

// SUBMISSION



INQUIRY INTO COMMUNITY-LED RETREAT

// Local Government New Zealand's submission on the Environment
Committee's Inquiry into community-led retreat and adaptation funding

// NOVEMBER 2023





Ko Tātou LGNZ.

Local Government New Zealand (LGNZ) provides the vision and voice for local democracy in Aotearoa, in pursuit of the most active and inclusive local democracy in the world. We support and advocate for our member councils across New Zealand, ensuring the needs and priorities of their communities are heard at the highest levels of central government. We also promote the good governance of councils and communities, as well as providing business support, advice, and training to our members.

Our submission has benefited from the input of members of the RM Reform Local Govt Steering Group and the Aotearoa Climate Adaptation Network, which is a network of local government practitioners working in the adaptation space.

Executive summary

Local Government New Zealand (LGNZ) welcomes the opportunity to submit on the Inquiry into community-led managed retreat and adaptation funding (Inquiry). The outcomes of this Inquiry are of critical interest to local government. With its on-the-ground experience, local government can help the Environment Committee to develop a suite of recommendations that will deliver good outcomes for all parts of our communities, by taking a locally led, centrally enabled approach.

Local government is at the frontline of climate change adaptation. Under the current system, councils are responsible for assessing and responding to natural hazard risk through land-use planning decisions, which includes taking steps to mitigate risk in certain cases. They also support communities to respond to and recover from emergency events. Increasingly councils are bearing the brunt of failing infrastructure due to the impacts of climate change.

Some councils have already started planning for adaptation where their communities have experienced multiple severe weather events or are exposed to high levels of risk. However, the current patchwork of legislative and regulatory powers and responsibilities is difficult to navigate and missing key elements.

Local government has been calling for a Climate Adaptation Act (CAA) for many years now and is disappointed this work isn't more advanced. Given recent severe weather events, local government considers that a Climate Adaptation Act (CAA) or similar framework has taken on increasing importance, and that work to develop one needs to be urgently prioritised to give councils and communities much-needed certainty. While work to meet New Zealand's climate change targets ramps up, overlooking the critical need to have strong policy around adaptation is coming at considerable cost.

A CAA framework needs to clearly outline roles and responsibilities for adaptation action and provide tools and mechanisms that will assist with funding adaptation planning and options. However, we recognise the importance of involving communities and key stakeholders in developing the framework, given the significant impacts it will have – including on property rights and the economic and social prosperity of our communities.

While national consistency should be a key objective of the CAA framework, localism should be at its heart. Councils and communities are uniquely placed to determine the adaptation options that will work best in their place but require the Government to enable them. That's why we think it's critical that the Environment Committee and new Government work closely with local government, which has strong and established partnerships with local iwi, businesses and other parts of its community, as policy options are developed and tested.

Our submission focuses on the key elements of a comprehensive framework for adapting to climate change: risk assessments, establishing levels of community tolerance for risk, locally led adaptation planning, a framework for 'community-led retreat', and funding mechanisms. All these elements need to be included in a CAA, to fill the gap that currently exists in the statutory framework. Decisions, plans and assessments produced under this framework must integrate with councils'

existing responsibilities (and any new ones) to ensure efficiency and help to minimise unnecessary cost and duplication.

Some aspects of this framework, such as requiring communities to retreat where necessary, will be highly contentious. That makes establishing a robust process that enables local decision making but which is appropriately supported at a centralised level essential.

We've used the term 'community-led retreat' throughout this submission, since it's been used in the issues and options paper. While we think communities must have considerable say in what adaptation and retreat options look like, we think the term may be a misnomer because central and local government, insurers and the market will inevitably play a critical role in decisions that get made, and potentially drive adaptation and retreat in certain cases. We think the Committee should consider whether a better term could be used in its place.

Our key points

Our submission sets out the key things we'd like to see picked up in the CAA, and how we'd like to work with the Environment Committee and the Government on the development of that framework.

Create an enduring framework with strong local government input

- // The Environment Committee and Government must collaborate with local government as policy options for the CAA are being developed and tested, to ensure that they will work at the local level. This work needs to be progressed with urgency to fill the gap that currently exists in the statutory framework.
- // To provide councils, communities and other stakeholders with the long-term certainty they need, we strongly encourage Parliament to work towards cross-party support on the CAA.

Provide robust risk assessments

- // Councils should keep their current role in developing risk assessments, but this should be supported by clearer statutory direction on risk management.
- // Risk assessments should be a purely technical exercise (including incorporating mātauranga Māori).
- // We support national direction that sets consistent and robust policy, processes, methods, and metrics for risk assessments.
- // The Committee should assure itself that limiting the scope of risk assessments to physical hazards and the built environment is appropriate.
- // We request the Environment Committee and Government work with local government to develop an appropriate set of thresholds, methodologies and considerations for risk assessments that balance national consistency with the need to account for local variations.

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- // We recommend setting descriptors for acceptable, tolerable and intolerable risk that account for the impact of risk over time, what is being impacted and to what extent, cumulative and cascading risks, and the economic and social impacts on communities.
 - // We ask the Committee to investigate appropriate mechanisms for taking community risk tolerance into account as part of the adaptation planning process.
 - // We encourage the Government to work with bodies like Taituarā and the Aotearoa Climate Adaptation Network (ACAN) to develop a workforce plan to build the capacity and capability required to carry out risk assessments across the country.
 - // Central government should provide funding to support risk assessments, particularly for smaller, rural councils.
 - // We recommend that appeals against risk assessments should be limited to questions of law only.
 - // The Government should coordinate the implementation of risk assessments under the CAA, with improvements to communication of natural hazards information on LIMs and the implementation of improved natural hazard data and assessment to deliver efficiencies and reduce duplication of effort.

