



28 July 2023

Minister Grant Robertson
Minister of Cyclone Recovery
By email - g.robertson@ministers.govt.nz

Minister Kieran McAnulty
Minister of Local Government
By email - k.mcanulty@ministers.govt.nz

Kia ora Ministers Roberston and McAnulty,

Important need for legal certainty for councils undertaking voluntary buyouts

Recently, and with the support of the Ministry for the Environment, Local Government New Zealand (LGNZ) commissioned legal advice on the legal powers, risks, and potential mitigation options for the affected councils required to apply risk categories to land, and then undertake voluntary buyouts of Category 3 properties. This legal advice has been provided to MfE, and shared with Treasury and senior officials and counsel at all affected councils.

The legal advice commissioned by LGNZ makes it clear that to achieve greater certainty, and minimise the risk of legal challenge for affected councils, either amendments to the existing legislation, or a new bespoke framework, are needed.

The specific areas where legislative amendments are needed are:

- Providing a new specific power to support the voluntary buy-out process. This could be inserted into the Local Government Act 2002, or provided in an Order in Council, and could potentially be supported by additional statutory guidance (or a requirement that affected councils adopt a policy to guide their decision-making for the voluntary buy-outs);
- To the Public Works Act 1981, to provide for the implementation of the voluntary buy-outs, or through the enactment of a new acquisition or compensation regime for voluntary buy-out purposes;
- Specific provisions that provide a streamlined approach to the removal of existing use/development rights, including by way of legal instruments and RMA plan changes; and
- New provisions to support a streamlined decision-making and consultation process for any voluntary buy-outs, which would replace or substantially amend the obligations in Part 6 of the Local Government Act 2002.



While we, and the affected councils, support a locally-led approach to this difficult issue, it is of critical importance that the affected councils are appropriately supported to undertake this complex exercise. At present, our concern is that the affected councils are not properly empowered to undertake and implement the voluntary buy-outs, which will likely lead to further uncertainty and frustration for all parties involved, and the community more broadly.

Given the timeframes involved with the buy-out decision-making, the limited time available in the current parliamentary term, and the need to support affected councils to deliver the buy-out process, we seek your urgent engagement on this request.

Ngā mihi nui,

A handwritten signature in black ink, appearing to be 'Grace Hall', written in a cursive style.

Grace Hall
Director of Policy and Advocacy
Local Government New Zealand

A handwritten signature in black ink, appearing to be 'Susan Freeman-Greene', written in a cursive style.

Susan Freeman-Greene
Chief Executive
Local Government New Zealand