



20 December 2023



Ref: OIA-2023/24-0279

Dear 

Official Information Act request relating to advice about buyouts of whenua Māori in category 3 following Cyclone Gabrielle

Thank you for your Official Information Act 1982 (the Act) request received on 6 November 2023. You requested:

I would like to request briefings, memos, reports, meeting agendas and minutes, and any official advice that concern buyouts of whenua Māori in category 3 following Cyclone Gabrielle.

The time frame for responding to your request was extended under section 15A of the Act by 12 working days because a search through a large quantity of information, and consultations was needed before a decision could be made on the request. Following this extension, I am now in a position to respond.

Please note, some of the information will take longer to prepare for release. This includes excerpts from the Cyclone Recovery Unit Weekly Reports to the Minister (between May and September 2023), FOSAL weekly reports (between June and September 2023), and excerpts from the following additional documentation:

Item	Date	Document description
1	15/05/2023	Aide Memoire: Meeting with the Cyclone Recovery Taskforce
2	24/05/2023	Aide Memoire: Future of Severely Affected Locations Ministerial Workshop
3	09/06/2023	Briefing: Future of Severely Affected Locations – Approach and cost sharing for Category 3 buyouts and funding for recovery structures
4	16/06/2023	Briefing: Approval for lodgement and talking points: Cyclone Recovery – Proposed triage, direction and analysis for funding proposals
5	03/08/2023	Briefing: Iwi-Crown Economic Forum
6	11/08/2023	Briefing: Template, criteria and timeline for Local Government Flood Resilience Co-Investment Fund
7	15/09/2023	Joint Report: update on the Kaupapa Maori Taskforce
8	N/A	Extreme Weather Recovery Committee Cabinet Paper: Future of Severely Affected Locations: Kaupapa Maori Pathway Report
9	N/A	Extreme Weather Recovery Committee Cabinet Paper: Future of Severely Affected Land: July report back
10	N/A	Extreme Weather Recovery Committee Cabinet Paper: Regional and Maori Flood and Cyclone Recovery Engagement Planning

We have also identified the following meeting minutes and agendas, where parts are in scope of your request:

Item	Date	Document description
1	11/07/2023	Cyclone Recovery, Chief Executive Governance Group Meeting Agenda
2	25/07/2023	Cyclone Recovery, Chief Executive Governance Board Meeting Minutes
3	8/08/2023	Cyclone Recovery, Chief Executive Governance Board Meeting Minutes
4	22/08/2023	Cyclone Recovery, Chief Executive Governance Board Meeting Minutes
5	05/09/2023	Cyclone Recovery, Chief Executive Governance Board Meeting Minutes
6	19/09/2023	Cyclone Recovery, Chief Executive Governance Group Meeting Agenda
7	19/09/2023	Cyclone Recovery, Chief Executive Governance Board Meeting Minutes
8	14/11/2023	Cyclone Recovery, Chief Executive Governance Group Meeting Agenda
9	14/11/2023	Cyclone Recovery, Chief Executive Governance Board Meeting Minutes
10	11/07/2023	Cyclone Recovery, Chief Executive Governance Group Meeting Agenda

I apologise for the delay in providing you with this information. It will be provided to you as soon as possible as a tranche two response, subject to information being withheld under the following grounds:

1. section 9(2)(a), to protect the privacy of individuals
2. section 9(2)(ba)(i), to protect the supply of similar information in the future
3. section 9(2)(f)(iv), to maintain the confidentiality of advice tendered by or to Ministers and officials
4. section 9(2)(g)(i), to maintain the effective conduct of public affairs through the free and frank expression of opinion
5. section 9(2)(g)(ii), to prevent improper pressure or harassment
6. section 9(2)(j), to enable negotiations to be carried on without prejudice or disadvantage

The information that is prepared for release is outlined below.

Information being released

I have decided to release the documents listed below, in full.

