

Regulatory Impact Statement: Proposals for regulations for natural hazard information in land information memoranda

Coversheet

Purpose of Document	
Decision sought:	Agreement to the drafting of new regulations for natural hazard information in land information memoranda.
Advising agency:	Department of Internal Affairs
Proposing Minister:	Hon Simeon Brown, Minister of Local Government
Date finalised:	6 June 2024
Problem Definition	
<p>As a result of legislative changes to the Local Government Official Information and Meetings Act 1987 (the LGOIMA) due to come into effect on 1 July 2025, land information memoranda (LIMs) will have to provide natural hazard information which is clear, concise, nationally consistent in its presentation and easily understood in order to better support property buyers' decision-making.</p> <p>However, councils lack clarity and certainty on how to implement these changes. This regulatory impact assessment analyses the best approach to support councils to achieve the aim of the legislative changes.</p>	
Executive Summary	
<p>Summary of proposal</p> <p>The legislative changes to the LGOIMA (the LGOIMA changes) included discretionary regulation-making powers. We propose developing two sets of regulations to support implementation of the LGOIMA changes on natural hazard information disclosure in LIMs.</p> <p>One set of regulations will apply to territorial authorities. It will set out how they are to summarise and present natural hazard information in LIMs, and requirements to include additional information to make that information understandable.</p> <p>The other set will apply to regional councils. It will set out how they are to provide natural hazard information to territorial authorities, to ensure this is done in a way that will support territorial authorities to meet their obligations under the LGOIMA.</p> <p>The two sets of regulations will work together as an integrated package to support councils to implement the LGOIMA changes in a way that gives effect to their objectives.</p> <p>Why government intervention is required</p> <p>The LGOIMA changes set out the framework for disclosing natural hazard information in LIMs but do not contain the operational detail on how this should be done. Councils will be</p>	

responsible for implementing these changes and have told us that they lack clarity and certainty on how to implement them. If greater clarity and certainty is not provided to councils on how to implement these changes, there is a high risk that the policy intent of providing natural hazard information in LIMs that is clear, concise, nationally consistent in its presentation and easily understood to better support property buyers' decision-making will not be achieved.

Options considered

The LGOIMA changes included discretionary regulation-making powers that would achieve this objective, but there are other potential ways the problem may be solved. We have looked at three feasible options:

1. Counterfactual (do nothing).
2. Develop non-statutory guidance only.
3. Develop regulations.

The status quo is not considered to be an option here. This is because the legislative changes will come into effect on 1 July 2025 and councils will have to change how they provide natural hazard information in LIMs to meet the LGOIMA changes.

Our preferred option is to develop an integrated package of regulations for territorial authorities and regional councils to support their implementation of the LGOIMA changes. While there will technically be two sets of regulations because this is how the regulation-making powers are drafted, for the purpose of this assessment we have considered them together as an integrated package and this analysis applies to the package unless otherwise stated. Preparing regulations for one type of council but not the other was not considered to be a feasible option.

We also propose to work with the local government sector to develop non-statutory guidance to support implementation of the regulations, and to promote public understanding of natural hazard information in LIMs. Non-statutory guidance will provide best practice examples, templates and other advice to support implementation of the regulations.

Using non-statutory guidance alone to support councils to implement the LGOIMA changes themselves was not supported as this was not considered to provide the level of certainty for councils to ensure the LGOIMA changes are implemented in a way that will provide the intended outcomes for LIM readers. This approach is reflected in the Cabinet paper.

Potential impact of the preferred option

Property buyers will benefit from clear, concise and more consistent natural hazard information in LIMs that will support them to make better purchasing decisions.

Professionals who advise property buyers, including lawyers and real estate agents, will benefit from greater consistency in the presentation of natural hazard information between LIMs from different districts.

The proposed package of regulations will create costs for councils. We consider the main costs will be for system and process changes to implement the new requirements. However, councils will incur costs for implementing the LGOIMA changes, regardless of whether regulations and/or non-statutory guidance are developed.

Regulations have the potential to reduce implementation costs as they will provide clarity and certainty on how to operationalise the LGOIMA changes. They will also provide

consistency in how LIM systems and processes are updated, instead of each council individually deciding how to implement the LGOIMA changes. Greater certainty is also likely to reduce legal and technical review costs, along with potential legal risks and the associated costs for councils.

Stakeholder views

The Department worked with a group of technical experts from ten councils to develop the package of proposed regulations¹. The experts were from councils whose areas are exposed to a range of hazards and from a range of councils across New Zealand including:

- District, city, unitary and regional councils;
- Metropolitan, regional, provincial and rural sector councils; and
- North Island and South Island councils.

The technical experts unanimously supported the options in the package of regulations and identified options for non-statutory guidance including templates, best practice examples of summaries and plain language notations for natural hazards.

Limitations and Constraints on Analysis

Scope of analysis limited by previous policy decisions

The scope of this analysis was limited by previous policy decisions for the LGOIMA changes. The Department's previous regulatory impact statement (RIS) provides our analysis of the policy decisions on the LGOIMA changes.²

This analysis is limited to implementation of the LGOIMA changes and we did not consider any further changes to the LIM provisions in the LGOIMA. The regulatory options in this analysis were limited by the scope of the provisions for regulations in the LGOIMA changes.

As with the previous RIS, our assessment is focussed on disclosure of natural hazard information in LIMs and does not consider:

- other categories of information required to be disclosed in LIMs (e.g. information about rates, service connections etc);
- other tools for communicating natural hazard information to property buyers or the wider public; and
- barriers for property buyers accessing LIMs, e.g. time or cost constraints.

The quality, availability and accessibility of natural hazard information held by councils is outside of the scope of our work. There are other Government work programmes currently looking at these issues including work programmes to develop a climate adaptation framework and explore national direction for natural hazards.

Consultation was limited to targeted engagement with local government

We limited consultation to targeted engagement with local government. This was because the focus of this stage of the policy work for the LGOIMA changes is on implementation by councils. In addition, the Department previously consulted widely with local government

¹ Referred to in this document as "the group"

² <https://www.treasury.govt.nz/sites/default/files/2022-02/ria-dia-idn-nov21.pdf>

and other stakeholders including professional advisors to property buyers (lawyers and real estate agents) during policy development for the LGOIMA changes. We also considered submissions to select committee on the bill for the LGOIMA changes.³

The Department primarily worked with the group of ten technical experts from a representative range of councils. We also consulted with a small number of other councils, based in part on the recommendation of the group, and natural hazard technical consultants who advise councils.

We are proposing public consultation on an exposure draft of the regulations. This will provide an opportunity for stakeholders and other interested parties to make their views known on the package of regulations before final decisions are made.

Constraints

We have not undertaken a robust cost-benefit analysis of the package of regulations. The implementation costs were difficult to estimate due to the variation between councils, depending on their systems and processes. From engagement, councils with fully automated systems may have significantly higher costs to update their software than councils with manual systems.

Assumptions

The following key assumptions have underpinned this analysis:

- The LGOIMA changes will come into effect on 1 July 2025. We did not consider extending the timeframe beyond this date.
- The public will continue to rely on councils as the main source of natural hazard information and not pay for independent risk assessments by consultants. In general, the New Zealand public relies upon councils for property information and are not accustomed to commissioning independent reports (outside of building inspections) to inform property purchasing decisions.

