

## Henry Luiz

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**From:** Complaints <complaints@ombudsman.vic.gov.au>  
**Sent:** Wednesday, 23 July 2025 7:32 AM  
**To:** Henry Luiz  
**Subject:** C/25/11503 - Henry Luiz - alleged breach of duty of care - WGCMA

OFFICIAL

Dear Henry Luiz

While there are no timeframes attached to Own Motion enquiries, I would be happy to provide you with a broad summary of my findings at the conclusion of my enquiries.

Yours sincerely

**Ben P** (he/him)  
Complaints Officer

*I am available Monday to Thursday, 7:00am to 5:00pm*

**ombudsman** **VICTORIAN**

Toll Free: 1800 806 314  
Level 2, 570 Bourke Street, Melbourne, VIC 3000



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**From:** Henry Luiz <henry@luiz.com.au>  
**Sent:** Monday, 21 July 2025 4:20 PM  
**To:** Complaints <complaints@ombudsman.vic.gov.au>  
**Subject:** RE: C/25/11503 - Henry Luiz - alleged breach of duty of care - WGCMA

Dear Ben,

Thank you for the update.

How do I then report back to the community on the separate Ombudsman-led complaint and enquiries?

Regards  
Henry  
[+61408 321 742](tel:+61408321742)  
[Gippsland Flood Overlay](#)

[Luiz Family Web Site](#)  
[Affordable Free Web Site Development](#)  
[HELP ME FIND MY DAD'S RED SOUTH AFRICAN FAIRMONT GT](#)

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**From:** Complaints  
**Sent:** Monday, 21 July 2025 2:20 PM  
**To:** Henry Luiz  
**Subject:** C/25/11503 - Henry Luiz - alleged breach of duty of care - WGCMA

OFFICIAL

Dear Henry Luiz

Thank you for responding, however, I can confirm that I understand the nature of your complaint.

It is my decision that this matter is better suited to a separate Ombudsman-led complaint and enquiries, in addition to consideration by our relevant Portfolio, as opposed to an individual complaint. It is on that basis that I have closed your complaint (C/25/11503).

I reiterate that you are welcome to provide any further additional information via email at [complaints@ombudsman.vic.gov.au](mailto:complaints@ombudsman.vic.gov.au), ensuring you include the complaint number (C/25/11503) in the Subject Line of the email.

Yours sincerely

**Ben P**(he/him)  
Complaints Officer

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**From:** Henry Luiz <[henry@luiz.com.au](mailto:henry@luiz.com.au)>

**Sent:** Monday, 21 July 2025 11:11 AM

**To:** Complaints <[complaints@ombudsman.vic.gov.au](mailto:complaints@ombudsman.vic.gov.au)>

**Subject:** RE: C/25/11503 - Henry Luiz - alleged breach of duty of care - WGCMA

Dear Ben,

I am not requesting that the Ombudsman mandate agencies to revise prior determinations or enact legislative amendments. Instead, my concern pertains to the West Gippsland Catchment Management Authority's (WGCMA) dereliction of its duty of care. This dereliction occurred through the approval of property developments between October 2021—the effective date of revised Victorian government flood level guidelines—and November 2024, when the WGCMA commenced enforcement of these guidelines.

This oversight has had significant ramifications across the entirety of Victoria's East Coast.

Regards

Henry

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**From:** Complaints

**Sent:** Monday, 21 July 2025 10:03 AM

**To:** Henry Luiz

**Subject:** C/25/11503 - Henry Luiz - alleged breach of duty of care - WGCMA

OFFICIAL

Dear Henry Luiz

Thank you for taking the time to respond to the outcome of your complaint, and for the provision of some additional information.

The Ombudsman does not have the powers to compel agencies to amend decisions nor make legislative change. While my decision to close your individual complaint stands, as there is no practical outcome achievable at this time, I can confirm that this office will be making broad enquiries with the relevant departments and agencies.

The enquiries will be made with a view to obtaining a more complete understanding of the situation, so that we can decide whether there is a further role for this office.