Develop a framework for adaptation planning

- // We support a nationally consistent but locally led approach to local adaptation planning with national direction on risk prioritisation, adaptation options, and the approach to estimating the costs and benefits of different adaptation pathways.
- // We encourage the Committee to ensure that enough flexibility is provided in the system to recognise local environmental circumstances and support local preferences.
- // We support mandating local adaptation planning.
- // We encourage the Committee to consider how different roles and responsibilities will be managed in a way that is efficient, fair and draws upon existing capabilities.
- // Development of a CAA (and any related amendments to other legislation), in parallel with progressing the Review into the Future for Local Government, is an opportunity to find ways to integrate, coordinate and rationalise roles, timeframes, and processes within existing processes.
- // We encourage the Committee to ensure appropriate community engagement and oversight processes are included in the new system to uphold natural justice rights.
- // Any adaptation framework should ensure communities have ample opportunity to participate in decision-making during the development of local adaptation plans.
- // We support national guidance around community engagement to enable consistency and support councils to have tough conversations with their communities.
- // We encourage the Government to retain the Spatial Planning Act and ensure local adaptation plans are well integrated with RSSs. We also encourage the Government to retain proactive policy direction in relation to natural hazard risk reduction and management.

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- // We believe local adaptation plans need to be well integrated with existing land-use, infrastructure, and development processes, and that similar, or equivalent, policy direction should be adhered to, so that there is consistency in outcomes.
 - // The framework must enable integration between local adaptation planning and urban regeneration projects where possible.
 - // Land use and spatial planning frameworks must enable the development of infrastructure necessary to support relocation, as well as the development of land needed to achieve community relocation.

Enable community-led retreat

- // We encourage the Committee to develop a more appropriate term than 'community-led retreat' once there is more clarity around roles and responsibilities under the new system.
- // Any retreat framework must provide considerable opportunities for communities to participate in decision-making.
- // Any retreat framework needs to anticipate and provide for a range of options, such as incentivising ways for communities to be relocated to new areas together, or for relocations to be staggered.
- // Mandatory powers of acquisition should be available in some circumstances; for example, to ensure that vulnerable people are not left behind and to help manage councils' obligations to continue to provide, or cease in certain cases, services to communities.
- // Affected land should be retired and should not be available for improvement or development once a decision to leave has been made. However, further consideration should be given to whether some land uses may be acceptable, even for a finite term (eg parks that serve as passive flood detention areas, agriculture).
- // Specific powers around the acquisition, control and retirement of land should be given to councils. This should include ability to restore affected land for recreation/ecological purposes and maintaining access to culturally significant sites.
- // There should be financial support from the Crown to support councils with retirement, acquisition and control of land, and mechanisms to ensure assets are not left to deteriorate may be necessary.
- // We encourage the Committee to work in collaboration with councils and other asset owners to develop a clear process for the restriction and potential withdrawal of services from affected areas.

Fund climate adaptation

- // We support establishing a funding and financing framework that clarifies roles and responsibilities, provides support to communities and increases incentives for people and organisations to begin adapting now.



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- // We recommend that there is a clear formula in primary or secondary legislation to calculate the share of costs each actor in the system will be expected to pay. This formula must account for the varied levels of support communities will need and community/individual capacity to pay. It should incentivise early action, including proactive retreat where appropriate.
 - // We'd like to see strong cross-party commitment to climate adaptation funding arrangements (including for retreat), to ensure long term certainty.
 - // Central government needs to play a significant part in funding climate adaptation action, alongside other stakeholders. Local government cannot meet the costs on its own.
 - // We encourage the Committee to work in collaboration with local government in particular to prioritise and rationalise the funding proposals put forward by the Working Group.
 - // We recommend the Committee explore revenue-raising tools and changes to financing settings, to help councils meet the increasing costs of local adaptation, and any contribution that councils will need to make towards retreat.

Our submission

Create an enduring framework with strong local government input

Councils have been calling for a framework to support communities to adapt to the impacts of climate change for many years. Increasingly frequent and severe weather events like Cyclone Gabrielle and the Auckland Anniversary floods severely affect communities, generating significant damage and costs. Right now, we're responding to these events in an ad hoc and reactive way rather than proactively reducing and adapting to the risks our communities face. This approach fails to give communities the certainty they need, and comes at considerable cost. The Treasury has estimated the repair bill from Cyclone Gabrielle and the Auckland floods will total between \$9 billion and \$14.5 billion.

Although there's an urgent need to adapt and build resilience to climate change, for many New Zealanders their home is their main asset, and our economy is primarily a land-based one. These factors make this work complex. Having a clear framework in place that provides certainty and clarifies roles and responsibilities, including responsibility for funding, is critical, so that councils, communities and businesses are able to plan and invest accordingly.

Cross-party support for a CAA (or similar framework) would create enduring certainty. We encourage the Committee (and new Government) to take a crossbench approach to developing a CAA and agreeing on long-term funding options. We acknowledge that the Natural and Built Environment and Spatial Planning Acts have only recently been enacted and that they, with the CAA, were intended to form the replacement Resource Management Act framework. Our view is that a CAA can and should be developed alongside, or separately to, any further reform of the resource management system, given its critical importance to councils and communities. The current gap in the statutory framework needs to be filled.

