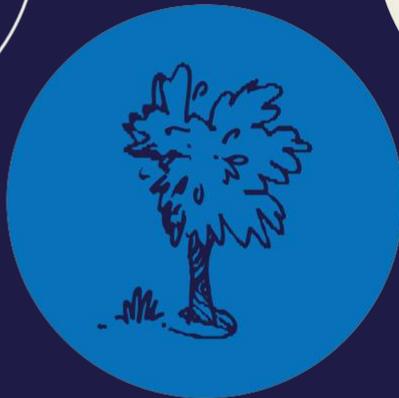
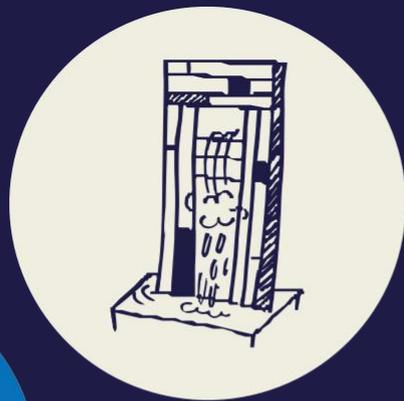


# HAMILTON CITY COUNCIL – STAFF SUBMISSION

## Proposed National Policy Statement for Natural Hazard Decision-Making Discussion Document (September 2023)

Ministry for the Environment



16 November 2023



**Hamilton  
City Council**  
Te kaunihera o Kirikiriroa

## Improving the Wellbeing of Hamiltonians

Hamilton City Council is focused on improving the wellbeing of Hamiltonians through delivering to our five priorities of shaping:

- **A city that's easy to live in**
- **A city where our people thrive**
- **A central city where our people love to be**
- **A fun city with lots to do**
- **A green city**

The topic of this staff submission is aligned to all of Hamilton City Council's five priorities.

## Council Approval and Reference

This staff submission was approved by Hamilton City Council's Chief Executive on 16 November 2023.

Hamilton City Council Reference D-4939668 - Submission # 751.

It should be noted that the following submission is from staff at Hamilton City Council and does not therefore necessarily represent the views of the Council itself.

## Key Messages and Recommendations

1. Hamilton City Council staff support the overall direction, focus areas and proposed actions outlined in the Ministry for the Environment’s Discussion Document.
2. We support the proposed NPS as a critical tool to provide upfront checks and consideration of climate change impacts on communities. The nature of climate action involves making decisions now, the results of which will be realised in the future. Proactive and preventative planning will have cumulative benefits for reducing reactive and reparation actions for future decision-making.
3. While we acknowledge the intentions of the NPS-NHD, we would reinforce the importance of defining thresholds in the upcoming National Direction for Natural Hazards, otherwise it would lead to major disagreements and conflicts.
4. A key concern surrounds provision 1.5, where the ambiguity surrounding this clause leaves room for developers to build in hazardous areas while citing intensification documents (e.g., NPS-UD, MDRS). There is a task here of reconciling difference in policy directions so that there is certainty.
5. Other key concerns surround Policy 2 and Policy 5a, where “willingness” or a “tolerable level” cannot be properly defined. The ambiguity surrounding the term may result in legal disputes over evaluating its definition, consuming valuable time and resources.
6. Concerns and relief we seek are summarised as follows.

Provision	Concerns	Relief
1.4	<p>Ambiguity and confusion surrounding the definitions include the following:</p> <ul style="list-style-type: none"> <li>• The term “decision-maker” remains overly broad. There are other functions or powers under the Act that are not covered.</li> <li>• “New development” is currently limited to physical only. Terms regarding “replacement”, structures, and infrastructure are overly broad.</li> <li>• “New hazard-sensitive development” refers to activities and usage rather than actual physical structures.</li> <li>• Including “designation” as part of the definition of “planning decision” is questionable.</li> </ul>	<p>Recommendations are summarised as follows:</p> <ul style="list-style-type: none"> <li>• Amend the definition to “exercising functions or powers under the act in relation to planning decisions” to link to “planning decision” definition.</li> <li>• The criteria should be reevaluated, considering how non-physical activities can introduce new risks or exacerbate pre-existing ones.</li> <li>• Changes in usage are not addressed in the NPS-NHD. The criteria should be reviewed and reconsidered.</li> <li>• Remove the clause due to potential redundancy or refer to “Notice of Requirement” instead.</li> </ul>
1.5	<p>The ambiguity surrounding the clause leaves room for developers to build in high-risk areas while citing intensification documents like the NPS-UD.</p>	<p>Review the clause and provide a hierarchy or clarification. If decision-makers need to envisage compromises, there should be clear parameters.</p>

