

25 October 2024

Department of Internal Affairs
Wellington

Submitted via email to communityresilience@dia.govt.nz

Submission - Natural Hazard Information in Land Information Memoranda Regulations

Tēnā koe

1. The Canterbury Mayoral Forum welcomes the opportunity to provide a submission on the Local Government (Natural Hazard Information in Land Information Memoranda) Regulations [2025]. The Regulations will be implemented as changes to the Local Government Official Information and Meetings Act 1987 (LGOIMA).
2. The Canterbury Mayoral Forum (CMF) comprises the mayors of the ten territorial authorities in Canterbury and the Chair of the Canterbury Regional Council (Environment Canterbury), supported by our chief executives. The purpose of the Forum is to promote collaboration across the region and increase the effectiveness of local government in meeting the needs of Canterbury's communities.
3. The eleven local authorities are: Kaikōura, Hurunui, Waimakariri, Selwyn, Ashburton, Timaru, Mackenzie, Waimate and Waitaki District Councils, the Christchurch City Council and Canterbury Regional Council.
4. Canterbury is the largest geographic region and second most populous region in New Zealand. The region is home to diverse communities with differences in needs and aspirations, and, due to the region's active hazardscape, experiences different natural hazard and risk exposure.
5. Due to our active hazardscape, many Cantabrians have personal experience with large scale impacting events, which will be reflected in people's actions and major decision making. Recent events include the 2010/2011 Canterbury Earthquake Sequence, the 2016 Kaikōura Earthquake and the 2021 Mid-Canterbury Floods.

Mayors standing together for Canterbury.

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6. Over the last 10 years the region has seen consistent population growth from both international and internal migration. For these new Cantabrians LIMs may be the first contact with our hazardscape and so must provide the necessary context in a clear, accessible, and reliable way.
7. The following submission has been developed with input from across Canterbury Councils and focuses on matters of general agreement. Some of our Councils will make individual submissions, which while in general alignment with this submission, may be slightly different on some matters
8. We provide this submission with the intent of enhancing the proposed Regulations to meet the practical needs of local government whilst ensuring the achievement of the aims of the proposed Regulations.

General Comments

9. The Forum supports the intent of the changes to ensure that natural hazard information can be easily located, is clear, concise and understood by land purchasers and developers; and to provide further clarification of the obligations of territorial authorities and regional councils. Greater national consistency of LIMs will create greater certainty, which will be beneficial as New Zealanders collectively adapt, live and thrive in New Zealand's active hazardscape and a changing climate.
10. The Forum also supports maintaining the purpose of the LIM report as a disclosure tool. LIMs remain a complete record of information known to Council at the time without the need to undertake further risk assessment, analysis or additional undertakings to satisfy LIM requirements.
11. We note the draft Regulations do not include direction on climate change exacerbation of natural hazards. This seems inconsistent with the intention of the overarching legislation (**section 44B Natural hazard information to be included in land information memoranda**), which states:
 - (1) *The purpose of this section is to ensure that land information memoranda contain understandable information about the following in relation to land:*
 - (a) *natural hazards:*
 - (b) **impacts of climate change that exacerbate natural hazards.**
12. The Forum recommends providing direction on what information is included, and how, regarding how natural hazards are expected to be exacerbated by climate change.
13. The Forum strongly supports the initiative to prepare guidance, best practice examples and templates and considers that these resources will be critical in ensuring the aims of the proposed Regulations are achieved. Canterbury's councils look forward to working with Taituarā and the Department of Internal Affairs to ensure that the guidance resources are robust and appropriate to our needs.
14. The exposure draft of the Regulations indicates they are to be applied from the date they come into force. No timeframe has been indicated for when the guidance resources are likely to be developed and available for use by local authorities.

15. While guidance has no 'legal weight' it may influence changes to internal processes and systems. The lack of guidance resources for local authorities poses a potential timing issue and associated risk, which is likely to lead to situations where natural hazard information included in LIMs is not consistent across the country.
16. To ensure the aims of the proposed Regulations are achieved, and to increase local authorities' efficiency with the updating of processes and systems to implement the proposed Regulations, the Forum considers it would be most efficient to coordinate and align the delivery of the Regulations and the guidance resources. This will ensure a seamless transition and enable the development and distribution of appropriate national guidance resources so that the Regulations are applied in a consistent manner from the time they come into force.
17. The Forum also requests that the Department of Internal Affairs communicate with local authorities as early as possible once the Regulations are certain, ahead of them coming into effect so that the process of aligning their internal processes and systems can begin from an early date.
18. In addition to the development of guidance resources for local authorities, the Forum suggests that guidance resources and further education are also required for property owners, particularly in relation to the education of property owners on due diligence requirements and with how to utilize information from a LIM to understand natural hazard impacts on their property.
19. The Forum also supports clear limits to the obligations for territorial authorities providing LIM information as set out in Regulation 6 but notes the requirement for territorial authorities to provide 'plain language summaries' creates new obligations and gives rise to new legal risks.

