

Hearings Panel AGENDA

Notice of Meeting:

A Hearings Panel meeting will be held on:

Date: Monday 5 November 2018
Time: 9:00am
Venue: Committee Room 2, Level 2, Civic Offices,
53 Hereford Street, Christchurch

Panel

Members	Councillor Raf Manji Councillor Tim Scandrett Councillor Deon Swiggs
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31 October 2018

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Note: The reports contained within this agenda are for consideration and should not be construed as Council policy unless and until adopted. If you require further information relating to any reports, please contact the person named on the report.

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Strategic Framework

The Council’s Vision – Christchurch is a city of opportunity for all.
Open to new ideas, new people and new ways of doing things – a city where anything is possible.

Whiria ngā whenu o ngā papa Honoa ki te maurua tāukiuki

Bind together the strands of each mat
And join together with the seams of respect
and reciprocity.

The partnership with Papatipu Rūnanga
reflects mutual understanding and respect,
and a goal of improving the economic,
cultural, environmental and social
wellbeing for all.

Overarching Principle

Partnership – Our
people are our taonga
– to be treasured and
encouraged. By working
together we can create
a city that uses their
skill and talent, where
we can all participate,
and be valued.

Supporting Principles

Accountability	Collaboration
Affordability	Prudent Financial Management
Agility	Stewardship
Equity	Wellbeing and resilience
Innovation	Trust

Community Outcomes

What we want to achieve together as our city evolves

Strong communities

Strong sense of
community
Active participation in
civic life
Safe and healthy
communities
Celebration of our
identity through arts,
culture, heritage and
sport
Valuing the voices of
children and young
people

Liveable city

Vibrant and thriving
central city, suburban
and rural centres
A well connected and
accessible city
Sufficient supply of, and
access to, a range of
housing
21st century garden city
we are proud to live in

Healthy environment

Healthy waterways
High quality drinking
water
Unique landscapes and
indigenous biodiversity
are valued
Sustainable use of
resources

Prosperous economy

Great place for people,
business and investment
An inclusive, equitable
economy with broad-
based prosperity for all
A productive, adaptive
and resilient economic
base
Modern and robust
city infrastructure and
community facilities

Strategic Priorities

Our focus for improvement over the next three years and beyond

Enabling active citizenship and connected
communities

Maximising opportunities to develop a vibrant,
prosperous and sustainable 21st century city

Climate change
leadership

Informed and proactive
approaches to natural
hazard risks

Increasing active, public
and shared transport
opportunities and use

Safe and sustainable
water supply and
improved waterways

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1. Apologies

At the close of the agenda no apologies had been received.

2. Election of Chairperson

At the start of the meeting a Chairperson will be elected.

3. Declarations of Interest

Members are reminded of the need to be vigilant and to stand aside from decision making when a conflict arises between their role as an elected representative and any private or other external interest they might have.

4. Proposed Dangerous and Insanitary Buildings Policy

Reference: 18/1082578

Presenter(s): Robert Wright, Judith Cheyne

1. Purpose and Origin of Report

Purpose of Report

- 1.1 The purpose of this report is for the Hearings Panel to consider the submissions received by the Christchurch City Council in response to the public notification of the Council's proposed Dangerous and Insanitary Buildings Policy.
- 1.2 The Hearings Panel has no decision-making powers but, in accordance with its delegation, must consider the written and oral submissions received on the proposal and make recommendations to the Council. The Panel's consideration of submissions and the recommendations it makes to the Council must be consistent with Section 82 of the Local Government Act 2002 which requires that "the views presented to the local authority should be received by the local authority with an open mind and should be given by the local authority, in making a decision, due consideration."

2. Staff Recommendations

That the Hearings Panel:

1. Considers the submissions received during the public consultation process, on the draft Dangerous and Insanitary Buildings Policy;
2. Receives and considers the information and recommendations contained in the Hearings Panel Report and the proposed Dangerous and Insanitary Buildings Policy (Attachment A);
3. Recommends to the Council that the Dangerous and Insanitary Buildings Policy incorporates any changes to the draft Policy the Panel considers appropriate as a result of its consideration of submissions received and staff recommendations.

3. Background

1. The Building Act 2004 (section 131) requires all territorial authorities to adopt a policy on dangerous and insanitary buildings within its district. The Act requires the policy to state—
 - a. the approach that the territorial authority will take in performing its functions under this Part; and
 - b. the territorial authority's priorities in performing those functions; and
 - c. how the policy will apply to heritage buildings.
2. When adopted, the Dangerous and Insanitary Buildings Policy will replace the Council's Earthquake-prone, Dangerous and Insanitary Buildings Policy 2010.

4. The proposal

3. The Council adopted a draft Dangerous and Insanitary Buildings Policy and Statement of Proposal at its meeting of 23 August 2018. The draft policy was then made available for community consultation. The consultation process used is described in section 5 of this report.
4. Key policy changes proposed in the draft Policy
5. All policy provisions relating to earthquake prone buildings were removed from the Policy as these are now exclusively provided for under new and/or revised provisions of the Building Act 2004.
6. The draft policy included reviewed policy provisions relating to dangerous and insanitary buildings from the Council's current Earthquake-prone Dangerous and Insanitary Buildings Policy. It also included provisions relating to affected buildings, which is a new requirement of the Building Act (section 132A).
7. The draft Policy included the Council's policy approaches regarding affected buildings, which are buildings adjacent to, adjoining or nearby a dangerous building or dam.
8. The draft Policy provided more detailed information about how the Council will identify and appropriately deal with dangerous, affected or insanitary buildings. This information is expected to be of particular interest and benefit to building owners and provides a higher level of transparency regarding the Council's approach to this matter.

