Hon Nanaia Mahuta, Minister of Local Government

Supporting a Response to Natural Hazard risk-to-life in Matatā
Issued 1 July 2019

The following documents are proactively released without redaction:

1. 1 July 2019, CBC-19-MIN-0028 Minute: Supporting a Response to Natural Hazard Risk-to-life in Matatā, Cabinet Office; and

2. 1 July 2019, Proposal for funding to support a response to natural hazard risk-to-life in Matatā, Office of the Minister of Local Government.

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Supporting a Response to Natural Hazard Risk-to-life in Matatā

Portfolio Local Government

On 1 July 2019, the Cabinet Business Committee, having been authorised by Cabinet to have Power to Act [CAB-19-MIN-0339]:

1. noted that urgent action is required at Awatarariki, Matatā to respond to a natural hazard risk which has been threatening residential properties since a serious debris flow event in 2005;

2. noted that a voluntary managed retreat from the highest-risk area has been found to be the safest and most cost-effective solution;

3. noted that agreement in principle has been reached between officials, the Whakatāne District Council, and the Bay of Plenty Regional Council to finance a managed retreat via a cost-sharing arrangement wherein each party will contribute a third of the overall cost of $15.058 million;

4. agreed to increase funding in Vote Internal Affairs in 2019/20 to support the Whakatāne District Council in cooperation with the Bay of Plenty Regional Council to effect a managed retreat of 16 houses and 18 vacant sections that are positioned in a location that is deemed to pose intolerable risk-to-life at Awatarariki, Matatā;

5. approved the following change to appropriations to give effect to the decision in paragraph 4 above, with a corresponding impact on the operating balance and net core Crown debt:

<table>
<thead>
<tr>
<th>Vote Internal Affairs</th>
<th>Minister of Internal Affairs</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>2019/20</td>
</tr>
<tr>
<td>Non-Departmental Other Expense:</td>
<td></td>
</tr>
<tr>
<td>Miscellaneous Grants – Internal Affairs</td>
<td>5.019</td>
</tr>
</tbody>
</table>

6. agreed that the change to appropriations for 2019/20 above be included in the 2019/20 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply;
agreed that the expenses incurred under paragraph 5 above be charged against the between-Budget contingency established as part of Budget 2019;

noted that the Crown contribution to the managed retreat shall be capped at $5.019 million and if the total cost of the managed retreat exceeds the estimated amount, any additional costs will be borne by the Whakatāne District Council;

noted that the Crown contribution to the managed retreat will be made in stages on the basis of actual expenses incurred or about to be incurred by the Whakatāne District Council to effect the managed retreat;

agreed that the Department of Internal Affairs will seek approval from the Minister of Local Government and the Minister of Finance before any payment is made to the Whakatāne District Council as part of the Crown contribution to the managed retreat;

noted that any under expenditure against the Crown contribution to effect the managed retreat will be returned to the Crown.

Vivien Meek
Committee Secretary

Present:
Rt Hon Jacinda Ardern (Chair)
Rt Hon Winston Peters
Hon Kelvin Davis
Hon Grant Robertson
Hon Dr Megan Woods
Hon Chris Hipkins
Hon Andrew Little
Hon Dr David Clark
Hon David Parker
Hon Nanaia Mahuta
Hon Tracey Martin
Hon Kris Faafoi

Officials present from:
Department of the Prime Minister and Cabinet
Office of the Prime Minister

Hard-copy distribution:
Minister of Local Government
Office of the Minister of Local Government

Chair
Cabinet Business Committee

Proposal for funding to support a response to natural hazard risk-to-life in Matatā

Proposal
1. This paper seeks approval for additional operating funding in 2019/20 to support a managed retreat of residents in Matatā who are in extreme danger of injury or death from debris flow events.

Executive summary
2. In 2005, severe rainfall produced a debris flow that devastated the small community of Matatā in the Eastern Bay of Plenty. Despite efforts to manage the natural hazard risk, people are still living on the most exposed area with a continuing high risk to life.

3. The Whakatāne District Council (the District Council), working closely with the Bay of Plenty Regional Council, has sought help from the Government. The two councils have initiated plan changes which would extinguish the ability of residents to continue to occupy the area or build on it. These plan changes have been suspended while a voluntary managed retreat is explored. A voluntary managed retreat has been determined by the parties as the option most likely to enable residents to move off the site, providing an enduring solution to the high risk to life.

