

Submission

To: Ministry for the Environment
Environment Committee
Parliament Buildings
Wellington

By: Northland Regional Council

On: Proposed National Policy Statement for Natural Hazards Decision-Making

1. Introduction

- 1.1. Northland Regional Council (NRC) appreciates the opportunity to submit on the Proposed National Policy Statement for Natural Hazards Decision-Making (NPS-NHD). NRC's submission is made in the interest of promoting the sustainable management of Northland's natural and physical resources and the wellbeing of its people and communities.
- 1.2. NRC has been proactive in mapping natural hazards in Northland – we have recently developed coastal flood and erosion maps and river flood hazard maps all of which include consideration of climate change and identify risk over a 100yr timeframe – for more detail please see: <https://nrcgis.maps.arcgis.com/apps/webappviewer/index.html?id=81b958563a2c40ec89f2f60efc99b13b> There is also strong direction in our Regional Policy Statement on the management of natural hazards.
- 1.3. We are also collaborating with district councils and tangata whenua on climate change adaptation through:
 - Establishment of a Joint Committee on Climate Change Adaptation (which includes representatives from all councils and tangata whenua)
 - Development and implementation of the regional Te Tai Tokerau Climate Adaptation Strategy and programme.
- 1.4. Northland is particularly exposed to natural hazard risk given our extensive coastline (~3200km), many coastal settlements, our dense river network and historic development pattern which has led to settlements in floodplains. We therefore support national direction on hazard management as this would provide a clear mandate and framework to manage risk, noting councils are repeatedly challenged in the courts on natural hazard management.

2. Submission

- 2.1. We agree with the problem statements in Part 2 of the consultation document, particularly the inconsistency in approaches to identifying and managing natural hazards across councils, the inherent uncertainties in the consequences and timing of risk, and the lack of a framework under the

Resource Management Act 1991 (RMA). While guidance developed to date by the Ministry has been helpful, we think developing a clear framework in the RMA would address most of these problems. We therefore support the development of a NPS for Natural Hazards Decision Making (NPS-NHD) – however, the Proposed NPS-NHD in its current form does not provide for consistency in the identification or management of natural hazards and could be improved. If consistent approaches are sought then we'd suggest the Ministry consider the following:

- Explicitly require identification of areas potentially at risk from natural hazards that are more readily mapped (e.g. river flooding, coastal inundation, coastal erosion, active faults and land instability). We note Policy 24 of NZCPS already requires coastal hazards to be identified in the coastal environment;
- Specify minimum climate change factors to be applied in mapping hazards (e.g. minimum sea level rise scenarios following latest guidance) to inform land use planning;
- Require assessment of risk over at least 100yrs for new subdivision, use and development to ensure development is sustainable in the long term;
- Align the NPS-NHD with the management approaches in Policy 25-27 of the NZ Coastal Policy Statement – it makes little sense to have two inconsistent approaches;

We expand below, in many cases responding to the questions in the consultation document.

- 2.2. Question 3: Misalignment between the Building Act (BA) and guidance / direction on coastal hazards in the NZ Coastal Policy Statement should be addressed. For example, the BA allows for development in flood prone areas as long as there is sufficient freeboard. However, with climate change exacerbating flood hazard it may be the case that development needs to be restricted in some of these areas. The BA complicates the application of long-term hazard risk management planning in this respect, especially as it only considers a 50-year planning horizon while the NZCPS and MfE guidance require assessment over at least 100yrs.
- 2.3. Questions 4, 5 and 6: We agree a nationally set risk-based approach is needed but don't agree that the NPS-NHD should apply to all natural hazards as some natural hazards are easier to identify/map and are more certain to occur and widespread than others. We think the NPS-NHD should therefore be limited to those natural hazards that can be realistically identified and managed within an RMA framework – the most obvious candidates are river and coastal flooding, liquefaction, coastal erosion, active faults and landslip. A prescribed list of hazards, including standard definitions would be beneficial. Preparedness, response and recovery planning under Civil Defence and Emergency Management regimes are more pragmatic approaches for those natural hazards with high uncertainty / low likelihood e.g. tsunami.
- 2.4. Question 7: We do not think all new physical development should be within scope of the NPS-NHD – some development is either not vulnerable or is of such low consequence that precaution is not required (e.g. a carpark or pump-shed in a flood zone, temporary activities) – especially given the definition of new development in the NPS-NHD is so broad and includes any 'new buildings, structures or infrastructure'. This seems at odds with a risk-based approach. However, we question why the definition of 'new development' does not include subdivision given this is often the first step in land development process and typically leads to built development – we assume the intent is to rely on Section 106 RMA instead.

