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**REPORT 2**  
(1215/53/IM)

**EARTHQUAKE PRONE BUILDING POLICY: REQUESTS  
FOR EXTENSION OF TIME**

- **83 CONSTABLE STREET**
  - **37 CLEVELAND STREET AND**
  - **38 - 42 WILLIS STREET**
- 

**Please note that at the Regulatory Processes Committee meeting of  
Wednesday 4 June 2008 the Committee resolved the following:**

**025/08RP EARTHQUAKE PRONE BUILDING POLICY: REQUESTS FOR  
EXTENSION OF TIME - 83 CONSTABLE STREET, 37  
CLEVELAND STREET AND 38-42 WILLIS STREET**

Report of Katharine Wheeler - Building Group Manager – Policy, Building  
Consents and Licensing Services.

(1215/53/IM)

(REPORT 3)

*THAT the Regulatory Processes Committee:*

- 1. Receive the information.*
- 2. Decline the request for an extension of time related to 83 Constable Street, to reduce or remove the danger.*
- 3. Decline the request for an extension of time related to 37 Cleveland Street, to reduce or remove the danger.*
- 4. Lay recommendation 4 of the report (38-42 Willis Street) on the table until the meeting on Wednesday 25 June 2008.*

**The recommendation from the report of the Wednesday 4 June 2008 meeting  
is before the Committee for approval and is attached as appendix 1.**

It is recommended that the Committee:

- 1. Approve an extension of time related to 38-42 Willis Street, to reduce or remove the danger by 31 October 2008.*

## **EARTHQUAKE PRONE BUILDING POLICY: REQUESTS FOR EXTENSION OF TIME**

- **83 CONSTABLE STREET**
  - **37 CLEVELAND STREET AND**
  - **38 - 42 WILLIS STREET**
- 

### **1. Purpose of Report**

To consider a request for an extension of time to comply with the Council's Earthquake Prone Building Policy.

The buildings are located at

- 83 Constable Street, Part Lot 1 Deposited plan 1681
- 37 Cleveland Street, Lot 1 Deposited plan 346137
- 38-42 Willis Street, Lot 2 Deposited Plan 78003.

### **2. Executive Summary**

The applicants are all owners of the respective buildings;

- 83 Constable Street, has been owned by Nagin Gopal since 1982
- 37 Cleveland Street, has been owned by Rickland Enterprises since the early 1970s.
- 38-42 Willis Street, has been owned by Grand Complex Properties Ltd since 1995

The potential for collapse in an earthquake, resulting in injury, death or damage to other property is high. All buildings are currently occupied, support retail activities with frontages onto the road boundaries, and have facades that may collapse onto footpaths and roads in the event of a moderate earthquake.

Having been identified as earthquake risk buildings in the mid 1970's, the owners were all served earthquake prone building notices under the Building Act 1991 which they failed to comply with by the stated dates. The Council has not taken enforcement action in respect of these notices.

A second notice has been issued to each owner in accordance with the Earthquake Prone Building Policy requiring that the building be demolished, or strengthening begin, by 30 June 2008.

## **83 Constable Street**

The owner has requested a two and a half year extension to consider re-development options and fit in with his present lease agreements.

## **37 Cleveland Street**

The owner has provided no details to support his application and has not specified the time extension he is requesting.

## **38-42 Willis Street**

The owners have advised that they wish to re-develop the site in conjunction with adjoining sites. The application did not specify the timeframe of the extension they are seeking.

## **3. Recommendation**

It is recommended that the Committee:

- 1. Receive the information.*
- 2. Decline the request for an extension of time related to 83 Constable Street, to reduce or remove the danger.*
- 3. Decline the request for an extension of time related to 37 Cleveland Street, to reduce or remove the danger.*
- 4. Approve an extension of time related to 38-42 Willis Street, to reduce or remove the danger by 31 October 2008.*

## **4. Background**

The Council's Earthquake Prone Building Policy was adopted in May 2006. It provides for buildings to meet minimum performance standards, set under the Building Act 2004 (the Act), in the event of a moderate earthquake. The objective of the policy is to advance public safety and minimise potential injury, loss of life and damage to other property. The policy provides for the Council to consider applications for extensions of time to comply with the Act and the Regulatory Committee holds delegated authority to decide on applications that are lodged with the Council.

The applicants seek extensions to the timeframe set in the policy, and embodied in the notice subsequently issued under s124 of the Building Act 2004.

