Hon Nanaia Mahuta, Minister of Local Government

Proactive release of Cabinet material about the proposed changes to the land information memorandum system 24 November 2021.

These documents have been proactively released:

24 November 2021, DEV-21-MIN-0248 Minute: Land Information Memorandum System: Proposed Changes, Cabinet Office;

24 November 2021, Cabinet Paper: Proposed changes to the land information memorandum system, Office of the Minister of Local Government; and

24 November 2021, Regulatory Impact Statement: Improving disclosure of natural hazard information in the land information memorandum system, Department of Internal Affairs.

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Where information has been withheld for other reasons consistent with advice, it has been annotated with an asterisk. This information may in some cases be accessible under the Official Information Act 1982.

Key to Redaction Codes:

- Section 9(2)(f)(iv) - maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.
Cabinet Economic Development Committee

Minute of Decision

Land Information Memorandum System: Proposed Changes

Portfolio Local Government

On 24 November 2021, the Cabinet Economic Development Committee:

1 noted that individuals’ property decisions can have significant consequences for the level of natural hazard risk, including from climate change impacts, for individuals, their communities and the government;

2 noted that providing natural hazard information (including climate change impacts) is an essential step to helping individuals make informed property decisions and reduce their exposure to natural hazards;

3 noted that there are challenges for buyers’ understanding of natural hazard risk due to its complexity, gaps in data and information, and buyers’ competing priorities and cognitive biases;

4 noted that the land information memorandum (LIM) is a key tool for providing property information, including natural hazard information, to prospective buyers to support their decision making;

5 approved the proposed package of changes to the LIM system to address the key challenges with the LIM, as outlined in the paper under DEV-21-SUB-0248, and improve natural hazard information disclosure in the LIM;

6 agreed to amend the Local Government Official Information and Meetings Act 1987 (LGOIMA) to introduce provisions for:

   6.1 a statutory responsibility for regional councils to provide natural hazard information and support to territorial authorities;

   6.2 a specific purpose for providing natural hazard information in LIMs;

   6.3 a regulatory power to set national direction under LGOIMA for natural hazard information, including climate change impact information, in LIMs;

   6.4 broader natural hazard information requirements in the LIM, including information on district plans and held by regional councils;

   6.5 limiting legal liability for local authorities when natural hazard information is disclosed in good faith;
6.6 clearer requirements for natural hazard information disclosure for local authorities;

7 directed the Department of Internal Affairs to work with relevant central government agencies to integrate the LIM system with proposed national online hazard mapping tools as they become available;

8 directed the Department of Internal Affairs to undertake further consultation with local government, relevant central government agencies and relevant stakeholders on the operation and implementation of the package of changes to the LIM system;

9 invited the Minister of Local Government to issue drafting instructions to the Parliamentary Council Office for amendments to LGOIMA, after consultation on the operation and implementation of the package of changes;

10 authorised the Minister of Local Government to determine minor and technical issues in consultation with relevant portfolio Ministers where appropriate;

11 directed the Department of Internal Affairs, in consultation with other agencies as appropriate, to progress options to connect natural hazard information in the LIM across the wider system, including potentially requiring property vendors to provide LIMs to buyers, after the introduction of legislative amendments to LGOIMA to improve natural hazard information disclosure in the LIM.

Janine Harvey
Committee Secretary

Present: Hon Grant Robertson (Chair) Hon Carmel Sepuloni Hon David Parker Hon Poto Williams Hon Kris Faafoi Hon Willie Jackson Hon Kiri Allan Hon Phil Twyford Rino Tirikatene, MP Dr Deborah Russell, MP

Officials present from: Office of the Prime Minister Officials Committee for DEV
Office of the Minister of Local Government

Chair
Cabinet Economic Development Committee

Proposals for changes to the land information memorandum system

Proposal
1. This paper seeks agreement to proposals for changes to the land information memorandum (LIM) system to improve natural hazard information disclosure in the LIM.

