BUILDING PERFORMANCE

Determination 2026/021

An authority's decision to refuse to issue a dangerous building notice for a private bridge

590 Makara Road, Karori, Wellington

Summary

This determination considers an authority's decision to refuse to issue a dangerous building notice for a private bridge which serves four properties. The bridge was damaged in a flooding event and subsequently repaired. The determination considers the test in section 121 of the Building Act 2004, in terms of whether the bridge is likely to cause injury or death in the ordinary course of events.

In this determination, unless otherwise stated, references to "sections" are to sections of the Building Act 2004 ("the Act") and references to "clauses" are to clauses in Schedule 1 ("the Building Code") of the Building Regulations 1992.

The Act and the Building Code are available at www.legislation.govt.nz. Information about the legislation, as well as past determinations, compliance documents (eg Acceptable Solutions) and guidance issued by the Ministry, is available at www.building.govt.nz.

1. The matter to be determined

1.1. This is a determination made under due authorisation by me, Andrew Eames, Principal Advisor Determinations, for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment ("the Ministry").[1]

1.2. The parties to the determination are:

1.2.1. B Crothers and J Fitzgerald, the owners of the property who applied for this determination ("the owners")

1.2.2. Wellington City Council, carrying out its duties as a building consent authority or territorial authority ("the authority").

1.3. This determination arises from a dispute on a bridge on the owners' property, which provides the only legal access to four properties.[2] The owners of the neighbouring properties who are served by the bridge (collectively referred to as "the neighbours") are considered as persons with an interest in the determination. The persons with an interest are:

1.3.1. D Carter & Gault Mitchell Trustee Services Ltd and L Carter & Gault Mitchell Trustee Services Ltd (owners of 588 Makara Road)

1.3.2. J Mills (owner of 592 Makara Road)

1.3.3. C Baguley, A Kvalsvig and Gault Mitchell Trustee Services Ltd (owners of 600 Makara Road).

1.4. The matter to be determined[3] is the decision of the authority to refuse to issue a dangerous building notice for the bridge on the owners' property ("the bridge"). The bridge was damaged in a flooding event in 2024 and was subsequently repaired by the neighbours.

[1] The Building Act 2004, section 185(1)(a) provides the Chief Executive of the Ministry with the power to make determinations.
[2] Through a right of way easement.
[3] Under sections 177(1)(b) and 177(3)(f).

1.5. The determination considers the bridge in relation to the dangerous building test under section 121(1)(a), and the authority's refusal to exercise its powers under section 124.

Issues outside this determination

1.6. The determination does not consider:

1.6.1. the Building Code compliance of any building work to the bridge, or whether the work required a building consent

1.6.2. any other legislation, or any civil, contractual or financial arrangements between the parties and persons with an interest.

2. Background

The bridge and its repairs

2.1. The bridge was pre-existing in 1963 and is estimated by the owners to be approximately 90 years old. It is a single span bridge, approximately 7m long by 3.1m wide. It has a timber deck on three steel tram rails which are cast into concrete abutments at each end. The bridge deck consists of 90x45 timber members which are on edge and span across the bridge, with 90x45mm timber running boards laid flat over top. There is an edge wheel guide on either side.

2.2. The bridge is low lying, situated in a flood plain, and is occasionally inundated with flood water. There is also a nearby ford which has historically been used for heavy vehicle access to the properties. However, I have been advised that it needs repair and is no longer suitable for use by heavy vehicles.

2.3. On 14th October 2024, a flood caused the deck to become detached from the metal pins that fixed it to the supporting beams of the bridge. The deck was displaced by approximately 140mm vertically and 300mm horizontally. The neighbours state that the supporting beams and the timber deck were not damaged.

2.4. During the following week, the neighbours carried out repair work on the bridge. This included reattaching and securing the deck, backfilling and stabilising the true left abutment with concrete, and remediating the driveway approach to the bridge.

2.5. The owners and neighbours have conflicting views as to the standard of repair and the safety of the bridge. Both the owners and neighbours engaged engineers to inspect and provide reports on the bridge.

2.6. Prior to the repair, the deck and supporting beams had a slope of approximately 3.5 degrees between the banks and a 6-degree slope along the flow direction, due to long-term settlement of the true left abutment (see Figure 1). The owners' engineer states the steel rail beams had very significant corrosion with the presence of

sizeable quantities of pack rust. The metal pins securing the deck had corroded, leading to the deck becoming displaced in the flood.

