



19 November 2024

Sarah Kaye

[REDACTED]

Dear Sarah Kaye

Request for Information – Local Government Official Information and Meetings Act (the Act) 1987

We refer to your email dated 22 October 2024 for Information. We have addressed each of your questions in the appendices attached.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Please note that this response to your information request may be published on Hutt City Council's website. Please refer to the following link: www.huttcity.govt.nz/council/contactus/make-an-official-information-act-request/proactive-releases

Yours sincerely

Philip Rossiter

Senior Advisor, Official Information and Privacy

Appendix A

Question	RESPONSE
<p>How many section 72 notices have been added to titles of homes in Petone, Alicetown and the Te Awa Kairangi/Hutt River valley floor from Taita to Seaview as part of the building consent process, by month or by quarter. Since jan 2020</p>	<p>Please see Appendix B attached.</p>
<p>How many building consents were issued for new homes or additions and alterations to dwellings in this area, for the same period, by month or by quarter?</p>	<p>This information is publicly available on our website: https://www.huttcity.govt.nz/property-and-building/property/consents-issued</p>
<p>What criteria or advice has the Council used to decide that the Wellington Water flood modelling can be used to determine which properties are subject to or are likely to be subject to a natural hazard as described by section 71 of the Building Act.</p>	<p>The modelling is a relevant consideration when processing a building consent under the Building Act 2004 (Building Act).</p> <p>Inundation \ flooding is a natural hazard. Council is required to consider whether building work to be carried out 'is likely to be subject' to inundation.</p> <p>The approach to using the modelling for consent processes reflects that Council should use the best and known information available to it.</p>

	<p>The consent processes enable site-specific assessments to be undertaken to address or respond to the Model, if the applicant does not agree with what the Model provides.</p>
<p>What advice has the Council generated or received on what the Wellington Water flood modelling is intended for and how it should be used? Please include any emails discussing the use of the Wellington Water model to determine which properties are subject to or are likely to be subject to a natural hazard risk.</p>	<p>There is no specific advice on this matter, but the following points are noted:</p> <p>Hutt City Council has a statutory responsibility to manage risks from natural hazards, including flooding.</p> <p>To do this Hutt City Council engaged Wellington Water to undertake modelling to assess and understand the stormwater flooding hazard that may affect the community.</p> <p>The modelling is used to help Council make decisions about keeping people and property safe in flood events.</p> <p>Wellington Water has a comprehensive programme of modelling and mapping flood risk across the entire Wellington metropolitan region.</p>

<p>What date did Council cease using only Greater Wellington Regional Council's 1 in 100 year flood model (as cited in the information sheet dated August 2020, and begin to use the Wellington Water modelling to designate which properties are subject to or are likely to be subject to a natural hazard?</p>	<p>Council never ceased using the GWRC maps. We use the most updated information we have.</p> <p>Council uses the GWRC flood modelling for designated watercourses under their control (principally Hutt River, Waiwhetu Stream, Wainuiomata River), we also use the WWL flood modelling for general stormwater catchment areas and HCC internal records (historic records, road flooding, prior GHD flooding assessments).</p>
<p>Please provide any policy or decision papers that supported the use of this Wellington Water modelling and/or provided the rationale to use Wellington Water modelling. Please provide any emails that discuss this decision.</p>	<p>Refer to Committee Report no: DPRC2024/3/167 dated 19 June 2024</p> <p>Item 7: Update on Three Waters and Natural Hazards and Coastal Hazards chapters for Proposed District Plan</p> <p>See paragraphs 15 - 21</p> <p>https://huttcity.infocouncil.biz/Open/2024/07/DP_RC_04072024_AGN_3271_AT.PDF</p>
<p>What consultation was conducted on the decision to use Wellington Water flood modelling (eg HCC Petone) to designate</p>	<p>Previous consultation has been jointly carried out by Wellington Water and Hutt City Council in the development of this flood modelling as part of Plan Change 56, the details of which are</p>