Approaches in other jurisdictions

The analysis for the LGOIMA changes considered approaches taken in the United Kingdom, Australia and the United States. In the jurisdictions reviewed there was not a single council property information document akin to a LIM. Central or state governments provide online hazard mapping tools in all jurisdictions reviewed.

New Zealand's property conveyancing system differs from these jurisdictions. Our system is based on the principle of caveat emptor – buyer beware. The jurisdictions reviewed placed natural hazard disclosure requirements on the vendor. Taking the same approach here would require a fundamental change in our property conveyancing system and was considered to be outside the scope of this assessment.

³ The departmental report on the Local Government Official Information and Meetings Amendment Bill for the select committee is available here: https://www.parliament.nz/resource/en-NZ/53SCGA_ADV_130003_GA22591/38d7d1ee3cbadc35ddbdbd28a96cc5ddffd830c32

Responsible Manager(s) (completed by relevant manager)

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13/5/24

Quality Assurance (completed by QA panel)

Reviewing Agency:	Department of Internal Affairs
Panel Assessment & Comment:	<p>The Department's Regulatory Impact Analysis (RIA) panel (the panel) has reviewed the <i>Proposals for regulations for natural hazard information in land information memoranda</i> RIA (RIA) in accordance with the quality assurance criteria set out in the CabGuide.</p> <p>The panel considers that the information and analysis summarised in the RIA meets the quality assurance criteria.</p> <p>The RIA contains the necessary information needed by Ministers to make an informed decision. The assumptions, constraints and limitations are clearly outlined in the analysis, and the Panel consider them to be fair and reasonable. Appropriate consultation has been undertaken with a representative group of councils, who clearly support the regulations to enable them to implement the wider legislative changes and achieve the policy objective. Although the costs and benefits are uncertain and will differ depending on the size of the council and the systems they operate, it is not a reflection of the quality of the analysis. The Panel notes the systems in place to monitor and evaluate the changes. Overall, the RIA explains why regulations are the best option for implementing the requirement to include natural hazard information in land information memoranda.</p>

Proactively released by the Minister of Natural Resources and the Environment

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

LIMs are an information disclosure tool to assist prospective property buyers with their decision-making

1. LIMs are an information disclosure tool that communicate a range of information, including natural hazard information, about a property.⁴ The purpose of providing this information is to “inform the market of special features or characteristics of the land that may affect value, suitability or saleability.”⁵ It is a key consumer protection document for purchasers of real estate in New Zealand.
2. Under section 44A of LGOIMA, a person may apply to a territorial authority for a LIM about a particular property, on payment of a fee.⁶ LIMs include a wide range of information about a property, including: special features and characteristics of land (natural hazard information), building and resource consents, drainage, water supply, rates, and weather tightness events (section 44A(2) LGOIMA). The territorial authority may also include any other information it considers relevant (section 44(3) LGOIMA).
3. Territorial authorities (i.e. city and district councils) are responsible for producing and providing LIMs, using information that is known to them. Regional councils hold and are responsible for a range of natural hazard information (e.g. under the Resource Management Act 1991) but there is no legal mechanism to apply for a LIM from a regional council. Relevant information from a regional council is only provided in a LIM if it is known to the territorial authority. Each territorial authority has its own process and template for producing a LIM, and each regional council has its own process for sharing natural hazard information with the territorial authorities in its region.
4. LIMs do not perform the same functions as a risk assessment. LIMs do not warrant that land is good or safe or provide advice.⁷ They provide a snapshot at a particular time of known information for a specific property, which a purchaser can use to decide whether to buy.⁸

The Local Government Meeting and Official Amendment Act 2023 introduced changes to improve natural hazard information disclosure in LIMs

5. *LGOIMA changes* is used in this RIS when referring to the Local Government Official Information and Meetings Amendment Act 2023 (the Act) amendments to LGOIMA relating to LIMs.⁹

⁴ Saunders, W.S.A., Mathieson, J.E. 2016. Out on a LIM: The role of Land Information Memorandum in natural hazard management, *GNS Science Miscellaneous Series* 95. Gunnell SN, Grace ES. 2018. A review of how Land Information Memorandum, Project Information Memorandum and Land Information Request reports for the Canterbury Region address natural hazards. Lower Hutt (NZ): GNS Science. 71 p. (GNS Science consultancy report; 2018/113).

⁵ *Weir v Kāpiti Coast District Council* [2013] NZHC 3522, at [49].

⁶ On average \$297 for a standard LIM request based on LIM processing fees information available on council websites in September 2021.

⁷ *Trustees of the THP Trust v Auckland Council* [2014] NZHC 435, at [92].

⁸ *Trustees of the THP Trust*, at [92].

⁹ These changes introduced the issuing of LIMs as an additional purpose of the LGOIMA, a purpose to ensure that LIMs contain understandable information about natural hazards including the impacts of climate change

6. The RIS for the LGOIMA changes concluded that LIMs do not currently deliver all key natural hazard information in a way that supports property buyers' decision-making. The three key challenges identified were:
 - there are inconsistencies in the natural hazard information provided in LIMs and they may not contain all known information;
 - LIMs do not currently communicate natural hazard information in a way purchasers can easily locate and understand; and
 - councils' concerns about legal liability can inhibit full disclosure of natural hazards information.
7. The LGOIMA changes aimed to support property buyers' decision-making by ensuring LIMs provide natural hazard information that is clear, concise, nationally consistent in its presentation, and easy for property buyers to understand. They were also intended to give more certainty to local authorities when sharing natural hazard information in LIMs, and reduce their exposure to legal liability to promote greater disclosure of natural hazard information.
8. The LGOIMA changes included new discretionary regulation making powers for natural hazard information in LIMs. These allow regulations to be developed for territorial authorities when sharing natural hazard information in LIMs and for regional councils when sharing natural hazard information with territorial authorities.
9. The regulations can include requirements for:
 - additional information to make natural hazard information more understandable; and
 - how natural hazard information is summarised and presented.
10. The Act delayed commencement of the LIM-related provisions to 1 July 2025, or earlier by Order in Council. The purpose of the delay was to allow regulations to be developed, and to give councils time to prepare for implementation and update their information management and LIM systems and processes.

These changes will alter the status quo, regardless of whether or not regulations are developed

11. The LIM-related provisions in the Act will come into effect on or before 1 July 2025 regardless of whether or not regulations are in place. Councils will have to meet the new legislative requirements from the date they come into force.
12. While councils have to disclose natural hazard information in LIMs now, the LGOIMA changes create new legislative requirements they will have to meet when disclosing this information. For territorial authorities, the requirement for information to be explicitly understandable is new and novel in respect of LIMs. Regional councils do not produce LIMs, and have not previously had any statutory role in the LIM process, so the LGOIMA changes introduce an entirely new set of obligations for them.
13. The table below summarises the new and existing legislative requirements for natural hazard information disclosure in LIMs, and relevant case law.

that exacerbate natural hazards, clearer requirements to provide natural hazard information in the LIM (including the impacts of climate change), a statutory responsibility for regional councils to provide natural hazard information (including the impacts of climate change) to territorial authorities, provisions to develop regulations for providing natural hazard information in LIMs, and limitation of legal liability for local authorities when disclosing natural hazard information in good faith.

