

Implications of Section 74 notices on your property title

Under Section 72 of the Building Act 2004, a local body is required to issue a building consent for building on land that is subject to natural hazards, where the building work won't make the hazard situation worse and it is reasonable to grant a waiver, or modification of the Building Code.

Where these building consents are issued, section 74 of the Building Act requires the local bodies to advise the Registrar General of Land, who is required to record an entry on the certificate of title of the land affected, that identifies a building consent has been granted under Section 72 and identifies the particulars of the natural hazard concerned.

Implications for Insurance

NHCover

All home insurance policies include cover from the Natural Hazards Commission (NHC) for damage to dwellings up to \$300,000 plus GST.

Where a Section 74 notice is noted on the title to a property, NHC cover may be declined in part, or whole, under the Natural Hazards Insurance Act 2023. This depends in part on the nature of the hazard, or the natural disaster that may occur.

General Insurance Cover

Insurers provide top-up cover above the NHC limits. Where a property title has a Section 74 Notice, the insurance cover for losses related to the identified hazard could be dependent on the acceptance of a claim by NHC. For example – if your property is identified as subject to increased landslip risk and the title has this noted, then any damage caused to your home or contents by landslip is unlikely to be covered by NHC. This will probably mean that any top-up cover otherwise available under your domestic insurance policy may not be available for those landslip losses, so effectively you are uninsured for natural disaster. If your property contains a notice of this type, you are obliged to disclose this to your insurer. This is information that is material to your insurer in considering the terms of your cover and if not disclosed it may prejudice any

claim you may have for natural disaster.

Insurance contracts differ between insurers and it is important you discuss with your insurer or broker how these matters might affect your own cover.



When purchasing a property ask your solicitor to investigate whether a Section 74 covenant under the Building Act 2004 has been placed on the property.

You should notify your insurer immediately if your property has a Section 74 covenant under the Building Act 2004 noted on the title. It is likely your insurer will request that you obtain an independent engineer's report commenting on the stability of the property. Your insurer may resume cover if the report is favourable.

Disclosure of a Section 74 covenant on your property to your insurer is vitally important.

Further information on this topic can be found on the NHC website at: <https://www.naturalhazards.govt.nz/insurance-and-claims/section-notices/>