

AUCKLAND UNITARY PLAN INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

Interim Guidance Text for Topic 022 Natural Hazards and Flooding

**5 May 2015 – updated 10 June 2015
(Direction 5, page 5 has been updated)**

PAUP Sections

C.5.12	Natural Hazards
C.5.13	Flooding
H.4.11	Natural Hazards
H.4.12	Flooding
G.2.725	Information requirements for resource consent applications for natural hazards
Planning Maps	Natural Hazards Coastal Inundation Map

Having read the submissions relating to this topic and having heard evidence and legal submissions from submitters (including the Auckland Council), the Panel issues this guidance in relation to District Plan level provisions. The purpose of this guidance is to enable submitters and the Council to further consider the proposed provisions and advance any further changes to those provisions in order to give effect to the matters set out in this guidance. There are directions to the parties at the end of this Interim Guidance to allow this to occur.

This guidance is accordingly limited to matters that may provide such assistance to the parties in their further discussions. The absence of guidance on any particular issue is not intended to indicate that the Panel has no view on that issue or that it is unimportant.

This interim guidance is not a recommendation within the meaning of section 144 of the Local Government (Auckland Transitional Provisions) Act 2010. It is not binding on submitters (including the Council) or on the Panel.

The Panel may revise its interim guidance after considering the outcome of submitters advancement of the provisions and any further evidence presented on these provisions.

The Panel will not enter into correspondence on this interim guidance. However submitters and their representatives are welcome to raise any questions and seek clarification of the interim guidance in the context of the continuing hearing process for Topic 022.

This interim guidance should be read in conjunction with the interim guidance on:

- *RPS General – PAUP Chapter B – Regional Policy Statement*
- *RPS Topic 011 Rural (section B8.3 - Rural Subdivision);*
- *RPS Topic 012 Significant Infrastructure, Energy and Transport (section B3.2 – Significant Infrastructure and Energy);*

- *RPS topics 013 Urban growth (sections B2.1 - Providing for growth in a quality compact urban form and B2.3 - Development capacity and supply of land for urban development);*
- *RPS Topic 011 Rural (section B8.3 - Rural Subdivision);*
- *RPS Topic 012 Significant Infrastructure, Energy and Transport (section B3.2 – Significant Infrastructure and Energy); and*
- *Regional and District Rules – PAUP Chapter G - General Provisions*

General Approach to Natural Hazards and Flooding Provisions

1. The Panel supports the merging of the natural hazard and flooding provisions into one section.
2. The Panel considers that the merged provisions should seek to not increase risks in areas of existing activities and avoid the creation of new risks in areas of proposed development while acknowledging the functional needs of particular activities to be located in areas which are subject to natural hazards such as on the coast.
3. The Panel is concerned about the inconsistent reference to natural hazards (including all types listed in s106 of the RMA) in the subdivision provisions and the apparent lack of regulatory control. Controls on subdivision are a direct way in which to avoid new risks in areas of proposed development.
4. The Panel considers that there are other more appropriate methods to address certain aspects of natural hazards such as:
 - a. Policies or assessment criteria relating to the duration of consents to address the temporal dimension of the relevant risk;
 - b. The use of notices under ss71-74 of the Building Act 2004 to address issues specific to building work.

Activity Status

5. The Panel is not convinced about the degree of restriction on use and development in existing built up areas under the natural hazard and flooding provisions. More consideration should be given to enabling design-led solutions using controlled or restricted discretionary activity status, with appropriately limited matters of control or discretion, and clear and succinct assessment criteria that assist with giving effect to the objectives and policies for natural hazards and flooding.

Coastal Inundation / Sea Level Rise

6. The Panel considers that the Plan provisions should deal with coastal inundation / sea level rise on the basis of a projected 1m sea level rise within 100 years (i.e. to 2115).

7. The Panel considers that the Plan provisions should deal with the 1% Annual Exceedance Probability (AEP) coastal storm tide event plus the 1m projected sea level rise.

Natural Hazards – Coastal Inundation Maps in PAUP GIS Viewer

8. There are acknowledged issues around the current mapping. Maps that have regulatory effect should be sufficiently accurate for their purpose and should not place a burden on landowners and applicants to disprove that the map is correct. The Panel would welcome suggestions for how to improve the mapping.
9. The Panel is not convinced of the need for a 2m sea level rise to be identified as a statutory requirement in the Plan or maps. Maps showing a 2m sea level rise could be located outside of the PAUP GIS Viewer (i.e. in Auckland Council's GIS Viewer).