Provision	Concerns	Relief
Part 1	Not making a linkage to the Climate Adaptation Act is a missed opportunity for strengthening climate adaptation efforts.	We recommend MfE establish clearer connections between the NPS-NHD and the future Climate Adaptation Act.
Objective	While we support the overall objective, we would raise the concern that the mandate for minimising the risks on recovery is not clarified.  In addition, Policy 5 implies that the Objective should be beyond mere minimisation.	Re-evaluate and enhance policies for minimising risks on the capacity to recover.  In addition, we recommend MfE review and revise the Objective.
Policy 2	Ambiguity surrounding terminology such as “serious” and “willingness.” The NPS-NHD does not provide guidance on relevant considerations or thresholds.	While we acknowledge the intentions of the NPS-NHD, we would reinforce the importance of defined thresholds. We also recommend MfE clarify how to measure and raise “willingness”.
Policy 4 and 5	Limiting the NPS-NHD to new development may result in a loophole where communities or developments are built in high-risk areas using old consents.	Consider clauses that allow the NPS-NHD to retroactively apply to consents located in high-risk areas only.
Policy 5(a)	Terminology of “tolerable level” remains ambiguous.	Remove clause or provide further clarification.
Policy 5(ai)	Non-physical development that may introduce or exacerbate existing hazards is not addressed.  Switching to a hazard-sensitive activity that does not introduce new development is technically allowed.	As mentioned in 1.4, the definition and criteria of “new development” and “new hazard-sensitive development” needs to be reviewed.
Policy 5(c)	Typically, local authorities would still anticipate risk mitigation in a low-risk area.  In addition, the policy is unclear on the implication of “is enabled.”	The upcoming National Direction for Natural Hazards needs to be clear about how each type of hazard should be mapped and categorised for risk.
Policy 6(b)	Current wording in Policy 6(b) implies mutual exclusivity.	There may be site-specific elements that might need to form part of the wider solution.
3.3(3a)	It is not clear what constitutes as a “delay.” The combination of data gaps and haste judgment could result in poor decision-making.	Changing the phrase “must not delay” to “should avoid delaying” allows more leeway for flexibility.

Provision	Concerns	Relief
4.1(1b)	Including “designation” raises similar concerns as previously mentioned in Part 1 (1.4).	Remove the clause due to potential redundancy or refer to “Notice of Requirement” instead.

## Introduction

7. Hamilton City Council staff welcome the opportunity to make a submission to the Ministry for the Environment’s (MfE) Proposed National Policy Statement for Natural Hazard Decision-Making (NPS-NHD) Discussion Document (September 2023).
8. Hamilton City Council staff support the overall direction, intent, focus areas and proposed actions outlined in the MfE’s Discussion Document.
9. The current approach where decision-makers consider the consequences of socioeconomics, risk mitigation, and intensification is complicated, time-consuming, and necessitates the expertise across multiple fields.
10. We welcome the creation of the NPS-NHD and its role to introduce a risk-based approach that could bring clarification and streamline the overall procedure.
11. We support a precautionary approach to decision-making relating to information gaps, assessing whether there is a natural hazard risk or where the risk could be intolerable. The approach would avoid placing further strain on the Council to gather new data immediately.
12. We support the potential content that will be included in the upcoming National Direction for Natural Hazards (NDNH) outlined in page 11.
13. We would reinforce that the NPS-NHD must not conflict with the new Local Government Official Information and Meetings Act 1987 (LGOIMA), provisions for Land Information Memorandums (LIMs), and any regulations developed as a result for disclosing natural hazards in LIMs.
14. Hamilton City Council takes a considerable interest in matters regarding resource management reform and has made several submissions in this space in recent years - for example:
  - Hamilton City Council’s 17 February 2023 submission to the Natural and Built Environment Bill – [refer here](#)
  - Hamilton City Council’s 17 February 2023 submission to the Spatial Planning Bill – [refer here](#)
  - Hamilton City Council’s 24 February 2022 submission to Transforming Aotearoa New Zealand’s Resource Management System - Our Future Resource Management System - Materials for Discussion - November 2021 Discussion Document – [refer here](#)
  - Hamilton City Council’s 16 November 2021 submission to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill – [refer here](#)
  - Hamilton City Council’s 4 August 2021 submission to the Inquiry on the Parliamentary Paper on the Exposure Draft - Natural and Built Environments Bill – [refer here](#)
  - Hamilton City Council’s 3 August 2021 submission to the Government Policy Statement on Housing and Urban Development (GPS-HUD) - June 2021 Discussion Document – [refer here](#)
  - Hamilton City Council’s 2 July 2021 submission to the New Zealand Infrastructure Commission’s May 2021 Discussion Document Infrastructure for a Better Future Aotearoa New Zealand Infrastructure Strategy – [refer here](#)
15. All submissions made by Hamilton City Council can be accessed [here](#).

