Recovery response – Storm affected properties

Governing Body Confidential Workshop

20 September 2023

Agenda

1. Funding agreement - Update
2. Interim consultation feedback
3. Category 3 buyout – Policy discussion
4. Other work progressing

1. Funding agreement - Update

Cost-share with Government agreed in-principle

Cat 3 buyouts

$774m to purchase estimated 700 Category 3 homes (50/50 share with council)

Transport network recovery

$390 million Government contribution towards transport recovery costs

Cat 2 solutions

$820 million towards protection works

$2bn package towards recovery & resilience

Funding agreement

- Draft agreement received
- Discussed and detailed feedback being provided

Council must attach finalised:

- Categorisation methodology
- Cat 3 buy out methodology
- Information available on:
  - Cat 3 buy-out expectations
  - Cat 2 risk mitigation projects
  - Regional transport projects

Indicated scope:

- Form of Category 3 Voluntary Buyout offers
- Purchase price approach
- Insurance cover, lack of cover, claims and proceeds
- Relocation Grants (if applicable)
- Processes and controls for the buyout programme
- Communication and engagement plan
- Complaint/ review processes
- Information sharing and privacy issues

Timeline

- 20 Sept: GB workshop
- 24 Sept: Public consultation closes
- 2 Oct: Political Advisory Group meets
- 4 Oct: GB workshop – Consultation feedback
- 6 Oct: Extraordinary GB meeting – decisions required

2. Interim consultation feedback

Interim consultation results - confidential

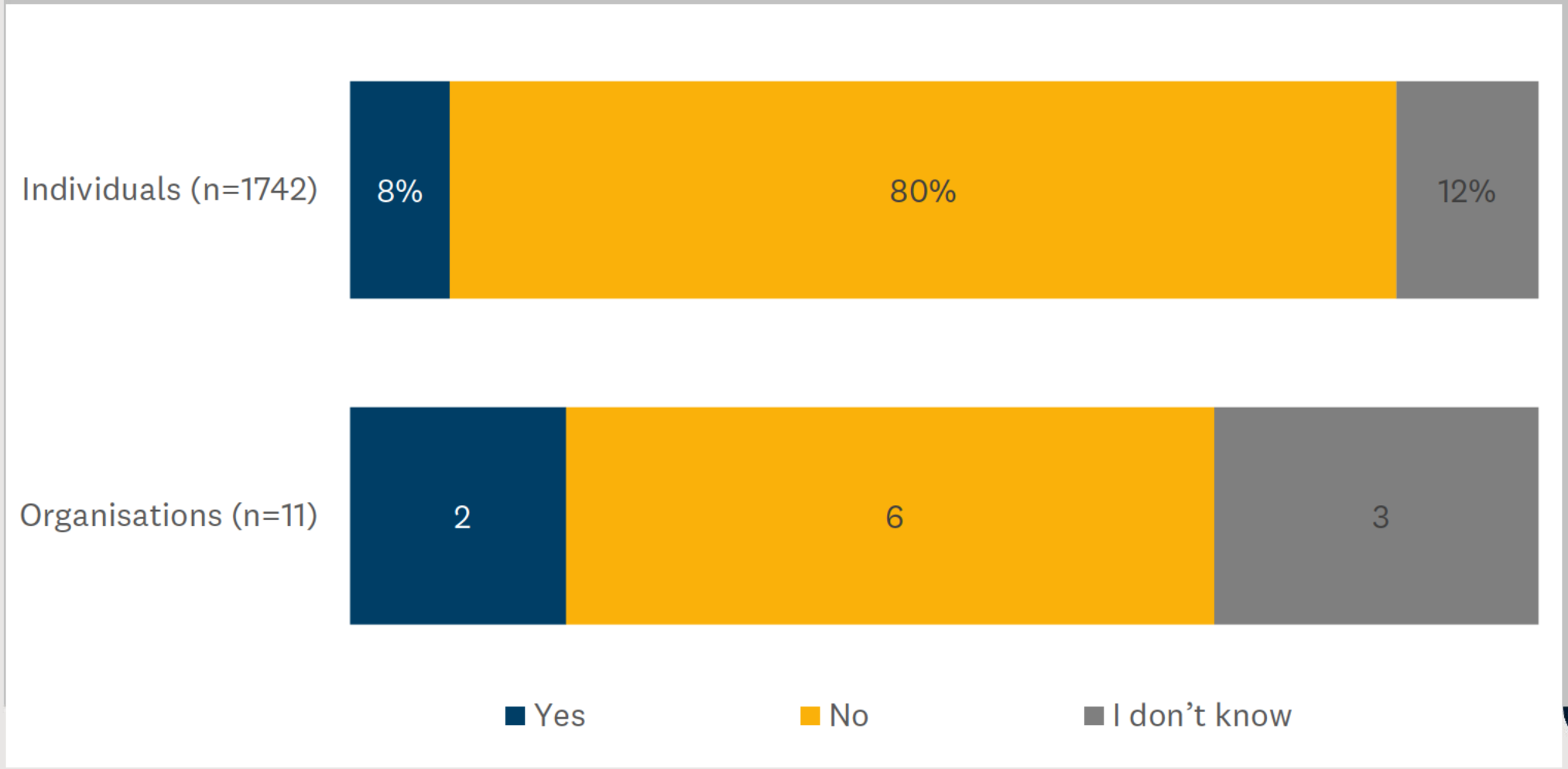
1,776 submissions as of midnight Monday 18 September

