

Kapiti Coast District Council – submission on 29 October 2024

Natural Hazard Information on LIMS – Proposed Regulations

	Question	Kāpiti Coast District Council's Response
	Introductory questions	
1.	Will the regulations ensure that LIMs provide property buyers with natural hazard information that is clear, concise, easy to understand and presented in a way that is nationally more consistent?	<p>Yes, if policy settings are refined effectively, we believe the regulations have the potential to present natural hazard information in a clearer and more consistent way.</p> <p>However, a key issue which needs to be addressed is how reliability and validity of data and information is established. Property owners and buyers should have the assurance that information notified on their LIM has been vigorously tested through a robust process – not all data and information is equal.</p> <p>Council considers that the regulations could set a clear test for what a “robust process” constitutes. The test could be that Council has made a decision to effectively “adopt” the information. An example of the kind of Council decision that could qualify is a decision by Council under clause 5 of Schedule 1 of the RMA to publicly notify a district plan change, where as part of that decision, Council has had particular regard to a section 32 evaluation which references or includes a report from a suitably qualified expert providing information about a natural hazard risk.</p>
2	Do the regulations provide certainty to local authorities on the natural hazard information they need to share?	Overall, no. The intention of the principles seem valid but further clarification and guidance on the application of parts of the regulations is needed to support the implementation and objectives of the regulations. There needs to be clearer connection across the full regulation document to District Plans, which consider all relevant information and test it through a robust Resource Management Act process – this is required to be updated cyclically, and is a valid mechanism to ensure reliable information is included. Introducing work arounds for TAs or regional councils not meeting existing legislative requirements is a waste of tax payer and rate payer funding.
3	Are the regulations efficient and technically feasible for local authorities to implement and administer?	Overall, at this stage, no – there is too much ambiguity around terms such as “relevant”, “known”, “technical” and “summary”. The points discussed in this table need to be addressed to ensure there is clearer connection to existing processes to ensure robust information is utilised and that confusion about the hierarchy of decision making is reduced. Supporting guidance and a transitional period will be needed to make changes to implement the new regulations.

Kapiti Coast District Council – submission on 29 October 2024

4	Will the regulations work for expected developments in natural hazard information and meet future LIM users' needs	Overall, as currently set out – no, there is too much ambiguity around what is “relevant” and “known”. The Council views the regulations as a positive development; however, high-quality guidance will be essential for the regulations to be applied in a consistent way as intended by Parliament. Further to this, stronger focus on determining the standards for quality for data and information is needed; with a strong link to existing processes via the Resource Management Act which already steps through this in an open and publicly scrutinised way.
Guidance for local authorities		
5	We would like to hear from you on what specific areas the guidance should cover. We also welcome your thoughts on what other support local authorities will need.	<p>The Council appreciates the intent to provide guidance materials that include best practice examples and templates to identify and present natural hazard content for LIMs. This will promote national consistency.</p> <p>Having a clear date in which the regulations will come into force and timeframe ahead of this to identify relevant reports and prepare summaries and other necessary changes will be needed for TAs to implement the new the regulations effectively.</p> <p>Early availability of supporting guidance from DIA, which is consistent with the Ministry for Environment and Department of Conservations existing guidance around natural hazards, including best practice examples and templates, will be important to inform TAs making necessary changes to reflect the new regulations and to avoid the need to second-guess the practical implementation of changes from the outset.</p> <p>We support the need for further guidance on a number of areas of the regulations to provide clarity and support their implementation including:</p> <ul style="list-style-type: none"> • Reg 6 and 7: Clarification of what is ‘relevant’ and ‘known’ information about natural hazards. This needs to be connected to other requirements, such as District Plans which have natural hazard information and maps set out. In terms of relevance, extending collation of information outside of this process seems inconsistent with wider legislative requirements set for national hazards. Inclusion of guidance and context or criteria on this point would help provide a practical understanding for TAs to inform assessments across the new requirements. • Reg 8 Content of natural hazard section: Guidance should specifically clarify content expectations in accordance with the content headings listed. This needs to be connected to other requirements, such as District Plans which have natural hazard information and

