

EARTHQUAKE-PRONE, DANGEROUS AND INSANITARY BUILDINGS POLICY 2006-2011

WAITAKERE CITY COUNCIL - EARTHQUAKE PRONE BUILDINGS

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EARTHQUAKE- PRONE BUILDINGS 2006

Introduction and background

Section 131 of the Building Act 2004 requires territorial authorities (TAs) to adopt a policy on earthquake-prone buildings by 31 May 2006. The definition of an earthquake-prone building is set out in section 122 of the Building Act 2004 and in the related regulations that define moderate earthquake:

“In relation to a building, an earthquake that would generate shaking at the site of the building that is of the same duration as, but that is one-third as strong as, the earthquake shaking (determined by normal measures of acceleration, velocity and displacement) that would be used to design a new building at the site.”

This definition covers more buildings and requires a higher level of structural performance of buildings than that required by the Building Act 1991.

This document sets out the policy adopted by Waitakere City Council in accordance with the requirements of the Building Act 2004.

The policy is required to state:

- The approach that the Waitakere City Council will take in performing its functions under the Building Act 2004.
- Waitakere City Council's priorities in performing those functions.
- How the policy will apply to heritage buildings.

In developing and adopting its earthquake-prone buildings policy, Waitakere City Council has followed the consultative procedure set out in section 83 of the Local Government Act 2002.

POLICY IN REGARDS TO EARTHQUAKE- PRONE BUILDINGS 2006

1 Policy approach

1.1 Policy principles

Waitakere City Council has noted that provisions of the Building Act in regard to earthquake-prone buildings reflect the government's broader concern with the life safety of the public in buildings and, more particularly, the need to address life safety in the event of an earthquake. Waitakere City Council is committed to ensuring that Waitakere City is a safe place to live and work in. The earthquake-prone building issues have a strong relationship with Council's strategic priority for a safe city. Waitakere City Council has also noted that the development of earthquake-prone building policies is up to each Territorial Authority and has responded accordingly. This policy has been developed after due consultation with Waitakere City Council ratepayers and stakeholders in accordance with section 83 of the Local Government Act 2002.

1.2 Overall approach

Waitakere City is in a zone of relatively low seismic activity (appendix A1) and its buildings comprise a range of types and ages reflecting steady development over the last 100 years from wood, unreinforced masonry and brick buildings to modern multi-storey steel and concrete buildings. Waitakere City Council has not actively pursued a policy of identifying and strengthening earthquake prone buildings in the past. In isolated cases property owners have acted on their own accord and have carried out strengthening work such as the Playhouse Theatre. Waitakere City Council's earthquake-prone building policy under the Building Act 2004 embodies a mixed active and passive approach that reflects Council's determination to reduce earthquake risk over time but in a way that is acceptable in social and economic terms to its ratepayers.

Waitakere City Council will both actively and passively review its building stock, based on priorities, to identify buildings that fall within the scope of potential earthquake prone buildings under the Building Act 2004 and assess broadly the performance of those buildings in relation to the new building standard, in particular, to the standard defined for earthquake prone buildings. This broad assessment will be done at the Council's cost. Council will:

- Determine and compile from this broad assessment a list of buildings that are earthquake-prone in terms of the Building Act 2004.
- Advise owners of these buildings of the results of Council's broad assessment and invite them, within a limited time-frame, to contact Council to obtain further details on future requirements.
- Give written notices to all owners of buildings assessed as earthquake-prone once the deadline for contacting Council has passed and, subject to the results of discussions, to carry out work to reduce or remove the danger or demolish the building within a specified time-frame. Given that Waitakere City has a number of heritage buildings, Council will work with owners of such buildings to avoid demolition if possible and to ensure heritage value is not lost when structural work is to be undertaken.
- All owners have a right of appeal as defined in the Building Act 2004, which can include applying to the Department of Building and Housing for a determination under section 177.

1.3 Identifying earthquake prone buildings

Waitakere City Council will:

- Undertake an initial desktop review of Council's files and information to access which buildings could be earthquake-prone.
- Follow this with a brief visual inspection of each building, where necessary.
- Carry out initial evaluation of performance in earthquake based on information obtained by using the New Zealand Society of Earthquake Engineering (NZSEE) Initial Evaluation Method process.
- Work with building owners in requiring a detailed assessment on buildings identified as earthquake-prone in the initial evaluation, unless otherwise agreed in discussion following the initial evaluation.
- Assemble a list of earthquake-prone buildings according to the results of the assessments.
- Categorise the earthquake-prone buildings according to the following methodology:

- A. Buildings with special post-disaster functions as defined in AS/NZS 1170.0: 2002, Importance Level 4. (Appendix A3)
- 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. (Appendix A3)
- C. Heritage buildings identified as such in the Council's District Plan, Heritage Appendix, Marae, buildings listed in the New Zealand Historic Places Trust Register, by way of a Heritage Covenant or Heritage Order
- D. Buildings with an Importance Level less than 3 as defined in AS/NZS 1170.0:2002. (Appendix A3)

- Continuously evaluate and assess the structural performance of buildings in all categories that were not identified in the initial review in a reactive manner. Such evaluations being triggered by an application under the Building Act for building alterations, change of use, extension of life, subdivision or requests by concerned ratepayers.

1.4 Assessment criteria

For practical purposes, Waitakere City Council will define earthquake-prone buildings as those that, when subject to moderate earthquake shaking, do not meet or exceed the criteria for ultimate limit state as defined in the loadings and materials standards for new buildings. Waitakere City Council will 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.

1.5 Taking action on earthquake-prone buildings and liaising with building owners

Waitakere City Council will:

- Advise and liaise with owners of buildings identified as earthquake-prone.
- Encourage owners to carry out independent assessment of the structural performance of those buildings identified as earthquake-prone.
- Serve formal notices on owners of earthquake-prone buildings in accordance with the Building Act 2004, requiring them to remove the danger.
- Allow owners to appeal against the classification within 12 months of receipt of notice.

- In respect of heritage buildings the same procedure will be followed as other earthquake prone buildings, dependent on the classification. Council will endeavour to assist owners of heritage buildings in meeting their statutory requirements and this Policy. Where necessary, Council will assess the structural requirements of heritage buildings on a case by case basis to avoid loss of heritage or demolition.

1.5.1 Required level of structural improvement

Waitakere City Council will require buildings identified as earthquake prone to be strengthened to at least 67 percent of the new building standard for those buildings classified as Level 3 or 4. In all other cases buildings identified as earthquake prone are to be strengthened to at least 34% of the standard required for new building as set out in the building code.

Heritage buildings will be similarly treated. Unless the heritage building poses a Level 3 or 4 risk, then it will only be required to meet a test of being earthquake proofed to at least 34% of the standard required for new building as set out in the building code.

Waitakere City Council considers this to be an appropriate level for the requirement to reduce or remove the danger posed by such buildings. This approach is consistent with that of other local authorities in the Auckland region as well as those situated in areas of low seismic activity.

1.6 Interaction between earthquake-prone building policy and related sections of the Building Act 2004

1.6.1 Section 112: Alterations to existing building.

Whenever a building consent application is received for significant upgrading or alteration of a building that is or could be earthquake-prone, then, irrespective of the general priorities set by Waitakere City Council for dealing with earthquake-prone buildings, the Council will not issue a building consent unless it is satisfied that the building is not earthquake-prone and that the building work will not detrimentally affect the building's compliance with the Building Code.

