
To:	Council Public Excluded
Date:	28 November 2018
Subject:	Natural Hazards Update
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Authorised by:	Chief Executive - Angela Oosthuizen
Endorsed by:	Chair - Kaikoura Recovery Steering Group

1.Purpose:

1.1 The purpose of this report is to present Council with a package of recommendations which, if accepted, will best meet Crown and Council's agreed policy objectives to address properties affected by Natural Hazards as a consequence of the November 2016 Kaikoura Earthquake.

1.2 It seeks Council's agreement to support a package for owners of 10 properties.

1.3 It also seeks Council's agreement to allow ECan to carry out proposed works on Council reserve land at Lyell Creek and to fund 50% of the proposed works cost, with an estimated KDC contribution of \$7,500.

1.4 This paper has been written by KDC staff. It has been informed by collaboration with Crown colleagues who are on our Natural Hazards Working Group and by discussions at the Kaikoura Recovery Steering Group.

2.Executive Summary:

2.1 In late 2017 Council agreed to four outcomes that it was seeking to achieve through this project:

- Achieve certainty of outcome – *identify solutions where there is a high degree of certainty about their effectiveness to ensure sensible spending of public resources;*
- Maintain assurance and credibility in the Council – *make pragmatic decisions that enable good long-term community outcomes;*
- Generate certainty for people to move forward with confidence – *provide enduring solutions for property owners and the Council that manage risks over time; and*
- Use the best available information to inform sensible decisions - *balance the need for timely decisions based on a reasonable amount of robust information.*

In May 2018 Government advised it had made \$1.5 million available to KDC to address Natural Hazards following the earthquake. Government's primary objective was ensuring property owners are not at risk to life and ensuring people are safe.

2.2 In August 2018 we advised Council that the Government Budget allocation of \$1.5 million for Natural Hazards combined with the reduced seismic risk profile meant that Council's December 2017 decisions would need to be revisited. We provided the A3 attached at Appendix A which outlined the process to do this. The properties were split into three groups; intolerable risk, elevated risk and land damage.

2.3 Council resolved to engage with property owners affected by intolerable risk to explain the Council's position, the available Government funding envelope, and the updated technical information. At the same time Council wished to ensure that it had a thorough understanding of property owners' situations to inform final recommendations. This engagement raised a number of questions and issues that have been taken into account alongside the need for timely pragmatic solutions which minimise risks and costs for the Council and Crown and meet both the Council and Crown's agreed policy objectives.

2.4 We have now received final technical reports from Golder Associates and Tonkin & Taylor outlining the level of risk to each property. The reports conclude that the risk to three properties is now considered to be tolerable and that there are a range of options available to reduce the risk to the remaining 13 properties from geotechnical hazards to a tolerable level.

2.6 After balancing all these considerations, our recommended approach is as follows:

- For the three properties where the risk is now considered to be tolerable no further action is required. The s124 notices placed on these properties have expired and will not be re-issued on the basis that the buildings are no longer considered to be dangerous.
- For three properties where there remains uncertainty about whether the level of risk is tolerable but the risk can be addressed through rebuilding elsewhere on the property (the relevant buildings are understood to have suffered extensive damage) no further action is required. New s124 notices have been issued for these properties and it is recommended that these notices remain in place pending demolition by the owners of the affected buildings;
- For seven properties where there remains uncertainty about whether the level of risk is tolerable the owners be offered financial assistance to protect/relocate their buildings within the property. New s124 notices have been issued for these properties and it is recommended that these notices remain in place pending completion of the required relocation or protection works; and
- For three properties where there remains uncertainty about whether the level of risk is tolerable and there are questions about the practicality and long term effectiveness of the identified options for protecting those properties, the owners be offered financial assistance to retreat from their properties. New s124 notices have been issued for these properties.

2.7 The estimated gross cost of the recommended support package is \$1,550,000 (this estimate includes transaction and demolition costs for the three properties where retreat is recommended). Early estimates indicate that there could be up to _____ in insurance recoveries to offset the costs of acquiring the three properties where retreat is recommended.

2.8 We recommend that Council confirm arrangements to access the \$1.5 million approved budget allocation from DIA, and budget to meet the \$50,000 shortfall until insurance recoveries can be confirmed.

