

## CONFIDENTIAL: Recovery Coordination Office Update on Cost Share Negotiations with Treasury

File No.: CP2023/10180

Item C1

### Matatapuanga Confidentiality

<b>Reason:</b>	The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.
<b>Interests:</b>	s7(2)(i) - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).  In particular, the report contains information that could affect negotiations with Treasury over the Future of Severely Affected Land process
<b>Grounds:</b>	s48(1)(a)  The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.

### Te take mō te pūrongo Purpose of the report

1. To:
  - i) agree in principle that the council will participate in the voluntary buy out scheme proposed by the Crown and consider the basis for this participation.
  - ii) establish negotiating parameters for cost-sharing negotiations with the Treasury.

### Whakarāpopototanga matua Executive summary

2. Auckland has experienced multiple extreme weather events since January 2023. Many Aucklanders with damaged homes still face a challenging and uncertain future.
3. The government announced it will enter into funding agreements with councils in cyclone and flood affected regions to support them to offer voluntary buy-out for owners of high-risk (Category 3) properties and to co-fund work needed to protect properties where risk can be managed (Category 2).
4. Weekly discussions with the Treasury have progressed since the announcement about the Category 3 Future of Severely Affected Land (FOSAL) proposal. Both Auckland Council and the government are resolved to consider practical and sustainable support for affected communities.
5. As foreshadowed at the 22 June Governing Body, Auckland Council needs to establish its commitment to participating in the Crown proposal and its negotiating position, grounded in the purpose and principles that govern its function as a local authority, and the outcomes that it wants to see for Aucklanders.
6. The council's policy position has, up to this point, been that it is not a guarantor of private property interests and is not responsible for compensating landowners for loss due to severe weather or natural disasters.

Item C1

7. There are a number of risks that could arise in the absence of an agreement with the Crown. The Crown could take a unilateral approach to determining its contribution to Auckland's recovery and leave Auckland Council to manage any further public expectations. This could also result in delays to buy-outs and necessary investment in more resilient infrastructure.
8. **Officers are proposing a negotiating position that emphasises:**
  - An in-principle agreement to support and contribute to buyouts for properties that are not safe for residential use, as part of a broader program of work to make the region more resilient
  - No negative precedent-setting effect
  - Creating a robust national scheme for future natural hazard events to sustainably and equitably share costs across communities and generations, and reduce moral hazard and unfunded wealth transfer
  - Limiting Auckland Council's immediate and on-going financial exposure
  - Establishing a cost-sharing approach that is affordable for Auckland, understanding that within that, options like a local targeted rate will inherently affect some Aucklanders more than others
9. It is difficult to advise on what might be required to satisfy Local Government Act 2002 consultation and process requirements without a clear understanding of the size of Auckland Council's financial contribution and the timing of any expenditure. It may be possible for Auckland Council to obtain an exemption from legislative consultation and process requirements through an Order in Council made under the Severe Weather Emergency Recovery Legislation Act 2023. Regardless of whether the Council can obtain such an exemption, Council will need to consider whether this matter is one in respect of which it wishes to obtain the views of its communities through consultation. Any consultation may, however, delay further decisions and implementation in relation to the voluntary buy out scheme.
10. Given the current status of both the property assessments and the planning for infrastructure to reduce future risks the total costs related to the storm events is highly uncertain. It is estimated, however, that this total (including recovery of council assets and services, improved community resilience, improved physical resilience (Category 2), Category 3 buy-outs, and 10 years of on-going operational costs) could be as high as \$4 billion.
11. **Like many negotiations, over-prescription of the mandate for the negotiating team can be problematic. For this reason, guidance is framed as guiding principles. The Governing Body has reassurance and safeguard that any negotiation outcome is required to be formally endorsed at a further meeting.**

## Ngā tūtohunga Recommendation/s

That the Governing Body:

- a) tuhi ā-taipitopito / note progress with the negotiations held with the Crown over the Future of Severely Affected Land.
- b) whakaae / agree that Auckland Council will participate in the voluntary buy-out process proposed by the Crown, noting that:
  - i) Auckland Council is not a guarantor of private property interests or an insurer of last resort;
  - ii) Auckland Council has no legal obligation or general liability in relation to the impacts of the weather events;
  - iii) The Crown announced their proposal to be locally-led and centrally-supported without an agreement from Auckland Council;
  - iv) The design and administration of buy-outs is complex and risks creating new, unfunded, mandates for Auckland Council;
  - v) Specific parameters of our participation are outlined below and continue to be finalised through the negotiation process.
- c) whakaae / agree the following negotiating principles to the Crown process for the Future of Severely Affected Land:
  - i) The arrangement does not set a negative precedent for the role Auckland Council plays in future natural hazard events, which means:
    - A) An explicit acknowledgment that the council contribution to buy-outs in this case is one-off and limited, and does not represent an in-principle agreement to meet similar costs in the future.
    - B) The Crown agrees to develop, with input from local government and opposition parties, a national funding scheme for future natural hazard events, similar to the Earthquake Commission model.
  - ii) The arrangement deals with funding arrangement for Category 2C and 2P (community-level and property level) work, including the council's Making Space for Water initiatives, so the full cost is managed holistically.
  - iii) A simple 50:50 cost share of Category 3 properties, as proposed by the Crown, is not acceptable to Auckland Council without a substantial Crown commitment to co-fund recovery and other resilience work (e.g. as part of the council's Making Space for Water initiatives).
  - iv) Auckland Council's financial exposure must be limited through:
    - A) Tight definition of categories and eligibility, and of the event itself,
    - B) Appropriate risk and cost-sharing of whole-of-life costs with property owners, the Crown, local government, and the banking and insurance sectors,
    - C) A scheme design that minimises moral hazard and considers the extent to which landowners may have taken on knowable risks.
- d) whakaae / approve the lead negotiator to work within the principles above and report back to the Governing Body for decisions.

