



Office of Hon Dr Nick Smith

MP for Nelson

Minister for the Environment

Minister for Building and Housing

22 MAR 2016

16-O-00176

Alex Harris
fyi.org.nz

Dear Alex Harris

Thank you for your email of 15 February to the Ministry for the Environment requesting the following information under the Official Information Act 1982 (OIA):

'All formal advice on a national policy statement on natural hazards from the last year. This includes cabinet papers, briefings, and aid memoire, but excludes emails.'

Your request was transferred to me for response under section 14 of the OIA.

The scope of this request has been interpreted as capturing formal advice on a national policy statement on natural hazards that has been provided to me between 16 February 2015 and 15 February 2016.

The attached table lists the documents falling within the scope of your request and notes any OIA provisions that have been applied. I do not consider the public interest outweighs the need to protect the privacy of natural persons.

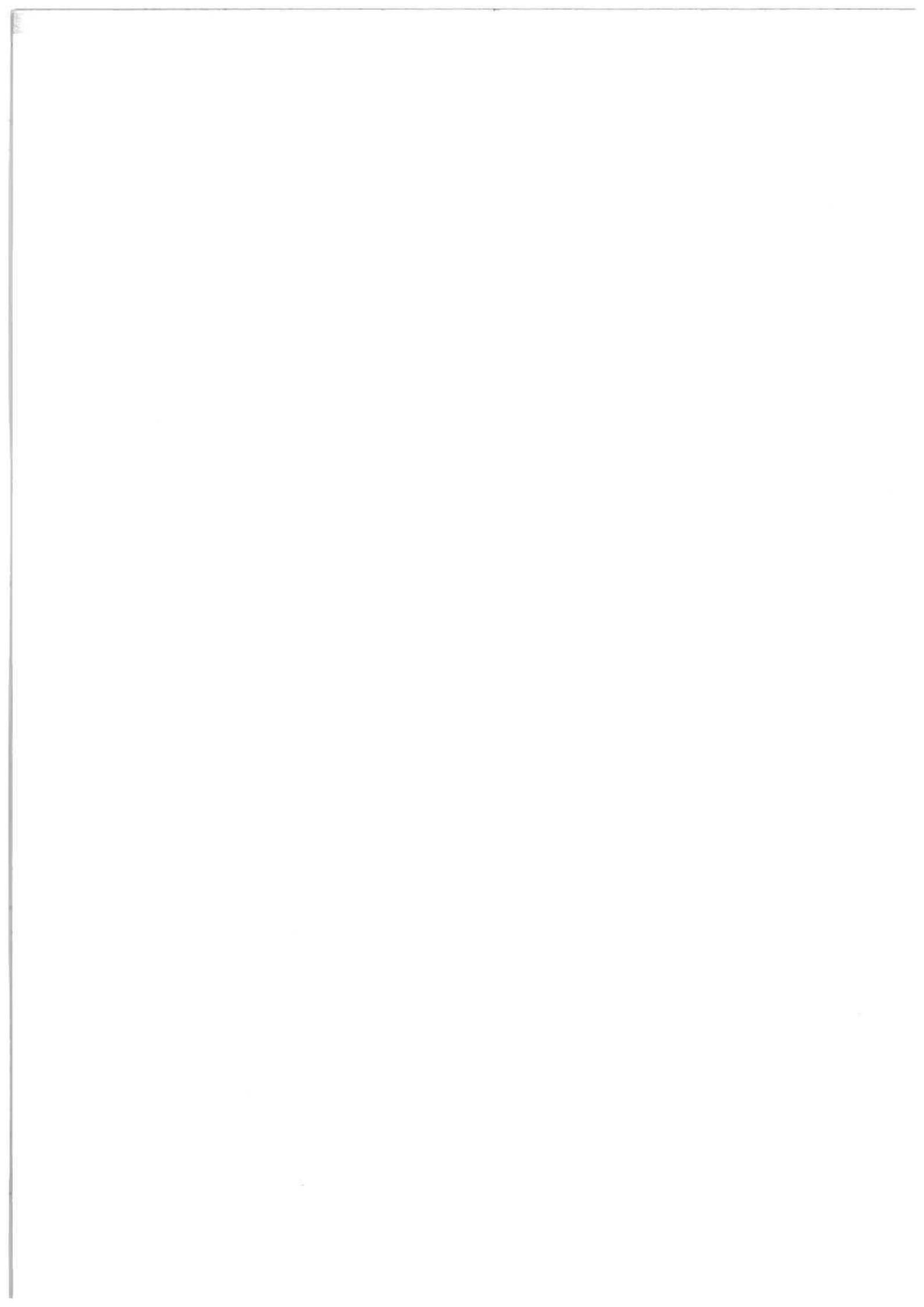
In addition to the *Resource Legislation Amendment Bill* which is currently being considered by Parliament, the government has initiated an ambitious programme of national direction under the Resource Management Act 1991. To communicate what national direction is in the pipeline, the government has released *A Way Forward for National Direction* which is available at www.beehive.govt.nz/sites/all/files/A-Way-Forward-for-National-Direction.pdf.

National guidance on managing significant risks from natural hazards is due to be delivered in 2018 and I have stated my preference for a National Policy Statement. I plan to initiate the consultation process after the *Resource Legislation Amendment Bill* is enacted.

Under section 28(3) of the OIA, you have the right to ask the Ombudsman to review my response to your request.

Yours sincerely

Hon Dr Nick Smith
Minister for the Environment



Documents falling within the scope of your request

No.	Date	Content	Decision	OIA Section/s applied
1	5 May 2015	Briefing: 15-B-00248 - Natural hazards: National direction under the RMA	Release in part	9(2)(a), To protect the privacy of natural persons
2	30 September 2015	Briefing: 15-B-03191 - Natural Hazards: National guidance under the RMA	Release in part	9(2)(a), To protect the privacy of natural persons



To: Hon Dr Nick Smith, Minister for the Environment

Natural hazards: National direction under the RMA

Other Dept Tracking Number:		MfE Tracking Number:	15-B-00248
Date Submitted:		MfE Priority:	Non-urgent
Security Level:	BUDGET SENSITIVE	Number of Attachments:	4
Action Sought:	Advice/Direction	Response Needed by:	21 May 2015

Ministry for the Environment Contacts

Position	Name	Telephone		1st Contact
		(cell)	(work)	
Principal author	S. 9(2)(a)			✓
Responsible Manager	Katherine Wilson		S. 9(2)(a)	
Director	Peter Brunt			

Executive Summary

1. This briefing provides advice on what national-level direction or guidance under the Resource Management Act 1991 (RMA) may be required to ensure that risks from natural hazards are managed (Cab Min (13) 15/8 refers). This could be statutory (e.g. National Policy Statement and/or National Environment Standard) or non-statutory, and is to support to the proposed Resource Management (RM) legislative reforms.
2. The proposed legislative changes to the RMA are to add to section 6 the "management of significant risks from natural hazards" as a matter of national importance, and to amend sections 106 and 220 to enable decision-makers to consider significant risks from any natural hazard in subdivision consent applications. The intent is to ensure a risk management approach is taken for all natural hazards and that greater weight is given to significant risks from natural hazards in decision-making.
3. Our analysis of current planning in New Zealand shows that in general local government can plan for new developments while managing the risks from natural hazards. It also shows that risk management practice is improving.
4. However, as some councils have low natural hazard and risk capability and capacity, the legislative reforms are unlikely to improve practice quickly and across the board without further support. We expect local government will continue to face challenges in managing increasing risks to existing settlements, due to existing use rights and resistance from some local communities but these are complex issues and there is no 'quick fix'.
5. These challenges are drawing increasing attention with Local Government New Zealand (LGNZ), the Insurance Council of New Zealand (ICNZ), and the Parliamentary Commissioner for the Environment (PCE) publishing reports in late 2014 calling for more central government leadership in reducing the risks from natural hazards. Each identified the particular need to address risks to existing settlements which are

increasing due to climate change exacerbating weather-related hazards such as floods and storms, and sea level rise.

