the *Act*. After adopting and amending a policy, a copy will be provided to MBIE as specified by section 132(3).

16.2 The above does not preclude this *Policy* from being reviewed within the time frame stated in the *Act* to meet the needs of *Council* and to reflect best practice. If *Council* decides to amend or replace the *Policy* following the review or at any other time, it must do so by using the special consultative procedure in section 83 of the LGA.

16.3 This *Policy* will take effect from 1 July 2025.