If the building is shown to be earthquake-prone, then the Council will require that the building be strengthened to comply as nearly as is reasonably practicable with the provisions of the Building Code.

In respect of heritage buildings the same standards will be required to be met as set out in Clause 1.5 above.

1.6.2 Section 115: Change of use

Whenever a building consent application or formal notification is received for change of use of a building that is or could be earthquake-prone, then, irrespective of the general priorities set by Waitakere City Council for dealing with earthquake-prone buildings, it will be a requirement of the owner to make a detailed assessment of the earthquake performance of the building to determine whether or not it is an earthquake-prone building in its existing condition. If the building is shown to be earthquake-prone then the Council will require that the building be strengthened to comply as nearly as is reasonably practicable with every provision of the Building Code that relates to structural performance as is required by section 115(b) (i) (A). (In this instance the requirement for earthquake-prone buildings would be the same as that for non-earthquake-prone buildings.)

Change of use is defined by the Buildings (Specified Systems, Change of Use and Earthquake Prone) Regulations 2005. It means to change the use of all or part of a building from one use (the

old use) to another (the new use). Regulation 5 and 6 and Schedule 2 of the above named regulations are attached to this Policy as A5.

In respect of heritage buildings the same standards will be required to be met as set out in Clause 1.5 above, unless the change of use will require treating the building as a Level 3 or 4 building.

1.7 Recording a building's earthquake-prone status

Waitakere City Council will keep a record of all earthquake-prone buildings on the hazard register 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 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 required, (if known).
- Statement that further details are available from the Council to those who can demonstrate a genuine interest in the property.

1.9 Economic impact of policy

The economic impact of the earthquake prone building policy can only be assessed after the initial building evaluation phase has been completed and the scale and extent of the required strengthening work identified. A separate report on the economic impact of the policy will be made to the Planning and Regulatory Committee who will review the timing of the draft implementation programme (Appendix A4) to ensure that a balance is struck between the need to address earthquake risk while taking into account the social and economic implications of implementing the policy.

It is considered that the level of seismic activity in the City will remain low. Therefore, apart from cases subject to clause 1.5 of the Policy and heritage designation within clause 3 of the Policy, any earthquake prone buildings classified as Level 3 or 4 buildings in terms of AS/NZS 1170:2002 will be required to be strengthened to at least 67% of the building code standard. All other earthquake prone buildings will be required to be strengthened to at least 34 percent of the relevant building code setting the standards of the day. For this reason it is unlikely that there will be high economic impact as Waitakere has relatively low numbers of Level 3 and 4 buildings.

A campaign to educate the public will be initiated to assist building owners affected by the Policy to meet the requirements of the Policy. A feasibility study will be undertaken to assess the desirability of setting up a fund to at least nominally assist owners of earthquake prone buildings to meet the requirements of the Policy, particularly those who own heritage buildings.

1.10 Access to earthquake-prone building information

Information concerning the earthquake status of a building will be contained on a LIM for that property and will generally be information available for disclosure under the Local Government Official Information and Meetings Act 1987..

In addition, Council will keep a record of the NZSEE grade of all buildings assessed, and will encourage all owners of earthquake prone buildings to have them assessed and graded. Council recognises the long-term benefits of increased public awareness.

Waitakere City Council will not require earthquake prone buildings to have an identifying plaque. We believe that having the information available at the Council offices is sufficient notice at present.

2 Priorities

Waitakere City Council has prioritised both the identification and the requirement to strengthen or demolish buildings as follows.

Figures in brackets indicate the latest date for identification and notification and the maximum time for strengthening or demolition respectively. Times required for strengthening or demolition commence on the date of issue of formal notice. Specific times will be assigned for action according to the assessment of structural performance and the nature of the concerns. The order will be as indicated below.

- | | |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A. | Buildings with special post-disaster functions as defined in AS/NZS 1170.0: 2002, Importance Level 4 (December 2011, 5 years). |
| 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 (December 2011, 5 years). |
| C. | Heritage buildings identified as such in the Council's District Plan: Heritage Appendix, Marae, buildings listed in the New Zealand Historic Places Trust Register, <u>by way of a Heritage Covenant or Heritage Order</u> , classified with an importance Level of 3 or 4 (December 2021, 15 years). |
| D. | Buildings with an importance Level of less than 3, including heritage buildings with this classification as defined in AS/NZS 1170.0: 2002 and identified as being earthquake-prone (December 2031, 25 years). |

Once each category has been reviewed and the earthquake-prone buildings within it identified, the process of liaising with owners and serving notice on them will commence. Identification of buildings in each category will proceed according to the priorities identified above. The overall approach and timetable is summarised in the accompanying Draft Implementation Programme. (Appendix A4)

3 Heritage buildings

3.1 Special considerations and constraints

Heritage buildings are those identified in the Council's District Plan: Heritage Appendix, Marae, buildings listed in the New Zealand Historic Places Trust Register, by way of a Heritage Covenant or Heritage Order. Heritage is considered to be of national importance under section 6(f) of the Resource Management Act 1991 and this Policy must give sufficient consideration to heritage within this Policy in accordance with section 131(2)(c) of the Act. Waitakere City Council values its stock of heritage buildings and considers it is important that heritage buildings within the City have a good chance of surviving a major earthquake. Waitakere City Council does not wish to see the intrinsic heritage values of these buildings adversely affected by structural improvement measures.

Heritage buildings will be assessed in the same way as other potentially earthquake-prone buildings and discussions held with owners, the Council's Heritage Adviser (where the building is listed in the Heritage Appendix to the District Plan, or where the owners wish for it to be

considered as such) and the Historic Places Trust (where the building is listed in their register or they have a special interest in the status of the building). Council will work with building owners to identify a mutually acceptable way forward. Special efforts will be made to meet heritage objectives. Heritage items recorded in Council's District Plan would be subject to an earthquake-prone building assessment as part of the process. An earthquake proofing to such building will be considered in the context of this Policy.

In all respects, the Council will also work with owners of heritage buildings and consider waivers and dispensations to assist them to meet the Building Code as near as is reasonably practicable. Where necessary, Council will assess the structural requirements of heritage buildings on a case by case basis to avoid loss of heritage or demolition.

Following the consultation period with the owners, notices will be served requiring improvement within a stated (and preferably agreed) time-frame.. For heritage buildings demolition will be the last resort. Any seismic strengthening work to be undertaken in respect of Heritage buildings identified in the Council's District Plan: Heritage Appendix, Marae, and buildings listed in the New Zealand Historic Places Trust Register must take into account the principles of the International Council on Monuments and Sites New Zealand Charter, advice from the Council's Heritage Adviser and the Historic Places Trust. In particularly important cases, public consultations will be included in the process.

