



## Kaipara District Plan Review Discussion Document

# Hazards and Risks

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## BACKGROUND

Many parts of the Kaipara District are susceptible to risks associated with:

- hazardous substances
- contaminated land
- climate change
- flooding
- coastal hazards.

### Hazardous Substances

Hazardous substances are used in a wide range of activities within the Kaipara District including industrial operations (such as chemical warehousing,

manufacturing plants and bulk storage facilities), workshops, agricultural and horticultural activities, and in some cases home occupations. The sites where such activities take place are defined as a hazardous facility.

While the use, storage and disposal of hazardous substances allows people to provide for their social and economic wellbeing, such activities also create potential risks of adverse effects on human health and the wider environment. Harm can occur as a result of an accidental release, spill, unintended chemical reaction, fire or explosion. The management of hazardous substances is addressed in both the Hazardous Substances and New Organisms Act 1996 (HSNO) and the Health and Safety at Work Act 2015 (HSWA) and related regulations which are managed and enforced by Worksafe NZ.

### Contaminated Land

Land can become contaminated when hazardous substances have not been used, stored or disposed of appropriately. Traditional primary industries have left a legacy of land contamination in the Kaipara District (such as sheep dips and orchards). Council need to manage activities on land where contamination has been identified to prevent risks to human health and safety, and to the environment.

Any resource consent application for a land use activity or subdivision which involves soil disturbance or a change in the use of the land may be subject to the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS). The process which may require a detailed site investigation to determine if a site is contaminated or not. Information about site contamination is kept on the Council property file and is available through the Land Information Memorandum (LIM) and Project Information Memorandum (PIM) processes. The status of some activities on contaminated land (such as soil disturbance) is determined by the requirements of the NESCS.

### Climate Change

Climate change is already happening across the country, and Kaipara communities are experiencing more frequent and more extreme weather events such as heavy rainfall events and prolonged drought conditions. The continued future scale of climate change impacts depends on both global efforts to reduce greenhouse gas emissions and on local

planning and adaptation efforts. The scale of negative impacts will increase significantly if climate change scenarios and climate response requirements are not planned for appropriately by local government and the community. The 'Current and Future Climate of Kaipara District' report prepared by NIWA in 2020 shows that temperatures will increase across all possible future emissions scenarios.

The Climate Change Response (Zero Carbon) Amendment Act 2019 established the Climate Change Commission to advise on actions to reduce national emissions and to meet the national targets. This Act also identifies councils as a reporting body able to be called upon to report on their climate change work.

Urgent action is required by all levels of government to respond to climate change and to contribute to meeting the long-term goals of the Paris Agreement. The new District Plan will need to respond to any central government directives and include provisions related to adaptation planning and decision making. Adaptation planning work will happen in conjunction with the development of the new District Plan under the proposed climate change work programme.

### Flood Risk

Flooding is a major natural hazard risk within the Kaipara District. Subdivision and land use development need to be carefully planned and managed in areas which are susceptible to flood hazard risks.

The main areas prone to flooding in the Kaipara District are the lower reaches of the Kaihu, Manganui and Northern Wairoa rivers, with Dargaville being the most notable flood-prone area. Communities are living with the legacy of earlier decisions regarding the appropriate locations for villages and settlements. These are often

located next to rivers on flat, alluvial floodplains.

Northland Regional Council (NRC) has published detailed [flood hazard maps](#) (priority rivers) for certain catchments within the district, including Paparoa, Kaihu, Maungataroto and Dargaville. NRC is also undertaking a region-wide flood hazard assessment to determine which areas are the most susceptible to flooding. Updated information will be released in late 2021/early 2022, to inform people of the potential hazards and enable decisions to be made.

### Coastal Environment and Coastal Flood Hazards

Kaipara District includes extensive areas of coastline around the Kaipara Harbour as well as the East and West Coasts of the District.

Mapping work completed by both NRC and Kaipara District Council indicates that many areas across the District are exposed to coastal erosion and inundation (flooding).

NRC further investigated coastal hazards more recently and released associated draft coastal hazard maps in April 2021. These maps identify areas of the coastline which are susceptible to coastal inundation.

### Geotechnical Hazards

Council is collating information relating to Geotechnical Hazards to help identify where potential development may occur within the Kaipara District taking into account the hazards, risks and opportunities within the district. As part of this work, Council contracted a consultant to provide a report on geotechnical hazards in the Kaipara District in 2019 which can be found on Council's website [www.kaipara.govt.nz](http://www.kaipara.govt.nz).



