



## **DANGEROUS, EARTHQUAKE-PRONE AND INSANITARY BUILDINGS POLICY**



**FIRST Adopted by Council on Thursday 21 September 2006**

**Reviewed during 2011 and amended as a result of the special consultative procedure**

**Due for review prior to November 2016**

<b>Section</b>	<b>Page</b>
1. INTRODUCTION AND BACKGROUND	1
2. BUILDING ACT PRINCIPLES	1-3
3. DEFINITIONS OF BUILDINGS COVERED BY THIS POLICY	3
121 Meaning of dangerous building	3
122 Meaning of earthquake-prone building	3-4
123 Meaning of insanitary building	4
4. OVERALL APPROACH	4
4.1 Policy Principles	4-5
4.2 District Characteristics	5-6
5. DANGEROUS AND INSANITARY BUILDINGS POLICY	6
5.1 Policy Approach	6
5.2 Identifying Dangerous or Insanitary Buildings	7
5.3 Assessment/Prioritisation Criteria	7
5.4 Investigation and Enforcement Process	7-9
5.5 Interaction Between This Policy and Related Sections of the Act	9
5.6 Record Keeping	9
6. EARTHQUAKE-PRONE BUILDINGS POLICY	9
6.1 Policy Approach	9-11
6.2 Identifying Earthquake-Prone Buildings	11
6.2.1 Building Consent Applications	11
6.2.2 Change the Use Applications	12
6.2.3 Complaints	12
6.3 Assessment and Strengthening Criteria	13
6.3.1 Assessment Process, Criteria and Cost	13-14
6.3.2 Strengthening Requirements	14-15
6.4 Liaison with Building Owners and Taking Action on Earthquake-Prone Buildings	15
6.5 Interaction between Earthquake-Prone Building Policy and Related Sections of the Act	16
6.5.1 Section 112: Alterations to Existing Building	16
6.6 Recording a Building's Earthquake-Prone Status	16
7. HERITAGE BUILDINGS	16-17
8. OBJECTIONS	17-18
8.1 Determinations	18
9. ECONOMIC IMPACT OF POLICY	18
10. REVIEW	18

## 1. INTRODUCTION AND BACKGROUND

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

This document sets out the policy adopted by Westland District Council in accordance with the requirements of the Building Act, 2004.

The policy is required to state:

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

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

In preparing this policy, Westland District Council has made extensive use of the Department of Building and Housing's guidance documents.

## 2. BUILDING ACT PRINCIPLES

Section 4 of the Building Act lays down the principles to be applied in performing functions or duties or exercising powers under the Act. The subclauses appropriate to this policy are as follows:

- (2) *In achieving the purpose of this Act, a person to whom this section applies must take into account the following principles that are relevant to the performance of functions or duties imposed, or the exercise of powers conferred, on that person by this Act:*
  - (a) *when dealing with any matter relating to 1 or more household units, —*
    - (i) *the role that household units play in the lives of the people who use them, and the importance of—*
      - (A) *the building code as it relates to household units; and*
      - (B) *the need to ensure that household units comply with the building*

code:

- (ii) *the need to ensure that maintenance requirements of household units are reasonable:*
- (iii) *the desirability of ensuring that owners of household units are aware of the maintenance requirements of their household units:*
- (b) *the need to ensure that any harmful effect on human health resulting from the use of particular building methods or products or of a particular building design, or from building work, is prevented or minimised:*
- (c) *the importance of ensuring that each building is durable for its intended use:*
- (d) *the importance of recognising any special traditional and cultural aspects of the intended use of a building:*
- (e) *the costs of a building (including maintenance) over the whole of its life:*
- (f) *the importance of standards of building design and construction in achieving compliance with the building code:*
- (g) *the importance of allowing for continuing innovation in methods of building design and construction:*
- (h) *the reasonable expectations of a person who is authorised by law to enter a building to undertake rescue operations or firefighting to be protected from injury or illness when doing so:*
- (i) *the need to provide protection to limit the extent and effects of the spread of fire, particularly with regard to—*
  - (i) *household units (whether on the same land or on other property); and*
  - (ii) *other property:*
- (j) *the need to provide for the protection of other property from physical damage resulting from the construction, use, and demolition of a building:*
- (k) *the need to provide, both to and within buildings to which section 118 applies, facilities that ensure that reasonable and adequate provision is made for people with disabilities to enter and carry out normal activities and processes in a building:*
- (l) *the need to facilitate the preservation of buildings of significant cultural, historical, or heritage value:*
- (m) *the need to facilitate the efficient use of energy and energy conservation and the use of renewable sources of energy in buildings:*
- (n) *the need to facilitate the efficient and sustainable use in buildings of—*

