Submission on the National Policy Statement for Natural Hazards

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Submitter details

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Parliamentary Commissioner for the Environment

The Parliamentary Commissioner for the Environment was established under the Environment Act 1986. As an independent Officer of Parliament, the Commissioner has broad powers to investigate environmental concerns and is wholly independent of the government of the day. The current Parliamentary Commissioner for the Environment is Simon Upton.

Submission

Overall, I support the introduction of the new National Policy Statement Natural Hazards (NPS-NH) as a starting point to enable a more consistent approach to managing natural hazards across the country. Most of New Zealand is exposed to natural hazards. Addressing development in areas subject to significant risk is of critical importance.

However, the proposed NPS-NH does not provide the detail and direction that would be required to ensure that development does not continue to occur in places that it shouldn't. Too many aspects that should be dealt within the NPS-NH rely on guidance that is yet to be developed or guidance that is many years out of date.[1] The direction to use 'best available information' lacks the supporting specificity found in legislation and national policy statements with similar references. Neither does it provide sufficient guidance on how to proceed where there is uncertainty or conflict in information sources.

[1] Such as the guidance for the development of land on or close to active faults, which was published in 2003 (Kerr, et al., 2003. Planning for Development of Land on or Close to Active Faults: A guideline to assist resource management planners in New Zealand).

Specified hazards

As proposed, the NPS-NH will only directly cover a subset of natural hazards listed in the Resource Management Act 1991.[2] Limiting application to these specific hazards may be justified to make implementation manageable, given that they involve acute and relatively rapid onset events.[3] However, without detailed analysis of why only these specific hazards have been included, it is difficult to assess the appropriateness of the decisions made.[4] For example, it would be useful to understand why natural hazards such as wildfire are not included when the application of a consistent risk-based framework that the NPS-NH could provide would be useful.[5] The non-limiting provision means that it could be utilised for other hazards (and activities) but given it would not be required by the NPS, there is likely little incentive for it to happen.

It is also unclear why in some cases the more general term has been used (e.g. landslip vs landslide), where in other cases a subset of the hazard is included (e.g. active fault and liquefaction rather than earthquake). The issue is not about the specific choice of term, but the lack of analysis (and clear definitions) behind the inclusion or exclusion of particular hazards that would enable a judgment about the appropriateness of the terms.

Exclusion of infrastructure

The exclusion of infrastructure from consideration appears to be due to restrictions placed on the development of the proposed NPS-NH rather than an assessment of the usefulness of applying a risk-based approach to consenting infrastructure. The explanatory documents note that a more nuanced approach is needed for infrastructure because it may cross many different hazards or might need to be built in a specific location.[6]

There may be good reasons to exclude some infrastructure, but taking a more nuanced approach doesn't mean that the application of risk-based assessments under the NPS-NH isn't worthwhile for infrastructure. There is also no indication of what this more nuanced approach should or could look like. Arguably, infrastructure should be required to meet much higher standards of resilience from natural hazards because of the important services it provides for communities. Consideration should be made to include infrastructure either in the current NPS-NH or in additional specific direction to address its uniqueness.

Definition of 'new development' ambiguous

The progressive capture of existing development in areas of significant risk is important to address some of the poor planning decisions of the past. It is proposed that the NPS-NH apply to new developments on bare land, and extension or replacement of existing buildings and structures. That proposed definition may not capture all types of development that should be captured. For example, will infill housing or 'granny flats', which do not require a resource consent, be covered? Where a building is extended, do the NPS-NH requirements only apply to the extended part of the building or the entire structure?

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[2] These include flooding, landslips, coastal erosion, coastal inundation, active faults, liquefaction and tsunami.
[3] The exception being landslips and coastal erosion, which can be both rapid (i.e. during a single event) or slow (occurring over days/weeks/months/years) onset.
[4] There is limited detail in the discussion documents except to say that "… a nationally consistent and management approach is not a priority for other natural hazards … because they are either already managed by other legislation … or require specific management decision responses at a local level."
[5] GNS Science, 2025. Planning for extreme wildfire. GNS Science Policy Brief 2025/01.
[6] Proposed provisions – New National Policy Statement for Natural Hazards, p.2.

Risk assessment framework and proportional management

I support the inclusion of the risk assessment framework proposed, but there could be greater clarity in what the desired outcome is and how it will feed into decision-making. For example, it is unclear what the outcome of the process should be. Is the intent that where significant risk is still present, applicants are required to implement additional mitigation measures to move out of the 'significant' category? Or is it simply acknowledged that significant risk is present and mitigations need to be put in place to minimise the risk to a tolerable level proportional to the intended use?

This issue is linked to the concept of proportional management of natural hazard risk introduced in the NPS-NH. Part of the problem is that proportionate management is a subjective term. Without supporting guidance or direction it will be up to local authorities to decide what is proportionate, leading to uneven application between councils. But this is the very thing that the NPS is trying to avoid. Greater clarity within the NPS-NH is needed on the application of the risk assessment framework and how proportional management is to be implemented.