Inc. 11 from organisations

J & N Patel Family Trust
Muriwai Lodge Limited
Otahuhu Maori Wardens Trust
Apex One Ltd
Andrzej B Tomecki Transportation Analysts
Bright electrical
Fungataua Trust
CCRG - Auckland City Centre Residents' Group
Royal Forest and Bird Protection Society of New Zealand Inc.
Karekare Ratepayers and Residents Trust
R j & P.H Manuel Belz Trust

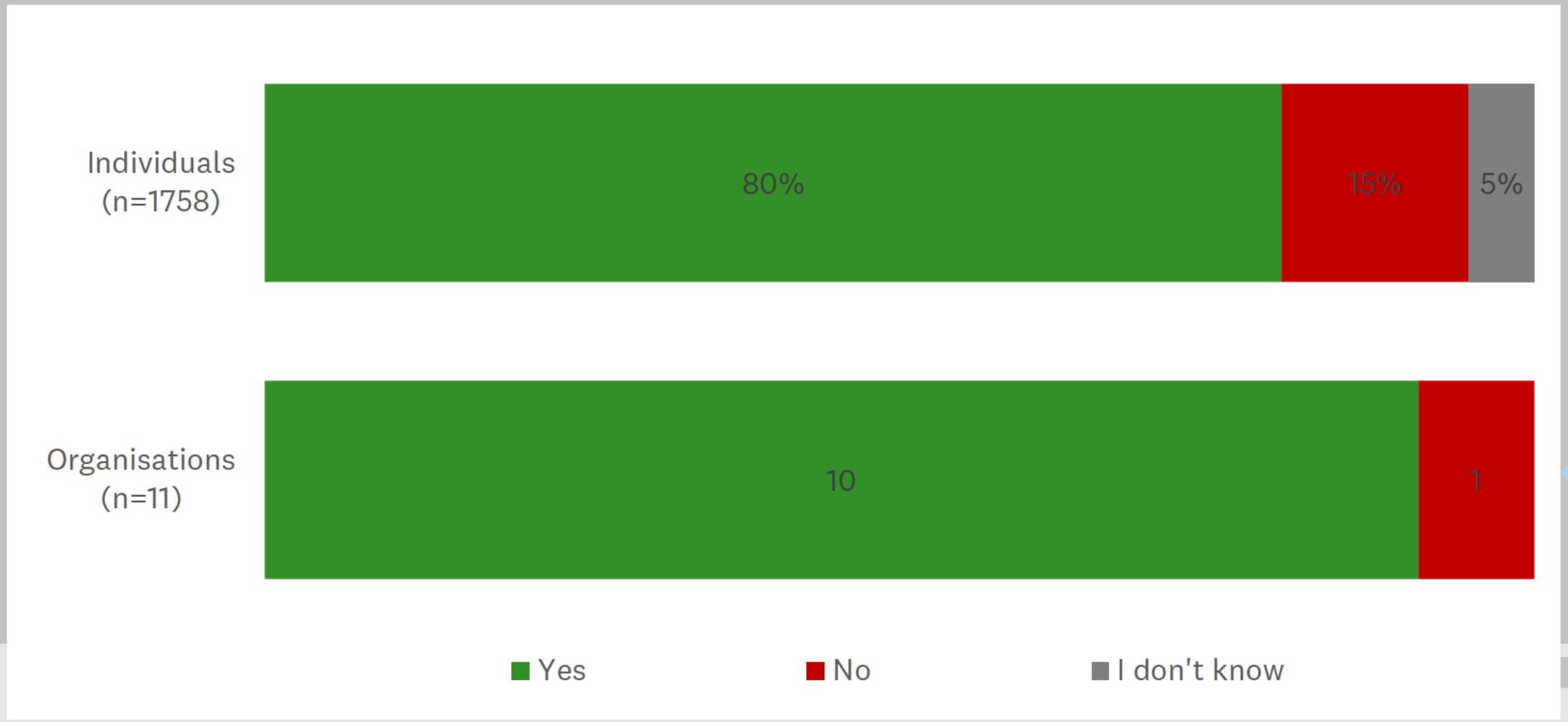
Most submitters think they would not be eligible for a category 3 buy-out under this proposal

Do you think you might be eligible for a category 3 buy-out under this proposal?



Around four in five submitters support accepting the package

Do you support the council accepting the proposed funding package?



