Insurance Council of New Zealand
Te Kāhui Inihua o Aotearoa

Level 2 Asteron House
139 The Terrace
Wellington 6011

(04) 472 5230
icnz@icnz.org.nz
www.icnz.org.nz

13 November 2023

Ministry for the Environment
naturalhazardRMA@mfe.govt.nz

Dear Natural Hazard Team,

Proposed National Policy Statement for Natural Hazard Decision-making

Thank you for the opportunity to make this submission. Te Kāhui Inihua o Aotearoa The Insurance Council of New Zealand (ICNZ) represents general insurers that insure about 95 percent of the Aotearoa New Zealand general insurance market, including well over a trillion dollars' worth of New Zealand property and liabilities. ICNZ members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, cyber insurance, commercial property, and directors and officers insurance).

We start with some overarching comments and then address each question in the submission document. We have not answered all questions as we believe some are better answered by others with the more appropriate expertise and knowledge.

Overarching Comments

New Zealand is highly vulnerable to the impacts of natural hazards having suffered loss of life, significant social and economic disruption and many billions of dollars worth of damage from earthquakes and extreme weather events in recent years. Lloyd's have estimated New Zealand to be one of the riskiest countries as measured by the expected economic loss from natural hazards in any year as a percentage of GDP.

Yet, there is no national direction to guide decision-making on development proposals or to require risk assessments for natural hazards. The current Resource Management Act (RMA), which has failed to prevent development in high risk locations, will remain operative for several years. In the face of climate change impacts, which will see more extreme and severe weather, there is a need to stop development in areas of intolerable risk and to reduce risks as far as reasonably practicable in areas of moderate risk. Preventing future disasters brings many obvious social, economic, cultural and environmental benefits. The need for a National Policy Statement for Natural Hazards Decision-making (NPS-NHD) is made more urgent by the shortcomings of the RMA, which results in natural hazards being identified and managed in a variable and inconsistent way, and the need to reduce the risk of future disaster.

Most new development in New Zealand in the next few years will result from densification of currently developed areas. Under this proposal, this type of development would be excluded from the NPS-NHD. We would like to see densification of currently developed areas included.

Commentary on Context Section

On page 8 of the consultation document reference is given to sources of information of natural hazard risks and impacts in New Zealand which are incorrect, underestimate the loss or are incomplete in their assessment. For example, NZIER is quoted as estimating that between 2009-2019 there were 5 major earthquakes, 35 weather events, 28 flood events and two wildfires that have cumulatively cost over $37 billion. ICNZ data for the Canterbury earthquake series (2010-12) shows that private insured losses alone were over $23 billion and EQC's losses over $11.5 billion. Economic losses are estimated to be at least $8 billion over and above these costs. Economic losses from the 2016 Kaikoūra earthquake are estimated to be more than $4 billion.

Reference is also made to Toka Tū Ake EQC's (EQC) claims data for weather-related events. It should be noted that EQC does not cover damage to residential and commercial property for flood, but only land damage. It does not cover any other weather-related losses. Consequentially, EQC's data only provides a partial picture of weather-related damage at this time. We would suggest that the Ministry contact ICNZ to supplement its view of the impact of natural hazards. We note that the consultation document makes reference to the Reserve Bank of New Zealand's (RBNZ) estimates of insured losses from this year's extreme weather events. The RBNZ sources its information from ICNZ.

On page 9, we are pleased to see acknowledgement of ICNZ's 2014 request to review natural hazard regulations under the RMA to introduce changes that would require local authorities to decline consent applications where long-term data shows that the risk from natural hazards will increase. It is pleasing to see the development of an NPS on natural hazards as a step toward achieving this outcome.

We also support the development of an NPS as consistent with the National Adaptation Plan and share concerns raised about the RMA which results in natural hazards being identified and managed in a variable and inconsistent way. We note features of the Spatial Planning Act 2023 and Natural and Built Environment Act 2023 are intended to address these problems, but changes of that type are some years away.

We note on pages 11-12 the Ministry is working with the EQC on a comprehensive National Direction for Natural Hazards. While that is to be commended, we would urge the Ministry to work closely with the private insurance and reinsurance sector given its detailed knowledge and experience of natural hazard impacts, including weather-related events, on residential and commercial property. It should be noted that the private sector insurers have already developed robust methodologies for mapping natural hazards and assessing risk to inform underwriting decisions.

We recognise the RMA will remain the operative legislation for some time, so we support an NPS on natural hazard decision-making having effect over the RMA until there is certainty over the future of resource management.

We support the Parliamentary Inquiry into community-led retreat and adaptation funding and will be submitting to the Environment Committee. It is essential that while an NPS contributes to better risk management with respect to new development, adaptation for existing properties, including retreat options, are addressed too.

