

Attachment A: Dangerous and Insanitary Buildings Policy 2025 (proposed)

DRAFT Dangerous and Insanitary Buildings Policy



Team/Directorate	Building Services/Planning and Development
Approved/Adopted by	Council Resolution <u>22/22/2222</u> TBC
Effective date	Month and year TBC
Next review	Month and year Max 5 yrs TBC

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1 PURPOSE

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 adopt a policy on Dangerous and Insanitary Buildings.

This policy plays an important role in ensuring buildings in Queenstown Lakes District are structurally sound and perform their function without putting the health of building users, residents and visitors at risk. When implementing this policy Council takes a balanced risk-based approach to ensure the policy fulfils its objectives whilst balancing the needs of different users and their social and economic context.

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The Policy-policy replaces the Council's Dangerous and Insanitary Buildings Policy 2021.

Earthquake-prone Buildings are excluded from this policy as per Section 121 (1) (a) of the Building Act.

Since 2013, the Act also requires the Policy-policy to state the Council's approach regarding affected buildings, which are buildings adjacent to, adjoining or nearby to a dangerous building or dam.

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.

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2 STRATEGIC CONTEXT

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

Dangerous and Insanitary Buildings Policy 2025

- [Community outcomes as defined in QLDC's Strategic Framework Vision Beyond 2050](#)
- [Enforcement Strategy and Prosecution Policy](#)
- [Heritage Strategy](#)

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3 DEFINITIONS

Affected building (s.121A 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 (s.222 Building Act 2004) means an officer of a territorial authority to whom either or both of the following applies:

- he or she is authorised to carry out inspections; or
- he or she is authorised to enter the land –
 - by the Act; or
 - by an order of the District Court made under [sectionSection](#) 227.

Building (s.8&9 of the Building Act 2004) means a temporary or permanent movable or immovable structure (including a structure intended for occupation by people, animals, machinery, or chattels)

Council means the Queenstown Lakes District Council acting in its capacity as the territorial authority

Dangerous building (s.121 Building Act 2004) means a building that:

- in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause—
 - injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or
 - damage to other property; or
- in the event of fire, injury or death to any persons in the building or to persons on other property is likely.

Heritage building (s.7 Building Act 2004) means a heritage building that is included on —

- the District Plan
- the New Zealand Heritage List/ Rārangī Kōrero maintained under [sectionSection](#) 65 of the Heritage New Zealand Pouhere Taonga Act 2014; or
- the National Historic Landmarks/Ngā Manawhenua o Aotearoa me ōna Kōrero Tūturu list maintained under [sectionSection](#) 81 of the Heritage New Zealand Pouhere Taonga Act 2014.

Insanitary building (s.123 Building Act 2004) means a building that:

- is offensive or likely to be injurious to health because—
 - of how it is situated or constructed; or
 - it is in a state of disrepair; or
- has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or
- does not have a supply of potable water that is adequate for its intended use; or
- does not have sanitary facilities that are adequate for its intended use.

Inspection (s.222 Building Act 2004 (4) (c)) means the taking of all reasonable steps —

- to enable a territorial authority to —
 - identify dangerous, earthquake-prone, or insanitary buildings within its district. and
 - carry out its functions or duties in relation to those buildings:

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Owner (s.7 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 —
 - iii. the owner of the fee simple of the land

4 SCOPE

The [Policy-policy](#) applies to all buildings within the ~~Queenstown Lakes District, Council's territorial authority district.~~

The [Policy-policy](#) sets out:

- the approach that the Council will take in performing its functions under Part 2, Subpart 6 – *Special provisions for dangerous, affected and insanitary buildings* of the Act.
- the Council's priorities in performing those functions.
- the Council's approach to dangerous, affected and insanitary heritage buildings.

5 PRINCIPLES

The relevant principles of [Section 4](#) of the [Building Act](#) have been considered in preparing the [Policy-policy](#).

In considering these principles the [Policy-policy](#) seeks to ensure that people who use buildings can do so safely without endangering their health.

In preparing the [Policy-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.

The Council will take a pragmatic approach to administering the Act and the [Policy-policy](#) in a fair and reasonable way.

