

## Local Authority fails to include relevant information on a Land Information Memorandum

<b>Legislation</b>	Ombudsmen Act 1975, Local Government Official Information and Meetings Act 1987
<b>Agency</b>	Local Authority
<b>Ombudsman</b>	Leo Donnelly
<b>Case number(s)</b>	424585 (previously unpublished)
<b>Date</b>	2018

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*Local Authority omits to identify potential slippage risk on a Land Information Memorandum (LIM) issued to the complainant—Ombudsman sustains complaint*

The complainant purchased a property in 2013, having obtained a Land Information Memorandum from the Council prior to doing so. In 2014, when the complainant later submitted an application for a building consent, he was advised by the Council that his property was subject to slippage. The LIM issued by the Council for the property had not identified any potential slippage, although it had identified a liquefaction hazard.

The building consent was eventually granted, however the complainant made a complaint to the Ombudsman that the omission of this information from the LIM was unreasonable, as he had purchased the property in reliance on it.

The Ombudsman was advised by the Council that the LIM contained sufficient information to alert the complainant to the potential for slippage by reference to the District Plan provisions and an attached letter from the engineer about the original sub-division. The Ombudsman considered that as the Council was plainly aware of the potential slippage risk it should have been explicitly mentioned on the LIM itself. Section 44A(2)(a) of the Local Government Official Information and Meetings Act 1987 requires Councils to include information in a LIM identifying special features or characteristics of the land that is known to the Council. The Ombudsman noted that the High Court has made it clear, in cases such as *Altimarloch Joint Venture LTD v Moorehouse* HC 2008 and subsequently *Marlborough District Council v*

*Altimarloch Joint Venture Ltd* [2012 NZSC 11], that there is a relatively low threshold for the identification of potential risk.

The Ombudsman concluded that the Council had acted unreasonably and recommended that the Council review the matter and consider reimbursement of the cost of the LIM. The Council agreed to refund the cost of the LIM to the complainant and to review its processes concerning LIM reports.

*This case note is published under the authority of the [Ombudsmen Rules 1989](#). It sets out an Ombudsman's view on the facts of a particular case. It should not be taken as establishing any legal precedent that would bind an Ombudsman in future.*