Kapiti Coast District Council – submission on 29 October 2024

		<p>maps set out. Extending collation of information outside of this process seems inconsistent with wider legislative requirements set for national hazards.</p> <ul style="list-style-type: none"> • Reg 9 Minimum requirements in relation to technical report: Guidance should specifically define what is a technical report and content expectations including of source material. There needs to be clarity around decision-making choices that Councils and TA’s can make to ensure that liability for non-disclosure is minimised. For example: <ul style="list-style-type: none"> ○ Where there are multiple reports, some of which might be considered outdated, what source material should be included? ○ If debate around validity, criticism of approach, or review of a report or information is underway should that be included? ○ When a report is considered outdated should relevant content be included? ○ Could a Council’s written summary of source material suffice? ○ Some regulations refer to inclusion of material by providing links to webpages, this may need guidance regarding appropriate inclusion. • Reg 11 LIM must include plain language summary: Further guidance and examples on the use and presentation of plain English summaries would help support implementation and the balance with the use of specific technical terminology. Further to this, who will pay for turning a document into plain English? • Reg 15 Limit on obligation on regional council: This section sets out what regional councils don’t need to do, but it is important that supporting guidance outlines the respective roles and responsibilities of territorial authorities and regional councils to help avoid any gaps or duplication and reflect the intent of the regulations.
Regulations for TLAs (Reg 6)		
6	Do you consider that the regulation provides sufficient clarity to territorial authorities?	<p>Council supports the requirement that territorial authorities are not required to provide property-specific risk assessments or other further analysis for each LIM. We note concerns as follows which we believe need to be addressed:</p> <p>Regulation 6(c) and Reg 7(1)(b) both speak of the natural hazard information that the TA ‘knows of’. We are not supportive of the term “knows of”, and would prefer has “robustly tested and adopted”. This needs to be connected to other requirements, such as District Plans which has requirements to identify natural hazard information and risks. Extending collation of information outside of this process seems inconsistent with wider legislative requirements set for national hazards.</p>

Kapiti Coast District Council – submission on 29 October 2024

		<p>Regulation 8(4) addresses the action for when there is no known information under a heading. Further supporting information and guidance on how the terms ‘relevant’ and ‘known’ should be interpreted and applied will help reduce complexity and ambiguity for TAs when considering a range of factors and instances and types of information including:</p> <ul style="list-style-type: none"> • information generated over time, some of which might be old but still contain some margin of relevance • emerging information that may only be draft but still to be finalised or approved for use by Council decision-makers • information that is only informative of a developing natural hazard risk where the relevance is not at all certain • information that is regional or district wide where there is only a high-level contextual relevance • Information that is known because it is written into a property’s consent documentation.
Minimum requirements for land information memoranda (Reg 7)		
7	Do you consider that the proposed headings are the right ones? Are there any missing?	<p>Council supports in principle Regulation 7 but seeks further definition or guidance of the practical extent and application of Reg 7(1)(b) that ‘all the relevant natural hazard information that it knows of’ as discussed above, to help inform consistent interpretation and application of the regulations.</p> <p>We recommend that more work is progressed to clarify what ‘relevant’ means. We propose that this refers to existing requirements, such as District Plans which have natural hazard information and maps set out. Extending collation of information outside of this process seems inconsistent with wider legislative requirements set for national hazards.</p>
Content of natural hazard section (Reg 8)		
	Regulation 8	<p>Regarding Regulation 8, the Council is concerned that the broad content headings may not meet customer expectations. Providing clearer definitions for the hard types in the regulations or supporting guidance would help provide clarity, for instance, will the regulations provide definitions for each type of hazard? For example, does flooding encompass ponding and overland flow, and will landslides include considerations of slope stability and lateral spread?</p>

Kapiti Coast District Council – submission on 29 October 2024

		<p>Early availability of supporting guidance from DIA, which is consistent with the Ministry for Environment and Department of Conservations existing guidance around natural hazards, including best practice examples and templates, will be important to inform TAs making necessary changes to reflect the new regulations and to avoid the need to second-guess the practical implementation of changes from the outset.</p>
	<p>Minimum requirements for technical reports (Reg 9)</p>	
<p>8</p>	<p>Are these the right minimum details that councils should include in LIMs for each technical report?</p>	<p>Yes, however it is not clear who will pay for the additional costs of summary and assessment been applied over time. Further consideration is needed on this point.</p> <p>Further clarity is needed to define what constitutes a ‘technical report’ for the purposes of the regulations and how that is practically applied. Early availability of supporting guidance from DIA, which is consistent with the Ministry for Environment and Department of Conservations existing guidance around natural hazards, including best practice examples and templates, will be important to inform TAs making necessary changes to reflect the new regulations and to avoid the need to second-guess the practical implementation of changes from the outset.</p> <p>Additional recommendations include:</p> <ul style="list-style-type: none"> • Providing a definition for ‘technical report’ and include in the Interpretation section. • Stronger explanation of what a technical report is and whether there is any requirement in relation to the currency of the report. • Details of technical reports should also include an explanation of the likelihood of events occurring, particularly regarding hazards that remain unconfirmed. <p>Further clarification and guidance would also help with regards to:</p> <ul style="list-style-type: none"> • Where there are multiple reports, some which are considered outdated and how that is best included or referenced for clarity. In this case, would a summary suffice with a link to a webpage or what is required? • How technical reports prepared and submitted as part of building/resource consent are included and how they are referenced under the natural hazard provisions. Is a hyperlink to relevant consents, which may include technical reports, bundled together with other information sufficient to meet the obligations of the regulations? Is this information