WAITAKERE CITY COUNCIL – DANGEROUS BUILDINGS

4. Policy Approach

- 4.1 Policy principles
- 4.2 Overall approach
- 4.3 Identifying dangerous buildings
- 4.4 Assessment criteria
- 4.5 Taking action on dangerous buildings and dealing with building owners
- 4.6 Interaction between dangerous buildings policy and related sections of the Building Act 2004
- 4.7 Recording of dangerous buildings
- 4.8 Economic impact of policy
- 4.9 Access to dangerous building policy

5. Priorities

6. Heritage Buildings

DANGEROUS BUILDINGS

Introduction and Background

Section 131 of the Building Act 2004 ("the Act") requires territorial authorities ("TAs") to adopt a policy on dangerous buildings by 31 May 2006. The definition of a dangerous building is set out in section 121 (1) of the Act:

"A building is dangerous for the purposes of this Act if,-

- (a) in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause-*
 - (i) injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or*
 - (ii) damage to other property; or*
- (b) in the event of fire, injury or death to any person in the building or to persons on other property is likely because of fire hazard or the occupancy of the building."*

This document sets out the policy adopted by Waitakere City Council ("Council") in accordance with the requirements of the Building Act 2004.

The policy is required to state:

- The approach that the Council will take in performing its functions under the Act;
- Council's priorities in performing those functions;
- How the policy will apply to heritage buildings;

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

4 Policy approach

4.1 Policy Principles

Council has noted that provisions of the Act in regard to dangerous buildings reflect the government's broader concern with the life safety of the public in buildings. Waitakere City Council is committed to ensuring that Waitakere City is a safe place to live and work in. The dangerous building issues have a strong relationship with Council's strategic priority for a safe city. Waitakere City Council has also noted that the development of dangerous building policies is up to each Territorial Authority and has responded accordingly. This policy has been developed after due consultation with Waitakere City Council ratepayers and stakeholders in accordance with section 83 of the Local Government Act 2002.

4.2 Overall Approach

Waitakere City is experiencing strong growth which is placing considerable pressure on the availability of both privately owned and rental accommodation. This has resulted in an identifiable trend of garages, basements and sleep outs being illegally converted into minor household units that are then rented out. Lacking any consent, these conversions are often not undertaken in accordance with the building code. This may cause problems in terms of the danger posed for people living in these spaces by inappropriate construction methods or materials. Such dangers may include inadequate fire protection, or danger of collapse.

The Council's is actively involved in educating the public on the need to discuss their development plans with Council and to obtain building consent where Council deems that is necessary. For instance this is exemplified by conversions of buildings into minor household units or other such smaller dwellings where safety risks are likely to arise from a change in use. Council has policy of initiating enforcement action under the relevant statutes, in this case the Act when dealing with dangerous buildings. This provides a strong message to the public that Council places paramount importance on safety of residents in the community. This stance also creates a strong message of deterrence for those property owners who do not seek Council's advice prior to undertaking building works.

4.3 Identifying Dangerous Buildings

The Council will:

1. Respond to and investigate all building complaints received;
2. Identify from these investigations any buildings that are dangerous;
3. Inform the owner and occupier of the building to take action to reduce or remove the danger, as is required by s124 and s125 of the Act;
4. Liaise with the New Zealand Fire Service when Council deems it is appropriate, in accordance with s121 (2) of the Act:

"For the purpose of determining whether a building is dangerous in terms of s121 subsection (1) (b), a territorial authority-

- (a) *May seek advice from members of the New Zealand Fire Service who have been notified to the territorial authority by the Fire Service National Commander as being competent to give advice; and*
- (b) *If the advice is sought, must have due regard to the advice."*

4.4 Assessment Criteria

The Council will assess dangerous buildings in accordance with s121 (1) of the Act:

"A building is dangerous for the purposes of this Act if,-

- (a) *in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause-*
 - (i) *injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or*
 - (ii) *damage to other property; or*
- (b) *in the event of fire, injury or death to any person in the building or to persons on other property is likely because of fire hazard or the occupancy of the building."*

4.5 Taking Action on dangerous buildings and dealing with building owners

In accordance with s124 and s125 of the Act the Council will:

- Advise and liaise with the owner(s) of buildings;
- May request a written report on the building from the New Zealand Fire Service;
- If found to be dangerous:
 - Attach written notice to the building requiring work to be carried out on the building, within a time stated in the notice being not less than 10 days, to reduce or remove the danger;

- Give copies of the notice to the building owner, occupier, and every person who has an interest in the land, or is claiming an interest in the land, as well as the New Zealand Historic Places Trust, if the building is a heritage building;
- Contact the owner at the expiry of the time period set down in the notice in order to gain access to the building to ascertain whether the notice has been complied with;
- Where the danger is the result of non-consented building work the owner will formally be requested to provide an explanation as to how the work occurred and who carried it out and under whose instructions;
- Pursue enforcement action under the Act if the requirements of the notice are not met within a reasonable period of time as well as any other non-compliance matters.

If the building is considered to be immediately dangerous the Council will:

- Cause any action to be taken to remove that danger (this may include prohibiting persons using or occupying the building and demolition of all or part of the building); and
- Take action to recover costs from the owner(s) if the Council must undertake works to remove the danger.
- The owner(s) will also be informed that the amount recoverable by Waitakere City Council will become a charge on the land on which the building is situated.

All owners have a right of appeal as defined in the Act, which can include applying to the Department of Building and Housing for a determination under s 177(e) of the Act.

4.6 Interaction between dangerous building policy and related sections of the Act

4.6.1 Section 41: Building consent not required in certain cases

In cases where a building is assessed as being immediately dangerous the Council may not require building consent to be obtained for any building work required so as to remove the danger immediately. However, prior to any action being taken it is imperative that building owners discuss any works with the Council.

4.7 Record keeping

Any buildings identified as being dangerous will have a requisition placed on the property file for the property on which the building is situated until the danger is remedied.

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

- Notice issued that building is dangerous
- Copy of letter to owner, occupier and any other person that the that the building is dangerous;
- Copy of the notice given under section 124(1) that identifies the work to be carried out on the building and the timeframe given to reduce or remove the danger.

4.8 Economic impact of policy

Due to the low number of dangerous buildings encountered annually by the Council (approximately 30 confirmed out of 150 complaints), and the similarity between the obligations of territorial authorities as to with dangerous buildings under the Building Act 2004 and the Building Act 1991, the economic impact of this policy is considered to be negligible.

4.9 Access to information

Information concerning dangerous buildings will be contained on the relevant LIM.

In granting access to information concerning dangerous buildings, the Council will conform to the requirements of the Local Government Official Information and Meeting Act 1987 and the Local Government Act 2002.

5 Priorities

The Council will allocate priority to buildings that have been determined to be immediately dangerous. Immediate action will be required in these situations to remove the danger, such as prohibiting any person occupying or using the building.

Buildings that are determined to be dangerous, but not immediately dangerous, will be subject to the minimum timeframes for reduction or removal of the danger (not less than 10 days) as set out in s124(1) (c) of the Act.

6 Heritage Buildings

Heritage buildings are those identified in the Council's District Plan: Heritage Appendix, Marae, buildings listed in the New Zealand Historic Places Trust Register, by way of a Heritage Covenant or Heritage Order. Heritage is considered to be of national importance under section 6(f) of the Resource Management Act 1991 and this Policy must give sufficient consideration to heritage within this Policy in accordance with section 131(2)(c) of the Act.