6 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 [Pouhere Taonga](#) 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.

7 POLICY

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7 The following section outlines Council's approach to identifying, prioritising and assessing dangerous and insanitary buildings, as well as its responses triggered upon inspection or other circumstances (such as a natural hazard, immediate danger or disputes).

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Identification

Approach to identifying dangerous, affected or insanitary buildings.

- 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.
- 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.
- The procedures taken by the Council to resolve any issues found are detailed below.

Priority

When multiple buildings are identified, either as part of the same or separate investigations, order of priority for initial assessment will be allocated to buildings taking into account the following risk factors:

- Use of the building
- Number of tenants/occupants affected
- Proximity to areas used by the public
- Potentially affected buildings
- Type of dangerous or insanitary condition
- Potential consequence of inaction to address the risk

Following initial assessments risk and order of priority will be reassessed with buildings requiring immediate work to address dangerous, or insanitary conditions (and any affected buildings) prioritised for appropriate risk reduction actions allowed for in the act.

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Heritage buildings

Application of the [Policy](#) to heritage buildings

- 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.
- When considering heritage buildings under the [Policy](#), 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.
- 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 on and recommend possible actions.
- Council will inform Heritage New Zealand Pouhere Taonga any action taken and provide copies of any notices issued.

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Assessment

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

1. Check the details on the property held in Council records.
2. Contact the building owner(s) to further determine the circumstances.
3. 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 deemed appropriate by Council; and
4. Assess whether there are any affected buildings.

All inspections of potentially dangerous, affected or insanitary buildings will involve assessment of the condition of the building in terms of the definitions in [Section 121](#), [121A](#) and [123](#) of the Act. Inspection records will be prepared in all cases.

As per [Sections 222](#) and [226](#) of the Act, 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 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.

Building established as dangerous, affected or insanitary

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

1. Consult with the building owner(s) and any experts engaged as part of the assessment
2. Consult with the owner(s) of any affected buildings
3. 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 liaise with Fire and Emergency New Zealand to discuss any proposed action.
4. If the building is a scheduled heritage building, the Council will consider its heritage values in determining a course of action. Where practicable this will follow the heritage buildings provisions above.
5. If vulnerable persons are inhabiting the building council will refer the persons to and consult with the relevant health or social services to ensure the needs of the persons are prioritised
6. Decide on an appropriate course of action, which may include those outlined below or not taking any action, particularly where the owner is aware of and is actively dealing with the issues.
7. Inform the building owners of the course of action decided
8. Inform the complainant(s) of the assessment results and the Council's intended course of action to deal with the situation.

If the Council is satisfied that a building is a dangerous, affected, or insanitary building it may use its powers under [Section 124 \(2\)](#) of the Act. This may include any or all the following:

- (a) Put up a hoarding or fence to prevent people from approaching the building nearer than is safe;
- (b) Attach in a prominent place on, or adjacent to, the building a notice that warns people not to approach the building;
- (c) except in the case of an affected building, issue 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) issue 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.

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When the Council issues a notice under ~~Section~~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 insanitary condition, the required work will be clearly described. When deciding on the extent of the work required the council will consider all relevant ~~section~~Sections of the building act such as ~~section~~Section 112 *Alterations to existing buildings* and state if the works need a building consent or if they can be exempted.

If the work required under such a notice is not completed in the allowed time or is not proceeding with reasonable speed, the Council may use its powers under ~~Section~~Section 126 of the Act and apply to the District Court to gain authorisation for the council to carry out the building work required in the notice.

If the Council carries out building work, under ~~Section~~Section 126 of the Act, it is entitled to recover costs associated with that work from the building owner.

Immediate danger

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 to issue a warrant, under ~~Section~~Sections 129 of the Act, allowing council specific actions to remove the danger or fix insanitary conditions. This may include demolition of the building.

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 heritage buildings provisions above.

If the Council carries out actions, under ~~Section~~Section 129 of the Act, it is entitled to recover costs associated with that work from the building owner.