### Restatement

- e) whakaae / agree that the decisions, report and any attachment remain confidential until the need for confidentiality no longer exists.

Item C1

## Horopaki Context

Item C1

12. Auckland has experienced multiple extreme weather events since January 2023. These have caused flooding and land instability throughout the region, with a devastating and lasting impact on many communities and individuals. Many thousands of homes and businesses have been affected. Some Aucklanders are still unable to access their homes, rental properties, or businesses.
13. A Recovery Office was established to respond to the storm events of early 2023. Its function is to coordinate regional recovery efforts across the Auckland Council group, New Zealand Government, and other partners. Planned recovery efforts were presented in the Tāmaki Makaurau Recovery Plan to the Governing Body in June 2023.
14. One of the first priorities for the Recovery Plan is supporting Aucklanders impacted by severe weather.

### Central government's process to date

15. Central government has made a number of public announcements and direct communications to Auckland Council that frame how relief for affected properties is expected to be delivered. Central government has:
  - a) Announced a risk categorisation framework for affected properties, which includes three categories based on future risk for the property (May 2023, see Attachment A).
  - b) Announced its intent to develop a cost sharing agreement between Central and Local Government for Category 3 property buyouts (letter to Auckland Council 19 June 2023, see Attachment B).
  - c) Confirmed Ministers' preference for a locally led approach, supported from the centre, and that this requires costs to be shared (letter to Auckland Council, 28 June 2023, see Attachment C).
  - d) Announced that the government will share the costs of the work needed to protect Category 2 designated properties, where the risk can be managed through community or property-level interventions (Media release from Minister Grant Robertson, 30 June 2023, see Attachment D).
  - e) **Proposed to widen discussions with Auckland Council across a number of parallel streams**, namely category 3 buyout design and operations; category 3 cost sharing; category 2 cost sharing; and affordability (letter to Auckland Council, 28 June 2023).
16. Treasury had also indicated that it will continue to focus on early resolution of Category 3 buyouts and proposed an objective of council officials providing advice for decisions to governing bodies by 21 July, followed by community consultation. Treasury recognised that this would rely on making significant progress in the parallel workstreams and as a next step suggested a meeting to discuss the revised approach set out in their letter, with particular attention on agreeing the focus and scope for each stream. **The second letter from Treasury is included as Attachment C. Discussions with officials have emphasised the need for a "leap of faith", quickly agreeing the high-level approach and then working together to resolve the detail.**
17. As noted in the 22 June 2023 Governing Body report, the Crown is making clear its position that local government is responsible for managing, funding and financing natural hazard risk reduction, and on that basis local government should bear at least part of the costs of voluntary buyouts. **The Crown considers that Auckland is in a position to afford greater costs and cost share than Tairāwhiti and the Hawkes Bay. It is also positioning councils as the accountable agent for administration of any response, stating that local government will be responsible for the categorisation decisions and the buy-out process. By publicly announcing the risk categorisation framework and the voluntary buy-out option for Category 3 properties, the Crown has set expectations, and the agenda for negotiations, prior to any agreement with local government.**

## Auckland Council's engagement to date

18. Auckland Council has, to date, made no commitment to the co-funded buyout process. The council's position remains:
  - Auckland Council is not a guarantor of private property interests and is not responsible for compensating landowners for loss due to severe weather or natural disasters.
  - Auckland Council takes a financially prudent and equitable approach as required by legislation.
  - There should be no unfunded mandates placed on the council. Any increase in local government costs should be funded, or new funding streams established that are adequate to meet the scale and impact of new costs across communities and generations.
  - Cost allocations are guided by clear principles and include eligibility criteria that set out what will and will not be funded.
  - Any funding contribution from Auckland Council will likely require consultation to amend the Long-term Plan.
  - There are credit rating and NZX disclosure requirements that must be considered.
19. **There is a risk that the Crown may take a unilateral approach to determining its contribution to Auckland's recovery and leave Auckland Council to manage any further public expectations.**
20. Aligned with the 22 June 2023 Governing Body resolutions, the delegated staff have had a number of engagements with the Treasury:
  - On 23 June 2023 (the first engagement), the Treasury offered a 50% cost share of Category 3 costs.
  - **On 30 June 2023, it was agreed that the negotiating teams will have weekly Auckland Anchor Day meetings, commencing from 6 July 2023.**
  - **On 6 July 2023, discussions reached an impasse, and it was agreed that the Auckland Council Team would consider a different approach to try and progress negotiations.**
  - On 7 July 2023 the staff decided that, to progress negotiations with Treasury, they needed a combined estimate of the total costs to Auckland associated with not only the FOSAL programme but all flood and cyclone effects

