



PROACTIVE RELEASE COVERSHEET

Minister	Hon Penny Simmonds	Portfolio	Environment
Name of package	Proactive Release – Severe Weather Emergency Recovery Legislation (Resource Management - Hawke's Bay Rural Recovery Works) Order 2024	Date to be published	26 November 2024

List of documents that have been proactively released

Date	Title	Author
20 June 2024	Cabinet paper (CAB-429): Proposed Order in Council under the Severe Weather Emergency Recovery Legislation Act 2023 – Hawke's Bay Rural Recovery Works	Ministry for the Environment
20 June 2024	CAB-429 Appendix 1 Engagement plan for the proposed Hawke's Bay Rural Recovery Works Order in Council	Ministry for the Environment
20 June 2024	CAB-429 Appendix 2 Interim Regulatory Impact Statement	Ministry for the Environment
5 September 2024	Cabinet paper (CAB-466): Severe Weather Emergency Recovery Legislation (Resource Management - Hawke's Bay Rural Recovery Works) Order 2024	Ministry for the Environment
5 September 2024	CAB-466 Appendix 2 Regulatory Impact Statement	Ministry for the Environment
5 September 2024	CAB-466 Appendix 3 Overview of feedback received from public engagement	Ministry for the Environment

Information redacted **YES**

Any information redacted in this document is redacted in accordance with the Ministry for the Environment's policy on proactive release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Summary of reasons for redaction

Some information has been withheld from *CAB-429 Proposed Order in Council under the Severe Weather Emergency Recovery Legislation Act 2023 – Hawke's Bay Rural Recovery Works* and *CAB-466 Severe Weather Emergency Recovery Legislation (Resource Management - Hawke's Bay Rural Recovery Works) Order 2024* under Section 9(2)(h) of the Official Information Act to maintain legal professional privilege. Some information has been withheld from *CAB-466 Appendix 3 Overview of feedback received from public engagement* under Section 9(2)(a) of the Official Information Act to protect the privacy of natural persons.

In-Confidence

Office of the Minister for the Environment

Chair, ECO - Cabinet Economic Policy Committee

Proposed Order in Council under the Severe Weather Emergency Recovery Legislation Act 2023 – Hawke’s Bay Rural Recovery Works

Proposal

- 1 The severe weather events of January and February 2023 created significant loss and damage to the North Island and in particular the Hawke’s Bay region. The cyclones caused widespread damage to rural land, farms and forestry. Many rural landowners and occupiers in Hawke’s Bay are still requiring recovery works on their properties more than 15 months later. The recovery works will require resource consents under the regional and district plans for Hawke’s Bay and national environmental standards.
- 2 This paper seeks Cabinet’s agreement to:
 - 2.1 develop an Order in Council (OIC) under the Severe Weather Emergency Recovery Legislation Act 2023 (SWERLA) to amend the Resource Management Act 1991 (RMA) to support rural recovery works in the Hawke’s Bay region.

Relation to government priorities

- 3 The proposal in this paper reflects the priorities outlined in the Government’s plan for a faster and fairer disaster recovery to expedite the consenting process and remove red tape to speed up the rebuild.
- 4 In particular, the proposal described in this briefing will deliver on the commitment to speed up the rebuild and reduce red tape of resource consenting processes and is informed by requests made by the Hawke’s Bay Regional Recovery Agency (HBRA) and supported by Hawke’s Bay local authorities, Federated Farmers, Beef + Lamb New Zealand, and the Hawke’s Bay Forestry Group to enable locally led recovery.

Executive Summary

- 5 In January and February 2023, the North Island Weather Events (NIWE) including Cyclones Hale and Gabrielle caused significant damage across the North Island and in particular in the Hawke’s Bay. Many rural landowners and occupiers are still struggling to repair their land from its cyclone-damaged condition due to a range of factors, including the scale of the recovery works, finance, the availability of contractors, and extended wet weather conditions. As a result, more than 15 months after the events rural landowners and occupiers in Hawke’s Bay are still needing to complete recovery works on their properties.
- 6 In the immediate aftermath of the NIWE, the Severe Weather Emergency Legislation Act 2023 (SWELA) was passed into law on 20 March 2023 to support the immediate recovery and rebuild. It was shortly followed by the Severe Weather Emergency Recovery Legislation Act 2023 (SWERLA) which provided for OICs to be made.
- 7 SWELA introduced a permitted activity regime for rural landowners and occupiers of land by creating sections 331A-331E to the RMA (repealed on 1 April 2024). It allowed rural landowners and occupiers on rural or Māori purpose zoned land to undertake emergency works on their properties immediately following the NIWE as a permitted activity. The SWELA rural emergency works regime applied to the Hawke’s Bay region and other regions affected by the NIWE.

- 8 The SWELA regime has not been fully implemented as Parliament intended it would be due to significant local constraints. In early 2024, the Hawke's Bay Regional Council (HBRC) surveyed rural landowners on recovery progress with 98% of respondents reporting cyclone related damage on their land. 94% of respondents still have recovery works to complete, having not been able to utilise the SWELA regime before its expiry on 1 April 2024.
- 9 The HBRRA wrote to Minister Mitchell and I requesting to extend the regime under SWELA as, despite the emergency being over, there are ongoing recovery activities to be undertaken that otherwise require resource consents. In response, I instructed officials to prepare a new OIC under the SWERLA to address the issues raised by the HBRRA.
- 10 I considered but did not advance the HBRRA's request for an extension to the SWELA permitted activity regime as that is limited to emergency works immediately following the NIWE and its extension requires new primary legislation.
- 11 The SWERLA enables certain legislation to be amended temporarily via the OIC mechanism to exempt, modify, or extend statutory obligations where necessary to support recovery in the areas affected by the NIWE.
- 12 Ministry for the Environment (MfE) officials have reviewed all other potential pathways and have determined that an OIC is necessary to provide certainty for rural landowners and occupiers and to support the ongoing rebuild and recovery post-severe weather events. This approach is supported by the HBRRA.
- 13 To respond to the needs of rural landowners and occupiers in the Hawke's Bay I propose to amend the RMA through an OIC to permit rural recovery works until 31 December 2025. This timeframe is supported by the HBRRA as providing sufficient time for rural landowners and occupiers to undertake their rural recovery works. To manage adverse effects, I propose the OIC contains standards, subject to which the recovery works will be permitted and not require a resource consent.

Background

- 14 The SWELA was passed into law on 20 March 2023 as an omnibus Act that made changes to a number of existing laws including the RMA. The purpose of SWELA was to enable emergency recovery and response, assisting people and communities to recover from the impacts of the NIWE, including modifying the RMA to permit rural landowners and occupiers to undertake emergency preventative or remedial actions under sections 331A-331E (repealed on 1 April 2024).
- 15 In late March 2024 I was advised by the HBRRA of the results of the survey of Hawke's Bay rural landowners and occupiers to understand their ongoing needs following the NIWE. 98% of respondents experienced cyclone related damage on their land and 94% of respondents still have recovery works to complete. The cyclone damage is impeding the ability of the rural community to maintain profitability levels on their land. There is great financial and social pressure being experienced in the rural community and there is a need for continued regulatory relief to support ongoing recovery works for the rural community in Hawke's Bay.
- 16 The rural recovery works includes the reclamation of riverbeds, realignment of rivers to their original course, repair of culverts and bridges and large-scale earthworks to remove silt or reinstate erosion on rural land. However, rural landowners and occupiers have not been able to complete this work under the permitted activity regime established by SWELA. The HBRRA have advised officials that many of the rural landowners have not been able to carry out the works to date due to:
- 16.1 delays in finalising insurance claims, leading to difficulties accessing funds
 - 16.2 a lack of available contractors, who were otherwise engaged in immediate recovery efforts such as road clearing, and

- 16.3 an inability to carry out the works due to an extended period of wet weather in the months following the severe weather events which created unsuitable soil conditions.
- 17 Federated Farmers of New Zealand, Beef + Lamb New Zealand and the Hawke's Bay Forestry Group have written in support of the HBRRA's request for extension of time for the permitted activity regime. The groups note the significant pressure and struggles their members and companies are facing in the recovery and request more time to undertake rural recovery works without the need for applying for a resource consent.
- 18 SWELA was made at a time of urgent need, responding to the emergency circumstances at the time, based on the information that was available. The focus was on the immediate emergency response. It was shortly followed by the SWERLA which provided a more targeted regulatory relief where appropriate over a longer time. The immediate urgency of emergency response has passed. There is no longer a state of emergency in the affected regions and the road to recovery has commenced. However, the scale of NIWE has proven to be unprecedented and there is still a significant amount of rebuilding and recovery activity required in these rural communities before they are back to pre-NIWE conditions.

Analysis

Legislative effects of the proposed OIC

- 19 The SWERLA established a mechanism for legislation to be amended via OICs to enable recovery activities, targeted to specific areas or circumstances. There is a comprehensive set of safeguards in the SWERLA to ensure the OIC mechanism is used appropriately.
- 20 The proposed OIC will make modifications to the RMA to allow certain recovery works as permitted activities on rural and Māori purpose zoned land in Hawke's Bay¹. The proposed OIC will be in force until 31 December 2025 and its application limited to rural landowners and occupiers in Hawke's Bay undertaking work on their land.

Changes to the RMA

- 21 The rural recovery works will require resource consents under the Hawke's Bay regional and district plans and the national environmental standards². They would fall into discretionary or non-complying activity categories. The volume of resource consents required would be significant and would impose additional costs on rural landowners and occupiers as well as additional pressure on local authorities' resource consent processing and compliance resources which are already stretched.
- 22 I propose that the OIC would ensure that these rural recovery works are classified as permitted activities³ to provide certainty for the consent applicants and other parties.
- 23 The intention of the permitted activity regime is to ensure that rural landowners and occupiers have certainty to carry out necessary recovery activities on their land. This supports them to more quickly return to pre-NIWE conditions.
- 24 Officials are working closely with the HBRRA and local authorities to scope and define the rural recovery works that could be undertaken under this proposed OIC. The rural recovery works include:

¹ Rural areas would include land that is zoned general rural, rural production, or Māori purpose (or equivalent) in relevant district or combined plan, has marae, papakāinga, or urupā located on it, or is used primarily for purposes of livestock or horticultural farming.

² National Environmental Standards for Commercial Forestry 2017 and National Environmental Standards for Freshwater 2020.

³ No resource consent is required to carry out the activity if it complies with requirements, conditions and permissions specified in the RMA, regulations and any applicable plans or proposed plans.

- 24.1 works in riverbeds to return to a previous alignment and diverting water to return to its pre-existing channel or course
 - 24.2 repair, modification, extension or replacement of pre-existing river crossings, roading and tracks, including associated earthworks, soil disturbance, vegetation clearance and discharges
 - 24.3 temporary diversion of water to undertake repair or replacement works within the bed of a river
 - 24.4 discharge of clean fill within 20m of a river
 - 24.5 disturbance of the bed of a river from removal of cyclone related debris, wood material and silt
 - 24.6 earthworks and soil disturbance to remove silt deposition or reinstate erosion and the removal of excess silt/earth off site
- 25 Officials will also use the public engagement period required under the SWERLA to seek feedback on this list of activities and to ascertain whether additional activities should be included in the proposed OIC.
- 26 The proposed OIC will not include activities that are prohibited under a regional or district plan, regulation, or national environmental standard.
- 27 I propose the OIC be limited to the Hawke's Bay region as at present only this region has sufficient evidence to meet the tests in SWERLA for a new OIC. Officials are in contact with the local authorities in other regions affected by the NIWE to ascertain if future OICs are required.

Timeframes

- 28 I propose that the OIC will apply from enactment in September 2024 and expire on 31 December 2025. This will enable rural landowners and occupiers to carry out recovery works on their property within the timeframes of SWERLA. The timeframe is supported by the HBRRA and will be consulted on during public engagement.

Environmental effects of the proposal under the RMA

- 29 Under section 8(1)(e) of the SWERLA, if an OIC relates to the RMA, I must consider:
- 29.1 the effects on the environment that could occur as a result of the OIC, and
 - 29.2 whether any adverse effects can be avoided, remedied, or mitigated.
- 30 To manage the environmental effects of activities that normally require consent, I am proposing the OIC includes permitted activity standards so that adverse effects can be managed. The standards include:
- 30.1 the works must not cause significant adverse effects beyond the boundary of the sites where the works will occur
 - 30.2 the landowner or occupier must undertake the works in a way that avoids, remedies or mitigates adverse environmental effects
- 31 I also propose notice requirements should be included in the OIC to ensure that the relevant consent authority can ascertain whether the proposed rural recovery works are within scope of the proposed permitted activities, and that they can meet the permitted standards.

Treaty of Waitangi considerations

- 32 The proposed OIC has implications for iwi, hapū and Māori, including Post Settlement Governance Entities (PSGEs). Any change that seeks to remove or alter the ability for Māori to provide input into RMA decisions and outcomes will be of interest to iwi, hapū and Māori, including PSGEs with RMA-related settlement redress. Iwi, hapū and Māori

are also rural landowners and occupiers affected by the NIWE and may need to undertake rural recovery works.

33 Officials are analysing how the proposal will impact on Treaty settlement commitments, and Māori rights and interests. These implications carry a risk of litigation which could delay recovery actions and/or damage the Crown's broader relationship with Māori. Undertaking targeted engagement will help mitigate these risks.

34 It is proposed to include the following safeguards to provide for Treaty/Māori interests (these provisions were also used in the SWELA):

34.1 Where works are proposed for culturally significant land or will impact on culturally significant land⁴, notice is required to be given to relevant iwi/hapū prior to recovery works being undertaken and is required to include:

- i. details of the proposed activity to be undertaken
- ii. location of the proposed activity in relation to the wāhi tapu, site of cultural significance, or area subject to a statutory acknowledgement
- iii. anticipated effects of the proposed activity on the wāhi tapu, site of cultural significance, or area subject to a statutory acknowledgement and proposals to avoid, remedy, or mitigate the effect
- iv. a request for written permission from the relevant iwi or hapū to undertake the proposed activity
- v. a request for protocols or management plans in relation to the wāhi tapu, site of cultural significance, or area subject to a statutory acknowledgement.

34.2 An activity is not deemed a permitted activity if it is undertaken on culturally significant land or will impact on culturally significant land, without the written permissions of the relevant iwi or hapū.

Cost-of-living Implications

35 The proposal in this paper aims to reduce the significant social and economic costs of response and recovery caused by the severe weather events. This includes the impacts on the rural farming and forestry sectors.

36 Removing the need for resource consents to undertake recovery works on rural properties will ensure the works can progress as quickly as possible.

Financial Implications

37 There are no financial implications of the proposal.

Legislative Implications

38 This proposal is for a new OIC to be made under the SWERLA. Section 7 of the SWERLA enables OICs to be made for the purposes of the SWERLA and allow exemptions from, modifications of, or extensions to provisions in legislation listed in Schedule 2 of the Act, which includes the RMA.

39 OICs can only be made where the Minister responsible is satisfied they are reasonably necessary or desirable for one or more purposes under section 8 of the SWERLA. These provide for the rebuilding of land and other property of affected communities and

⁴ Culturally significant land is defined in SWELA as land that:

- a) is on, or adjoins, a wāhi tapu or a site of cultural significance; or
- b) is on, near, or adjoins land that has an area that is subject to a statutory acknowledgement.

persons, including by undertaking rural recovery works such as earthworks, removing cyclone debris and silt, and works in water courses.

40 I am satisfied the proposal meets these requirements sufficiently to be progressed to the next stage of development. When I return to Cabinet with the final OIC in September 2024 I will confirm these statutory requirements have been met.

Advice from the Crown Law Office [Legally Privileged]

41 s 9(2)(h)

[Redacted content]

Impact Analysis

Regulatory Impact Statement

42 An interim Regulatory Impact Statement (RIS) has been completed and is attached as Appendix 2. A final RIS will be prepared to accompany further Cabinet decisions in September 2024.

43 A quality assurance panel with members from the Ministry for the Environment's Regulatory Impact Analysis Team has reviewed the Severe Weather Emergency Recovery Legislation (Hawke's Bay Rural Recovery Works) Order Interim RIS. The panel considers that it **meets** the Quality Assurance criteria.

44 The QA panel notes that the Severe Weather Emergency Recovery Legislation (Hawke's Bay Rural Recovery Works) Order Interim RIS is comprehensive, well-written and in response to a clear need, with risks and constraints clearly defined and discussed.

Climate Implications of Policy Assessment

45 There are no explicit objectives to reduce greenhouse gas emissions from this proposal. This proposed OIC is not expected to result in any significant direct emissions

impacts. The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal, as the threshold for significance is not met.

Population Implications

- 46 The permitted activity regime will provide benefit to residents across the Hawke's Bay region. The regime will enable rural landowners and occupiers to undertake rural recovery works on their property without requiring a resource consent.

Human Rights

- 47 The proposal in this paper will not engage s27 of the New Zealand Bill of Rights Act 1990 (NZBORA). Even if it is, any such limit is likely to be justified under s 5 NZBORA.

Use of external Resources

- 48 No external resources were used in the preparation of this paper.

Consultation

- 49 Section 9 of the SWERLA requires engagement on OIC proposals. The engagement plan in Appendix 1 sets out the proposed approach.
- 50 Officials from MfE have worked closely with the HBRRRA, the HBRC and the Cyclone Recovery Unit (CRU) in scoping the policy for this proposed OIC.
- 51 In the process of developing this policy advice, feedback was sought from the CRU ^{s 9(2)(h)} on the compliance with the legislative requirements for an OIC. The proposal in this paper reflects changes suggested from those discussions.
- 52 MfE engaged with the Department of Prime Minister and Cabinet (DPMC) (both the Policy Advisory Group (PAG) and the CRU), the Ministry for Primary Industries (MPI), Department of Conservation (DOC), the Ministry of Culture and Heritage (MCH), the Department of Internal Affairs (DIA), Land Information New Zealand (LINZ), Te Puni Kōkiri (TPK), the office for Māori Crown Relations – Te Arawhiti, Ministry of Business, Innovation and Employment (MBIE), and the Ministry for Regulation. The agencies supported the substance of the proposal and sought minor changes relating to engagement processes, cost recovery mechanisms for local authorities, and the inclusion of cultural heritage and archaeology provisions in the OIC.

Communications

- 53 Subject to Cabinet approval, officials will undertake statutory engagement on the proposal from 2 July – 12 July 2024, as outlined in Appendix 1.

Proactive Release

- 54 I intend to proactively release this Cabinet paper within 30 days of final Cabinet decisions on the proposed OIC.

Recommendations

The Minister for the Environment recommends that the Committee:

- 1 **note** that the Severe Weather Emergency Recovery Legislation Act 2023 (SWERLA) established a mechanism for legislation to be amended via Order in Council (OIC) to enable recovery activities potentially targeted to specific areas or circumstances
- 2 **note** that following the North Island Weather Events (NIWE), the Severe Weather Emergency Legislation Act 2023 (SWELA) introduced a permitted activity regime (sections 331A-331E of the Resource Management Act 1991(RMA)) to enable rural landowners and occupiers to undertake emergency preventive or remedial measures

on their land without the need to apply for a resource consent. This regime was repealed on 1 April 2024

3 **note** many rural landowners have not been able to utilise the permitted activity regime under SWELA before the regime was repealed

4 **note** the Hawke's Bay Regional Recovery Agency (HBRRA) have requested an extension of the SWELA 2023 repeal date of sections 331A-331E

5 **note** that I propose an OIC to enable a permitted activity regime for rural landowners and occupiers to undertake recovery works on rural land in the Hawke's Bay region

6 **note** that this proposal supports the Government's plan for a faster and fairer disaster recovery to expedite the consenting process and remove red tape to speed up the recovery

7 **agree** to an OIC under the SWERLA to amend the RMA and associated regulations and plans to:

- a. enable rural recovery works directly related to the impacts of the NIWE, that are not already classified as a permitted activity, subject to standards (this does not extend to prohibited activities or where iwi/hapū has not given their written permission under c. permit rural recovery works directly related to the impacts of the NIWE, that are not already classified as a permitted activity, subject to standards (this does not extend to prohibited activities or where iwi/hapū have not given their written permission under c. below)
- b. include a notification requirement for rural landowners or occupiers to notify the relevant consent authority of the intent and scope of works before the activity begins
- c. include a notification requirement for the rural landowners or occupiers to provide written notice and seek written approval from the relevant iwi/hapū before the activities begin, if the work is undertaken on culturally significant land or will impact on culturally significant land.