2.9 Geotechnical experts have assessed that, given the new information from the recently-updated GNS seismic hazard / aftershock model and the observed performance during recent significant weather events, the level of risk of all 15 properties originally in the 'elevated risk' category is now tolerable. We are confident that these property owners are able to resolve any remaining earthquake related issues through normal processes

2.10 There was also concern about the situations of 27 property owners in the bank collapse area at Lyell Creek where there had been significant land damage as a result of the earthquake. KDC staff have made contact with 25 of the property owners and there have been no reports of any significant concerns. We are confident that these property owners are able to resolve any earthquake related issues through normal processes.

2.11 ECAN has proposed works to repair the creek and cycle way along Lyell Creek. They are budgeting \$15,000 for this project. We recommend KDC contribute \$7500 to this project.

2.12 If the recommendations in this paper are accepted by Council, and in anticipation of funding being approved, next steps are to:

- Communicate decisions to property owners;
- Develop an implementation plan including developing terms and conditions of the support package, legal documentation etc.; and
- Develop a comprehensive communications plan for the detailed support package.

3. Degree of Significance of the Decision:

This matter is deemed to be significant and falls within the scope of KDCs *Significance and Engagement Policy* and may require community and stakeholder involvement at the appropriate time. However, Council may decide to deviate from the policy and record its reasons for doing so. Council believes that given the complexities of the decision, privacy constraints and the political sensitivities following a special consultative procedure is not recommended.

4. Recommendations:

That the 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.

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

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, Kailoura;
- 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 Kekerengu 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 Kekerengu 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 _____ 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 package 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.

5. Background:

In late 2017, Council made a series of policy decisions to support owners of 61 properties affected by life risk and land damage as a result of the November 2016 earthquake, subject to external Crown funding of up to \$14 million being secured.

The Council agreed to four outcomes that it was seeking to achieve through this project:

- Achieve certainty of outcome – *identify solutions where there is a high degree of certainty about their effectiveness to ensure sensible spending of public resources;*
- Maintain assurance and credibility in the Council – *make pragmatic decisions that enable good long term community outcomes;*
- Generate certainty for people to move forward with confidence – *provide enduring solutions for property owners and the Council that manage risks over time; and*
- Use the best available information to inform sensible decisions - *balance the need for timely decisions based with a reasonable amount of robust information.*

The properties were split into three groups; intolerable risk, elevated risk and land damage. The agreed criteria for three different property categories were:

- Intolerable life safety risk (16 properties) – where geotechnical experts have assessed that a hazard (such as rockfall or landslide) adjacent to the property presents an unacceptable risk to life safety – ie, that the hazard is 'likely in the ordinary course of events' to cause injury or death;
- Elevated life safety risk (15 properties) - risk is 'elevated' and there is an intolerable risk of harm to people's individual or collective wellbeing (e.g, they are likely to suffer intolerable physical and/or financial stress or social isolation) if they do not receive help;
- Land damage (27 properties) – no life risk however there is no practical, affordable and effective option (eg, through insurance payouts) for the property owner to remediate existing damage, or avoid future damage, to land, buildings or infrastructure within a reasonable timeframe – ie, without help they are stuck.

In May 2018 Government advised it had made \$1.5 million available to KDC to address Natural Hazards following the earthquake. Government's primary objective was ensuring property owners are not at very high risk to life and ensuring people are safe.

In August we advised Council that the Government Budget allocation of \$1.5 million for Natural Hazards combined with the reduced seismic risk profile meant that Council's December resolutions will need to be revisited. The diagram at Appendix A provided a summary of proposed next steps.

It is important to note that there is no regulatory requirement for Council or the Crown to provide financial assistance to property owners where a section 124 notice has been placed. Any assistance offered to property owners would be a gesture of community support based on the Council's wish to promote and support enduring recovery outcomes for the community.

6. Intolerable life safety risk properties

6.1 Overview

There are 16 properties in the intolerable risk group. All of the original s124 notices for these properties issued in 2017 have now expired. New notices have been issued (by Council staff acting within their existing delegations) for 13 of these properties on the basis that there remains uncertainty about whether the level of risk is tolerable.

With the agreement of the Council, Council staff met with the owners of the 16 properties on 12 and 13 September to explain the Council's position, the Government funding available and the updated technical information to ensure a thorough understanding of property owners' situations before final recommendations were made.

This engagement provided information about property owners' views and their individual situations and the opportunity for Council to demonstrate its willingness to "listen".

The meetings raised a number of questions and issues that have been taken into account when determining our recommended approach for the addressing the life safety risk affecting these properties. The owners of a number of properties informed us that they were unlikely to be interested in protecting their properties.