Relation to government priorities
2. The Government is committed to ensuring the wellbeing of current and future generations. Progressing changes that reduce the risks and impacts of natural hazards and climate change will help to safeguard the wellbeing of people, places and the things New Zealanders value most.
3. The programme also advances Government priorities of: supporting the transition to a climate-resilient, sustainable and low-emissions economy; and supporting healthier, safer and more connected communities.
4. This work contributes to implementing the Government’s response to the Public Inquiry into the Earthquake Commission (EQC) report. Specifically, recommendation 6.4.1 includes changes to enable greater availability and use of information to inform land-use decision-making and support current and prospective property owners [DEV-20-MIN-0116 and CAB-20-MIN-0329 refers].

Executive Summary
5. The Community Resilience programme is an all-of-government approach to reducing natural hazard risks and the impacts of climate change. Its current focus is on improving natural hazard disclosure in the LIM system.
6. New Zealand properties are highly exposed to a range of geological and weather-related natural hazards. Climate change will exacerbate our country’s natural hazard risks with more intense and frequent flooding and storm events, and in the longer-term sea level rise.
7. Property buyers’ decisions can have significant consequences for the level of natural hazard risk, including from climate change impacts, for individuals, their communities and the government. Government has spent over $11.4 billion on natural hazards over the last decade and the Crown’s liability for hazards could grow by over 5.5% each year to 2050.
8. Provision of natural hazard information, including related to climate change impacts, is an essential step to help property buyers understand natural hazard risk and make informed decisions. However, there are challenges for buyers’ understanding of natural hazard risk due to its complexity, gaps in data and information, and buyers’ competing priorities and cognitive biases.
9. The LIM is a key tool for prospective buyers to access natural hazard information about a property. However, there are challenges with how LIMs currently provide natural hazard information. LIMs may lack key natural hazard content, are not effective at communicating natural hazard information, and legal liability issues can inhibit full disclosure of natural hazard information by local authorities.

10. In this paper, I seek your approval for a package of changes to the LIM system to address the problems outlined and improve natural hazard information disclosure in the LIM. The proposed package includes amendments to the Local Government Official Information and Meetings Act (1987) (LGOIMA) to introduce a requirement for regional councils to provide natural hazard information and support to territorial authorities; an empowering provision to set national direction for requirements for the format, content and presentation of natural hazard information, including climate change impacts; and changes to reduce the negative impact of potential legal actions on councils sharing natural hazard information in the LIM.

11. To support the proposed improvements, I also seek approval for further work by officials to integrate the LIM system with national online hazard mapping tools as they become available.

12. The paper also points to longer term work to improve access to natural hazard information, specifically to reduce barriers for property buyers to access the LIM, including potentially requiring property vendors to provide LIMs to buyers, and to improve access to natural hazard information for Māori landowners.

Background

The Community Resilience programme is currently focusing on improving the LIM system

13. The Community Resilience programme is an all-of-government approach to reducing natural hazard risks and addressing the impacts of climate change. Since 2018, I have convened a group of Community Resilience Ministers to oversee the programme.

14. Community Resilience Ministers are: Minister of Local Government; Minister of Finance; Minister for the Environment; Minister for Emergency Management; Minister for Climate Change; Minister for Economic and Regional Development; and Minister for the Community and Voluntary Sector.

15. On 14 April 2021, Cabinet agreed, subject to funding, to a future community resilience work programme covering work on data and information; the LIM system; greater direction to councils on flood risk management; and a new national funding model for flood risk [DEV-21-MIN-0074].

16. Due to the level of funding provided through Budget 2021/22, Community Resilience Ministers have agreed to a scaled-back work programme that focuses on the LIM system.

17. In the April 2021 decision, Cabinet invited the Minister of Local Government, in association with Community Resilience Ministers, to report back with proposals for substantive changes to the LIM system to achieve more active disclosure of natural hazard risk [DEV-21-MIN-0074], including to:

17.1 ensure information on district plan and information held by regional councils is included in LIMs; and
17.2 remove legislative barriers to councils communicating natural hazard risks to the public.

The role of the LIM in natural hazard risk management

New Zealand properties are highly exposed to natural hazards

18. New Zealand properties are highly exposed to a range of geological and weather-related natural hazards. New Zealand’s most common hazard is flooding and most of our major urban centres are located on the coast or on floodplains of major rivers. We have seen significant flooding events in the past few months in Auckland, Canterbury, Wellington, Marlborough and the West Coast which have ongoing recovery challenges for many property owners, especially those that are vulnerable.