5. Public notification and consultation

9. The review of the Dangerous and Insanitary Buildings Policy was publicly notified in accordance with a special consultative procedure, which is set out in section 83 of the Local Government Act

2002. A notice was placed in the Christchurch Press newspaper on 1 September 2018 with submissions closing on 5 October 2018.

10. A public information leaflet (**Refer to Attachments B and C**) was circulated to approximately 300 key stakeholders and printed copies were made available at all Council Service Centres and Libraries.
11. A Newsline story was written to promote interest in this project <https://www.ccc.govt.nz/news-and-events/newsline/show/2898>
12. A reminder email went out to those on the key stakeholder list as a reminder of the upcoming closing date and to encourage submissions.
13. A post went up on the Council social media pages to remind the community about this project and the closing date for submissions. The post encouraged people to let us know if we have got the policy right.
14. A total of five submissions were received by the closing date of 5 October 2018 (**Refer to Attachment D**).
15. One submitter indicated they wish to be heard by the Hearing Panel.
16. Two submitters asked that they be included in the future earthquake-prone buildings project, so their contact details have been passed onto the team within Council working on this.

6. Summary of submissions

17. Five submissions were received. Two submissions supported the proposed policy with no further comment and three submissions provided feedback and proposed changes on specific parts of the draft Policy.

7. Issues and staff responses

18. Attachment D of this report summarises the submissions received and provides staff responses and recommendations. This section of the report includes that information.

Strategic alignment and community outcomes

19. The Insurance Council recommended adding a bullet point “Keep the city insurable”. While this is a very sound goal it does not belong as a separate new community outcome or strategic priority. It is recommended that the suggestion is noted and that Council will look for appropriate ways to promote this aim in its documents and messaging.

State of emergency powers

20. The Insurance Council submitted that it is important that insurers are involved in any decisions that are made concerning the destruction/ demolition of a building as to not do so could affect insurers being able to meet claims and insurers being prepared to provide future insurance. The

Insurance Council recommended that the Council Hearings Panel read the Insurance Council submission on the Building Act amendment Bill.

21. Staff tried to access the Insurance Council's submission to the Building Act amendment Bill but it was not available on either the Parliament website or the Insurance Council website.
22. In a state of emergency the first priority for the Council must be safety. Any decisions on building demolition under a state of emergency must be made quickly and with the focus on safety. It is therefore recommended that the Council includes no policy commitment to ascertain or consult with the insurer of a building subject to a decision to demolish, despite any legal complexities this may cause the insurer.

People inhabiting dangerous or insanitary buildings/ health and wellbeing of affected persons

23. The Canterbury District Health Board submission raised the need for Council decision-making, when assessing dangerous or insanitary buildings, should take account of any people living in the building and for the mental health and broad wellbeing of people affected by these types of decisions to be recognised.
24. Staff advice is that these are important issues that are taken into account and that should be specifically highlighted in the Policy. The proposed new section 9.5 of the Policy is intended to cover off these matters. Section 10 of the Policy, "related legislation", is proposed to be expanded to better refer to the range of legislative levers that may be available to the Council when dealing with matters associated to dangerous and insanitary buildings.

Consultation with Heritage New Zealand

25. Heritage New Zealand submitted that when a building on the New Zealand Heritage List is the subject of assessment the Policy should provide stronger direction for the Council to consult with Heritage New Zealand - that in these situations Heritage New Zealand will be consulted.
26. Staff acknowledge the policy needs to be clear regarding Heritage New Zealand consultation but believe flexibility to make decisions in emergency situations should not be constrained by consultation requirements. Clause 8.2.1 of the Policy is recommended to change to say that the Council will seek advice from Heritage New Zealand where practicable.

Preventing heritage buildings becoming dangerous or insanitary

27. Heritage New Zealand submitted that a new paragraph be inserted within section 8.2 setting out Council's policy on addressing risks to heritage buildings that may ultimately lead to them becoming dangerous or insanitary, such as deferred maintenance and un-consented alterations.
28. Staff believe that such a clause is beyond the scope of the Policy and that the Policy should be limited to matters associated with buildings that are identified as being dangerous or insanitary. It is recommended that no changes are made on this point.

Attachments

No.	Title	Page
A ↓	Dangerous and Insanitary Buildings Policy - recommended changes following submissions	10
B ↓	Dangerous and Insanitary Buildings Policy Review - Public Information Leaflet	19
C ↓	Dangerous and Insanitary Buildings Policy Review - feedback form	21
D ↓	All submissions, with project team responses	23

Signatories

Authors	Gavin Thomas - Principal Advisor Economic Policy Tara King - Senior Engagement Advisor
Approved By	Robert Wright - Head of Building Consenting Leonie Rae - General Manager Consenting and Compliance

Draft DANGEROUS and INSANITARY BUILDINGS POLICY 2018

1. Introduction

- 1.1 This Dangerous and Insanitary Buildings Policy (“the Policy”) has been prepared to comply with section 131 of the Building Act 2004 (“the Act”), which requires the Council to have a policy on Dangerous and Insanitary Buildings.
- 1.2 ~~This~~ ~~The policy~~ Policy replaces the Council’s Earthquake-prone, Dangerous and Insanitary Buildings Policy 2010. All requirements regarding Earthquake-prone Buildings have been removed from the Policy as they are now covered by sections 133AG – 133AY of the Act.
- 1.3 The Act also requires the Policy to state the Council’s policy approaches regarding affected buildings, which are buildings adjacent to, adjoining or nearby a dangerous building or dam.
- 1.4 It is important that the Council protects public health through a balanced risk-based approach to ensuring buildings are structurally sound, do not pose health risks and perform their function without putting the health of [building users](#), residents and visitors at risk.
- 1.5 The residual effects of the Canterbury earthquakes of 2010/11 make ~~this~~ ~~the policy~~ Policy particularly important for Christchurch as there are buildings that remain standing in varying states of disrepair and/ or danger [that may at some point trigger the provisions of the Policy](#).