- (i) *materials (including materials that promote or support human health); and*
- (ii) *material conservation:*
- (o) *the need to facilitate the efficient use of water and water conservation in buildings:*
- (p) *the need to facilitate the reduction in the generation of waste during the construction process.*

### **3. DEFINITIONS OF BUILDINGS COVERED BY THIS POLICY**

The definitions of dangerous, earthquake-prone and insanitary buildings are set out in sections 121 - 123 of the Building Act 2004 as follows:

#### **121 Meaning of dangerous building**

- (1) *A building is dangerous for the purposes of this Act if,—*
  - (a) *in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause—*
    - (i) *injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or*
    - (ii) *damage to other property; or*
  - (b) *in the event of fire, injury or death to any persons in the building or to persons on other property is likely because of fire hazard or the occupancy of the building.*
- (2) *For the purpose of determining whether a building is dangerous in terms of subsection (1)(b), a territorial authority—*
  - (a) *may seek advice from members of the New Zealand Fire Service who have been notified to 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.*

#### **122 Meaning of earthquake-prone building**

- (1) *A building is earthquake prone for the purposes of this Act if, having regard to its condition and to the ground on which it is built, and because of its construction, the building—*
  - (a) *will have its ultimate capacity exceeded in a moderate earthquake (as defined in the regulations); and*
  - (b) *would be likely to collapse causing—*

- (i) *injury or death to persons in the building or to persons on any other property; or*
  - (ii) *damage to any other property.*
- (2) *Subsection (1) does not apply to a building that is used wholly or mainly for residential purposes unless the building—*
- (a) *comprises 2 or more storeys; and*
  - (b) *contains 3 or more household units.*

The definition of moderate earthquake is laid down in the Building Regulations, 2005 as:

*“... 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.”*

### **123 Meaning of insanitary building**

*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.*

## **4. OVERALL APPROACH**

### **4.1 Policy Principles**

Westland District Council has noted that provisions of the Building Act 2004 in regard to dangerous, earthquake-prone and insanitary buildings reflect the government’s broader concern with the health and safety of the public in buildings and, more particularly, the need to address human safety in the event of an earthquake.

Council is committed to ensuring that the Westland District is a safe and healthy place to live and work while also ensuring that the District continues to develop and

thrive. This policy supports the following outcomes from the Westland District Long Term Plan:

- Community Outcome – Health: Healthy communities with access to quality facilities and services.
- Community Outcome - Safety: A District that is a safe place to live.
- Community Outcome – Environment: The distinctive character of the environment is appreciated and maintained.
- Community Outcome – Identity: A “happening” region with a strong community spirit and distinctive lifestyle.

Westland District Council has also noted that the development of dangerous, earthquake-prone and insanitary building policies is up to each territorial authority to determine and has responded accordingly.

This policy was first developed and finalized after due consultation with Westland District Council ratepayers and stakeholders in accordance with Section 83 of the Local Government Act 2002. This process involved a submission period and an opportunity for submitters to be heard before the Council decided on final policy content. As a result of that consultative approach, the Council resolved that no part of this policy will apply to Council and Transit New Zealand infrastructure covered by an Asset Management Plan.

The review of the policy commenced in February 2011 with consultation with the public and building owners. The Council also took advice from a structural engineer who had experience with the aftermath and repair of buildings in Christchurch subsequent to the September 2010 and February 2011 earthquakes.

