

# Supplementary Analysis Report: National Policy Statement- Natural Hazard Decision-Making

## Coversheet

<b>Purpose of Document</b>	
Decision sought:	<i>28 August</i>
Advising agencies:	<i>Ministry for the Environment</i>
Proposing Ministers:	<i>Minister for the Environment;</i>
Date finalised:	<i>24-07-2023</i>
<b>Problem Definition</b>	
<p>Given New Zealand’s position on the boundary of the Pacific and Australian tectonic plates, the country has numerous fault lines, and large coastline. We experience a wide range of natural hazards – from earthquakes and volcanoes to erosion, landslides, floods, tsunamis, and extreme weather events. Climate change is increasing the severity and frequency of some natural hazards, including flooding, heatwaves, drought, wildfire, sea level rise and coastal inundation. Currently the resource management system is not delivering optimal natural hazard risk management outcomes. The recent severe weather events highlighted the impacts on life, property, and well-being from development being located in areas vulnerable to risk from natural hazards along with the high recovery costs.</p> <p>Local authorities have reported that there is a lack of clarity on how they should weigh natural hazard risk and other considerations when making planning or consenting decisions under the Resource Management Act 1991 (RMA). This often results in less weight being attributed to natural hazard risk, and more weight given to other matters and priorities (e.g., enabling housing supply). This has resulted in development in areas facing high natural hazard risk. In turn, this increases risk to life, and property as well as exposing the Crown, councils, and landowners to increased economic and social risk, should property and infrastructure be damaged by natural hazards.</p> <p>Therefore, central government direction is required to guide local authorities on the appropriate weight decision-makers should attach to natural hazard risk under the RMA.</p> <p>A Natural Hazard Planning Framework, which will take 1-2 years to develop and implement, will address the issues relating to natural hazard planning in a more comprehensive way. The proposed National Policy Statement for Natural Hazard Decision-Making (the NPS) will provide an interim, shorter-term response to address decision-making about natural hazard management in high-risk areas that can be implemented quickly under the RMA. The NPS will be developed and implemented by early 2024 and would either be included in, or replaced by, the Natural Hazard Planning Framework (depending on policy decision in due course). These will then be transitioned into the National Planning Framework (NPF) as part of the Resource Management Reform programme.</p>	
<b>Executive Summary</b>	

### ***Why Government intervention is required***

Central government intervention is required to address natural hazard risk management under the RMA because the resource management system is not delivering optimal natural hazard risk management outcomes.

The RMA identifies the management of significant risks from natural hazards as a matter of national importance.<sup>1</sup> Under the RMA, there are no set standards or direction relating to natural hazard risk planning, including data gathering, mapping and development rules for hazard-prone areas.

Local authorities (who are responsible for managing significant risks from natural hazards) identify natural hazards, and assess risk and risk tolerance, in a variable and inconsistent way. Development in areas facing natural hazard risks increases risk to life, property, and infrastructure. It also has the potential to expose people, landowners, councils, and the Crown to increased social and economic costs should property and infrastructure be damaged.

In 2020 the Resource Management Review Panel (the Panel) found a lack of clear national direction has led to issues with the management of significant effects from natural hazards and climate change. This impacts on the extent to which plans address and manage these risks. The Panel recommended that mandatory national direction be required for climate change adaptation and reduction of risks from natural hazards, consistent with the first national climate change risk assessment and the first national adaptation plan under the Climate Change Response Act 2002.<sup>2</sup>

### ***Government work programme to improve natural hazard management under the RMA***

The Government has proposed a phased work programme to improve natural hazard risk management in New Zealand. This includes:

- immediate options to prevent or restrict future development in areas facing high/multiple risk from natural hazards. On 6 June 2023<sup>3</sup>, Cabinet directed the Ministry for the Environment (MfE) to begin developing a National Policy Statement for Natural Hazard Decision-Making (the focus of this Supplementary Analysis Report) under the RMA. It will be implemented by early 2024, and aims to guide all decision-makers<sup>4</sup> on the appropriate weight attach to natural hazard risk; and
- the proposed Natural Hazard Planning Framework under the RMA, which will provide national direction to ensure local authorities identify and address risk from natural hazards in a consistent and rigorous way and would underpin good decision-making about future land use and adaptation in relation to natural hazards. It will be supported by implementation guidance and would be incorporated into the second (or third) National Planning Framework; and

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<sup>1</sup> Section 6 (Matters of national importance)

<sup>2</sup> Resource Management Review Panel. (2020). New directions for resource management in New Zealand. Pg 11. <https://environment.govt.nz/assets/Publications/Files/rm-panel-review-report-summary.pdf>

<sup>3</sup> [ENV-23-MIN-0015 refers]

<sup>4</sup> Decision-makers includes local authorities, independent decision-makers appointed by local authorities, the Environment Court, and the Minister for the Environment.

- the Climate Change Adaptation Bill, which will address complex issues around community-led retreat and adaptation funding.

Cabinet agreed to a phased work programme to address the gap in natural hazard planning in the short-term, while the Natural Hazard Planning Framework is developed.<sup>5</sup> In this time, RMA planning and consenting practices will continue, and may lead to new developments in high hazard areas.

Officials undertook targeted consultation with local authorities to assess the most effective immediate intervention to reduce development in high-risk areas. Local authorities advised that they need greater direction from the Government around how to weigh natural hazards and other considerations when making consenting decisions and preparing plan changes. Local Government New Zealand (LGNZ) supports clearer direction on the management of risks and natural hazards in land use plans through instruments such as the NPS on natural hazards.

Officials also sought to engage with iwi, hapū, Post-Settlement Governance Entities (PSGE), marae, and Māori landowners and national level, Māori advisory groups Freshwater Iwi Advisors Group and Te Tai Kaha.

Majority of those who engaged with this kaupapa indicated general support for the proposed NPS. All PSGEs were invited to the recently completed open engagement round, this was a first step in providing high level information to a wider range of Māori groups. Officials are now following up and offering one on one engagements with specific PSGEs to ensure that the Ministry is meeting our legal commitments.

#### ***Options considered to prevent or restrict development in the short-term***

Officials considered three options for preventing or restricting future development in the short-term by changing the way decision-makers weigh natural hazard risk factors in decision-making. These options are not mutually exclusive.

- **Option 1:** Relying on the existing regulatory framework, including developing the proposed Natural Hazard Planning Framework over the longer term and resource management reform (status quo)
- **Option 2:** NPS Natural Hazard Decision-Making (**preferred option**)
- **Option 3:** National Environmental Standards
- **Option 4:** Direct specific local authorities to prepare a plan change or variation.

#### ***Preferred option:*** NPS Natural Hazard Decision-Making

We recommend developing a NPS Natural Hazard Decision-Making (option 2), which would guide all decision-makers on the appropriate weight they should attach to natural hazard risk when preparing or changing regional policy statements, regional plans and district plans, and making decisions about designations and resource consent applications.

The NPS will be developed and implemented by early 2024. The NPS would either be included in, or replaced by, the Natural Hazard Planning Framework in the medium to long term, depending on policy decisions in due course. This will then be transitioned into the NPF as part of the resource management reform.

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<sup>5</sup> [EWR-23-MIN-0025 refers]

It is proposed that the NPS would include one overarching objective that provides clearer direction on the outcome sought – *“The risks from natural hazards to people, communities, the environment, property, and infrastructure and on the ability of communities to quickly recover after natural hazard events, are minimised”*.

The NPS will direct decision-makers to take a risk-based approach to natural hazards when making decisions on new developments. Under this approach, all types of new developments (except those mentioned below) are in scope of the NPS. This includes new residential dwellings, papakāinga and retirement villages, education, marae, health, and other community facilities. The NPS will reflect that damage to all new development pose different types and levels of natural hazard risk based on a range of factors, and the risk-based approach allows decision-makers to account for this in applying the NPS (e.g., in some cases new infrastructure and commercial developments may be tolerable in places that a new residential dwelling or community facility may not be).

Given the focus of the NPS is on new physical developments such as buildings and structures, the NPS would not apply to new on-land pastoral, agricultural, horticultural, forestry activities, or open space recreational activities (such as new parks and playgrounds). However, buildings and residential dwellings associated with these activities are in scope. It is important to note that the Government response to the Ministerial Inquiry into Land Use is considering whether there should be plan changes for forestry land on steep slopes.

The NPS would direct decision-makers to assess whether natural hazard risk is high, moderate, or low, based on:

- the likelihood of a natural hazard event occurring (either individually or in combination);
- the consequence of a natural hazard event in relation to the proposed new development, including loss of life, or serious injury, adverse effects on the environment and potential serious damage to property and infrastructure; and
- the tolerance of a natural hazard event in relation to the proposed new development including the willingness and capability of those who are subject to the risk (such as a community, Māori or the Crown) to bear the risk of that natural hazard (including its cost) and any indirect risks associated with it..

The assessment would be carried out using the best available information local authorities have on natural hazard risk.

Based on decision-makers' assessment of natural hazard risk, the NPS would direct decision-makers to:

- avoid new development in high natural hazard risk areas unless the level of risk is reduced to at least a tolerable level or the new development is not a new hazard-sensitive development<sup>6</sup> and;
  - there is a functional or operational need for the new development to be located in the area of high natural hazard risk, and

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<sup>6</sup> new hazard-sensitive development means a new development relating to any of the following: residential dwellings, including papakāinga and retirement villages, marae, educational facilities, emergency services, hospitals and other health care facilities and other community facilities

- there are no practicable alternative locations for the new development, and
- the risk is reduced to as low as reasonably practicable
- mitigate the risk to as low as reasonably practicable in moderate natural hazard risk areas; and
- enable development in low natural hazard risk areas.

For new commercial and infrastructure developments in areas of high natural hazard risk, the NPS would enable new development where there is an operational or functional need, there are no practicable alternatives, and the risk is reduced to as low as reasonably practicable. This aims to reduce the amount of development going ahead in areas at high risk from natural hazards, while recognising the reality that in some situations there is new commercial or infrastructure development that needs to occur in high natural hazard areas. Enabling development in low natural hazard risk areas will help to balance the need for housing supply, while still preventing new development in high natural hazard risk areas.

The proposed NPS will recognise and provide for Māori values, interests, and aspirations by requiring decision-makers to engage early and involve tangata whenua when making decisions on new developments on specified Māori land where there is a high or moderate natural hazard risk.

