

- (b) Permit the construction, alteration, or demolition or removal of the building or proposed building if that construction, alteration, demolition, or removal would be in breach of any other Act.

Limitations and Restrictions on Building Consents

36. Building on land subject to erosion, etc.—(1) Except as provided for in subsection (2) of this section, a territorial authority shall refuse to grant a building consent involving construction of a building or major alterations to a building if—

- (a) The land on which the building work is to take place is subject to, or is likely to be subject to, erosion, avulsion, alluvion, falling debris, subsidence, inundation, or slippage; or
- (b) The building work itself is likely to accelerate, worsen, or result in erosion, avulsion, alluvion, falling debris, subsidence, inundation, or slippage of that land or any other property—

unless the territorial authority is satisfied that adequate provision has been or will be made to—

- (c) Protect the land or building work or that other property concerned from erosion, avulsion, alluvion, falling debris, subsidence, inundation, or slippage; or
- (d) Restore any damage to the land or that other property concerned as a result of the building work.

(2) Where a building consent is applied for and the territorial authority considers that—

- (a) The building work itself will not accelerate, worsen, or result in erosion, avulsion, alluvion, falling debris, subsidence, inundation, or slippage of that land or any other property; but
- (b) The land on which the building work is to take place is subject to, or is likely to be subject to, erosion, avulsion, alluvion, falling debris, subsidence, inundation, or slippage; and
- (c) The building work which is to take place is in all other respects such that the requirements of section 34 of this Act have been met—

the territorial authority shall, if it is satisfied that the applicant is the owner in terms of this section, grant the building consent, and shall include as a condition of that consent that the territorial authority shall, forthwith upon the issue of that consent, notify the District Land Registrar of the land registration district in which the land to which the consent relates is situated; and the District Land Registrar shall make an

entry on the certificate of title to the land that a building consent has been issued in respect of a building on land that is described in subsection (1) (a) of this section.

(3) Where the territorial authority determines that the entry referred to in subsection (2) of this section is no longer required, it shall send notice of the determination to the District Land Registrar who shall amend his or her records accordingly.

(4) Where—

- (a) Any building consent has been issued under subsection (2) of this section; and
- (b) The territorial authority has notified the District Land Registrar in accordance with subsection (2) of this section that it has issued the consent; and
- (c) The territorial authority has not notified the District Land Registrar under subsection (3) of this section that it has determined that the entry made on the certificate of title of the land is no longer required; and
- (d) The building to which the building consent relates later suffers damage arising directly or indirectly from erosion, subsidence, avulsion, alluvion, falling debris, inundation, or slippage, or from inundation arising from such erosion, subsidence, avulsion, alluvion, falling debris, or slippage—

the territorial authority and every member, employee, or agent of the territorial authority shall not be under any civil liability to any person having an interest in that building on the grounds that it 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 erosion, subsidence, avulsion, alluvion, falling debris, inundation, or slippage or from inundation arising from such erosion, subsidence, avulsion, alluvion, falling debris, or slippage.

(5) Where an application made by or on behalf of the Crown is such that, if the applicant were not the Crown, subsections (2) and (4) of this section would otherwise apply, the territorial authority, in approving any such application, shall notify the appropriate Minister and the Chief Surveyor for the land district in which the land is situated, and include with that notification a copy of the project information memorandum issued in respect of the building consent; and such notification shall be deemed to meet the requirements of this section.

(6) Where an application made by or on behalf of the owners of Maori land is such that, if the application were not in respect

of Maori land, subsection (2) of this section would otherwise apply, the territorial authority, in approving any such application, shall notify the Registrar of the Maori Land Court, and include with that notification a copy of the project information memorandum issued in respect of the building consent; and such notification shall be deemed to meet the requirements of this section.

(7) Where any notification is given pursuant to subsection (5) or subsection (6) of this section, the Chief Surveyor or the Registrar of the Maori Land Court, as the case may be, shall enter in his or her records the particulars of the notification together with a copy of the project information memorandum included with that notification.

(8) For the purposes of subsection (2) of this section, the term “owner” means the person having ownership of the fee simple of the land on which the building work is or has taken place.

37. Construction of building on 2 or more allotments—(1) Except as provided in subsection (11) of this section, where application is made to a territorial authority for a building consent to construct a building over land of the applicant comprised or partly comprised of 2 or more allotments of an existing subdivision or existing subdivisions (whether comprised in the same certificate of title or not), and those allotments are held by the applicant as owner in fee simple, the territorial authority shall, as a condition of the grant of the consent, require that any specified one or more of those allotments shall not be transferred or leased except in conjunction with any specified other or others of those allotments.

(2) Every such condition shall be set out in a certificate authenticated by the territorial authority in terms of section 252 of the Local Government Act 1974 and signed by the owner, and shall be lodged with the District Land Registrar who, subject to subsection (7) of this section, shall make an entry on each certificate of title for any allotment (or part thereof) to which the condition applies to the effect that it is subject to the condition specified in that certificate.

(3) When the entry referred to in subsection (2) of this section has been made on the certificates of title for the several allotments affected, then none of those allotments shall be capable of being transferred or leased except in conjunction with the other or others of them.

(4) Where an entry specified in subsection (2) of this section is made on 2 or more certificates of title and any of the land less