## **83 Constable Street**

This single storey, un-reinforced masonry building is located on the corner of Constable and Owen Streets, and operates as a takeaway food outlet. It is currently occupied. Mr Gopal has owned the property since 1982. An

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earthquake prone building notice was issued under the Building Act 1991 in July 2002 requiring work to be undertaken by December 2002. Mr Gopal failed to comply with the notice. As no strengthening work was undertaken in the interim, a second notice has been issued to Mr Gopal in accordance with the Earthquake Prone Building Policy requiring that the building be demolished, or strengthening begin, by 30 June 2008. Mr Gopal has requested an extension of time to 31 January 2011 to consider re-development options and fit in with his present lease agreements. Officers note that these agreements were entered into during 2005, after the original earthquake prone building notice under the Building Act was issued. Mr Gopal has also advised that a structural engineer has been engaged to produce building consent documentation, but the engineer has separately advised the Council that Mr Gopal has declined to sign the engagement documentation provided and he is in fact not engaged to do this work.

## **37 Cleveland Street**

The building, fronting on to Cleveland Street, is a two storied un-reinforced masonry building with retail units at ground level and residential apartments above. It is currently occupied. The owners, Rickland Enterprises Ltd, were first advised that the building was an earthquake risk in January 1975. Wellington City Council provided funding for a feasibility study in June 2000. The work was not undertaken by the owner. There were preliminary discussions with council officers regarding a proposed change of use for the building in 2002 and 2003. The owners were issued with an earthquake prone building notice in June 2004 when the work did not progress. The notice required work by November 2004. The owners failed to comply with the notice. A further notice has been issued to Rickland Enterprises Ltd in accordance with the Earthquake Prone Building Policy requiring that the building be demolished, or strengthening begin, by 30 June 2008. The time extension sought by Rickland Enterprises Ltd has not been specified.

## **38-42 Willis Street**

This commercial, two storey, un-reinforced masonry building was built before 1900, and was identified in 1973 as an earthquake risk with notice subsequently served to demolish or strengthen the building by April 1991. Wellington City Council funded a strengthening feasibility report in 2000. A building consent application was made for strengthening work in 2003 but the work did not proceed. The current owners, Grand Complex Properties Ltd, were issued with a notice under the Building Act 1991 in June 2004 requiring work to be undertaken by November 2004. The notice was not complied with. A further notice has been issued in accordance with the Earthquake Prone Building Policy requiring that the building be demolished, or strengthening begin, by 30 June 2008. The owners have advised that they wish to re-develop the site in conjunction with adjoining sites and have provided evidence of tenancy leases being terminated on 6 October 2008. Their agents state that they have been directed to engage professionals to obtain a building consent to demolish the building and resource consent to re-develop the site. No supporting documentation was provided. The time extension sought has not been specified.

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## 5. Discussion

Attachment 2 of the Earthquake Prone Building Policy lists fourteen points to consider after receiving an application for an extension in time to complete strengthening work.

Extension Consideration (per Council Policy)		Analysis and Comment
1	Whether people who use the building can do so safely.	<p><b>83 Constable Street:</b> The building, in its present use, has relatively low occupancy, probably less than 20 people. The building does however occupy a corner site on a busy route, and there is real potential for the building to collapse onto the footpath and road in an earthquake.</p> <p><b>37 Cleveland Street:</b> The building with shops at a lower level and residential above has a theoretical occupancy of 64 people. No details of actual occupancy rates have been supplied. As retail spaces the building fronts onto the road, and there is real potential for the building to collapse onto the footpath and road in an earthquake.</p> <p><b>38-42 Willis Street:</b> The building provides retail space in the central business district shopping area. Although the theoretical occupancy of the building is only about seventy, the footpath has high pedestrian counts and the road is heavily trafficked including fronting the main bus route. The building has the potential to collapse onto the footpath and the road in an earthquake.</p>
2	Importance of ensuring that each building is durable for its intended use.	<p>There are no particular durability issues identified with any of the buildings.</p> <p>The owners of 38-42 Willis Street have indicated their intention to demolish the building.</p>
3	Importance of recognising any special traditional and cultural aspects of the intended use of the building.	There are no identified special traditional or cultural aspects of any of the buildings.
4	Cost of the building (including maintenance) over its whole life.	None of the applicants have provided costings of possible strengthening works. None of the buildings appear to have had significant building works undertaken and therefore monies spent over the life of the building have been minimal.