However, no special dispensation will be afforded to heritage buildings under this Policy. Heritage buildings will be assessed in the same way as other potentially dangerous buildings and as per sections 121 and 123 of the Act. Pursuant to section 125(2)(f) a copy of any notice issued under section 124 of the Act will be sent and discussions will be entered into with owner, the Council's Heritage Adviser (where the building is listed in the Heritage Appendix to the District Plan, or where the owners wish for it to be considered as such) and the Historic Places Trust (where the building is listed in their register or they have a special interest in the status of the building). Council will work with building owners to identify a mutually acceptable way forward to meet heritage objectives and the Act as near as is reasonably practicable.

Following the consultation period with the owners, notices will be served requiring improvement within a stated (and preferably agreed) time-frame. For heritage buildings demolition will be the last resort. Any upgrading work to be undertaken in respect of heritage buildings identified in the Council's District Plan: Heritage Appendix, Marae, and buildings listed in the New Zealand Historic Places Trust Register must take into account the principles of the International Council on Monuments and Sites New Zealand Charter, advice from the Council's Heritage Adviser and the Historic Places Trust. In particularly important cases, public consultations will be included in the process.

WAITAKERE CITY COUNCIL – INSANITARY BUILDINGS POLICY

7 Policy Approach

7.1 Policy principles

7.2 Overall approach

7.3 Identifying insanitary buildings

7.4 Assessment criteria

7.5 Taking action on insanitary buildings and dealing with building owners

7.6 Interaction between insanitary buildings policy and related sections of the Building Act 2004

7.7 Recording of insanitary buildings

7.8 Economic impact of policy

7.9 Access to insanitary building policy

8 Priorities

9 Heritage Buildings

INSANITARY BUILDINGS

Introduction and Background

Section 131 of the Building Act 2004 ("the Act") requires territorial local authorities ("TA's") to adopt a policy on insanitary buildings by 31 May 2006. The definition of an insanitary building is set out in s123 of the Act:

- "A building is insanitary for the purposes of this Act if the building-*
- (a) is offensive or likely to be injurious to health because-*
 - (i) of how it is situated or constructed; or*
 - (ii) it is in a state of disrepair; or*
 - (b) has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or*
 - (c) does not have a supply of potable water that is adequate for its intended use; or*
 - (d) does not have sanitary facilities that are adequate for its intended use."*

This document sets out the policy adopted by Waitakere City Council ("Council") in accordance with the requirements of the Act.

The policy is required to state:

- The approach that the Waitakere City Council will take in performing its functions under the Act;
- The Council's priorities in performing those functions;
- How the policy will apply to heritage buildings.

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

Insanitary Buildings

7 Policy Approach

7.1 Policy principles

The Council has noted that provisions of the Act in regard to insanitary buildings reflect the Government's broader concern with the health and safety of people occupying buildings that may be considered to be insanitary. This is particularly so in the older stock of buildings in the Waitakere City. The Council is committed to ensuring that Waitakere City is a safe place to live and work. The insanitary building issues have a strong relationship with Council's strategic priorities for a safe city and first call for children. The Council has noted that the development of an insanitary building policy is to be undertaken by TAs independently and has responded accordingly. This policy has been developed after due consultation with Waitakere City Council ratepayers and stakeholders in accordance with section 83 of the Local Government Act 2002.

7.2 Overall approach

Waitakere City is experiencing strong growth which is placing considerable pressure on the availability of both privately owned and rental accommodation. This has resulted in an identifiable trend of garages, basements and sleep outs being illegally converted into minor household units that are then rented out. Lacking any consent, these conversions are often not undertaken in accordance with the building code. This may cause problems in terms of the danger posed for people living in these spaces by inappropriate construction methods or materials. Such dangers may include dampness or inadequate sanitary facilities which may lead to insanitary conditions

where there is a reasonable likelihood of a person becoming ill as a result of the condition of the building.

The Council is actively involved in educating the public on the need to discuss their development plans with Council and to obtain building consent where Council deems that is necessary prior to any works commencing. This is particularly important in order to avoid creating insanitary conditions that could be injurious to the health of occupants, particularly children and the elderly. For instance this is exemplified by conversions of buildings into minor household units or other such smaller dwellings where safety risks are likely to arise from a change in use. Council has a policy of initiating enforcement action under the relevant statutes, in this case the Act when dealing with insanitary buildings. This provides a strong message to the public that Council places paramount importance on safety of residents in the community. This stance also creates a strong message of deterrence for those property owners who do not seek Council's advice prior to undertaking building works.

7.3 Identifying insanitary buildings

The Council will:

- Respond to and investigate all building complaints received;
- Identify from these investigations any buildings that may be considered to be insanitary;
- Inform the owner(s) of the building to take action to prevent the building from remaining insanitary;
- Liaise with the Auckland Regional Public Health Service (Medical Officer of Health) when required to assess whether the occupants may be neglected or infirm.

7.4 Assessment criteria

The Council will assess insanitary buildings in accordance with s123 of the Act and established case-law as well as the building code:

The Council will:

- Investigate as to whether the building is occupied;
- The use to which the building is put;
- Whether the insanitary conditions pose a reasonable probability of danger to the health of any occupants;

Considerations as to insanitary assessment where a building is occupied may include:

- Adequate sanitary facilities for the use;
- Adequate drinking water;
- Separation of use for kitchen and other sanitary facilities;
- Likelihood of moisture penetration;
- Construction materials;
- Defects in roof and walls;
- The degree to which the building is offensive to adjacent and nearby properties.

In accordance with the Building Code the following will be assessed:

- E2 External Moisture
- G1 Water Supplies
- G1 Personal Hygiene

7.5 Taking action and dealing with building owners

The Council will:

- Advise and liaise with the owner(s) of the buildings identified as being insanitary;
- Where the building is found to be insanitary:
 - Attach written notice to the building requiring work to be carried out on the building, with a time stated on the notice that is not less than 10 working days, to prevent the building from remaining insanitary;
 - Give copies of the notice to the building owner(s), occupier, and every person who has an interest in the land, or is claiming an interest in the land, as well as the New Zealand Historic Places Trust, if the building is a heritage building.
- Where the insanitary conditions are the result of non consented work the owner(s) will be formally requested to provide an explanation as to how the work occurred and who carried it out.
- Contact the owner(s) at the end of the expiry of the time period set down in the notice in order to gain access to the building to ascertain whether the notice has been complied with.
- Determine if enforcement action should be pursued under the Act if the requirements of the notice are not met within a reasonable period of time

If it is considered that immediate action is required to fix insanitary conditions the Council will:

- Cause any action to be taken to fix those insanitary conditions; and
- Take action to recover costs from the owner(s) if the Council must undertake works to remove the insanitary conditions;
- The owner(s) will also be informed that the amount recoverable by the Council will become a charge on the land on which the building is situated.

All owners have a right of appeal as defined in the Act, which can include applying to the Department of Building and Housing for a determination under s 177(e) of the Act.

7.6 Interaction between insanitary building policy and related sections of the Building Act 2004.

7.6.1 Section 41: Building consent not required in certain cases.

In cases where a building is assessed as being immediately insanitary the Council may not require building consent to be obtained for any building work required to fix the insanitary conditions immediately. However, prior to any action being undertaken it is imperative that building owners discuss any works with the Council.

7.7 Recording of insanitary buildings

Any buildings identified as being insanitary will have a requisition placed on the property file for the property on which the building is situated until the insanitary condition has been removed.

