

20 November 2023

Via email: naturalhazardRMA@mfe.govt.nz

SUBMISSION TO THE MINISTRY FOR THE ENVIRONMENT ON THE PROPOSED NATIONAL POLICY STATEMENT FOR NATURAL HAZARD DECISION-MAKING

Thank you for the opportunity to present Queenstown Lakes District Council's (QLDC) submission to the Ministry for the Environment (MfE) on the proposed National Policy Statement for Natural Hazard Decision-Making (NPS NHD).

QLDC strongly supports the development of a national policy statement that will enable local authorities to address the significant challenges presented by natural hazard risk. QLDC considers that the establishment of robust national direction will result in enduring positive outcomes for New Zealanders. However, as with any new management framework, a key success factor is effective implementation, with sufficient funding and investment to facilitate change.

QLDC's submission builds on the following key messages:

- Te Tiriti, mātauranga and Te Ao Māori should play an important role in natural hazard risk decision-making. QLDC supports genuine early engagement with local iwi and hapū to ensure significant decisions give effect to tangata whenua values, interests, and aspirations.
- The requirement to implement a risk-based decision-making approach is supported. It places the concept of risk at the centre of decision-making, ensuring that natural hazard processes (i.e. hazard events) are not considered in isolation of their likelihood and consequences.
- It is critical that all natural hazards are in scope of the proposed NPD NHD.
- QLDC recommends that decision-making process concerning the NPS NHD and Select Committee inquiry into climate adaptation be made concurrently, and preferably, in a single and cohesive manner.
- QLDC does not consider that the NPS NHDs proposed objective sets the right outcome statements necessary to support good risk-based decision-making. The proposed objective is ambiguous and tries to achieve too much with insufficient detail.
- QLDC supports the provision of new development and intensification in areas of low natural hazard risk or areas where hazards can be mitigated through the development process.
- QLDC anticipates that considerable resources would be required to robustly implement a risk-based planning approach. Local authorities already face challenging funding allocation decisions. Central government should acknowledge and help resolve funding challenges.
- QLDC recommends that central government establish and review nationally consistent standards and methodologies for risk assessment and engagement processes that must be followed by any person or entity undertaking a risk assessment.

QLDC would like to be heard at any hearings that result from this consultation process. It should be noted that due to the timeline of the process, this submission will be ratified by full council retrospectively at the next council meeting.

Thank you again for the opportunity to comment.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Glyn Lewers', written in a cursive style.

Glyn Lewers
Mayor

A handwritten signature in black ink, appearing to be 'Mike Theelen', written in a cursive style.

Mike Theelen
Chief Executive

1.0. QLDC Context

- 1.1. The Queenstown Lakes District (**QLD/the district**) QLDC has an average daily population of 71,920 (visitors and residents) and a peak daily population of 114,790¹. The district is experiencing unprecedented growth with its population projected to nearly double over the next 30 years.
- 1.2. The district is one of Aotearoa New Zealand's premier visitor destinations, drawing people from all over the world to enjoy the district's spectacular wilderness experiences, world renowned environment and alpine adventure opportunities.
- 1.3. Pressure to accommodate population and visitor growth within an alpine landscape context has resulted in some people and property being located within, or in close proximity to, natural hazard processes. This juxtaposition creates natural hazard risk. Significant challenges will be faced by QLDC, and all local authorities and their communities, in addressing these natural hazard risks. QLDC has been working collaboratively with the community, iwi, hapū and regional council partners to find solutions to the highest priority natural hazard risks in the district.
- 1.4. In partnership with its community, QLDC has developed Vision Beyond 2050². This document sets out the district's community outcomes and forms the basis of the QLD Long Term Plan 2021 – 2031. Vision Beyond 2050 contains 8 vision statements. Of particular relevance is '*Disaster-defying resilience He Hapori Aumangea - Queenstown Lakes is a place that is ready and prepared for every emergency*'. This vision sets the scene for the following Vision Beyond 2050 outcomes:
 - *Our communities are resilient to disasters and adapting to a changing global climate.*
 - *Our people stand tall through any challenge, caring for whānau, neighbours and visitors alike.*
 - *Our infrastructure is as resilient as our people.*
 - *Recovery empowers our people to quickly find a new normal.*
- 1.5. QLDC declared a climate and ecological emergency in 2019 and has released its second three-year Climate and Biodiversity Plan 2022 – 2025¹. The plan has three goals, under which sit six outcomes related to leadership, transport, built environment, communities, business, and the natural environment. These goals are intended to give effect to the Vision Beyond 2050 community outcomes. The Plan seeks to ensure that '*Queenstown Lakes is a place that is ready and prepared to adapt to a changing climate*' and identifies a set of actions³ relevant to natural hazards, including partnering with Otago Regional Council '*on a programme of climate change risk assessments, adaptation plans and natural hazard risk assessment studies to support community resilience projects and the implementation of a risk-based land use planning framework*⁴.
- 1.6. Together with the natural hazard risk management approach outlined within the QLD Proposed District Plan (**PDP**)⁵, these commitments illustrate QLDC's intention to implement effective and efficient natural hazard risk management.