2. Policy principles

- 2.1 The relevant principles of section 4 of the Act have been taken into account in preparing [this the](#) Policy.
- 2.2 In considering these principles [this ~~the~~ Policy seeks to ensure that people who use buildings can do so safely without endangering their health;](#)
- 2.3 In preparing [this ~~the~~ Policy, the Council has endeavoured to strike a balance between the risks posed by dangerous, affected and insanitary buildings and broader social and economic issues involved.](#)
- 2.4 The Council will take a pragmatic approach to administering the Building Act and [this ~~the~~ Policy in a fair and reasonable way.](#)

3. Policy scope

- 3.1 ~~This~~ ~~The~~ Policy applies to all buildings within the Christchurch City Council territorial authority district.
- 3.2 ~~This~~ ~~The~~ Policy sets out:
 - the approach that the Council will take in performing its functions under Part 2 of the Act;

- the Council's priorities in performing those functions;
- the Council's approach to dangerous, affected and insanitary heritage buildings.

4. Policy objectives

- a) To discharge the Council's responsibilities under the Act that relate to dangerous, affected and insanitary buildings.
- b) To clearly state the Council's approach to identifying dangerous, affected or insanitary buildings, what powers it can exercise when such buildings are found, and how it will work with building owners to prevent buildings from remaining dangerous or insanitary, particularly where a dangerous building is affecting or potentially affecting another building.
- c) To explain its approach where the building concerned is a District Plan Scheduled or Heritage New Zealand listed heritage building or landmark.
- d) To ensure building owners understand that the Council may exercise its powers to take steps on the owner's behalf and may recover any resulting costs from the owner.

5. Strategic alignment

- 5.1 The Policy has been prepared with the Council's strategic objectives in mind and to support achievement of relevant objectives. In particular the Policy supports the following:

Community Outcomes (2018)

- Safe and healthy communities
- Vibrant and thriving central city, suburban and rural centres
- A well connected and accessible city
- Great place for people, business and investment
- A productive, adaptive and resilient economic base
- Modern and robust city infrastructure and facilities network

Strategic Priorities

- Maximising opportunities to develop a vibrant, prosperous and sustainable 21st century city
- Informed and proactive approaches to natural hazard risks

Christchurch District Plan

- Historic heritage objectives

Heritage Values, Vision and Mission Statements policy

Heritage Conservation policy

6. Council's role

- 6.1 A building may become dangerous, affected or insanitary due to a number of reasons, such as unauthorised alterations being made, fire, natural disaster or other external factors, or as a result of its use by an occupant.
- 6.2 When the Council becomes aware that a building may be dangerous, affected or insanitary, it will investigate and determine whether the building is dangerous, affected or insanitary.

- 6.3 If a building is found to be dangerous, affected or insanitary, the Council will work with the building owner(s), and if necessary use powers it has available, to ensure appropriate action is taken to make the building, its occupants and the public safe.

7. Working with other agencies

- 7.1 The Council will work with Heritage New Zealand Pouhere Taonga, Fire and Emergency New Zealand, the New Zealand Police and other relevant agencies to achieve the purpose of the Act.

8. Council policies

8.1 Approach to identifying dangerous, affected or insanitary buildings

- 8.1.1 The Council will not actively inspect all buildings within the District but may from time to time undertake proactive information collection on possible dangerous, affected or insanitary buildings.

- 8.1.2 On receiving information or a complaint regarding a possible dangerous, affected or insanitary building, the Council will quickly and efficiently respond to information received and to ascertain the extent of any issues.

- 8.1.3 The procedures taken by the Council to resolve any issues found are detailed in section 9 of [this the](#) Policy.

8.2 Application of the Ppolicy to heritage buildings

- 8.2.1 ~~This The~~ Policy applies to heritage buildings in the same way it applies to all other buildings. ~~Where the Council is assessing a building that is listed on the New Zealand Heritage List/ Rārangī Kōrero the Council will seek advice from Heritage New Zealand Pouhere Taonga where practicable. Where the Council receives information regarding a building with a heritage classification under Heritage New Zealand Pouhere Taonga, in addition to consulting with affected owners the Council will consider seeking advice from Heritage New Zealand Pouhere Taonga.~~

- 8.2.2 When considering heritage buildings under [this the](#) Policy, account will be taken of:

- a) The importance of recognising any special traditional or cultural aspects of the intended use of the building;
- b) The need to facilitate the preservation and ongoing use of buildings and areas of significant cultural, historical, or heritage value;
- c) The circumstances of each owner and each building, including whether the building has undergone any recent building work.

- 8.2.3 When considering what action to take with a listed or scheduled heritage building that is deemed dangerous or insanitary, the Council will take into account the heritage values of the building in determining possible courses of action and seek to avoid demolition wherever possible. Suitably qualified professionals with heritage expertise will be engaged where necessary to advise and recommend on possible actions.

8.3 Costs

8.3.1 The Council may issue a notice under Section 124(2)(c) of the Act requiring work to be carried out on a dangerous or insanitary building to reduce or remove the danger, or to prevent the building from remaining insanitary. If work required under such a notice issued is not completed or proceeding with reasonable speed, the Council may use its powers under Section 126 of the Act and apply to the District Court to gain authorisation to carry out the building work required in the notice.

