



## STAFF REPORT

**TO:** Environment & Planning Committee

**FROM:** Neil Jackson, Policy Planner

**REFERENCE:** R507

**SUBJECT:** **PROPOSAL FOR A NATIONAL POLICY STATEMENT: FLOOD AND STORMWATER RISK MANAGEMENT - EP07/07/07 - Report**  
Prepared for 12 July 2007 Meeting

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### 1. PURPOSE OF REPORT

The purpose of this report is to advise Council of comments made by staff in response to a request from the Ministry for the Environment, as a first step in developing a National Policy Statement on managing flood risk, under the RMA Act. (Appendix 1)

### 2. BACKGROUND

The Ministry has advised that Government intends to develop a National Policy Statement on managing flood risk. Once a policy statement has been drafted, it will be publicly notified and there will be opportunity to make formal submissions. The present opportunity for comment is a preliminary step towards establishing the scope of an NPS.

Local Government New Zealand had produced a “position paper” on flood and stormwater management, which was available as background material. (Appendix 2)

The proposal has been assessed by:

- Philip Drummond, Roading/River Asset Engineer
- Neil Jackson, Policy Planner
- Glenn Stevens, Resource Scientist
- Eric Verstappen, Resource Scientist – Rivers and Coast

At this preliminary stage of informal comment, we considered the proposal from the perspectives of: what will make an NPS on flood risk management helpful to Council; and what will Council be able to do better if there is an NPS?

In responding to the Ministry’s invitation to comment, we have supported the LGNZ position paper and provided additional ideas for consideration, rather than attempting to draft policies.

### **3. RECOMMENDATION**

That Council endorses the comments that staff have made to the Ministry for the Environment on the proposal (outlined in Appendix 3) for a National Policy Statement on Flood Risk Management, subject to any amendment.

Neil Jackson  
**Policy Planner**



DP/FR/06/02

3 May 2007

Mr Paul Wylie  
Tasman District Council  
Private Bag 4  
RICHMOND 7050

Dear Mr Wylie

### **National Policy Statement on Flood Risk Management**

The Government intends to develop a National Policy Statement on managing flood risk under the Resource Management Act 1991. We are seeking your views<sup>15</sup> on this proposal, as the first step in this process of developing a national policy statement. Following your feedback, a proposed policy statement will be drafted and notified. Formal submissions and hearings will then be held.

Last year we asked you to comment on a summary document outlining the ways that councils' currently manage flood risk. Thank you for your comments, which helped us to further understand the opportunities and impediments to good practice when managing flooding.

A key message we heard was that the policy framework needed strengthening for councils to adopt and maintain policy approaches with more certainty. The government decided that a national policy statement may help in this area. A background paper on the formal process and potential matters that could be addressed in a national policy statement is attached.

We are particularly interested in your views on the following aspects of a possible national policy statements:

- **scope**, including matters, issues and policies that should or should not be addressed
- **opportunities and impediments** in achieving good practice
- **benefits and costs** and how those benefits and costs compare with current methods of managing flood risk
- **risks** that you see in acting or not acting, given current information about flood risk and climate change

<sup>15</sup> The Minister for the Environment must seek and consider comments from stakeholders before preparing a proposed national policy statement to consult on. Section 46, Resource Management Act 1991

- **alternatives** to managing flood risk effectively, including land use planning
- **consequences** for managing flood risk, intended or otherwise

You may also like to comment on anything else that may be needed to successfully implement a national policy statement.

We are also seeking comment from Local Government New Zealand (LGNZ) on the national policy statement. The LGNZ Regional Affairs Committee has appointed a Flood Management Sub-committee to work on flooding related matters. Links to the sub-committee's documents can be found at <http://www.lgnz.co.nz/projects/Flood>.

The government recognises that a national policy statement is not the only solution to all areas identified as concerns by councils. The government's review of flood risk management will be completed by the end of June 2007. Further initiatives may be announced after the government has considered all of the review's findings.

The national policy statement is likely to be of interest to staff in areas including:

- Planning and policy
- Asset management and engineering
- Natural hazards
- Emergency management

I would appreciate your comments by **15 June 2007**. Please send comments to the attention of Trecia Smith. If you have any questions Trecia can be contacted on (04) 439 7657 or [trecia.smith@mfe.govt.nz](mailto:trecia.smith@mfe.govt.nz).

Yours sincerely



Sue Powell  
**General Manager, Working with Local Government**

This paper outlines the process for developing a national policy statement, current issues in managing flood risk and potential matters of national significance. The paper should be read in conjunction with the accompanying letter seeking your views on a national policy statement for managing food risk.

