

National Direction Programme
Ministry for the Environment

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Kia ora,

ICNZ Submission to the Ministry for the Environment consultation on a National Policy Statement for Natural Hazards

Thank you for the opportunity to submit on MfE's consultation on a National Policy Statement for Natural Hazards (NPS-NH).

The Insurance Council of New Zealand Te Kāhui Inihua o Aotearoa is the representative organisation for general insurance companies in New Zealand. Our members collectively write more than 95% of all general insurance in New Zealand and protect over \$2 trillion of New Zealanders' assets.

ICNZ advocates to sustain a strong and affordable insurance sector, and to enhance the safety and protection of all New Zealanders by strengthening resilience and reducing the risks of climate change to communities and the economy.

General Comments

New Zealand's potential for natural hazard disasters is severe by global standards, being regularly benchmarked with Chile and Bangladesh at the highest end of expected losses. New Zealand is also facing increasing natural hazards caused by climate change. The current policy settings for responding to these increasing hazards may not be sustainable, with record breaking recovery costs being imposed on New Zealanders. Insurers welcome the Government's focus on improving the way the planning system deals with this challenge.

Insurers advocate for substantial uplift in investment in resilience measures, such as flood mitigation, and strengthened regulatory tools across the system, to reduce risk and protect communities. Taken together these efforts will help to keep insurance accessible and available to New Zealanders and reduce the social and financial harms posed by natural hazards.

Insurers are aware of consenting authorities having difficulty controlling development and intensification in areas of known significant natural hazard risk. Continued development in these places puts people, assets and livelihoods in harm's way. We need to give consenting authorities better planning tools to manage high risk development proposals.

The stability of New Zealand's financial system relies on people and businesses being able to access insurance and New Zealand retaining its high rates of insurance penetration. Continued development and intensification in areas exposed to significant natural hazards puts pressure on the cost and availability of insurance. Decisions, actions and policies which reduce underlying natural hazard risk help to maintain insurance access and availability, and therefore financial stability.

Insurers support a stronger NPS–NH. The measures MfE are consulting on represent a critical first step and are preferable to the status quo. To maintain current levels of insurance accessibility and availability we need local authorities to have the confidence to rule out future development that exposes people and businesses to significant natural hazard risk. Insurers support councils to make these judgements based on the best possible hazard information including future models and projections, their local knowledge, and connection to their communities. Councils should have access to the resources and the regulatory tools they need to protect their communities.

Complementary to this work on the NPS–NH, insurers urge the Government to prioritise, resource and fast-track work by the science system to give councils access to the best evidence possible to substantiate their decisions on avoiding development in areas of significant natural hazard risk.

Insurers appreciate the nuance of the risk-based approach proposed in the NPS–NH, where certain types of development in known hazard areas carry different exposures (aged care facilities contrasted with general commercial warehousing). From an insurance perspective the financial value of claims arising from insured losses does not discriminate in this way. Modelled future losses are the overriding concern for insurers and their reinsurers. Accepting differences in financial exposure from different activities, any continued development and intensification in high-risk places will result in avoidable losses and can negatively impact the future availability and accessibility of insurance.

Overall insurers support the standardisation of a risk-based approach to future development in areas of known natural hazard exposure. Councils need to be given better tools to enable them to confidently stand by their assessments under this approach. The incentive remains for local authorities to be permissive toward riskier development if they

are exposed to costly re-litigation of their decisions. We recommend further measures to protect local authority decision making under this policy such as legal safe harbours.

The implementation capacity of councils is critical. While consistency across councils is desirable, the NPS will only be effective if councils have the capacity to implement it. Smaller councils are often under-resourced. The Government should consider how it will support these councils to ensure effective implementation.

One ICNZ member noted it is difficult to provide fully informed feedback without access to the planned supporting guidance and visibility over related work programmes. This limits the ability to assess how the NPS–NH will be interpreted and applied in practice.

Should the proposed NPS–NH apply to the seven hazards identified and allow local authorities to manage other natural hazard risks?

Yes, and we seek clarification that storm surges¹ are included under these definitions. We believe storm surge should be added as a specified hazard if not captured already under the broader flooding or coastal inundation definitions. Storm surges could be considered a distinct but related natural hazard to flooding, coastal inundation and tsunami. Development and intensification in areas vulnerable to storm surges concentrates the impact and likelihood of the risk to a level we would view in some cases around New Zealand as significant. We note that there is nothing to prevent a council considering hazards beyond the NPS, but storm surge presents a specific climate related risk that is tied into sea level rise and future impacts of severe weather which we believe is aligned with the objectives of the NPS–NH.

In addition, we also recommend including wildfires given the increasing severity of this hazard with climate change. While the evolving nature of wildfire science and risk understanding is a reason for exclusion, this should not be a barrier. Councils would be empowered to use the “best available information” and request risk assessments where needed to understand and respond to risks appropriately.

