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Local Government New Zealand
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Dear Ian

RIVER MANAGERS FORUM COMMENTS ON THE POSITION STATEMENT FROM LOCAL GOVERNMENT ON A NATIONAL POLICY STATEMENT ON FLOOD AND STORMWATER RISK MANAGEMENT

As the lead agency for flood risk managers in New Zealand, the River Managers Forum (RMF) welcomes the opportunity to provide feedback on the Position Statement from Local Government on a National Policy Statement on Flood and Stormwater Risk Management.

The RMF strongly endorses the approach taken by LGNZ in promoting the formation of a National Policy Statement for Flood and Stormwater Risk Management.

We also support the principles of the Draft New Zealand Protocol for Managing Flood Risk, and see the development of a New Zealand Standard as a key factor in providing better social, economic, environmental and community outcomes through an improved and more consistent national approach to flood risk management.

The RMF sees the preparation of a National Policy Statement (NPS) as one of the work streams in providing national direction and leadership in managing flood risk in New Zealand. We consider the list of components required in developing a national approach is:

1. Development of the overall direction and context for flood risk management. This includes flood risk being defined as a Matter of National Importance, and ensuring approaches to flood risk management are consistent across New Zealand.
2. Development of a National Policy Statement for Flood and Stormwater Risk Management.
3. Development of the New Zealand Standard for Flood Risk Management from the Protocol.
4. Legislative change, where required, to recognise flood risk management as a matter of national importance under the RMA, the consistency with the Building Act, and funding issues (including exacerbator/beneficiary funding), and national support for provision of research to improve understanding of river systems.

5. Recognition and reinforcement of flood risk management principles at a Regional Policy Statement level. This would come through RMF members assisting planning staff to incorporate the principles of flood risk management as set out in the NPS and Protocol.
6. Flood Risk Assessment Criteria – the RMF recognises that there is a gap in flood risk assessment (both in consistency and level of precision) on a national basis, and we would welcome the opportunity to contribute to the proposed development of guidelines by the LGNZ Regional Affairs Flood Management Subcommittee.
7. A centre of excellence for river management (including flood risk management) is established to ensure the sustainability of the practitioner resource in the field, establish recognised practice methods and lead research into areas such as:
 - Managing flood risk as it relates to floodplains e.g. through the MfE 2001 Guidelines for Floodplain Management Planning.
 - Development of 'The Rivers Handbook' to provide methodology for defining the flood standard of a river channel/floodway and to integrate this with channel ecological management opportunities (This is currently an initiative of the River Managers Forum with funding from Envirolink.)
 - Improving the science of flood warning

We have suggested changes to the 'Position Statement from Local Government on a National Policy Statement on Flood and Stormwater Risk Management', which are attached.

We would be pleased to discuss these further, should you require, or contribute to any other initiatives resulting in improved outcomes for flood and stormwater risk management.

Regards.

Yours sincerely

Mike Adye
Chairman
River Managers Forum

National Policy Statement

Flood and Stormwater Risk Management

A Position Statement from Local Government

April 2007

Note: this version of the Position Statement may differ from the LG Position Statement as it includes comments from the Rivers Managers Forum. This version was forwarded to LGNZ and copied to MfE.

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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.

LG considers that 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;
- 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:

Reducing flood risk is a matter of National Importance.

The role of the government in managing flood risk is to coordinate flood risk reduction strategies at a national level, and support the actions to manage and reduce flood risk at the regional and local levels.

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, 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.

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. 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, including inundation from the sea, 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.

The risk will be managed by LG in recognition of the nature, scale and consequences of risk to communities including residual risk.

When undertaking flood and stormwater risk management LG will:

- Take a holistic 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 and changes over time 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.
- Take into account the existing development and also potential future development on the floodplain in the risk assessment.
- LG and decision makers will not presume that the Building Act provides appropriate standards for flood risk management.

Having assessed the stormwater and flood risks, including residual risks, for communities, LG will ensure that appropriate responses are developed and adopted.

In areas subject to repetitive flood events where flood protection is not an environmentally, economically or socially 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 ability to manage flood risk management activities sustainably is hindered by the lack of understanding about river/fluvial processes and the effects of activities. Therefore, a precautionary approach should be adopted towards proposed activities, particularly those whose effects are as yet unknown or little understood.

The above Policy Direction presumes Government will provide LG with statutory tools for enforcing relocation or staged retreat.

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*),
 - ▶ Changes to storm frequency and intensity,
 - ▶ Changing groundwater levels.
- morphological changes, including sedimentation and erosion;
- vegetation changes;
- changes to river system flood capacity.

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.

LG understands that the Building Act is presently being reviewed. Recognition of the direction and intent of this NPS should be given in changes to the Building Act.

2.3 Council Roles and Responsibilities

Issues:

Under existing legislation¹ 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, in some cases there is a problematic 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 default 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.

Table 1: Default Respective 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

¹ Local Government Act, Resource Management Act, Soil Conservation and Rivers Control Act, Land Drainage Act
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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 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. 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.

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.

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 fund the provision of flood and stormwater risk management according to the outcomes of these exacerbator and beneficiary funding assessments.

The RMF questions the appropriateness of funding statements within the NPS. The funding relationship between beneficiaries and exacerbators is looked at under Legislation, and is not a function of the RMA.

However, there should be a linkage to funding issues, which are covered outside the NPS. We suggest:

“When considering risk assessments, exacerbators and beneficiaries will be considered under other legislation.”

Other funding issues to be addressed are:

- safety net funding;
- funding to under-resourced councils
- the true cost of responding to flood events
- the national benefit of flood risk management.

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:

- Recognise through Legislation that flood risk management is a Matter of National Importance and provide appropriate oversight and support.
- Provide funding assistance to under resourced councils to boost their institutional capacity to deliver statutory stormwater and flood management functions;
- Provide funding in recognition of the national interest nature of, and national benefit provided by, some flood management activities;
- Provide “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;
- Properly consider the true cost of responding to flood events when assessing appropriate responses and recognise who actually pays for remediation;
- Provide statutory tools 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.
- Clarify the role of Iwi in the governance of rivers and streams.

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.