## Tātaritanga me ngā tohutohu Analysis and advice

### Reasons for our participation in the Crown's voluntary buy-out proposal

21. The Crown considers that local government should be part of the solution due to our legislative functions.
22. The way in which the Crown has chosen to develop and announce the proposal, without discussion with Auckland Council, has created a difficult situation. Staff advice has been consistent that Auckland Council is not an insurer of last resort, nor has any legal obligation or general liability in relation to the impacts of the severe weather events.
23. It is important to recognise, however, that the 2023 storm events have impacted Auckland and Aucklanders to a level that requires careful consideration of the council's role.
24. The council has a role in managing natural hazards and improving Auckland's resilience to severe weather. This includes a range of tools, including education, and community-level intervention.



Item C1

25. In a small number of cases, land cannot be made safe for residential use – and some form of managed retreat is appropriate to address that risk, avoid unnecessary loss of life and the, otherwise severe, consequences of an unmanaged retreat scenario.
26. Communities expect us to support them when effects are more than can be managed by an individual and we may feel that it is “the right thing to do” given the severity of the events even though we have no legal obligation or liability.
27. Retreat may also be more cost effective and efficient for us and the community in the long-term as asset providers rather than consistently having to restore/fix assets after weather events.
28. The Crown has proposed a cost share that will support Aucklanders in need. The council could agree to this in exchange for Crown support for the broader resilience and recovery programme.
29. There is an overlap between the properties that would be purchased as part of the buy-out proposal, and the properties that the Council wishes to purchase as part of the Making Space for Water initiative. The Council’s participation in a buy-out scheme is a way to secure Crown financial support for those purchases.
30. There is some international precedent for local contribution to buy-out schemes. Tairāwhiti and Hawkes Bay are also engaging with the government on this process and an aligned approach will limit reputational risk.
31. There are risks of not reaching agreement with the Crown. The Crown could take a unilateral approach to determining its contribution to Auckland’s recovery and leave Auckland Council to manage any further public expectations. This could also result in delays to buy-outs and necessary investment in more resilient infrastructure.
32. Overall collaboration with the Crown on storm recovery investment is expected to be positive for Auckland. It is therefore recommended that the council agree to participate in the Crown’s voluntary buy-out proposal and to provide staff with negotiating principles to guide our final position.

### Developing a principled response to Treasury’s negotiating position

33. While there is strong pressure for the council to come to the negotiating table, and to do so quickly, there is also a need for the council to develop a principled basis for negotiations, grounded in the purpose and principles that govern its function as a local authority, and the outcomes that it wants to see.
34. Section 10 of the LGA defines the purpose of local government as being to enable democratic local decision-making by and on behalf of communities and to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future. Auckland Council is also required to act in accordance with the principles of local government which, among other things, require the council to make itself aware of and have regard to the views of all of its communities and to ensure prudent stewardship and the efficient and effective use of its resources in the interests of the region.
35. Staff have considered the implications of partnering with central government in the proposed co-funding arrangement, and propose a negotiating position that emphasises:
  - No negative precedent-setting effect
  - Creating a robust national scheme for future natural hazard events to sustainably and equitably share costs across communities and generations, and reduce moral hazard and unfunded wealth transfer
  - Limiting Auckland Council’s financial exposure.

***No negative precedent-setting effect***

36. Partnership with government should not create a precedent that negatively impacts the council's current role or legal liability for damage arising from natural hazards.
37. Auckland Council accepts no general legal liability for damage arising solely from natural hazards and therefore is not legally obliged to purchase or remediate properties.
38. Our current public position is that the council is not a guarantor of private property interests, and we are generally not responsible for compensating landowners in case of loss due to any severe weather event or natural disaster.
39. Auckland Council is clear that it is not an insurer of first or last resort. It offers no service and collects no ratepayer funding for this purpose.
40. The council needs to be careful about committing to unquantifiable future financial liabilities or creating community expectations of future funding support in the aftermath of future severe weather events. It needs to be considered whether participating in government's proposal has any effect on such expectations.
41. Overall, officials consider that a negotiation with the Crown can be landed so as to minimise the risk of negative precedent.

