

SUBMISSION FORM

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

RECEIVED 16 NOV 2005 Legal.
Office Use Only
Submission No: _____
Date Received: _____
File No: _____

To: Waitakere City Council, Private Bag 93-109 Henderson, Waitakere City
Fax : (09) 836-8001 Email : info@waitakere.govt.nz

Any Submissions must be received by the deadline of 4pm Monday 14 November 2005

SUBMITTER DETAILS

Name:	Alina Hughes, Principal Advisor: Heritage				
Address:	Waitakere City Council				
Address for Notices: (if different from above)	Private Bag 93109, Henderson, Waitakere City				
Phone: Business	836-8000	ext	Home	N/A	Fax 836-8043
	8798				

SUBMISSION DETAILS

1. I / We support or oppose (tick one box only)

The Draft Earthquake-prone, Dangerous and Insanitary buildings Policy 2006-2001

2. The particular part(s) of the policy which I support or oppose are:
(clearly indicate part(s) of the policy you support or oppose, or which you desire to have amendments made)

Policy 1.5.1 The required level of structural improvement should have a specific reference to heritage buildings. If heritage buildings are required to be strengthened to at least 67 percent of the new building standard, this will create a significant compliance cost to owners of heritage buildings and in many cases, will force landowners to also seek resource consent to either demolish or alter their buildings. Alterations required to meet the 67 percent standard may result in alterations that would not be sympathetic to the overall heritage, aesthetic and architectural values. The policy should specifically exclude heritage buildings comprising of 2 or more storeys and containing 3 or more household units – see Section 122(2). The bylaw should adopt a passive policy for heritage churches and buildings in the Open Space Environment (parks) given Auckland's very low risk of earthquakes. For two- storey multi-unit or commercial buildings (not meeting s122(2)) constructed from brick or re-inforced concrete such as the New Lynn Hotel and Lopdell House the minimum level of required structural improvement should be 33 percent of the new building standard.

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The earthquake prone building policy should be modified to allow a passive approach for heritage buildings that are one storey (irrespective of materials). A passive policy would better reflect the very low risk of earthquakes in Auckland. The majority of these buildings are in private ownership and used for residential/religious purposes and have been built prior to the 1930s. If the policy identifies these buildings as earthquake prone and lists this data on LIMS, then it will be increasingly difficult to insure, sell or own heritage buildings. This also has liability implications for the Council's stock of heritage buildings if it is unable to structurally improve its stock within 2 years.

Policy 1.6.1- Alterations to existing building statement should be altered to reflect a revised standard of compliance for only specific heritage buildings. Policy 4.6.2 would also require consequential changes.

Policy 1.8 – Economic impact of policy should suggest non-regulatory policies will be developed alongside the bylaw. Council may wish to consider making an earthquake strengthening fund available to landowners of buildings identified to be at risk. Wellington City Council offers financial assistance to landowners of buildings to partially fund engineer's inspection fees. Such a fund would assist in the implementation of this bylaw.

Policy 2- Priorities. Council should allow for three years to implement changes to heritage buildings as landowners may need to apply to external organisations such as the Trusts for financial assistance in upgrading their buildings.

Policy 3 – should be revised to state that heritage buildings form an important link between the past and the present. Waitakere City Council believes that a passive policy for single storey heritage buildings and two-storey timber buildings is appropriate given Auckland's very low risk of earthquakes. However, structural strengthening of commercial and mixed use multi-storey buildings is appropriate, although the level of compliance should be lower than the standard for new buildings. This approach has been developed to balance protecting the heritage significance of buildings with public safety concerns. This policy recognises that some concessions are required in meeting building standards whilst balancing statutory imperatives under the Resource Management Act 1991 to treat heritage as a matter of national importance. The Council will endeavour to work with landowners and the Historic Places Trust to ensure that the intrinsic heritage values of buildings are not adversely affected by structural improvement measures and destruction of heritage buildings should be a last resort.

(continue on separate sheet if necessary)

3. The reasons for making my submission in ~~support~~ or opposition are:
(state in summary the nature of your submission giving clear reasons)

Council has a duty under section 6(f) of the Resource Management Act to recognise heritage as a matter of national importance. Whilst the Building Act requires Councils to specifically develop policies on earthquake prone buildings, central government has not recommended a "one size fits all approach." Given the very low risk of earthquakes in the Auckland region and this Council's commitment to support heritage, it would be inappropriate to develop a policy that would make owning a heritage property a financial liability.

(continue on separate sheet if necessary)

4. I / We seek the following decision from Council:
(give details, including the nature of any amendments sought to the policy)

I seek the amendments to the policy outlined in my submission i.e. that the policy is altered to a passive response for single storey heritage buildings and a lower standard (33%) of compliance for

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multi-storey commercial or mixed use heritage buildings. Other consequential changes as outlined in the submission should also be made to the policy. In addition, the Council should consider making a fund available to landowners to assist in meeting the costs of an engineer's assessment for earthquake prone buildings. The quantum of such a fund and the criteria for its availability should be the subject of a report to Council. This would assist in the implementation of the bylaw.