## Response to Questions in the Discussion Paper

16. **Question 1: Is more action needed to reduce development from occurring in areas facing natural hazard risk?**
17. Hamilton City Council staff agree that more action is needed to mitigate natural risks such as flooding and landslides.
18. With recent events regarding how extreme weather is affecting our neighbourhoods and the effects of climate change becoming more severe, the most cost-effective method to mitigate disasters and their impact is to reduce development in high-risk areas while simultaneously improving control for medium and low areas.
19. **Question 2: Are there any other parts of the problem definition that you think should be addressed through the NPS-NHD? Why?**
20. The discussion document notes that local governments face financial constraints and obtaining relevant information on natural hazards and risks is expensive. We have raised concerns regarding the spilt responsibilities of mitigation sitting with Central Government and adaptation sitting with local government previously.
21. We recommend MfE consider funding risk assessments and verification tools to ensure the benefits of the NPS-NHD are realised on the ground.
22. We would reinforce the need for consistency on how to consider natural hazard risks under the RMA. Current thresholds on “significant” remain uncertain and assessing tolerance is an issue that Local Government often struggles to determine.
23. **Question 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?**
24. The discussion document implies that “natural hazard” and “natural hazard risk” are interchangeable terms. Risk is defined as the “likelihood and consequences of a hazard” (CDEM Act 2002, s4); therefore, risk considers the consequences, which may be caused by the hazard. Being in a hazard area does not necessarily translate to being in a risk area.
25. Cumulative impacts are also not discussed in the discussion document. It is unclear whether a piece of land is appropriate for development, for instance, if it is overlapped by several low-risk areas.
26. Hamilton City Council staff would recommend MfE address the matter of raising community awareness. Lack of awareness may result in low tolerance and willingness, causing inaction and maladaptation.
27. We would also reinforce the need for clarity on the definitions of high, moderate, and low risk in the upcoming NDNH.
28. For instance, a 100-year flood model (1% annual exceedance) could be used to define flood hazard locations. The World Bank and Serbia classifies 1.5 metres of depth as a high flood hazard area ([National Disaster Risk Management Plan](#)), while Hamilton City Council combines depth and velocity to determine high, medium, and low ([Operative District Plan 2017, Appendix 11](#)).
29. Another example would be to categorise flood hazard using various return periods. The German Environment Agency (Umweltbundesamt) released a flood hazard map in 2019, where flooded areas with return periods of 10, 100, and 200 years corresponded to high, moderate, and low respectively ([link](#)).
30. Ultimately, we recommend that MfE investigate other cases while considering regional differences. For example, rain intensity is often used by subtropical countries to categorise risk (e.g., 150 mm of rain in 6 hours), while countries more susceptible to flood (e.g., the Netherlands) would impose stricter standards.

31. **Question 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?**
32. Hamilton City Council staff support the proposed risk-based approach for decision-making.
33. Risked-based approaches would be more streamlined compared to an effects-based approach, where decision-makers need to contemplate between socioeconomics, cultural values, and disaster prevention.
34. While obtaining information to determine such risks would be potentially time-consuming, we support a risk-based approach to prevent complexity or potential bias issues.
35. In addition, we recommend that MfE consider a method for merging risks to create a combined-cumulative risk classification.
36. **Question 5: Should all natural hazards be in scope of the proposed NPS-NHD? Why or why not?**
37. Hamilton City Council staff support the inclusion of all natural hazards.
38. While hazards like tornadoes would be rather difficult to implement due to rarity of occurrence (the Frankton Tornado in 1948 would be the most notable example) and lack of data, an "all hazards" approach is preferred as it maintains consistency without needing to resort to complex decisions on what hazards should be excluded.
39. Hazards that have been identified as relevant to Hamilton City include floods, earthquakes, severe wind, drought, liquefaction, volcanic ash fall, rural fires, landslides, and erosion.
40. We recommend that MfE consider cascading impacts of climate change and combination hazards. It is important to also consider the transitional risks of climate change as decisions around managed retreat and adaptation are made.
41. **Question 6: If not all natural hazards are in scope, which ones should be included? Why?**
42. Hamilton City Council staff support an "all hazards" approach as opposed to excluding certain hazards.
43. The most frequent or significant hazards should be included if MfE decides to exclude certain risks due to their complexity and implementation difficulty.
44. Frequent or devastating hazards include flooding, coastal erosion, earthquakes, landslides, and liquefaction.
45. **Question 7: Should all new physical development be in scope of the proposed NPS-NHD? Why or why not?**
46. Hamilton City Council staff oppose including all new physical development due to impracticality.
47. We recommend that MfE recognise that some structures or infrastructures are appropriate in high-risk locations. For example, a slope stability monitoring station would be of little benefit in a low-risk location; we believe stormwater infrastructure should generally be exempt.
48. In addition, we recommend that MfE highlight the importance of strategic infrastructure resilience, especially horizontal infrastructure such as water and roads. Ensuring lifeline infrastructure's resilience to climate change is essential to adequately respond to and recover from natural hazards.
49. We would also raise the concern that activities on non-physical development may introduce or exacerbate existing hazards. For instance, earthworks and vegetation removal may lead to ground instability.
50. Restricting the definition to "physical only" could leave a gap in risk management, resulting in poor planning decisions.