Figure 1: Photo of the bridge prior to the flooding and subsequent repair.

2.7. The repair work on the true left abutment involved the removal of a significant portion of the original abutment. According to the owners, approximately two thirds of the of the true left abutment was replaced. Piles were installed,[4] rebar reinforcing and rods were wired to the piles and beams, and 7.5 cubic metres of concrete was poured to form the new abutment (see Figure 2).

Figure 2: Photo of the bridge and true left abutment following repair.

2.8. On the true right abutment, a fissure between the abutment and the deck was repaired. There is a crack in the abutment (see Figure 3), and the owners' engineer

[4] The neighbours state the piles had a finished length of at least 1.5m.

states this removes support for the central rail beam.[5] The neighbours consider it is superficial, and that the central beam remains fully supported along the majority of the 600mm which they believe the beam projects into the abutment.[6]

Figure 3: Photo of the bridge and true right abutment. The treated rail beams, and stainless-steel rods and plates tying down the deck, are also shown.

2.9. The owners' engineer also states there is a gap between the deck and all three beams (of approximately 50mm) leaving the deck unsupported for approximately one metre from the true right abutment, and that there is a similar gap below the beams meaning the beams are only partially supported by the abutment.[7] The neighbours state there was a small gap between the deck and the south and central beams which has since settled, and the beams are fully supported by the abutment.

2.10. The owners' engineer states the rail beams were bent straight with a two-tonne excavator, meaning there is an unknown future fatigue rating for the beams. The neighbours state the beams were lifted to level them (due to the previous settling of the left abutment) but they were not bent or straightened.

2.11. The pins that originally retained the deck were removed and replaced with stainless steel threaded rods, nuts, washers and 6mm plates below the rails, with four sets on each side. The owners engineer considers these connections are infrequently placed and provide inadequate connectivity between the deck and the beams.

2.12. At a later point (prior to 11 April 2025), the neighbours treated the rail beams with a corrosion protection system (see Figure 3).[8] However, the owners state the steel

[5] The owners have placed a ruler into the crack to a depth of 110mm.
[6] The owners consider the beams are likely to extend approximately 300-400mm into the abutment.
[7] The owners have placed a ruler into all the gaps beneath the beams, to a depth of 230-300mm.
[8] This work had been recommended in the neighbours' first engineering report (dated 5 November 2024) and had been carried out prior to the neighbours' second engineering report (dated 11 April 2025).

has continued to corrode, noting that on 6 April 2026, a piece of pack rust peeled off the middle beam which measured approximately 150 x 100 x 6-7mm thick.[9]

The engineering reports and authority's decisions

2.13. On 17 October 2024, the owners notified the authority that the neighbours were carrying out building work on their property without their approval. On 22 October 2024, the authority attended the site. The authority requested the neighbours provide an engineering report so it could assess whether there were any significant concerns with the repairs undertaken.

2.14. Correspondence between the owners and the authority followed. The authority did not consider enforcement action was warranted regarding the bridge and its repairs.

2.15. On 5 November 2024, the neighbours provided an engineering report to the authority, which was dated 24 October 2024 ("the neighbours' first report"). The report was prepared by a chartered professional engineer (structural). The report concluded "…the bridge has sufficient structural strength for an access bridge for light vehicles of a maximum axle weight of 2T in a low-speed environment and we believe the bridge is still fit for purpose". The report recommended that the "significant superficial rust" to the steel beams is removed, and that the steel beams are treated with an appropriate corrosion protection paint system.[10] The report also recommended periodic inspection of the structure by an engineer not exceeding every 5 years.

2.16. On 17 February 2025, the owners provided the authority with their own engineering report, which was dated 5 February 2025 ("the owners' report"). The report was prepared by a chartered professional engineer (structural/engineering management), from a firm which specialises in bridges. The engineer described the repairs undertaken, analysed the condition of the bridge and undertook loading calculations. The report recommended that restrictions be placed on the bridge including maximum speed of 5km/h and an allowable axle load of 1000kg or gross vehicle weight of 1500kg. It also recommended that the bridge and foundations be demolished and a replacement bridge be designed within six months of the date of the report.[11]

2.17. On 4 March 2025, the owners' engineer wrote to the authority, stating:

> 5. The… report is based on assumptions and a considerable number of unknowns and confirm we arrived at a THEORETICAL axle rating of circa **1.75 tonnes**. This

[9] In their later update on 27 April 2026, the owners state that rust has peeled from approximately 1m of the beam.