Appropriate Flood Design Level

10. The Panel is not satisfied that there is jurisdiction to include rules in the Plan which control the way in which building work is undertaken on existing sites except where the Plan provisions regulate buildings for the purpose of the protection of other property (as defined in s7 Building Act 2004) from the effects of surface water, given the provisions in s18 Building Act 2004 and ss 68(2A) and 76(2A) RMA.
11. The Panel accepts that there is jurisdiction to include rules in the Plan to control the development of areas of land (rather than existing sites) through the processes of subdivision and structure planning.
12. The Panel considers that the most appropriate approach to the methods for dealing with flood hazards would be to delete the proposed rules which purport to regulate building work on existing sites. Alternatively, the following approach might be taken to flood modelling and floor levels:
 - a. For proposed residential accommodation and other more vulnerable activities on existing sites, the Plan should be consistent with the Building Code and use the 2% AEP event as the design standard for floor levels and freeboard;
 - b. For less vulnerable activities on existing sites, the Plan should not set a standard for floor levels;
 - c. For the protection of other property from the effects of surface water, and for subdivision and structure planning, the Plan may use the 1% AEP standard for the purposes of identifying appropriate building platforms or developable areas for either more or less vulnerable activities.
 - d. For new development, subdivision and structure planning in areas which may be subject to coastal inundation, the Plan may use the 1m projected Sea Level Rise plus 1% AEP for either more or less vulnerable activities.

Flood Prone Layer (Provisions and Maps)

13. The Panel is not convinced of the necessity for the text provisions and maps for a Flood Prone layer for the following reasons:
 - a. The assumption of areas having 100% of drainage capacity (whether by pipes, overland flow or infiltration) blocked is unreasonable and therefore inappropriate;
 - b. The areal extent of control relating to flood prone areas goes well beyond the flood plain mapping;
 - c. The need for control to protect against flood hazards takes insufficient account of site-specific design solutions or of the other relevant resource management objectives under the Plan, including enabling quality compact urban growth;
 - d. The burden of this control is not adequately relieved (given the nature of the risk) by the possible opportunity of Council or expert assessment.
14. The Panel would welcome other suggestions, including any longer term proposals involving separate plan processes, for how to improve the mapping.

Whether Churches and Schools are More or Less Vulnerable Activities

15. The Panel considers that churches and schools should be less vulnerable activities for the purposes of these provisions. This is because these activities normally do not involve residential accommodation and so occupants are unlikely to sleep there. In this context, there is no real difference between these activities and any office or employment activity.

Rapid Flood Hazard Assessment

16. The Plan does not specify particular methods for assessing flood hazards. The utility or accuracy of any method of assessment may be addressed through an application for resource consent or in structure planning.
17. The use of the Rapid Flood Hazard Assessment by the Council in preparing its flood hazard maps has acknowledged limitations. The Panel is aware that any particular assessment of any particular site may be addressed through the consent process. However, an important public benefit of the Council undertaking robust technical mapping is to avoid imposing unnecessary burdens on landowners and applicants and ensuring that resources that deserve protection are not overlooked.
18. The parties are invited to identify further technical work and plan change processes that may be appropriate to improve the reliability of the mapping.

Bushfire

19. The Panel is not convinced of the need for provisions regarding bushfire, as there was no evidence of bushfire being a significant risk in the Auckland region and there was no robust evidence of support for such provisions.

Soil Stability

20. The Panel agrees that the definitions in relation to land which may be subject to instability can be improved.
21. The Panel considers the evidence of Mr Hillier from Tonkin & Taylor to be persuasive. For the reasons he gives, the Panel considers that liquefaction is a relevant consideration at the stage of subdivision or structure planning, and may be assessed having regard to the references to subsidence, slippage and erosion in section 106 RMA.
22. The current provisions are that it is a restricted discretionary activity to build a house in an area of instability. This provision applies even if the site has been extensively investigated and engineered at the land-use and subdivision consent stage. The Panel invites the parties to further consider the appropriateness of this activity status and possible alternative mechanisms.

Directions and Next Steps:

- 1. Submitters are to present and circulate their proposed revisions (on the basis of merged natural hazard and flooding provisions) by 25 May 2015.**
- 2. Council is to respond (including with any further revised provisions) by 10 June 2015.**
- 3. The Panel will appoint a mediator to convene a mediation of parties on 29 and 30 June 2015.**
- 4. The outcome of the mediation is to be reported to Panel.**
- 5. On receipt of the outcome the Panel will consider whether any further hearing time is necessary or desirable. If necessary, hearing time is available on 5 August 2015.**



David Kirkpatrick
Chairperson, Hearings Panel for the
proposed Auckland Unitary Plan