As per ~~Section~~Section 130 of the Act, the warrant issued by the Chief Executive must be confirmed by the District Court on completion of the actions unless the owner confirms they do not dispute entry to their land, confirms that confirmation from the court is not required and has paid the costs associated.

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Monitoring and Enforcement

Council will actively undertake monitoring and enforcement functions under the Act, the Council will utilise a Voluntary, Assisted, Directed and Enforced (VADE) strategy to target compliance with any notices issued.

This approach recognises graduated categories of behaviour that determine the nature of monitoring responses which are escalated depending on the owner's conduct, the extent of potential harm and any 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 before enforcement actions are taken such as issuing infringements or initiating prosecution proceedings under ~~section~~Sections 370 - 389 of the ~~Act~~Act.

Emergency Management

If an area has been designated for emergency management of buildings under ~~Section~~Section 133BC of the ~~Act~~Act, then ~~Section~~Section 123B of the Act will apply. Subpart 6 – *Special provisions for dangerous, affected and insanitary buildings*,

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which this policy covers, will not be in effect, except for buildings already classified as dangerous, affected or insanitary, until the designation ends.

During the period that the designation is in force powers of entry and risk reduction actions under Subpart 6B - *Special provisions for buildings affected by emergency* will be used.

Once the designation has ended buildings that remain yellow or red stickered in the designated area will be reassessed, prioritised and appropriate actions taken under Subpart 6.

Disputes

If a building owner disputes a Council decision, or proposed action, relating to the exercise of the Council's powers under [sectionSections](#) 124 or 129 of the Act, the owner may apply for a determination from the Chief Executive of the Ministry of Business, Innovation and Employment, as set out in [SectionSection](#) 178 of the Act. Such a determination is binding on the parties concerned.

8 RELEVANT 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 addition to the Building Act 2004 the Council may need to consider the following:

- Local Government Act 2002
- Local Government Official Information and meetings Act 1987
- 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

Note: Provisions also exist in the Health Act 1956 to deal with nuisance conditions related to certain matters associated with housing (under [sectionSection](#) 29(f), overcrowding likely to be injurious to health, and under [sectionSection](#) 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 [1956](#) instead of, or in addition to, the Building Act [2004](#).

9 RELATED DOCUMENTS

BS-09 BUILDING ASSESSMENTS – NTF, *Infringements, dangerous and Insanitary Buildings*

Building Services' technical procedure for QLDC staff assessing potentially dangerous, insanitary and affected buildings and the actions to be undertaken if such a building is identified.

DANGEROUS, AFFECTED AND INSANITARY BUILDINGS

Guidance For Developing Policies on Dangerous, Affected and Insanitary Buildings

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Ministry of Business, Innovation & Employment 2024 guidance document for territorial authorities, building owners and other interested parties available on the Ministry's [Building Performance website](#).

10 ROLES AND RESPONSIBILITIES

POSITION	RESPONSIBILITIES
The Council	<ul style="list-style-type: none"> - Approves the draft QLDC Dangerous and Insanitary Buildings Policy Risk Management Policy for public consultation - Holds hearing on public submissions - Adopts final policy
Planning & Development General Manager	<ul style="list-style-type: none"> - Approves draft QLDC Dangerous and Insanitary Buildings Risk Management Policy to move to council Council for special consultative procedure
P&D Principal Building Advisor	<ul style="list-style-type: none"> - Reviews and drafts updates QLDC Dangerous and Insanitary Buildings Policy Risk Management Policy at maximum 5 five year intervals or as required due to legislative changes or audit outcomes - Provides advice, interpretations clarifications - Provides resolution of problems and special situations
P&D Inspections team	<ul style="list-style-type: none"> - Undertakes Dangerous, Insanitary and Affected Building assessments - Undertakes site inspections to resolve notices - Provides technical assistance to Enforcement and Monitoring team - Drafts Dangerous, Insanitary and Affected building notices
P&D Monitoring and Enforcement team	<ul style="list-style-type: none"> - Issues Dangerous, Insanitary and Affected notices - Monitors progress on actions required by the notices - Issues infringements and undertakes prosecutions with QLDC legal team - Receives and responds to public complaints and concerns about potentially Dangerous, Insanitary and Affected buildings

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11 POLICY HISTORY

2006 version 1 adopted March 2007 - superseded

2020 version 2 updated and amended with addition of affected buildings adopted July 2021 - superseded

2025 version 3 updated and amended with addition of method of prioritisation - current

12 REVIEW

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This Policy must be reviewed at least every five years as per ~~Section~~Section 132(4) of the Act. The Council may decide to review the Policy at any time within the five year review requirement.