Table 1: New and Existing Legislative Requirements, and Relevant Case Law

New Legislative Requirement	Existing Legislative Requirement	Case Law
<p>LIMs must contain understandable information about natural hazards related to a property (s44B LGOIMA).</p> <p>LIMs must contain any further information required by regulations to make natural hazard information more understandable (s44B LGOIMA).</p>	<p>LIMs must contain information identifying the potential for natural hazards related to the land (s44A(2)(a) LGOIMA).</p> <p>Councils are not required to add any explanatory information for natural hazard information in LIMs.</p>	<p>Councils must ensure that the information in LIMs is accurate, states the position fairly and does not mislead, particularly if the information could seriously affect property values.¹⁰</p> <p>If a council does include specific natural hazard information in a LIM, e.g. a map, it needs to clearly communicate the key points that a person needs in order to understand that information, including any important conditions and assumptions.¹¹</p>
<p>Territorial authorities must include natural hazard information from their district plans in LIMs.</p>	<p>Territorial authorities were not required to include natural hazard information if it was apparent from the district plan.</p>	<p>N/A</p>
<p>Discretionary powers allow regulations for how natural hazard information is summarised and presented.</p>	<p>No specific requirements for councils to summarise natural hazard information in a LIM.</p> <p>No specific requirements for how natural hazard information is presented.</p>	<p>Councils must ensure any summaries are accurate, fair and not misleading.¹²</p> <p>Councils have broad discretion in how they represent natural hazard information in a LIM.¹³</p>
<p>Regional councils must provide natural hazard information to territorial authorities.</p> <p>Territorial authorities must include regional council information in LIMs once it is known.</p>	<p>No requirement for regional councils to share natural hazard information with territorial authorities.</p> <p>Territorial authorities only need to include regional council information in LIMs if it is known to the territorial authority.</p>	<p>N/A</p>

¹⁰ *Weir v Kāpiti Coast District Council* [2013] NZHC 3522 at [68].

¹¹ *Weir v Kāpiti Coast District Council* [2013] NZHC 3522 at [70].

¹² *Weir v Kāpiti Coast District Council* [2013] NZHC 3522 at [68].

¹³ *Weir v Kāpiti Coast District Council* [2013] NZHC 3522 at [68].

Links to other work programmes

14. The table below summarises significant work programmes at central government agencies that are related to LIMs.

Table 2: Related work programmes

Agency	Work Programme	Connection to LIMs
<p>Ministry for the Environment</p>	<p>Adaptation Framework</p> <ul style="list-style-type: none"> • Provide a predictable, principled, fair and rules-based framework for responding to the effects of climate change. • One of the objectives is to improve climate risk and response information flows. • The framework will be developed through four workstreams including one for risk and response information sharing. <p>National direction for natural hazards</p> <ul style="list-style-type: none"> • The Government is considering options to develop national direction for natural hazards. <p>National Adaptation Plan (the NAP)</p> <ul style="list-style-type: none"> • The NAP sets out the Government's response to the National Climate Change Risk Assessment. 	<p>The Adaptation Framework and national direction for natural hazards will influence the quality and availability of natural hazard information for territorial authorities and regional councils.</p> <p>Legislative changes to improve natural hazard information in LIMs is a critical action under the NAP to enable better risk-informed decisions.</p>
<p>Treasury</p>	<p>Government response to the EQC Public Inquiry</p> <ul style="list-style-type: none"> • The Public Inquiry into EQC recommended (6.4.1) making changes to enable greater availability and use of information to inform land-use decision-making and to support current and prospective property owners. 	<p>Improvements to the disclosure of natural hazard information in LIMs assisted in meeting this recommendation.</p>
<p>EQC</p>	<p>Natural hazards portal</p> <ul style="list-style-type: none"> • EQC launched a natural hazards portal with EQC claims from past natural hazard events. EQC's long-term goal is to give people natural hazard information to understand individual property-level risk and tools to manage this. 	<p>The Department continues to engage with EQC on the development of this portal to identify opportunities to link with the LIM system.</p>

What is the policy problem or opportunity?

Uncertainty about how to implement the LGOIMA changes

15. During select committee and targeted engagement we heard that there is uncertainty about how to implement the LGOIMA changes in practice. This came through particularly from councils, who will be the implementers of the changes. They have asked for more clarity and shown support for exercising the discretionary regulation-making powers included in the LGOIMA changes.
16. The table below summarises the areas of uncertainty that have been raised, and why these are considered to be an issue.

Table 3: Areas of uncertainty and implementation issues

Area of uncertainty	Issue
<p>Purpose to provide understandable natural hazard information</p>	<p>Councils are unclear what is meant by “understandable”, and how this requirement is to be met in practice.</p> <p>“Understandable” will be a judgment call at the discretion of councils. Likely to result in inconsistent approaches being taken by councils. The LGOIMA changes would not meet their objective of providing information for property buyers that is nationally consistent and easy to understand.</p> <p>This also creates a risk of legal challenge for councils. LIM applicants will continue to receive different natural hazard information depending on which district they apply in.</p>
<p>The level of analysis of known natural hazard information</p>	<p>Territorial authorities and regional councils considered the new provisions in the LGOIMA changes implied an obligation for them to produce an individual risk assessment based on known information for each property when sharing natural hazard information.</p> <p>This type of information would be inconsistent with the purpose of the LIM as an information disclosure tool not an assessment of or advice on the property. It was not the intention of the LIM changes to change the purpose of the LIM.</p> <p>Producing these types of assessments and analysis would be costly and time consuming, requiring skillsets that are generally not found in district councils, and lead to increases in LIM fees or funded out of rates.</p> <p>There would be legal risk if the assessment/analysis was inaccurate.</p>
<p>District plan information</p>	<p>Some district plans contain considerable information about natural hazards. District plan information tends to be technical and can be difficult to follow when taken out of the context of the plan document as a whole. Including all of this information in its entirety in a LIM would increase the length of the LIM and decrease its readability for the end user. There is a risk that this information would not meet the “understandable” requirement.</p>

<p>The legal test for decisions to include natural hazard information</p>	<p>Councils raised uncertainty when deciding to include natural hazard information including:</p> <ul style="list-style-type: none"> • When is information “known” to a council (e.g. is a draft report “known” information? Should historic or superseded information be included?). • How site specific information has to be before it is included in a LIM (e.g. does a report have to be about the individual property to be included? Should reports at a neighbourhood or community scale be included?). • How to deal with conflicting information (e.g. when two technical reports reach different conclusions). • How accurate or certain information has to be before it is included in a LIM. • How to explain any conditions and assumptions used in modelling and reports. • How to include natural hazard related information collected through Building Act processes (e.g. notices issued for buildings subject to natural hazards, “red and yellow stickers” from rapid building assessments following natural hazard events). <p>If these matters remain uncertain councils will each interpret them in their own way, and natural hazard information in LIMs will continue to differ between districts.</p> <p>There is a risk that some natural hazard information will continue to be left out of LIMs if particular interpretations are used.</p> <p>LIM readers will not have certainty or clarity on what is and is not included in their LIM.</p> <p>Natural hazard information in LIMs may not be understandable or of relevance to the reader if appropriate standards are not set for when information is to be included.</p>
<p>Requirements for regional councils</p>	<p>Councils raised concerns over the lack of clarity on:</p> <ul style="list-style-type: none"> • If regional councils or territorial authorities are responsible for ensuring that natural hazard information provided by regional councils meets the requirements for inclusion in LIMs. Territorial authorities were concerned that it would be a significant burden to prepare this information to include in LIMs and that regional councils were best placed to do this. • If territorial authorities have to present the information as it is provided to them by regional councils.

