



Infrastructure New Zealand's submission on the Ministry for the Environment's Community-led retreat and adaptation funding: Issues and options paper

1. Introduction

- 1.1 Infrastructure New Zealand (INZ) welcomes this opportunity to submit on the Ministry for the Environment's Community-led retreat and adaptation funding: Issues and options paper.
- 1.2 INZ is New Zealand's membership organisation for the infrastructure sector. We promote best practice in national infrastructure development through research, advocacy, and public and private sector collaboration. Our members come from diverse sectors across New Zealand and include infrastructure service providers, investors, and operators.
- 1.3 While INZ has submitted as the peak infrastructure sector organisation, our members may make their own submissions raising those issues specific to their areas of interest or expertise.

2. General Remarks

- 2.1 INZ welcomes the Inquiry's focus on the need to consider a consistent and enduring framework for pre-disaster retreat. Recovery efforts over many years from natural and climate related disasters have demonstrated that the current system is ad-hoc and lacks certainty for iwi, communities, local governments, businesses, and infrastructure providers alike.
- 2.2 It is also encouraging to see the focus on community-led decision making. We agree that centrally led guidance is necessary, but that local councils and communities should be adequately empowered to make informed decisions in the face of disaster and climate change risk.
- 2.3 It is reassuring to see the alignment between the call for national direction on a more consistent risk assessment process in this issues and options paper and the new regional spatial planning processes under the resource management reforms.
- 2.4 Councils are currently under resourced and inadequately empowered to address many of the concerns discussed in the issues and options paper. We therefore focus here in some depth on the issue of funding and financing climate adaptation and recovery and what that



should mean for councils and their ability to partner meaningfully with central government.

2.5 At present, there is inadequate attention paid to infrastructure policy to support communities, despite the focus on decision-making for residential and business retreat and other adaptation measures in the paper. Certainty and clear lead times are particularly important for infrastructure operations and investment given the length of asset lifetimes. It is critical that there is sufficient focus on infrastructure as an important enabler for communities' futures in the face of climate change in the Environment Committee's report back.

3. Gaps in the existing system

3.1 INZ agrees with the significant challenges identified in the issues and options paper. In particular; the variable quality of risk assessment and local adaptation planning, the lack of an enduring and comprehensive system for community-led retreat and gaps in our funding system.

3.2 We support the paper's contention that there is a lack of national guidance for risk assessment, a lack of data stewardship, and inadequate guidance on trade-offs that will need to be made between risk mitigation and adaptation and other council priorities. Coastal hazards adaptation guidelines for local councils from the Ministry for the Environment have been a helpful start but are not enough. Standards and guidelines will need to be wider ranging and supported by powers to hold local councils accountable to them, as well as adequate resourcing for them to be met.

3.3 We also support the proposed National Policy Statement on Natural Hazard Decision Making in this context and will submit separately on its contents to inform better outcomes in this area.

3.4 Precedent and uncertainty in recovery funding is leading to perverse incentives in adaptation. This is another key challenge in addition to those outlined in the paper.

3.5 Without a clear counterfactual and multiple instances of substantial council and central government funding being allocated in an ad-hoc way post disaster, it is reasonable to suggest that the retreat decisions currently being made may be based on an assumption that if the worst were to happen, compensation would be relatively high, and therefore financial risk relatively low.



3.6 The recent cost-sharing agreement between Auckland Council and Central Government highlights the risk that, despite the Mayor’s assurances that the agreement should not be seen as a precedent for future council funding commitments, residents and businesses will make decisions on this basis.

3.7 It is critical to better inform expectations on recovery funding, to encourage more risk-informed decisions for households and businesses and their property.

4. Towards a comprehensive and consistent framework for disaster response and retreat

4.1 New Zealand needs an enduring body that coordinates recoveries and sets the standards for resilience building at a national level.

Case Study: Queensland’s Reconstruction Authority

4.2 There is an opportunity to learn from Queensland’s Reconstruction Authority which is an independent statutory authority tasked with coordinating locally led rebuilds and recoveries from disasters, as well as reducing risk and building resilience before future disasters.