19. Climate change impacts are increasing New Zealand’s exposure to natural hazards, particularly in coastal locations and on river margins. Climate change will impact properties with more intense and frequent flooding and storm events, and in the longer-term sea level rise.

Individuals’ property purchasing decisions can influence the level of natural hazard risk they face

20. From property developers to home buyers, individuals’ decisions on where they buy and build houses are key to managing natural hazard risk. An individual’s decision to buy in a hazard prone area, or not invest in risk reduction measures, can significantly increase the level of risk they face from natural hazards including climate change impacts.

21. Individuals also need to take into account the increasing natural hazard risk over time due to climate change impacts. If individuals buy properties at risk from natural hazards like coastal flooding and inundation, future relocation may be their only option to reduce risk, as adapting buildings may not be possible or cost-effective.¹

22. Individuals may be unable to transfer the risk to property through insurance. In the medium-to long-term the insurance market may increasingly move to risk-based insurance pricing, as better information becomes available and the underlying natural hazard risks increase (e.g. due to climate change). This could result in significant premium increases or removal of insurance cover in hazard prone areas.

23. 9(2)(f)(iv)

Individual property decisions can have wider implications for communities and government

24. Individuals’ decisions can also have significant consequences for the level of natural hazard risk, including from climate change impacts, affecting their communities and the government. Increased risks to an individual’s life and property tend to be shared by the wider community through natural hazard emergency response and recovery programmes.

25. Government has spent over $11.4 billion on natural hazards over the last decade, including on reinstating infrastructure damaged by natural disasters and providing disaster relief. The Crown's liability for hazards is projected to grow by around 5.3% per year to 2050 across all hazards. After allowing for climate change, that annual rate of growth could rise to 5.5% or 5.7% (under low and high climate warming assumptions).  

Understanding and assessing natural hazard risk, including climate change impacts, is challenging for property buyers

26. Individuals' property purchasing decisions are multi-faceted with competing priorities. Natural hazard risk is only one factor amongst many others that people may consider. People also have well-known cognitive biases that negatively impact their ability to assess natural hazard risk, including discounting future risk and ignoring risks until they have experienced a natural hazard event.

27. Provision of natural hazard information, including climate change impacts, is an essential step to helping property buyers understand natural hazard risk and make decisions to avoid or reduce their exposure to natural hazards.

28. However, assessing natural hazard risk involves not only the hazard but also a range of other components, particularly the vulnerability and exposure of the people and assets at risk (see Appendix A). It also requires complex data and information across each of the components of risk and how projections of risks change over time.

29. Currently, New Zealand has significant gaps in natural hazard risk information, particularly at the property level. For example, there is an absence of nationally consistent flood hazard maps [DEV-20-MIN-0120]. In addition, there are uncertainties about the future impacts of climate change such as coastal inundation, erosion and sea level rise.

30. Significant improvements in natural hazard risk data and information are expected over the next five to ten years, including at the property level. Some key initiatives include: the development of a national flood risk model led by the National Institute of Water and Atmospheric Research; EQC's national online natural hazard risk and resilience portal; local authorities' online natural hazard mapping tools; and other relevant initiatives that may be introduced by the Government's first National Adaptation Plan that is due to be published in August 2022.

31. The insurance and banking sectors are also able to access increasingly more accurate natural hazard risk data and models at the property level to help refine their insurance pricing. For example, the property information companies Risk Management Solutions and CoreLogic have both recently released national flood risk models for insurers, banks and other corporate customers.

32. While I anticipate significant improvements in available data and information, this information still needs to be easy to understand and readily available for property buyers to support their understanding and assessment of natural hazard risk in their decision-making.

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The LIM is a key tool for prospective buyers to access natural hazard information about a property

33. The LIM was introduced over thirty years ago under LGOIMA as a mechanism to inform prospective buyers about potential property risks. It is a key document for prospective buyers to access natural hazard and other information about a property from a territorial authority.