8 **agree** that the scope of the proposed OIC will be limited to rural recovery works carried out by rural landowners and occupiers on rural or Māori purpose zoned land in the Hawke's Bay region, including:

- a. works in riverbeds to return to a previous alignment and diverting water to return to its pre-existing channel or course
- b. repair, modification, extension or replacement of pre-existing river crossings, roading and tracks, including associated earthworks, soil disturbance, vegetation clearance and discharges
- c. temporary diversion of water to undertake repair or replacement works within the bed of a river
- d. discharge of clean fill within 20m of a river
- e. disturbance of the bed of a river from removal of cyclone related debris, wood material and silt
- f. earthworks and soil disturbance to remove silt deposition or reinstate erosion and the removal of excess silt/earth off site

9 **agree** that the proposed OIC will provide sufficient time for rural landowners and occupiers to complete the rural recovery works on their land with a proposed end date of 31 December 2025 to be consulted on as part of the public engagement

10 **authorise** the Minister for the Environment to:

- a. carry out public engagement on the OIC proposal

- b. further refine or clarify any policy decisions relating to the amendments in this paper, in a manner not inconsistent with this proposal, if required
- 11 **invite** the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to give effect to these decisions
- 12 **note** that I will report back to Cabinet in September to seek agreement to submit the OIC to the Executive Council and Governor-General for enactment.

Authorised for lodgement

Hon Penny Simmonds

Minister for the Environment

Appendix 1

Engagement plan for the proposed Hawke's Bay Rural Recovery Works Order in Council

Engagement plan for the proposed Hawke's Bay Rural Recovery Works Order in Council

1. Purpose

The Ministry for the Environment - Manatū Mō te Taiao (MfE) will be consulting on the proposal to create a new Order in Council (OIC) under the Severe Weather Emergency Recovery Legislation Act 2023 (SWERLA), to enable recovery works on rural land until 31 December 2025.

The proposed OIC has been requested by the Hawke's Bay Regional Recovery Agency (HBRRA), on behalf of the councils in the Hawke's Bay, and will apply in the Hawke's Bay region only. This plan provides a high-level overview of formal consultation with councils, iwi, hapū, mana whenua and other people and groups affected by the emergency legislation, that will be undertaken in the process of developing this OIC.

2. Context

In early 2023 severe weather events, including Cyclones Hale and Gabrielle, caused significant disruption within affected regions around the North Island. The Severe Weather Emergency Recovery Legislation Act 2023 (SWERLA) was passed to enable recovery efforts in affected areas.

SWERLA creates the ability to issue OICs to assist communities affected by the severe weather events to respond to, and recover from, the impacts of the severe weather events.

The proposed OIC would enable recovery works for rural landowners/occupiers by amending the Resource Management Act 1991 (RMA).

In early 2024, the Hawke's Bay Regional Council (HBRC) undertook a survey of over 200 rural landowners (with properties over 20 hectares). The survey identified that fencing damage, track damage and erosion have been experienced by almost all properties surveyed, with a significant number of other impacts felt by over one half of landowners (such as water supply damage, stock water system damage, sediment across sites, planting losses and issues with access around properties).

The HBRRA advise that many of the surveyed rural landowners have not completed the necessary repairs or replacements, despite planning to do so. The delays were outside of the direct control of landowners and due to:

- delays in finalising insurance claims, leading to difficulties accessing funds;
- a lack of available contractors, who were otherwise engaged in immediate recovery efforts such as road clearing; and
- an inability to carry out the works, due to an extended period of wet weather the months following the severe weather events which affected soil conditions.

3. Communications and Engagement Objectives

Engagement on OICs is required to meet the three key expectations outlined in SWERLA:

- local Māori and community groups can participate in the development of OICs that affect them, without impeding a focused, timely, and prompt recovery
- information about the proposed OICs is provided to affected people and organisations, (including local Māori and local community groups), and the general public
- the detail to be provided is to include:
 - an explanation of what the proposed OIC is intended to achieve
 - a description of the anticipated effect of the proposed OIC
 - an explanation of why the Minister for the Environment considers that the OIC is necessary or desirable to meet the purposes of SWERLA.

In relation to te Tiriti o Waitangi, the Crown is obliged to engage with iwi, hapū and mana whenua in a spirit of partnership. In addition to fulfilling the statutory requirements outlined above, MfE needs to engage with all those affected by the policy proposals to ensure the legislative measures are sound and fit for purpose. As a result, the engagement window is recommended to be extended to two weeks.

4. Engagement Approach

Before the MfE-led engagement period starts (2 – 12 July), there will be scene setting communications by the HBRRRA and Hawke's Bay councils for two weeks from 17 – 27 June. This will include updating communities, manawhenua, wider council staff and elected members on:

- the progress that has been made to date with recovery efforts; and
- the work that is yet to be done, which includes the rationale behind the request by the region for this OIC

Formal consultation by MfE on the OIC will build off the back of this scene setting, as well as reconnecting with those recently engaged with on the Hawke's Bay Flood Protection Works OIC. Engagement will also serve as a data gathering exercise, to collect information about the status of recovery in the Hawke's Bay region.

Framing is important, and alongside the expectations outlined in the Act, MfE communications will cover:

- The history of this proposed OIC and who the applicant is (i.e. has been requested by the region)
- Proposed one year timeframe - to be revoked 31 December 2025
- Only applies to works for the purpose of undertaking recovery works on rural or Māori purpose zoned land because of or in connection to sudden, adverse or severe weather events
- The types of works that are (and aren't) enabled under this OIC - scale and impact
- Requires notification to relevant hapū or iwi at least 20 working days before works commence where the location of works is undertaken on culturally significant land, or will impact on culturally significant land (culturally significant land is a defined term and includes wāhi tapu, sites of cultural significance, and may include areas subject to a statutory acknowledgement or specified statutory overlay and proposals). The notice is also required to include a request for permission from the relevant iwi or hapū to undertake the proposed activity
- Requires prior notification to appropriate council/s of the planned activity (20 days notice)
- If the landowner / occupier fails to comply with the conditions, the status of the activity under the OIC is revoked and usual RMA consenting requirements apply

MfE will also engage with:

- Staff at councils in affected areas who sit outside of the immediate OIC working group
- Iwi, hapū and mana whenua in affected areas and other Māori organisations as appropriate, including post-settlement governance entities
- Affected communities and other interested groups (e.g. parties not directly affected by the proposals but with an interest in the proposals).

4.1 Council Engagement

- Identify key affected councils
- Build off previously established relationships developed through the Hawke's Bay Flood Protection Works OIC work programme

4.2 Iwi, hapū and mana whenua engagement

- Utilise Tiriti analysis of iwi, hapū and mana whenua interests in rural zones, including understanding of relevant Treaty settlement redress
- Build off previously established relationships developed through the Hawke's Bay Flood Protection Works OIC work programme
- Work alongside MfE's Treaty settlements, Māori Partnerships and Regional Relationships teams as the relationship holders to support engagement
- Work alongside councils to provide wider context on the proposed OIC

4.3 Affected Communities

- Work alongside councils to identify affected communities
- Work alongside iwi, hapū and mana whenua to identify affected communities
- Support councils during engagement to provide wider context on the proposed OIC

MfE will lead engagement on the proposal to create the OIC, building on the scene setting work completed in the region prior to MfE's formal consultation period. We will work alongside the Cyclone Recovery Unit (CRU) and council communications and engagement leads to provide opportunities to join up communications and engagement activities across councils/agencies, and where possible use already established channels and networks.

People will have the opportunity to provide written feedback as well as provide feedback during online engagements. Information about the proposals will be provided in the consultation documents.

Due to the consultation period of two weeks there will be limited opportunities for face-to-face engagement. However, a small number of targeted hui will be held online alongside other engagement activities.

MfE expects to open formal consultation from 2 July with 12 July being the last day of statutory engagement and the last day for receiving any written feedback.

This timeframe will give visibility to the people and groups with whom MfE intends to engage. It will also ensure that information about the proposed changes is on the public record and people are well-informed about what is happening.

5. Engagement Overview

The table below outlines the engagement activities that the Minister for the Environment, via officials, proposes to undertake, which will meet (or exceed) the three working day minimum set out in section 9(1) of SWERLA.

Distribution channel/s	Purpose	Key stakeholders	Outcome
<p>Online meeting(s) with the six Hawke's Bay PSGEs during the proposed 2-week statutory engagement period.</p> <p>Mailing, pānui and follow up online hui if required.</p>	<p>Allow PSGEs to gauge the effect on statutory acknowledgement/deed of recognition areas and other areas of cultural importance.</p>	<p>Six post settlement entities where the OIC will apply as the OIC may have implications for Treaty settlement redress.</p>	<p>Targeted engagement to collect, collate and consider feedback to inform any changes to the OIC proposal.</p>
<p>Mailing, pānui and online hui.</p> <p>Utilise RRA survey distribution list, and established sector networks such as Federated Farmers, HB Forestry Group and NZ Beef and Lamb who have all provide letters of support for this OIC.</p> <p>Liaise with MPI with regard to obtaining their stakeholder contact lists.</p> <p>Ask Te Tumu Paeroa and the Māori Land Service (TPK) to use their networks to connect with Māori landowners who may have an interest.</p> <p>Approach the Māori Land Court to see if they can act as a further distribution channel (they can publish notices on their website).</p> <p>Utilise established MfE and council channels – newsletters, websites, social media.</p>	<p>Notification about the proposed OIC, what it intends to achieve and why it is necessary.</p> <p>Invite written comments.</p> <p>Provide an opportunity to discuss the proposal with stakeholders.</p>	<p>Local Authorities whose district or region is covered by the OIC.</p> <p>Iwi, hapū, mana whenua located in the identified region.</p> <p>Directly affected communities/landowners, including Māori landowners.</p> <p>HB Fish & Game Council, Federated Farmers, Hawkes Bay Forestry Group and NZ Beef and Lamb.</p> <p>Department of Conservation, Heritage NZ Pouhere Taonga.</p> <p>Freshwater Iwi Leaders Group, TTK (Māori collectives).</p> <p>Takutai Moana (Marine and Coastal Area Act 2011) applicant bodies.</p> <p>Te Puni Kōkiri, Te Arawhiti, Te Tumu Paeroa.</p> <p>Taituarā, LGNZ, Te Uru Kahika (Local government collectives).</p>	<p>Collect, collate and consider feedback to inform any changes to the OIC proposals.</p>

Distribution channel/s	Purpose	Key stakeholders	Outcome
General public/media (via Minister's media release/ Ministry for the Environment website.	Inform the general public and provide an opportunity to provide feedback.	General public.	Consultation is transparent and any member of the public with an interest can provide feedback.

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Appendix 2

Interim Regulatory Impact Statement

Interim Regulatory Impact Statement: Severe Weather Emergency Recovery Legislation (Hawke’s Bay Rural Recovery Works) Order

Coversheet

Purpose of Document	
Decision sought:	This interim analysis will inform Cabinet decisions on the proposed Severe Weather Emergency Recovery Legislation (Hawke’s Bay Rural Recovery Works) Order
Advising agencies:	Ministry for the Environment
Proposing Ministers:	Hon Penny Simmonds, Minister for the Environment
Date finalised:	18 June 2024
Problem Definition	
<p>Severe weather events in early 2023, including Cyclone Gabrielle, caused extensive damage to the North Island. This affected the economy, infrastructure, and environment, with Hawke's Bay experiencing severe agricultural and infrastructure losses.</p> <p>Despite ongoing recovery efforts, the rural community face significant challenges in completing necessary recovery works due to the unprecedented scale of damage, financial burdens from less than profitable agricultural conditions, as well as complex and costly resource consent processes.</p>	
Executive Summary	
<p>In January and February 2023, the severe weather events including Cyclones Hale and Gabrielle caused significant damage across the North Island and in particular in the Hawke’s Bay. These are described as the North Island Weather Events (NIWE). Many rural landowners and occupiers are still struggling to maintain profitability levels on their land under cyclone-damaged conditions, and many are in financial uncertainty. As a result, the rural community are still undertaking or planning to complete recovery works on their properties more than 15 months after the NIWE.</p> <p>In the immediate aftermath of the NIWE, the Severe Weather Emergency Legislation Act 2023 (SWELA) was passed into law on 20 March 2023 to support the immediate recovery and rebuild.</p> <p>SWELA introduced a permitted activity regime for rural landowners / occupiers by creating sections 331A-331E to the RMA which repealed on 1 April 2024. It allowed rural landowners and occupiers to undertake emergency works on their properties immediately following the severe weather events as a permitted activity. It applied to the Auckland Council, Bay of Plenty Regional Council, Carterton District Council, Hawke’s Bay Regional Council, Manawatū District Council, Masterton District Council, Northland Regional Council, Rangitikei District Council, South Wairarapa District Council, Tararua District Council and Waikato Regional Council.</p>	

The SWELA rural emergency works regime has not been fully implemented as Parliament intended it would be. In early 2024, the Hawke's Bay Regional Recovery Agency (HBRA) and Hawke's Bay Regional Council (HBRC) surveyed rural landowners on recovery progress. About 98% of respondents experienced cyclone related damage on their land. About 94% of respondents still have recovery works to complete, having not been able to utilise the permitted activity regime under SWELA before its expiry due to finance, availability of contractors and extended wet weather conditions. The HBRA asked the Minister for the Environment to extend the regime under SWELA as, despite the emergency being over, there are ongoing recovery activities to be undertaken.

SWELA was shortly followed by the Severe Weather Emergency Recovery Legislation Act 2023 (SWERLA) which provided for Orders in Council (OICs) to be made and is active until 2028. The SWERLA enables certain legislation to be amended temporarily via the OIC mechanism to exempt, modify, or extend statutory obligations where necessary to support recovery in the areas affected by the severe weather events.

Ministry for the Environment (MfE) officials have reviewed all potential pathways and have determined that an OIC is necessary to enable rural landowners and occupiers to carry out rural recovery works on their land. The proposed OIC also supports the ongoing rebuild and recovery of the Hawke's Bay region post-severe weather events.

This proposed OIC seeks to respond to the present day needs of rural landowners and occupiers in the Hawke's Bay. Rather than an outright extension of SWELA (which would require primary legislation) the proposal is to amend the RMA through an OIC to permit rural recovery activities until 31 December 2025. The proposed OIC would contain standards to manage the adverse effects resulting from rural recovery works.

Limitations and Constraints on Analysis

As this regulatory impact statement is interim, it is important to note that there may be gaps in the evidence base and the options presented may not have been developed to the level typically seen in a final RIS.

The policy issue relies upon data provided through a survey from the HBRA, and conversations with sector organisations and the HBRC, who are in close contact with those directly affected by the severe weather events. MfE is also developing a data set of rainfall data and land movement data to help quantify the scale of the damage experienced in the Hawke's Bay region.

This proposal is for an OIC for rural recovery works limited to the Hawke's Bay region. Officials approached all regions and districts affected by severe weather events under SWERLA to assess the need for such a regime. The Tararua District Council confirmed support, and officials are collecting data to evaluate the need in this district. The HBRC, HBRA, and Hawke's Bay industry organizations have reported that damage in Gisborne may be as severe as in Hawke's Bay. Officials are in discussions with Gisborne District Council to assess the need there.

Under SWERLA, the Minister must engage with local Māori, local community groups and the public and seek their comments on the proposed OIC. The parties have three working days to make their comments to the Minister. The Minister has a discretion to allow for a longer time and in this case public consultation is planned for two weeks, totalling nine working days.

There is a limitation on time, in that this policy issue is urgent. The key reasons for the high level of urgency are:

- The HBRRA estimate there will be a stronger focus on repair and rebuild activities over the next 6-12 months – particularly post-winter as ground conditions allow for works to be undertaken. This will include recovery activities that would ordinarily require a resource consent as well as other activities, such as repairing cyclone damaged fences, that would not.
- There is a large volume of rural recovery work across the Hawke’s Bay region that has not been able to be completed. Access within properties and to properties remains a critical issue for returning properties to pre-event production.
- The inability to get back to pre - NIWE conditions and regain economic security has resulted in significant financial and personal stress on farmers, which is being felt over a long period of time and resulting in extreme fatigue/exhaustion.
- Rural landowners and occupiers require certainty to undertake necessary work to reinstate their land to its pre - NIWE state.
- Resourcing needs already placed on the local authorities across severely affected regions is substantial. Without regulatory relief there is likely to be a significant increase in consenting, compliance and enforcement work. This will place further pressure on local authority resources which are already stretched.
- With rural recovery as of yet incomplete, resilience in these areas is currently low, necessitating ongoing support to recover from previous events and bolster resilience. Completing recovery works before any future severe weather events is crucial to mitigate severe impacts and prevent exacerbating existing issues.

Responsible Manager(s) (completed by relevant manager)

Heidi Baillie
 Manager
 Recovery Provisions - Adaptation
 Ministry for the Environment



19 June 2024

Quality Assurance (completed by QA panel)

Reviewing Agency:	Ministry for the Environment’s Regulatory Impact Analysis Team
Panel Assessment & Comment:	<p>A quality assurance panel with members from the Ministry for the Environment’s Regulatory Impact Analysis Team has reviewed the Severe Weather Emergency Recovery Legislation (Hawke’s Bay Rural Recovery Works) Order Interim RIS. The panel considers that it meets the Quality Assurance criteria.</p> <p>The QA panel notes that the Severe Weather Emergency Recovery Legislation (Hawke’s Bay Rural Recovery Works) Order Interim RIS is comprehensive, well-written and in response to a clear need, with risks and constraints clearly defined and discussed.</p>

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

Current state within which action is proposed (status quo)

Impacts of severe weather events in January and February 2023

1. In January and February 2023 there was significant and severe weather events experienced across the North Island, including Cyclone Gabrielle (the NIWE). This inflicted significant loss and damage with impacts on the economy, infrastructure, natural environment, primary sector businesses, and community wellbeing. In the Hawke's Bay region, over 10,000 hectares of horticultural land were damaged; lost production in 2023 was estimated at \$230m; over 120 bridges were either significantly damaged or destroyed, and substantial areas of land in the region are no longer safe to inhabit.
2. The North Island's recovery from the NIWE is an ongoing and pressing concern. Significant areas of land remain that were severely damaged by flood waters, silt and landslide particularly in the Hawke's Bay region. The attached Hawke's Bay Landslide map (refer Appendix A) shows the extent of landslides experienced in that region. MfE has been advised that many rural landowners/occupiers still have recovery activities to undertake.
3. In early 2024, the HBRRA and the HBRC undertook a survey on recovery progress by rural landowners with properties over 20 hectares (over 1500 farms in Hawke's Bay) with over 200 responses received.
4. About 98% of respondents experienced cyclone related damage on their land such as water supply damage, stock water system or dam damage, sediment across sites, planting losses, and issues with access around properties. The forestry sector has also identified culvert replacements and bridge repairs as a priority, and they anticipate the sector will also need to carry out earthworks, rebuild roads and replace existing structures damaged by the NIWE.
5. Based on the information from survey respondents around the amount of recovery work remaining (with 94% stating that they still have recovery works to complete) and comparing the responses received against GIS mapping showing the extent of landslips in the Hawke's Bay region, the scale of consents still required to enable recovery after the NIWE is significant.

How is the status quo expected to develop if no action is taken?

6. The status quo is that there is no OIC nor other new resource management mechanism in place. The standard process under the RMA would be used to obtain the relevant resource consents that are needed under the regional and district plans and national environmental standards. This would miss the opportunity to undertake the recovery works within a timescale that would enable earlier recovery from the severe weather events.
7. The works required for rural recovery will require discretionary or non-complying activity consents under the Hawke's Bay regional plan, district plans, and the National

Environmental Standard for Freshwater (NESF) (refer Appendix B). Obtaining resource consents under the standard consents process in the RMA would be a complex process for the scale of the works required (see Table 1 below), involving, for example, public notification and/or limited notification of consent applications. This would likely lead to lengthy processing timeframes, and public participation in the consent decision-making could potentially lead to Environment Court appeal proceedings that typically span several years before consents are issued. As a result, these recovery works could not begin swiftly and this would significantly affect rural recovery across the region. The costs and other burdens associated with these processes also falls hardest on those least able to bear them – in this case individual landowners/occupiers in the Hawke’s Bay region.

