

Category 2P Property Risk Mitigation Scheme Terms

Auckland Council has agreed to implement a grants scheme to support property owners to voluntarily implement feasible property-level interventions that mitigate the intolerable risk to life to a tolerable level (**Category 2P Property Risk Mitigation Scheme**). The scheme is for Auckland residential properties severely affected by the extreme weather events over Auckland Anniversary Weekend, and Cyclone Gabrielle 2023 (**severe weather events**).

These terms describe the properties eligible for a grant and the process for determining eligibility, applying for a grant, and implementing the works.

1. Introduction

The severe weather events have had a devastating and lasting impact on many communities, families and individuals across Tāmaki Makaurau / Auckland. Flooding and landslides have damaged or destroyed thousands of homes and changed people's lives.

In response to the scale of damage across Auckland and other parts of the North Island, the government announced a locally-led, centrally-supported recovery package, with co-funding to be agreed between the government and affected councils.

Part of the package addresses the removal of risk to severely affected residential properties through voluntary buy-out or feasible interventions to manage the risks. Under the agreement with Government, Auckland Council is responsible for setting the technical assessment criteria and implementation rules. Implementation of this scheme is subject to Crown approval to amend the terms of the co-funding agreement.

2. Policy objectives

Auckland Council's overarching policy objective for Category 2P properties is to support Aucklanders to remove the intolerable risk to life posed by some residential properties due to the severe weather events.

Under the council's Nominated Categorisation Approach, Category 2P properties are:

- not safe for current or future owners to occupy in the long term, and
- the risk to life can be feasibly mitigated to a tolerable level by property-level physical works.

3. Purpose of the scheme

The Category 2P Property Risk Mitigation Scheme applies where homes face an intolerable risk to life due to flooding or landslides, but there are feasible solutions available to reduce that risk to a tolerable level.

Auckland Council will provide two grants to support homeowners to, first, obtain design and consenting advice and, second, implement feasible solutions for an agreed amount. The grants will generally be up to a maximum value of 25 per cent of the Capital Value (CV) of the property, net of any EQC and insurance payments available for the mitigation work. The council has discretion to increase the maximum value of 2P grant up to 40% of the CV of the property, where increasing the value of the grant is considered to be the best practicable option to achieve the objectives and outcomes of the scheme.

4. Scheme outcomes

The Scheme will:

- support homeowners to reduce risk to life to a tolerable level, for properties that were severely affected by the January and February 2023 severe weather events and where there is a feasible risk mitigation intervention

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- support whānau and communities to stay in place where it is possible to do so safely
- offer a cost-effective response to storm risk.

5. Criteria

A property is eligible for a grant under the Category 2P Property Risk Mitigation Scheme if it is:

- a residential property with a legally established dwelling¹ on the site impacted by the January and February 2023 severe weather events and deemed intolerable risk to life through the council's risk assessment process
- has an effective mitigation solution that is estimated to cost 25% or less of the Capital Value of the property (inclusive of GST)
- can reasonably be expected to be mitigated within two years under normal circumstances.

Properties that have changed hands since 26 January 2023 are only eligible at Auckland Council's discretion and/or on terms that Auckland Council agrees to².

Properties which have an effective mitigation solution that is estimated to cost more than 25% of the Capital Value of the property may be eligible, at the discretion of Auckland Council. This includes situations where the owner can satisfy the council that they are willing and able to cover the additional costs, or where the council considers that increasing the maximum value of the 2P grant to fund works up to 40 per cent of CV is the best practicable option to achieve the objectives and outcomes of the scheme.

Participation in the scheme is voluntary.

6. Eligible works/activities

Eligible works will be specific to each property. Feasible options will be determined through the technical assessment part of the council's categorisation process. A final scope of works will define the mitigation improvements that are eligible for grant funding.

Eligible works may include the following types of activities:

- raising the dwelling
- relocating or rebuilding the dwelling in a new position on the property
- strengthening foundations
- diverting water away from the dwelling, including overland flow path diversions
- providing safe egress and/or safe refuge
- works to stabilise land including construction of retaining walls and use of soil nails
- preparation and rectification work related to the mitigation works.