### **National Policy Statement on Flood Risk Management (NPS)**

The Minister for the Environment and Cabinet concluded in March 2007 that a national policy statement on managing flood risk is desirable. Cabinet's decision formally started the process to develop a national policy statement. A national policy statement can only address nationally significant matters relevant to achieving the RMA's purpose and can only cover matters set out in the RMA.

The process to develop a national policy statement is outlined in the Resource Management Act 1991 (RMA) and a diagram of the process is provided overleaf. There are two opportunities for you to provide comment on a national policy statement.

The first opportunity is now. The Minister must seek and consider the views of relevant stakeholders before preparing a proposed national policy statement. We are now seeking your views for the Minister and Cabinet to consider. Your views will be used to draft the proposed national policy statement. Formal submissions will be sought and heard on the proposed statement. This is the second opportunity for you to comment and is likely to be late this year.

The Minister must also decide the process to hear and consider submissions on the proposed national policy statement. Broadly speaking there are two options to consider submissions on a proposed national policy statement– a board of inquiry or an alternative consultation process. A board of inquiry must be used, if a national policy statement makes an amendment to a RMA document without further notice or a hearing.

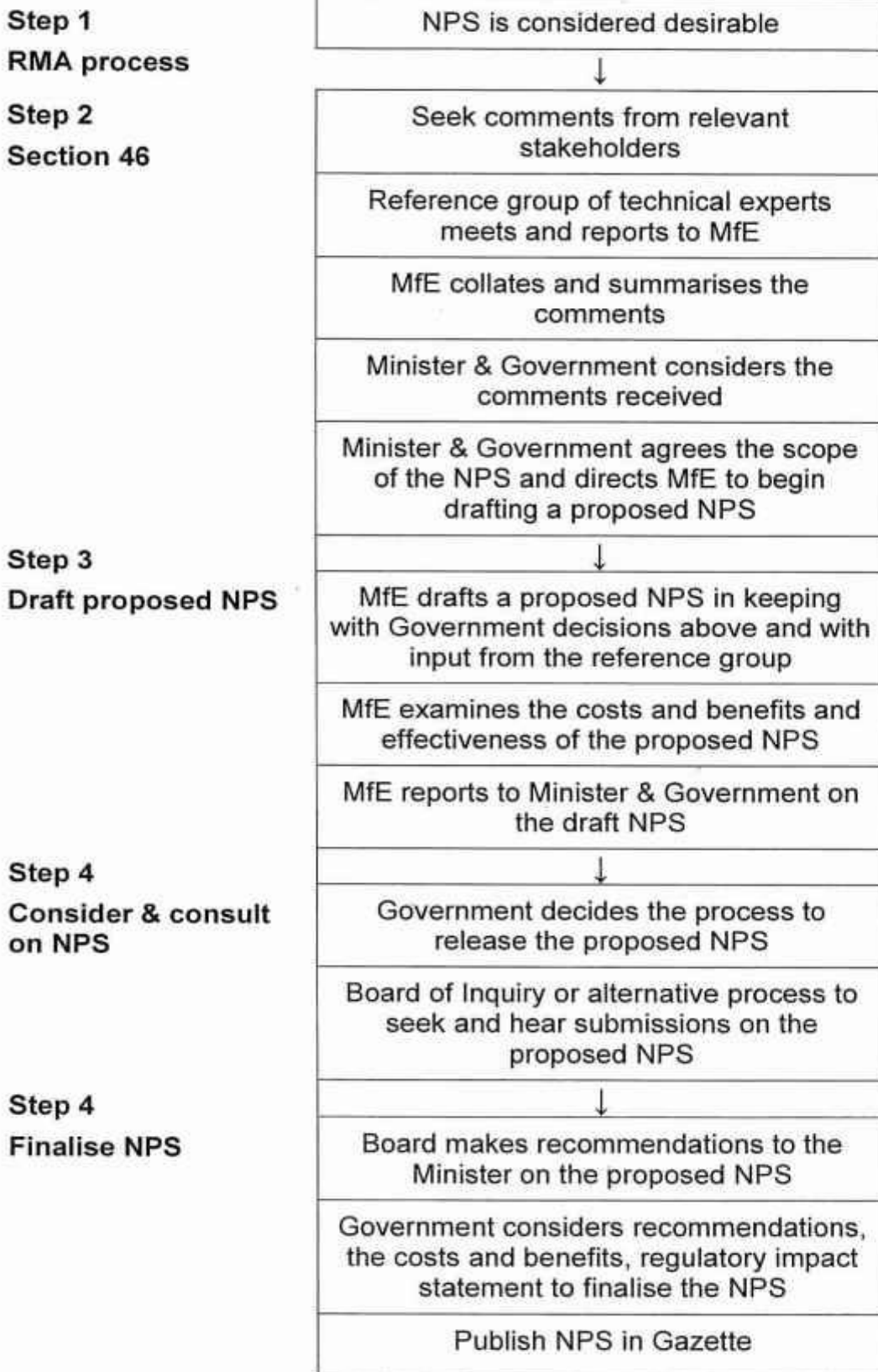
A reference group of technical experts in flood risk management will be set up in addition to seeking and considering comments from stakeholders. The group will advise the Ministry on the aspects of planning, rivers, floods, land and people that are relevant to managing flood risk.

