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Tēnā koe Te Tari Taiwhenua Internal Affairs Community Resilience team,

## **SUBMISSION ON PROPOSALS FOR REGULATIONS FOR NATURAL HAZARD INFORMATION IN LIMS**

Thank you for the opportunity to submit on the draft Local Government (Natural Hazard Information Memoranda) Regulations (the Regulations), which would support property buyers to receive quality natural hazard information in a LIM to support their decision-making when considering whether to purchase a home.

The Natural Hazards Commission Toka Tū Ake (NHC) supports the Regulations.

In summary, we recommend three technical changes to strengthen the Regulations to achieve its purpose and policy intent, as follows:

1. amend the Regulations to provide that any third-party information linked to a LIM is deemed to be the information of the relevant council and not of the third-party website or portal owner;
2. clarify the Regulations to provide that a council can only make use of a third-party website with the consent of the owner/publisher; and
3. clarify Regulation 8 (1) so that it is clear that any known information on the exacerbating effects of climate change on the required natural hazards should also be included in the LIM.

### **Why is NHC submitting on the proposals for regulations for natural hazard information in LIMs?**

NHC is a Crown entity with responsibilities for reducing the impact of natural hazards on people, property, and the community, including through:

- managing and settling natural hazard insurance claims for residential property, and
- facilitating research and education, and contributing to the sharing of information, knowledge, and expertise with the Crown, public and private entities, and the public generally.

The contingent liability associated with natural hazard risk in New Zealand is high. NHC carries much of this liability on behalf of the Crown, through its provision of 'first-loss' insurance coverage for residential property. NHC therefore, has a strong interest in reducing risk from, and building resilience to, natural hazards in New Zealand.

NHC has an active role in cross-government efforts to build New Zealand's resilience to natural hazard events. In recent years, we have invested time in better leveraging our research, transforming it into useful tools and products, and sharing information with people who can make a difference, including the public.

This has including developing the Natural Hazards Portal ([www.NaturalHazardsPortal.govt.nz](http://www.NaturalHazardsPortal.govt.nz)). The Natural Hazards Portal currently contains public education information on natural hazard risk and what to do about it. The Claims Map also contains information on all settled Natural Hazards Commission claims from 1997 to present.

NHC is continuing to develop the Natural Hazards Portal. Over time, we want the Natural Hazards Portal to become a comprehensive platform for natural hazard risk management. This will make natural hazard risk information more easily accessible to New Zealanders and provide people with the information they need to make risk-informed choices about property and land.

We see the Natural Hazards Portal as a potential candidate for use by councils in the manner anticipated by the Regulations.

#### **NHC supports the proposed regulations.**

We agree that property buyers (and others) generally need better access to quality information so that they can make well-informed decisions and manage the risks from natural hazards.

We also agree that this information should be shared in a way that's clear, concise, easy to understand, and more consistent across the country. We believe the Regulations will enable this.

#### **NHC recommends technical changes, as follows:**

##### Recommendation 1

**NHC recommends amending the Regulations to include a deeming provision, or a provision with similar effect, that provides that any third-party information on a website or portal linked to a LIM is deemed to be the information of the relevant council and not of the third-party website or portal owner.**

The LGOIM Amendment Act 2023 (Amendment Act) will increase the legal protections for territorial and regional councils for providing natural hazard information in good faith. The Amendment Act also allows for the creation of the Regulations.

Clause 10(b) sets a requirement for a LIM to contain natural hazard maps or to include a link to a publicly available internet site or online portal (website) that provides access to a natural hazards map. Clause 12(1)(b) sets a requirement for a LIM to include any rules in district plans related to natural hazards through referencing maps, planning rules or a link to a website that provides access to district plan information about natural hazards and land use.

In both scenarios, particularly the first, it is possible that the website in question will be owned/published by a third-party (i.e., someone other than the relevant territorial or regional council).

Neither the Amendment Act, nor the Regulations, provide any protections to third-party owners/publishers. Any third-party who has their information linked on a LIM would have to rely on their existing legal protections.

Without additional protection for third-parties, third-parties may be reluctant to have their websites linked and/or they could decide to minimise their risk by making only limited information available. This works against the goal of improving access to quality information to enable well-informed decisions and better management of the risks from natural hazards.

Given the Regulations must be consistent with the Amendment Act, there may be limited scope for the Regulations to address this issue. However, our recommendation would be consistent with the Amendment Act, protect third-parties, and also still allow councils the benefit of their additional legal protection.

## Recommendation 2

**NHC recommends clarifying the Regulations to provide that a council can only make use of a third-party website with the consent of the owner/publisher.**

Given the legal risks involved for third parties in having their information linked in a LIM highlighted in the discussion around Recommendation 1, it is important that third parties consent to their website being used by councils. This is a standalone recommendation, but it would also work hand-in-hand with the recommended deeming provision (Recommendation 1) to establish a framework to better protect third party websites or portals from the legal risk that comes with publishing the type of natural hazard information anticipated by the Regulations.

If a council could link to a third-party website or portal without consent, third-parties may decide to minimise their risk by making only limited information available, or possibly restricting access to, or closing their website. This works against the goal of improving access to quality information to enable well-informed decisions and better management of the risks from natural hazards.

## Recommendation 3

**NHC recommends clarifying Regulation 8 (1) so that it is clear that any known information on the exacerbating effects of climate change on the required natural hazards should also be included in the LIM.**

Natural hazards are increasingly being exacerbated by climate change, and where information is available on the exacerbation of natural hazards by climate change, it is important to provide this information to homebuyers.

The proposed regulation is not clear around the inclusion of information relating to the effects of climate change on natural hazards, where such information is available.

Please contact us if you have any questions regarding our submission, or if we can be of help as this process continues.

Yours sincerely



**Tina Mitchell**  
Chief Executive