<p>natural hazard risk as described by section 71? Who did Council consult with?</p>	<p>available here: https://www.huttcity.govt.nz/council/district-plan/district-plan-changes/completed/implementing-government-requirements-for-housing-intensification.</p> <p>The modelling will be used to inform the new flood hazard maps that will be included in the Proposed District Plan to be notified next year. Anyone can make a submission on these maps once the Proposed Plan has been notified and then there will be public hearings to consider all submissions. More information on the Proposed District Plan process will be available here:</p> <p>https://www.huttcity.govt.nz/council/district-plan/district-plan-review</p>
<p>Provide any policy documents that explain how a designation from the Wellington Water model that a property is subject to inundation under a scenario that includes a 1 in 100 year flood AND 20 per cent increase in precipitation AND 1 metre sea level rise can</p>	<p>The modelling follows guidance from the Ministry of the Environment on coastal hazards and climate change:</p> <p>https://environment.govt.nz/publications/coastal-hazards-and-climate-change-guidance/</p>

<p>be used to demonstrate that the land is likely to be subject to inundation.</p>	
<p>Provide any advice the Council has written or received on the process, policy and decision making criteria to apply section 72 notices.</p>	<p><u>INTERNAL HCC</u> Refer attached: - "BCA QMS Quality Assurance Manual - Natural Hazards Chapter" - "Training handout notes - BA04 Sections 71-72 Natural Hazards"</p> <p><u>EXTERNAL ADVICE/POLICY RECEIVED</u> MBIE BUILDING PERFORMANCE GUIDANCE Natural Hazard Provisions - GUIDANCE - October 2023 (This is a Building Act official s175 Guidance) Step-by-step guide: Natural hazard decision making process Building Performance Building a more resilient home Building Performance</p> <p>DETERMINATIONS (Determination 2021/013 is particularly relevant, Determination 2017/048 and the Appendix-B Decision Flowchart is the basis of current s71/72 processing)</p>

	<p><u>2024/055: An authority's decision to refuse to grant a building consent for dam upgrade works under section 71 Building Performance</u></p> <p><u>2024/053: An authority's decision to grant a building consent under section 72 on land that is subject to a natural hazard Building Performance</u></p> <p><u>2024/045: Regarding an authority's decision to refuse to remove an entry on the record of title relating to a natural hazard under section 74 Building Performance</u></p> <p><u>2021/013: Regarding the proposed granting of a building consent for an alteration to a building on land subject to a natural hazard Building Performance</u></p> <p><u>2021/004: Regarding the proposed decision to grant a building consent conditional on a natural hazard being recorded on the property title Building Performance</u></p> <p><u>2020/024: Regarding the grant of a building consent for alterations to a building Building Performance</u></p> <p><u>2019/067: The decision to grant a building consent subject to notification under section 73 for a site adjacent to a coastal estuary Building Performance</u></p>
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	<p>Determination 2017/048: Decision to grant a building consent subject to notification under section 73 for building work on land subject to a natural hazard</p>
<p>Provide any advice the Council has received or generated that assesses the potential impact of a growing number of uninsured homes in the Hutt Valley?</p>	<p>Council has not received or generated any advice that assesses the potential impact of a growing number of uninsured homes in the Hutt Valley.</p>
<p>Provide any documents on any risk assessment of an increasing number of residential properties with section 72 notices in the Hutt Valley, where homeowners are unable to secure insurance or a mortgage.</p>	<p>Council does not have any information on risk assessments of the number of residential properties with Section 72 notices in the Hutt Valley, where homeowners are unable to secure insurance or a mortgage.</p>
<p>What risks and mitigations have been considered by Council in its application of section 72 notices?</p>	<p>Council consider the three criteria as per section 72 when whether to grant a Building Consent subject to a section 72 Condition and application of a section 73 notice:</p> <p>(a) The building work to which an application for building consent will not accelerate, worsen, or result in a natural hazard on the land on which the building work is to be carried out or any other property; and</p>

	<p>(b) The land is likely to be subject to 1 or more natural hazards; and</p> <p>(c) It is reasonable to grant a waiver or modification of the Building Code in respect of the natural hazard concerned.</p> <p>The grant of a section 67 Waiver or Modification of the Building Code requires extraordinary reasons or an unusual situation, reasonableness also involves consideration of the hazard risk - particularly to life. We also recognise in whether to apply a S72 notice prior judgements in particular Court of Appeal - Auckland City Council vs Logan.</p>
<p>Has council or its staff communicated with the private insurance industry on natural hazard risk or the natural hazard provisions of the Building Act in the past four years? Provide any meeting notes, action points and agendas from these meetings or any relevant emails between council staff and the private insurance industry.</p>	<p>No, council has not communicated with the private insurance industry on natural hazard risk or natural hazard provisions of the building act in the last 4 years.</p>