***Creating a robust national funding scheme to sustainably and equitably share costs across communities and generations, and reduce moral hazard and unfunded wealth transfer***

42. Partnership with government should not occur on an ad-hoc, event-by-event basis. The creation of a national hazard response scheme with local government input needs to be agreed.
43. This year's extreme weather events have highlighted the urgent need for a national hazard response scheme. The increasing frequency and severity of climate-based weather shocks will continue to impact private property and community interests beyond the scope of current insurance coverage.
44. It is untenable to continue to respond to such events on an ad-hoc basis, with no funding source or prescribed limits. It has the potential to encourage moral hazard, where land purchasers and landowners change their risk assessment and decisions. It may also load costs onto future generations.
45. A national scheme could ensure the support for affected communities, and the associated costs, are equitably and sustainably distributed. Extended EQC coverage would be one way to deliver this.

***Limiting Auckland Council's financial exposure***

46. Partnership with government on funding must not expose Auckland Council to unquantified and unfunded financial commitments, including potentially unquantifiable future financial commitments.
47. Understanding the scope and eligibility criteria of the government proposal is a pre-requisite for an informed financial decision. This includes ensuring that funding contributions do not undermine current legal liability for damage arising solely from natural hazards.
48. Auckland Council's financial exposure must be limited through:
  - Tight definition of categories and eligibility, and of the event itself,
  - Appropriate risk and cost-sharing with property owners, the Crown, local government, and the banking and insurance sectors.

49. Consideration should also be given to the importance of minimising any moral hazard and the extent to which landowners may have taken on knowable risks. Any approach adopted in this respect must be reasonable, capable of responding to individual circumstances and will require careful legal review.
50. Establishing Auckland Council as the entity responsible for administering all aspects of the buyout process would establish a new, as-yet unfunded mandate for the council. Auckland Council cannot afford any new unfunded mandates. This is also inconsistent with international precedent, which generally involves leadership by national or state level government.
51. Managing the administration of any buy-outs may increase the council's financial exposure and reputational risk, as well as setting expectations for future similar events. Details need to be resolved, including questions of site eligibility, valuation processes, dispute resolution, the acquisition process and timeframe expectation, title amalgamation, future legal and financial liability, and the continued availability of central government funding support for future costs.

### Establishing a cost-sharing approach that is affordable and equitable for Aucklanders

52. Partnership with government should not be unaffordable for Aucklanders and must carefully consider the balance of where benefits and costs will accrue. The proposed partnership needs to take account of, and share costs for, repairs and risk-reduction improvements to community infrastructure as well as high-risk private properties.
53. Affordability – people's ability to pay – is an important funding principle in Auckland Council's Revenue and Financing Policy. If the council agrees to co-funding, the cost will be borne by some or all ratepayers. Funding decisions need to be taken in the current context of a cost of living crisis, and a 13 per cent baseline rates rise next year prior to LTP decision-making.
54. The council is funding substantial community infrastructure which must be considered as part of the overall recovery cost. Storm recovery and resilience for council's existing services and assets is already generating a cost burden to ratepayers, estimated to be in the order of \$900 million to \$1.2 billion (NZX release 15 March 2023). Both capital and operational budgets have been refocused towards recovery, meaning other planned investment in community infrastructure and services has been deferred.
55. Aucklanders have also agreed to an additional \$20 million per annum Storm Recovery Fund which increased rates by an additional 1 per cent from 2023/2024.
56. Auckland Council does not generally use public funds for private property interests to the extent envisaged by the Crown's proposal – where public wealth is transferred to private wealth. Legislation requires careful balancing of public and private benefit.
57. With thousands of properties at risk of flooding and other natural hazards, the council cannot safeguard all properties from risk. The costs of addressing all these risks are above any one party's ability to pay.
58. Given the current status of both the property assessments and the planning for infrastructure to reduce future risks the total costs related to the storm events is highly uncertain. It is estimated, however, that this total (including recovery of council assets and services, improved community resilience, improved physical resilience (Category 2), Category 3 buy-outs, and on-going operational costs) could be as high as \$4 billion.
59. All parties involved should be stepping up to share costs across the impacts of recent extreme weather events - including owners, government, the council, insurers, and banks. Many of these parties receive specific funding for private property interests, or have more flexible funding tools than the council.



60. A simple 50:50 cost share of Category 3 properties, as proposed by the Crown, should not be acceptable to Auckland Council without a substantial Crown commitment to co-fund recovery and other resilience work (eg as part of the council's Making Space for Water initiatives).