Counts not %

Qualitative themes on proposal - Indicative

Substantial feedback on the buyout element of package:

- feedback highlights insurance issues, particularly the distinction between insured and uninsured or underinsured properties and potential valuation methods
- concerns about the buy-out from those who oppose funding proposal and those who support it.
- role of insurance, government support, individual responsibility and Council responsibility
- range of views on valuation approach but generally support principal of fairness or equity

Some feedback on Category 2 properties:

- desire for more information and/or support for these properties.

General:

- Prudent planning to avoid houses in flood / slip-prone areas
- Effective management of waterways, stormwater network and other flood mitigation actions.
- Proper execution of repairs and focus on getting people's lives back to normal
- Complexity of situation and stakeholder involvement

Qualitative themes on buy-out methodology - Indicative

Insured / uninsured:

- Often, but not always, that uninsured bear some consequences, e.g exclusion or limited payouts.
- Many refer to equal treatment, some indicating this means compensation excluding insurance payouts should be equal, some that all category 3 properties should have equal outcomes

Eligibility:

- Support and opposition to inclusion of properties that are not primary dwellings, ie. rentals and holiday homes.
- Some feedback around exclusion of properties known to be higher risk
- Some opposition to inclusion of high-value properties or suggest limiting payout or buy-out be means-tested.
- Some support buyout where a property was red stickered, insured but ineligible to claim insurance
- Some suggested Category 2 home owners should be able to choose to move to Category 3

Valuation approach:

- Support for both CV-based and market-based valuations with a wide range of suggested approaches
- General support for the topping up of insurance payments rather than replacement of insurance (often not well understood).

General:

- need to move quickly vs complex and need to get it right
- principal of fariness, good communication, transparency and relieving hardship.

3. Category 3 buyout – Policy settings

Context: Identifying category 3 properties

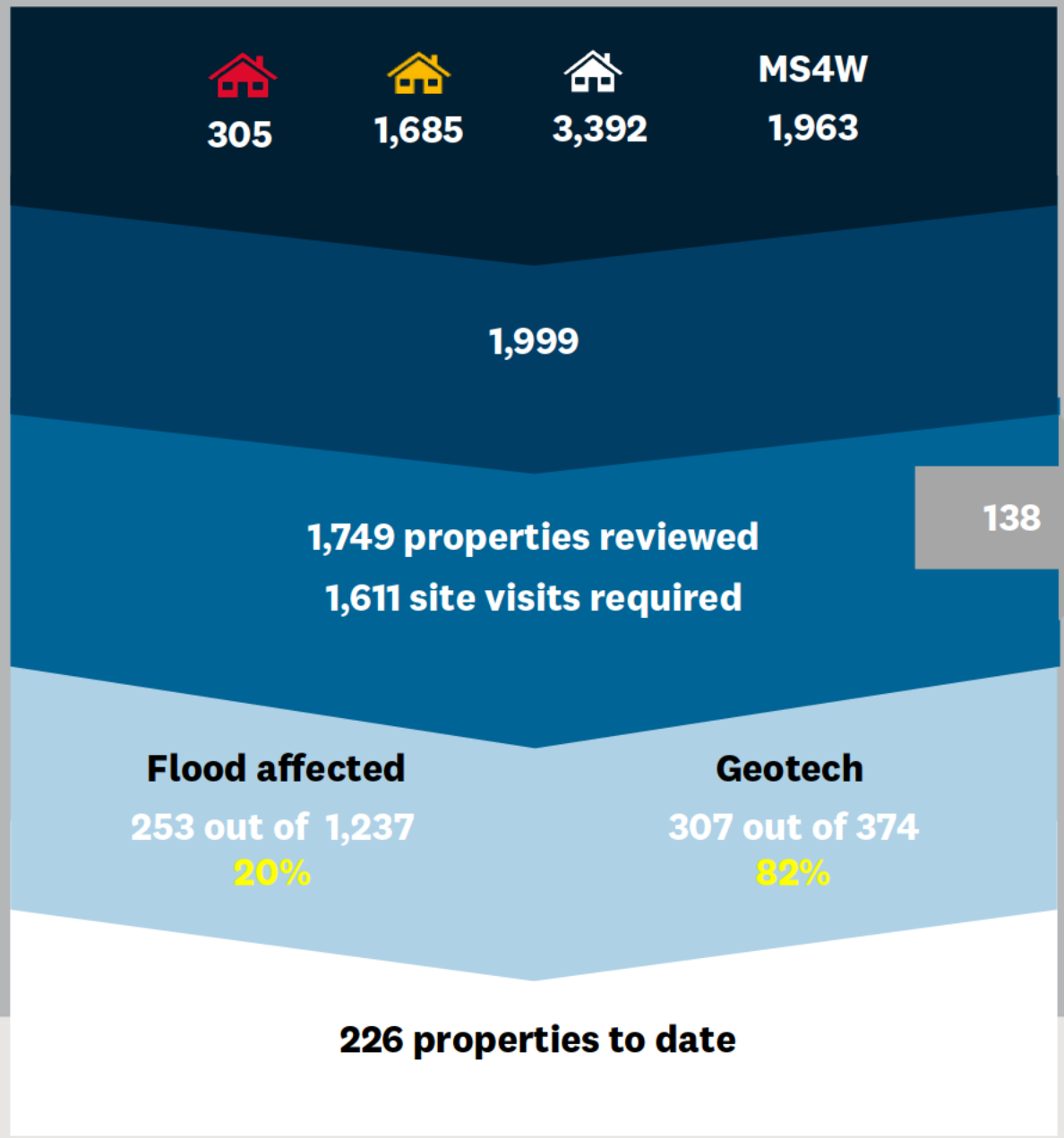
Initial Mailout (June)