## KEY ISSUES

- The current provisions for hazardous substances need to be reviewed to reflect legislative changes, as they may duplicate New Organisms Act 1996 (HSNO) and Health and Safety at Work Act 2015 (HSWA) legislation.
- The current provisions for contaminated land need to be reviewed to ensure they reflect the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS).
- The Operative District Plan needs to be updated to reflect current science and national direction on climate change matters
- The current provisions for managing flood risk areas need to be reviewed to reflect the most recent available information.
- The coastal environment maps (and provisions) need to be updated to reflect the mapped coastal environment in the Regional Policy Statement for Northland.
- The current provisions for managing the effects of coastal inundation, and coastal erosion areas, need to be reviewed to reflect new information from Northland Regional Council.
- Geotechnical hazards have been identified for several general areas across the District. However, further detailed site-specific information about geotechnical hazards often remains outside of the District Plan (as it is often included in building and resource consent applications). When Council receives any new geotechnical hazard information it should also be made publicly available. This includes any reviews of land instability now that LiDAR is available, which includes better contour intervals. (LiDAR is a remote sensing method that uses laser to measure the elevation of the ground, forest, and buildings).



## IWI INTERESTS AND IWI MANAGEMENT PLANS

There are two Iwi Management Plans (IMPs) which must be taken into account:

- Te Uri o Hau Kaitiakitanga o te Taiao 2011
- Nga Ture mo Te Taiao o Te Roroa 2009.

Both IMPs refer to hazards and risks. Given these matters are clearly identified, Council's focus will be to review the District Plan with these concerns in mind.

All the hazard and risk matters are of interest to iwi as these provisions impact on the way land is developed and how activities can be carried out. In particular marae that are located within a hazard-prone area or be subject to land instability issues.

## SUMMARY OF THE OPERATIVE DISTRICT PLAN PROVISIONS

Chapter 8 of the Operative District Plan includes objectives and policies related to managing hazardous substances and contaminated land. Chapter 7 includes objectives and policies relating to flooding, mass movement including land slips, coastal erosion, climate change/sea level rise and wild fire. Minimum floor levels apply in Coastal Environment Overlay areas. Additional details on the Operative District Plan provisions are included in Appendix 1.

## THINGS TO THINK ABOUT

*The content of a district plan ranges from fulfilling legal requirements made by Central Government and regional councils to proposing specific provisions that meet the needs of our District and its communities. This list includes any changes required to meet legal obligations, as well as some ideas Council wants to explore further with our communities.*

- The hazardous substances provisions need to reflect the new approach to hazardous substances required by legislation and avoid duplications under these. While the Kaipara District does not currently have any activities that could be defined as 'significant hazardous facilities', the new District Plan needs to provide for these types of activities potentially occurring in the future.
- Council need to ensure the provisions for contaminated land continue to reflect the NESCS.
- How to develop and provide new provisions addressing the effects of climate change, specifically provisions relating to adaptive management and, in some cases, managed retreat needs consideration. This work needs to be developed in conjunction with affected communities, particularly in areas where sea level rise will have a detrimental impact in the future.
- Council need to review the provisions for managing the effects of flood hazards in the district, in consultation with communities which are located within flood prone areas. For some communities where the risk of flooding is high, this may mean any future subdivision or development is restricted.
- The relevant maps are required to reflect Northland Regional Council's maps, ensuring coastal hazards and areas at risk of coastal inundation are identified. Where coastal hazard risk is high, Council need to consider developing provisions to enable adaptation planning and decisions to be developed in conjunction with affected communities.
- Council want to review the provisions for managing geotechnical hazards across the District and ensure communities are aware of the hazards, particularly where already identified and what this means for future subdivision and development opportunities.

## NEXT STEPS

### Hazardous Substances

Council will engage a technical expert to review the Operative District Plan's quantity thresholds for hazardous substances and work with staff to ensure the provisions do not duplicate the functions of HSNO and HSWA.

### Contaminated Land

It is not likely Council will require expert input on contaminated land issues, as the new plan will likely rely on the NESCS.

### Climate Change

Climate change expertise will be required to assist Council to work with communities to discuss adaptive management planning and decision-making strategies and to assist in drafting provisions which will meet the legislative requirements for addressing climate change. Technical expertise will also be needed to ensure Council is aligning with the National climate change work programme.

### Flood Hazard Risk

Council will work with Northland Regional Council on the flood hazard maps and may require technical assistance in developing revised rules for managing flood hazard risks.

### Coastal Environment and Coastal Hazard Risks

Council will work with Northland Regional Council on the coastal hazard mapping and may require technical assistance in developing revised rules for managing these areas.

### Geotechnical Hazards

Council will consider available information on geotechnical hazards and may require additional technical expertise to assess particular hazard prone areas or to make informed decisions.

