

Building Consents - Natural Hazard Guidance Information

Building consents issued under Section 72 of the Building Act 2004 for building work on land subject, or likely to be subject, to a natural hazard - guidance information.

What are natural hazards as they relate to a building consent?

Natural hazards mentioned in the Building Act 2004 are:

- 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 (LIM) or Project Information Memorandum (PIM) will identify hazards that the Council knows about for a particular land site.

What does the Council consider when a building consent application is submitted?

When an application for a building consent is lodged the Building Act 2004 requires the council to consider whether the land, on which the building work is to be carried out, is subject or likely to be subject to any natural hazard. Sections 71-74 of the Building Act set out the matters to be considered and the actions to be taken by the Council.

New building works or alterations should be designed with natural hazards in mind. In some circumstances, the Council may refuse to grant the building consent. In other circumstances, under Section 72 of the Building Act 2004, the Council may grant the building consent, subject to conditions. If the consent is granted under Section 72, the Council must notify the Registrar General of Land and an entry will be made on the Record of Title. This would indicate a building consent was granted under Section 72 and would identify the natural hazard concerned.

What sort of work will trigger a Section 72 notation on the Record of Title?

Sections 71-74 of the Building Act 2004, deal with building consents for "construction of a building, or major alterations to a building" if "the land on which the building work is to be carried out is subject or likely to be subject to 1 or more natural hazards". Where this situation exists, the Building Act provides that a building consent can be granted but a notation must be included on the Record of Title.

Current Council guidance is that "major alterations" are assessed on a case-by-case basis.

Building work classified as "major alterations", (as classified in Section 71), will be considered "major" if the proposed work exceeds the lesser of 25% of the original floor area, or 30m². This only applies when the alteration is an addition.

All new buildings on land subject to a natural hazard are to be considered under Section 71. Wholly internal fit outs, suspended decks and minor building consents will not be considered under Section 71 regardless of size.

What are the implications of having a Section 72 notation on the Record of Title?

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

You are strongly advised to contact your solicitor, insurance company or the Earthquake Commission <http://www.egc.govt.nz> if you are either purchasing a property in these areas and/or you are intending to carry out any building alterations or additions in the future.

How does Section 72 of the Building Act 2004 compare with previous building legislation?

The Building Act 1991 also covered natural hazards and a Section 36(2) entry under that 1991 Act is similar to a Section 72 entry under the Building Act 2004.

Before 1991 all building permits were issued under the local Government Act 1974 and a Section 641 (A) entry under that Act is also similar to a Section 72 entry under the Building Act 2004.

How do I know whether there is already a hazard-related notation on the Record of Title?

This can be identified by obtaining a copy of the Record of Title from Land Information New Zealand www.linz.govt.nz.