8.3.2 If the Council carries out building work, [under Section 126 of the Act or under a warrant issued under Section 129](#), it is entitled to recover costs associated with that work from the building owner, ~~as set out in Section 126(3) of the Act.~~

9. Procedures

9.1 When the Council receives information regarding a potentially dangerous, affected or insanitary building, it will:

- a) Check the details on the property held in Council records;
- b) Have an authorised officer undertake an inspection of the building. In doing this, the Council may seek advice from Fire and Emergency New Zealand, New Zealand Police or any other professional organisation deemed appropriate by Council; and
- c) Prepare an inspection record.

9.2 All inspections of potentially dangerous, affected or insanitary buildings will involve assessment of the condition of the building in terms of the definitions in Sections 121, 121A and 123 of the Act. Inspection records will be prepared in all cases.

9.3 Authorised officers are entitled at all times during normal working hours to inspect any building to identify any dangerous or insanitary buildings, and may enter any premises for that purpose, unless the building is a household unit. If the building is a household unit ~~that~~ [which](#) is being used as a household unit, the Council must either obtain consent from the occupier or an order from the District Court before it can enter to carry out an inspection.

9.4 Once the Council is satisfied that a building is dangerous, affected or insanitary it will:

- a) Consult with the building owner(s) to further determine the circumstances and decide on an appropriate course of action, which may include not taking any action, particularly where the owner is aware of and dealing with the issues.
- b) Inform the complainant(s) of the inspection results and the Council's intended course of action to deal with the situation.
- c) [Assess whether there are any potentially affected buildings and consult with the owner\(s\) of any affected building regarding appropriate risk management approaches before taking enforcement action under ~~s124~~ Section 124 of the Act.](#)
- d) [If notification is received from Fire and Emergency New Zealand that a building is dangerous, \(whether by request of the Council under Section 121\(2\), or at the initiation of Fire and Emergency New Zealand\) the Council will also liaise with Fire and Emergency New Zealand to discuss any proposed action.](#)
- e) [If the building is a scheduled heritage building, the Council will take into account its heritage values in determining a course of action. Where practicable this will follow the provisions in section 8.2 of the Policy.](#)

9.5 [In undertaking its monitoring and enforcement functions under the Building Act and the Policy, the Council will utilise a risk-based strategy to target compliance activities. This approach recognises graduated categories of behaviour that determine the nature of the compliance intervention – Voluntary, Assisted, Directed and Enforced \(VADE\). Compliance and enforcement responses escalate depending on the seriousness of the conduct, extent of the harm and public interest factors. In operational terms, this approach recognises that most people and businesses are willing to voluntarily comply with their regulatory obligations or can be encouraged to do so; and enforcement responses are tailored according to the degree of harm to individuals, amenities or the environment.](#)

9.6 If the Council is satisfied that a building is a dangerous, affected, or insanitary building it may use its powers under Sections 124, or 126 of the Act. This may include:

- a) erecting a hoarding or fence to prevent people from approaching the building nearer than is safe
- b) placing a notice that warns people not to approach the building
- c) except in the case of an affected building, issuing a notice that complies with section 125(1) requiring work to be carried out on the building to—
 - (i) reduce or remove the danger; or
 - (ii) prevent the building from remaining insanitary
- d) issuing a notice that complies with section 125(1A) restricting entry to the building for particular purposes or restricting entry to particular persons or groups of persons.

Where a state of emergency has been declared (or following a state of emergency, when a transition period has been declared) the Council may choose to exercise powers under the Civil Defence Emergency Management Act 2002 instead of or in addition to powers under the Building Act 2004.

9.7 [Immediate danger](#)

9.7.1 If a building presents an immediate danger or health hazard to people within and/or around it, or to surrounding buildings, the Chief Executive of the Council may decide it is necessary to use the powers under Section 129 of the Act to remove the danger or fix insanitary conditions. This may include demolition of the building.

Immediate danger may apply to a building that is likely to be used in a dangerous manner. A particular example is an assessment of immediate danger from fire and, in the event of a fire, injury or death to persons in or around the building is likely.

9.7.27 If notification is received from Fire and Emergency New Zealand that a building is dangerous, (whether by request of the Council under section 121(2), or at the initiation of Fire and Emergency New Zealand) the Council will ~~also~~ liaise with Fire and Emergency New Zealand to discuss any proposed action.

9.7.38 If the building is a scheduled heritage building, the Council will take into account its heritage values in determining a course of action. [Where practicable this will follow the provisions in section 8.2 of the Policy.](#)

~~**Note:** Provisions also exist in the Health Act 1956 to deal with nuisance conditions related to certain matters associated with housing (under section 29(f), overcrowding likely to be injurious to health, and under section 42, insanitary conditions likely to cause injury to the~~

~~health of persons, or a dwelling that is otherwise unfit for human habitation). The Council may decide to use powers under the Health Act instead of or in addition to the Building Act.~~

10. Related legislation

~~In considering how to address non-compliance it is likely the Council must be mindful of any matters that require consideration under other legislation or compliance mechanisms. In particular, in addition to the Building Act 2004 the Council needs to consider the following:~~

- ~~• [Local Government Act 2002](#)~~
- ~~• [Resource Management Act 1991](#)~~
- ~~• [Civil Defence Emergency Management Act 2002](#)~~
- ~~• [Heritage New Zealand Pouhere Taonga Act 2014](#)~~
- ~~• [Protection of Personal and Property Rights Act 1988](#)~~
- ~~• [Health Act 1956](#)~~
- ~~• [Mental Health Act 1992](#)~~
- ~~• [Christchurch Regeneration Act](#)~~

~~**Note:** Provisions also exist in the Health Act 1956 to deal with nuisance conditions related to certain matters associated with housing (under section 29(f), overcrowding likely to be injurious to health, and under section 42, insanitary conditions likely to cause injury to the health of persons, or a dwelling that is otherwise unfit for human habitation). The Council may decide to use powers under the Health Act instead of or in addition to the Building Act.~~

10.11. Disputes

~~10.11.1~~ If a building owner disputes a Council decision, or proposed action, relating to the exercise of the Council's powers under sections 124 or 129 of the Act, the owner may apply for a determination from the Chief Executive of the Ministry of Building, Innovation and Employment, as set out in the Act. Such a determination is binding on the Council.