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Extension Consideration (per Council Policy)		Analysis and Comment
		<p><b>83 Constable Street:</b> No feasibility study has been undertaken on this building</p> <p><b>37 Cleveland Street:</b> The feasibility study undertaken in 2000 estimated the cost of strengthening then at \$130,910. Construction costs have since risen and it is likely that a higher level of strengthening will now be required to meet the new criteria.</p> <p><b>38-42 Willis Street:</b> The feasibility study undertaken in 2000 estimated the cost of strengthening then at \$260,300. Construction costs have since risen and it is likely that a higher level of strengthening will now be required to meet the new criteria.</p>
5	Importance of standards of building design and construction in compliance with the building code.	<p>Initial evaluations (IEPs) have been obtained to assess the current level of strength comparative to new buildings built to NZS 1170. This is the methodology included in the Earthquake Prone Building Policy.</p> <p><b>83 Constable Street:</b> This building has been assessed at only 12% new building strength. The main concerns are:</p> <ul style="list-style-type: none"> <li>• Plan irregularity across the shop</li> <li>• No roof diaphragm</li> </ul> <p><b>37 Cleveland Street:</b> This building has been assessed at only 6% new building strength. The main concerns are:</p> <ul style="list-style-type: none"> <li>• Plan irregularity because of open front façade</li> <li>• Brick piers at rear only support along building</li> </ul> <p><b>38-42 Willis Street:</b> This building has been assessed at only 5% new building strength. The main concerns are:</p> <ul style="list-style-type: none"> <li>• Plan irregularity along building</li> <li>• No lateral support structure to front of building</li> </ul>

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Extension Consideration (per Council Policy)		Analysis and Comment
6	Need to provide for the protection of other property from the risk of physical damage.	All these buildings have frontages on busy roads in our city. It is a real possibility that any collapse of the facades would also endanger people and property on the footpaths and the roads. It would be possible for the Council to erect a hoarding to prevent entry to the building but closure of the footpaths and roads is not feasible.
7	Need to facilitate the preservation of building of significant historical, or heritage value.	None of the buildings are listed on the NZ Historic Places register or as a heritage building in the District Plan. However, the buildings at 83 Constable St and 38-42 Willis St would require resource consent for demolition of the buildings because of the zoning of these locations.
8	Importance level of building.	All three buildings are importance level 2 which is the level for most buildings other than those with crowd activities or post disaster functions. As such they have a moderate priority under the policy. While the Earthquake Prone Building Policy primary mechanism is to require buildings to be upgraded when other significant building work is undertaken, there is a maximum 10 year time frame established for this priority building. More than 10 years have elapsed since these owners were first notified that their buildings were an earthquake risk.
9	Building structure and strength ie the code that was used to design and construct the building	All three buildings were built at a time before there were any structural design codes in New Zealand. The buildings have not been significantly altered since. They are very significantly weak in comparison to new buildings and the type of construction and materials used means that they may be subject to sudden brittle failure.
10	Special characteristics of the building e.g. heritage or historic.	See above. No special characteristics have been identified.
11	Whether the building has already been strengthened along with the level it was strengthened to and when the work was done.	None of the buildings have been strengthened in the past.
12	Financial Implications.	None of the applicants have supplied any evidence about the financial implications.

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Extension Consideration (per Council Policy)		Analysis and Comment
13	Ramifications if the building was to be demolished rather than strengthened e.g. loss of heritage for future generations.	None of the buildings have been identified as being fabric worthy of preservation for future generations.
14	Availability of the appropriate people to do all the work.	The Council has recently been approached by structural engineers who have capacity to undertake the design work currently. The building pressure appears to be easing in the city and contractors are likely to be available within reasonable time frame.

## 5.1 Summary of Analysis against the Councils Policy considerations

Key matters for Councillor consideration of these applications for extension in timeframes to complete strengthening work, are as follows:

- These buildings were built at a time before there were any structural design codes in New Zealand. The buildings are significantly weak in comparison to a new building and the type of construction and materials used means that it may be subject to sudden brittle failure. The buildings have not been strengthened since they were built.
- These buildings are importance level 2 which is the level for most buildings other than those with crowd activities or post disaster functions. As such they have a moderate priority under the policy.

