

26 January 2023

Committee Secretariat  
Governance and Administration Committee  
Parliament Buildings  
Wellington  
[ga@parliament.govt.nz](mailto:ga@parliament.govt.nz)

Name: Mayor James Denyer  
Organisation: Western Bay of Plenty District Council  
Postal address: Private Bag 12803, Tauranga 3143  
Phone: 0800 926 732  
Email address: [tony.clow@westernbay.govt.nz](mailto:tony.clow@westernbay.govt.nz)

Dear Sir/Madam

**Western Bay of Plenty District Council submission to the Local Government  
Official Information and Meetings Amendment Bill**

We appreciate the opportunity to make a submission on the Local Government Official Information and Meetings Amendment Bill. We have read the Bill and reviewed the background information on the New Zealand Parliament website.

Council is generally supportive of the proposed changes to how natural hazard information must be provided in land information memoranda (LIMs). These requirements are largely consistent with how Council already provides information in LIMs about natural hazards and the effects of climate change. However, we note that some requirements are not entirely clear and need clarification as requested in our specific submission points under the headings further below.

We also support the introduction of a statutory responsibility for regional councils to provide natural hazard information to territorial authorities. Regional councils often hold information which is not held by territorial authorities. While in many cases this information is freely provided to and summarised for territorial authorities, there may also be times where it is not passed on. However, because

this information may still be of relevance to those considering the purchase of a property, it would be helpful to formalise the process of passing on and explaining such information to territorial authorities for the purpose of LIMs.

Council also welcomes the proposed changes that protect territorial authorities and regional councils from civil or criminal proceedings when disclosing natural hazards information in good faith. The natural hazard assessments supporting the creation of susceptibility maps are often very technical and complex. Council staff are typically not the technical experts and do their best to summarise and fairly represent the methodology, limitations and findings of the assessments under the guidance of those who are the technical experts.

### **The meaning of impact/s**

In Clause 44B(1)(b), LIMs are required to contain information about the “impact of climate change that exacerbate natural hazards”. This is understood to mean how climate change may affect a natural hazard such as more intense rainfall and/or sea level rise increasing susceptibility to flooding. However, it’s not clear whether the use of the term “impact” means the same in Clauses 44B(2)(i) – (iii) below.

- (i) information about each hazard or impact that affects the land concerned:
- (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):
- (iii) information about the cumulative or combined effects of those hazards or impacts on the land concerned; and

If the use of the term “impact” is intended to mean the “impact of climate change that exacerbate natural hazards” in these clauses, this needs to be clear either by defining the term or making the full reference each time. Otherwise, it could be interpreted to mean how specific natural hazards impact a property e.g., loss of land or damage to buildings. If so, Council staff may attempt to speculate about what may happen if the natural hazard occurred on the land concerned. The ambiguity may also lead customers to expect a more detailed explanation of how the land may be affected than what may have been intended by the Bill.

### **The meaning of cumulative and combined effects**

Clause 44B(2)(iii) requires territorial authorities to explain the “cumulative or combined effects of those hazards or impacts on the land concerned”. However, it is not clear what “effects” means and how they differ from “impacts” (unless impacts are intended to mean the “impact of climate change that exacerbate

natural hazards”). Further, it is not apparent what is meant by “cumulative” or “combined” in this particular case. This leaves territorial authorities needing to determine what may have been intended. One possible interpretation is the need to provide information from studies investigating multiple hazards occurring at the same time e.g., simultaneous flooding and coastal inundation events. It’s important for the terms in this clause to be defined or better explained to avoid confusion.

### **Regional councils providing information to territorial authorities**

The Bill does not specify whether or not regional councils would be able to charge territorial authorities for the provision of natural hazards information to recover their own costs or for any other reason. Council is therefore concerned that this may be seen as a possibility. We would be strongly opposed if it was. This information should be passed on freely without the need for payment.

Both territorial authorities and regional councils carry out natural hazards research (in accordance with their functions and responsibilities) and for many reasons need to share it with each other e.g., for consents and projects. The purpose of this Bill is to ensure that natural hazards information is made available to those wishing to purchase property and this should be able to happen without the need for further agreement. We would ask that it is made clear that regional councils would not be able to charge for providing information about natural hazards.

### **As soon as is reasonably practicable in the circumstances**

Regional councils are given flexibility in terms of when they must provide territorial authorities with information about natural hazards once they hold it (as soon as is reasonably practicable in the circumstances). This flexibility is needed because it does take time to ensure that information is accurate and clearly communicated to territorial authorities. It also needs to be readily usable by territorial authorities once they receive it e.g., GIS files that are in the right format and clearly labelled so that the maps can be easily added to GIS viewers.

Territorial authorities should also have this same flexibility when getting information ready to be provided within LIMs. Territorial authorities also need time to ensure that their information is accurate and clearly communicated to their customers. This is especially so when the territorial authority has commissioned a natural hazard assessment themselves. However, it would also be the case when they receive information from a regional council even if summarised as it may take time to understand that information and decide how to communicate it and make it available. There are also other practical considerations like the time it takes to

ensure that automated LIM processes are able to retrieve the correct summaries and maps concerning the natural hazards for a particular property.

To provide for this flexibility, Clause 44B(2)(a) could be reworded as follows:

*"A land information memorandum must include, as soon as is reasonably practicable in the circumstances, the following information..."*

### **Information which is not apparent from a District Plan**

In the Local Government Official Information and Meetings Act, territorial authorities are currently only required to provide information in LIMs about special features or characteristics of land (which includes natural hazards) *"where it is not apparent from ... a District Plan"*. However, in the Bill, natural hazards have been separated from special features and characteristics and as a result this exemption would no longer apply to natural hazards. Is it intentional that information about natural hazards which is already in a District Plan should need to be repeated in a LIM when the same is not required for the other special features and characteristics?

We do not wish to speak to our submission however we are more than happy to discuss any matters for clarification.

Yours sincerely,

A handwritten signature in black ink that reads "James Denyer". The signature is written in a cursive, slightly slanted style.

James Denyer

**Mayor**

Western Bay of Plenty District Council