6.2 Final Technical Reports

We have now received final updated technical reports on the 16 properties at risk of geotechnical hazards. These reports provide an updated assessment of risk in light of further observations of these sites for 12 months post-earthquake, recently-updated seismic hazard estimates and several recent severe weather events.

The reports conclude that:

- for three properties there is certainty that the risk is now at a tolerable level;
- for the remaining 13 properties there remains uncertainty about whether the level of risk is tolerable but the risk could feasibly be reduced by either protecting the building (rockfall protection fence or bund) or by relocating the building within existing property boundaries away from the hazard.

6.3 Options:

There are four main options which we have considered for the 13 properties where there remains uncertainty about whether the level of risk is tolerable:

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.

The table below summarises the advantages and disadvantages of the four options.

<i>Option</i>	<i>Advantages</i>	<i>Disadvantages</i>
Option 1 <i>Decline Crown funding</i>	<i>No further debt for Council</i>	<i>Would not meet Council policy objectives Would not meet Crown objectives Result in ongoing and protracted uncertainty for both Council and property owners, Eyesores remain and become worse over time; Create loss of reputation for Crown and Council as no decision Likely risk of legal challenge and associated costs</i>
Option 2 (Recommended) <i>Protect buildings where it is feasible and provide assistance to retreat where it is</i>	<i>Meets Council and Crown policy objectives. Maintains assurance and credibility in the Council. Provides enduring long-term community outcomes. Provides certainty for property owners.</i>	<i>Some risk of legal challenge and associated costs. Possible negative media coverage from a few property owners.</i>

<i>not considered to be feasible to protect the building</i>	<i>Is within Crown budget allocation. Supported by the Crown.</i>	
Option 3 <i>Seek up to \$1.5 million additional funding from the Crown and/or Ecan to fund full retreat package</i>	<i>Meets some of Council's policy objectives.</i>	<i>Exceeds Council and Crown policy objectives Results in ongoing and protracted uncertainty for both Council and property owners, potentially for some years; Sees eyesores remain and become worse over time; Creates loss of reputation for Crown and Council as no immediate decision Risk of legal challenge and associated costs Potential negative impact on KDC's relationship with the Crown Ecan have already clarified that any funding from them would need to be based on a national policy (as yet undeveloped)</i>
Option 4 <i>Borrow up to \$1.5 million to enable Council to fund full retreat package</i>	<i>Meets Council policy objectives.</i>	<i>Exceeds Council and Crown policy objectives Council debt rises to unaffordable level and/or other council services would need to be cut.</i>

The situation for each property is different due to a range of considerations including what is technically possible, potential risk from other hazards and the other relevant considerations discussed below.

It should be noted however that some property owners may be disappointed with the outcome resulting in possible negative media coverage and as stated elsewhere in the report, there is always the risk of legal challenge and associated costs with any course of action.

7. Recommendations by property

Our recommendations for each property are outlined in detail below and take into account the relevant technical information, the need for timely pragmatic solutions which minimise risks and costs for the Council and Crown, consider short and long term outcomes and achieve the Council and Crown's agreed policy objectives.

270, 274 and 280 The Esplanade

Geotechnical experts have advised that while there is residual risk to occupants of these properties, the risk level is now considered to be tolerable i.e. comparable to risk faced by properties across NZ. The s124 notices for these properties have expired and the owners have been notified that they can now re-occupy these buildings.

335 East Lane, 247 Kekerengu Road, 3059 State Highway 1

Geotechnical experts have advised that there remains uncertainty about whether the level of risk is tolerable at these properties. However no special assistance is recommended for these properties to address life risk for the following reasons:

- We understand that the affected buildings are buildings with significant damage and are located on large rural properties.
- Owners can work through normal consenting requirements if and when they wish to rebuild. Given the size of the properties, we are confident that while they are unlikely to be able to meet consenting requirements to build on the same platform, they would have alternative locations where they can safely rebuild within the same property.

New s124 notices have been issued for these properties and it is recommended that these notices remain in place pending demolition of the affected buildings.

188 Torquay Street

Geotechnical experts have advised that there remains uncertainty about whether the level of risk is tolerable at this property. Engineers recommend the installation of a deflection bund (within the property boundaries) to protect the building, which requires little long term maintenance.