Climate adaptation will require all levels of government to work in concert to deliver the right policy settings, compensation, and incentives. The CAA must work for all parties who have responsibilities under it. We ask that the Government collaborates with local government during policy and legislative design. We believe there is particular value in engaging existing groups (such as the Local Government Steering Group on Resource Management Reform and the Aotearoa Climate Adaptation Network) and peak bodies including LGNZ, Taituarā and Te Uru Kahika. Utilising this expertise will enable a wider range of perspectives to be brought to the table efficiently and effectively – and will help ground the policy in local expertise, experience and current approaches (which are locally led, by councils). Local government can also help to ensure that the range of policy settings in the CAA integrates with its other existing and new responsibilities around land use, infrastructure planning and delivery and economic development.

Recommendations

- // The Environment Committee and Government must collaborate with local government as policy options for the CAA are being developed and tested, to ensure that they will work at the local level. This work needs to be progressed with urgency to fill the gap that currently exists in the statutory framework.
- // To provide councils, communities and other stakeholders with the long-term certainty they need, we strongly encourage Parliament to work towards cross-party support on the CAA.

Provide robust risk assessments

Risk assessments, undertaken by councils, must be a key component in any proposed framework. They will enable robust decision-making by providing evidence and science to identify areas and communities most at risk from natural hazards and the impacts of climate change. There is currently significant variability in the quality, methodology and scope of risk assessments done to support local adaptation planning. We hear from councils that's because of a lack of clear central government direction around risk-related outcomes, the lack of any clear proactive direction on risk reduction and resilience, and the approach to hazard modelling, assessment methodologies and levels of risk criteria for climate risk assessments.

Recommendation

- // Councils should keep their current role in developing risk assessments, but this should be supported by clearer statutory direction on risk management.

Prescribing a consistent methodology for risk assessments

The issue of inconsistent identification and assessment of risk was examined by the Expert Working Group ('the Working Group'). The Working Group recommended that national direction should guide the process of identifying and prioritising areas for "adaptation planning", by setting out the risk circumstances in which such planning is required. The Working Group also recommended that a new national policy statement provide direction.¹ We agree with the Working Group that *"standardisation of the process, methods and metrics for risk assessment at the national level will provide national consistency, robustness and certainty to the risk assessment process"*.²

In the context of adaptation planning and potential community-led retreat, consistency and certainty are critical, particularly given these decisions' financial implications and their impact on the social and economic fabric of New Zealand's communities. A nationally consistent approach to risk

¹ Report of the Expert Working Group on Managed Retreat: A proposed System for Te Hekenga Rauora/Planned Relocation, Recommendation 12.

² Working Group Report, Paragraph 3.181.

assessment would also enable central government to effectively prioritise adaptation actions across the country, which will be particularly important where Crown funding is expected.

A standardised approach to assessments for new development could also provide certainty on return periods following certain natural hazard events. For example, following the 2010/2011 Canterbury earthquakes, large areas of Christchurch were 'red-zoned' due to the level of liquefaction and instability. If this instability risk were to reduce over time due to decreasing seismic risk, then the NPS-NHD could provide direction for decision-makers to consider whether the risk level will be low enough in the future to enable development to proceed.

If risk assessment methodologies are not set at a national level but are determined at a regional or local level, then there will be a higher risk that ratepayers and communities will seek ways to be assigned a lower risk status. This could occur, for example, through community informed plan-making processes, either under the Resource Management Act or the new Natural and Built Environment Act, if it is retained. This could inconsistently separate regions and communities, leading to potential unfairness and/or a greater risk profile for some landowners. It would also increase uncertainty for the insurance and banking sectors, which would in turn reduce confidence in supporting New Zealand's development and housing aspirations.

We believe that risk assessments should be a technical exercise (including incorporating mātauranga Māori). While we acknowledge that risk assessments ultimately lead to political decisions that impact on property rights and interests, identifying and assessing the risks themselves should be technical and evidence-based. Landowners should be afforded an opportunity to have a say on land use and adaptation decisions but risk assessments should not be the place for political and value-based influence, unless that is necessary. If the Government follows the Working Group's recommendation that risk assessments should inform, but not determine, adaptation outcomes (which would instead be left to a separate planning process), then community participation in adaptation decision-making can still occur.

However, local communities are best placed to make decisions on how and when they start adaptation processes. If legislation or national direction directs or requires certain outcomes contingent on risk level and removes discretion from regional or local decision-makers, then a standardised risk assessment approach may remove some adaptation and planning choices from the community. This could mean that communities with a higher risk tolerance would be required to undergo adaptation (including managed retreat) even if they were willing to bear the risk. It could also mean that communities lacking the financial resources to implement retreat are required to do so at an earlier stage, instead of focussing on a longer period of adaptation.

Given the highly technical nature of risk assessment methodologies, it would not be appropriate for a methodology to be specified in primary legislation, as this would require political support for amendment. It would, however, be appropriate for any methodology to be specified in secondary legislation (as per current national direction), because while the development of such policy remains political in nature, amendments should not be required to go through the full parliamentary process.

Recommendations

// Risk assessments should be a purely technical exercise (including incorporating mātauranga Māori).

// We support national direction that sets consistent and robust policy, processes, methods, and metrics for risk assessments.

Key considerations for assessing risk

We support the three-stage approach to risk assessments set out in the Ministry for the Environment's Issues and Options paper. We believe the staggered approach will help with capacity and capability constraints and allow appropriate prioritisation to happen. Furthermore, this approach may enable decision-makers to separate current and potential risk, and use different policy levers to mitigate that risk. For example, if unimproved land is at risk of being exposed to a natural hazard, the appropriate mechanism to avoid the risk would be through planning decisions (including potentially through Regional Spatial Strategies, if the Spatial Planning Act is retained). If an existing property is at risk, a different decision-making framework is needed to enable management of the risk.