The benefits and costs of a national policy statement must be analysed before the proposed national policy statement is notified. The evaluation must examine;

- a. the extent to which each objective is the most appropriate way to achieve the RMA's purpose; and
- b. whether, having regard to their efficiency and effectiveness, the policies are the most appropriate for achieving the objectives.

This evaluation and a regulatory impact statement must be made again by the Minister before issuing a national policy statement.

**National policy statement (NPS) process**



### Flood risk management issues

A series of case studies was completed to understand the challenges faced by councils in managing flood risk. A summary of the case studies was then circulated to all councils for comment.

Nearly 40 councils responded generally agreeing with the preliminary findings reported. More detailed comments focussed on

- the technical challenges of flood hazard identification
- climate change and how to provide for it in managing flood risk
- the need to clarify and strengthen provisions in the legal framework on roles, cumulative effects, protecting assets and the interface between the Building Code and Resource Management Act

The feedback confirms:

- Local authorities use a variety of methods and tools to manage flood risk. A clear benefit is that the chosen approach can be responsive to the local conditions. However, some councils have better resources, including information and funding, to achieve robust flood risk management. Comparison across the country is difficult as there is no one standard approach to managing flood risk.
- Good information is critical to understanding the nature of the flood hazard and methods to managing flood risk. Good information is also crucial to withstand scrutiny in planning processes that include developing and implementing plans as well as assessing development proposals.
- Many of our larger cities and towns are on floodplains. They are protected by physical works, which work well up to the point that they are designed for. At this point, emergency management is the most often cited response to a flood. The age of some structures means that in some cases the reliability of the structures is unknown but works are being maintained and often upgraded. Resourcing can be a constraint, including accurate information about flood hazards. Development is continuing to occur on floodplains.

Utility providers and Crown agencies were also approached to understand issues that may arise for these organisations. The findings from this work showed similarities with the findings above and underscored how important council information and planning documents to manage flood risk are.

Based on the above and other review findings, a number of issues have been identified that could be addressed in a national policy statement. The issues below are not policy but have been developed to prompt discussion. We are keen to hear your ideas.

- Flooding is the most frequent natural hazard experienced by people and communities need to be aware of the risk of flooding
- Climate change is increasing future flood risk and action is required now to manage the changing risks
- Effective flood risk management is essential to the sustainable and integrated management of water and land resources across NZ.
- Integrated flood risk management requires good working relationships between stakeholders to ensure flood risk is managed sustainably



**Potential matters of national significance and objectives**

<b>Possible matters of national significance (issues)</b>	<b>Possible goals (leading to potential objectives)</b>
<p>Flooding is the most frequent natural hazard experienced by people and communities need to be aware of the risk of flooding</p>	<p>The risk of flooding is clearly identified in each region and constituent district (rather than by individual rivers, streams, or schemes)</p>
<p>Climate change is increasing future flood risk and action is required now to manage the changing risks</p>	<p>The risk of climate change and sea level rise is known for each region and district</p> <p>Climate change is incorporated into flood risk management</p> <p>People, communities and critical assets are not located in future areas of high risk (managed retreat?)</p>
<p>Effective flood risk management is essential to the sustainable and integrated management of water and land resources across NZ.</p>	<p>Matters for success could include:</p> <ul style="list-style-type: none"> <li>- Flooding from all sources (incl. rivers, streams, stormwater &amp; drainage) is integrated and managed using a risk management approach – that is, an effects based approach that takes into account consequences of flooding occurring</li> <li>- Water and land resources are managed in a comprehensive and integrated way from the upper catchment to the sea</li> <li>- A risk based approach is adopted with clear linkages between the 4Rs of reduction, readiness, response and recovery</li> <li>- Residual risk is clearly identified and managed as part of the chosen risk management approach</li> <li>- Communities are resilient to flooding and involved in determining acceptable levels of risk and appropriate mitigation measures</li> <li>- The management and development of land should reflect the risk of flooding and should avoid, remedy or mitigate flooding or effects of flooding</li> <li>- Environmental limits and natural processes, including river and catchment processes are respected and the life supporting capacity of water, soil and ecosystems protected</li> <li>- The effects of activities, including cumulative, should avoid, remedy or mitigate flooding and any associated consequences of flooding</li> </ul>
<p>Integrated flood risk management requires good working relationships to ensure flood risk is managed sustainably</p>	<p>Partnership and collaboration is an essential part of effective flood risk management</p> <p>Complementary roles in managing water resources and land resources contribute to flood risk management</p> <p>The roles and responsibilities for managing flood risk are clear and agreed.</p>