¹ <https://www.qldc.govt.nz/media/ygilrton/demand-projections-summary-march-2022-2023-to-2053.pdf>

² https://www.qldc.govt.nz/media/wgscwzro/qldc_vision-2050_boards_sep22.pdf

³ Actions 1.12, 3.8, 4.6

⁴ Action 1.12

⁵ In particular Chapter 3 (strategic direction), Chapter 4 (urban development) and Chapter 28 (natural hazards)

- 1.7. The following parts of this submission respond directly to the questions posed by the NPS NHD discussion document published by MfE⁶.

QLDC response to consultation document questions

Problems to solve

2 Is more action needed to reduce development from occurring in areas facing natural hazard risk?

- 2.1. Yes. QLDC strongly agrees that more action is needed to address development occurring in areas subject to natural hazard risk. A nationally consistent framework is needed that will enable the establishment of robust risk assessment methodologies and associated decision-making processes. In the absence of national direction, local authorities will face complex challenges, community resistance and ongoing litigation in their efforts to undertake effective risk-based land use decision-making.

3 Are there any other parts of the problem definition that you think should be addressed through the NPS-NHD? Why?

- 3.1. The NPS NHD is being developed ahead of a central government Select Committee inquiry into climate adaptation⁷ with a focus on developing nationally consistent frameworks for risk assessments and managed retreat decision-making processes. QLDC strongly recommends that decision-making processes concerning the NPS NHD and Select Committee inquiry into climate adaptation be made concurrently, and preferably, in a single and cohesive manner. QLDC considers that a joined up decision-making process is critical to the future success of effective and efficient land use management in Aotearoa New Zealand.
- 3.2. While the MfE discussion document identifies a need for robustness generally, it does not sufficiently address the considerable litigation risk local authorities face in navigating the complex challenges of associated with natural hazard risk management, as well as ensuring that people are the focal point, rather than the process itself. In the absence of clear national direction, local authorities are required to weigh up the risk of acting or not acting. This risk weighs heavily on elected members in making their decisions. The NPS NHD should address this litigation risk and take material steps to ensure local authorities can be confident that their decisions will not be subject to protracted litigation at the expense of good land use outcomes. QLDCs submission on the Select Committee inquiry into climate adaptation supports the creation of a centralised agency to assist with administering litigation, mediation and appeal rights on resource management decisions relating to natural hazards and managed retreat. The NPS NHD development process should link into the creation of this centralised agency and directly address its roles and responsibilities (as recommended throughout this submission).
- 3.3. Recommendations
- R.1 – That decision-making processes concerning the NPS NHD and Select Committee inquiry into climate adaptation be made concurrently, and preferably, in a single and cohesive manner.
- R.2 – That a centralised agency be created to assist with administering litigation, mediation and appeal rights on resource management decisions relating to natural hazards management.

⁶ <https://environment.govt.nz/publications/proposed-national-policy-statement-for-natural-hazard-decision-making-discussion-document/>

⁷ https://www.parliament.nz/en/pb/sc/make-a-submission/document/53SCEN_SCF_A3FE0E05-8ABB-418D-8F44-08DBA45709B6/inquiry-into-climate-adaptation

4 Are there other issues that have not been identified that need to be addressed through the NPS-NHD or the comprehensive National Direction for Natural Hazards?