4. Officials from the Department of Internal Affairs (the Department), working with the District Council and the Bay of Plenty Regional Council, have explored a cost sharing arrangement where each party would contribute a third share of the estimated total cost of $15.058 million. To give effect to this in principle agreement, the Government needs to urgently confirm its funding share so that the District Council can confirm its cost share through its Annual Plan. In turn, the Bay of Plenty Regional Council will confirm its funding share. If we do not provide this confirmation, the cost sharing arrangement will lapse.

5. There is currently no agreed policy framework for managed retreats. The Government has dealt with calls for assistance from local government on a case by case basis. At the recent Central and Local Government Forum, central government agreed to work with local government on community resilience issues, including a more robust approach to funding and financing issues. Addressing the natural hazard risk at Matatā will inform this work and I consider the precedent risks can be managed. An approach involving the Government and the District and Regional Councils in a cost sharing arrangement will resolve uncertainty and the high risk to life which has existed for 14 years at Matatā.

Background
6. The debris flow at Awatarariki, Matatā in 2005 destroyed 27 homes and cut transport links. Fourteen years later, the risk to human life from the ongoing threat of further debris flows continues. This risk has been independently verified as being at an ‘intolerable’ level. Risk modelling indicates that a future similar event would be likely to cause multiple deaths. The risk level is the same, or higher, as the risk to life in the
Christchurch Port Hills, where a managed retreat from 684 sites took place following the 2011 earthquake series.

7. There are 16 houses and 18 vacant sections in the highest risk area around the mouth of the Awatarariki Stream. All but one of the houses are the primary residence of the owner or the owner’s family, and there are no holiday homes.

8. In June 2018, the Bay of Plenty Regional Council notified a proposed plan change that would rezone the area to discontinue existing residential use. The District Council concurrently notified a change to its District Plan, which would prevent future residential development in the high-risk area. Both plan changes have been put on hold while a voluntary managed retreat option is explored. The plan changes would occur under the Resource Management Act 1991, without compensation for residents.

9. The District Council has found that a voluntary managed retreat from the highest-risk area is the safest and most cost-effective course of action to mitigate natural hazard risk-to-life in Matatā. Consultation undertaken by the District Council indicates that residents are unlikely to retreat from the high-risk area unless their properties are bought out at a value that enables them to settle elsewhere.

10. Affected property owners who rebuilt their homes following the 2005 debris flow did so based on a determination from the then Department of Building and Housing that it was safe to do so. They were also encouraged by the efforts of the District Council to find an engineering solution to manage the risk from future similar events.

Comment

Funding sought under this proposal is essential to the implementation of a voluntary managed retreat from natural hazard risk-to-life in Matatā

11. The District Council is unable to fund the estimated $15.058 million cost for the managed retreat alone as it has a relatively small rating base, coupled with low household incomes across the district.

12. My officials have explored a cost-sharing arrangement whereby the District Council, the Bay of Plenty Regional Council and central government each contribute one third of the total cost (estimated at $5.019 million each, and capped at this amount for the Crown). This arrangement has been agreed in principle, pending approval of central government funding.

13. The funding under this proposal will be used for the Crown’s contribution to this cost-sharing arrangement.

Breakdown of the costs of this initiative

14. The full range of costs associated with the managed retreat are detailed in Appendix 1. This includes the purchase price of properties and costs associated with the purchase, demolition of structures, and rezoning of the land to create a reserve so that future development cannot take place there. The District Council will meet the cost of future maintenance of the reserve.

15. The costs assume 100 per cent uptake by affected home owners and are based on 2018 valuations (on the basis that the debris flow in 2005 had never taken place).

16. Some homeowners may choose not to retreat from the at-risk area. However, the District Council estimates 90 per cent of homeowners are expected to retreat if the offer meets their expectations.
17. The Crown’s contribution to the costs of the managed retreat will be capped at $5.019 million. If the total cost of the managed retreat exceeds the estimated amount, any additional costs will be borne by the District Council and the Crown contribution will not be affected. If the total cost of the managed retreat is lower than the estimated amount, the Crown’s share of the excess will be returned.

A decision from Government is urgently required

18. The District Council’s recently finalised annual plan indicates that it will borrow its share of funding for the managed retreat, if funding from central government is secured.

19. The Bay of Plenty Regional Council’s proposed cost share will not be committed until the Government’s and the District Council’s funding is confirmed.

20. If the Government is not able to provide funding for the managed retreat now, the opportunity to proceed with the cost-sharing arrangement is likely to be lost, as funding terms will need to be renegotiated in future years. This would mean that the risk-to-life and uncertainty for residents at Awatarariki would continue unabated for the foreseeable future.