4.3 The Queensland model requires local governments to set up community-focused recovery groups, with the authority sending regional liaison officers to communities to support them in scaling up their own work.

4.4 The Authority has step-in powers to declare reconstruction areas and critical infrastructure projects and can force other agencies to carry out work as part of a recovery process. These powers have only been used three times in its 12 years of operation.

4.5 Given the severity of natural disaster response and risks associated, step-in powers are a valuable addition to the legislative framework for response and retreat, but risk assessment and retreat decisions should first be locally driven and coordinated with a high bar for national authority involvement. In the New Zealand context, these powers should be well coordinated with those under emergency management legislation.



- 4.6 A New Zealand equivalent should set national level resilience standards to inform local government planning in the first instance.
- 4.7 It should also set norms for cost-sharing arrangements and buy-out policies to deliver certainty to communities, local councils, and infrastructure providers across the country.
- 4.8 We broadly support the elements of the proposed framework laid out by the issues and options paper.
- 4.9 Central government should set principles, ensure that there is adequate funding for community led recovery via changes to local and regional council funding structures. It should then enforce the risk management principles rather than dictate specific land use changes within the boundaries of councils' planning jurisdictions except where absolutely necessary because of life and property threatening risk. Learnings from recovery should be brought forward into future adaptation planning.
- 4.10 As identified, the current land use planning system is not designed to fill this gap. At present, councils rely on a patchwork of powers and legislation to inform their adaptation and retreat decisions. In particular, councils do not yet have the powers required to support retreat, and coordination frameworks for cross-regional risks are unclear. It is likely that the compulsory acquisition provisions under the Public Works Act will need to be replicated to meet this need in the climate adaptation context.
- 4.11 We have seen this inconsistency play out before. In Christchurch after the 2010 and 2011 earthquakes, legal challenge determined that councils did not have the authority to stop services to people residing in the red zone. Where people decide not to leave an area, the benefit of continuing to operate and maintain an asset to service a small amount of people in a risky area rapidly diminishes. The costs, however, will be borne by the wider ratepaying population in the case of council owned infrastructure.
- 4.12 We agree with the recommendations from the working group on managed retreat regarding changes to the risk assessment environment. Rigor is needed and a clear delineation of roles and responsibilities is a helpful step towards both national consistency and local leadership.
- 4.13 Councils should have the primary decision-making powers, with requirements to coordinate with other councils, and call-in powers in disasters under emergency management legislation also included as above. We recommend that a trigger be identified for greater central government involvement where a risk or area has been identified as very significant (or equivalent) in risk



assessment planning but has not been addressed over a given timeframe pre-disaster.

- 4.14 With regard to the withdrawal of services, we support a combination of options A and B which combines a plan for the withdrawal of service included in a retreat plan, and the ability for services providers to make a request to an independent decision maker to withdraw services. This combination approach acknowledges that post-disaster, providers will need flexibility where plans may have not provided for the impacts of an event, but also provides clarity for the communities that are reliant on those services and providers who need certainty to invest in the maintenance and renewal of long-term assets.
- 4.15 If there is to be a trigger for withdrawal of services once the decision has been made to retreat, it should be based on the population remaining in a designated area for retreat relative to the size of the council's ratepayer base. Once the retreat decision has been made within a partly mandatory system, any voluntary delay in timing should be supported by infrastructure service maintenance and renewal only in so far as the population size it serves justifies the cost to the wider community.
- 4.16 On liability for decision makers, one concern is that the lack of resources currently available to councils in particular and the existing infrastructure deficit sets a difficult stage for narrow exclusions from liability. Inconsistent data availability and usability is likely to also be an issue for decision-making. At this stage, option A – exclusion from all liability where decision-makers act in good faith is preferred.
- 4.17 Both here and in Australia, fear of being held liable for decisions to both take action, or not, has been a key barrier to better outcomes in this area. Clarity on land-use powers, roles and responsibilities and adequate resourcing to support decision-making is needed, alongside appropriate exclusions from liability.
- 4.18 Over time, as capability and capacity are built at a local level, we would expect greater liability to be introduced where appropriate in order to drive accountability at a local government level. Dependent on change to local government funding and arrangements, a review should be undertaken of the appropriateness of exclusion from all liability five years after any introduction of change following this Inquiry.