11.12. Information disclosure

~~11.12.1~~ The Local Government Official Information and Meetings Act 1987 (section 44A) requires the Council to include information concerning any consent, certificate, notice, order, or requisition affecting the land or any building on the land previously issued by the territorial authority on the Land Information Memorandum (LIM) for a property:

~~11.12.2~~ In particular, the Council will include information relating to notices that have been issued by Council regarding dangerous and insanitary conditions, or affected building status that are not resolved.

~~11.12.3~~ The Council is required (under section 216 of the Act) to hold a summary of any written complaint concerning alleged breaches of the Act, and the Council's response. This information will be provided upon request, subject to the requirements of section 217.

12.13. Policy review

- 1213.1 ~~This~~ The Policy must be reviewed at least every five years.
- 1213.2 The Council may decide to review ~~the~~ is Policy at any time within the five year review requirement.
- 1213.3 If, following the review, or at any other time, the Council decides to amend or replace the Policy it must do so by using the special consultative procedure in section 83 of the Local Government Act 2002.
- 1213.4 ~~This~~ The Policy does not cease to have effect because it is due for review or is being reviewed.

13.14. Definitions

Affected building (s121A Building Act 2004) means a building that is at risk of damage or other impact from a dangerous building or dam that it is adjacent to, adjoining, or nearby.

Authorised officer (s222 Building Act 2004) means an officer of a territorial authority to whom either or both of the following applies:

- a) he or she is authorised to carry out inspections; or
- b) he or she is authorised to enter the land –
 - (i) by this Act; or
 - (ii) by an order of the District Court made under section 227.

Building (s8 Building Act 2004) means a temporary or permanent movable or immovable structure (including a structure intended for occupation by people, animals, machinery, or chattels); and

- a) includes—
 - (i) a mechanical, electrical, or other system; and
 - (ii) a fence as defined in section 2 of the Fencing of Swimming Pools Act 1987; 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 building and that is more than 7 metres in height above the point of its attachment or base support (except a dish aerial that is less than 2 metres wide); and
- b) includes any 2 or more buildings that, on completion of building work, are intended to be managed as one building with a common use and a common set of ownership arrangements; and
- c) includes the non-moving parts of a cable car attached to or servicing a building; and
- d) after 30 March 2008, includes the moving parts of a cable car attached to or servicing a building.

Council means the Christchurch City Council.

Dangerous building (s121 Building Act 2004) means a building that:

- 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 to persons on other property is likely.

Heritage building (s7 Building Act 2004) means a building that is included on —

- a) Appendix 9.3.7.2, ‘The Schedule of Significant Historic Heritage’, Chapter 9 of the Christchurch District Plan;
- b) the New Zealand Heritage List/ Rārangi Kōrero maintained under section 65 of the Heritage New Zealand Pouhere Taonga Act 2014; or
- c) 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.

Insanitary building (s123 Building Act 2004) means a building that:

- 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.

Inspection (s222 Building Act 2004) means the taking of all reasonable steps —

- a) to determine whether—
 - (i) building work is being carried out without a building consent; or
 - (ii) building work is being carried out in accordance with a building consent; or
 - (iii) a notice to fix has been complied with:
- b) to ensure that —
 - (i) in relation to buildings 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 buildings that have specified systems, the requirement for a compliance schedule is being complied with:
- c) to enable a territorial authority to —
 - (i) identify dangerous, earthquake-prone, or insanitary buildings within its district; and
 - (ii) carry out its functions or duties in relation to those buildings:
- d) to satisfy a territorial authority as to whether a certificate of acceptance for building work should be issued under section 96.

Owner (s7 Building Act 2004) means, in relation to land and any buildings on the land —

- a) means the person who —
 - (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 —

- (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.

Territorial authority (s7 Act Building Act 2004) means

- a) a city council or district council named in Part 2 of Schedule 2 of the Local Government Act 2002; and –
 - (i) in relation to land within the district of a territorial authority, or a building on or proposed to be built on any such land, means that territorial authority; 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 district of a territorial authority, or a building on or proposed to be built on any such part, means the territorial authority whose district 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 Local Government is the territorial authority under section 22 of the Local Government Act 2002.

Have your say

Please make sure your submission reaches us by 5 pm on Friday 5 October 2018.

What happens next

Once the consultation period has closed a staff report will be presented to the Hearings Panel. The Hearings Panel will then consider the staff report, which will include a staff recommendation on the matters raised in submissions. The panel will also be able to listen to any submitters who have indicated they would like to speak about this policy.

When the hearings have concluded the Hearings Panel will then make a recommendation to Council, who will make the final decision on adopting the Dangerous and Insanitary Buildings Policy.

The new policy will replace the Council's current Earthquake-prone, Dangerous and Insanitary Buildings Policy.

All submitters will receive written updates on the project, including details of the staff recommendations and meetings, and details on speaking to the Hearings Panel.

Hearings panel

A hearings panel consists of a minimum of three members. At least one member must be a Councillor and the remaining members may be Councillors or Community Board members.