The NPS will limit unintended consequences and the risk of legal challenges because it would only be applied should an applicant seek to develop land or as part of a scheduled plan change process. However, this option does not provide complete certainty that areas identified as high risk by decision-makers would not be developed. For example, the NPS would not prevent or restrict development in areas at risk where development is a permitted activity and, therefore, would not require resource consent. It is proposed that the NPS would immediately direct decision-makers to consider natural hazard risk as part of each designation, resource consent and private plan change application. The NPS will also direct local authorities to consider natural hazard risk as part of scheduled plan changes, which may result in the re-mapping of natural hazard risk areas and re-classifying the level of natural hazard risk. The NPS will not require councils to undertake plan changes to implement the NPS.

## **Limitations and Constraints on Analysis**

### **Ministerial and Cabinet direction**

On 29 March 2023 [EWR-23-MIN-0025 refers], the Cabinet Extreme Weather Recovery Committee (EWR) invited the Minister for the Environment:

- to progress work to develop a Natural Hazard Planning Framework to ensure local authorities identify and address risk from natural hazards in a consistent and rigorous way and to underpin good decision-making about future land use and adaptation in relation to natural hazards; and
- to report back to the Cabinet Environment, Energy and Climate Committee on more immediate options for preventing or restricting future development in high-risk areas while the Natural Hazard Planning Framework is under development.

As the above directives show, Cabinet directed officials to investigate options that could be developed and implemented in the short-term to fill the gap in how natural hazard risk is managed until the National Hazard Planning Framework is developed and implemented. There are three potential options presented in this report to fill this gap, with the preferred option being a National Policy Statement.

On 5 June 2023, the Minister for the Environment reported back to Cabinet on options available under the RMA to prevent or restrict future development in areas facing high/multiple risk from natural hazards. Cabinet directed MfE to begin developing a National Policy Statement on Natural Hazard Decision-Making (i.e., the preferred option in this Supplementary Analysis Report).

### Scope of the NPS

The scope of the NPS is to provide direction to all decision-makers on the appropriate weight decision-makers should attach to natural hazard risk when making decisions around consents and changes to planning instruments in relation to future development. As this is an NPS, existing developments, and activities permitted in plans and existing decisions on designations and resource consents are out of scope. However, the NPS will eventually be integrated via a scheduled plan change, and this may result in some greater restrictions (including down-zoning) of high natural hazard risk areas.

The proposed NPS will strengthen the direction for decision-makers to reduce the amount of new development that goes ahead in areas at high risk from natural hazards. Officials consider that the more comprehensive Natural Hazards Planning Framework is required to significantly improve land use planning for natural hazards.

Officials confined the scope of options included in the 6 June 2023 Cabinet report back to those that could be progressed through:

- regulatory or Ministerial powers available under the RMA and;
- those that had the sufficient regulatory weight local authority practitioners were calling for.

This narrowed the long list of options available.

Based on the scope and implementation timeframes of the Natural and Built Environment and Spatial Planning Bills, we could not use these bills to implement any changes. The Select Committee report back was due on 6 June 2023, which did not provide officials time to amend the Bill(s).

Officials did not recommend using the Climate Change Adaptation Bill because it is not expected to pass through the legislative process before the House rises in August 2023.

### Certainty of impacts

The evidence base supporting the problem definition is robust. The need for central government intervention to address natural hazard risk management has become more apparent through publications such as the Parliamentary Commissioner for the Environment's *Preparing New Zealand for Rising Seas Report*<sup>7</sup>; the *New Directions for Resource Management Report* (Randerson Report)<sup>8</sup>; the *National Climate Change Risk Assessment* (NCCRA)<sup>9</sup> and the *National Adaptation Plan* (NAP)<sup>10</sup>, which state decision-

<sup>7</sup> [Preparing New Zealand for rising seas: Certainty and uncertainty | Parliamentary Commissioner of Environment \(pce.parliament.nz\)](https://www.pce.parliament.nz/publications/preparing-new-zealand-for-rising-seas-certainty-and-uncertainty)

<sup>8</sup> Resource Management Review Panel. (2020). New directions for resource management in New Zealand. Pg 11. <https://environment.govt.nz/assets/Publications/Files/rm-panel-review-report-summary.pdf>

<sup>9</sup> [National climate change risk assessment for New Zealand - Main report | Ministry for the Environment](https://www.mfe.govt.nz/publications/national-climate-change-risk-assessment-for-new-zealand-main-report)

<sup>10</sup> [Urutau, ka taurikura: Kia tū pakari a Aotearoa i ngā huringa āhuarangi | Adapt and thrive: Building a climate-resilient New Zealand \(environment.govt.nz\)](https://www.environment.govt.nz/publications/national-adaptation-plan)

makers need better support for coordinated decision making in relation to natural hazards. This evidence supporting the problem definition also favours the development of the preferred option to address the problem, with most of these reports also stating that mandatory national direction is required to reduce the risk of natural hazards.

There is also an element of urgency related to this issue. In response to the severe weather events in early 2023, Cabinet agreed to a phased approach to natural hazard management, which meant that this option would need to be developed and implemented by early 2024, before the more comprehensive Natural Hazard Planning Framework is implemented.<sup>11</sup> These timeframes have been a constraint to the development of this policy and also limited the scope of options available.

Recent engagement with local government representative groups have reiterated these previous reports that more support is needed from central government to add weight to natural hazard risk when making consenting decisions and preparing plan changes. As a result, it is a key assumption of this Supplementary Analysis Report (SAR), that local authorities require direction from central government for better outcomes in natural hazard risk management.

A key assumption in this SAR is that local authorities would implement the proposed NPS as intended. However, there is a risk that this does not happen, and this report notes key supporting actions that would help mitigate this risk. This includes providing guidance for the implementing the NPS. Officials will monitor the NPS implementation and incorporate 'lessons learned' from this monitoring into the Natural Hazards Planning Framework in due course.

A key limitation is that officials do not currently have the relevant information about the number of people and properties at risk of natural hazards, nationally. Modelling this would require more time than is available given the urgent need to improve practice. A key assumption of the SAR is that officials will improve the evidence base as part of developing the comprehensive Natural Hazard Planning Framework. To mitigate issues around the limited data, officials engaged with local authorities to assess the most effective immediate interventions and through feedback proposed a limited scope intervention be progressed in the short-term.

Officials do not have comprehensive information on the impact on whenua Māori and te ao Māori; this is a key limitation. However, we have heard from Māori (recently through submissions on the NAP) that there are diverse levels of risk facing iwi, hapū, Māori, the numerous marae, papakāinga, cultural heritage sites and whenua Māori that will need to be addressed and treated in an equitable way. The NPS would mitigate this risk as councils would be able to apply it in a way that reflects their local information and decision-making, which is not the case with a national environmental standard (NES). Also, the Waitangi Tribunal through the Ko Aotearoa Tēnei: WAI262 report recommends greater use of NPS in which Māori may influence environmental decision-making.<sup>12</sup>

Officials will offset this limitation by continuing to engage with iwi, hapū and Māori on this policy, prior to seeking confirmation of the approach through Cabinet. An initial summary of

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<sup>11</sup> [EWR-23-MIN-0025 refers]

<sup>12</sup> Waitangi Tribunal. (2011) WAI:262 Ko Aotearoa Tēnei chapter 3

this engagement is set out in section 2 of this document noting that engagement is still ongoing during the drafting of this SAR.

Officials do not have quantifiable data on the direct impacts on the property market in high-natural hazard risk areas. This is a key limitation, however, from information provided by the Insurance Council of New Zealand we understand that there are increasing trends in the impacts of natural hazards on insurance claims from climate related events.<sup>13</sup>

The Ministry of Housing and Urban Development (MHUD) have raised concerns that the introduction of a new piece of national direction relating to natural hazards which allows local government discretion in decision making will have an impact on new resource consents for housing development because it could potentially increase uncertainty for developers on where they can build. MfE officials consider that the proposal will provide more certainty in the system by providing a consistent framework for decision making.

Officials propose to address this through consultation on the proposal and will seek to engage directly with representatives from the development sector through public consultation.

The SAR provides a mostly qualitative assessment of the options to address the lack of clarity on how local authorities should weigh natural hazard risk and other considerations when making planning or consenting decisions under the RMA. Officials will seek public feedback on the content of the proposals in a consultation document and have tested some of the options with local authorities and iwi, hapū, Māori groups through pre-public consultation.

It should be noted that after the public consultation, a cost-benefit analysis as required under section 32 of the RMA will be undertaken on final recommendations to support analysis for Ministerial consideration.

### Responsible Manager

Liz Moncrieff  
 Director  
 Severe Weather Integrated Response  
 Ministry for the Environment



24-07-2023

### Quality Assurance

Reviewing Agency:	Ministry for the Environment regulatory impact assessment panel
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<sup>13</sup> Insurance Council of New Zealand Cost of Natural Disasters <https://www.icnz.org.nz/industry/cost-of-natural-disasters/>, accessed 7 June 2023



Panel Assessment & Comment:

A Ministry for the Environment regulatory impact assessment panel has reviewed the Supplementary Analysis Report (SAR) “National Policy Statement – Natural Hazard Decision-Making”. The review team considers that it **partially meets** the Quality Assurance criteria.

Despite the stated limitation of limited information, there is sufficient evidence of the problem to put forward a strong case has been made for developing a National Policy Statement on Natural Hazard Decision-Making as a more immediate option to addressing natural hazard risk.

The SAR notes that the time that has been available for analysis and consultation has been limited given the Cabinet directive to address the urgent nature of the problem. However, has meant that there has been limited consultation on the content of the proposed NPS and there has not been sufficient information to enable the analysis to include a quantitative component. We note there are planned measures to address both of these points, though at this point in time we consider this limits the SAR to only partially meeting the criteria.

## Section 1: Diagnosing the policy problem

### What is the context behind the policy problem and how is the status quo expected to develop?

Given New Zealand's position on the boundary of the Pacific and Australian tectonic plates, the country has numerous fault lines, and large coastline. We experience a wide range of natural hazards – from earthquakes and volcanoes to erosion, landslides, floods, tsunamis, and extreme weather events. Climate change is increasing the severity and frequency of some natural hazards, including flooding, heatwaves, drought, wildfire, sea level rise and coastal inundation.

Development in areas susceptible to natural hazard risks increases risk to life, property, and infrastructure. It also has the potential to expose people, landowners, infrastructure providers, councils, and the Crown to increased social and economic costs should property and infrastructure be damaged. The recent severe weather events highlighted these impacts. There are various work programmes focussed on adaptation (detailed below). This NPS is focussed on avoiding new development that will limit the need for adaptation in the future.

#### **National Climate Change Risk Assessment and National Adaptation Plan**

The National Climate Change Risk Assessment (NCCRA) gives a national picture of how New Zealand may be affected by climate change-related hazards, including natural hazards. It identifies the most significant risks and opportunities for New Zealand.