We also commend the other streams of work in progress and note how important it will be to ensure all these streams of work are joined up to deliver a consistent and comprehensive approach to natural hazard risk reduction:

- The Treasury and Ministry for the Environment's programme to address the Future of Severely Affected Locations (FOSAL).
- The Ministry of Business, Innovation and Employment (MBIE) guidance on the natural hazard-related provisions of the Building Act 2004.
- The Local Government Official Information and Meetings Amendment Act 2023 to improve natural hazard information in Land Information Memoranda (LIMs).

Consultation Questions

1. *Is more action needed to reduce development from occurring in areas facing natural hazard risk?*

   We agree with the problems identified on page 14 that lead to inconsistent identification and assessment of natural hazard risk and the absence of an agreed framework for how decision-makers should consider natural hazard risk under the RMA. There is no clear national direction for decision-makers on natural hazards which is needed.

   Over and above these problems, the prospect of more frequent and severe weather-related events due to climate change over the coming decades makes it essential for a long view to be taken to identify and assess natural hazard risks such as flooding, landslips, sea-level rise and wildfires. Future risks must be incorporated into the decision-making framework and that is not carried out consistently today.

   If New Zealand does not improve the way in which it avoids and controls natural hazard risks, it is inevitable that the frequency and severity of climate change events will lead to higher levels of economic loss as well as traumatic impacts on individuals and communities.

2. *Are there any other parts of the problem definition that you think should be addressed through the NPS-NHD? Why?*

   We believe the problem definition captures the key matters an NPS-NHD should address. To avoid any doubt, consideration of natural hazard risk should be comprehensive and consider secondary hazards, such as, landslide following inundation, debris flow following flood or fire risk under dry, high wind conditions in the vicinity of electrical power lines.

3. *Are there other issues that have not been identified that need to be addressed through the NPS-NHD or the comprehensive National Direction for Natural Hazards?*

   In addition to the problems identified we would like to see more weight given to the potential for development to increase or exacerbate natural hazard risk.

   When considering whether to approve development or not, the risk tolerance assessment should be based on the expected risk level once development is complete. For instance, development in a greenfield area may cause an increase to flood risk depending on the design and supporting infrastructure in place.

Also, further clarity of the expectations around the long view decision-makers need to consider would be helpful. Houses, for instance, are expected to have lives of at least 50 years and beyond, so new development must consider these long timeframes.

4. *Do you support the proposed NPS-NHD's requirement that decision-makers take a risk-based approach when making decisions on new development in natural hazard areas? Why or why not?*

Yes, we support a risk-based approach to new development in natural hazard areas. For further clarity, under the NPS-NHD "new development" should include densification of existing developments. Densification may turn a moderate risk into a high risk or a tolerable risk into an intolerable risk if it is not properly managed. However, we note that that this approach could see the trading off of outcomes, so development occurs in areas that one day may require responses like managed retreat. We should be stopping development in areas where that is a likely outcome.

With respect to Figure 2 on page 16, we are concerned about the lack of clarity that attaches to the statement that "alignment of a planning decision with the NPS-NHD will be a factor in the overall decision-making process for that planning decision." This suggests poor planning decisions could still be made in areas of moderate or high natural hazard risk because alignment with the NPS-NHD is just one factor among many others to consider. Wording such as "alignment of a planning decision with the NPS-NHD must be a primary consideration in the overall decision-making process" would stress the importance to be placed on risk management. We would also expect the identification of intolerable risk would be the singular factor to consider with respect to planning decisions. If alignment with the NPS-NHD is just one factor to consider, this could be interpreted in a way that dilutes consideration of the natural hazard risks. Greater clarity of what is intended would assist and may address concerns that the NPS-NHD's intent could be subverted.

5. *Should all natural hazards be in scope of the proposed NPS-NHD? Why or why not?*

Yes, all natural hazards, including secondary hazards, should be in scope. Unless an all-hazards approach is taken, there is a real risk that other intolerable risks are missed in an assessment with dire consequences. For example, if floods were in scope but landslips were out of scope, development could occur on hillsides or at the foot of hillsides where there is vulnerability to landslips during periods of high inundation causing floods. Also, with respect to the impact of sea-level rise over time, this may exacerbate flood risk in coastal areas where development may take place. It is also important to consider how events can cascade and cause wider harm.

In some locations, new natural hazards may emerge. To exclude some hazards because they do not register as being as impactful today as others may create problems. For instance, more severe wind conditions are also predicted as a result of climate change. Recently winds in excess of 200 kph were recorded in Wellington. New Zealand's structures are not built to meet cyclonic wind conditions and yet in some areas of the country increased exposure to such conditions should be considered.