The role of the hearings panel is to listen, ask questions and then consider all relevant information presented to it. Based on this information it will then make a recommendation to Council as the final decision maker.

Timeline:

- Monday 3 September 2018
Consultation begins
- Friday 5 October 2018
Consultation closes
- October 2018
Submitters notified of hearings process and when staff report will be available to view
- Friday 2 November 2018
Hearings panel meeting
Monday 5 November is also available if a second hearing date is required
- November/December 2018
Council adopt policy
- November/December 2018
Policy expected to come into force
Subject to Council approval

haveyoursay

ccc.govt.nz/haveyoursay

Any questions?

Tara King
Senior Engagement Advisor
Christchurch City Council

PO Box 73016
Christchurch 8154
(03) 941 5938


Tara.King@ccc.govt.nz



haveyoursay

ccc.govt.nz/haveyoursay

 If you'd like to comment on the policy, please go online to: www.ccc.govt.nz/haveyoursay.

 Alternatively, complete the enclosed freepost form.

Please ensure that your comments reach us by **5pm, 5 October 2018.**

Christchurch
City Council 

September 2018

Dangerous and Insanitary Buildings Policy Review 2018

haveyoursay

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Christchurch
City Council 

Why are we reviewing the policy?

We have undertaken the policy review in order to:

- Keep in step with changes to the Building Act, including additions to the policy relating to affected buildings, and to ensure the policy is fit for purpose.
- Because the Building Act 2004 (section 131) requires all territorial authorities to adopt and review a policy on dangerous and insanitary buildings within its district.

When this policy is adopted by the Council the policy will replace the Council's current Earthquake-prone, Dangerous and Insanitary Buildings Policy of 2010.

Earthquake-prone buildings aspect of the policy

A separate consultation is currently being planned in relation to the Building Act legislation around earthquake-prone buildings. Work relating to this is expected to commence in the later part of 2018.



What is this policy used for?

The policy is an important tool for the Council to ensure workers, residents and visitors to the city are protected against the risks unsafe buildings can pose.

You can view the full Dangerous and Insanitary Buildings Policy on the Council 'have your say' page. Or you can pick up a printed copy from any Council Service centre or Library, or from Civic offices at 53 Hereford Street.

ccc.govt.nz/haveyoursay

Please ensure that your comments reach us by **5 pm, 5 October 2018**

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Christchurch News & Events



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Christchurch
City Council 

Key changes being proposed

- All provisions relating to earthquake prone buildings have been removed from the policy, as these are now exclusively provided for under the Building Act 2004.
- We have included policy provisions covering 'affected buildings'. These are buildings that pose a risk to building users and/or passers-by because of the proximity to a dangerous or insanitary building. Being able to manage this risk on behalf of the community means we can help make Christchurch a safer place.
- The draft policy provides more detailed information about how the Council will identify and appropriately deal with dangerous, affected or insanitary buildings. This information is expected to be of particular interest and benefit to building owners and provides a higher level of transparency

What is a dangerous building?

A dangerous building according to the Building Act 2004 is defined as:

121 Meaning of dangerous building

- (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 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 to persons on other property is likely.

What is an insanitary building?

An insanitary building according to the Building Act 2004 is defined as:

123 Meaning of an insanitary 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.

Objectives of the policy

There are a number of objectives relating to this policy, which are:

- To discharge the Council's responsibilities under the Act that relate to dangerous, affected and insanitary buildings.
- To clearly state the Council's approach to identifying dangerous, affected or insanitary buildings.
- To state what powers the Council can exercise when such buildings are found, and how it will work with building owners to prevent buildings from remaining dangerous or insanitary, particularly where a dangerous building is affecting or potentially affecting another building.
- To explain its approach where the building concerned is a District Plan Scheduled or Heritage New Zealand listed heritage building or landmark.
- To ensure building owners understand that the Council may exercise its powers to take steps on the owners behalf and may recover any resulting costs from the owner.



Heritage buildings

This policy applies to heritage buildings in the same way it applies to other buildings.

When considering what action the Council should take on a listed or scheduled heritage building that is deemed dangerous or insanitary, we will take into account the heritage values of the building in determining the possible courses of action and will seek to avoid demolition whenever possible.

Suitably qualified professionals with heritage expertise will be engaged where necessary to advise and recommend on possible actions.

When considering these buildings account will be taken of:

- The importance of recognising any special traditional or cultural aspects of the intended use of the building.

- The need to facilitate the preservation and ongoing use of buildings and areas of significant cultural, historical or heritage value.
- The circumstances of each owner and each building, including whether the building has undergone any recent building work.

Do you have an interest in earthquake-prone buildings?

If you have an interest in the future work on the Building Act legislation relating to earthquake-prone buildings, please let us know and we can ensure you are notified via email when work relating to this begins.



Special Consultative Procedure

This procedure is set out in section 83 of the Local Government Act 2002 and we will be following this procedure by:

- Council adopting this proposal for consultation at its meeting in August 2018.
- A public notice advertising this project and the consultation period will be in the Christchurch Press.
- The review is open to submissions from Monday 3 September until Friday 5 October 2018 (one calendar month).
- All submitters have an opportunity to be heard at a formal hearings process on 2 November 2018.
- All meetings where this policy review is being considered (including the hearings) will be open to the public.
- The final decision on the adoption of the Dangerous and Insanitary Buildings Policy will be made by the Council.