Risk assessments should take into account more than the frequency and severity of natural hazards in a particular area. The scope of risk assessments in the MfE Issues and Options paper seems limited to physical hazards and the impacts on the built environment. Other climate risk assessments such as those under the Climate Change Response Act require an all-domains, all-hazards approach to assessing risk. While the proposed limitation might be appropriate and reflect existing capability and capacity challenges, a clear rationale needs to be presented for limiting the scope of risk assessments to physical hazards and the built environment. A broader assessment that considers the impacts on people's livelihoods and health or takes a 'systems' approach could better reflect the vulnerability of land, activities, and buildings, and related impacts on the economy. National direction prescribing ways to measure vulnerability will be needed to support effective implementation and ensure consistency across the country.

Although we think national consistency is critical, there will be many variables across the country that need to be accounted for. There is a risk that national direction or legislation could be drafted in a manner that does not allow decision-makers to take into account other relevant matters – for example, adaptation measures that have been funded but are not yet in place, or particular circumstances that are relevant for Māori communities. Funding constraints and pre-existing council strategic planning may also be important factors that do not fit neatly within a national risk assessment methodology. This is where local government's input into developing risk assessment methodologies and approaches will be critical. Councils' on-the-ground experience means they can help with ensuring there's sufficient flex in the policy options that get developed. We request the Environment Committee and ultimately the Government work with local government to develop an appropriate methodology and considerations for risk assessments to account for these local variations.

Recommendations

// The Committee should assure itself that limiting the scope of risk assessments to physical hazards and the built environment is appropriate.

// We request the Environment Committee and Government works with local government to develop an appropriate set of thresholds, methodologies and considerations for risk assessments that balance national consistency with the need to account for local variations.

Defining risk tolerance for a community

We support a nationally standardised approach to categorising a risk as acceptable, tolerable or intolerable to support local decision making – but communities, through their councils, should ultimately make the call about whether a risk is tolerable or intolerable. We urge the Committee to consider what an appropriate mechanism for accounting for community risk tolerance could look like, including whether establishing community tolerance should be part of the local adaptation planning process. This will help to minimise protracted and costly arguments around the meaning of terms and how they should be assessed.

Different communities have different tolerances for risk, and tolerance for risk within an individual community can be highly variable. Tolerability is subjective and a community's risk tolerance changes over time as communities change, as more information becomes available and as more frequent and severe weather events start to impact on households. It is important that a nationally standardised approach allows for this variation between and within communities.

What is intolerable will be weighted by any community against the alternative of managed retreat. Any standardised approach must ensure a broad and long-term view of risk tolerance to avoid over-emphasis on the immediate impacts of alternatives, which can delay adaptation action (including relocation) and result in sunk costs in mitigation strategies that become increasingly less effective.

Elements that can determine whether a risk is acceptable, tolerable or intolerable should include:

- What is being impacted and to what extent by the natural hazard;
- The timeframe over which the impact, and the tolerance to it, is being judged. This should include consideration of any likely changes in the nature of the community and the impacts of cumulative risks; and
- Wider impacts than just life or property damage, including financial costs on households and businesses.

Recommendations

// We recommend setting descriptors for acceptable, tolerable and intolerable risk that account for the impact of risk over time, what is being impacted and to what extent, cumulative and cascading risks, and the economic and social impacts on communities.

// We ask the Committee to investigate appropriate mechanisms for taking community risk tolerance into account as part of the adaptation planning process.

Building an efficient and fair system

Resourcing the system

It will be crucial that risk assessments are carried out to a high quality, and efficiently. Right now there are considerable gaps in councils' and consultants' capacity and capability to undertake the

scale of assessment necessary. Risk assessments are very resource intensive and draw upon a wide range of skill sets, from data collection to GIS mapping. Undertaking high-level risk assessments focused on sectors or at a regional scale, before undertaking more granular property level risk assessments later in the adaptation process when at risk areas have been prioritised, will ease the pressure on existing capacity to produce risk assessments – and help with prioritising delivery of work. However, we encourage the government to work with bodies like Taituarā and ACAN to develop a workforce plan to grow the capacity and capability required to carry out risk assessments across the country.

Risk assessments are also costly to produce. For example, the debris flow risk assessment undertaken at Matata before their council-led voluntary retreat focused on an area affecting 34 properties and cost \$1 million to produce. Communities and councils are likely to struggle to meet these costs on their own, particularly if multiple risk assessments are required. Smaller and rural councils, which do not have a large rating base to pull from, may be significantly disadvantaged if no central government funding is made available to support risk assessments.

In addition to providing support, the Government should consider ways to reduce the cost of producing a risk assessment. Clear and consistent methodologies would help. Another significant cost of producing a risk assessment is litigation. Reducing the time and cost involved in challenging risk assessments in the courts would reduce the overall cost of undertaking risk assessments.

Risk assessment review and appeal processes

Decisions about risk are challenging and have significant implications for communities, so it's important they are transparent and robust. However, if these decisions are widely open to review and appeal, there are material impacts on the cost and timeliness of decision-making processes, and potential for risk aversion, which can lead to poor outcomes. We therefore favour proportionate review and appeal processes, complemented with appropriate requirements that ensure robust decision-making.

We support appeals against risk assessments being limited to questions of law only, and we agree with the Working Group that independent audit processes could help to ensure robust processes are being followed. National consistency in approaches, such as a clear risk assessment methodology in primary or secondary legislation (and more consistent policy direction), would also help to reduce what can be appealed.

Merits-based appeal rights on the content of risk assessments should not be provided. Any potential benefits from allowing merits-based appeals would outweigh the time and cost of those appeals. So long as risk assessments are led by qualified experts and follow a clear, consistent methodology that does not allow for the introduction of political influence, and are independently audited/moderated, the outcome of those assessments will remain technical in nature. While some members of the community, and possibly even other relevant experts, may not agree with every aspect of a risk assessment, the time and delay in providing for appeals against risk assessments would lead to unacceptable delays in the planning process. However, this further supports the need for a robust auditing process.

