



1 November 2023

Environment Committee
Parliament Buildings
Wellington

Tēnā koutou katoa

Submission on the Inquiry into Climate Adaptation

1. Introduction

This submission is from Clifton to Tangoio Coastal Hazards Strategy Joint Committee (“Joint Committee”), formed by members appointed by the Hawke’s Bay Regional Council, Heretaunga Tamatea Settlement Trust, Hastings District Council, Mana Ahuriri Trust, Napier City Council and Maungaharuru-Tangitū Trust.

We wish to appear before the Committee to speak to our submission.

We wish to ensure that at least one representative from each organisation that forms our Joint Committee is given the opportunity to appear before the Environment Committee to discuss our submission.

We wish to make the following comments in relation to the inquiry.

2. Overview

Thank you for the opportunity to provide a submission on the Environment Committee’s inquiry into climate adaptation.

This is a timely, and important opportunity to engage with central government on this critical topic for our region and the rest of New Zealand. We look forward to discussing our submission with you and to sharing our substantial practical experience with climate adaptation and the challenges and opportunities ahead.

3. About us

The Joint Committee is formally constituted under the Local Government Act 2002, with members appointed by the Hawke's Bay Regional Council, Heretaunga Tamatea Settlement Trust, Hastings District Council, Mana Ahuriri Trust, Napier City Council and Maungaharuru-Tangitū Trust.

Our task is to develop a long-term adaptive plan for coastal hazards for the stretch of coastline between Tangoio in the North, and Clifton in the South. This is the most heavily populated coastal area in Hawke's Bay, encompassing the city of Napier and the coastal settlements of Clifton, Te Awanga, Haumoana, Clive, Awatoto, Bay View, Whirinaki and Tangoio.

These areas are predominantly low-lying and are exposed to risks from coastal erosion and coastal inundation. Sea level rise will increase these risks over time. Retreat is likely to be the only viable long-term solution for some communities.

Our project was the first in the country to follow the Dynamic Adaptive Pathways Planning (DAPP) approach recommended in the Ministry for the Environment document "*Coastal hazards and climate change: Guidance for local government*" released in December 2017 (MfE Guidance).

Our work has been profiled by Local Government New Zealand, Ministry for the Environment, Resilience to Nature's Challenges National Science Challenge, the Organisation for Economic Co-operation and Development (OECD) and has been included as a case study in the National Adaptation Plan released in 2022.

Since we began this work in late 2014 we have:

- Commissioned detailed hazards and risk assessments and ground truthed these with affected communities.
- Developed decision-making processes for determining preferred options for responding to the risks identified.
- Completed cultural values, social impact, coastal ecology and economic assessments.
- Formed two community panels to work collaboratively on understanding risks, identifying and evaluating options, and recommending solutions to the Joint Committee.
- Determined and clarified the roles between the Hawke's Bay Regional Council and territorial authorities for implementing the Strategy.
- Developed draft adaptation thresholds for each community.
- Explored options for funding models and instruments, including a coastal contributory fund which would seek to build up funds overtime to offset the future cost of adaptation and more equitably spread costs across generations.

This process has taken longer than we expected; existing legislative settings have hindered our pace and progress.

The key remaining task that we are now focused on and developing is the funding model for implementation – that is, determining the relative contributions to Strategy implementation from rate payers and any other contributors.

Prior to Cyclone Gabrielle, the Strategy was planned for public notification and submissions in August 2023. That has now been delayed by 12 months given capacity and resource constraints within the Councils and our communities.

Through our work we believe that we are in the almost unique position of being able to share direct practical experience of every phase of the adaptation planning cycle outlined in the MfE Guidance. We believe we can assist the Committee with reflections on how this work sits within and interacts with the existing legislative frameworks and policies, and offer perspectives on what we believe is needed from central government to better enable effective adaptation planning and action for communities in New Zealand.

4. Submission Development

As a Joint Committee we meet approximately every 8 weeks to advance the work of our Strategy.

Unfortunately, the submissions period for this inquiry did not align with our meeting schedule, and capacity constraints have affected our ability to come together for a special meeting. We have years of experiences to share; compiling all of this experience and summarising it for the Committee has not been possible in the time available.

Instead, staff from the three Councils that have members on our Joint Committee (Hawke's Bay Regional Council, Napier City Council and Hastings District Council) held a joint workshop to consider and debate content for a submission. Over 22 staff attended from multiple areas of each council, demonstrating the importance of this issue to our region.

We provide on the following pages the outcome of that workshop as captured by staff.

We endorse these comments, and seek the opportunity to expand on these and our experiences by appearing in front of the Environment Committee at the appropriate time.