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

- Notice that the building is insanitary;
- Copy of letter to owner, occupier, and any other person that the building is insanitary;
- Copy of the notice given under s124(1) of the Act that identifies the work to be carried out on the building and the timeframe given to fix those insanitary conditions;
- Any report as to the completed works and how the situation was rectified.

7.8 Economic impact of the policy

Due to the low number of insanitary buildings encountered annually by the Council (approximately 20 confirmed out of 100 complaints), and the similarity between the obligations of TAs as to insanitary buildings under the Building Act 2004 and the Building Act 1991, the economic impact of this policy is considered to be negligible.

7.9 Access to information

Information concerning insanitary buildings will be contained on the relevant LIM.

In granting access to information concerning insanitary buildings Waitakere City Council will conform to the requirements of the Local Government Official Information and Meetings Act 1987 and the Local Government Act 2002.

8 Priorities

The Council will allocate priority to buildings where it has been determined that immediate action is necessary to fix insanitary conditions. Immediate action will be required in those situations to fix those insanitary conditions such as prohibiting occupation of the property, put up a hoarding or fence and taking prosecution action where necessary.

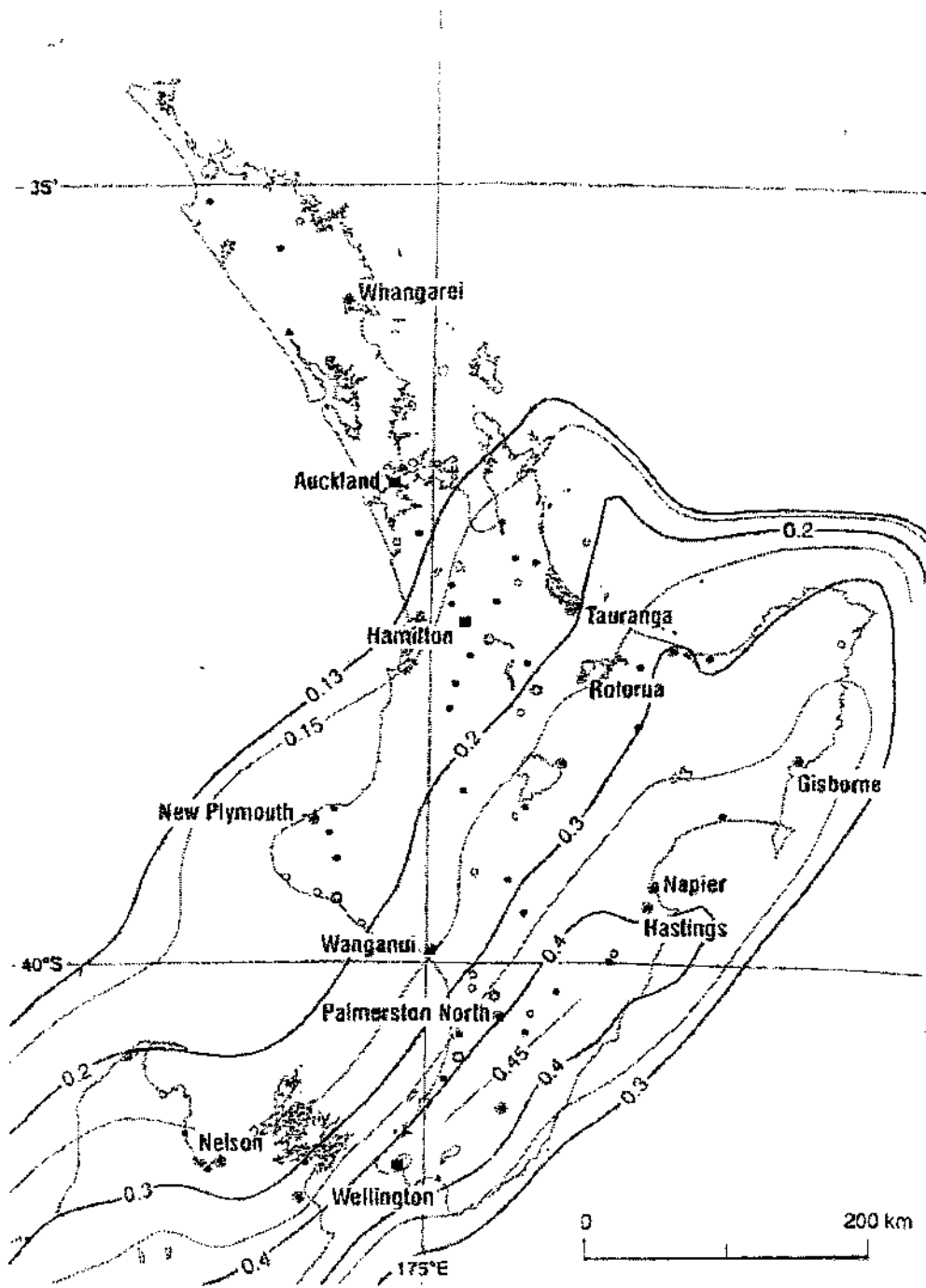
Buildings that are determined to be insanitary, but not requiring immediate action to fix those insanitary conditions, will be subject to the minimum timeframes to prevent the building from remaining insanitary (not less than 10 days) as set out in s124(1)(c) of the Act.

9 Heritage Buildings

Heritage buildings are those identified in the Council's District Plan: Heritage Appendix, Marae, buildings listed in the New Zealand Historic Places Trust Register, by way of a Heritage Covenant or Heritage Order. Heritage is considered to be of national importance under section 6(f) of the Resource Management Act 1991 and this Policy must give sufficient consideration to heritage within this Policy in accordance with section 131(2)(c) of the Act.

However, no special dispensation will be afforded to heritage buildings under this Policy. Heritage buildings will be assessed in the same way as other potentially dangerous buildings and as per sections 121 and 123 of the Act. Pursuant to section 125(2)(f) a copy of any notice issued under section 124 of the Act will be sent and discussions will be entered into with owner, the Council's Heritage Adviser (where the building is listed in the Heritage Appendix to the District Plan, or where the owners wish for it to be considered as such) and the Historic Places Trust (where the building is listed in their register or they have a special interest in the status of the building). Council will work with building owners to identify a mutually acceptable way forward to meet heritage objectives and the Act as near as is reasonably practicable.

Following the consultation period with the owners, notices will be served requiring improvement within a stated (and preferably agreed) time-frame.. For heritage buildings demolition will be the last resort. Any upgrading work to be undertaken in respect of heritage buildings identified in the Council's District Plan: Heritage Appendix, Marae, and buildings listed in the New Zealand Historic Places Trust Register must take into account the principles of the International Council on Monuments and Sites New Zealand Charter, advice from the Council's Heritage Adviser and the Historic Places Trust. In particularly important cases, public consultations will be included in the process.