#### 4.2 District Characteristics

The built environment of the Westland District has developed over the last 150 years. European settlement has largely been based around the original early settlements. Construction of buildings has been according to the standards and styles of the period.

Local buildings comprise a range of types and ages with construction techniques ranging from wood and unreinforced masonry buildings to a few modern multi-storey steel and concrete buildings. The great majority of buildings are one or two-storey only.

Westland District Council has experienced a period of steady growth that reflected the confidence in greater agricultural productivity, a growth in tourist activity, increased land prices and an influx of new residents.

Westland District is in a zone of high to moderate seismic activity, with the alpine fault bordering the district, but due to the mountainous terrain – a very low density of building stock exists close to the Main Divide. Farm Buildings and Recreational Huts make up the greater percentage of buildings in this higher risk location of the District. However, the townships of Franz Josef/Waiau and Fox Glacier are in very close proximity to the alpine fault.

It is estimated that a movement in the alpine fault could produce shaking intensities in the region of 8 on the Modified Mercalli Scale over much of the District with intensities of 9 on the Mercalli Scale being experienced in the immediate vicinity of the fault line. (Reference:- “Probability and Consequences of the Next alpine fault Earthquake – Geotech Consulting Ltd”). Additionally, it is estimated that the next large to great earthquake rupture has a likelihood of being between 25% - 33% probability in the next 50 years.

In developing this policy the Westland District Council must balance the need to protect public health and safety against the economic implications of requiring significant remedial building work and the community’s desire to protect heritage structures.

Dangerous and Insanitary Buildings are addressed in this first part of the Policy, while Earthquake Risk Buildings are addressed in the second part.

## 5. **DANGEROUS AND INSANITARY BUILDINGS POLICY**

### 5.1 Policy Approach

Conversions of existing buildings, lack of maintenance, lack of appropriate facilities, overcrowding and un-consented alterations can cause serious health and safety problems.

The failure to obtain a building consent or the use of buildings for unauthorised purposes can pose a danger to the occupants as well as users. Dangers may include danger of collapse, inadequate fire protection or means of escape.

The development of the New Zealand Building Code and associated standards creates, over time, an effective “raising of the bar” for the standards which buildings

and Building Owners must meet. Existing buildings must be maintained appropriately in order to continue to meet such standards.

The Council is actively involved in educating the public on Building Act matters with a view to encourage owners to obtain building consent where necessary. The Council treats building safety as a serious matter; buildings must be safe for their intended use and for Occupiers.

## 5.2 Identifying Dangerous or Insanitary Buildings

The Council will identify potentially dangerous or insanitary buildings on the basis of:

1. Complaints from members of the public.
2. Advice received from Council staff.
3. Complaints or advice from other agencies (e.g. local health providers, NZ Police, trades people).

## 5.3 Assessment/Prioritisation Criteria

The Council will assess potentially dangerous or insanitary buildings in accordance with sections 121(1) or 123 of the Act as appropriate and in terms of the level of risk to public health or safety that is presented.

The Council will give priority to buildings that have been determined to present such a high level of risk as to warrant immediate action to remove the risk.

Options for such immediate action include:

- Prohibiting any person from occupying or using the building;
- If necessary, erecting barriers and warning signs, plus securing the building to prevent entry until such time as remedial action can be taken;
- Undertaking remedial action under s129 of the Building Act. Note that, in the case of insanitary buildings, the Council reserves the right to use its powers available under s34 of the Health Act, 1956.

Where the Council undertakes remedial action under either s129 of the Building Act or s34 of the Health Act, all costs will be recoverable from the building owner(s) as provided for in the relevant legislation.

Buildings that are determined to present a serious risk which is not immediate will be subject to the minimum timeframes for reduction or removal of the danger (being not less than 10 days) as set out in s124(1) (c) of the Act.

In addition to remedial action, the Building Act 2004 also empowers the Council to prosecute Building Owners and this power may be considered at times by the Council.

