



**Western Bay of Plenty
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***Building on land
subject to hazard
Section 72 title endorsements***

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What is Section 72

Section 72 is part of the Building Act 2004. It covers situations where people want to build on land that is subject to a real or potential hazard.

What do you mean by hazard?

Although a hazard can be one of many things, the most likely are:

inundation	slippage
subsidence	flooding
erosion	avulsion
alluvion	falling debris

Can I build on land subject to a hazard?

Yes, provided the building work does not worsen the hazard or have an adverse effect on both your property and neighbouring property.

You will be asked to produce technical evidence before a building consent application will be considered.

You will need to engage the services of a Soils Engineer approved by Council to provide that evidence.

A list of approved Soils Engineers is available on request.

How do I get consent to build on such land?

Section 73 of the Building Act says that if Council issues a building consent on land subject to one or more natural hazards, then the title must be endorsed to show that the building is on such land.

You cannot build on land subject to a hazard without Council issuing a building consent with an endorsement on the title.

Other effects of having an endorsement on my title

- ▶ Alerts subsequent buyers that the building is on land subject to a hazard.
- ▶ Means legal action cannot be taken against the Council for issuing the building consent.

How do I get the endorsement on my property title?

Use Council:

Complete the forms authorising this and the full process will be arranged for you by the Council.

Or use your own legal advisor:

Complete the Council form that indicates that you agree with the endorsement being placed on the title. The Council then provides a certificate which the District Land Registry requires to enable the endorsement to be made. Your solicitor will then make arrangements to have the title endorsed.

In addition to council fees you will have your own solicitor's charges for the legal work and the District Land Registrar's fee.

What if the bank holds my property title?

There are two copies of the title. The one your bank holds (if you have a mortgage over the property) is called the outstanding copy. The original copy is held by the District Land Registrar and is the only copy that needs endorsing.