34. The LIM contains a wide range of property information including: natural hazards, the presence of hazardous contaminants, building and resource consents, drainage, water supply, rates, weathertightness events, and any other information a territorial authority considers relevant.

35. As part of the LIM, LGOIMA requires territorial authorities to provide information on potential natural hazards that relate to a property that is ‘known’ to the territorial authority and not apparent from the relevant district plan (section 44A(2)(a)).

36. Territorial authorities need to include natural hazard information related to a property collected as a result of planning and consent processing functions under the Resource Management Act 1991 (RMA), e.g. proposed plans and plan changes, coastal management strategies, technical reports, climate change modelling, and other research to support planning processes.

37. While it is not a legal requirement for property sellers to provide a LIM, it is a key consumer protection document for buyers in New Zealand, and buyers are advised to purchase a LIM report to identify any potential issues with a property. The LIM is a recognised source of information in the property conveyancing system and the obtaining and reviewing a LIM is a standard condition in the sales and purchase agreements.

38. Other natural hazard information sources are available to property buyers from local and central government (e.g. territorial authority property files, planning documents, local authority online hazard portals, and Building Act hazard notices) and the private sector (e.g. specialist technical and property data reports). However, these other sources may not provide as comprehensive information for a property as the LIM or may not have the same status in the property conveyancing system.

Current problems with the LIM as a natural hazard information tool

Four key challenges have been identified around how LIMs address natural hazards

39. Cabinet previously noted that there are a range of impediments to using LIMs to actively disclose natural hazard and climate change risks to property buyers [DEV-21-MIN-0074].

40. My officials have reviewed previous work and reports on the LIM system, including a report by Local Government New Zealand in February 2021, and have undertaken targeted engagement with the local government sector, central government agencies, Māori data experts and representatives from relevant stakeholders. From this analysis and engagement, officials have identified four key challenges for the disclosure of natural hazard information to property buyers in the LIM.
There are inconsistencies in the natural hazard information provided in LIMs and they may not contain all known information

41. District plan information (such as planning overlays and rules for natural hazard management) and information held by regional councils is not required to be included in a LIM.

42. Territorial authorities’ approaches are inconsistent when deciding what natural hazard information is included in the LIM. This is due to uncertainty about the nature and level of detail that should be provided, when new information should be included, if information is sufficiently relevant to a specific property, and how the impacts of climate change are addressed. For example, some councils are seeking clarity about what climate change modelling scenarios should be included in the LIM and how this should be represented.

43. Local government representatives report varying levels of natural hazard knowledge and expertise across councils. Most natural hazard information is held by regional councils while many territorial authorities have few or no natural hazard technical experts. For these territorial authorities, it is difficult to access and interpret new natural hazard research and datasets from regional councils and central government.

44. If regional and national natural hazard information is missing from LIMs, this may lead LIM readers to conclude that there is no risk. This is a particular concern if information on the future impacts of climate change on natural hazards is not provided in a LIM.

LIMs are not effective at communicating natural hazard information

45. For most people, buying a property is the most significant investment decision in their lives and making decisions on a property is a costly process. It takes time, money and effort to gather, understand and analyse information when buying a house, and the LIM is only one document in the process that a buyer needs to review.

46. The natural hazard information in the LIM can be hard to find for users. LIMs are long documents, some are hundreds of pages in length, that cover a range of property matters. There is no consistent LIM layout across councils and some lack navigation tools such as a table of contents or page numbering.

47. It can be difficult for the public to understand technical natural hazard information, how it relates to a specific property, and the significance of the information for their decision-making. The presentation of natural hazard information in LIMs varies across councils, even within a region, and often lacks explanation and interpretation of the information.

Legal liability issues inhibit full disclosure of natural hazard information

48. The threat of legal action by property owners has contributed to some councils taking a cautious approach to what natural hazard information is included in a LIM and how that information is presented. Councils face legal actions both for failure to include information and for including information that may be considered misleading, not accurate or not fairly stated.

