

# Franklin District Council Dangerous and Insanitary Buildings Policy 2006

Building Act 2004

## **Contents**

Policy approach  
Policy principles  
Overall approach  
Identifying dangerous and insanitary buildings  
Assessment criteria  
Taking action on dangerous and insanitary buildings  
Interaction between dangerous and insanitary policy and related sections of the Building Act 2004  
Dealing with building owners  
Recording a building's dangerous and insanitary condition  
Access to dangerous and insanitary buildings information  
Heritage buildings  
Special considerations and constraints

## **Introduction and background**

Section 131 of the Building Act 2004 requires territorial authorities (TAs) to adopt a policy on dangerous and insanitary buildings by 31 May 2006.

The definition of a dangerous and insanitary building is set out in sections 121 and 123 of the Building Act 2004 and reads as follows:

Section 121:       “(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 because of fire hazard or the occupancy of the building.  
(2) For the purposes 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 territorial

- authority by the Fire Service National Commander as being competent to give advice; and
- (b) if the advice is sought, must have due regard to the advice.”

- Section 123: “(1) A building is insanitary for the purposes 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 adopted by Franklin District Council in accordance with the requirements of the Building Act 2004.

The policy is required to state:

1. The approach that the Franklin District Council will take in performing its functions under the Building Act 2004,
2. Franklin District Council’s priorities in performing those functions,
3. How the policy will apply to heritage buildings.

In developing and adopting its dangerous and insanitary buildings policy, Franklin District Council has followed the consultative procedure set out in section 83 of the Local Government Act 2002.

Franklin District Council has made use of the Department of Building and Housing’s guidance document.

## **1 Policy approach**

### **1.1 Policy principles**

Franklin District Council has noted that provisions of the Building Act, in regard to dangerous and insanitary buildings, reflect the government’s broader concern with the health and safety of people who occupy buildings.

Franklin District Council has also noted that the development of dangerous and insanitary building policies is up to each TA and has responded accordingly. This policy has been developed after due consultation with Franklin District Council ratepayers and stakeholders in accordance with section 83 of the Local Government Act 2002.

## **1.2 Overall approach**

Franklin has both an urban and rural population in roughly even proportions. Most of the urban population is concentrated in the three major towns, with their commercial and industrial areas, but there are also small settlements scattered throughout the District.

Franklin's buildings comprise a range of types and ages reflecting steady development over the last 100 years from light timber framed and unreinforced masonry buildings to modern steel and concrete buildings. Very few buildings exceed two stories in height.

Franklin District Council has passively pursued a policy of upgrading dangerous and insanitary buildings by requiring them to be upgraded to Building Code standard when they were brought to the Council's attention via complaints and/or where the building has been subject to a change of use, or an alteration, or an addition. Every situation was assessed on its own merits.

Franklin District Council's dangerous and insanitary building policy under the Building Act 2004 embodies a similar passive approach.

Franklin District Council will:

- Identify buildings that fall within the scope of a dangerous and/or insanitary building under the Building Act 2004 when they become subject to a complaint, change of use, or an alteration, or addition.
- Assess the performance of those buildings in relation to section 123 of the Building Act 2004 and the Building Code.
- Advise owners of these buildings, of the results of the Council's assessment and invite them, within a limited time-frame, to meet with Council officers to discuss requirements to remedy a dangerous and/or insanitary situation.
- Serve written notice under Section 124 of the Building Act 2004 on an owner of a dangerous and/or insanitary building once the deadline for meeting Council has passed and, subject to the results of discussions, to carry out work to remove the dangerous and/or insanitary condition.
- Use the powers available to it under sections 126 and 129 of the Building Act 2004 when there is non compliance with a notice or an immediate danger is apparent.

## **1.3 Identifying dangerous and insanitary buildings**

Franklin District Council will:

- Identify buildings that fall within the scope of a dangerous and/or insanitary building under the Building Act 2004 when they become subject to a complaint, change of use, or an alteration, or an addition.

- Follow this with an inspection of each building to assess the performance of those buildings in relation to section 123 of the Building Act 2004 and the Building Code.

