

# Awatarariki Fanhead Managed Retreat Update



Subject: **AWATARARIKI FANHEAD MANAGED RETREAT UPDATE**

To: **WHAKATĀNE DISTRICT COUNCIL**

Meeting Date: **THURSDAY, 12 DECEMBER 2018**

Written by: **MANAGER STRATEGIC PROJECTS**

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## 1 REASON FOR THE REPORT

Council staff have been meeting with Department of Internal Affairs (DIA) officials and Bay of Plenty Regional Council staff to discuss the Indicative Business Case to fund a managed retreat from the Awatarariki fanhead in Matatā. For the purposes of this report, the group of officials, BOPRC staff and WDC staff will be referred to as the Working Group. This report is intended to brief Council on discussions to date and seek approval to amend the timeline to better sequence the managed retreat option ahead of the Plan Change hearings; and to amend the Council's Acquisition Strategy.

## 2 BACKGROUND

The Council has prepared an Indicative Business Case that responds to the risk of further debris flows in the fanhead and proposes an option of managed retreat from the land within the identified high loss-of-life risk zone. This zone contains 16 properties with dwellings, 2 properties with unconsented structures, and a further 16 vacant sections.

The DIA officials have completed a review of the Indicative Business Case, which confirmed that the risk analyses and peer reviews were robust; no viable engineering solution or other risk reduction option exists; and no practical land swap option was available.

The Working Group have reached agreement on:

- The optimum end objective is comprehensive managed retreat from all properties in the high risk area of the Awatarariki fanhead;
- A financial quantum;
- A funding share arrangement;
- A process moving forward that entails:
  - DIA providing a budget bid to Treasury for rigorous testing and Government consideration
  - Subject to the DIA budget bid progressing, BOPRC and WDC will each consult in the next Annual Plan over a one-third share contribution, distributed over 2-3 financial years;
- WDC's Acquisition Strategy being the mechanism that underpins delivery of the managed retreat proposal. There is support for a modification of the 'Recent Sales'

clause within the Strategy to reflect the non-speculative nature of the three property sales that have occurred since 1 January 2013;

- Subject to the funding bids remaining live, delaying the timing of the plan changes joint hearing to enable Awatarariki fanhead property owners to consider managed retreat offers prior to a hearing.

The points of agreement above provide a process framework to deliver managed retreat to the owners of properties within the Awatarariki fanhead high debris flow risk area. Delivery of the programme is conditional upon budget bids being successful in the development of the 2019 Government Budget and council annual plan budget processes. The success of the programme is reliant upon property owner take-up.

### **3 DISCUSSION AND OPTIONS**

#### **3.1 Cost and Funding**

The Indicative Business Case that underpins the Council's engagement with the Government and BOPRC was based on 2016 cost estimates. These estimates have been updated to reflect property market movement and inflation. As a consequence, the estimated cost to deliver the managed retreat programme to all 34 properties has increased to \$15.06M.

The funding share arrangement proposed by the Working Group is that the 3 levels of Government are equal funding partners, which equates to a \$5.02M contribution from each partner. Funding of the Government's share is being sought in the development of the 2019 budget. It is proposed that BOPRC and WDC will each make provision in their 2019/20 and 2020/21 Annual Plans and consider feedback received through the public consultation process.

Property owners are not being asked to contribute a share of the managed retreat costs. A contribution from property owners was considered during the Consensus Development Group work and subsequently discounted, based on information provided by the property owner representatives. If required to contribute, many property owners would have insufficient funds to purchase elsewhere and end up in a position of having no choice but to decline the Voluntary Retreat offer and remain exposed to the risk; a position which is the polar opposite of the goal of the Awatarariki debris flow risk management programme.