### Requirements to consult on any funding proposal

61. It is difficult to advise on what might be required to satisfy Local Government Act 2002 consultation and process requirements without a clear understanding of the size of Auckland Council's contribution to the scheme and the timing of any expenditure.
62. It may be possible for Auckland Council to obtain an exemption from legislative consultation and process requirements through an Order in Council made under the Severe Weather Emergency Recovery Legislation Act 2023. An Order in Council (the Severe Weather Emergency Recovery (Local Government) Order 2023) has already been made in favour of a number of East Coast councils giving them relief from section 97 of the LGA meaning they can alter the intended level of service provision for any significant activity without having provided for that decision in the LTP. They are also exempted from compliance with section 101(3) in respect of determining any funding needs.
63. Regardless of whether the Council can obtain an exemption from such provisions under the legislation, Council may consider this matter is one in respect of which it wishes to obtain the views of its communities through specific consultation. Any consultation may, however, delay further decisions in relation to the voluntary buy out scheme impacting on affected property owners who are seeking certainty as soon as possible.

### Tauākī whakaaweawe āhuarangi Climate impact statement

64. Climate change is an exacerbating factor that impacts the likelihood and consequence of natural hazard risks on people, infrastructure and the natural environment. The Anniversary weekend floods and Cyclone Gabrielle events were influenced by climate change and extreme weather events are expected more frequently in the future.
65. The proposed approach outlined by the government is a direct response to the impacts of the recent weather events and may well set the framework for responding to future events. The report outlines the implications of voluntary buyouts, including financial, community expectations, environmental and legal impacts.

### Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera Council group impacts and views

66. The Recovery Coordination Office are working with Legal, Finance, the Chief Planning Office and the Mayoral Office to consider the approach set out by the Treasury, the implications for council, and the appropriate parameters for entering into discussions and negotiations. The Executive Leadership Team sub-group also spans the relevant parts of council that are necessary to input to and/or be involved in this process.

### Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe Local impacts and local board views

67. The impacts of the January Floods and Cyclone Gabrielle were experienced across the Auckland region and are of significant interest to local communities and their local boards.
68. The recovery will involve significant local board involvement and engagement, however, local boards have not been engaged on the Category 3 cost sharing arrangement.

## Tauākī whakaaweawe Māori Māori impact statement

69. Māori have a unique relationship with the natural environment and wai through te ao Māori and matauranga Māori. As a result of Māori whenua, marae and urupa often being located on or near the coast and waterways, it is expected that iwi and hapu will be disproportionately impacted by more frequent extreme weather events. The Government has advised that matters relating to Māori land and communities, including Te Tiriti obligations and approaches, will be undertaken in parallel to this Category 3 work. Staff will consider how the proposed approach being advised by Treasury will impact on Māori and their interests in terms of timeframe, scope and interdependencies in developing the negotiation parameters and strategy.

## Ngā ritenga ā-pūtea Financial implications

70. As noted in the body of the report the council group has already committed significant funding to storm response. This has included both the recovery costs of getting back to delivering the infrastructure and services that Aucklanders expect, the costs of the recovery office, and additional resilience investment through the Storm Response Fund.
71. At this stage, the only funding offer from Treasury is that which was made on 23 June (see section X above) for a 50% cost share of Category 3 buyout costs (after deduction of any insurance payments).
72. Any agreement with central government that includes investment by the council in Category 2 and/or Category 3 costs will require consideration of appropriate funding sources. As noted above this will require reference to the council's Revenue and Financing Policy, and potentially community consultation.
73. It is likely that, even if borrowing is used to phase the cost over time, most of the council share will need to be funded from rates. As noted in the body of the report, funding decisions need to be taken in the context of a cost of living crisis and a 13 per cent baseline increase to rates for next year.

## Ngā raru tūpono me ngā whakamaurutanga Risks and mitigations

74. The table below outlines risks to Auckland Council from the FOSAL process.

### Risks and mitigations

Risk	Mitigation
<b>Total FOSAL cost accuracy cannot be known for some time</b>	Continue to refine Add appropriate contingency for error Careful communication strategy Appropriate caveats whenever it is used or communicated Government understands that principal is being negotiated but number will change
<b>Auckland significantly out of step with timescale for other regions negotiations so Government publicises this negatively, and unilaterally applies a funding calculation</b>	Those with the mandate to negotiate need to be nimble and pragmatic Use of political sub-group to provide immediate direction and advice

Risk	Mitigation
<b>Negotiations are not concluded quickly, so homeowner support is delayed</b>	Those with the mandate to negotiate need to be nimble and pragmatic Use of political sub-group to provide immediate direction and advice
<b>Cashflow of funds from Central Government is uncertain</b>	An understanding of when funds will flow from central government will be required
<b>Quantifying and applying for various streams of funding from Government will be challenging, addressing the perception that Auckland can afford more than other regions, applications will have to be compelling</b>	A team will need to be established to apply for and then account for numerous sources of central government funding.
<b>Raised public expectations that the council will buy their property / be the insurer of last resort</b>	Clear negotiating position grounded in the council's purpose, and clear communications plan
<b>Further extreme weather events occur, damaging more homes and adding to cost burden</b>	Advocacy for a national-level natural hazard response scheme









## Ngā koringa ā-muri

### Next steps

75. The negotiation team will continue to meet with Crown representatives, with the next meeting scheduled for Friday 28 July 2023. **The team will apply the principles and negotiating position agreed in this meeting.**
76. Progress will be reported through the Governing Body who are the final decision-makers for an agreement between the Crown and Auckland Council.
77. Staff will continue to liaise with other affected councils to ensure alignment of local government approaches.
78. The Recovery Office will continue to provide support to affected communities and develop technical advice with respect to property categorisation.