Item	Date	Document description
1	21/08/2023	Powerpoint: Cyclone Recovery and Future of Severely Affected Land (FOSAL)
2	13/09/2023	Powerpoint: FOSAL Kaupapa Maori Pathway

Information publicly available

The following information is also covered by your request and is publicly available on the DPMC website:

Item	Date	Document description	Website address
1	5/08/2023	Public Notice: Invitation to whenua Maori landowners and Trustees in Tangoio and surrounding areas	www.dPMC.govt.nz/publications/public-notice-invitation-waenua-maori-landowners-and-trustees-tangoio-and-surrounding

You can also find the Cyclone Recovery Unit newsletter, which may include information relevant to your request, here: www.dPMC.govt.nz/our-business-units/cyclone-recovery-unit.

In making my decision, I have considered the public interest considerations in section 9(1) of the Act. No public interest has been identified that would be sufficient to override the reasons for withholding that information.

You have the right to ask the Ombudsman to investigate and review my decision under section 28(3) of the Act.

This response will be published on the Department of the Prime Minister and Cabinet's website during our regular publication cycle. Typically, information is released monthly, or as otherwise determined. Your personal information including name and contact details will be removed for publication.

Yours sincerely



Katrina Casey
Chief Executive, Cyclone Recovery



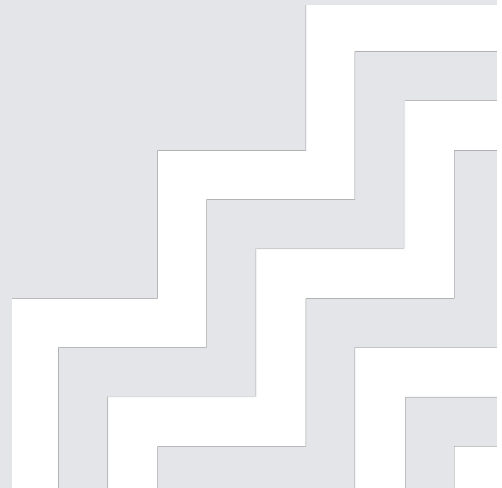
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TE TARI O TE PIRIMIA ME TE KOMITI MATUA

Cyclone Recovery and Future of Severely Affected Land (FOSAL)

Cyclone Recovery Unit

21 August 2023

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General roles and responsibilities

Local delivery ← → Central delivery

Territorial authorities

Makes categorisation of affected properties and land decisions. Engagement with communities. District plan changes. Buy-out category 3 properties.

Regional councils

Plan and implement flood protection measures where required. Support territorial authorities to implement risk categorisation.

Cyclone Recovery Unit

Support local engagement on including consultation and implementation. Coordinating recovery across government. Work directly with Iwi/Māori.

cyclonerecoveryunit@dpmc.govt.nz
Chief Executive Katrina Casey

Cyclone Recovery Taskforce

Bridging locally led recovery plans with work of government and private sector. Support local government risk categorisation.

cyclonerecoverytaskforce@dpmc.govt.nz
Executive Director, Amber Bill

Cyclone Recovery Unit

Co-ordinate and trouble-shoot across Government. Plan for implementation of decisions. Liaison between central and local authorities on policy feedback and implementation.

Lead crown negotiator

Leads negotiation between government and councils to decide on the cost-sharing arrangements.

Ministry for the Environment & The Treasury

Create parameters for local government to act, through leading advice and policy development of:

- The level of Crown support, and cost-sharing
- Approach to level and consistency of risk threshold¹
- Legal framework for making decisions

Cyclone Recovery Taskforce

Provides an independent perspective to the Minister for Cyclone Recovery.

1. Note the approach to level consists of the criteria that was announced on 1 May and the consistency of risk threshold is aiming to be achieved through workshops with technical Council officers.

Risk categorisation framework

Category	1	2P	2C	2A	3
Description	Repair to previous state is all that is required to manage future severe weather risk event.	Property level interventions are needed to manage future severe weather event risk, possibly in tandem with community level interventions	Community level interventions are needed for managing future severe weather risk events.	Significant further assessment is required to assess a property, as well as engagement with property owner.	Future severe weather event risk cannot be sufficiently mitigated. Some land uses may remain acceptable, while intolerable risk of inquiry or death for residential land use.
Actions	Flood damage to repair, but no need for community interventions.	Property specific measures are necessary, for example improved drainage, raising houses. Benefits accrue to property owners.	Local government could repair and enhance flood protection schemes to adequately manage the risk of future flooding events. Cost is shared by the community.	Interventions may be required or possible, but insufficient information to answer all questions. These may subsequently move between "2" categories or to categories 1 or 3.	In the face of enhanced climate risk to the property there is unacceptable risk of future flooding. This will involve combined local and central government assistance.

