

Category 3
Voluntary
Buy-out
Support Scheme

Homeowner handbook

aucklandcouncil.govt.nz/recovery





Rārangi kōrero

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He kupu nā te Koromatua

Message from the Mayor



Tēnā koutou katoa,

This handbook is the next action out of our Recovery Office, which has been working hard to provide you with up-to-date and relevant information so you can plan ahead and get on with your

lives following the catastrophic Auckland Anniversary weekend floods and Cyclone Gabrielle.

The decisions myself and my fellow councillors have made around Category 3 now mean that you have a voluntary option to leave your property and avoid having to experience extreme events in this way again in the future.

The considerable time I spent on sites with building inspectors and geotechnical and stormwater engineers informed me of the problems you faced and the solutions we all needed. I hope the announcements around Category 3 provide you with a pathway forward of some kind. I do believe we have done the right thing by providing for those most affected.

I am also acutely aware that these events will become more apparent in our city; extreme weather is going to be an ongoing feature of our lives now. With that knowledge in hand, I cannot stress enough that rates

are not an insurance premium, and we cannot continue to pay for these events. I have already been vocal about the need for central government to plan ahead for this.

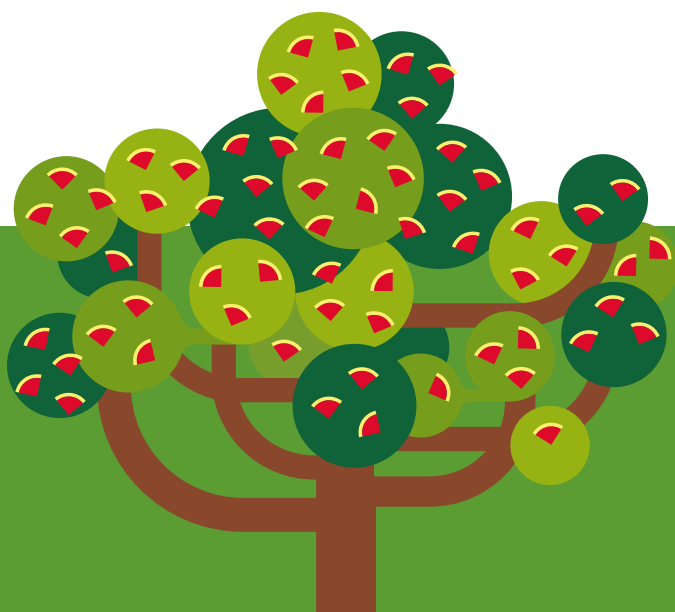
The buy-out offer that is available to you has only been made possible through a one-off agreement with the government and the support of other Auckland ratepayers.

Our next steps to improving our regional resilience, made possible with the Crown deal, will be engaging with iwi, community groups, and local boards to jointly develop stream and waterway resilience projects and blue-green areas for more detailed consideration, along with other land stability projects.

It is our plan to commence concept design work and business case development in the highest priority areas through our Making Space for Water programme.

And we will continue to work on developing the flood intelligence and helping Aucklanders be better informed by leveraging the flood viewer tool, which has already gone live for public use.

**Auckland Mayor,
Wayne Brown**



Pathway for a voluntary Category 3 property buy-out

1



RISK CATEGORY CONFIRMED

Your detailed risk assessment will determine what risk category your property is. If your property is Category 3, you are eligible for a buy-out and you'll be asked if you want to opt-in to a buy-out process.

2



MEETING SCHEDULED

A property advisor and a storm recovery navigator will support you during the buy-out process. They'll contact you after categorisation to book an in-person or online meeting with you.

3



INITIAL HOMEOWNER MEETING

At this meeting you'll have the buy-out process explained and your questions answered. You'll be asked to confirm if you want to continue the process towards a buy-out offer and give your consent for a valuation to be done. We will also ask for insurance information, and whether you have any individual circumstances you would like us to consider if you are not insured.

4



PROPERTY VALUATION

We will arrange a market valuation (as at 26 January 2023) from a registered valuer. Your property advisor will present you with the offer, a copy of Auckland Council's valuation, and a conditional Sale and Purchase Agreement which sets out the buy-out price (based on the valuation, your insurance and EQC information, and homeowner contribution).

5



OFFER DECISION

If you **accept** the offer, you will sign and return the Sale and Purchase Agreement.
If you **do not accept** the offer, you can either dispute the valuation or you can opt-out of the buy-out process.

6



SETTLEMENT

The Sale and Purchase Agreement will specify the settlement date for the buy-out, which is when the funds will be transferred to you and your property ownership is transferred to Auckland Council. You'll need to have moved out and removed everything from the property by the settlement date.

7



POST SETTLEMENT

Auckland Council will own your property after settlement. We will then decide what to do next with your property, which may include deconstruction or demolition.

About the scheme

Auckland Council has established a scheme to purchase Category 3 homes so that Aucklanders affected by the severe weather events of January and February 2023 can be supported to voluntarily relocate from residential housing situations where there is an intolerable risk to life.

This is a limited, one-time scheme that has been made possible through a joint funding agreement between Auckland Council and Crown, following public consultation with Aucklanders.

The scheme is guided by four policy principles.

- Be effective – we want the scheme to be easy for you, so you are supported to move from a living situation where there is future risk to life for you and your whānau.
- Be affordable – this scheme is funded by ratepayers and taxpayers, and the funding available for purchasing properties has been agreed with the government. We need to ensure there is enough money to support everyone that needs it.
- Be fair and in line with policy intent – we have an obligation to be fair and apply the scheme consistently and so that it will meet the outcomes of the policy.
- Be equitable – the scheme needs to be equitable for those most in need and those who fund the scheme.

Getting a categorisation for your property



Under the council's Categorisation Approach a property can be assessed as Category 1, Category 2 or Category 3.

The buy-out offer will only be available for properties that are confirmed as Category 3, where the future severe weather event risk cannot be sufficiently mitigated.

You will need to formally opt-in to the buy-out process within three months of Auckland Council confirming your Category 3 status.

To get a category for your property, you need to ask for a detailed risk assessment to be completed.

This process begins by completing an online **Flooding and Landslide Registration form** to provide Auckland Council with information about your property and how it was impacted during the storms of early 2023.

We will then start a risk assessment process for your property.

A risk assessment has two parts:

1. An initial desktop assessment, based on existing information and any information you provide, which gives an indication of whether your property is likely to be low or high risk. The desktop assessment also tells us if an on-site assessment is needed.
2. An on-site assessment to look at your physical property – this will be required if we think your property could be high risk.

The on-site assessment will look at the level of risk associated with your property, and whether there are changes that can be made at your property or in the surrounding area to reduce the future risk of serious flooding or landslides to the property. If there aren't any practical and feasible changes and there is an intolerable risk to life, then it's likely your property will be Category 3.

Once the risk assessment process is complete, we'll contact you with your property's category and provide you with written confirmation of this, along with your next steps.

A copy of council's **Categorisation Approach** can be found in Appendix 2 in this document. You can find more information about the risk assessment process by visiting aucklandcouncil.govt.nz/recovery.

Supporting you



Selling your home can be an anxious and stressful time for homeowners in normal circumstances, so we recognise that as a Category 3 homeowner, you will be experiencing an even greater

range of emotions.

To support you through the buy-out process, a property advisor and a storm recovery navigator will be your dedicated points of contact. They will be with you from the time you start the process through to when the buy-out is complete.

The **property advisor** will manage the buy-out, and work with the valuer and legal representatives. They'll be your go-to for questions about the buy-out transaction.

The **storm recovery navigator** will provide additional support and connect you with any support services you may need such as claims resolution or mental health support. They will be focused on your wellbeing and that of your whānau.

You will be provided with the names and contact details for your property advisor and storm recovery navigator before your initial face to face discussion.

What to expect

Our commitment to you is to make the process as easy as possible and be clear about what you can expect at each step along the way.

Your property advisor will contact you shortly after your category is confirmed and you have opted into the process. They will set up a time that works for an initial homeowner meeting with you. This can be done in person or online.

Initial homeowner meeting



The initial homeowner meeting is a chance to talk about the buy-out process face to face with you. We will explain the process in detail to you, and you will be able to ask any questions you may have.

It's also an opportunity for us to obtain the information we need to make progress towards making an offer on your property.

The initial meeting with the property advisor should involve all owners, such as co-owners or trustees (if the property is held in a family trust). Your navigator can also attend this meeting.

You are very welcome to invite your own support person too.

The property advisor will ask you questions about your insurance provider, EQC and claim status and request contact details of your lawyer (if you have one at that stage).

You will also be asked to sign a form confirming that you want to formally opt-in to the buy-out process and that Auckland Council can share your personal information with other parties, such as valuers, engineers, and other experts for the purposes of the buy-out.

How long will the buy-out process take?