Item C1

## Ngā tāpirihanga Attachments

No.	Title	Page
A  	Risk Categorisation Framework	15
B  	Letter from Chris White, Lead Negotiator, The Treasury, 19 June 2023	17
C  	Letter from Chris White, Lead Negotiator, The Treasury, 28 June 2023	23
D  	Media release from Minister Grant Robertson, 30 June 2023	27

## Ngā kaihaina Signatories

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Authoriser	Phil Wilson - Acting Chief Executive

## Attachment A. Risk Categorisation Framework

Category	Definition
Risk Category 1	<p>These properties are considered low risk.</p> <p>This means the home can be repaired.</p>
Risk Category 2	<p>These properties are considered managed risk.</p> <p>Community or property-level interventions will manage future severe weather event risks.</p> <p>This category is split into three sub-categories.</p>
Risk Category 2C (community)	We create and expand flood protection works to reduce the risk of future flooding events.
Risk Category 2P (property)	<p>Property specific measures are necessary, such as improved drainage, raising houses.</p> <p>Property owners will benefit but some may face affordability issues.</p>
Risk Category 2A (assessment)	This means your property needs further assessment and we need more information to provide initial categorisation.
Risk Category 3	Areas in the high-risk category are not safe to live in because of the unacceptable risk of future flooding and loss of life. Homes in these areas should not be rebuilt on their current sites.







19 June 2023

Jim Stabback  
Chief Executive  
Auckland Council

[Jim.Stabback@aucklandcouncil.govt.nz](mailto:Jim.Stabback@aucklandcouncil.govt.nz)

Dear Jim

**Letter of Intent to develop a cost sharing agreement between Central and Local Government for Category 3 property buyouts**

**Purpose**

This Letter of Intent sets out the Government's proposed approach to working with cyclone affected councils in Auckland, Tairāwhiti, and Hawke's Bay to agree the cost-sharing arrangements for the voluntary buyouts of Category 3 designated residential properties. This forms part of the Government's broader response to the 2023 Auckland flood events and Cyclone Gabrielle.

**Background**

Local government has the statutory responsibility to manage, fund and finance natural hazard risk reduction. Central government contributes where it has a critical role as owner of assets that need repair (such as rail, roads, and schools), via contributions to essential infrastructure repair and upgrades under the CDEM Plan 2015, and with discretionary support in the event of overwhelming disasters. All other risks and costs are shared between private asset holders, insurers, and local government.

Discretionary central government support for councils experiencing overwhelming natural hazard events has varied according to the size/scale of the events. The North Island Weather Events that occurred in January and February 2023 were unique in both the scale and geographic distribution of the damage. The Government has committed to stand beside flood and cyclone affected communities as they recover and rebuild from the disaster.

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Cabinet has agreed that the recovery from the North Island Weather Events will be locally led and centrally supported. Cabinet has also agreed that it should move at pace, provide transparency and clear communications to affected communities, prioritise resolution for those most seriously affected, and manage future risks.

The policy approach involves locally led twin pathways for Category 2 (area level comprehensive assessment) and Category 3 properties (a faster process to enable relocation, with a primary focus on residential freehold land). There is also a parallel pathway underway for Māori land and communities, including on appropriate processes for whenua Māori, with engagement and policy development being progressed with Māori – including whenua Māori land-owners, whānau, hapū and iwi – taking a Treaty partnership approach, and taking into account Treaty obligations.

### **Funding support**

As announced on 1 June by Ministers Robertson and Wood, the Government is committed to entering into a funding arrangement with councils to support councils to offer a voluntary buyout for owners of Category 3 properties. This support recognises the opportunity to provide Category 3 owners with certainty as soon as possible to allow them to voluntarily relocate.

Funding to meet the costs of the community and property level interventions under Category 2 will be identified through a separate process and timeframe, as will funding for the parallel Māori land and communities pathway.

This Letter of Intent is focused on developing a cost sharing approach to enable certainty for Category 3 property owners. In entering these discussions, the Crown acknowledges the challenge that this is only one of many flood and cyclone related costs, and that both the Crown and local councils still face considerable financial uncertainty in regard to the total cost of the recovery.

### **An approach to negotiations**

The Crown considers that the following concepts are beneficial to guide negotiations.

#### ***Locally led***

Councils will be responsible for categorisation decisions and implementation of the voluntary buyout programme. The Crown will support Councils to offer voluntary buyouts to owners of category 3 properties through a funding contribution and other central government assistance that would be beneficial, including technical assistance.