# National Policy Statement Flood and Stormwater Risk Management

## A Position Statement from Local Government

May 2007

### NATIONAL POLICY STATEMENT ON FLOOD AND STORMWATER RISK MANAGEMENT A POSITION STATEMENT FROM LOCAL GOVERNMENT

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# NATIONAL POLICY STATEMENT ON FLOOD AND STORMWATER RISK MANAGEMENT A POSITION STATEMENT FROM LOCAL GOVERNMENT

## 1 Introduction

This Paper has been developed by Local Government New Zealand's Regional Affairs Committee (RAC) Flood Management Sub-Committee. It sets out Local Government's (LG) view on the necessary core provisions in a National Policy Statement (NPS) on Flood and Stormwater Risk Management.

The intent of the paper is to inform Government decision makers and Government policy development processes.

In terms of the existing legislative context there are twelve statutes dealing with flood and stormwater management. The prime ones being;

- Soil Conservation and Rivers Control Act 1941
- Resource Management Act 1991
- Local Government Act 2002
- Building Act 2004 (and Building Code 1992)
- Civil Defence Emergency Management Act 2002
- Land Drainage Act 1908
- Rivers Board Act 1908
- Earthquake Commission Act 1993

Central Government can provide national direction under the RMA to manage flood risks within the context of the sustainable management of natural and physical resources. Local authorities under the RMA and the LGA set regional and local policy direction through their LTCCPs, regional policy statements, regional plans and district plans. That policy direction is implemented through asset and flood management plans and the provision of flood, river management, stormwater and drainage infrastructure. Councils are enabled under the LGA, SC&RCA and RBA to undertake physical works such as the construction of stopbanks, channel maintenance and clearance. Land use controls to reduce flood risk and the use of soil conservation practices such as afforestation in erosion prone catchments fall within the scope of the RMA, SC&RCA and BA. Flood hazard preparedness, response and recovery measures are authorised principally under the CDEMA. The Earthquake Commission under the authority of the ECA provides flood loss insurance and financial assistance.

LG considers that in view of the culture change required within the flood management sector and the community, and in order to ensure that any NPS is effective, it should be a non-prescriptive process based document. LG sees no role for a prescriptive standards based NPS that attempts to set mandatory flood design standards or require mandatory flood protection measures.

This Paper does:

- Identify the key flood and stormwater risk management issues facing NZ;
- Outlines proposed policy direction in relation to those issues. This takes the form of suggested statements of policy direction that could be used to formulate actual objectives or policies in a NPS document;
- Suggest who would be responsible for implementing that policy direction;
- Set out key matters that must be addressed outside of a NPS;
- Draw on earlier reports prepared by the RAC.

This Paper does not:

- Provide large amounts of background information on the identified issues;

## NATIONAL POLICY STATEMENT ON FLOOD AND STORMWATER RISK MANAGEMENT A POSITION STATEMENT FROM LOCAL GOVERNMENT

- Provide detailed justification for the suggested statements of policy direction such as would be required for an analysis under S32 of the RMA. This detail is available and can be provided at the appropriate time.

### 2 Issues and Suggested NPS Policy Direction

LG considers that there are four fundamental issues that should be addressed in a NPS:

- (i) National Interest.
- (ii) Flood and stormwater risk assessment.
- (iii) Council roles and responsibilities.
- (iv) Affordability and funding.

The suggested statements of policy direction for each group of issues follows.

