



20 November 2023

Ministry for the Environment
PO Box 10362
Wellington 6143

Submitted via naturalhazardRMA@mfe.govt.nz

Tēnā Koutou,

Rangitikei District Council feedback on the proposed National Policy Statement for Natural Hazard Decision-making 2023

Rangitikei District Council (Council) thanks the Ministry for the Environment (MfE) for the opportunity to provide feedback on the Proposed National Policy Statement for Natural Hazard Decision-making (NPS-NHD).

Council recognises that the NPS-NHD is identified as the “first phase” or an “interim measure” while MfE is developing more comprehensive national direction for planning for natural hazards over the next 1-2 years. The proposed comprehensive national direction for natural hazards will support local authorities to identify natural hazards and risks in a consistent and rigorous way, understand the level of risk tolerance by a community or other party, and provide direction on making decisions on land use in hazard-prone areas.

Natural hazards and their implications for planning are becoming increasingly important. As such Council is supportive in principle of MfE developing comprehensive national direction for natural hazards. However, it is Council’s opinion that the proposed NPS-NHD in its current form will provide little benefit for local authorities making decisions on proposed developments affected by natural hazards and that the NPS will not provide the consistency or certainty of process intended.

Discussion Point 1: Proposed Objective

The proposed objective of the proposed NPS-NHD is:

“The risks from natural hazards to people, communities, the environment, property, and infrastructure, and to the ability of communities to quickly recover after natural hazard events, are minimised.”

Council considers that the proposed objective is not directive enough and in particular opposes the use of “minimised”.

Minimising the risk suggests that in most (if not all) instances there will be a way to facilitate development on land that is subject to natural hazards. That risk just needs to be mitigated rather than avoided.

The objective of the NPS-NHD should make it clear that development of land affected by natural hazards needs to be subject to robust decision making and that although in many instances development may still be appropriate (where the effects of the proposed development can be effectively avoided, remedied or mitigated) there are instances where the risk and potential adverse effects on the subject land and/or surrounding environment are not acceptable and new development should be avoided.

Recommendation:

That the objective of the NPS be amended to: *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 well understood and that appropriate measures are taken to ensure that development only occurs where the level of risk is tolerable.*

Discussion Point 2: Assessment of Risk

The proposed NPS-NHD establishes a risk based approach to assessing proposals and making planning decisions. The proposed NPS-NHD categorises risk as “high”, “moderate” or “low” and includes the following definitions for each:

“High natural hazard risk means a risk from natural hazards that is intolerable.

Moderate natural hazard risk means a risk from natural hazards that is more than a low risk but is not intolerable.

Low natural hazard risk means a risk from natural hazards that is generally acceptable.”

The categories are identified as being “principle-based” rather than highly prescriptive, to provide decision-makers with “discretion” on how to apply them. Council considers that this will likely result in inconsistency of how they will be applied which is what the proposed NPS-NHD is aiming to avoid. As such Council suggests that MfE give further consideration to these categories in relation to how they will be implemented through the NPS-NHD.

The concepts of “tolerable” and “intolerable” are introduced in the NPS-NHD and will be instrumental in the implementation of the NPS. These concepts are not clearly defined in the NPS-NHD, although Council notes that Policy 2 does provide a quasi-definition for establishing “tolerance” (and subsequently intolerance) to a natural hazard event as it requires the decision maker to consider:

“(a) first, the likelihood of a natural hazard event occurring (either individually or in combination) and the consequences of the natural hazard event occurring, including potential loss of life, serious injury, adverse effects on the environment, and potential serious damage to property and infrastructure; and

*(b) second, **tolerance** to 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 that natural hazard (including its cost) and any indirect risks associated with it."*

In Council's opinion the proposed NPS-NHD will likely still facilitate development on natural hazard prone land where there could be substantial risk to people and property. There is a lack of direction in terms of how to assess and evaluate crucial concepts in the NPS-NHD such as "likelihood" or "consequence" or "serious damage". Without clear and robust definitions decision makers will struggle to implement the NPS-NHD in a coherent and consistent manner.

Clause a) under Policy 5 of the proposed NPS-NHD provides an avenue for new development to occur in areas of high natural hazard risk where the risk is reduced to "at least tolerable".

Council's observation is that peoples perceived "willingness and capability" to bear the risk of natural hazards (which is how tolerance is to be established) varies. People often struggle to understand the consequence of a natural hazard event until it actually occurs e.g., someone may feel comfortable with the fact that their property may flood to depth of 500mm or more so long as the floor level of their dwelling is higher but once they actually experience the event and see their property inundated they can feel quite differently.

In addition, it is usually a third-party developer involved in the initial subdivision and development of land who is likely to have a higher level of "willingness" to bear the risk of natural hazards compared with the eventual landowner. There is often a perception that if Council has approved a subdivision/development, then it is "safe" from risk/effects of natural hazards. The use of planning instruments like consent notices or specific conditions of consent which outline any ongoing risk and/or requirements are not well understood by the average person.