If, following the review, or at any other time, the Council decides to amend or replace the ~~Policy~~policy it must do so by using the special consultative procedure in ~~section~~Section 83 of the Local Government Act 2002. Once the policy is adopted by ~~council~~Council a copy is provided to the Ministry of Business, Innovation and Employment as specified in ~~section~~Section 132(3) of the Building Act 2004.

The ~~Policy~~policy does not cease to have effect because it is due for review or is being reviewed.

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OVERVIEW

~~This document contains the framework and principles for Queenstown Lakes District Council policy on dangerous and insanitary buildings.~~

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1 INTRODUCTION

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.

The Policy replaces the Council's Dangerous and Insanitary Buildings Policy ~~2007~~ 2021. Earthquake-prone Buildings are ~~not considered by this policy as this is covered by sections 133AG – 133AY~~ excluded from this policy as per sec. 121 (1) (a) of the Building Act.

~~The~~ Since 2013 the Act also requires the Policy to state the Council's ~~policy~~ approaches regarding affected buildings, which are buildings adjacent to, adjoining or nearby to a dangerous building or dam.

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.

~~The policy is important given our location to the Alpine Fault and the potential for the policy to be used after an earthquake where buildings maybe in varying states of disrepair and/or danger.~~

2 POLICY PRINCIPLES

The relevant principles of section 4 of the Building Act have been taken into account in preparing the Policy.

In considering these principles the Policy seeks to ensure that people who use buildings can do so safely without endangering their health;

In preparing 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.

The Council will take a pragmatic approach to administering the Act and the Policy in a fair and reasonable way.

3 POLICY SCOPE

The Policy applies to all buildings within the Queenstown Lakes District territorial authority district.

The Policy sets out:

- the approach that the Council will take in performing its functions under Part 2, *Subpart 6 – Special provisions for dangerous, affected and insanitary buildings* 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

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:

- ~~Maximising opportunities to develop a vibrant, prosperous and sustainable 21st century district.~~
- Community outcomes as defined in Vision Beyond 2050
- Enforcement Strategy and Prosecution Policy
- ~~Informed and proactive approaches to natural hazard risks in the Queenstown Lakes District Plan~~
- ~~Heritage Strategy~~

6 COUNCIL AND OTHER AGENCIES ROLES

~~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.~~

~~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.~~

~~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.~~

~~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.~~

7 COUNCIL POLICY

Identification

Approach to identifying dangerous, affected or insanitary buildings;

- 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.

- 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.
- The procedures taken by the Council to resolve any issues found are detailed in section 9.8 of the Policy.

Priority

When multiple buildings are identified, either as part of the same or separate investigations, order of priority for initial assessment will be allocated to buildings taking into account the following risk factors:

- Use of the building
- Number of tenants/occupants affected
- Proximity to areas used by the public
- Potentially affected buildings
- Type of dangerous or insanitary condition
- Potential consequence of inaction to address the risk

Following initial assessments risk and order of priority will be reassessed with buildings requiring immediate work to address dangerous, or insanitary conditions (and any affected buildings) prioritised for appropriate risk reduction actions allowed for in the act.

Heritage buildings

Application of the Policy to heritage buildings

- 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~~.
- When considering heritage buildings under the Policy, 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.
- 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.
- Council will inform Heritage New Zealand Pouhere Taonga any action taken and provide copies of any notices issued.

Costs

- ~~• 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.~~
- ~~• 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.~~ <<revised and moved to section 8>>

8 PROCEDURES

~~Information received~~ Assessment

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

1. Check the details on the property held in Council records;
2. ~~Contact the building owner(s) to further determine the circumstances;~~
3. 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
4. ~~Assess whether there are any affected buildings.~~
5. ~~Prepare an inspection record.~~

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.