- 4.1. QLDCs responses elsewhere in this submission set out the key issues not addressed in the proposed NPS NHD.

Key policy proposals of the proposed NPS NHD

5 Do you support the proposed NPS-NHD's requirement that decision-makers take a risk-based approach when making decisions on new development in natural hazard areas? Why or why not?

- 5.1. Yes, QLDC supports the requirement to implement a risk-based approach to decision making. This represents best practice land use management. It places the concept of risk at the centre of decision making, ensuring that natural hazard processes are not considered in isolation of their likelihood and consequences on people and property.
- 5.2. An understanding of natural hazard processes alone is superficial and does not enable communities to make informed decisions about the levels of risk they may face in the future.
- 5.3. While QLDC strongly supports a requirement to implement risk-based decision-making, it is acknowledged that this is likely to come with considerable costs to a wide range of stakeholders, in particular local authorities. The personal impact and consequences that will affect both elected members and the public, and the impact of this on decision-making cannot be underestimated. While proactive risk-based decision-making will invariably cost less than reactive decision making following natural hazard events, central government should be cognisant that robust risk-based decision-making incurs significant costs. These costs include the need to procure a range of external technical experts, engage extensively with affected communities, and defend decisions against litigation.

Proposed scope

6 Should all natural hazards be in scope of the proposed NPS-NHD? Why or why not?

- 6.1. Yes. QLDC strongly agrees that all natural hazards should be in scope of the proposed NPS NHD. The NPS NHD should not be limited to a specific list of hazards, such as those we may be more familiar with or know more about (as is suggested as an alternative approach in the MfE discussion document⁸).
- 6.2. The effect of limiting the scope of the NPS NHD would invariably lead to poor land use decision-making and is likely to result in some people and property being subject to significant levels of risk.
- 6.3. It is not understood how different types of natural hazards could be prioritised for inclusion or exclusion from the NPS NHD. If the alternative approach is adopted, a detailed prioritisation rationale must be developed in collaboration with local authorities.
- 6.4. Recommendation
R.3 – That the NPS NHD consider all natural hazard types.

7 If not all natural hazards are in scope, which ones should be included? Why?

- 7.1. As noted above, QLDC considers that the NPS NHD should not be restricted to certain types of natural hazards.

⁸ Page 19 of the MfE discussion document

8 Should all new physical development be in scope of the proposed NPS-NHD? Why or why not?

- 8.1. Yes. QLDC considers all new development should be subject to decision making under the proposed NPS NHD.
- 8.2. QLDC supports in principle the definition of 'new development' and 'new hazard sensitive development' in the proposed NPS NHD. The definitions are a significant step towards providing greater clarity around how to manage development that is subject to natural hazard risk. In particular, QLDC supports the recognition of 'the extension or replacement of existing buildings, structures, or infrastructure' as constituting new development.
- 8.3. However, QLDC seeks clarity on whether earthworks activities are also subject to this definition of new development. Earthworks activities can have significant impacts on risk profiles. This is supported by definitions contained within the Australian Geomechanics Society Practice Note Guidelines for Landslide Risk Management 2007⁹ (AGS 2007), which is understood to be applied extensively within Aotearoa New Zealand and other parts of the world. In particular, additional clarity should be provided on 'Existing Slopes' and 'New Constructed Slope' as set out within AGS 2007¹⁰.
- 8.4. Recommendations
 - R.4 - That all new development should be subject to decision-making under the proposed NPS NHD.
 - R.5 - That earthworks activities be considered for inclusion within the definition of new development.