Should the NPS–NH apply to all new subdivision, land use and development, and not to infrastructure and primary production?

¹ https://environment.govt.nz/assets/Publications/Files/MFE_Coastal_Fact-Sheet-5.pdf

Insurers appreciate that some linear infrastructure may need to traverse high-risk zones and that there are existing mechanisms to manage this risk. For primary production insurers support risk appropriate use of productive land.

While these sectors may be excluded from the scope of the NPS-NH, our understanding is that natural hazard risk management will still be addressed through other mechanisms under the RMA. We would appreciate confirmation of this understanding. Should the final decision maintain their exclusion, it will be essential to ensure that this does not result in gaps in natural hazard management – particularly in rural areas, where risks and impacts of natural hazards can be significant and may differ from urban contexts. Careful attention will be needed to ensure comprehensive coverage and avoid unintended adverse outcomes.

Would the proposed NPS-NH improve natural hazard risk management in New Zealand?

The NPS-NH represents a critical first step and an improvement on the status quo. In its current form it does not have sufficient regulatory backing to materially improve natural hazard risk management in New Zealand. Most local authorities are already applying a rationale of this kind to natural hazard decision making. Without statutory guidance (or some other legal safe harbour) the definition and application of risk proportionality under the NPS-NH has the potential to be subjective and contested by developers through appeals and the courts. The cost of this litigation sets incentives for local authorities to continue to err toward permissiveness.

Insurers recommend risk tolerance is set more explicitly in the NPS. This is so councils can apply it without as much interpretation as it would currently require. Insurers have heard from councils that they need very clear and specific processes and guidance around risk tolerances for the proposed approach to be effective. And the success or impact of NPS-NH will depend on a council's ability to implement it.

The flexibility proposed by the NPS could risk undermining consistency. Some flexibility is necessary to tailor approaches to local contexts. However, the level of flexibility proposed may undermine efforts to achieve national consistency. While planned guidance may help, its non-binding nature limits its impact.

Do you support the proposed policy to direct minimum components that a risk assessment must consider but allow local authorities to take a more comprehensive risk assessment process if they so wish?

Yes, particularly the potential impacts of climate change on natural hazards at least 100 years into the future.

How would the proposed provisions impact decision-making?

Local authorities need improved legal cover to effectively implement the NPS–NH as currently proposed.

Do you support the placement of very high, high, medium and low on the matrix?

Yes, in general, however individual insurers may vary on these tolerances given their internal risk appetites and commercial strategies.

Do you support the definition of significant risk from natural hazards being defined as very high, high, medium risk, as depicted in the matrix?

Yes.

The broadened definition of 'significant risk', including 'moderate and above', could expand the scope of planning and mitigation, especially for flooding. Many councils currently focus on 1 in 100-year events, but the new definition may include events up to 1-in-400 years. This aligns with the forward-looking intent of the framework, which considers climate change scenarios for at least 100 years into the future.

Should the risks of natural hazards to new subdivision, land use and development be managed proportionately to the level of natural hazard risk?

Yes, consenting decisions should be based on the residual risk to a development and users considering natural hazard risks and relevant mitigations together. This embeds a proportional response into the decision-making process.

How will the proposed proportionate management approach make a difference in terms of existing practice?

This will depend on who prevails on setting standards for risk tolerance. This threshold may be set too low or not in the context of intensifying climate change, where some investment in hazard mitigation might give a false confidence that a proposed development could move within satisfactory risk tolerance when that tolerance did not

adequately account for climate impact. In this event, insurers see a risk that development and intensification will continue in places exposed to significant risk and those mitigations may not perform their intended function in a climate changed future. This will lead to higher volumes of claims than would otherwise be the case and insurance markets will be obliged to respond.

The proportionate management approach should also take a whole of catchment view, particularly with flood and landslide risk. A natural hazard mitigation that is proposed by a developer under this approach should not be accepted if it will transfer risk away from the development site and imperil homes and businesses within the wider community.

Should the proposed NPS–NH direct local authorities to use the best available information in planning and resource consent decision-making?

Yes, however, to support this the Government should prioritise the creation of an open source, high quality and standardised natural hazard risk model for local authorities, communities and businesses to rely on.

What challenges, if any, would this approach generate?

Councils need to be able to stand by their interpretation of this natural hazard risk data without facing costly litigation of their decisions. If a local authority has used the best available natural hazard information in their planning and resource consent decision making, they should be protected from costly court proceedings that can incentivise inappropriately high risk tolerance.

What additional support or guidance is needed to implement the proposed NPS–NH?

Statutory guidance for the interpretation and implementation of the NPS–NH is essential for assisting local authorities until they can update their District Plans to give effect to the NPS–NH.