¹ 'Residential properties' include second-homes, baches and residential rental properties and secondary dwellings on the same site, where they are legally established. If the property is mixed-use (for example, includes commercial or agricultural uses) then only the residential portion is eligible for a grant. Auckland Council will negotiate this.

'Residential properties' **does not include any properties owned, managed or administered by the Crown or any of its entities or agencies.**

'Dwelling' means a building, or part of a building (including decks, patios, pergolas) that was, as at 26 January 2023, lawfully established, and is self-contained with the facilities necessary for day-to-day living on an indefinite basis (including somewhere to cook, sleep, live, wash, and use a toilet) and is or could be used by 1 or more persons to live in as their home.

² See guidance in **Note A.**

Undertaking private works on another property to reduce risk at the subject property, where the other property-owner's agreement is obtained will be subject to the council's approval.

7. Eligible costs

Grants can be used to pay for:

- agreed costs for eligible works described in section six.
- agreed costs for the homeowner to engage people to carry out eligible activities.
- design, consent and project management costs associated with eligible works as agreed in the scope of works.
- costs for utility works associated with eligible activities
- agreed costs associated with a residential dwelling which is not the primary residential dwelling on the property but was liveable and could be lawfully occupied as such immediately prior to the severe weather events, including but not limited to granny flats and converted garages.

8. Exclusions/ineligible activities and costs

Grants cannot be used to pay for:

- non-residential properties
- properties that have changed hands after 26 January 2023, except at the discretion of Auckland Council (see **note A**)
- protection of non-liveable areas of a residential property including but not limited to garages, basements, gardens, driveways, outbuildings, sheds or other ancillary structures, except where works are needed to reduce intolerable risk to the dwelling (e.g. retaining walls)
- undertaking private works on another property to reduce risk at the subject property, unless the other property-owner's agreement is obtained
- costs not related to the agreed scope of works agreement
- costs for eligible works that are covered by insurance
- costs relating to non-construction consumables, home furnishings, other home contents and other non-fixed home items
- costs associated with planning and development approvals where that approval is unrelated to the agreed mitigation works
- accommodation costs for residents while works are underway
- repayment of existing debts
- salary/wages and entitlements for persons not specifically engaged to deliver the agreed works
- costs that require recurrent or ongoing funding such as maintenance costs
- cost overruns. The council contribution is a fixed-value grant. Overruns are the responsibility of the homeowner.

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9. Process for application

There are four main stages to the implementation of this scheme:

	What happens	What the homeowner needs to do	Outcome at the end
Categorisation	The council notifies the property owner that the property is Category 2P.	Decide whether to opt in to the 2P grants scheme.	Categorisation is listed on the Land Information Memorandum. Property proceeds to grants scheme or opts out.
Scoping the works	The homeowner and the council agree the solutions for the property. A Design and Consenting Grant is provided. The council reviews the feasibility of the design prior to consenting.	Commission specialists to develop designs and apply for necessary consents. Source quotes for the building work.	The site has a feasible solution designed and consented, ready to proceed to construction.
Awarding the grant	If still feasible, council approves moving to apply for consents. If no longer feasible, property is reclassified as Category 3. If the owner is willing and able to cover the additional costs, or if the council agrees to fund works up to 40% of CV, grant approval may be provided at Council's discretion. Council checks there is no change to the quote following completion of the consenting process, and invites the homeowner to apply for the construction grant.	Provide information to the council. Sign a scope of works and grant contract.	Property owners have financial support from the council to implement risk mitigation solutions of their site, or a buy-out offer to exit the property.
Undertaking the works	The construction works are implemented.	Commission the construction works. Submit invoices to the council for regular progress payments. Provide evidence of project completion.	The risk to life is reduced to a tolerable level.

Categorisation

- a. Initial assessment as Category 2P by Auckland Council, following the process set out in the Categorisation Approach. Property owners will be supplied with supporting information to help them understand their options.