Table 1: High level steps and costs of consent process

Stage	Preparing application	Processing application	Hearing	Decision Issued
Steps and costs and time estimates	<ul style="list-style-type: none"> Gathering information, choosing and employing technical resources 	<ul style="list-style-type: none"> Council processing staff time, depending on scale, notification 	<ul style="list-style-type: none"> Notified for 20 working days for submissions to be made. 	<ul style="list-style-type: none"> Can be appealed by submitters.
	<ul style="list-style-type: none"> Time estimated between 1 and 6 months 	<ul style="list-style-type: none"> Time estimated between 2 and 12 months, depending on scale and volume received - council have limited resources to process consents. Timeframes are compounded by the volume received. Depending on the amount of submitters, hearings can range between 1 day and weeks. After the hearing, the commissioners make their decision. 	<ul style="list-style-type: none"> Environment Court time and cost. 	
	<ul style="list-style-type: none"> Costs estimated between \$3,000 and \$30,000 	<ul style="list-style-type: none"> Costs estimated between \$3,000 to \$80,000 	<ul style="list-style-type: none"> Ongoing compliance and monitoring costs. 	

- Major factors are impacting on the ability of rural landowners / occupiers to undertake rural recovery works including the unprecedented scale of damage across the Hawke’s Bay region. This has significant financial repercussions on individual rural landowners/occupiers, who are struggling to maintain profitability levels necessary to keep their farms productive, and on top of that to afford contractors with specialised skills and machinery to carry out necessary recovery works. The region-wide scale of the damage exacerbates these challenges, and the current resource consent process adds further time and cost, as well as uncertainty, delaying recovery. Removing these procedural barriers could expedite the recovery process and help restore the rural community's economic stability more swiftly.

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9. The financial impacts are significant for the rural community in Hawke's Bay, with more than one half of landowners estimating their own costs of NIWE recovery works to be over \$100,000. Officials have strong anecdotal evidence that the cost of consenting will be a significant barrier if standard RMA processes are used. In many cases it will equal or exceed the cost of the actual recovery works as the RMA consenting processes do not necessarily scale up or down depending on the cost of works. Rather they are tied to the activity classification and rules in the regional or district plan, or national environmental standards. This may mean quite small-scale works or may invoke significant consent application costs where non-compliance with a plan rule occurs.
10. For example, officials were informed one landowner in Tararua was quoted \$60,000 for preparation and processing of resource consent application alone. Aside from the inefficiencies of resources that could otherwise be deployed directly on recovery works going into consent processes, the financial stress over such a long period of time is leading to significant mental health pressure on farmers who are feeling extremely fatigued. The social cost of the ongoing recovery on the rural community in Hawke's Bay is significant.
11. The resourcing needs already placed on the Hawke's Bay local authorities is significant. Without regulatory relief there is likely to be a significant increase in consent application processing, compliance, monitoring and enforcement work. This will place further pressure on local authority resources which are already stretched.
12. Future severe weather events pose a risk to these areas. Completing recovery works before any future event is crucial to ensure severe impacts do not exacerbate existing issues. With rural recovery as yet incomplete in Hawke's Bay, resilience in these areas is currently low, necessitating ongoing support to recover from previous events and bolster resilience.

Key features and objectives of the regulatory system currently in place

13. The RMA promotes the sustainable management of natural and physical resources and sets rules and requirements to manage activities in the natural and built environment. Decisions made under the RMA are usually the responsibility of regional and district/city local authorities, through regional policy statements, regional and district plans, and resource consents. Consents for the rural recovery works (see Appendix B) are required as Discretionary and Non-Complying activities under the Regional Plan, various District Plans, and the National Environmental Standards for Freshwater (NESF). The timeframes and cost estimates of this process are depicted in Table 1.
14. Apart from the standard pathway for obtaining resource consents under the RMA, other pathways also exist. These are assessed in this interim RIS further paper below, and include:
 - a. Amend the SWELA timeframes for RMA s331A-331E by introducing similar provisions to those in s331A-331E until 31 December 2025
 - b. Further amendments to the RMA emergency provisions
 - c. Global consent
 - d. Schedule 1 Plan Change
 - e. The new Fast Track Bill approval process

- f. Fast-track consenting pathway (retained from NBEA under the NBEA Repeal Act 2023).

Key legislation of relevance

15. In the immediate aftermath of the NIWE, the SWELA was passed into law on 20 March 2023 to support the immediate recovery and rebuild. It is to be repealed in October 2024. It was shortly followed by the SWERLA which provided for OICs to be made, to be repealed in 2028.
16. SWELA introduced a permitted activity regime for rural landowners / occupiers by creating sections 331A-331E to the RMA which repealed on 1 April 2024. It allowed rural landowners and occupiers to undertake emergency works on their properties immediately following the severe weather events as a permitted activity. It applied to the Auckland Council, Bay of Plenty Regional Council, Carterton District Council, Hawke's Bay Regional Council, Manawatū District Council, Masterton District Council, Northland Regional Council, Rangitikei District Council, South Wairarapa District Council, Tararua District Council and Waikato Regional Council.
17. The SWELA rural emergency works regime has not been fully implemented as Parliament intended it would be – instead, few people were able to receive the benefit of it. Ninety-four percent of respondents to the HBRRA rural recovery progress survey still have recovery works to complete, having not been able to utilise the permitted activity regime under SWELA before its expiry due to finance, availability of contractors and extended wet weather conditions. The HBRRA and the HBRC asked the Minister for the Environment to extend the regime under SWELA as, despite the emergency being over, there are ongoing recovery activities to be undertaken.
18. The SWERLA, came into force on 12 April 2023 and expires on 31 March 2028. The purpose of the SWERLA is to assist communities and local authorities affected by the severe weather events to respond to, and recover from, the impacts of the severe weather events of 2023. It provides for planning, rebuilding, and making safety enhancements and improvements to the resilience of land and infrastructure.
19. The SWERLA also enables other legislation to operate more flexibly to support recovery. This is achieved via OICs that modify other legislation, relieving those affected by the severe weather events from certain legislative requirements. Modifications are also permitted where necessary to enable prompt action for an efficient and timely recovery. The SWERLA places restrictions on any OIC made under it, including the requirement that OICs must be necessary or desirable for the purposes of the SWERLA.

What is the policy problem or opportunity?

The nature, scope and scale of the problem

20. The North Island of New Zealand experienced severe weather events in January and February 2023, including Cyclone Gabrielle, resulting in substantial damage to the economy, infrastructure, natural environment, and community wellbeing. In Hawke's Bay, over 10,000 hectares of horticultural land were damaged, production losses were estimated at \$230 million, and over 120 bridges were damaged or destroyed. Many rural areas are still unsafe to inhabit.

21. Until the cyclone, the Hawke's Bay region had been surpassing the national economy for several years, fuelled by robust horticulture, agriculture and viticulture sectors along with tourism and a booming construction industry. The recovery is ongoing, but rural landowners face significant challenges in completing necessary recovery works due to the scale of the damage, the complex and costly resource consent processes, financial burdens, and insufficient support. Delays to the rural recovery works will mean that the negative effects of the cyclone on the economy and rural community will continue for longer.

Who is affected by this issue?

22. Rural landowners and occupiers face substantial challenges in completing necessary recovery works to return land to pre-NIWE conditions. For them, the urgency lies in restoring their land and resuming normal operations to alleviate financial strain and rebuild their communities. However, they are operating under less profitable conditions to normal given the unprecedented scale of the damage. Many are struggling to make ends meet economically, finding it difficult to finance recovery within one financial year after covering basic operating expenses under poor farming conditions. The situation is further complicated by the need to divert some of their capacity towards recovery works, especially when these involve complex and costly resource consent processes.
23. Local authorities, such as the HBRC, are tasked with efficiently managing the recovery process and supporting affected communities. However, stretched resources and increased workload due to the region wide damage sustained from NIWE and trying to carry out recovery in addition to business as usual (BAU) have strained their capacity. This will become further strained if required to process and monitor the volume of resource consents that would be required under the status quo RMA framework for rural recovery works. Without support, the processing times will become longer than usual given the finite capacity of local authority staff.
24. In early 2024, the HBRRA and Hawke's Bay Regional Council (HBRC) undertook a survey of rural landowners (with properties over 20 hectares (over 1500 farms in Hawke's Bay over 20ha)) with over 200 responses received, the majority of respondents being from sheep and beef farmers, and the majority of respondents being located in the south of the region. The survey sought to understand progress towards rural recovery one year on from the severe weather events.
25. In previous related consultation, the original permitted activity regime for rural emergency works was created through primary legislation (SWELA) passed just after the cyclones. This involved a short select committee process where people were able to submit. The Department for the Prime Minister and Cabinet (DPMC) was the lead agency developing that primary legislation, with MfE as part of the group of agencies who supported the work.
26. The HBRRA survey questions also covered financial impact, insurance cover and degree of increased preparedness in the future. For more than one half of farmers the financial impact of these events is over \$100,000, with almost three quarters of respondents stating they intend to take future action to increase resilience. Insurance cover was identified as a significant factor. Although more than two thirds of respondents were insured, of these 60% estimated their insurance is likely to cover less than 20% of the damage incurred and only 14% estimated they had cover for more than 50% of the damage incurred.

27. While insurance was identified as a significant factor in managing the financial impact of these events, it is not a comprehensive solution on its own. It is likely the respondent's estimates did not factor in the additional costs required to obtain resource consent for the recovery works, which are necessary to meet regulatory requirements under the RMA. This highlights the need for interventions beyond insurance, such as the proposed OIC.

What objectives are sought in relation to the policy problem?

28. The objective is for a locally led, central government supported approach that enables rural recovery works to be undertaken as permitted activities, where they comply with permitted activity standards. This will mean:
 - a. People and communities in the Hawke's Bay region can recover earlier from the effects of Cyclone Gabrielle.
 - b. The significant social and economic costs of response and recovery from the severe weather events are reduced at an earlier stage than would be possible under the standard RMA consenting pathway in the rural community. This will include lower costs overall from the status quo.
 - c. The significant pressures on council capacity to process resource consents under the status quo will be removed.
29. In designing a policy intervention, officials are mindful of the Coalition Government's commitment to upholding redress in Treaty of Waitangi settlements, and to managing adverse impacts on the environment.
30. The intended outcome is for an OIC, made under the SWERLA, that provides for permitted rural recovery works, enabling rural landowners / occupiers to begin in spring 2024 until December 2025, enabling two full springs, one summer and autumn seasons to complete works.

Section 2: Deciding upon an option to address the policy problem

Focus of this interim Regulatory Impact Statement

31. This interim RIS discusses options for addressing rural community cyclone recovery, considers key benefits and assesses whether there are any risks with the preferred option. The aim of the analysis is to recognise high-level costs and benefits and does not monetise the costs or benefits due to interim status of this RIS. Constraints on the assessment for the full RIS are likely to include the significant variability in costs associated with site remediation. Not all sites were affected equally, and the scale of damage and required remediation work differ widely among the over 1500 affected rural properties throughout the Hawke's Bay. Resource consent costs alone can range from \$6,000 to \$110,000 or more, influenced by factors such as the need for input from engineers or planners and the choice of technical service providers, whose fees can vary substantially. Given these variables and assumptions, accurately estimating costs is extremely challenging.

What criteria will be used to compare options to the status quo?

32. We have used the following criteria to compare the different options. The criteria are equally weighted.

- a. **Expediency** – the ability of the option to achieve the outcome sought in the quickest timeframe.
- b. **Cost** – the ability of the option to achieve the outcome sought with the lowest financial cost.
- c. **Effectiveness** – the ability of the option to support cyclone recovery in the rural community.
- d. **Capacity constraints** – the ability of the option to reduce strain on local authority capacity.
- e. **Uphold Crown obligations under Te Tiriti o Waitangi** – the ability of the option to honour the Treaty and uphold Treaty settlements and other arrangements.
- f. **Manage risks** – the potential of the option to result in unintended consequences.

What scope will options be considered within?

33. All the options are limited to RMA processes (as SWERLA provides MfE with an ability to develop an OIC that exempts specified groups from the provisions of the RMA). The options do not remove or alter any requirements to obtain consents or authorisations under other legislation. There are no feasible non-regulatory options available, as it is considered desirable from a policy perspective that activities in scope of the RMA planning regime should be authorised (either by RMA plans or an OIC).

What options are being considered?

Option One – Status Quo

34. The status quo provides for an RMA consenting regime. This has been developed to promote sustainable management. The RMA contains a set of standard provisions to enable emergency works or to take preventative or remedial measures when immediate action is required. These provisions are largely appropriate for responding to smaller events and emergencies. However, they are not sufficient for larger emergency events (such as the Christchurch and Kaikoura Earthquakes and the 2023 North Island severe weather events).
35. Without intervention the majority of the Hawke's Bay rural landowners / occupiers will require resource consent to return their land to pre – NIWE conditions. As aforementioned, there are over 1,500 rural properties over 20ha in the Hawke's Bay, and as shown in Appendix A, the cyclone damage has been region wide. The HBRRA survey indicated that 98% of respondents were affected by the NIWE. This can be extrapolated to estimate that there are over 1,000 rural properties which require recovery works to return to BAU. As shown in Appendix B, the majority of these works will require resource consent as discretionary or non-complying activities under the status quo RMA consenting regime.
36. As per Table 1, the timeframes for obtaining consents can be between 3-18 months, not including Environment Court if the decision is appealed. This can cost the applicant between \$6,000 and \$110,000 for the application process. Then once relevant consents are obtained, the rural landowner/occupier then needs to carry out the works themselves.

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37. The volume of consents would overwhelm the capacity of the local authorities staff to process on top of BAU work, and the local authorities do not have the funds available to outsource the processing of this volume of consents to contractors. The corollary of this is that the timeframes for recovery under the status quo for the region would take potentially 3 to 5 years.
38. The status quo timeframes and costs to rural landowners and occupiers would be likely to undermine financial stability in the rural sector. This could have serious impacts on the Hawke's Bay rural community's ongoing social and economic recovery.

Option Two – Rural Recovery Works Order in Council

39. This option is an exemption to the RMA that would be in place until 31 December 2025. This would enable a specified list of rural recovery works that would otherwise require resource consent to be undertaken as a permitted activity, where the user meets OIC notification requirements (to councils and where relevant iwi in advance of works) and complies with the permitted activity standards.
40. Rural recovery works could include:
 - a. Works in riverbeds to return to a previous alignment and diverting water to return to its pre-existing channel or course
 - b. repair, modification, extension or replacement of pre-existing river crossings, roading and tracks, including associated earthworks, soil disturbance, vegetation clearance and discharges
 - c. temporary diversion of water to undertake repair or replacement works within the bed of a river
 - d. discharge of clean fill within 20m of a river
 - e. disturbance of the bed of a river from removal of cyclone related debris, wood material and silt
 - f. earthworks and soil disturbance to remove silt deposition or reinstate erosion and the removal of excess silt/earth off site.
41. The specifics of what works would be included and the definitions to ensure they cover only recovery activities, not BAU works, are still being drafted for this OIC is and will be informed by the forthcoming public engagement process.

Option 3 – Amend SWELA timeframes for RMA by introducing similar provisions to those that were in s331A-331E

42. In the immediate aftermath of the NIWE, the SWELA was passed into law on 20 March 2023 to support the immediate recovery and rebuild. It is an omnibus Act that made changes to a number of existing laws including the RMA. Specifically, SWELA introduced a permitted activity regime for rural landowners / occupiers by inserting sections 331A-331E in the RMA.
43. The permitted activity regime was designed to help rural landowners and occupiers to undertake activities on their properties immediately following NIWE without the need to apply for resource consent, providing certainty and process efficiencies. These activities included the removal of silt, clearing slips and rebuilding of smaller structures like retaining walls, culverts and bridges. Tests and safeguards in the regime included containing significant adverse effects within the site boundaries, notifying the council of the activity (within 60 working days of works starting), and a requirement to obtain permission from relevant iwi or hapū if located on or impacting culturally significant

land. This provided the rural community the ability to continue with their recovery from NIWE whilst notifying relevant councils of the works for potential monitoring and enforcement purposes.

44. The relevant sections of SWELA were repealed on the close of 1 April 2024. Option 3 would see SWELA amended via new primary legislation to introduce similar provisions to those under s331A-331E with a repeal date of 31 December 2025¹.

Option 4 – Further amendments to RMA emergency provisions

45. As part of its work on replacement legislation to the RMA, MfE is exploring policy proposals for amendments to RMA emergency provisions (below) that could assist with rural recovery post severe weather events:
- a. Replicate the Natural and Built Environment Act 2023 (NBEA) s796 power, to make Orders in Council, into the RMA, to help respond to and recover from emergency events. The NBEA was repealed in December 2023.
 - b. Add additional powers (beyond those in s796) to allow the extension of timeframes for lodgement of retrospective consent for emergency works under s330(2).
46. Under these proposals the use of the power would be contingent on the declaration of a state of national or local emergency under the Civil Defence Emergency Management Act 2002 (CDEMA) however orders may continue to be created and apply after the declaration ceases for up to three years.
47. Option 4 is an ongoing body of MfE work addressing amendments to RMA emergency provisions (primary legislation) to allow for specific powers in emergency and recovery situations. This option is assessed as to whether it would be appropriate to respond to the policy issue of rural recovery post NIWE in the Hawke's Bay region.

Option 5 – Global consents

48. Global consents are more typically used and effective where there are works for a single issue (such as water take) and where the consent holder represents all the landowners/occupiers and/or is responsible for carrying out the work on their behalf. For rural recovery works, there is a variety of works required, with activities involving multiple (100s-1000s) of properties and several local authorities. This option requires agreement from the landowners/occupiers involved for their property to be subject to one consent.
49. The process of developing and making a decision on a global consent are typically longer than average and require considerable effort to coordinate across the many stakeholders, including iwi, hapu, Māori, local community, technical experts and local authorities. The properties are likely to be subject to different district plan rules and objectives and zones, and with some properties potentially straddling planning overlays, zones, and districts. This option is extremely complex in practice to carry out.

¹ Refer: <https://legislation.govt.nz/act/public/2023/0004/latest/LMS822431.html>

Option 6 – Schedule 1 RMA plan change

50. This option has not been pursued yet due to the scale of the damage, the assumption that the SWELA's one year time limit would be sufficient, and the necessary allocation of council resources, which could be used to draft and process a plan change, to emergency response. As discussed above, various unanticipated factors prevented many landowners and occupiers from using the permitted activity regime in the SWELA.
51. Under this option plan changes are required across multiple RMA plans, which may be at varying stages. The standard Schedule 1 process of submissions and appeals provides opportunity for wider public participation, however a standard plan change process can be lengthy, with an average processing timeframe of two years to resolve hearings and appeals. This process is also costly for local authorities, landowners/occupiers and the public to participate in.
52. Option 6 cannot address all the necessary changes to RMA regulatory documents. An RMA plan change must comply with national environmental standards, and for this topic, the NESF is relevant, controlling works in proximity to wetlands. The RMA Schedule 1 Plan Change option cannot override national direction, and thus cannot promulgate changes to the NESF.
53. Plan changes for the purpose of emergency recovery may meet the criteria for Streamlined Plan change process (Schedule 1 Part 5), but still require multiple processes and take a longer time than other options, and has the same costs involved as for a usual Schedule 1 Plan Change.

Option 7 – Use the new Fast-Track Approvals Bill approval process

54. The Fast-Track Approvals Bill is anticipated to be based on previous fast-track consenting regimes, but with important differences to enable projects that have significant local, regional, or national benefits to be consented more quickly and more efficiently. The Bill will set out a 'one-stop shop' process for approvals under a range of legislation. The Bill may contain a list of projects that will be assessed in parallel to the development of the Bill and provided to the Minister(s) for referral assessment almost immediately upon enactment.
55. Applications will be assessed against a set of criteria by the relevant Minister (with assistance from relevant agencies), to determine their benefits for our economy and environment. As activities that will support recovery from natural hazards, rural recovery works are eligible. However, the eligibility criteria also include, at Clause 17(2)(a), that consideration is given to 'whether the project will have significant regional or local benefits'. Cumulatively as a global consent it is possible that the rural recovery works would meet this, but individually it would not meet the eligibility criteria. The eligibility criteria therefore means that the rural recovery works would need to be approached as a global consent in order to utilise this fast-track process.
56. The assessment will ensure protections for Treaty of Waitangi settlements and other legislative arrangements including under the Marine and Coastal Area (Takutai Moana) Act 2011, Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, Mana Whakahono ā Rohe and Joint Management Agreements made under the RMA.