5 Clarity on community-led retreat

- 5.6 INZ supports option 2 – a system that contains a mix of voluntary and mandatory elements. A purely voluntary system where those affected have the choice to stay would increase costs for ratepayers and infrastructure operators unsustainably as they are unable to withdraw infrastructure services



despite, cost, risk and a diminishing population to service.

- 5.7 A system in which those affected are enabled to choose how/when to leave, not if, is a preferable option to deliver greater certainty to everyone in the community.
- 5.8 We agree that post-retreat, land should no longer be used for settlement, but encourage the Ministry to consider alternative uses, such as biodiversity restoration or nature-based solutions that may help ease the pressures on land elsewhere.
- 5.9 This approach will need to be supported by powers to compulsorily acquire land and meet compensation need. At present, many local councils do not have the resources to meet these requirements.

6 Strengthening local adaptation planning

- 6.6 If a requirement for local adaptation planning is to be introduced under the natural hazards planning framework, it should take account of the need to coordinate across regions. Under the spatial planning and natural and built environment acts this could be led by regional planning committees (RPCs). If the RPCs are not established, adaptation planning requirements should build on programmes like South Dunedin Future to require cooperation between councils to identify and adapt to risks in a coordinated manner.
- 6.7 Given the current political uncertainty affecting the future of the resource management reform, proposals should remain flexible in order to best prioritise regional coordination in a way that will integrate into resource management settings.
- 6.8 We agree that pre-disaster recovery planning should include a requirement to provide increased certainty and predictability to communities, infrastructure operators and owners. Any imposition of greater responsibility to the council level will need to be met with adequate funding and financing tools, to avoid 'unfunded mandates' being handed down to councils with inadequate resource.

7 The role of Government

- 7.6 As stated, we agree that central government should set risk management and response standards, enforce them and create a nationally consistent framework for retreat. We also agree that retreat decisions should be locally-led and informed, and that Councils should bear some cost for retreat



decisions.

7.7 However, councils need to be empowered in a more substantial way than is proposed in the funding and financing section included in the paper to meet additional responsibilities and higher standards for resilience planning. Centrally facilitated ad-hoc funding will not adequately enable locally led change, will be subject to national politicisation as explored in the paper in other sections – to the disadvantage of local communities, and will fail to properly empower councils to address climate adaptation and retreat concerns.

7.8 Councils instead should be empowered through new funding and financing tools that give them the ability to benefit from the growth they contribute to in local communities and support greater capability and capacity building to respond to long-term challenges such as climate change.

7.9 Whilst outside of the natural scope of the Inquiry, the system of local governance must be fundamentally rethought to support climate adaptation and retreat activities in a way that is regionally coordinated and adequately resourced. It is encouraging to see mention of the future for local government review's recommendation for improved funding and financing tools for local government. We will also need to go further and take onboard their views around achieving scale at the regional level to address these priorities meaningfully.

7.10 We also note the importance of cross-party support for any legislation introduced to address managed retreat and resilience planning. Ensuring that, once a rigorous and economically viable framework has been developed, the legislation will not likely be subject to political manipulation further down the track will be critical.

7.11 Risk assessment and data collation should also be closely coordinated with the Climate Change Commission and informed by their independent monitoring of national level adaption, and broader adaption work programme. The lack of attention paid to their work and the Commission's role as an independent assessor of risk and climate impacts in the issues paper is disappointing.

8 Funding and financing retreat and recovery

8.6 The current ad-hoc funding agreements following large disasters are failing to provide the certainty needed for infrastructure providers and operators – including councils, and clarity for tax and rate payers. Greater certainty would also aid in any introduction of private sector capital to help fund and finance adaptation including infrastructure assets and maintenance costs.