Scoping the works

- b. **Opt-in:**

Opt-in indication from property owner within three months of Auckland Council confirming Category 2P status to a property owner. Property owner advises Auckland Council they want to opt-in by emailing 2pgrants@aucklandcouncil.govt.nz

If the property owner does not indicate their intention to opt-in within three months of being told their Category 2P status, the council may reasonably take it that the property owner does not wish to opt-in to the Scheme.

- c. **Design and consenting grant:**

Payment of a contribution to property owners in good faith for professional costs for property owners opting-in to the process. This is intended to assist with costs like works design, quantity surveying, consenting and other related professional/expert services. The amount of the contribution will be at the council's discretion depending on the scale of the works to be scoped, and subject to terms and conditions. Council will require reasonable evidence (e.g., receipts) to show the funds have been spent as intended. Opting-in and accepting the contribution does not mean a property owner has to agree to proceed with the Construction grant process once the scoping stage is complete.

- d. **Consents:**

The homeowner is responsible for applying for all necessary consents, including resource consent, building consent and any engineering planning approvals from network utility operators.

- e. **Scoping of works:**

The property owner obtains a quote for the scope of works and submits the information to the council for evaluation of feasibility.

Awarding the grant

- f. **Agreement to proceed with Construction grant:**

Subject to meeting the feasibility requirements, the council will offer a grant for the agreed sum of the contract works, as at the date of entry into the grant agreement, up to the maximum value of 25 per cent of the CV of the property, including GST, or as otherwise specified up to 40 per cent of the CV at the council's discretion. This grant amount will be net of insurance and EQC payments that are related to the specified works. The grant will be subject to terms and conditions.

- g. **Acceptance:**

The property owner has one month within which to accept the grant and sign the contract.

Undertaking the works

h. Implementation:

The property owner's contractors will proceed with the works in accordance with any resource and building consents. Payments will be released on a progressive basis, as milestones are achieved.

i. Completion:

Work will be certified as completed and the grant agreement concluded. The LIM notice that has been applied to the property will be updated, to advise that the work intended to mitigate the risk has been completed.

10. Terms and conditions for grant recipients

Grant recipients will be required to enter into a contract with Auckland Council prior to receiving funding. This will occur in two phases: a Design and Consenting grant, and a Construction grant that will be released progressively, as milestone payments.

11. Dispute resolution

Auckland Council has established a **dispute resolution process** for categorisation decisions. This process applies to Category 2P properties. If a dispute is raised, the timeframes for opting in to this scheme will be extended accordingly.

12. Deviations

Council reserves the right (in its discretion) to deviate from these Scheme terms if preferable for council and where that is otherwise acceptable to the homeowner

13. Regulatory role

Nothing in the Scheme affects or limits any of Auckland Council's statutory and regulatory responsibilities. For example, **irrespective of the status of a property in the Storm Recovery programme:**

- a. Auckland Council is still required to manage property safety placarding and notation of Land Information Memoranda (LIMs).
- b. None of Auckland Council's powers under the Public Works Act 1981 to acquire properties and undertake public works are limited.
- c. Standard resource consent and building consent requirements apply to all grant-funded works.

14. Limitations

The funding offered through the Design and Consenting Grant and the Construction Grant is the total amount of funding Auckland Council is making available.

Auckland Council does not guarantee or warrant the works or the completion of the works, and accepts no liability.

Note A: Guidance note for 'change of hands'

Examples of 'changes of hands' after 26 January 2023 that would still be eligible:

- **Prior agreements:** Settlement of transactions (sale and purchase agreement) that were entered into before the severe weather events.

Evidence: Statutory declaration that the transaction was entered into before the severe weather events.

Certified copy of original sale and purchase agreement/option agreement dated before the severe weather events.

- **Changes of trustees:** Transfers of ownership to new/replacement trustees of the same trusts.

Evidence: Certified copies of deed of retirement and appointment of trustees and relevant landonline transfer instrument.

- **Relationship property:** Transfers of relationship property.

Evidence: Certified copies of settlement agreement and/or court orders, and relevant landonline transfer instrument.

- **Death of an owner:** For the avoidance of doubt, a transmission of ownership following the death of one owner is not considered a change of hands for the purposes of this Scheme.