6. In addition to the proposed RMA reforms, there are a number of other central government initiatives in the natural hazards management system intended to help address these challenges. Of particular note, the Treasury is supporting LGNZ to investigate establishing a Local Government Risk Agency to offer risk management services to local authorities for their infrastructure. In time this could be a significant body to support good risk management practice, including for planning under the RMA.
7. In this context, we recommend that the most effective way to support the proposed RM reforms and improve council risk management practice is through a staged approach. We recommend the first stage is to develop non-statutory guidance on how to undertake a risk management approach and to work with selected councils in its implementation to ensure it is fit for purpose.
8. At this stage, our assessment is that guidance would cover how to take a proportionate approach to ensure other objectives are met such as development capacity for housing, how to obtain and assess technical hazard and risk information, and ways to engage with local communities. Non-statutory guidance can be developed and updated relatively quickly and will support those councils that have lower natural hazard and risk capability and capacity.
9. After monitoring the effectiveness of the reforms and associated guidance, the need for statutory national direction can then be assessed in stage 2. An important input into this decision will be the development of national direction on development capacity for housing. Another important input will be the assessment of the effectiveness of the natural hazard provisions in the New Zealand Coastal Policy Statement 2010 (NZCPS), which the Minister of Conservation is required to complete by the end of 2016.
10. If you agree to non-statutory guidance, we recommend you inform Cabinet of your decision when they consider a related Cabinet paper such as on a forward agenda of proposals for national direction.
11. We propose to initiate engagement in the second half of 2015 with local authorities, LGNZ, Maori/iwi, business and other stakeholders such as the Property Council and the Environmental Defence Society, on the scope and content of guidance. We propose to report back to you with progress on the guidance late in 2015 and we aim to complete it in 2016.

Situation Analysis

How natural hazards are managed in New Zealand

12. New Zealand is prone to a variety of natural hazards which range in frequency and intensity. Severe geological hazards such as earthquakes and volcanic eruptions are typically infrequent but potentially catastrophic, whereas weather-related hazards such as storms and floods are typically more frequent and are growing in frequency and intensity. Natural hazards are natural processes; they only become a concern when they interact with people and the things they value.
13. New Zealand's overall framework for managing risks from natural hazards is the Civil Defence Emergency Management (CDEM) '4Rs' of risk Reduction, Readiness, Response and Recovery. Under the CDEM framework, the RMA and the Building Act are the primary mechanisms relied upon to achieve risk reduction. A 2012 CDEM Capability Assessment Report showed that overall performance in risk reduction (and recovery) was lower than for the readiness and response parts of the framework.
14. Local government's main natural hazard responsibilities are landuse planning and resource consents under the RMA including the NZCPS, consenting building works under the Building Act and infrastructure strategies, planning and provision (such as flood stopbanks) under the Local Government Act 2002 (LGA). Appendix 1 provides more detail on the legislative framework.

Current natural hazard planning and decision-making

15. The RMA is largely future-focussed legislation where decisions for new land uses and developments are made based on managing potential effects. In addition to local government functions to manage natural hazards specified in the Act, the NZCPS provides some national level objectives and policies to manage coastal hazards (see Appendix 1).
16. In late 2013, we commissioned an analysis of operative and some proposed natural hazard planning documents across New Zealand (see Appendix 2). The main conclusions are:
 - All councils have provisions to manage risks from natural hazards. However, the quality and comprehensiveness of planning is variable.
 - The major weakness across plans is that there are few rules to manage the impact of low likelihood but high consequence hazards such as earthquakes, tsunami and volcanic eruptions. An example of a relevant rule is an exclusion zone on an active surface fault.
 - Planning documents are improving over time (under the existing legislative provisions). In particular, the term 'risk' is widely used, showing that councils are beginning to adopt a risk management approach, although not consistently.
 - Some councils have low natural hazard and risk capability and capacity (including acquiring and using robust technical hazard information).
17. In addition to this analysis of planning documents we examined some case studies to determine how effectively local government can manage the risk from natural hazards in planning and decision making for new developments under the current legislative provisions. The details of case studies on Bexley South (considered retrospectively), the Proposed Auckland Unitary Plan (process ongoing) and Mahia subdivision in Hawkes Bay, are outlined in Appendix 2.
18. Our analysis has found that local government currently has the powers and capacity to:
 - plan for future developments in a way that takes into account the uncertainties of climate change exacerbated hazards and sea level rise
 - require new coastal buildings to be re-locatable, take bonds for their relocation, place the conditions on the property title, and place hazard information on Land Information Memoranda (LIM).
19. For Bexley South, the proposals to amend the subdivision consent provisions (below) would have been likely to prevent the problems with the subdivision.

Proposed Resource Management Reforms for natural hazards

20. To improve local government management of risks from natural hazards across New Zealand, the RMA reform proposals are to:
 - add the "management of significant risks from natural hazards" to section 6
 - amend sections 106 and 220 to enable decision-makers to decline or place conditions on subdivision consents where there are significant risks from any natural hazard.
21. The long term intent is that developments with significant risks from natural hazards that cannot be effectively managed do not get approved.
22. The s.6 matter is intended to give a greater weight to natural hazards in decision-making and to explicitly require a risk approach (as opposed to managing 'effects'). However, a section 6 matter is a high-level principle and decision makers must also consider other objectives. Land use and subdivision consent decisions (that refer to Part 2) will be affected immediately (subject to any transitional provisions), whereas planning documents will only be affected when councils review them.

23. The subdivision consent amendments will affect decision-making immediately (subject to any transitional provisions), and will apply to new developments only. The intent is to:
- ensure that all hazards are considered (rather than the current limited list)
 - ensure that low likelihood but high consequence risks are included (which some court decisions have excluded)
 - provide an improved backstop if natural hazard planning is inadequate.

Managing risks from natural hazards where risks are increasing

24. In late 2014 reports were released by LGNZ, ICNZ¹ and PCE² outlining the increasing risk from natural hazards due to climate change exacerbating weather-related hazards such as floods and storms, and causing sea level rise. The PCE is expected to release a further report in mid-2015 identifying areas of New Zealand's coast vulnerable to sea level rise and the risk to infrastructure.
25. While those stakeholders acknowledge that local government are primarily responsible for managing risks through land use planning, they have all called for more central government leadership in reducing the risks from natural hazards.
26. Local government have difficulties in proactively managing increased risks to existing settlements through normal planning processes (see Appendix 2 for more detail). However, we are not aware of instances where local government have used the full range of powers at their disposal; such as overriding existing land uses to avoid or mitigate natural hazards where this is necessary and justified (we have further research underway on this). Resistance from land owners, largely due to a fear of property devaluations, is understandable.
27. Our understanding at this stage is that local government require robust hazard and risk information and ongoing engagement with their communities as a basis to use these powers. Local government also say that a challenge they face is the high cost of obtaining technical hazard information.
28. There are a number of central government initiatives underway in the natural hazard management system that could have a big impact on local government incentives and risk reduction. Some important initiative are below:
- The Treasury is supporting LGNZ to investigate establishing a Local Government Risk Agency to offer risk management services to local authorities for their infrastructure. In time it could be a significant body to support good risk management practice, including for planning under the RMA.
 - The Treasury is to review the arrangement where central government provides 60% of the funding to repair and replace local government infrastructure when damaged by hazards. Any change to the arrangement would change the incentives for local government risk management practice.
 - Treasury is also undertaking a review of the Earthquake Commission (EQC) and its legislation, and the results may change the way in which the EQC Act contributes to natural hazard management. Cabinet are aiming to consider a draft public discussion document in May.
 - Department of Internal Affairs (DIA) is currently assessing local authorities' draft 30-year infrastructure strategies, introduced by the Local Government Act 2002, Amendment Act (No 3) 2014.

¹ *Managing natural hazard risk in New Zealand – towards more resilient communities*, LGNZ, October 2014, and *Protecting New Zealand from natural hazards* ICNZ, November 2014. Your office received copies of both papers when they were released.