We recognise that it's been a long and challenging journey since the extreme weather struck Tāmaki Makaurau in early 2023. We will complete the buy-out as quickly as possible so you and your whānau can move on.

If your situation is straightforward and there are no unforeseen delays or disputes, you can expect the process to take between three and six months, which includes one month for you to consider the offer.

This timeline will extend where there is more complexity in the buy-out process, such as when there are special circumstances to be considered, a dispute is raised, or it takes longer than expected to provide insurance claim information.

The offer



The Scheme Terms set out how the buy-out process will run. You can find a copy of the **Scheme Terms** in Appendix 1 in this document.¹

Auckland Council will offer to purchase:

- privately owned residential properties (excluding Crown Land) that have a dwelling on them, and that were affected by the January and February 2023 severe weather events, and
- that have been confirmed as Category 3 under the council's Categorisation Approach.

The buy-out price will be the "reference valuation" which is a market valuation as at 26 January 2023, less all insurance and Earthquake Commission (EQC) proceeds, and less the homeowner contribution defined below.

A market value is the estimated price that a property would sell for on the open market if you were selling your home under normal circumstances.

Valuation



Auckland Council will appoint and pay for a registered valuer to visit your property to assess its value. If access to your property is not possible – for example if the home is red placarded or was demolished – the property adviser will explain how the valuation will be arrived at.

The property will be valued as at **26 January 2023**, being the day before the first of the 2023 extreme weather events that impacted Tāmaki Makaurau. This means the valuation will **not** take into account the damage caused to your property by the storms.

¹ This handbook summarises those Scheme Terms, including in diagrams, to provide you with extra information. If there is any inconsistency between what the Scheme Terms say and what is set out in this handbook, the Scheme Terms will apply.

All valuations will be completed in line with required professional standards (IVS, API/NZIV, PINZ).

Where possible, valuation firms will be working in a specific area.

Consenting to a valuation does not commit you to accepting the buy-out offer from council.

You can choose to use your own registered valuer, at your own cost, if you wish. This will need to be done in the same way as the council-provided valuer, using the same methodology and valuation date.

The methodology can be found in **Appendix 6** in this document. Please speak with your property advisor if this is something you are interested in.

The professional fees contribution, which council will provide to all Category 3 homeowners who opt-in to proceeding with the buy-out process (see page 8 for details), can be used towards the cost of your own registered valuation.

Insured homes

If your home is insured, you will be offered 95 per cent of the value of your home, less any insurance and EQC payout that has been or will be paid to you. This means you will make a 5 per cent **homeowner contribution** towards the cost of the buy-out.

Auckland Council is not able to deal with your insurance claim or insurer on your behalf as it is a contract between you and your insurance company. You will be responsible for settling your insurance claims before Auckland Council settles your buy-out.

Your property advisor will work with you to collect your insurance claim information and documentation.

If you are experiencing any difficulty settling your claim, you can contact the New Zealand Claims Resolution Service for free, independent advice about your insurance claim at nzcrs.govt.nz.

What if I have already spent my insurance money?

If you have already spent your insurance claim payout on home repairs, Auckland Council will consider this as part of the buy-out offer and may top up the offer made to you to take this into account.

You will be asked to provide receipts for the work done and a statutory declaration that the proceeds of your claim have been spent in good faith on repairing your property.

If you have spent your claim payout on things other than repairing your home, such as rent or personal items, the council will not top-up this amount.

Uninsured homes

Uninsured homes will be eligible for a buy-out from Auckland Council. This covers homes that are uninsured, underinsured, or where a property owner has been disqualified from payouts for reasons other than fraud.

For properties that are not insured, we will offer at least 80 per cent of the reference value of the property.

This means there is up to a 20 per cent **uninsured homeowner contribution** towards the cost of the buy-out.

Uninsured individual circumstances

You can apply for Auckland Council to consider your individual circumstances if you think that there are reasons why it would be reasonable and fair for the council to reduce your uninsured homeowner contribution (of 20 per cent) to the same level as for insured homes (of 5 per cent).

Situations where the council may consider that it's appropriate to reduce the contribution to the same level as for insured homes include where:

- there was little or no insurable loss suffered as a result of the events
- you were not able to obtain insurance at the date of the events because of previous severe weather events (but you can demonstrate a previous relevant history of house insurance premium payments)
- you were uninsured at the date of the events but can demonstrate a relevant history of payment of house insurance premiums.

You can find further information about **uninsured individual circumstances**, in Appendix 3 in this document.

Eligibility for the buy-out offer

The categorisation approach only applies to residential properties so only residential homes are eligible for buy-out from the council.

Auckland Council has defined residential properties in the following way:

- Having a legally established residential dwelling on the site. This can include second homes, baches and residential rental properties.
- If the property is mixed-use (for example, includes commercial or agricultural uses) then only the residential portion is eligible for buy-out. Auckland Council will negotiate this as part of the offer process.
- Properties owned in a trust (for example a family trust) are eligible for a buy-out.

- Properties that have changed hands since 26 January 2023 are only eligible at Auckland Council's discretion and/or on terms that Auckland Council agrees to.
- The Scheme does not apply to land owned or administered by the Crown or any of its entities or agencies.

Special circumstances

Auckland Council has made policy decisions to set the categorisation approach and buy-out terms. We need to apply those terms fairly and consistently and in line with the policy decisions that we have made.

We recognise though that on rare occasions, there may be unforeseen special circumstances which mean that we need to depart from those rules.

If you consider that there are special circumstances that mean we need to depart from the terms in your case, you will have the opportunity to raise these during your initial meeting with your property advisor.

It is important to note that financial hardship is not a factor that will be considered in determining whether special circumstances apply.

You can find further information about special circumstances, including the council's **Guidance on the Application of Special Circumstances** and how to make an application for council to consider your special circumstances in **Appendix 4** at the back of this document.

Your sale offer

Once we have confirmed your insurance status and received the registered valuation, we will send you a copy of the valuation and a Sale and Purchase Agreement which sets out the buy-out price for your property, based on that valuation less insurance and EQC claims and the homeowner contribution.

The Sale and Purchase Agreement will be conditional on you finalising your insurance claims with your insurer and EQC, and the council being satisfied with your final claims.

You will have one month to consider the buy-out price and sign the Sale and Purchase Agreement.

If you have entered a dispute process with the council on any aspect, this timeframe will be extended to allow for that process to be completed. Please discuss this aspect with your property advisor.

As with any property transaction, you should seek independent legal advice before signing the Sale and Purchase agreement.

All owners will need to sign the Sale and Purchase Agreement. After everyone has signed, you need to return this to your property advisor who will arrange for the council to then sign it as well. We will send a copy signed by the council to your lawyers, so they can settle the buy-out for you.

Once the agreement is signed by both parties, it is important that you keep your property adviser informed of progress with finalising your insurance and EQC claims.

Once you have finalised these, your insurer will provide a statement to the council of the final EQC and insurance claim amounts. Auckland Council will then review that information. After the council confirms it is satisfied, the Sale and Purchase Agreement will be unconditional, and we will confirm the settlement date with you and your lawyers.

Opting out of the buy-out

You have three months after receiving your property risk categorisation to indicate that you would like to opt-in to the buy-out process.

The buy-out of your property is voluntary.

After you have indicated that you would like to opt-in, you can change your mind and opt-out of the process by letting your property advisor know in writing, at any time up until you have signed a Sale and Purchase Agreement.

Given the risks that have been identified with your property, there may be long-term implications for you if you decide not to proceed with a buy-out. We strongly recommend you seek independent legal advice before making this decision.

Contribution towards professional fees

Auckland Council will make a \$5,000 contribution towards your costs. This payment should be used for any professional advice or services you want to use in relation to the buy-out. It may be used towards legal fees, or towards the cost of a registered valuer if you wish to seek an additional valuation to that provided by Auckland Council. Your property advisor will explain how and when you can access this contribution.

Dispute resolution

Auckland Council has a dispute resolution framework for homeowners who wish to dispute certain decisions made by Auckland Council relating to their property.