49. Property owners can take legal action against a council for negligent misstatement in a LIM. Legal actions against councils may increase as the impacts of climate change and natural hazards on properties become more apparent, particularly where LIMs did not include information on natural hazards and climate change impacts.
50. Property owners may also judicially review a council decision to include natural hazard information on a LIM, especially if there are concerns about impacts on property values. For example, on the Kāpiti Coast, property owners judicially reviewed the council’s decision to include coastal erosion prediction lines on LIMs.

51. Council concerns about potential legal action may impact what information is included in LIMs, the level of information provided, and how it is communicated. For example, councils may be reluctant to provide summaries, additional explanations, or risk assessments due to risks of legal action by property owners.

People face barriers to accessing and using a LIM

52. Due to the highly competitive property market, many property buyers may not obtain a LIM. LIMs can take up to 10 working days to be processed and a residential property LIM costs approximately $300 on average.

Proposed changes to improve natural hazard information disclosure in the LIM

53. I seek your approval for a package of changes to the LIM system to address the problems outlined in this paper and improve natural hazard information disclosure in the LIM:

53.1 a statutory responsibility for regional councils to provide natural hazard information and support to territorial authorities;

53.1.1 statutory requirements for natural hazard information in LGOIMA including;

53.1.2 a specific purpose for providing natural hazard information in LIMs;

53.1.3 an empowering provision to set national direction for natural hazard information in LIMs;

53.1.4 broader natural hazard information requirements in the LIM including information on district plans and held by regional councils; and

53.2 changes to reduce the negative impact of potential legal actions on councils sharing natural hazard information in the LIM by:

53.2.1 limiting legal liability for local authorities when natural hazard information is disclosed in good faith; and

53.2.2 clearer requirements for natural hazard information disclosure for local authorities.

54. This package of changes will improve the LIM system to ensure that the LIM provides natural hazard information to property buyers which is clear, concise, nationally consistent in its presentation and easily understood.

55. These changes will provide certainty for local authorities about the nature and type of natural hazard information that should be shared and reduce their exposure to legal liability.

56. Improving natural hazard disclosure in the LIM will help support buyers’ understanding of natural hazard risks, including from climate change impacts, and make informed property decisions. It may also help property buyers understand risks to a property that might have implications for the pricing and availability of insurance.
As a result of the package of changes, I consider that the LIM will be fit-for-purpose for current and future generations, will incorporate improvements in natural hazard data and information, and integrate with new hazard communication tools.

A statutory requirement for regional councils to provide natural hazard information and support to territorial authorities

Currently under LGOIMA, territorial authorities are solely responsible for providing natural hazard information in the LIM. However, this does not reflect natural hazard responsibilities in other statutes such as the RMA where both territorial authorities and regional councils have a duty to research and gather information about natural hazards.

Feedback from the local government sector indicates that regional councils are likely to have a greater level of natural hazard information and technical expertise than most territorial authorities.

I seek approval for an amendment to LGOIMA to provide for a statutory responsibility for regional councils to provide natural hazard information and support to territorial authorities.

This new responsibility would improve the natural hazard information in LIMs by ensuring that information held by regional councils is included. Territorial authorities would retain the sole responsibility for processing LIM applications but could also draw upon regional expertise to interpret technical data and improve explanations of natural hazard information in the LIM.

We consider that legislative change is necessary here to ensure a consistent approach is taken across regional councils in their support for territorial authorities. This approach is aligned with the proposed greater emphasis on territorial authorities and regional councils working together in the new resource management system.

Statutory requirements for natural hazard information and national direction under LGOIMA

I seek approval for legislative amendments to clearly specify the purpose of providing natural hazard information, provisions enabling national direction on LIMs, and broader information requirements.

National direction on LIMs would be delivered through a new power for the Minister of Local Government to prepare national direction on LIMs, similar to the current RMA process.

National direction under LGOIMA could potentially include:

65.1 principles and criteria for assessing whether and when natural hazard information should be included in a LIM;

65.2 clear definitions of key natural hazard terms;

65.3 requirements for communicating natural hazard information, e.g. appropriate explanations of hazard and risk, visuals and mapping, and discussion of data certainty;

65.4 requirements for the inclusion and presentation of data and information for key natural hazards e.g. flooding, coastal erosion, liquefaction;
65.5 requirements for the disclosure of climate change impacts on natural hazards, including communicating the magnitude, timing and level of certainty of these impacts; and

65.6 requirements for regional councils to provide information to territorial authorities for the natural hazard section of LIMs.