# APPENDIX 1

## RELEVANT LEGISLATION AND NATIONAL DIRECTION

<b>Resource Management Act 1991</b>	
Section 6(h)	Requires Council to provide for the management of significant risks from natural hazards, which includes flood hazard risks.
Section 6(d)	Requires the maintenance and enhancement of public access to and along the coastal marine area (CMA).
Section 31	Prior to the Resource Legislation Amendment Act 2017 (LGAA) amendments, councils had an explicit function to control the adverse effects of the storage, use, transportation and disposal of hazardous substances pursuant to section 31. The LGAA amendments in 2017 also removed from the RMA the explicit function of regional councils to include provisions for hazardous substances in a Regional Policy Statement.
Section 44A	Directs that a District Plan cannot replicate or conflict with the rules contained in the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS)
Section 106	Any subdivisions may be refused if Council considers there to be a significant risk from natural hazards.
<b>Building Act 2004</b>	
Sections 71(1) and 72	Provides for the refusal of a building consent in hazard areas, or approval if the hazard risks are mitigated.
Section 133AD	Relates to seismic risk.
<b>Hazardous Substances and New Organisms Act 1996 (HSNO)</b>	
Section 4	Sets out that the purpose of this legislation is to protect the environment, and the health and safety of people and communities by preventing or managing the adverse effects of hazardous substances and new organisms.
<b>Health and Safety at Work 2015 (HWSA)</b>	
Section 3	<p>Sets out the purpose of the legislation and is clear that it is to provide for a balanced framework to secure the health and safety of workers and workplaces by 'protecting workers and other persons against harm to their health, safety and welfare by eliminating or minimising risks arising from work'.</p> <p>Clause 2 is also very clear that 'regard must be had to the principle that workers and other persons should be given the highest level of protection against harm to their health, safety and welfare from hazards and risks arising from work or from specified types of plant as is reasonably practicable'.</p> <p>Mandates enforcement undertaken in workplaces relating to hazardous substances.</p>
<b>Climate Change Response (Zero Carbon) Amendment Act 2019</b>	
Provides momentum for territorial authorities to take action on climate change. The Local Government Act already provides the mandate for councils to ensure the wellbeing of communities. This is in addition to Council's current obligations in respect to Section 7(i) of the RMA which requires Council to have particular regard to the effects of climate change. Council will also be required to implement the proposed Climate Change Adaption Act once it has been passed into law.	
<b>New Zealand Coastal Policy Statement 2010</b>	
Policy 24	Requires Council to identify coastal hazards.
Policy 25	Provides direction on subdivision, use and development in areas of coastal hazard risk.
<b>National Environmental Standards for Plantation Forestry (NES-PF)</b>	
Includes provisions for quarrying activities associated with forestry. These activities are controlled by the NES-PF, particularly extreme erosion limitations or hazards on steep land, i.e. Land Use Capability (LUC) 8e Erosion Susceptibility Classification.	

**National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS)**

The NESCS establishes a nationwide set of planning controls that regulate activities on contaminated or potentially contaminated land and provides for a nationwide approach to site investigations and reporting by referencing the Ministry for the Environment's best practice guidelines for investigating and reporting on contaminated or potentially contaminated land.

This regulation provides restrictions for five specific activities on land where soil may be contaminated in such a way as to be a risk to human health. The potential for the soil on a piece of land to be contaminated is determined by the likelihood of the previous and/or current activities being undertaken on that piece of land, to be potentially contaminating activities. Potentially contaminating activities are listed on the current version of the Ministry for the Environment's Hazardous Activities and Industries List (HAIL).

## REGIONAL GUIDANCE

**Regional Policy Statement for Northland**

2.7 Natural Hazards	Issue statement indicating that natural hazards have the potential to create significant risk to human life, property, community and economic wellbeing in Northland.
Policy 6.1.2	Precautionary approach.
3.13 Natural Hazard Risk	Objective 3.13
4.5 Identifying the Coastal Environment	Policy 4.5.1 which directs the identification of the coastal environment.
7.1 & 7.2 Policies and Methods – Natural Hazards	<p>Policy 7.1.1 provides the general risk management approach to development in natural hazard prone areas.</p> <p>Policy 7.1.2 provides for new subdivision and land use within 10-year and 100-year flood hazard areas.</p> <p>Policy 7.1.3 provides for new development within areas potentially affected by coastal hazards (including high risk coastal hazard areas).</p> <p>Policy 7.1.4 provides for existing development in known hazard-prone areas.</p> <p>Policy 7.1.5 provides for regionally significant infrastructure and critical infrastructure.</p> <p>Policy 7.1.6 provides for climate change and development.</p> <p>Policy 7.1.7 provides for statutory plans and strategies, which includes the requirement for district councils to notify a plan change to incorporate finalised flood hazard maps into district plans.</p> <p>Method 7.1.7 (6) requires district councils to ensure before zoning land for intensification of use that the risks of natural hazards are assessed.</p> <p>Method 7.1.8(2) &amp; (3) requires district councils to gather information and collate all research on natural hazards and create a database of hazards in conjunction with the regional council</p>
Appendix 1 Coastal Environment Assessment Criteria	Provides the Coastal Environment assessment criteria.