As per sections 222 and 226 of the Act, 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 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.

Building established as dangerous, affected or insanitary

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

1. ~~Consult with the building owner(s) and any experts engaged as part of the assessment 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.~~
2. ~~Inform the complainant(s) of the inspection results and the Council's intended course of action to deal with the situation.~~
3. ~~Assess whether there are any potentially affected buildings and~~ consult with the owner(s) of any affected buildings ~~regarding appropriate risk management approaches before taking enforcement action under Section 124 of the Act.~~
4. 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.
5. 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 heritage provisions in section 7 of the Policy.
6. ~~If vulnerable persons are inhabiting the building council will refer the persons to and consult with the relevant health or social services to ensure the needs of the persons are prioritised~~
7. ~~Decide on an appropriate course of action, which may include those outlined below or not taking any action, particularly where the owner is aware of and is actively dealing with the issues.~~
8. ~~Inform the building owners of the course of action decided~~
9. ~~Inform the complainant(s) of the assessment results and the Council's intended course of action to deal with the situation.~~

~~In undertaking its monitoring and enforcement functions under the 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. << revised and moved to follow next section>>~~

If the Council is satisfied that a building is a dangerous, affected, or insanitary building it may use its powers under Sections 124 (2) ~~, or 126~~ of the Act. This may include any or all of the following:

- ~~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—~~
 - ~~a. reduce or remove the danger; or~~
 - ~~b. 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.~~
-
- (a) Put up a hoarding or fence to prevent people from approaching the building nearer than is safe:
 - (b) Attach in a prominent place on, or adjacent to, the building a notice that warns people not to approach the building:
 - (c) except in the case of an affected building, issue 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) issue 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.

When the Council issues 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 insanitary condition, the required work will be clearly described. When deciding on the extent of the work required the council will consider all relevant sections of the building act such as section 112 *Alterations to existing buildings* and state if the works need a building consent or if they can be exempted. If the work required under such a notice is not completed in the allowed time or is not 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 for the council to carry out the building work required in the notice. If the Council carries out building work, under Section 126 of the Act, it is entitled to recover costs associated with that work from the building owner.

State of Emergency

~~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. <<revised and moved to follow the next section>>~~

Immediate danger

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~~ to issue a warrant, under Sections 129 of the Act, allowing council specific actions 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.~~

~~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 liaise with Fire and Emergency New Zealand to discuss any proposed action.~~

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 7 of the Policy.

If the Council carries out actions, under Section 129 of the Act, it is entitled to recover costs associated with that work from the building owner.

As per Section 130 of the Act, the warrant issued by the Chief Executive must be confirmed by the District Court on completion of the actions unless the owner confirms they do not dispute entry to their land, confirms that confirmation from the court is not required and has paid the costs associated.

Monitoring and Enforcement

Council will actively undertake monitoring and enforcement functions under the Act, the Council will utilise a Voluntary, Assisted, Directed and Enforced (VADE) strategy to target compliance with any notices issued. This approach recognises graduated categories of behaviour that determine the nature of monitoring responses which are escalated depending on the owner's conduct, the extent of potential harm and any 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 before enforcement actions are taken such as issuing infringements or initiating prosecution proceedings under sections 370 - 389 of the act.

State of Emergency Management

If an area has been designated for emergency management of buildings under Section 133BC of the Act then Section 123B of the Act will apply. Subpart 6, which this policy covers, will not be in effect, except for buildings already classified as dangerous, affected or insanitary, until the designation ends.

During the period that the designation is in force powers of entry and risk reduction actions under Subpart 6B - *Special provisions for buildings affected by emergency* will be used.

Once the designation has ended buildings that remain yellow or red stickered in the designated area will be reassessed, prioritised and appropriate actions taken under Subpart 6.

9 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 ~~may need~~ ~~needs~~ to consider the following:

- Local Government Act 2002
- Local Government Official Information and meetings Act 1987
- 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

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 DISPUTES

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 Business**, Innovation and Employment, as set out in **Section 178** of the Act. Such a determination is binding on the **Council parties concerned**.