Given the collective approach taken by the Councils, it is likely that similar comments will be received by the Environment Committee from the other individual Councils involved in this workshop. We trust that the Environment Committee will understand that pooling resources is the most effective way for us to engage in this process given our constraints, and that any duplication reflects our aligned positions.

5. Staff Workshop on Issues and Options Paper

The following sections provide a summary of discussion points under the specific questions posed in the Community-led retreat and adaptation funding issues and options paper published by the Ministry for the Environment in anticipation of the inquiry.

There was insufficient time to traverse all questions posed by the issues and options paper. We wish to stress that while not all questions have been responded to in the following summary, this reflects the partner Councils' capacity constraints and not our collective interest in and support for debate on the full suite of questions posed.

Chapter 4: Risk Assessments

How many stages do you think are needed for risk assessment and what scale is appropriate for each of those stages?

There needs to be more tools/frameworks available to support risk assessments to be carried out at various scales, whether that's regional scale, community scale or assessments for specific assets. We need to ensure effective risk-based decision making is carried out, but that flexibility and local input is enabled. In our experience, the assessment of risk has been largely a technical one (understanding the likelihood of various future coastal erosion and inundation scenarios and their respective consequences). This is distinct from what communities might consider tolerable or intolerable risks.

How frequently should a risk-assessment be reviewed?

This should be driven by location-specific factors in the first instance. A framework that indicates the appropriate timeframes to review risk assessments based on the type of hazard and its risk level for each project would reduce the need to review every hazard on a set schedule and help reduce costs and resource needs. Alternatively, the time period for reviewing a particular risk assessment could be left open and flexible based on events (trigger points are reached to prompt a review) and locality with a guideline of 3-5 years to tie in with council timeframes.

What do you think makes a risk tolerable or intolerable (i.e. acceptable or unacceptable)?

The level of risk, which is subject to a number of multifaceted factors, including the community perception of what is important and what level of risk they would be willing to accept. Statistically the level of risk is based on: annual chance x lives lost x cost + people displaced + economic damage. It is also important to consider that tolerability will be fluid. The Joint Committee suggests that the tolerability of residual risk needs to be determined collaboratively, and through consultation including community, mana whenua, councils and central government. We acknowledge there is inherent bias to shorter-term thinking with a range of community interests, so this tends to place onus on councils to actively consider and plan for longer term future actions.

Do you think local risk assessments should be carried out or reviewed by a centralised agency or a local organisation? Why?

Assessments should be carried out locally using a national framework/methodology and reviewed centrally. It is imperative that local elements are included to determine what is relevant. Risk assessments carried out by local organisations to ensure local knowledge and community can be represented with audits by centralised agency to ensure consistency and quality of approach.

Should risk assessments be carried out only by technical experts or should other people also have a role? What role should other people and organisations have?

There needs to be a national framework which could be implemented locally and reviewed through a central government entity. Council suggests that there needs to have as broad a base as possible involved in regard to subject matter experts who each have a broad range of technical expertise. These will then be weighted accordingly.

Chapter 5: Local Adaptation Planning

Do you think there should be a requirement to undertake local adaptation planning? If so, should the trigger be based on the level of risk or something else?

If based on risk, this is appropriate. Adaptation planning is time and resource intensive and needs to be done in response to risk. The process needs to be assisted both through the provision of resources to achieve this in local government, as well as provisions or standards on how this should be undertaken. It is suggested that having a risk threshold or a matrix to help guide where / when adaptation planning is a requirement would be useful.

What direction should central government provide on the local adaptation planning process?

Central government should be around higher-level standard and framework setting. In this, there needs to be the development of clear, objective, scalable risk assessment processes outlined, clearly defined terms and thresholds. There also needs to be the development of legislation which is able to adequately define what level of risk should be taken into account for different planning scenarios and have mandatory requirements. There should be no “opt out” ability and this should be enforced by central government. We need investment in the planning process and into new technologies to encourage regional and local uptake of the framework.

Do you think there should be a requirement to plan for different scenarios, such as changes in the level of risk or what happens if there is a disaster? Why or why not?

There should be a requirement for the planning of different scenarios, this will allow the identification of different synergies across mitigations and encourage innovation. It is important however that any policy development is cognisant of resourcing and capacity requirements and ensures that there are appropriate mechanisms to fund the activities of local government.

How can we make sure that local adaptation planning is inclusive and draws on community views?