In particular for the buildings concerned:

### 83 Constable St

- The building has a high risk of collapse in a seismic event due to the plan irregularity of the structural system in the building and lack of roof diaphragm. The building has been assessed at 12% of new building strength.

Based on the above, officers believe that an extension should be declined.

### 37 Cleveland St

- The building has a high risk of collapse in a seismic event due to the plan irregularity of the structural system in the building with a limited diaphragm and open frontage at ground level. The building has been assessed at 6% of new building strength.

Based on the above, officers believe that an extension should be declined.

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## **38-42 Willis St**

- The building has a high risk of collapse in a seismic event due to plan irregularity with open street frontage and pounding from adjacent buildings. The building has been assessed at 5% of new building strength.
- The property owners are proposing to demolish the buildings and redevelop the site. This will require resource consent. They have provided evidence of notice to tenants to vacate the building.

Based on the above, officers believe that an extension should be granted to 31 October 2008.

## **6. Conclusion**

The buildings were earthquake risk in the mid 1970s. The owners were advised again in 1999 that their buildings were earthquake prone and issued s66 notices under the Building Act 1991. These notices were not complied with. Further notices were issued in June 2006 under the Building Act 2004 in accordance with the Earthquake Prone Building Policy and the time to comply with the notices is due to expire on 30 June 2008.

These owners have known of the situation for many years and have taken no action. They have failed to fulfil their legal obligations to mitigate the danger posed by their building by not complying with notices issued under the Building Act 1991. They have made no physical progress towards removing or mitigating the danger to public and occupant safety.

The owners of 38-42 Willis Street have stated their intention to demolish their building and have taken the first step towards vacating the building. This particular building, however presents a real threat to the safety of the public by being located on one of our very busy shopping streets. The owners have not asked for any specific time extension, but provided evidence that the buildings will be vacated in October 2008. It is feasible for the building consent documentation, and any resource consent to be approved over this 4 month period. The demolition of a building this size should be expedited quickly. If the Committee were to decide to grant an extension of time to these owners, a reasonable time frame would be 4 months to the end of October 2008.

The owners of the other two buildings, at 83 Constable Street and 37 Cleveland Street have stated no clear intention of making progress to resolve the issue. They have asked for time to consider their options. They have already had many years time to consider their options, and officers lack confidence that real progress will be made in any extended time frame granted.

Under the Building Act, it is the owner of the building that commits an offence if a notice is not complied with. The effect of declining an extension of time would be to allow officers the option of using the enforcement tools provided by the Building Act 2004 to affect a resolution.

Contact Officer: Claire Stevens, Team Leader Bylaws BCLS

<b>Supporting Information</b>
<p><b>1) Strategic Fit / Strategic Outcome</b></p> <p>This activity primarily contributes to the outcome that “Wellingtonians will feel safe in all parts of the city”. It also contributes in part to the outcome that “Wellington will protect its heritage buildings and ensure that new developments are sympathetic to them.”</p>
<p><b>2) LTCCP/Annual Plan reference and long term financial impact</b></p> <p>The project is contained in the LTCCP 1.4.1 “<i>Earthquake risk Mitigation</i>”. There are no financial impacts for Council as a result of this decision.</p>
<p><b>3) Treaty of Waitangi considerations</b></p> <p>There are no Treaty of Waitangi implications.</p>
<p><b>4) Decision-Making</b></p> <p>This is not a significant decision.</p>
<p><b>5) Consultation</b></p> <p><b>a) General Consultation</b></p> <p>Not required. However, the submission received from the owner is attached as Appendix A.</p> <p><b>b) Consultation with Maori</b></p> <p>Not required.</p>
<p><b>6) Legal Implications</b></p> <p>Legal advice was received during the development of the policy. In relation to this particular application, no legal advice was considered necessary.</p>
<p><b>7) Consistency with existing policy</b></p> <p>The recommendations in this paper are in accordance with the Earthquake Prone Building Policy adopted by Council on 31 May 2006.</p>

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## Appendix A-Owners Submissions

83 Constable St

Ms Katharine Wheeler  
Wellington City Council  
P.O.Box 2199 Wellington.

Nagin Gopal  
P.O. Box 7423 Wellington  
Wellington.

13/05/08

83 Constable St Newtown. SR- 148350 property ID. 1019499

Dear Madam,

Further to our meeting at council building on 12/05/08. Just a few points I like the Hearing Committee to consider in their assessment for an extension in timeframe for the above E.Q. prone building.

