



Te Anga Kaupapa mo ngā whakataua whenua kari-āwhā

Policy Framework for Decisions on Storm-Affected Land

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INTRODUCTION

1. Under the Gisborne District Council ('Council') [Category 3 Voluntary Buyout Policy](#) ('the buyout policy') Council is assisting people living in properties identified as Category 3 under the Future of Severely Affected Land (FOSAL) framework to relocate from those high-risk properties. 37 sites of land in Gisborne city and around Te Tairāwhiti will be acquired by Council through this process.
2. Category 3 properties were identified as high risk due to an intolerable risk to life where it is not possible to reduce the risk. Once residential improvements are removed from the properties, Council needs to decide how the sites will be used given their ongoing risks from flooding or land instability. The sites are diverse in location, risks, and physical features so a one size fits all approach is not appropriate.
3. Other storm-affected land may also be acquired by Council as recovery work progresses or after future weather events. Decisions will also be required regarding the use of such land once it is acquired.

SCOPE

4. This policy framework will guide decision-making on the use of storm-affected land acquired by Council ('storm-affected land'). This includes Category 3 land purchased under the buyout policy and any other storm-affected land acquired by Council. Council may, from time to time, also apply the guidance to other storm-affected land in its property portfolio, at its discretion.

OBJECTIVE

5. The objective of this policy framework is that storm-affected land is managed:
 - a. Responsibly (in accordance with any legal obligations in relation to the land and the community, and acting with good judgment);
 - b. Efficiently (considering the costs and benefits of decisions and achieving value for money); and
 - c. Effectively (in a way that appropriately manages risk and, where possible, produces positive social, economic, environmental, and cultural results for Council and the people of Te Tairāwhiti).

PRINCIPLES

6. All processes to determine the future use of storm-affected land will be guided by the following principles:
 - a. Manage risk associated with the land.
 - b. Make suitable use of the land, within the appropriate level of risk.
 - c. Be prudent with ratepayers' money.
 - d. Include opportunities for partnership with Mana Whenua.



- e. Include former owners, Mana Whenua and local communities in the process where appropriate.
 - f. Ensure decisions are transparent and fair.
 - g. Make use of existing policies and processes where available and relevant.
7. Further detail on each of these principles is provided below.

Manage risk associated with the land

- 8. The process for deciding uses of Council-acquired storm-affected land must continue to uphold the objective of the Category 3 voluntary buyout policy to support people to voluntarily relocate from residential housing situations on properties that pose an intolerable risk to their lives from flooding or land instability.
- 9. All decisions on the use of this land should take a precautionary approach. Risk assessments will be carried out to determine the level of risk across each site. Potential land uses will be determined based on the ability to manage risks from flooding and landslide, and Council's tolerance to the residual risk to the public. In the case of sale to third parties, risks will be communicated to buyers. Additional conditions of sale will ensure risks continue to be managed appropriately.
- 10. Decisions on the use of the land will take into account the latest risk assessment information available, including the natural hazards plan changes currently being developed and updates to flood and land instability mapping. If zoning changes are needed for specific sites these will be managed through regular plan change processes.

Make suitable use of the land, within the appropriate level of risk

- 11. Each acquired property or group of properties will be reviewed with a view to optimising land use. This means prioritising use of the land in the public interest and making use of the land in ways that best meet Council's roles and responsibilities. Hazard management is a community benefit that can be delivered through direct council ownership or through meeting appropriate conditions for transfer, and sale of land to third parties can be in the public interest as part of optimising Council's asset holdings.
- 12. Given the hazards associated with the land, it is likely that decisions will need to be made on a case-by-case basis, considering risk management, financial implications, and potential benefits to communities.

Be prudent with ratepayers' money

- 13. The Local Government Act 2002 sets out that a council must act prudently and in a manner that promotes the current and future interests of the community. Being prudent with ratepayers' money in this context includes making the best use of assets, minimising consequential costs and risks to Council, managing operating expenditure (e.g. maintenance), and reducing the asset base, where possible, where it is not needed for service uses.

Include opportunities for partnership with Mana Whenua

- 14. Sites of cultural significance will be identified as an early step in the decision-making process. New opportunities for partnership will be investigated, such as co-management or co-governance of reserves or participation in implementing project/s on the land.



Include former owners, local communities and Mana Whenua in the process to determine future land uses where appropriate

15. Council has established policies and processes for community participation and engagement with Mana Whenua ([Significance and Engagement Policy](#), [Tairāwhiti Piritahi](#)). These will be applied as appropriate, noting that the risk profiles of some sites may limit engagement to information / transparency, as there may be limited scope for choice in the use of those sites due to the risks that are present.
16. The future use of any sites within the Te Aitanga a Māhaki area will be jointly determined by Council and Te Aitanga a Māhaki. For sites in an area of overlap between Te Aitanga a Māhaki and other Mana Whenua groups, the other groups will also be part of the joint determination in relation to those sites.

Ensure decisions are transparent and fair

17. Decisions about the use of this land will be made fairly and transparently, in a documented, consistent, and defensible manner. Due consideration will be given to available options and will be based on supporting evidence.