#### 2.1 National Interest

##### **Issues:**

Flood and stormwater risk management is a matter of national interest. Floods are the most frequently occurring hazards within NZ and can impose large social and economic costs on communities and the nation. Flood management is a key component of increasing sustainability and is strongly influenced by climate change. There are national benefits to be gained from an effective and proactive programme of flood and stormwater risk management, including the potential reduction of post-event Government, local authority, community and private expenditure on remedial actions. However, Government leadership and assistance will be required for this outcome to be achieved consistently across NZ.

##### **Policy Direction to include in NPS:**

Communities are supported to have existing and future flood and stormwater risks identified and appropriately managed, with all landowners, occupiers and utility providers meeting their fair share of the costs of the necessary management responses.

Investment by Government and LG is made to manage flood and stormwater risks and to reduce community exposure to those risks. Government investment may include providing assistance for catchment and river flood risk assessments.

Crown agencies and other national bodies will strive to reduce the impact of their activities on the flood risks in local catchments.

#### 2.2 Flood and Stormwater Risk Assessment

##### **Issues:**

Each community should have their level of flood and stormwater risk assessed using a nationally consistent methodology, with appropriate management strategies thereafter being developed in consultation with those communities. Different strategies will be required for urbanised (brown fields) and non-urbanised (greenfields) areas. In all cases the emphasis should be on hazard avoidance in the first instance.

The impacts of climate change on flood frequency and severity (and associated matters such as sea level rise) must be addressed in a nationally consistent manner. This should be led by Government proscribed criteria and facilitated through Government advice and guidance.

## NATIONAL POLICY STATEMENT ON FLOOD AND STORMWATER RISK MANAGEMENT A POSITION STATEMENT FROM LOCAL GOVERNMENT

Even with appropriate management strategies in place, there will always be a level of **residual risk** from either flood or stormwater events larger than the design event, or from flood protection scheme and flood warning system failures and shortcomings. There is urgency required to acknowledge, determine and proactively plan for the consequences of residual risks.

There are a number of de facto historical flood management standards that are often incorrectly assumed to be applicable for all communities. LG considers that a flexible and participatory process is required to determine suitable flood protection standards for individual communities.

There is a reluctance to acknowledge that some public and private infrastructure, buildings and other assets are simply located in inappropriate and high risk floodable areas<sup>1</sup>. This results in Government, councils and the insurance industry enabling the reinstatement of those assets in locations where they will be repeatedly flooded. In some areas subject to repetitive flood events existing assets need to be relocated.

### Policy Direction to include in NPS:

LG will identify and manage existing and future flood and stormwater risks affecting existing and future communities.

When planning future flood and stormwater risk assessments and implementing flood management responses LG will adopt and implement the procedures set out in the NZ Standard titled "Flood Risk Management in NZ" dated 2008.

LG will not be required to manage for a pre-determined degree of risk (such as the 1:100 or 1:50 year event<sup>2</sup>). LG and decision makers will not presume that the Building Act provides appropriate minimum standards for flood risk management.

The degree of risk that will be managed will be determined by LG in recognition of the nature, scale and value of assets at risk and the consequences for communities of any residual risk.

When undertaking flood and stormwater risk management LG will:

- Take an integrated catchment management approach, recognising and providing for the cumulative impacts of existing and future likely catchment land use on stormwater runoff and river flood flows.
- Provide for the natural functioning<sup>3</sup> of river systems.
- Require hazard avoidance in the first instance, with the mitigation of the effects of hazards being used as a management option only where hazard avoidance is impracticable.

Having assessed the stormwater and flood risks for their communities and adopted appropriate management responses LG will ensure that communities are informed of the level and consequences of any residual risks.

In areas subject to repetitive flood events where flood protection is not an environmentally or economically sustainable option, LG and other decision makers will promote the relocation or staged retreat of flood damaged infrastructure, buildings and other assets as opposed to facilitating the reestablishment of such assets.

The above Policy Direction presumes Government will provide LG with statutory tools for enforcing relocation or staged retreat, together with possible funding assistance.

<sup>1</sup> LG acknowledges that some infrastructure (such as pumping stations) must unavoidably be located in at risk areas.

<sup>2</sup> Also known as the 1% and 2% Annual Probability Exceedance (AEP) events.

<sup>3</sup> This includes taking into account the effects of vegetation growth and upper catchment erosion driven sedimentation on river channel capacity.

## NATIONAL POLICY STATEMENT ON FLOOD AND STORMWATER RISK MANAGEMENT A POSITION STATEMENT FROM LOCAL GOVERNMENT

When addressing flood and stormwater risk management LG and other decision makers will recognise and provide for the effects of climate change including:

- Sea level rise (*to be presented in the format of a graph of sea level rise to 2150 as derived from existing MFE Guidelines*) allowing for local or regional variations in "relative" sea level change due to tectonic plate activity which varies throughout the country,
- Changes to storm frequency and intensity,
- Changes in resultant catchment runoff,
- Changing groundwater levels.

