

# MINUTES OF THE COUNCIL PUBLIC EXCLUDED SESSION HELD ON WEDNESDAY 28 NOVEMBER 2018 AT COUNCIL CHAMBERS, 96 WEST END, KAIKŌURA – 10:00AM

## 3. NATURAL HAZARDS:

J Parfitt (Advisor to the CEO), E Jacka (Strategy and Policy Advisor) and N Thomas (Legal Advisor) were in attendance to present this item.

Four options and the pros and cons of each were presented

1. decline the \$1.5 million Crown funding and provide no support to property owners;
2. (Recommended) use the \$1.5 million provided by the Crown to assist owners to protect buildings where it is feasible within the property to do so and provide assistance to retreat where it is not considered to be feasible to protect the building;
3. seek up to \$1.370 million additional funding from the Crown and/or Ecan to enable Council to provide financial assistance to all property owners to retreat; or
4. borrow up to \$1.370 million to enable Council to provide financial assistance to all property owners to retreat.

Copies of the technical reports were provided as part of the report.

The mayor asked what the difference was between Christchurch and Kaikōura with regards settlement options.

There is consistency of approach between the Port Hills area of Christchurch and the recommendations in the paper for Kaikōura. In the Christchurch Port Hills, for properties where it was feasible, the Crown and Council funded work to reduce the risk. Where it was unfeasible to address intolerable life risk, the Crown made a purchase offer (red zone).

Concern was raised around the triggering of consents to relocate the dwellings and what these would be. It was confirmed that Council would provide the property owners with funding to relocate dwellings on the property once the owners had satisfied the Council process to access such funding.

Requirements were highlighted in the report as follows – Consenting for relocation of buildings would require work to alter the existing building and accordingly Building Act section 112 'Alterations to existing buildings' would apply. Essentially the Building Act requires that any new building work associated with the alteration (in this case the relocation) comply (completely) with the Building Code (see section 17) and section 112 requires that the altered building be upgraded (to as nearly as is reasonably practicable) for means of escape from fire (generally provision of battery operated smoke detectors) and in respect of all other Building Code matters, things must be no worse than before the alteration (see s112(1)(b)).

Councillor Pablecheque requested it be noted that he did not believe the owners were being offered a fair deal.

Another concern raised was the future cost for any potential legal challenges. Should a legal challenge eventuate it would likely be a Judicial Review on the process taken to get to the end result. Although the risk of a legal challenge remains, all decisions are documented and robust. If such proceedings were brought against the Council, the Crown would likely also be implicated as funder.

Doing nothing as an Option was included for completeness.

There was no legal obligation on the Crown or the Council to provide any assistance. The funding assistance was provided to reduce life risk, not protect equity.

Council had been advised that no further funding was available from the Crown. Environment Canterbury (ECan) would not contribute until it has a national policy in place.

Of all these options, one and three would be most likely to lead to reputational risks.

Concern was raised about relocated dwellings requirement to meet the wind standards set out in the district plan. It was noted that full planning assessments would need to be worked through as part of the implementation planning. The Building and Regulatory Manager was called into the meeting. He indicated without assessing the detail it would be difficult to comment.

There is a risk that such issues may arise, but without spending considerable additional money we will not know. It is a balance between making fully informed decisions at high cost, or make well informed pragmatic decisions based on the best available information and reasonable cost.

The settlement agreements would be full and final. The Section 124 notice would only be removed once the dwelling was relocated.

If Council makes decisions today it can communicate with the home owners before Christmas. The implementation plan would then be finalised in the New Year with formal legal documentation. Property owners would need to apply for funding and would need to meet specific requirements.

\$1.5 million is what the DIA have offered Kaikōura District Council to address properties where there is intolerable risk to life. The funds would take the form of a lump sum and Council would manage any risks associated with the project.

The worst case financial scenario is that Council may have to finance an additional \$50,000, if no insurance monies were recovered. Any property

purchases would be based on pre earthquake valuations (2016), less any insurance funds received.

Some insurance settlement may be based on indemnity value as the property owner would not be rebuilding. The estimates were based on conservative figures including budgets in for professional fees.

If there was a change of ownership during the process any agreed payment would transfer to the new property owner. There would be a sunset clause for offers.

A Communications Strategy will be completed to keep things moving with an expectation of 14<sup>th</sup> December to make decisions public.