Make use of existing policies and processes where available and relevant

18. Decisions about this land will be managed, as far as possible, using existing processes, including maintenance of acquired land, Mana Whenua partnerships, community engagement processes, property optimisation and land transfer processes, and meeting the relevant planning and consenting requirements for any potential development or other use of land. Where there are not relevant existing processes, or the existing processes are inadequate, new processes will be developed.
19. Council is committed to giving effect to Te Tiriti o Waitangi. [Te Tiriti Compass](#) will inform decisions made under this framework.
20. Any planting on sites retained in Council ownership will prioritise native revegetation, in line with Council's obligations under the National Policy Statement for Indigenous Biodiversity (NPS-IB) and Council's Urban Biodiversity Action Plan.

DECISION-MAKING PROCESS

21. This section sets out the steps for decisions to be reached on the future use of storm-affected land. Sites may be progressed individually or grouped together, depending on their location and characteristics.

Step 1: Site risk assessment

22. Sites will be assessed to determine the level of ongoing risk from flooding, land instability or other hazards. Initial investigation will also be undertaken of whether and how those risks may be mitigated, such as drainage / retaining walls / planting. This information will be compiled into a document for each site (a 'risk profile').
23. Existing information held by Council, for example from previous site assessments, hazard mapping and other sources will be considered. Further site inspections and technical investigation will be undertaken when required.



Step 2: Site opportunity assessment

24. Options for potential uses will be identified, informed by the risk profile. This may include discussion within Council and / or seeking ideas from local communities, Mana Whenua, the previous landowner, or neighbouring landowners.
25. Engagement with Mana Whenua for the location of the site or sites under consideration will be undertaken to ensure Council understands the significance of the site and the surrounding area to them, any aspirations they have for the site (including potential use in a historical Te Tiriti o Waitangi settlement), and any overlap of interests.
26. Potential uses will be identified and developed by Council, internally and through engagement with local communities, previous and neighbouring landowners, Mana Whenua, and community interest groups. Opportunities for reconfiguration of sites, for example through land swaps with neighbours, that enhance or enable specific uses may be identified.
27. As well as the risk profile, there may also be other characteristics of a site that could impact potential use options, for example lack of legal access. Any such issues will also be identified at this stage.

Step 3: Assessment against decision-making hierarchy

28. Once options for potential uses have been identified, potential uses will be considered as follows:
 - a. Natural hazard management
 - b. Council service use
 - c. Council strategic use
 - d. Transfer to Mana Whenua
 - e. Sale to a neighbour
 - f. Sale for redevelopment
 - g. Other community use
29. Sites will first be considered for their potential to contribute to management of risks from natural hazards to the surrounding community. If they are not suitable for this purpose, service uses by Council immediately in the future will be considered, and so on. Further information on this decision-making hierarchy is set out below.

Natural hazard management

30. Site risk profiles will identify land instability, flooding, or other hazards that are present. These may present an unacceptable level of ongoing risk to people using the property and may also represent risks to surrounding properties.
31. If a site is required for management of natural hazards, Council will retain the land and work with those Mana Whenua groups who wish to be involved to undertake the required physical work and ongoing management of the land. The local community and hapū will be kept informed of plans and progress with the work.



32. If the site is not required for management of natural hazards, Council service uses will be considered.

Council service use

33. Council may have identified a service use for a site such as open space / reserve or siting of resources or infrastructure. To be considered a 'Council service use' under this policy framework, the proposed use will have a strong business case and be within existing budget or have new funding approved.
34. This category may include incorporation of a site into an existing reserve. Before any incorporation into an existing reserve is proposed there will be discussion with Mana Whenua in accordance with any co-governance or co-management arrangements in place for the existing reserve.
35. If a Council service use is identified, Council will work with Mana Whenua groups who wish to be involved to implement the project, including any reconfiguration of boundaries required. Community input into planning and/or participation in implementation will be sought if appropriate for the nature of the project and in accordance with existing engagement policies. New co-governance or co-management arrangements and other opportunities for partnership will be considered if appropriate for the nature of the proposed use.
36. If a Council service use is not identified, strategic uses by Council will be considered.

Council strategic use

37. Council may have identified a service use for a site where a proposal requires further development or engagement before it can proceed and / or funding is not immediately available. This will be considered a 'Council strategic use' under this policy framework.
38. If a Council strategic use is identified, Council will work with Mana Whenua groups who wish to be involved to develop a full proposal and will undertake community engagement. New co-governance or co-management arrangements and other opportunities for partnership will be considered if appropriate for the nature of the proposed use.
39. Proposals for Council strategic uses will be fully developed within 1 year of the adoption of this policy framework. If a proposal is not developed in this timeframe, the relevant site or sites will be re-assessed against the decision-making hierarchy.
40. If a Council strategic use is not identified, transfer to Mana Whenua will be considered.