Based on our current experience, a significant amount of disagreement between technical experts derives from the lack of a uniform outcome: what level of risk is acceptable, tolerable or intolerable,

and what AEP or metric should be used to evaluate risk. Other factors driving this situation include inconsistent methodologies, varying degrees of reliance on the potential to engineer a solution, and the extent to which assessments can be informed by existing development and community tolerance. If a risk assessment methodology can be developed that diminishes the influence of those variables and focusses on actual assessment of physical risk, then there may be less room for disagreement and challenge.

Integrating with existing work programmes

We recognise that other government work programmes are aiming to improve the information and data available for communicating risks to communities, such as improvements to climate information and natural hazard risk on Land Information Memoranda (LIMs) and the development of new tools and databases such as the EQC Risk Tool, which will support the risk assessments envisaged by this framework. In addition to this, there are opportunities to improve our approach to risk identification and assessment through the proposed National Policy Statement on Natural Hazard Decision Making and further comprehensive national direction. This framework could include many pieces of necessary consistent direction:

- // mandatory consideration of natural hazard risks for land use,
- // methodologies for undertaking risk assessment and risk tolerance assessments,
- // standardised terminology and definitions, including thresholds for levels of risk tolerance,
- // when and how communities should be engaged during a risk assessment process,
- // enabling Māori to assess natural hazard risks in a culturally appropriate way.

It will be critical that these new requirements, as well as the timing of their implementation, are aligned with the passing of the CAA. This will provide the opportunity to identify efficiencies and ensure the work programmes are delivered in a logical and staggered way.

Recommendations

- // We encourage the Government to work with bodies like Taituarā and Aotearoa Climate Adaptation Network (ACAN) to develop a workforce plan to build the capacity and capability required to carry out risk assessments across the country.
- // Central government should provide funding to support risk assessments, particularly for smaller, rural councils.
- // We recommend that appeals against risk assessments should be limited to questions of law only.
- // The Government should coordinate the implementation of risk assessments under the CAA, with improvements to communication of natural hazards information on LIMs and the implementation of improved natural hazard data and assessment to deliver efficiencies and reduce duplication of effort.

Develop a framework for adaptation planning

Adaptation planning is currently undertaken by local government on an ad hoc basis using a patchwork of tools and powers drawn from various legislative instruments. Usually, adaptation planning is undertaken after a significant natural hazard event has taken place. This approach is not sustainable and could lead to perverse incentives and the deferral of “hard decisions”. Adaptation planning requires long-term thinking, and the current approach does not enable communities to adequately assess risks and options nor make decisions that would avoid significant impacts from severe weather events before they happen. An additional problem is that there is no clear direction under the RMA for councils to proactively address hazard related risks, which has supported a more ad hoc and responsive approach. The recently enacted NBEA, in particular section 6(4), assists to address this problem, and this direction should be retained.

New Zealand needs a nationally consistent long-term approach to adaptation planning and that ensures councils have access to the range of powers needed to develop and implement various adaptation pathways. A consistent approach with clear roles and responsibilities will support local decision making and ensure the processes are fair, flexible, efficient, timely and transparent. This framework should be supported by national direction that provides guidance on key aspects of the planning process. For example, providing a consistent approach to risk prioritisation and estimating the costs and benefits of different adaptation pathways would enable the Crown to make better informed investment decisions where central government funding is required.

Providing a mandate for local leaders to prioritise this important work and enable early interventions will reduce the long-term impacts and costs of climate change on households and businesses. Not only will mandating local adaptation planning ensure that all at-risk areas have a plan in place before a severe event takes place and enable long-term thinking, but it will also ensure a consistent but locally led approach is taken across the country. This would facilitate prioritisation at a national level and allow the Crown to compare similar plans when making investment decisions.

Because of the nature of adaptation planning and the interests involved, communities must be able to participate in the planning processes. While providing national consistency is important, the framework must provide enough flexibility to accommodate local circumstances and reflect community preferences. This is especially true given the natural justice issues that will arise in value-driven decisions. While consistency around risk assessment methodologies, definitions of risk tolerance and when decisions need to be made is useful, communities should be actively participating in decisions around community tolerance and the trigger points for action. For example, Thames-Coromandel District Council used a community working party to help identify risk tolerance and trigger points during the development of their shoreline management plans. There are many examples of councils leading adaptation processes with their communities, and given this on-the-ground experience we encourage the Environment Committee and Government to work with LGNZ and our members to establish appropriate frameworks and mechanisms for accommodating local variation and reflecting community preferences.

Recommendations

- // We support a nationally consistent but locally led approach to local adaptation planning with national direction on risk prioritisation, adaptation options, and the approach to estimating the costs and benefits of different adaptation pathways.
- // We encourage the Committee to ensure that enough flexibility is provided in the system to recognise local environmental circumstances and support local preferences.
- // We support mandating local adaptation planning.

Clarifying roles and responsibilities in the system

Currently the roles and responsibilities for local adaptation planning and implementation are unclear. Clearly outlining who is responsible and what requirements and timeframes they must meet will help to deliver an efficient, fair, and transparent process. At the moment, responsibilities for land-use and adaptation planning, asset management, risk assessment, and incentivising investment in the right places are carried by several governmental and non-governmental bodies. For example, the South Dunedin Future Strategy proposes relocation from the area and a return of affected land to wetlands. This decision will have significant impacts not only on the asset management plans of Dunedin City Council (as services are retired), but also on the Otago Regional Council, which will be responsible for monitoring and management of the wetlands. We need all levels of government and key sectors to understand what's expected of them and work in concert to adapt to climate change. This means seizing opportunities for efficiency, moderating priorities across the country, and avoiding creating perverse or unintended consequences. A collaborative approach to decision making and implementation that complements existing skills and capabilities in councils would be beneficial.