You are welcome to provide any further additional information via email at [complaints@ombudsman.vic.gov.au](mailto:complaints@ombudsman.vic.gov.au), ensuring you include the complaint number (C/25/11503) in the Subject Line of the email.

Yours sincerely

**Ben P**(he/him)  
Complaints Officer

*I am available Monday to Thursday, 7:00am to 5:00pm*

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**From:** Henry Luiz <[henry@luiz.com.au](mailto:henry@luiz.com.au)>

**Sent:** Friday, 18 July 2025 1:33 PM

**To:** Complaints <[complaints@ombudsman.vic.gov.au](mailto:complaints@ombudsman.vic.gov.au)>

**Cc:** [m\\_jbutler@outlook.com](mailto:m_jbutler@outlook.com); [cholland1949@gmail.com](mailto:cholland1949@gmail.com); [ennisbrae@gmx.com](mailto:ennisbrae@gmx.com); [froggatt@netspace.net.au](mailto:froggatt@netspace.net.au); [jacintaryan63@gmail.com](mailto:jacintaryan63@gmail.com); [james.troedel@wellpark.com.au](mailto:james.troedel@wellpark.com.au); [lynlindrea@yahoo.com.au](mailto:lynlindrea@yahoo.com.au); [petmac@bigpond.net.au](mailto:petmac@bigpond.net.au); [rachelle@cshellrealestate.com.au](mailto:rachelle@cshellrealestate.com.au); [renehan20@gmail.com](mailto:renehan20@gmail.com); [roger.a.hensman@gmail.com](mailto:roger.a.hensman@gmail.com); [searlecarolyn1@gmail.com](mailto:searlecarolyn1@gmail.com); [secretary@visitlochsport.com.au](mailto:secretary@visitlochsport.com.au); Stephen Pope <[Stephen.pope@police.vic.gov.au](mailto:Stephen.pope@police.vic.gov.au)>; [vandijk0917@gmail.com](mailto:vandijk0917@gmail.com)

**Subject:** RE: C/25/11503 - Henry Luiz - alleged breach of duty of care - WGCMA

Dear Ben,

Thank you for response.

The objective of my complaint was not driven by personal grievance, but instead aimed at advocating for all the Victorian East Coast towns that are impacted. Including 300 individuals and the prospective business development directly impacted along the East Coast of Victoria, both jeopardized by the West Gippsland Catchment Management Authority (WGCMA) failure of its duty of care and absence of transparency.

The essence of this complaint is that the Wellington Shire Council (WSC), with the support of the WGCMA, has continued to endorse property development within flood overlay areas between October 2021 and November 2024. A key substantiation of this complaint is the Victorian Government's, supported by the WGCMA, inability to furnish scientific evidence justifying the enforcement of the 2100 flood level in 2021.

Also attached

- Documentation pertaining to the acquisition of real estate by Michael Butler in Loch Sport during 2022, evidencing a land transaction following due diligence, and a subsequent letter of refusal from the WGCMA
- WSC statement on the WGCMA implementation of flood overlay guidelines. Further stating the failure in transparency from the WGCMA.

My responses to your points are provided below for your clarification.

Regards

Henry

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**From:** Complaints  
**Sent:** Thursday, 17 July 2025 11:14 AM  
**To:** [henry@luiz.com.au](mailto:henry@luiz.com.au)  
**Subject:** C/25/11503 - Henry Luiz - alleged breach of duty of care - WGCMA

OFFICIAL

Dear Henry Luiz

**Outcome of your complaint about West Gippsland Catchment Management Authority**

I refer to your complaint about the West Gippsland Catchment Management Authority ('WGCMA') in relation to an alleged failure to provide accurate information with regard to the construction of dwellings in your area. Your complaint also mentioned the Wellington Shire Council ('Council') and the Department of Transport and Planning ('the Department of Planning').

**Role of the Ombudsman**

The Ombudsman can consider complaints about the WGCMA, Councils and the Department of Planning under the *Ombudsman Act 1973* (Vic). When we consider complaints, our office assesses whether agencies made a mistake, or whether they acted in accordance with relevant policies, guidelines, or legislation.