Uncertainty is likely to mean that natural hazard information in LIMs continues to be inconsistent, and is not shared in a way that is easier to understand

17. We consider that this uncertainty about how to implement the LGOIMA changes will mean that councils take different implementation approaches to providing “understandable” natural hazard information on LIMs after the LGOIMA changes come into effect. We also consider it highly likely that the presentation of natural hazard information in LIMs will remain inconsistent across the country without additional

- guidance on what consistency looks like. This will not achieve the aims of the LGOIMA changes, nor will it support LIM users.
18. We expect some councils would make changes to provide natural hazard information that is easier to understand and better supports property buyers' decision-making. The limitation for legal liability at new s44D of the LGOIMA removes one of the existing barriers to providing this information and may encourage councils to take a less risk averse approach when sharing natural hazard information in LIMs.
 19. Variation in how councils explain natural hazard information in LIMs is also expected to continue without additional guidance. It is likely some councils would make no changes and continue to provide information without additional support for readers to make it understandable. Others would provide additional information but there will be no consistency in how this is done across the country.

Regional councils may not provide natural hazard information in a consistent way that supports territorial authorities

20. The legislative changes introduce a new responsibility for regional councils to share natural hazard information with territorial authorities. While most regional councils regularly share this information with territorial authorities, regional councils' approaches are not consistent across regions, and some regional information may not be added to LIMs.
21. Even when the information is shared some territorial authorities, especially smaller ones, can find it difficult to interpret new natural hazard research and datasets as they often lack staff with natural hazard expertise. This means it is challenging for territorial authorities to share regional information in LIMs in a way that is clear and easy for readers to understand.
22. Once the LGOIMA changes come into effect, the new requirement for regional councils to provide natural hazard information should mean that this information is shared more consistently and frequently. However, the uncertainties raised by both regional councils and territorial authorities indicates that regional councils are unlikely to take a consistent approach to sharing natural hazard information without implementation support.
23. It is also considered likely that regional councils may not provide this information in a way that supports territorial authorities to include it in a LIM in a way that is easy for the reader to understand. It is difficult for territorial authorities to summarise or explain natural hazard information when they did not commission the information, particularly if they lack inhouse technical expertise.
24. Councils may face legal actions as a result of the uncertainty about regional councils' new responsibilities. For example, if a LIM is missing regional council information because it has not been shared by the regional council, or a territorial authority misrepresents that information in a LIM, the "good faith" protection from legal liability may not apply.

There is an opportunity to improve how natural hazard information is summarised and presented in LIMs, and to make it more understandable

25. Regulations are an option for addressing the implementation uncertainties raised by councils. In doing so they also present an opportunity to improve how natural hazard information is summarised and presented in LIMs, and to make that information more understandable for the end user.
26. Natural hazard information is not currently presented in LIMs in a way that assists readers. The layout and formatting of LIMs varies significantly across councils, and in some cases natural hazard information is presented in multiple locations in the LIM (e.g. it may be split across sections on special land characteristics, Building Act information and other relevant/discretionary information).
27. Natural hazard information is often lengthy, written in technical language and difficult to understand. Councils' approaches to providing this information in LIMs range from stating the name of technical report/s and where to find them, to reproducing extracts

or full reports in the LIM. Councils have generally been reluctant to summarise natural hazard information in LIMs. Reasons for this include there being no legal requirement to do so, legal risk if the summary is inaccurate, and lack of in-house technical expertise to produce summaries.

28. There are some existing examples of good practice where councils have tried to improve natural hazard information in LIMs for the benefit of the end user. For example, some councils do provide short plain language summaries of natural hazard reports in LIMs, while others use formatting tools like headings or tables to make natural hazard information easier for readers to locate and read in the LIM. Regulations present an opportunity to turn this good practice into a requirement for all councils when producing LIMs.

What objectives are sought in relation to the policy problem?

29. The main objective is to provide clarity and certainty to councils on how to implement the changes to natural hazard information disclosure requirements in LIMs. An improved LIM system ensures property buyers have access to key natural hazard information in a clear and consistent manner to support their understanding of natural hazard risks and help them make informed decisions.
30. The preferred option should:
- ensure that LIMs provide natural hazard information to property buyers which is clear, concise, nationally consistent in its presentation and easily understood;
 - provide certainty for territorial authorities when sharing natural hazard information in LIMs;
 - provide certainty for regional councils when providing natural hazard information to territorial authorities; and
 - reduce councils' exposure to legal liability to promote greater disclosure of natural hazard information in LIMs.

Section 2: Deciding upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

31. Assessment criteria have been identified based on the policy problem and objectives set out above. Each criterion has been considered of equal weight in the overall assessment, as no aspect is of greater importance than any other.

Table 4: Assessment Criteria

Criteria	Explanation
Fit-for purpose	<ul style="list-style-type: none"> • Does the option ensure the LIM provides potential property buyers with natural hazard information that: <ul style="list-style-type: none"> ○ supports buyers to understand known natural hazard information related to a property and make good decisions? ○ is broadly consistent in presentation and approach across local authorities? ○ represents the information fairly, accurately and does not mislead?
Certainty	<ul style="list-style-type: none"> • Does it provide certainty to local authorities on the information they need to share?

Efficiency	<ul style="list-style-type: none"> • Is the option administratively efficient? • Is it technically feasible? • Does this build upon current settings? • How long and how much would it cost to implement? • Does it address potential legal liability and associated legal costs for councils?
Accessibility	<ul style="list-style-type: none"> • Does the option improve the LIM as a one-stop-shop for the key natural hazard information for property buyers? • Will the option increase the cost of the LIM for property buyers?
Future-proof	<ul style="list-style-type: none"> • Will the option be compatible with new natural hazard data and information and information sharing tools as they become available? • Will it work for developments in the property market and future user needs?

What scope will options be considered within?

Legislative parameters

32. The development of the options outlined in this RIS are framed by the LGOIMA and the LGOIMA changes. New sections 44B and C in the Act limit the scope of the regulations. We have not considered regulations for other sections of the LIM.
33. We have not considered further primary legislation options for this impact assessment, including the legal test for including natural hazard information in LIMs confirmed in section 44B and 44C in the LGOIMA changes. There is no evidence from engagement that further changes to the LGOIMA would address the policy problem in the RIS for the LGOIMA changes.

Stakeholder engagement

34. The development of the options has been informed by input from key stakeholder groups during:
 - policy development for the LGOIMA changes;
 - submissions during the select committee process for the LGOIMA changes; and
 - co-design with councils after the passing of the changes.
35. Our assessment and refinement of the preferred option has been informed by our consideration of feedback received from technical experts from a range of councils.

Non-regulatory options

36. We have considered two non-regulatory options – do nothing and only developing non-statutory guidance. This has enabled us to compare exercising the discretionary regulation-making power in the LGOIMA with taking a non-regulatory approach, and assess which option has the greater net benefits.

Regulatory options that were not technically feasible

37. We have not included the following regulatory options in the Options Analysis of this RIS because they were not technically feasible:
 - *A national template for the natural hazard section in LIMs:* Feedback indicated this would not be possible to implement with the variety of council information

systems that produce LIMs. It would also not be futureproof for developments in natural hazard information and council information sharing systems.

- *A natural hazard glossary/plain language notation for common natural hazard concepts and terms:* These would be too difficult to set due to the variation in councils' natural hazard data and information, and changes in council approaches to data collection that are expected in the future.