51. **Question 8: What impact do you think the proposed NPS-NHD would have on housing and urban development? Why?**
52. Overall, Hamilton City Council staff expects the NPS-NHD to have a positive impact towards building a secure and sustainable city.
53. By ensuring that all new developments take natural hazards into consideration, the NPS-NHD can lessen the probability that communities and underprivileged people will be exposed to high-risk areas for natural hazards.
54. However, the NPS-NHD could potentially stall New Zealand's overall target for intensification. In the absence of defined thresholds during the interim, projects have been delayed due to concerns of being potentially located in high-risk areas.
55. In addition, the NPS-NHD recommends precautionary approaches while prohibiting data-related delays (3.3). This would imply that, in the event of inadequate or uncertain information, it would be safer to decline any consent altogether.
56. While examples like Japan suggest synergy between intensification and risk management is possible, we recommend that MfE provide the interim phase more flexibility to reduce incompatibilities.
57. **Question 9: Do you agree with the proposed objective of the NPS-NHD? Why or why not?**
58. Hamilton City Council staff support the proposed objective as the overall direction aligns with the intentions of the RMA under s31.
59. We would reinforce that providing standardised methodologies and terminologies would contribute towards mitigation on natural hazards, while avoiding general confusion and potential litigation.
60. **Question 10: What are the pros and cons of requiring decision-makers to categorise natural hazard risk as high, moderate, or low?**
61. Clear indication of risk level would provide clarification and justification on the rejection of consents or plans, while also deterring the public from relocating to risky areas.
62. A categorised system would allow the decision-makers to prioritise development in low-risk areas while also avoiding high-risk locations.
63. However, the current line between high, moderate, and low risk areas remains ambiguous. The thresholds would require extensive research and clear explanations, otherwise it would lead to major disagreements and conflicts.
64. For example, many authorities or organisations use 100-year flood models to evaluate flood hazards for high, moderate, and low (Question 3).
65. For landslide risks, Japan explicitly states the definitions in regulations ([Order for Enforcement of the Act on Promotion of Sediment Disaster Countermeasures in Sediment Disaster Hazard Areas](#)). The government would establish a buffer zone to identify which regions are high-risk based on whether the location is a debris flow river, landslip area (e.g., a dip slope), or steep slope (gradient over 30 degrees).
66. In addition, terminologies, methodologies, and policies would all likely need to be standardised due to the NPS-NHD's objective of a comprehensive system, which could cause confusion when considering regional differences.
67. We would reinforce the need for defined thresholds in the NDNH, as outlined in p11 of the discussion document.

- 68. Question 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?**
69. Based on likelihood consequence and tolerance, decision-makers can prioritise mitigating frequent hazards, while avoid allocating resources to managing rare occurrences.
70. However, balancing the three aspects is potentially problematic. Events like volcanic eruptions and storm surges while rare, can cause devastating impacts, while more frequent hazards like liquefaction can often be mitigated through engineering methods (e.g., soil compaction, jet grouting).
- 71. Question 12: What are the pros and cons of directing decision-makers to adopt a precautionary approach to decision-making on natural hazard risk?**
72. Hamilton City Council staff recognise that a precautionary approach would provide a streamlined and secure option to decision-making.
73. A precautionary decision would ensure future developments are secure from potential disasters while local authorities work to fill in the current data gaps.
74. However, precautionary approaches could potentially hinder development. Given how housing needs have risen rapidly and the demand for intensification is frequently called upon, the conservative methods could potentially conflict with the progressive nature of intensification.
75. It is critical that we develop climate-resilient cities as the effects of climate change increase. Traditional development, where decision-makers weigh socioeconomics and risk management needs to change to adapt to climate change effects while still enabling development to occur.
76. While Hamilton City Council has already taken measures to minimise potential incompatibility between precautionary risk-management and intensification, we recommend MfE clarify which concern will take precedence if such conflicts arise.
- 77. Question 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?**
78. Enforcing natural hazard risks for controlled (C) or restricted discretionary (RD) activities will minimise the impact of potential risks.
79. However, the proposed NPS-NHD already includes resource consents as part of the definition for "Planning Decision." All resource consents must ensure taking actions accordingly to the risk level as outlined in Policy 5.
80. Both controlled and restricted discretionary activities require a resource consent, as outlined in the RMA under s87A. This implies under Policy 5, regardless of whether the activity is classified as C or RD, it should always be considered in a plan. Specifying natural hazard risks to be taken into consideration in said activities could potentially be redundant.
81. In addition, the enforcement would add a significant additional assessment to the consenting process on activities that are intended to be anticipated by the District Plan (C/RD).
82. Robust plan-making procedures are preferred as opposed to attaching an overarching assessment to resource consents. For applicants, this would mean a great deal of uncertainty and extra expenses.
83. Furthermore, we would recommend that MfE clarify how to treat the following issues in the upcoming NDNH:
- Plans that use a cascade when a permitted standard is not met e.g., P to C or RD for failing a standard, particularly when that failed standard does not have a link to natural hazards. Some plans will state that the matter of control / discretion in these situations only relates to the effect of not complying to that particular standard (e.g., failing a lighting standard).

