



Earthquake-prone, Dangerous and Insanitary Building Policy

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Earthquake-prone, Dangerous and Insanitary Building Policy

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Introduction and background

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

The policy is required to state:

1. the approach that the Hurunui District Council will take in performing its functions under the Building Act 2004
2. Hurunui District Council's priorities in performing those functions
3. how the policy will apply to heritage buildings.

Section 132 of the Building Act 2004 states the criterion for adoption and review of this policy.

1. A policy under section 131 must be adopted in accordance with the special consultative procedure in section 83 of the Local Government Act 2002.
2. A policy may be amended or replaced only in accordance with the special consultative procedure, and this section applies to that amendment or replacement.
3. A territorial authority must, as soon as practicable after adopting or amending a policy, provide a copy of the policy to the chief executive.
4. A territorial authority must complete a review of a policy within 5 years after the policy is adopted and then at intervals of not more than 5 years.
5. A policy does not cease to have effect because it is due for review or being reviewed.

2 Policy approach

2.1 Identification Process

Earthquake-prone Buildings

Step 1: Upon receipt of an application for a building consent for alterations or change of use, the Council will carry out an initial desktop review of Council files to assess if the building in question could be earthquake-prone.

Step 2: If the building is identified as likely to be earthquake-prone, the owner(s) will be required to have a suitably qualified person – i.e. a Chartered Professional Engineer with expertise in Earthquake Engineering assess the building and a copy of the report provided to the Council.

In addition, The Council will include a statement and an attached copy of this policy on all of the district's buildings' LIMs and PIMs, making readers of these documents aware of the Earthquake-prone, Dangerous and Insanitary Building Policy, and how it could affect them. This means that owners and potential buyers of all the district's buildings are equally made aware of the policy's potential implications, and have the opportunity to find out more upon reading this information.

Dangerous and Insanitary Buildings

The Council will respond to building complaints received from the public and to advice received from the NZ Fire Service and then investigate and assess the condition of the building.

2.2 Assessment and strengthening criteria

Assessment criteria

Earthquake-prone buildings

For practical purposes, Hurunui District Council will define earthquake-prone buildings as follows.

Section 122 of the Building Act 2004 defines an earthquake-prone building as a building that will have its ultimate capacity exceeded in a moderate earthquake. The Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005 identify a moderate earthquake as generating shaking that is one-third as strong as what would be used to design a new building. Therefore, the Act requires a building must have an earthquake strength of at least 33% not to be classified as earthquake-prone.

In relation to the initial desktop review of Council files to assess if the building in question could be earthquake-prone, buildings that will NOT require further assessment regarding earthquake performance when either a change of use notification or a building consent application for any alteration that affects the structure of the building is sought, include those:

- designed or strengthened to the 1976 NZS 4203 and subsequent codes, unless they have a critical structural weakness
 - isolated structures unlikely to collapse causing injury, death or damage to other property (refer Section 122(1)(b) of the Building Act 2004)
 - used wholly or mainly for residential purposes, unless the building comprises 2 or more storeys and contains 3 or more household units (refer Section 122(2) of the Building Act 2004)
- This will mainly include shops, halls, churches etc, but will exclude most residential properties.

Dangerous and insanitary buildings

The Council will assess dangerous buildings in accordance with Section 121(1) of the Building Act 2004.

The Council will assess insanitary buildings in accordance with Section 123 of the Building Act.

Strengthening requirements for earthquake-prone buildings

Hurunui District Council will require the use the New Zealand Society for Earthquake Engineering (NZSEE) Recommendations as its preferred basis for defining technical requirements and criteria. These

Recommendations are designed to be used in conjunction with AS/NZS 1170 Loadings Standard, NZS 3101 Concrete Structures Standard, NZS 3404 Steel Structures Standard and other materials Standards.

The Hurunui District Council will require all buildings identified as earthquake-prone to be strengthened to a meet the minimum 33% standard.