11 INFORMATION DISCLOSURE

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:

- 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.

The Council is required under section 216 of the Building Act 2004 to

- ~~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.~~
- record any orders issued by the District Court under section 126 in respect of a building.

This information will be provided upon request, subject to the requirements of section 217. All information about and the status of a Dangerous, Insanitary or Affected building is recorded on the relevant property file. The status and ongoing decisions related to those buildings is also recorded in the minutes of Monitoring and Enforcement meetings.

12 POLICY REVIEW

~~The~~ This Policy must be reviewed at least every five years as per **Section 132(4)** of the Act.

The Council may decide to review the Policy at any time within the five year review requirement.

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. **Once the policy is adopted by council a copy is provided to the Ministry of Business, Innovation and Employment as specified in section 132(3) of the Building Act 2004.**

The Policy does not cease to have effect because it is due for review or is being reviewed.

13 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~~ the Act; or
 - ii. by an order of the District Court made under section 227.

Building (s8&9 of the 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 Queenstown Lakes District Council **acting in its capacity as the territorial authority**

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 **heritage** building that is included on —

- a. the District Plan
- b. the New Zealand Heritage List/ Rārangī 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 (4) (c)) 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~~
- ~~d. 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.~~

14 VERSION HISTORY

2006 version 1 adopted March 2007

2020 version 2 updated and amended with addition of affected buildings adopted July 2021

2025 version 3 updated and amended with addition of method of prioritisation adopted ??? 2025

OVERVIEW

This document contains the framework and principles for Queenstown Lakes District Council policy on dangerous and insanitary buildings.

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1	Introduction.....
2	Policy Principles.....
3	Policy Scope.....
4	Policy Objectives.....
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1 INTRODUCTION

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.

The Policy replaces the Council’s Dangerous and Insanitary Buildings Policy 2007. Earthquake-prone Buildings are not considered by this policy as this is covered by sections 133AG – 133AY of the Building Act.

The Act also requires the Policy to state the Council’s policy approaches regarding affected buildings, which are buildings adjacent to, adjoining or nearby to a dangerous building or dam.

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.

The policy is important given our location to the Alpine Fault and the potential for the policy to be used after an earthquake where buildings maybe in varying states of disrepair and/ or danger.

2 POLICY PRINCIPLES

The relevant principles of section 4 of the Building Act have been taken into account in preparing the Policy.

In considering these principles the Policy seeks to ensure that people who use buildings can do so safely without endangering their health;

In preparing 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.

The Council will take a pragmatic approach to administering the Act and the Policy in a fair and reasonable way.

3 POLICY SCOPE

The Policy applies to all buildings within the Queenstown Lakes District territorial authority district.

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

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:

- Maximising opportunities to develop a vibrant, prosperous and sustainable 21st century district.
- Informed and proactive approaches to natural hazard risks in the Queenstown Lakes District Plan
- [Heritage Strategy](#)

6 COUNCIL AND OTHER AGENCIES ROLES

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.

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.

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.

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.

7 COUNCIL POLICY

Identification

Approach to identifying dangerous, affected or insanitary buildings;

- 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.
- 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.
- The procedures taken by the Council to resolve any issues found are detailed in section 9 of the Policy.

Heritage buildings

Application of the Policy to heritage buildings

- 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.
- When considering heritage buildings under the Policy, 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.
- 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.

Costs

- 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.
- 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.

8 PROCEDURES

Information received

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

1. Check the details on the property held in Council records;
2. 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
3. Prepare an inspection record.

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.

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 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.

Building established as dangerous, affected or insanitary

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

1. 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.
2. Inform the complainant(s) of the inspection results and the Council's intended course of action to deal with the situation.
3. 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 Section 124 of the Act.
4. 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.
5. 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 heritage provisions in section 7 of the Policy.

In undertaking its monitoring and enforcement functions under the 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.

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—
 - a. reduce or remove the danger; or
 - b. 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.

State of Emergency

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.

Immediate danger

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.