It is important to recognise and incorporate the fact that communities are not just geographical even in the natural hazards space; for example, Esk School is a community hub for multiple communities that were affected in different ways in the wake of Cyclone Gabrielle, but that felt connected as one community through their relationship with the school. We also need to engage with other “stakeholders” such as tourist organisations and businesses or institutions. There needs to be enough resourcing to be able to utilise community engagement teams in both local and central government to ensure wide community presence. It is also important to keep up with relevant research on best practices around how to engage with the community and be agile at changing our approach as best practice shifts.

Who do you think should make decisions about the adaptation pathway we choose and why? How should others be involved in the process?

It is essential that we include the community in these decisions and empower them to lead the process where appropriate. This will assist with the uptake of decisions through the

community and enables transparency on the risk if there was inaction. Strong trust-based relationships between Elected Members, their staff, and central government equivalents will be essential to ensure good, timely decision-making. Communities and individuals need to be brought along on the journey wherever possible to ensure as much buy-in as possible. Decision-making should not be left to technical experts with no holistic community-based lens applied. Decisions should be consistent regionally and linked to funding.

Chapter 6: Community-led Retreat

What do you think are the most important outcomes and principles for community-led retreat?

From Council's perspective the ultimate outcome should be the creation of resilient sustainable communities that are empowered and enabled to support themselves. We also consider the following outcomes from the consultation document to be essential:

- Increasing the physical and psychological safety of our people;
- Ensuring roles and responsibilities of all parties are clear;
- Giving effect to the principles of Te Tiriti o Waitangi; and
- Ensuring equity between and within communities and generations.

When it comes to principles transparency, consideration of future generations, and a commitment to consensus and community empowerment are key. We need effective decision-making but the urgency of any retreat process should influence what approach is taken. We also considered the following principles from the consultation document to be key:

- Ensuring processes are fair, flexible, efficient, timely, and transparent;
- Ensuring decisions are evidence-based while accepting there will be some uncertainty;
- Involving communities in decisions that affect them; and
- Ensuring that iwi, hapū, and Māori are represented in governance and are empowered to partner with the Crown on retreat processes and outcomes for their people and whenua.

When it comes to making decisions about retreat, clear principles around what constitutes a mandate for retreat will be important. This will be necessary to ensure that a minority are not blocking retreat, while ensuring that communities are able to have a say in what happens, rather than being disempowered by processes that lack transparency and are imposed upon them.

Do you prefer option 1 (voluntary) or option 2 (a mix of voluntary and mandatory parts)? Are there any other options?

It is not realistic to expect a purely voluntary system to be effective when it comes to mass managed retreat. There will always be people who are not willing to leave and while forcing them to leave may not be appropriate, councils need to have the power to withdraw services when all other options have been exhausted, with a heavy focus on voluntary retreat whenever possible. Voluntary retreat is far more likely where communities are well educated on the issues, engaged with early, and empowered to be part of the decision-making process

and take ownership of decisions wherever possible. In some circumstances, situations may change suddenly to an intolerable risk and there may be no option when to employ a mandatory retreat process. However, even in those circumstances, the better informed and pre-prepared those communities are the less traumatic that process will be.

Do you agree that affected land should no longer be used at the end of a retreat process (with limited exceptions for things like ceremonial events, recreation, some agricultural or horticultural uses and mahinga kai gathering)? Why or why not?

This is heavily dependent on the specific retreat process and the type of risk – safety would need to be the paramount consideration, followed by the viability of the proposed land use.

We note the question actually carves out significant exceptions for post-retreat land use. We would add adaptation and biodiversity measures to the list (i.e. creating wetlands or nature reserves on the retreated land) to increase the resilience of the local environment and adjacent land. Whether and how Māori land should be used after retreat should be a conversation led by mana whenua. More broadly communities should be heavily involved in any decisions about future use of the land. It may be easier to build a mandate for retreat if communities know the land will be put to good use while it still can be.

We note example in Hawke's Bay where residential housing has retreated from the floor of Esk Valley because of the intolerable risk to life, the land however is perfectly suited to maintaining vineyards and crops so in this example the land should be able to be continued to be used for an activity which is consistent with the risk profile.

Do you agree that these powers are needed to ensure land is no longer used once a decision has been made to retreat? What powers do you consider are needed?

It will be important to ensure there are adequate but tightly controlled powers to ensure land is not inappropriately used after retreat and in particular to ensure environmental outcomes are achieved. There will need to be a clear, efficient, and timely process in legislation for the removal of existing use rights, e.g. land rezoning and other associated decisions. This will need to include clear powers around ownership and control of the land once it is retreated from, including what the land can be used for. What it can be used for post-retreat should be agreed with the community as part of the retreat process. The current RMA processes associated with rezoning and rules are highly litigious and costly, time-consuming legal action will stand in the way of good retreat processes. Individual interests still need to be protected but clear mechanisms that allow timely decisions will be essential.