- (1) This is single story building with concrete floor.
- (2) The probe area lacking strengthening is the south wall (the shop front With entrance and display window) the ends of the wall is tied into reinforced Columns at each end. (See original structural design drawings.)
- (3) The parapet at the top of the south wall shows visually reinforced steel being Tied to the exterior wall coming from the roof ceiling.
- (4) Evidence of visual reinforcing tying south wall with adjacent sidewalls and ceiling.
- (5) Would like to make better use of site adding apartments on newly created Upper level. (Construction of this upper level using portal frames fixed to Base foundation slabs using H.D. bolts and tying existing brick work into the Newly constructed walls so no loading is done on the brickwork.
- (6) Current lease expires at 31/1/11 so would like to commence work there after Given no tenants, will allow access to entire site.
- (7) This work will be subject to the current earthquake rules and will achieve Better than 34% rating and closer to high 80 to 90% and should be Good for further reviews of the earthquake building codes.
- (8) Thank you the committee for your time in considering this letter.

Yours faithfully



N. GOPAL

37 Cleveland St

07 May 08 11:27a

Thomas Chong

04 471 2217

p.2

**thomas chong architect ltd**

Thomas J. Chong B.B.Sc. B. Arch ANZIA

Level 2 Riddiford House

150 Featherston Street

PO Box 2692 Wellington

Ph (04) 4726 916

Fax (04) 4712 217

7th May 2008

ref:0710L1/tc

Environmental Policy and Approvals

**BY FAX**

Wellington City Council

Private Bag 2199

Wellington

Attn Clare Stevens

Dear Clare

**RE: 37-41 CLEVELAND STREET, BROOKLYN**

**SR 148763.**

**EXTENSION OF TIMEFRAME TO COMPLETE  
STRENGTHENING WORK.**

Further to our telephone conversation yesterday we are writing to confirm our client's intention to lodge a submission requesting an extension in timeframe to complete the strengthening work on the above building.

Yours sincerely



Thomas Chong Architect Ltd

Cc Peter Land - email

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## 38-42 Willis St

Jones Lang LaSalle (NZ) Limited  
Level 16, PricewaterhouseCoopers Tower  
188 Quay Street, Auckland  
tel +64 9 366 1666 fax +64 9 309 7628

Claire Stevens

Building Consents & Licensing Services

Wellington City Council

101 Wakefield Street

WELLINGTON

21 April 2008

Dear Claire,

**RE: Building Situated at 34-42 Willis Street**

**Notice pursuant to S124 of Building Act 2004 in Respect of a building deemed Earthquake prone**

Further to the above notice we hereby apply to the council, as agents for the owners, for an extension of time in relation to the provisions of the notice, namely that the strengthening work be completed to a sufficient degree or the building demolished by 28/06/08. I have attached a copy of the above notice for ease of reference.

The owners have directed Jones Lang LaSalle to engage a professional team of building consultants to redevelop the site which will involve the demolition of buildings situated at 32-42 Willis Street, and also include the building situated at 22 Willis Street. The building consultants are currently producing the necessary demolition consent documentation for submission to council and separately preparing a resource consent application for the new development.

In terms of the existing building tenants, formal notification has been served giving termination of the lease/s, a copy of which is attached for your information.

I would welcome advise from the council on how we are able to direct the redevelopment and meet the requirements of the notice.

Yours sincerely,

**Jonathan Williams**

National Director, Project and Development Services

Jones Lang LaSalle

Phone +64 9 914 9771

Mobile +64 21 727 091

Email [jonathan.williams@ap.jll.com](mailto:jonathan.williams@ap.jll.com)

enc. Notice pursuant to S124 of Building Act 2004 in Respect of a building deemed Earthquake prone  
Formal notification of lease termination

## Appendix B-Copy of Notices

83 Constable St

### Notice pursuant to s124 of the Building Act 2004 in respect of a building deemed to be earthquake prone

To:

Owner;	Occupier;	Mortgage;
Nagio Gopal	Leo's Superb Seafood	Southern Cross Finance
83 Constable Street	83 Constable Street	Limited
Newtown	Newtown	Attn: Barry Milward
Wellington 6002	Wellington 6002	PO Box 38010
		Howick
		Auckland

**Address:** The building situated at [83 Constable Street](#), and occupied by [Leo's Superb Seafood](#), and more particularly being described as [Part Lot 1 Deposited Plan 1681](#) and being all the land comprised in Certificate of Title [WN275/53](#)

You are the owners of the building at the above address that has been classified by the Wellington City Council as earthquake prone in terms of s124 of the Building Act 2004. You are accordingly required by [30 June 2008](#) to either:

- (a) begin strengthening work to strengthen the building to a sufficient degree so that it is not earthquake prone; or
- (b) demolish the building.