FOSAL Process

May 2023 ←

Parallel Iwi/Māori engagement

Crown undertakes engagement directly with affected Iwi and affected Māori landowners through Kaupapa Māori Pathway to inform development of custom-made solutions for residential land.

Data gathered on affected zones to create initial categorisation

Collate information from insurance, flood plans, geotechnical studies and historical information.

Risk category policy developed

Develop overall framework with categories, cost sharing arrangements, and decision making between local and central government

Property owners told initial categorisation

Property owners are told about their initial risk categorisation based on data gathering exercise.

Refinement of categories through engagement with property owners

Local authorities engage affected property owners with initial categorisation to refine assessments.

Individual property assessments

Based on refined risk categorisation, property owners have an assessment if needed. Category 1 property owners no further action needed.

Confirm category 3 buy-out process

Following negotiations local authorities can progress with buy-out.

Category 2 interventions

Regional recovery plan, including programs for category 2 property and community level interventions are agreed. See slide 6

Category 3 property voluntary buy-out

Voluntary buy-out following completion of final risk assessments and cost-sharing negotiations.

Cost share negotiations

Local authorities and the crown negotiate cost-sharing agreement.

Kaupapa Māori FOSAL Pathway

Local delivery ←

→ Central delivery

Cyclone Recovery Unit

Work directly with iwi/Māori entities to lead engagement with affected Māori communities in a Treaty partnership approach. Coordinating policy across government to support Māori recovery. Feed engagement insights into policy development.

cyclonerecoveryunit@dpmc.govt.nz

DCE Engagement and Liaison Herewini Te Koha

Local Māori representatives

Support direct engagement with Māori communities. Work directly with CRU to facilitate partnership. Directly represents community in some instances.

Regional councils

Support engagement on risk assessment categorisation. Plan and implement flood protection measures.

Territorial authorities

Decides categorisation of affected properties and land. Support Council led engagement on risk assessment categorization.

Te Puni Kōkiri (TPK) and Te Arawhiti

Supports engagement with iwi/Māori. Informs cultural considerations of engagement. Provides data on the extent of Māori land, Māori collectively held assets, and Māori communities in affected regions. Facilitates national level iwi dialogue.

National Iwi Representatives

Represent involvement of Māori in recovery activity and decisions. Represent iwi across impacted regions. Raises issues directly with government regarding cyclone recovery.

Ministry for the Environment & The Treasury

Create parameters for local government to act, through leading advice and policy development of:

- The level of Crown support, and cost-sharing
- Approach to level and consistency of risk threshold
- Legal framework for making decisions
- Options to support unique position of whenua Māori

A locally-lead centrally supported recovery

Principles

Timely and appropriate	Informed investment	Safety and wellbeing	Adaptable and responsive	At pace with transparency	Prioritise most at-risk	Statutory responsibilities remain
People affected receive timely and appropriate decisions and support to enable them to make decisions and rebuild their lives.	Informed investment and land use decisions are made so that infrastructure can be built back better and more resilient.	Both local and central government have a shared interest in the safety and wellbeing of all people.	Recovery is responsive to the challenges and needs of each community rather than imposing a one-size fits all approach.	Recovery moves at pace, provides transparency and clear communications to affected communities.	Prioritise resolution for the most seriously affected people and manages future risks while avoiding duplication	Land use decisions made by local authorities. Hazard planning by regional authorities. Primary legislation done by central government

Responsibilities of local and regional authorities

Activities led & delivered at local level by local entities	Engage directly with communities on response and recovery	Inform central decisions with local knowledge	Identify local recovery needs and priorities	Conduct recovery planning through regional recovery plans	Make statutory decisions of land-use and hazard planning
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Responsibilities of central government

Provide response funding through CDEM Act	Support community and Iwi/Māori engagement	Share costs of residential buy-out and flood resilience	Provide funding for local capability to manage recovery	Assist develop of policy dimensions of recovery	Advance measures to support business and affected sectors
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Example: Initial NIWE recovery

Local authorities conducted assessment and identification of initial risk categorisation for severely affected lands. Begun the development and delivery of community-based recovery plans.