² *Changing climate and rising seas: Understanding the science*. PCE, November 2014

- Under the Civil Defence Emergency Management (CDEM) Act 2002, the National CDEM Strategy is to be reviewed by the end of 2016. The review is a good opportunity to clarify central government's leadership and coordination roles (including individual agencies) in natural hazard risk reduction.
 - The NZCPS requires the Minister of Conservation to assess the effectiveness of implementing the NZCPS, including the natural hazard related provisions, by the end of 2016. This will provide a timely assessment of the existing statutory natural hazard national direction.
29. Cabinet directed MfE to consider what national-level direction or guidance under the RMA (statutory or non-statutory) may be required to ensure that risks from natural hazards are managed (Cab Min (13) 15/8 refers).
30. Appendix 3 outlines the basics of a risk management approach and shows a good example of community engagement to determine community preferences. As you have indicated you do not wish to define "risk" in relation to natural hazards in the Act, (14-B-01178 refers) we have focused our advice below on alternative options to support effective implementation.
31. As local government is already beginning to take a risk management approach to fulfil their existing functions, and as the proposed natural hazard legislative provisions are unlikely to be controversial, this briefing is focussed on direction or guidance to support the legislative reforms.

Advice

Options for national-level direction or guidance under the RMA

32. Based on our research to date, the key remaining challenges are:
- to balance management of "significant risk" with other objectives such as ensuring appropriate development capacity is available for housing
 - to make quality decisions based on robust technical hazard and risk information and informed community preferences
 - to make durable decisions that are clear and accepted over time
 - some councils have low natural hazard and risk capability and capacity resulting in variable risk management approaches being taken
 - councils have difficulties in managing increasing risks to existing settlements but these are complex issues (e.g. they do not appear to have used all the powers at their disposal) and the effectiveness of existing national direction under the NZCPS is yet to be analysed in 2016).
33. Looking across New Zealand, there is a wide range of hazards, current risk levels and specific situations being faced in different locations. This means that:
- the legislative reforms are unlikely to improve practice quickly and across the board without further support
 - setting nationally-consistent risk levels would be technically complex and perhaps unworkable
 - any direction would be largely defining a risk management process.
34. However, we do consider that taking a risk management approach with robust technical hazard and risk information and ongoing engagement with local communities is an essential basis for addressing natural hazards risks to future developments or to existing settlements.
35. There are three broad options available for national-level direction or guidance:
- Option 1: No guidance to support the RM legislative proposals (status quo)

- Option 2: Non-statutory guidance
- Option 3: Statutory direction, such as a National Policy Statement (NPS) and/or National Environment Standard (NES) or national planning template provisions.

36. These options have been broken down further depending on the degree of comprehensiveness and prescriptiveness. For example, statutory direction (option 3) could consist of a high-level NPS or consist of a NPS combined with an NES. The narrative below provides an assessment of the broad options, whereas the detailed assessment is in Appendix 4.

Status quo (option 1)

37. Under the status quo, there would be no further direction or guidance beyond the existing provisions in the NZCPS and the proposed legislative reforms to the RMA. There is likely to be uncertainty created by the introduction of the term 'significant risk' to the RMA that will take time to be clarified.

38. Councils will need to effectively balance natural hazards risk management with other objectives if the overall RMA reform objectives are to be met. Without further direction or guidance to assist a proportionate approach is taken there is a risk of unintended consequences such as unnecessarily restricting development capacity for housing.

Non-statutory guidance (option 2)

39. Under this option non-statutory guidance produced by MfE would be developed for local authorities on how to take a risk management approach.

40. The main benefits of non-statutory guidance are that:

- it allows for flexibility in local implementation to meet local variability of risks from hazards and other local objectives
- it can be delivered in a timely manner to support the RM reforms and content can be staged and/or be updated quickly
- it does not impose additional costs on councils already undertaking good practice.

41. The main weakness is that certainty of effectiveness is dependent on the uptake by councils.

42. We consider that detailed guidance is necessary to effectively improve natural hazards and risk practice, especially those councils with low capacity and capability. Detailed guidance could contain how to undertake an effective and proportionate risk management approach, guidance on robust technical hazard and risk information and ways to engage with local communities.

43. We consider that any non-statutory guidance would require working with councils and stakeholders to develop it and especially to ensure it is implemented effectively.

Statutory direction (option 3)

44. Under this option statutory direction (such as an NPS and/or NES or national planning template provisions) would be developed for local authorities on how to take a risk management approach.

45. The main benefit of statutory direction is that it requires councils to implement it.

46. The main weaknesses of statutory direction are that:

- due to the variability of hazards, risk levels and situations across New Zealand, direction would likely be relatively high-level (e.g. NPS objectives and policies) and largely around process (and not nationally-set risk levels for example)
- in order to support councils with low capability and capacity further non-statutory guidance would be required to support its implementation

- at this stage we do not have sufficient evidence on the root causes of the difficulties that councils face in using their existing powers or on the effectiveness of existing national direction.

47. In addition, statutory direction:

- does not guarantee it is implemented consistently or that outcomes are consistently achieved
- it would likely impose costs on those councils that are already undertaking good practice
- It will take time to develop due to the statutory development and consultation requirements and is unlikely to be able to support the RM reforms quickly
- It cannot be updated and adapted easily.

Recommended option – detailed non-statutory guidance (option 2)

48. As a first stage, we recommend that you agree to MfE producing detailed non-statutory guidance for councils on how to take a risk management approach to support the implementation of the legislative reforms.
49. We consider that the RM reforms provisions will provide the required legislative mandate to improve council practice, and that further statutory requirements would not add significant benefit at this stage, and may impose unwarranted costs on councils. Non-statutory guidance would play an important role in assisting accurate interpretation of the RM reform provisions and promoting improved performance.
50. We also consider that working with councils to develop and implement the guidance is important to ensure it is taken up effectively. For example, MfE could provide general support such as workshops with council officers, as well as working closely with selected councils who are undergoing planning changes.
51. If you agree to non-statutory guidance, we recommend MfE engages with local authorities, LGNZ, Maori/iwi, business and other stakeholders, such as the Property Council and the Environmental Defence Society, on the scope and content of the non-statutory guidance.
52. However, our assessment to date suggests that the guidance would likely include:
- objectives and principles for balancing risk management (and 'significant risk') with other objectives, such as ensuring appropriate development capacity is available for housing
 - risk management processes, including to determine 'significant risk'
 - principles and objectives for engaging with communities and determining community preferences
 - processes and criteria for determining 'intolerable', 'tolerable' and 'acceptable levels' of risk at the local level
 - quality criteria for technical hazard information, including acquiring and communicating information, incorporating new information and dealing with uncertainty
 - examples of good council practice.
53. We will ensure the guidance is aligned with other guidance initiatives such as updating MfE's 'Preparing for climate change' guidance for local government (including sea level rise projections), as well as a possible national land hazard assessment framework and a national geotechnical database (led by MBIE).
54. Statutory national direction can still be considered in stage 2 after monitoring the initial implementation of the RM reforms and the usefulness of the non-statutory guidance.

Risks and Mitigations

55. The largest risk is the difficulties that local government face in reducing risks to existing settlements, as publicised by LGNZ and ICNZ. Property rights and owners' expectations are a key issue here.
56. The weakness of any direction or guidance (statutory or non-statutory), is that it cannot directly address underlying existing use rights. However, undertaking a risk management approach with robust technical hazard information and engaging with the local communities is an essential first step in managing such risks.
57. As local government are already engaged in risk management approaches to natural hazards under their current functions and responsibilities, we recommend working with them in implementing the legislative reforms with non-statutory guidance as the best first step.
58. Continuing to monitor practice and the effectiveness of the reforms allows for statutory direction to be considered later with better information, including from the assessment of the natural hazard provisions in the NZCPS that is required by the Minister of Conservation by the end of 2016.
59. As LGNZ have expressed a willingness to work with central government and for the process to be "nationally led and supported, but not nationally imposed" we believe they will support this staged approach
60. Following her November 2014 report on the science of sea level rise, in mid-2015 the PCE is due to release a report on a high-level national assessment identifying areas of New Zealand coast vulnerable to sea level rise and the risk to infrastructure. The report will likely attract media and stakeholder attention. It would be useful to announce your decision on direction or guidance under the RMA before the report is released and we will update you when we have more information on timing and messages.

