

FOSAL Voluntary Buyout & Relocation Policy

Analysis of submissions

November 2024

1 Background

On 24 September 2024, the Council approved undertaking public consultation on the Proposed FOSAL Voluntary Buyout and Relocation Policy (resolution 2024/133 refers).

This Policy relates to locations that are Categorised as Category 3 under the government's Future of Severely Affected Locations (FOSAL) Framework. Category 3 land refers to areas severely impacted by the January–February 2023 North Island Weather Events (NIWE), including Cyclones Hale, Gabrielle, and the Auckland Anniversary Floods, where there is an ongoing intolerable risk to human life from future severe weather. The FOSAL Programme acknowledges the severe impact of these events and aims to reduce the risk to human life from continued habitation on Category 3 land.

Under the Policy, the Council will coordinate a voluntary buyout or relocation programme for any eligible properties assessed as Category 3. This is a one-time Policy to address the exceptional circumstances of the NIWE. Costs for voluntary buy outs and relocations will be shared equally between central government and Council. The costs to assess damaged properties, as well as any demolition and removal costs are not included in the government funding arrangement and would be the responsibility of the Council.

In the period from 26 September to 10 October 2024, the public was invited to provide their written views on whether the Council should participate in the FOSAL Programme or not. They were informed of the consultation exercise via:

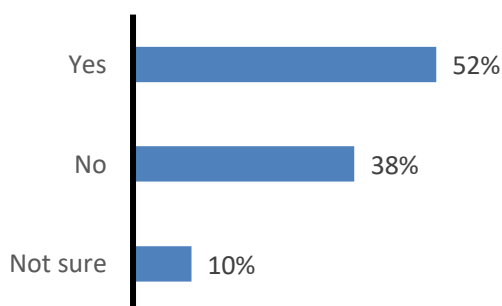
- email messages to Council's database of people who have asked to be informed of consultation by the Council
- the 'Have Your Say' page on the Council website
- a news story shared to social media and a reminder that consultation was closing.

The following report analyses the submissions received.

2 Summary of submissions

Twenty-one written submissions were received (18 online and 3 via email). This report analyses these submissions and recommends no changes to Council's participation in the FOSAL Programme based on the feedback received. A numbered list of people who made submissions is in Appendix One and these numbers are used to refer to the individual submissions in the body of this report. The following chart summarises the level of support for Council participating in the FOSAL programme.

Support for Council participating in the FOSAL programme



Base: 21 written submissions.

Eleven out of the 21 submissions (52%) supported Council's participation in the FOSAL programme, eight submissions (38%) did not support Council's participation, while two submitters (10%) were not sure.

3 Why submitters supported Council's participation in the FOSAL Programme

Feedback received

Only three of the submitters who were in favour of Council's participation gave their reasons, as follows:

- **"It is a start"** (submission 6).
- **The Programme should be expanded to cover future events** (submission 9).
- **Important that FNDC engages with other FOSAL councils** to maximise benefits of the project and develop close working relationships in preparation for future disasters (submission 10).

Staff analysis

Re the Policy being expanded to cover future events

The FOSAL Framework is a one-off government intervention applying only to the NIWE events of January and February 2023. With the increasing likelihood of severe weather events affecting properties in the future, the government is working towards an adaptation framework to address how government will share the costs of adapting to climate change and in particular what support will be available after a disaster. This is likely to be in the form of legislation. In the meantime, Council's proposed Policy only covers properties affected by the NIWE events of early 2023.

Re engaging with other councils

Council has already engaged with and formed good relationships with other councils regarding the FOSAL Programme through regular meetings hosted by the Northland Recovery Manager and through one-on-one communication with individual councils. This has helped Council staff understand the issues involved in the FOSAL Programme and has resulted in some good opportunities for inter-council sharing. It has been particularly useful for this council to learn from other council's experiences. This has assisted council staff to accelerate its response to the FOSAL Programme in the Far North.

Staff recommendations

Re the Policy covering future events

While the FOSAL Voluntary Buyout and Relocation Policy September 2024 only addresses the NIWE events of January and February 2023, Council can expect future severe weather events to significantly affect properties in the district. With a central government framework and potential legislation being developed, staff believe it would be premature for Council to develop a policy to address these future events. In the event of a future severe weather event, the Policy is available, as a possible template to enable a proactive response by the Council.

Re engaging with other local authorities

Council staff will continue to engage with other local authorities and participate in the monthly all of councils' meetings regarding this matter.

In summary

No changes are recommended to Council's participation in the FOSAL Programme based on these submissions in support of Council's participation in the Programme.

4 Why submitters do not support Council's participation in the FOSAL Programme

A) General feedback in opposition

General reasons for not supporting Council's participation in the *FOSAL Programme* were as follows:

- **Properties should be insured properly, so they are not the responsibility of Council** (three responses - 3, 12, 17).
- **The financial cost to Council** (three responses - 4, 12, 21).