***Moved by Mayor Gray, seconded by Councillor Millton and resolved that Council;***

***4.4 Agree to receive the \$1.5 million from the Crown to address properties where the level of risk is intolerable.***

***For: 7***

***Against: 1***

***Moved by Mayor Gray, seconded by Councillor Blunt and resolved that Council;***

***4.1 Note that in late 2017 Council agreed to four outcomes that it was seeking to achieve through the Natural Hazards project:***

- Achieve certainty of outcome;***
- Maintain assurance and credibility in the Council;***
- Generate certainty for people to move forward with confidence; and***
- Use the best available information to inform sensible decisions.***

***4.2 Note that in May 2018 Government advised it had made \$1.5 million available to KDC to address Natural Hazards following the earthquake.***

***4.3 Note that Government's primary objective was ensuring property owners are not at risk to life and ensuring people are safe.***

***4.5 Note that the Crown will make available the total \$1.5 million on the basis that Council takes responsibility for implementation of the recommended support packages without further reference to the Crown.***

***4.6 Receive the final Aug 2018 technical reports for the 16 'intolerable risk' properties;***

***4.7 Note that with regard to the s124 notices that were issued last year for the 16 'intolerable risk' properties:***

- All of those notices expired on 20 November 2018;***
- Three s124 notices have not been renewed as the technical reports now conclude that the risk is tolerable. These properties are at 274, 280 and 270 the Esplanade, Kaikōura;***

- *New notices have been issued for 13 properties where there remains uncertainty about whether the level of risk is tolerable. These properties are at 2021, 2023, 2025, 2027 and 2029 State Highway 1, Rakautara; 1800 and 1802, State Highway 1 Oaro; 18 Moana Rd, Goose Bay; 93 Waitane Road, 335 East Lane, 247 Kēkerengū Road, 188 Torquay Street, and 3059 State Highway 1.*

*4.8 Resolves to pursue the option of assisted retreat to address life risk for the following three properties - 1800 and 1802, State Highway 1 Oaro, and 93 Waitane Road. The cost of the recommended retreat package would be based on the 2016 rateable valuation less any insurance recoveries.*

*4.9 Resolves that when the Oaro retreat packages are finalised and if Council takes ownership of the land, Council engage with Te Rūnanga o Ngāi Tahu about its interest in taking ownership of the site given its cultural significance to explore a mutually acceptable outcome.*

*4.10 Resolves to offer financial assistance to enable the buildings at the following properties to be moved to locations within those properties that do not pose a risk to life from geotechnical hazards - 2021, 2023, 2025, 2027 and 2029 State Highway 1, Rakautara.*

*4.11 Resolves to offer financial assistance to remove the hazard to address life risk at 18 Moana Road, Goose Bay.*

*4.12 Resolves that no financial assistance be provided to the owners of the properties at East Lane, 247 Kēkerengū Road, and 3059 State Highway 1 on the basis that the affected buildings will be demolished and alternative building sites that do not pose a risk to life from geotechnical hazards exist within those properties.*

*4.13 Resolves to offer financial assistance to enable the installation of a deflection bund at 188 Torquay Street to address the risk to life from geotechnical hazards.*

*4.14 Notes that legally robust processes will be developed to protect Council and ratepayer interests and to guide and document the recommended support packages.*

*4.15 Delegates authority to the Mayor and the CEO to sign off the terms and conditions of the recommended support packages and to enter into any legal arrangements required to give effect to those packages within the agreed budget.*

*4.16 Notes that any such arrangements are to be on the basis of property owners managing and completing any required works for those properties where relocation or protection of the relevant buildings is recommended and that no payments will be made until Council is satisfied that the work has been completed.*

**4.17 Resolves that prior to commencing any discussions with property owners, the CEO enters into a funding agreement with DIA which documents how the \$1.5m will be accessed.**

**4.18 Notes that the estimated cost of the total package to address all 10 properties is \$1.550m. This figure includes estimated demolition, legal and purchase costs for the three retreat properties.**

**4.19 Notes that the estimated total cost includes recovering up to \$250k from insurance claims associated with the three retreat properties but does not include any possible revenue from subsequent sales, or holding costs for land which Council may purchase.**

**4.20 Notes that the estimated funding shortfall is \$50k before insurance recoveries for the total package.**

**4.21 Resolves to commit \$50k to meet this shortfall should it eventuate.**

**4.22 Notes that for the 15 properties where there is elevated risk and the 27 land damage properties, any earthquake related issues can be addressed through normal processes.**

**4.23 Authorises ECan to carry out work to repair earthquake land damage to the Kaikōura District Council Esplanade reserve on Lyell Creek, including native plant reinstatement and cycle way foundation restoration, behind Beach Road properties 69-103;**

**4.24 Resolves to fund 50% of the proposed works cost, with an estimated KDC cost of \$7,500.**

**4.25 Resolves to provide labourer support to help with the native plant salvage & replanting.**

**4.26 Requests a strategy be prepared to communicate the details of the recommended support packages and the likely timeframes to complete the process.**

**4.27 Resolves to make the resolutions related to this package public after arrangements to access funding have been confirmed and individual affected property owners have been informed.**

**4.28 Resolves not to follow the Significance and Engagement policy and not to follow a special consultative procedure given the complexities of this decision and policy considerations, privacy constraints and political sensitivities.**

**For: 7**

**Against: 1**

**Councillor Pablecheque requested for his vote against the motion to be recorded.**