Legal Issues

61. The Legal Team have reviewed this briefing and have not identified any significant legal issues.

Financial, Regulatory and Legislative Implications

62. If you agree to proceeding with detailed non-statutory guidance (option 2), no statutory national direction will be provided under the RMA for natural hazards at this time.
63. Non-statutory guidance would be one of the 6-7 priorities for national direction topics to be potentially funded in Budget 2015. Our preliminary estimate is that direct costs will be about \$300,000 over 1.5 years to deliver non-statutory guidance.
64. There are no other direct financial, regulatory or legislative implications from this advice.

Consultation

65. MfE has consulted with the Ministry of Business, Innovation and Employment, the Ministry for Civil Defence and Emergency Management, Treasury, Department of Internal Affairs, Department of Conservation, Land Information New Zealand, Canterbury Earthquake Recovery Authority, Department of Prime Minister and Cabinet, and the Earthquake Commission. All agencies that responded were generally supportive of the advice.

Next Steps

66. If you agree to develop non-statutory guidance under the RMA, we recommend that MfE engages with local authorities, LGNZ, Maori/iwi, business and other stakeholders, such as the Property Council and the Environmental Defence Society, in the second half of 2015 on the scope and content of the non-statutory guidance. We will provide you with

further advice on progress with the guidance in late 2015, with the aim of completing it in 2016.

67. If you agree to non-statutory guidance, we recommend you inform Cabinet of your decision when they consider a related Cabinet paper, for example on a forward agenda of proposals for national direction or on the implementation of the RM reforms.

68.

Out of scope

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Recommended Actions

We recommend that you:

- a) **Note** that Cabinet directed the Ministry for the Environment to consider what national-level direction or guidance (statutory or non-statutory) may be required to ensure that significant risks from natural hazards are managed under the Resource Management Act 1991 (Cab Min (13) 15/8 refers) in addition to the proposed legislative reforms
- b) **Note** that proposed legislative changes to the Resource Management Act 1991 are to require a risk management approach is taken for all natural hazards, by adding to section 6 the "management of significant risks from natural hazards" as a matter of national importance, and by amending sections 106 and 220 to enable the consideration of risks from any natural hazard in subdivision consents
- c) **Agree** that direction/guidance is staged to support the implementation of the resource management legislative reforms, with the first stage being detailed non-statutory guidance developed by the Ministry for the Environment for local authorities on how to undertake a risk management approach to natural hazards (option 2), to be delivered in 2016

Yes / No

- d) **Agree** that the Ministry for the Environment engage with local authorities, LGNZ, Maori/iwi, business and other stakeholders, such as the Property Council and the Environmental Defence Society, on the scope and content of the non-statutory guidance, and report back to you late in 2015

Yes / No

- e) **Note** that the Ministry for the Environment expects local government to continue to face challenges in managing increasing risks to existing settlements but that taking a good risk management approach with robust technical hazard and risk information and ongoing engagement with local communities is an essential basis for action
- f) **Note** that the Ministry for the Environment will continue to monitor local authority practice following the reforms and statutory national direction can still be considered at a later date
- g) **Agree** to forward a copy of this briefing to the Minister for Climate Change Issues for his information.

Yes / No

Peter Brunt
Director, Resource Management System
Ministry for the Environment

Date

Hon Dr Nick Smith
Minister for the Environment

Date

Minister's feedback on quality of briefing note:	1	2	3	4	5
1 = Was not satisfactory	2 = Fell short of my expectations in some respects			3 = Met my expectations	
4 = Met and sometimes exceeded my expectations			5 = Greatly exceeded my expectations		

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Appendix 1: Legislative and policy framework for managing natural hazards

Summary of existing legislative framework

1. There are several pieces of legislation that govern natural hazard risk management in New Zealand. This is the 'status quo' legislative framework, and includes the proposed resource management reforms:
2. The **Resource Management Act 1991** (RMA) is a future-focussed piece of planning legislation that provides for the regulation of land use, including for the purpose of natural hazard management policy, planning and decision-making. The RMA tasks regional and territorial authorities with avoiding and mitigating natural hazards through policies, plan provisions and resource consent decision making.
 - a. The **RM reform proposals** are to add the "management of significant risks from natural hazards" as a matter of national importance to section 6, and to amend sections 106 and 220 to enable consideration of significant risks from any natural hazards in subdivision consents.
 - b. The **New Zealand Coastal Policy Statement 2010** (NZCPS) is a National Policy Statement under the RMA which contains a number of natural hazard related objectives and policies that must be given effect to in regional policy statements, regional plans (voluntary) and district plans. The most relevant are summarised below.
 - **Objective 5:** To ensure that coastal hazard risks taking account of climate change, are managed by:
 - locating new development away from areas prone to such risks;
 - considering responses, including managed retreat, for existing development in this situation; and
 - protecting or restoring natural defences to coastal hazards.
 - **Policy 1(2)(d):** Recognise that the coastal environment includes areas at risk for coastal hazards
 - **Policy 3:** Adopting a precautionary approach where
 - (1) effects of proposed activities are uncertain, unknown or little understood but potentially significantly adverse and
 - (2) use and management of coastal resources are potentially vulnerable to effects of climate change
 - **Policy 24:** Identification of coastal hazards
 - **Policy 25:** Subdivision, use and development in areas of coastal hazard risk over at least the next 100 years, including avoiding increasing the risk of harm
 - **Policy 26:** Natural defences against coastal hazards
 - **Policy 27:** Strategies for protecting significant existing development from coastal hazard risk, including reducing risk
3. The **Building Act 2004** sets performance requirements for new buildings and building work, including requirements for the performance of buildings in earthquakes.
4. The **Civil Defence Emergency Management Act 2002** (CDEM Act) establishes the CDEM '4Rs' framework of risk Reduction, Readiness, Response and Recovery, of which the RMA and BA are relied upon for risk Reduction. The National CDEM Strategy and National CDEM Plan are mandated by the Act. The CDEM Act also sets out the duties, functions and powers of central government, local government, emergency services, lifeline utilities and the general public when emergencies are declared.

5. The **Local Government Act 2002** (and 1974) (LGA) provides the general framework, obligations, restrictions and powers under which local authorities operate. The 2014 amendments now require local authorities to “provide for the resilience of infrastructure assets by identifying and managing risks relating to natural hazards and by making appropriate financial provision for those risks” 101B(3)(e). Also 30-year infrastructure strategies are to be provided.
6. The **Earthquake Commission Act 1993** (EQC Act) sets the parameters for insurance cover for damage to land, residential buildings, and home contents in certain circumstances following natural hazard events.
7. The **Local Government Official Information and Meetings Act 1987** extends freedom of information requirements to local authorities and provides for public notification of, and access to, meetings of local authorities. It also sets obligations on territorial authorities for the issuing of Land Information Memoranda (LIM).
8. Other relevant legislation is
 - The Environment Act 1986
 - The Forest and Rural Fires Act 1977
 - The Land Drainage Act 1908
 - The River Boards Act 1908
 - The Soil Conservation and Rivers Control Act 1941.

Non-statutory guidance to manage natural hazards

9. A range of non-statutory guidance is also available. The guidance from Standards New Zealand and technical guidance from, for example GNS Science, are not included here. Relevant MfE guidance is:
 - a. ‘Planning for the development on land on or near active faults’ (2003)
 - b. ‘Climate Change Effects and Impacts Assessment’ (2008) and summary publication for local government
 - c. ‘Coastal Hazards and Climate Change’ (2008) and summary publication for local government
 - d. ‘Tools for Estimating the Effects of Climate Change on flood flow’ (2010) and summary publication for local government
 - e. Quality Planning ‘Natural hazards’ guidance note (2013).