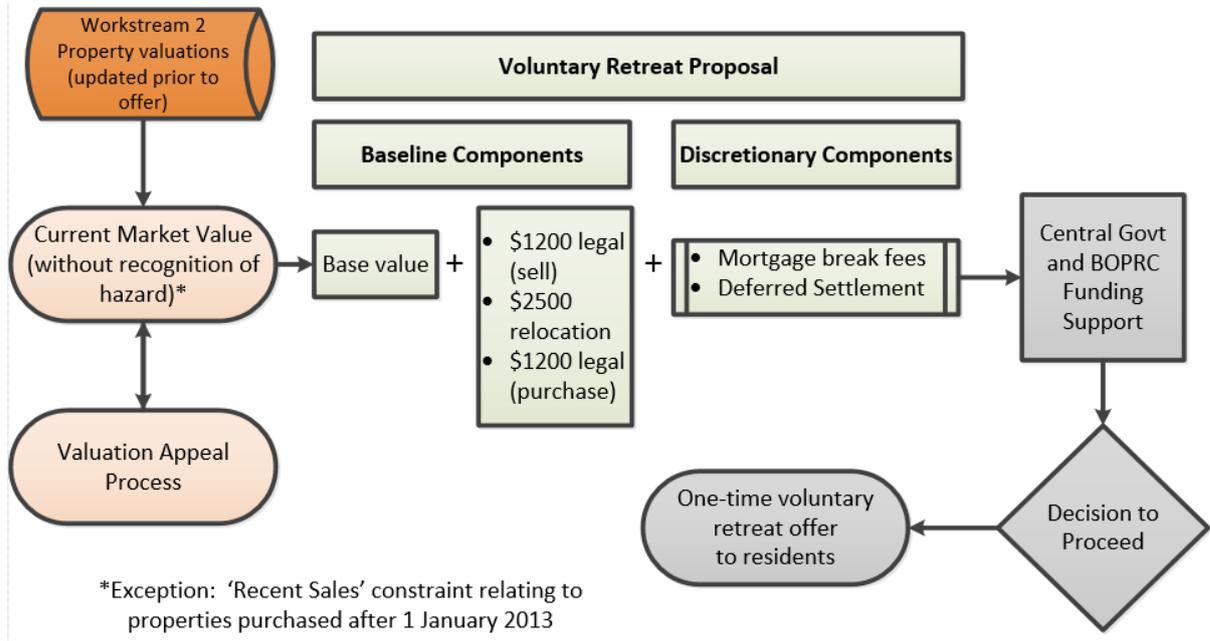
Overseas experience indicates that incentivisation is a key component of successful managed retreat programmes. In the Awatarariki context, incentives are provided in the Council's Acquisition Strategy through the following components:

- No contribution being sought from property owners;
- Financial support from New Zealand taxpayers, and Bay of Plenty Region and Whakatāne District ratepayers;
- Payment of current market value (without any discount for the known debris flow risk) at the time an offer is made;
- Financial contributions to legal costs and relocation costs;
- Payment of mortgage break fees; and
- Deferred purchase and settlement.

### 3.2 Acquisition Strategy

In 2016 the Council approved an Acquisition Strategy for the Awatarariki fanhead properties that had been prepared by The Property Group Ltd. The components of the Strategy are summarised in Figure 1.

**Figure 1 Awatarariki Fanhead Acquisition Strategy Components**



The Acquisition Strategy formula was used to prepare indicative voluntary retreat proposal offers that were provided to property owners in November and December 2016. The Working Group is comfortable with the use of this Strategy as the methodology underpinning the managed retreat process.

Clause 5.1.9 of the Acquisition Strategy relates to property sales that occurred after the Council resolution in December 2012 to abandon engineering solutions to manage the debris flow risk from the Awatarariki catchment and move to a planning-based solution<sup>1</sup>. The section is reproduced for ease of reference:

***“Recent Sales***

*A small number of properties have changed ownership over the last three years. It is not the intent of this Strategy that those owners who have purchased properties at a discounted rate due to the available knowledge of the debris flow risk, make a substantive capital gain through the Voluntary Retreat Acquisition Strategy implementation. Our recommendation, in these circumstances, is to substitute the market sale price paid for the Base Value in the Voluntary Retreat Proposal formula. Other baseline and discretionary factors would apply equally.”*

At the time, Councillors accepted the expert advice from The Property Group Ltd that information about the risk and the process the Council had gone through was well known and that any owners who purchased properties following that date were likely to have obtained them at a discounted rate due to the available knowledge and should not make a substantial capital gain when the Acquisition Strategy was implemented.