How to give us your feedback

A submission form is enclosed in this leaflet. However you can also provide feedback in a number of other ways:

- Online - fill out the feedback form at ccc.govt.nz/haveyoursay
- Email - send your feedback and any attachments to tara.king@ccc.govt.nz with 'Dangerous and Insanitary Buildings Policy Review' in the subject line. Please ensure you include your full name and address with your submission
- Mail - postage is free (you do not need a stamp) if you send your comments to:

Freeport 178
Att: Tara King
Dangerous and Insanitary Buildings Policy Review
Christchurch City Council
PO Box 73016
Christchurch 8154
- Hand deliver your submission to Civic Offices, 53 Hereford Street, Christchurch.

Please ensure you indicate whether you wish to speak at the hearing.

Further information

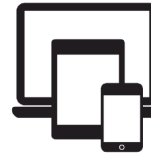
You can view the Council's current Earthquake-prone, Dangerous and Insanitary Buildings Policy 2010 online at:

<https://ccc.govt.nz/the-council/plans-strategies-policies-and-bylaws/policies/building-and-planning-policies/earthquake-prone-dangerous-and-insanitary-buildings-policy>

Submission form: Dangerous and Insanitary Buildings Policy Review 2018

have your say

www.ccc.govt.nz/haveyoursay



**IF YOU CAN,
DO IT ONLINE**
Saves **YOU** time,
Cuts **OUR** costs

If you would like to speak to your objection or submission on the review of the above policy before a Hearings Panel, please tick the relevant box below:

Hearings are to be held on Friday 2 November 2018.

Yes - I/We do wish to speak at the hearing

No - I/We do not wish to speak at the hearing

Earthquake Prone Buildings

Please tick this box if you would like to be updated on the future earthquake-prone buildings project

If you have an objection against, or wish to make a submission on the Dangerous and Insanitary Buildings Policy which is being reviewed, please provide details of your objection or submission here.

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No anonymous submissions will be accepted

Name: *

Address: *

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.....Postcode: *

Phone: *

Email:

Please note: Your full name, address and telephone number are required because this information is important for transparency, and for Christchurch City Council's decision-making process. It also means we can update you on progress. Ideally we would like your email address too, if you have one, as this makes it easier for us to stay in touch with you throughout the engagement process. Your submission, including your name and contact details, will be made available to the decision-making body, for example the Community Board, Committee and/or Council, to help them make an informed decision. Submissions, **with names but without contact details**, are made available online once the Board, Committee or Council agenda goes live on the Council website. If requested, Council is legally required to make all written and/or electronic submissions available to the public, including the name and contact details of the submitter, subject to the provisions of the Local Government Official Information and Meetings Act 1987. If you believe there are compelling reasons why your contact details and/or submission should be kept confidential, please contact the Council's Engagement Manager on (03) 941 8999 or 0800 800 169 (Banks Peninsula residents).

** indicates required field*

Please fold with the reply paid portion on the outside, seal and return by 5pm, Friday 5 October 2018



If you wish to attach extra paper, please ensure the folded posted item is no thicker than 6mm. Alternatively, you can send your submission in an envelope of any size and address it using "Freepost Authority No. 178"

fold staple or tape here fold

fold fold

FREEPOST Authority No.178



Attention: Tara King
Senior Engagement Advisor
Christchurch City Council
PO Box 73016
Christchurch Mail Centre
Christchurch 8154

Dangerous and Insanitary Buildings Policy Review – all submissions

5 submissions in total

No.	Sub ID #	Attach	Name	Name of organisation	If you have any feedback on the policy being reviewed, please provide your submission below	speak at the hearing	Would like to be updated on the future earthquake-prone buildings project	Project team response
1.	18975	No	John Lucas	Insurance Council of New Zealand	<p>The Insurance Council is pleased to be given the opportunity to comment on the draft 2018 Christchurch City Council Dangerous and Insanitary Buildings Policy.</p> <p>The Insurance Council represents the interests of 28 general insurers that provides about 95% of New Zealand's general insurance market needs.</p> <p>The Insurance Council worked closely with Christchurch City Council and CERA during the 2010 & 2011 Canterbury Earthquake events and recovery. We understand that it is important for councils to have a clear and effective policy on dangerous buildings.</p> <p>Our comments:</p> <p>Section 5.1 Strategic alignment (Community Outcome (2018))</p> <p>We recommend to include an additional bullet point "Keep the city insurable". This means keeping the cities property assets insurable for earthquake damage and business interruption. Earthquake Insurance in many parts of New Zealand including Canterbury is getting more expensive with the potential for restrictions on coverage if buildings and property generally are not up to a good standards.</p> <p>Section 9.5 d) State of Emergency Powers. The Insurance Council is presently completing its submission on the Building Act amendment Bill that was introduced into Parliament in August 2018. Submission close 25 October 2018. In the Insurance Council Submission to the Building Act amendment Bill we make reference to the powers that authorities will have for ordering the destruction /demolition of whole or parts of buildings. We have outlined that it is important that insurers are involved in any decisions that are made concerning the destruction /demolition of building as not to do so could affect insurers being able to meet claims and insurers being prepared to provide future insurance. We recommend that the Christchurch City Council Hearings Panel read our submission on the Building Act amendment Bill.</p> <p>That concludes our comments.</p> <p>Please call me if you have any questions.</p> <p>John Lucas</p>	Yes	Yes	<p>Strategic Alignment The Insurance Council recommended adding a bullet point "Keep the city insurable". While this is a very sound goal it does not belong as a separate new community outcome or strategic priority. It is recommended that the suggestion is noted and that Council will look for appropriate ways to promote this aim in its documents and messaging.</p> <p>State of Emergency Powers Staff tried to access the Insurance Council's submission to the Building Act amendment Bill but it was not available on either the Parliament website or the Insurance Council website. Staff will provide the Hearings Panel members with the submission if it is available before the Hearings Panel meeting.</p> <p>In a state of emergency the first priority for the Council must be safety. Any decisions on building demolition under a state of emergency must be made quickly and with the focus on safety. It is therefore recommended that the Council includes no policy commitment to ascertain or consult with the insurer of a building subject to a decision to demolish, despite any legal complexities this may cause the insurer or the building owner.</p>

