



**CUSTOMER GUIDE TO
BUILDING CONSENTS ISSUED
UNDER S.72 OF THE BUILDING ACT 2004 (HAZARD AREAS)**



Your guide to submitting a hassle-free application under s.72 of the Building Act.

Includes information about:

- types of hazards;
- identifying hazard areas; and
- implications of building in a hazard area.

For further information please contact:

Westland District Council

Building Department

36 Weld Street

Private Bag 704

Hokitika

Phone: 03 756 9010

Fax: 03 756 9045

E-mail: council@westlanddc.govt.nz

Building consents issued under s.72 (Hazard Areas): the basic information

Natural Hazards

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 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 known to Council.

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 Section 72 of the Building Act 2004.

What is Section 72 of the Building Act 2004?

Section 72 of the Building Act 2004 deals with building on land subject to erosion, avulsion, alluvion, falling debris, subsidence, inundation or slippage.

How do I know if my property is in a hazard area and could be subject to Section 72?

There are some sites in Westland district that have been identified as hazard areas.

Will a building consent be issued in these areas?

Section 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 territorial authority 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 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.

If I apply for a building consent in a known hazard area will I need to have a report from a Geotechnical Engineer or Hydrologist?

Unless the work is of a minor nature you may need a report from one of these professionals. You should check with the Council prior to lodging a building consent.

What are the implications of having a Section 72 on the Certificate of 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.

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

You need to obtain a copy of the Certificate of Title from Land Information New Zealand.

Will all building consents in hazard areas be issued subject to Section 72 ?

Not necessarily. Section 72 allows the Council to issue a building consent if it is satisfied that adequate provision has been made either to protect the land or building work or other property from the hazard or to restore any damage to the land or other property arising out of the building work.

Additionally, Section 72 only applies to the construction of a building or major alterations to a building. While there is no definition of major alterations the Council considers that the installation of domestic fires and minor interior alterations would not attract action under Section 72.

The Council strongly recommends that you or your advisors discuss your proposals with our Consents staff prior to lodging your building consent application.

Can a Section 72 endorsement be entered on my Certificate of Title if I don't apply for a building consent?

No.

Useful websites

Certified Builders Association of NZ Inc (CBANZ)
www.certified.co.nz

Registered Master Builders Federation Inc (RMBF)
www.masterbuilder.org.nz

New Zealand Institute of Architects (NZIA)
www.nzia.co.nz

Architectural Designers NZ Inc (ADNZ)
www.adnz.org.nz

Association of Consulting Engineers (ACENZ)
www.acenz.org.nz

BRANZ Ltd
www.branz.co.nz

NZ Institute of Quantity Surveyors Inc (NZIQS)
www.nziqs.co.nz

NZ Institute of Surveyors (NZIS)
www.surveyors.org.nz

Department of Building and Housing (DBH)
www.dbh.govt.nz
Downloads of Building Act and Building Code Information

Institution of Professional Engineers (IPENZ)
www.ipenz.org.nz

NZ Institute of Building Surveyors Inc (NZIBS)
www.buildingsurveyors.co.nz

Consumers' Institute of New Zealand
www.consumerbuild.org.nz