The NCCRA notes that:

- there is a knowledge gap in how decision-support tools are used or misused; and
- the barriers to best practice uptake require more research to ensure high-quality, coordinated decision-making across New Zealand.

The first NAP sets out the Government's long term adaptation strategy and action plan. The NAP recognises that climate change is exacerbating the risk of existing natural hazards – including flooding and drought – and creating new risks such as sea-level rise.

The NAP proposes actions to improve natural hazard management so that New Zealand is better prepared for the increased risk in the future. This includes setting national direction under the NPF on natural hazard risk management and climate adaptation, improving information about hazards, exposure, vulnerability and interim resilience standards for infrastructure and housing. The NAP was published in August 2022. In response to the severe weather events, Cabinet agreed to a phased approach to natural hazard management, which would see both the NPS on Natural Hazard Decision Making (the subject of this SAR) and the Natural Hazard Planning Framework being developed under the RMA system, and then transferred to the NPF in due course.

#### **Monetary costs of natural hazards**

In terms of the fiscal cost of natural hazards, between 2009 and 2019, New Zealand experienced five major earthquakes, 35 weather events, 28 flood events and two wildfires that together have cumulative losses for the country of \$37 billion. Costly natural hazard events have continued to occur, with the storms of November 2022 resulting in over \$21

million in insured losses.<sup>14</sup> More recently, the Reserve Bank of New Zealand estimates that the total claims cost for private insurance (i.e., excluding Toka Tū Ake EQC) will be around \$1.6 to \$2.1 billion from the Auckland Anniversary flooding and a further \$1.4 to \$2.1 billion from Cyclone Gabrielle.

An analysis of Toka Tū Ake EQC's claims data between 2000 and 2017 for weather related damage found that Northland, Bay of Plenty, Nelson and Tasman had the highest claims in proportion to their populations, suggesting they face high exposure and vulnerability to weather events. Nine regions also face potential monetary costs from storm damage growing at a faster rate than their regional incomes, including Northland, Manawatu-Wanganui, Hawke's Bay, Tasman-Nelson, Bay of Plenty, Waikato, Otago and Canterbury. Auckland Council is facing substantial increases in costs from storm damage because of the growth of its capital assets. Across Aotearoa New Zealand, climate change projections predict an increase in natural hazard risk. Therefore, costs will only continue to climb for individuals and local and central government, as climate change is projected to increase the fiscal cost of floods and storms, with storm damages due to climate change increasing 3–7% and 4–12% for floods from now until 2050.<sup>15</sup>

### **Current resource management system**

The RMA is the primary land use planning legislation for local government and provides for the management of significant risk from natural hazards. The purpose of the RMA is to promote the sustainable management of natural and physical resources (s5). The RMA also identifies the management of significant risks from natural hazards as a matter of national importance (s6). Local authorities have responsibilities to manage the use of land to avoid or mitigate natural hazards. In achieving the purpose of the RMA, local councils have to consider the effects of climate change (s7). In the context of natural hazard planning, this means considering the exacerbating impacts of climate change on all natural hazard risks. Also key to consider is section 8 of RMA, where any decisions made under it need to take into account the principles of Te Tiriti o Waitangi.

Under the RMA, there is no comprehensive direction relating to natural hazard risk planning,<sup>16</sup> including data gathering, mapping, managing risk and developing rules for hazard-prone areas. Local authorities (who are primarily responsible for managing significant risks from natural hazards through land use planning) currently identify natural hazards, assess, and manage natural hazard risk and risk tolerance, in a variable and inconsistent way, leading in some locations to limited effectiveness.

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<sup>14</sup> Investment in natural hazards mitigation: Forecasts and findings about mitigation investment (2020). New Zealand Institute of Economic Research. Available at: [https://www.dia.govt.nz/diawebsite.nsf/Files/Central-Local-Government-Partnerships/\\$file/NZIER-Natural-hazards-mitigation-report-2020.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Central-Local-Government-Partnerships/$file/NZIER-Natural-hazards-mitigation-report-2020.pdf) (Accessed:20/06/2023)

<sup>15</sup> Insurance Council of New Zealand Cost of Natural Disasters <https://www.icnz.org.nz/industry/cost-of-natural-disasters/>, accessed 7 June 2023

<sup>16</sup> The New Zealand Coastal Policy Statement 2010 (NZCPS) provides direction on managing coastal hazards in the coastal environment including through managed retreat, and the National Policy Statement for Freshwater Management 2020 requires local authorities to consider the foreseeable impacts of climate change in water take decisions. No other national direction specifically considers the management of natural hazard risk.

In the *New Direction for Resource Management in New Zealand*, the Panel found a lack of clear national direction has led to issues arising in the management of effects from natural hazards and climate change.

*“Mandatory national direction should be required for: (ii) climate change adaptation and reduction of risk from natural hazards consistent with the national climate change risk assessment and national adaptation plan under the CCRA (Climate Change Response Act)”.*<sup>17</sup>

This impacts on the extent to which plans address and manage these risks.

A 2015 report by the Parliamentary Commissioner for the Environment provides some modelling of the number of homes, businesses and roads that are low lying and likely to be affected by sea level rise for Auckland, Wellington, Christchurch, Dunedin, Napier, Whakatāne, Tauranga, Motueka and Nelson.<sup>18</sup> The report recommends national direction to *“take direction on planning for sea level rise out of the New Zealand Coastal Policy Statement and put it into another National Policy Statement, such as that envisaged for dealing with natural hazards.”*

The insurance industry has repeatedly called on central government to develop a stronger regulatory framework that will prevent new developments in high-risk natural hazard zones.<sup>19</sup> Officials have continued to engage with the insurance industry who have indicated support for this preferred option and believe it will deliver on the industry’s requests to improve how local authorities address natural hazard risk. This will reduce the need for insurance and lending decisions to be responsible to respond to risk and reduce the potential for inequitable outcomes from variations in insurance and lending.

It is important to note that while this NPS will have some short-term impact on planned housing supply the National Policy Statement-Urban Development (NPS-UD) will still drive a requirement for local authorities to plan for and enable sufficient development. Additional national direction on natural hazards will be part of the conversation guiding where that development occurs.

### **Work programme to improve natural hazard management under the RMA**

The Government has proposed a phased work programme to improve natural hazard risk management in New Zealand under the RMA. This includes:

- the National Policy Statement Natural Hazard Decision-Making (the focus of this SAR) under the RMA, which aims to guide all decision-makers on the appropriate weight decision-makers should attach to natural hazard risk in the short-term;
- the Natural Hazard Planning Framework National Direction under the RMA, which would ensure local authorities identify and address risk from natural hazards in a consistent and rigorous way and would underpin good decision-making about future land use and adaptation in relation to natural hazards. This national direction would

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<sup>17</sup> Resource Management Review Panel. (2020). *New directions for resource management in New Zealand*. p.11 <https://environment.govt.nz/assets/Publications/Files/rm-panel-review-report-summary.pdf>

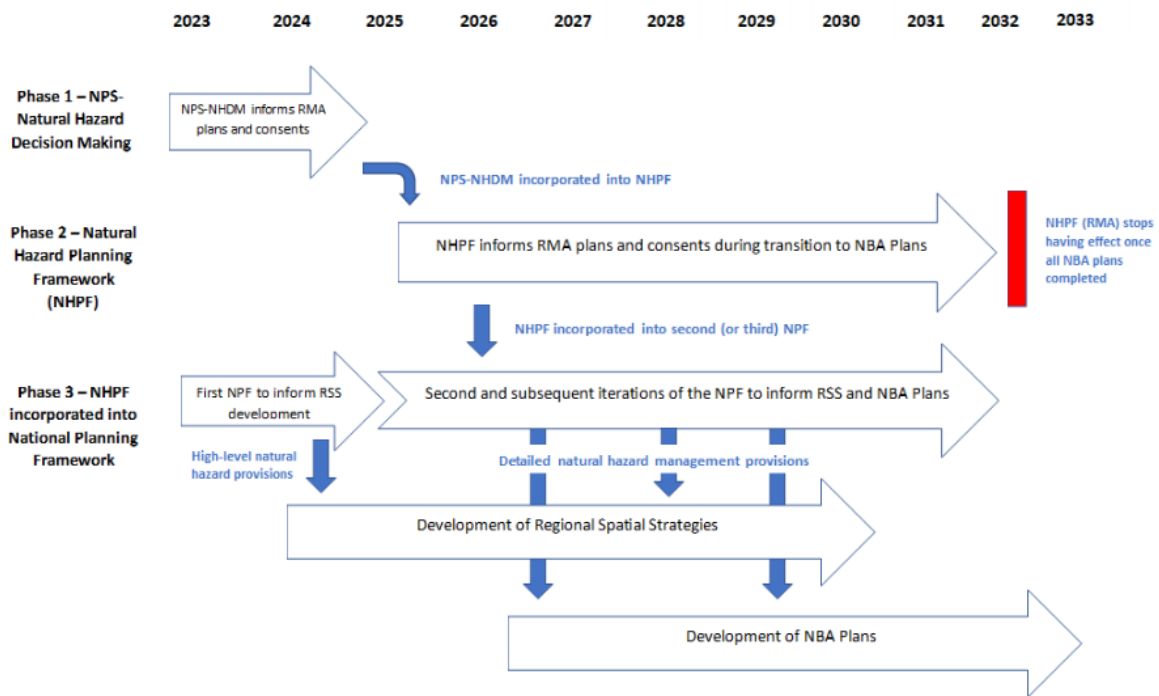
<sup>18</sup> [Preparing New Zealand for rising seas: Certainty and uncertainty | Parliamentary Commissioner of Environment \(pce.parliament.nz\)](https://www.pce.parliament.nz/preparing-new-zealand-for-rising-seas-certainty-and-uncertainty)

<sup>19</sup> Insurance Council of New Zealand Cost of Natural Disasters <https://www.icnz.org.nz/industry/cost-of-natural-disasters/>, see also [IAG seeks three step plan for natural hazard prone New Zealand homes.pdf](#) accessed 7 June 2023

be supported by guidance for implementation and would be incorporated into the second (or third) NPF.

The medium-to-long-term work programme and interaction between different components of the work programme is outlined in diagram 1, with further detail provided below.

**Diagram 1: Government work programme to improve management of natural hazard risks**



*The Natural Hazard Planning Framework*

On 26 June, Cabinet agreed to progress work to develop a Natural Hazard Planning Framework under the RMA. This will improve a range of elements which will underpin local authority decision making on natural hazards by providing the direction needed to ensure local authorities identify and address risk from natural hazards in a consistent and rigorous way and guide good decision-making about future land use and adaptation planning.