[10] This work was subsequently undertaken by the neighbours, prior to the issue of the neighbours' second report on 11 April 2025.

[11] The basis for the six-month time period given is not clear, and a revised version of the report (produced 11 months after the initial report), also recommended replacement within six months.

> included speed restrictions vehicle loading lane areas and inspection requirements.
>
> 6. For comparison [the neighbours' engineer] arrived at an axle rating of circa **2.0 tonne**s….
>
> …
>
> 11. Based on the very significant deterioration of structural members, un engineered abutments, lack of positive deck connections we have down rated our axle rating to **1.5 tonnes**[12] and placed a speed restriction on the bridge.

2.18. On 5 March 2025, the owners wrote to the authority, querying whether the authority was obliged to issue the owners of the bridge with a notice to remove it under the dangerous building provisions. On 12 March 2025, the authority responded, noting that its "assessment of the bridge, which includes consideration of opinions from both engineers, has concluded that the bridge does not meet the definition of "dangerous' as outlined in Section 121 of the Act".

2.19. On Friday 16 May 2025, the neighbours provided a second engineering report to the authority, which was dated 11 April 2025 ("the neighbours' second report"). The report was prepared by a chartered professional engineer (structural). The report concluded "the bridge is generally observed to be in good condition considering its age and intended use. The recent works undertaken – including corrosion protection, abutment strengthening, and deck anchoring – appear to have effectively mitigated previous structural issues". The report did not recommend any changes to the previous 2 tonne axle limit, but recommended signage is reinstated. It also recommended a routine visual inspection every two years and a detailed engineering inspection every six years.

2.20. On Monday 12 January 2026, the owners provided an updated version of their engineering report to the authority, which was dated 9 January 2026. The report contained the same recommendations as the first report, however, the allowable axle load was 1000kg and gross vehicle weight was 1720kg.

2.21. On 29 January 2026, the authority advised the owners that its position was unchanged, and it would not be undertaking enforcement action. In its email to the owners, the authority noted "The bridge does not meet the statutory definition of a 'dangerous building' under section 121 of the Act. The engineer's report dated 9th Jan… does not conclude the bridge is 'dangerous'. The term 'dangerous' is not used in the report".

[12] No information has been provided as to why this differs from the allowable axle load of 1000kg stated in the owners' engineer's reports.

3. Submissions

The owners

3.1. The owners consider (in summary):

3.1.1. Their engineer's report is the only report to withstand scrutiny, by way of a peer review.

3.1.2. The estimated age of the bridge is 90 years old, and the tram rails are probably 100-120 years old. "They were not built for its current service for heavier modern-day vehicles".

3.1.3. "The Fire Department has confirmed they would never use the bridge", and an ambulance would overload the bridge. "There is no access for a septic truck, or heavy vehicle and on occasion truck drivers have come over the bridge when instructed not to."

3.1.4. "Ordinary use" is dangerously overloading the bridge, and it could fail without warning in the ordinary course of events.

3.2. The owners also provided bridge usage data showing the weight of vehicles crossing the bridge within particular time periods. They noted:

3.2.1. There were 363 crossings over 31 days, 73% of which exceeded the weight limit in their engineer's report of 1 tonne axle rating or 1.72 tonnes gross. The heaviest vehicle to cross was a refrigerated truck with a tare (empty) weight of 4320kg and potential gross weight of 8500kg.[13]

3.2.2. Between 10 February and 4 March 2026, 84% of crossings exceeded the 1.72 tonne gross rating in their engineer's report (the mean overload was 424kg and the maximum overload was 3780kg).

3.2.3. In April 2026, there were two crossings well in excess of the rating from their engineer's report. One had a gross vehicle weight of 3225kg, and the other had a weight of between 3900kg (tare) and 5995 kg (gross).

The authority

3.3. The authority considers (in summary):

3.3.1. "…the bridge does not meet the statutory definition of a dangerous building under s121 of the Act. Whilst the bridge can be considered close to "end of life" and in need of maintenance, multiple engineering assessments received indicate that the bridge remains adequate for controlled low-

[13] As per the owners' submission dated 25 February 2026.

speed, light vehicle use, and does not pose a present likelihood of collapse or injury".

3.3.2. "No engineer has stated the bridge is at imminent risk of collapse, about to fail, or likely to cause injury or death in ordinary use. While the reports identify deterioration and the need for ongoing maintenance (and some reports recommend replacement), this does not meet the statutory test of a dangerous building."

