



## Dangerous and Insanitary Building Policy 2006

### 1. Introduction

#### 1.1 Background

Section 131 of New Zealand Building Act 2004 requires territorial authorities to adopt a policy on dangerous and insanitary buildings. The policy is required to state:

- The approach that the Central Otago District Council will take in performing its functions under section 131 of the Building Act 2004.
- Central Otago District Council's priorities in performing those functions.
- How the policy will apply to heritage buildings.

The meanings of dangerous and insanitary buildings are set out in section 121 and section 123 respectively of the Building Act 2004. These are:

#### Section 121 Meaning of Dangerous Building

1. *A building is dangerous for the purpose 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 persons 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 a to persons on other property is likely, because of fire hazard or occupancy of the building.*
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 members of the New Zealand Fire Service who have been notified to the territorial authority by the Fire Service National Commander as being competent to give advice; and*
  - (b) *If advice is sought, it must have due regard to that advice.*

## Section 123 Meaning of Insanitary Building

1. *A building is insanitary for the purpose of this Act if the building –*
  - (a) *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*
  - (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.*

This document sets out the policy of Central Otago District Council in accordance with the requirements of the New Zealand Building Act 2004. In developing and adopting this dangerous-insanitary building policy, Council has followed consultative procedures set out in Section 83 of the Local Government Act 2002.

Section 132 of the New Zealand Building Act 2004 requires the policy to be reviewed within five years of being adopted and then at five yearly intervals with any replacement or amendment being subject to the consultative procedures in the Local Government Act 2002.

### **1.2 Policy Principles**

Council acknowledges there are situations that arise from time to time across the District where buildings have become dangerous and/or insanitary for various reasons including neglect, inadequate maintenance, fire damage or through non-compliance with the Building Code.

In such situations, Council's first approach will be to endeavour to negotiate a resolution with the building owner. However, where this fails or an immediate hazard exists Council may, at its sole discretion, take appropriate action to mitigate the dangerous and/or insanitary conditions.

### **1.3 Social, Environmental, Economic and Cultural Impact of Policy**

In adopting a proactive approach to policy in respect to dangerous/insanitary buildings, Council will have a positive influence in reducing the incidence of neglected, inadequately maintained, fire damaged or non-compliant buildings impacting on the community.

This approach will contribute to the purpose of the Local Government Act 2002 by addressing:

- heritage buildings by consultation with The Historic Places Trust will occur before action is taken
- negative environmental effects resulting from dangerous or insanitary conditions
- amenity issues concerning neighbouring property owners
- social issues such as the removal of potential sites of illegal occupation and infestation of vermin

in so far as these are dealing with dangerous or insanitary buildings.

## **2. Policy Process**

### **2.1 Overall Approach**

Council will:

- Be proactive in responding to situations where dangerous or insanitary buildings are identified.
- Where a potentially dangerous or insanitary building is identified, an inspection will be undertaken by Council's Building Control staff.
- On reporting back, the Building Control Team Leader, with direction from the Manager, Planning and Environment, will reach a decision as to whether the building is deemed to be dangerous or insanitary.

Where deemed necessary, expert opinion will be sought on whether the situation is dangerous or insanitary. This could include an Environmental Health Officer, The Ministry of Health, ERMA, a Registered Engineer, The New Zealand Fire Service, Occupational Safety and Health, or other sources of expert advice.

- Where a building is deemed to be dangerous or insanitary the first approach will be to negotiate a solution with the building owner. Where this fails, or an immediate hazard exists, Council may, at its sole discretion, take appropriate action under the provisions of sections 124, 125, 126, 127, 128, 129 and 130 of the Building Act to mitigate the dangerous or insanitary conditions.

- Where it is deemed immediate action is necessary to mitigate a dangerous or insanitary situation, Council reserves the right to appoint any contractor it deems competent to undertake the work.
- Where Council is forced to take action to mitigate a dangerous or insanitary situation, all costs incurred, including any work necessary, shall be recovered from the building owner as set out in the Building Act 2004.
- Heritage buildings will be assessed in the same way as other potentially dangerous or insanitary buildings and negotiation held with the owners and Historic Places Trust to identify a mutually acceptable way forward. Although special effort will be made to meet heritage objectives, the safety of the building users/general public and other properties will take priority over heritage provisions where deemed necessary.

## **2.2 Interaction between Dangerous and Insanitary Building Policy and the Building Act 2004**

The following sections of the Building Act could initiate action under Council policy relating to dangerous and insanitary buildings:

- Section 96 Certificate of Acceptance.
- Section 108 Annual Building Warrant of Fitness.
- Section 112 Alteration to an existing building.
- Section 115 Change of Use.
- Section 122 Meaning of an Earthquake Quake-prone Building.
- Sections 124 – 130 Powers of Territorial Authorities in respect to dangerous, earthquake-prone, or insanitary buildings.
- Section 164 Notice to Fix.
- Section 216 (e) Complaints received by Territorial Authority.

### **3. Heritage Buildings**

#### **3.1 Special Consideration and Constraints**

Council is concerned that measures are put in place to ensure identified heritage buildings within the District are maintained in a safe and sanitary condition.

Where deficiencies are identified, heritage buildings will be assessed in the same way as other potentially dangerous or insanitary buildings and negotiation held with the owners and Historic Places Trust to identify a mutually acceptable way forward. Although special effort will be made to meet heritage objectives, the building's performance in terms of ensuring user and general public safety will take priority over heritage considerations.

Where remedial or upgrade work can not be negotiated with the owner of a heritage building within what Council deems as a satisfactory timeframe, notice will be served under Section 124 of the Building Act 2004 to remedy the situation. A satisfactory time frame will be determined taking into consideration danger to building users, the general public or other property. In cases likely to be of particular public concern, consultation will be held with the relevant Community Board or Committee of Council.