Appendix B

Section 72 Building Act Notices from 1 January 2020

Petone, Alicetown, Valley floor from Taita to Seaview

NB Month refers to date s72 applications received @ TDSL. Completion of registration may carry over to next month (or in a couple of cases, registration is completed some time later due to delays for various reasons).

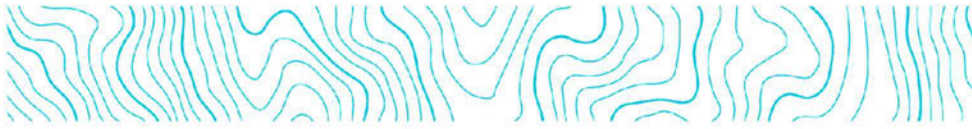
2020	Suburb	
January (1)	Waiwhetu	1
February (0)		0
March (2)	Woburn	1
	Seaview	1
April (1)	Waiwhetu	1
May (1)	Waterloo	1
June (3)	Woburn	1
	Moera	2
July (0)		0
August (1)	Woburn	1
September (5)	Moera	2
	Belmont	1
	Woburn	1
	Waiwhetu	1
October (2)	Naenae	1
	Woburn	1
November (1)	Petone	1
December (3)	Woburn	1
	Gracefield	1
	Fairfield	1

2021	Suburb	
January (0)		0
February (2)	Gracefield	1
	Petone	1
March (2)	Moera	1
	Waiwhetu	1
April (1)	Gracefield	1
May (2)	Waterloo	1
	Petone	1
June (1)	Woburn	1
July (1)	Moera	1
August (2)	Petone	1
	Moera	1
September (1)	Waiwhetu	1
October (2)	Hutt Central	2
November (4)	Waterloo	1
	Waiwhetu	1
	Naenae	1
	Gracefield	1
December (3)	Moera	1
	Waterloo	1
	Petone	1

2022	Suburb	
January (1)	Naenae	1
February (1)	Petone	1
March (4)	Waterloo	1
	Naenae	1
	Petone	2
April (2)	Avalon	1
	Moera	1
May (3)	Petone	1
	Waterloo	1
	Petone	1
June (2)	Waterloo	2
July (1)	Gracefield	1
August (2)	Alicetown	1
	Moera	1
September (4)	Taita	1
	Petone	2
	Alicetown	1
October (2)	Gracefield	1
	Moera	1
November (0)		0
December (1)	Moera	1

2023	Suburb	
January (2)	Moera	1
	Alicetown	1
February (2)	Moera	1
	Epuni	1
March (8)	Alicetown	2
	Petone	4
	Woburn	2
April (0)		0
May (2)	Petone	1
	Moera	1
June (7)	Avalon	1
	Naenae	3
	Petone	1
	Taita	1
	Waiwhetu	1
July (6)	Gracefield	2
	Woburn	2
	Waiwhetu	1
	Naenae	1
August (6)	Woburn	2
	Waiwhetu	1
	Gracefield	1
	Boulcott	2
September (1)	Petone	1
October (1)	Woburn	1
November (6)	Waiwhetu	2
	Alicetown	2
	Petone	1
	Waterloo	1
December (7)	Gracefield	1
	Alicetown	1
	Naenae	4
	Petone	1

2024	Suburb	
January (0)		0
February (3)	Naenae	1
	Waiwhetu	1
	Epuni	1
March (6)	Alicetown	1
	Naenae	5
April (1)	Waterloo	1
May (0)		0
June (5)	Avalon	1
	Epuni	1
	Naenae	3
July (3)	Woburn	1
	Hutt Central	2
August (2)	Petone	1
	Naenae	1
September (5)	Petone	1
	Hutt Central	2
	Melling	1
	Alicetown	1
October (1)	Hutt Central	1



Natural Hazards

Regulation:	Section 71–74 Regulation 7(2)(d)(iv)	Date:	5 March 2023
Owner:	Building Consents Manager	Responsibility:	Building Officers

Intent

A building consent can't be issued for work on land that is subject to, or likely to be subject to, a natural hazard, unless the hazard is not going to affect the work or land, including other property, or is adequately managed. If we issue a building consent subject to a natural hazard, we must ensure the hazard is noted on the property title. We want to make sure that current and future owners are aware of potential natural hazards and can make decisions about how to address them.