(continue on separate sheet if necessary)

5. I wish to be heard by Council's Planning & Regulatory Committee who will consider any oral submissions at hearings scheduled for 9.30am 22 November, and 1pm 23 November 2005.

(After the Planning and Regulatory Committee has adopted the Earthquake-prone, Dangerous and Insanitary buildings Policy 2006-2011 a public notice will be placed in the local newspapers.)

(Approximately 10 minutes will be allowed for any oral submission, any extension to this time will be at the discretion of the Chairperson)

Yes No

6. If others made a similar submission, I would be prepared to consider being heard jointly with them

Yes No

7. I have attached separate sheets / additional information

Yes No

Signed Alina Hughes, WCC Date 14/11/05
(Your name)

Completion Instructions

Submissions must be received by the deadline of 4pm Monday 14 November 2005

By Post : Waitakere City Council, Private Bag 93-109 Henderson **By Fax** : (09) 836-8001

By Email : info@waitakere.govt.nz

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**SUBMISSION ON THE DRAFT EARTHQUAKE PRONE, DANGEROUS
AND INSANITARY BUILDINGS POLICY 2006 – 2011 BY ARANNE
DONALD, 17 TARAIRE ROAD, TITIRANGI.**

In general I support the preparation of a policy to cover the above situations, however I am very disappointed in the quality and detail of the policy as it relates to heritage buildings in our city. There are a number of buildings owned by council (or potentially owned by Council in the future) that will be significantly affected by the policy including Lopdell House, New Lynn Hotel and Clarke House, all Cat I heritage buildings.

The policy appears to have been drafted without input from the Historic Places Trust or Council's own Heritage Adviser. The policy as it relates to heritage buildings is very short on detail and does not give me confidence that heritage buildings will be given adequate consideration and assistance for them to attain a reasonable standard of safety while safeguarding their heritage values. The policy is very woolly and very open to interpretation. To date Council's record of and reputation for dealing with heritage buildings (including the ones it owns) has been very poor, the attitude being that it should wherever possible get someone else to pay for it and as a result the stewardship of our heritage leaves a lot to be desired.

The policy as it relates to heritage buildings needs to be expanded and more detail given as to how certain situations will be handled.

I support the commitment of working with owners before notices are issued. This preliminary consultation where it relates to a heritage building should also bring in heritage agencies (such as HPT) and also heritage professionals/expertise. (I have seen many instances where an engineer with no heritage knowledge makes a proposal that not only is very expensive but is completely inappropriate to a heritage building. When an engineer with heritage expertise is then brought in, the solution is often a lot less costly and still retains the heritage values, the Auckland Town Hall is an example)

I would like to see the Council commit to providing assistance to owners of heritage buildings faced with major costs for upgrading to meet the new requirements and for the solutions required to meet those requirements recognise that stock solutions are not always appropriate. A problem solving approach is needed to ensure that the standard is met using appropriate solutions which retain the heritage values and significance of the building.

The decision I would like the Council to make is to seek advice from HPT and the Council's own Heritage Adviser before expanding the heritage buildings part of the policy. (I understand that the Dept of Building and Housing is working with the HPT to provide guidance on the preparation of the policy, this guidance when ready should be consulted).

I would also like to see the council provide more assistance for owners of heritage buildings faced with major upgrading costs which could lead to the loss of the building because the owner simply cannot afford the cost of

upgrading. Heritage buildings are identified and protected in the public interest and there is a need for Council to recognise that this can place significant constraint and cost on an owner. Many Councils have set up heritage funds to assist owners of heritage buildings and some of these specifically target this funding to assist with upgrading buildings for earthquake etc. The form of assistance could be eg. Assistance with the cost of seeking proper heritage advice (heritage engineer, heritage architect, fire advice etc, low interest loans, grants, rates holiday while the work is carried out etc.)

I would like to be heard in support of my submission.

Yours sincerely
Aranne Donald
17 Taraire Road
Titirangi
Ph 817 5705 (hm), 486 8585 x7362 (wk)
Email: aranne.Donald@northshorecity.govt.nz

Setareh Masoud-Ansari

From: Waitakere City Council
Sent: Monday, 14 November 2005 4:32 p.m.
To: Max Wilde
Cc: Setareh Masoud-Ansari
Subject: FW: Submission on Draft Earthquake Prone etc Policy

Importance: High



SUBMISSION ON
THE DRAFT EARTHQ.

FYI

-----Original Message-----

From: Aranne Donald [mailto:Aranne.Donald@northshorecity.govt.nz]
Sent: Monday, 14 November 2005 16:01 p.m.
To: Waitakere City Council
Subject: Submission on Draft Earthquake Prone etc Policy
Importance: High

Please receive attached submission.

<<SUBMISSION ON THE DRAFT EARTHQUAKE PRONE.doc>>

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If received in error you are asked to destroy the e-mail and contact the sender immediately.

Your assistance is appreciated.