9 What impact do you think the proposed NPS NHD would have on housing and urban development? Why?

- 9.1. QLDC considers that the proposed NPS NHD will have positive outcomes for housing and urban development. This is because it would enable efficient and effective decision-making relating to all new development, in particular:
 - by ensuring areas for new urban development are not subject to high levels of natural hazard risk, and
 - reducing decision-making delays associated with ongoing litigation relating to natural hazard considerations.
- 9.2. At a conceptual level it is logical that areas of existing development that currently provide in-situ housing stock are subject to a proposed NPS NHD. However, the current economic reality of local authorities, including QLDC, is that this is not a viable option. Accordingly, QLDC opposes identification of existing development in the NPS NHD due to significant financial ramifications.
- 9.3. QLDC is cognisant of the need to carefully reconcile the need for risk-based decision-making and urban development objectives. This will be an important component of the RMA reform programme, and in particular the National Planning Framework (NPF). However, it is noted that the proposed Transitional NPF currently out for targeted engagement¹¹ does not sufficiently address natural hazard risk. QLDC acknowledges that the newly elected National led government intends to repeal recently passed RMA reform legislation. As such, a more proactive and robust national policy statement under the existing

⁹ AGS 2007

<https://buildchange-web.s3.amazonaws.com/resources/pdfs/usaidprimers/Practice%20Note%20Guidelines%20for%20Landslide%20Risk%20Management%202007.pdf>

¹⁰ Section 8.2, AGS 2007

¹¹ <https://environment.govt.nz/publications/targeted-engagement-draft-nbe-npf-regulations/#:~:text=The%20content%20of%20the%20transitional,as%20urban%20development%20or%20infrastructure.>

RMA framework becomes increasingly important, particularly in the absence of any further understanding of the new government's intentions for the RMA.

9.4. QLDC notes that the Select Committee inquiry into climate adaptation will have an important reconciliation exercise to play in regard to these (sometimes) competing objectives. However, the work of this inquiry will make positive steps towards securing general alignment.

9.5. Recommendations

R.6 – That the NPS NHD engage more strongly with the proposed Transitional NPF currently out for targeted engagement.

R.7 - That the NPS NHD development process be cognisant of the newly elected National led government's intention to repeal RMA reform legislation.

Proposed objective

10 Do you agree with the proposed objective of the NPS NHD? Why or why not?

10.1. No. QLDC does not consider that the proposed objective sets the right outcome statements necessary to support good risk-based decision-making and the subsequent policies. The proposed single objective is ambiguous and tries to achieve too much with too little detail.

10.2. QLDC recommends that the NPS NHD objective has the following amendments:

- A second objective is suggested which sets out the level of risk that is acceptable for new development. Simply stating that risks should be 'minimised' lacks clarity. This doesn't provide the certainty that local authorities require in order to make robust and confident decisions. QLDC recommends that a new second objective employs the proposed definitions of high, moderate and/or low natural hazard risk that are set out in the interpretation section of the NPS NHD. QLDC considers that the second objective should state that natural hazard risk should be managed to ensure it does not exceed moderate levels (means a risk from natural hazards that is more than a low risk, but is not intolerable) and maintained where it is low (means a risk from natural hazards that is generally acceptable). It is noted that proposed policy 5(a) sets this standard:

'Planning decisions must ensure that... in areas of high natural hazard risk, new development is avoided unless the level of risk is reduced to at least a tolerable level or:...'

QLDC supports in principle Policy 5(a), but does not consider that the reference to 'minimise' in the proposed objective supports this policy.

10.3. Recommendations

R.8 – Refer to paragraph 9.2 above.

Policy 1 and definitions: natural hazard risk categories

11 What are the pros and cons of requiring decision-makers to categorise natural hazard risk as high, moderate or low?

11.1. QLDC notes the following pros and cons:

11.2. Pros:

- Represents a positive step towards the implementation of a risk-based approach to land use decision-making
- Application of a nationally consistent language for natural hazard management
- Promote a consistent approach to the application of a risk-based approach in decision-making

11.3. Cons:

- Leaving risk level determination to those who make planning decisions is unlikely to resolve litigation risks currently faced by local authorities in making land use decisions
- This approach is likely to impose (potentially significant) additional costs on applicants, local authorities and ratepayers when preparing and/or considering consent applications and plan changes

Policy 2: Assessing natural hazard risks

12 What are the pros and cons of directing decision-makers to assess the likelihood, consequence and tolerance of a natural hazard event when making planning decisions?

