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Governance and Administration Committee
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Tēnā koe

Waikato Regional Council Submission on the Local Government Official Information Amendment (LGOIMA) Bill

Thank you for the opportunity to provide comment on the Local Government Official Information Amendment (LGOIMA) Bill. Please find attached the Waikato Regional Council's submission, endorsed by the submissions subcommittee on 1 February 2023.

Should you have any queries regarding the content of this document please contact Alejandro Cifuentes, Team Leader, Policy Implementation directly on (07) 859 2786 or by email Alejandro.Cifuentes@waikatoregion.govt.nz.

Ngā mihi,

A handwritten signature in black ink, appearing to read "Tracey May". The signature is fluid and cursive, with a large loop at the end.

Tracey May
Director Science, Policy and Information

Submission from Waikato Regional Council on the Local Government Official Information Amendment (LGOIMA) Bill

Introduction

1. We appreciate the opportunity to make a submission on the LGOIMA Amendment Bill (the Bill), and support the changes being made to introduce clearer requirements to provide natural hazard information in Land Information Memoranda (LIM) reports – including the impacts of climate change.
2. The Waikato Regional Council (the Council) recognises the importance of providing information about natural hazards and associated risks to our communities, and supports provisions aimed at improving the information provided in a LIM and ensuring a more collaborative approach to information sharing between regional and district councils. The Council is already working closely with the region's territorial authorities (TAs) to share information through the Waikato Regional Hazards Portal¹ (the portal). Further, we note that the TAs within the Waikato region already include a link to the portal and a note in their LIM reports to request further information from the Council on natural hazards and risk.
3. The Council notes that the Bill process is occurring concurrently with the changes to the resource management system being discussed by the Environment Select Committee. We strongly encourage the Governance and Administration Committee to work in understanding how the amendments suggested by the Bill will be affected by the Bills seeking to repeal and replace the Resource Management Act 1991.
4. Our submission provides comment on specific clauses, noted in the table attached at the end of this document, and can be summarised as follows:
 - a. Regulations related to LIM reports need to be prepared in close consultation with councils across the country. The regulations must take into account existing work and information sharing arrangement between districts and regional councils and avoid negatively affecting existing investment made by local government authorities.
 - b. The Bill needs to be more explicit about the existence of residual risk.
 - c. There is uncertainty about whether constructed responses to natural hazards that create a risk (i.e. dams) should be included in LIM reports.
 - d. We support the protection of TAs and regional councils against liability when information is provided in good faith.
5. We look forward to further participating in the process to incorporate the proposed amendments into relevant statutes and would welcome the opportunity to comment on any issues explored during their development.

Submitter details

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¹ <https://www.waikatoregion.govt.nz/services/regional-hazards-and-emergency-management/regional-hazards-portal/>

Provision <i>The specific provisions that my submission relates to e.g., section, clause, provision number, map number</i>	Support/ Oppose/Amend	Reasons <i>Why are we seeking this action?</i>	Relief Sought <i>What decision are you seeking from Council? What action would you like (e.g. retain, amend, add, delete)?</i> Text that is shown as <u>underlined</u> is proposed to be added. Text shown with strikethrough formatting is proposed to be deleted.
Clause 7 – Section 44A amended (Land information memorandum)	Amend	The definition of natural hazard might exclude the hazards created by man-made structures. It is important that the Bill provides for the identification of hazards and risks associated with man-made structures. We advocate for including the hazards and risks associated with dams due to the role that regional councils have as consenting authorities under the Building Act 2004. However, we note that other man-made structures can divert hazards into different areas (e.g. some roads in some ways act as dams). We recommend that the select committee addresses the uncertainty where constructed responses to natural hazards could in themselves create or redirect hazards (and whether this is considered a natural hazard or should be defined in another way).	Replace section 44A(2)(a) with: (a) the information about natural hazards that is required by section 44B: (ab) information about other special features or characteristics of the land concerned, including information about the likely presence of hazardous contaminants, that— (i) is known to the territorial authority; but (ii) is not apparent from a district plan under the Resource Management Act 1991: <u>(ac) information about hazards and risks associated with dams as defined in section 7(1) of the Building Act 2004:</u>
Clause 8 – New section 44B inserted – 44B Natural hazard information to be included in land information memoranda	Amend	Natural hazard risks are often mitigated by structures. However, there is a risk associated with existing natural hazard structural defences such as stopbanks and seawalls, which includes the risk of failure of a defence or of a greater than design event occurring. Information contained in LIM reports should include residual risks.	44B Natural hazard information to be included in land information memoranda (1) The purpose of this section is to ensure that land information memoranda contain understandable information about the following in relation to land: (a) natural hazards: (b) impacts of climate change that exacerbate natural hazards. (2) A land information memorandum must include—

		<p>Further, we recommend noting relevant Civil Defence and Emergency Management plans. This will increase people’s awareness of the Civil Defence services that exist in case of a hazard event. This will enhance a community’s resilience, providing a wraparound, holistic approach, as it is important to understand the hazard, the risks and what to do in an event.</p>	<p>(a) the following information, to the extent that it is known to the territorial authority:</p> <p>(i) information about each hazard or impact that affects the land concerned:</p> <p>(ii) information about each potential hazard or impact, to the extent that the authority is satisfied that there is a reasonable possibility that the hazard or impact may affect the land concerned (whether now or in the future):</p> <p>(iii) information about the cumulative or combined effects of those hazards or impacts on the land concerned:</p> <p><u>(iv) information about the existence of residual risks on the land concerned:</u></p> <p><u>(iv) information about the existence of Civil Defence and Emergency Management plans associated to communities located on the land concerned; and</u></p>
Clause 4 – Section 2 amended (Interpretation)	Amend	We suggest adding a definition of residual risk as a consequential amendment to our request to amend new section 44B as outlined above.	<p>Add definition of residual risk as follows:</p> <p><u>Residual risk – the risk associated with existing natural hazard structural defences such as stopbanks and seawalls, including the risk of failure of a defence or of a greater than design event occurring.</u></p>
Clause 8 – New section 44D inserted – 44D Territorial authority and regional council protected against certain actions when providing information in good faith	Support	We support enabling local government authorities to provide information to communities about the natural hazards and risks associated with different areas. Legal challenges to councils’ decisions about information on LIM reports has resulted in inconsistent approaches to the provision of natural hazards information, which limits our ability to ensure the wellbeing and increase resilience of our communities and the ability of prospective landowners to make better informed decisions.	None
Clause 9 – Section 55 amended (Regulations)	Amend	The regulations relating to the format in which regional councils must summarise and present	After section 55(1), insert:

		<p>the information need to be prepared in close consultation with councils across the country. The regulations must take into account existing work and information sharing arrangements between districts and regional councils and avoid negatively affecting existing investment made by local government authorities. The most effective way to ensure that the input from local government authorities is properly considered is to include a legislative requirement for the Minister to consult with them.</p>	<p>(1A) The Minister must not recommend that regulations be made for the purposes of Part 6A unless they have consulted with <u>district and regional councils</u> and the persons or organisations that the Minister considers appropriate to consult.</p>
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