66. I consider that national direction is needed to help ensure councils take a consistent approach to the content and presentation of natural hazard information, including the impacts of climate change, in LIMs. This will help prospective property buyers to find and understand the natural hazard information in the LIM.

67. The requirements for LIMs under national direction under LGOIMA would need to align with any changes to the management of natural hazards under the resource management reforms.

68. Broader information requirements would ensure that key natural hazard information is included in the LIM including district plan information, regional council information (e.g. regional plans and regional policy statements, hazard mapping), and information held by national government agencies (e.g. EQC and the National Emergency Management Agency). Broader information requirements could be introduced through a combination of statutory amendment and national direction.

Reducing the negative impact of potential legal action on councils sharing natural hazard information in the LIM

69. The package of changes in this paper will help to address councils’ liability concerns for natural hazard disclosure. I am proposing an amendment to LGOIMA that would limit liability for councils when providing natural hazard information in the LIM in good faith. As a result, councils would have a good defence for any legal claim against a council for positively disclosing natural hazard information in LIMs.

70. Property owners could still take legal action against councils for failing to include natural hazard information in a LIM and an application for judicial review of a council’s LIM decisions could still be made.

71. Other proposals in this paper to include a purpose statement and develop national direction will also help reduce council liability risks by providing clearer requirements for natural hazard disclosure in LIMs.

72. These changes would reduce councils’ concerns about disclosing natural hazard information and providing greater explanation in the LIM. This would be particularly helpful for councils where natural hazard data is less certain, such as different scenarios for future climate change impacts on natural hazards.

73. The changes will also support councils to share better natural hazard risk information as it becomes available. The disclosure of natural hazard risk information, including climate change impacts, could in future lead to increased legal action by property owners without these changes to limit liability and increase certainty for councils.
National online hazard mapping tools will support the proposed changes to the LIM

74. Online hazard mapping is a powerful visual tool to explain risk which can be easily updated to include new data and information on natural hazards and climate change impacts. Online hazard mapping is also more accessible not only to property buyers but other groups in the community including property owners, Māori landowners, and renters. Local authorities, in particular most regional councils, have developed and continue to develop online hazard mapping tools for their communities.

75. EQC, as noted earlier in this paper, is in the early stages of developing an online hazard risk and resilience portal that will be rolled out to the public over the next five years.

76. I recommend, to support the proposed package to improve the LIM system, that Cabinet agree that officials work with relevant central government agencies, in particular EQC, to integrate the LIM system with proposed national online hazard mapping tools as they become available. For example, by ensuring LIMs incorporate relevant risk assessments and advice from these tools, and promote their use in buyer decision-making.

Longer term work to improve access to natural hazard information

77. Engagement on the LIM system has raised opportunities for longer term work to improve access to natural hazard information. Following the introduction of the proposed changes to the LIM system to improve the LIM as a natural hazard disclosure tool, I consider it necessary for officials to work on improving connections between natural hazard information in the LIM across the wider system.

78. This work would, in particular, progress options to reducing barriers for property buyers to access LIMs, including potentially requiring property vendors to provide LIMs for buyers, and improving access for Māori landowners to natural hazard information in the LIM.

Reducing barriers for property buyers to access LIMs

79. One remaining challenge for the LIM system is the time and cost barriers for property buyers to access a LIM. Although the LIM is an established due diligence document for property purchases, it is likely that the pressures of a competitive property market will continue to discourage some buyers from getting a LIM.

80. This issue could be addressed through regulatory changes to introduce legal requirements for property vendors to provide a LIM or disclose natural hazard information known about the property. Vendor disclosure is a requirement in other jurisdictions, for example in New South Wales where vendors are required to provide a planning certificate including natural hazard information.

