

# Valuing Cyclone Gabrielle

November 2023

The 14th of February 2023 will go down in local history as one of the worst natural disasters to hit our region as Hawke's Bay endured the fury of Cyclone Gabrielle. The unprecedented level of devastation and loss faced by the community in the aftermath has been immense. The primary focus of this article is to summarise the process now in place for owners of Category 3 properties regarding the 'Voluntary Buy Out Policy' (VBOP) adopted by both Napier City Council (NCC) and Hastings District Council (HDC).

In May 2023, the Government announced three risk categories for Cyclone affected land with the most 'at risk' areas referred to as Category 3 and being areas

natural disasters will be dealt with but is in recognition by the councils of the substantial impact that the Cyclone has had on people's lives and the risk associated with people

tangata whenua.

The VBOP is pertinent to landowners of Category 3 assessed land. Those eligible are owners where the property is 'Residential Property' (land on which one or more dwellings was located on the land, two hectares or less in size) or a 'Mixed-Use Property' (land on which one or more dwellings was located and is greater than two hectares regardless of whether activities other than residential were occurring on the land at that date) and based on a retrospective market value as at 13 February 2023. The owners must sign and adhere to the preliminary agreement and the policy is based on TWO primary bases, a Property Purchase Offer, and a Residential Relocation Offer. Owners of Residential property can elect to choose either offer at the initial meeting or at the time of the Council's offer, however, owners of Mixed-Use properties are only eligible for the Residential Relocation Offer.

## What is a Property Purchase Offer?

The purchase by the Councils of the Residential Property. If the property is not insured, the payment will be for the market value of the property less a



A property in Esk Valley after flooding caused by Cyclone Gabrielle, taken on Saturday 18 February. Photo: RNZ / Tess Brunton

“not safe to live in because of the unacceptable risk of future flooding and loss of life”. The HB Regional Council then carried out the process of assessing all flood affected land, applying Category 3 status to land where “Future severe weather event risk cannot be sufficiently mitigated. In some cases, some current land uses may remain acceptable, while for others there is an intolerable risk of injury or death.”

This policy does not set precedence about how future

continuing to live in these Category 3 areas. The Councils acknowledge that there is significant loss and damage beyond what is covered in the policy but is governed by its scope which is limited by the terms of agreement with the Crown. Some of the land classed at Category 3 in HDC is Whenua Māori and this Policy is not intended to apply to Whenua Māori as the Crown has undertaken to consult directly with affected mana whenua and

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deduction equivalent to what would have been payable under the earthquake Commission Act for damage to the land had it been insured. If the property is insured payment will be for market value less any insurance



Reuters

proceeds that have not been spent. If owners retain the insurance proceeds related to the dwelling, payment shall be made for the market value of the land less any payment under the Earthquake Commission Act 1993 for damage to the land that has not been spent, in good faith, on repairs to the land.

## What is the Residential Relocation Offer?

The purchase by Council of any dwellings/improvements on the property (including any necessary rights to undertake demolition and/or, removal of the dwelling and residential improvements, and site reinstatement related to the demolition (including removal

of septic tanks and capping of wells), but whereby the Owner can retain ownership of the land with a covenant in gross in favour or similar legal instruments registered on the Title ensuring:

- No residential activity may occur within that part of the property categorised as Category 3
- The owner shall not oppose or otherwise participate in or fund any third party to participate in any regional or district plan change or variation, or similar proposal, which seeks to remove or restrict the ability to undertake residential activity within the locality of the property.

## The Valuation Process

Councils will require a retrospective market valuation from a Registered Valuer. Owners are also eligible for reimbursement of their own valuation and legal advice up to a maximum

of \$5,000 and Councils will base its voluntary offer on the valuation advice received. The Owner's valuation report will only be reimbursed up until the time an offer is made by Council and the Owner cannot progress to the Offer stage without a Council Commissioned valuation. In this instance, Williams' Harvey has made the decision not to sit on the Council panel but to act for Owners seeking their own independent valuation advice.

The full policy document is publicly available online on Councils' websites and describes in detail the process, special circumstances and disputes process available to owners.

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