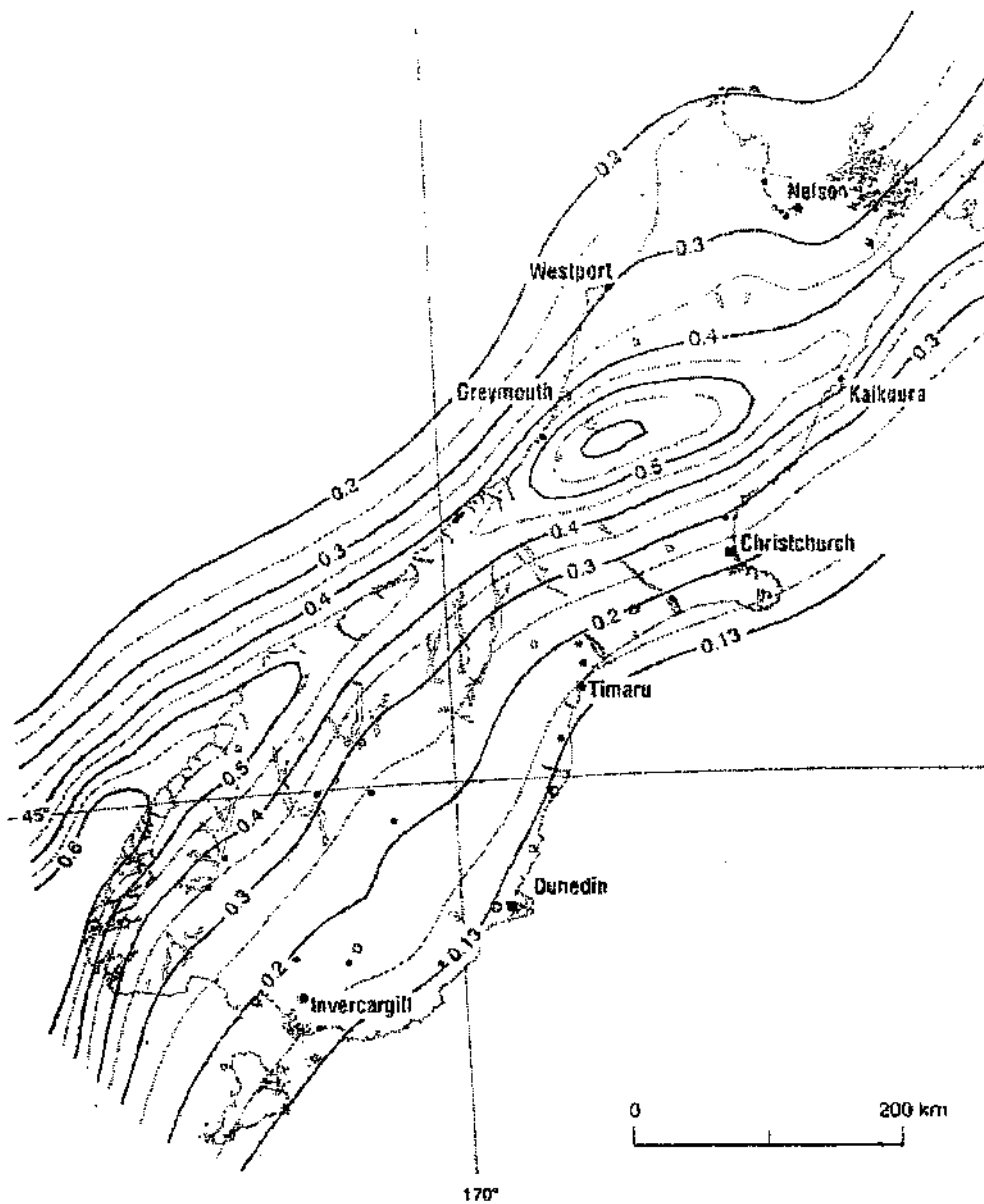


NOTE: Circles and squares correspond to towns and cities.

FIGURE 3.3 HAZARD FACTOR, Z, FOR THE NORTH ISLAND

(Appendix A1)

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NOTE: Circles and squares correspond to towns and cities.

FIGURE 3.4 HAZARD FACTOR, Z, FOR THE SOUTH ISLAND

3.1.5 Return period factor

The return period factor, R , for the serviceability limit state or R_u for the ultimate limit state, shall be obtained from Table 3.5 for the return period or probability of occurrence appropriate for the limit state under consideration as prescribed in Table 3.3 of AS/NZS 1170.0.

(Appendix 2)