Survey Responses / known impacted properties

Desktop triage

Site visits

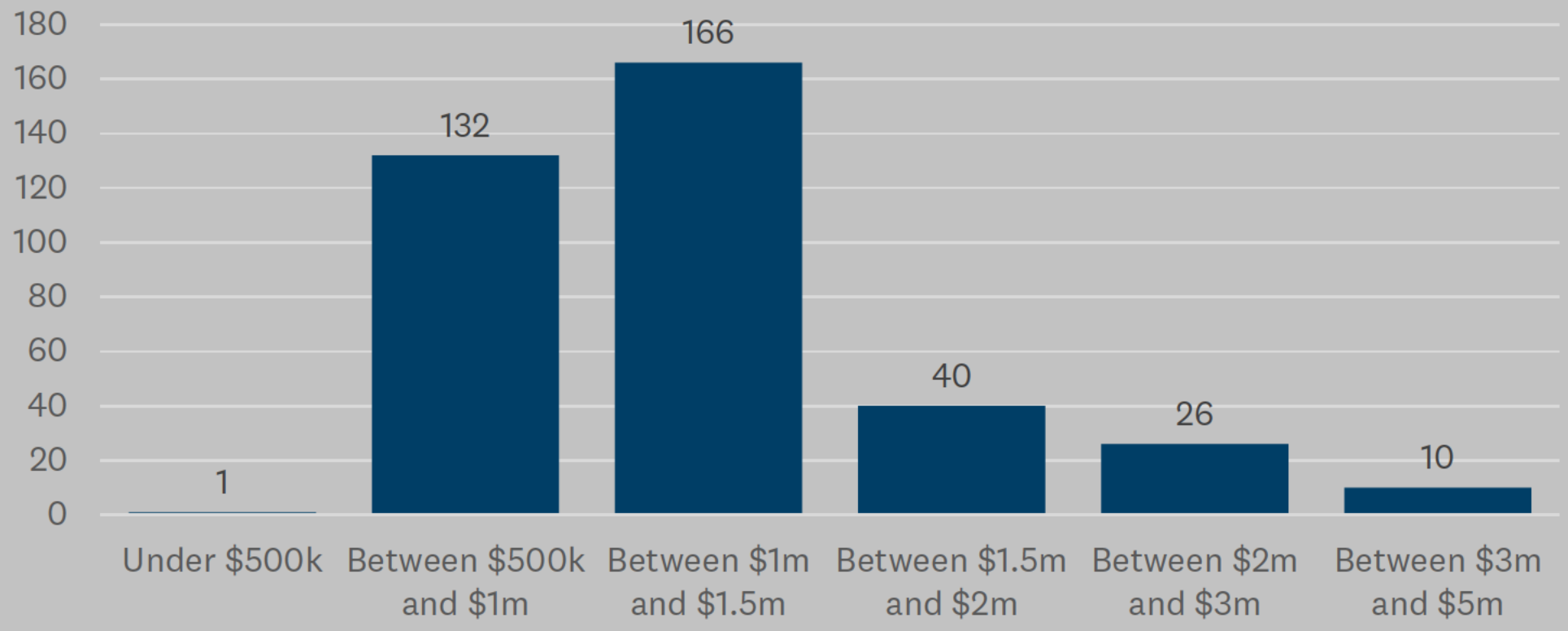
Interim categorisation



Risk assessed as tolerable - removed from further assessment

- All site visits completed for Muriwai / Karekare and Piha
- Expect all known site visits required will be completed by end Jan

Context: Estimated valuation spread



- Based on properties self-assessed as Category 3 (375)
- Residential and lifestyle only
- Valuation uses current rating capital value

Support/buy-out programme

Programme Description

This is a voluntary programme in partnership with government, administered by Auckland Council and part funded by Auckland ratepayers.

The proposed programme responds to a council/government funding agreement being publicly consulted that includes funding for voluntary residential property support/buy-out. There is no obligation or duty on the council to undertake private property purchase.