The Natural Hazard Planning Framework will help address many of the current issues with natural hazard planning and provide the structure and direction councils are requesting to support local risk-based decision making. The Natural Hazard Planning Framework will help local authorities identify and address risk from natural hazards in a consistent and rigorous way and underpin good decision making about future land use and adaptation in relation to natural hazards. It will provide the detailed direction that is currently missing, clarify roles and responsibilities between local and regional levels for identifying, assessing, and managing natural hazard risks, and support alignment with natural hazard planning under other legislative regimes. The framework will be supported by implementation guidance, much of which is in existence but requires updating.

The Natural Hazard Planning Framework is intended to include the following four broad elements:

- standardise mapping and risk assessment methodologies that will inform land use planning decisions in areas of high/ multi-natural hazard risks;

- define risk thresholds by developing and implementing a standardised risk tolerance assessment, to clearly define areas that may be ‘tolerable’/ ‘intolerable’ to natural hazard risks;
- standardise terminology to clearly set out what the terms ‘significant natural hazard risk’ and ‘intolerable natural hazard risk’ mean;
- provide a nationally consistent policy approach to land use planning decision making in high/multi-risk areas.

These four elements do not stand alone but are interlinked and form part of a wider risk management approach.

It is intended that, when introduced, the Natural Hazard Planning Framework would incorporate or replace this NPS.

The Natural Hazard Planning Framework will take 1-2 years to develop and implement. RMA planning and consenting practices will continue while the natural hazard planning framework is being developed and resource management reform is being implemented. Meanwhile, further new development could potentially occur in areas at high risk from natural hazards. However, the NPS- is being drafted in a way that means that decision-makers will immediately consider it when making consenting decisions, and local authorities will need to consider it through a scheduled plan change.

#### *Resource management reform*

The Government is planning to repeal the RMA and replace it with the following three pieces of legislation:

- Natural and Built Environment Act (NBE);
- Spatial Planning Act (SPA); and
- Climate Adaptation Act (CAA).

The Natural and Built Environment Bill was introduced in November 2022. The NBE sets out how the natural environment will be protected and enhanced and how development will be enabled within environmental limits. A key focus of the NBE compared to the RMA is on promoting positive environmental outcomes. These outcomes include reducing the risks arising from, and improving environmental resilience to, natural hazards and the effects of climate change.

The SPA will seek to coordinate and integrate decisions made under relevant legislation by requiring the development of long-term Regional Spatial Strategies (RSS). In addition, the CAA will seek to address complex issues associated with adaptation funding and managed retreat from climate change effects.

Noting that royal assent for the NBE and SPA is expected in early August 2023.

The Climate Change Adaptation Bill will address complex issues around community-led retreat and adaptation funding but will not be introduced to the house this term.

The package of resource management reform is expected to help address issues with natural hazard management (primarily through the inclusion of natural hazard content in the NPF which will first require RSS to identify areas at risk from natural hazards that are of strategic importance to the region). However, the full impact of these reforms is not likely to be realised for at least seven to ten years. In the meantime, sub-optimal management of natural hazard risks is likely to continue with potentially significant, long-lasting implications.

## Broader work programme to improve natural hazard management

A range of government agencies are involved in natural hazard management, across different regulatory systems. There is a range of other work underway to improve how the Government understands and addresses the risks and impacts for natural hazards. The Government's broader work programme includes:

- The Treasury and MfE are in the process of determining the Future of Severely Affected Locations (the FOSAL work programme). This aims to establish a policy and funding framework for deciding on the future use of land which was severely affected by the recent extreme weather events.
- MfE is currently working with councils and scoping research to understand how intensification plan changes are addressing risk from natural hazards, including those introducing the National Policy Statement – Urban Development and Medium Density Residential Standards.
- The Ministry for Business, Innovation and Employment (MBIE) are in the process of developing guidance on the natural hazard-related provisions of the Building Act 2004. The main purpose of the guidance is to assist building consent authorities to interpret and apply the provisions when determining whether it is appropriate to grant or refuse building consent on land that is subject to natural hazards as defined in the Building Act 2004. This guidance may also be useful for building owners and designers who intend to build (new) or alter an existing building where the land is or may be subject to a natural hazard. MBIE are aiming to release this guidance by October 2023.
- The Local Government Official Information and Meetings Amendment Bill aims to improve natural hazard information in Land Information Memorandums (LIM). This will ensure that LIMs provide natural hazard information to property buyers that is clear and nationally consistent in its presentation. It will also provide certainty for local authorities about sharing natural hazard information in LIMs. This change is significant as it requires regional councils to supply natural hazard information to territorial authorities, who are therefore required to include that information in LIMs.
- The National Emergency Management Agency is undertaking a 'trifecta' regulatory framework review, to align three key projects: developing a new Emergency Management Act; reviewing the National Civil Defence Emergency Management Plan Order 2015 and accompanying Guide to the National CDEM Plan (2015); and developing the National Disaster Resilience Strategy roadmap.

### What is the policy problem or opportunity?

Currently, the resource management system is not delivering optimal natural hazard risk management outcomes. While there are elements of good practice in some areas, there are examples of natural hazard risks being poorly managed.

Development in areas facing natural hazard risks increases risk to life, property, and infrastructure. It also has the potential to expose people, landowners, councils, and the Crown to increased social and economic costs should property and infrastructure be damaged. The recent severe weather events highlighted these impacts.

There are several reasons why poor and inconsistent hazard management is occurring:

- There is inconsistent identification and assessment of natural hazards and risks. There are gaps and inconsistencies in the approach taken to mapping hazards across different territorial authority areas. This includes a lack of data in some cases, and variable approaches to how hazards are mapped.

- Risk information is often incomplete or out of date. Older data and risk assessments still in use often fails to account for climate change impacts and is not a good predictor of what may happen in the future. In addition, information needs to consider what the risk will be in the future (e.g., in 50 and/or 100 years, not just at the time of consent).
- There is no agreed framework for how decision-makers should consider risk under the RMA. There is a lack of clarity about what a “significant” risk threshold is, how to assess risk tolerance, and what risks should be assessed and how often (e.g., health and safety, economic, cultural, social, and environmental risks).
- There are inconsistencies in policy frameworks and a lack of clarity on where in the planning process to address planning for managing and adapting to natural hazard risk. There may be objectives and policies in place in regional policy statements and district plans to consider natural hazard risks, but these are not adequately reflected through planning provisions such as rules.
- Local authority decision-makers are reluctant to make decisions based on the inherent uncertainties of natural hazard science. There is no agreed approach on what constitutes acceptably robust data, and councils are hesitant to address contentious decisions on land use due to fear of litigation.
- Decision-makers often give more weight to competing priorities that have a stronger mandate to address, including through national direction (e.g., enabling housing development capacity for housing and business). There are many complex reasons why development has occurred in high-risk areas, including historic, pre-RMA development patterns or insufficient supply of development capacity in well-connected, low risk areas. There are also competing priorities when it comes to land use and deciding where to develop. This often involves choosing between different types of constraints and risks and the need to balance multiple outcomes.
- There are financial constraints for councils obtaining relevant hazard information (which is often expensive), and a lack of capability and capacity to appropriately manage natural hazard risks.
- There has been insufficient consideration of natural hazard or climate change impacts on Māori. While some plans acknowledge Māori interests and natural hazard risks in plan objectives, there are no clear rules to give effect to this.
- Engagement with Māori on natural hazard responses and climate change is also varied across councils. Greater partnership between government and Māori is needed to identify and manage the impacts of natural hazards and ensure mātauranga Māori and Māori worldviews are incorporated into risk assessment processes.

Addressing the weight natural hazards should be given in decision-making on plans, plan changes, designations and resource consents is a priority for the proposed NPS as well as providing a consistent framework to consider natural hazard risks and how to address them in regard to new development proposals. The NPS will include a national objective to be met for reducing natural hazard risk, as well as a risk framework that can be applied in decision-making.

The NPS will be a first step towards developing more comprehensive direction and guidance under a Natural Hazards Planning Framework developed over a longer timeframe. The NPS will also provide direction for decision-making when information is incomplete or inadequate. The proposed NPS takes steps towards improving engagement with Māori on natural hazards.



Many of the issues outlined above will require a longer-term work programme and comprehensive national direction, supported by guidance to derive consistent technical information to support decision-making. This will take time to develop and consult on. The more comprehensive Natural Hazard Planning Framework will aim to address these issues.

### **What we have heard from recent select committee submissions**

In the Severe Weather Emergency Response bill 2023 submissions, there were clear statements from Local Government New Zealand (LGNZ) that greater strategic direction for resilience and recovery planning is needed, including clearer direction on the management of risks and natural hazards in land use plans through instruments such as a NPS on natural hazard.

Resource management reform submissions sought a clear and consistent framework for natural hazard planning, including terminology that sufficiently captured the meaning of hazards and the practicalities of managing those hazards. There was a message of needing strong directive language that remove value judgements that weaken and avoid the hard questions of natural hazard planning. It was sought that policy set information requirements that were beneficial to making hazard risk reduction decisions, by using a dynamic information source that favours the best available information. A need to identify who, where and what planning tools can be used to manage hazards, including through all planning decisions.

### **What objectives are sought in relation to the policy problem?**

The primary policy objective of the NPS is to minimise the risk of natural hazards on communities, life, property, and a community's ability to recover from a natural hazard event. The proposed means of achieving this objective is to prevent or restrict new development in highly susceptible natural hazard areas, through providing decision-makers with central government direction on the appropriate weight to attach to natural hazard risk when making planning and resourcing consenting decisions.

It is important that mechanisms to prevent or restrict new development in highly susceptible natural hazard areas can be developed and implemented by early 2024. This aims to reduce risks from new development as soon as possible, in the absence of the Natural Hazard Planning Framework.

## **Section 2: Deciding upon an option to address the policy problem**

### **What criteria will be used to compare options to the status quo?**

#### **The criteria used to assess the different options are:**

1. **Effectiveness** – the extent to which the option prevents or restricts development in high natural hazard areas;
2. **Timeliness** – the option can be developed and implemented by early 2024 (as committed to Cabinet);
3. **Consistency** – the extent to which the option provides high-level national direction to decision-makers relating to natural hazard decision-making;

4. **Flexibility** – the extent to which the option provides decision-makers with the discretion to reflect local priorities and circumstances, information they currently have available, and balance other national priorities;
5. **Implementation complexity and risks** – the extent to which the option minimises complexity, the costs and effort to develop and implement, including the risk of judicial review and legal challenge; and
6. **Māori rights and interests** – the extent to which the option provides for Māori rights and interests and fulfils the Crown’s Te Tiriti o Waitangi obligations.