What do you think the threshold or trigger should be for withdrawing services once a decision has been made to retreat?

Decisions around thresholds for withdrawing services should ideally be made in collaboration with affected communities. In situations where mandatory retreat becomes necessary this is likely to be the trigger for the withdrawal of services. It is unlikely there will be many situations where the entire community agrees to a voluntary retreat process, but services should not be withdrawn until the risk becomes intolerable and a mandatory retreat process is put in place.

In what circumstances, if any, do you think decision-makers should be protected from liability? What are your views on option A, option B, or any other possible option?

Clear rules will need to be established about when decision-makers will and will not be liable for decisions. Where a robust risk assessment and adaptation process has been followed, there should not be any liability. Such an approach would recognise that decision-makers should not be burdened with significant and constant litigation in response to fair and appropriate decisions. However, given the significance of retreat-related decisions, including unwinding 'existing use rights', some well-focused grounds for decision-makers' liability is valid to ensure decision-making remains robust, fair and commensurate with the decisions being made. It will also be important to consider whether liability for inaction is appropriate, ensuring that doing nothing is not preferable to risking liability when taking action.

Chapter 7: Funding and Financing Adaptation

Which parts of the current system work well and which do not? Are there any other issues with our current approach to adaptation funding?

The biggest issue with the current approach is that risk lies where it falls, and this often leads to perverse outcomes. Often people do not have any real choice about where they live and there are significant equity issues at play in the housing options available for communities and individuals with less access to resources. We also lack a clear collective understanding of affordability and whether this is tied to the land value or the inherent risk of living there.

Councils cannot artificially disincentivise people from living in particular locations and the current system is not able to take into account the nuances of affordability and risk tolerance or to consider the pathway that leads to the problem. Councils need to be empowered to develop/encourage solutions for resilience at the point of development, not after the fact and financial incentivisation is required for this. There are no incentives for long term funding options which makes it hard both politically and legally to fund them – it is much easier to get something with an immediate demonstrable benefit funded, but this can lead to maladaptation. At this stage, there is a lack of involvement of key parts of the private sector including lifelines, banks, and insurers who need to be a part of these conversations and solutions.

The targeted rates system under s101(3) is useful – allows councils to consider exacerbators, consider community wide impacts, and split out targeted rates for specific properties. However, our inability to rate central government assets (those excluded under the Local Government (Rating) Act 2002) creates an unhelpful power imbalance when it comes to who is paying for protections/improvements. There is no funding mechanism for retreat at any scale, anywhere, requiring central government to intervene to enable retreat each time. The current rating system is based on growth and intensification with retreat being disincentivised.

The current system works well for transport with Waka Kotahi co-funding roading projects. In a similar manner, there needs to be adaptation funding and a clear process by which councils can access that funding.

What do you think are the most important outcomes and principles for funding and adaptation?

Outcomes:

We need to reduce our long-term costs by investing in addressing issues early and shifting the focus of investment from post-event to pre-event adaptation. We also need to ensure that Te Tiriti o Waitangi is given effect to.

Principles:

The key principle must be equity. As land becomes more marginal it becomes cheaper, drawing speculators and lower socio-economic groups to it. Lower socio-economic groups tend to lack financial resilience and have less support when things go wrong. We need to ensure that vulnerable groups are not perversely incentivised to move into high-risk areas as they become less tenable options. This is a likely outcome of allowing the market to drive change rather than government driving it. On top of this where significant natural disasters occur, for example Cyclone Gabrielle, the same communities who are generally more vulnerable are less able to cope with the impacts of that disaster. On a micro-level this is things like not having spare cash, or no food or petrol reserves. On a macro-level these communities have often had underinvestment in their infrastructure and lack insurance and alternate housing options.

In general, all people and groups who benefit from an adaptation action should pay, taking into account equity principles, including government agencies and utility providers. On the other side any group or organisation exacerbating issues, for example where there is encouragement to rebuild infrastructure and housing in disaster areas without appropriate adaptations, should be expected to financially contribute.

Finally, we need to shift behaviour and culture towards including adaptation in our thought processes and decision-making on both an individual and organisational scale and any funding framework should support the necessary work in adaptation planning.

In what circumstances (if any) do you think ratepayers and taxpayers should help people pay for the costs of adaptation?

Taxpayers and ratepayers are all vulnerable in some way and all need to contribute to the costs of adaptation. While there may be circumstances where property owners should be wholly responsible for the costs, these are likely to be limited given the lack of general awareness of risks to date and the social and economic consequences both locally and nationally of communities being displaced and financially devastated. The first question must be one of equity when considering who should pay for what. Ensuring that the benefits and support go to those who need it most is important.