Appendix 2: Review of current natural hazard planning under the RMA

Local authority natural hazard functions under the RMA

1. Local authorities are required to 'avoid or mitigate natural hazards' through the following RMA functions:
 - territorial authorities 'control any actual or potential effects of the use of land' (section 31)
 - regional councils 'control the use, development, or protection of land' (section 30)
 - regional policy statements (RPS) must state the local authority responsible for specifying the objectives, policies, and methods for the control of the use of land (or defaulting to the regional council, section 62).

Operative planning documents across New Zealand

2. We have undertaken an analysis of operative natural hazard planning documents across New Zealand (62 district/city plans, 7 unitary plans and 14 RPSs). The main strengths and weaknesses are below.

	Strengths	Weaknesses
Risk definition	Nearly all plans include the term 'risk'. When defined, common concepts are used (e.g. damage, potential effects)	Term often not defined. When defined, standard terms are not used.
Risk approach	Flooding and landslides are particularly well covered in RPSs and rules (probably because they are high likelihood hazards)	Risk based approach not well used Several low likelihood/high consequence hazards (volcanic and tsunami in particular) have very few rules 38% of plans have rules for active faults (this is assumed to be low given NZ's seismic environment)
All hazards approach	High % of district plans contain all-hazard objectives and policies	Many plans consider single hazard events, but not the subsequent hazards that may occur from that single event (cumulative hazards).
Hazard mapping	District plans lead the mapping of natural hazards, with flood extents being mapped most often.	A wide range of scales and formats exist
New information	-	10% of district plans and no RPS's have a clear process for the inclusion of new or updated hazard or risk information

Good practice planning examples

3. Our analysis also shows that under the same legislative provisions planning is improving over time, as demonstrated in more recent and proposed Regional Policy Statements and District Plans. Some examples of good practice are below.

	Plan	Good practice example
Risk definition and Risk approach	Proposed Waikato RPS	Includes definitions of primary hazard zone, residual risk, residual risk zone, natural hazard risk (including intolerable, tolerable and acceptable), high risk flood zones.
All hazards approach	Gisborne District Plan, Tasman Resource Management Plan	Coastal hazards are mapped as one, with one set of rules applying (cumulative hazards).
Hazard mapping	Thames-Coromandel District Plan	Flood hazard maps indicating depth, velocity and potential harm to property and life.
Roles and responsibilities	Wellington RPS	Clear identification of hazard management responsibilities between regional and territorial authorities.
Uncertainty	Tasman Resource Management Plan	Uncertainty in location of fault rupture explicitly managed in maps and rules.
Existing use rights	Proposed Waikato RPS	Method 13.2.4 assigns responsibility to the regional plan to manage risk to existing developments.

Case studies of planning for future developments

- Some selected case studies of past and existing council practice in planning for future developments are illustrated below.

Out of scope

Out of scope

Managing risks for existing settlements

14. A range of examples have been analysed where local government has managed the risks to existing settlements, under normal planning conditions (i.e. not in emergencies).
15. Section 10 of the RMA provides for "land to be used in a manner that contravenes a rule in a district plan or proposed district plan" if the effects are the same or similar. Regional councils can override these existing uses to control the use of land to avoid or mitigate natural hazards, but we are not aware of examples where this power has been used, perhaps because of perceived resistance from affected parties.
16. Coastal hazard zones, for example, can be created taking into account the uncertainties of sea level rise and climate change exacerbated coastal hazards, and information about coastal hazards can be placed on LIMS. There will likely be community resistance but information is an important step even if existing use rights continue. The recent court case⁴ involving the Kapiti Coast District Council's decision to place hazard information on LIMS upheld the council's decision but suggested improving the communication and caveating the information based on its quality.
17. In practice, when existing buildings are in hazard zones such as coastal areas, they are able to be repaired and essentially rebuilt if there are on the same building 'footprint'. Often the rebuilt building is required to be able to be relocated in the future if coastal erosion advances.

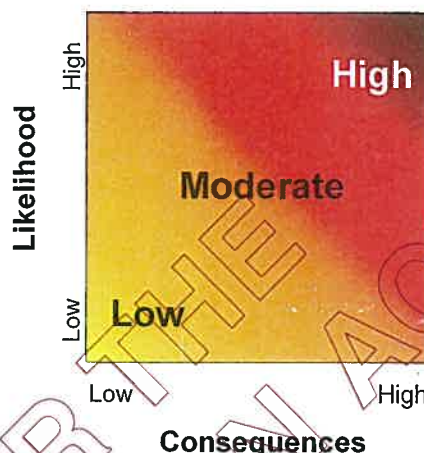
³ Mahanga E Tu Inc v Hawkes Bay RC [2014] NZEnvC 83

⁴ Weir v Kapiti Coast District Council [2013] NZHC 352

Appendix 3: Guidance on taking a risk management approach

A risk management approach

1. Risk is a combination of the likelihood of hazards occurring and the consequences when they do occur. Large earthquakes in Fiordland or Wellington, for example, are both unlikely this year but the consequences, and hence the risks to be managed, are very different.
2. Risk management involves identifying and assessing risks and making decisions on whether to avoid, mitigate, transfer and/or accept the risk (or part of the risk).
3. A good risk management approach needs robust technical hazard information, and engagement with experts and the local communities in decisions about their region.
4. The decisions made will depend on the specific risks communities face, their 'appetite' for risk, the benefits to be gained from accepting risks, and the costs of avoiding or mitigating them. Communities need to decide on what risks are 'acceptable', 'tolerable' and 'intolerable' and what to do about them.



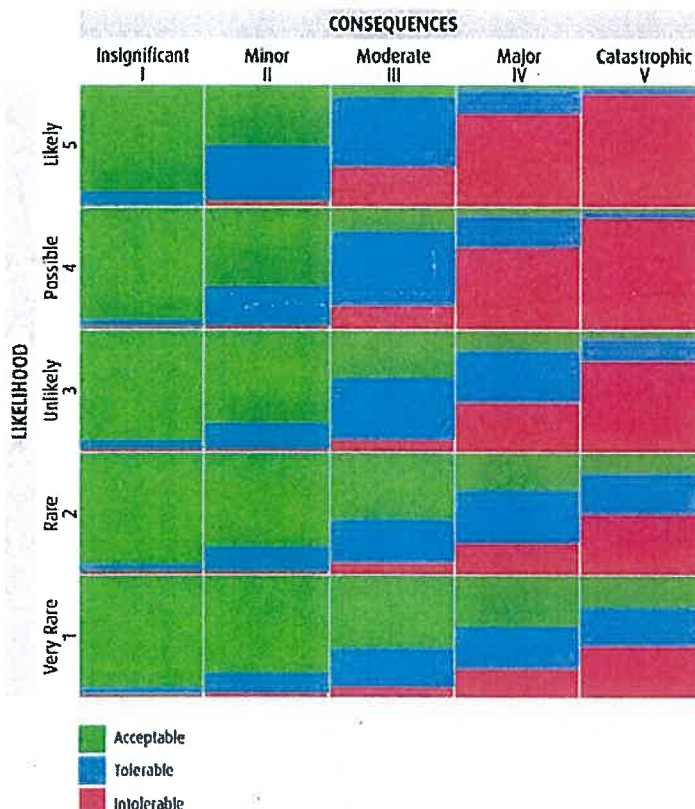
Example of Bay of Plenty Regional Council community engagement process

5. In early 2014, the Bay of Plenty Regional Council engaged with their community on the proposed variation to the Proposed Bay of Plenty Regional Policy Statement. This example is just illustrating one approach to part of the process. The following meanings were used for risk terms:
 - Acceptable - "This is part of life and I can put up with that"
 - Tolerable - "My family could recover in time if we had to" (with the understanding that where possible action to reduce risk would be undertaken)
 - Intolerable - "This risk is too great, it just can't be justified".

6. Using scenarios of the likelihood of hazards occurring and the consequences that could happen, people participating expressed their risk tolerances – as expressed in the accompanying table. (Note that these are not statistically representative of the entire community.)

7. An example of 'moderate' consequences is:

In your community of 1,000 homes about 60 - 100 houses are unliveable, the natural event knocks out power and water networks. For a week daily life revolves around getting bottled water and queuing up at the portaloos. Some businesses can't open. The natural event injures up to 100 people. 1% of GDP or annual income lost.