A building consent must be obtained prior to strengthening or demolition work being undertaken. The building consent must be obtained and the work must begin before the expiry of the timeframe noted above.

Under s122 of the Building Act 2004, the meaning of earthquake-prone building is

(1) A building is earthquake prone for the purpose of this Act if, having regard to its condition and 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/below); 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.

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Moderate earthquake has the same meaning as section 7 in the Building Regulations 2005 where-

‘...moderate earthquake means, 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 that site.’

The above mentioned building was issued with a notice under s66 of the Building Act 1991 classifying this building as earthquake prone. This s124 notice supersedes the former s66 notice. For further clarification see the ‘Maximum Timeframe to Strengthen a Building’ section of the Wellington City Council’s Earthquake-Prone Buildings Policy.

If you disagree with the classification of this building as earthquake prone you may apply for a determination from the Department of Building and Housing under s177(e) of the Building Act 2004.

If you do not comply with the terms of this notice the Council can (but is not limited to) initiate a prosecution under the Building Act 2004 or put up a hoarding or fence to prevent access into the building pursuant to s124(1)(a) of the Building Act 2004.

**Dated: 30 June 2006**

**Katharine Wheeler  
Building Permissions Manager  
Building Consents and Licensing Services  
Wellington City Council**

37 Cleveland St

## Notice pursuant to s124 of the Building Act 2004 in respect of a building deemed to be earthquake prone

**To:**

Owner;  
Rickland Enterprises  
Limited  
Level 1  
Intech House  
17 Garrett Street  
Wellington

Director;  
Land, Peter Richard  
285A Te Moana Road  
Waikanae

Director;  
Land, Richard Harry  
43 Cleveland Street  
Brooklyn  
Wellington

Director;  
Spring, Leslie Elspeth  
43 Cleveland Street  
Brooklyn  
Wellington

Occupier;  
ANZ National Bank  
Limited  
Level 14  
Anz Tower  
215-229 Lambton Quay  
Wellington

Occupier;  
Property Sales and Market  
Appraisals  
Property Management  
Rental Assessments  
37 Cleveland Street  
Brooklyn  
Wellington

Occupier;  
The Occupier of 37A  
Cleveland Street  
37A Cleveland Street  
Brooklyn  
Wellington

Occupier;  
The Occupier of 37B  
Cleveland Street  
37B Cleveland Street  
Brooklyn  
Wellington

Occupier;  
Tina Designers of Fashion  
39 Cleveland Street  
Brooklyn  
Wellington

Occupier;  
Pene Design and Fashion  
Boutique  
41 Cleveland Street  
Brooklyn  
Wellington

Occupier;  
The Occupier of 41A  
Cleveland Street  
41A Cleveland Street  
Brooklyn  
Wellington

Occupier;  
The Occupier of 41B  
Cleveland Street  
41B Cleveland Street  
Brooklyn  
Wellington

**Address:** The building situated at [37 Cleveland Street \(aka 37-41 Cleveland Street\)](#) and more particularly being described as [Lot 1 Deposited Plan 346137](#) and being all the land comprised in Certificate of Title [189677](#).

You are the owners of the building at the above address that has been classified by the Wellington City Council as earthquake prone in terms of s124 of the Building Act 2004. You are accordingly required by [30 June 2008](#) to either:

- (a) begin strengthening work to strengthen the building to a sufficient degree so that it is not earthquake prone; or
- (c) demolish the building.

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A building consent must be obtained prior to strengthening or demolition work being undertaken. The building consent must be obtained and the work must begin before the expiry of the timeframe noted above.

Under s122 of the Building Act 2004, the meaning of earthquake-prone building is

(1) A building is earthquake prone for the purpose of this Act if, having regard to its condition and 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/below); 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.

Moderate earthquake has the same meaning as section 7 in the Building Regulations 2005 where-

‘...moderate earthquake means, 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 that site.’