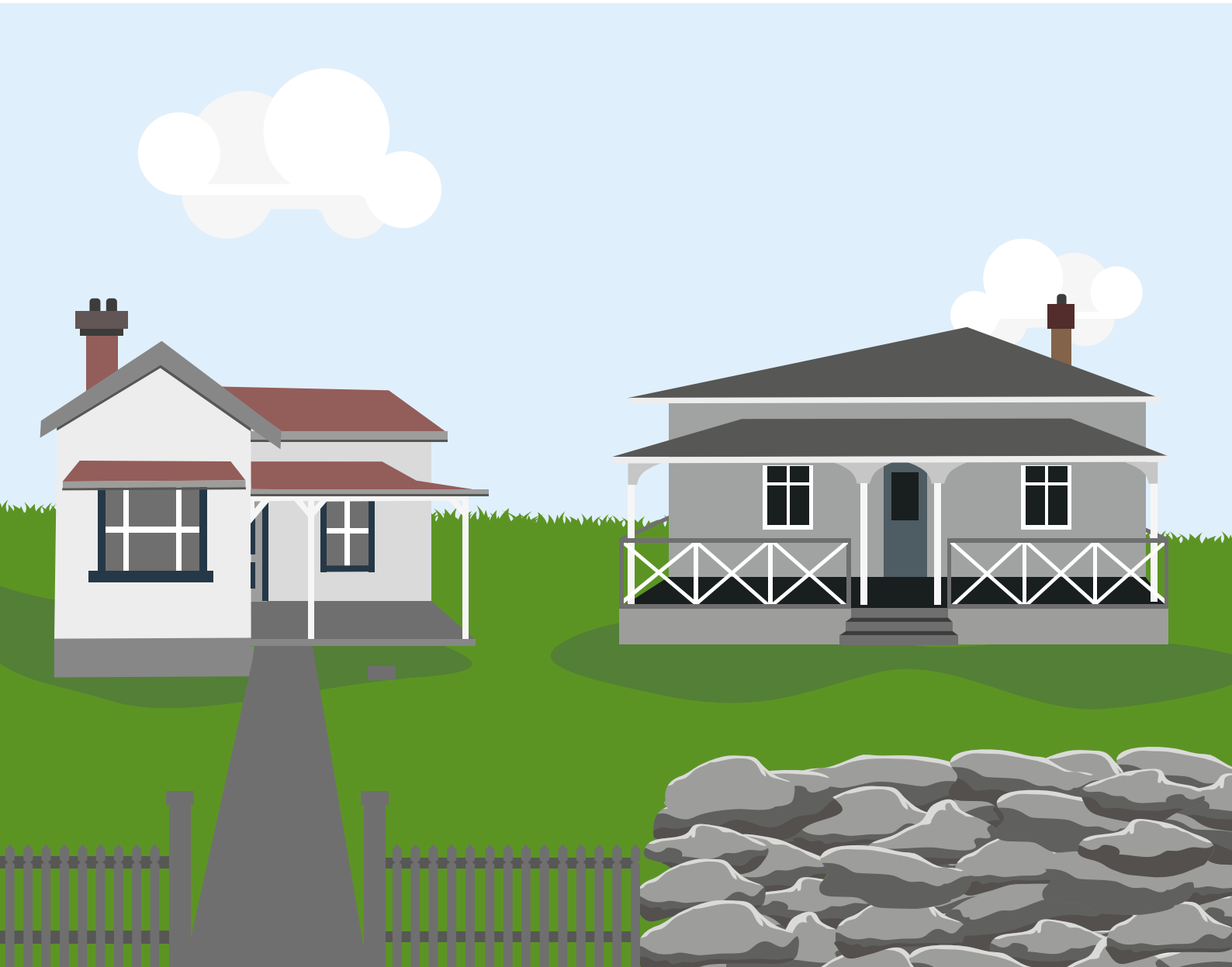
This framework provides dispute options for the following decisions:

- the categorisation of the property as category 1, 2C, 2P or 3 (**categorisation decision**)
- the reference valuation contained within the council's offer to buy a property (**valuation decision**)
- the outcome of an application made under the "special circumstances" category (**special circumstances decision**)

- the outcome of decisions relating to insurance proceeds, including EQC proceeds or the outcome of a decision relating to the individual circumstances of an uninsured homeowner (**insurance decision**).

Note, the dispute resolution process cannot be used to challenge the design or content of the Voluntary Buy-out Support Scheme.

You can find further information about dispute resolution, including how to make an application for a dispute in **Appendix 5** in this document.



Settling the buy-out

What to expect from settlement

The date of settlement for the sale of your home can be negotiated between yourself and Auckland Council and it will be specified in the Sale and Purchase Agreement that you sign.

We realise that some homeowners may not have been living in their home for some time and will want to move on quickly, while others will want a longer settlement to prepare for their move and find an alternative place to live. Your property advisor will talk to you about the settlement date that is right for your situation.

Paying the purchase price

Auckland Council will follow a normal property transaction process to purchase your home, so the transfer of funds from council to you will be handled by the council's lawyer and your lawyer.

Auckland Council will instruct its lawyer to pay the settlement amount (which will be the buy-out price subject to agreed adjustments like water and rates – your lawyer will advise you on this) on the settlement date.

At settlement, the ownership of your property will transfer to Auckland Council.

Moving on

You will be expected to have moved your belongings from your home before the settlement date, and it is your responsibility to make these arrangements and pay for the costs associated with moving – just like you would if you were selling your home to a private buyer.

Before you move, you should arrange with your utility provider (such as power, gas, water or telephone) to disconnect services and close your account. You will need to order a final water meter reading as part of the settlement process. This includes paying any final amounts owing. If you don't do this, you may incur penalty fees from your utility provider.

Auckland Council will not take responsibility for any outstanding bills associated with your home.

Tenants living at your property

If you rent your home to tenants, you will need to arrange for them to leave the property and remove their belongings by the settlement date.

You should discuss this with your legal representative before finalising a settlement date with council so that you meet your obligations under tenancy laws and give adequate notice to your tenants.

If you have tenants in your property, please advise your Navigator as they may be able to help your tenants with their relocation.

Removing items from the property

You should take all items belonging to you such as furniture, appliances, and personal items when you leave. If you are unable to access your home because it is red placarded, we will work with you to arrange managed access (where it is safe to do so).

If there are other items that you want to take from your house or section that wouldn't be removed in a normal house sale (such as floor coverings, oven, or other chattels), please discuss this with your property advisor. There may be some discretion for council to give consent to remove items on a case-by-case basis.

It is expected that household rubbish will be removed at your expense.

If your property still has storm debris on it, your property advisor will discuss the disposal of this with you.

Your home after settlement

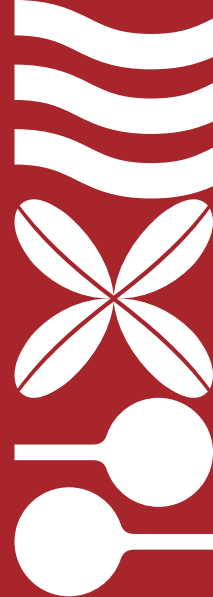
Once settled, the buildings and land will belong to Auckland Council, and it will be up to the council to decide what happens to the property.

This may result in the demolition, deconstruction, or removal of building(s).

Where possible, we will deconstruct buildings to divert as much waste away from landfill as we can, in line with our waste policies. To do this, we'll work with our existing community partners from our Waste Solutions programmes to recycle and reuse building materials where we can.



Appendix 1 – Voluntary Buy-out Support Scheme Terms



Auckland Council has agreed with the Government to implement a voluntary buy-out scheme (**Voluntary Buy-out Support Scheme**) for Auckland homes severely affected by the extreme weather events over Auckland Anniversary Weekend, and Cyclone Gabrielle 2023 (**severe weather events**).

These terms describe the properties eligible for buy-out, the price, and the buy-out process.

1. Introduction

The severe weather events have had a devastating and lasting impact on many communities, families and individuals across Tāmaki Makaurau / Auckland. Flooding and landslides have damaged or destroyed thousands of homes and changed people's lives.

In response to the scale of damage across Auckland and other parts of the North Island, the government announced a locally-led, centrally-supported recovery package, with co-funding to be agreed between the government and affected councils.

Part of the package addresses the removal of risk to severely affected residential properties through voluntary buy-out. Under the agreement with Government, Auckland Council is responsible for setting the technical assessment criteria and buy-out rules.

2. Policy objectives

Auckland Council's overarching policy objective is to support Aucklanders to voluntarily relocate from residential housing situations on properties that pose an intolerable risk to their lives.

In deciding the terms of the Voluntary Buy-out Support Scheme, Auckland Council has balanced the following considerations:

- **Effective** – the speed and uptake of buy-out to remove the intolerable risk to life posed to households from their property.
- **Affordable** – the amount of funding available across the number of properties that need to be purchased to remove intolerable risk to life. Affordability assumptions and scenarios have been used to help make an assessment against this criterion as a high level of uncertainty exists.
- **Fair and consistent with policy intent** – our legal obligations to be fair and for the scheme to be consistent with the stated policy intent.
- **Equitable** – scheme equity for those most in need and those who fund the scheme.

3. Voluntary Buy-out Support Scheme

- a. The Voluntary Buy-out Support Scheme has been approved by Auckland Council's Governing Body after public consultation, and as part of a co-funding agreement with Government.
- b. The Voluntary Buy-out Support Scheme is a one-off, limited response to the exceptional circumstances of the severe weather events, and is not a permanent programme for future disaster relief.

4. Scope

The Voluntary Buy-out Support Scheme applies to “Category 3” residential properties in the Auckland Council territory that have a dwelling on them and were affected by the severe weather events. Auckland Council will offer to buy those properties on the basis described below.