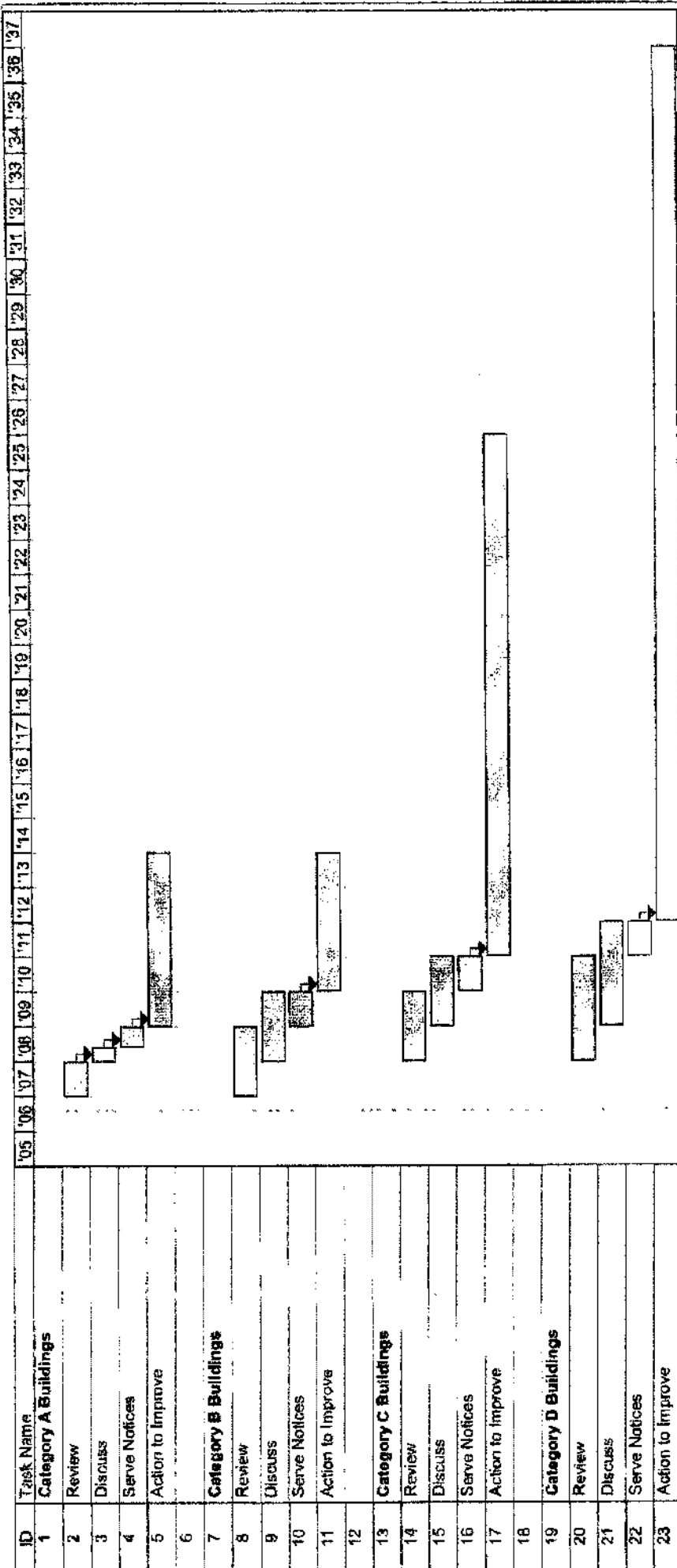
A21

A2

TABLE 3.2
IMPORTANCE LEVELS FOR BUILDING TYPES—NEW ZEALAND STRUCTURES

Importance level	Comment	Examples
1	Structures presenting a low degree of hazard to life and other property	Structures with a total floor area of <math><30\text{ m}^2</math> Farm buildings, isolated structures, towers in rural situations Fences, masts, walls, in-ground swimming pools
2	Normal structures and structures not in other importance levels	Buildings not included in Importance Levels 1, 3 or 4 Single family dwellings Car parking buildings
3	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 education 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 (including shops), industrial, office and retailing buildings designed to accommodate more than 5000 people and with a gross area greater than 10 000 m^2 (i) Public assembly buildings, theatres and cinemas of greater than 1000 m^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
4	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 Level 4 Designated emergency shelters, designated emergency centres and ancillary facilities Buildings and facilities containing hazardous materials capable of causing hazardous conditions that extend beyond the property boundaries
5	Special structures (outside the scope of this Standard—acceptable probability of failure to be determined by special study)	Structures that have special functions or whose failure poses catastrophic risk to a large area (e.g. 100 km^2) or a large number of people (e.g. 100 000) Major dams, extreme hazard facilities

(Appendix 3)
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Task	External Tasks
Critical Task	Project Summary
Progress	Group By Summary
Milestone	Deadline
Summary	

(Appendix 8)

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Appendix :

Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005

Regulation 5: Change the use: what it means

For the purposes of sections 114 and 115 of the Act, change the use, in relation to a building, means to change the use (determined in accordance with regulation 6) of all or a part of the building from one use (the old use) to another (the new use) and with the result that the requirements for compliance with the building code in relation to the new use are additional to, or more onerous than, the requirements for compliance with the building code in relation to the old use.

Regulation 6: Uses of buildings for purposes of regulation 5

- (1) For the purposes of regulation 5, every building or part of a building has a use specified in the table in Schedule 2.
- (2) A building or part of a building has a use in column 1 of the table if (taking into account the primary group for whom it was constructed, and no other users of the building or part) the building or part is only or mainly a space, or it is a dwelling, of the kind described opposite that use in column 2 of the table.

(Appendix B1)

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**Schedule 2
Uses of all or parts of buildings**

Regulation 6

Uses related to crowd activities

Use	Spaces or dwellings	Examples
CS (Crowd Small)	enclosed spaces (without kitchens or cooking facilities) where 100 or fewer people gather for participating in activities	cinemas (with qualifying spaces), art galleries, auditoria, bowling alleys, churches, clubs (non-residential), community halls, court rooms, dance halls, daycare centres, gymnasia, lecture halls, museums, eating places (excluding kitchens), taverns, enclosed grandstands, indoor swimming pools
CL (Crowd Large)	enclosed spaces (with or without kitchens or cooking facilities) where more than 100 people gather for participating in activities, but also enclosed spaces with kitchens or cooking facilities and where 100 or fewer people gather for participating in activities	cinemas (with qualifying spaces), schools, colleges, and tertiary institutions, libraries, nightclubs, restaurants and eating places with cooking facilities, theatre stages, opera houses, television studios (with audience)
CO (Crowd Open)	spaces (other than those below a grandstand) for viewing open air activities	open grandstands, roofed but unenclosed grandstands, or uncovered fixed seating
CM (Crowd Medium)	spaces for displaying or selling retail goods, wares, or merchandise	exhibition halls, retail shops, supermarkets, or other stores with bulk storage or display

Uses related to sleeping activities

Use	Spaces or dwellings	Examples
SC (Sleeping Care)	spaces in which people are provided with special care or treatment required because of age, or mental or physical limitations	hospitals, or care institutions for the aged, children, or people with disabilities
SD (Sleeping Detention)	spaces in which people are detained or physically restrained	care institutions for the aged or children and with physical restraint or detention, hospitals with physical restraint or with detention quarters, detention quarters in police stations, prisons
SA (Sleeping Accommodation)	spaces providing transient accommodation, or where limited assistance or care is provided for people	motels, hotels, hostels, boarding houses, clubs (residential), boarding schools, dormitories, halls, wharehous
SR (Sleeping)	attached and multi-unit residential	multi-unit dwellings, flats, or

(Appendix B2)
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Uses related to sleeping activities

Use	Spaces or dwellings	Examples
Residential)	dwellings, including household units attached to spaces or dwellings with the same or other uses, such as caretakers' flats, and residential accommodation above a shop	apartments
SH (Sleeping Single Home)	detached dwellings where people live as a single household or family, including attached self-contained spaces such as granny flats when occupied by a member of the same family, and garages (whether detached or part of the same building) if primarily for storage of the occupants' vehicles, tools, and garden implements	dwellings or houses separated from each other by distance

Uses related to working, business, or storage activities

Use	Spaces or dwellings	Examples
WL (Working Low)	spaces used for working, business, or storage—low fire load ¹	places for manufacturing, processing, or storage of non-combustible materials or materials having a slow heat release rate, cool stores, covered cattle yards, wineries, places for grading, storage, or packing of horticultural products, places for wet meat processing, banks, hairdressing shops, beauty parlours, places for provision of personal or professional services, dental offices, laundries (self-service), medical offices, business or other offices, police stations (without detention quarters), radio stations, television studios (no audience), places for small tool and appliance rental and service, telephone exchanges, places for dry meat processing
WM (Working Medium)	spaces used for working, business, or storage—medium fire loads and slow, medium, or fast fire growth rates	places for manufacturing and processing of combustible materials not listed in the rows relating to WL, WH, or WF, including bulk storage up to 3 m high (excluding foamed plastics) ²
WH (Working High)	spaces used for working, business, or storage—high fire load ¹ and slow, medium, or fast fire growth rates	chemical manufacturing or processing plants, distilleries, feed mills, flour mills, lacquer factories, mattress factories, rubber processing plants, spray painting operations, places for plastics manufacturing, or bulk storage of combustible materials over 3 m high (excluding foamed plastics) ²
WF (Working Fast)	spaces used for working, business, or storage—medium or high fire load ¹ and ultra fast fire growth rates	areas involving significant quantities of highly combustible and flammable or explosive materials which because of their inherent characteristics constitute a special fire hazard, including bulk plants for flammable liquids or gases, bulk storage

Uses related to working, business, or storage activities

Use	Spaces or dwellings	Examples
		warehouses for flammable substances, and places for bulk storage of foamed plastics ²

Uses related to intermittent activities

Use	Spaces or dwellings	Examples
IA (Intermittent Low)	spaces for intermittent occupation or providing intermittently used support functions—low fire load ¹	car parks, garages, carports, enclosed corridors, unstaffed kitchens or laundries, lift shafts, locker rooms, linen rooms, open balconies, stairways (within the open path) ³ , toilets and amenities, and service rooms incorporating machinery or equipment not using solid-fuel, gas, or petroleum products as an energy source
ID (Intermittent Medium)	spaces for intermittent occupation or providing intermittently used support functions—medium fire load ¹	maintenance workshops and service rooms ⁴ incorporating machinery or equipment using solid-fuel, gas, or petroleum products as an energy source

Definitions of terms in table

- 1 **Fire load** has the meaning given to it by clause A2 of the building code.
- Foamed plastics** means combustible foamed plastic polymeric materials of low density (classified as cellular polymers) manufactured by creating a multitude of fine voids distributed more or less uniformly throughout the product (for example, latex foams, polyethylene foams, polyvinyl chloride foams, expanded or extruded polystyrene foams, polyurethane foams, and polychloroprene foams).
- 2
- 3 **Open path** has the meaning given to it by clause A2 of the building code.
- Service rooms** means spaces designed to accommodate any of the following:
 - (a) boiler or plant equipment:
 - (b) furnaces, incinerators, or refuse:
 - (c) caretaking or cleaning equipment:
 - 4 (d) airconditioning, heating, plumbing, or electrical equipment:
 - (e) pipes:
 - (f) lift or escalator machine rooms:
 - (g) similar equipment, items, features, rooms, or services.