IN CONFIDENCE

57. The responsible Minister would then decide whether to refer the project to an Expert Panel (EP). The EP would then apply any necessary conditions to ensure a project meets environmental and other outcomes.
58. When enacted it is likely the new fast-track process will remove the need for future Orders that modify RMA consenting processes. However, as this option is a Bill, it is difficult to assess with complete certainty the final shape and scope of the Act as it may relate to rural recovery works.

Option 8 – Fast-track consenting pathway (retained from NBEA under the NBEA Repeal Act 2023)

59. The Government has retained the fast-track consenting pathway from the now repealed Natural and Built Environment Act 2023 (NBEA)². This is an interim measure until a new, standalone fast-track consenting legislation comes into effect and enables the fast-track consenting of a list of eligible activities including housing development and infrastructure activities³. This is not a viable option as the rural recovery works are not included in the list of eligible activities.
60. Option 8 is therefore not a realistic possibility for addressing rural recovery works.

² Refer Schedule 1 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023

³ Refer Clause 14, Part 2 of Schedule 10 of the repealed NBEA for the list of activities eligible for the fast-track consenting process.

How do the options compare to the status quo?

	Option One – Status Quo	Option Two – Rural recovery works OIC Preferred option	Option Three - Amend SWELA timeframes for RMA by introducing similar provisions to those that were s331A-331E	Option Four - Further amendments to RMA emergency provisions	Option Five - Global consents	Option Six - Schedule 1 RMA plan change	Option Seven – Use the new Fast-Track Approvals Bill approval process
Expediency	<p>0</p> <p>Seeking a resource consent is an uncertain process, there is no assurance of outcome for the applicant. It is a time-consuming process, with approximately 3-18months from starting to decision, depending on the complexity and scale of the works required. This process is also costly for the applicant with costs ranging between \$6,000 and \$110,000 (costs vary depending on needs for expert input such as</p>	<p>++</p> <p>Will support rural recovery in the swiftest manner possible, with enactment in September 2024, until December 2025. This will provide time for most of the rural landowners and occupiers with land affected by the NIWE to undertake the recovery</p>	<p>-</p> <p>Will support recovery, but the timeframes to achieving this primary legislative change are too long for this policy response in that they will not be in force before 2025/26 which would result in similar if not worse delays to recovery than would be experienced under the status quo. Furthermore, the purpose of the legislative intent is no longer applicable, due to the 'emergency' phase being over. The need for</p>	<p>-</p> <p>Will support recovery, but the timeframes to achieving this primary legislative change are inappropriate for this policy response – in that it will not be in force until 2025/26, and thus delays to recovery would be similar if not worse than that experienced under the status quo. For this reason it is not an expedient option. Timeframes are expanded on under the 'effectiveness' discussion below.</p>	<p>--</p> <p>Seeking a resource consent is an uncertain process for the applicant (no assurance of outcome), and is a time-consuming process, with a complex global consent(s) covering such a variety of activities anticipated, across such a large geographical area and across 5 different local authorities, with 100s if not over 1000 individual property owners involved, in increase the time and uncertainty experienced by</p>	<p>--</p> <p>Sch 1 plan changes are uncertain processes, more so than the status quo as there is no assurance of outcome. It adds significant time from the status quo through requiring a lengthy timeframe for preparation (3-9months average) and processing (1-2 years average) of the proposed plan change time, which then requires a second step of implementation (which could involve some form of consent process depending on how it is approached). This</p>	<p>--</p> <p>The legislative process for the bill extends into mid-late 2024. It will speed up consenting faster than the status quo. The eligibility criteria means that the rural recovery works would likely need to be approached as a global consent, in that Clause 17(2)(a) requires that consideration is given to 'whether the project will have significant regional or local benefits'. Cumulatively as a global consent, it is possible that the rural recovery works would meet this, but</p>

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	<p>engineering and planning professionals, and the differences in different consultant fees, as well as whether the applicant must pay for a hearing and independent panel of commissioners to process the application. The volume of consents required (approx. 1,000) significantly adds to the workload of council resources, which in turn increases processing time due to the finite amount of staff time. This status quo will result in 3-5yrs to obtain consent, and such a long term for recovery has ongoing impacts on</p>	<p>works to reinstate their land to a pre-cyclone condition, while not indefinitely suspending the NESF and regional and district plan rules and standards under the RMA. There are significant cost reductions for rural landowners / occupiers from the status quo consent process. There are</p>	<p>intervention has changed from emergency to recovery – because of this an Order is more appropriate. We note SWELA was very broadly drafted (as is appropriate for emergency primary legislation), but 15+ months on from the NIWE it is now more appropriate to respond to the specific policy problem with a targeted and specific order amending the RMA, with detailed list of activities and standards.</p>		<p>applicants significantly compared to the status quo, whilst the processing of the consent may have some benefits through the ability to cost save on council processing staff and time by pooling resources to process the global consent. The processing and monitoring of complex global resource consents places significant additional demands on the local authorities at a time when they are very stretched for resources.</p>	<p>process adds costs to the landowner / occupier to be involved in the plan change process (planning, engineer, legal experts, as well as their own time and expert time at hearings) from the status quo. Adds to workload of council resources, who are already strained. This delays the recovery process and has ongoing impacts on the community wellbeing and economy. The two step process of undergoing plan changes, then implementing the new system, adds significant time to the recovery process.</p>	<p>individually it would not meet the eligibility criteria. As discussed under Option 5 for Global consent, in a situation where all landowners and their variety of activities are applied for under one global consent there is significant logistical time delays to coordinate the volume of landowners and their various requirements, noting that there are potentially over 1000 affected rural properties. This adds approximately 6 months to the application preparation time simply through coordination of the</p>

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	the community wellbeing and economy. Additionally, the processing and monitoring of this large volume of resource consents places significant additional demands on the local authorities at a time when they are very stretched for resources.	significantly less resource consents required to be processed by council staff and pressures on them are reduced.					volume of affected individuals. This also requires significant financial investment on behalf of the rural landowners /occupiers through the need to employ consultants (planning, engineering, legal). Finally, as this option is a Bill, it is not certain at this stage what the final outcome will be of this piece of legislation, and thus difficult to assess with any certainty whether it can achieve expediency as we do not know the final shape and scope of the Act.
Cost	0	++	++	0	-	--	-

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	Costs for preparing and processing consents under the status quo remain expensive, estimated between \$6,000 and \$110,000 per consent for the preparation and processing, depending on the scale of the damage.	Will remove regulatory red tape for rural landowners / occupiers and will facilitate recovery and enable rural recovery works to be undertaken without the need for a resource consent. This provides the rural landowner / occupier with greatly increased certainty over the status quo.	Will remove regulatory red tape to facilitate recovery. Costs for processing are removed for rural landowners / occupiers compared to status quo.	Will remove regulatory red tape to facilitate recovery. The outcome of what exactly could change for consenting for the types of activities required is unknown as this has not been drafted yet, and so this score is the same as status quo, neither a positive nor negative cost.	Adds costs through the need to employ technical experts and pay for costs recovery of council staff time, as well as payment for commissioner time. As a complex consent(s) these staff and commissioner costs will be significant, as well as increased costs of applicant technical expertise.	Adds costs through the need to employ technical experts and pay for costs recovery of council staff time, as well as payment for commissioner time. As a complex process these staff and commissioner costs will be significant, as well as increased costs of applicant technical expertise. May exclude some rural landowners/occupiers who cannot afford to participate in the process.	Adds costs for rural landowners . occupiers through the need to employ technical experts and pay for costs recovery of commissioner time.

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		Will remove processing costs for rural landowners / occupiers compared to status quo.					
Effectiveness	0 Uncertain (no assurance of outcome for applicant), time-consuming (processing time), and costly (processing costs, consultant costs for applicant) for the rural landowner /occupier. Will eventually enable recovery activities. Existing RMA regime does not readily address major civil emergencies. The	++ Will remove regulatory red tape to facilitate recovery. This adds considerable certainty to the rural landowner /occupier that the works can be undertaken lawfully and swiftly. Has achievable timeframes	- Would support recovery, but the timeframes are inappropriate as achieving an amendment to primary legislation would be highly unlikely to be successful, as the legislative timetable for 2024 is full. MfE has already submitted legislative bids for Bills for this year, and the repeal of the rural emergency works regime was not	- Adds uncertainty to rural landowners /occupiers as there is no assurance of outcome. There is increased time delays to rural recovery through the legislative process. Will eventually enable recovery activities, but the timeframes are too long. There is no realistic potential that changes could be progressed as part of RM Bill 2 works,	- Is uncertain for rural landowners /occupiers (no assurance of outcome). Adds time (coordination of rural community, preparation of consent application, processing time), and costs (processing costs, consultant costs, including additional costs for attending hearings and paying for consultants to attend hearings) for rural	- Is uncertain for rural landowners /occupiers as there is no assurance of outcome. It adds time (preparation and processing and hearing time), and costs (processing and hearing costs (including additional costs to attend in person and to pay for consultants to attend in person)) for rural landowners/occupiers. Will eventually enable recovery	- Will remove regulatory red tape to facilitate recovery, with associated benefits for rural landowners (time) and council staff (not required to process applications). The process will involve approximately 12 months of processing time. Due to the eligibility criteria, the works would need to be applied for as a global consent to

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	<p>existing emergency provisions in RMA do not cover the recovery period that occurs after an emergency, which can last for several years. These limitations have resulted in the need for bespoke legislation, and subsequent orders in council such as under the SWERLA to be developed to assist in response and recovery for large scale events such as Christchurch and Kaikoura Earthquakes and the 2023 NIWE. Requires significant time from council resourcing to process the 100s-</p>	<p>that will provide support to rural community swiftly. Will remove regulatory requirements for councils and free up council processing and monitoring staff who are already busy with BAU.</p>	<p>brought to our attention early enough to request time on the legislative programme for this. The timeframes therefore would be delayed by more than a year until Bills for 2025 are available. By this stage, SWELA will have been entirely repealed.</p>	<p>as the final scope of RM Bill 2 has been confirmed already and there was not sufficient time to include this proposal within that scope.</p>	<p>landowners/occupiers. Will eventually enable recovery activities, but the timeframes are too long. A Global Consent would require significant coordination across the region to gain agreement of all the individual rural landowners /occupiers to be party to the consent, the process for which is estimated to take 3-6months. The processing of the application is likewise complex due to the region-wide scale, and will likely take 6-12months. There is potential to exclude persons who do not wish to</p>	<p>activities, but the timeframes are too long – a standard process for a schedule 1 plan change can take 12months to 2 years, and then afterwards requires the implementation step, thus significantly delaying recovery comparatively to the status quo. Furthermore, the RMA Schedule 1 Plan Change option cannot override national direction, and thus cannot promulgate changes to the NESF. Many activities will still require consent as discretionary activities.</p>	<p>meet the requirements of Clause 17(2)(a). This may exclude some rural landowners /occupiers who do not wish to proceed on a global basis. Global consent under this option will significantly increase complexity, and increase time for preparation and processing of consent. Furthermore, as this option is a Bill, it is not certain at this stage what the final outcome will be of this piece of legislation, and thus difficult to assess with any certainty whether it can achieve</p>

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	1000 anticipated applications, at a time where council staff are already strained.				<p>approach the recovery works through a global consent process, or who do not have the funds to contribute to the process financially, thus limiting this options' effectiveness.</p> <p>Given the complexity of this application and the complexity of processing, this option adds strain to council resourcing during processing.</p>	<p>This option would be council led, and require significant coordination across the 5 local authorities to achieve a combined plan change that slots into each plan without undermining the integrity of any of them. Given the complexity of process and the many council resources that would be required (planners, engineers, monitoring and enforcement, scientists, infrastructure, administration), this option adds significant strain to council resourcing</p>	effectiveness as we do not know the final shape and scope of the Act.

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						over a long period of time (1-2yrs).	
Capacity constraints	0 Council resources, already strained under BAU, are placed under further strain with processing 100s possibly over 1,000 resource consents.	+ Removes regulatory red tape and so frees up council capacity to address BAU. The proposal will require some council staff time to receive and vet the notifications of intent. This is a much smaller workload than the status quo.	+ Removes regulatory red tape and so frees up council capacity to address BAU. The proposal will require some council staff time to receive and vet the notifications of intent. This is a much smaller workload than the status quo.	+ Removes regulatory red tape and so frees up council capacity to address BAU.	-- The processing and monitoring of a complex resource consent(s) places significant additional demands on the local authorities at a time when they are very stretched for resources.	-- The preparation and processing of a plan change and the coordination required across the region and the different plans (regional and district) places significant additional demands on the local authorities at a time when they are very stretched for resources.	+ Removes regulatory red tape and is processed by an Expert Panel of commissioners not council, and so frees up council capacity to address BAU.
Treaty	0	0	0	0	0	0	0

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	Meets expectations/obligations	Requirement to notify in advance of works to any relevant iwi/Māori hapu, with a request for written permission, should meet obligations. The short consultation period can still meet treaty obligations if it ensures intensive, focused engagement and utilises technology for broad-based participation, thereby	Meets expectations/obligations	Meets expectations/obligations	Meets expectations/obligations	Meets expectations/obligations	Meets expectations/obligations

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		fulfilling the core principles of inclusivity, transparency, and meaningful input. Additionally, clear communication and prior preparation can enhance the effectiveness of the consultation within a limited timeframe.					
Manage Risks	0 Will manage environmental risks. Will increase risk of damage/loss of life in future severe weather events due	0 May increase environmental risks from non-compliance.	0 May increase environmental risks from non-compliance. The notification	0 Will manage environmental risks. Will increase risk of damage/loss of life in future severe weather events due	- Will manage environmental risks. Will increase risk of damage/loss of life in future severe weather events due	- Will manage environmental risks. Will increase risk of damage/loss of life in future severe weather events due	- Will manage environmental risks. This option also raises an equity issue if some rural landowners

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	to delayed recovery and low resilience.	The notification requirement and targeted scope of activities should mitigate this risk.	requirement should mitigate this risk. Will increase risk of damage/loss of life in future severe weather events due to delayed recovery and low resilience.	to delayed recovery and low resilience.	to delayed recovery and low resilience. May exclude some rural landowners /occupiers who do not wish to approach the recovery works through a global consent process, or who do not have the funds to contribute to the process financially.	to delayed recovery and low resilience. May exclude some rural landowners /occupiers who do not have the funds to contribute to the process financially, raising an equity issue.	occupiers were to be selected for fast track and others not. There are also unknown risks of this option as this option is a Bill, it is not certain at this stage what the final outcome will be of this piece of legislation, and thus difficult to assess with any certainty what unknown risks will be as we do not know the final shape and scope of the Act.
Overall assessment	0	+	-	-	--	--	-

Key for qualitative judgements:

- ++** much better than doing nothing/the status quo
- +** better than doing nothing/the status quo
- 0** about the same as doing nothing/the status quo
- worse than doing nothing/the status quo
- much worse than doing nothing/the status quo

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

61. Option 2 - Rural recovery works OIC, is the preferred option which will meet the policy objectives and deliver the highest net benefits. This option is the agency's preferred option. It presents notable advantages over the status quo and other proposed options. Specifically, the Rural Recovery Works OIC excels in expediency and cost-effectiveness, receiving the highest ratings in these categories. By swiftly enacting measures to support rural recovery, this option minimises delays in the restoration process while mitigating financial burdens for affected landowners and occupiers. Moreover, it achieves a positive overall assessment, indicating its superiority in delivering net benefits compared to the alternatives.
62. In contrast, other options, such as amending legislation or implementing global consents, demonstrate shortcomings in expediency, cost, and overall effectiveness, rendering them less favourable choices. The standard RMA resource consent process and other options under it (5 and 6) are process heavy and are not set up for addressing the unprecedented scale of damage and recovery as a result of the NIWE. In addition, the rural recovery works are unable to fit the eligibility criteria for entry into the RMA's fast-track consenting process.
63. The new Fast-Track Bill approval process (Option 7) has some benefits in expediency on paper. However, as it is currently a Bill and not an Act, the final outcome is uncertain. Therefore, it is difficult to accurately assess its ability to expedite recovery, potential risks, or if the rural recovery works will meet the eligibility criteria, as we do not know the final shape and scope of the Act until its enactment.
64. We note the existing RMA regime does not readily address major civil emergencies. The RMA contains a set of standard provisions to enable emergency works or to take preventative or remedial measures when immediate action is required. These provisions are largely appropriate for responding to smaller events and emergencies. However, they are not sufficient for larger emergency events (such as the Christchurch and Kaikoura Earthquakes and the 2023 North Island severe weather events).
65. The existing RMA emergency provisions also do not cover the recovery period that occurs after an emergency, which can last for several years. These limitations have resulted in the need for bespoke legislation, and subsequent orders in council such as under the SWERLA to be developed to assist in response and recovery for each of the events mentioned above.
66. Therefore, the Rural Recovery Works OIC is the most viable solution, offering tangible improvements and demonstrating a commitment to addressing the challenges posed by the recovery process following the natural disaster.

What are the marginal costs and benefits of the option?

67. In this analysis we have considered the cost of the preferred option (the OIC) as compared with taking no action (using the standard RMA consenting pathway). The alternative options received net disadvantages in the Multi Criteria Assessment above, due to the effectiveness of their respective abilities to provide regulatory relief

in an appropriate timeframe to assist with rural recovery in the Hawke’s Bay, and therefore the RMA status quo would be the preferred option in absence of an OIC.

68. An explanation of low, medium and high impact is given below:
- a. Low impact: The difference between the impact from the OIC pathway and the RMA pathway are expected to be nil or negligible.
 - b. Medium impact: There is an expected difference between the impact from the OIC pathway and the RMA pathway, but this difference is expected to be not substantial.
 - c. High Impact: The difference between the impact from the OIC pathway and the RMA pathway are expected to be substantial (higher or lower).
69. In the table, impacts are described as one-off, or ongoing. One-off impacts will normally not last beyond a specific stage in the recovery works. Ongoing impacts are longer, may extend over several years, and may generate a variety of other impacts that are not anticipated here.