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### ***Cost sharing***

The primary principle guiding the Crown's approach is that of sharing net or residual costs (after taking into account insurance proceeds). Neither central government nor local government will be the sole funder of Category 3 costs.

### ***Certainty***

The cost sharing discussions and agreed approach and tools should aim to provide certainty to local government and to ratepayers on the funding contribution by the end of June.

### ***Same approach to all councils***

The Crown considers it appropriate and necessary to agree the same cost share rate for all councils, noting that there may be challenges of affordability (addressed below).

### ***Affordability***

The parties will recognise the issues of affordability and sustainability of any chosen approach, for both councils and the Crown.

The Crown recognises that Category 3 related expenditure will be one of many cyclone related costs for councils and will consider in good faith any financial hardship arising for individual councils from the totality of these costs.

The Crown also faces sustainability issues, both in the context of the Crown's wider recovery costs (particularly infrastructure and social investments) and the broader fiscal outlook, and also because the nature and scope of the Crown contribution here may create a precedent for damage from future weather events.

### ***Incentivise desired future behaviours***

The Crown considers it appropriate and necessary to ensure that the approach and tools used to give effect to the Category 3 buyouts should not cut across future accountabilities over planning and regulation, and should also incentivise appropriate activities from landowners such as the purchase of property insurance.

### ***Treaty of Waitangi***

The Crown considers it necessary to uphold its obligations and requirements under the Treaty of Waitangi in these negotiations.

Treasury:4810407v1

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## Two stage process

The Crown proposes to approach discussions and negotiations with Councils in two stages.

### *Stage one*

The focus of the first stage is on determining the cost sharing proportion between the Crown and local authorities for the buyout of the Category 3 properties. Local authorities' views on the considerations relevant to that cost sharing are key inputs to these discussions.

As noted, providing certainty to local authorities and ratepayers is a key driver for the Crown. We are targeting agreement by the end of June 2023 and so propose meetings in the week of 19-23 June 2023.

### *Stage two*

Stage two of the negotiations will consider the broader issue of affordability. The Crown recognises that local authorities will be concerned about affordability. Assessment of affordability will include consideration of costs arising from the wider cyclone recovery, with the aim of avoiding where possible local authorities (and consequently households) being left in a position of significant financial hardship. Key inputs into this stage will be a greater understanding both of individual council's financial positions, as well as a better understanding of the financial costs of the Category 2 work as this work progresses.

The CDEM guide sets out a policy process for local authorities applying for special financial support where a natural disaster overwhelms its financial resources. As part of stage two, the Crown commits to considering special financial support applications following the process laid out in the CDEM guide. Support could include additional funding or providing long dated Crown lending to local authorities to enable smoothing of costs over a long period of time. The Crown also welcomes feedback from local authorities regarding how they would ideally want the stage two process to proceed.

## Negotiating teams

Ministers have agreed that a Crown negotiation team be established and have nominated me as lead negotiator. I will be supported by officials as required from the Cyclone Recovery Unit, the Treasury, Department of Internal Affairs, Ministry for the Environment, Te Arawhiti, and Te Puni Kōkiri, as well as the Cyclone Recovery Taskforce, and will report to Ministers Robertson, Wood and Edmonds in their cyclone recovery roles.

As a first step in commencing negotiations, we would like each region to confirm their lead negotiator and governance structure. In the case of the Hawke's Bay, we are open to a single lead negotiator to act on behalf of the region.

Treasury:4810407v1

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Please direct any enquiries on the process outlined above to  
[chris.white@treasury.govt.nz](mailto:chris.white@treasury.govt.nz). Officials will shortly be in touch to arrange initial  
meetings for the week of 19-23 June.

We look forward to working in partnership with you to help advance this part of the  
flood and cyclone recovery process.

Yours sincerely,



Chris White  
Lead Negotiator

Cc Wayne Brown, Auckland Mayor  
Mat Tucker, Regional Recovery Manager, Tāmaki Makaurā Recovery Office  
Mace Ward, Deputy Regional Recovery Manager, Tāmaki Makaurā Recovery  
Office

Treasury:4810407v1

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Item C1

Attachment B



IN-CONFIDENCE



28 June 2023

Jim Stabback  
Chief Executive  
Auckland Council

[Jim.Stabback@Aucklandcouncil.govt.nz](mailto:Jim.Stabback@Aucklandcouncil.govt.nz)

Dear Jim

#### Revised approach to FOSAL cost-sharing negotiations

Thank you for your engagement last week on cost sharing negotiations on Category 3 properties. We appreciate the speed with which you organised to engage and your contributions to the discussions, and acknowledge the time and resource this requires.

We received a range of feedback from councils in respect of scope, timing and decision-making for councils which we have considered. We have discussed this with Ministers and propose a revised approach as set out in this letter.