Alternative options to address risk-to-life in Matatā have been considered but have proven to be non-viable

21. Following the 2005 debris flow event, the District Council worked with engineering consultant Tonkin and Taylor Ltd to explore a range of engineering solutions to manage debris flow from the Awatarariki stream. This was aligned with affected residents’ preference to remain living in the area, if possible. The District Council received $2.890 million from the Ministry of Civil Defence and Emergency Management for this project to investigate engineering works.

22. The initial preferred solution was an earth dam, but this was subsequently discounted following concerns from iwi over the environmental footprint within a wahi tapu site. A further alternative option using a flexible ring net to capture debris was developed. A design process for this option was initiated, however it was found to be impractical and likely ineffective. As at May 2012, expenditure on Awatarariki Catchment works totalled $4.814 million.

23. In 2012, Tonkin and Taylor Ltd advised the District Council that an engineering solution at Awatarariki was neither financially nor practically viable. This leaves managed retreat from the area as the only safe and cost-effective option. This option is supported by the local iwi, Ngāti Awa. The Ministry of Civil Defence and Emergency Management has also accepted that managed retreat is an appropriate outcome for this area (refer to paragraph 33).

24. Without a voluntary managed retreat, the Bay of Plenty Regional Council and the District Council will need to consider whether to resume the plan changes for the area. Using this approach to prohibit existing residential land use has not previously been tested and, as there are no provisions for compensating existing residents, it is likely to be challenged.
The proposal for managed retreat at Matatā will inform our work programme on Community Resilience

25. In the absence of an established framework for dealing with cases such as this, the proposal to cooperate for a managed retreat at Matatā will inform work commissioned at the recent Central and Local Government Forum. The commitment given at the Forum for central and local government to develop a joint work programme on community resilience, including funding and financing issues, is an important part of the commissioned work.

26. The proposed cost sharing arrangements with the District Council and the Bay of Plenty Regional Council will ensure that the two councils retain primary responsibility for the managed retreat. The Government’s wider policy framework, articulated in the National Disaster Resilience Strategy, puts emphasis on risk reduction measures in order that communities are less exposed to risk. Not only are the costs of recovery from natural hazards very significant, in the case of the 60/40 post-disaster funding arrangements, the Government can be liable for up to 60 per cent of a local authority’s costs of restoring infrastructure.

27. Along with my colleagues the Minister of Civil Defence and the Minister for Climate Change, I am overseeing this wider work on community resilience, working in partnership with local government. We will report back to Cabinet in September 2019 on the overall direction of the work programme, which includes approaches to funding and financing.

Risks arising from this proposal are minor and/or can be managed

28. The risks arising from providing Crown funding for a managed retreat at Matatā are:

28.1 Precedent: the cost-sharing arrangement could be seen as setting a precedent for Crown contributions to the cost of adaptation to natural hazard risk in other areas. I consider this risk to be manageable and I do not believe that this proposal will create a binding precedent for the Government because the situation at Matatā is distinguishable by several unique characteristics:

28.1.1 the District Council spent considerable time and resources to explore engineering solutions which were later proven to not be feasible;

28.1.2 the former Department of Building and Housing made a determination as to the safety of houses at Awatarariki in 2006, which affected property owners relied on in good faith to rebuild their homes; and

28.1.3 the passage of time without any move towards resolution has created a great deal of uncertainty for residents who continue to live with an ‘intolerable’ risk-to-life caused by a natural hazard.

28.2 Implementation risks: this includes risk that implementation of the managed retreat will fail because owners refuse to leave their property or demand an increased payment in exchange for their property (for example, in excess of the 2018 valuations that this proposal is based on). This risk will be managed by the District Council, which has developed an acquisition strategy to expedite the implementation of the managed retreat. Not all of the residents at Awatarariki have confirmed that they are willing to leave their properties, however the District Council believes that the majority of residents will accept the offer for voluntary retreat.
Next Steps

29. Once funding is approved, my officials will establish criteria for the drawdown of funds and accountability measures for their use. Monies will be transferred to the District Council in stages, as demand can be shown (for example, unconditional sale and purchase agreements, invoices for services rendered). The transfers will be approved by the Minister of Local Government and the Minister of Finance. This approach will prevent over-spending of the Crown’s contribution in the event that the total cost of the managed retreat is less than $15.058 million.

30. Implementation of all stages of the managed retreat process will be delivered by the District Council. The Government will not have a role in the implementation of the managed retreat.