The programme supports residential households to voluntarily move from properties categorised with intolerable risk to life.

A payment is made to buy the property. Auckland Council uses their subsequent ownership to essentially retire the property from uses that pose an intolerable risk to life.

All future use of the purchased property is limited to those that maintain removal of intolerable risk to life.

Policy intent and key options

Policy Intent

Permanant removal of an intolerable risk to life to posed by ownership of some residential properties in Auckland as a result of the Auckland Anniversary and Cyclone Gabrielle extreme weather events.

WHY - Problem

An intolerable level of risk now exists for some residential households as a result of two extreme weather events in January and February 2023.

Those households are likely to stay in homes that are not safe to live in, without support to move. These households are also highly likely to become entrenched in a disaster-rebuild-disaster cycle, where loss of life is likely.

WHAT - Achieve

Permanant removal of intolerable risk to life where voluntary buy-out is offered and accepted.

WHO - Impact

Residential property owners who are subject to an intolerable risk to life and accept a voluntary support/ buy-out offer.

Ratepayers as funders of the support/buyout scheme and as the beneficiaries of potential public open space, ecological, environmental benefit.

What is the policy outcome

New State: Permanent removal of intolerable risk to life.

What is the policy objective

To **support** Aucklanders, to voluntarily exit from residential housing situations that pose an intolerable risk to their lives.

What is the problem

The Auckland Anniversary and Cyclone Gabriel extreme weather events resulted in some Auckland residential properties being assessed as Category 3 and pose an intolerable risk to the life of occupiers.

Category 3: properties have been assessed as too risky to occupy:

- not safe for current or future owners too occupy
- the level of risk to life cannot reliably or affordably be mitigated by property level or community level physical works

Without support to move there is ongoing risk to life

- properties may be repaired to a habitable condition and lived in with no mitigation in the intolerable risk to life
- some people may have no option but to live with the risk whether the property is habitable or not, safe or not as they cannot afford to relocate

What is in scope of the policy intent?

Residential properties categorised with intolerable risk to life, whose owners choose to sell their properties to Auckland Council.

Two extreme weather events

27 January- 1 February 2023: Auckland Anniversary Flood.

13-14 February 2023: Cyclone Gabriel

One- off support package due to the nature and scale of the effects caused by the extreme nature on the two events.

Category 3

Category 3 residential properties in Category 3 are not safe to live in because the risk from future flooding or landslips is intolerably high. Options to reduce this risk at a property or community level are not available or affordable. Homes in these areas should not be rebuilt or remain on their current sites

Residential

Residential owners (with legally established dwelling on property)

Voluntary

Purchase determined by an owner of a Category 3 property 'willing to sell'

Implementation of the voluntary support/buy-out programme will consider service design and eligibility criteria that implements the policy outcome. Service design should not undermine the intended policy outcome.

What is not in scope of the policy intent?

Commercial properties. Residential properties not Category 3, damage and risk not related to the two January – February 2023 extreme weather events.

Other extreme weather events

Damage or intolerable risk preceding or post the two extreme weather events is excluded. This is a one- off residential support package

Category 2 & 1

- Category 2 – homes in Category 2 are not safe to live in because the risk from future flooding or landslips is intolerably high. For Category 2 properties, interventions to reduce the risk to a tolerable level are possible and affordable, either at community (2C) or property (2P) level.
- Category 1 – the risk associated with Category 1 properties is considered tolerable, and repair is all that is required to manage risk of future severe weather events.

Commercial

Commercial property or commercial development rights or revenue

Compulsory

Compulsory property purchase is not currently part of the proposed programme.

Implementation of the support programme will not include consideration of out –of- scope components unless it supports better achievement of the policy outcome (i.e. like compulsory acquisition at some point might)

Policy Intent: What are the assumptions and constraints?

Assumptions

Eligible: category three only

Programme is not compensation for natural hazard damage

Not the new BAU: One- off support package. National Framework to be developed for future programmes.

Residential property and residential use not commercial property or revenue loss

No support for residential tenants, leases

Starting point for buyouts is fair value, and contribution that may not be 100%

Top up of insurance, EQC payments not replacement of these payments

Auckland Council implements the support/buy out systems and process

Constraints

Support/buy out determined by an owner of a Category 3 property 'willing to sell'

$774m with funding certainty

Lack of data to estimate affordability of programme (number of impacted households, property values, ownership status)

Central government's co-funding conditions for Category 3 properties are that they must be:

Residential (i.e., have a dwelling on them),

Impacted by the severe weather events of January and February 2023,

Subject to ongoing intolerable risk to life, and

Without an economic way to mitigate the risk.