3.3.3. "All engineering reports support controlled use of the bridge. Each engineering assessment has concluded that the bridge can continue to support light vehicle access, provided that load and speed restrictions are in place. The consistent engineering approach has been to allow continued use subject to their stated limitations. [The authority] considers this highly important as it indicates the bridge is not presently unsafe to use, and that risk can be managed through operational controls."

3.3.4. "All buildings, including bridges have operational limits, although not always stated explicitly. The [authority] notes limitations placed on this bridge (or any bridge) are not suggestive of bridge failure. They are simply realistic limitations for practical everyday use."

The neighbours

3.4. The neighbours consider (in summary):

3.4.1. The bridge has always been intended for light vehicle use and is fit for this purpose. The ford has been in use for at least 80 years for heavy vehicles.

3.4.2. The owners' engineer's report is based on incorrect information provided by the owners and is not supported by the findings of their two engineers' assessments and reports.

3.5. The neighbours provided a copy of their review/critique of owners' engineer's report. They also provided a letter from their two engineers, which states:

> For the purpose of this statement, "light vehicle traffic" refers to passenger vehicles and light commercial vehicles with a gross vehicle mass not exceeding 3.5 tonnes, operating at low speeds consistent with a rural environment. This excludes heavy vehicles, including trucks, buses, agricultural machinery, and any vehicles imposing significantly higher loads than typical passenger vehicles.
>
> Based on our inspection and review, and subject to the limitations outlined above, we consider that the bridge, in its current condition, does not present a level of risk that would make injury to persons or damage to property likely when used by light vehicles in normal operating conditions.

> In this context, and with reference to Section 121 of the Building Act 2004, we consider that, under the stated usage conditions, the bridge would not be classified as a dangerous structure.

4. Discussion

4.1. The matter to be determined is the decision of the authority to refuse to issue a dangerous building notice for the bridge on the owners' property.

4.2. Section 121(1) 'Meaning of a dangerous building' provides:

> (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…

4.3. In making my decision, I must consider whether in the ordinary course of events, the bridge is likely to cause injury or death to any persons or damage to other property ("the section 121 test"). I must also consider the authority's refusal to exercise its powers under section 124 of the Act.

The meaning of 'likely'

4.4. I note the term 'likely' was considered in Determination 2006/119[14] in the context of the dangerous building test under section 64 of the Building Act 1991. The relevant paragraph of that determination states:

> The word 'likely' in the context of section 64 of the Building Act 1991 ("the former Act"), now section 121, has been interpreted as follows:
>
> "likely" does not mean "probable", as that puts the test too high. On the other hand, a mere possibility is not enough. What is required is "a reasonable consequence or [something which] could well happen". *Auckland CC v Weldon Properties Ltd* 7/8/96, Judge Boshier, DC Auckland NP2627/95, [1996] DCR 635.

4.5. I take the view that this decision is good law in respect of the word 'likely' in section 121 and that 'likely' means something that could well happen.

[14] Determination 2006/119 *Dangerous building notices for houses in Matata, Bay of Plenty*, 7 December 2006.

The ordinary course of events

4.6. There are two different risks to consider which each relate to distinct events or scenarios. The first is the risk of collapse due to vehicle movements over the bridge, and the second is the risk that the bridge may fail or wash away due to flooding. These risks will be considered in turn.

Risk of collapse due to vehicle movements

4.7. The classified use of the building is 'ancillary', which applies to "a building or use not for human habitation and which may be exempted from some amenity provisions, but which are required to comply with structural and safety-related aspects of the building code".

4.8. The intended use of the bridge is as a private vehicle bridge to access residential properties. I note that the bridge provides the only legal access to the four properties it serves. In this situation, I consider that the 'ordinary course of events' involves the use of the bridge by vehicles to access the residential properties.

4.9. The owners and neighbours disagree about the safe loading rating and intended use of the bridge. The neighbours state that the bridge has only ever been intended for light vehicle traffic, and they consider that a 2 tonne axle load is an appropriate rating.

4.10. The owners consider the bridge was to be used for heavy vehicles. They refer to subdivision documents from 1963 which state the piers and rails of the bridge were suitable for a 6.5 ton[15] axle load, meaning a right of way for truck access through the ford was not necessary. The owners consider the bridge is currently only suitable for a 1 tonne axle load and is at the end of its life requiring replacement.

4.11. The authority has not confirmed what it considers to be an appropriate weight rating for the bridge but notes that all engineers agree the bridge can continue to be used within defined limits.