- Plans that have given a particular activity a RD status for reasons that have a poor link to natural hazards (e.g., developing ahead of a piece of infrastructure (road)).
84. We would reiterate that implementing the policy in the form of national environmental standards (p21) would be more appropriate, as it would ensure consistency across local authority boundaries, while reducing process costs and delivery delays.
  85. **Question 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?**
  86. Assuming the actions that are required to take and the criteria of each level of risk is clear, decision-makers would have a better idea of what to do when processing plans or consents in said areas; developers would have a clear example of which areas to avoid, what to expect, and what measures should be taken.
  87. However, the definition of “tolerable” outlined in Policy 5(a) remains ambiguous, which could lead to local authorities being forced to evaluate their meaning in court.
  88. We recommend that MfE define the “specific actions” needed and the “tolerable” level that is required or removing the ambiguity surrounding the clause altogether.
  89. **Question 15: What is the potential impact of requiring decision-makers to apply this framework in their decision-making? Will it improve decision-making?**
  90. A risk-based approach would allow clarity and justification for approving or rejecting projects without resorting to cross-examining case studies.
  91. We support the NPS-NHD as a tool to enable Hamilton City Council to achieve the strategic outcomes set out in **Our Climate Future Te Pae Tawhiti o Kirikiriroa** ([refer here](#)). A key outcome of the strategy is that *“Our city is ready for Hamilton’s climate”* and states that *“our understanding of the physical risks will guide our planning decisions and mean that we build the right things in the right place.”*
  92. However, we would question the definition of “commercial” in the discussion document (p22). The discussion document lists ports as an example, while the definition of “infrastructure” already includes ports under s2 of the RMA.
  93. We recommend providing clarification on the distinction between “commercial” and “infrastructure.”
  94. **Question 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?**
  95. Hamilton City Council staff believe that a clear indication of the measures and standards will make it easier for decision-makers to understand what to expect.
  96. However, stating the requirements will compromise a plan’s flexibility and could lead to a project being impossible to complete.
  97. While we recognise and support the need for standardised methods and assessments, we recommend adding clauses for flexibility and regional differences in the upcoming NDNH.
  98. **Question 17: Does policy 7 appropriately recognise and provide for Māori rights, values, and interests? Why or why not?**
  99. Hamilton City Council staff believe the policy recognises and provides for Maaori rights, values, and interests.
  100. Early engagement would be the best timing to include Maaori rights, values, and interests. It is crucial they are directly influencing plans from the beginning, rather than placing it last as an afterthought.