81. New Zealand, however, has a different legislative system for property conveyancing. Careful consideration would be required about how compulsory disclosure would be enforced, as well as any potentially significant implications and unintended consequences for New Zealand’s property conveyancing system. Officials do not recommend progressing options to require property vendors to provide LIMs until after introduction of the proposed package of changes to improve natural hazard disclosure in the LIM system.
82. Non-regulatory options could also help to improve uptake of LIMs by purchasers, including public promotion of the LIM to prospective purchasers and key sectors in the property conveyancing system (e.g. property lawyers, financial lenders, and the insurance sector). Online hazard mapping tools, both regional and national, may also provide prospective purchasers, as well as the wider community, quick and free access to property level natural hazard information.

Improving access to natural hazard information for Māori landowners

83. Initial engagement by officials indicates that the LIM is not an appropriate tool for communicating natural hazard information related to whenua Māori to Māori landowners. Whānau and hapū landowners are unlikely to acquire a LIM as whenua Māori is generally transferred through succession under the rules of the Māori Land Court.

84. Māori landowners need access to information about natural hazards and the impacts of climate change to manage their current and future natural hazard risks. Māori have increased vulnerability to natural hazards as whenua Māori is often located close to the coast and in isolated areas.

85. After the introduction of the proposed package of changes to the LIM system, there is an opportunity for officials to work with Māori to identify tools to improve access to natural hazard information for Māori landowners.

Next steps on the proposed package of changes

86. If Cabinet approves the proposed package of changes, I will direct officials to undertake further consultation with local government, relevant central government agencies and stakeholders on the operation and implementation of the proposed changes to the LIM system. As part of consultation, officials will work with local government to identify options to support councils to implement the changes to the LIM system, including the level of guidance and technical support required.

87. Following consultation, I will work with the Parliamentary Counsel Office (PCO) to issue drafting instructions for amendments to LGOIMA by end of 2022.

Financial Implications

88. Budget funding for the Community Resilience work programme is currently $0.495 million per year until the end of financial year 2022/23. The LIM work comprises a significant proportion of the programme, with other components supporting resource management reform and input into the National Adaptation Plan.

89. Subject to legislative priorities, amendments to LGOIMA could be introduced by June 2023, including provisions for limiting council liability, broader requirements for natural hazard information, statutory responsibility for regional councils, and regulatory powers to set national direction.

90. However, implementation of national direction will require a further one to two years. I will seek further funding in Budget 2023/2024 to progress this work.

91. Based on feedback during engagement, it is likely that there will be additional costs for local authorities to implement the proposed changes compared to the status quo. This will include costs to territorial authorities for updating information systems for LIM processing and some additional coordination costs for regional councils’ new statutory role providing natural hazard information and support for LIMs.
92. However, proposed changes to limit potential liability for including natural hazard information in LIMs would likely create greater certainty and lower the legal costs for local authorities in the long-term.

Legislative Implications

93. The package of proposed changes to the LIM system will require a bill to amend LGOIMA. I will be seeking to include a bill to amend LGOIMA in the Legislation Programme for 2022, category 5 priority (instructions to be provided to the PCO in the year).

94. Officials will work with the PCO to draft legislative amendments to LGOIMA for introduction. I seek your authority to determine minor and technical issues in consultation with relevant portfolio Ministers where appropriate.

Impact Analysis

Regulatory Impact Statement

95. The Department of Internal Affairs’ Regulatory Impact Analysis (RIA) Panel (the Panel) has reviewed the Improving disclosure of natural hazard information in the land information memorandum system RIA in accordance with the quality assurance criteria set out in the CabGuide. The Panel considers that the information and analysis summarised in the RIA meets the quality assurance criteria.

Climate Implications of Policy Assessment

96. A Climate Implications of Policy Assessment is not required for this proposal.

Population Implications

97. There are no significant impacts from the proposals for changes in the LIM in this paper for specific population groups.

98. Engagement has raised that the LIM is focused on property buyers and so is not an appropriate natural hazard information tool for some population groups, in particular Māori landowners.

99. Officials’ consultation on legislative amendments and national direction under LGOIMA will also include engagement to identify opportunities for longer term work to improve access for different population groups.