Specific Comments

Regulation 8 – Content of Natural Hazards section of the LIM

20. The Forum supports standardising the natural hazard section of a LIM. These proposed Regulations facilitate this and provide an opportunity to create more consistency and alignment across legislative instruments.
21. The Resource Management Act 1991 definition of natural hazards lists the natural hazards as "*earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding*". The Forum recommends aligning the headings in the LIM in the same way.
22. The use of 'coastal hazards' as a heading is closely related with other natural hazard headings. There may be instances where it is the interaction between freshwater inundation with coastal inundation which results in a flood risk to a property. For example, full tide during a river flood event. It is unclear whether this situation would sit within the coastal hazard or a flooding heading. Inclusion of what is essentially a duplicate section risks inconsistency of approach and/or information not being included.
23. As noted above, the draft Regulations do not include direction on the exacerbation of natural hazards due to climate change and seems to be inconsistent with the intention of the overarching legislation.

24. To address this and other matters the Forum recommends the following amendment to Regulation 8:
- a. add the following requirement:
 - i. *Information under each of these headings must include a description of any exacerbation of the hazard over time due to climate change, if applicable. This information must specify the climate change scenario/s and the timeframe/s that were used to assess this exacerbation.*
 - replace 'coastal hazards' with 'coastal erosion';
 - b. include all types of flooding ('coastal', 'fluvial' and 'pluvial') as sub-headings under 'flooding'
 - c. add a heading for 'rise of groundwater'
 - d. add a heading for 'wildfire'
25. We also note that national direction on natural hazard information in decision-making is expected to be delivered in roughly the same timeframe as these LIM Regulations, as part of phase two of the RMA reform programme. The Forum supports central government agencies working towards greater consistency across primary and secondary legislation proposals.
26. We recommend amending regulations 7 and 16 within this consultation to direct that, where possible, the natural hazard information provided within LIMs is consistent with any national direction on natural hazards information and decision-making, including under the RMA.

Regulations 7, 10 & 12 - Relevant Information

27. The Forum recommends amending the Regulations to provide further clarity and direction on how territorial authorities should determine which natural hazard information is relevant to include (and what is not relevant) – as laid out in Regulation 7 (minimum requirements of LIMs), Regulation 10 (LIMs and maps), and Regulation 12 (district plan information).
28. We also note that it is unclear if it is intentional that the maps under Regulation 10 do not have to pass a relevance test. The Forum considers that that maps should be subject to a relevance test as we do not consider that '*maps that are known to the territorial authority*' as set out in Regulation (10(a)(i)) provides sufficiently clear guidance on which maps should be included.
29. This is especially relevant with respect to model results (assuming they are intended to constitute 'maps'), as including outdated model results, or a large number of different modelled scenarios would be unhelpful for the council and recipient. We note that Section 7 includes the word 'relevant', but Section 10 does not.
30. Based on the this we recommend that Regulation 10 is amended so the natural hazard information contained in a LIM must include any relevant maps.

Regulation 11 – Plain language summaries

31. The proposed Regulations require territorial authorities to provide 'plain language summaries' within the natural hazards section of the LIM. While the Forum supports this, it is also important that these Regulations minimise the litigation risk to territorial authorities where possible.
32. The Forum supports the Regulations either being more prescriptive and directive as to the content of a plain language summary or explicitly affording Councils the discretion to

determine what information to include in a summary. This Regulation would benefit from further guidance to achieve greater consistency nationally.

Territorial authority discretion versus national consistency

33. The exposure draft of the Regulations creates mandatory requirements for mapping (Regulation 10) and district plan content to be included in the LIM report (Regulation 12) and adopts a broad-brush approach.
34. Due to the extent of information held by Councils, and the breadth of applicable district plan provisions, including any or all information on natural hazards may make LIM preparation cumbersome, resource intensive and not achieve the desired outcome of LIMs which are easier to understand by the lay person.
35. Furthermore, there is an inconsistency between the proposed Regulation 12, which sets out that a LIM must include information contained in a district plan, and section 44A(2)(a)(ii) (or the new s44A(2)(ab)(ii)) of the overarching LGOIMA, which only requires information to be included in a LIM where it is not apparent from a district plan under the Resource Management Act 1991.
36. In order for proposed Regulation 12 to progress as currently drafted further change to LGOIMA will be required. The Forum suggests that it is preferable to amend proposed Regulation 12 to align with section 44A(2)(a)(ii) (or the new s44A(2)(ab)(ii)) of the overarching LGOIMA.

Further information

37. Our secretariat is available to provide any further information or answer any questions about our submission. Contact details are: Maree McNeilly, Canterbury Mayoral Forum Secretariat, secretariat@canterburymayors.org.nz, 027 381 8924.

Nāku iti noa, nā



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