The above mentioned building was issued with a notice under s66 of the Building Act 1991 classifying this building as earthquake prone. This s124 notice supersedes the former s66 notice. For further clarification see the ‘Maximum Timeframe to Strengthen a Building’ section of the Wellington City Council’s Earthquake-Prone Buildings Policy.

If you disagree with the classification of this building as earthquake prone you may apply for a determination from the Department of Building and Housing under s177(e) of the Building Act 2004.

If you do not comply with the terms of this notice the Council can (but is not limited to) initiate a prosecution under the Building Act 2004 or put up a hoarding or fence to prevent access into the building pursuant to s124(1)(a) of the Building Act 2004.

**Dated: 30 June 2006**

**Katharine Wheeler  
Building Permissions Manager  
Building Consents and Licensing Services  
Wellington City Council**

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38-42 Willis St

## Notice pursuant to s124 of the Building Act 2004 in respect of a building deemed to be earthquake prone

**To:**

Owner;  
Grand Complex  
Properties Limited  
PO Box 10343  
Wellington 6036

Director;  
Lee, Chou Hock  
419A Race Course Road,  
Singapore 0821,  
Republic Of Singapore

Director;  
Lee, George Chou Hor  
42 Surrey Road #02-44,  
Singapore 1130,  
Republic Of Singapore

Director;  
Lee, Khin Tien  
26G Lorong How Sun,  
Singapore 1953,  
Republic Of Singapore

Director;  
Lee, Kin Hong  
45 Mar Thoma Road  
#02-01 Regal Mansion,  
Singapore 1232,  
Republic Of Singapore

Director  
Thon, Lee Kong  
29 Sing Avenue,  
Singapore 217873,  
Republic Of Singapore

Occupier;  
Massage Centre  
32 Willis Street,  
Wellington

Occupier;  
Kumfs Shoes  
34 Willis Street,  
Wellington

Occupier;  
Sunglass Store  
34 Willis Street,  
Wellington

Occupier;  
Bling  
36 Willis Street  
Wellington

Occupier;  
Ye-Jun Chinese  
Restaurant  
40 Willis Street  
Wellington

Occupier;  
Maggie Potter  
42 Willis Street,  
Wellington

Bank of New Zealand  
Lending Services  
PO Box 335  
Wellington

**Address:** The building situated at [34-42 Willis Street](#) and more particularly being described as [Lot 2 Deposited Plan 78003](#), and being all the land comprised in Certificate of Title [WN44C/27](#).

You are the owners of the building at the above address that has been classified by the Wellington City Council as earthquake prone in terms of s124 of the Building Act 2004. You are accordingly required by [30 June 2008](#) to either:

- (a) begin strengthening work to strengthen the building to a sufficient degree so that it is not earthquake prone; or
- (d) demolish the building.

A building consent must be obtained prior to strengthening or demolition work being undertaken. The building consent must be obtained and the work must begin before the expiry of the timeframe noted above.

# APPENDIX 1

Under s122 of the Building Act 2004, the meaning of earthquake-prone building is  
(1) A building is earthquake prone for the purpose of this Act if, having regard to its condition and 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/below); 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.

Moderate earthquake has the same meaning as section 7 in the Building Regulations 2005 where-

‘...moderate earthquake means, 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 that site.’

The above mentioned building was issued with a notice under s66 of the Building Act 1991 classifying this building as earthquake prone. This s124 notice supersedes the former s66 notice. For further clarification see the ‘Maximum Timeframe to Strengthen a Building’ section of the Wellington City Council’s Earthquake-Prone Buildings Policy.

If you disagree with the classification of this building as earthquake prone you may apply for a determination from the Department of Building and Housing under s177(e) of the Building Act 2004.

If you do not comply with the terms of this notice the Council can (but is not limited to) initiate a prosecution under the Building Act 2004 or put up a hoarding or fence to prevent access into the building pursuant to s124(1)(a) of the Building Act 2004.

**Dated: 30 June 2006**

**Katharine Wheeler  
Building Permissions Manager  
Building Consents and Licensing Services  
Wellington City Council**

# APPENDIX 1

## Appendix C – Photos

83 Constable St



Photo of building



# APPENDIX 1

## 37 Cleveland St



## Photo from street of 37 Cleveland St



# APPENDIX 1

## 38 Willis St



## Photo from street of 38-42 Willis St