- **Costs will escalate due to climate change** (one response). Submitter 12 said “Climate change means more disasters, so costs will get bigger”.
- **Not fair to unaffected ratepayers** (one response). Submitter 21 said it is not fair on ratepayers who are not affected to have to “foot the bill”.
- **Could encourage people to buy “hopeless properties” so that when they are flooded, they get paid out** (one response – submitter 17).
- **The Policy is part of a “land grab” from the Council associated with “managed retreat”** (one response). Submitter 20 said that Council had nominated the whole of the Hokianga for managed retreat in 2022. They observed that Kerikeri has been earmarked for managed retreat but not Dargaville which has flooded recently.
- **The Policy is racist as it excludes Māori** (one response - submitter 20).

Staff analysis of the general submissions opposing the Policy

Re properties should be insured properly to cover these events

Council staff note that the proposed Policy is not intended to replace property owners’ insurance payouts including EQC (now Natural Hazards Commission) payments. The draft Policy recognises the importance of properties being covered by insurance, by reducing the buyout amount for uninsured properties to 80% of the amount paid for insured properties.

It is important to note that through no fault of the property owners whose land is severely affected by severe weather events, their insurance may not cover the costs involved. For instance, EQC payments covering damage to land from flooding or landslides are capped at \$300,000 and are restricted to:

- land under or within 8 metres of the home or its outbuildings, and
- areas that are part of or support the main accessway up to 60 metres from the home including retaining walls, bridges and culverts.

This means that land more than 8 metres from the home or accessways that extend beyond 60 metres from the home are not covered. Also, any paving such as concrete or asphalt on the accessway is excluded. Property owners cannot ‘top up’ this cover, as private insurers do not cover damage to land from these events.

Re the cost to the Council

Council staff note that the Programme is designed to mitigate significant risks to human life due to severe storm-related flooding and landslides, which pose intolerable dangers if affected properties continue to be inhabited. While costs to Council may be involved, this needs to be counterbalanced against the future risk to human life and the reputational risk to the Council from doing nothing.

At the time of the consultation, costs to the Council were not known, as properties had not been assessed. Submitters were told that up to 25 properties could be involved based on data modelling. Subsequently, it has been determined that zero properties meet the FOSAL criteria in the Far North.

Had even a small number of properties been involved; costs could have been relatively high (potentially \$500,000 or more per property). It is therefore not surprising that three submitters opposed Council’s participation in the Programme because of the potential costs involved. It is noted that this opinion only represents one in seven submitters.

Re costs will escalate due to climate change

Council staff clarify that the proposed Policy is a unique initiative associated with the FOSAL Programme, specifically related to the NIWE events that occurred in early 2023. There are no ongoing costs to Council.

Not fair on unaffected ratepayers

Staff note that while an individual’s property may not be directly affected, helping those in danger will mean less strain for the community, for example through the involvement of Civil Defence and emergency services, land protection measures, and long-term recovery efforts. This can have wider economic and social impacts on everyone, including ‘unaffected property owners’.

Re people buying “hopeless properties” so they can be paid out

The proposed Policy is a one-time initiative to address the exceptional circumstances of the 2023 extreme weather events, so this objection does not apply.

Re Council is planning a managed retreat “land grab”

The FOSAL Programme is designed to move people out of locations where there is an intolerable risk to human life should they remain. Opting into the Programme is entirely optional therefore no person is required to leave their land should they not wish too. Any land that is purchased under the Programme is unsuitable for residential purposes and therefore the ongoing use of that land is limited. Neither Kerikeri nor the Hokianga has been identified for managed retreat. Council is establishing a district wide adaptation programme; stage one of this programme covers the Hokianga area. This maybe what the submitter is referring too. The adaptation programme supports communities to make decisions on how they will adapt to the changing climate based on the communities’ values and aspirations. While communities may decide that relocation is an option, Council has not nominated any community for managed retreat. Dargaville is in the Kaipara District Council’s jurisdiction not the Far North District Council’s jurisdiction.

Re the Policy is racist as it excludes Māori

The government has developed another option for Māori – the Whenua Māori and Marae Pathway. This is administered by central government. However, the draft Policy says that any affected Māori property owners on Category 3 land can decide not to follow this Pathway and opt in to the FOSAL Programme administered by the Council. The Policy therefore does not exclude Māori.

Staff recommendation re the general feedback opposing Council’s participation in the Programme

Council staff recommend no changes to the draft Policy based on the general feedback opposing Council’s participation in the Programme.