- 101. Question 18: Can traditional Māori knowledge systems be incorporated into natural hazard risk and tolerance assessments?**
- 102.** Hamilton City Council staff recognise that specific Maaori knowledge or values can be integrated into the system and improve planning outcomes.
- 103.** For instance, maintaining wetlands, ponds, and ecological corridors would typically boost an area's capacity to hold stormwater runoff, which can be regarded as an application of Taiao from Te Aranga Maaori Design Principles.
- 104. Question 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?**
- 105.** Hamilton City Council staff believe there is sufficient certainty.
- 106. Question 20: Is the implementation timeframe workable? Why or why not?**
- 107.** Hamilton City Council staff believe the timeframe is optimistic, but workable.
- 108.** We recommend that MfE seek to prevent climate action from being withdrawn or weakened. Whilst there may be a delay in the timeframe, it would be disappointing for the work, funding and research that went behind drafting these documents to go to waste.
- 109. Question 21: What do you consider are the resourcing implications for you to implement the proposed NPS-NHD?**
- 110.** We believe implications would include the following:
- Financial resources: Developing a risk-based framework would require funding for data collection, analysis, and system improvements.
  - Human resources: Creating a hazard map requires skilled personnel. Additional training is also mandatory to build up the expertise.
  - Public engagement: Outreach and community engagement are essential to inform and involve residents. Resources are needed in building community resilience and acceptance.
  - Resources for resource consent decisions (until District Plans are updated): Reviewing information requires both planning staff and specialists. If the NPS-NHD needs to be adopted for resource consent decisions before the District Plan work is completed, there will be additional labour and resource requirements.
- 111. Question 22: What guidance and technical assistance do you think would help decision-makers to apply the proposed NPS-NHD?**
- 112.** We believe required guidance and assistance include the following:
- Budget allocation for filling in (data) gaps.
  - Accurate and reliable data to determine potential risks.
  - A reasonable timeframe for decision-making when taking a precautionary choice.
  - Standardised phrasing/wording across the nation.
  - Standardised methodologies for mapping.
- 113.** In addition, we recommend that hazard risk area maps are outside of RMA plans i.e., not locked in, embedded, or requiring a Schedule 1 process to add or amend. It is critical that best available information is used as and when it is available.

## Part 1: Preliminary Provisions

114. The discussion document has clarified that climate change will exacerbate risks from existing natural hazards, causing increased costs for individuals, businesses, and local and MfE.
115. In addition, the way we design our cities now will impact on the future - we can establish low risk, low-cost living for our communities rather than locking them into hazard-prone areas with high-cost insurances.
116. We are supportive of MfE supporting the implementation of risk-based approach towards planning and resource consenting. Consistent standards and direction will make it easier to assess the options against natural hazards and housing development.
117. The Waikato River and its tributaries' flooding is the principal threat to Hamilton. Our previous Operative District Plan (Plan, 2012) identifies flood hazard areas and has objectives, policies, and rules specific to each area.
118. We have an ongoing programme to assess the impacts of downpour, stormwater runoff, and potential flood effects. In addition, we are drafting Plan Change 14, where we revise our flood mapping and Plan provisions relating to flood risks.
119. Hamilton City Council staff note the intent of the NPS-NHD is to minimise the risks from natural hazards to people, communities, the environment, property, and infrastructure.
120. Tools and guidance from MfE on standardised methods, thresholds, and terminology would support a quicker implementation and uptake in local government.
121. In 1.4, we have concerns and questions as follows:
  - 1) The definition of a "decision-maker" remains overly broad as there are other functions or powers under the Act that are not covered by the draft.
  - 2) We recommend amending the definition to "exercising functions or powers under the act in relation to planning decisions" to link to "planning decision" definition.
  - 3) The definition of a "new development" is currently limited to physical only, which could lead to a gap in risk management.
  - 4) Activities on non-physical development may introduce or exacerbate existing hazards. For instance, earthworks and vegetation removal may lead to ground instability.
  - 5) The definition of a "replacement" in "new development" also remains ambiguous. For example, whether renewing a road pavement or pipe asset qualifies remains questionable.
  - 6) In addition, the terms regarding structures and infrastructure are overly broad. The policy framework and its implementation should recognise that some structures or infrastructures are appropriate in high-risk areas.
  - 7) We recommend that MfE reconsider the criteria and provide further explanation.
  - 8) We would dispute the criteria of "new hazard-sensitive development" given that the current listings refer to activities and usage rather than actual physical structures. Changes in use, such as switching from a non-hazard sensitive activity to one that is sensitive to hazards, are not addressed by the proposed NPS-NHD.
  - 9) The criteria also excluded sites where people may reside (e.g., hotels, motels, residential care), which are areas where people may congregate during a natural hazard event, creating further consequences if exposed to said event.
  - 10) We recommend reviewing and reconsidering the criteria of a "hazard-sensitive" development.