12.1. QLDC notes the following pros and cons:

12.2. Pros:

- Represents a positive step towards the implementation of a risk-based approach to land use decision-making
- Application of a nationally consistent language for natural hazard management
- Promote a consistent approach to the application of a risk-based approach in decision-making

12.3. Cons:

- This approach is likely to impose (potentially significant) additional costs on applicants, local authorities and ratepayers when preparing and/or considering consent applications and plan changes

12.4. QLDC considers that tolerance engagement on a case-by-case basis will be inefficient if undertaken at the time of making a planning decision¹². There needs to be greater predictability for the market than the cost and uncertainty of case-by-case decision making. The standard RMA Schedule 1 process and its strict formality does not facilitate the type of engagement needed to deliver robust tolerance engagement exercises. QLDC considers that the proposed policy framework needs to be amended to require tolerance engagement to be undertaken well ahead of any formal, case by case planning decisions as part of a Central Government led approach to result in common tolerance levels for all regions.

12.5. QLDC supports the intent of Policy 2, although it is noted that the identification of likelihood and consequences is necessary under a risk-based approach (i.e. Policy 1 cannot be implemented without the assessment of likelihood and consequences). The real benefits of Policy 2 are associated with its direction to determine the *'tolerance to a natural hazard event'*. From QLDC's experience, genuine risk tolerance engagement is complex and time consuming, requiring significant input from local authorities, their experts and affected community members.

¹² See Environment court decision Skyline Enterprises Ltd v Queenstown Lakes District Council [2018] NZEnvC 242

- 12.6. QLDC recommends that national guidelines and/or standards be established to lead and set out how tolerance engagement is to take place, and minimum engagement ‘thresholds’ that support robustness to protect against drawn-out litigation.
- 12.7. The second limb (b) of Policy 2 states that tolerance includes *‘the willingness and capability of those who are subject to the risk’*. QLDC notes that tolerance done at a community level in the first instance will also include those who are indirectly impacted by a hazard, such as local authorities.
- 12.8. QLDC recommends that the terms ‘acceptable’ (equal to low risk), ‘tolerable’ (equal to moderate risk) and ‘significant’ (equal to high risk) be applied within the NPS NHD in place of the proposed ‘intolerable’ and ‘generally acceptable’. The recommended terms have more precedent value given their use in multiple RMA plans and, in the case of ‘significant risk’, its use within section 6(h) of the RMA as a matter of national importance.
- 12.9. The NPS NHD does not provide a definition of ‘tolerance’ but uses the terms ‘generally acceptable’ and ‘intolerable’ within the proposed definitions of ‘high risk’, ‘moderate risk’ and ‘low risk’. It would be preferable for the NPS NHD to provide threshold definitions of tolerability so that communities, stakeholders, iwi and hapū and local authorities are clear about the meaning of this contested term. The Proposed Otago Regional Policy Statement (**PRPS**) usefully establishes tolerability thresholds centred around Annual Individual Fatality Risk (**AIFR**)¹³ and Annual Property Risk (**APR**)¹⁴ methodologies¹⁵.
- 12.10. In the PRPS, these thresholds are an interim measure which do not preclude the need for community consultation to inform what types of likelihood and consequences constitute acceptable, tolerable or significant risk, but they do set up specific responses that will need to be undertaken in response to the different types of identified risks.
- 12.11. Recommendations
- R.9 - That the terms ‘acceptable’ (equal to low risk), ‘tolerable’ (equal to moderate risk) and ‘significant’ (equal to high risk) be applied within the NPS NHD in place of the proposed ‘intolerable’ and ‘generally acceptable’.
- R.10 - That the NPS NHD provide threshold definitions of tolerability.

Policy 3: Precautionary approach in decision-making

13 What are the pros and cons of directing decision-makers to adopt a precautionary approach to decision-making on natural hazard risk?

- 13.1. As per the comments above, QLDC disagrees with the sequencing promoted within Policy 3 in particular, that a precautionary approach must be adopted at the time of making planning decisions.