It is important to recognise the criteria interact with each other. For example, there is a tension between criteria 3 and 4. There is a need to achieve the right balance between providing national direction for natural hazard decision-making, with sufficient flexibility to account for the local context.

### What scope will options be considered within?

The scope of options being considered has been influenced by direction from Cabinet.

The scope of options has been confined to regulatory or Ministerial powers available under the RMA, to provide decision-makers with guidance by early 2024 on the appropriate weight to attach to natural hazard risk when making planning and resourcing consenting decisions.

This complements other work underway as outlined in section 1.

### What options are being considered?

We have considered three options for preventing or restricting future development by changing the way decision-makers weigh natural hazard risk factors in their decisions. It is important to note that these options are not mutually exclusive.

**Option 1:** Relying on the existing regulatory framework, including the proposed Natural Hazard Planning Framework and resource management reform (status quo)

**Option 2:** National Policy Statement on Natural Hazard Decision-Making (preferred option)

**Option 3:** National Environmental Standards

**Option 4:** Direct specific local authorities to prepare a plan change or variation

### Option One – Relying on the existing regulatory framework, including the proposed Natural Hazard Planning Framework and resource management reform (status quo)

The status quo is described in section 1. The lack of clarity on how decision-makers should weigh natural hazard risk and other considerations when making planning or consenting decisions will persist until the National Hazard Planning Framework, which would include the NPS option outlined below, is developed and implemented.

Development of the Natural Hazard Planning Framework is expected to take up to 2 years, but implementation will take considerably longer as it will likely require technical work to fully assess natural hazard risks before policies to respond to these risks can be put in place.

RMA planning and consenting practices will continue while a natural hazard planning framework is being developed and resource management reform is being implemented.

Local authorities have indicated to officials through engagement that, due to threat of litigation, they find it very hard to decline applications for development in areas at risk from natural hazards. It is likely that, under this option, there will continue to be new development in areas facing natural hazard risks. In turn, this increases risk to life, property and infrastructure as well exposing people, landowners, infrastructure providers, councils, and the Crown to increased social and economic costs should property and infrastructure be damaged. It should be noted that other factors, such as withdrawal of insurance in high-risk areas, may reduce the amount of new development in high-risk areas. However, there is no clear indication that this would be the case in the short term.

## **Option Two – National Policy Statement on Natural Hazard Decision-Making (preferred option)**

National Policy Statements (NPS) are a type of national direction under the RMA. A NPS sets objectives and policies on matters of national significance and may include more specific direction on how to apply these. The RMA requires local authorities to give effect to an NPS through planning documents (regional policy statements, proposed plans, plans and variations) or taking other actions (like publishing information) to meet the requirements. Consent authorities must also consider relevant provisions of an NPS when assessing an application for resource consent (section 104(1)(b)(iii)). When considering a requirement for a designation, territorial authorities must have particular regard to any relevant provisions of an NPS (section 171(1)(a)).

Guidance is usually developed to support the implementation of an NPS by providing further detail on the policy and examples of how it can be applied. Officials propose to develop comprehensive guidance on this proposed NPS.

The NPS will apply to all decision-makers under the RMA. Decision-makers can include local authorities in their capacity for making decisions on plan changes, in making decisions on resource consent applications, and in making recommendations on requirements for designations. Decision-makers can also include independent decision-makers appointed by local authorities to hear and make decisions on plans and resource consent applications. Decision-makers also include the Environment Court when hearing and making decisions on appeals on plans, designations and resource consent decisions, and the Minister for the Environment in his capacity in making decisions on plan changes made under the streamlined planning process and on resource consent applications that have been called in under Part 6AA of the RMA.

The NPS would only affect decisions on new development and would not impact existing use rights provided under the RMA in the following situations:

- Existing designations and resource consents approved for new development before the enactment date of the NPS. This will mean that new developments, even if they are not yet built but have a designation or resource consent approved, will be able to go ahead without change as long as the development has commenced before the consent expires.
- Activities that are currently permitted in district plans unless the activity status is changed through a scheduled local authority plan change. Different types of developments will be permitted in plans that do not require resource consents. These activities will remain unchanged until a local authority initiates a plan change process in order to give effect to the proposed NPS. This may change the activity status from permitted to another status, for example to a controlled or restricted discretionary activity, whereby a consent would be required.

The NPS will direct decision-makers to take a risk-based approach to natural hazards when making decisions relating to new developments. This means that decision-makers should take different actions based on the likelihood and consequence of different natural hazard events. The NPS would include one overarching objective that provides clear direction on the outcome sought – *“The risks from natural hazards to people, communities, and property, and infrastructure, and on the ability of communities to quickly recover after natural hazard events is minimized.”*

This option limits unintended consequences and the risk of legal challenges because it would only be applied should an applicant seek to develop land or as part of a plan change process. However, this option does not provide complete certainty that areas identified as high risk by local authorities would not be developed. The NPS would not prevent or restrict development in areas at risk where development is a permitted activity and, therefore, would not require resource consent. However, the NPS will eventually be integrated via plan change, and this may result in some greater restrictions (including down-zoning) of high natural hazard risk land.

The NPS would either be included in, or replaced by, the Natural Hazard Planning Framework in the medium to long term, depending on policy decisions in due course. This will then be transitioned into the NPF as part of the resource management reform.

Local authorities are generally supportive of options that better direct how they should weigh natural hazard risk and other considerations to enable better planning for the effects of natural hazards. Local authorities have asked central government for better direction in natural hazard management, throughout pre-consultation discussions, and also in earlier reports from LGNZ<sup>20</sup>.

The NPS would take around six to nine months to develop. Decision-makers must consider this NPS in designation and resource consent decision-making on and from the commencement date. The NPS will direct local authorities to give effect to the NPS at their next scheduled plan update (excluding the Intensification Planning Instrument (IPI) processes).

### ***Type of developments in scope***

All types of new developments (except those mentioned below) should be in scope of the NPS, including residential dwellings, papakāinga, education, marae, health, and other community facilities, (where there is a lower tolerance of negative impacts of a natural hazard event), commercial and infrastructure developments. This reflects that all types of new development poses risks to life, and there are social and economic costs when development is damaged by natural hazards.

Given the focus of the NPS is new physical developments such as buildings and structures, the NPS would not apply to new on-land pastural, agricultural, horticultural, forestry activities, or open space recreational activities (such as new parks and playgrounds). However, buildings and residential dwellings associated with these activities are in scope. It is important to note that the Government response to the Ministerial Inquiry into Land Use is looking at whether there should be plan changes for forestry land on steep slopes.

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<sup>20</sup> *The Local Government Case for a National Policy Statement for Flood Risk*. Local Government NZ, 2011. <https://www.lgnz.co.nz/assets/Uploads/Our-work/711bb5e30b/NH-LG-Case-for-Flood-Risk-NPS.pdf>

### ***Types of hazards in scope***

All natural hazard risks (including those exacerbated by climate change) would need to be considered in decision-making. We recognize some risks have different levels of exposure and require different actions to manage risks, which is reflected in the NPS.

All natural hazards, as defined by the RMA, are included in the NPS, given that all natural hazards pose a risk to life, property, and infrastructure. This is because it:

- allows for consideration of cumulative and cascading impacts of natural hazards;
- enables planning for high consequence natural hazards but low likelihood events (e.g., major volcanic eruptions);
- addresses all the hazards that affect insurance claims and policies;
- will have a greater impact in terms of reducing risk to cities; and
- reduces unintended consequences of directing new development away from one hazard towards another.

Some natural hazard risks have different levels of exposure and require different actions to manage risks, with consideration of the practicalities of mitigation action and the limitations of existing data. The proposed approach to manage natural hazard risk aims to reflect this.

### ***Risk based approach***

The NPS would direct decision-makers to take a risk-based approach to all natural hazards when making decisions relating to all new developments. This means that decision-makers should take different actions based on the likelihood and consequence of different natural hazard events, and then assess the tolerance of a natural hazard event in relation to the proposed new development. The risk-based approach means that decision-makers will need to assess the level of natural hazard risk when making plan changes, considering designations or making decisions on resource consents relating to new developments.

The NPS would include three categories of risk:

- **High Natural Hazard Risk:** areas where risk from natural hazards is intolerable (e.g., intolerable loss of life, injury or property or infrastructure damage);
- **Moderate Natural Hazard Risk:** areas where the level of risk exceeds the low-risk category, but the risk is not intolerable. For example, a natural hazard event would cause some damage. However, this would be very unlikely to cause intolerable loss of life, significant injury or significant damage to property or infrastructure. If damage does occur, property and infrastructure may require some community wide or property level repair; and
- **Low Natural Hazard Risk:** The natural hazard risk is generally acceptable. For example, the level of risk is similar to the level of many everyday risks that people face and accept. A natural hazard event is unlikely to cause injury or property damage. If damage does occur, property and infrastructure may require minimal repair but no significant redesign or retrofitting.

The level of risk may shift due to climate change and significant natural hazard events. Central and local government policy decisions also have the potential to change the level of risk over time.

### **The NPS will require decision-makers to assess the natural hazard risk based on set criteria**

The NPS would direct decision-makers to assess whether a natural hazard risk is high, moderate or low in relation to a new development, based on:

- the likelihood of a natural hazard event occurring (either individually or in combination);
- the consequences of a natural hazard event in relation to the proposed new development. Consequences include loss of human life, or serious injury, adverse effects on the environment or potential serious damage to property and infrastructure; and
- the tolerance of a natural hazard event, including the willingness and capability of those who are subject to the risk (such as a community, Māori or the Crown) to bear the risk of the natural hazard (including its cost) and any indirect risks associated with it.

Assessing the risk tolerance will help decision-makers to determine the extent to which communities are willing to tolerate the potential consequences of a natural hazard event, as well as the potential benefits of a new development proceeding (e.g., the social, economic, infrastructure, housing and urban development benefits of a given new development).

### ***Addressing natural hazard risk in different categories exposure***

The proposed NPS would direct decision-makers to use the best available information at the time of making a planning decision. Local authorities have inconsistent or variable natural hazards information, and where there are gaps in local authorities' information, the proposed NPS will direct them to apply a precautionary approach. It is expected that local authorities will continue to seek and ask for more information on their natural hazard risk, especially considering changing risks from climate change.

Officials from MfE and Toka Tū Ake EQC intend to release guidance that will help decision-makers to make this assessment to coincide with the NPS being gazetted.