Partial strengthening of earthquake-prone buildings

On occasion, the detailed assessment may find that only part of a building is earthquake-prone and requires strengthening – e.g. and addition or façade.

In these situations, Council will decide on the level of strengthening and the timetable for remedial action on a case-by-case basis.

2.3 Taking action on earthquake-prone, dangerous and insanitary buildings

Earthquake-prone buildings

Hurunui District Council, on being satisfied that a building is earthquake-prone, will:

- Provide owners of buildings identified as earthquake-prone with the opportunity to carry out an independent assessment of the structural performance of those buildings. The Council will encourage that this task be carried out by a suitably qualified person – i.e. a Chartered Professional Engineer with expertise in Earthquake Engineering, or follow this assessment with a peer review to ensure a fair and accurate assessment. This will ensure Council's ability to approve the detailed assessment report upon receipt.
- Require that owners carry out necessary work to relieve the building of its earthquake-prone status, in order to receive Code Compliance Certificate for building consent or change of use.
- In the case where owners withdraw consent application, use the powers given in section 124 of the Building Act 2004 to serve formal notice requiring work to be carried out on the building, within a time stated in the notice (which must not be less than 10 days after the notice is given under section 125), to remove or reduce the danger accordingly. Section 124 also enables Council to erect a hoarding, fence or warning sign. This will be decided on a case-by-case basis; however, this will only occur in a 'worst case scenario'.
- Use its powers given in section 129 of the Building Act 2004, where it is considered measures are necessary to avoid immediate danger. Council will undertake action at owners' expense.
- Use its powers given in section 126 of the Building Act 2004 to apply to a District Court for an order authorising it to carry out building work if any work under the notice given is not complete, or not proceeding with reasonable speed within the time stated in the notice. The owner of the building is liable for the costs of the work.

Dangerous and insanitary buildings

Hurunui District Council, on being satisfied that a building is dangerous or insanitary, will:

- Liaise with the Fire Service to discuss the proposed action when notification has been received from the Fire Service of a dangerous building
- Use the powers given in section 124 of the Building Act 2004 to serve formal notice requiring work to be carried out on the building, within a time stated in the notice (which must not be less than 10 days after the notice is given under section 125), to remove or reduce the danger accordingly. Section 124 also enables Council to erect a hoarding, fence or warning sign. This will be decided on a case-by-case basis; however, this will only occur in a 'worst case scenario'.
- Use its powers given in section 129 of the Building Act 2004, where it is considered measures are necessary to avoid immediate danger or to fix insanitary conditions, at owners' expense.
- On being advised of conditions that are alleged to be insanitary within the provisions of section 123 of the Building Act 2004, inspect the buildings and make a determination as to whether action is required under sections 124 or 129 of the Act. [Note: Provisions 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 or section 42 because of insanitary conditions likely to cause injury to the health of persons or are dwellings

unfit for human habitation]

- Use its powers given in section 126 of the Building Act 2004 to apply to a District Court for an order authorising it to carry out building work if any work under the notice given is not complete, or not proceeding with reasonable speed within the time stated in the notice. The owner of the building is liable for the costs of the work.

2.4 Interaction between Earthquake-prone, Dangerous and Insanitary Building Policy and related sections of the Building Act 2004

Earthquake-prone buildings

Section 112: Alterations to existing buildings

When an application for a consent for an alteration that affects the structure of the building identified as potentially earthquake-prone is received, a suitably qualified person – i.e. a Chartered Professional Engineer with expertise in Earthquake Engineering has assessed the building, and the building has an earthquake-prone strength of less than 33% of the Code, the building will be required to be strengthened to at least 33% of the Code as part of the consent. If any new work is proposed, this will have to comply with the Code to the same standard as a new building, as per BL112.02, subsection 1 of the Building Act 2004.

Section 115: Change of use

When an application for a consent involving a change of use is received, the requirements of the Building Act, section 115, for the building to be strengthened to as near as is reasonably practicable to the strength of a new building would be followed.