- 11) Including “designation” as part of the definition of “planning definition” is questionable. Requiring authorities already consider hazards when determining a preferred site. The alternative site assessment is a requirement of that process.
  - 12) The decision ultimately rests with the requiring authority, which may not be able to avoid certain areas (e.g., river-crossing bridge) or may wish to avoid certain areas (e.g., flood protection, stormwater management devices). This consideration of alternative sites is not part of a resource consent process.
  - 13) It is also unclear from the definition of "designation" whether this is intended solely for use in a Notice of Requirement. It is still unclear if the Outline Plan of Works applies to this clause.
  - 14) We recommend removing the clause due to potential redundancy or refer to “Notice of Requirement” instead; alternatively, we seek further clarification from MfE.
122. In 1.5, it states the NPS-NHD will not apply to a specified territorial authority when it is preparing an intensification planning instrument under s80F of the RMA. The ambiguity surrounding the clause leaves room for developers to build in hazardous areas while citing intensification documents (e.g., NPS-UD, MDRS).
  123. The absence of hierarchy may encourage developers to intentionally develop in high-risk, improperly managed moderate risk, or cumulative low-risk areas with low land prices (e.g., areas with flood risks often have lowered property values), exposing vulnerable individuals to further environmental impacts.
  124. In addition, clarification of the hierarchy or relations between the proposed NPS-NHD and intensification planning instruments (e.g., NPS-UD, MDRS) would also provide helpful guidance or confirmation on processes that have been postponed.
  125. While Hamilton City Council has already taken measures in our previous Plan (2012) to include risk management as part of planning, we recommend reviewing the clause and provide clarification or a hierarchy between the proposed NPS-NHD and NPS-UD. There should be clear parameters if decision-makers must contemplate compromises.
  126. Page 11 of the discussion document outlines that the NPS-NHD will be transitioned into the National Planning Framework and describes the alignment between the NPS-NHD and the Resource Management Reforms.
  127. We recommend that MfE provide clearer linkages between the upcoming Climate Adaptation Act and implementation of the NPS-NHD.
  128. We note that incorporating preventative climate action in decision-making is a critical tool to enable long lasting economic and environmental benefits and reduce later adaptation efforts and costs. Not making this linkage and associated benefits clearer is a missed opportunity for strengthening climate adaptation efforts for local government.

## Part 2: Objectives and Policies

129. Overall, Hamilton City Council staff support the objective in the proposed NPS-NHD.
130. While we acknowledge the intentions of the proposed NPS-NHD, we would raise the concern that the mandate for minimising the risks on recovery is not clarified.
131. The Emergency Management Bill exhibits a similar flaw in that, despite the Bill not intending to introduce transformational change, the mandate for recovery is not clarified and strengthened.
132. In its current form, the proposed NPS-NHD excludes structures that are already in place or that have received prior approval in favour of new constructions. Clarification on how to minimise risks to recover in said areas remains ambiguous.

- 133.** In addition, a review of the policies indicates that in high-risk areas, the NPS-NHD favours avoidance over minimisation (Policy 5). The language of the Objective appears inconsistent with the suggested policies.
- 134.** We recommend that MfE re-evaluate and enhance policies for minimising risks on the capacity to recover, considering how the Auckland Anniversary Flood caused devastation in built communities. Additionally, we recommend MfE review and revise the objective.
- 135.** Policy 2 contains ambiguous terminology such as “serious” and “willingness.” The current proposed NPS-NHD does not provide guidance on relevant considerations or thresholds.
- 136.** It is implied that decision-makers should consider a community’s tolerance and willingness to a natural hazard event. Inaction and maladaptation against climate action and planning procedures may stem from a lack of awareness in communities, which leads to a lack of willingness.
- 137.** However, guidance on measuring willingness or raising community awareness remains lacking. We recommend that MfE clarify how local governments might accomplish these objectives and provide resources for adapting guidelines to fit specific localities.
- 138.** In addition, we would contest the determination of “willingness” as previous attempts were fraught.
- 139.** Individuals are the first to object to their property as being subject to a natural hazard, given the potential imposition on development rights and property value. Some of these individuals will also, post event (e.g., flood) demand to know why they were allowed to build there in the first place.
- 140.** While the willingness and capability are relevant queries, it should be considered when the community wants a stronger approach than a professionally established baseline. Given the potential indirect impacts consistency, tolerance should be sought at the regional or national level.
- 141.** While we acknowledge the intentions of the NPS-NHD, we would reinforce the importance of defined thresholds in the upcoming NDNH.
- 142.** In Policy 4, we would recommend that MfE clarify how to treat the following issues in the upcoming NDNH:
- Plans that use a cascade when a permitted standard is not met (e.g., P to C or RDA for failing a standard, particularly when that failed standard does not have a link to natural hazards). Some plans will state that the matter of control / discretion in these situations only relates to the effect of not complying to that particular standard (e.g., failing a lighting standard).
  - Plans that have given a particular activity a RD status for reasons that have a poor link to natural hazards (e.g., developing ahead of a piece of infrastructure (road)).
- 143.** Policy 4 and Policy 5 implies the NPS-NHD will only be limited to new developments. The limitation could lead to a loophole where communities or developments are built in high-risk areas using old consents, circumventing the NPS-NHD and any derivative plans or policies that come after.
- 144.** We recommend consideration for adding clauses that allow the NPS-NHD to retroactively apply to consents located in high-risk areas, allowing local authorities to request further information for unfinished projects or built communities; alternatively, we recommend addressing the issue further in the NDNH.
- 145.** In Policy 5a, the terminology of “tolerable level” remains ambiguous. As previously mentioned, attempts on determining “willingness” were fraught.
- 146.** The lack of clarification could lead to local authorities being forced to evaluate their meaning in court, costing precious time and valuable resources.