The above Policy Direction presumes Government accepts responsibility for providing:

- clear and consistent direction on appropriate sea level rise scenarios which can be utilised consistently by LG and land use developers and which are not able to be challenged through litigation;
- nationwide weather radar coverage and associated heavy weather analysis and forecasting down to a catchment and possibly river level.

LG accepts that further work is required to enable Government to provide guidance on likely climate change induced changes to storm frequency and intensity.

### 2.3 Council Roles and Responsibilities

#### Issues:

Under existing legislation<sup>4</sup> regional councils (RCs) and territorial authorities (TAs) have a variety of flood management, stormwater management, land drainage, and land use management roles. In many cases the roles currently being exercised are based on historical institutional arrangements that pre-date the 1989 local government reform and which reflect an urban (for TAs) and rural (for RCs) split. However, occasionally there is a lack of agreement on some or all of the roles.

#### Policy Direction to include in NPS:

LG will ensure that each region has a clear written agreement setting out the respective council responsibilities for flood management, stormwater management, land drainage and land use management. The agreements will:

- Detail the range of matters upon which agreement is required;
- Cover both capital works and maintenance;
- Be formalised through Memoranda of Understanding (MoU) that are referenced in LTCCP's and by provisions in relevant policy documents (such as CDEM Group Plans).

In developing regional agreements LG will recognise and provide for the preferred starting point for council responsibilities shown in Table 1. In the absence of an agreement being reached the Table 1 allocation of roles will be assumed to apply.

TAs will prepare risk management plans for urban stormwater systems and urban streams.

TAs will manage land use with regard to avoiding flood and stormwater risks, or mitigating those risks where avoidance is impracticable.

RCs will prepare catchment and river flood risk assessments to facilitate TAs undertaking appropriate land use management with regard to flood and stormwater risks.

RC's will monitor river flows so as to provide communities with early warning of impending flood events where it is practicable and affordable to do so.

<sup>4</sup> Local Government Act, Resource Management Act, Soil Conservation and Rivers Control Act, Land Drainage Act



NATIONAL POLICY STATEMENT ON FLOOD AND STORMWATER RISK MANAGEMENT  
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Table 1: Default Council Responsibilities

Area	Council Responsibility		
	River Management and Flooding	Stormwater	Land Drainage
Waterways in rural areas	RC	RC	RC
Waterways passing through urban and peri-urban areas	RC	TA	TA
Waterways that originate within an urban area (associated responsibility within the urban area only)	TA	TA	TA

LG notes that unitary authorities undertake all of the roles and responsibilities outlined in Table 1.

#### 2.4 Affordability and Funding

##### Issues:

LG acknowledges that flood and stormwater management is best undertaken at a local authority level. However, providing sound flood and stormwater risk management is clearly in the national interest. In addition to the direct exacerbators and beneficiaries, LG considers that both LG and Central Government have important roles to play in that activity.

LG considers that where its statutory functions have a national interest component or provide a clear national benefit then commensurate national funding should be available to assist LG delivering those functions. However, LG acknowledges that it too has an obligation to contribute funding to such activities.

Proactive and properly funded flood and stormwater risk management can avoid significant Government, local authority, community and private post-event expenditure.

Some communities simply cannot afford to fully fund desirable flood and stormwater protection measures. This can be addressed through the provision of "safety net" funding akin to the existing Government grant schemes for small communities such as the Ministry of Health's sanitary works subsidy scheme and the Ministry of Tourism's tourism demand subsidy scheme. These existing schemes acknowledge community 'affordability challenges' and the national benefits of tourism as valid reasons for Government assistance. A minimum of 50% funding assistance is available under both schemes. In terms of stormwater and flood management, Government assistance would usefully comprise initial assistance with technical assessments followed by implementation funding assistance as appropriate.

LG accepts and operates under a user pays framework – namely property owners pay for services provided and received. Examples include wastewater, water supply and solid waste management services. LG considers that Crown contributions in lieu of rates need to be extended to stormwater and flood protection services that benefit Crown properties and assets.

In that regard LG considers that there is a general lack of funding contribution from Crown infrastructure providers and Crown land owners for community flood alleviation schemes. LG considers that Government needs to accept its responsibility as a good neighbour, for example where poorly managed Crown land exacerbates upper catchment runoff and erosion, particularly where this could be impacted by climate change. The inability to rate Crown land transfers costs to private landowners. This limits the ability of communities to consider the full range of flood management options as some options are simply unaffordable if costs are not shared equitably amongst all parties.