Key programme design considerations: options

Valuation method

Maximum Value

Percentage contribution

Secondary properties

Insurance Status (uninsured)

Special Circumstances

Who can currently access the support/buy-out programme

Residential property owners whose property contains a legally established dwelling and are:

- assessed Category 3 due to the Auckland Anniversary Flood 27 January - 1 February 2023 and Cyclone Gabrielle: 13-14 February 2023 events

Policy Intent: Assessment criteria

Assessment criteria for options

- **Effective**: expedites voluntary uptake to achieve the policy objective and outcome
- **Affordable**: limits risk of exceeding overall funding available
- **Fair and transparent process**: transparent process, consistent with the intent of the programme, inform and allow input from affected parties, provide justification for decisions and includes provision for review of decisions
- **Equitable**: balances the needs and interests of all Aucklanders with a particular focus on individuals and communities of greatest need

Major trade-offs in programme design:
Cost vs timeframe and uptake

The major trade-off across the options is which of the following is prioritised:

- **Cost** – the support programme could be designed to limit costs and maximise the likelihood that the support programme can be delivered within the existing budget. This would be achieved through a range of limits and checks that would add complexity, extend the timeframe for decisions and Legal Professional Privilege s 7(2)(g) LGOIMA .

- **Uptake** – the programme needs to be designed to expediate voluntary uptake. This would be achieved by providing more generous support/buy-out, and minimising limits and checks. This would also be most likely to enable support/buy-outs to be made quickly and Legal Professional Privilege s 7(2)(g) LGOIMA However, this approach would also increase the likelihood that the scheme cannot be delivered within the existing budget. This would require further negotiation with government, with no guarantee of additional funding. Legal Professional Privilege s 7(2)(g) LGOIMA Legal Professional Privilege s 7(2)(g) LGOIMA

Summary

Note: this is based purely on the initial scoring and is presented only for discussion and to enable consideration of what package of options overall are the most effective in achieving the policy outcome.

- Fair value based on market valuation pre events (date to be determined)
- $1.5 million maximum buy-out payment (see note below)
- No homeowner contribution
- Ignore insurance status (for non insured-/underinsured)
- Exclude secondary properties from the programme
- Include a process for consideration of special circumstances

Although a $1.5million maximum buy-out was analysed to best meet option the assessment criteria , there was a very narrow margin between this and having no maximum cap. There are clear trade-off between affordability and uptake between these two options. If you prioritise affordability and equity, then the $1.5 million value would be the preferred option. If you prioritise effectiveness (expedite uptake) then no maximum value would be the preferred option.

Buy- Out Formula

Property valuation (reference value)

Minus

Insurance and EQC payout (if any)

Equals

*[*initial buy-out *payment amount]*

Initial buy-out payment amount *or* maximum payment cap (if any) [whichever is lowest]

Minus

Homeowner contribution (if any)

Equals

Buy-out payment offer

Programme Risks

IF the design of the voluntary support/buyout programme is not sufficiently generous, ***THEN*** the homeowner may not choose to take up a voluntary support/buyout offer ***SO THAT*** property owners' household may reside at their property and remain exposed to an intolerable risk to life (where no regulatory mechanisms currently exists to restrict residence at the property).

IF secondary properties are not eligible for the voluntary support/buyout offer, ***THEN*** that residential property may be used as a secondary home, or the primary dwelling of a renter, lessee, ***SO THAT*** those who use the property remain exposed to an intolerable risk to life (where no regulatory mechanisms currently exists to restrict residence at the property).

IF the design of the voluntary support/buyout programme is too generous, ***THEN*** the funding package agreed with central government may be insufficient to provide agreed support/buy-out to all eligible property owners, ***SO THAT*** some eligible property owners do not receive support/buy-out or the offer process stalls while council and government negotiate increased funding

Legal Professional Privilege s 7(2)(g) LGOIMA

Option one:	Option two:	Option three:
Current CV	**Market valuation pre events**	**Market valuation post events**
Value of property is determined based on the current capital value (issued in 2021)	Value of property is determined based on the value at a point prior to the events (exact date to be determined)	Value of property is determined based on the value at a point after the events (exact date to be determined)
Implementation		
• Uses current valuation which property owners have had a chance to review when issued in 2021 • Gisborne proposing to use modified (August 2023) CV, Christchurch earthquakes used CV method, Alberta used municipal tax value	• Requires independent valuation, at least 2, 3 if there is no common agreement • Hawkes Bay is proposing this method, and 3 valuations is a common method used in the USA (buyers, sellers, independent, scheme makes an offer no negotiation- accept or decline)	• Requires independent valuation, at least 2, 3 if there is no common agreement. • **Variation can include valuation post event not taking damage into account.** • Queensland does market valuation pre and post event and makes an offer based on the highest valuation, Grand Forks in Canada uses post-flood fair market value plus costs
OPTIONS EVALUATION		
Pros and Cons		
• Simple, quick, transparent, low resource to implement, does not take into account loss of value due to events	• Perceived as fairer, more appropriate process, likely to increase voluntary uptake	• Reflects current market value, assists affordability
• Perceived as unfair value method by those impacted, perceived losing equity and capital gain, may impact voluntary uptake	• Requires time and resource for valuation process	• Perceived as least fair, least likely to assist voluntary uptake, and requires time and resource for valuation process
Effective		
✓✓	✓✓✓	✓
Affordable		
✓✓	✓	✓✓✓
Fair & Transparent		
✓✓	✓✓✓	✓✓
Equitable		
✓✓	✓✓	✓✓
RECOMMENDATION		
Based on the analysis against the criteria above, Option two: **market value pre events** is assessed to best meet the criteria. Taking this approach would be most effective for getting voluntary uptake. It will be the preferred method with impacted home-owners. All three options are likely to be contested by some owners, with option three likely to be the most contested. Approaches in other areas consider variation within the option categories illustrating the flexibility that can be considered to fit Auckland. **If affordability is become critical then, one of the two other close scoring options may be preferred.**		