Council would also like to note that insurance companies will play an important role in establishing tolerance as well. Council's planning officers are increasingly fielding enquiries from property owners and/or potential buyers about natural hazard risk associated with properties. Often these enquiries are driven by questions that have been raised by an insurance company. We are also aware of several incidences where insurance companies have indicated that a property owner will not be able to renew their insurance if their property is affected by a natural hazard event (specifically a flood event) again. MfE should be working with the major insurance companies in New Zealand to understand how they profile risk and how this can be incorporated into the concept of tolerance.

Council recommends that Policy 5 be amended to specify that new "hazard-sensitive development" is strongly discouraged in areas of high natural hazard risk and that new hazard sensitive development is avoided in areas of high natural hazard risk unless the level of risk is reduced *preferably to as low as possible* or at least a tolerable level.

Council also recommends that Policy 5 be amended to strengthen decision making in relation to development of new “hazard-sensitive development” in areas of moderate natural hazard risk. In areas of moderate natural hazard risk measures should be taken for new hazard sensitive development not only to reduce natural hazard risk to as low as reasonably practicable but also in a way that minimises the potential risk to people and damage to property or infrastructure.

Recommendation:

That the NPS-NHD be amended to provide clear definitions and/or direction on how to assess and evaluate crucial concepts in the NPS including (but not limited to) “likelihood”, “consequence” and “serious damage” - to help local authorities making more robust and consistent decisions.

Recommendation:

That Policy 5 of the NPS-NHD be amended to:

- specify that new “hazard-sensitive development” is strongly discouraged in areas of high natural hazard risk and that this type of development is avoided in areas of high natural hazard risk unless the level of risk is reduced preferably to as low as possible or at least a tolerable level.
- to strengthen decision making in relation to development of new “hazard-sensitive development” in areas of moderate natural hazard risk. New hazard sensitive development in areas of moderate natural hazard risk shall not only have to reduce natural hazard risk to as low as reasonably practicable but they shall also minimise the potential risk to people and damage to property or infrastructure.

Discussion Point 3: Precautionary Approach

Council is supportive of the Policy 3 of the proposed NPS-NHD which requires decision makers to take a precautionary approach when determining natural hazard risk.

Council requests that this policy be extended to include a requirement that decision makers adopt a precautionary approach when making decisions in relation to proposals on land subject to “high natural hazard risk”.

Recommendation:

Policy 3 of the NPS-NHD be amended to require that decision makers adopt a precautionary approach when assessing proposals and making decisions in relation to proposals on land subject to “high natural hazard risk”.

Discussion Point 4: Activity Status of Consents

Policy 4 of the NPS-NHD states that natural hazard risk must be a matter of control or discretion for new development that is classified as either a “Controlled” activity or “Restricted Discretionary” activity.

Council is not opposed to this policy but considers that the NPS-NHD could go further and specify the appropriate activity status based on risk. For example new development in areas of low natural hazard risk could be Permitted activities (with appropriate permitted activity standards specified) or Controlled activities; in areas of moderate natural hazard risk they could be Restricted Discretionary activities; and in areas of high natural hazard risk they could be Discretionary or Non-complying activities. Council anticipates that this would require District Plans to be updated and an appropriate timeframe should be specified for this to occur.

Council notes that the Minister is considering whether this policy would be more appropriate to be implemented in the form of national environmental standards. Council is in theory not opposed to this. However, it is noted for either Council’s above recommendation or for national environmental standards to be introduced there needs to be standardised terminology, mapping and risk assessment methodologies in place.

Recommendation:

That Policy 4 of the NPS-NHD be amended to specify the appropriate activity status based on natural hazard risk.

Discussion Point 5: Engaging with Māori

Council notes its support for the inclusion of Policy 7 in the proposed NPS-NHD. Council recognises that a disproportion amount of māori land is likely subject to natural hazards, and it is important that local authorities work collaboratively with iwi and hapū when they are looking to develop land that is affected by one or more natural hazards.

This could include approaches such as cultural competency training, collaborative platforms, ability to implement tailored approaches, ensuring adequate resourcing and incorporation of traditional knowledge into risk and tolerance assessments.

Conclusion:

Overall, Council is supportive of MfE developing comprehensive national direction for natural hazards.

Council considers that in its current form the proposed NPS-NHD will provide limited benefit for local authorities making decisions on proposed developments affected by natural hazards and will not effectively facilitate consistency or certainty in decision making. It will be another piece of national direction that local authorities are required to pour substantial time and resource into trying to understand and implement.

Council encourages MfE to withdraw the proposed NPS-NHD and to take the time needed to develop the more comprehensive natural hazards planning framework. If MfE progresses with this NPS then please consider the recommended changes outlined in this submission.

Ngā mihi

A handwritten signature in black ink, appearing to read 'Dave Wilson', written over a large, stylized circular scribble.

Dave Wilson
Deputy Mayor of the Rangitīkei