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 liaise with Fire and Emergency New Zealand to discuss any proposed action.

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 7 of the Policy.

9 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

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 DISPUTES

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 INFORMATION DISCLOSURE

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:

- 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.
- 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 POLICY REVIEW

The Policy must be reviewed at least every five years.

The Council may decide to review the Policy at any time within the five year review requirement.

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.

The Policy does not cease to have effect because it is due for review or is being reviewed.

13 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 Queenstown Lakes District 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. the District Plan
- b. the New Zealand Heritage List/ Rārangī 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
- d. 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.

Statement of Proposal

REVIEW OF DANGEROUS AND INSANITARY BUILDINGS POLICY

Introduction

Background

Council plays an important role in protecting the health and safety of residents by identifying dangerous and insanitary buildings in the district and determining what actions can be taken to protect public health and safety. One of the key mechanisms Council does this is through the creation of a Dangerous and Insanitary Buildings Policy.

The Building Act 2004 (The Act), Section 131 & 132 requires every Territorial Authority to have a Dangerous and Insanitary Buildings Policy, as well as review their policy every five years. If changes to the policy are proposed, Council is required to consult with the community.

As changes are being proposed to Council's current (2021) policy, public consultation is required to be undertaken as outlined in Section 83 and 86 of the Local Government Act 2002 (LGA) and contains:

- > a copy of the draft policy
- > information about the proposed amendments
- > the reasons for the proposed amendments
- > how you can have your say
- > timetable for consultation.

This proposal outlines the proposed amendments, the reasons from then, and invites the public to have their say.

The reason for the proposal

The key reasons for this proposal are to:

- > maintain compliance with the Building Act 2004 requirement to have a Dangerous and Insanitary Buildings policy
 - A recent audit of the policy found some minor corrections and updates were needed and that a required statement on how QLDC would prioritise potentially dangerous or insanitary building assessments was not included.
 - The policy must be reviewed at 5 yearly intervals. QLDC has brought forward the review to combine any further changes with the addition of the priorities statement. The review found that clarification about how QLDC would manage dangerous or insanitary buildings during a declared state of emergency was also needed.
- > seek community views on the draft policy changes

The 31 July 2025 Council report contains more detailed information on these points:

<https://www.qldc.govt.nz/your-council/council-documents/agendas-minutes/full-council>

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REVIEW OF DANGEROUS AND INSANITARY BUILDINGS POLICY



How you can have your say

Anyone can make a submission online at <https://letstalk.qldc.govt.nz>. Submissions will be accepted from 8.00am on Monday 4th August 2025 and must be received by 5.00pm on Sunday 7th September 2025.

All submissions should state:

- > the submitter's name¹
- > details of any organisation the submitter is representing (if applicable)
- > the submitter's contact details
- > whether or not the submitter would like to speak to Council about this matter.

Copies of this statement of proposal and draft policy may be obtained at no cost from either of the Council offices at 10 Gorge Road, Queenstown or 47 Ardmore Street, Wānaka, any Council library within the Queenstown Lakes District or the Council website at <https://letstalk.qldc.govt.nz>. If you need help submitting, please contact Council at 03 441 0499, or call in to one of Council's offices. All written submissions made to Council will be acknowledged and made available to the public.

Written submissions may take any form (e.g. email or letter) but we recommend your submission be made on the specified submission form available online at <https://letstalk.qldc.govt.nz/>. An effective submission references the option of the proposal you wish to submit on, states why the option is supported or not supported, and states what change to the option is sought. Submissions on matters outside the scope of the proposal cannot be considered by the Hearings Panel.

Submissions are considered public information under the Local Government Official Information and Meetings Act 1987, and submissions will be published on our website following the consultation period. Your personal contact details will not be published².

Council intends to hold a hearing (*insert date*). This is when anyone who has made a written submission and who has said they would like to speak to Council, can do so. This meeting will be open to the public. If you indicate you would like to be heard, Council staff will get in touch with you to arrange a time for you to speak at the hearing either in person or via audio-visual link. If at the hearing you have any requirements, please let us know.

