



REF: EMR OIA 2024-24518

10 February 2025

Gary Whitehead
By email: fyi-request-29534-db1165be@requests.fyi.org.nz

Dear Gary,

Official Information Act request relating to FOSAL categorisation

Thank you for your Official Information Act 1982 (the Act) request, received on 12 December 2024. You requested:

“ I'm a writing to you as the minister for recovery.

On the 8 of August 2024 you had replied in writing, thanking the Far North District Council for its intention to carry out FOSAL categorisation in the Far North.

Council have informed me that the The Department of the Prime Minster and Cabinet (DPMC) through the Cyclone Recovery Unit (CRU) set the criteria to qualify for the FOSAL Programme and they will not discuss the matter with me any further.

So, I am forced to ask you

Is it true that the ministry approved Councils policy to only catagorise Catagory 3 properties?

My property was rated at a moderate risk to life in Gabrielle and an unacceptable risk in a modelled 10% AEP and 1%AEP events, has a High danger rating and the risk to life is Intolerable.

As Council stated they are under instruction of the ministry, why did my property not qualify for a FOSAL Catagorisation?

As I was aware there were 3 catagories under FOSAL not just one. Has your department changed the catagorisation prosses?

Should I not under a disputes process be able to claim against the refusal of catagorisation or omitted information?

Did the Council act under instruction of the ministry?

I would appreciate a quick reply, We are overdue for a life threatening flood and consider time to be of the essence. ”

On 20 December 2024 I notified you of my intention to combine responses to your information request and email correspondence. This reply aims to address the correspondence and Official Information Act request you sent to me, as well as further email correspondence sent directly to the Cyclone Recovery Unit (CRU) regarding your property on 10, 12 and 13 December 2024. Answers to your queries are set out below and I have attached information that may be helpful in addressing further questions on the matter.

It is important to note that while the Government set the overall Future of Severely Affected Locations (FOSAL) framework, councils make decisions on the categorisation of properties, and identified their approach to any Category 3 buyouts. The Government does not direct councils on how they make these decisions and has no involvement in the decisions themselves.

Given that, the development of the categorisation process, the investigation of affected properties and the decision on whether to proceed with the FOSAL programme are the responsibility of the Council, it would be inappropriate for me to comment on any decision regarding to the categorisation of your property. I encourage you to address these concerns directly with your local Council representatives.

Your specific queries are identified below along with the relevant contextual information to assist your understanding.

1. Is it true that the ministry approved Councils policy to only catagorise Catagory 3 properties? My property was rated at a moderate risk to life in Gabrielle and an unacceptable risk in a modelled 10% AEP and 1%AEP events, has a High danger rating and the risk to life is Intolerable.

2. As I was aware there were 3 catagories under FOSAL not just one. Has your department changed the catagorisation prosses?

Future of Severely Affected Locations programme and categorisation

A key element of the recovery from the North Island Weather Events (Cyclones Hale and Gabrielle, and the Auckland Anniversary Weekend flooding) is the FOSAL programme. Its purpose, and the purpose of Crown funding for 50% of the cost of voluntary buyouts, is to respond to severely affected residential properties – those that were significantly damaged as a direct result of these specific weather events and where there is an intolerable risk to life for people residing in these properties. These are properties that meet all the following criteria:

- are residential (or the residential parts of mixed-use properties); and
- were significantly (damaged) impacted by the 2023 North Island Weather Events; and
- where people in those properties would face a risk to life from future severe weather events.

The FOSAL categorisation framework was established by central Government in May 2023 as a specific response to the Auckland Anniversary Weekend flooding and Cyclones Hale and Gabrielle (collectively called NIWE). There are three categories under which the future of affected residential properties are assessed. The details of each category are provided in the image below.

| Category | 1 | 2P | 2C | 2A | 3 |
|-------------|---|--|--|---|--|
| Description | Repair to previous state is all that is required to manage future severe weather event risk. | 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 event risk. | 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, but residential use carries an intolerable risk of injury or death. |
| Actions | Flood or landslide damage to repair, but no need for community or property level 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 further information is needed. 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 an unacceptable risk of future flooding or risk from land instability. |

Within these three categories, the threshold for Category 2 and 3 is that these areas face an intolerable risk to life from future extreme weather events. While the level of risk for Categories 2 and 3 is similar, the response is different. The key difference is that for Category 2 properties, there is a viable solution to reduce risk to a tolerable level, while for Category 3, there is no viable solution that could reduce this risk.

More information about the FOSAL approach can be found in the following documents:

1. A briefing entitled 'Overview of the Future of Severely Affected Locations Policy and Implementation'. This document was proactively released in December 2024.
2. Pages 14 through 17 of The Briefing to the Incoming Minister Responsible for Cyclone Recovery.