Affected groups	Comment	Impact <i>Non-monetised impacts:</i> - Cost: low, medium, high - Benefit: low, medium, high - No impact	Evidence Certainty <i>High, medium, or low</i>
Additional costs of the preferred option compared to taking no action			
Rural community /Residents	<p>Under SWELA the permitted activity regime for emergency works was not limited in the way proposed by this OIC (proposed to have a limited scope of Permitted activities and new standards required to meet for environmental management) and so there could be an equity issue between the rural landowners/occupiers who utilised SWELA and had a larger scope of activities, and those who will use the OIC after enactment.</p> <p>However, if no action is taken, then rural landowners/occupiers may face additional costs and risk if they</p>	Low (on-going until revocation)	Medium

	undertake work without the OIC in place as resource consents will be required.		
Rural community /Residents	<p>The proposed OIC will make some rural recovery works permitted, with a specified scope and permitted activity standards.</p> <p>As the SWELA permitted activities and these were not limited in these ways, there is potential that potential users will misinterpret the OIC and carry out activities anyway, without providing proper notification to council and potentially carrying out activities that could be harmful to the environment.</p>	High (one-off)	Medium
Local government	<p>The proposed OIC will include a process where the Order users will send notification to council of their intent to utilise the Order. The council will then have to check the notifications to ensure that the proposal includes only activities on the permitted activity list, and complies with the permitted activity standards.</p> <p>This proposed OIC does not therefore completely remove all consent processing requirements from council staff, but minimises them.</p>	Medium (on-going until revocation)	High
Iwi/Hapu/Māori	The proposal removes the right to object or lodge RMA appeals on consents, as the consents are to	No impact	

	<p>become permitted activities (where they meet the permitted standards) that would otherwise be discretionary activities.</p> <p>However, where the activities may impact on or are within areas of cultural significance, the landowner/occupier must notify in advance the relevant iwi/ hapu and must seek permission to undertake the works.</p> <p>If permission is not obtained, then the works cannot proceed under the OIC and a resource consent must be sought under standard processes.</p> <p>This ensures that there are no unintended impacts on culturally significant land.</p> <p>Nb. Iwi/hapu are also rural landowners/occupiers. Refer also to the rural community and residents rows above.</p>		
<p>Residents who are not able to object or appeal the consents</p>	<p>As there is no capacity to object or lodge RMA appeals under the OIC as the activities will become permitted (where within scope), people who would otherwise have objected or appealed under the standard RMA consent pathway will not receive the benefits that might have resulted from their objections to</p>	<p>High (potentially on-going)</p>	<p>High/Medium</p>

	<p>consents. In most cases these benefits (financial or other gains, or the avoidance of loss) would outweigh savings related to losing the ability to object (eg, not engaging lawyers to draft submissions and attend hearings etc.).</p> <p>As the ability to object or appeal the consents may have the benefit of ensuring that consents and consent conditions are subject to a more complete and wider analysis, removing that ability may have longer-term negative impacts. These impacts may include, for example, the effects on communities and the environment that arise from the design of the flood works.</p> <p><i>High evidence certainty for no costs of objection through the permitted works status under the OIC.</i></p> <p><i>Medium evidence certainty for longer-term impacts of removal of that ability.</i></p>		
Non-monetised costs		<i>High</i>	
Additional benefits of the preferred option compared to taking no action			
Rural community /Residents	If the OIC enables the recovery works to be completed earlier than would be possible if consents were obtained under the standard RMA pathway, farmers and rural communities will benefit from earlier	High (on-going)	High

	<p>recovery. For example - opening roads, restoring land to farming, better access, fewer animal welfare concerns, and higher farmgate prices.</p> <p><i>High evidence certainty (indicated throughout the recovery plan)</i></p>		
	<p>The costs of consents for works are expected to be lower than if the standard RMA consenting pathway were used. The OIC replaces the standard consenting pathway with a permitted status where users notify council (and iwi where relevant) in advance of works and comply with permitted standards.</p>	High (one-off)	High
Local government	<p>The local government staff is anticipated to be under less pressure under the OIC than if the status quo standard RMA process applied, and permitted activities do not require the same processing as the discretionary activities would.</p>	High (on-going throughout recovery)	High
Iwi/Māori	<p>The proposed OIC will apply to Māori owned rural and Māori purpose zoned land, meaning that iwi/Māori are able to benefit from the OIC and undertake recovery works on land as permitted activities (where standards are met).</p>	High (on-going until revocation)	High
Non-monetised benefits		<i>High</i>	

Total costs and benefits

70. In the summary table above, it is apparent that the benefits of the OIC would outweigh the costs. This is because:
- a. The OIC will allow the recovery works to begin earlier than if the standard RMA consenting pathway were used. This earlier commencement means that the benefits of the recovery will be felt earlier by the rural community across the region, lowering the significant social and economic costs currently being experienced by the rural community in the Hawke's Bay.
 - b. The benefits of an earlier recovery outweigh the main cost of using the OIC - the lack of ability to object or appeal, and the risk of temporary adverse environmental effects from non-compliance.

Section 3: Delivering an option

How will the new arrangements be implemented?

71. This RIS is an interim report only. The final details of the OIC are not clear yet as no drafting has occurred. It is proposed that the OIC will be implemented through use of a robust communications and engagement strategy to inform the rural community in the Hawke's Bay of its enactment, and how it works. It is proposed to require users to indicate an intent to use the OIC to the relevant local authority, who can then check the proposal to ensure it is consistent with the permitted standards. It is proposed that the OIC's modification to the RMA should last until 31 December 2025. This will provide time for most of the rural landowners and occupiers with land affected by the NIWE to undertake the recovery works to reinstate their land to a pre-cyclone condition, while not indefinitely suspending the NESF and regional and district plan rules and standards under the RMA.
72. The OIC is not proposed to have retrospective effect.
73. There will be communications strategies and engagement plans coordinated between MfE and the HBRRA to ensure that the rural community are aware of the OIC and its parameters, to ensure their ability to implement the OIC when they have the capacity (time, funds, access to contractors).
74. Reviews of existing OICs created under SWERLA shows there is a risk that the notification requirement may be ignored and works carried out nonetheless. It is believed that a clear and comprehensive communications and engagement strategy, which specifies clearly the outcomes of non-compliance, will mitigate this risk.

How will the new arrangements be monitored, evaluated, and reviewed?

Monitoring and evaluation

75. Monitoring of the activities will occur when required by the relevant council compliance staff. The OIC requires users to notify the council with their intent and scope of works, which allows councils to check in advance of works occurring that the activities are in scope of the permitted works and in accordance with the permitted standards and gives the council the opportunity to go out on site to monitor the works as they occur. The process of compliance monitoring involves carrying out inspections and using compliance approaches to promote behaviour change and incorporate best practice⁴.

Review of the Order in Council

76. It is proposed that the OIC requires a review one year after enactment. This review will be undertaken by MfE as part of MfE's regular reviews (which started in early 2024) of OICs that are made under the SWERLA, and for which the Minister for the Environment is the responsible Minister.
77. The regular reviews are required under Section 12 of the SWERLA, which obliges the relevant Minister to decide whether to continue to be satisfied in relation to the following matters (SWERLA section 8(1)(a)):
 - a. The order is necessary or desirable for one or more purposes of SWERLA

⁴ Regulation & Compliance | Hawke's Bay Regional Council (hbrc.govt.nz)

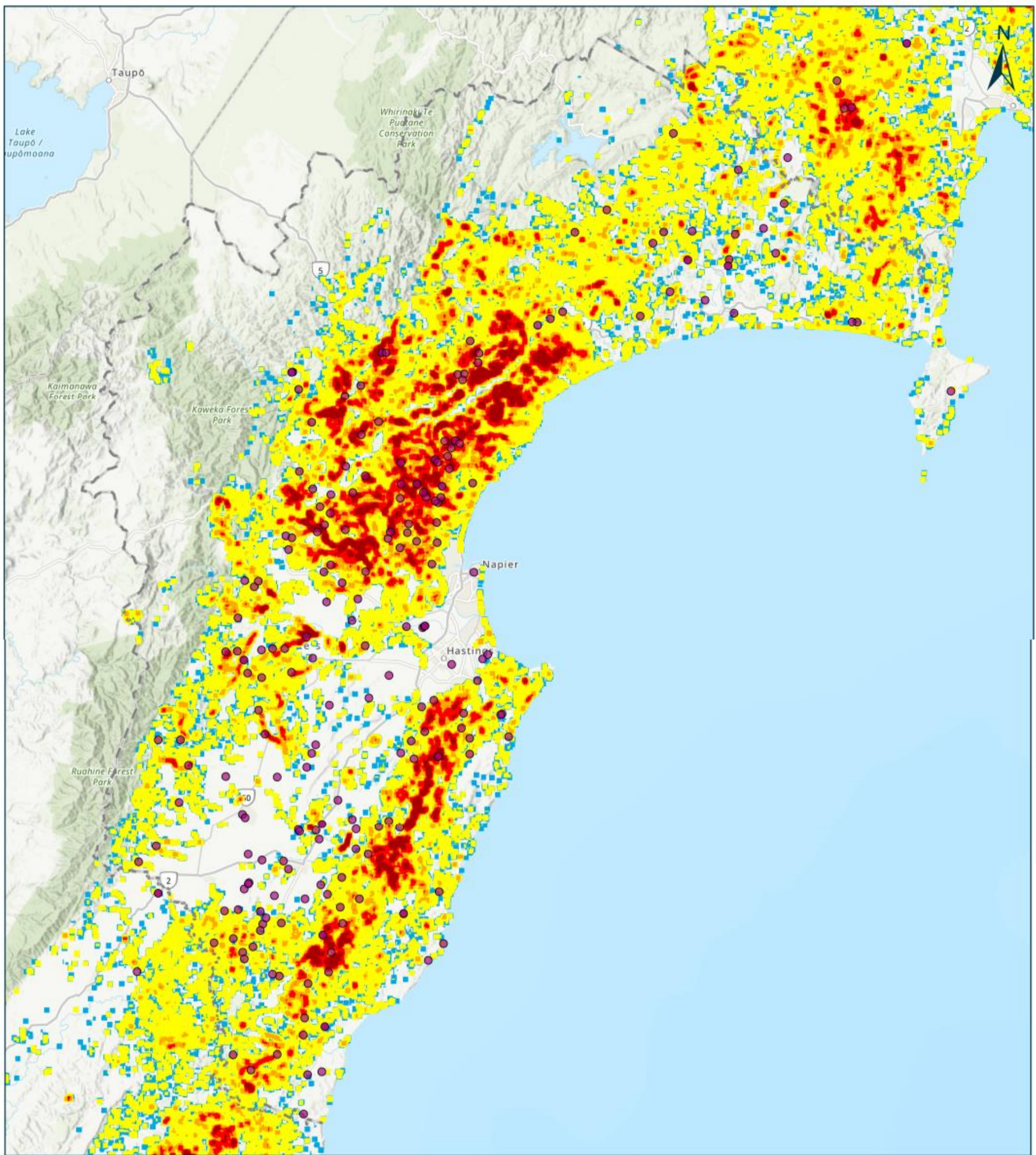
- b. the extent of the order is not broader (including geographically broader in application) than is reasonably necessary to address the matters that gave rise to the order.
- c. the order does not breach section 11⁵ of the Act
- d. the order does not limit or is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990.

78. The main steps of a review by the responsible agency are:

- a. Approximately two months before a review begins, MfE informs stakeholders and Treaty partners about the information it is seeking, the relevant dates for the period to which the information refers, and opportunities for engagement.
- b. MfE engages with internal and external stakeholders, and Treaty partners, to receive feedback on the use of the OICs and the impacts they are having.
- c. MfE analyses the feedback and data received from stakeholders and Treaty partners. The draft options and recommendations for the Minister are reviewed by the Legal team and a Treaty impact analysis is completed before they are finalised.
- d. MfE advises the Minister on whether the OIC remains necessary or desirable, and whether changes are needed to ensure it remains fit for purpose. If the Minister agrees to changes, we will work with relevant parties on the amendments.
- e. Key information relating to reviews is published on the MfE website. MfE liaises with other government agencies, as appropriate, on the outcomes of reviews.

⁵ Section 11 restricts the OIC from granting or modifying a requirement to release someone from custody or to have their detention reviewed, or from granting or modifying an exemption or restriction imposed by (for example) the New Zealand Bill of Rights Act 1990.

Appendix A: Hawkes Bay Location of Landslide Caused by Cyclone Gabrielle



Hawkes Bay Rapid Landslide Density

LEGEND

- Cyclone Impact Survey Locations
- Landslide Density**
- 0 - 0.0003
- 0.0003 - 0.001
- 0.0011 - 0.025
- 0.025 - 0.05
- 0.05 - 0.1
- 0.11 - 0.9696

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Date: 8/04/2024
 Scale: 1:690,000 @ A3
 Reference Systems:
 NZTM | NZVD2016



Appendix B: Table showing types of activities identified by rural community with BAU regulatory framework that it would fall under

Nb. Abbreviations used are:

CHBDC Central Hawke's Bay District Council

DP District Plan

HBRC Hawke's Bay Regional Council

HDC Hastings District Council

NCC Napier City Council

OIC Order in Council

RP Regional Plan

RRA Hawke's Bay Regional Recovery Agency

WDC Wairoa District Council

Other regulations referred to:

NESF National Environmental Standard Freshwater

Stock exclusion OIC Resource Management (Stock Exclusion) Regulations 2020

Time extensions OIC Severe Weather Recovery (Resource Management – Time Extensions) Order 2023

Waste Management and Waste Minimisation OICs Severe Weather Emergency Recovery (Waste Management) Order 2023 / Severe Weather emergency Recovery (Waste Minimisation) Order 2023

Work requirement identified by rural community in RRA survey	National rules District Plan Rules and standards Nb. Rules are summarised once, then cross-referenced.	MfE comments / analysis
Track damage (92% respondents affected)	<p>Earthworks DP Earthworks for forestry activities are permitted in Hastings District Council (HDC) (27.1.5(c)). In HDC earthworks of 2000m³ per hectare of site in the Rural Zone (100m³ for Rural Residential, Tuki Tuki and Plains Production zones (27.1.6A)) per 12 month period are Permitted Activities. Earthworks that remove less than 25m³ per site (plains production zone) or 100m³ (all other rural) per site per 12 month period are Permitted Activities (EM3), which elevate to Discretionary Activities in the PPZ (EM10 and EM11) and to RDIS in all other zones (EM6).</p> <p>Under the Wairoa District Plan (WDC) the definition (and associated exclusions) of earthworks, earthwork activities in the rural and settlement zones to maintain farm tracks, tracks or roads, irrigation or land drainage or dam building are permitted activities, where they are further than 20m from the bank of a waterway. The remaining earthworks activities (clearing silt and erosion closer than 20m from a waterway) would require a Discretionary activity resource consent where in excess of 250m³ or 400m² (rural) (16.8.18, elevation under 16.7.2) and 300m³ and 150m² (settlement zone) (17.8.17, elevation 17.7.2) in area per site per 12 month period. Any land disturbance in any area identified as of significance to Māori is DIS (22.1.7).</p> <p>In Napier City Council (NCC) earthworks under 100m³ per hectare of site within a 12 month period is a permitted activity in most rural zones (52A.6, elevates to RDIS 52A.9). However, the removal of more than 25m³</p>	<p>Consents are likely required.</p> <p>Due to the scale of the earthworks anticipated across the region, recovery works for track damage will require discretionary resource consents in almost all the Districts in the Hawkes Bay.</p> <p>HDC - While landowners and occupiers in the Rural Zone may be able to carry out the necessary remedial earthworks for their recovery, if they want to remove that excess soil/silt off site they will require a discretionary activity Resource Consent. It is also understood that the 100m³ of permitted earthworks extent in the other rural zones will not be sufficient to carry out the necessary remedial works and Discretionary Activity consents will be required in these zones.</p> <p>WDC – while the works further than 20m from waterways are permitted, it is understood that there will be many earthworks activities, in particular removal of silt washed over sites from waterways, that will be within 20m of waterways.</p> <p>In CHBDC's district the Ancillary Rural Earthworks definition⁶ and associated permitted activity status (where compliant with standard environmental controls such as silt and sediment management, reinstatement of</p>

⁶ Ancillary Rural Earthworks means earthworks associated with normal agricultural and horticultural practices, such as:

- a. maintenance of drains, troughs and installation of their associated pipe networks, drilling bores and offtal pits, and burying of dead stock and plant waste (including material infected by unwanted organisms as declared by the Ministry of Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993); and
- b. Maintenance of existing walking tracks, farm and forestry tracks, driveways, roads and accessways.

Work requirement identified by rural community in RRA survey	National rules District Plan Rules and standards Nb. Rules are summarised once, then cross-referenced.	MfE comments / analysis
	<p><i>offsite per 12 months period in Main Rural Zone is a Discretionary activity (52A.10.1) with 100m3 offsite for other rural zones (52A.10.2).</i></p> <p>Earthworks that may affect rivers and wetlands (RP Chapter 6) (NESF) <i>Under the RP, excavation within the bed of a waterway may not occur for more than 5 days and only 5m2 per day, where it elevates to DIS. Discharges to land within 20m of a waterbody is a Discretionary activity under Chapter 6 Rule 52. Excavations in river beds is a discretionary activity under Rule 69 Chapter 6.</i> <i>Under the NESF, activities Reg 50(2) allows for earthworks within 10m of wetland where complies with standards AND is for arable or horticultural land use. All other earthworks within 10m of wetland are Non-Complying activities under Reg 54.</i></p> <p>Diversion of water (RP chapter 6) (NESF) <i>Diversion within the bed of waterbody, or divert no more than 10% of flow (among other controls)(rule 56), elevates to Discretionary (rule 59).</i> <i>Reg 38(3) taking use damming diversion or discharge of water within or within 100m from a wetland PER for restoration/maintenance, scientific purposes (not farming). All other damming/diversions of water within 100m of wetland are Non-Complying activities under Reg 54.</i></p> <p>Culvert replacement (RP) (NESF) <i>Excavations in beds of waterways, removal of structures in beds of waterways, maintenance of structures in beds of waterways) (RP rules 56, 57, 64, 72, elevates to DIS under 59 and 69).</i> <i>The placement, alteration, extension or reconstruction of a culvert in the bed of any river or connected area is a permitted activity under the NESF regs 62 and 63 (standards reg 70) where information on location and design is provided to council within 20 days of works commencing. Elevates to discretionary under reg 71.</i></p> <p>Realigning streams (RP) <i>Diversion within the bed of waterbody, or divert no more than 10% of flow (among other controls)(rule 56), elevates to Discretionary (rule 59).</i></p>	<p>site etc.) means that for the Rural Zones in the Central Hawkes Bay District Plan (proposed, note still subject to appeals where activities are within landscape areas), the majority of the earthworks required to be undertaken for track damage and irrigation and stock water damage can be done so through a Permitted Activity status (EW-R2).</p> <p>For within NCC, as much of the earthworks would be removal of silt offsite, and as much of the area is Main Rural Zone, this means that most of the remedial works in rural Napier require a Discretionary Activity Resource Consent.</p> <p>Culvert replacements will require consents under the RP for excavation in beds of waterways, removal of structures in beds of waterways and / or maintenance of structures in beds of waterways, as well as a consent under the NESF reg 71.</p> <p>For realigning streams to their original channel/course where they have moved across a site and potentially across a farm track, this would require diversion of water consents under the RP as DIS activities, as well as DIS consent for works within beds of waterways under the RP.</p> <p>There are permitted regulations under the NESF for removing material (trees, debris, sediment) from wetlands and proximity to wetland, earthworks, and damming or diversions of water in proximity to wetlands (Reg 51), but only if the material was deposited as a result of a natural hazard AND it is causing or likely to cause an immediate hazard to people or property. As discussed throughout the vires and need v want templates, the immediate hazard to life and property after NIWE has passed and the region is transitioning into the medium to long term stage of recovery, after immediate danger has passed. This regulation could not therefore be utilised to address this policy issue.</p>
Erosion (88% respondents affected)	<p>Earthworks DP (as per track damage). <i>CHBDC allows 20000m3 per ha of site per 12months in General Rural Zone (GRUZ) (EW-S2), elevates to RDIS (EW-R2.2) and 1000m3 per ha of site per 12 months in the Rural Production Zone (RPROZ) and 500m3 per site per 12months in the Rural Lifestyle Zone (RLZ). Other usual standards apply.</i></p> <p>Earthworks that may affect rivers and wetlands (RP) (NESF)</p> <p>Culvert replacement (excavations in beds of waterways, removal of structures in beds of waterways, maintenance of structures in beds of waterways) (RP)</p> <p>Realigning streams (RP) <i>Diversion within the bed of waterbody, or divert no more than 10% of flow (among other controls)(rule 56), elevates to Discretionary (rule 59).</i></p>	<p>Consents are likely required.</p> <p>As per track damage above, noting that activities away from tracks or irrigation / stock water damages will require consent for earthworks under CHBDC as it will not fall under the Ancillary Earthworks exemption. However, 2000m3 per ha per site could be sufficient to allow for erosion and sediment recovery earthworks.</p>
Sediment (64% of respondents affected)	<p>Earthworks DP (as per track damage and for CHBDC per erosion)</p> <p>Excavations in beds of waterways (RP)</p> <p>Disturbance in proximity to wetlands (NESF)</p> <p>Diversion of water (RP) <i>Diversion within the bed of waterbody, or divert no more than 10% of flow (among other controls)(rule 56), elevates to Discretionary (rule 59).</i></p>	<p>Consents are likely required.</p> <p>As per track damage and erosion above.</p>