The property owners are supportive of this approach and there are no other identified planning considerations why Council could not support reoccupation of this site if the recommended bund would reduce the life safety risk to a tolerable level.

We recommend that the Council offer financial assistance (based on the estimated cost of the recommended bund) to support the owner to install a deflection bund to reduce the risk and enable the building to be reoccupied. The property owner would be responsible for designing, installing and future maintenance of the recommended bund.

A new s124 notice has been issued for this property and it is recommended that the notice remain in place pending installation of a bund that reduces the life safety risk to a tolerable level.

18 Moana Road

Geotechnical experts have advised that there remains uncertainty about whether the level of risk is tolerable at this property.

Engineers recommend the hazard (rocks) are removed to reduce the risk to the building to a tolerable level. The property owners are supportive of this approach and there are no other identified planning considerations why Council could not support reoccupation of the building once the life safety risk is reduced to a tolerable level.

We recommend that financial assistance is offered to the owner to remove the hazard to enable the life safety risk to be reduced to a tolerable level and enable the site to be reoccupied.

A new s124 notice has been issued for this property and it is recommended that the notice remain in place pending removal of the hazard.

93 Waitane Road, Oaro

Geotechnical experts have advised that there remains uncertainty about whether the level of risk is tolerable at this property but that it would be feasible to relocate the building away from the hazard within the property boundaries to reduce the risk to a tolerable level. However the building is located on land leased from Kiwirail who have advised that they are not agreeable to the building being relocated – the building is not owned by Kiwirail.

Having due regard to the leasehold tenure of this building and the limitations that this poses on options for relocation of the building away from the hazard we consider that the most timely, pragmatic and effective solution for resolving the life safety risk for this property is to offer financial assistance for the owner of the building to retreat from the property. The cost of the recommended retreat package would reflect the fact that the building is on leased land i.e. the Council would not acquire the freehold estate in the property.

A new s124 notice has been issued for the building.

2021, 2023, 2025, 2027 & 2029 State Highway 1, Rakautara

Geotechnical experts have advised that there remains uncertainty about whether the level of risk is tolerable at these properties but have advised that it would be feasible to relocate the buildings away from the hazard within the property boundaries. This would remove the risk to the buildings and enable the property owners to reoccupy the buildings and/or sell the properties.

The owners of these properties have indicated that they would not support the relocation of their buildings. Notwithstanding this we consider that relocation of the affected buildings is a timely, pragmatic and effective solution for reducing the life risk to a tolerable level, which minimises the costs for the Council and Crown, enables good long term outcomes and otherwise meets the Council and Crown's agreed policy objectives.

We recommend that the owners of these properties are offered financial assistance (based on cost estimates) to relocate the affected buildings away from the hazard to reduce the risk and enable the buildings to be reoccupied. The property owners would be responsible for making the relocation arrangements. Council would need to be confident that the relocation was properly completed in order to provide the funds.

New s124 notices has been issued for these properties and it is recommended that these notices remain in place pending relocation of the affected buildings away from the hazard.

1800 and 1802 State Highway 1, Oaro

Geotechnical experts have advised that there remains uncertainty about whether the level of risk is tolerable at these properties but that the risk could be reduced to a tolerable level if a rockfall protection fence was installed. However the construction of the proposed rockfall protection fence while technically possible, presents a number of challenges:

- The optimal location of the proposed protection fence is on adjoining properties and as such the agreement of the owners of those properties would be required which may or may not be forthcoming.
- The properties are located just metres from the coast and are at risk from tsunamis. A protection fence would likely remove any tsunami escape route.

- A historic urupā or Maori burial ground is located on the properties and there may be cultural considerations to gain required consents.
- The proposed protection fence would require ongoing maintenance and monitoring and may impact on the future insurability of the buildings and businesses.

On balance and having due regard to all of the above matters, we consider that the proposed protection fence would not provide an effective solution for the management of the life safety risk affecting these properties. We consider that the most timely, pragmatic and effective solution for resolving the life safety risk for these properties is to offer financial assistance for the owners to retreat. The cost of the recommended retreat package would be based on the 2016 rateable valuation less any insurance recoveries.

New s124 notices have been issued for these properties.

8. Financial Implications and Risks:

8.1 Overview

The DIA funding made available through Budget 2018 was \$1.5 million.

The gross cost of the recommended package (option 2) is \$1,550,000. Early estimates indicate that there would be up to [redacted] in insurance recoveries to offset these costs. We recommend that, if necessary Council contribute the remaining \$50k.