In what circumstances should central government help councils to meet adaptation costs?

While central government cannot be expected to pay for everything, central government funding should generally be available to support adaptation in the same way that it is available to support roading. There needs to be a clear framework created which allows people to make good decisions with certainty long-term. For councils, we need to know that

if we follow a good risk assessment and adaptation planning process, funding will be available to support these projects, particularly where that funding may not be needed for 50 or 100 years. Any new developments should be able to demonstrate they are able to mitigate hazard risks without creating more adaptation costs long-term.

Investment in resilience prior to events is orders of magnitude lower in costs than recovering after an event; there is a strong business case for government to support improved resilience as it will reduce costs of response overall.

What are the benefits and challenges of providing financial support to people needing to retreat?

The reality is that without financial support many people will be unable or unwilling to retreat, the consequences will get worse, and the sense of community will erode. It is not realistic to expect that an enforcement approach without any form of incentive will be effective. There will be better outcomes, with lower costs overall (particularly when viewed through a holistic lens), resulting from providing support to make good decisions early, getting communities onboard, and supporting retreat once it becomes necessary. Now is the time to set up a system that ensures that commensurate financial support gets to the people who need it most. The current ad hoc approach does not ensure equitable division and creates a perverse sense of safety encouraging further development in high-risk areas.

There is a significant challenge around when financial support should occur. If people are willing to leave earlier and the council, third party agent or government is able to recoup some money through renting out those properties while they are still safe to occupy (this is probably more relevant to coastal retreat), it may be that a larger buy out is appropriate, compared with those who chose to wait until the last minute. Equally, it should be carefully considered whether persons who knowingly buy into properties within at-risk-areas should be treated differently from land holders who have had long-standing property interests and new information has revealed those properties are at-risk. However, we acknowledge providing no financial support at all where people choose to stay is likely to create significant hardship and challenges for a successful large-scale retreat strategy.

Are there any other approaches for providing support to people needing to retreat that we should consider?

Most important is taking into account that while financial support is important, it is not the only driver for decisions for individuals and communities and any support system must be willing to take a holistic view. Psychological support will be particularly important as people come to terms with significant change. Education also helps people to feel empowered, as well as allowing people and communities to be part of the process and given them genuine choices where there is the ability to do so, even if they are limited.

There should be funding available early in the process to ensure that good risk assessments and adaptation planning are carried out, rather than funding only being available for adaptation or retreat. Where retreat is required, funding should be available to make the best use of the land that has been retreated from.

What are the benefits and challenges of providing financial support to businesses needing to retreat?

A far more nuanced approach will be needed in this space. For a start smaller businesses and individual farms are likely to have less resilience and require more support to adapt. In the primary sector it is unlikely those businesses will be able to move, and their viability is essential for our economy so providing support makes sense. In other sectors the need for support may be less relevant as businesses will leave when they cannot get insurance. Working with the insurance sector to ensure that those businesses are retained within the wider community will be essential. Where a business provides for an essential community need there may be a better case for financial support. Further, it may not be appropriate to provide financial support to businesses which are adding to our emissions or choosing not to invest in adapting themselves.

What should be central government's initial funding priorities be and why? Which priorities are the most important and why?

Central government should prioritise invest in:

- Good quality holistic risk assessments to identify the greatest risk to life or intolerable risk and the lowest ability to pay. This can then drive a targeted and effective adaptation planning programme.
- Adaptation skills, training, and capability development in local governments who are at the coal face, which will help to ensure good adaptation is undertaken.
- Advancing the Climate Change Adaptation Bill to, among other matters, bring clarity of roles as between central government, regional councils and territorial authorities and others and set clear accountabilities and funding mechanisms. Too often risk assessments are undertaken at the local scale and then tangible actions to actually increase resilience are not completed due these aspects not being clearly defined.

6. Recommendations

Climate adaptation is one of our greatest challenges. In the Joint Committee's view, we need to move faster, and more efficiently. We owe it to our communities to lift the standard and increase resilience. We cannot sit back and wait for the more catastrophic events like Cyclone Gabrielle to drive change.

There are a wide range of legislative and practical barriers that are holding us back from effective local adaptation planning and action. The Joint Committee has had first-hand experiences with a number of those and some of those experiences have been documented in recent case studies. As such, we welcome this Inquiry, and urge the Environment Committee to seek in-depth engagement with this Committee and others who have attempted this journey and have real and practical experiences to share.

We look forward to future engagement on this critical issue.