Option one:	Option two:	Option three:	Option four:
$1.5million maximum payment cap	**$2.5million maximum payment cap**	**$5million maximum payment cap**	**No maximum payment cap**
The maximum buy-out payment from the programme a homeowner could receive would be capped at $1.5million	The maximum buy-out payment from the programme a homeowner could receive would be capped at $2.5million	The maximum buy-out payment from the programme a homeowner could receive through the programme would be capped at $5million	There would be no maximum buy-out payment amount from the programme a homeowner could receive
Implementation			
• Condition placed within the offer section of the support/buy-out policy • Quebec runs a capped scheme (@ 700K)	• Condition placed within the offer section of the support/buy-out policy	• Condition placed within the offer section of the support/buy-out policy	• No maximum value included in the support/buy-out policy • Hawkes Bay and Gisborne propose no cap.
OPTIONS EVALUATION			
Pros and Cons			
• Least risk of exceeding available funding, while leaving most property owners unaffected. Works well with CV-based valuation. Limits financial exposure to high value properties	• Significantly reduces number of affected property owners (compared to a $1.5m cap), Legal Professional Privilege s . Works well with CV-based valuation. Limits financial exposure to high value properties	• Very few property owners affected, Legal Professional Privilege s 7(2)(Works well with CV-based valuation	• Maximises uptake and Legal Professional Privilege s 7(2)(g) LGOIMA Least contentious option.
• Reduces voluntary uptake and Legal Professional Privilege . Impacts higher value properties. Does not take into account debt level which may not be covered .	• Increases risk of exceeding available funding (compared to a $1.5m cap) Impacts higher value properties	• Increases risk of exceeding available funding (compared to a $1.5m cap); larger portion of funding will be directed towards those with the most valuable properties	• Greatest risk of exceeding available funding; larger portion of funding will be directed towards those with the most valuable properties
Effective			
✓✓	✓✓	✓✓✓	✓✓✓
Affordable			
✓✓✓	✓✓	✓	✓
Fair & Transparent			
✓	✓✓	✓✓	✓✓✓
Equitable			
✓✓✓	✓✓	✓	✓
RECOMMENDATIONS			
Based on the analysis against the criteria above, Option one: **$1.5million maximum council payment** is assessed to best meet the criteria. Taking this approach would give the most confidence of being able to deliver the programme within available funding, while leaving most property owners unaffected, but would reduce uptake among owners with more valuable properties and Legal Professional Privilege s 7(2)(g) LGOIMA. There is a very narrow margin between this and having no maximum cap. **If expediting uptake is critical then no maximum payment would be the preferred option.**			

Option one:	Option two:	Option three:
No homeowner contribution	**5% homeowner contribution**	**20% homeowner contribution**
Homeowners would receive 100% of the programme buy-out payment amount (after considering any insurance and cap)	Homeowners would receive 95% of the programme buy-out payment amount (after considering any insurance and cap)	Homeowners would receive 80% of the ptroramme buy-out payment amount (after considering any insurance and cap)
Implementation		
• Nothing required to implement this option	• This would be implemented through a formulaic adjustment to the buy-out offer. Government had proposed this limit.	• This would be implemented through a formulaic adjustment to the buy-out offer.
OPTIONS EVALUATION		
Pros and Cons		
• Will get greatest uptake from property owners • Minimises impact on property owners with lower and mid-value properties, even if used in conjunction with a cap	• Marginally more affordable than a 100% buy-out • (Note: this option was used to estimate costs for negotiations with government)	• Most affordable option
• Most costly option	• Likely to marginally reduce uptake from property owners	• Likely to reduce uptake from property owners • Likely to have a large negative effect on property owners with lower and mid-value properties, particularly in conjunction with a cap
Effective		
✓✓✓	✓✓	✓
Affordable		
✓	✓✓	✓✓✓
Fair & Transparent		
✓✓	✓✓	✓✓
Equitable		
✓✓✓	✓✓	✓
RECOMMENDATION		
Based on the analysis against the criteria above, **option one 100% Buy-Out** is assessed to best meet the criteria. Taking this approach would represent a generous offer and would maximise and expedite voluntary uptake. It is the most costly option, but affordability could be managed through the use of maximum payment (cap).		