Consideration of existing systems

38. The LGOIMA changes and regulations apply to natural hazard information in LIMs only. The rest of the information requirements for LIMs remain unchanged and councils will have to continue to meet them. We did not consider options that would require a separate system and process for including natural hazard information in a LIM.

No population groups are considered to be disproportionately affected by this policy problem and opportunity

39. Engagement for the LGOIMA changes indicated that LIMs are not an appropriate tool for communicating natural hazard information about whenua Māori to Māori landowners. Whānau, hapū and iwi landowners are unlikely to purchase a LIM as whenua Māori is generally transferred through succession under the rules of the Māori Land Court. As the scope of this policy problem and opportunity is limited to the LIM system, it is not considered likely to have a disproportionate impact on Māori. There are no Treaty of Waitangi obligations in regards to what is covered in a LIM.
40. We acknowledge that document accessibility is important, particularly for people with disabilities and English as a second language. This is considered to be an issue for the LIM system as a whole and is not specific to natural hazard information. The scope of the regulation-making powers are not broad enough to include wider changes to the accessibility of LIMs. Improving the accessibility of natural hazard information in LIMs would be within scope of non-statutory guidance and this is considered to be the best means of addressing accessibility needs as guidance can be more responsive and is quicker to update and change as needed. We will undertake further work on this issue as part of developing non-statutory guidance.
41. Prospective purchasers of properties exposed to natural hazard risk, and owners of those properties, are much more likely to be interested in natural hazard information disclosures in LIMs than the general public, but only for the properties they have a particular interest in. This assessment is focussed on how existing natural hazard information is disclosed. The information itself, and the legal requirement to disclose this type of information, are not within the scope of this assessment. This group are not considered to be any more affected by how information is disclosed than the public at large.

What options are being considered?

42. The Department has identified three options to support councils to achieve the aim of the LGOIMA changes and better support property buyers' decision-making:
- The counterfactual (do nothing) where the Act comes into effect on 1 July 2025 with no central government intervention.
 - Non-statutory guidance only.
 - A package of proposed regulations for territorial authorities and regional councils.

Counterfactual (Do nothing)

Description

43. After the LGOIMA changes come into effect on 1 July 2025, territorial authorities and regional councils will need to determine how to meet the new provisions in sections 44B and 44C.
44. The biggest change for territorial authorities from the status quo is the new purpose to provide understandable information (s44B(1)). For regional councils, it is a new requirement to provide known natural hazard information and they will need to ensure that how they share natural hazard information to territorial authorities meets the new requirements in s44C.
45. Decisions by the courts and the Ombudsman will clarify the requirements for territorial authorities and regional councils when sharing natural hazard information.
46. The new limitation of liability will provide a good defence for territorial authorities and regional councils when sharing natural hazard information in good faith.

Analysis

47. The combination of the new purpose in s44B and the limitation of liability would provide direction for territorial authorities to include more understandable information in LIMs. However, there will be uncertainty for territorial authorities in how they share natural hazard information in LIMs and make that information easier to understand. As a result, we expect that there will continue to be variation in how councils share natural hazard information.
48. While we expect some councils to make improvements to help property buyers understand this information, others will continue not to make any changes. We expect that the formatting of natural hazard information in LIMs will continue to be inconsistent across New Zealand and that information will not always be set out in a way that is helpful for the reader.
49. There will also be uncertainty for regional councils on meeting their new requirement to provide natural hazard information to territorial authorities. As a result, regional councils will not take a consistent approach to sharing information with territorial authorities. This will create a risk that key regional council natural hazard information is not shared with territorial authorities or if shared, it is not done in a way that supports territorial authorities. If so, this will create challenges for territorial authorities with no or limited expertise to share regional natural hazard information in a way that is easy for readers to understand.
50. This may result in disputes between territorial authorities and regional authorities about who is responsible for ensuring that regional natural hazard information in a LIM is understandable. It may also result in legal actions by property owners or property buyers if regional information is missed or not presented accurately in the LIM.

Stakeholder views

51. As outlined in Table 3 above, councils' submissions to select committee asked for more clarity on how to meet the new requirements. Councils were particularly concerned that being left to interpret the new obligations themselves would expose them to legal risks.
52. In addition to the concerns outlined in Table 3 above, territorial authorities and regional councils also raised concerns about the lack of clarity on the current legal test, as determined in case law, for when a council's natural hazard information needs to be included in LIMs. The LGOIMA changes confirm this legal test but councils have asked for clarity on key points, in particular the thresholds for:
 - when information is "known" to a council;

- when information is about a potential natural hazard;
- when information is accurate or certain enough to be included in LIMs.

Non-regulatory options

Description

53. Under this option, the Department would work with technical experts from the local government sector to develop non-statutory guidance to support implementation of the LGOIMA changes.
54. The guidance could include content that:
 - provided support for summarising and presenting natural hazard information including best practice examples of summaries and templates for natural hazard sections;
 - provided support for making natural hazard information understandable including best practice examples for notations to explain natural hazard information;
 - set out processes and best practice for decision-making for territorial authorities when providing natural hazard information in LIMs; and
 - set out processes and best practices for regional councils when providing natural hazard information and support to territorial authorities.

Analysis

55. With the introduction of guidance, we expect to see improvements in how territorial authorities provide natural hazard information so that it is presented in a way that is easier for property buyers to understand.
56. Guidance provides more certainty to territorial authorities on how to provide understandable natural hazard information with best practice examples and templates.
57. This option also provides flexibility for territorial authorities to adapt the guidance to the natural hazard information that they share in LIMs.
58. However, there will still be inconsistencies in how natural hazard information is summarised and presented in LIMs. Some territorial authorities may choose to make only small changes or none at all if it is considered too difficult or expensive to introduce.
59. The guidance will help set expectations for how regional councils share natural hazard information with territorial authorities in a way that supports territorial authorities to provide easier to understand information.
60. However, there will likely remain inconsistencies in how regional councils share their natural hazard information and the level of support for territorial authorities. In these situations we would expect it will remain challenging for smaller territorial authorities to provide regional natural hazard information in LIMs in a way that is understandable for readers.

Stakeholder views

61. Feedback from local government engagement was unanimous that non-statutory guidance would be more useful than regulations for some matters. For example, it is difficult to prescribe a national template or plain language notations to include in LIMs due to the variation in councils' data and natural hazard information, and the councils' LIM systems.
62. However, councils expressed a strong desire for clear direction on operationalising the LGOIMA changes. Councils consider that regulations supported by guidance would provide a higher level of certainty than guidance alone.

Regulatory options

63. The regulatory option considered in this RIS is a proposed package of regulations for territorial authorities and regional councils. The package was developed with a group of local government and natural hazard technical experts from a range of councils.
64. The package of regulations could be supported by non-statutory guidance including, for example, best practice examples of plain language summaries and process maps for regional councils sharing natural hazard information.

Regulations for territorial authorities when providing natural hazard information in LIMs

65. The table below summarises the proposed package of regulations for territorial authorities that set requirements for:
- additional information to make the natural hazard information in LIMs understandable; and
 - how natural hazard information is summarised and presented in LIMs.