Dangerous and insanitary buildings

Upon receipt of a consent for any building work to be undertaken on a building, the Council will inspect the building file to determine whether or not the building in its current state has been classified as dangerous or insanitary. When the owner of a dangerous or insanitary building on whom notice has been served, but who has not yet undertaken the required remedial work, applies for a consent for action covered by sections 112 to 116A of the Building Act 2004 (alterations to existing buildings, change of use, extension of life, and subdivision of buildings), they are required to reduce or remove the danger at the same time as (or before, if appropriate) the building work set out in the consent application.

2.5 Consultation with building owners

The steps in the process are outlined in 2.3 above.

1. Before exercising its powers under section 124, Hurunui 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 danger, leading to receipt of a formal proposal from owners for strengthening or removal of earthquake-prone buildings, or otherwise dealing with the dangerous or insanitary situation by alterations to the building, removal, or action being taken under the Health Act 1956.
2. In the event that discussions do not yield a mutually acceptable approach and proposal, Hurunui District Council will serve a formal notice on the owner in accordance with section 124 of the Building Act 2004.

2.6 Recording a building's earthquake-prone, dangerous or insanitary status

Earthquake-prone buildings

Hurunui District Council will keep a register of all earthquake-prone buildings, as made aware through building consent and change of use applications, noting the status of requirements for improvement or the results of improvement as applicable.

In addition, the following information will be placed on the LIM and PIM for each earthquake-prone building:

- address and legal description of land and building
- statement that the building is on the Council's register of earthquake-prone buildings
- date by which strengthening or demolition is required (if known)
- statement that further details are available from the Council to those who can demonstrate a genuine interest in the property.

Dangerous or insanitary buildings

Any buildings identified as being dangerous or insanitary will have a requisition placed on the Council's records for the property on which the building is situated until the danger or insanitary condition is remedied.

In addition, the following information will be placed on any LIM:

- Copies of any notices issued where a building is dangerous or insanitary and requires evacuation of the building
- Copies of any letters sent to the owner, occupier and any other person where a building is dangerous or insanitary
- Copies of any notices given under section 124(1) which identifies the work to be carried out on a building and the timeframe given to reduce or remove the danger or insanitary condition

2.7 Objections

In the first instance, building owners or other directly affected parties who wish to object to a building being declared earthquake-prone, dangerous or insanitary should record their objections in writing to the Council. A formal hearing can subsequently be arranged, upon which the owner will be given the opportunity to make a submission to Council.

Priority will be given to objections where the building has been declared to be of such as risk as to require immediate remedial action so that no undue delays are caused.

Determinations

Building owners and a variety of other interested parties can formally object to the Council's decision through the right to apply to the Chief Executive of the Department of Building and Housing for a determination. Determinations can be applied for concerning the Council's decisions to issue or not issue a consent or code compliance certificate, or to exercise its powers concerning dangerous, earthquake-prone or insanitary buildings.

Sections 176-190 of the Act lay out the requirement for determination.

3 Priorities

Earthquake-prone buildings

Hurunui District Council has prioritised the requirement to strengthen or demolish buildings as follows.

Figures in bracket indicate the maximum time for strengthening or demolition. Times required for strengthening or demolition commence on the date of issue of formal notice. Specific time will be assigned for action according to the assessment of structural performance and the nature of concerns.

The order will be as indicated below.

Category A: Buildings with special post-disaster functions as defined in AS/NZS 1170.0: 2002, Importance Level 4 (15 years)

Category B: Buildings that contain people in crowds or contents of high value to the community as defined in AS/NZS 1170.0: 2002, Importance Level 3 (20 years)

Category C: Buildings listed as heritage buildings in Appedix 8 of the Hurunui District Plan (25 years)

Category D: Buildings with an Importance Level of less than 3 as defined in AS/NZS 1170.0: 2002 (30 years)

(for definitions and examples of these categories, see appendix a)

Dangerous and Insanitary Buildings

Hazards posed by dangerous and insanitary buildings must be mitigated before they impact on building owners. Council will respond promptly to complaints and will inspect the building to assess the dangerous or insanitary status of a building. The assessment will determine if immediate or urgent action is necessary, if the building is confirmed as being dangerous or insanitary. If an immediate response is required, section 129 of the Building Act 2004 gives Council options to take action.