Consultation

31. The following agencies were consulted on the proposals in this paper: Ministry of Civil Defence and Emergency Management, Ministry for the Environment, The Treasury. The Department of the Prime Minister and Cabinet (Policy Advisory Group) was informed.

32. The Treasury provided the following comment on this proposal:

“The Treasury does not support a Crown contribution to the proposed voluntary retreat at Matatā at this time, and recommend this issue be deferred. A number of significant issues should be addressed before the solution of a Crown contribution is agreed.

- Undesirable precedents regarding future Crown contributions for climate change: New Zealand will likely face challenges as a result of climate change in future, including managed retreat from coastal zones. The situation in Matatā presents many of the same characteristics as those likely to occur as a result of climate change. The Community Resilience work currently underway aims to determine principles to underpin central and local government intervention for climate change and other natural hazards. Agreeing to fund this proposal now risks creating a precedent for future Crown financial contributions to climate change adaptation challenges.

- Legal issues and liability have not been adequately determined: the full extent of liability for the current situation of residents has not been determined, but is likely to rest with the Council(s) given their role in hazard and land use management.

- Councils’ financial ability to pay: The Department of Internal Affairs has conducted analysis (not referred to in this paper) of Councils across New Zealand to determine financial issues and ability to pay. We have not seen any analysis that supports the view that the Councils have limited ability to fund the managed retreat.

- Voluntary nature: it is not clear what happens if some residents do not take up the offer, particularly given the proposed District Plan changes.
Compliance with Cabinet's expectations regarding Budget initiatives: this proposal was the subject of an unsuccessful Budget 2019 initiative. Cabinet Office circular (18) 2 states that 'any funding proposal submitted to Cabinet outside of the Budget process must not have been previously considered and declined by Cabinet'. This rule is in place to avoid agencies and Ministers 'appealing' Budget decision-making and undermining the integrity of the Budget decision-making process. Circumstances do not appear to have significantly changed to justify reconsideration of this proposal as an urgent item that cannot be deferred until Budget 2020."

33. The Ministry of Civil Defence and Emergency Management also provided a comment on this proposal:

"The Ministry of Civil Defence & Emergency Management (MCDEM) has been advised of this paper. MCDEM accepts that there is a potential risk to life in Matatā and supports a managed retreat as an appropriate outcome for this area, although it considers there are still precedent and implementation risks to work through with the proposal in this paper."

Financial Implications

34. Cabinet Office Circular CO (18) 2 Proposals with Financial Implications and Financial Authorities requires that proposals for funding from the between-Budget contingency demonstrate that the proposal cannot be funded through reprioritisation, cannot be deferred until the next Budget, and should be supported with the same degree of information as a Budget proposal.

35. The Department has reviewed options for reprioritising funding from within Vote Internal Affairs baselines of the fiscal forecast period. I am advised that, although Budget 2019 initiatives have provided some relief for departmental cost pressures, significant cost pressures remain an issue for the Department to manage over the forecast period. These cost pressures have been largely driven by increased demand for Crown-funded services, and the required investment to meet service delivery expectations. As such, I am advised that the costs to support the proposed managed retreat of residents in Matatā cannot be met within the Department’s existing baselines.

36. Any further reduction of funding to existing activities would have a detrimental impact on outputs and outcomes. If additional funding is not approved, the Department would need to reprioritise its existing resources and work programmes, which will lead to a reduction in the provision of goods and services or rescinding commitments that have been entered into.

37. The funding of $5.019 million in 2019/20 is required urgently to respond to a natural hazard risk which has been threatening residential properties since a serious debris flow event in 2005. Approval of funding cannot be deferred to Budget 2020 because, if the Government is not able to provide funding for the managed retreat now, the opportunity to proceed with the cost-sharing arrangement is likely to be lost as it will need to be renegotiated in future years.

38. The funding is also required now because there is no other safe and cost-effective option to manage natural hazard risk-to-life for residents at Awatarariki.

39. Accordingly, I seek approval for a $5.019 million increase to the Vote Internal Affairs appropriations in 2019/20 to cover the costs associated with supporting the District
Council, in cooperation with the Bay of Plenty Regional Council, to effect a managed retreat of 16 houses and 18 vacant sections that are positioned in a location that is deemed to pose intolerable risk-to-life at Awatarariki, Matatā.