#### **1.4 Assessment criteria**

For practical purposes, dangerous and/or insanitary buildings are defined as those that fall within the provisions of section 123 of the Building Act 2004.

Franklin District Council will use the Building Code and the Department of Building and Housing Compliance Documents as its preferred basis for defining technical requirements and criteria.

#### **1.5 Prioritising action on dangerous and insanitary buildings**

Franklin District Council will:

- Identify buildings that fall within the scope of a dangerous and/or insanitary building under the Building Act 2004 when they become subject to a complaint, change of use, or an alteration, or an addition.
- Assess the performance of those buildings in relation to section 123 of the Building Act 2004 and the Building Code.
- Advise owners of these buildings of the results of the Council's assessment and invite them to meet with the Council to discuss requirements to remedy any dangerous and/or insanitary situation.
- Serve a written notice under Section 124 of the Building Act 2004 on an owner of a dangerous and/or insanitary building once the deadline for meeting Council has passed and, subject to the results of discussions, to carry out work to remove the dangerous and/or insanitary condition.
- Use the powers available to it under sections 126 and 129 of the Building Act 2004 when there is non compliance with a notice.

#### **1.6 Interaction between dangerous and insanitary buildings policy and related sections of the Building Act 2004**

##### **1.6.1 Section 112: Alterations to existing building.**

Whenever a building consent application is received for the alteration of a building that is dangerous and/or insanitary, then, irrespective of the general priorities set by the Franklin District Council for dealing with dangerous and insanitary buildings, the Council will as part of that building consent require that the scope of the building work so authorised include further building work to such an extent that the building will not continue to be dangerous and/or insanitary after the alteration.

##### **1.6.2 Section 115: Change of use.**

Whenever a building consent application is received for the change of use of a building that is dangerous and/or insanitary, then, irrespective of the

general priorities set by Franklin District Council for dealing with dangerous and insanitary buildings, the Council will as part of that building consent require that the scope of the building work so authorised include further building work to such an extent that the building will not continue to be dangerous and/or insanitary after the change of use.

### **1.7 Dealing with building owners**

The steps in the process of interaction between dangerous and insanitary buildings policy and related sections of the Building Act 2004 are outlined in 1.6 above.

Before exercising its powers under section 124, Franklin District Council will seek to discuss options for action with owners with a view to obtaining from the owner a mutually acceptable approach for dealing with the dangerous and/or insanitary condition.

In the event that discussions do not yield a mutually acceptable approach and proposal, Franklin District Council will serve a formal notice on the owner for the removal of the dangerous and/or insanitary condition in accordance with section 124 of the Act.

### **1.8 Recording a building's dangerous and insanitary condition.**

Copies of all correspondence and notices relating to a dangerous and/or insanitary building, and the date by which the dangerous and/or insanitary condition is required to be eliminated, will be placed on Council's file for that property.

The following information will be placed on the LIM for each dangerous and/or insanitary building:

- The address and legal description of land and building
- All correspondence and notices relating to the dangerous and/or insanitary building.
- The date by which the dangerous and/or insanitary condition/s is/are required to be eliminated.
- If applicable, a statement that further details are available from the Council to those who can demonstrate a genuine interest in the property.

### **1.10 Access to dangerous and insanitary buildings information**

Information concerning the dangerous and/or insanitary status of a building will be contained on the relevant LIM.

In granting access to information concerning dangerous and insanitary buildings, the Council will conform to the requirements of the relevant legislation.

### **3 Heritage buildings**

#### **3.1 Special considerations and constraints**

Franklin District Council believes it is important that its heritage buildings are not dangerous and/or insanitary.

However, Franklin District Council does not wish to see the intrinsic heritage values of these buildings adversely affected by the way improvement measures are made.

Heritage buildings will be assessed in the same way as other dangerous and insanitary buildings and discussions held with owners and the Historic Places Trust to identify a mutually acceptable way forward.

Special efforts will be made to meet heritage objectives.

Following this consultation period, notices will be served requiring improvement within a stated (and preferably agreed) time-frame.

#### **Abbreviations**

LIM	land information memorandum
PIM	project information memorandum
TA	territorial authority

#### **References**

- Building Regulations 1992.
- Compliance Documents, Department of Building and Housing.