4.12. Notwithstanding that the bridge may have been adequate for heavier vehicles in the past, there does not appear to be any dispute that it has not been suitable for heavy vehicles for a significant length of time. In my view, the intended use of the bridge is as a light vehicle bridge.

4.13. The authority notes that "All buildings, including bridges have operational limits, although not always stated explicitly. The [authority] notes limitations placed on this bridge (or any bridge) are not suggestive of bridge failure. They are simply realistic limitations for practical everyday use".

[15] An unqualified mention of a 'ton' typically refers to a 'short ton' which is 907.2 kg (a 'long ton' is 1016 kg). A 'tonne' is 1000kg.

4.14. I agree with the authority that all bridges have operational limits. The Building Code and intended use of a building work together in setting and taking into account those operational limits.

4.15. The operational limits which may apply to private short-span bridges (up to 6m in length) are discussed in the Ministry's exempt building work guidance:[16]

> Weight and/or speed limit signs should be fixed to the short-span bridges. Appropriate signs will help to warn other users of the bridge of its limits, including employees or emergency responders, and may to an extent limit landowner liability in the event a short-span bridge is overloaded. Installing the appropriate signs generally limits the liability of local authorities for issues resulting from the overloading of short-span bridges on private land, it could also warn other users of short-span bridges such as firefighters or employees.

4.16. Notwithstanding that the bridge in this case does not meet the criteria in the exemption for short-span bridges, the point that private bridges have operational limits is relevant. It is appropriate for the use of the bridge to be restricted to safe operational limits, including defined speed and weight limits. These limits must be stated on clear signage fixed to the bridge.

4.17. The owners consider that "'ordinary use' is dangerously overloading the bridge" and "it is impossible to control what comes over the bridge". Their bridge usage data shows crossings in excess of all engineers' recommendations (refer to paragraph 3.2). However, it is not clear what signage, if any, was present at the time the owners gathered this data.

4.18. The owners are also concerned that an ambulance or fire appliance would exceed the rating of the bridge, resulting in slower response times for these services as responders would need to walk from the bridge to the various properties. However, the performance requirements in Building Code clause C5 *Access and safety for firefighting operations* do not apply to detached dwellings. There are also no specific criteria in the Building Act or Code (eg in clause D1 *Access routes*) regarding access for ambulance services. I do not consider there is a requirement that this private bridge must enable access by emergency services, or that access by these vehicles falls within the intended use of the bridge as a light vehicle bridge.

4.19. Although the engineers disagree on the appropriate weight rating, none of the engineers have concluded the bridge is likely to fail if used beyond the respective limits in their reports. Nor have the engineer reports provided any information as to how the bridge would fail (ie the likely collapse mechanism) or any information as to under what loading that failure or collapse may be likely to occur. I also note

[16] Building Performance (2025) *Building work that does not require a building consent: Exemptions Guidance for Schedule 1 of the Building Act 2004*. Ministry of Business, Innovation and Employment, at page 120.

that, apart from evidence of pack rust and possible flexing of the deck boards,[17] there is no indication of deterioration in the bridge since the repairs were carried out, despite some heavy vehicle crossings occurring.

4.20. In my view, the bridge has operational limits which involve using it within defined speed and weight limits, and includes the use of the bridge for light vehicles as per its intended use.

4.21. There does not appear to be any dispute that travel speed should be restricted to 5km/hour. Regarding the weight restriction, I agree with the neighbours' engineers that weight be restricted to 3.5 tonnes gross (or a 2 tonne axle load). I note that there is evidence of several crossings which exceed this rating, eg a refrigerated truck with a tare (empty) weight of 4.32 tonnes. No damage was reported following these heavy crossings, indicating that the structural capacity of the bridge is currently sufficient to support a 3.5 tonne load (gross) in a low-speed environment.

4.22. I am satisfied that used within those operational limits, the bridge does not meet the section 121 test. Injury or death to any persons is not likely, and the bridge is not dangerous for the purposes of the Act. However, it is critical that clear signage is put in place to confine the use of the bridge to within safe operational limits and warn users of heavier vehicles.

4.23. There is a point where the level of overloading would be enough for the bridge to be likely to fail or collapse. However, we have not been provided any information as to at what point that failure or collapse is likely to occur.

4.24. It is for the owners and neighbours to determine whether the bridge serves their needs in relation to the restrictions. If they require services or deliveries that do not fall within safe operational limits (eg gas deliveries, sewage disposal or emergency vehicle access), then it is for them to make other arrangements or strengthen/replace the bridge.