Human Rights

100. There are no human rights implications arising from the proposals in this paper.

Consultation

101. The following agencies were consulted on the proposals in this paper: the Treasury; Te Puni Kōkiri; Te Arawhiti; Ministry for the Environment; Department of Conservation; Ministry of Business, Innovation and Employment; Ministry for Primary Industries; Toitū Te Whenua Land Information New Zealand; Statistics New Zealand; National Emergency Management Agency; Waka Kōtahi – New Zealand Transport Agency; the Ministry of Justice; Ministry of Housing and Urban Development; the Earthquake Commission; the Office of the Ombudsman; and the Real Estate Authority.

102. The Department of Prime Minister and Cabinet has been informed of the paper.
Communications

103. There are no communications planned for the content in this paper.

Proactive Release

104. I intend to proactively release this paper according to Cabinet Office Circular CO (18) 4: Proactive Release of Cabinet Material: Updated Requirements within 30 business days of Cabinet consideration. The paper will be subject to any redactions warranted under the Official Information Act 1982.

Recommendations

The Minister of Local Government, in association with Community Resilience Ministers, recommends that the Cabinet Economic Development Committee:

1. **Note** that individuals’ property decisions can have significant consequences for the level of natural hazard risk, including from climate change impacts, for individuals, their communities and the government.

2. **Note** that providing natural hazard information (including climate change impacts) is an essential step to helping individuals make informed property decisions and reduce their exposure to natural hazards.

3. **Note** that there are challenges for buyers’ understanding of natural hazard risk due to its complexity, gaps in data and information, and buyers’ competing priorities and cognitive biases.

4. **Note** that the LIM is a key tool for providing property information, including natural hazard information, to prospective buyers to support their decision making.

5. **Approve** the proposed package of changes to the LIM system to address the key challenges with the LIM outlined in this paper and improve natural hazard information disclosure in the LIM.

6. **Agree** to amend the Local Government Official Information and Meetings Act 1987 (LGOIMA) to introduce provisions for:

   6.1 a statutory responsibility for regional councils to provide natural hazard information and support to territorial authorities;

   6.2 a specific purpose for providing natural hazard information in LIMs;

   6.3 a regulatory power to set national direction under LGOIMA for natural hazard information, including climate change impact information, in LIMs;

   6.4 broader natural hazard information requirements in the LIM including information on district plans and held by regional councils;

   6.5 limiting legal liability for local authorities when natural hazard information is disclosed in good faith; and

   6.6 clearer requirements for natural hazard information disclosure for local authorities.

7. **Direct** officials to work with relevant central government agencies to integrate the LIM system with proposed national online hazard mapping tools as they become available.
8. **Direct** officials to undertake further consultation with local government, relevant central government agencies and relevant stakeholders on the operation and implementation of the package of changes to the LIM system.

9. **Direct** officials to work with the Parliamentary Council Office to issue drafting instructions for amendments to LGOIMA after consultation on the operation and implementation of the package of changes.

10. **Authorise** the Minister of Local Government to determine minor and technical issues in consultation with relevant portfolio Ministers where appropriate.

11. **Direct** officials to progress options to connect natural hazard information in the LIM across the wider system, including potentially requiring property vendors to provide LIMs to buyers, after the introduction of legislative amendments to LGOIMA to improve natural hazard information disclosure in the LIM.

Authorised for lodgement

Hon Nanaia Mahuta

Minister of Local Government
Appendix A: The basic components of natural hazard risk

<table>
<thead>
<tr>
<th>The basic components of natural hazard risk</th>
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<tbody>
<tr>
<td>Natural hazard risk is commonly expressed as risk = hazard x (exposure x vulnerability). The hazard occurs where natural events impact human life and property. Risk also involves consideration of the consequences or impacts of a hazard event and the likelihood that it might occur.</td>
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</tbody>
</table>

**Hazard** – A process, phenomenon or human activity that may cause loss of life, injury or other health impacts, property damage, social and economic disruption or environmental degradation.

**Vulnerability** – The conditions determined by physical, social, economic and environmental factors or processes which increase the susceptibility of an individual, a community, assets or systems to the impacts of hazards.

**Exposure** – People, infrastructure, buildings, the economy, and other assets that are exposed to a hazard.