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Appendix 4: National-level direction or guidance under the RMA – assessment of options

Options	Status quo	Non-statutory RMA guidance for councils			Statutory direction under the RMA for councils	
		Degree of intervention				
	OPTION 1	OPTION 2A	RECOMMENDED: OPTION 2B	OPTION 3A	OPTION 3B	
	RMA (including reform amendments) and the NZ Coastal Policy Statement 2010	High-level information on RM reform amendments, existing direction/guidance and principles of a risk management approach <i>(Eg, pamphlet or web page)</i>	Detailed technical guidance on how to undertake an effective and balanced risk management approach <i>(Eg, good practice/technical guidelines)</i>	High-level direction on what a risk management approach should achieve <i>(Eg, NPS)</i>	Option 3a + specify desired outcomes and methods to achieve outcomes <i>(Eg, NPS with supporting NES, national planning template or s. 360 regs)</i>	
Content of option	<ul style="list-style-type: none"> 'management of significant risk from natural hazards' as a section 6 matter Control land use (RCs), or the effects of land use (TAs), for the purpose of mitigating or avoiding natural hazards decline or place conditions on subdivision consents where there are significant risks from natural hazards 	<ul style="list-style-type: none"> Overview of relevant RM reform legislative amendments Principles of a balanced risk management approach Illustrate the wider framework of relevant legislation, regulation and existing guidance 	<ul style="list-style-type: none"> Objectives and principles for balancing risk management with other objectives Risk management processes, including to determine 'significant risk' Process and criteria for locally setting community accepted risk levels Quality criteria for technical hazard and risk information Good council practice examples 	Objectives and policies for: <ul style="list-style-type: none"> managing natural hazard risks balancing risk management with other objectives locally determining 'significant risk' and setting community accepted risk levels quality of technical hazard information used to support decision-making 	Content of option 3a, supported by: <ul style="list-style-type: none"> Risk management methodology National risk baselines, including 'significant risk' and acceptable risk levels Standards for technical hazard information 	
Objectives	1. Balancing risk management (and significant risk) with other objectives	N/A	X	✓✓	✓	✓
	2. Making quality decisions based on robust technical information and informed community preferences	N/A	X	✓	✓	✓
	3. Making durable decisions that are clear and accepted over time	N/A	✓	✓✓	✓	✓
Criteria	Flexibility* (implementation variability)	N/A	✓✓	✓✓	✓	X
	Timeliness (delivery & implementation)	N/A	✓✓	✓✓	✓	X
Overall benefits	N/A	+	+++	++	+	
Costs to CG (development/administration)	N/A	-	-	---	---	
Costs to councils (implementation)	N/A	≈	≈/ /	--	--	
Strengths	<ul style="list-style-type: none"> No additional direct cost to CG No additional direct cost to councils. 	<ul style="list-style-type: none"> Timely and flexible: can be developed and updated quickly Very low development cost to CG by using existing direction/guidance Very low implementation costs for councils – will not impose unnecessary costs on councils already undertaking good practice 	<ul style="list-style-type: none"> Provides technical support on how to undertake balanced risk management Allows for flexibility in local implementation to meet local variability of hazards and associated risks Flexibility in delivery: can be staged to ensure timely delivery and updates Will not impose unnecessary costs on councils already undertaking good practice 	<ul style="list-style-type: none"> Can allow for flexibility in local implementation to meet local variability of hazards and associated risks Certainty of implementation in local and regional decision-making Timely delivery to support RM reform amendments 	<ul style="list-style-type: none"> Certainty of implementation in local and regional planning and decision-making Timely implementation: content could take effect immediately (rather than having to be applied through plan changes) 	
Weaknesses	<ul style="list-style-type: none"> Low council capacity and capability will not be supported Indirect costs to councils will likely increase over the long-term if the objectives are not realised 	<ul style="list-style-type: none"> Limited effectiveness: is dependent on the uptake and interpretation by councils Will not provide much additional support to councils with limited capability and/or capacity 	<ul style="list-style-type: none"> Effectiveness is dependent on the uptake by councils. Development timing – development will be comprehensive (although no statutory processes to be followed) Medium-high development costs to CG 	<ul style="list-style-type: none"> Uncertain effectiveness as objectives/policies can be open to interpretation - supporting implementation guidance will likely still be required Delayed effectiveness: a plan change will likely be required Will not ensure councils balance risk management with other objectives Will not help councils with low capacity or capability in undertaking risk management High development costs to CG. High implementation costs to councils if required to use Schedule 1 process. May also impose unnecessary costs on councils that are already undertaking good practice 	<ul style="list-style-type: none"> National consistency does not allow for flexibility to meet local variability in hazard risks and balancing objectives Lengthy delivery timing – comprehensive development and statutory processes required. Cannot be staged for timely delivery or updated quickly. Very high development costs to CG Very high implementation costs to councils if required to use Schedule 1 process. May also impose unnecessary costs on councils that are already undertaking good practice 	
Key:	<ul style="list-style-type: none"> ☑ = The option can somewhat achieve the objective/meet the criteria ☑✓ = The option can achieve the objective/meet the criteria X = The option cannot achieve the objective/criteria N/A = it is not possible to assess the status quo against the objectives CG = Central government ↑ = incremental overall benefit gain for option compared to status quo ↓ = incremental overall cost for option compared to status quo ≈ = neutral or unknown impact 					

*Flexibility to meet local variability of hazards and other objectives

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To: Hon Dr Nick Smith, Minister for the Environment

Natural Hazards: National guidance under the RMA

Other Dept Tracking Number:	-	MfE Tracking Number:	15-B-03191
Date Submitted:		MfE Priority:	Non-urgent
Security Level:	IN CONFIDENCE	Number of Attachments:	2
Action Sought:	Approval/Agreement Forward to others	Response Needed by:	22 October 2015

Ministry for the Environment Contacts

Position	Name	Telephone		1st Contact
		(cell)	(work)	
Principal author	S.9(2)(a)	-	-	✓
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Director	Amanda Moran	-	-	

Executive Summary

1. Following your August 13 announcement at the Environmental Defence Society conference of national-level guidance on natural hazards under the Resource Management Act 1991 (RMA), this briefing:
 - advises you on options for national-level guidance, including indicative content and timing for a National Policy Statement (NPS)
 - seeks your agreement to a 2015/16 work programme on natural hazards.
2. We consider that national direction, including a NPS, on managing natural hazards is warranted due to national-level costs and benefits involved (e.g. Crown liability and contingent liability), and significant technical complexity – of hazards and their effects as well as the risk-based approaches to manage them.
3. Key stakeholders such as Local Government New Zealand and the Insurance Council of New Zealand have called for more central government leadership on managing natural hazards and we consider that a NPS is generally supported.
4. Managing coastal hazards is perhaps the most complex area of hazard management, with climate change and sea level rise projections over the 100 year timeframe mandated by the New Zealand Coastal Policy Statement. This has been highlighted by the interest shown from affected communities by local government management proposals in coastal areas such as Christchurch and the Kapiti Coast.
5. As you know, Cabinet recently agreed to remove the coastal hazard provisions from the streamlined Christchurch Replacement District Plan process to allow Christchurch City Council and affected stakeholders more time and opportunity to engage with and resolve the issues. We consider that once implemented, our proposed work programme will help with the types of issues that Christchurch are experiencing.

6. We seek your agreement to progress the following work programme for the 2015/16 year: a National Policy Statement;

out of scope

7. As the first step in developing a NPS, we recommend that we report back to you in February 2016 with a short issues paper (5-8 pages) to seek and consider comments from selected stakeholders on a NPS. We can then issue a proposed NPS for consultation after Royal Assent of the proposed RMA reform Bill. This will allow you to progress a NPS while the legislative reforms are progressing.

Situation Analysis

8. We have provided a brief summary of the impacts and costs from natural hazards in New Zealand in Appendix 1. We also provided you with more detail in the natural hazards briefing in May [15-B-00248 refers].