Work requirement identified by rural community in RRA survey	National rules District Plan Rules and standards Nb. Rules are summarised once, then cross-referenced.	MfE comments / analysis
	<p>Culvert replacement (excavations in beds of waterways, removal of structures in beds of waterways, maintenance of structures in beds of waterways) (RP)</p> <p>Realigning streams (RP)</p>	
Water supply/irrigation system damage (66% respondents affected)	<p>Earthworks DP (as per track damage)</p> <p>Excavations in beds of waterways (RP)</p> <p>Diversion of water (RP)</p> <p>Realigning streams?</p>	<p>Consents may be required.</p> <p>Earthworks for water supply or irrigation system repairs are likely to be small scale and not require resource consent under District Plans.</p> <p>These may require discretionary activity consents under the regional plan for diversions of water or excavations in beds of waterways as well as removal or maintenance of structures in beds of waterways depending on the set up.</p>
Stock water or access damage (65% respondents affected)	<p>Earthworks DP (as per track damage)</p> <p>Excavations in beds of waterways (RP)</p> <p>Diversion of water (RP)</p> <p>Culvert replacement (excavations in beds of waterways, removal of structures in beds of waterways, maintenance of structures in beds of waterways) (RP)</p> <p>Realigning streams (RP)</p>	<p>Consents may be required.</p> <p>Similar to water supply and irrigation system damage. These may require discretionary activity consent under the regional plan for diversions of water or excavations in beds of waterways as well as removal or maintenance of structures in beds of waterways depending on the set up.</p>
Dam damage/loss	<p>Earthworks DP (rules as summarised in track damage). <i>Note that the WDC plan excludes dam building for farm and forestry activities from earthworks.</i></p> <p>Excavations in beds of waterways (RP)</p> <p>Diversion of water (RP)</p>	<p>Consents are likely to be required.</p> <p>Depending on the scale of the damage to dams, there could be significant earthworks required which will require earthworks consents in the local territorial authority. Summaries on this as per track damage.</p> <p>This will require discretionary activity consents under the regional plan and district plans, for rural landowners across the region.</p>
Issues with access around property (60% of respondents affected)	<p>Earthworks DP</p> <p>Excavations in beds of waterways (RP)</p> <p>Diversion of water (RP)</p> <p>Culvert replacement (excavations in beds of waterways, removal of structures in beds of waterways, maintenance of structures in beds of waterways) (RP)</p> <p>Realigning streams (RP)</p>	<p>Consents are likely to be required.</p> <p>It is understood that many landowners /occupiers are still dealing with issues with access within their properties, which is directly impeding the ability to productively farm.</p> <p>This recovery activity will likely require earthworks consents (district plan and where in proximity to waterways, regional plan), potential for realigning streams which moved in the severe weather event back to their original course, which will require diversion and realigning stream, works in beds of waterways consents.</p> <p>This activity will also likely involve some culvert replacements, which will require consents for earthworks in proximity to streams, diversion of water, as well as excavation in beds of waterways, removal and maintenance of structures in beds of waterways consent.</p> <p>These will result in discretionary activity consents under the regional and district plans, for rural landowners across the region.</p>
Sheds/barns/yards damage (33% of respondents affected)	<p>Earthworks DP</p> <p>Excavations in beds of waterways (RP)</p>	<p>Consents are likely to be required.</p> <p>It is understood that some streams moved their courses during the severe weather events, and landowners are seeking in these situations to move the stream back to its original course. This could be a situation for</p>

Work requirement identified by rural community in RRA survey	National rules District Plan Rules and standards Nb. Rules are summarised once, then cross-referenced.	MfE comments / analysis
	<p>Realigning streams (RP)</p> <p>Diversion of water (RP)</p>	<p>yard damage repairs. This would require discretionary activity resource consents for excavation in beds of waterways and diversion of water from HBRC.</p> <p>Nb. Sheds as accessory buildings may not require consent under many district plans, but building consent will be required for some of these structures.</p>
Wood waste/debris damage (29% of respondents affected)	<p>Discharge to air/discharge to land (RP)</p> <p>Excavations in beds of waterways (RP)</p>	<p>Consents are likely to be required (unless works are undertaken subject to the Waste Management and Waste Minimisation OICs).</p> <p>Depending on location, these types of activities will not require resource consent to remove from site and dispose at an approved facility due to the Waste Management and Waste Minimisation OICs. There may be cost barrier and capacity barrier to transport the material to one of these facilities.</p> <p>The burning of this material would require a consent under the Regional Plan for discharges to air as the Open Burning Order has been revoked, with potential for a permit to discharge to land if any of the waste has heavy metals etc in it (potential to cause site contamination and a risk to health).</p> <p>Where located in proximity to or within the bed of a stream or river this will likely require consent as a disturbance to bed of waterway to remove.</p> <p>The consents required will be discretionary activity resource consents from the HBRC.</p>
Issues with access to/from property (25% of respondents affected)	<p>Earthworks that may affect rivers and wetlands (RP)(NES)</p> <p>Diversion of water (RP)</p> <p>Culvert replacement (excavations in beds of waterways, removal of structures in beds of waterways, maintenance of structures in beds of waterways)(RP)</p>	<p>Consents are likely to be required.</p> <p>Most of the issues with access to the property will be managed via council roads at council cost. There may be some culvert repairs on private land required, at the boundary of the public road.</p> <p>These will require discretionary activity regional consents from HBRC.</p>
Fencing damage (98% respondents affected)	<p>n/a</p> <p>Stock Exclusion OIC and Tukituki rules: Tukituki River Catchment Plan Change 6 to HB regional plan. Rule TTle, f and g.</p>	<p>Most fencing activities will be permitted activities. Nb. Note there is a potential issue with the stock exclusion rules in the Tukituki catchment that may trigger the need for consents</p> <p>The scale of the loss of fencing is putting strain on the ability to farm productively as some paddocks have become impractical to farm (too large due to loss of fencing) or impossible to use due to access damage. This puts priority on farmers time to address the fencing damage in order to work more efficiently on the land, thus differing larger scale recovery projects due to lack of capacity to address BAU and fencing repairs and other recovery activities.</p> <p>Within the Tukituki catchment there are stock exclusion rules which have been in place since 2020. The Time extensions OIC applies to the stock exclusion OIC regulations (extension for compliance to 1 July 2025) and does not modify regional rules. The regional rules for stock exclusion in the Tukituki catchment were amended by a plan change. Thus landowner/occupiers in the Tukituki catchment (with properties over 4 hectares in area and for stock other than sheep) who have lost fencing are now faced with the need to get resource consent to allow the stock to go into the waterways until such time as they have the capacity to repair the fencing damage.</p>
Planting losses (64% respondents affected)	<p>n/a</p>	<p>Most replanting activities will be permitted activities if non-forestry.</p> <p>The lost planting will put these communities at increased risk in future events until replacement riparian planting can be put in place and matures. As with many recovery activities, it is the capacity to undertake the work that landowners / occupiers are struggling with, and this is adding to the speed of recovery overall.</p>

In-Confidence

Office of the Minister for the Environment

LEG - Cabinet Legislation Committee

Severe Weather Emergency Recovery (Resource Management - Hawke's Bay Rural Recovery Works) Order 2024

Proposal

- 1 I am seeking Cabinet agreement to submit the Severe Weather Emergency Recovery (Resource Management – Hawke's Bay Rural Recovery Works) Order 2024 (the Order) to the Executive Council and Governor-General for enactment.

Relation to government priorities

- 2 The proposal in this paper reflects the priorities outlined in the Government's plan for a faster and fairer disaster recovery to expedite the consenting process and remove red tape to speed up the rebuild.

Executive Summary

- 3 The Cabinet Economic Policy Committee agreed on 26 June 2024 to an Order to amend the Resource Management Act 1991 (RMA) and associated regulations and plans to enable rural recovery works directly related to the impacts of the severe weather events of early 2023 that are not already classified as a permitted activity under the RMA.
- 4 The Order is limited in geographic scope and duration to ensure that it is no broader than reasonably necessary. It will enable rural landowners and occupiers in the Hawke's Bay region to undertake works on their land where this is reasonably necessary for the purpose of remediating, repairing or mitigating damage caused by a severe weather event.
- 5 The Ministry for the Environment (the Ministry) was advised by the Hawke's Bay Regional Recovery Agency (HBRRA) that enabling a permitted activity regime for rural recovery works would support rural landowners and occupiers to get their land back to pre-Cyclone Gabrielle conditions.
- 6 As required by the Severe Weather Emergency Recovery Legislation Act 2023 (SWERLA), the Ministry for the Environment (the Ministry) carried out consultation on my behalf.
- 7 I have agreed to amend the draft Order to take into account the feedback I received. This includes extending the revocation date of the Order from 31 December 2025 to 30 April 2026.
- 8 The draft Order and supporting materials were considered by the Regulations Review Committee (the Committee) and the Severe Weather Events Recovery Review Panel

(the Review Panel). The Committee resolved that they had no concerns to raise. The Review Panel recommended several wording changes to ensure the draft Order is more closely aligned with the purpose of the SWERLA. I have considered the Review Panel's feedback and have amended the draft Order in response to their feedback.

- 9 I am now seeking agreement to submit the attached Order (Appendix 1) to the Executive Council and Governor-General to enact these policy decisions.

Background

- 10 The severe weather events of early 2023 created significant loss and damage to the Hawke's Bay region. The HBRRA wrote to the Minister for Emergency Management and Recovery and I requesting regulatory relief for the ongoing recovery activities on rural land that require resource consents. The HBRRA sought a one-year extension of the permitted activity regime available to rural landowners and occupiers under the Severe Weather Emergency Legislation Act 2023 (SWELA) which had lapsed on 1 April 2024.
- 11 In response, I instructed officials to prepare a new order under the SWERLA to address the issues raised by the HBRRA. I considered but did not advance the HBRRA's request for an extension to the SWELA permitted activity regime as that is limited to emergency works immediately following the severe weather events of early 2023 and its extension required new primary legislation.
- 12 Sections 8 and 9 of the SWERLA require engagement to be undertaken on the proposals before I can recommend an Order is made. The following analysis describes the consultation feedback received and my decisions for subsequent changes to the Order.

Analysis

Consultation feedback

- 13 During a two-week engagement period the public were invited to submit written feedback on the proposal. The Ministry also convened hui with the general public, iwi, hapū and Māori, and other government agencies. Targeted hui were held with Tātau Tātau o te Wairoa Trust. A total of 10 written submissions were received.
- 14 There was broad support for the key policy proposals to enable recovery works undertaken by rural landowners and occupiers on their land that are required because of the severe weather events of early 2023 without the need for resource consents.
- 15 Submitters emphasised they needed sufficient time to undertake the rural recovery works and supported an extension to the proposed revocation date of 31 December 2025 to enable recovery works to occur over both the 2024/25 and 2025/26 summer periods. There was consensus that timeframes cannot be unlimited.
- 16 Further feedback received from iwi, hapū and Māori, Crown agencies, and others during public consultation included a request to include an accidental discovery protocol in the schedule of permitted activity standards in the Order.

Severe Weather Events Recovery Review Panel feedback

- 17 The Review Panel considered the draft Order on 5 August to 7 August 2024. In summary, the Review Panel's recommendations are:
- 17.1 amend the definition of rural recovery works in clause 6 to better align with the purpose of the SWERLA by including the words 'reasonably necessary' before describing the rural recovery works that are permitted activities under the Order. This will ensure the rural recovery works are linked to the purpose of the SWERLA and are for the purpose of repairing or remediating land back to its pre-severe weather event condition;
 - 17.2 in clause 1(2) of the Schedule, remove the words 'beyond the boundaries of the land' when referring to rural recovery works that cause significant adverse effects. This will better enable the management of cumulative effects and to meet the requirements in the SWERLA to avoid, remedy or mitigate adverse effects on the environment;
 - 17.3 extend the notification period for Post-Settlement Governance Entities (PSGEs) to respond to any notices from 5 working days to 7 working days. The PSGEs may need to contact and obtain feedback from several iwi/hapū groups before confirming their feedback with the local authority. This will not affect the overall processing time which remains at 20 working days where no further information is required; and
 - 17.4 clarify the language used to define rural recovery works, ensure the consistent use of terms throughout the Order, and resolve a small number of minor technical drafting issues.
- 18 I have made changes to the draft Order to reflect this.

Changes to the Order to reflect feedback

- 19 I have had regard to the feedback received through statutory consultation and review processes and have amended the draft Order to:
- 19.1 extend the timeframe of the Order from 31 December 2025 to 30 April 2026 to enable recovery works to occur over two full summers in 2024/25 and 2025/26;
 - 19.2 include an accidental discovery protocol in the Order to alert landowners or occupiers to the statutory requirements under the Heritage New Zealand Pouhere Taonga Act 2014 to stop works and contact Heritage NZ if kōiwi (human remains) or other archaeological items are discovered; and
 - 19.3 adopt the changes recommended by the Review Panel (summarised above in paragraph 17).
- 20 In the public engagement several stakeholders requested the Order is extended to cover the Gisborne/Tairāwhiti district. However, this is not feasible as an Order requires a strong evidential basis to meet the tests outlined in the SWERLA and I would need to put the current Order on hold while officials undertook further engagement. This would take at least 3 months and delay the Hawke's Bay rural recovery works. I note further orders can be developed separately for Gisborne/Tairāwhiti or other regions if required.

Timing and 28-day rule

- 21 I propose the 28-day rule be waived, and the Order have effect until 30 April 2026.
- 22 I propose that the commencement date of the Order be in the week of 16 September 2024. This accounts for the brief period between Royal Assent and notification of the Order in the Gazette, so that the commencement of the Order is a date after official publication.
- 23 Waiving the 28-day rule will provide certainty to the local authorities and the rural community and enable them to prepare their notifications of intent at pace. This enactment date in early spring will enable works to commence and be able to utilise as much time as possible in the spring /summer season to support rural recovery.

Implementation

- 24 The Ministry will prepare guidance in conjunction with the HBRRA to support local authorities and rural landowners and occupiers to understand the new provisions in the Order and how to meet the modified obligations.

Compliance

- 25 The Order complies with each of the following:
- 25.1 under section 8(1) of the SWERLA that the Order is necessary and desirable for meeting the purpose of the SWERLA and the extent of the Order (including geographical extent) is not broader than is reasonably necessary to address the matters that gave rise to the Order;
 - 25.2 the consultation process described in section 9 of the SWERLA;
 - 25.3 the Order does not breach the restrictions set out in section 11 of the SWERLA;
 - 25.4 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee; and
 - 25.5 the draft Order has been reviewed by the Severe Weather Events Recovery Review Panel and the Regulations Review Committee.

Section 8(1)(e) of the SWERLA

- 26 Under section 8(1)(e) of the SWERLA, if an Order relates to the RMA, I must consider:
- 26.1 the effects on the environment that could occur as a result of the Order; and
 - 26.2 whether any adverse effects can be avoided, remedied, or mitigated.
- 27 The rural recovery works enabled under the Order may have an adverse effect on the environment. However, this Order includes environmental checks and balances that will address these effects.

Certification by Parliamentary Counsel

- 28 The Parliamentary Counsel Office (PCO) has certified that the Order is in order for submission to Cabinet subject to waiver of the 28-day rule, and to the Order being made no later than 20 September 2024.

Review of this Order and existing Orders

- 29 Under section 12 of the SWERLA there is a requirement for the relevant Minister to keep all orders they are responsible for under review. I am the relevant Minister for seven orders currently in effect. This review includes an assessment of determining of whether I continue to be satisfied that the Order continues to meet the necessary or desirable test.
- 30 To meet the requirement, I intend to undertake a formal review of all Orders that the Minister for the Environment is the relevant Minister for by July 2025. This will occur at the 'midpoint' of the implementation of the Order, following the rural recovery works completed in the 2024/25 summer season and prior to the 2025/26 works commencing.

Cost-of-living Implications

- 31 The Order in this paper aims to reduce the significant social and economic costs of response and recovery caused by the severe weather events. This includes the impacts on the rural farming and forestry sectors.
- 32 Removing the need for resource consents to undertake recovery works on rural properties will ensure the works can progress as quickly as possible.

Financial Implications

- 33 There are no financial implications of the proposal.

Legislative Implications

- 34 Section 7 of the SWERLA enables orders to be made for the purposes of the SWERLA and allow exemptions from, modifications of, or extensions to provisions in legislation listed in Schedule 2 of the Act, which includes the RMA.
- 35 Orders can only be made where the Minister responsible is satisfied they are reasonably necessary or desirable for one or more purposes of the SWERLA. I am satisfied the Order meets these requirements to progress to be recommended to the Executive Council and Governor-General for approval.

Impact Analysis

Regulatory Impact Statement (RIS)

- 36 A quality assurance panel with members from the Ministry for the Environment's Regulatory Impact Analysis Team has reviewed the Severe Weather Emergency Recovery Legislation (Hawke's Bay Rural Recovery Works) Order RIS. The panel considers that it meets the quality assurance criteria.
- 37 The panel notes that the document clearly sets out the options available and provides a convincing analysis of the reasons for the Order.
- 38 The RIS is provided in Appendix 2.

Climate Implications of Policy Assessment

- 39 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Treaty Impact Analysis

- 40 The Review Panel recommended officials ensure they have considered the rights provided by Treaty settlements that are triggered by RMA processes. Officials have reviewed Treaty settlements in the region and found no settlement terms directly engaged by the draft Order. However, relevant provisions within settlement agreements on settlement agreements were identified.
- 41 Many of the Treaty settlement deeds in the Hawke's Bay region have relationship commitments which include consultation expectations for changes to resource management policy impacting PSGEs. These expectations are being met via letters updating PSGEs on the Order process. The extension of the statutory engagement timeframes for this Order proposal from 3 days to 9 working days also allowed for further time for PSGEs and iwi and hapū to consider the draft Order.
- 42 I have accepted the Review Panel's recommendation to extend the feedback timeframe for PSGEs from 5 working days to 7 working days and note this will not affect the overall processing time which remains at 20 working days where no further information is required.

Population Implications

Rural community

- 43 The permitted activity regime in the Order will provide benefits to rural residents across the Hawke's Bay region by enabling a swifter recovery and return to pre-severe weather event conditions. It will support rural landowners/occupiers who are struggling to return land to productivity by providing regulatory relief.

Māori

- 44 The demand for this Order has come from affected farming, horticultural and forestry industries and the HBRRA, who are concerned about the scale of the damage from the severe weather events and the impact the slow recovery will have on regaining productivity on damaged land and its economic impacts in the region. Māori have rural landholdings and other interests in the farming, horticultural and forestry industries and may want to use the Order. This will have indirect benefits on whānau and communities that depend on these industries for employment and for the local economy.

Human Rights

- 45 The proposal in this paper will not engage section 27 of the New Zealand Bill of Rights Act 1990 (NZBORA). Even if it is, any such limit is likely to be justified under section 5 NZBORA.

Use of External Resources

- 46 No external resources were used in the preparation of this paper.

Consultation

- 47 The SWERLA requires engagement on Order proposals. I have had regard to the feedback received from this engagement. Appendix 3 provides a summary of the public engagement feedback.
- 48 In the process of developing the proposal, feedback was sought from the Cyclone Recovery Unit (CRU) at the Department of Prime Minister and Cabinet (DPMC) ^{s 9(2)(f)} as to compliance with the legislative requirements for an Order. The proposal reflects changes suggested from those discussions and the CRU undertook a quality assurance review of this paper.
- 49 The Ministry has consulted with the following agencies on this draft Cabinet paper and Order: Department of Prime Minister and Cabinet (DPMC) (both the Policy Advisory Group (PAG) and the CRU), the Ministry for Primary Industries (MPI), Department of Conservation (DOC), the Ministry of Culture and Heritage (MCH), the Department of Internal Affairs (DIA), Land Information New Zealand (LINZ), Te Puni Kōkiri (TPK), the office for Māori Crown Relations – Te Arawhiti, Ministry of Business, Innovation and Employment (MBIE), and the Ministry for Regulation. The agencies supported the substance of the Order with feedback limited to recommendations for minor wording amendments.

Communications

- 50 I will issue a press release at the appropriate time, in consultation with the Minister for Emergency Management and Recovery and the affected local authorities, if necessary.

Proactive Release

- 51 I intend to proactively release this Cabinet paper and associated papers and minutes within 30 business days of final decisions being confirmed by Cabinet, subject to redaction as appropriate under the Official Information Act 1982.