Clarifying roles and responsibilities also provides an opportunity to think about how adaptation planning aligns with councils' other roles and responsibilities. For example, councils' work on climate change adaptation will have impacts on the work it does around hazard reduction, land-use planning and asset management. Long-Term Plans currently cover a 10-year period and are updated every three years, whereas councils' coastal hazards plans cover a 100-year timeframe. There's an opportunity to better align existing processes, roles and functions to deliver a system that's more efficient and easier to navigate. Development of the CAA, along with the Review into the Future for Local Government, presents an opportunity to think about how to rationalise allocation of roles and responsibilities to reduce duplication and make decision-making more streamlined.

Decisions about what adaptation measures should occur, and when, will engage natural justice requirements. They should involve process steps that ensure opportunities for those who are potentially affected to influence decisions – particularly given adaptation decisions have the potential to substantially interfere with property rights. Values-based decisions benefit from due process and public participation, and with that in mind the design of a public process that satisfies natural justice requirements is critical. Appropriate national-level oversight and call-in powers could help to ensure substantive requirements are met and support prioritisation of actions and investment nationally.

Recommendations

- // We encourage the Committee to consider how different roles and responsibilities will be managed in a way that is efficient, fair and draws upon existing capabilities.
- // Development of a CAA (and any related amendments to other legislation), in parallel with progressing the Review into the Future for Local Government, is an opportunity to find ways to integrate, coordinate and rationalise roles, timeframes, and processes within existing processes.
- // We encourage the Committee to ensure appropriate community engagement and oversight processes are included in the new system to uphold natural justice rights.

Putting communities at the heart of decision-making

Although adaptation decisions will be difficult for communities, because of the impacts they'll have on people's livelihoods and social wellbeing, local communities are best placed to inform this decision-making (via their councils) due to their understanding of risk and consequences. The system must have flexibility and ensure community desires inform adaptation decisions.

Providing quality information and involving communities through robust local decision-making that allows everyone to have their say and includes appropriate backstops are critical elements of a framework for local adaptation planning. Local people will be able to create solutions based on local strengths and ensure their regions, towns and cities are great places to live, work and visit. Decisions imposed from the centre – particularly if they're not supported with national-level funding support – are unlikely to satisfy communities.

Communicating the need for adaptation and the current and future risks facing communities is critical to gaining community-buy in. While local leaders are probably best placed to hold these difficult conversations, national guidance to ensure consistency around the way information is provided may still be required. Early and ongoing engagement will also be critical to supporting communities to develop local adaptation plans. Guidance on best practice examples of how councils can engage with communities would be useful.

Recommendations

- // Any adaptation framework should ensure communities have ample opportunity to participate in decision-making during the development of local adaptation plans.
- // We support national guidance around community engagement to enable consistency and support councils to have tough conversations with their communities.

Integrating adaptation and land-use planning

Land use planning decisions have a direct impact on the level of risk a community faces. If high risk land isn't zoned for development or use, the impact on people and buildings will be avoided. Furthermore, land use and planning decisions such as the restoration of wetlands and nature-based flood management strategies can mitigate the risk to people and structures in surrounding areas. Where we put our infrastructure and build our communities is an important policy lever when developing a local adaptation plan. The new Regional Spatial Strategies (RSSs) under the Spatial Planning Act will be a useful tool not only for identifying and avoiding development in areas with

current or expected high natural hazard risk but also for identifying appropriate areas for development and the infrastructure needed to support that development. They could also be used to identify areas where communities could be relocated to in the future. We strongly encourage the Government to retain the Spatial Planning Act, or at a minimum Regional Spatial Strategies, and urge the Committee to consider ways to integrate local adaptation planning with RSSs.

It will also be important to integrate local adaptation planning with other land-use and placemaking decisions and plans. We need to ensure that appropriate processes are available to manage cultural and community assets throughout the relocation process and ensure people maintain access to social services once the decision to retreat has been made. It will be particularly important that appropriate support and investment is provided to relocate property and infrastructure services from high-risk areas. We strongly encourage the Committee to ensure local adaptation plans are well integrated with existing land-use, infrastructure, and development processes so that there is an efficient and cost-effective approach to reducing risk.

Recommendations

- // We encourage the Government to retain the Spatial Planning Act and ensure local adaptation plans are well integrated with RSSs. We also encourage the Government to retain proactive policy direction in relation to natural hazard risk reduction and management.
- // We believe local adaptation plans need to be well integrated with existing land-use, infrastructure and development processes, and that similar, or equivalent, policy direction should be adhered to, so that there is consistency in outcomes.

Enabling development for relocation

One of the key issues communities and councils are concerned about is ensuring that when people need to relocate, they will be able to do so and will have access to appropriate housing and critical infrastructure. While the Expert Working Group focused on the retreat aspect of the adaptation framework, this will need to work within a broader system of land-use and community development enablement decisions. Put simply, the consequence of retreat will be relocation to other areas, so there needs to be an equivalent, and timely, extent of enablement of development to deliver successful retreat for communities.

Incorporating an adaptation and retreat planning component into urban regeneration and development projects would assist with enabling the right levels of investment to be made in the right place, and at the right time, so that relocation and growth demands can be addressed together. This would also provide communities with the certainty needed to make the hard decision to retreat.