5. Types of property

Only **residential properties**² will be eligible for buy-out:

- a. The property must have a legally established residential dwelling on the site. This can include second-homes, baches and residential rental properties. If the property is mixed-use (for example, includes commercial or agricultural uses) then only the residential portion is eligible for buy-out. Auckland Council will negotiate this.
- b. Properties that have changed hands since 26 January 2023 are only eligible at Auckland Council’s discretion and/or on terms that Auckland Council agrees to³.

6. Category 3

- a. Category 3 residential properties are ones which, as a result of the severe weather events, are assessed by Auckland Council to represent:
 - An **intolerable risk to life** from land instability or flooding risk; and
 - There are **no feasible mitigation solutions** (either property-based or community-based) that would reduce that risk to tolerable levels.
- b. Auckland Council has developed **criteria** for what constitutes an intolerable risk to life and how to apply the “**no feasible mitigation**” threshold (Categorisation Approach). Only properties that Auckland Council assesses as meeting these tests will be categorised as Category 3 and eligible for voluntary buy-out.

7. Price

The buy-out price will be the “reference valuation” less all insurance and EQC proceeds, and less the specified homeowner contribution, as follows:

- a. The **reference valuation** will be market value of the property as at **26 January 2023** (being the day before the Auckland Anniversary Weekend floods), as assessed by a registered valuer appointed by Auckland Council.
- b. Auckland Council will appoint registered valuers to assess the reference valuations. Where possible valuers will work in specific areas to help consistency across the valuations.
- c. **Insurance and EQC proceeds** include all payments made, payable or which should have been payable in respect of the severe weather events, with the following allowances:
 - Auckland Council will still offer to buy-out eligible properties that are uninsured, under-insured, or where the property owner has become disqualified from payouts (for reasons other than fraud).
 - Auckland Council may, in its discretion, top-up for any insurance or EQC proceeds that the property owner has spent in good faith on property remediation prior to Auckland Council’s buy-out offer. This will require a statutory declaration and receipts. Council will **not** top-up insurance proceeds spent on other things.
- d. Subject to any exceptions in these terms, a **homeowner contribution** will be deducted from the buy-out price as follows:
 - insured property: 5 per cent of the reference valuation
 - uninsured property: 20 per cent of the reference valuation.

Council may in its sole discretion (and with reference to the Guidance on Uninsured Individual Circumstances) reduce the uninsured homeowner contribution to the same basis as an insured property if there are individual circumstances that mean it is fair to do so having regard to the purpose of the scheme, for example if:

- there was little or no insurable loss; the owner was not able to obtain insurance because of previous weather events; or
- the owner can demonstrate a history of payment of house insurance premiums.

² “Residential properties” does not include any properties owned, managed or administered by the Crown or any of its entities or agencies.

³ See guidance in Note A.

Example

Sally lived in her West Auckland home which Auckland Council has assessed as Category 3 because of land instability from the severe weather events, which cannot feasibly be mitigated.

Auckland Council's valuer has assessed its market value as \$1.6m as at 26 January 2023.

Sally has received an EQC payout of \$300,000 and private insurance of \$500,000. She spent \$20,000 on repairs.

Auckland Council will pay \$740,000.

Being the \$1.6m valuation, less EQC payout of \$300,000, less unspent insurance payout of \$480,000, less the homeowner contribution of \$80,000 (being 5 per cent of \$1.6m).

8. Process

The buy-out process will generally proceed as follows:

- a. **Categorisation:** Assessment as Category 3 by Auckland Council.
- b. **Opt-in:** Opt-in indication from property owner within 3 months of Auckland Council confirming Category 3 status to a property owner. Property owner completes and signs opt-in indicative form, confirming things such as insurance status and providing authority for disclosure of personal information for the purposes of the Scheme.

If the property owner does not complete and sign the form within 3 months of receiving it from the council, the council may reasonably take it that the property owner does not wish to opt-in to the Scheme.

- c. **council costs contribution:** Payment of contribution to property owner of \$5,000 (including GST) in good faith for professional costs for property owners opting-in to the process. This is intended to assist with costs like legal, valuation and other professional/expert services. Council may require reasonable evidence at settlement (e.g. receipts) to show the funds have been spent as intended. Opting-in and accepting the contribution does not mean a property owner has to accept council's offer or that a property owner cannot dispute the reference valuation.
- d. **Valuation:** Market valuation of property as at 26 January 2023 by Auckland Council engaged registered valuer.
- e. **Offer:** The property advisor will present an offer to the property owner, which will include a copy of council's registered valuation, accompanied by a conditional sale and purchase agreement with completed offer price (based on Auckland Council's registered valuation, net of insurance and EQC and incorporating the homeowner contribution) (**offer**).
- f. **Acceptance:** The property owner has 1 month within which to accept the offer and sign the Sale and Purchase Agreement. Property owners who do not agree with the reference valuation underlying the offer can seek a review under the Scheme's dispute resolution process (see paragraph 9 below). The period for accepting the offer will be extended to allow for engagement with the dispute resolution process, if necessary.
- g. **Signing Sale and Purchase Agreement:** Signing a Sale and Purchase Agreement for the **finally accepted price**, noting:
 - **GST:** The buy-out price will include GST (if any)⁴.
 - **Insurance:** Settlement will be conditional on the payout to the property owner of all EQC and insurance claims to Auckland Council's satisfaction (which may include payout certificate from insurers and EQC, and supporting documentation of damage report and claims assessment). Council expects property owners to have taken all reasonable care to have maximised insurance claims.

⁴ Auckland Council may reassess this where necessary for GST registered property owners.

- **Repairs:** Auckland Council may make an allowance for insurance proceeds being spent on repairs to the property, subject to the property owner providing a supporting statutory declaration with satisfactory evidence of repair costs (if applicable).
 - **Sale and Purchase Agreement:** Will include:
 - **Third party claims:** A warranty from the property owner that they have exercised reasonable care and diligence to make and settle any claims available against third parties relating to matters which contributed to the property's Category 3 status.
 - **Assignment of residual claims:** An assignment of all residual claims from settlement to council.
 - **Buy-back waiver:** Acknowledgement from the property owner that the property is not being taken for a public work and that the property owner waives any right to have the property offered back to it or its successor if the council later disposes of it.
 - **Chattels and property condition:** Acknowledgement from the property owner that the buy-out does not include the council purchasing chattels or home contents, and that the property owner will need to (to the extent possible), remove any belongings from the property, disconnect all utilities and leave it in a tidy state, free from rubbish at its cost in the usual way.
- h. **Settlement:** Settlement of the buy-out (payment, and transfer of title to Auckland Council). Property owners are responsible for paying all utilities and outgoings for their properties until settlement. The parties' lawyers will address wash-ups for items like rates and water charges at settlement as is usual practice.

Property owners must engage their own lawyer to assist with settlement of the sale process (like a normal house sale).

Once settled, the property will belong absolutely to Auckland Council, and the council will have the benefit of any further claims against insurers, consultants or others for damage or loss in respect of the property. Recovery of any such amounts will be for Auckland Council's benefit to off-set the council's cost of buying-out the property.

9. Dispute resolution

Auckland Council has established a **dispute resolution process** for valuation disputes (e.g. if someone thinks Auckland Council's valuation is too low).

10. Special circumstances

At the request of a property owner, Auckland Council at its discretion will consider whether to make a departure from a buy-out position set out in these Scheme Terms.

Any decision to apply a different process or outcome will be made in accordance with the council's Guidance on the application of Special Circumstances, and will have regard to:

- a. The nature of the special circumstances and the extent of (and any implications of) departure from the Scheme Terms.
- b. The level of any increased cost to the council resulting from departure from the Scheme Terms.
- c. Auckland Council's overarching policy objective to support Aucklanders to voluntarily relocate from residential housing situations on properties that pose an intolerable risk to their lives.
- d. Auckland Council's further objectives guiding its policy approach. This will involve consideration of whether a departure from the Scheme Terms is Effective; Affordable; Fair and Consistent with policy intent; and Equitable.

11. Regulatory role

Nothing in the Scheme affects or limits any of Auckland Council's statutory and regulatory responsibilities. For example, **irrespective of the buy-out status of a property:**

- a. Auckland Council is still required to manage property safety placarding and notation of LIMs.
- b. None of Auckland Council's powers under the Public Works Act 1981 to acquire properties and undertake public works are limited.

12. Limitations

The **Voluntary Buy-out Support Scheme** is the total funding Auckland Council is making available for buy-out of severe weather events affected properties, and payments by Auckland Council are limited to payments under these Scheme Terms. No additional payments will be made.

Auckland Council does not accept any liability for remediation, compensation or infrastructure delivery to mitigate any other harm or loss arising from the severe weather events. The council will make separate decisions about its wider response to the severe weather events and ongoing mitigation works.