I have attached these documents. These documents, as well as other publicly released Cyclone Recovery-related documents are also available here: <https://www.dpmc.govt.nz/our-business-units/cyclone-recovery-unit/publicly-released-cyclone-recovery-related-documents>. Further, the Treasury and the Ministry for the Environment had key roles in the initial policy development for FOSAL. The Treasury have released official information on the development of the risk categorisation framework on their website, which is linked in the table below.

Central Government's role in FOSAL

In the FOSAL programme, central Government set the high-level framework, provided funding support to share costs with councils and co-ordinated implementation. The Chief Executive Cyclone Recovery supported by the CRU coordinates the Government's responsibilities for recovery, including reporting on delivery. The Chief Executive Cyclone Recovery supported by the CRU also ensures that the overarching intent of the FOSAL framework is being met, and that to the degree possible, there is consistency between the affected regions. The Chief Executive also ensures that the funding agreed to by the Government is being spent appropriately, and within the scope that the Government has agreed.

3. *As Council stated they are under instruction of the ministry, why did my property not qualify for a FOSAL Categorisation?*
4. *Did the Council act under instruction of the ministry?*

Cost-sharing offers to affected regions, including Northland

Councils in Northland were informed by the previous Minister for Cyclone Recovery in September 2023 that, should they identify any Category 3 buyouts, the Crown would share the

cost on the same basis as agreed with Auckland, Gisborne, and Hawke's Bay councils. In 2024 I reiterated this offer to the Far North District Council and have been clear that the offer for cost sharing relates to Category 3 properties only.

I have attached this correspondence, as well as follow-up letters.

Councils were also informed that should they find any Category 2 properties, that they would be invited to provide information for specific projects that could be eligible for some Crown funding; this funding would need to have met specific criteria and be subject to a contestable and prioritised process.

The Far North District Council has undertaken work to establish if there were properties that met the criteria for a Category 3 buyout. I understand the Council has determined and has advised that there were no properties in the District that met the Category 3 criteria. That therefore draws to a close central Government's involvement with the Council on this matter.

5. *Should I not under a disputes process be able to claim against the refusal of catagorisation or omitted information?*

Role of the Ombudsman

The Government has ensured that there is a dedicated resource within the office of the Chief Ombudsman to focus on Cyclone Recovery related matters. You can contact the Chief Ombudsman to notify him of issues with council processes, buyout policies and the categorisation of land, and he will provide an independent and impartial voice to ensure decisions are fair and equitable.

<https://www.ombudsman.parliament.nz/what-ombudsman-can-help/complaints-about-government-agencies>

Adaptation framework

Properties across the country are increasingly impacted by severe weather events. It is not possible for the Government to provide support to buy out privately owned properties following every natural hazard event. To respond to these issues in an enduring way, the Government is developing an Adaptation Framework to clarify how New Zealand can manage and share the costs of adapting to climate change, including recovery from natural hazard events. While I appreciate that this Framework will not be able to resolve your current situation, I am confident that it will help to manage the impacts of future severe weather events.

Information being released

Please find enclosed the following documents:

| Item | Date | Document description | Decision |
|-------------|-------------------|--|-----------------|
| 1 | 22 September 2023 | Letter from Minister Cyclone Recovery | Release in full |
| 2 | 26 March 2024 | Letter from Minister Emergency Management and Recovery | Release in full |
| 3 | 17 May 2024 | Letter from Minister Emergency Management and Recovery | Release in full |
| 4 | 8 August 2024 | Letter from Minister Emergency Management and Recovery | Release in full |

Information publicly available

The following information also addresses the questions in your request. These documents, and further information referred to is publicly available on the DPMC and the Treasury website:

| Item | Date | Document description | Website address |
|------|-------------------|--|---|
| 1 | 27 November 2023 | Briefing to the Incoming Minister Responsible for Cyclone Recovery | https://www.dPMC.govt.nz/publications/proactive-release-briefing-incoming-minister-responsible-cyclone-recovery-nov-2023 |
| 2 | 27 November 2023 | Overview of the Future of Severely Affected Locations Policy and Implementation | https://www.dPMC.govt.nz/publications/proactive-release-dPMC-202324-457-briefings-related-cyclone-recovery-november-2023 |
| 3 | 15 November 2024 | A response to an Official Information Act Request from The Treasury entitled 'Concept of 'intolerable life safety risk'' | https://www.treasury.govt.nz/publications/oia-response/concept-intolerable-life-safety-risk-oia-20240757 |
| 4 | 13 September 2024 | A response to an Official Information Act Request from The Treasury entitled 'Materials related to the future of severely affected land risk categorisation framework' | https://www.treasury.govt.nz/publications/oia-response/materials-related-future-severely-affected-land-risk-categorisation-framework-oia-20240485 |

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

Yours sincerely,



Hon Mark Mitchell
Minister for Emergency Management and Recovery