¹³ Annual probability that an individual most at risk is killed in any one year as a result of the hazards occurring

¹⁴ Annual probability of total property loss (relating to permanent structures) as a result of the hazards occurring

¹⁵ Step 4 of APP6 – Methodology for natural hazard risk assessment

- 13.2. The application of a precautionary approach which seeks to avoid development in situations of uncertainty is generally supported. This is one way to ensure new development does not inadvertently take place in areas of significant risk, or increases risk such that it could result in 'tolerable' levels being exceeded.
- 13.3. However, the precautionary approach has not been applied well despite its longstanding application within the RMA and other pieces of national direction. Ultimately, natural hazard risk has continued to increase across the country despite risk being uncertain, unknown, or little understood.
- 13.4. QLDC recommends amendments to improve the strength of the policy by referring the 'adoption of an avoidance or adaptive management response' as a means to materially implement a precautionary approach.
- 13.5. As noted above, QLDC would recommend the use of the term significant, rather than intolerable in limb (b).
- 13.6. Recommendations

R.11 – That Policy 3 refer to the 'adoption of an avoidance or adaptive management response' as a means to materially implement a precautionary approach.

R.12 – That the term 'significant' be applied rather than intolerable in limb (b).

Policy 4: Restricted discretionary and controlled activities

- 14 **What are the pros and cons of requiring natural hazard risk as a matter of control for any new development classified as a controlled activity in a plan, and as a matter of discretion for any new development classified as a restricted discretionary activity?**
 - 14.1. QLDC agrees in principle with the direction set out in Policy 4. It would ensure that a consistent approach is applied to the consideration of natural hazard risk for controlled and restricted discretionary activities.
 - 14.2. However, it is noted that local authorities only classify activities as controlled when they are generally anticipated and where very few material matters need to be controlled by way of resource consent conditions. Controlled activities would not typically be anticipated in zones where natural hazard risk needs addressing. QLDC acknowledges that this direction is likely to assist in circumstances where controlled activities may have been classified in areas when natural hazard risk is uncertain, unknown, or little understood. As such, it is a means of applying a precautionary approach.
 - 14.3. QLDC considers that this direction is at odds with the recent central government changes to the way controlled activity consents are intended to be processed. In particular, it is noted that controlled activities must be granted and processed at pace (within 10 working days). This decision-making context doesn't lend itself well to robust risk management.
 - 14.4. Recommendations

R.13- That the NPS NHD require the lowest consent activity status in areas of moderate or high risk be discretionary or non-complying.

Policy 5: Direction on new development in areas of high, moderate and low risk

- 15 **What are the pros and cons of requiring planning decisions to ensure the specific actions to address natural hazard risk outlined in policy 5?**
- 16 **What is the potential impact of requiring decision-makers to apply this framework in their decision-making? Will it improve decision-making?**

16.1. QLDC supports national direction which requires certain decision-making pathways based on the identified level of natural hazard risk (as per the PRPS). This is necessary to ensure robust and confident decision making, minimise the risk of litigation, and improve national consistency. Decision makers also need to be aware of the cost impact of new rules. By definition, new rules have fundamentally increased costs considerably. QLDC is not challenging the increase in costs per se, but point out that often standards get imposed in a policy vacuum and the private individual bears that cost.

16.2. It is understood Policy 5 sets the following baseline - that *'risk is reduced to at least a tolerable level'*. Limbs (a) – (c) set out a series of 'exceptions' for an activity to pass by this baseline and that all matters must be achieved to pass the baseline test. QLDC agrees in principle that there should be limited exceptions to the need to achieve a tolerable level of risk (or lower). However, QLDC has the following concerns with the subject exceptions:

- Limb (a)(i) – identifies development that *'is not a new hazard-sensitive development'*. QLDC prefers the use of the term 'vulnerable activities'. It is the degree of vulnerability of an activity that makes it more or less effected. Vulnerability is a more accepted term in existing risk assessment methodologies (i.e. AIFR and APR). A definition and list of *'new hazard-sensitive development'* is included in the NPS NHD. QLDC recommends the use of activity characteristics in this definition rather than listing specific activity types as it is the specific characteristics of activities that determine their vulnerability. The proposed definition risks other activities not being effectively managed by the policy by applying an activity specific approach. QLDC notes that short term visitor accommodation activities should be considered and potentially identified based on the unfamiliarity of occupants with the subject risk and their similar vulnerability characteristics to residential dwellings.
- Limb (a)(iii) – provides for activities in high-risk areas if there are *'no practicable alternative locations'*. It is preferable that the term 'practicable' be described to reduce ambiguity and associated litigation around the implementation of this policy. The National Policy Statement on Highly Productive Land at 3.10(2)¹⁶ provides a more useful set of requirements by which any reasonably practicable options are to be evaluated. QLDC recommends that a similar approach be applied in the NPS NHD.
- Limb (a)(iv) - provides for activities in high-risk areas if *'risk is reduced to as low as reasonably practicable'*. As per the comment above regarding Limb (a)(iii), QLDC proposes that the phrase *'as low as reasonably practicable'* is qualified with a set of requirements for assessment to improve consistency and reduce the burden of assessment on local authorities.
- Limb (b) requires new development to apply mitigation measures to reduce natural hazard risk as low as reasonably practicable in areas of moderate risk. QLDC considers this policy somewhat

¹⁶ <https://environment.govt.nz/publications/national-policy-statement-for-highly-productive-land/>

ambiguous as moderate levels of risk are equivalent to tolerable levels of risk, which the community is willing to live with. This policy is stating that this risk should be reduced, where it would be more internally consistent and less onerous for it to require new development in areas of moderate risk to be managed to ensure tolerable levels of risk are not exceeded (or that they do not become high/intolerable/significant).

- Limb (c) provides for new development in areas of low natural hazard risk to be enabled. QLDC supports this direction. However, QLDC is concerned with the definition of '*low natural hazard risk*' and its reference to a level of risk that is '*generally acceptable*'. This limb is not sufficiently supported by such an ambiguous definition.

16.3. Recommendations

R.14 - Refer to paragraph 15.2 above.

Policy 6: Reducing natural hazard risks through mitigation

17 What are the pros and cons of providing direction to decision-makers on the types of mitigation measures that should be adopted to reduce the level of natural hazard risk?

17.1. QLDC supports strong direction on the types of mitigation measures that should be adopted to reduce natural hazard risk. However, Policy 6 does not deliver a sufficient level of detail or direction. Simply suggesting that '*the most effective measures are adopted*' is not considered to be sufficiently robust or directive. The NPS NHD should provide an appendix setting out a specific set of mitigation measures that are considered to be the most effective for each given hazard at each given level of risk. While this would add detail to the document it would be more helpful for decision makers.

17.2. QLDC supports limbs (a) and (b) in Policy 6 as a starting point for the additional specificity requested above.

17.3. Recommendation

R.15 – That the NPS NHD consider providing an appendix of mitigation measures for each given hazard at each given level of risk where common approaches to mitigation may occur.

Policy 7: Recognising and providing for Māori and tangata whenua interests and te Tiriti principles

18 Does policy 7 appropriately recognise and provide for Māori rights, values and interests? Why or why not?

18.1. QLDC considers that Te Tiriti, mātauranga and te Ao Māori should play an important role in relevant natural hazard risk decision making processes. QLDC supports genuine early engagement with local iwi and hapū to ensure decisions give effect to tangata whenua values, interests, and aspirations.

18.2. QLDC is concerned that Policy 7 specifies that tangata whenua values, interests, and aspirations are recognised and provided for only when making decisions on new development on specified Māori land where there is a high or moderate natural hazard risk. It is considered that all levels of risk should be considered in the context of tangata whenua values, interests, and aspirations if the hazard relates to Māori land. Further, it is noted that the NPS NHD contains directions that relate to areas of low risk (Policy 5(c)), and implementation Part 3.2 goes further than Policy 7, stating that '*Natural hazard risk is a matter that must be discussed with tangata whenua in accordance with existing requirements under the RMA*'. Internal consistency improvements should be made in regard to this policy direction.

18.3. Recommendations

R.16 - That genuine early engagement with local iwi and hapū is undertaken to ensure natural hazard decision-making gives effect to tangata whenua values, interests, and aspirations.

