



20 November 2023

Ministry for the Environment
PO Box 10362
Wellington 6143

Tēnā koutou,

Submission on the Proposed National Policy Statement for Natural Hazard Decision-making

1. Introduction

This submission is from the Clifton to Tangoio Coastal Hazards Strategy Joint Committee (“Joint Committee”), formed by members appointed by the Hawke’s Bay Regional Council, Tamatea Pōkai Whenua (formerly the Heretaunga Tamatea Settlement Trust), Hastings District Council, Mana Ahuriri Trust, Napier City Council and Maungaharuru-Tangitū Trust.

If there is an opportunity to engage with the Ministry for the Environment and/or to speak to our submission, we confirm that we wish to take up that opportunity.

We wish to make the following comments in relation to the Proposed National Policy Statement for Natural Hazard Decision-making (NPS-NHD).

2. About us

The Joint Committee is formally constituted under the Local Government Act 2002.

Our task is to develop a long-term adaptive plan for coastal hazards for the stretch of Hawke’s Bay coastline between Tangoio in the North, and Clifton in the South (“the Strategy”).

This is the most heavily populated coastal area in the Hawke’s Bay Region, encompassing the city of Napier and the coastal settlements of Clifton, Te Awanga, Haumoana, Clive, Awatoto, Bay View, Whirinaki and Tangoio.

These areas are predominantly low-lying and are exposed to risks from coastal erosion and coastal inundation. Sea level rise will increase these risks over time. Retreat/relocation is likely to be the only viable long-term solution for some communities.

Our project was the first in the country to apply the Dynamic Adaptive Pathways Planning (DAPP) approach recommended in the Ministry for the Environment document "*Coastal hazards and climate change: Guidance for local government*" released in December 2017 (MfE Guidance).

Our work has been profiled by Local Government New Zealand, Ministry for the Environment, Resilience to Nature's Challenges National Science Challenge, the Organisation for Economic Co-operation and Development (OECD) and has been included as a case study in the National Adaptation Plan released in 2022.

Since we began this work in late 2014, we have:

- Commissioned detailed hazards and risk assessments and ground-truthed these with affected communities.
- Developed decision-making processes for determining preferred options for responding to the risks identified.
- Completed cultural values, social impact, coastal ecology and economic assessments.
- Formed two community panels to work collaboratively on understanding risks, identifying and evaluating options for response, and recommending solutions to the Joint Committee.
- Determined and clarified the roles between the Hawke's Bay Regional Council and territorial authorities for implementing the Strategy.
- Developed draft adaptation thresholds for each community.
- Explored options for funding models and instruments, including a coastal contributory fund which would seek to build up funds overtime to offset the future cost of adaptation and more equitably spread costs across generations.

The key remaining task that we are now focused on and developing is the funding model for implementation – that is, determining the relative contributions to Strategy implementation from rate payers and any other contributors.

3. The Need for National Direction

The Joint Committee has extensive experience working with existing communities who are exposed to natural hazards risks. We know firsthand how challenging and complex these problems are.

As an indication of these complexities, just some of the questions we have attempted to find answers to include:

- What is tolerable risk and how do we define that?
- How does risk tolerance change over time and how do we track that?
- Whose risk tolerance do we take into account or prioritise?
- How do we balance risk mitigation, affordability, and environmental considerations?

- What happens to people, communities and the environment if we do nothing about the increasing risks from natural hazards?
- What happens to our natural environment if we start changing it to increase resilience?
- How do we fairly apportion the costs for risk mitigation projects?
- Through taking action to increase resilience, how do we avoid creating perverse incentives for increased investment and development in at risk locations?
- How do we plan for, fund and implement retreat at a community scale?

The challenges we are grappling with as a Joint Committee have been created by past decisions to approve and/or enable development in locations that are now exposed to high risks from natural hazards. As just one example, following Cyclone Gabrielle, the Future of Severely Affected Land (FOSAL) risk categorisation framework will mean that costs from those past decisions to approve development will be borne by ratepayers and taxpayers.

While past decisions were not made with the benefit of the hazards information available to us today, we are concerned that decisions will continue to be made that will perpetuate this problem for future generations, due to a lack of robust regulatory tools and the litigious nature of decision-making under the Resource Management Act 1991 (RMA).

We take the view that as a region, and country, we cannot continue to make decisions that will place people, homes, businesses and infrastructure in areas where the risks from natural hazards are, or are likely to be, significant in the short, medium or longer term.

We further consider that national direction and the provision through legislation of more effective regulatory tools for local government are required to support effective decision-making in this regard.

4. Commentary on Proposed NPS-NHD

As an interim document, we consider that the proposed NPS-NHD does not take a strong enough or precautionary enough approach to managing development areas exposed to natural hazards risks. While we appreciate the urgency with which it needs to be implemented, we advocate for stronger, more effective policy in the National Direction for Natural Hazards that is proposed to follow this interim approach.

While we have been an early adopter of guidance on the DAPP approach, we know that the Environment Court has typically applied little (if any) statutory weight to similar guidance documents. We consider it is imperative that the NPS-NHD's directives are clear to decision-makers in relation to resource consenting.

We further consider there to be merit in developing nationally-defined 'bottom lines' for natural hazards risks, where development controls are required beyond a defined risk threshold. This is a similar approach to that taken by the National Policy Statement for Freshwater Management, where bottom lines for water quality are defined and are non-negotiable; above that minimum standard,

local solutions can be developed. This would provide a strong backstop for local government decision-makers and reduce litigation and inconsistent decision-making.

Beyond these high level comments, we do not attempt to comment directly on the tools that are required or the detailed provisions of the proposed NPS-NHD, but we are aware of a number of other parties with close working knowledge of RMA decision-making processes who are preparing submissions to address these matters; we urge the Ministry to engage fully with those submitters to ensure that practical and effective national direction is developed.

5. Conclusions and Recommendations

Our mandate as a Joint Committee is to prepare a strategy for communities in Hawke's Bay already exposed to natural hazards risks.

The purpose of this submission is to provide an insight on the challenges of our work and to offer our strong support for the development of stronger and more effective regulatory tools for local government to effectively manage new development today, so that we can avoid further challenges, expense, and headaches in the future.

Overall, we support the intent of the proposed NPS-NHD and welcome greater controls and a precautionary approach for new development in at-risk locations. We welcome the opportunity to engage directly with the Ministry for the Environment on these matters.