Rebecca Kitteridge,
Acting for Clerk of the Executive Council.

B.3 REVIEW OF REPRESENTATION FOR AUCKLAND REGIONAL COUNCIL

S181-04-04

Ann Magee, Executive Manager, Chief Executive's Office; and Sarah Johnstone, Strategic Policy Advisor, Organisational Policy & Strategy: 20 July 2006

The report has been prepared in accordance with the provisions of section 76 and 77 of the Local Government Act 2002, having regard to section 79.

EXECUTIVE SUMMARY

The Council is required to review its representation arrangements under the Local Electoral Act 2001. This paper presents detailed census area unit analysis of the three constituency options and the status quo option for representation which were short-listed at the RSP Committee meeting on 15 May 2006. The report then presents the advantages and disadvantages of the options. Each of the options are described in terms of their proposed number of constituencies, proposed name and boundaries of each constituency and the number of members proposed to be elected by the electors of each constituency.

Analysis concludes that the modified status quo arrangements, sub-option 5A or 5D is probably the best in terms of the criteria and meeting the legislative requirements. However, the analysis of the options also includes a policy case for retaining the status quo arrangements, reflecting the request of the RSP Committee at its meeting on 15 May 2006.

The report asks the Council to select a single preferred option so that it can be publicly notified and subject to a one month public submission period running from 31 July – 31 August 2006. It also asks for the Council to re-establish the Electoral Issues sub-committee in order that verbal submissions can be heard between 14-15 September 2006, and to nominate 3 Councillors for membership of this sub-committee.

B.3.1 PURPOSE OF THIS REPORT

This report continues the process of the council's review of its representation arrangements as required under the Local Electoral Act 2001. The report seeks Council decisions on a preferred constituency option for the region, which will then be publicly notified and subject to a one-month submission period.

B.3.2 BACKGROUND

Legislative Requirements

This review is the final one of three required to be completed by the Council under the Local Electoral Act 2001 (the Act). The Council has already completed the reviews relating to a) establishment of a Maori constituency and b) change of electoral systems. For the remaining review of representation, a resolution is required from Council for a proposed arrangement of constituencies and membership numbers by 8th September 2006 (s.19I and 19M of the Act). The resolution must cover the organisation of constituencies and the allocation of Councillor positions to these constituencies.

**ORDER PAPER
MONDAY 24 JULY 2006
COUNCIL**

The statutory criteria for the representation review are set out in section 19U and 19V of the Act. Section 19U requires Council to ensure that:

- The number and boundaries of constituencies provide effective representation of communities of interest. For regional councils this means that the region must be divided into constituencies and that each constituency must elect at least one member.
- Constituency boundaries coincide with Statistics New Zealand meshblock areas.
- Constituency boundaries coincide with territorial authority boundaries or these authorities' ward boundaries (so far as is practicable).

Section 19V sets out criteria which the Council should consider in determining fair representation. These criteria are:

- That the ratio of population to elected member in any constituency cannot vary by more than 10 percent (plus or minus) from that ratio for the whole region.
- Flexibility around the application of this 10 percent plus or minus rule where Council believes that communities of interest may be more effectively represented by a relaxation of this rule. (s.19V(3)(B)). However, communities of interest are not defined in the Act. References to community within the Act relate to geographic communities around which a Community Board may be established.

The Local Government Commission (LGC) has specific roles and powers in the representation review process set out in section 19Q-S of the Act which state:

- If there are any appeals or objections received on the council's final proposal, the council must forward all appropriate information to the LGC (copies of resolution, public notices, all submissions, all appeals and objections)
- The LGC then makes a determination which is binding on the council.

The LGC to date has placed most weight on proposals complying with the plus or minus ten percent rule.

The Act requires that for the purposes of this review, calculations are based on the ordinarily resident population as shown by the figures for the most recently published census [s.19X(1)]. In order to keep pace with population change, the Act also requires that subsequent to the first determination made for this review in 2006, the arrangements be reviewed at least once in every period of 6 years after the first determination [s. 19I(2)].

Risks With Exceptions to Plus or Minus Ten Percent Rule

Guidance has been prepared by the Regional Affairs Committee of Local Government New Zealand (LGNZ) to assist councils who may wish to pursue an exemption to the plus or minus ten percent rule. However, the guidance notes that there is no guarantee that using their guidance will ensure LGC approval of a proposal which is inconsistent with the +/- 10 percent rule. It would therefore be wise for the Council to consider a second fall-back option which is compliant with the plus or minus ten percent rule, should a resolution for the status quo representation arrangements be overturned by the LGC.

**ORDER PAPER
MONDAY 24 JULY 2006
COUNCIL**

Previous Papers to Regional Strategy and Planning Committee

The first committee paper outlining the process for the review, legislative requirements and process for the submissions period was received at the 20 March 2006 RSP Committee meeting. The Committee resolved to use the following criteria in evaluating viable options:

- Does the option comply with the plus or minus 10 percent rule?
- Does the option align to territorial authority boundaries (where practicable)? If no, is there a justification for departure rather than just to equalise numbers?
- Does the option result in constituencies where the total populations in each are of a size which facilitates effective representative democracy?
- Does the option consider maintaining existing councillor numbers given the size and complexity of ARC's business and its ability to meet present and future needs in relation to any statutory responsibility?
- Does the option take into account the representation of specific communities of interest?

The second committee paper outlining a range of conceptual options (according to the number of constituencies and communities of interest represented) and 6 options compliant with the criteria for fair representation was received at the 15 May 2006 RSP Committee meeting.

At this meeting the Committee agreed:

- "a) That the Committee would maintain at this stage its existing councillor numbers at 13 for the purposes of the representation review.*
- b) That the Committee does not favour significantly more populous, larger constituencies than are currently represented for the ARC.*
- c) That the Committee considers that the status quo best achieves outcomes relating to provisions for community of interest and provision for effective representation.*
- d) That options three, five and six and the status quo be considered options for further detailed census area unit analysis.*
- e) That the potential for subdividing the Auckland City constituency into two be considered.*
- f) That criteria considered on the options include:*
 - i. Fairness of representation in relation to cross-boundary responsibilities affecting Franklin District Council in which the ARC has a role.*
 - ii. Process, practicality and costs of an electoral process involving constituencies not aligned with TA boundaries, particularly with respect to maintenance of a suitable electoral roll.*