

Appendix E

**Proposed Change 2 (Natural Hazards) to the RPS
Bay of Plenty Regional Policy Statement
Supplementary Report on Submissions,
31 July 2015 [Further Section 42A Report]**

**Report
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Date:

31 July 2015

File

Reference:

7.00113

**The Chairman and Members Hearing Committee
Proposed Change 2 (Natural Hazards) to
the Bay of Plenty Regional Policy Statement
Supplementary Report on Submissions**

Recommendation

47. That the implementation guidance in relation to Appendix K (referred to in Recommendation 45) remain non statutory in status and be located outside the RPS as a “user guide”.

7.1.3 When should the guidance be made available?

One of the key issues raised by submitters 13, 17 and 25 relates to the timing of the implementation guidance. Submitter 17 seeks that guidance be released at the same time as decisions are released. Submitter 13 indicated that guidance should be available before PC2 becomes operative. Submitter 25 seeks that guidance be issued now and incorporated within the change.

Officers are mindful of the long list of matters suggested to be addressed by guidance. We are also aware of the need to work in consultation with stakeholders and produce genuinely meaningful and useful material and advice. In short, producing quality, comprehensive guidance is a task that will take some time.

In our opinion delaying issuing decisions until all guidance is complete is not a practical option. Nor do we consider that deferring the date on which PC2 becomes operative to allow for a period of time to develop guidance is necessary.

PC2 already provides significant guidance on what is meant by taking a risk based approach to hazards management and what methodology can be used to assess natural hazard risk. PC2 goes well beyond the detail provided in the original natural Hazards Chapter of the notified RPS. It also goes well beyond usual practice in RPSs generally in terms of the level of detail already provided. It is a case, it seems, of the more detailed prescription is provided the more demand for detailed guidance.

We that note it is also worth noting that several other regions' RPSs require that a risk-based approach be taken to natural hazards management but provide almost no guidance on what that means. The Proposed Waikato RPS, for example, “*appropriate assessment of the risks*” and refers in multiple places to “*acceptable risk*” and “*intolerable risk*”.

The Waikato RPS provides no guidance on what these terms mean. The natural hazards provisions of that RPS have recently been settled on appeal by consent order.

The most practical response at this point would be to produce interim guidance on some of the key issues between now and the date on which PC2 becomes operative. While it is not possible to predict with certainty when Change 2 will become operative, a realistic timeframe for producing such interim guidance would be the end of October 2015. This first tranche of guidance would focus on addressing some of the key issues related to the application of Appendix K to consent applications given current state of information. This would address matters a, h, i and l above.

Officials propose that a further round of more detailed and comprehensive guidance could then be produced for publication by 31 December 2016. That second tranche of guidance could focus on the remaining issues with particular emphasis on those matters that need clarification before Appendix K is implemented by regional and district plans (which is unlikely to occur before the end of 2016). Officers anticipate a high level of consultation with stakeholders on this comprehensive Appendix K User Guide.

Recommendation

48. That the regional council prepare and make available:

- a. Interim guidance on selected implementation issues by 31 October 2015; and**
- b. The full Appendix K User Guide (referred to in Recommendation 45) by 31 December 2016.**

7.2 How Aecom report should be managed and the need for further testing

There was some discussion at the hearing regarding how the Aecom Report should be managed. Eastern councils and Te Tumu both expressed concerns about the accuracy of some of the data and/or assumptions used in the risk assessment. Both submitters sought that the natural hazard risk (for Matatā and Te Tumu respectively) be reassessed by Aecom and the report amended accordingly.

In the Officers' opinion, the purpose of the Aecom Report was not to produce a risk assessment accurate in all respect that could be relied on for further decision-making. Rather, the purpose was to test whether the methodology of Appendix K could be applied – whether sufficient explanation was provided to allow an expert third party to make sense of the methodology, whether the information/tools existed to allow the methodology and whether the methodology itself was workable. It was a “pilot” exercise. The output of the assessment itself was of no particular consequence.

In that respect, the Aecom Report met the brief and served the purpose asked of it.

We understand that submitters may be concerned that the results of the assessments would have been different had some of the information and assumptions used been different. That may be. However, it is open for the submitters to produce their own risk assessments using Appendix K should they need that information for their own decision-making or regulatory compliance purposes.

Officers accept that it would be unfortunate if third parties sought to use the risk assessment from the Aecom report for purposes it was not intended. For that reason, we propose that the Aecom report be made available on the regional council website (as part of the section 32 information associated with PC2) but that it be clearly labelled (on each page of the document if necessary) that the purpose of the report was to test the practicality of the proposed assessment methodology and that the results of testing may be unreliable and should not be used for any other purpose.

