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# Ombudsman investigating Hawke's Bay Regional Council's role in post-cyclone buyout

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RECEIVED Waitangi Tribunal
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Ministry of Justice WELLINGTON



Some people do not want to leave land that was red zoned after Cyclone Gabrielle, while others have accepted pay-outs. Photo: RNZ / Alexa Cook

The Ombudsman is investigating the Hawke's Bay Regional Council's role in the post-cyclone buyout scheme after a number of complaints were made.

## Appendix B: Document for Questions in Writing of Katrina Casey

The council was responsible for putting thousands of properties into categories 1, 2 and 3 after Cyclone Gabrielle hit in 2023. It meant hundreds of people left (<https://www.rnz.co.nz/news/ldr/532556/the-last-house-on-the-street-cyclone-survivors-feel-trapped-as-looters-loom>) the areas of Esk Valley, Tangoio and Pakowhai.

Category 3 is essentially a 'red zone' as the council deemed the risk to life 'intolerable' and created a buy out scheme for residents, although some people refused to leave and have remained living there (<https://www.rnz.co.nz/news/national/541919/cyclone-gabrielle-victims-still-struggling-with-land-issues-at-its-second-anniversary>).

"We are currently investigating complaints from 11 individuals about the Hawkes Bay Regional Council's land categorisation process," a spokesperson for the Ombudsman said.

The Ombudsman's office told RNZ that the Chief Ombudsman, John Allen, was required by law to keep his enquiries confidential, so he was "unable to comment in any more detail about them at this stage".

"In August, during an engagement visit to the region, Mr Allen also met with some of the residents with concerns about the land categorisation and buy-back scheme. He also talked to local authorities. The purpose was to listen to the different perspectives and to understand the issues."



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The aftermath of massive flooding that swept through the Esk Valley during Cyclone Gabrielle. The river's normal path can be seen running down the right of the valley. Photo: RNZ / Sally Murphy

The Hawke's Bay Regional Council (HBRC) told RNZ it "welcomes the Ombudsman's involvement", and that there are "a very small number of complaints remaining".

"For those complaints that Council was unable to resolve, we encouraged the complainants to direct their concerns to the Office of the Ombudsman so an independent party could assist with resolution.

"We acknowledge and respect the role that the Ombudsman plays in supporting Councils and their communities to navigate complex issues of this nature," a spokesperson said.

The council said it was confident the land categorisation process was carried out correctly and fairly.

"Council considers it administered the Hawke's Bay Regional Council Land Categorisation Process and Framework appropriately."

### **'I'm angry, why put everyone through all that?'**

In November, HBRC announced it was phasing out the land categorisation (<https://www.rnz.co.nz/news/national/580182/the-end-of-category-3-cyclone-red-zones-to-be-phased-out>) labels, saying once it upgraded flood hazards maps the Category 3 land would no longer be classified this way.

Tangoio landowner Jennifer Gibson disagreed with HBRC. Her family owned a section by the beach where they were planning to build a home, but then after the cyclone it was classified as Category 3.

"It was about the beach dream, working hard to finally realise our dream just to have it taken away," she said.

The family eventually accepted a buyout offer from the council, but Gibson told RNZ there was a lack of consultation and the decision felt forced on them.

"It really was a disastrous time with a whole lot of back and forth emails and phone calls trying to stop it from happening - it all came to nothing and now they are changing their minds. It's pretty frustrating.

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"I'm angry, why put everyone through all that? There was a lot of money spent on the categorisations, lot of people put a lot of effort and time into it. What a waste of ratepayer money," she said.

Gibson said if she had known the council was going to phase out Category 3 then she would not have taken its buyout offer.

"I'd like the option to have my land back. The council owns my land. I wanted to buy back the title off them and not build on it ever, but just have a little garden reserve where I can camp in summer. But they refused to let me do that," she said.



Flood damage in the Esk Valley in Hawke's Bay. Photo: RNZ / Tess Brunton

While the regional council was in charge of categorising the land, Hastings District Council (HDC) was responsible for the buy-out policy in Category 3. A spokesperson told RNZ they felt the process was fair, transparent and robust.

"The buyout offers were voluntary, all the information was shared with all property owners and all followed the same process, ultimately assessed by an independent panel. In addition all property owners had the opportunity to carry out independent valuations.

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"When these owners sold their land to HDC through the buyout process a covenant was placed on the title which permanently restricts the ability to use the land for temporary or permanent residential purposes," said the spokesperson.

HDC said although HBRC's Category 3 terminology may be phased out when updated flood risk modelling is completed, "it does not remove the risk to life in these locations".

The regional council said with respect to land categorisation, which HBRC was responsible for, property owners had considerable opportunity to participate in the process over the past two years via notification of provisional categorisations, public meetings and opportunities for individual reassessment.

"The intention has always been to retire land categorisation once updated flood modelling had been completed, and when all properties have moved out of Category 2C to 1."

The council said it was talking to some Category 3 property owners who wished to have their categorisation removed.

"We remain open to considering additional information, not previously available to Council's experts, regarding their properties and the property owners may also obtain their own independent expert opinion that supports their view on risk which Council will consider."

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