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At times infrastructure, such as road and rail bridges and culverts, is under sized or obstructive in terms of the floods they are required to pass. The infrastructure also needs to be protected from flood events and the infrastructure owners may not be aware of the importance of upstream flood protection works in that regard.

Consequently, LG considers that national funding assistance should be available when:

- There is a national interest in or benefit from flood risk management,
- The Crown is the owner of property or other assets that receive benefits from or contribute to flood risk and its management,
- A safety net for poorly resourced communities is needed.

### Policy Direction to include in NPS:

When managing flood and stormwater risks LG will undertake an assessment of the exacerbators of the risk and the beneficiaries of any management interventions.

LG will determine the funding allocation for flood and stormwater risk management according to the outcomes of these exacerbator and beneficiary funding assessments.

Complementary Central Government policy responses that may need to reside outside of a NPS are:

Government will recognise the appropriateness of LG exacerbator and beneficiary funding assessments and will enable Crown entities to meet their assessed funding liabilities.

Government will recognise that Crown agencies should act as good neighbours at all times and not exacerbate the stormwater or flooding risks borne by the wider community.

Government will continue to provide targeted funding assistance for flood risk management guideline preparation and associated research.

Government will establish a funding assistance programme for communities whose lack of an ability to pay results in unacceptable residual risks and unacceptable consequences (such as plausible threats to human life or human health and welfare, the loss of key community wellbeing infrastructure (hospitals or schools), the loss of significant lifelines or network infrastructure, and the social disruption caused by displacing people out of flood damaged dwellings for long periods of time).

### 3 Key Issues Required to Support a NPS

There are a number of key flood and stormwater risk management matters that must be addressed to facilitate any NPS's implementation. These are:

Central Government to:

- Provide funding assistance to under resourced councils to boost their institutional capacity to deliver statutory stormwater and flood management functions;
- Develop criteria for the provision of central government funding in recognition of the national interest nature of, and national benefit provided by, some flood management activities;
- Develop criteria for the provision of central government "safety net" funding to at risk communities for flood avoidance, protection or warning systems;
- Allow Crown land to be rated (or payments to be made in lieu of rates) in the same manner as private land for flood management purposes;
- Acknowledge the responsibilities of Crown agencies as infrastructure owners, land owners and 'good neighbours' and require Crown agencies and other national bodies to contribute to flood avoidance or mitigation measures where they adversely impact on those measures or receive benefits from them;



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- Properly consider the true cost of responding to flood events when assessing appropriate responses and recognise who actually pays for remediation;
- Provide statutory tools and funding assistance where required to enable councils to require the relocation or retreat of infrastructure, buildings and other assets from high flood risk areas.
- Provide high quality national short and long range weather and event forecasting.

Local Government to:

- Facilitate the training of flood management practitioners;
- Acknowledge that some infrastructure, buildings and other assets are simply located in inappropriate and high risk floodable areas;
- Make necessary hard decisions on asset relocation.

## PROPOSAL FOR A NATIONAL POLICY STATEMENT - FLOOD AND STORMWATER RISK MANAGEMENT

### Comments from Tasman District Council

The Tasman District Council generally supports the May 2007 position statement from the LGNZ Regional Affairs Committee Flood Management Sub-Committee.

In addition, we suggest the following matters should also be considered in developing an NPS for flood and stormwater risk management.

1. There should be an explanation of what risks the NPS is directed at. For example, risk of flooding to any or all of:
  - Land
  - Livestock
  - Buildings
  - Infrastructure
  - Life
2. The NPS may need criteria to say under what circumstances any of those factors are to be included in or excluded from a flood risk assessment.
3. Is there a need to state principles about flood risk management, such as:
  - Ensuring a flood event has the lowest effect on the greatest number of people.
  - People and communities are entitled to equal knowledge of flood risks in their locality.
  - Communities can determine what levels of risk they accept; or what levels of management they want. (But is there a need for a bottom line if a community would otherwise adopt an unrealistically low level of protection?)
  - Distinguishing managing risk between existing and new development.
  - Where costs of risks of varying magnitude fall.
  - Development should only occur where risk management is cost-effective.
4. Flood and stormwater risk management is a matter of national importance that needs national oversight and support.
5. Councils do not have equal ability to fund flood and stormwater management. Some may need financial assistance to meet government expectations of adequate risk management.
6. Some risk management funding can be sought through differential contributions from exacerbators of the risk and beneficiaries of mitigation measures. It would be useful

if the NPS gave guidance for identifying exacerbators and beneficiaries, and for assigning relative responsibility and benefit within these two groups.