**Legislative Implications**
40. There are no legislative implications associated with this paper.

**Impact Analysis**
41. There are no regulatory implications associated with this paper.

**Human Rights, Gender Implications and Disability Perspective**
42. This paper has no implications under the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.
43. There are no gender or disability implications arising from this paper, although I note that persons with a disability or elderly persons with reduced mobility are at an increased risk of death or serious injury from a future debris flow event at Matatā.

**Publicity**
44. The District Council will manage communications directly with affected property owners.
45. I intend to explore opportunities to issue a joint press statement with the District Council and the Bay of Plenty Regional Council. This will highlight how cooperation between central and local government has enabled an enduring solution to the danger and uncertainty, which has prevailed upon the community for 14 years.

**Proactive Release**
46. This Cabinet paper and associated minute will be published on the Department’s website, subject to any necessary redactions.

**Recommendations**
47. The Minister of Local Government recommends that the Cabinet Business Committee:

1. **note** that urgent action is required at Awatarariki, Matatā to respond to a natural hazard risk which has been threatening residential properties since a serious debris flow event in 2005;
2. **note** that a voluntary managed retreat from the highest-risk area has been found to be the safest and most cost-effective solution;
3. **note** that agreement in principle has been reached between officials, the Whakatāne District Council, and the Bay of Plenty Regional Council to finance a managed retreat via a cost-sharing arrangement wherein each party will contribute a third of the overall cost of $15.058 million;
4. **agree** to increase funding in Vote Internal Affairs in 2019/20 to support the Whakatāne District Council in cooperation with the Bay of Plenty Regional Council to effect a managed retreat of 16 houses and 18 vacant sections that are positioned in a location that is deemed to pose intolerable risk-to-life at Awatarariki, Matatā;
5. **approve** the following change to appropriations to give effect to the decision in recommendation 4 above, with a corresponding impact on the operating balance and net core Crown debt:

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<tr>
<th>Vote Internal Affairs</th>
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<th>2019/20</th>
<th>2020/21</th>
<th>2021/22</th>
<th>2022/23</th>
<th>2023/24 &amp; Outyears</th>
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<td>Non-Departmental Other Expense: Miscellaneous Grants – Internal Affairs</td>
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</table>

6. **agree** that the proposed change to appropriations for 2019/20 above be included in the 2019/20 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply;

7. **agree** that the expenses incurred under recommendation 5 above be charged against the between-Budget contingency established as part of Budget 2019;

8. **note** that the Crown contribution to the managed retreat shall be capped at $5.019 million and if the total cost of the managed retreat exceeds the estimated amount, any additional costs will be borne by the Whakatāne District Council;

9. **note** that the Crown contribution to the managed retreat will be made in stages on the basis of actual expenses incurred or about to be incurred by the Whakatāne District Council to effect the managed retreat;

10. **agree** that the Department of Internal Affairs will seek approval from the Minister of Local Government and the Minister of Finance before any payment is made to the Whakatāne District Council as part of the Crown contribution to the managed retreat; and

11. **note** that any under expenditure against the Crown contribution to effect the managed retreat will be returned to the Crown.

Authorised for lodgement

Hon Nanaia Mahuta

Minister of Local Government
Appendix 1: Detailed breakdown of costs associated with the proposed managed retreat

<table>
<thead>
<tr>
<th>Description</th>
<th>2018 (updated valuation)</th>
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</thead>
<tbody>
<tr>
<td>Escape route development</td>
<td>$29,000</td>
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<tr>
<td>Property acquisition of 16 dwellings at 2018 valuation (valuation by TelforYoung and peer reviewed)</td>
<td>$8,074,537</td>
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<tr>
<td>$504,659 is the average property value</td>
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<tr>
<td>Property acquisition of 18 vacant sections at 2018 valuation (valuation by TelforYoung and peer reviewed)</td>
<td>$5,018,402</td>
</tr>
<tr>
<td>$278,800 is the average section value</td>
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<tr>
<td>Demolition / relocation and disposal of 16 dwellings in the highest risk area around the mouth of the Awatarariki Stream.</td>
<td>$422,400</td>
</tr>
<tr>
<td>Reserve creation - earthworks, grassing &amp; development (costings by Boffa Miskell costings)</td>
<td>$1,254,000</td>
</tr>
<tr>
<td>Appeals to property valuations (estimated costs)</td>
<td>$60,000</td>
</tr>
<tr>
<td>Property acquisition costs (legal fees etc.)</td>
<td>$200,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$15,058,338</strong></td>
</tr>
<tr>
<td><strong>Government contribution - one third of total cost</strong></td>
<td><strong>$5,019,446</strong></td>
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</tbody>
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