<sup>1</sup> Project and Services Committee Meeting, 12 December 2012.

Three of the 34 properties in the high debris flow risk area have changed ownership since January 2013. At the time indicative voluntary retreat proposal offers were hand delivered to individual property owners, the owners of the three properties that had changed ownership outlined the circumstances of their purchase. The Property Group Ltd representative and myself were persuaded by each of those property owners that none had purchased their property for speculative purposes. Two of the three property owners subsequently wrote in requesting an exemption from the provisions of clause 5.1.9.

As a consequence of the circumstances described above, The Property Group Ltd were invited to reassess the appropriateness of clause 5.1.9 to the three properties directly impacted. In summary, the Recent Sales report recommends an amendment to clause 5.1.9 of the Acquisition Strategy that recognises the discounted price paid and market movement subsequent to purchase. This will result in all property owners being treated fairly and consistently with all receiving a market gain for their property but no owner receiving more than the market movement. The Property Group Ltd recommendation is to amend clause 5.1.9. While endorsing the recommendation, a small change to the recommended wording is suggested to better clarify the commencement date to which this clause relates. The proposed revised wording (with the TPG Ltd wording struck out) is:

### **Section 5.1.9 Recent Sales**

*A small number of properties have changed ownership ~~over the last three years~~ since 1 January 2013. It is recommended that these be considered on a case by case basis and where considered fair and reasonable the Base Value be calculated as per the following formula:*

#### ***Calculation of the Purchase Discount (\$)***

*+ Market Value of the property at the time of sale/purchase, ignoring the 2005 event*  
*- The purchase price paid by the current owner of the property*  
*= The Purchase Discount (where the purchase price was less than TY's assessed market value)*

#### ***Calculation of the Base Value (\$)***

*+ Market Value determined by TY at the time the Voluntary Retreat Package will be made to all property owners within the Awatarariki Fanhead. Estimated July 2019.*  
*- The Purchase Discount*  
*= Base Value for the Recent Sale*  
*+ Other baseline and discretionary factors would apply equally to all property owners of Recent Sales*  
*= Voluntary Retreat Offering for Subject Recent Sales property.*

The Property Group Ltd's Acquisition Strategy, Base Value Methodology report and Base Value Recent Sales reports are appended to this report.

### **3.3 Plan Changes**

A full report on the proposed plan changes will be provided early in 2019, once the further submission period closes in December 2018 and all submissions have been summarised. A total of eight submissions have been received on each of the plan changes from the initial public notification. Some submitters sought a delay in the timing of the joint hearing to determine the plan change applications until after the managed retreat process had been

completed. The RMA requires a decision on a plan change to be made within two years of it being notified. This means that a decision is required on the Awatarariki plan changes before 22 June 2020.

The Working Group supports a delay until late-2019, conditional upon the funding bids remaining live.

#### **4 ASSESSMENT OF SIGNIFICANCE**

The report identifies a potential financial commitment from the Council that is higher than what has been previously agreed. That decision is not significant in itself, as there is no need to formally resolve funding at this stage.

The intention is to include a proposal for funding in this year's Annual Plan, subject to all funding bids remaining alive at that stage, including the Council resolving to include funding in early 2019. That is likely to be a significant decision in terms of our Significance and Engagement Policy requiring a consultation process to be followed. That decision will also need to consider funding sources and impact on our financial strategy.

#### **5 DETERMINING THE LEVEL OF ENGAGEMENT**

Directly-affected Awatarariki fanhead property owners were emailed/mailed a copy of this report on Friday, 7 December 2018.

The decision arising from this report is not considered to require a level of engagement with the wider community at this stage; however, the ultimate decision to commit funds to the project will require a consultation process to be followed.