- 8.7 Current funding models, including at the local government and central government levels, fail to adequately provide sustained resourcing for adequate maintenance and renewal programmes, let alone additional investment to meet increased resilience requirements – both by improving existing assets, as well as funding new builds.
- 8.8 To address historic underinvestment and future need – before increased resilience standards - and upcoming renewals we would need to nearly double current investment from 5.5% of GDP a year, to an annual public spend of 10%.
- 8.9 Our transport funding system is also failing to keep pace. The current emergency works budget provided through the National Land Transport Fund will need to increase significantly to keep up with the rising frequency of these climate change related events. Waka Kotahi has taken on a loan of \$2 billion, while its funding structure is currently under review.
- 8.10 The incentives associated with local government rating systems has meant that historic underinvestment also significantly hampers critical infrastructure performance in council owned and operated assets.
- 8.11 Whilst we agree that building resilience is urgent and that there is an opportunity to build greater resilience and make better decisions through recovery, consideration of resourcing will be critical to making sure that this approach is possible.
- 8.12 Returning to previous levels of service and adapting to coming risks from climate change will often be the more expensive option. Post recovery, adequate scale and funding will be critical to being able to support a return to previous service levels and where relevant, adaptation to future risk.
- 8.13 Ability to pay should be a key consideration for central government involvement. Establishing a mechanism to assess council capacity could be based on the Treasury’s investor confidence framework.
- 8.14 Devolution of decision-making should also be a key focus, supported by adequate resourcing. We would like to see the inclusion of performance requirements in line with guidelines set by central government, and co-investment still required, but met with a greater ability for councils to raise revenue.



- 8.15 There is an opportunity, as the paper notes, to build on commitments like the National Resilience Plan towards a nationally consistent framework for funding disaster recovery and pre-disaster adaptation. We note frustration with the speed of the roll out of this funding but support the broader approach of funding a recovery package, rather than on an ad-hoc project basis.
- 8.16 Alongside a framework that clearly delineates relative cost burden for central and local government, a Government Policy Statement on recovery and resilience funding as suggested in the paper would be a helpful start towards certainty on central government funding. Ideally, this would be administered by a national recovery and adaptation agency informed by council led risk assessment with Ministerial call-in power as needed in emergencies and to set high level priorities immediately post disaster.
- 8.17 As stated, we strongly support the paper's reference to the future for local government review's recommendations for additional local government funding and financing tools.

Private capital

- 8.13.1 There has been some progress towards facilitating private financing opportunities for climate mitigation investment like offshore wind energy, but here and across many developed countries, there is less of a focus on private sector funding and financing of adaptation investment.
- 8.13.2 Certainty and predictability are key requirements for investment. Improving data from weather and climate observations has the potential to catalyse private investment for adaptation by providing the foundation for local data processing and forecasting services.
- 8.13.3 From a policy perspective, greater clarity including a central recovery agency and guidelines for risk management would be a helpful step towards an enabling environment for private investment.
- 8.13.4 We support the exploration of alternative ways to raise finance, including adaptation markets. The challenge of funding adaptation (and mitigation) initiatives in the face of climate change is too large for Government to tackle alone.



9 Risk Assessment

9.6 INZ agrees that the current lack of standards and ad-hoc approach to risk assessment is failing to achieve optimal outcomes.

9.7 Notable gaps as identified in the paper include the need for new legislation establishing who carries out risk assessments and how they are done, the establishment of a risk threshold, or criteria to determine a threshold, beyond which communities must consider retreat as an option, and the need for institutional arrangements that separate key roles, including standard setting, undertaking risk assessment and quality assurance.

9.8 INZ supports the three-tier risk categorisation proposed. We are encouraged by the regional focus included in the first tier. Coordination at this level to inform assessment in greater detail at the next is positive.

9.9 We support the ‘what is being impacted and to what extent’ focus within the issues and options paper, but encourage the Ministry to recognise that risk, and infrastructure services, are interconnected. Taking a broad view of risk and the consequences of infrastructure failure should be encouraged within any guidance.