Section 82 of the LGA sets out the obligations of QLDC in regard to consultation and QLDC will take all steps necessary to meet the spirit and intent of the law.

¹ Note: if you do not feel comfortable providing your name or contact details in a submission, please contact Council, who can facilitate an anonymous submission.

² In accordance with LGOIMA section 7(2)(a) to protect the privacy of natural persons.

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REVIEW OF DANGEROUS AND INSANITARY BUILDINGS POLICY

Timetable for consultation

The dates below outline the timetable for the consultation process. Any changes to these dates will be publicly advised on Council's Facebook page and website.

Date	Activity
31 July 2025	Council adopted the proposal for consultation
4th August 2025	Consultation period begins (8.00am)
7th September 2025	Consultation period ends (5.00pm)
(insert date)	Oral submissions heard by Council hearing panel
(insert date)	Deliberations and adoption by Council

Information about the proposal

Why do we have a Dangerous and Insanitary Buildings policy?

QLDC as the territorial authority is required to have a policy under the Building Act 2004 Section 131.

Having a policy which outlines how the council identifies, assesses and addresses dangerous and insanitary buildings within the district is important in ensuring the safe use of these buildings, neighbouring properties and adjoining public spaces.

What is the current policy?

A full copy of the current bylaw can be found on our website, but a summary of its main requirements are as follows:

- > QLDC will not actively seek out potential dangerous or insanitary buildings but will react quickly to complaints or concerns received.
- > QLDC will assess if the building meets the building act definition of dangerous, insanitary or if it is affected by a dangerous building.
- > QLDC will engage with the building owners and seek professional advice from external consultants such as heritage NZ, Fire and Emergency NZ and/or structural engineers when considered appropriate
- > QLDC will take appropriate actions as allowed by the Building Act 2004 to reduce the dangerous or insanitary conditions.

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REVIEW OF DANGEROUS AND INSANITARY BUILDINGS POLICY

- > QLDC will recoup costs from the building owners if the Territorial Authority carries out work to reduce the dangerous or insanitary conditions.
- > Notes that the building act specifically excludes earthquake prone buildings from the definition of a dangerous building.

Proposed changes

Council is proposing the following amendments in the draft policy :

- > Multiple minor changes relating to wording, layout and updating of references that do not affect the intent of the policy
- > Clarify how Dangerous, Insanitary or Affected buildings will be managed in the event of a state of emergency declaration, see below for an excerpt from the policy...

Emergency Management

If an area has been designated for emergency management of buildings under Section 133BC of the Act then Section 123B of the Act will apply. Subpart 6 – Special provisions for dangerous, affected and insanitary buildings, which this policy covers, will not be in effect, except for buildings already classified as dangerous, affected or insanitary, until the designation ends.

During the period that the designation is in force powers of entry and risk reduction actions under Subpart 6B - Special provisions for buildings affected by emergency will be used.

Once the designation has ended buildings that remain yellow or red stickered in the designated area will be reassessed, prioritised and appropriate actions taken under Subpart 6.

- > Addition of a statement of the territorial authority's priorities in exercising its powers in respect of dangerous, affected and insanitary buildings...

Priority

When multiple buildings are identified, either as part of the same or separate investigations, order of priority for initial assessment will be allocated to buildings taking into account the following risk factors:

- *Use of the building*
- *Number of tenants/occupants affected*
- *Proximity to areas used by the public*
- *Potentially affected buildings*
- *Type of dangerous or insanitary condition*
- *Potential consequence of inaction to address the risk*

Following initial assessments risk and order of priority will be reassessed with buildings requiring immediate work to address dangerous, or insanitary conditions (and any affected buildings) prioritised for appropriate risk reduction actions allowed for in the act.

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What happens next?

After it has received written and oral submissions, Council will make decisions on the draft policy in *(insert date)*. Council may make other changes to the draft policy in response to feedback, but anything that is a significant departure from the draft policy set out in this proposal may require further consultation.

Council will consider the following options about how to proceed:

- > **Option 1** – adopt the draft policy
- > **Option 2** – adopt an amended policy
- > **Option 3** – do not adopt the draft policy and deter consultation period