The Lyell Creek restoration project will require a financial contribution from Council of \$7500. This is proposed to be an operating budget overrun.

8.2 Estimated Gross Cost

The estimated total gross cost of the recommended support package (option 2) for the 10 properties detailed in this paper is \$1,550,000. These costs include purchase, legal and demolition costs for retreat properties. There is likely to be some offset to these costs from insurance however many of the claims are yet to be settled, awaiting decisions from Council. Therefore we are unable to confirm the quantum of insurance recoveries but estimate it to be at least [redacted].

A breakdown of the estimated costs is attached at Appendix B.

We recommend that Council confirm arrangements to access the \$1.5 million approved budget allocation from DIA and budget \$50k to fund the proposed package.

Alternatively the cost for a full retreat package (options 3 and 4) would be \$3,120,000. Early estimates indicate that there would be at least [redacted] in insurance recoveries to offset these costs however Council would need to secure additional funding for up to \$1.370m to fund a full retreat package – this anticipates \$250k in insurance recoveries.

8.3 Risks

The recommended support packages – and any other approach the Council could decide to take – is not without risk. Nothing can fully mitigate the risk of these decisions being challenged. It is impossible to meet the multiple and differing expectations of

'fairness'. Our focus has been on the fairest possible approach given the funding constraints that the Council must make these decisions within.

We are confident that the process to get to these recommendations has been robust and are based on reasonable rationale.

A condition of the Crown funding is that KDC takes on the risk of giving effect to, and implementation of, the proposed support packages. However it is important to note that if decisions were challenged through judicial review, the proceedings would likely be against KDC and the Crown as both parties have been involved in aspects of the decisions. This means that both parties need to take the normal steps to ensure proper and robust processes are undertaken when making and implementing these decisions. Any challenge would consider the role each party had played and how decisions were made.

There is a precedent risk for the Council and Crown in providing financial assistance to privately owned properties affected by natural hazards however we are confident that this unique situation can easily be distinguished from other natural hazard events such as sea level rise and climate change which are certain to happen at some point.

There is a risk that costs are higher than anticipated as we have not undertaken detailed design work for any of the proposed protection measures. To mitigate this risk as much as possible we have taken a very conservative approach to the costings.

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)).

There is a risk that proposed solutions (e.g. relocation/protection) are found to be not technically possible when detailed investigations and/or design are undertaken (due to efficacy considerations, cost or other technical considerations) for all properties. In this case the Council would have to reconsider options and this may lead to cost increases.

The District Plan Natural Hazards chapter needs to be reviewed however these decisions will not be made until late 2019 at earliest. Once this review is undertaken and decisions are made, it may result in a situation where property owners are supported to protect/relocate buildings on properties where planning restrictions (e.g. to restrict further development on the site – i.e. intensification, subdivision etc.) need to be put in place to manage other hazards.

9. Elevated risk and land damage properties

9.1 Elevated risk properties

Geotechnical experts have assessed that given the new information from the recently-updated GNS seismic hazard / aftershock model and the significant weather events, the level of risk for the 15 properties originally in the 'Elevated risk' category is now tolerable and so no further assistance from Council is considered to be required.

9.2 Land damage properties

There was also concern about the situations of property owners in the bank collapse area at Lyell Creek where there had been significant land damage as a result of the earthquake. Staff have made contact with 22 of the 27 property owners. There were no situations identified where property owners were in difficult circumstances

The majority of property owners reported being very happy with the proceeds received from their insurance claims and felt they were well placed to undertake the required repairs. Like any private property owners, the onus is now on them to use the insurance funds to repair the damage. Geotechnical advice has confirmed that property owners can feasibly repair or rebuild their properties on an individual basis through the normal consenting process.

There is a small risk that this approach may result in legacy issues for Council such as property abandonment, and negative impacts on community wellbeing, property amenity and the Council's reputation if properties are not repaired however this is a risk for all communities affected by the earthquakes and we do not consider it to be a significantly higher risk in this area.

9.3 Restoration Works

ECAN has proposed works to repair earthquake land damage to the Kaikōura District Council esplanade reserve on Lyell Creek, including native plant reinstatement & cycleway foundation restoration, behind Beach Road properties 69-103. We recommend that this would be a positive contribution to support the Lyell Creek community recovery.