Role of the Resource Management Act 1991 in managing risks from natural hazards

9. A general government policy is that managing hazard risk is best undertaken as close as possible to those who create or bear the risk. A framework for this policy is delivered through the Civil Defence Emergency Management (CDEM) Act 2002, and the '4Rs' approach of risk Reduction, and emergency Readiness, Response and Recovery.
10. The Resource Management Act 1991 (RMA) and the Building Act 2004 are the primary regulatory mechanisms relied upon to reduce risks from natural hazards and hence to reduce the costs and impacts of hazards when they occur.
11. The main role that the RMA plays is in land-use planning, by:
 - Avoiding new development in hazard prone areas - such as keeping dwellings away from landslide prone land, siting hospitals away from fault lines, or aged care facilities out of tsunami inundation zones as it is difficult for the elderly to evacuate
 - Mitigating risks to new developments - such as requiring adequate vehicle egress when consenting subdivisions to allow for timely flood or tsunami evacuation, or requiring developments to have raised floor levels in flood hazard zones or particular foundations in liquefaction hazard zones
 - Remedying existing risks such as enabling managed retreat from coastal hazard zones when and where it is necessary by for example, allowing dwellings to be moved within the same section as a permitted activity (e.g. Waitomo District Plan), or not allowing a dwelling to be rebuilt in the same place when it is destroyed by the sea. Some proposed plans (e.g. Bay of Plenty Proposed Regional Policy Statement) propose to manage existing use rights in high hazard areas but these are not yet operative.
12. Other RMA roles are enabling appropriate hard protection structures in the Coastal Marine Area, provisions to respond to emergencies, and enabling efficient recovery after hazard events such as ensuring adequate disposal facilities and rules for managing demolition or liquefaction waste.
13. A range of objectives and policies to manage coastal hazards under the RMA already exist in the New Zealand Coastal Policy Statement 2010 (NZCPS), prepared by the Minister of Conservation.
14. Investment in risk reduction and mitigation through the RMA needs to balance not only the costs when natural hazards occur, but also the benefits gained from taking risks. The distribution of the costs and benefits among different parties is also an important consideration.

Proposed Resource Management Reforms for natural hazards

15. As you know, the RMA reform proposals are to:
 - add the “management of significant risks from natural hazards” to section 6
 - amend sections 106 and 220 to enable decision-makers to decline or place conditions on subdivision consents where there are significant risks from any natural hazard (rather than a limited list of hazards).
16. The amendments explicitly mandate a risk management approach for all natural hazards. The long term intent is that developments with significant risks from natural hazards that cannot be effectively managed do not get approved, as well as encouraging appropriate management of existing significant risks.
17. In addition to the proposed legislative reforms, Cabinet directed the Ministry to consider what national-level direction or guidance under the RMA (statutory or non-statutory) may be required to ensure that risks from natural hazards are managed [CAB Min (13) 15/8 refers].
18. In May, we briefed you on options for natural hazards national direction in addition to the proposed reforms [15-B-00248 refers]. We recommended a staged approach to intervention - starting with detailed non-statutory guidance to support the legislative reforms and awaiting the outcome of the effectiveness assessment of the NZCPS by the Minister of Conservation in 2016.
19. We have since done further work to understand the state of the planning system for natural hazards and consider that a NPS is warranted.

Problem with natural hazards management under the RMA

20. The analysis below is largely based on operative planning documents across New Zealand undertaken in 2014 and 2015 (including Regional Policy Statements, regional plans, unitary plans and district plans). However, the proposed planning documents that we have looked at indicate that risk management practice is improving but that the next round of operative planning documents (‘second generation plans’) are likely to remain variable in quality and consistency.
21. In general, the following are currently being managed relatively well:
 - Frequent hazards e.g. 97% of District Plans have rules for flooding and 90% have rules for landslides
 - New developments especially greenfield developments e.g. 90% of planning documents have policies on locating new development away from coastal hazard areas.
22. In general, the following are currently not being managed well:
 - Infrequent significant hazards e.g. only 38% of District Plans have rules for active faults and only 4% of planning documents include avoidance or mitigation measures for tsunami
 - Cumulative hazards (how multiple hazards impact on the same location) e.g. only 12% of District Plans include cumulative hazards.
23. The main underlying issue is capability to manage the technical nature and complexity of:
 - The range of natural hazards and their impacts (e.g. uncertainties with climate change and long return periods, the range of possible hazard scenarios, geophysical versus weather-related hazards, cumulative hazards)
 - The risk-based approaches to manage hazards (e.g. assessing risk, engaging the public with technical information, the costs and benefits of different treatment options can be diffuse and difficult to attribute to particular parties).

24. Another underlying issue is that councils are wary of possible legal challenge and expense when putting together hazard information that has inherent uncertainties and/or proposing management measures that are likely to be unpopular, particularly for infrequent hazards or those that pose less risk now but will grow over time.

Stakeholder perspectives

25. There is considerable interest about how natural hazards are managed in New Zealand and it is particularly strong from affected communities given the potential impact on people and property. Recent examples are from affected communities in coastal areas such as Christchurch and the Kapiti Coast.
26. Recent stakeholder reports from Local Government New Zealand (LGNZ), the Insurance Council of New Zealand (ICNZ) and the Parliamentary Commissioner for the Environment (PCE)¹ have generally called for more central government leadership, particularly where risks are increasing from coastal hazards.
27. We understand that the PCE is to release a follow-up report on the coastal hazards we face and a high level assessment of our vulnerabilities (expected in November). The purpose is to be largely educative.

Advice

28. We have provided advice on why national level guidance, including a NPS, is warranted in Appendix 2. We have also briefly outlined other available options. Our recommended option is below.

Recommended option

29. We consider that a NPS is warranted and we recommend the following package of work.

Work element	Indicative timing	Problem being addressed
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Out of scope

¹ *Managing natural hazard risk in New Zealand – towards more resilient communities*, LGNZ, October 2014; *Protecting New Zealand from natural hazards*, ICNZ, November 2014; *Changing climate and rising seas: Understanding the science*, PCE, November 2014.

National Policy Statement	2018	<u>Clear management of national level costs/benefits</u> - what risk is 'significant' and balancing risk management with other objectives <u>Capability: technical management approach</u> - assessing cumulative hazards and risk, dealing with uncertainty, community engagement and determining risk tolerance, assessing costs/benefits of treatments etc.
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Out of scope

30. In time, we envisage provisions under the proposed National Planning Template to be necessary to achieve further consistency where it is warranted (e.g. definitions, terminology, and hazard mapping requirements).

Indicative content of a National Policy Statement

31. Based on our analysis to date, indicative content for a NPS could cover:

- a) A process/method on how to undertake a risk management approach including:
 - i. guidance on 'significant risk' and balancing risk management with other objectives, such as ensuring appropriate development capacity is available for housing
 - ii. quality criteria for technical hazard information, such as dealing with uncertainty, and communication
 - iii. engaging with communities and determining community preferences, such as determining 'intolerable', 'tolerable' and 'acceptable levels' of risk
 - iv. applying cost-benefit assessments
- b) Specific objectives and policies e.g. location of infrastructure in relation to hazards areas
- c) The relationship with the NZCPS natural hazard objectives and policies (and any other national direction as appropriate)
- d) Monitoring and review provisions.

Indicative process and timing for a National Policy Statement

32. The following are the main initial steps to develop a NPS along with recommended timing in relation to the proposed RMA reforms.

Milestone	Timing	Reason
Seek and consider comments on a NPS from selected stakeholders	At any time regardless of proposed RMA Bill timing (we suggest March 2016)	Fulfil section 46(a) of the RMA To seek comments we will need to include the legislative context for the NPS including the proposed legislative reforms.