#### 5.4 Investigation and Enforcement Process - Dangerous or Insanitary Buildings

The Council will:

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

*“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.”*

6. Where the building is a heritage building listed in Council’s District Plan or a building listed in the New Zealand Historic Places Register, the New Zealand Historic Places Trust shall also be advised and consulted.

If the building is found to be dangerous or insanitary but does not present an immediate risk the Council may:

7. 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.

8. Give copies of that 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 registered heritage building.
9. 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.
10. 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.
11. Pursue enforcement action under the Building Act 2004 and Health Act 1956 and recover actual and reasonable costs.

All owners have a right of objection 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. However a formal objection process will be available whereby written objections may be lodged with the Council for a hearing and review by the Council or an appropriate Council Committee. Council will reserve the right to recover costs of this process from Objectors and/or Building Owners.

#### 5.5 Interaction between this Policy and Related Sections of the Act

Section 41 of the Building Act 2004 provides for situations where, because of the urgency of the work to be done, it is not practical to apply for a building consent before the work is undertaken. In cases where a building is assessed as being immediately dangerous the Council may not require a building consent to be obtained for any building work considered to be immediately necessary to remove the danger. However, prior to any action being taken it is essential that building owners provide a written proposal of any proposed works to the Council for agreement on the matter.

#### 5.6 Record Keeping

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

In addition, the information will be placed on any Land Information Memorandum (LIMs) and will be available for public release in accordance with the provisions of Local Government Official Information and Meetings Act 1987.

## 6. EARTHQUAKE-PRONE BUILDINGS POLICY

### 6.1 Policy Approach

Because of the high to moderate seismic risk, with the alpine fault extending through the length of the District, Westland District Council has pursued a policy of encouraging the strengthening of earthquake-prone buildings through the building consent process and at times when alterations are being considered. It was clear during the review of the original policy that building owners took the opportunity of undertaking seismic upgrading work when other building work was carried out.

In developing this policy further the Westland District Council must balance the need to protect public health and safety against the economic implications of requiring significant remedial building work and the community's desire to protect heritage structures. In some instances, property owners have acted on their own accord and have carried out strengthening work.

Some buildings have also been strengthened in accordance with the requirements of Section 46 of the Building Act 1991 and as a result of the previous version of this policy.

In developing its approach to this policy, Westland District Council has to consider key issues of:

- Economic impacts of progressively strengthening building stock in anticipation of an earthquake that could damage the building stock.
- Economic impacts of NOT strengthening building stock and incurring the cost of repair / replacement all at the same time and at the same time that infrastructure may be damaged and require repair as the result of an earthquake.
- The level of risk to human life and safety which can be tolerated over both the short and long term if building strengthening is delayed.

In considering the key issues, the Council needs to achieve a balance between a number of conflicting issues and concerns:

- The safety of the public when an earthquake event occurs.
- The likelihood, severity and potential timing of a major earthquake and effects on different locations within the District.
- The economic impact on the District of a major earthquake.
- The relative age and condition of non-residential buildings within the District.
- The costs of undertaking a comprehensive review of potentially earthquake-prone buildings and the availability of funding for this work.
- The costs of planned and progressive strengthening of buildings versus the economic impact of catastrophic failures caused by an earthquake.
- The costs to building owners of undertaking various levels of strengthening work and the potential economic impact (including loss of businesses) to the District.
- The risk that buildings which are uneconomic to strengthen will be demolished and that the character of the built environment in Westland District will alter as a result.
- The potential loss of heritage buildings as the result of this process.
- The need for statutory compliance by Building Owners and the Council.

Westland District Council's Earthquake-Prone Building Policy needs to reflect Council's approach to reduce earthquake risk over time, but in a way that is acceptable to its ratepayers in terms of the key well-beings; - economic, social, environmental and cultural.

## 6.2 Identifying Earthquake-Prone Buildings

As part of the policy review process, a list of buildings in Westland considered to be "possible earthquake prone buildings" was compiled (acknowledged to be a desktop exercise and not an exhaustive list) and the Council has elected to liaise with the owners of those buildings about this policy.