Policy

Officers should be consistent, fair, and reasonable when consenting building work on land that may be subject to natural hazards. This includes ensuring the issue does not transfer to a neighbouring parcel of land.

With the increasing availability of hazard information and ongoing development for more buildings, situations where this may apply are becoming more common.

Natural Hazards

Section 71(3) of the Building Act defines a natural hazard as land subject to:

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

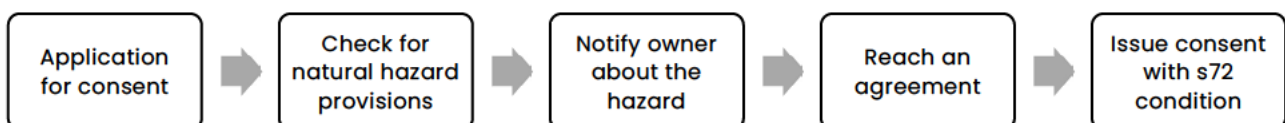
MBIE guidance advises that a natural Hazard **is not**:

- Earthquakes
- Tsunami
- Climate Hazards (other than flooding)

It is also important to note that section 71 only applies to Natural Hazards as defined within the Building Act 2004, and not to any other 'natural hazards' defined by other Acts. (E.g., the Resource Management Act defines Natural Hazards differently)

The Building Code does not limit the definition of a natural hazard. The accepted practice is to use 1% chance of a natural hazard occurrence (i.e., 1 in 100 years) as an appropriate method to determine if the land is subjected to a natural hazard.

High Level Process



Procedure

The Building Act hazard provisions

The Building Act 2004, section 71–74, covers the natural hazards provisions within the legislation.

Hazard provisions of the Building Act

Hazard information needs to be considered for all new buildings irrespective of the size and use of the building.

Additionally, all major alterations to buildings are impacted by these provisions. The nature of the alterations is assessed on a case-by-case basis. The following factors will guide Officers and are considered major alterations.

- An increase in floor area that exceeds 20m² or 25% to the current floor area is considered a major alteration.
- An addition or alteration that increases the impact of a natural hazard on the existing building is classified as a major alteration.

Generally, internal fitouts, suspended decks and minor building consents will not be considered a major alteration.

Conversions to dwellings such as garages and basements will require consideration. Additional indicators that might lead Officers to consider a major alteration could include evaluating the value of the proposed work in relation to the existing building or determining if the work will significantly extend the expected life of the building.

Property likely to be subject to a hazard

The most common hazards in our city are:

- Inundation
 - Information on the 1 in 100 flood hazard from Greater Wellington Regional Council is available on Council's website: <https://mapping.gw.govt.nz/GW/Floods/>
- Slippage
 - Development on sites with slopes greater than 1:4 or on land known to have instability issues should be carefully evaluated.
 - A geotechnical assessment by a qualified person is important in the building consent process to determine the appropriate actions under sections 71 and 72 of the Building Act 2004.

Hazard on land and building work

If there is a hazard on land of the proposed building work, consideration needs to be given to ensure the:

- building work does not make the hazard worse or create a natural hazard on that land or any property.
- land or buildings on other properties are protected from the natural hazard.

A building consent cannot be issued for the building work if the above considerations are not met.

A building consent may be issued with a section 73 condition if the hazard is present on the land associated with the building work if we consider that:

- the proposed building work will not make the natural hazard worse, or result in a new natural hazard, both in relation to the land on which the building work will occur and any other property.
- the land is subject to a natural hazard.
- that any waiver of modification of the building code relating to the natural hazard is reasonable.

The applicant must be contacted and informed of this requirement before issuing the consent as they may not wish to proceed or may alter their design to avoid the issue.