Recommendations

The Minister for the Environment recommends that the Committee:

- 1 **note** that the Severe Weather Emergency Recovery Legislation Act 2023 (SWERLA) established a mechanism for legislation to be amended via Order in Council (the Order) to enable recovery activities following the severe weather events of early 2023;
- 2 **note** that the Cabinet Economic Policy Committee agreed that an Order in Council (Order) be made under the SWERLA to amend the Resource Management Act 1991 (RMA) and associated regulations and plans to enable rural recovery works directly related to the impacts of the severe weather events of early 2023, subject to standards and not including prohibited activities or activities already classified as permitted. [ECO-24-MIN-0114 refers];
- 3 **note** that, as prescribed in the SWERLA, there was public engagement on the proposal and the draft Order was reviewed by the Severe Weather Events Recovery Review Panel and the Regulations Review Committee and I have had regard to the comments provided by submitters and the recommendations provided by the Review Panel;

- 4 **note** that the Cabinet Economic Policy Committee authorised the Minister for the Environment to further refine or clarify any policy decisions relating to the proposals, in a manner not inconsistent with Cabinet decisions, if required [ECO-24-MIN-0114 refers];
- 5 **note** that the Order has been amended in response to feedback and recommendations and that the changes fall within the Minister for the Environment’s delegated authority;
- 6 **note** I am satisfied that:
 - 6.1 the requirements under section 8(1) of the SWERLA are met including that the Order is necessary and desirable for meeting the purpose of the SWERLA and the extent of the Order (including geographical extent) is not broader than is reasonably necessary to address the matters that gave rise to the Order;
 - 6.2 the consultation process described in section 9 of the SWERLA has been complied with;
 - 6.3 the Order does not breach the additional restrictions set out in section 11 of the SWERLA;
- 7 **note** that in regard to the elements of this Order in Council that relate to the Resource Management Act 1991 I have considered the effects on the environment that could occur as a result of the order, and whether any adverse effects can be avoided, remedied, or mitigated;
- 8 **agree** that the Minister for the Environment may recommend the following Order to the Executive Council and Governor-General for approval: Severe Weather Emergency Recovery (Resource Management - Hawke’s Bay Rural Recovery Works) Order 2024;
- 9 **agree** that the commencement date of the Order will be 20 September 2024;
- 10 **agree** to waive the 28-day rule so the Order will come into force on 20 September 2024, which is the final date by which the Order is notified in the *New Zealand Gazette*;
- 11 **agree** that the Ministry for the Environment will undertake a formal review of this Order as part of the review of all Orders in Council that the Minister for the Environment is the relevant minister for by July 2025.

Authorised for lodgement

Hon Penny Simmonds

Minister for the Environment

Regulatory Impact Statement: Severe Weather Emergency Recovery Legislation (Hawke’s Bay Rural Recovery Works) Order

Coversheet

Purpose of Document	
Decision sought:	This analysis will inform Cabinet decisions on the proposed Severe Weather Emergency Recovery Legislation (Hawke’s Bay Rural Recovery Works) Order
Advising agencies:	Ministry for the Environment
Proposing Ministers:	Hon Penny Simmonds, Minister for the Environment
Date finalised:	20 August 2024
Problem Definition	
<p>Severe weather events in early 2023, including Cyclone Gabrielle, caused extensive damage to the North Island. This affected the economy, infrastructure, and environment, with Hawke's Bay experiencing severe agricultural and infrastructure losses.</p> <p>The Resource Management Act 1991 (RMA) includes standard provisions to enable emergency works or take preventative measures when immediate action is needed. These provisions are generally suitable for smaller events and emergencies. However, they fall short for larger scale emergency situations. Despite ongoing recovery efforts, the rural community faces significant challenges in completing necessary recovery works. Resource consent processes, which are typically appropriate, are adding significant complexity, cost, and time to these works, thereby delaying economic and social recovery. The unprecedented scale of damage and financial burdens from less than profitable agricultural conditions compound these challenges.</p>	
Executive Summary	
Background <p>In early 2023, Cyclones Hale and Gabrielle caused significant damage across the North Island, particularly in the Hawke’s Bay. This has led to ongoing recovery efforts and financial uncertainty among rural landowners and occupiers.</p> <p>In the immediate aftermath of the North Island Weather Events (NIWE), the Severe Weather Emergency Legislation Act 2023 (SWELA) was passed into law on 20 March 2023 to support the immediate recovery and rebuild.</p> <p>SWELA introduced a permitted activity regime for rural landowners / occupiers by creating sections 331A-331E to the RMA which repealed on 1 April 2024. It allowed rural landowners and occupiers in affected regions to undertake emergency works on their properties immediately following the severe weather events as a permitted activity.</p> <p>SWELA was shortly followed by the Severe Weather Emergency Recovery Legislation Act 2023 (SWERLA) which was passed into law to support recovery in areas affected by the</p>	

severe weather events and is active until 2028. The SWERLA enables certain legislation to be amended temporarily via the Orders in Council (OIC) mechanism to exempt, modify, or extend statutory obligations where necessary to support recovery in the areas affected by the severe weather events.

Progress towards recovery

The SWELA rural emergency works regime has not been fully implemented as Parliament intended it would be. In early 2024, the Hawke's Bay Regional Recovery Agency (HBARRA) and Hawke's Bay Regional Council (HBRC) surveyed rural landowners on recovery progress. About 94% of respondents still have recovery works to complete with challenges to utilising the permitted activity regime under SWELA from finance, availability of contractors and extended wet weather conditions. The HBARRA asked the Minister for the Environment to extend the regime under SWELA as, despite the emergency being over, there are ongoing recovery activities to be undertaken.

Deciding on an option to address the policy problem

Ministry for the Environment (MfE) officials have reviewed all potential pathways and have determined that an OIC is necessary to enable rural landowners and occupiers to carry out rural recovery works on their land. Other options considered are:

- a) Status quo – do nothing and utilise the existing RMA framework
- b) Amend the SWELA timeframes for RMA s331A-331E by introducing similar provisions to those in s331A-331E until 31 December 2025
- c) Further amendments to the RMA emergency provisions
- d) Global consent
- e) Schedule 1 Plan Change

Three other options were explored and discounted as unviable at this time: the inclusion of other geographic areas to the preferred option, the new Fast-track Approvals Bill process, and the Fast-track consenting pathway (retained from Natural and Built Environment Act 2023 (NBA) under the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting Act 2023 (NBA Repeal Act)).

Impacts of the preferred option

The preferred option will have benefits of speeding up rural recovery by temporarily removing RMA regulatory barriers, reducing costs for landowners/occupiers and easing the procedural burden on councils, until 30 April 2026. However, it risks environmental impacts through potential non-compliance, and requires comprehensive communications and engagement planning and ongoing monitoring to ensure adherence with environmental standards.

Consultation

Officials undertook public consultation from 2 July to 12 July 2024. In response to feedback received, officials recommend two amendments as follows:

- extend the timeframe of the OIC from 31 December 2025 (original proposed expiry date) to 30 April 2026
- include an accidental discovery protocol.

In the public engagement several stakeholders requested the OIC is extended to cover the Gisborne/ Tairāwhiti district. We do not recommend this. Developing an OIC requires a strong evidential basis to meet the tests outlined in SWERLA. To date Gisborne District Council (GDC) staff have said they are neutral on whether an OIC is needed to address rural recovery works in their district unless or until they see more supporting evidence.

The draft OIC was considered by the Review Panel and the Committee. In response to the Review Panel's recommendations, officials recommend several further amendments to the OIC:

- a) clarifying the definition of rural recovery works to ensure alignment with the SWERLA's purpose by adding the term 'reasonably necessary' for works that are considered permitted under the OIC
- b) removing the words 'beyond the boundaries of the land' when referring to rural recovery works that cause significant adverse effects, to better enable the management of cumulative and adverse effects on the environment
- c) extending the notification period for Post Settlement Governance Entities (PSGEs) from 5 to 7 working days, allowing more time for feedback
- d) minor wording changes for consistency.

The Review Panel also sought confirmation that in developing the OIC officials have taken into account the rights provided by Treaty Settlements which are triggered by the need for RMA consents. Currently, in the draft OIC, the relevant PSGE may not have the same participation or decision-making power as if the notice had come through the standard resource consent process. Officials have prepared a Treaty Impact Assessment, summarised below, which addresses the Panel's comments.

Limitations and Constraints on Analysis

Evidence

The policy issue relies upon data provided through a survey from the HBRRA, and conversations with sector organisations and the HBRC. The survey predominantly includes responses from sheep and beef farmers located in the southern region, with limited input from the more severely affected mid to north of the region, likely due to their higher financial and emotional burdens caused by the NIWE. Assumptions were made that the damage and the work required to restore properties reported by survey respondents represent the entire region, as the worst affected areas are likely too overwhelmed to respond.

The exact scale of recovery works requiring consent is unquantified, but it is assumed substantial, given the ample evidence pointing to the scale of damage, and the survey results say people still have a lot of recovery work to do. We have assumed that a substantial amount of that recovery work would require consent based on an understanding of the types of works likely required (replacing culverts, earthworks to remove sediment deposition or erosion reinstatement etc) and also that the spatial extent will match the scale of damage.

There are significant differences in the anticipated costs across the region. As some sites were more badly affected than others, the resource consent costs alone can range from \$6,000 to \$110,000 or more. Given the variables and assumptions, accurately estimating costs is extremely challenging.

Geographic scope

This proposed OIC is limited to the Hawke's Bay region. While there are indications of severe damage in Gisborne and support from Tararua District Council for such a regime there, further engagement and evidence collection are needed before extending the OIC to these regions. The decision to progress this proposed OIC for Hawke's Bay now does not prevent further OICs being developed separately for other regions and matters.

Legislative scope

All the options are limited to RMA processes (as SWERLA provides MfE with an ability to develop an OIC that exempts specified groups from the provisions of the RMA). It is considered desirable from a policy perspective that activities in scope of the RMA planning regime should be authorised (either by RMA plans or an OIC).

Thus, references to the costs are for the costs of resource consent applications, and not the costs to carry out the recovery works themselves. The RMA manages activities in the physical environment and does not address specialist contractor or machine hire fees/costs.

Timeframes

This policy issue is urgent. The key reasons for the high level of urgency are:

- The HBRRA estimate a surge in repair and rebuild activities over the next 6-12 months – particularly post-winter
- Delays in recovery are causing significant financial and emotional stress on rural landowners/occupiers. Without regulatory relief there is likely to be a significant increase in consenting, compliance and enforcement work. This will place further pressure on local authority resources which are already stretched.

Overall

Despite these limitations, there is clear data on the scale of the impact, and the survey shows an ongoing need for a regulatory response to support the recovery of this region from NIWE.

Responsible Manager

Heidi Baillie
Manager
Recovery Provisions - Adaptation
Ministry for the Environment



20 August 2024

Quality Assurance (completed by QA panel)

Reviewing Agency:	Ministry for the Environment's Regulatory Impact Analysis Team
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Panel Assessment & Comment:

The Ministry for the Environment's Regulatory Impact Analysis Panel has reviewed the Regulatory Impact Summary (RIS) "Regulatory Impact Statement: Severe Weather Emergency Recovery Legislation (Hawke's Bay Rural Recovery Works) Order". The panel considers the document **meets** the Quality Assurance criteria for regulatory impact analysis. The document clearly sets out the options available and provides a convincing analysis of the reasons for the Order.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

Current state within which action is proposed (status quo)

Impacts of severe weather events in January and February 2023

1. In January and February 2023 there was significant and severe weather events experienced across the North Island, including Cyclone Gabrielle (the NIWE) In the immediate aftermath of the NIWE, the SWELA was passed into law on 20 March 2023 to support the immediate recovery and rebuild. It is to be repealed in October 2024. It was shortly followed by the SWERLA which provided for OICs to be made, to be repealed in 2028.
2. SWELA introduced a permitted activity regime for rural landowners / occupiers by creating sections 331A-331E to the RMA which repealed on 1 April 2024. It allowed rural landowners and occupiers to undertake emergency works on their properties immediately following the severe weather events as a permitted activity. It applied to the Auckland Council, Bay of Plenty Regional Council, Carterton District Council, Hawke's Bay Regional Council, Manawatū District Council, Masterton District Council, Northland Regional Council, Rangitikei District Council, South Wairarapa District Council, Tararua District Council and Waikato Regional Council.
3. The scale of the Cyclone Gabrielle floods was extraordinary and resulted in the forced revision of maximum flows for 17 out of 20 of the river sites in the region, as shown in Table 1 below. To put it succinctly, the extreme flows experienced during Cyclone Gabrielle completely changed the understanding of how big floods could be in this region. Cyclone Gabrielle was an unprecedentedly extreme event.

Table 1: Data of the river site data points peak flows recorded and compared to pre-Cyclone Gabrielle peak flows. Red fill shows where the revised maximum flood estimates more than doubled after Cyclone Gabrielle. Red dots indicate sites where Gabrielle led to the highest ever recorded flows. Data summarised from NIWA.

Position in Hawke's bay	Site	Gabrielle Peak Flow (m ³ / sec)	Record Length (years)	Max Flood before Gabrielle (m ³ / sec)	Gabrielle Broke Record?	% that Gabrielle was higher than previous max flood estimate
Northern	Wairoa River at Marumaru	4100	44	3583.8	Yes	14
Northern	Waiau River at Ardkeen	1656	35	1376.8	Yes	20
Northern	Waiau River at Otoi	838	52	935.6	No	-10
Northern	Hangaroa River at Doneraile Park	2070	49	1231	Yes	68
Northern	Ruakituri at Tauwharetoi Climate	998	39	813.3	Yes	23
Northern	Kopuawhara Stream at Railway Bridge	176	41	331.6	No	-47
Mid	Tūtaekuri River at Puketapu	4800	55	1588	Yes	202
Mid	Mangaone River at Rissington	1610	33	520.3	Yes	209
Mid	Ngaruroro River at Fernhill	6000	71	2333.1	Yes	157
Mid	Ngaruroro River at Whanawhana	1012	63	1026.4	No	-1
Mid	Esk River at Waipunga Bridge	2175	61	1108.6	Yes	96
Mid	Esk River at Berry Road	350	31	155.6	Yes	125
Mid	Awanui Stream at Flume	38	34	33.1	Yes	15
Southern	Waipawa River at RDS	1810	36	1223	Yes	48
Southern	Tukituki River at Tapairu Road	1805	36	1232	Yes	47
Southern	Tukituki River at Red Bridge	4320	55	3043	Yes	42
Southern	Taurekaitai Stream at Wallingford	659	42	563.5	Yes	17
Southern	Mangaorapa Stream at Mangaorapa Road	690	22	254.4	Yes	171
Southern	Pōrangahau River at Saleyards	1590	14	762.3	Yes	109
Southern	Tukipo at SH50 (Punawai)	561	47	384.9	Yes	46

- This inflicted significant loss and damage with impacts on the economy, infrastructure, natural environment, primary sector businesses, and community wellbeing. Within the horticultural sector alone over 10,000 hectares of land was damaged. Lost production in 2023 was estimated at \$230m. Over 120 bridges were either significantly damaged or destroyed, and substantial areas of land in the region are no longer safe to inhabit.
- The North Island's recovery from the NIWE is an ongoing and pressing concern. Significant areas of land remain that were severely damaged by flood waters, silt and landslide particularly in the Hawke's Bay region. The attached Hawke's Bay Landslide map (refer Figure 3) shows the extent of landslides experienced in that region. Figures 1 and 2 below show aerial images and data points of the Esk Valley, where an estimated 6 million tonnes of sediment was deposited.
- MfE has been advised that many rural landowners/occupiers still have recovery activities to undertake. In early 2024, the HBRRA and the HBRC undertook a survey on recovery progress by rural landowners with properties larger than 20 hectares (over 1500 farms in Hawke's Bay) with over 200 responses received.¹
- About 98% of respondents experienced cyclone related damage on their land such as water supply damage, stock water system or dam damage, sediment across sites, planting losses, and issues with access around properties. The forestry sector has also

¹ <https://www.hbrc.govt.nz/assets/Document-Library/Farmers-Hub/ICM0524-Ruralimpactassessmentsurvey-V05.pdf>

identified culvert replacements and bridge repairs as a priority, and they anticipate the sector will also need to carry out earthworks, rebuild roads and replace existing structures damaged by the NIWE.



Figure 1: Aerial image of the Esk Valley after NIWE. Source: GNS Science.

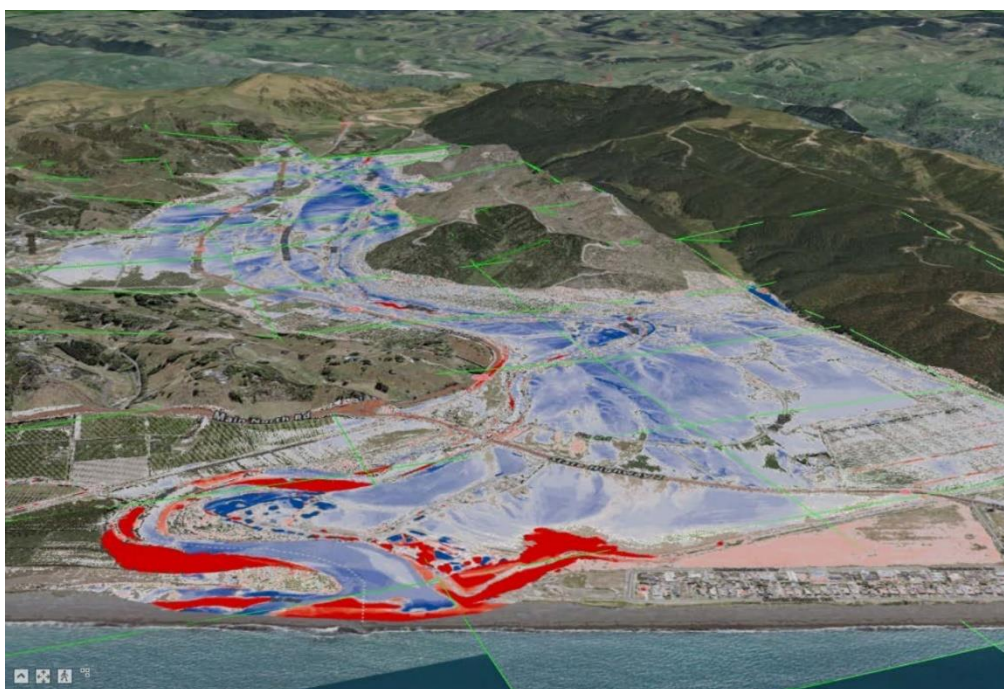


Figure 2: Aerial of Esk Valley with data sets showing silt deposition areas (blue) and eroded areas (red) after NIWE. Source: Canterbury University.

8. The SWELA rural emergency works regime has not been fully implemented as Parliament intended it would be – instead, few people were able to receive the benefit of it. Ninety-four percent of respondents to the HBRRA rural recovery progress survey still have recovery works to complete, having not been able to utilise the permitted activity regime under SWELA before its expiry due to finance, availability of contractors

and extended wet weather conditions. Comparing the responses received against GIS mapping showing the extent of landslips in the Hawke’s Bay region, the scale of consents still required to enable recovery after the NIWE is likely to be significant. The HBRRRA and the HBRC asked the Minister for the Environment to extend the regime under SWELA as, despite the emergency being over, there are ongoing recovery activities to be undertaken.

How is the status quo expected to develop if no action is taken?

9. The RMA framework manages activities within the natural and built environment under normal circumstances, and is not well suited to handling necessary activities following major civil emergencies. While the RMA includes standard provisions for emergency works and immediate preventative or remedial activities, these are generally designed for smaller scale events. For large scale events (Christchurch and Kaikoura Earthquakes or the 2023 NIWE) the needs for recovery extend far beyond the scope of the status quo management. The RMA’s provisions fall short of addressing these large-scale emergencies and the extended recovery period that follows, which can last several years. Under the status quo, remedial work required will need discretionary or non-complying activity consents under the Hawke’s Bay regional plan, district plans, and the National Environmental Standard for Freshwater (NESF) (refer Appendix A).
10. It is for these reasons that bespoke legislation and subsequent Orders in Council, like those under SWERLA, have been necessary to effectively support the recovery phase for these types of significant events. Swift recovery is essential to minimise the affected community’s vulnerability to future hazardous events. Obtaining resource consents under the standard consents process in the RMA would be a complex, costly and lengthy process (see Table 2 below) for much of the recovery work required, significantly hindering recovery efforts. The status quo RMA process can involve high application costs, which can sometimes exceed the actual cost of the recovery works, placing an additional financial burden on rural landowners and occupiers. This complexity and expense exacerbate the stress and wellbeing issues already being experienced by the NIWE impacted rural community.

