



Climate Change & Sustainability Update - July 2025

Posted on: July 15, 2025

As the Tasman region struggles with back-to-back extreme weather events and the aftermath of widespread flooding, attention is shifting from emergency response to long-term resilience. Critical questions now arise: How can the region better prepare for future events? And what does it mean to truly “build back better”?

In this update, we explore key developments in climate adaptation including the following policy and regulatory shifts:

- Recommendations from the Independent Reference Group on New Zealand’s national climate adaptation framework
- New regulations requiring natural hazard information on LIMs
- The draft National Policy Statement for Natural Hazards

We also take a quick look at climate litigation cases here and overseas:

- *Lawyers for Climate Action* – Court of Appeal rejects challenge to the Climate Change Commission’s advice
- *Students for Climate Solutions* – Awaiting decision of the Supreme Court
- *Forest & Bird* – unsuccessful in Court of Appeal challenge over coal mine access
- *Across the Ditch* – Federal Court finds Australian Government does not owe duty of care to Torres Strait Islanders
- *Internationally* – The International Court of Justice issues a strong advisory opinion: countries must act on climate change

Independent Reference Group provides recommendations on adaptation framework

The Independent Reference Group released its final report on a proposed climate adaptation approach on 9 July 2025. The Report is not government policy, but provides recommendations to help shape a national framework for managing the impacts of climate change. The report considers how New Zealand can transition to a more strategic system for addressing increasing risks from natural hazards such as flooding, erosion, storms, and sea level rise.

Some of the key proposals include:

- **Easy access to risk information:** Individuals should have clear information on natural hazard risks to make informed property and investment decisions.
- **“Beneficiary pays” model:** Those who benefit most from adaptation measures

should contribute more to their costs, with Government support reserved for vulnerable communities.

- **Market signals and personal responsibility:** Insurance, property values, and lending terms should reflect climate risks, encouraging individuals to adapt, including by avoiding or relocating from high-risk areas. While Government support remains essential for hardship cases, large-scale buyouts should not become the norm.
- **Phased 20-year transition:** The first 3–5 years would focus on building institutional systems, followed by adaptation planning starting with the highest-risk areas. Full implementation is targeted by 2045. It is recommended that no buyouts be provided at the end of the transition period.

While the report sets a useful direction, it lacks detail on how to implement some of its key proposals, for example, how to prevent development in high-risk areas. It does not provide concrete policy tools, regulatory levers, or legislative suggestions to achieve this. It does however recognise that implementation tools (e.g. national direction, consenting processes, spatial planning and asset-management planning) need to be improved to ensure that decisions can be made faster, with less litigation and at lower cost.

While the Report refers to the need for councils to undertake integrated adaptation planning that considers the full range of adaptation options, and the possibility of withdrawing services from high risk locations, it doesn't specifically mention managed retreat. It provides little guidance on how to plan or implement the relocation of people and assets away from high-risk areas.

What is clear from the Report is the recommendation that stronger responsibility will be placed on individual residential property owners, and that New Zealand cannot afford to continue to buy out properties post significant storm events in an ad hoc manner and at market rates. The Report specifically recommends that financial assistance for residential property in areas of very high risk should not be linked to property values, and no buyouts should be provided at the end of the 20-year transition period. You can read the report [here](#).

Natural Hazard regulation: Disclosures on LIMs and a new NPS for Natural Hazards

Natural Hazard disclosure on LIMs coming in October

Property purchasers, landowners and councils will need to take note of the Local Government (Natural Hazard Information in Land Information Memoranda) Regulations 2025 (Regulations) which take full effect on 17 October 2025.

These regulations build on amendments made to the Local Government Official Information and Meetings Act 1987 (LGOIMA) in 2023, which came into force on 1 July 2025. Under the amended section 44B, territorial authorities are now required to include a dedicated natural hazard section in all Land Information Memoranda (LIMs). The 2025 Regulations set out minimum content requirements for this new section. Specifically, LIMs must include:

- Any known natural hazards (current or future) recorded in district plans.
- Relevant Building Act information, such as where building consents have been granted on land subject to natural hazards.
- Any other hazard-related information, grouped under clear subject headings (e.g. flooding, earthquake, subsidence, etc.).

These changes aim to ensure that hazard information is presented in a consistent, accessible, and understandable format, helping property owners and buyers make informed decisions. Where the information is sourced from a technical report, the Regulations provide minimum requirements including details of the entity that produced the report, the scope of the report and where it can be accessed. The Regulations also require councils to provide a summary on the LIM where the council has produced or commissioned natural hazard information, and considers that a summary would assist people with understanding the natural hazard information. The intention of these provisions is to assist landowners with understanding the nature of the hazard information, rather than being faced with pages and pages of technical documents.