Recommendation

49. That the Aecom report not be amended to incorporate reassessment of the Matatā and Te Tumu natural hazard risk but that the report be made available in its current form with clear caveats as to its purpose and future use.

7.3 Appendix L to be given more weight

A proposal was made at the hearing that Appendix L be given more weight. Appendix L sets out a menu (not exclusive) of measures that may be used to limit

or reduce natural hazard risk. It is provided for information purposes only to illustrate the breadth of options available and confirm that “avoiding development” is by no means the only risk management option available.

We understand that the request made was aimed at redrafting Appendix L (and perhaps moving the material to a policy) so that particular risk management measures would be identified as being appropriate to address particular risks. In that way there would be certainty that a particular risk was to be addressed by a particular measure and there could not be an expectation of measures being applied that might be regarded as unnecessary or high cost.

In the Officers’ opinion such a change at this point would be out of scope of the submissions. No submitter provided wording for any such redrafted provisions and such an amendment would constitute a significant policy change that other parties might have had a strong interest in had the proposal been clearly “on the table” and subject to further submissions.

For that reason, we do not consider the proposal in detail here. We would add, however, that the approach taken by PC2/Appendix L is deliberate and consistent with a risk-based approach. In our view, it provides resource users maximum flexibility to demonstrate how a hazard risk can be adequately managed without prescribing potentially inappropriate or ineffective solutions. In that sense we suggest that the PC2 approach is aligned with the general effects based approach of the RMA.

7.4 Low probability, high consequence hazard events

In his evidence for TCC, Mr Larking suggests that land use planning should not be employed as a response to Low probability/high consequence events.

Tauranga City submits that events with annual recurrence interval (ARI) of 2500, 3000 and 20,000 years “essentially sit within the realm of catastrophe management and not land use planning”.

Officers consider that the TCC submission misrepresents what PC2 requires by suggesting that a land use planning response is necessarily required for these low probability events. Several points need to be made in response.

First, a key purpose of taking a risk-based approach is to be able to compare hazards using a uniform currency – “risk”. Hence, it is important that all hazards – even those with large ARIs - are addressed by PC2. The risk-based approach does not treat hazards with an ARI of 50 years and a hazard with a 2500 ARI that have the same consequence the same.

This is illustrated by the Risk Screening Matrix in Appendix K. That clearly shows that events with an ARI greater than 1000 years have a Low risk even when they would have “major” consequences. If such events have catastrophic consequences they could be Medium risk but they could never achieve a High risk outcome from the Matrix methodology; note however that, for the loss of life consequence, the AIFR measure can result in a low likelihood hazard having a High risk. .

The other key point is that the framework does require that risk be reduced using land use planning. The land use planning system is used to require risk assessment but the measures that may be taken to manage risk to the required levels are not limited to land use regulation. When other mitigation is applied, that is taken into account in the risk assessment.

7.5 Australian Geomechanics Society risk model

In the Hearing, reference was made to the Australian Geomechanics Society methodology for landslides. Whakatāne District Council used the AGS approach to investigate the Matatā debris flow, and the Whakatāne and Ohope landslide hazard. The AGS approach was first published in 2000 and it has been evolving since. It takes a risk management approach that PC2 is consistent with, including the loss of life risk thresholds. It is an example of what the Officers believe would qualify as a “recognised risk assessment methodology” as referred to in the introductory test to Appendix K.

The AGS approach has informed the New Zealand guidance for landslides: Saunders, W, & P. Glassey (Compilers) 2007. Guidelines for assessing planning policy and consent requirements for landslide prone land, *GNS Science Miscellaneous Series 7*. The AGS principles and guidance are largely transferrable to other hazards and will be of great assistance in the preparation of further guidance for the implementation of PC2 and its Appendix K.

8 Conclusion

The submissions and evidence presented at the hearings raised many issues that have led Officers to identify the need for clarification in many of the provisions of PC2 and their explanations. PC2 has been significantly improved as a result of submitters’ input.

The policy approach underpinning PC2 is, however, considered sound, albeit there will be numerous implementation issues to work through.

These implementation issues are best addressed through provision of non-statutory guidance.

That guidance, together with the various amendments and clarification provided in the attached Version 7.0 of PC2, are likely to satisfy, in whole or part, a large number of the submission points raised at the hearing.

Where recommendations made here do not give effect to submissions the difference of opinion is often based on a difference of view about what level of detail is appropriate to include in an RPS and the extent of discretion regional policy should provide.

9 Recommendation

That the Hearing Committee:

- 1 Receives this report – Proposed PC2 (Natural Hazards) to the Bay of Plenty Regional Policy Statement Supplementary Report at the Conclusion of Presentation of Submissions 16 June 2015.
- 2 Receives the Proposed PC2 (Natural Hazards) V7.0 - Track Changes version.

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