#### **6 CONSIDERATIONS**

##### **6.1 Financial/budget considerations**

The estimated cost of the managed retreat of the 34 properties in the Awatarariki Stream high debris flow area is \$15.06M. The proposed financial contribution from each of the funding partners is \$5.02M. The Government's contribution, if successful in the development of the 2019 Budget would be provided in the 2019/20 financial year. Contributions from BOPRC and the Whakatāne District Council are proposed to be distributed over the 2019/20 and 2020/21 financial years.

The project is currently loan-funded. A commitment of \$5.02M will likely breach our current debt cap and this will be considered as part of the Annual Plan process.

##### **6.2 Policy and planning implications**

The outcome being discussed with Government and the BOPRC is reflected in the LTP 2018-2028 (page 29). It is aligned to the Council's previous briefings and decision-making.

### 6.3 Risks

The key risks are:

- Funding sources are not adequately provided through the respective funding mechanisms this year;
- The DIA budget bid for Government funding is unsuccessful;
- Funding by BOPRC and/or WDC does not survive the Annual Plan process;
- Some landowners do not wish to take up the financial package offered.

These risks are being managed through continual discussion between the parties, including at Ministerial level.

### 6.4 Authority

The Council has the authority to make this decision.

## 7 CONCLUSION

The Council is asked to provide its support to the Working Group process to encourage managed retreat from the Awatarariki fanhead high risk zone. In doing so, the Council is asked to accept that its share of funding is likely to be in the order of \$5.02M, but that cost may offset some costs that the Council could otherwise incur in taking the Plan Changes through the RMA process.

The Council is also asked to accept an amendment to clause 5.1.9 of the Council's Awatarariki Fanhead, Matatā, Acquisition Strategy that will result in all property owners being treated fairly and consistently, with all receiving a market gain for their property, but no owner receiving more than the market movement.

Lastly, the Council is asked to approve a delay in the timing of the plan changes joint hearing to late-2019, conditional upon the budget bids from the Government, BOPRC, and the Council remaining live.

### RECOMMENDATIONS:

1. **THAT** the Awatarariki Fanhead Managed Retreat Update report be received; and
2. **THAT** the Whakatāne District Council supports the following amendment to clause 5.1.9 of the Council's Awatarariki Fanhead, Matatā, Acquisition Strategy as follows:

#### **Section 5.1.9 Recent Sales**

A small number of properties have changed ownership since 1 January 2013. It is recommended that these be considered on a case by case basis and where considered fair and reasonable the Base Value be calculated as per the following formula:

Calculation of the Purchase Discount (\$)

+ Market Value of the property at the time of sale/purchase, ignoring the 2005 event

- The purchase price paid by the current owner of the property
- = The Purchase Discount (where the purchase price was less than TY's assessed market value)

Calculation of the Base Value (\$)

+ Market Value determined by TY at the time the Voluntary Retreat Package will be made to all property owners within the Awatarariki Fanhead. Estimated July 2019.

- The Purchase Discount

= Base Value for the Recent Sale

+ Other baseline and discretionary factors would apply equally to all property owners of Recent Sales

= Voluntary Retreat Offering for Subject Recent Sales property.

3. **THAT** the Whakatāne District Council seeks a delay in the timing of the joint hearing in consultation with BOPRC, to amend the joint hearing to hear submissions and further submissions on Plan Change 1 to the Whakatāne District Plan and Plan Change 17 to the Regional Natural Resources Plan to late 2019, to better sequence the process of managed retreat before the formal hearing process occurs. This is conditional upon the budget bids from the Government, BOPRC, and the Council remaining live.

Attached to this report:

- Appendix 1 The Property Group, Awatarariki Fanhead, Matatā, Acquisition Strategy, July 2016;
- Appendix 2 The Property Group, Methodology to Determine the Base Value for Awatarariki Fanhead Voluntary Retreat Offers, 31 October 2016;
- Appendix 3 The Property Group, Base Value for Recent Sales – Voluntary Retreat Package, 9 March 2018.

**Report Authorisation**

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