- 2.5. Question 8: As a regional council we don't have a lead role in housing and urban development planning – we suspect the NPS-NHD could add costs where information on natural hazards is either not available or highly uncertain or there is a lack of clear guidance on how to assess and manage risk.
- 2.6. Question 9: In our view the objective of the NPS-NHD should align with the direction in Policy 25 of the NZ Coastal Policy Statement – to do otherwise unduly complicates matters. We'd suggest alignment so that in areas potentially affected by natural hazards the aim should be to either reduce risk or avoid increasing risk. Minimising risk could be applied elsewhere.
- 2.7. Questions 10 and 11: Policy 1 requires decision makers to assess whether risk is high, moderate or low considering the matters in Policy 2. However, there are no clear thresholds for these categories and Policy 2 also adds uncertainty by using the term tolerable. We don't agree that the definitions of high, moderate and low natural hazard risk in the NPS-NHD provide a transparent, certain and consistent approach to categorising risk as there is little detail on how risks are to be assessed and categorised in the NPS-NHD. It is preferred if these definitions are provided up front rather than be left to additional guidance. There also appears to be no timeframe applied to assessing the risk – for example a development may be subject to a low to moderate risk of sea level rise over 50years but subject to high risk over a 100year timeframe. We recommend Policy 1 include a timeframe for assessing risk and that this align with the NZCPS/MfE Guidance and be at least 100 years. We also have concerns with use of the term 'tolerable' and note it is not defined at all. This begs the question of how decision makers are to determine what is 'tolerable risk' - for example, how would a resource consent process determine what is tolerable to a community? This case-by-case approach is unlikely to address the problems of inconsistent identification and management of natural hazards and could end up having perverse outcomes in terms of timeliness and efficiency. This is at odds with the interim nature of this proposed NPS. If the approach is pursued, we recommend much clearer policy on how to assess risks and how to categorise these into high, moderate and low. We see no merit in reference to tolerance as it stands – this will likely result in huge variation and ad hoc decision making. We also question how defensible a council decision on what is tolerable will be in the absence of any clear guidance, definitions or intensive community engagement – it may also mean councils are vulnerable to liability claims on decisions on what is tolerable or not. We strongly recommend this concept not be pursued.
- 2.8. Question 12: Applying a precautionary approach (in Policy 3) makes sense where there is some risk but high uncertainty. Having good information on natural hazard risks limits the need for this to be applied broadly but there will always be gaps and a degree of uncertainty across scales. Caution is required to ensure the process is not overly onerous. We'd suggest retaining the intent of Policy 3 but for the reasons outlined above we don't support use of the term 'intolerable' and recommend this be deleted entirely from the NPS-NHD.
- 2.9. Question 13: Policy 4 would require that natural hazard risk is included as a matter of control for any new development that is classified as a controlled activity in a plan, and as a matter of discretion for any new development that is classified as a restricted discretionary activity. This is a very blunt approach - especially given the definition of 'new development' in the NPS-NHD is so broad and includes any 'new buildings, structures or infrastructure'. Some new development can be either not vulnerable, less sensitive or is of such low consequence that precaution is not required (e.g. a carpark or pump-shed in a flood zone). This seems at odds with a risk-based approach. We think it better

that the NPS-NHD provides policy direction on managing risk in areas identified as being subject to natural hazards (similar to that applied in the NZ Coastal Policy Statement) and leaves matters of control or discretion to councils to determine based on likely risk, and vulnerability. We would not like to see natural hazard risk assessments required for low risk activity given likely costs for little gain.

- 2.10. Question 14 and 15: Policy 5 is problematic largely due to the use of the term ‘tolerable’ – the tolerance for risk will be hard to assess in many cases and likely to be very subjective (depending on scale, community and activity) which risks inconsistency. For example, how would the ‘tolerance’ for risk by a community be determined through a resource consent process for a particular development? How would council ensure consistent approaches when ‘tolerance’ for risk varies? Also risks change over time – what may be tolerable in 2025 may not be in 2050.
- 2.11. Question 16: The intent of Policy 6 is supported but the wording could be improved and better aligned with the NZ Coastal Policy Statement.
- 2.12. Question 17, 18 and 19: We’d suggest testing Policy 7 further with Māori but note it seems to add little for decision makers and would likely be the very least that would be required to inform decisions on specified Māori land.
- 2.13. Question 17: Very clear guidance on assessing and categorising high, moderate and low natural hazard risk would be required. If the term ‘in/tolerable’ is retained, clear guidance on how this is to be determined in multiple circumstances would also be needed.
- 2.14. Question 20: The implementation timeframe appears workable, but we don’t see the NPS-NHD adding much value in its current form, and it could potentially result in further uncertainty and inconsistency. Resourcing and new process requirements and consenting costs are likely to rise given it would apply to the broad definition of ‘new development’ and all controlled and restricted discretionary activity consents for new development.

Signed on behalf of Northland Regional Council

Clr Amy MacDonald



Clr Jack Crow



Dated: 20 November 2023