We review each matter to see if there is a practical, achievable outcome possible, and whether the facts of the case justify further investigation. The Ombudsman is not a court or tribunal. We cannot compel agencies to make payments of compensation nor amend decisions.

The Ombudsman has a responsibility to use our resources to the best advantage of all Victorians. Not all complaints lodged with the Ombudsman are investigated.

The Ombudsman is independent; we do not advocate for, nor represent, any of the parties involved.

**Outcome**

I have closed this complaint under section 15A(1)(ca) of the *Ombudsman Act 1973* (Vic), as enquiries in relation to your individual complaint are not warranted.

I acknowledge that this is not the outcome you were seeking. I will explain the reasons for my decision below.

**Reasons**

I have closed the complaint based on the following:

- The advice you received from the WGCMA in 2018 preceded the change of policy by the state government in October 2021. The advice you received from the WGCMA on 13 November 2024 aligns with current policy.  
Resp: Agree, however from October 2021 to November 2024 the WGCMA have continued to support the sale and development of property in the flood Overlay areas. See attached documents of sale of land to Michael Butler.

- Communications from Council (which you have dated in your documents as March 2025 and April 2025) confirm it is continuing to approve single dwelling planning applications at present subject to any future legal challenge by the State Government or the WGCMA.

Resp: Agree, however this excludes any new business development requiring more than a single “dwelling”. This is evident as WGCMA have not approved business development in Port Albert and Port Welshpool.

- With regard to your personal circumstances:
  - In relation to any concerns you may have regarding advice received from relevant agencies, you have recourse to lodge formal complaints and/or claims for compensation to any of the agencies relating to your issue in line with their documented complaints processes. If you believe the formal response to your complaints do not accord with relevant policies, guidelines, or legislation, you may have a pathway back to this office.  
Resp: I have asked the WGCMA on what the process is for compensation. They are not aware of the process. See attached email response from the WGCMA
  - In relation to any concerns you may have regarding any current individual planning applications, you have recourse to dispute any planning decision made by Council via the Victorian Civil and Administrative Tribunal (‘VCAT’).  
Resp: Agree
- The Ombudsman is not a court or tribunal; we do not have powers to compel departments or agencies to amend decisions or pay compensation. There is no pathway to a practical resolution to your concerns and the outcomes you seek via enquiries from this office.
  - Resp: Agree, I wish to formally lodge a complaint regarding the WGCMA's dereliction of due diligence.
- The outcomes you seek, as confirmed in the letter to this office dated 13 June 2025, will be determined by proposed legislated changes which Council and the WGCMA have confirmed are underway or imminent. As confirmed by the WGCMA in their email to you dated 30 May 2025, all community members will have an opportunity to engage in this process. I have been told the changes to the planning scheme to include single dwellings. Noone been engaged in this process or even been requested to be engaged, either from the WGCMA or Wellington Shire Council.
  - **RESP: Given an incomplete understanding of this process, there has been no proactive request for involvement. Additionally, inquiries directed to the WSC concerning a prospective date have remained unanswered**
- While I have closed your individual complaint, I can confirm that we are considering making enquiries to all relevant bodies in relation to the circumstances outlined in your complaint and referred to in official correspondence from Council and the WGCMA.

## Portfolio feedback

The Ombudsman also has areas known as ‘Portfolios’. Portfolios consider issues that could be categorised as systemic and raise them with the relevant departments and agencies in meetings held on a regular basis.

As noted above, this office is now considering making enquiries, outside of the constraints of an individual complaint, to better understand the sequence of events, current circumstances, and the potential impacts on all property owners within this coastal area.

Thank you for bringing these issues to our attention.

### **Next steps**

I have now closed your individual complaint. You may wish to seek independent legal advice with regard to your personal planning circumstances.

If you have any questions, you may call on 1800 806 314, quoting your complaint number (C/25/11503) to the Complaints Officer who answers your call, or you may respond via return email at [complaints@ombudsman.vic.gov.au](mailto:complaints@ombudsman.vic.gov.au), ensuring that you include your complaint number in the Subject Line of the email.

Yours sincerely

**Ben P**(he/him)  
Complaints Officer

*I am available Monday to Thursday, 7:00am to 5:00pm*



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