The following criteria will now apply;-

1. When a Building Consent Application is received, or;

2. When a “Change the Use” occurs; or
3. When complaints are made or concern is received about the state of a building and the Council considers there are grounds for further investigation and assessment.

Notwithstanding the above, any building identified as earthquake-prone shall be modified to compliance with NBS within 10 years of the adoption of this policy.

4. When information is received by the Council that confirms a building subject to this policy is earthquake-prone.

#### 6.2.1 Building Consent Applications

On receipt of an application for a Building Consent relating to alterations to an existing building involving an alteration greater than 30% of the existing building, the Council will require an assessment of structural strength of the entire building or parts of the building. Such an assessment will address whether or not the building could be earthquake-prone.

Where a Building Consent is applied for and a satisfactory assessment of structural strength of the building, or relevant parts of the building, has NOT been accepted by the Council, then a Building Consent will not be issued or progressed further, until the Council has been satisfied that the building currently meets the minimum requirements of this policy for structural strength, or will do so upon completion of the proposed works.

#### 6.2.2 “Change the Use” Applications

All owners wishing to change the use of a building must advise the Council of their intentions and the Council must be satisfied that the requirements of section 115 of the Building Act 2004 can be met after the change of use has occurred.

Section 115 of the Act requires that, where the use of a building changes, and prior to issuing a code compliance certificate, the Council must be:

*“satisfied, on reasonable grounds, that the building, in its new use, will –  
(i) comply, as nearly as is reasonably practicable and to the same extent as if it were a new building, with the provisions of the building code that relate to –*

*(A) means of escape from fire, protection of other property, sanitary facilities, structural performance...”*

#### 6.2.3 Complaints

Potentially earthquake-prone buildings may also be identified as the result of complaints about a specific building or following investigations into complaints about dangerous or insanitary buildings.

#### 6.2.4 Ten year period

Any building not subject to the criteria provided for in 6.2.1 – 6.2.3 (above) and identified as being earthquake-prone must be modified to the standard described in 6.3.2 within a period of 10 years.

#### 6.2.5 Other information

Additionally, information is made available to the Council from time to time that indicates that particular buildings are (or could be) earthquake-prone. Such information will be used, where appropriate, to place buildings on the Earthquake-Prone Buildings Register.

### 6.3 Assessment and Strengthening Criteria

For practical purposes relating to this policy, Westland District Council will define earthquake-prone buildings as those that have ultimate strength less than 33% of the strength required under the earthquake loading standards for new buildings, (New Building Standard), with the exception of those buildings that have special strategic “Life Lines” importance to Westland District as set out in Section 6.3.2 of this policy.

The Council will require prior assessment and reporting by an appropriately qualified person or persons of the structural strength of a building, at the Building Owner’s expense. Such assessment will be provided to the Council before a Building Consent is issued for any structural work on the building or parts of the building.

Where the building (or part of the building) is assessed as being potentially earthquake-prone the Council will require the building owner to undertake, the strengthening work detailed in the Structural Strength Assessment Report that has been accepted by the Council in conjunction with the work that prompted the need for the assessment.

Notwithstanding the above, if at any time a building poses a risk to persons or property due to the risk of partial or total collapse in an earthquake, then the Council

may declare the building dangerous and proceed in accordance with adopted policy in that regard.

#### 6.3.1 Assessment Process, Criteria and Cost

Assessment of whether or not a building is earthquake-prone will be undertaken by an appropriately qualified person – i.e. a Chartered Professional Engineer with expertise in Earthquake Engineering and preferably recognised by the New Zealand Society of Earthquake Engineers. The Council anticipates that in the majority of occasions that the Building Owner will commission Structural Strength Assessment Reports on affected buildings. However the Council recognizes, that at times to fulfill its statutory obligations, some investigation and assessment may have to be commissioned by the Council and recovered from the Building Owner.