7. River systems change in their capacity to carry flood water. Catchments change in the way that land use and development contribute to flood flow or are affected by it. The NPS may need to direct how frequently, or in what circumstances, councils will need to reassess flood and stormwater risk. Alternatively, this may be more appropriately addressed in a national standard.
8. The NPS may need to give direction about relationships between flood and stormwater risk management, and both the Building Act and the subdivision provisions of the RMA, to ensure that the risk management is 'seamless' between these Acts.
9. Government will need to ensure that councils have sufficient and appropriate statutory powers to fulfil whatever obligations the NPS imposes, as the RMA requires councils to "give effect to" national policy statements.
10. There needs to be national consistency between communities in recognising and acknowledging flood risk in terms of probability, scale, and consequences. How councils then choose to deal with risk is a separate issue. The NPS (or a national standard) should provide a prescriptive process and prescriptive criteria (or menu of options) for establishing flood and stormwater risk.
11. If the NPS establishes a "standard of information" that communities are entitled to, or are required to achieve, about flood and stormwater risks, government will need to ensure that all councils are able to meet that standard. In some cases that may mean funding assistance is needed. The NPS should acknowledge this and provide for it.
12. Does the NPS (or a national standard) need to say anything about communities and individuals having the right to know:
  - What the risks are;
  - Options for managing risk, including the levels of performance of those options;
  - Consequences (including costs) of various options;
  - Residual risk.
13. "Residual risk" needs explanation. In normal use, "residual" implies left-overs of no great importance. But in this case, the residual risk relates to events that exceed current or intended management measures. A 1:60 event may have negligible effect where 1:50 management measures are in place. But for a 1:100 event where existing protection is for a 1:20 event, the residual risk is considerable. It may include destruction of the 1:20 management measures. If the term is used in an NPS or national standard, it will need to be defined.
14. Government needs to commit to regular reviews of risk-generating climate factors, and communicating the results to councils. It also needs to review and communicate if any significant perturbation of risk-generating climate factors occurs between scheduled reviews.

**15.** The NPS needs to state a position in relation to climate change issues. Varying degrees of flood and stormwater risk can be postulated from the different climate scenarios that IPCC uses. Whatever scenario is picked as a working base for future flood and stormwater risk, councils are faced with a range of choices between the two extremes of:

- Do nothing until the prediction is proven;
- Spend a fortune now on measures that may never be needed.

The NPS (or national standard) should give guidance about pitching that choice. Eg. after x years there is confidence that the 5x year prediction is reasonably on track. (Acknowledging that the 1:5x or 1:10x event might occur tomorrow.)

**16.** The LGNZ position paper seems to be largely aimed at managing events as they occur. The NPS also needs to address managing the subdivision, use and development of land to reduce the consequences of flood and stormwater events. For example, minimizing high-value development in flood plains. This would apply to new or expanded urban developments, and also to rural developments such as dwellings. Could/should it also apply to rural developments where the value of the development is more than x times the value of the property (or those parts that are in the flood plain)?

**17.** If the NPS results in a nationally consistent standard of flood risk assessment, is there a need for new statutory powers to include such information on property titles? Is it sufficient that such information would need to be held on council databases and be a mandatory part of any property inquiry or LIM report? Should a LIM report be a statutory requirement for all property transactions?

**18.** The option of managed retreat will need strong policy and statutory direction if it is to occur at all. While this may be seen as requiring major funding for compensation, that expectation could be quashed by statute: that no compensation will be payable on properties that have an x-rating for flood risk. The bogey that needs to be avoided is an obligation to compensate at the highest value a property in an at-risk location attains immediately before a risk event occurs ( e.g. a property in a seaside property).

**19.** If the results of risk assessment are to be incorporated into plan provisions, they can be contested through the submission process. Government needs to ensure that the assessment criteria and process are robust, and councils need to ensure that they are applied in a robust way, to minimize the risk of successful challenge. Government may also need to commit to participating in council submission and hearing processes to oppose such challenges.

**20.** The NPS will need to distinguish between those parts of the statement that are mandatory directives, to be incorporated into regional and district policy statements and plans without the RMA Act First Schedule public submission process (under section 55 (2A) (b)), and those parts that are to be subject to the First Schedule public process – and therefore open to rejection by councils in response to community submissions.