We are concerned the current resource management system and the various overlapping National Policy Statements (under the RMA, and potentially through the draft National Planning Framework) could severely restrict where people can relocate, and runs the risk of stifling the development needed to ensure the right infrastructure and sufficient housing is available when a decision to relocate is made. Ensuring enough land is available for development through RSSs and Natural and Built Environment Plans (if these are retained) will be necessary for local adaptation plans to be implemented. Therefore, integration across these planning instruments will be critical.

Recommendation

- // The framework must enable integration between local adaptation planning and urban regeneration projects where possible.
- // Land use and spatial planning frameworks must enable the development of infrastructure necessary to support relocation, as well as the development of land needed to achieve community relocation.

Enable community-led retreat

The best name for this process

While historically the process has been called “managed retreat”, this implies a top-down approach to decision-making that does not reflect actively engaging with and involving communities. The Expert Working Group on Managed Retreat preferred the term “community-led planned relocation” and the consultation document from MfE refers to the process as “community-led retreat”. We understand the reluctance to use “managed retreat” and the desire to highlight communities’ role in deciding when and how to relocate from a high-risk area. However, we are concerned that referring to the process as community-led retreat may be a misnomer. “Community-led” implies that communities will exclusively hold decision-making power when this may not be the case. We are also concerned that this term potentially diminishes the role we anticipate the Crown will need to play in some retreat processes – particularly where communities and councils are unable to meet the costs of retreat on their own. We encourage the Committee to further explore the right terminology (without losing the concept of retreat needing to be managed) once further work has been done to clarify the various actors’ different roles and responsibilities in the new system.

Recommendation

- // We encourage the Committee to develop a more appropriate term than ‘community-led retreat’ once there is more clarity around roles and responsibilities under the new system.

Developing a framework for community-led retreat

Making the decision to relocate a community is, and will be, extraordinarily difficult. Even when a framework and compensation measures are put in place, there will be community members who simply do not want to leave. This is because people feel emotional attachment to where they live, work, do business or raise their family, or because they put a higher value on their property than the buy-out offer. In our view, and based on limited experience of retreat in New Zealand, planning for relocation will only be successful if the community is brought along and shown they have influence over these decisions. Communities need to be engaged in the process and provided with opportunities to articulate their desires and preferences. There may be a place for using new and innovative engagement techniques like participatory democracy.

The framework needs to be flexible enough to accommodate a range of options to retain communities throughout the relocation process, such as allowing for group-buy outs and enabling

developments that keep the community together. On the other hand, not everyone from a community may need to retreat, nor will they necessarily need to retreat on the same timeline. Allowing for a staggered approach that enables households to voluntarily relocate before the risk becomes intolerable, while supporting those who remain, may also be necessary. However, there may come a point where councils cannot afford to provide services to a small number of people in a particular area. The framework also needs to avoid leaving people in ‘property purgatory’ where rising insurance premiums and reduced housing values leave people vulnerable and unable to leave. To ensure that people are not left behind, and that councils are able to manage service provision in a cost-effective way, mandatory powers of acquisition may be necessary in some circumstances.

Recommendations

- // Any retreat framework must provide considerable opportunities for communities to participate in decision-making.
- // Any retreat framework needs to anticipate and provide for a range of options, such as finding ways for communities to be relocated to new areas together, or for relocations to be staggered.
- // Mandatory powers of acquisition should be available in some circumstances; for example, to ensure that vulnerable people are not left behind, and to help manage councils’ obligations to continue to provide, or cease in certain cases, services to communities.

Dealing with affected land

One important element of the framework for community-led retreat will be how councils and owners deal with affected land once the decision to relocate has been made. The decision to retreat from land or assets will need to be accompanied by a buy-out offer and actions to retire the land. We agree with the Working Group that councils will need enhanced land use controls and stronger powers to acquire land. While affected land should not be available for development, in some cases it may be appropriate for land to still be used to access cultural sites or for recreation or ecosystem services. Affected sites can become important community assets.

However, there will be considerable costs in dealing with affected land. The demolition and removal of assets alone can substantially exceed the asset value, and councils may be unable to raise the required revenue and debt to restore affected land. Financial support from the Crown may be needed. There may also need to be mechanisms to ensure assets are not left to deteriorate in the absence of remediation. The process currently used to remediate contaminated sites could provide a useful starting point for designing this element of the system.

Recommendations

- // Affected land should be retired and should not be available for improvement or development once a decision to leave has been made. However, further consideration should be given to whether some land uses may be acceptable, even for a finite term (eg parks that serve as passive flood detention areas, agriculture).
- // Specific powers around the acquisition, control and retirement of land should be given to councils. This should include ability to restore affected land for recreation/ecological purposes and maintaining access to culturally significant sites.

// There should be financial support from the Crown to support councils with retirement, acquisition and control of land, and mechanisms to ensure assets are not left to deteriorate may be necessary.

Withdrawing services from affected areas

Another key element of a framework for community-led retreat will be how decisions to withdraw services from affected areas are made. Councils and other infrastructure providers currently have requirements to ensure reasonable connections to key services such as power and roads. As the risk to an area becomes intolerable and decisions are made to retreat, asset owners will need to withdraw services. This is because the cost and risk associated with maintaining assets in at-risk locations will increase to an untenable point. While some infrastructure can be built back better, it will be more prudent for other services to be retired. This will be a difficult decision, especially where individuals want to remain at place. It will be important that these decisions integrate with existing infrastructure processes and requirements, and that appropriate mechanisms are put in place to limit the liability of decision-makers. This will be a complex issue to navigate and we encourage the Committee to draw upon the expertise of councils and other asset owners to develop options for withdrawing services from affected areas.

Recommendation

// We encourage the Committee to work in collaboration with councils and other asset owners to develop a clear process for the restriction and potential withdrawal of services from affected areas.