In addition to the more generic risks of the likely probability and magnitude of an earthquake affecting the building, assessments will take into account the following factors specific to the building and its site:

- Hazard – geographic proximity to an earthquake hazard/fault line.
- Vulnerability of site – building site conditions, especially with regard to liquefaction risk and soil types.
- Vulnerability of building – construction methods, materials, maintenance, current condition, height, design and loadings.
- Importance – of building and/or contents, e.g. strategic value of the building.
- Damage – risk of the building damaging neighbouring property.
- Exposure – the numbers of people using the building and frequency of use.

In all situations Building Owners will be required to fund 100% of costs incurred in assessment and strengthening of a building, including Objection Hearings Panel, Council staff, consultancy and legal costs, unless the Councils Funding Policy specifically contains provision for remission due to public benefit.

#### 6.3.2 Strengthening Requirements

Westland District Council will use the New Zealand Society for Earthquake Engineering 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 as well as NZS 3604:2011 Light Timber Frame Construction.

Where a building is formally identified as being earthquake-prone, the Westland District Council will apply the following strengthening criteria:

“A Buildings” with special post-disaster functions, “Life Lines” importance as defined in AS/NZS 1170.0: 2002, Importance Level 4, to be strengthened to a minimum of 67% of New Building Standard.

“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, to be strengthened to a minimum of 34% of New Building Standard, with strengthening to 67% of New Building Standard to be strongly encouraged.

“C Heritage” buildings listed in Council’s District Plan Schedule, Marae and buildings listed in the New Zealand Historic Places Trust Register to be strengthened to a minimum of 34% of New Building Standard.

“C Heritage” buildings listed in Council’s District Plan Schedule, Marae and buildings listed in the New Zealand Historic Places Trust Register to be strengthened to a target of 67% of New Building Standard.

“D Buildings” with an Importance Level of less than 3 as defined in AS/NZS 1170.0: 2002 and identified as being earthquake-prone to be strengthened to a minimum of 34% of New Building Standard.

#### 6.4 Liaison with Building Owners and Taking Action on Earthquake-Prone Buildings

Before exercising its powers under section 124, Westland District Council will seek to discuss options for remedial action with affected building owners to reach agreement on the best approach to deal with the danger. The building owner will then be required to submit a formal proposal to Council which confirms the works to be undertaken to strengthen the building, remove the danger or remove the building.

In the event that discussions do not result in a mutually acceptable proposal, Westland District Council may serve a formal notice on the building owner to

strengthen or demolish the building. A Building Consent will not be issued that could extend the building life or maintain/increase the level of danger to building occupants or neighbouring persons/buildings, unless the Building Consent also includes strengthening of the building/parts of the building, to the Councils' satisfaction.

Westland District Council will:

- i. Advise and liaise with the owners of buildings identified as earthquake-prone.
- ii. Encourage building owners to carry out an independent assessment of the structural performance of those buildings identified as earthquake-prone.
- iii. Serve formal notices on owners of earthquake-prone buildings in accordance with the building act 2004, requiring them to remove the danger.
- iv. Allow building owners to object to the classification of the building within 12 months of receipt of the notice.

## 6.5 Interaction Between Earthquake-Prone Building Policy and Related Sections of the Act

### 6.5.1 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 Westland District 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. The obligation rests upon the Building Owner to show that the building is not of lesser levels of earthquake resistant strength than shown in this policy.

## 6.6 Recording a Building's Earthquake-Prone Status

Westland District Council will keep a register of all earthquake-prone buildings noting the status of requirements for improvement or the results of improvement as applicable.

In addition, the information will be placed on any Land Information Memorandum (LIMs) and will be available for public release in accordance with the provisions of

Local Government Official Information and Meetings Act 1987. The information will be available at the Council offices and via the LIM process.