10 The role of data

10.6 The issues and options paper identifies that better risk-informed decisions are a key priority of the first National Adaptation Plan, including actions to improve access to data and other information which are in progress. The paper does not therefore consider the issue of data accessibility and use in greater detail.

10.7 We view this as an oversight. The NAP actions focus on climate risk information portals in large part. This is absolutely an important focus given the context, but there is also an opportunity to grow the ability to leverage data for infrastructure assets (among other sources) to drive risk-informed adaption. This is not well enabled at present and will be a key driver of data quality for risk portals.

10.8 For example, better understanding of the state and placement of underground assets, as is the goal of Wellington City Council’s underground asset mapping programme, for example, can help communities make better informed retreat decisions by understanding where existing infrastructure



assets are, where it makes sense to retreat to and from, and where it would make more sense to protect a given asset. Similarly, greater understanding of erosion of assets and the effects of a changing climate on their performance and lifecycle would be a helpful input to broader national learnings on the effects of climate change as well.

10.9 INZ encourages the Ministry to consider that data is the fundamental building block to risk assessment, and that the current enabling environment for the procurement, usability and use of data is inhibiting progress across the infrastructure sector, as well as in risk assessment and response.

10.10 Clear governance arrangements in the form of a steward of this data are needed to ensure that it is used to inform cross-sectoral decision making. We encourage the Ministry to consider the role of data in greater detail within the Inquiry.

10.11 On the development of portals for risk assessment, we however support Business New Zealand's recommendation to establish an easily accessible, independent risk database tool to enable effective risk assessment, analysis, and planning. This could be similar to the Australian Cross Dependency Model and EasyXDI initiative, an initiative which delivers on-demand asset level physical risk analysis from now to 2100 to help asset owners or prospective asset holders to accurately assess climate change risks and cost of climate change impacts to an existing or planned asset. The independence of this risk assessment will be central to its reliability.

11 Conclusion

11.6 INZ thanks the Ministry for the Environment for this opportunity to submit and looks forward to continuing to engage with the Environment Committee's Inquiry and climate adaptation legislation in future.

11.7 Climate change is a long-term challenge that will require a significant changes to the way we structure our governance arrangements, develop policy and fund infrastructure among other assets and programmes.

11.8 Whilst generally supportive of the thinking behind the issues and options paper, we encourage the Inquiry to continue to consider opportunity to balance the need for national consistency, with the need to empower local councils who are best placed to respond to local needs to deliver for their communities.



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11.9 There is a need for clarity and certainty to move away from the current ad-hoc approach to adaptation planning and recovery funding. Doing so will require stronger powers and mandatory national standards to drive consistency. This will need to be supported by improved data and adequate resourcing for local government, including through new funding and financing tools, to ensure it is able to meet increased requirements.

Yours sincerely,

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Appendix one: Summary of Recommendations

#	Section	Recommendation
1	3.4	Precedent and uncertainty in recovery funding is leading to perverse incentives in adaptation should be another key challenge in addition to those outlined in the paper.
2	4.1	New Zealand needs an enduring body that coordinates recoveries and sets the standards for resilience building at a national level.
3	4.2	There is an opportunity to learn from Queensland’s Recovery Authority which is an independent statutory authority tasked with coordinating locally led rebuilds and recoveries from disasters, as well as reducing risk and building resilience before future disasters.
4	4.6	New Zealand’s equivalent recovery and resilience authority should set national level resilience standards to inform local government planning in the first instance.
5	4.7	It should also set norms for cost-sharing arrangements and buy-out policies to deliver certainty to communities, local councils and infrastructure providers across the country.
6	4.9	Central government should set principles, ensure that there is adequate funding for community led recovery via changes to local and regional council funding structures. It should then enforce the risk management principles rather than dictate specific land use changes within the boundaries of councils’ planning jurisdictions except where absolutely necessary because of life and property threatening risk.
7	4.13	Councils should have the primary decision-making powers, with requirements to coordinate with other councils, and call-in powers in disasters under emergency management legislation also included.
8	4.13	We recommend that a trigger be identified for greater central government involvement where a risk or area has been identified as very significant (or equivalent) in risk assessment planning but has not been addressed over a given timeframe pre-disaster.
9	4.14	With regard to the withdrawal of services, we support a combination of options A and B which combines a plan for the withdrawal of service included in a retreat plan, and the ability for services providers to make a request to an independent decision maker to withdraw services.
10	4.15	If there is to be a trigger for withdrawal of services once the decision has been made to retreat, it should be based on the population remaining in a designated area for retreat relative to the size of the council’s ratepayer base.