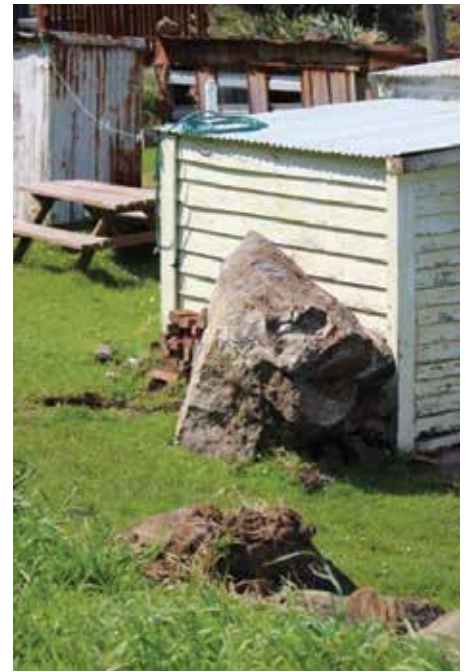
**Proposed Regional Plan for Northland (Appeals Version - August 2020)**

F.1.10 Natural hazard risk	<p>States that the risks and impacts of natural hazard events (including the influence of climate change) on people, communities, property, natural systems, infrastructure and the regional economy are minimised by:</p> <ol style="list-style-type: none"> <li>1. Increasing the understanding of natural hazards, including the potential influence of climate change on natural hazard events and the potential impacts on coastal biodiversity values, becoming better prepared for the consequences of natural hazard events, and;</li> <li>2. not compromising the effectiveness of existing natural and man-made defences against natural hazards, and</li> <li>3. enabling appropriate hazard mitigation measures to be implemented to protect existing vulnerable development, and</li> <li>4. promoting long-term strategies that reduce the risk of natural hazards impacting on people, communities and natural systems, and</li> <li>5. recognising that in justified circumstances, critical infrastructure may have to be located in natural hazard-prone areas, and</li> <li>6. anticipating and providing for, where practicable, landward migration of coastal biodiversity values affected by sea-level rise and natural hazard events.</li> </ol>
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## OPERATIVE KAIPARA DISTRICT PLAN 2013 – RELEVANT PROVISIONS

<p>Hazardous Substances and Contaminated Land – Chapter 8</p>	<p>Addresses hazardous facilities and contaminated sites and includes objectives and policies related to managing hazardous substances and contaminated land. The provisions rely on Appendix 25D which includes a quantity threshold table (Table 1) for the various classes of hazardous substances. Table 1 identifies the quantities/volumes of hazardous substances permitted within each zone. Table 2 includes the conditions for all permitted activities.</p>
<p>Climate Change and Flood Hazards – Chapter 7</p>	<p>Includes objectives and policies relating to: flooding, mass movement including landslips, coastal erosion, climate change/sea level rise and wild fire.</p> <p>Rules for hazards are incorporated through the zone rules, such as the rules for dwelling floor levels, rules which provide minimum floor levels for habitable buildings designed with a minimum freeboard height to floor level of 500mm above the 100 year average recurrence interval flood level.</p>
<p>Coastal Environment Overlay</p>	<p>The District Plan includes Coastal Environment Overlay areas, including the East Coast overlay, the West Coast overlay, the Kai Iwi Lakes overlay and the harbour overlay which restricts activities within these areas.</p> <p>In the overlay areas the following minimum floor levels apply:</p> <ul style="list-style-type: none"> <li>• 5.0m above mean sea level in the West Coast and East Coast overlays</li> <li>• 3.0m above mean sea level in the Mangawhai Harbour Overlay</li> <li>• 3.5m above mean sea level in the Kaipara Harbour Overlay</li> </ul> <p>3.5m above mean sea level in Dargaville as defined by the Drainage District boundary</p>
<p>Geotechnical Hazards – Chapter 2 and 7</p>	<p>Chapter 2 District Wide Matters includes several provisions which relate to geotechnical hazards, including sections 2.3.8, 2.4.10, 2.5.12, 2.5.14 and Appendix 3.1.</p> <p>Chapter 7 relating to Natural Hazards also includes provisions relating to geotechnical hazards, including sections 7.1.2, 7.1.2, 7.4.1, 7.4.3, 7.4.5, 7.5.1, 7.5.2, 7.5.3, 7.5.4 and 7.6.5.</p>





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***Your Kaipara, your say.***