Table 5: Proposed package of regulations for territorial authorities

Options	Description	Analysis
Headings	Regulations prescribe broad headings for territorial authorities to use in LIMs for each class of hazard eg <i>Floods</i> , <i>Coastal hazards</i> , <i>Earthquakes</i> . The territorial authorities would be able to add sub-headings for more specific hazards eg <i>Liquefaction</i> under <i>Earthquakes</i> .	This will ensure that LIMs: <ul style="list-style-type: none"> • make clear to the reader if councils have any known information relevant to the property for each class of natural hazard; and • achieve greater consistency in how natural hazard information is presented.
Minimum standards for describing natural hazard information	The regulations set the minimum standards for describing each piece of information that needs to be included in the LIM. The minimum standards for each report or other information would include: <ul style="list-style-type: none"> • title/date • who produced or commissioned the report/information • purpose of the report/information • the scale (whether it covers a single property or a broader area) and • the source of the information and where to access it. 	This will help ensure that: <ul style="list-style-type: none"> • the reader has an all-in-one-place list of the range of reports and other information on natural hazard risks that relate to the property in the LIM, with consistent key basic details for each of those reports and sources of information. • territorial authorities take a more consistent approach to sharing natural hazard information in LIMs. <p>This is basic information that all territorial authorities will be able to include without relying on natural hazard expertise.</p> <p>It will help reduce legal risks by setting clear requirements for the level of information for each natural hazard report and other information.</p>

Options	Description	Analysis
<p>Plain language summaries</p>	<p>The regulations would require territorial authorities to provide a clear, concise, understandable summary of any <i>new</i> piece of known information that needs to be included in the LIM.</p> <p>This requirement only applies to new information that is produced after the date that the regulations come into effect.</p>	<p>This regulation will ensure LIMs provide an easy-to-understand, concise high-level summary of technical reports and other information for a property.</p> <p>This builds upon current best practice by some territorial authorities.</p> <p>By only applying to new information produced after the regulations come into effect, the regulations strike a balance between providing easy to understand information for property buyers and what is feasible for councils. This allows councils to commission summaries from technical experts with each piece of new information.</p> <p>It would be expensive for councils to retrospectively create the summaries for existing information, in particular for smaller councils without in-house natural hazard expertise.</p> <p>There is a small risk that property buyers may take legal action if a summary is not sufficiently understandable. However, territorial authorities will have protection under new section 44D in the LGOIMA which limits their legal liability when providing natural hazard information in good faith. Guidance with best practice examples will also help mitigate any potential legal risks.</p>

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Options	Description	Analysis
Maps	<p>Regulations would require territorial authorities to include in LIMs either:</p> <ul style="list-style-type: none"> • known maps of natural hazards affecting a property or • provide a link to an online natural hazard mapping portal/s with the known maps of natural hazards affecting a property. 	<p>Maps are a visual tool that make clear for the reader in a simple and concise way if a property is affected by a natural hazard.</p> <p>Most regional councils, and some larger territorial authorities, have developed interactive online portals with natural hazards mapping that are searchable by property address.</p> <p>By making clear that sharing a link will meet requirements, the regulations will promote the use of these portals in LIMs if available.</p>
District plan information and notices under the Building Act	<p>Regulations would require territorial authorities to include in the natural hazard section information:</p> <ul style="list-style-type: none"> • information from the district plan: <ul style="list-style-type: none"> ○ including maps of natural hazards affecting the property in the district plan or a link to an online portal with the district plan maps; and ○ noting the objectives, policies and rules that affect the property relating to natural hazards. • information on notices under the Building Act: <ul style="list-style-type: none"> ○ noting any post-event assessment (known as a rapid building assessment) completed under section 133BQ for a building on the land concerned; ○ noting any decision made under section 133BT to place a sign or notice on or near a building on the land concerned, and any subsequent decision to remove such sign or notice; and ○ including any notice under section 73 that a building consent has been granted subject to a natural hazard(s) for a building on the land concerned, including the extent of the effect of that natural hazard(s) on the land concerned. 	<p>Territorial authorities are already required under the LGOIMA to include in LIMs information concerning any consent, certificate, notice, order, or requisition affecting the land or any building on the land under section 44A(d).</p> <p>However, this will ensure that the LIM gives readers in one place information on what natural hazards are identified in the district plan and natural hazard related notices under the Building Act, and the implications for the use of the land in the LIM.</p>

Options	Description	Analysis
Information not required	Regulations will confirm that territorial authorities are not required to provide property-specific risk assessments or other further analysis for each LIM.	<p>This will address territorial authorities concerns that they would need to also provide far greater information and analysis for each LIM.</p> <p>It will also the confirm the purpose of the LIM as an information disclosure tool and not a risk assessment for a property.</p>

Stakeholder views

66. The Department undertook a co-design process with a group of local government experts on the proposed package of regulations. Further engagement was undertaken with natural hazard technical consultants who provide advice to councils.
67. The group:
- **supported** standardised headings as a way of promoting consistency in the layout of information. This will also give readers a concise summary of the information contained in the LIM about each class/type of natural hazard.
 - **supported** high-level summaries as a way to give readers an easy-to-understand explanation of natural hazard information, subject to the concerns outlined below.
 - **generally supported** requirements for district plan information to be included in LIMs, but considered the best approach to be a simple note referring people to the plan. This will ensure the information provided is the most up to date, and avoid the legal risks associated with interpreting the district plan information in the LIM.
 - **supported** clearer direction on including information in LIMs about post-disaster building assessments under the Building Act 2004 (e.g. notices commonly known as “red and yellow stickers” applied following rapid building assessments post-disaster).
 - **strongly supported** regulations clarifying the information that is not required to be included in LIMs. Clearly stating that certain information does not have to be included was seen as a way to improve certainty and decrease legal risk for councils, and to help LIM recipients understand what a LIM is and is not.
68. The group raised concerns about requiring summaries for all natural hazard information due to the level of work required, especially for councils who do not currently do this. Submissions to select committee pointed to similar concerns. The group considered that the council or consultant that produced the report or other information should create the summary. Summaries need to be checked by relevant experts e.g. the council’s legal advisor and/or a natural hazard expert. This would be expensive, and challenging for historic information if the technical experts that produced the information were no longer available.

Regulations for regional councils when providing natural hazard information to territorial authorities

69. The table below summarises the proposed package of regulations for regional councils that set requirements for:
- additional information to make the natural hazard information understandable; and
 - how natural hazard information is summarised and presented.

Table 6: Proposed package of regulations for regional councils

Options	Description	Analysis
<p>Regional council natural hazard information is LIM ready</p>	<p>Regulations will require regional councils to provide natural hazard information that meets the requirements for territorial authorities when they include it in the LIMs.</p> <p>Regulations will specify that territorial authorities will be required to:</p> <ul style="list-style-type: none"> • use the wording that the regional council provides for minimum content and summaries for the information in LIMs • note the information is from the regional council • include links to the regional council's online natural hazard mapping portal (where available). 	<p>This will ensure that the regional councils are responsible for providing information to territorial authorities in a way that meets the requirements for how that information is shared in the LIM.</p>
<p>Information not required</p>	<p>Regulations will confirm that regional councils are not required to:</p> <ul style="list-style-type: none"> • provide specific risk assessments or other further analysis for each property • provide information in preparation of each LIM application. 	<p>Based on feedback, regional councils are better placed to do this as the owner of the information and often have more expertise and resources in the natural hazard field than territorial authorities.</p>

Stakeholder views

70. The group:

- **supported** regulations for regional councils.
- **supported** making it clear in regulations that the requirement is to provide summaries of the information as a whole, not to provide an analysis for each individual property subject to a LIM. Requiring councils to provide property-level analysis would open regional councils up to the risk of legal liability. It would also require significant resources and move away from the purpose of the LIM as an information disclosure tool.