## 7. **HERITAGE BUILDINGS**

Heritage buildings are those listed in Councils District Plan Schedule, Marae and buildings listed in the New Zealand Historic Places Trust Register. The Building Act 2004 recognises that special provision shall be made for such buildings. Westland District Council believes it is important that its heritage buildings have a good chance of surviving a major earthquake in order to retain these important connections to the District's history and unique character. However, Westland District 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 manner as other potentially dangerous, earthquake-prone or insanitary buildings and as per ss121-123 of the Act and discussions will be entered into with the owner and the New Zealand Historic Places Trust (pursuant to s125(2)(f) where the building is contained in their Register) to identify a mutually acceptable way forward which meets heritage objectives and Building Act requirements included in this Policy as near as is reasonably practicable in the circumstances.

Council will serve notices requiring upgrading or demolition or part demolition within specified timeframes, in consultation with building owners. A copy of any notice issued under s124 of the Act will be sent to the Historic Places Trust in the case of all heritage buildings. Any upgrading work must take into account the principles of the International Council on Monuments and sites (ICOMOS) NZ Charter, any advice from Council's heritage staff or other heritage professionals or organisations, where applicable and should be designed to involve minimal loss to heritage fabric.

In addition and in consultation with the building owner, an option exists to close part or parts of a heritage building until such time as an appropriate remedial solution can be found.

The Council accepts that Heritage Buildings may need to be subject to a program of strengthening to be undertaken over a designated timeframe in order to achieve either 67% or higher of the New Building Standard. Such a program would commence with a detailed assessment and concept plan for comprehensive strengthening that can be subject to a staged building consent process.

Waivers of modifications of the building code will be considered on a case by case basis and seismic strengthening methods that respect heritage values will be supported.

It is not expected that Council Funding of Structural Strength Assessments and Strengthening Works will occur. The Councils' Funding Policy will also be relevant to this matter.

Demolition is an option of last resort for heritage buildings.

## 8. OBJECTIONS

In the first instance, building owners or other directly affected parties who wish to object to a building being (or not being) declared dangerous, earthquake-prone or insanitary should record their objections in writing to the Council Chief Executive Officer who will undertake an investigation of the circumstances of the building and the reasons behind the Councils' decision on the matter and arrange for an appropriate Committee of Council to review the decision and if necessary to hear evidence from parties involved. The Committee decision will be provided by way of response to an objection.

Further legal remedies and application to the Department of Building and Housing for a Determination are also available to Building Owners.

The Council reserves the right to recover actual and reasonable costs incurred in conducting review and objection processes, in accordance with fees set from time to time.

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

### 8.1 Determinations

Building owners and a variety of other interested parties can formally object to the Council's decision through the right to apply to the Chief Executive of the Department of Building and Housing for a determination. Determinations can be applied for concerning the Council's decisions to issue or not issue a consent or code compliance certificate, or to exercise its powers concerning dangerous, earthquake-prone or insanitary buildings. Sections 176 – 190 of the Building Act lay out the requirements for determinations.

## 9. ECONOMIC IMPACT OF POLICY

The economic impact of the dangerous and insanitary buildings section of this policy is assessed as being minor, since there are relatively few such issues each year.

The economic impact on the District of an earthquake involving the alpine fault is likely to be very substantial given the probability of a significant earthquake that is predicted to adversely affect building structures in the District. Given the high level of risk (in terms of

both severity and likelihood), it would seem reasonable for Westland District Council to pursue a much more proactive stance on earthquake-prone buildings. However, the Council is sensitive to issues such as the limited rating base and potential costs to Building Owners.

## 10. REVIEW

Pursuant to section 132 of the Building Act 2004 this policy is required to be reviewed by the Council every 5 years. Any amendment or replacement of the policy must be in accordance with the Local Government Act 2004 Special Consultative Procedure.

*This policy was first adopted by the Westland District Council on Thursday 21 September 2006.*

*It was reviewed and amended in 2011 and was adopted on 25 August 2011 for the purposes of commencing the special consultative procedure pursuant to Section 132 of the Building Act 2004.*

*The Policy was adopted after amendments were made as a result of the special consultative procedure on 24 November 2011.*

*The policy is due for review by November 2016.*