The proposed NPS would direct decision-makers to take specific actions for new developments based on their assessment of the level of risk exposure, as outlined in the categories above. It would direct decision-makers to:

- avoid new development in high natural hazard areas unless the level of risk is reduced to at least a tolerable level, or the new development is not a new hazard-sensitive development and;
  - there is a functional or operational need for the new development to be located in the area of high natural hazard risk, and
  - there are no practicable alternative locations for the new development and
  - the risk is reduced to as low as reasonably practicable
- mitigate the risk to as low as reasonably practicable in moderate natural hazard risk areas; and
- enable development in low natural hazard risk areas.

Enabling development in low natural hazard risk areas will help to balance the need for housing supply, while still preventing new development in high-risk areas.

For new commercial and infrastructure developments in areas of high natural hazard risk, the NPS would enable new development where there is an operational or functional need, there are no practicable alternative locations, and the risk is reduced to as low as reasonably practicable. This balances the objective to reduce the amount of development going ahead in areas at high risk from natural hazards, with the reality that in some situations new commercial, or infrastructure development needs to occur in high natural hazard areas.

In a high-level, principle-based approach, the NPS would guide decision-makers on the type of risk reduction measures that should be used to reduce natural hazard risk and be able to withstand a natural hazard event without enduring serious damage. The policy will also direct decision-makers to avoid actions that may increase the risk of natural hazards in other locations.

The NPS would include a policy that directs decision-makers on the type of mitigation measures that should be used to reduce natural hazard risk. This will direct decision-makers to prefer comprehensive area-wide measures and nature-based solutions, where they are possible and effective. The NPS will still allow for site-specific and hard engineering measures if they are more effective. The policy will also direct decision-makers to avoid risk reduction actions that increase the risk of natural hazards in other locations.

### ***Providing for and recognising Māori interests***

The NPS would recognise and provide for Māori values, interests, and aspirations by requiring decision-makers to engage early and involve tangata whenua when making decisions on new developments on specified Māori land where there is a high or moderate natural hazard risk. Māori and tangata whenua involvement in identification and mapping of hazards, is not in the scope of the NPS and will be addressed in the future Natural Hazards Planning Framework.

Specified Māori land will have the same definition as the NPS-IB and will mean land that is any of the following:

- (a) Māori customary land and Māori freehold land (as defined in Te Ture Whenua Māori Act 1993):
- (b) land set apart as a Māori reservation under Part 17 of Te Ture Whenua Māori Act 1993 or its predecessor, the Māori Affairs Act 1953:
- (c) and held by or on behalf of an iwi or a hapū if the land was transferred from the Crown, a Crown body, or a local authority with the intention of returning the land to the holders of mana whenua over the land:
- (d) land vested in the Māori Trustee that is constituted as a Māori reserve by or under the Māori Reserved Land Act 1955, and remains subject to that Act:
- (e) land that forms part of a natural feature that has been declared under an Act to be a legal entity or person (including Te Urewera land within the meaning of section 7 of the Te Urewera Act 2014):
- (f) the maunga listed in section 10 of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014:
- (g) Treaty settlement land, being land held by a post-settlement governance entity (as defined in the Urban Development Act 2020) where the land was transferred or vested and held (including land held in the name of a person such as a tipuna of the claimant group, rather than the entity itself):
  - i. as part of redress for the settlement of Treaty of Waitangi claims; or
  - ii. by the exercise of rights under a Treaty settlement Act or Treaty settlement deed.

Much of remaining Māori land is disproportionately exposed to natural hazard risk. According to several reports, 80% of the approximately 800 marae in the country are in low-lying coastal

areas or near flood prone rivers.<sup>21</sup> Te Ture Whenua Māori Act 1993 recognises land as taonga for Māori and promotes the retention, occupation, and development of that land. Given the extent Māori land is exposed to climate risk, it is important to recognise the disproportionate impact these policy proposals could potentially have on Māori by further limiting their ability to use remaining land.

Officials sought to engage with iwi, hapū, Post-Settlement Governance Entities, marae, and national level, Māori advisory groups Freshwater Iwi Leaders Group and Te Tai Kaha and Māori landowners. The majority of those who were engaged with this kaupapa, indicated general support for the proposed NPS. They also advised:

- It is important to protect Māori communities from the risks of natural hazards and Māori are particularly vulnerable to natural hazard risk.
- Māori want to be empowered with information on natural hazard risk and, on the whole, do not support exempting Māori land from the operation of this NPS.
- Māori want to retain final decision-making ability over whether or not to develop their land.
- Māori are looking to the broader climate adaptation system to deliver tools such as land swaps and compensation which would provide them with a safer base of land on which to develop.

However, it is important to note that Te Tai Kaha believe that it would be better to progress the NPS within the Natural Hazard Planning Framework rather than ahead of it. TTK believe that the NPS does not fix the fundamental issues with the system and would not be able to be implemented well by local authorities and decision-makers given the current state of natural hazard information available.

The proposed NPS would recognise and provide for Māori values, interests, and aspirations by requiring decision-makers to engage early and involve tangata whenua when making decisions on new developments in natural hazard areas. Māori and tangata whenua involvement in identification and mapping of hazards, which is not in the scope of the NPS, will be addressed in the future Natural Hazard Planning Framework.

Further provisions to ensure MfE's Te Tiriti o Waitangi commitments are honoured in the development and implementation of the NPS were explored in early engagement with Māori and will be further examined during public consultation. Officials will also be seeking feedback through public consultation on how mātauranga Māori can be appropriately employed and protected in the NPS.

### ***Links with housing and urban development***

The proposed NPS would not affect the requirement for local authorities to provide at least sufficient development capacity under the NPS-UD. The proposed NPS may interact with the NPS-UD in the following ways:

- Development capacity impacts: the requirements of the proposed NPS may make it more difficult for councils to meet the requirement to provide at least sufficient development capacity.
- Uptake of development capacity: the NPS may have an unintended consequence of providing uncertainty for developers when applying for resource consents. This is because developers will not have visibility of each council's approach to categorisation of risks, so it will be unclear if a consent will be granted or what kind of

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<sup>21</sup> page 22 of the ICNZ submission on the NAP  
 ICNZ\_submission\_on\_the\_draft\_National\_Adaptation\_Plan\_including\_Managed\_Retreat\_030622.pdf



risk reduction measures are required. However, this level of uncertainty, is not particularly different from the existing uncertainties in decision making, interpretation of hazard information and non-RMA uncertainties such as gaining financing or insurance where there is a natural hazard risk.

- Urban form impacts: the proposed NPS may mean some areas cannot be developed or intensified and therefore may have impacts on a location's overall urban form.

Officials have considered how to avoid these unintended consequences in the drafting of the proposed NPS and have tested this in pre-consultation engagement with local authorities. To not overly disturb housing supply consenting and development the NPS is proposed to:

- avoid influencing the Intensification Planning instrument process (IPI) to minimise disruption and complexity for local authorities.
- enable councils to use existing information and decisions on tolerance processes within the policy so to not have to reinvent considerations of natural hazards that are already working as intended.
- include tolerance considerations, which provide flexibility to over time make stronger hazard-based decisions but mean local authorities can potentially be more accepting of development and mitigation.
- enable decision-makers to use the NPS to provide greater certainty in its structured decision-making processes nationwide.
- provide moderate and low categories that are fairly supportive of development.

### ***Link with NZCPS***

The New Zealand Coastal Policy Statement 2010 (NZCPS), which guides local authorities in their day-to-day management of the coastal environment, includes policies relating to the identification of coastal hazards, and the subdivision, use and development in areas of coastal hazard. The NZCPS includes strong 'avoidance policies' in relation to increasing the risk of social, environmental and economic harm from coastal hazards, along with the redevelopment, or change in land use, that would increase the risk of adverse effects from coastal hazards. The NZCPS also encourages redevelopment, or change in land use, where that would reduce the adverse effects from coastal hazards, including managed retreat.

The jurisdiction of the NZCPS includes both the coastal marine area (territorial sea out to 12 nautical miles) and the inland coastal environment which requires local authorities to define its extent. This can range from 500m to 5km from the shoreline based on reviewing a few local authority plans, although in most cases is not likely to much further than 1km from the shoreline.

The proposed NPS-NHD and the NZCPS would overlap because the NPS-NHD covers the coastline and coastal hazards. We consider the proposed NPS-NHD to be broadly consistent with the NZCPS as the NPS-NHD would avoid new developments in areas. To provide certainty to decision-makers, the NPS-NHD will direct that if there are inconsistencies between the two pieces of national direction then the NZCPS prevails over the provisions in the NPS-NHD.

### **Option Three – National Environmental Standards**

NES are regulations made under section 43 of the RMA. NES prescribe standards for environmental matters and can operate as plan rules to provide more consistent and certain resource consent requirements nationally. NES generally prevail over plan rules, except where a NES expressly states plan rules can be more stringent or lenient. Local authorities must observe and enforce an NES through planning and decisions on resource consents. Unless local authorities are allowed more stringent or more lenient rules, they must amend

their plans to remove any duplication or conflict between an NES and their own rules<sup>22</sup>. If councils need to amend a plan to remove duplication or conflict, they can do this without using the standard plan change process. An NES can apply generally, or to a specified region, district, or part of Aotearoa New Zealand.

An NES for Natural Hazard Decision-Making would provide a nationally consistent set of regulations to specify how decision-makers should make planning and resource consent decisions in high natural hazard risk areas. For example, an NES for Natural Hazard Decision-Making could:

- specify rules that local authorities must include in planning instruments that give effect to the objectives and policies set out in the NPS (if options two and three were implemented in tandem);
- require a resource consent for all new developments in high natural hazard risk areas;
- provide a nationally consistent set of resource consent requirements and conditions for new developments in high natural hazard risk areas; or
- prohibit new developments in high natural hazard risk areas.

Officials considered whether an NES could include provisions that would make development in certain areas, where it is currently permitted, a discretionary activity (which means a resource consent would be required). However, this option is not recommended. Given the need for pace to respond to the issue, any NES would need to use existing natural hazard risk information in plans, which is not consistent at a national level and may not identify all potential hazards.

This option would not impact areas that have not already been identified as at high risk from natural hazards. Given local authority identification of risks is inconsistent, an NES would be implemented inconsistently leading to highly variable outcomes and impacts for different communities across the country.

An NES which limits or prohibits future development is likely to be contentious. For example, previous attempts by local authorities to downzone land in response to hazards were strongly opposed, such as in Christchurch and Kāpiti. It is critical that this type of regulation is based on up-to-date data and evidence.

This option would take approximately 12 months to develop. It would be more resource intensive than a narrowly scoped NPS, because of the need to review the hazards provision of all relevant planning documents and specify for each region which areas are not suitable for development. Engagement on an NES would need to be thorough given the clear impacts on individual properties.