71. The group considered that it is the role of the regional councils to provide summaries for the natural hazard information they provide, as they are the ones who commissioned and understand the information. It is difficult for territorial authorities to translate information provided by regional councils when they do not have the background to its commissioning, nor the technical expertise on staff to do this.

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How do the options compare to the status quo/counterfactual?

Table 7: Options comparison

	Counterfactual	Regulations for territorial authorities and regional councils	Non-statutory guidance only
Fit-for purpose	<p>0</p> <p>Some councils may make changes like summaries and formatting changes to make natural hazard information easier to understand.</p> <p>Natural hazard information provided by territorial authorities in LIMs will continue to be inconsistent in content and format.</p> <p>Risks that regional councils do not support territorial authorities so that regional council information presented in a way that is not easy to understand, inaccurate and/or misleading.</p>	<p>++</p> <p>Territorial authorities will share summaries for new natural hazard information in a way that easier for property buyers to read and understand. Older information will contain basic information but may still be difficult to understand.</p> <p>LIMs communicate natural hazard information more consistently and with a common layout across New Zealand.</p> <p>Regional councils will support territorial authorities to share regional natural hazard information that is more understandable for property buyers.</p>	<p>+</p> <p>Better purchaser understanding of natural hazards is dependent on uptake of guidance by territorial authorities. Risk that natural hazard information provided by territorial authorities in LIMs may continue to be inconsistent in content and format.</p> <p>Risk that regional councils may not use guidance. If so, regional councils will (1) continue to take an inconsistent approach to sharing their natural hazard information with territorial authorities and (2) not adequately support territorial authorities to communicate regional information in a way that is easy for property buyers to understand.</p>
Certainty	<p>0</p> <p>Territorial authorities continue to be uncertain about the nature and extent of natural hazard information they should include in LIMs.</p> <p>Regional councils continue to be uncertain about the nature and extent of natural hazard information they should provide to territorial authorities.</p>	<p>++</p> <p>Clear requirements in regulations provide territorial authorities and regional councils with certainty about how they should share natural hazard information.</p>	<p>+</p> <p>Territorial authorities and regional councils have greater certainty than the counterfactual with direction in guidance. However, some uncertainty will remain if some councils do not follow guidance. Risk that court decisions may challenge guidance and create more uncertainty.</p>

<p>Efficiency</p>	<p>0</p> <p>Overall, costs and resourcing requirements remain stable - subject to individual council decisions to change LIM systems. Councils continue to incur significant legal costs due to uncertainty.</p>	<p>++</p> <p>This would provide detail for councils on how to implement the LGOIMA changes. Stakeholder engagement has indicated that the proposed package of regulations is technically feasible and would work within current settings. This will be further tested through consultation on the exposure draft, with an opportunity to amend the proposal if issues are raised.</p> <p>Councils will need to make changes to their LIM systems and processes to implement the LGOIMA changes. Regulations containing details on how to do this are not expected to add costs over and above those councils would have had to meet anyway. There is the potential for cost savings in implementation as the regulations will provide some of the detail instead of each council having to establish this.</p> <p>Legal liability risks and the associated costs are decreased through the operational certainty regulations will provide.</p>	<p>0</p> <p>This would be technically feasible but less administratively efficient. Councils would individually decide how to implement the LGOIMA changes and could choose the extent to which they followed the guidance (including choosing not to follow it). There may be less cost for councils with complex, automated systems if they choose to take a light-touch approach to implementing the changes, but overall, the implementation costs are likely to be greater than if there were regulations and much the same as the status quo.</p> <p>The cost of developing non-statutory guidance alone will be similar for the Department but would not require resources from the Parliamentary Counsel Office (PCO), nor for consulting on an exposure draft.</p> <p>This would not address potential legal liability and associated legal costs as guidance has less standing in court.</p>
<p>Accessibility</p>	<p>0</p> <p>LGOIMA changes ensure regional council, and district plan natural hazard information are included in LIMs but is likely to be located in a different section than the natural hazard section.</p>	<p>+</p> <p>Regional council, district plan and Building Act natural hazard information included in LIMs in a clear, concise, nationally consistent and easily understandable way in one place in the LIM.</p>	<p>+</p> <p>Regional council, and district plan natural hazard information are included in LIMs. This information may not be included in one section with other natural hazard information. Some consistency may be achieved (e.g. if the guidance includes best</p>

	<p>Territorial authorities will continue to take inconsistent approaches to including natural hazard related Building Act notices in LIMs.</p> <p>No cost increases to LIMs.</p>	<p>This may increase the cost of the LIM due to additional time being needed to provide extra information.</p>	<p>practice examples some councils may choose to adopt this format), but national consistency will not.</p> <p>Territorial authorities will continue to take inconsistent approaches to including natural hazard related Building Act notices in LIMs.</p> <p>This may increase the cost of the LIM due to additional time being needed to provide extra information.</p>
<p>Future-proof</p>	<p>0</p> <p>Flexibility for how councils share natural hazard information. Does not require territorial authorities to incorporate future data and information in LIMs in way that is easy for property buyers to understand.</p> <p>Changing individual council LIM processes in response to developments in the property market and future user needs will be much simpler than changing regulations and non-statutory guidance.</p>	<p>+</p> <p>The proposed package of regulations creates a framework for presenting natural hazard information in a way that is clear, concise, nationally consistent in presentation and understandable. This framework can be used for disclosing any natural hazard information, including new information and tools as they become available. They also clarify that providing links to online tools will satisfy information disclosure requirements, enabling greater use of these tools.</p> <p>Changing regulations in response to developments in the property market and future user needs will be more difficult than changing non-regulatory options.</p>	<p>+</p> <p>May promote the incorporation of future data and information in LIMs.</p> <p>Changing non-statutory guidance in response to developments in the property market and future user needs will be more difficult than the status quo but simpler than changing regulations.</p>
<p>Overall assessment</p>	<p>0</p>	<p>++</p>	<p>+</p>

Key for qualitative judgements:

- ++** much better than doing nothing/the status quo/counterfactual
- +** better than doing nothing/the status quo/counterfactual
- 0** about the same as doing nothing/the status quo/counterfactual
- worse than doing nothing/the status quo/counterfactual
- much worse than doing nothing/the status quo/counterfactual

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What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

72. The Department's preferred option is the package of regulations. The regulations are preferable over the counterfactual or stand-alone guidance in providing greater clarity to councils on their requirements and ensuring LIMs provide easier to understand natural hazard information that supports property buyers in their decision making. Regulations also ensure that councils take a consistent approach in how natural hazard information is presented in LIMs.
73. Regulations will also have greater standing in court than guidance and will mitigate potential or perceived legal risks for councils when sharing natural hazard information in LIMs

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What are the marginal costs and benefits of the option?