The regulations also require regional councils to provide natural hazard information to district councils (territorial authorities) for inclusion in the LIM. It is important to note that the regulations don't require district or regional councils to prepare specific risk assessments or undertake further analysis for each specific property.

Draft NPS for Natural Hazards

As part of the Government’s broader overhaul of national direction, a proposed National Policy Statement for Natural Hazards (NPS-NH) was released in June. The NPS-NH aims to establish a more consistent, risk-based approach to managing natural hazard risks across the country. It introduces standardised definitions, language.

Why is it important? The RMA already requires councils to manage significant risk from natural hazards when making plans and assessing resource consent applications. However, there is no set process to follow, and no real national direction apart from some provisions in the Coastal Policy Statement relating to the coastal environment, and some non-statutory guidance documents. The aim is to provide support for a more consistent approach to natural hazard management.

The proposed NPS-NH is just the first step towards more comprehensive national direction. It will direct councils to take a risk-based approach to new development and introduces the risk matrix below:

Figure 1: Definitions of risk based on standardised definitions of likelihood and consequence

		Likelihood level						
		Almost certain	Very likely	Likely	Possible	Unlikely	Rare	Very rare
ARI (years)		up to 10	10–20	20–50	50–100	100–500	500–5,000	> 5,000
AEP		10% or more	10% to 5%	5% to 2%	2% to 1%	1% to 0.2%	0.2% to 0.02%	< 0.02%
Consequence level	Catastrophic	Very high	Very high	Very high	High	Medium	Medium	Medium
	Major	Very high	Very high	High	High	Medium	Medium	Medium
	Moderate	High	High	High	Medium	Medium	Low	Low
	Minor	Medium	Medium	Medium	Medium	Low	Low	Low
	Negligible	Low	Low	Low	Low	Low	Low	Low

Note: ARI = Average recurrence interval; AEP = Annual exceedance probability.

Source: Ministry for the Environment:2025

The NPS-NH won't tell councils *how* to respond to a specific level of risk, but it will require them to proportionately manage the risk when making planning and consenting decisions. That applies to new subdivision, use and development but not (at this stage) to infrastructure or 'primary production'.

It will require councils to use the 'best available information' recognises the dynamic nature of natural hazard data and information, and we see this as a positive step forward. This means councils won't be restricted to just what is shown on council planning maps.

Consultation on the proposed NPS-NH, and the other signalled national direction changes close on 27 July 2025. You can read the proposal here (see page 65 onwards):

Climate Litigation cases

Challenge to Climate Change Commission's advice unsuccessful

In *Lawyers for Climate Action NZ Inc v Climate Change Commission* [2025] NZCA 80, the Court of Appeal dismissed a challenge by Lawyers for Climate Action NZ (LCANZ), which argued the Climate Change Commission's advice for the purpose of setting emissions budgets contained logical or mathematical errors and failed to meaningfully consider what was required to meet the 1.5°C goal Paris Agreement target.

The Court of Appeal agreed with the High Court that the Commission's methodology was lawful, even if it didn't mirror global pathways exactly. Further, LCANZ's evidence, while compelling, wasn't all admissible in judicial review. The Court held that the Commission had not failed to comply with the statutory requirement to meaningfully consider the 1.5°C goal. While emissions budgets are intended to serve the dual purpose of the Act – the 2050 target and contributing to the 1.5°C

goal – it is not a substantive bottom line. An increase in net emissions in a budget period doesn't mean it hasn't been set with a view to contributing to the 1.5°C goal.

Finally, the Court held the Commission's advice was not unreasonable, and clarified that while climate cases raise major public interest issues, judicial scrutiny shouldn't automatically be "heightened" just because of the subject matter.

Students' climate case awaiting Supreme Court decision

The Supreme Court gave Students for Climate Solutions (SCS) another shot at challenging a decision by the Minister to grant petroleum exploration permits in the Taranaki region.[1]

SCS seeks a review of the decision arguing that granting these permits under the Crown Minerals Act 1991 ignored climate impacts, Treaty principles, and NZ's emissions targets. Both the High Court and Court of Appeal dismissed their case, ruling climate considerations weren't relevant.