Note A - guidance note for 'change of hands'

Examples of 'changes of hands' after 26 January 2023 that would still be eligible:

- **Prior agreements:**
Settlement of transactions (sale and purchase agreement, call/put options) that were entered into before the severe weather events.

Evidence:

- Statutory declaration that the transaction was entered into before the severe weather events.
- Certified copy of original sale and purchase agreement/option agreement dated before the severe weather events.

- **Changes of trustees:**
Transfers of ownership to new/replacement trustees of the same trusts.

Evidence:

- Certified copies of deed of retirement and appointment of trustees and relevant landonline transfer instrument.

- **Relationship property:**
Transfers of relationship property.

Evidence:

- Certified copies of settlement agreement and/or court orders, and relevant landonline transfer instrument.

- **Death of an owner:**
For the avoidance of doubt, a transmission of ownership following the death of one owner is not considered a change of hands for the purposes of this Scheme.

Appendix 2 – Categorisation Approach



Auckland Council has agreed with the Government to implement the Government’s categorisation framework (the **Framework**) for Auckland homes severely affected by the events over the Auckland Anniversary Weekend and Cyclone Gabrielle 2023 (**severe weather events**).

This document describes Auckland Council’s nominated categorisation approach (**Categorisation Approach**) for application of the Framework.

Scope

1. Auckland Council’s Categorisation Approach is part of a one-off, limited response to the exceptional circumstances of the severe weather events in 2023, and is not a permanent programme for future disaster relief.
2. The Categorisation Approach will be applied to residential properties⁵ that have a legally established residential dwelling on them, and were affected by the severe weather events (**Properties in Scope**).
3. Auckland Council will make a Categorisation Decision about Properties in Scope on the basis of the Categorisation Approach set out below.

Overview of categorisation approach

4. In applying the Categorisation Approach to Properties in Scope, the council will:
 - a. Assess whether there is “intolerable risk to life”⁶ from flooding and/or landslides (risk assessment) for occupants of residential buildings on the property (not the land).
 - b. Assess whether there is a feasible mitigation available to reduce the risk to life associated with the property to a tolerable level (feasibility assessment).
 - c. Taking into account the risk assessment and feasibility assessment, assign a “Category” to the property (the Categorisation Decision).
5. A Categorisation Decision will enable the identification of:
 - a. Category 3 properties eligible for a buy-out under the Scheme Terms.
 - b. Category 2 properties, for which there is a feasible mitigation at either a community or property level.
 - c. Category 1 properties, for which the risk does not meet the threshold of “intolerable risk to life”.
6. Council’s application of the Framework through the Categorisation Approach (and the resulting Categorisation Decision) is a feature of the jointly funded, one-off, limited response to the exceptional circumstances of the severe weather events in 2023. Accordingly, a Categorisation Decision:
 - a. Is understood by the council as an “administrative tool” and a prerequisite to allow the council to respond to the severe weather events.

⁵ “Residential properties” does not include any properties owned, managed or administered by the Crown or any of its entities or agencies.

⁶ For flooding, there is “intolerable risk to life” where there is a high risk to life to vulnerable people in an existing 1 per cent AEP flood event. For landslides, there is “intolerable risk to life” where the Annual Individual Fatality Risk is 1 in 10,000 or greater for the most vulnerable user.

- b. Is not considered by Auckland Council to be an enduring state attaching to a property. A Categorisation Decision reflects the risk assessment and feasibility assessment at a particular point in time.
- c. Does not have a legislative or regulatory basis.

Government framework

7. The Government released initial risk categories for assessing the future of flood and landslide affected residential properties on 1 May 2023. The three categories announced by the Government were:
 - a. Low Risk – Repair to previous state is all that is required to manage future severe weather event risk. This means that once any flood protection near the property is repaired, the home can be rebuilt at the same site.
 - b. Managed Risk – Community or property-level interventions will manage future severe weather event risk. This could include the raising of nearby stop banks, improving drainage or raising the property.
 - c. High Risk – Areas in the high-risk category are not safe to live in because of the unacceptable risk of future flooding and loss of life. Homes in these areas should not be rebuilt on their current sites.
8. The descriptions of the Government’s initial categories (which inform the Framework) are as follows:

Category	Definitions	Examples
1	Repair to previous state is all that is required to manage future severe weather event risk.	Minor flood damage to repair but no need for significant redesign/retrofitting.
2C	Community level interventions are effective in managing future severe weather event risk.	Local government repairs and enhances flood protection schemes to adequately manage the risk of future flooding events in the face of climate change effects.
2P	Property level interventions are needed to manage future severe weather event risk, including in tandem with community level interventions.	Property specific measures are necessary e.g., improved drainage, raising houses is necessary. Benefits accrue to property owners but some may face affordability issues.
2A	Potential to fall within 2C/2P but significant further assessment required.	Interventions may be required / possible but insufficient information to provide initial categorisation (these may subsequently move between “2” categories or to categories 1 / 3).
3	Future severe weather event risk cannot be sufficiently mitigated. In some cases some current land uses may remain acceptable, while for others there is an intolerable risk of injury or death.	In the face of enhanced climate risks the property may face unacceptable risk of future flooding. Other property could be subject to unstable land that poses an ongoing risk.

9. The Government Framework refers to floods but also applies to landslides (and so the council reads “flood” as referring to “flood or landslide” throughout).
10. The Government’s Framework is clear that the Voluntary Buy-out Support Scheme for Category 3 properties will be a voluntary process and is limited to residential properties only. These parameters inform the scope of Auckland Council’s Categorisation Approach.

Context for development of the Categorisation Approach

11. The nature of the damage sustained in Auckland in the severe weather events has informed the development of the Categorisation Approach:
 - a. **Flood damage sustained in severe weather events:** Auckland’s topography is a primary driver of flooding characteristics. Auckland’s catchments are generally small, steep and drain to the coast. The region has ~94,000 km of overland flow paths (the routes taken by stormwater when flowing over land, including over

16,000km of permanent streams. This means we have more flooding from heavy rain events (pluvial flooding), often with little warning (flash flooding). There are no major rivers in the region meaning there is less flooding from rivers breaching their banks (fluvial flooding) than other regions in NZ.

- b. **Land instability resulting from the severe weather events:** In Auckland, land instability is often prevalent in the weak soils and rock that are common across the region. Landslides can be triggered by heavy rainfall, earthquakes and human activity such as removal of trees and vegetation, steep cuttings, poorly placed fill, leaking water pipes or a combination of these.
12. In Auckland, advice from technical experts is that individual property assessments are required to support Categorisation Decisions. For landslides, this aligns with the recommendations of the GNS Science guideline **“Landslide Planning Guidance – Reducing Landslide Risk through Land-Use Planning”** (in consultation). For flooding this aligns with the standard flood assessment method for on-site assessments of public and private buildings (Auckland Council - Flood Modelling Specifications 2013).
13. The Categorisation Approach will be applied to residential properties and has been designed to assess risk at the property level rather than on an area-wide basis.

Process: Application of the Categorisation Approach

14. The Categorisation Approach will be applied as follows:
 - a. Auckland homeowners with Properties in Scope are invited to ‘opt in’ by providing information that the council can consider in undertaking an initial desktop assessment.
 - b. To date, Properties in Scope have been identified where a homeowner:
 - i. Owns a property in an area that council is aware was highly impacted or suffered significant damage; and/or
 - ii. Has received a letter from Auckland Council (sent to all placarded properties) or become aware of the categorisation process through the media; and/or
 - iii. Has provided information to council to inform a desktop assessment.
 - c. Work remains ongoing to identify additional Properties in Scope⁷.
 - d. **A desktop triage** is undertaken to determine whether a property has the potential to have “intolerable risk to life”. This desktop assessment is based on expert judgement using the information provided by the homeowner, along with other relevant information including available datasets, flood model results, hazard maps, and records from the severe weather events.
 - e. For any Property in Scope where the desktop assessment indicates the potential for “intolerable risk to life” (and for any flooded properties that property owners have indicated they consider may be “a Category 2 or 3”), the council (or experts engaged by the council) will undertake a **site assessment**.
 - f. The results of the site assessment inform the risk assessment and are reported alongside potential mitigation options, with costings at a concept design level, to inform an assessment of feasibility.
 - g. The results of the risk and options assessments (and the desktop assessment) provide the council with sufficient information to inform the Categorisation Decision (i.e. whether there is an “intolerable risk to life” associated with the property, and whether the long-term risk can be feasibly mitigated to a “tolerable” level).
 - h. The Categorisation Decision will be made by the Group Recovery Manager, following consideration of the recommendation from technical experts.
 - i. The Categorisation Decision and the next steps in the process will be communicated to the property owner by the council’s Recovery Office.

Categorisation approach: landslide risk assessment

15. For landslides, the risk assessment framework anticipates that a building will be “Category 3” where the Annual Individual Fatality Risk is 1 in 10,000 or greater for the most vulnerable user and there is no feasible mitigation (at a property or community level) to reduce the risk to a tolerable or acceptable level.