Any NES would likely be withdrawn once the Natural Hazard Planning Framework is operative because the latter will provide direction to local authorities on land-use planning in areas of identified risk from natural hazards.

#### **Option Four - Direct specific local authorities to prepare a plan change or variation**

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<sup>22</sup> <https://environment.govt.nz/publications/understanding-national-direction/about-national-direction/> accessed on 4 November 2022

Under this option, the Minister for the Environment could direct specific local authorities to prepare a plan change or variation to prevent or restrict development in specific areas where a problem has been identified, under section 25A of the RMA.

This option would only apply to a few local authorities, prioritised by those that have been affected by the severe weather events. This creates a risk that the Government would not be able to prevent or restrict natural hazards risk effectively throughout the country.

From engagement with local authority practitioners, it has become apparent that there is value in providing direction to all local authorities, given the lack of national consistency, rather than targeting a handful of local authorities.

This option could be developed and implemented within two years. This would require the Minister to direct councils to prepare and notify plan changes in 9 months and for councils to operationalise plans in 15 months. Councils could only operationalise plans in 15 months if they successfully apply to use the streamlined planning process under section 80C of the RMA. Feedback from local authorities identified this would be time consuming and resource intensive.

## How do the options compare to the status quo/counterfactual?

	Option One – <i>Status Quo</i>	Option Two – NPS	Option Three – NES	Option Four – Ministerial Direction
<b>Effectiveness</b>	0 Practice would continue to be variable throughout the country but would be effective in the medium to long term when the Natural Hazard Planning Framework is implemented	++ Provides clear direction to all decision-makers on how to weigh natural hazard risk with other considerations in decision-making. However, it does not include activities permitted in plans (until there has been a scheduled plan change) and existing consents are out of scope.	+ Would prescribe clear and specific national consistent rules. NES cannot include objectives and policies so limited ability to provide direction on the actual outcomes sought. NES also relies on local authorities' existing natural hazard information, which is inconsistent, leading to variable outcomes and impacts across New Zealand this is less of an issue for the NPS because the NPS would enable decision-makers to seek information other than that already identified by the local authorities. It is critical that this type of regulation is based on up-to-date and consistent data and evidence.	+ Would require local authorities to prepare a plan change to improve the weight of natural hazard risk, where a problem has been identified. However, this option would not apply to all local authorities given the time, information, and resource required to undertake this process.
<b>Timeliness</b>	0 N/A – no time required to develop or implement the option.	++ Relatively efficient for MfE to develop a limited scope NPS. Can be developed and implemented by early 2024, as requested by Cabinet. It takes effect when the NPS is gazetted, and decision-makers will need to insert specific objectives and policies into their planning instruments.	- Would be time consuming for MfE to develop a NES to ensure it is fit-for-purpose and does not result in perverse outcomes. Would be developed and implemented by mid-2024.	-- Would be time consuming for MfE to determine which councils this option would apply to because MfE would require data to inform which local authorities this option would apply to. It would take around 15 months for councils to prepare, notify and operationalise plan changes
<b>Consistency</b>	0 There would continue to be a lack of clarity and national direction on how decision-makers should weigh natural hazards in decision-making	+ Provides clear direction to all decision-makers on how to weight natural hazard decisions. The level of direction set by a clear, single objective and clear policies should leave little room for interpretation. However, decision-makers will rely on existing natural hazard information, which is inconsistent.	+ Provides a high level of certainty and national consistency in how natural hazard decision-making should occur at a rule level. However, NES also relies on local authorities' existing natural hazard information, which is inconsistent, leading to variable outcomes and impacts across New Zealand.	0 Does not provide any more national consistency relative to the status quo because the option would apply to a few local authorities. Local authorities have informed MfE there is value in providing national direction to all local authorities.
<b>Flexibility</b>	0 High level of flexibility for local authorities to manage natural hazards within their region/district	+ Allows some flexibility for decision-makers to respond to local priorities and circumstances when giving effect to the objectives and policies in the NPS.	-- Provides limited flexibility for councils to respond to different pressures and priorities. Less opportunity for councils to determine the most appropriate use of land.	+ Provides flexibility for local authorities to prepare a plan change, within the scope of the Ministerial direction, to reflect local priorities and circumstances. This option means local authorities who already undertake a risk-based approach to natural hazard risk management do not have to change their practices.
<b>Implementation complexity and risks</b>	0 No additional costs to develop or implement the option	+ Relatively simple for MfE to develop the NPS and for decision-makers to implement because of its narrow scope. Minimises the risk of legal challenges because it would only be applied should an applicant seek to develop land.	-- Complex and costly to develop to ensure it is appropriate in all locations it applied to and does not have unintended consequences. Costs for councils to align their plans with NES and implement the NES (consenting and monitoring). An NES which limits or prohibits future development is likely to be contentious, noting previous attempts by local authorities to downzone	-- This option would be complex and costly to develop because it requires MfE to assess what local authorities this option would apply to, and it would require specific local authorities to prepare a plan change, which is costly and resource intensive. This option could also be contentious because it would only target a handful of local authorities, and Ministerial

			land in response to hazards, such as in Christchurch and Kāpiti, were strongly opposed.	intervention typically occurs when a local authority is underperforming.
<b>Māori rights and interests</b>	<p><b>0</b></p> <p>No change in the way decision-makers consider Māori rights and interests when making decisions in high natural hazard risk areas</p>	<p><b>++</b></p> <p>The NPS would ensure decision-makers recognise and provide for early engagement with Māori, including involvement in decision-making when making decisions on specified Māori land .</p>	<p><b>-</b></p> <p>It is likely that an NES, which prescribes clear and specific national standards, would not provide sufficient flexibility to account for the different priorities and circumstances of Māori throughout New Zealand. This could limit the ability of some Māori to develop their whenua.</p>	<p><b>+</b></p> <p>The Minister could direct specific local authorities to improve the way in which their plans provide for Māori interests in relation to natural hazard decision-making.</p>
<b>Overall assessment</b>	<p><b>0</b></p> <p>Status Quo</p>	<p><b>++</b></p> <p>Significantly better than the status quo</p>	<p><b>+</b></p> <p>This option would improve the status quo but would be time consuming, resource intensive, and contentious to develop and implement</p>	<p><b>+</b></p> <p>Slightly better than the status quo because it would only improve a small number of local authorities' natural hazard risk decision-making.</p>

<b>Example key for qualitative judgements:</b>	
<b>++</b>	much better than doing nothing/the status quo/counterfactual
<b>+</b>	better than doing nothing/the status quo/counterfactual
<b>0</b>	about the same as doing nothing/the status quo/counterfactual
<b>-</b>	worse than doing nothing/the status quo/counterfactual
<b>--</b>	much worse than doing nothing/the status quo/counterfactual

**What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?**

The NPS for Natural Hazard Decision-Making is the preferred option because it has the potential to provide considerable improvements in how decision-makers weight natural hazards with other considerations through plan, designation and resource consent decision-making. It is also the only option that can be developed and implemented by early 2024, which reflects Ministerial direction to implement a short-term intervention ahead of the Natural Hazard Planning Framework. This also achieves national consistency by providing a single clear objective and clear policies that all decision-makers must apply, while still retaining discretion to reflect regional or local priorities and circumstances in decision-making. The NPS also provides for and recognises Māori rights and interests, while ensuring there is enough flexibility to account for differing Māori perspectives based on their priorities and circumstances.

## What are the marginal costs and benefits of the option?

Affected groups	Comment	Impact.	Evidence Certainty
<b>Additional costs of the preferred option compared to taking no action</b>			
<b>Regulated groups</b>	<b>Community at large</b> There may be an opportunity cost where new developments do not proceed because of high natural hazard risk.	Low	Low
	<b>Community at large</b> There may be an economic cost to communities in terms of housing supply and affordability where new developments do not proceed because of high or medium natural hazard risk. Any reduction in housing supply and affordability will have distributional impacts	Medium	Low
	<b>Iwi/ hapū/Māori</b> There will be a cost for Māori through their engagement and involvement in consent decision-making in relation to natural hazard risks. Includes opportunity cost of time.	Medium	Medium
	<b>Iwi/hapū/Māori</b> There will be a cost for Māori in submitting resource consents for new development in high natural hazard risk areas. Includes opportunity cost of time.	Medium	Medium
	<b>Iwi/hapū/Māori</b> There may be a cost for Māori for new developments in relation to mitigation costs. Includes	Medium	Medium

	opportunity cost of time.		
	<p><b>Landowners and developers</b></p> <p>Opportunity costs for new subdivision, use and development in natural hazard areas as the NPS requires new development be avoided in high natural hazard risk areas unless certain criteria are met, and mitigation measures be taken in natural hazard risk areas that do not meet the high threshold</p>	Medium	Medium
	<p><b>Landowners and developers</b></p> <p>Potential for the NPS to impact development activity, by creating uncertainty about where it is possible to undertake development activities.</p>	Low	Low
	<p><b>Landowners and developers</b></p> <p>Potential additional application costs for landowners associated with applications to use or subdivide natural hazard risk areas</p>	Low	Medium
<b>Regulators</b>	<p><b>Local authorities</b></p> <p>Implementation costs to consider the NPS at their next scheduled plan update</p>	Low	Medium
	<p><b>Local authorities</b></p> <p>Potential additional consent processing costs as the NPS would need to be considered at each stage of the consenting process</p>	Medium	Medium

	<b>Central government</b> Costs to prepare guidance, provide support, and monitor implementation	Low	High
<b>Additional benefits of the preferred option compared to taking no action</b>			
<b>Regulated groups</b>	<b>Community at large</b> Minimises the risk of natural hazards to people, communities, buildings	Medium	Medium
	<b>Community at large</b> Improves a community's ability to quickly recover after a natural hazard event	Medium	Medium
	<b>Community at large</b> Minimises the social and economic costs to people, landowners and the Crown should property and infrastructure be damaged in a natural hazard event	Medium	Medium
	<b>Community at large</b> Has the potential to reduce inequitable housing, insurance, and banking outcomes by reducing housing built in high natural hazard risk areas	Medium	Medium
	<b>Iwi/ hapū/Māori</b> Protects Māori and communities from the impacts of natural hazards	Medium	Medium
	<b>Iwi/ hapū/Māori</b> Māori will also be involved in giving effect to the NPS, through early engagement and involvement in decision-making for new development on specified Māori land, consistent with other NPSs.	Medium	Medium



	<p><b>Landowners and developers</b></p> <p>The NPS will be publicly available and supported by publicly available guidance. This will provide greater certainty in how local authorities will consider natural hazard risk in decision-making, and consistency of approach will benefit those who operate across different regions.</p>	Medium	High
<b>Regulators</b>	<p><b>Local authorities</b></p> <p>Clearer direction on the weight decision-makers should provide to natural hazard risk, enabling local authorities to better manage natural hazard risk.</p>	High	High
	<p><b>Local authorities</b></p> <p>Clearer rationale from the NPS to decline private plan changes and resource consent applications, and to make recommendations on requirements for designations, that do not align with the NPS and would result in new development in high natural hazard risk areas.</p>	High	High
	<p><b>Local authorities</b></p> <p>Clearer direction on how to consider natural hazard risk in the context of increased national direction, including around housing supply</p>	High	High
	<p><b>Central government</b></p> <p>Central government will benefit from addressing a key gap</p>	High	High

	in national direction. It will also support the development of the Natural Hazards Planning Framework.		
<b>Others</b>	<b>Insurance industry</b> The industry have indicated this would reduce the need for insurance and lending decisions to respond to risk, and reduce the potential for inequitable outcomes from variations in insurance and lending.	High	High

The NCCRA gives a national picture of how New Zealand may be affected by climate change-related hazards. It identifies the most significant risks and opportunities for New Zealand. The NCCRA notes that there is a knowledge gap in how decision-support tools are used (misused), the barriers to best practice uptake requires more research to ensure high-quality, coordinated decision-making across New Zealand.