In general, 10 days is considered a minimum notice period for the danger to be removed or the insanitary conditions to be fixed, unless the situation requires immediate rectification.

4 Heritage buildings

Hurunui District Council believes it is important that its heritage buildings have a good chance of surviving a major earthquake in order to retain these important connections to the district's history and unique character. However, Hurunui District Council does not wish to see the intrinsic heritage values of these buildings adversely affected by structural improvement measures.

Hurunui District Council will assess heritage buildings in the same way as other potentially earthquake-prone, dangerous and insanitary buildings and as per sections 121-123 of the Act and discussions will be entered into with the owner and the New Zealand Historic Places Trust (pursuant to section 125(2)(f) where the building is contained in their Register) to identify a mutually acceptable way forward which meets heritage objectives and Building Act requirements as near as is reasonably practicable in the circumstances.

Any work carried out on such buildings must comply with the rules, standards, conditions and terms of the Hurunui District Plan and Resource Consent Provision for protecting buildings of heritage importance. If a building consent to upgrade or strengthen an earthquake-prone, dangerous or insanitary heritage building is sought, the Council will, under section 39 of the Building Act 2004, provide a copy to New Zealand Historic Places Trust for comment, whom can recommend, under the Historic Places Act 1993, actions to be taken.

Any upgrading work should be designed to involve minimal loss to heritage. Demolition is an option of last resort for heritage buildings.

Appendix (a) – Defining Priorities

Source: Australian/New Zealand Standard, Structural design actions, Part 0: General principles (AS/NZS 1170.0:2002)

Category	Comment	Examples
A	Structures with special post-disaster functions	Buildings and facilities designated as essential facilities Buildings and facilities with special post-disaster function Medical emergency or surgical facilities Emergency service facilities such as fire, police stations and emergency vehicle garages Utilities or emergency supplies or installations required as backup for buildings and facilities of Importance Category Level A Designated emergency shelters, designated emergency centers and ancillary facilities Buildings and facilities containing hazardous materials capable of causing hazardous conditions that extend beyond the property boundaries
B	Structures that as a whole may contain people in crowds or contents of high value to the community or pose risks to people in crowds	Buildings and facilities as follows: (a) Where more than 300 people can congregate in one area (b) Day care facilities with a capacity greater than 150 (c) Primary school or secondary school facilities with a capacity greater than 250 (d) Colleges or adult facilities with a capacity greater than 500 (e) Health care facilities with a capacity of 50 or more resident patients but not having surgery or emergency treatment facilities (f) Airport terminals, principal railway stations with a capacity greater than 250 (g) Correctional institutions (h) Multi-occupancy residential, commercial (incl. shops), industrial, office and retailing buildings designed to accommodate more than 5000 people and with a gross area greater than 10,000m ² Emergency medical and other emergency facilities not designated as post-disaster Power-generating facilities, water treatment and waste water treatment facilities and other public utilities not designated as post-disaster Buildings and facilities not designated as post-disaster containing hazardous materials capable of causing hazardous conditions that do not extend beyond the property boundaries
C	Heritage Buildings	Buildings listed as heritage buildings in Appendix 8 of the Hurunui District Plan <i>(category not referenced from AS/NZS 1170.0:2002)</i>
D	Normal structures and structures not in other importance category levels and structures presenting a low degree of hazard to life and other property	Buildings not included in Importance Category Levels A,B or C Single family dwellings Car parking buildings Structures with a total floor area of <30m ² Farm buildings, isolated structures, towers in rural situations Fences, masts, walls, in-ground swimming pools