Taskforce worked with the insurance industry and councils on high-level risk assessments. Funding to support an increase in councils' capacity to implement recovery plans provided.

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FOSAL Kaupapa Māori Pathway

13 September 2023

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Background & Context

Why a parallel Kaupapa Māori pathway?

- Long-standing Crown acknowledgement of Māori land alienations, and broader Treaty duties to taonga and their protection.
- Distinct statutory requirements governing Māori freehold land, governance and decision-making.
- Managing broader relationships and interests with iwi, incl. post-settlement governance entities.

Policy & implementation approach

Key aspects

- **Crown-led** implementation (CRU), balancing broad fairness (FOSAL) and appropriateness (Treaty duties). The Crown's role will likely extend beyond the offer of funding.
- KMPP priority on support for **residents on Cat 3 whenua Māori**, with some **case by case** consideration of **Cat 3 general title properties** (which are otherwise in the council-led pathway).
- Inclusion of severely impacted **Māori cultural assets** e.g. Cat 3 marae reservations, buildings and urupā.

Policy & implementation approach

Key aspects

- **Crown funds have been ring-fenced** for Kaupapa Māori Pathway
- **No** cost-share is sought from councils.
- **No** land buy-out requirement but requires agreement to no further/future residential use.
- Scope to explore **community-based solutions**, where they are actively led, clearly mandated and viable.

Case by case option of C3 'buy out' **or** KMPP

- KMP can include **Māori-owned general title** land that:
 - was compulsorily converted from Māori freehold title (MAA Act 1967)
 - is adjacent to whenua Māori
 - is in the takiwā of the hapū to which the owners whakapapa
- Have the choice of receiving a Cat 3 'buy out' offer from council, or opting into the KMPP
- KMPP offer will be no less favourable than the Cat 3 'buy out' offer, but allows owners to also opt in to community-based solution(s).

	General Pathway	Kaupapa Maori Pathway
• Categorisations (C1 – C3)	Local council	Local council
• Community & property owner engagement	Locally-led, centrally supported	Centrally-led, locally supported
• Iwi engagement & RM	Locally-led, centrally supported	Centrally-led
• Cat 3 residential buy-outs	Local councils per cost-share agreement	Central government on all residential dwellings on Cat 3 Māori freehold land.
	<p>NB: On a case-by-case basis there is now scope to offer the option of the KMPP to Māori-owned C3 general title properties if:</p> <ul style="list-style-type: none"> • Compulsorily converted to general title; or • adjacent to Maori freehold land; <u>and</u> • owned by members of the hapu in whose takiwā the land is located 	
• Cat 2P properties and support	<ul style="list-style-type: none"> • Crown contributions were either: Negotiated in council cost-share agreements, or considered where councils put C2P bids to the FY 23 Flood Resilience Fund. 	
• Cat 3 and Cat 2A significant cultural assets (e.g. marae)		Centrally-led, locally supported

Policy & implementation approach

Timeframes

- Final decisions in September on KMPP funding benchmarks/parameters.
- Aim is to keep broadly apace with council-led roll-outs of their respective Cat 3 buy-out processes (Oct – Nov)
- Therefore likelihood of ‘offers in principle’ subject to:
 - Final categorization by council
 - Crown confirmation
 - Ratification by affected owners

Next steps

- Confirm Crown-led implementation agencies' roles and lead areas (mid Sep).
- Set the financial benchmarks and parameters for KMPP relocation/support packages (mid Sep).
- Lift the scale and urgency of Cat 3 whenua Māori engagement and development of Crown support packages, starting at Tangoio, Petane/wider Hawkes Bay; then Tairāwhiti; then Tamaki Makaurau.

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