Proposed works to repair the reserve area consist of stream bank regrading and crack filling using an excavator, light compaction by excavator track rolling to strengthen the bank, salvage & replanting of native plants, and creation of a benched foundation for future cycleway reconstruction. The area around the native plants will be harrowed & sown with grass.

The repairs will be managed by Environment Canterbury River Engineers, with the goals of stabilising the stream banks sufficiently to prevent slumping and stream blockage during flood, enabling reinstatement of native planting, and providing a sound foundation for cycleway reconstruction.

The proposal is not intended to fully restore the stream banks to pre-earthquake strength, nor will it prevent similar damage from occurring again in future large earthquake. Full restoration or large-scale ground improvement is not considered cost effective or practical. The proposed work is not expected to de-stabilise adjoining property or houses, but geotechnical engineering advice will be sought to ensure this risk is appropriately managed.

A trial bank stabilisation and native plant salvage & replanting project has recently been completed on the Alpine Pacific Holiday Park Lyell Creek frontage. This work had a cost of \$3195, 50% funding by each of ECan & KDC. This work was completed very successfully, and has informed the methodology and cost estimate adopted for the proposed works.

The estimated cost of the proposed work is \$15,000, to be funded 50% by ECan (from the Kaikōura Rivers & Drains rating district), and 50% from KDC (in recognition of their land ownership & help with the cycleway reinstatement). This would be incurred as a budget overrun.

Labourer support is being sought from KDC to help with the salvage & replanting of native plants. The cost of this labour would be credited toward the 50% KDC contribution.

10. Next steps

If the recommendations above are accepted by Council, and in anticipation of funding being approved, next steps are to:

- Conclude funding arrangements with DIA
- Develop a comprehensive communications plan for the detailed support package.
- Communicate decisions to property owners;
- Develop an implementation plan including developing terms and conditions of support package and legal documentation.

11. Community Views:

Details about engagement with property owners is attached as Appendix D.

12. Context:

During 2017, the CEO and her team worked with the National Recovery Office (NRO) and subsequently the Department of Internal Affairs (DIA) on a bid for additional funding to be included in the Government's May 2018 budget to progress the Natural Hazards project.

On 25 October 2017, Council agreed to the strategic elements of the policy and decision-making framework, and the criteria for three different property categories:

Intolerable life safety risk (16 properties) – where geotechnical experts have assessed that a hazard (such as rockfall or landslide) adjacent to the property presents an unacceptable risk to life safety – ie, that the hazard is 'likely in the ordinary course of events' to cause injury or death;

Elevated life safety risk (15 properties) - risk is 'elevated' and there is an intolerable risk of harm to people's individual or collective wellbeing (e.g, they are likely to suffer intolerable physical and/or financial stress or social isolation) if they do not receive help;

Land damage (27 properties) – no life risk however there is no practical, affordable and effective option (eg, through insurance payouts) for the property owner to remediate existing damage, or avoid future damage, to land, buildings or infrastructure within a reasonable timeframe – ie, without help they are stuck.

Following these decisions, Council resolved in December 2017 that 61 buildings (on 58 properties met these criteria across several locations (Oaro/Boat Harbour, Rakautara, Torquay Street, Kaikoura Flats and Lyell Creek) as a result of the November Earthquakes . Council resolved to do minimum, mitigate, relocate or retreat from these properties at a total cost of \$14 million, subject to funding from the Government being secured.

The Government's May 2018 budget allocated \$1.5m (from DIA) over 2 years to be allocated to Natural Hazards work. Formal arrangements have been put in place to manage this funding through a Memorandum of Understanding.

The Council is responsible for its own decisions on the use of the funding however the Government has put a condition on the funds that they can only be provided to assist owners of properties where the risk to life has been assessed to be intolerable.

13. Legislation:

Section 124 of the Building Act 2004 provides that the Council may 'attach in a prominent place on, or adjacent to, the building a notice that warns people not to approach the building'.

The purpose of the various pieces of legislation that govern the safety of people in buildings, and from unsafe buildings, and the requirements of Councils, are documented in various MBIE documents, in particular the Building Act Emergency Management Proposals Consultation Document (2015) and the Regulatory impact statement, Managing buildings after an emergency event (2016). The Policy Guidance for Territorial Authorities on Dangerous and Insanitary Building Provisions of the Building Act (DBH 2005) is also instructive.

Attachments:

Appendix A: A3 Council Workshop 24Oct2018

Appendix B: Breakdown of estimated costs

Appendix C: Map

Appendix D: Engagement summary