Choose a process to consider a proposed NPS - board of inquiry or 'alternative' process	Before releasing a proposed NPS for comment	Fulfils section 46A of the RMA
Release a proposed NPS for consultation	After Royal Assent of the RMA Bill	Fulfils section 46(b) of the RMA NPS needs to support the proposed s.6 and 106 provisions NPS may require the proposed increased scope of NPSs (e.g. prescribing methods)

Seek and consider comments on a NPS

33. You are required to seek comments from selected stakeholders on a NPS under section 46(a) of the RMA. Options to do this range from a simple letter to selected stakeholders through to a full public discussion document.
34. We recommend that we develop a short issues paper (5-8 pages) to outline the legislative context for a NPS including the proposed legislative reforms. A short issues paper will also enable us to gather evidence on the issues faced and to gain more buy-in from stakeholders. A proposed NPS and section 32 report can then be released for public consultation after Royal Assent of the proposed Bill. This approach will allow you to progress the NPS as much as possible while the legislative reforms are progressing.
35. We suggest the issues paper is sent to stakeholders such as iwi authorities, Local Government New Zealand, the Insurance Council of New Zealand, Property Council New Zealand, and NGOs such as Environmental Defence Society.
36. We recommend that the issues paper includes:
 - a) Natural hazard management in New Zealand, the role that the RMA plays, and existing objectives and policies in the NZCPS
 - b) The problems with RMA planning for natural hazards, including evidence
 - c) The legislative reform proposals and what they aim to achieve
 - d) The scope of a NPS and why it is required (compared to other options)
 - e) The process to develop a NPS and its relationship to the legislative reforms.
37. We propose that the issues paper does not seek comment on detailed content.
38. We recommend that we report back to you in February 2016 with a draft issues paper for release. You do not need to gain Cabinet's approval for this targeted consultation.

Risks and Mitigations

39. Expectations will be raised with many stakeholders about what a NPS will deliver. In addition, there are a number of councils who are currently undertaking, or are planning to undertake, natural hazard planning processes². These councils will make decisions on whether to continue their work or to wait for a NPS. Those that wait may have inadequate hazard planning provisions.

² We are aware of the following councils currently undertaking natural hazard planning processes: Kapiti Coast District Council, Christchurch City Council, Bay of Plenty Regional Council, Thames-Coromandel District Council, Greater Wellington Regional Council, Auckland Council, Waimakariri District Council (to notify in October), Invercargill City Council (to notify later this year).

40. This risk will be mitigated through clear communication about what national policy and guidance already exists, what is being proposed by central government, and what will remain the responsibility of local government and communities. The short issues paper on a NPS that we propose can help with this communication. There will also need to be significant engagement with stakeholders on an ongoing basis.
41. From our regular engagement with stakeholders we consider there is general support for a NPS. We will continue to monitor stakeholder perceptions, seek opportunities for communication and engagement, and brief you as appropriate.

Legal issues

42. No significant legal issues have been identified with this paper.

Financial, Regulatory and Legislative Implications

43. The first legislative step to progress a NPS is to seek and consider comments from selected stakeholders under section 46(a) of the RMA.

Out of scope

Consultation

45. The Ministry has consulted with the Ministry of Business, Innovation and Employment, the Ministry for Civil Defence and Emergency Management, Treasury, Department of Internal Affairs, Department of Conservation, Land Information New Zealand, the Canterbury Earthquake Recovery Authority, and the Earthquake Commission. The Department of Prime Minister and Cabinet has been informed.
46. Agencies are supportive of the proposed work programme and wish to be involved in the development of a NPS.

Next steps

47. Subject to your agreement, we will continue to work on the proposed 2015/16 work programme for natural hazards.
48. For the NPS, we recommend that we report back to you in February 2016 with a short issues document ready for release.

We recommend that you:

Out of scope

b) **Agree** to the Ministry's natural hazard work programme for the 2015/16 year (in addition to the RMA legislative reforms):

a. Progress work on a National Policy Statement - intended by 2018

Out of scope

- Yes / No**
- c) **Agree** that, having considered the national-level costs and benefits and the significant technical complexity in managing risks from natural hazards, a National Policy Statement is desirable **Yes / No**
- d) **Agree** that the Ministry report back to you in February 2016 with a draft issues paper for release to seek and consider comments from selected stakeholders on a National Policy Statement under section 46(a) of the RMA **Yes / No**
- e) **Refer** this briefing to the Minister for Climate Change Issues and the Minister of Conservation for their information **Yes / No**
- f) **Meet** with officials for further discussion **Yes / No**

Daniel Lawrey
Acting Manager, National Direction Land and Air

Date

Hon Dr Nick Smith
Minister for the Environment

Date

Minister's feedback on quality of briefing note:	1	2	3	4	5
1 = Was not satisfactory	2 = Fell short of my expectations in some respects		3 = Met my expectations		
4 = Met and sometimes exceeded my expectations		5 = Greatly exceeded my expectations			

Appendix 1: Impacts, costs and risk levels from natural hazards in New Zealand

Impacts and costs from natural hazards

1. New Zealand is comparatively vulnerable to natural hazards with annual average losses at \$1.6 billion, or roughly 0.73% of GDP (2014 dollars). This is the third highest as a percentage of GDP out of 42 countries analysed based on data from 1900 to 20123.
2. The relatively small size of New Zealand's economy means that any large scale event can have a relatively large impact on the economy as a whole. For example, estimated losses from the Canterbury earthquakes are approximately 20% of New Zealand's GDP, proportionally larger than those incurred by Japan from the Tohoku earthquake and tsunami in 2011 at 2-4% of GDP.
3. Risks from natural hazards will continue to increase because of two factors; firstly due to climate change exacerbating weather-related hazards such as floods and storms, and causing sea level rise; and secondly due to increasing development (number of people and value of property) in hazard prone areas.
4. Costs from hazards, such as death, injury, damage to property and infrastructure, social and economic disruption, and damage to the environment, are therefore expected to rise.
5. Financial costs are borne by taxpayers (such as increased demand for social services) and through the Crown's contingent liability (such as the 60% share of certain local government infrastructure repair/replacement⁴, and post event recovery support through National Civil Defence Emergency Management Plan policies). They are also borne by community ratepayers for local government infrastructure and other costs. Insurance companies, businesses and private owners bear the rest.

Risk levels faced by communities from natural hazards are variable

6. We do not know the levels to which people's lives or property are vulnerable to individual natural hazards across NZ, let alone across all hazards. However, we know that vulnerability levels are variable both around NZ and across hazards because of inconsistent management.
7. As an example, the Government's 2008 Flood Risk Management Review found that flood management "practice is variable across the country, with larger communities being able to afford better flood risk management. In some cases this does not reflect the actual level of risk faced by communities."
8. Reports by GNS and NZIER⁵ in 2015 on tsunami risk highlighted that "New Zealanders face a comparatively high annual fatality risk from tsunami but we spend relatively little on mitigation".

³ UK-based Centre of Economic and Business Research, 2012

⁴ Note that the Treasury is currently leading a review of the 60/40 cost sharing arrangement of central/local support

⁵ *Review of tsunami risk facing New Zealand: A 2015 update*, GNS Science, March 2015; and *Tsunami risk facing New Zealand*, New Zealand Institute of Economic Research, 2 April 2015

Appendix 2: Advice on options for national-level guidance

National direction is warranted

1. Consistent with assessment of other topics, national direction is considered warranted if the issue involves at least one of the following elements.
 - National-level benefits or costs - if hazard risks are not managed well the Crown has net costs, and if risks are conservatively managed there are likely negative impacts on housing affordability in some regions
 - Technical complexity – the nature of the range of natural hazards and their effects on people and property over time are technical and complex, as are the risk-based approaches to manage them
 - Benefits from a nationally consistent approach – This is of secondary importance to the above criteria. There are likely to be efficiencies from a level of national consistency such as for risk assessments.
2. We therefore consider that national direction is warranted.

Options

3. Based on a risk management approach to all natural hazards, the main statutory options are a NPS, National Environmental Standards (NES, to set national risk levels for example), regulations made under section 360 (to take a formulaic or prescriptive approach). In time, and provided that the reform package progresses as anticipated, National Planning Template provisions will also be an option.
4. The main non-statutory options are guidance documents and working alongside local government in their planning processes. Combinations of all options are possible.
5. We do not recommend a NES or regulations made under section 360 of the RMA as we do not consider either would be workable for the range of risk management situations.
6. Our recommended approach is the development of a NPS on natural hazards and non-statutory guidance.