⁷ For example, the Group Recovery Manager issued a statutory notice under the Civil Defence Emergency Management Act 2002 to insurance companies and Toka Tū Ake EQC, requiring them to provide property addresses for significant claims received in relation to the severe weather events. The notice stated that this information was required to assist council in identifying properties under the categorisation framework.

16. The Annual Individual Fatality Risk is calculated as follows:

$$R_{(LoL)} = P_{(H)} \times P_{(S:H)} \times P_{(T:S)} \times V_{(D:T)}$$

Where

$R_{(LoL)}$ is the risk (annual probability of loss of life) (death) of an individual).

$P_{(H)}$ is the annual probability of the landslide.

$P_{(S:H)}$ is the probability of spatial impact of the landslide impacting a building (location) taking into account the travel direction given the event.

$P_{(T:S)}$ is the temporal spatial probability (e.g. of the building or location being occupied by the individual) given the spatial impact and allowing for the possibility of evacuation given there is warning of the landslide occurrence.

$V_{(D:T)}$ is the vulnerability of the individual (probability of loss of life on the individual given the impact).

17. For properties where there may potentially be “intolerable risk to life” according to a desktop triage in areas not covered by the GHD report, Auckland Council has contracted geotechnical engineers to undertake on-site geotechnical assessments. Auckland Council has created a template scope of works to guide the quantitative assessment by geotechnical experts of risk to life from landslides. If property owners prefer to organise their own geotechnical report they can do so, with advice available on the council’s website (including a downloadable copy of the template for completion by the privately engaged geotechnical engineer, and guidelines on the use of AGS2007 for landslide risk assessment in Auckland).
18. A landslide risk assessment undertaken in accordance with council’s template will provide the council with evidence of (amongst other things):
- Damage assessment:** An assessment of land damage sustained from the Auckland weather events (which will also include any work carried out to repair the land damage, consideration of pre-existing conditions or damage, apportionment of damage if multiple events, and assessment of any sources of off-site risk).
 - Quantitative assessment of the stability of the land** which may affect safe use of the property.
 - Quantitative assessment of risk of loss of life** for users of the property. An “intolerable risk to life” (in accordance with the AGS2007 guidelines), is an Annual Individual Fatality Risk of 1 in 10,000 or greater for the most vulnerable user.
 - Expert opinion on whether the long-term risk to life can be reduced to a tolerable level** (and advice on the Categorisation Approach required to achieve this, and scope of works to be completed as part of the construction programme, including a cost estimate).
 - An assessment of the unmitigated and mitigated risk** of loss of life.
19. A landslide risk assessment undertaken in accordance with Auckland Council’s template provides the council with sufficient information (in addition to the information already held) to inform a recommendation by the technical experts to the Group Recovery Manager.

Categorisation approach: flooding risk assessment

20. Auckland Council’s risk assessment framework for flooding assesses “intolerable risk to life” associated with residential properties, based on a Danger Rating assigned through the application of “Flood Danger Risk Assessment”.
21. Flood Danger represents the relative threat posed by flooding to building occupants taking into account the flood hazard inside and outside the building, and evacuation routes.

22. For flooding, the risk assessment framework anticipates that a building will be “Category 3” where there is a high risk to life to vulnerable people in an existing 1 per cent AEP flood event, and there is no feasible mitigation (at a property or community level) to reduce the risk to a tolerable or acceptable level.
23. Risk assessment for flooding will include:
 - a. **Damage assessment:** an assessment of flood damage sustained from the Auckland weather events.
 - b. **Assessment of Flood Danger** as a combination of:
 - i. **Event likelihood** (in terms of the probability of an event of a given magnitude being equalled or exceeded within a year – the Annual Exceedance Probability, or AEP),
 - ii. **Hazard** (the level of risk to life by flooding),
 - iii. **Exposure** (what is exposed to flood hazard in a given place) and
 - iv. **Vulnerability** (propensity to suffer adverse effects of flooding, based on individual characteristics and external factors).
24. Auckland Council will assess whether there is “intolerable risk to life” by assigning a Flood Danger Rating to a property in accordance with council’s Flood Danger Rating Schema. The Flood Danger Rating represents the threat to life to people inside or outside dwellings on residential property that are exposed to flood hazard.
25. In addition to Flood Danger, the risk assessment framework takes into account the likelihood of an event occurring. Event Likelihood is described by the annual exceedance probability (AEP) of the flood event, which is the probability of the event being equalled or exceeded within a year. As rainfall is the primary driver of flooding in the Auckland region, flood event likelihood can be considered synonymous with rainfall event likelihood.
26. **Expert opinion on options to reduce risk to life to a tolerable level** (and the Categorisation Approach required to achieve this, and scope of works to be completed as part of the construction programme, including a cost estimate).
27. **An assessment of the unmitigated and mitigated risk:** A flooding risk assessment undertaken in accordance with Auckland Council’s template, and if necessary an options assessment provides the council with sufficient information (in addition to the information already held) to inform a recommendation by the technical experts to the Group Recovery Manager.

Categorisation approach: feasibility assessment

28. The site assessments undertaken by Auckland Council (or experts engaged by the council) will consider whether there is a property or community level solution available to mitigate the risk to life associated with a property, and the approximate cost of that solution.
29. Whether a **property level mitigation** is feasible will be determined by the council taking into account
 - a. The cost of the mitigation (whether the cost of the mitigation is likely to cost less than 25 per cent of the CV of the property).
 - b. Whether the mitigation can reasonably be expected to be delivered within two years of the Categorisation Decision.
30. Whether a **community level mitigation** is feasible will be determined by the council (and is subject to business case approval and funding under the National Resilience Plan).

Categorisation approach: quality assurance

31. The Government engaged Tonkin & Taylor Ltd to provide a high-level assurance review of the process followed by Auckland Council in establishing the Categorisation Approach (in accordance with the Framework).
32. In terms of the application for the Framework, for the landslide risk assessments Auckland Council has engaged a panel of five experts (the **Geotechnical Advisory Panel**) to review the approaches taken, project scopes and key deliverables. These individuals were chosen to represent the range of skills and experience needed to achieve the required outcomes. The Geotechnical Advisory Panel comprises two Engineering Geologists, a Hydrologist and two Geotechnical Engineers from five independent organisations.

33. In addition to the Geotechnical Advisory Panel, Auckland Council has a dual approach to quality assurance for the landslide risk assessments being undertaken across Auckland. Auckland Council is in the process of engaging two well respected local experts to act as mentors to the suppliers undertaking the field assessment work to help ensure they are providing consistent, well informed reports. Once delivered, each report is then subjected to a robust peer-review process. Council has engaged WSP Australia to undertake the technical peer-review, while our in-house Regulatory Services team will check proposed mitigations for potential consenting requirements.
34. For the Flood risk assessments Auckland Council is in the process of engaging a panel of four experts to review and assure the approach taken. These individuals were chosen to represent a range of skills and experience needed to achieve the required outcomes. The group contains expertise from across New Zealand, including the engineering sector, local government, and a Crown Research Institute.

Dispute resolution

35. Auckland Council has established a **dispute resolution process** for Categorisation Decisions. The dispute resolution process will relate to a Categorisation Decision made in respect of a Property in Scope, and is not an opportunity to contest the Framework or the Categorisation Approach itself.

Special circumstances

36. On the application of a homeowner, the council may in its discretion consider whether to make a Categorisation Decision that departs from the position set out in this Categorisation Approach (**a special circumstances decision**).
37. A special circumstances decision will be made in accordance with the council's Guidance on the application of Special Circumstances, and will have regard to:
 - a. The nature of the "special circumstances" and the extent of (and any implications of) departure from the Categorisation Approach.
 - b. The level of any increased cost to the council resulting from the departure from the Categorisation Approach.
 - c. Whether departure in an individual case is consistent with the council's overarching policy objective for its Categorisation Approach, which is to permanently remove or reduce the intolerable risk to life posed by some residential properties due to the severe weather events.
 - d. Whether departure in an individual case is consistent with the further objectives guiding the council's policy approach (i.e. whether departure is effective, affordable, fair and consistent with policy intent, and equitable).

Appendix 3 – Guidance on the Application of Uninsured Individual Circumstances



Objective

This document supports the application of the Scheme Terms and provides guidance on when it will be fair and reasonable to reduce the Uninsured Homeowner Contribution on the basis of Uninsured Individual Circumstances.