B) Specific feedback re the content of the Policy

Submitter 19 said **the proposed Policy is too restrictive by only considering Category 3 properties for assistance and the criteria for defining Category 3 properties are unfair.**

For reference, the categories in the Programme are defined below¹:

Category	1	2P	2C	2A	3
Description	Repair to previous state is all that is required to manage future severe weather risk event.	Property level interventions are needed to manage future severe weather event risk, possibly in tandem with community level interventions	Community level interventions are needed for managing future severe weather risk events.	Significant further assessment is required to assess a property, as well as engagement with property owner.	Future severe weather event risk cannot be sufficiently mitigated. Some land uses may remain acceptable, while intolerable risk of inquiry or death for residential land use.
Actions	Flood damage to repair, but no need for community interventions.	Property specific measures are necessary, for example improved drainage, raising houses. Benefits accrue to property owners.	Local government could repair and enhance flood protection schemes to adequately manage the risk of future flooding events. Cost is shared by the community.	Interventions may be required or possible, but insufficient information to answer all questions. These may subsequently move between “2” categories or to categories 1 or 3.	In the face of enhanced climate risk to the property there is unacceptable risk of future flooding. This will involve combined local and central government assistance.

This submitter had self-assessed their property as Category 2A i.e. requiring significant further assessment. He noted their property had been affected both by Cyclone Gabrielle and the Auckland Anniversary storm. He and his wife had feared for their lives at the time and were suffering from PTSD, as flooding had occurred numerous times before. He pointed out that future severe weather events are predicted to be worse.

¹ Source: Future of Severely Affected Land (FOSAL) Information Pack, Cyclone Recovery Unit, Department of the Prime Minister and Cabinet, 10 July 2023

He felt that the criteria to distinguish Category 2 and 3 properties in the proposed Policy is too narrow and “missed the mark”. He said that in the Council meeting on 24 September 2024 it was stated that a home being damaged to the point of being unliveable was the main criteria to be classed as Category 3, with threat to life and future flooding being a minor and secondary concern.

Staff analysis

Council staff observe that the Policy was required to address Category 3 buyouts and relocations should they eventuate. Tonkin Taylor was at the time of consultation, writing a categorisation methodology on how to undertake the categorisation process. Category 2 and 3 properties all have the same level of risk in that there is an intolerable risk to human life. What sets them apart is that on a Category 2P property it is feasible to undertake a property level intervention, and on a Category 2C property it is feasible to undertake community level intervention. On a Category 3 property there is no feasible alternative and moving off the land is the only option.

Council staff note that the draft Policy document defines Category 3 land, rather than any discussion that took place in the Extraordinary Council meeting on 24 September. The definition of Category 3 land stated in the draft Policy is:

“...land which has been identified by and confirmed as Category 3 land by Far North District Council in that it was significantly impacted by the NIWE, where risk from future severe weather events cannot be feasibly mitigated and there is an ongoing intolerable risk to human life”

As made clear in this definition, threat to life and future flooding is not a minor and secondary concern, as stated by submitter 19, but a central element of land being classified as Category 3.

This is covered further in Clause 5.1 of the proposed Policy which states the objective of the *Policy* is to:

“Assist people who live on Category 3 land to relocate out of harm’s way, based on the natural hazard risks arising from the Severe Weather Events of 2023, where there is:

- *Imminent threat to life; or*
- *Unacceptable future risk that cannot be managed; or*
- *Land damage that makes rebuilding infeasible”.*

A Category 2A Property requires significant further assessment by technical experts to determine its final status. Given the risk to human life stated by submitter 19 for those living on his property from future storms, the property may indeed be classified as Category 3 land if it is determined that the property meets the criteria and community level interventions (Category 2C) and/or property level interventions (Category 2P) are ruled out by the independent assessors.

Staff recommendation

Council staff recommend no change to the draft Policy based on this submission.

5 Why submitters were unsure whether Council should participate in the FOSAL programme

The two submitters involved (5 & 13) did not explain why they were unsure whether Council should participate in the FOSAL Programme.

6 Other comments

One submitter (14) said “There will be some people who bought property knowing there were risks, such as storm surge or flooding. If the risk was noted on the LIM, perhaps they should not be entitled to support” (14)

Staff analysis

Staff acknowledge that while some property owners may have been aware of risks associated with their properties, such as landslide or flooding noted in a Land Information Memorandum (LIM), the Policy is designed to address the unprecedented nature of recent NIWE events. This approach recognises that, despite prior awareness of risk, the scale and severity of these events have created new levels of vulnerability that extend beyond what was foreseeable at the time of property purchase. The goal of the Policy is to support community resilience and recovery considering these extreme weather impacts.

Staff recommendation

Council staff recommend no change to the draft Policy based on this submission.

APPENDIX 1 – LIST OF SUBMISSIONS RECEIVED

Number	Organisation
1	Individual submission
2	Individual submission
3	Individual submission
4	Individual submission
5	Individual submission
6	Individual submission
7	Individual submission
8	Individual submission
9	Individual submission
10	Individual submission
11	Individual submission
12	Individual submission
13	Individual submission
14	Individual submission
15	Individual submission
16	Individual submission
17	Individual submission
18	Individual submission
19	Individual submission
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21	Individual submission