Each part of the country is exposed to a greater or lesser extent to natural hazards. Selecting some and excluding others will likely result in some areas not being required to undertake a risk assessment of hazards that are of most relevance in some regions, but not in others.

6. *If not all natural hazards are in scope, which ones should be included? Why?*

We believe all natural hazards need to be included.

Earthquake, tsunami and volcanic eruption have the potential to be the most damaging natural hazards with catastrophic effects. Geothermal hazards are specific to certain regions and should be included as these are known to create sink holes and emit gases and steam that pose a risk to life and property.

7. *Should all new physical development be in scope of the proposed NPS-NHD? Why or why not?*

We strongly support the need to include all residential development within the scope. This type of property is occupied more or less continually and 24 hours a day, so there is elevated risk to life and safety in high-risk areas. Residential property is most likely to be the most valuable asset for people and unless risks to these properties are comprehensibly assessed over the long-term, it may result in future challenges in obtaining insurance. This would have consequential implications for mortgagees, mortgagors and the value of residential property.

Commercial property development should be considered in scope though commercial use may still be permitted on a case-by-case basis reflecting the level of risk.

8. *What impact do you think the proposed NPS-NHD would have on housing and urban development? Why?*

Ideally, the NPS-NHD would result in new housing and urban development occurring in areas where risks are well managed to low levels. This will help support access to insurance and provide protection to people and their property. Building in high-risk areas has resulted in devastating suffering and caused trauma, disruption to life and financial loss (even with insurance). The NPS-NHD will go some way to help avoid that loss where it is applied. For this reason, we would oppose development under the Medium Density Residential Standards (MDRS) being exempt from the NPS-NHD as this would lead to inconsistency and poor risk management outcomes. Many thousands of houses could be constructed under the MDRS in risky areas placing more people and property in harm's way. The purpose of the NPS-NHD as outlined in the problem definition would be defeated by exempting areas subject to urban densification under the NPS-NHD.

Further, on the availability and affordability of insurance it is also in New Zealand's best interest to manage the overall risk profile of all development, such that insurers maintain access to reinsurance on good terms. We know at a broad level that nationally consistent risk assessment and risk-based decision-making contributes to reinsurers' confidence in New Zealand.

9. *Do you agree with the proposed objective of the NPS-NHD? Why or why not?*

Our agreement is qualified as we question whether minimising risk as an objective will give local authorities sufficient incentive and clarity that they need. It is important to consider all natural hazards and the many ways in which they can impact people, property and the environment. Not all risks can be eliminated, so the inclusion of the ability to recover from impacts is also critical.

10. *What are the pros and cons of requiring decision-makers to categorise natural hazard risk as high, moderate or low?*

An advantage of having a simple three tier risk assessment is its simplicity which makes it reasonably easy to understand at a high level by all those with an interest in new developments.

A disadvantage in having three, simple broad categorisations is that not all elements of a planned development will necessarily fit neatly into one category rather than another. There are gradations of risk and when considered across the full range of natural hazard risks and their impact on people, property, infrastructure and the environment there will inevitably be proposed developments that contain low, medium and high risk areas. This could complicate the decision-making process.,

It is also not clear what 'low risk' and 'intolerable risk' mean. This may make decision-making more challenging given the principles-based approach being taken and the discretion available to decision-makers. Discretion could lead to inconsistent decision-making and variable outcomes. This problem though could be addressed with the development of a more robust framework and standardised methodologies for assessing risk and defining risk thresholds.

11. *What are the pros and cons of directing decision-makers to assess the likelihood, consequence and tolerance of a natural hazard event when making planning decisions?*

It is not possible to manage risks unless they are understood, so direction is required. Risks cannot be understood unless the likelihood or probability of a natural hazard event is estimated as well as the impact or consequence of that event occurring. These two elements, frequency and severity of risk, are fundamental to the way in which insurers calculate and price risk. It is critcal that decision-makers understand the consequences of their decisions and the likelihood of them occurring as it will inform what will be required to reduce risk to tolerable levels.

There are no disadvantages to requiring decision-makers to make this kind of assessment. It is worth noting that understanding of risk and knowledge continues to evolve so assessments can change over time. Decision-makers may though be challenged by their own capacity and/or capability in being able to make those assessments.

In our view, it should be a requirement of publicly funded science institutions that they make available without cost information that they hold on natural hazards to support decision-makers. Open access on this basis supports evidence based decision-making and consistency of decisions.

12. *What are the pros and cons of directing decision-makers to adopt a precautionary approach to decision-making on natural hazard risk?*

We support taking a precautionary approach where information gaps exist that leave the risk assessment uncertain. The advantage of a precautionary approach is one of no-regrets should a disastrous natural hazard event occur. In our view, it is better to be cautious than cavalier when dealing with natural hazards that may present a risk to people and property.