Fund climate adaptation

Recent estimates suggest that more than 282,00 homes (with an estimated replacement value of more than \$213 billion) are in flood hazard areas.³ In addition to this, councils and infrastructure owners hold significant assets exposed to sea level rise. In 2019, a LGNZ report found that as much as \$14 billion of local government-owned infrastructure is at risk from sea level rise⁴ – and it's expected that this number has significantly increased since then. Increasing the resilience of this infrastructure, or repairing or replacing it, will be a significant cost for councils and their communities. There are also a number of other costs associated with adaptation, including disruption to business activities, disruption to education and access to healthcare, destruction of ecosystems, interruptions to provision of utility services and the significant cost of developing new community infrastructure and enabling development for relocation.

³ Paulik R, Zorn C, Wotherspoon L, Sturman J. 2023 Modelling national residential building exposure to flooding hazards. International Journal of Disaster Risk Reduction, 94.

⁴ <https://www.lgnz.co.nz/news-and-media/2019-media-releases/14-billion-of-council-infrastructure-at-risk-from-sea-level-rise/>

We are also concerned that the social, economic, and psychological impacts on the community and individuals have not been adequately captured by MfE's Issues and Options paper. Simply having conversations with communities around community-led retreat will have a significant psychological impact on many individuals. The spectre of losing one's home, business or livelihood, being disconnected from a community and place they have deep connections to, and the uncertainty of what the future will hold, are all significant stressors during a local adaptation planning process. Without a clear compensation system and defined funding responsibilities, individuals and communities will be left to face compounding financial and wellbeing stresses. However, we recognise that there will be limits to what each of the different actors in the system (including central and local government) can afford to pay.

Current costs for adaptation are spread across several different actors, including individual asset owners, insurers, banks, councils, and (on an ad hoc basis) central government. The principle of "beneficiary pays" underpins the current system, and we believe this is an appropriate principle to guide some funding decisions. However, it raises affordability issues for councils and low-income communities who are unable to meet the costs of adaptation alone, which, when coupled with uncertainty around central government contributions and a lack of clear decision-making processes, can delay long-term investment. A funding and financing framework that provides certainty and support to at-risk communities and increases incentives for people and organisations to begin adapting now is essential.

Recommendation

// We support establishing a funding and financing framework that clarifies roles and responsibilities, provides support to communities and increases incentives for people and organisations to begin adapting now.

Establishing a funding and financing framework

Setting out clear responsibilities for funding will provide certainty and ensure a consistent and fair approach is followed throughout the country. A clear formula outlining the share of costs that councils, the Government, and others will be expected to pay will enable long-term financial planning and encourage proactive retreat. Understanding what funding will be available when will support more robust and informed planning processes and allow for better expenditure forecasting. In addition to a clear formula, we believe that a cross-party commitment to funding this work will give councils, communities and businesses the certainty needed to invest in building a resilient and prosperous New Zealand.

Some areas may need more assistance than others. For example, small, rural councils with small rating bases will probably struggle to meet the costs on their own. We agree with the Expert Working Group that any funding formula should account for the varied levels of support communities will need and that different compensation levels should be available depending on the circumstances. The share of costs for compensation and community-led relocation should differentiate between types of buildings (e.g. family homes, businesses, holiday homes).

The costs associated with adaptation measures other than community-led retreat should not be underestimated. Each action, whether building a sea wall or taking flood protection measures, will require a risk assessment, engagement, planning, decision-making and implementation. These

measures will also create ongoing costs through activities such as monitoring and maintenance. Even the decision to retreat from a location will create a number of incidental costs that could hinder the implementation of community-led retreat plans. For example, the costs associated with transferring titles, the demolition of assets, and the clearance, remediation and maintenance of affected land will all be significant.

There is substantial benefit in an early understanding of what the Government will fund pre-event and post-event, and for this to be differentiated in the formula. We want the funding system to incentivise early action and encourage the Committee to investigate mechanisms to achieve this.

The funding framework will need to cover a significant number of activities. While funding for adaptation actions and compensating landowners will be key components of the system, investment in all aspects of the climate adaptation system is required to reduce long-term costs. Better risk assessments and land use planning decisions, for example, will help to reduce development in high-risk areas, avoiding the need for costly adaptation measures in the future. We agree with the Expert Working Group's identified areas for funding and with the general tenet that more central government contributions are needed. We encourage the Committee to work in collaboration with local government in particular to prioritise and rationalise the funding proposals put forward by the Working Group.

Rates alone will not cover the costs of all of these local adaptation actions. In addition to central government contributions, and achieving contributions from other key stakeholders, we need to expand the revenue tools available to councils. We encourage the Committee to consider introducing a new levy to help fund this work. We believe the revenue generated by this levy should be ringfenced for adaptation measures and community-led retreat. We would also encourage the Committee to look at ways to ensure early investment is encouraged through changes to lending limits imposed on councils.

Recommendations

- // We recommend that there is a clear formula in primary or secondary legislation to calculate the share of costs each actor in the system will be expected to pay. This formula must account for the varied levels of support communities will need and community/individual capacity to pay and incentivise early action, including proactive retreat where appropriate.
- // We'd like to see strong cross-party commitment to climate adaptation funding arrangements (including for retreat), to ensure long term certainty.
- // Central government needs to play a part in funding climate adaptation action, alongside other stakeholders. Local government cannot meet the costs on its own.
- // We encourage the Committee to work in collaboration with local government in particular to prioritise and rationalise the funding proposals put forward by the Working Group.
- // We recommend the Committee explore revenue-raising tools and changes to financing settings to help councils meet the increasing costs of local adaptation, and any contribution that councils will need to make towards retreat.