Table 8: Costs and benefits

Affected groups <i>(identify)</i>	Comment <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.</i>	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	Evidence Certainty <i>High, medium, or low, and explain reasoning in comment column.</i>
Additional costs of the preferred option compared to taking no action			
Regulated groups	<p>Territorial authorities will incur one-off costs to update LIM systems and processes, including receiving and incorporating data and information from regional councils.</p> <p>Regional councils will incur additional ongoing costs to meet new statutory responsibilities to provide natural hazard information in a way that meets regulations e.g. provide plain language summaries for each new natural hazard report.</p>	Low-Medium	<p>Medium</p> <p>Territorial authorities already have a duty to provide natural hazard information in a LIM, and operate existing LIM systems and processes.</p> <p>Regional councils already monitor and collect natural hazard information and share this with territorial authorities. Regulations would formalise and build upon existing information sharing arrangements.</p> <p>Based on initial feedback from stakeholders, we consider that the regulations are feasible for councils without large resources. The most intensive requirement will be for plain language summaries. However, this regulation only applies to new information to allow councils to include work for plain language summaries in commissioning natural hazard reports. Some councils already provide summaries in LIMs.</p>
	<p>LIM applicants may be required to pay more for LIMs if councils incur greater costs.</p>	Low	<p>Medium</p> <p>We expect an initial increase in LIM fees in response to implementation costs for territorial authorities. These will vary between councils based on their costs for providing the service and their revenue and financing policies which outline what costs are recovered from</p>

			fees and what are covered from rates.
Regulators	<p>The Department will incur one-off costs to introduce and support implementation of the regulations. Low, ongoing monitoring and evaluation costs will be incurred.</p> <p>There is potential for ongoing additional costs to the Ombudsman to review how well councils' LIMs meet any new requirements in the regulations. Increased natural hazard information may also result in more complaints from property owners to the Ombudsman.</p>	<p>Medium</p> <p>Estimated 2 FTEs for six months for regulations.</p>	<p>Medium</p> <p>Estimate of Department costs based on Parliamentary Counsel Office (PCO) official guidance for regulations that are small in size and low complexity.</p> <p>There are many factors that drive complaints, including the specific natural hazard information included on LIMs and property owner motivation to complain. Costs to the Ombudsman may increase over time as the potential impact of natural hazards and the relationship to insurance and property values is realised.</p>
Others (eg, wider govt, consumers, etc.)	<p>Potential impact on value of properties for property buyers if the cost of the LIM increases as a result of information sharing requirements and including additional natural hazard information.</p> <p>Potential long-term impact on property values due to additional natural hazard information on LIMs.</p>	<p>Low</p>	<p>Low-Medium</p> <p>Property markets are complex and natural hazard information has historically had a low impact on property values.</p>
Total monetised costs		<p>Total monetised costs uncertain</p>	<p>We do not have sufficient information about the changes required to council LIM systems and processes to provide monetised costs. The large variation in LIM and information management systems across councils makes it difficult to quantify the monetised costs of the changes. Implementation costs are likely to be at least partially offset by a reduction in costs associated with legal uncertainty and challenges.</p>
Non-monetised costs		<p>Low-Medium</p>	<p>Medium</p>
Additional benefits of the preferred option compared to taking no action			
Regulated groups	<p>Territorial authorities' legal costs and technical advice costs and resourcing to analyse natural hazard information are likely to reduce due to greater certainty.</p> <p>Regional councils benefit from having greater certainty about what</p>	<p>Medium</p>	<p>Medium</p> <p>Greater certainty about the nature and extent of natural hazard information included on LIMs. More certainty on requirements in regulations are</p>

	natural hazard information should be shared with territorial authorities.		likely to help reduce legal costs. Technical advice costs and resourcing for territorial authorities may reduce due to greater regional council support. However, the extent of cost reduction is unknown.
	Property purchasers benefit from having improved natural hazard information. This will support better purchaser understanding of natural hazards and help them to make better informed property decisions.	Medium-high	Medium Clear improvements in the quality of natural hazard information for purchasers. Difficult to assess broader improvements to purchasing decisions without further quantitative analysis.
Regulators	There will not be a cost savings to the Department or Ombudsman.		
Others (eg, wider govt, consumers, etc.)	Better informed property purchasing decisions that reduce or avoid natural hazard risks can have significant benefits for long-term community wellbeing, as well as potentially reducing future government liability from natural hazard events.	Medium	Low Difficult to attribute improved decision-making and reduced future liability to natural hazard content on LIMs, as a small part of a suite of natural hazard information and risk reduction measures.
Total monetised benefits		Unknown	We do not currently have sufficient information about the benefits, particularly long-term, to provide monetised costs.
Non-monetised benefits		Medium-High	Medium

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Section 3: Delivering an option

How will the new arrangements be implemented?

74. Councils will need to implement the regulations from 1 July 2025, when the LGOIMA changes come into effect. The LGOIMA only applies to councils and does not require other organisations to do anything. Although the regulations could be brought in earlier by an Order-in-Council, we propose keeping the date regulations come in effect to 1 July 2025. This will allow time for councils to prepare for the changes.
75. We expect that development of the regulations will be completed by late January 2025 based on PCO official guidance for drafting regulations that are small in size and of low complexity. This will allow approximately five months for councils to update their systems and process to implement the LGOIMA changes and regulations. Councils will have an indication of what is likely to be covered by the regulations when the exposure draft is released for public consultation approximately 10-12 months before the LGOIMA changes come into effect.
76. To support implementation of the regulations, we plan to develop guidance with local government technical experts. We propose that the guidance cover:
 - support for decision-making for including natural hazard in LIMs; and
 - templates for natural hazard sections and best practice examples, e.g. plain language summaries and notations for key natural hazard terms.
77. We also propose developing material for the public to ensure that property buyers are aware of the changes to the natural hazard section in LIMs. This is also an opportunity to provide information about what a LIM does cover (e.g. disclosure of known information) and where additional information or advice might be needed (e.g. technical advice, risk assessment).
78. We consider that this material could be released on an agency's website that already provides supporting information to property buyers, e.g. EQC or the Real Estate Authority. The Department could also promote the changes through webinars targeted at professional advisors such as lawyers and real estate agents who read LIMs and provide advice to their clients.

How will the new arrangements be monitored, evaluated, and reviewed?

Complaints and compliance monitoring

79. Complaints and compliance monitoring of changes to the LIM system will be integrated into existing regulatory systems. The Office of the Ombudsman is the regulator for the LGOIMA, and is able to investigate complaints about LIMs e.g. if a property owner disagrees with the natural hazard information in their LIM or if a property buyer considers that the natural hazard section of their LIM is inaccurate, misleading or missing information.
80. The Ombudsman also proactively carries out LGOIMA practice and compliance investigations of councils, including how they produce LIMs. Reports from these investigations are made publicly available on the Ombudsman's website. If the Ombudsman decides to carry out a review of councils' LIMs, it will provide case studies of compliance with the regulations.
81. Courts will continue to make decisions and develop jurisprudence on councils' obligations to provide natural hazard making in LIMs. Property buyers that relied on natural hazard information in LIMs and property owners that are concerned about the impact of this information on their property values may take legal action against a territorial authority and/or regional council.

82. The Department will undertake ongoing monitoring of Ombudsman decisions and reports on local authorities' performance with the regulations and new LGOIMA requirements. We will also monitor the number of legal actions as a result of natural hazard information in LIMs and related court decisions.

Opportunities for amendment

83. If the Department identifies significant concerns with the regulations, the Minister of Local Government may review and amend them. This will require consultation with each council the Minister considers may be affected by the regulations, along with other persons and organisations considered appropriate.
84. If a need for minor amendments arises, for example to correct an error or make a technical alteration or other change with no more than minor effect, this can be done following consultation with appropriate persons and organisations. If serious issues arise with the regulations, they can be repealed. If minor issues arise with the regulations these may be able to be addressed through the non-statutory guidance, developed with the local government sector.

Proactively released by the Minister of Local Government