We understand that a precautionary approach applies to the mitigation of the risk and not the risk assessment itself. This may create a problem for local authorities as was seen when

the Kāpiti Coast District Council assessed sea-level rise risk on a precautionary basis which ultimately resulted in withdrawing that assessment.

Related to that is the point that local authorities face potential civil litigation from landowners if they take a precautionary approach in areas that have not experienced major weather events in the living memory of most residents and where such action impacts property values or insurance premiums. It will therefore be important that a precautionary approach remains evidence-based.

13. *What are the pros and cons of requiring natural hazard risk as a matter of control for any new development classified as a controlled activity in a plan, and as a matter of discretion for any new development classified as a restricted discretionary activity?*

Controlled activities are designed to minimise risk. It is logical therefore that natural hazard risks management is a matter of control for new development. Our understanding is that the NPS-NHD is intended to apply to all new development. It is not clear to us why natural hazard risk assessment should be discretionary under any circumstances. We believe that in considering any application for a discretionary activity, decision-makers must still be guided by the objectives contained within the NPS-NHD. To do otherwise and make assessment of natural hazard risk discretionary with respect to restricted discretionary activity creates inconsistency and could potentially lead to the kind of poor outcomes the NPS-NHD is seeking to avoid.

14. *What are the pros and cons of requiring planning decisions to ensure the specific actions to address natural hazard risk outlined in policy 5?*

We support requiring planning decisions to ensure specific actions are taken to reduce natural hazard risk. Unless this occurs, there will be no clear guidance on the management of natural hazard risks which will likely detract from confidence in planning development. The example given on page 23 demonstrates how individuals become aware of the natural hazard risks to their property they wish to develop and how specific actions can lead to avoiding and controlling for the risks. We believe it is important that the differing levels of risk are well understood and the simple, three tier approach supports this. If this leads to restricting development that might otherwise take place, then we regard this not as a disadvantage but an improvement to managing natural hazard risks.

15. *What is the potential impact of requiring decision-makers to apply this framework in their decision-making? Will it improve decision-making?*

We believe applying this framework will improve decision-making. Although it may be argued that applying this framework may add costs and time to decision-making processes, this must be countered by studies that show that investing a dollar in risk reduction avoids at least five dollars in future costs after disaster strikes. Applying this approach around New Zealand will result in a more resilient building stock and fewer adverse consequences due to the impact of natural hazards on people and property.

16. *What are the pros and cons of providing direction to decision-makers on the types of mitigation measures that should be adopted to reduce the level of natural hazard risk?*

We can only see benefits from providing interim direction through the NPS-NHD to decision-makers to adopt the most effective natural hazard mitigation measures to reduce natural hazard risk. Direction though should not limit innovation or the use of new solutions where

these are equally or more effective. These directions cover both area-wide mitigations, nature-based solutions and limited duration consents. Giving preference to nature-based solutions and comprehensive area-wide solutions make sense. Where nature-based solutions are feasible, they are more likely to be less costly and more sustainable both in terms of greenhouse gas emissions reduction, supporting bio-diversity and management of natural hazard risks. However, it is noteworthy that nature-based solutions are more applicable to climate-related risks such as flooding rather than to geophysical risks like earthquakes. A preference for area-wide mitigation is sensible as it will ensure risk reduction applies to larger areas where people and property are located. We see no disadvantages to this approach.

17. *Does policy 7 appropriately recognise and provide for Māori rights, values and interests? Why or why not?*

We believe this answer is best answered by those more knowledgeable in Māori rights, values and interests.

18. *Can traditional Māori knowledge systems be incorporated into natural hazard risk and tolerance assessments?*

Although we see all relevant knowledge systems should be incorporated into risk assessments, we believe this answer is best answered by those more knowledgeable in Māori rights, values and interests.

19. *Does the requirement to implement te Tiriti settlement requirements or commitments provide enough certainty that these obligations will be met? Is there a better way to bring settlement commitments into the NPS?*

We believe this answer is best answered by those more knowledgeable in Māori rights, values and interests.

20. *Is the implementation timeframe workable? Why or why not?*

We believe this answer is best answered by local authorities who understand the time constraints they operate under.

21. *What do you consider are the resourcing implications for you to implement the proposed NPS-NHD?*

No impact.

22. *What guidance and technical assistance do you think would help decision-makers to apply the proposed NPS-NHD?*

We believe this answer is best answered by those for whom the Government plans to prepare guidance. We would though expect decision-makers to have available to them the most up-to-date scientific data on risks together with risk modelling tools that provide insights into the impacts of certain natural hazards and their annual exceedance probability.

Please reach out directly if you would like further clarification of points in this submission.

Yours sincerely,

Tim Grafton CMInstD
Chief Executive