



Burning cyclone and flood waste

Orders in Council engagement material Severe Weather Integrated Response June 2023

A temporary law change is being proposed through Order in Council under the Severe Weather Emergency Recovery Legislation Act 2023 (SWERLA), to permit open-air burning of cyclone and flood waste.

The severe weather events of early 2023 left a significant number of mixed debris and waste piles in rural areas across the Hawke's Bay and Tairāwhiti regions. The piles include trees, crops, support structures, chemically treated timber, untreated wood, mixed plastic, wire, metals, and sediment.

Cyclone-damaged primary sector businesses (especially orchards, viticulture, vegetables and pastoral farming) are particularly impacted by these waste piles. Removal of the waste is a critical first step before the land can be returned to productivity.

The waste needs to be removed quickly to meet key timeframes for farmers who need to meet growing windows for their crops. Given the difficulties around physically removing the waste and the time that would take, affected landowners have requested permission to burn the mixed waste on their properties as in many cases it is the only feasible way of removing the waste quickly.

Orders in Council

From June 2023 onwards, laws are anticipated to be changed on a range of issues to help communities continue to recover from the effects of the recent severe weather events. The mechanism that will be used to do this is a piece of secondary legislation called an Order in Council.

Orders in Council add flexibility to the Government's response to the severe weather, allowing quick regulatory changes to respond to issues as they arise. They enable the Ministry for the Environment to amend legislation we are responsible for.

Why is the proposed Order in Council needed?

Open-air burning of some of the waste in the mixed piles (such as plastic, coated wire and treated timber) is prohibited under RMA regulations and planning documents, due to the adverse effects it has on the environment and human health from toxic contaminants.

There is a risk that if we do not provide a pathway for managed burns of mixed waste materials, burning of mixed waste piles may be done anyway and without the necessary environmental or health considerations.

To reduce the risk of people undertaking unmanaged burns, whilst helping to ensure affected land is returned to productivity as soon as possible, the proposed Order in Council would permit open-air burning of cyclone and flood waste, with appropriate conditions to protect the environment and human health.

What would the proposed Order in Council do?

The proposed Order in Council would treat the burning of cyclone waste as a permitted activity, meaning no resource consent would be required and the normal processes for obtaining consent would not apply.

This would override the RMA, the Resource Management (National Environmental Standards for Air Quality) Regulations 2004 and regional plans of Hawke's Bay Regional Council and Gisborne District Council (the unitary authority for Tairāwhiti region).

The Order will not change any regulations under the Fire and Emergency New Zealand Act 2017. This is to ensure that where local controls such as fire bans are needed due to local conditions, these protections remain in place.

Which conditions would apply to protect the environment and human health?

We are particularly interested in your views on what conditions should apply, in order to protect the environment and human health.

We are proposing conditions to help make sure:

- steps are taken to separate materials where practicable (especially hazardous waste containers and unknown substances)
- weather conditions encourage a hot burn to minimise the amount of contaminants released and limit any smoke blowing across neighbouring properties
- a fire management plan is prepared which includes measures to extinguish the fire if weather conditions change and present a risk to health or the environment.
- key parties are notified of the burn, including councils, Fire and Emergency NZ (FENZ) and the National Public Health Officer
- soil testing occurs at the burn site to check for contamination
- appropriate measures are in place to dispose of any remaining waste and ash
- remediation of the site occurs, if required.

Where would it apply and when?

The proposal would apply only to the Hawke's Bay and Tairāwhiti regions, where mixed waste piles are a particularly significant issue for landowners and councils.

The proposed Order in Council would be enacted by 27 June 2023 and come into force on the day it is enacted, given the need for urgency.

The Order in Council would be in effect until 15 December 2023. This would allow for any burns not carried out over the winter months to occur in the spring, but before the peak of summer.

Meeting the purpose of the Severe Weather Emergency Recovery Legislation Act

This proposal meets the purpose of the SWERLA as set out in section 3(1), as it will assist communities and councils to focus on planning, rebuilding, and recovery, including:

- to support rebuilding of land, infrastructure, and other property - (specifically by supporting the removal of problematic cyclone and flood waste)
- providing for economic recovery by enabling landowners to address mixed waste and debris on their properties as soon as possible, so they can return their land to economically productive uses.

How to provide feedback and next steps

We invite you to provide feedback on these proposals, which will be provided to the review panel considering these Orders in Council under the Severe Weather Emergency Recovery Legislation Act 2023.

Please email your feedback to severeweather@mfe.govt.nz

Feedback must be received by 5pm, Tuesday 13 June.