Kapiti Coast District Council – submission on 29 October 2024

		<p>excluded from what needs to be included under the natural hazard headings at Reg 7 above?</p> <ul style="list-style-type: none"> • Similarly, clarifying the use of other potential instances, such as private plan changes and any supporting technical information included in a section 32 assessment under the Resource Management Act 1991 would be helpful to clarify as part of supporting guidance. <p>The need to identify and prepare information to meet any new changes reinforces the need for enough time and notice for TAs to prepare any necessary changes and to have guidance available to support this process.</p>
	Maps (reg 10)	
9	Does this regulation provide sufficient clarity for territorial authorities on how to share natural hazard maps in LIMs?	<p>No. This needs to be connected to other requirements, such as District Plans where natural hazard information and maps are required to be set out. This should note that information related to District and/or Regional plans should be linked.</p> <p>Extending collation of information outside of this process seems inconsistent with wider legislative requirements set for national hazards. If District Plans do not include required information, then enforcement action of the relevant act should be</p> <p>Additional clarity is needed on “what is known to the local authority” means. For example, there are aspects that are currently unclear such as the extent to which this might apply to information produced and shared from sources outside of that undertaken or commissioned by TAs or regional council as part of their roles and responsibilities. We would recommend that a standard on ‘has been adopted by’ be included. What is the extent of this obligation with regards to third party maps/sources?</p>
	Plain language summaries (Reg 11)	
10	Should this requirement apply to all pieces of natural hazard information or only to technical reports?	<p>Council supports this regulation and submits that the plain English requirement should apply to both noting Clause 11(2). However, the Council:</p> <ul style="list-style-type: none"> • Cautions that uncertainty may inadvertently rise if by doing so the precise meaning of technical content is altered; and suggest providing assurance that technical content will not be diluted or impacted. The use of guidance and best practice examples would help inform this process.

Kapiti Coast District Council – submission on 29 October 2024

		<ul style="list-style-type: none"> It's not clear who's going to pay for converting technical documents into a plain English version "summaries". Whilst the answer may be user, the cost of introducing these new requirements will require more intensive work in the short-term and it's important to clarify how that will be allocated to current and future property owners over time. <p>More broadly, Council supports the plain English requirement being extended to the LIM content supplied by regional councils (assuming that regional councils pay for this step). This avoids the need for further editorial work.</p> <p>The Council proposes a fair and reasonable timeframe should be considered for completing all report summaries as part of a transition period for implementing the regulations.</p> <p>While we note Clause 11(2), we would welcome and support provision (discretion and a transition period to accommodate) for TA's to convert or summarise pre-regulation content into plain English where helpful. This would help provide clarity and consistency in the inclusion and use of information relating to natural hazards and avoid potential for differing interpretations across older relevant documents.</p>
	District Plan information (Reg 12)	
11	Does this regulation sufficiently clarify for territorial authorities what district plan information related to natural hazards should be included in LIMs?	<p>Yes – the management of District Plan's follow robust processes to test and filter information on natural hazards based on an open and transparent, and contestable process.</p> <p>This section could provide further clarity by making it clear that a LIM report for a building or piece of land relates to its current use as defined in the District Plan (DP) but should also include reference to any future changes that may occur as part of any current plan change process. Currently, Council includes notes about proposed plan changes that may impact land usage within the district.</p>
	Notices under the Building Act (Reg 13)	
12	Does this regulation sufficiently clarify how territorial authorities should include information on Building Act notices related to natural hazards in LIMs?	<p>Council is satisfied with the wording Regulation 13 as it provides enough information to explain what Council needs to provide.</p> <p>However, we have concerns that the information we collect about a site and how its currently held in our information management system may be insufficient to meet the regulators expectations about what information is included relating to notices under the Building Act 2004.</p>

Kapiti Coast District Council – submission on 29 October 2024

		<p>For example, in reference to Reg 13(a), what is the type of information that will be expected to be recorded in a LIM following the issuing of a natural hazard notification under section 73 of the Building Act 2004? Will the information be limited to simply confirm the notification on the certificate of title exists or is there an expectation detail will be also included (in a LIM) about the type and likelihood of the hazard noted in the notification?</p> <p>Council requests clarification around the practical application of this requirement and that DIA works with councils to ensure that their information systems have the capacity to capture the right information about a property and any buildings located on the property.</p>
	Natural hazard info from Regional Councils (Reg 14)	
13	Does this regulation sufficiently clarify the responsibilities of territorial authorities and regional councils in the LIM system?	Yes. However, please see concerns raised in response to regulation 14 below.
	Limit on obligations for regional councils (Reg 15)	
14	Does this regulation sufficiently clarify the responsibilities of regional councils in the LIM system?	Yes. But there is a need to more clearly reflect the roles and responsibilities between TAs and regional councils in regard to natural hazards to prevent any gaps or duplication. This should include practical guidance around the format and timeframe/frequency of providing natural hazard information to territorial authorities to avoid ambiguity.
	Info from RC to meet requirements (Reg 16)	
15	Will this regulation be sufficient to ensure territorial authorities are able to share regional council information in LIMs in a way that complies with the LGOIMA and the regulations?	No - see response to Regulation 15 above. Further to this, TA's can have more up-to-date and more substantive information on natural hazards than regional councils due to requirements related to District Plans. There needs to be clarity that the most up-date information that meets standards such as "has been tested through robust, open and transparent process such as is required through the Resource Management Act" should be reflected on LIMs.