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WAITAKERE CITY COUNCIL

25 NOV 2005

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Submission
Draft Earthquake-prone, Dangerous & Insanitary Buildings Policy
2006-2011
Waitakere City Council

To: Waitakere City Council
Private Bag 93 109
Henderson
Waitakere City

Name: New Zealand Historic Places Trust Pouhere Taonga

Address: Private Box 105 291
Auckland

Submission 1

The provision to which the submission relates is:

The draft policy as a whole.

The submission is:

The Trust has serious concerns with the policy as currently drafted and the impact it will have on buildings of heritage value within the Waitakere City. The Waitakere City Council has a duty under Section 6(f) of the Resource Management Act 1991 to recognise and provide for heritage as a matter of national importance.

It is appropriate to balance the protection of buildings of heritage value with public safety concerns and to ensure these buildings are not adversely affected by excessive and unnecessary structural improvements or alternatively by unnecessary demolition, given the low risk of earthquakes in Auckland.

The following decision is sought:

Ensure buildings of heritage value are appropriately provided for within the policy.

Clearly state the demolition of buildings of heritage value would only be considered as a last resort.

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Submission 2

The provision to which the submission relates is:

Policy 1.5.1 - Required level of structural improvement.

Policy 1.6.1 – Section 112: Alterations to existing buildings.

Policy 1.6.2 – Section 115: Change of use.

The submission is:

The stated requirement to strengthen all buildings to at least 67% of the new building standard is considered an overly onerous requirement for buildings of heritage value.

The Building Act 2004 sets a minimum level of strength in existing buildings at 33% of the loadings code in place at the time of assessment.

The stated 67% requirement may, in many situations, create a significant cost to the owners of buildings of heritage value and may result in alterations not be sympathetic to the existing heritage value or alternatively result in the loss of the building completely through a Council required demolition.

The following decision is sought:

These policies should contain an exception for buildings of heritage value, with the required level of structural improvement to be assessed on a case by case basis.

Submission 3

The provision to which the submission relates is:

Policy 1.8 – Economic impact of policy

The submission is:

This policy should include the consideration of non-regulatory tools to be utilised by the Council.

The following decision is sought:

Non-regulatory tools should be developed such as an 'Earthquake Strengthening Fund' to help the owners of buildings of heritage value meet the requirements of this policy.

Submission 4

The provision to which the submission relates is:

Policy 2 - Priorities

The submission is:

The identified 'maximum time for strengthening or demolishing' for buildings of heritage value of two years is considered to be an unrealistic timeframe. Adequate time is required to ensure an appropriate heritage outcome is reached for these buildings, on a case by case basis.

The following decision is sought:


A longer period is identified within this policy.

The New Zealand Historic Places Trust would wish to be heard in support of these submissions.

It is noted that the hearings by the Council's Planning and Regulatory Committee have already been held.

It is also noted that the New Zealand Historic Places Trust Pouhere Taonga was **not** notified of this draft policy until 9 November 2005.

Signed on behalf of the New Zealand Historic Places Trust Pouhere Taonga by:


.....
Sherry Reynolds
General Manager Northern

23 November 2005

Chief Executive	
Corporate Services	
City Services Moselle	
Consultancy Services	
ECO WATER	
Strategic Group	
Consent Services	
Public Services	<input checked="" type="checkbox"/>

Address for service

New Zealand Historic Places Trust Pouhere Taonga
Private Box 105 291
AUCKLAND

Telephone No: 09 307 8896
Fax No: 09 303 4428
Email: mpatrick@historic.org.nz

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

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WAITAKERE CITY COUNCIL - EARTHQUAKE PRONE BUILDINGS

1 Policy approach

1.1 Policy principles

1.2 Overall approach

1.3 Identifying EPBs

1.4 Assessment criteria

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

1.6 Interaction between EPB policy and related sections of the Building Act 2004

1.7 Recording a building's EPB status

1.8 Economic impact of policy

1.9 Access to EPB information

2 Priorities

3 Heritage buildings

3.1 Special considerations and constraints

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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.

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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.

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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:

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- 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.

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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 <u>as such in the Council's District Plan, Heritage Appendix, Marae, and buildings listed in the New Zealand Historic Places Trust Register.</u> |
| 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.

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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.

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- 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.

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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.)

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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.

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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.

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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.

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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.

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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 20011, 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 20011, 5 years). |
| C. | Heritage buildings identified as such in the Council's District Plan: Heritage Appendix, Marae, and buildings listed in the New Zealand Historic Places Trust Register 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). |

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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, and buildings listed in the New Zealand Historic Places Trust Register. 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 believes 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.

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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.

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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.

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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

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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.

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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

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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;

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- o 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.

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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, and buildings listed in the New Zealand Historic Places Trust Register. 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.

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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.

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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

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8 Priorities

9 Heritage Buildings

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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

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

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 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

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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.

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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, and buildings listed in the New Zealand Historic Places Trust Register. Heritage is considered to be of national importance under section 8(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.

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As per s125 (2) (f) of the Act a copy of any notice issued under s124 of the Act will be sent to the New Zealand Historic Places Trust where a heritage building has been identified as an insanitary building.¶

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