Many of the hazards covered by the proposed NPS will change over time due to climate change. I support the requirement that "the potential impacts of climate change on natural hazards are to be considered at least 100 years into the future." The use of a minimum 100-year timeframe is appropriate. But more guidance is needed on how climate change information is incorporated into the risk assessment process. Without direction on the way in which this should be applied, the door is again left open for variable implementation by local authorities. At a minimum, any accompanying guidance should lay out the parameters under which climate change projections should be utilised.[7] This is also an area in which central government can provide greater leadership in terms of procuring the information base on which these assessments rely. An example of this is the recent publication of downscaled national climate projections for Aotearoa New Zealand by MfE.[8]

Best available information

Robust information on the likelihood, consequences and effectiveness of mitigation actions is critical to the application of a risk-based approach to natural hazards. Deficiencies in the information base have led to poor decision-making, placing life and property at risk. Directing councils to use the 'best available information' is admirable but begs the question of what constitutes 'best information' and how decision makers should act in its absence or in the face of uncertainty.

The apparent intention is to expedite consenting processes as local authorities are directed not to wait for 'better' information and protect local authorities from legal challenges.[9] However, there are data and information asymmetries which this approach may exacerbate. For example, the extent, quality and sophistication of available modelling varies greatly between local authorities due to capacity, capability and funding.[10] Information, particularly modelling, is also time dependent and can vary in spatial resolution and complexity. Guidance or criteria is needed to assist councils with implementation. For example, should more recent, coarser spatial resolution modelling of flood risk prevail over higher resolution, but older, modelling?

[7] Such as which Shared Socioeconomic Projections should be used as a minimum to assess risk, as provided in the sea level rise guidance (Ministry for the Environment, 2024. Coastal hazards and climate change guidance).
[8] See https://climatedata.environment.govt.nz/
[9] Proposed provisions – New National Policy Statement for Natural Hazards, p.5.
[10] PCE, 2024. A review of freshwater models used to support the regulation and management of water in New Zealand.

This means that despite better consistency in the definition of significant risk, the application is likely to continue to be uneven across the country because of informational deficiencies. The explanatory text suggests that local authorities should take "all practicable steps to improve information."[11] But words to this effect are not included in the proposed policies, reducing its prominence.[12] I recommend including this as a policy to ensure that it is given the attention required. If this does occur, then the inclusion in the form of "all practicable steps" appears appropriate.

Improving the information base on which decisions are made is a high priority and needs to be resourced appropriately. I have called consistently for this across the environmental information system, including specifically in relation to climate adaptation. Importantly, central government should continue to contribute significant resources to this process. It is not appropriate to leave it up to local authorities to resource an information base that represents a core national capability. Creating that information base comes with a cost, but not having it may impose even higher costs. Relying on the current fragmented and uneven system also risks duplication of effort with councils creating multiple bespoke systems for collecting, analysing and using natural hazard information.[13]

New Zealand is fortunate to have a world-leading natural hazard research community that has focused its effort on such issues as the likelihood, consequence and effectiveness of mitigation, both nationally and locally. Leveraging this expertise is best coordinated nationally.

Even where best available information can be easily identified, uncertainty will often persist. The proposal is silent on how decision-makers should deal with uncertainty. This is an anomaly when compared to existing best available information provisions in other national policy statements and legislation. Examples of clearer language that could provide guidance for the NPS-NH include: the Fisheries Act 1996 where decision makers are required to be "cautious when information is uncertain, unreliable, or inadequate".[14] Similarly, the National Policy Statement for Freshwater Management (Part 1.6) directs local authorities that where "… information is uncertain, [they] must interpret it in the way that will best give effect to this National Policy Statement", which currently prioritises the health and wellbeing of water bodies and freshwater ecosystems. This type of direction will help ensure that more consistent decisions are made where information is uncertain or incomplete.

Finally, the inclusion of the best available information policy raises a more fundamental issue. If the NPS-NH comes into force, there will be three separate national policy statements that include direction to use best available information.[15] Clearly, this is a gap that should be addressed in the parent legislation rather than having similar, but not the same, wording across different pieces of national direction.[16]

[11] Proposed provisions – New National Policy Statement for Natural Hazards, p.6.
[12] The exception being where climate change has not been incorporated previously, which would be covered under P2 Climate change timeframes (Proposed provisions – New National Policy Statement for Natural Hazards, p.5).
[13] Similar to the proliferation of biophysical freshwater water models currently used by councils (PCE, 2024 – A review of freshwater models used to support the regulation and management of water in New Zealand).
[14] Fisheries Act 1996, section 10(c).
[15] National Policy Statement for Freshwater Management (Part 1.6) and Costal Policy Statement (Policy 24).
[16] This is what the information principles in the repealed Natural and Built Environment Act 2023 were designed to do, requiring persons exercising powers to favour caution (section 10(4)(a)).

Concluding comment

National direction on managing natural hazards is long overdue. What is proposed is the bare bones of what will be needed to effectively manage risk. It will need substantial supporting guidance and the NPS itself will likely need to be amended in the near future to ensure its effectiveness. I support what is proposed as a starting point.

Rt Hon Simon Upton
Parliamentary Commissioner for the Environment
Te Kaitiaki Taiao a Te Whare Pāremata