Provision for Uninsured Individual Circumstances

1. Auckland Council has agreed the Voluntary Buy-Out Support Scheme Terms (Scheme Terms) to guide council's implementation of a voluntary buyout scheme for homes severely affected by the weather events over the Auckland Anniversary Weekend and Cyclone Gabrielle 2023 (severe weather events).
2. The Scheme Terms provide that:
 - a. the buy-out price will be the "reference valuation" less all insurance and EQC proceeds, and less the specified homeowner contribution, which is:
 - i. for insured properties, 5 per cent of the reference valuation.
 - ii. for uninsured properties, 20 per cent of the reference valuation (the **Uninsured Homeowner Contribution**).
 - b. The council may, in its sole discretion, reduce the uninsured homeowner contribution (to 5 per cent of the reference valuation, i.e. the same basis as insured property), if the individual circumstances of an uninsured homeowner mean it is fair to do so having regard to the scheme, for example if:
 - i. there was little or no insurable loss;
 - ii. the homeowner was not able to obtain insurance because of previous severe weather events; or
 - iii. the homeowner can demonstrate a relevant history of payment of house insurance premiums, (the **Uninsured Individual Circumstances**).³
3. The Scheme Terms provide the examples above of Uninsured Individual Circumstances that might justify a reduction in the Uninsured Homeowner Contribution. The council has retained discretion to consider additional circumstances where it is fair and reasonable in accordance with the scheme to reduce the Uninsured Homeowner Contribution.

Policy rationale for considering Uninsured Individual Circumstances

4. The overarching policy objective of the scheme is to support Aucklanders to voluntarily relocate from residential housing situations on properties that pose an intolerable risk to their lives.
5. The secondary policy objectives are that the scheme be effective, affordable, fair and consistent and equitable. These secondary policy objectives apply with equal weighting.
6. A range of options were considered by the council relating to the generosity of the offer under the scheme. That included whether homeowners (the beneficiaries of the scheme) should make a contribution to the scheme (as well as other matters, including the nature of the 'reference valuation' and whether there should be a 'cap' on payments made under the scheme). The council determined that a 5 per cent homeowner contribution was appropriate for insured homeowners.

7. The council also considered whether there should be any differentiation (either in terms of eligibility or the amount of the homeowner contribution) as between insured and uninsured homeowners.
8. Having considered a range of options, the council decided to apply an Uninsured Homeowner Contribution of up to 20 per cent (which could be reduced to 5 per cent based on Uninsured Individual Circumstances), on the basis that:
 - a. This option recognised **fairness and equity** for funders of the scheme, as between beneficiaries of the scheme, and for all Aucklanders.
 - b. In respect of the fairness and equity between the beneficiaries of the scheme, the council considers that insured homeowners have already effectively contributed to the scheme through the payment of insurance premiums (in other words, the council contribution required is less where an insurance or EQC payment can be applied).
 - c. The council identified that it would be consistent with this rationale, and with the overarching policy objective, to consider the individual circumstances of uninsured homeowners where:
 - i. There was little or no insurable loss: because in these circumstances, whether or not the homeowner was insured – and whether they had previously contributed insurance premiums – would not ultimately have made a difference to the amount of the council contribution required.
 - ii. The homeowner can demonstrate a history of payment of house insurance premiums at the property: because in these circumstances, there has been an effective contribution to the scheme (even if for some particular reason the homeowner was uninsured at the date of the event).
 - iii. The owner was not able to obtain insurance because of previous weather events (but can demonstrate a relevant history of house insurance premium payments): council considers it is reasonable to take this factor into account given the overarching objective of the scheme and the likelihood that some of the properties where there is intolerable risk to life may have experienced previous damage with implications for insurability of their property.
 - d. Requiring an Uninsured Homeowner Contribution is also the most likely to keep within the funding allocation and therefore, at a high level, the most ‘affordable’. The council acknowledges that it has not yet identified Category 3 properties and does not at this stage have any specific information to suggest which and how many properties are uninsured. Accordingly, whilst affordability is relevant as one of the objectives of the scheme, it was not determinative in respect of this policy decision.

Process for and review of Uninsured Individual Circumstances

9. On the application of an uninsured homeowner, the council will consider whether to reduce the Uninsured Homeowner Contribution on the basis of Uninsured Individual Circumstances. This decision will be made by the Group Recovery Manager together with the Chief of Strategy, will be recorded in writing and supported by reasons, within 25 working days of receiving the application.
10. Within 25 working days of notification of a decision on whether or not to reduce the Uninsured Homeowner Contribution, a homeowner may request in writing that the council review this decision. Any review of the decision on whether or not to reduce the Uninsured Homeowner Contribution on the basis of Uninsured Individual Circumstances will be undertaken by the Chief Executive and the decision will be recorded in writing. The Chief Executive, at their discretion, may seek relevant advice to support their review.
11. The Chief Executive’s decision on review is final and not subject to further dispute resolution processes.

Appendix 4 – Guidance on the Application of Special Circumstances



Provision for Special Circumstances

1. Auckland Council has agreed a Nominated Categorisation Approach (**Categorisation Approach**) and Voluntary Buy-Out Support Scheme Terms (**Scheme Terms**). These documents will guide the council's implementation of the Government's categorisation framework (**Framework**) for Auckland homes severely affected by the weather events over the Auckland Anniversary Weekend and Cyclone Gabrielle 2023 (**severe weather events**).
2. The council has developed its Categorisation Approach and Scheme Terms in accordance with the Framework and as part of a one-off, limited response to the severe weather events. The scheme does not have a legislative basis and is not a permanent programme for disaster relief.
3. Any departure from the Categorisation Approach and/or Scheme Terms due to the applicability of "special circumstances" will be made at the council's discretion following the guidance set out in this document, and be recorded in writing.

Objective

4. On the application of a homeowner, the council may in its discretion depart from its Categorisation Approach or Scheme Terms on the basis of "special circumstances", where to do so is consistent with its policy objectives in adopting the scheme and with reference to the guidance set out in this document.

Factors relevant to consideration of Special Circumstances

5. Any decision to depart from the Categorisation Approach or Scheme Terms on the basis of "special circumstances" will be made on a case by case basis, having regard to:
 - a. The nature of the "special circumstances" and the extent of (and any implications of) departure from the Categorisation Approach or Scheme Terms.
 - b. The level of any increased cost to the council resulting from the departure from the Categorisation Approach or Scheme Terms.
 - c. Whether departure in an individual case is consistent with the overarching policy objective:
 - in respect of the Categorisation Approach, to permanently remove or reduce the intolerable risk to life posed by some residential properties due to the severe weather events; or
 - in respect of the Scheme Terms, to support Aucklanders to voluntarily relocate from residential housing situations on properties that pose an intolerable risk to their lives.
 - d. Whether departure in an individual case is consistent with the further objectives guiding the council's policy approach (i.e. whether departure is effective, affordable, fair and consistent with policy intent, and equitable).
6. A decision to depart from the Categorisation Approach or Scheme Terms on the basis of "special circumstances" will not extend to departures that:

- a. **Reset policy decisions already made.** The council has made policy decisions about the scheme that are reflected in its Categorisation Approach and Scheme Terms. Consistency of decision making is important to the council, and the purpose of considering “special circumstances” is not to reset the policy decisions that the council has already made, but to deal with exceptional cases where the application of Categorisation Approach may result in outcomes that are inconsistent with the council’s policy objectives in individual cases. Decisions based on special circumstances should not set a precedent which may have a wider impact on eligibility under the Categorisation Approach or payments under the Scheme Terms.
- b. **Are claims for financial hardship assistance.** The scheme is focused on relocating Aucklanders from residential housing situations on properties that pose an intolerable risk to their lives, and is not designed to relieve financial hardship or compensate for property loss suffered as a result of the severe weather events. Consequently, financial hardship is not a factor that will be considered in determining whether to depart from the Categorisation Approach or Scheme Terms on the basis of “special circumstances”.
- c. Are disputes or discretions already allowed for elsewhere in the Categorisation Approach or Scheme Terms.

Process for and review of consideration of Special Circumstances

7. On the application of a homeowner (a **special circumstances application**), the council will consider at its discretion (and with regard to the factors set out above), whether to depart from the Categorisation Approach or Scheme Terms, on the basis of special circumstances (a **special circumstances decision**).
8. A special circumstances decision will be made by the Group Recovery Manager together with the Chief of Strategy, will be recorded in writing and supported by reasons, within 25 working days of receiving the application.
9. Within 25 working days of notification of a special circumstances decision, a homeowner may request in writing that the council review the special circumstances decision. Any review of the special circumstances decision will be undertaken by the Chief Executive and the decision will be recorded in writing. The Chief Executive, at their discretion, may seek relevant advice to support their review.
10. The decision of the Chief Executive on review of a special circumstances decision is final and not subject to further dispute resolution processes.

Appendix 5 – Dispute Resolution Framework



This is the dispute resolution framework for homeowners who wish to dispute certain Auckland Council decisions relating to their property made under the Nominated Categorisation Approach (**Categorisation Approach**) and Voluntary Buy-Out Support Scheme (**Scheme**) for Auckland homes affected by the extreme weather events over Auckland Anniversary Weekend, and Cyclone Gabrielle 2023 (**severe weather events**).