Transfer to Mana Whenua

41. Mana Whenua interests and aspirations having been identified in site opportunity assessments, Council will engage with relevant Mana Whenua groups (hapū / iwi / land trusts / other) regarding the potential transfer of ownership to them.
42. Transfers will be subject to conditions prohibiting residential activity on the land. If the risk profile for a site has identified possible mitigation works that may reduce the level of risk sufficiently to allow it to be redeveloped. In this case, the conditions of transfer would prohibit commercial or residential activity until acceptable risk mitigation works have been completed.



43. If more than one Mana Whenua group seeks transfer of a site, those groups will need to agree between themselves how to proceed.
44. If in-principle agreement for a site to transfer to Mana Whenua is not reached within 1 year of the adoption of this policy framework, the site will be re-considered against the decision-making hierarchy. Final transfer may be completed on a longer timeframe.
45. If no Mana Whenua group seeks transfer of ownership, sale to a neighbour will be considered.

Sale to a neighbour

46. Adjacent landowners may be interested in purchasing all or part of storm-affected land to add to their existing properties for non-residential uses. This could include, for example, uses such as grazing, planting, driveways, parking, or expanding existing gardens.
47. If a potential sale to a neighbour is identified, Council will work with the interested neighbour to negotiate the sale and transfer ownership. Sale would be subject to conditions restricting commercial or residential activity on the land.
48. If the sale is not completed within 1 year of the adoption of this policy framework, the site will be re-assessed against the decision-making hierarchy.
49. If no potential sale to a neighbour is identified, sale for redevelopment will be considered.

Sale for redevelopment

50. The risk profile may identify possible mitigation works that could reduce the level of risk of all or part of a site sufficiently to allow it to be redeveloped. If this is the case, and there are no other issues identified, sale of the site may be possible.
51. Any sale will be subject to conditions prohibiting commercial or residential activity on the site until the purchaser has completed acceptable risk mitigation works at their own cost. All ongoing risks associated with the land would become the responsibility of the new landowner.
52. Council will first engage with Gisborne Holdings Ltd (GHL). If that engagement does not result in sale of the site, Council will consider whether going to the open market is appropriate and/or worthwhile.
53. If sale of the site is unsuccessful within 1 year of the adoption of this policy framework, the site will be re-assessed against the decision-making hierarchy.
54. If sale for redevelopment is not an option, other community use will be considered.

Other community use

55. Community members or groups may identify a potential non-residential use for a site that are acceptable within its risk profile, such as community gardens, native planting, or other passive uses ('other community uses'). These may be identified in the opportunity assessment phase or may be specifically sought by Council once other potential uses are ruled out.



56. If any other community uses are identified, Council will work with the relevant group on the arrangements for use of the site, which may include leasing. Agreements for use or transfer of the land will include restrictions to ensure it is only used as specified.
57. Transfer of ownership of the site may be considered if the risk profile of the site allows, given that any ongoing risks would fall on the new landowner. If the site is retained by Council, Council will undertake any required risk mitigation works. If the land transfers, this will be the responsibility of the new owner.
58. If no other community use is identified, Council will retain and manage the land.

Sites retained by Council with no specific use identified

59. Some land may be required to be retained by Council with no specific use identified. Council will manage such sites appropriately in line with their risk profile. This will most likely involve planting, undertaking any risk mitigation work required for passive use of the site, and general ongoing maintenance such as weed control and waste removal.

Step 4: Final decision

60. All information and considerations in Steps 1-3 will be documented and provided to the decision-maker (may be in summary form). The information will form the basis of recommendations to determine use of the land. Decisions will be made at the appropriate level for the proposal under existing delegations.
61. The Chief Executive has delegation in the Three-Year Plan to sell Category 3 sites. This delegation does not extend to other storm-affected land so a Council decision or new delegation would be required for those sites to be sold.
62. In some instances, a Council decision will be required by an existing internal policy or process, or a statutory requirement. The responsible Director or the Chief Executive may also decide at their discretion to take any future use decision to Council, even if it is covered by existing delegations.

RESPONSIBILITY FOR IMPLEMENTATION

63. All Category 3 sites are being held and managed by Liveable Communities hub until final decisions on their long-term use are made. Appropriate parts of Council to hold and manage sites remaining in Council ownership will be determined as part of those decisions.
64. Responsibility for implementation of the decision-making process for Category 3 sites will be assigned as soon as possible following adoption of this policy framework. A working group of staff from relevant parts of Council may be convened.
65. Which part of Council will hold and manage any other storm-affected land acquired, including leading the decision-making on its use once acquired, will be determined at the time a decision is made to purchase that land.

TIMEFRAMES

66. Council estimates the timeframe for completion of decisions on future use of all Category 3 sites will be at least 2 years from the date of adoption of this policy framework. However, decisions on many of the sites will be possible in a shorter timeframe.



67. Council will work to develop proposals for all storm-affected land as soon as possible after it is acquired, including Mana Whenua and community engagement as appropriate.

PROGRESS UPDATES

68. Regular updates will be provided to the Council through the Chief Executive report.

REVIEW

69. This policy framework will be reviewed 2 years after the date of its adoption. The review will include consideration of whether the framework should continue to apply. If the framework has not been reviewed, amended, or replaced, it will continue to apply.



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