147. Taking Japan as an example, the Sediment Disaster Prevention Act ([Act on Promotion of Sediment Disaster Countermeasures in Sediment Disaster Hazard Areas](#), an English guide can be found [here](#)) designates areas at high-risk to landslides as Red Zones (Special Restricted Zone).
148. While exemptions were granted in specific circumstances, acquiring permits for projects situated in Red Zones were generally unattainable, leaving no room for tolerance. In the 2011 ([Heisei 23](#)) Policy Review, it is stated only five projects were approved out of 31 received.
149. Given how the policy already lists cases for exemption, we recommend removing the clause to prevent confusion; alternatively, we recommend providing further clarification or standards on a “tolerable level” for high-risk areas in the NDNH.
150. Policy 5(ai) incorporates an activity with physical development. As previously mentioned, the proposed NPS-NHD does not address non-physical development that may introduce or exacerbate existing hazards.
151. In addition, changes in use, such as switching to a hazard-sensitive activity, is not addressed by the proposed NPS-NHD. An office building that has been internally converted to residential use, for instance, may be eligible if no “new development” is introduced.
152. Given that the definitions are the cause of the ambiguity, we would emphasise the need for re-evaluating and clarifying the criteria.
153. We would mention the issue that a low risk still exists in a natural hazard-affected area in Policy 5(c). Local authorities would typically still anticipate risk mitigation in this scenario (e.g., freeboard in areas with shallow flooding) and the policy is unclear on the implication of “is enabled”.
154. We would reinforce the importance of defined thresholds. The upcoming NDNH will need to be clear about how each type of hazard should be mapped and categorised for risk.
155. We support the overall intention of Policy 6. However, we would remind MfE that the current wording in Policy 6(b) implies mutual exclusivity. There may be site-specific elements that might need to form part of the wider solution.

### Part 3: Implementation

156. Overall, Hamilton City Council staff support the approach in the proposed NPS-NHD. A precautionary decision would streamline the overall procedure, while we work extensively to fill in data gaps and ensure future developments are secure from potential disasters.
157. In 3.3(2b), the phrase “all practicable steps” is overly broad. Should all steps be taken, the overall procedure would most likely be costly and time-consuming, with little to no actual improvement in certainty or uncertainty.
158. While it is implied the NDNH will provide standardised methodologies, it is unclear who will determine what steps are practicable in the interim phase.
159. In addition, the statement contradicts Policy 3.3(3a), which implies that decision-makers must avoid delays and that uncertainty is accepted as the norm.
160. We recommend that MfE explicitly define the “practicable steps” in the NPS-NHD or amend the policy to reduce ambiguity.
161. In 3.3(3a), the definition of a “delay” remains ambiguous. The combination of precautionary actions, data gaps, and haste judgment could result in poor decision-making, hinderance to development, and potential legal disputes.
162. In addition, it is inconsistent with the purposes of a precautionary approach to refuse consents on the grounds of insufficient information or approve development as if no problems are present.
163. We recommend amending the phrase “must not delay” to “should avoid delaying”, allowing leeway for flexibility and more time to update information.

## Part 4: Timing

164. Hamilton City Council staff supports the proposed timing.
165. We recommend that MfE seek to prevent climate action from being withdrawn or weakened. Whilst there may be a delay in the timeframe, it would be disappointing for the work, funding and research that went behind drafting these documents to go to waste.
166. In 4.1(1b), the inclusion of “designations” raises similar concerns as previously mentioned in Part 1 (1.4).
167. We recommend removing the clause due to potential redundancy or refer to “Notice of Requirement” instead.
168. We support the proposed actions for potential inconsistent terminologies in relation to other policy statements and plans, as outlined in 4.2.

## Further Information and Opportunity to Discuss our Submission

169. Should the Ministry for the Environment require clarification of the submission from Hamilton City Council staff, or additional information, please contact Mark Davey (Urban and Spatial Planning Unit Manager) on 07 838 6995 or email [mark.davey@hcc.govt.nz](mailto:mark.davey@hcc.govt.nz) in the first instance.
170. Hamilton City Council representatives would welcome the opportunity to discuss the content of this submission in more detail with the Ministry for the Environment.

Yours faithfully



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