



Review of Dangerous, Insanitary and Affected Buildings Policy



Agenda

- Why we need a policy
- Building Act 2004 - policy requirements, definitions and powers
- Scope:
 - What the Policy can do
 - What the Policy cannot do
- Other legislation
- Heritage
- Current policy
- Proposed changes
- Next steps





Why we need a policy

- Building Act section 131 – all territorial authorities must adopt a policy on dangerous, insanitary and affected buildings.





Building Act 2004 - policy requirements

- The policy must state how the DCC will perform its functions under the Act and how they will apply to heritage buildings.
- Must be reviewed every five years.
- Special consultative procedure if the Policy is amended or replaced.





Building Act 2004 definition – ‘Dangerous’

- The Act’s definition of ‘**Dangerous**’ can be summarised as:
 - is likely to cause injury, death, or damage to other property in the ordinary course of events (excluding earthquake) **OR**
 - is likely to cause injury or death in the event of fire.

(Ordinary course of events includes the usual gamut of climatic conditions likely to be encountered in the course of a year)





Building Act 2004 – ‘Dangerous’

**Dangerous due to risk of collapse
and unstable hillside**



**Dangerous due to risk of
collapse and falling**





Building Act 2004 – ‘Dangerous’

**Dangerous due to
blocked fire exit**





Building Act 2004 definition – ‘Insanitary’

- The Act’s definition of ‘**Insanitary**’ can be summarised as:
 - is offensive or likely to be injurious to health because of the way the building is situated, constructed, or because it is in a state of disrepair **OR**
 - has inadequate provision to prevent moisture penetration **OR**
 - does not have adequate water supply or sanitary facilities.





Building Act 2004 – ‘Insanitary’

Insanitary due to moisture penetration





Building Act 2004 – ‘Insanitary’

**Insanitary due to
contaminated flood water
and mud**





Building Act 2004 – ‘Insanitary’

**New buildings deemed insanitary
due to inadequate provision to
prevent moisture penetration.**





Building Act 2004 – ‘Insanitary’

Building unlikely to be insanitary because ‘the building’ is not the problem.

In some cases action can be taken under the Health Act 1956.





Building Act 2004 definition – ‘Affected’

Affected buildings within the fall zone

- The Act’s definition of **affected building**’ can be summarised as:
 - a building that is at risk because it is close to a dangerous building.





Threshold

- Previous MBIE determinations and court cases indicate that the thresholds are high.
- Poorly maintained and dilapidated does not typically mean dangerous, unless it is likely to collapse in the normal course of events.
- Collection of refuse, or lack of cleaning resulting from lifestyle choices do not make a building insanitary under the Building Act, but in some cases action can be taken under the Health Act 1956.





Photo for discussion





Photo for discussion





Photo for discussion





Photo for discussion





Photo for discussion





Building Act 2004 – powers

- If satisfied that a building is dangerous, insanitary or affected, Council can:
 - Erect hoardings or fences to keep people away
 - Put up notices to warn people not to approach
 - Require work to be carried out
 - Restrict entry
 - Take actions necessary to remove an immediate danger or to fix insanitary conditions.





Scope: Examples of what the Policy CAN do

- Restrict access to buildings that have become unstable and are likely to collapse.
- Take action when buildings do not have a potable water supply or sanitary facilities.
- Take action when there is an unacceptable fire safety risk, such as a locked fire exit in a nightclub or a broken fire alarm.





Scope: What the Policy CANNOT do

- The Policy scope is limited by the provisions of the Act, for example, it is not able to:
 - Provide for rental property minimum standards – these are managed by the Ministry of Business, Innovation and Employment under the health homes standards and the Residential Tenancies Act 1986.
 - Prevent demolition by neglect, e.g. we cannot require buildings to be maintained because they are neglected and unsightly.





Scope: What the Policy CANNOT do

- Require the repair or demolition of a dangerous building, if the danger can be removed by temporary propping up a veranda and keeping people out. (Arkwright's Traders Building)
- Require cleaning, beautification, or removal of refuse.
- Take action based on risk to people who ignore warning signs or climb through barriers and trespass on private property. (Glamis Hospital)





Other legislation

- Residential Tenancies Act – provides for rental property minimum standards.
- Health Act 1956 - includes provisions to deal with nuisance conditions associated with housing.





Heritage

- The council's position is to avoid demolition, or removal of significant architectural features wherever possible.
- Council's heritage advisors can provide advice.
- Council administers the Dunedin Heritage Fund to support building owners with the conservation and retention of heritage buildings.





Current Policy

- Developed in accordance with the Act which seeks to ensure that:
 - People who use buildings can do so safely and without endangering their health;
 - Buildings have attributes that contribute to the health, physical independence and wellbeing of people who use them; and
 - Buildings are designed, constructed and able to be used in ways that promote sustainable development.





Proposed changes to the Policy

- Generally, the Policy is working well to address dangerous, insanitary and affected buildings in Dunedin.
- Minor changes are proposed, for example:
 - better explanation of the measure's council might take to avoid immediate danger or to fix insanitary conditions. Example given.
 - sections relating to heritage buildings expanded and updated.
 - new section added to explain provisions available under the Health Act 1956.
 - LGA special consultative procedure referenced.





Next steps

- Report to Council asking for approval of a draft amended Policy and statement of proposal for consultation purposes.
- Consultation on proposed changes.
- Hearings Committee will:
 - consider submissions
 - hear any submitters
 - make recommendations to the Council.