Option one:	Option two:
Take insurance status (uninsured/underinsured) into account	**Ignores insurance (uninsured/underinsured) status**
Property owners' insurance status (i.e., uninsured or underinsured) would affect the buy-out payment they receive from the programme	Property owners' insurance status would not affect the buy-out payment they receive from the programme.
Implementation	
• Further work to provide advice on the best approach to implementing this option • Specific provisions and conditions would be required in the support/buy-out purchase policy	• Nothing required to implement this option, but it is subject to any other policy provisions. • This approach is being used in Hawkes Bay
OPTIONS EVALUATION	
Pros and Cons	
• More affordable to programme • (Note: because this is a one-off programme moral hazard has not been considered)	• Would increase uptake, Legal Professional Privilege s 7(2)(g) LGOIMA) and would be more equitable
• Would require more administration resource, reduce uptake Legal Professional Privilege s 7(2)(g) LGOIMA and be less equitable	• Less affordable, perceived to be unfair to those who paid for insurance
Effective	
✓	✓✓✓
Affordable	
✓✓✓	✓✓
Fair & Transparent	
✓	✓✓
Equitable	
✓	✓✓
RECOMMENDATION	
Based on the analysis against the criteria above, **Option two: ignore insurance status** is assessed to best meet the criteria. Taking this approach would be simpler, increase uptake, Legal Professional Privilege s 7(2)(g) LGOIMA and be more equitable.	

Option one:	Option two:	Option three:
Secondary properties excluded	**Secondary properties included**	**Secondary included with limitations**
Properties which are not the primary home of the owner are excluded	Properties which are not the primary home of the owner are included	Properties which are not the primary home of the owner are included but with limitations such as lower maximum or percentage buy out to primary home.
Implementation		
• Excluded in definition in the support/buy-out policy • Alberta- Canada excludes	• Included in eligibility criteria in the support/buy-out policy • Proposed Hawkes Bay & Gisborne	• Included in eligibility criteria with conditions placed within the offer section of the support/buy-out policy
OPTIONS EVALUATION		
Pros and Cons		
• Aligns with risk categorisation, and objective of support, no impact on uptake, assists programme affordability, generally accepted by ratepayers	• Not controversial for impacted owners, would provide certainty towards policy objective	• Mid option, more affordable than inclusion without limitations, less controversial for ratepayers than inclusion and less controversial that total exclusion with home-owners
• Perceived as unfair, controversial, as impacted owners likely to perceive programme as hardship, liability or compensation based. Potentially some risk to life still present	• Adds to cost of programme, may enable continued occupation of property by renters, lessees or use by property owner, may not be accepted by rate payers	• Complicated to administer, more resource to deliver programme
Effective		
✓✓	✓✓✓	✓
Affordable		
✓✓✓	✓	✓✓
Fair & Transparent		
✓✓✓	✓	✓✓
Equitable		
✓✓✓	✓	✓✓
RECOMMENDATION		
Based on the analysis against the criteria above, **Option one: secondary properties excluded** is assessed to best meet the criteria. Taking the policy objective into account properties with a secondary dwelling (and no dwelling) do not represent a risk to life as the owner has a primary dwelling to live in.		

Option one:	Option two:
Include a process for special circumstances	**No process for special circumstances**
Provides for specific stated circumstances and general circumstances to be considered which fall outside of the policy positions	Maintain set policy positions with no ability to consider specific or special circumstances, or to include process for specific exclusions to be considered
Implementation	
• Specific sections(s) in the support/buy-out policy could be used for mixed use, no dwelling house etc	• Specific statement that no deviation from the policy parameters will be considered
OPTIONS EVALUATION	
Pros and Cons	
• Would increase uptake, be significantly more equitable and Provides mechanism to deal with specific matters without requiring more administration for entire programme participants	• Would require less administration and reduce risk of exceeding available funding (both potentially offset by administrative costs of judicial reviews)
• Would increase the number/size of buy-outs, and add administrative costs, but only for a small number of cases	• Would reduce uptake, be significantly less equitable and Legal Professional Privilege s 7(2)(g) LGOIMA
Effective	
✓✓✓	✓✓
Affordable	
✓✓	✓✓✓
Fair & Transparent	
✓✓✓	✓
Equitable	
✓✓✓	✓
RECOMMENDATION	
Based on the analysis against the criteria above, **Option one: include a process to consider special circumstances** is assessed to best meet the criteria. Taking this approach would be significantly fairer and Legal Professional Privilege s 7(2)(g) LGOIMA.	

Discussion

TĀMAKI MAKAURAU RECOVERY

4. Other work progressing

Other work progressing

- Categorisation methodology – work progressing
- Buyout methodology / acquisition process – work progressing
- Dispute resolution processes

⟶ Further consideration by Political Advisory Group