Ministers have confirmed the view that affected communities will be best supported by locally led interventions, supported from the centre, and that this will require costs to be shared. We also continue to wish to move at pace to provide certainty to those affected as soon as possible, and we appreciated your commitment last week to this objective.

#### Scope of discussions

We propose to pursue discussions across a number of areas, in parallel streams.

1. **Category 3 buyout design and operations.** The Crown will continue to provide technical support for councils to design the policy and operations for Category 3 buyouts. We recognise that it is important for councils to develop key parameters prior to governing body decisions and any community consultation under significance and engagement policies. In addition to working with individual councils, we think there is value in joint workshops to support collaboration and consistency between councils where appropriate. We welcome your input on where assistance will be most beneficial.

Treasury:4827963v1

IN-CONFIDENCE

1

Item C1

Attachment C

IN-CONFIDENCE

2. **Category 3 cost sharing.** An agreement on cost sharing is a prerequisite for community consultation, so we propose this needs to be agreed at the same time as key buyout parameters. We acknowledge that final cost is linked to categorisation decisions and operational costs arising from purchases. However, we are concerned that waiting for a complete picture on categorisation will cause long delays so would like to explore how early decisions on cost sharing can be taken based on the information available at the time.
3. **Category 2 cost sharing.** We propose to open discussions on the approach to Category 2 cost sharing, with a focus on critical risk reduction including through community level interventions that go beyond reinstatement of existing infrastructure. We suggest the existing Special Policy provisions under Section 33.6 of the Guide to the Civil Defence Emergency Management Plan 2015 provide a sensible starting point for these discussions. As many of these interventions and associated costs will not be known for some time, the initial focus could be on design of the application and assessment process, setting investment metrics that a business case should meet, and identifying criteria to provide assurance that the proposal is beyond business as usual and in direct response to the NIWE. This stream will also need to connect with assessment and decision-making processes for the \$100m flood resilience betterment fund.
4. **Affordability.** As previously signalled, we are open to discussion about arrangements to provide early Crown funding and/or financing for Category 3 to support councils to move quickly to implementation. In addition we propose to open broader discussions on NIWE related affordability with two areas for early focus – measures and metrics for understanding affordability and options to increase debt limits. In due course as the full suite of costs become more certain, this stream will need to develop financial scenario analysis at a council by council level along with associated impacts at the ratepayer level. We are also open to providing technical assistance in this area if that would be of use.

**Timing**

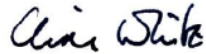
We recognise that these discussions are complex and that aspects will take some time but we remain committed to delivering outcomes to individual groups as soon as possible. In this regard, we continue to focus on early resolution of Category 3 buyouts and propose an objective of council officials providing advice for decisions to governing bodies by 21 July, followed by community consultation. We recognise that this will rest on making significant progress in the parallel workstreams. This timeline also creates greater time and space for engagement with Māori to take place.

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Next steps

We suggest as a next step a meeting to discuss the revised approach set out in this letter, with particular attention on agreeing the focus and scope for each stream. We look forward to continuing to work with you in the coming weeks to the benefit of those severely affected by these events.

Yours sincerely



Chris White  
Lead Negotiator

Cc Wayne Brown, Auckland Mayor  
Mat Tucker, Regional Recovery Manager, Tāmaki Makaurā Recovery Office  
Mace Ward, Deputy Regional Recovery Manager, Tāmaki Makaurā Recovery Office

Item C1

Attachment C





30 JUNE 2023

## Govt and councils working together on buying out properties



HON GRANT ROBERTSON

### Cyclone Recovery

Government and councils are continuing their discussions on how to share the cost of buying out high risk properties following the North Island weather events.

“Councils are leading the recovery for their communities, with the Government supporting them to ensure the recovery can happen as quickly as possible,” Grant Robertson said.

“At the beginning of June it was announced that the Government and councils would share costs for those in Category 3, along with working together on supporting Category 2 interventions. Councils are currently engaging with affected property-owners.

“It’s been agreed that more time is required to work through the policy and parameters, and to make final decisions on how properties will be categorised. This includes which homeowners will be offered a voluntary buy out.

“While I acknowledge the importance of getting the policy right, I am also conscious people are wanting certainty and to know their choices for where they will live,” Grant Robertson said.

Category 3 properties have been assessed as not safe to live in because of the unacceptable risk of future flooding and loss of life. Homes in these areas should not be rebuilt on their current sites and homeowners will be offered a voluntary buyout.

The Government will also share the costs of the work needed to protect Category 2 designated properties. This is where the risk can be managed through community or property-level interventions, including actions like raising nearby stop banks, improving drainage or raising the house.

Item C1

Attachment D

Item C1

"We had expected to have details of the cost-sharing arrangements resolved in June. Although we are making progress with negotiations, this is taking longer than we hoped. We are aiming to have agreement on these arrangements by the end of July.

"I want to reassure people who want certainty so they can relocate or rebuild their home, that this is a priority for the Government," Grant Robertson said.

Attachment D