

Customer & Designer Guide

LAND SUBJECT TO NATURAL HAZARDS (s71- s74)

If you are thinking about carrying out building works it is important to consider any natural hazards that may affect how the project complies with the Building Act 2004 (Section 71) and the New Zealand Building Code.

Natural hazards include:

- Erosion (including coastal erosion, bank erosion and sheet erosion);
- Falling debris (including soil, rock, snow and ice);
- Subsidence;
- Inundation (including flooding, overland flow, storm surge, tidal effects and ponding); and
- Slippage.

A Land Information Memorandum or Project Information Memorandum will provide information about hazards that the Council knows about on your property.

New building works or alterations should be designed with any natural hazard in mind. The Building Act 2004 requires Council to look closely at building consents for new buildings or major alterations to a building on land subject to a natural hazard. The Council can either refuse to grant the building consent in some circumstances or it can grant the consent subject to conditions under Sections 72 and 73 of the Building Act 2004.

The Council strongly recommends that you or your advisors discuss your proposals with one of our building control officers prior to lodging your building consent application.

WHAT IS SECTION 72 & HOW DOES THIS AFFECT MY BUILDING CONSENT ?

Section 72 of the Building Act 2004 deals with building on land subject to erosion, avulsion, alluvion, falling debris, subsidence, inundation or slippage. Sections 71 and 72 of the Building Act 2004 states that Council shall refuse to grant a building consent for the construction of a building or major alterations unless it is satisfied that adequate provision has been or will be made to protect the land or building work, or other property concerned from those hazards, or restore any damage to the land or property concerned that may result from the building work.

Where a building consent is applied for on land that is subject to one or more of the above hazards and the Council considers that the building work itself will not accelerate, worsen, or result in erosion, subsidence, inundation etc, then the building consent can be issued subject to Sections 72 and 73. Unless the work is of a minor nature you may need a report from a Geotechnical Engineer or Hydrologist. You should check with the Council prior to lodging a building consent.

Council considers that the installation of domestic fires and minor interior alterations would not attract action under Section 72. However, the construction of a retaining wall on land subject to slippage would meet the conditions for Section 72.

When a building consent is issued subject to Section 72, the Council *must* notify the District Land Registrar to arrange an endorsement on the Certificate of Title advising that the consent has been issued pursuant to Section 72 of the Building Act 2004.

HOW DOES THIS AFFECT MY TITLE?

If there is a Section 72 endorsement on the Certificate of Title and the building is subsequently damaged by a hazard event then the owner, and subsequent owners, cannot claim against the Council for issuing the consent.

"The existence of an entry under Section 74 of Building Act 2004 may limit statutory natural disaster insurance. Refer Clause 3(d) of Third Schedule to the Earthquake Commission Act 1993."

You are strongly advised to contact your solicitor, insurance company or the Earthquake Commission if you are purchasing a property in these areas or you are planning on doing any alterations or additions in the future.

Please Note: Section 36 of the Building Act 1991 covered natural hazards. Prior to the Building Act 1991 all building permits were issued under the Local Government Act 1974. Section 641(A) of the Local Government Act 1974 is similar to Section 72 of the Building Act 2004 so check your Certificate of Title for any relevant endorsement.