					Insurance Manager Insurance Council of New Zealand			
2.	18970	No	Alizon Paterson	Community and Public Health, a division of the Canterbury District Health Board	<p>1. The CDHB notes that the draft Policy is focused on the assessment and actions associated with affected buildings and does not consider the susceptibility of at risk individuals living in these dwellings. The CDHB recommends that the Council either expands the current policy or develops a discrete policy, strategy or procedure that specifically addresses the approach to be taken when dealing with people inhabiting dangerous or insanitary properties.</p> <p>2. Properties where hoarding is a major issue are often associated with insanitary housing conditions and we understand that the number of these properties are increasing across the city. Although a cleansing order from a local authority (s41 of the Health Act 1956) may address some of the public health issues arising from hoarding, the inhabitants often have complex mental health or welfare issues. These situations require a much wider approach involving a range of agencies.</p> <p>3. CDHB recommend that there should be the inclusion of a section detailing what procedure would be carried out to address the mental health or welfare issues of occupants. Words to the effect could be, 'Where the Regulatory Manager of Building and Housing has concerns about the health of any occupants they will liaise with relevant agencies to carry out a health and welfare assessment of the occupants. A number of regulatory tools are available to health agencies which may be appropriately invoked, including but not limited to the Mental Health Act 1992, Section 126 of the Health Act 1956 and the Protection of Personal and Property Rights Act 1988'.</p>	No		<p>Health and wellbeing of affected persons Staff advice is that these are important issues that are taken into account and that should be specifically highlighted in the Policy. The proposed new section 9.5 of the Policy is intended to cover off these matters. Section 10 of the Policy "related legislation" is proposed to be expanded to better refer to the range of legislative levers that may be available to the Council when dealing with matters associated to dangerous and insanitary buildings.</p>
3.	18923	Yes	Milly Woods	Heritage new Zealand Pouhere Taonga	<p>1. Thank you for the opportunity to make a submission on the proposed Dangerous and Insanitary Buildings Policy (the proposed Policy).</p> <p>2. Heritage New Zealand Pouhere Taonga is an autonomous Crown Entity with statutory responsibility under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA) for the identification, protection, preservation and conservation of New Zealand's historical and cultural heritage.</p> <p>3. Heritage New Zealand supports the intent of the proposed Policy, and supports the approach outlined within the proposed policy of taking into account the heritage values of the building and engaging suitably qualified professionals with heritage expertise where necessary.</p> <p>Consultation with Heritage New Zealand</p> <p>4. Section 8.2 .1of the proposed Policy states that 'Council will consider seeking advice from Heritage New Zealand where the identified building is listed on the New Zealand Heritage List/Rarangi Korero' (the List). Heritage New Zealand request that when an identified building is included on the List, there is stronger policy direction for Council to consult with us. Heritage New Zealand would welcome the opportunity to work with</p>	No		

					<p>Council to ensure that remediation works can meet both the requirements of the Building Act 2004, and heritage objectives.</p> <p>Submission:</p> <p>Heritage New Zealand request that section 8.2.1 is amended to state that 'Council will seek advice from Heritage New Zealand where the identified building is listed on the New Zealand Heritage List/ Rarangi Korero' Prevention.</p> <p>5. In 2007, the then Historic Places Trust produced guidance for local authorities on preparing policies for earthquake prone, dangerous and insanitary buildings. A copy of this guidance is available at http://www.heritage.org.nz/resources/sustainable-management-guides.</p> <p>6. Heritage New Zealand guidance stresses the importance of facilitating the preservation of buildings of significant cultural or historic heritage value, but the proposed Policy does not address the role of prevention in section 8.2 on heritage buildings. This could include information on assistance available to repair and upgrade heritage buildings.</p> <p>Submission:</p> <p>Heritage New Zealand submits that a new paragraph should be inserted within section 8.2 setting out Council's policy on addressing risks to heritage buildings that may ultimately lead to them becoming dangerous or insanitary, such as deferred maintenance and un-consented alterations.</p> <p>7. Heritage New Zealand does not wish to be heard in support of our submission, but is willing to answer any questions Council may have.</p>			<p>Consultation with Heritage New Zealand Staff acknowledge the policy needs to be clear regarding Heritage New Zealand consultation but believe flexibility to make decisions in emergency situations should not be constrained by consultation requirements. Clause 8.2.1 of the Policy is recommended to change to say that the Council will seek advice from Heritage New Zealand where practicable.</p> <p>Preventing heritage buildings becoming dangerous or insanitary Staff believe that such a clause is beyond the scope of the Policy and that the Policy should be limited to matters associated with buildings that are identified as being dangerous or insanitary. It is recommended that no changes are made on this point.</p>
4.	18885	No	Cody Cooper		I would like to indicate my support.	No	Yes	Thanks for your feedback.
5.	18883	Yes	Adrianna Hess	Banks Peninsula Community Board	The Banks Peninsula Community Board supports the proposed changes to keep in step with changes to the Building Act, including additions to the policy relating to affected buildings, and to ensure the policy is fit for purpose.	No		Thanks for your feedback.

5. Hearing of Submissions

The Insurance Council of New Zealand, represented by John Lucas, wished to be heard in person and will present to the Hearings Panel.

6. Hearings Panel Consideration and Deliberation