The applicant may provide information to demonstrate the hazard is adequately managed. Evidence should be provided from a qualified expert and show the property is unlikely to be affected by the identified hazard associated with the land or the proposed building work.

If an agreement cannot be reached, an application for a determination with the Ministry of Business, Innovation and Employment (MBIE) can be made. This review will assess the decision to issue a building consent with a section 73 condition.

Implications of having section 73

There can be implications of having section 73 notation on the Record of Title for the owner's insurance company or bank.

If a hazard has been identified during processing, it is recommended the owner should contact their solicitor and insurance company.

Hazard-related notation on the property title

Hazards are identified on the Record of Title and can be obtained from Land Information New Zealand - www.linz.govt.nz.

Removal of a section 73

When a hazard is no longer present or the owner believes they have mitigated the risk, under section 74 of the Building Act they may request the section 73 entry to be removed from the record of title.

The assessment should be made by a suitably competent Officer and reviewed by a Team Leader to determine if the request should be granted or refused.

SECTION-71: BUILDING ON LAND SUBJECT TO NATURAL HAZARD

Sources of info:

- MoBIE Guide – S71, S72 Natural Hazards - Flooding
- MoBIE Guide - Section 71, 72 - Building subject to Natural Hazard Decision Flowchart
- Auckland City Council Guide 2229 - Notes for Section 71, 72 - Building subject to Natural Hazard
- MoBIE Determinations, particularly 2017-048 & 2021-013
- Geotech Guide – Rockfall – Design of protection structures
- HCC QMS-003 BCON procedure “Natural hazards”

What the Building Act 2004 says:

Limitations and restrictions on building consents: Construction of building on land subject to natural hazards

71 Building on land subject to natural hazards

- (1) A building consent authority must refuse to grant a building consent for construction of a building, or major alterations to a building, if—
 - (a) the land on which the building work is to be carried out is subject or is likely to be subject to 1 or more natural hazards; or
 - (b) the building work is likely to accelerate, worsen, or result in a natural hazard on that land or any other property.
- (2) Subsection (1) does not apply if the building consent authority is satisfied that adequate provision has been or will be made to—
 - (a) protect the land, building work, or other property referred to in that subsection from the natural hazard or hazards; or
 - (b) restore any damage to that land or other property as a result of the building work.
- (3) In this section and sections 72 to 74, **natural hazard** means any of the following:
 - (a) erosion (including coastal erosion, bank erosion, and sheet erosion):
 - (b) falling debris (including soil, rock, snow, and ice):
 - (c) subsidence:
 - (d) inundation (including flooding, overland flow, storm surge, tidal effects, and ponding):
 - (e) slippage.

Please note:

- S71 is a BCA technical decision function, but S72-S74 are Territorial Authority only legal functions. S71 applies to BC's only - not PIM's, Schedule-1 Exemptions, or Certificates of Acceptance (however these must still comply with the NZBC in respect of the hazard).
- The BC application must be for the “...construction of a building...” (i.e. a new detached building - doesn't apply to drainage, retaining walls, barriers, etc typical ANCILLARY use type structures) or “...major alterations...” to an existing building - there are no rules on what constitutes “major alterations” however typical factors which would tend to make alterations “major”:
 - Increase in building floor area more than 20sqm or add over +15% extra G.P.A.
 - Alteration affects more than 30% of building.
 - High amount and/or complexity and/or risk and/or value of the works.

