

Coastal erosion and inundation (flooding)

Owners of properties that are exposed to natural hazards, including coastal erosion and inundation (flooding), need to be aware of the natural hazard provisions in sections 71-73 of the Building Act 2004, when considering building new or renovating.

Professional building service providers also need a thorough understanding of the natural hazard provisions to assist their clients (particularly those living between Clive and Cape Kidnappers) to make informed decisions early in the design process.



Building Forum

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Is your client's property subject to a natural hazard?

With regard to inundation and flooding hazards in the Hastings District, the most accurate, up-to-date and reliable information is on the Hawke's Bay Emergency Management Portal. That is the information we consider and it is recommended you check the portal to identify whether or not your client's property is subject to a natural hazard.

What we consider when processing building consents on land subject to natural hazards

CODE COMPLIANCE

When assessing building consent applications on land subject to coastal inundation or flooding hazards, Clause E1.3.2 of the Building Code says surface water from an event having a 2% probability of occurring annually (i.e. a one-in-50 year event) shall not enter residential buildings.

In other words, Clause E1 says that the risk of inundation or flooding should be assessed against a 2% AEP event, or a one-in-50-year storm event for determining a suitable finished floor level (FFL) for residential buildings.

SECTIONS 71 TO 74 OF THE BUILDING ACT: NATURAL HAZARD PROVISIONS

Additionally (and separate to the requirement to assess compliance of a building consent application with the Code), the natural hazard provisions in ss 71 to 74 of the Building Act require us to give specific consideration to the impact that the construction of new buildings and major alterations on land that is "subject or is likely subject to" a natural hazard will have on the building, land and/or other properties.

SECTION 71

Section 71(1) of the Building Act says that an application for a new building or major alteration must be refused if:

- It is for work on land subject to a natural hazard; or
- The building work is likely to accelerate, worsen, or result in a natural hazard on that land or any other property.

The exception to this is if we are satisfied adequate provision has been or will be made to:

- Protect the land, building work, or other property from the natural hazard or hazards; or
- Restore any damage to that land or other property as a result of the building work.

Section 71(3) outlines the natural hazards that are applicable to ss 71 to 74. Relevantly, these include inundation (including flooding, overland flow, storm surge, tidal effects, and ponding).

The land in question must be subject to, or "likely" subject to, a natural hazard for the natural hazard provisions to apply. Previous Court cases and MBIE determinations have concluded that the hazard must cause more than simply a nuisance event, and that a 1% AEP event (i.e. a 1 in 100-year event) or more frequent is a "likely" event over the lifetime of the building.



SECTION 72

Section 71 is subject to s 72 of the Building Act, which says we must grant a building consent for a new building or major alterations on land subject to a natural hazard if:

- The building work will not accelerate, worsen, or result in a natural hazard on that land or any other property; and
- It is reasonable to grant a waiver or modification of the Code in respect of the natural hazard concerned.

A grant of consent under s 72 requires us to then impose a condition on the consent and register a notice against the property's record of title under s 73 of the Building Act to identify the natural hazard for future owners.

Some of the specific things we are looking for

When assessing building consent applications for new builds or major alterations on land subject to coastal inundation, careful consideration is given to each individual application. For advice go to:

- MBIE guidance re Natural Hazard Provisions: www.building.govt.nz/assets/Uploads/projects-and-consents/Planning-a-successful-build/Scope-and-design/natural-hazard-provisions-guidance.pdf
- HDC guidance: www.hastingsdc.govt.nz/services/building-consents-information/building-consents/

The information in this hand-out is not comprehensive and does not replace professional legal, planning or building advice.

For further information email jessier@hdc.govt.nz