11	4.16	On liability for decisionmakers, at this stage, option A – exclusion from all liability where decision-makers act in good faith is preferred.
12	4.18	Over time, as capability and capacity are built at a local level, we would expect greater liability to be introduced where appropriate in order to drive accountability at a local government level.
13	5.1	INZ supports option 2 – a system that contains a mix of voluntary and mandatory elements.
14	5.3	We agree that post-retreat, land should no longer be used for settlement, but encourage the Ministry to consider alternative uses, such as biodiversity restoration or nature-based solutions that may help ease the pressures on land elsewhere.
15	6.1	If a requirement for local adaptation planning is to be introduced under the natural hazards planning framework, it should take account of the need to coordinate across regions. Given the current political uncertainty affecting the future of the resource management reform, proposals should remain flexible in order to best prioritise regional coordination in a way that will integrate into resource management settings.
16	6.3	Any imposition of greater responsibility to the council level will need to be met with adequate funding and financing tools. Councils need to be empowered in a more substantial way than is proposed in the funding and financing section included in the paper.
17	7.3	Councils instead should be empowered through new funding and financing tools.
18	7.4	The system of local governance must be fundamentally rethought to support climate adaptation and retreat activities in a way that is regionally coordinated and adequately resourced. It is encouraging to see mention of the future for local government review’s recommendation for improved funding and financing tools for local government. We will also need to go further and take onboard their views around achieving scale at the regional level to address these priorities meaningfully.
19	7.5	Cross-party support for any legislation introduced to address managed retreat and resilience planning is needed.
20	7.6	Risk assessment and data collation should also be closely coordinated with the Climate Change Commission and informed by their independent monitoring of national level adaption, and broader adaption work programme.
21	8.8	Ability to pay should be a key consideration for central government involvement. Establishing a mechanism to assess council capacity could be based on the Treasury’s investor confidence framework.



22	8.9	Devolution of decision-making should also be a key focus, supported by adequate resourcing. We would like to see the inclusion of performance requirements in line with guidelines set by central government, and co-investment still required, but met with a greater ability for councils to raise revenue.
23	8.10	Funding arrangements should build on commitments like the National Resilience Plan towards a nationally consistent framework for funding disaster recovery and pre-disaster adaptation.
24	8.11	a Government Policy Statement on recovery and resilience funding as suggested in the paper would be a helpful start towards certainty on central government funding. Ideally, this would be administered by a national recovery and adaptation agency informed by council led risk assessment with Ministerial call-in power as needed in emergencies and to set high level priorities immediately post disaster.
25	8.13.4	We support the exploration of alternative ways to raise finance, including adaptation markets.
26	9.3	INZ supports the three-tier risk categorisation proposed.
27	9.4	We support the 'what is being impacted and to what extent' focus within the issues and options paper, but encourage the Ministry to recognise that risk, and infrastructure services, are interconnected.
28	10.2	We view the lack of focus on data in the paper as an oversight.
29	10.4	INZ encourages the Ministry to consider that data is the fundamental building block to risk assessment, and that the current enabling environment for the procurement, usability and use of data is inhibiting progress across the infrastructure sector, as well as in risk assessment and response.
30	10.5	Clear governance arrangements in the form of a steward of this data are needed to ensure that it is used to inform cross-sectoral decision making
31		We support Business New Zealand's recommendation to establish an easily accessible, independent risk database tool to enable effective risk assessment, analysis, and planning.