- Type of use/building, habitable spaces/households, redundancy, utility/benefit, public occupancy.
- Is the work low risk/comparable to, or actually covered by Schedule-1 building consent work exemptions.
- A section 115 Change of Use occurs, particularly a S115(a) create a new household type CoU.
- The alteration increases the effect of a Natural Hazard - comparison of the existing situation with the proposed new one (is there a significant worsening of the potential risk/damage from the hazard to buildings or land).
- The Natural Hazard must be one listed under S71(3) - it does not include tsunami, climate change sea level rise, or earthquake action. If including the hazard for S72/73 - note the hazard category and type - but nothing more, e.g. Inundation - Flooding. There can be more than one type of hazard - you must consider all applicable hazards.
- The land must be "...subject to or is likely to be subject to 1 or more natural hazards..." - likely has been legally defined as a 1% Annual Exceedance Probability (AEP) event (= 1 in 100 years) or lower probability event.
- The hazard must be non trivial or be a significant risk of causing damage (e.g. flooding <0.1m deep is not considered) and the hazard must be to "land intimately associated with the building" - typically this means affecting the building platform or within ~5-10m of the building depending on hazard, or possibly affecting construction related to but detached from the "building" e.g. access routes, garages, retaining walls, water tanks, etc.
- Note the effect of S71(1)(b) (and also later S72(a)) - if the hazard is accelerated or worsened on the land or Other Property (without protection or mitigation) then building consent is Refused.
- Note the consideration/decision required under S71(2): the BCA must be satisfied on reasonable grounds "...that adequate provision has been or will be made to..." "(a) protect the LAND, BUILDING WORK or OTHER PROPERTY..." from the hazard - you need to consider all three aspects: Land & Building & Other Property to pass S71. Also note that "protect" from hazard can vary - 1mm of flood water inside the Building can be damaging (and the Building Code performance clause E1.3.2 requires explicit protection in respect of this for flooding for Housing Classified Use - water shall not enter the (habitable spaces) of the building at 2%AEP-1 in 50-year event) and the building work MUST comply with the Building Code including accounting for likely lifetime exposures/hazards, however 1mm of flood water on the Land occurs every time it rains without damage - it's not a hazard to the Land (e.g. typically we could consider short duration very intermittent flooding/ponding <200mm deep and <0.5m/s flow speed and water without debris as not damaging the land). You must also consider the Durability of protection/mitigation work, e.g. a retaining structure, flood wall, debris catch barrier, etc should have a min. 50-year/indefinite type specified life. Also consider the following if the consent doesn't comply with the S71(2) - typically because the Land isn't protected and you need to make a S72 TA decision (copy of case law in Auckland CC vs Logan at Court of Appeal):

We should add that in determining whether the statutory risk threshold under subs (1)(a) and subs (2)(b) [now sections 71(1)(a) and 72(b)] has been reached, and what will be adequate provision to protect the land under subs (1) [now s71(2)], given, too, that adequate provision for protection does not require the elimination of any possibility in all conceivable circumstances of inundation or other relevant hazard, a territorial authority can be expected to take a commonsense approach

Whether the risk is at the level and frequency to justify the expense and other implications of making adequate provision to protect the land and, if not, to require a warning notice, which is a blot on a title and may have significant insurance implications, will always require a sensible assessment involving consideration of fact and degree.

- Despite not passing S71(2) - typically because the Land isn't protected from hazard (and sometimes the Building as well) - then as a TA you **MUST** consider S72 as follows:

72 Building consent for building on land subject to natural hazards must be granted in certain cases

Despite section 71, a building consent authority that is a territorial authority must grant a building consent if the building consent authority considers that—

- (a) the building work to which an application for a building consent relates will not accelerate, worsen, or result in a natural hazard on the land on which the building work is to be carried out or any other property; and
- (b) the land is subject or is likely to be subject to 1 or more natural hazards; and
- (c) it is reasonable to grant a waiver or modification of the building code in respect of the natural hazard concerned.

Note you must apply ALL three criteria:

- (a) The hazard must not be made worse;
 - (b) The Land is likely subject to hazard(s);
 - (c) It is reasonable to grant a NZBC Waiver - this may not be required - and consider what S67 Waiver is required – typically of NZBC clause E1.3.2 (water shall not enter the habitable spaces of HOUSING type uses at the 2% AEP/1 in 50 year event) for flooding to housing, and for land movement type hazards typically NZBC clauses B1.3.1-B1.3.7 require waiver in respect of B1 land stability requirements. Also consider what is reasonable? – a S67 Waiver or Modification requires good justification, e.g. it would not be reasonable to grant a S67 Waiver of NZBC clause E1.3.2 for flooding to a new house when it is possible to build elevated floor levels, but it can be reasonable to grant Waiver for an addition type “major alteration” to an existing house. Also consider the hazard must not be injurious or life threatening - in particular consider deep flooding or overland flow/debris flow, rock fall, slippage/subsidence/erosion - the risk and mitigation - possible BC refusal and the reasonableness of applying S72.
- Refer to the MoBIE Natural Hazard Decision flowchart if you need to step through the S71/72 considerations.
- The effect of Granting BC under S72 is a S73 warning notification is placed on the property Certificate of Title (applied by LINZ per S74) and liability protection for the BCA and it's staff under S392 is applied.
- The Building Consent can be Granted subject to S72 even without Owner approval nor is the Owner required to sign a S73 certificate - however this should be last resort, i.e. you can Grant BC without waiting for the TA certification to be completed. You must include the S72 condition on the Form-5 BC approval. You must identify the hazard(s). The TA on Issuing the consent subject to S72 must notify the Register-General of Land (LINZ) about the condition and hazard for “normal” Owners - however if the Land is Crown owned the Surveyor-General and applicable Minister must be notified instead, and if it is Maori land then the Maori Land Court must be notified, and for these special owners a copy of the PIM (if any issued) supplied with the notification.