The Supreme Court directed parties to specifically address whether the climate change considerations outlined in the Climate Change Response Act 2002 are mandatory, permissive or irrelevant considerations when granting petroleum exploration permits under the Crown Minerals Act, and if irrelevant, whether the decision maker gave them due consideration.

The hearing took place on 6 May 2025, and we now await the Court's decision.

Forest & Bird challenge re: mining access rejected by the Court of Appeal

Forest & Bird challenged the Southland District Council's decision to grant Bathurst Resources Ltd access to council-owned forest land for coal exploration and to authorise negotiations for a future mining access arrangement. Forest & Bird argued the Council had acted unlawfully by failing to recognise the decision's significance, consult the public, or consider climate change impacts adequately. The High Court rejected those claims, holding the Council acted within its discretion under the Local Government Act 2002 and was not required to consult or engage further, given its determination that the decision was not significant.

In a 17 July 2025 decision,[2] the Court of Appeal upheld the High Court’s decision, emphasising that the Council acted in its capacity as a landowner under the Crown Minerals Act, not as a regulator. It found no legal error in the Council’s reliance on future resource consent processes (which would be publicly notified) to address wider environmental and climate concerns. The Court concluded that none of the alleged legal or procedural errors warranted intervention, and that the access decision did not, in itself, amount to approval of coal mining.

Torres Strait litigation – Federal Court finds Australian Government does not owe a duty of care to protect from impacts of climate change

In this landmark case, Torres Strait Island elders brought a representative proceeding against the Australian Government, alleging it had failed to take reasonable steps to protect their communities from the impacts of climate change. They argued that the Government breached a duty of care by setting greenhouse gas emissions reduction targets that did not align with the best available science, thereby contributing to severe environmental degradation in the Torres Strait. They also brought an alternative claim relating to the Government’s role in funding and coordinating the construction of seawalls to protect island communities. The applicants contended that climate change had irreparably harmed their cultural practices and their spiritual connection to land and sea.

While the Court accepted much of the factual basis of their case, including the devastating climate impacts on the Torres Strait and the Government’s failure to adequately consider scientific advice when setting emissions targets, it ultimately found against the applicants. Justice Wigney held that the Australian Government did not owe the specific duties of care alleged, as the decisions in question involved core matters of government policy and were not justiciable under negligence law. Additionally, the Court found that any harm suffered could not be causally linked to Australia’s relatively small share of global emissions and that “loss of fulfilment of Ailan Kastom” (cultural fulfilment) is not a compensable harm under current tort law.

The case highlights the limits of negligence law in addressing climate harms, with a clear direction from the Australian Federal Court that these are matters of higher government policy and are not suitable for determination by the courts under the common law.

ICJ Issues Landmark Advisory Opinion on Climate Change

The United Nations International Court of Justice delivered a historic advisory opinion in July 2025 stating that countries have a legal obligation to protect the environment from anthropogenic greenhouse gas emissions. The Court grounded its findings in both environmental and human rights treaties, including the Paris Agreement, and found that limiting global warming to 1.5°C above pre-industrial levels is a binding target under international law. If states breach these obligations, they may be required to stop the wrongful conduct, guarantee non-repetition, and provide full reparation, including compensation for harm caused.

While the opinion is not legally binding, it carries significant weight and may shape future legal and policy responses to climate change. The ICJ emphasised that climate change threatens the enjoyment of fundamental human rights, such as the rights to life, health, cultural rights, and an adequate standard of living. Where states fail to meet their obligations, they may be required to cease harmful conduct, ensure non-repetition, and provide full reparation. The opinion provides strong legal backing for future climate litigation and reinforces the growing international expectation that states must take meaningful and science-based climate action.

To finish off

2025's updates so far reflect a growing emphasis on climate adaptation, legal accountability, and clearer roles for government, councils, communities, and the courts. While policy frameworks are beginning to take shape, questions remain about how effectively they'll translate into practical action on the ground.

At the same time, courts are increasingly being asked to clarify the legal boundaries of responsibility for climate harm, and obligations relating to climate change considerations. Although recent decisions show the limits of current legal tools, they also indicate a slow but steady evolution in how climate-related obligations are understood and applied.

We'll continue monitoring these developments closely. For tailored advice on how these changes may affect your organisation, don't hesitate to reach out to Rachael Zame, Special Counsel, or another member of our Team.

[1] *Students for Climate Solutions Inc v Minister of Energy and Resources* [2025] NZSC 4

[2] *Royal Forest & Bird Protection Society of New Zealand Inc v Southland District Council* [2025] NZCA 324