The National Adaptation Plan, which responds to the NCCRA, includes a critical action to develop a national framework addressing natural hazard planning, which was supported by public submissions. In addition, the *New Direction for Resource Management in New Zealand* June 2020 report of the Resource Management Review Panel included as a key recommendation for climate change and natural hazard that “*Mandatory national direction should be required for: (ii) climate change adaptation and reduction of risk from natural hazards consistent with the national climate change risk assessment and national adaptation plan under the CCRA*”.

A 2015 report by the Parliamentary Commissioner for the Environment provides some modelling results of the number of homes, businesses and roads that are low lying and likely to be affected by sea level rise for Auckland, Wellington, Christchurch, Dunedin, Napier, Whakatāne, Tauranga, Motueka and Nelson.<sup>23</sup> The report also recommends national direction to *take direction on planning for sea level rise out of the New Zealand Coastal Policy Statement and put it into another National Policy Statement, such as that envisaged for dealing with natural hazards*.

The SAR provides a mostly qualitative assessment of the options to address the lack of clarity on how decision-makers should weigh natural hazard risk and other considerations when making planning or consenting decisions under the RMA.

We will seek public feedback on the content of the proposals via a consultation document and will ensure that key groups including local authorities iwi, hapū, Māori, the banking and development sector are invited to participate in consultation. Post consultation a cost-benefit

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<sup>23</sup>, [Preparing New Zealand for rising seas: Certainty and uncertainty | Parliamentary Commissioner of Environment \(pce.parliament.nz\)](https://www.pce.parliament.nz/preparing-new-zealand-for-rising-seas-certainty-and-uncertainty)

analysis as required under section 32 of the RMA will be undertaken on final recommendations to support analysis for Ministerial consideration.

### **Significance of costs and benefits**

Overall, the environmental, economic, and social benefits of the proposed NPS will be widespread and be felt by current and future generations.

The costs are primarily associated with having regard to the NPS in resource consent decisions, to give effect to the NPS. While these costs are potentially significant for some local authorities, they are mostly faced in the short term, and it is expected that the ongoing implementation costs of the NPS will reduce substantially over time.

There is also an opportunity cost for developers and landowners around where new development can occur, although this is mitigated because it would not alter the requirement to at least provide sufficient development capacity in the NPS-Urban Development or affect IPs. It aims to provide certainty for decision-makers, local authorities, and developers to enable developments in areas that are not at high risk of natural hazards.

From insurance councils of New Zealand information, officials understand that there are increasing trends in the impacts of natural hazards on insurance claims from climate related events.<sup>24</sup> Officials do not have quantifiable data on the direct impacts on the property market, in some high-risk areas. There has been an increase trend in insurance claims as a result of climate related events. Officials have been engaging with the insurance industry who indicated support for this instrument because it improves how local authorities address natural hazard risk. This will reduce the need for insurance and lending decisions to be responsible to respond to risk and reduce the potential for inequitable outcomes from variations in insurance and lending.

### **Risks and uncertainties**

Local authorities identify natural hazards, and assess risk and risk tolerance, in a variable and inconsistent way. The presents challenges for estimating costs for any one council, and in aggregate across New Zealand.

Officials currently have limited or uncertain information about the potential number of people and properties at risk of natural hazards, and the amount of development likely to go ahead in hazard prone areas. Modelling this would require more time than is appropriate given the urgent need to improve practice.

Officials will improve their evidence base as part of developing the Natural Hazard Planning Framework. To mitigate the issues around the limited data, officials engaged with local authorities to assess the most effective immediate intervention and proposed a limited scope intervention be progressed in the short-term.

There is a risk that local authorities will not implement the NPS as intended. We will develop guidance to support local authorities to effectively implement the NPS. Officials will monitor the implementation of the NPS.

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<sup>24</sup> Insurance Council of New Zealand Cost of Natural Disasters <https://www.icnz.org.nz/industry/cost-of-natural-disasters/>, accessed 7 June 2023

## Section 3: Delivering an option

### Implementation of the NPS

Officials will refine the NPS based on feedback received through public consultation. Officials aim to finalise the NPS for gazettal by February 2024.

Decision-makers will need to have regard to the NPS through resource consent decisions from the commencement date of the NPS. The NPS will direct local authorities to give effect to the NPS at their next scheduled plan update (excluding the IPI processes).

The NPS-NHD will have legal effect under the RMA once it takes effect, until changes under the NBE Bill are fully implemented (in approximately 7-10 years), and after which the NPS-NHD will be integrated under the NPF.

The NPS does not affect current IPI processes, which give effect to the intensification policies in the NPS-Urban Development. This reflects that several councils are near the end of their IPI planning process, and we do not want to impact on these timeframes or introduce uncertainty about this process. These councils would need to have regard to this NPS through consent decisions immediately, and subsequent plan changes that occur after the end of the IPI process.

Central government will also prepare guidance to support the implementation of the NPS, which will provide information for decision-makers, local authorities, Māori, developers, landowners, and other stakeholders.

Officials currently have limited or uncertain information about the potential number of new developments likely to go ahead in areas at high risk from natural hazards. Modelling this would require more time than is appropriate given the urgent need to improve practice. Officials will improve their evidence base as part of developing the Natural Hazard Planning Framework. To mitigate the issues around the limited data, officials engaged with local authorities to assess the most effective immediate intervention and proposed a limited scope intervention be progressed in the short-term.

Through engagement, officials will seek feedback on how central government can support with the implementation of the NPS. Officials will work with MHUD through implementation to improve certainty for developers.

Officials will be responsible for monitoring and reporting on the implementation of the NPS.

### Implementation risks

#### *Working with iwi/hapū/Māori*

Councils will be required to work with iwi, hapū, Māori in decision making for natural hazards on specified Māori land. This may result in requests for engagement being presented to iwi, hapū, Māori that they do not have the capacity to meet. Requiring councils to undertake an integrated approach to managing and giving effect to this NPS should assist with reducing demands on time and resources, notwithstanding the additional provisions for Māori participation anticipated through resource management reform.

Officials will seek feedback on how to mitigate this risk through public consultation.

#### *Capacity and capability and implementation support*

Successful implementation of the NPS will be determined by the capacity, capability, and willingness of decision-makers to implement the NPS through resource consent decisions.

Some local authorities will have more capacity, capability, and willingness depending on how significant an issue natural hazard management is, their existing natural hazard risk management practices, how well resourced they are, and what stage they are at in their plan review cycle.

Officials are intending to prepare guidance for decision-makers to support the implementation of the NPS. We will also hold workshops with local authorities to support the implementation process. Officials will work with MHUD through implementation to improve certainty for developers.

### **Implementation costs to local authorities**

As soon as practicable clause means there will not be any additional costs for local government to implement outside of its normal hazard planning processes. The additional clarity of direction will potentially reduce costs of implementation in the plan by local government.

Councils have the ability to charge on consenting costs to the applicant, as such costs in the consent process and information costs for council should be minimal. There may be some initial costs incurred by understanding the NPS and applying it.

Costs to private plan changes will be mostly managed by applicants as it will be their responsibility to provide sufficient information and understanding of the policy. Local authorities may incur some processing costs of understanding this information and applying the policy.

Local government may wish to undertake a process of defining tolerance levels for their region or district and this would have some costs. However, that process is not outside of what might be reasonably expected for effectively managing hazards using the status quo.

Overall implementation costs will be slightly greater than the status quo process which also includes the consideration of hazards for development. Additional costs will be mostly as a result of some initial understanding of the new NPS structure and how to apply information to it. The provisions take a cautious approach to not over burden councils with additional work at the expense of being cautious to avoiding development subject to hazards. This includes not influencing the IPI process, not requiring councils to undertake plan changes outside of when it is next practicable to do so, enabling councils to draw from and use existing information including for tolerance processes within the policy so to not have to reinvent practices that are going well.

### **National direction integration**

There is a risk that multiple instruments of national direction could make implementation difficult for councils. There will continue to be substantive effort during the process of drafting the NPS, to assess interactions with other national direction instruments and resolve any risks. This will be communicated in the consultation document, and we will continue to work with other agencies to address this in terms of policy integration and implementation.

This NPS will not alter the requirement to at least provide sufficient development capacity in the NPS-Urban Development or affect IPIs. MfE and MHUD will work together to ensure that, to the extent possible, any tension between housing development and natural hazard protection is appropriately expressed in the draft consultation document.

Officials do not consider there to be any inconsistencies with the NZCPS. However, the NZCPS would prevail over the provisions of this NPS if there is conflict between them, which is consistent with the approach in other national direction.

The NPS will be developed and implemented by early 2024 and would either be included in, or replaced by, the Natural Hazard Planning Framework (depending on policy decision in due course). These will then be transitioned into the NPF as part of the Resource Management Reform programme. The NPS will be consistent with the Natural Hazard content in the new resource management system, while still being developed under the RMA.

### **How will the new arrangements be monitored, evaluated, and reviewed?**

MFE proposes to monitor the effectiveness of the NPS in achieving the intent and objectives of the NPS. The NPS will also be reviewed and inform the development of the Natural Hazards Planning Framework. Officials are currently working on a monitoring plan for the NPS which could include questions to local authorities through the National Monitoring System.