73 Conditions on building consents granted under section 72

- (1) A building consent authority that is a territorial authority that grants a building consent under section 72 must include, as a condition of the consent, that the building consent authority will, on issuing the consent, notify the consent to,—
 - (a) in the case of an application made by, or on behalf of, the Crown, the appropriate Minister and the Surveyor-General; and
 - (b) in the case of an application made by, or on behalf of, the owners of Māori land, the Registrar of the Maori Land Court; and
 - (c) in any other case, the Registrar-General of Land.
- (2) The notification under subsection (1)(a) or (b) must be accompanied by a copy of any project information memorandum that has been issued and that relates to the building consent in question.
- (3) The notification under subsection (1)(c) must identify the natural hazard concerned.

- If the affected lot already has a prior section 72/74 notice, or the old equivalent Local Government Act 1974 section-641(A) hazard notice or Building Act 1991 section-36(2) hazard notice, a new S72/73 notice is still required - the S72 decision & notice and S392 liability protection is per consent. FYI:

392 Building consent authority not liable

- (1) No civil proceedings may be brought against a building consent authority for anything done or omitted to be done in good faith in reliance on any of the following documents:
 - (a) an acceptable solution or a verification method;
 - (b) a determination made by the chief executive under subpart 1 of Part 3;
 - (c) a current registered product certificate;
 - (caa) a current manufacturer's certificate for a modular component;
 - (ca) a current national multiple-use approval issued under section 30F (including, in any particular case, any minor customisations permitted by regulations made under section 402(1)(kc));
 - (d) a code compliance certificate issued under section 95;
 - (e) a certificate issued under any regulations made under the Electricity Act 1992 or the Gas Act 1992.
- (2) Subsection (3) applies if—
 - (a) a building consent has been issued under section 72; and
 - (b) the building consent authority has given a notification under section 73; and
 - (c) the building consent authority has not given a notification under section 74(4) that it has determined that the entry made on the record of title of the land is no longer required; and
 - (d) the building to which the building consent relates suffers damage arising directly or indirectly from a natural hazard.
- (3) The persons specified in subsection (4) are not liable in any civil proceedings brought by any person who has an interest in the building referred to in subsection (2) on the grounds that the building consent authority issued a building

consent for the building in the knowledge that the building for which the consent was issued, or the land on which the building was situated, was, or was likely to be, subject to damage arising, directly or indirectly, from a natural hazard.

(4) The persons are—

(a) the building consent authority concerned; and

(b) every member, employee, or agent of that building consent authority.

- On a Building Consent using S44(2) Stages for a single building: apply the S72/73 certification & notification process and the S72 condition to Stage-1, each subsequent BC stage of the building is to have the S72 condition applied to the Form-5 BC approval but does not require re-certification & notification – the S72 is already in effect - add explanatory note to processing worksheet. If the stages are for separate buildings – apply the full S71-73 consideration, certification & notification process as per normal.
- Note a S72/74 notice will be applied by LINZ to every child allotment/title if the notified parent lot is subsequently subdivided.
- A S72/74 notice (or one of the older prior S72/74 equivalent notices) can be removed at later date by applying for a S74(3) & 74(4) removal if circumstances change (e.g. the affected building is demolished, or the hazard is removed, or the land is subdivided so new lots are no longer subject to hazard, etc) - refer these to me.

Appendix B: Natural Hazards Decision Tree