Risk from flooding

4.25. In *Rotorua District Council v Rua Developments Ltd*,[18] the Court held:

> I find that the words 'in the ordinary course of events' in [s 64(1)(a) BA91, now s 121(a)] mean the usual gamut of climatic occurrences likely to be encountered in this country. The provision specifically excludes earthquakes, but it would include the range of temperature variations and different climatic conditions that are likely to be encountered in the course of a year. Such would include, for example, dry and wet spells, heavy downpours, winter storms, equinoctial gales, but it would exclude incidents not normally occurring such as for example 50 year floods and cyclones.

[17] On 6 April 2026, the owners inspected the bridge and provided evidence of pack rust of 6-7mm thickness peeling off the middle beam. They also state the deck boards look bent and are flexing in the order of 5-7mm at the true right end of the bridge.

[18] [1998] DCR 1097 (DC).

4.26. The owners state the bridge is overtopped 2-3 times per year. As flooding is 'likely to be encountered in the course of the year', the bridge being overtopped due to flooding would be within 'the ordinary course of events'.

4.27. The owners consider that in such an event, the bridge could wash away and damage other property. Their engineer states that the threaded rods and plates securing the deck (which were installed during the bridge repair) are "infrequently spaced providing inadequate connectivity between the deck and the beams" and are of an inadequate size to transfer the forces. They also state there is no lateral bracing or tie down anchorages. On the other hand, the neighbours' engineer states the deck hold down bolts "appear adequate to prevent uplift during flood events, and the beam embedment into the abutments provides sufficient anchorage of the superstructure".

4.28. In my view, the risk of different elements of the bridge failing, in the type of flooding event expected in the ordinary course of events, is low. I note that the three rail beams are holding the bridge laterally and the beam embedment in the abutments appears to be sufficient at this point in time. There is no evidence of scour to the extent that the bridge (including the abutments) would be at risk of displacement in the ordinary course of events.

4.29. I note that when the deck was dislodged in the October 2024 flooding, prior to the repairs being carried out, it was held down with metal pins/studs which had become corroded. The current hold down bolts/plates have improved the bridge in this regard. I also note that the hold down bolts are visible and can be inspected after flooding events, in addition to routine visual inspections and periodic engineer inspections of the bridge.

4.30. Further, the neighbours state that there was no apparent damage to the bridge after a recent flooding event (in April 2026), in which the bridge was submerged to at a depth of at least 500mm.

4.31. I do not consider the bridge would fail in the type of flooding expected in the ordinary course of events. However, there are risks associated with driving through floodwaters. As such, I consider that the safe operational limits for the bridge include that it only be used when the water level is not at the height of the lower level of the bridge deck. This is in addition to the 5km/hour and maximum vehicle weight of 3.5 tonnes (gross) discussed in paragraph 4.21.

4.32. When used within its operational limits, I do not consider the bridge is likely to cause injury or death to any person, or damage to other property. Accordingly, the bridge does not meet the threshold of dangerous under section 121. As previously stated, it is critical that the operational limits are set out on clear signage.

The authority's decision under section 124

4.33. Section 124, which sets out the powers of a territorial authority, applies "if a territorial authority is satisfied that a building in its district is a dangerous, affected, or insanitary building" (section 124(1)). If this is the case, the territorial authority may take actions including putting up a hoarding/fence, attaching a notice that warns people not to approach the building, issuing a notice requiring work to be carried out, and/or issuing a notice restricting entry to the building (section 124(2)).

4.34. The authority wrote to the owners 12 March 2025 and 29 January 2026, confirming it did not consider the bridge was dangerous and that no action was required under the dangerous building provisions.

4.35. The bridge is not dangerous under section 121 of the Act when used within its operational limits, and nor was it dangerous when the authority communicated its' decisions to the owners. As such, section 124 did not apply.

4.36. I note that the neighbours engineering reports advise routine visual inspections of the bridge as well as periodic engineer inspections. Any loss of capacity, whether caused by structural fatigue/degradation or flood damage, may result in reduced operational limits. The bridge will need ongoing maintenance and repair, and/or eventual replacement should it no longer be fit for its intended purpose.

5. Decision

5.1. In accordance with section 188 of the Building Act 2004, I confirm the authority's decision to refuse to issue a dangerous building notice.

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 25 June 2026.

Andrew Eames

Principal Advisor Determinations