19 **Can traditional *Māori knowledge systems* be incorporated into natural hazard risk and tolerance assessments?**

19.1. Yes, it is important that traditional Māori knowledge systems be included in risk and tolerance assessments. However, QLDC notes that current risk assessment frameworks are highly westernised, and modified methods will therefore need to be established by central government if te Tiriti, mātauranga and te Ao Māori is to be genuinely incorporated into risk-based decision-making.

19.2. While this presents a challenge, there are good opportunities to improve the way te Tiriti, mātauranga and te Ao Māori is incorporated into risk assessment frameworks as methodologies are currently absent or only just emerging for a range of hazard types (i.e., liquefaction, fire risk etc.).

19.3. QLDC recommends that national direction or guidance is issued on including te ao Māori and local mātauranga Māori in risk assessments.

19.4. Recommendations

R.17 - That modified risk and tolerance assessments methods be established by central government so te Tiriti, mātauranga and te Ao Māori can be incorporated into risk-based decision-making.

R.18 - That national direction or guidance is issued on including te ao Māori and local mātauranga Māori in risk assessments.

20 **Does the requirement to implement te Tiriti settlement requirements or commitments provide enough certainty that these obligations will be met? Is there a better way to bring settlement commitments into the NPS?**

20.1. Te Tiriti settlement requirements or commitments set out critical obligations that will need to be taken into account.

20.2. Recommendation

R.19 - That national direction or guidance be provided on how Te Tiriti, mātauranga and te Ao Māori is to be incorporated into risk-based decision-making.

Implementation timing

21 **Is the implementation timeframe workable? Why or why not?**

21.1. QLDC agrees with the direction set out at 4.1(1) which requires decisions on resource consent applications, designations and plan changes requested under Part 2 of Schedule 1 of the RMA to have regard to the NPS NHD from the date it comes into force. Consideration should be required on all applications lodged after the NPS comes into force.

22 What do you consider are the resourcing implications for you to implement the proposed NPS-NHD?

22.1. As noted elsewhere in this submission, QLDC anticipates considerable resources would be required to robustly implement a risk-based planning approach. Examples of some resourcing implications include:

- The cost of undertaking adequate risk assessments and assessing them in planning applications is significant, requiring the procurement of many external technical experts. Local authorities do not have in-house technical capability, and variable access to such external resources.
- Genuine and meaningful community engagement will be required to determine risk tolerability if that is not defined at a national level. In QLDCs experience, successful risk engagement takes considerable resources, must be supported by technical experts and requires a wide scope to reach as many stakeholders as possible.
- Successfully incorporating te Tiriti, mātauranga and te Ao Māori in risk-based planning will require local authorities to up-skill.
- There are also considerable costs to developers and private individuals. Understanding the costs and benefits are important.
- Local authorities face considerable litigation risk in making risk-based land use decisions. This litigation must be defended by local authorities which comes at considerable expense, and in some cases presents a barrier to effective and efficient decision-making.

22.2. The abovementioned resourcing requirements are ongoing as natural hazard risk is not static, requiring constant review and response when circumstances change.

22.3. QLDC notes that local authorities already face challenging resource and funding allocation decisions. Central government should acknowledge, address and assist in resolving this challenge through consideration of the creation of a centralised agency designed to assist with the funding of risk assessments and community engagement (among other roles outlined in this submission).

22.4. Recommendation

R.20 - That a centralised agency be established to assist with the funding of natural hazard risk assessments and other costs necessary to successfully implement risk-based decision-making under the NPS NHD.

Implementation guidance

23 What guidance and technical assistance do you think would help decision-makers to apply the proposed NPS-NHD?

23.1. QLDC considers that guidance and technical assistance is needed from central government to address all of the resourcing challenges set out at paragraph 21 above. To assist with this QLDC recommends central government establish nationally consistent standards, acceptable tolerances and methodologies for risk assessment and engagement processes that must be followed by any person or entity undertaking a risk assessment.

23.2. Recommendations

R.21 – That central government establish nationally consistent standards, acceptable tolerances and methodologies for risk assessment and engagement processes that must be followed by any person or entity undertaking a risk assessment.