1. Decisions covered by this dispute resolution framework

This framework applies to the following decisions:

- The categorisation of a property as category 1, 2C, 2P or 3 (**Categorisation Decision**).
- The reference valuation contained within the council’s offer to buy a property (**Valuation Decision**).
- The outcome of an application made under the “special circumstances” provision (**Special Circumstances Decision**).
- Decisions relating to insurance proceeds, including EQC proceeds or the outcome of a decision relating to the individual circumstance of an uninsured homeowner (**Insurance Decision**)

The dispute resolution process cannot be used to challenge the design or content of the Categorisation Approach or Voluntary Buy-out Support Scheme. It can only be used to seek review of one of the types of decision set out above in relation to a particular property under the Categorisation Approach or Scheme.

Applications for review of the above types of decision will be by way of application form, **available online**.

2. Categorisation decision

Internal review

If the homeowner(s) disputes a categorisation decision, they have three months from being notified of their property category within which to apply to the council for a review, unless the homeowner opts into the category 3 buy-out process at an earlier stage⁸. The application must set out the basis on which the homeowner disputes the decision and should include any additional/ supporting information that they want the council to consider.

The supporting information to the application may include an expert report(s) from a suitably qualified expert (for example, a geotechnical engineer). To ensure that such experts are properly informed about the basis for the categorisation decision, the homeowner should provide their expert(s) with all available documentation including the council’s decision and a copy of the Categorisation Approach (available online). The engagement of experts will be at each party’s own cost unless stated otherwise in this document.

The Council will consider the application for review and supporting information, and notify the homeowner whether it confirms or revises the Categorisation Decision.

⁸ When a homeowner of a Category 3 home opts in to the buy-out process, they agree that they accept the categorisation of their home. From that point cannot seek to challenge the categorisation of their home, even if it is still within the three month period from receiving the initial categorisation.

If there is still a dispute following the council's consideration of the application, the homeowner and the council may attempt to resolve the dispute by a "without prejudice" meeting between the respective experts or, if an expert is not engaged by the homeowner, between the parties. The parties must each meet their own expert's fees for attending this meeting. Following the meeting, the council will inform the homeowner whether it confirms or revises the categorisation decision.

Expert determination

If the "without prejudice" meeting does not resolve the dispute, the homeowner may apply to have a relevant issue (as referred to below) determined by an independent expert of their choosing from the council's approved panel of independent experts. The homeowner has one month from receiving confirmation of the council's position within which to apply to have the issue determined by an expert. The dispute will only go to determination where the council and homeowner agree to do so and the issue is an appropriate one for determination (as set out below).

The determination will be by way of a desktop "on the papers" review of the council's and homeowner's respective expert reports and may include a site visit where the expert considers this to be appropriate. The determination will be conclusive and binding on both the council and the homeowner(s). The council will pay the costs of the independent expert who makes the determination, but the parties must otherwise meet their own costs.

The issues that council agrees to be appropriate for determination in relation to categorisation disputes are as follows:

1. Using the council's Categorisation Approach, does the property present, as a result of the severe weather events, an intolerable risk to life?
2. Can the property's intolerable risk to life be mitigated with a property specific mitigation in a timely manner? If so, how?
3. Is the cost of mitigating the intolerable the risk to life presented by the property feasible?

The issue of whether a community level mitigation is feasible is not a matter that can be submitted for determination.

If the homeowner applies for determination of a dispute that involves more than one area of expertise, the council will determine the order in which the issues are determined (for example jointly or sequentially). Homeowners will have the option whether or not to agree to a binding determination on these terms.

3. Valuation dispute

Internal review

If the homeowner(s) disputes the reference valuation contained within their offer letter, they must apply for review within one month of receiving the offer letter. The homeowner must provide a valuation from a registered valuer for the market value of their property at 26 January 2023. The homeowner should provide this valuation at the same time as the homeowner applies for review of the valuation decision unless they are unable to for reasons outside their control.

The council will consider the homeowner's valuation report and consider whether to confirm or revise its reference valuation. As part of this process, the council may also attempt to resolve the differences in valuation by a "without prejudice" meeting between the respective valuers. The parties must each meet their own expert's fees for attending this meeting.

After it has considered the homeowner's valuation report, and after the meeting of valuers (if a meeting takes place) the council will either confirm or revise the reference valuation and notify the homeowner of the result.

External review

If the homeowner still disputes the council's valuation they have one month from receiving notice of the council's decision confirming or revising the valuation to apply to have the valuation dispute determined by an independent valuer of their choosing from council's panel of approved experts.

That determination will be by way of a desktop "on the papers" review of the council's and homeowner's respective valuations and may include a site visit where the independent valuer considers appropriate. The determination will be conclusive and binding on both the council and the homeowner(s). The council will pay for the fees of the independent expert who makes the determination, but the parties must otherwise meet their own costs.

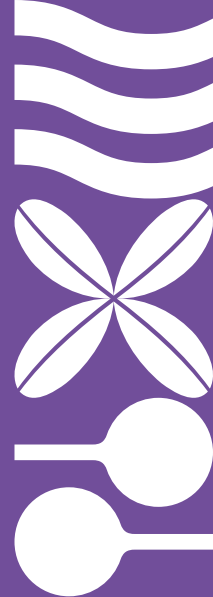
4. Review of decisions on applications for Special Circumstances to be considered/ decisions on the individual circumstances of uninsured persons / insurance proceeds

A homeowner who wants to seek a review of a special circumstances decision may make a request in writing that the council review the decision. The homeowner has 25 working days from receiving the decision on special circumstances within which to seek a review. The Chief Executive will consider, then confirm or revise the special circumstances decision. The Chief Executive, at their discretion, may seek relevant advice to support their review. The decision of the Chief Executive on review of a special circumstances decision is final and not subject to further dispute resolution processes.

An uninsured homeowner who wishes to review a decision as to their individual circumstances (for the purposes of determining their homeowner contribution) may make a request in writing that the council review this decision. The homeowner has 25 working days from receiving the offer letter within which to seek review. The Chief Executive will consider, then confirm or revise the individual circumstances decision. The Chief Executive, at their discretion, may seek relevant advice to support their review. The Chief Executive's decision on review is final and not subject to further dispute resolution process.

An insured homeowner who wishes to dispute a decision that the council has made relating to the insurance proceeds (including EQC proceeds) that have been obtained by the homeowner for damage to the house may make a request in writing to review that decision. The homeowner has 25 working days from receiving the offer letter within which to seek review. The Chief Executive will consider, then confirm or revise the individual circumstances decision. The Chief Executive's decision on review is final and not subject to further dispute resolution process.

Appendix 6 – Valuation brief for Auckland Council Category 3 buy-out process (residential home property type)



Professional qualification

Valuations are to be prepared and signed only by Registered Valuer(s) with a current Annual Practicing Certificate.

Professional standards

Valuations are to be prepared and reported in compliance with International Valuation Standards (effective 31 January 2022) and relevant Guidance Papers for Valuers and Property Professionals published by the Australian Property Institute (API), Property Institute of New Zealand (PINZ) and New Zealand Institute of Valuers (NZIV).

Purpose of valuation (to be acknowledged in report)

Market valuation to inform potential sale and purchase under voluntary buy-out process conducted by Auckland Council.

The valuation is not a compensation valuation under the provisions of the Public Works Act 1981 or, the valuation industry standard; ANZVGP 113 Valuations for Compensation and Compulsory Acquisition.

Basis of valuation: market value

Market Value is defined in International Valuation Standards as:

‘The estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm’s-length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.’

Valuation date

26 January 2023.

Valuation approach

The pertinent valuation approach or approaches to be applied are to be determined by the valuer.

For a typical improved residential home property type it is anticipated that the Market Approach (in accordance with IVS 105) will be applied through the Comparable Transactions Method used, including Direct Comparison and Net Rate units of market analysis.

Property state and condition – assumptions, information and limitations

- The valuation is based on a fundamental Special Assumption, whereby the property is assumed to be in the state and condition which existed as at 26 January 2023 ie. prior to and disregarding damage caused by the specified storm/flood event.
- Property data is to be based on a physical inspection (to the extent which can be safely conducted) in conjunction with (i) the property data selection supplied by Auckland Council (ii) additional records/images sourced from the property owner.

- The valuer may, if required, request additional information/visual records in order to establish a reasonable assumption as to the property state and condition as at 26 January 2023.
- If the valuer has been provided with insufficient information to arrive at a reasonable assumption then this limitation shall be stated in the report.

Reporting

Full compliant valuation report format to be provided.

Component Level of Market Value (to be reported)

- land value
- improvements
- chattels.

GST treatment

The GST status of the concluded market value must be clearly stated. It is expected that for residential home typologies, the value will be expressed as 'inclusive of GST, if any.'



October 2023

Auckland Council disclaims any liability whatsoever in connection with any action taken in reliance of this document for any error, deficiency, flaw or omission contained in it.

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