Table 2: High level steps and costs of consent process

Stage	Preparing application	Processing application	Hearing	Decision Issued
Steps and costs and time estimates	<ul style="list-style-type: none"> • Gathering information, choosing and employing technical resources. 	<ul style="list-style-type: none"> • Council processing staff time, depending on scale, notification. 	<ul style="list-style-type: none"> • Notified for 20 working days for submissions to be made. 	<ul style="list-style-type: none"> • Can be appealed by submitters.
	<ul style="list-style-type: none"> • Time estimated between 1 and 6 months. 	<ul style="list-style-type: none"> • Time estimated between 2 and 12 months, depending on scale and volume received - council have limited resources to process consents. Timeframes are compounded by the volume received. 		<ul style="list-style-type: none"> • Environment Court time and cost.

Stage	Preparing application	Processing application	Hearing	Decision Issued
		<ul style="list-style-type: none"> Depending on the amount of submitters, hearings can range between 1 day and weeks. After the hearing, the commissioners make their decision. 		
	<ul style="list-style-type: none"> Costs estimated between \$3,000 and \$30,000. 	<ul style="list-style-type: none"> Costs estimated between \$3,000 to \$80,000. 		<ul style="list-style-type: none"> Ongoing compliance and monitoring costs.

- The prolonged consent process not only delays necessary recovery work but also puts additional strain on already stretched local authority resources. Without regulatory relief, the status quo may prevent recovery works from being completed before future severe weather events, leaving the region vulnerable to further damage. Expediting the recovery process is critical to restoring the economic stability and resilience of the Hawke's Bay rural community.

Key features and objectives of the regulatory system currently in place and key legislation of relevance

- The RMA promotes the sustainable management of natural and physical resources and sets rules and requirements to manage activities in the natural and built environment. This has been developed to promote sustainable management. The RMA contains a set of standard provisions to enable emergency works or to take preventative or remedial measures when immediate action is required. These provisions are largely appropriate for responding to smaller events and emergencies. However, they are not sufficient for larger emergency events (such as the Christchurch and Kaikoura Earthquakes and the 2023 North Island severe weather events).
- Decisions made under the RMA are usually the responsibility of regional and district/city local authorities, through regional policy statements, regional and district plans, and resource consents. Consents for the rural recovery works (see Appendix A) are required as Discretionary and Non-Complying activities under the Regional Plan, various District Plans, and the National Environmental Standards for Freshwater (NESF). The timeframes and cost estimates of this process are depicted in Table 1.
- The SWERLA came into force on 12 April 2023 and expires on 31 March 2028. The purpose of the SWERLA is to assist communities and local authorities affected by the severe weather events to respond to, and recover from, the impacts of the severe weather events of 2023. It provides for planning, rebuilding, and making safety enhancements and improvements to the resilience of land and infrastructure.
- The SWERLA also enables other legislation to operate more flexibly to support recovery. This is achieved via OICs that modify other legislation, relieving those affected by the severe weather events from certain legislative requirements. Modifications are also permitted where necessary to enable prompt action for an efficient and timely recovery. The SWERLA places restrictions on any OIC made under

it, including the requirement that OICs must be necessary or desirable for the purposes of the SWERLA.

16. Apart from the standard pathway for obtaining resource consents under the RMA, and developing an OIC under the SWERLA, other pathways also exist. These are assessed in this RIS paper further below, and include:
 - a) Amend the SWELA timeframes for RMA s331A-331E by introducing similar provisions to those in s331A-331E until 31 December 2025
 - b) Further amendments to the RMA emergency provisions
 - c) Global consent
 - d) Schedule 1 Plan Change
 - e) Inclusion of other geographic areas in the proposed OIC
 - f) The new Fast-track Approvals Bill process
 - g) Fast-track consenting pathway (retained from NBA under the NBA Repeal Act 2023).
17. Options e, f and g are, however, not viable options, as discussed below.

E – Inclusion of other geographic areas in the proposed OIC

18. Officials approached all regions and districts affected by severe weather events under SWERLA to assess the need for such a regime. The Tararua District Council confirmed support, and officials are collecting data to evaluate the need in this district. The HBRC, HBRRA, and Hawke's Bay industry organisations have reported that damage in Gisborne may be as severe as in Hawke's Bay, and this was reiterated throughout the statutory engagement period. Officials are in discussions with Gisborne District Council to assess the need there.
19. Developing an OIC requires a strong evidential basis to meet the tests outlined in SWERLA. Thus, while the survey undertaken by HBRC provided the evidential base for the Hawke's Bay region, it did not include residents of Tairāwhiti/Gisborne or Tararua districts. To incorporate these areas into this proposed OIC we would need to place the current proposal on hold while undertaking further engagement with the Gisborne District Council, Tararua District Council and Manawatū-Whanganui Regional Council to establish an evidential base equivalent to the one provided by the HBRC. This would delay the OIC development by approximately three months, which would set back recovery in the Hawke's Bay until later summer. This option is considered unviable at this time, however, progression with Hawke's Bay now does not prevent further OICs being developed separately for other regions.

F – The Fast Track Approvals Bill process

20. The Fast-Track Approvals Bill is anticipated to be based on previous fast-track consenting regimes, but with important differences to enable projects that have significant local, regional, or national benefits to be consented more quickly and more efficiently. The Bill will set out a 'one-stop shop' process for approvals under a range of legislation. The Bill may contain a list of projects that will be assessed in parallel to the development of the Bill and provided to the Minister(s) for referral assessment almost immediately upon enactment.

21. When enacted it is likely the new fast-track process will remove the need for future OICs that modify RMA consenting processes. However, as this option is a Bill, it is difficult to assess with complete certainty the final shape and scope of the Act as it may relate to rural recovery works.
22. As it stands, applications will be assessed against a set of criteria by the relevant Minister (with assistance from relevant agencies), to determine their benefits for our economy and environment. As activities that will support recovery from natural hazards, rural recovery works are eligible. However, the eligibility criteria also include, at Clause 17(2)(a), that consideration is given to 'whether the project will have significant regional or local benefits'. Cumulatively as a global consent it is possible that the rural recovery works would meet this, but individually it would not meet the eligibility criteria. As such, this option is considered unviable.

G – The Fast-track consenting pathway (retained from NBA under the NBA Repeal Act 2023)

23. The Government has retained the fast-track consenting pathway from the now repealed NBA². This is an interim measure until a new, standalone fast-track consenting legislation comes into effect and enables the fast-track consenting of a list of eligible activities including housing development and infrastructure activities³. This is not a viable option as the rural recovery works are not included in the list of eligible activities and is therefore not a realistic possibility for addressing rural recovery works.

What is the policy problem or opportunity?

The nature, scope and scale of the problem

24. Severe weather events in early 2023 caused extensive damage to the Hawke's Bay economy, infrastructure, natural environment, and community wellbeing. The extent of rainfall and erosion across the region is shown in the map at Figure 3. Despite recovery efforts and the provisions under SWELA for emergency recovery, a large proportion of rural landowners (94% of those surveyed) are facing ongoing challenges and still have recovery works to complete. This is in part due to the scale of damage and in part from the status quo of complex and costly resource consent processes, and limited financial resources and insufficient support. This delayed recovery prolongs the economic and social disruption.

Who is affected by this issue?

25. Rural landowners and occupiers are facing substantial challenges in completing necessary recovery works to return land to pre-NIWE conditions. Financial strain is exacerbated by high costs and the need for resource consents to complete the works. Many landowners are operating under less profitable conditions post-NIWE and are finding it difficult to fund recovery within a single financial year after covering basic operating expenses under poor farming conditions.
26. Local authorities, such as the HBRC, also face significant challenges due to increased workloads and strained resources. Processing and monitoring the required consents

² Refer Schedule 1 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023

³ Refer Clause 14, Part 2 of Schedule 10 of the repealed NBEA for the list of activities eligible for the fast-track consenting process.

under the status quo RMA framework further pressures their capacity. Without support, the processing times will become longer than usual given the finite capacity of local authority staff.

27. A 2024 survey of over 200 rural landowners sought to understand progress towards rural recovery one year on from the severe weather events. It revealed substantial financial impacts, with over half reporting damages exceeding \$100,000. Although insurance is a factor with more than two thirds of respondents insured, of these 60% estimated their insurance is likely to cover less than 20% of the damage incurred and only 14% estimated they had cover for more than 50% of the damage incurred. The need for additional support, such as the proposed OIC, is evident, as insurance is not a comprehensive solution on its own.

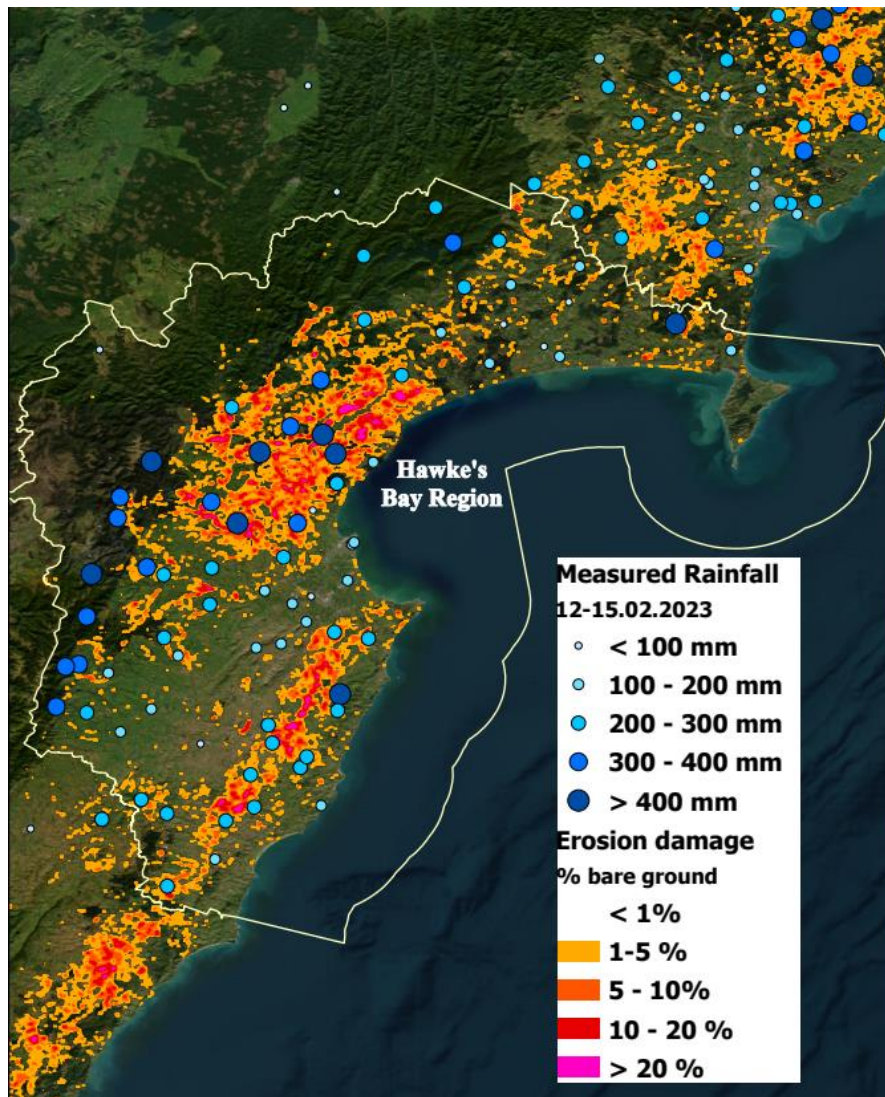


Figure 3: Map of Hawke's Bay Region showing measured rainfall over 12-15th February 2023 and the erosion damage. Rainfall data from National Institute of Water and Atmosphere. Erosion damage data from Manaaki Whenua Landcare Research.

What objectives are sought in relation to the policy problem?

28. The objective is to enable locally led rural recovery works as permitted activities, reducing costs on the rural community and council pressures, in line with Treaty of Waitangi settlements and managing adverse impacts on the environment. This in turn will support economic recovery in the Hawke's Bay region post-Cyclone Gabrielle.

Section 2: Deciding upon an option to address the policy problem

Focus of this Regulatory Impact Statement

29. This RIS discusses options for rural cyclone recovery, focusing on key benefits and risks. The analysis recognises high-level costs and benefits and without monetising them due to significant variability. Recovery costs vary widely across the more than 1500 affected rural properties throughout the Hawke's Bay, with resource consent costs alone ranging from \$6,000 to \$110,000 or more, influenced by factors such as the need for engineers or planners. Given these variables and assumptions, accurately estimating costs is extremely challenging.

What criteria will be used to compare options to the status quo?

30. We have used the following criteria to compare the different options. The criteria are equally weighted.
- a) **Reduces delay** – the ability of the option to achieve the outcome sought in the quickest timeframe
 - b) **Cost** – the ability of the option to achieve the outcome sought with the lowest financial cost
 - c) **Effectiveness** – the ability of the option to support cyclone recovery in the rural community
 - d) **Capacity constraints** – the ability of the option to reduce strain on local authority capacity
 - e) **Uphold Crown obligations under Te Tiriti o Waitangi** – the ability of the option to honour the Treaty and uphold Treaty settlements and other arrangements
 - f) **Manage risks** – the potential of the option to result in unintended consequences.

What scope will options be considered within?

31. All the options are limited to RMA processes (as SWERLA provides MfE with an ability to develop an OIC that exempts specified groups from the provisions of the RMA). The options do not remove or alter any requirements to obtain consents or authorisations under other legislation. There are no feasible non-regulatory options available, as it is considered desirable from a policy perspective that activities in scope of the RMA planning regime should be authorised (either by RMA plans or an OIC).

What options are being considered?

32. It is noted that, when discussing the various option's abilities to lower or increase costs for rural landowners/occupiers compared to the status quo, this is in reference to the cost of resource consent applications, and not the costs to carry out the recovery works themselves. This OIC is limited to amendments to the RMA, which do not address specialist contractor or machine hire fees/costs.

Option One – Status Quo

33. The status quo provides for an RMA consenting regime. This option would meet Treaty expectations and obligations, and manage environmental risks.
34. As per Table 1, the timeframes for obtaining consents can be between 3-18 months, not including Environment Court if the decision is appealed. This can cost the applicant between \$6,000 and \$110,000 for the application process. There is no assurance of outcome for the applicant. Furthermore, once relevant consents are obtained, the rural landowner/occupier then needs to carry out the works themselves.
35. The volume of consents would overwhelm the capacity of the local authorities' staff to process on top of BAU work, and the local authorities do not have the funds available to outsource the processing of this volume of consents to contractors. The corollary of this is that the timeframes for recovery under the status quo for the region would take potentially 3 to 5 years.
36. The status quo timeframes and costs to rural landowners and occupiers would be likely to undermine financial stability in the rural sector. This could have serious impacts on the Hawke's Bay rural community's ongoing social and economic recovery. There is also the ongoing risk under the status quo of the increased susceptibility of this community to damage or loss of life in future severe weather events due to the delayed recovery and resultant low resilience.

Option Two – Rural Recovery Works Order in Council (preferred option)

37. This option is a temporary exemption to the RMA that would be in place until 30 April 2026, which would remove regulatory barriers and expedite rural recovery in the Hawke's Bay. This will provide time for most of the rural landowners and occupiers with land affected by the NIWE to undertake the recovery works to reinstate their land to a pre-cyclone condition, while not indefinitely suspending the NESF and regional and district plan rules and standards under the RMA. The temporary exemption works alongside the permitted standards, which effectively avoid potentially significant adverse environmental effects and minimise other adverse effects, managing the environmental risk.
38. Rural recovery works is to be a defined term under the OIC and at time of writing this is to mean works that:
 - a) are reasonably necessary for the purpose of remediating, repairing, or mitigating damage caused by a severe weather event; and
 - b) are carried out on rural land; and
 - c) for the purposes of the RMA,—
 - i. would ordinarily require a resource consent; and
 - ii. are not a prohibited activity under sections 2 and 87A of the RMA; and

- d) do not involve –
 - i. construction of new flood protection banks or bunds, structural edge protection including walls or revetments or groynes
 - ii. installation or construction of new infrastructure, including new dams, not previously in place prior to the severe weather events
 - iii. extraction or removal of gravel from the bed of a water body.
39. The OIC is to be limited to rural areas, or for land that is used for rural purposes, through the use of the following definition:
- rural land means—
- (a) land that has a rural or rural production zoning status (or the nearest equivalent zone) in the relevant district plan; or
 - (b) land that is used for the primary purpose of forestry, livestock, or horticultural farming
40. Furthermore, Schedule 1 outlines the requirements for rural recovery works to be deemed as a permitted activity. Under Schedule 1, the rural recovery works must be undertaken in such a way as to avoid, if reasonably practical, or minimise adverse effects on the environment, including:
- a) adverse effects on freshwater and coastal environments within or beyond the works boundary, with particular regard to reducing opportunity for the works to generate sediment, and
 - b) adverse effects on outstanding natural features and landscapes and significant natural areas, and
 - c) adverse effects on culturally significant land.
41. In addition, if the rural recovery works is undertaken on land identified in district plans as comprising outstanding natural landscapes and features, significant natural area, or a wāhi tapu, wāhi taonga, or area of significance to Māori, then the works must comply with the district plan's permitted activity standards.
42. We anticipate the types of activities to involve:
- a) Works in riverbeds to return to a previous alignment and diverting water to return to its pre-existing channel or course
 - b) repair, modification, extension or replacement of pre-existing river crossings, roading and tracks, including associated earthworks, soil disturbance, vegetation clearance and discharges
 - c) temporary diversion of water to undertake repair or replacement works within the bed of a river
 - d) discharge of clean fill within 20m of a river
 - e) disturbance of the bed of a river from removal of cyclone related debris, wood material and silt
 - f) earthworks and soil disturbance to remove silt deposition or reinstate erosion and the removal of excess silt/earth off site.

43. There is also a requirement in the OIC for a notice of intent to undertake recovery works to be provided to the HBRC, at least 20 working days *prior* to commencement of works, who will then forward this on to the relevant PSGE (where relevant). This notification requirement serves as the opportunity for the council to ensure that the proposed activity complies with the permitted standards/schedule 1. There is a further information request process in which a council can request further information from the applicant. Through this process it is intended that PSGEs would be able to alert council where a proposal is at risk of impacting on a wāhi tapu, wāhi taonga, or areas of significance to Māori.
44. The rural recovery works must not commence in reliance on the OIC if the council has notified the applicant that it is not satisfied that the requirements in Schedule 1 will be met. Works undertaken where they do not comply with this OIC, without first seeking resource consent, may be subject to enforcement action under the standard RMA framework.
45. There are significant cost reductions for rural landowners / occupiers compared to the status quo consent process. There are significantly less resource consents required to be processed by council staff and pressures on them are reduced.
46. This option is not proposed to have retrospective effect. The prior regime for undertaking emergency works under the SWELA lapsed on 1 April 2024. Officials remain of the view that it is not appropriate to extend the emergency works provisions for a further two or three years following Cyclone Gabrielle (more discussion see Option Three below). Officials also do not support making the proposed OIC retrospective to 1 April 2024 as this is inconsistent with the Legislation Design and Advisory Committee Legislation Guidelines (2021 edition) and could lead to poor environmental outcomes.

Development of this option after consultation

47. Public consultation took place from 2 July to 12 July 2024, in line with the requirements in SWERLA. Key stakeholders and partners, including councils, iwi, hapū, and Māori, primary industry representatives including Federated Farmers, the public, and other government agencies, were provided with information and invited to hui on the proposal. The Ministry website also included information on the OIC proposal, hui, and how to provide written feedback.
48. During public consultation, the Ministry held four online hui. One hui was held with Hawke's Bay Post Settlement Governance Entities (PSGEs) on 4 July 2024, one hui was with other Crown agencies on 5 July 2024, and one was with the general public on 9 July 2024. The fourth hui was a follow up to the PSGE hui with Tātau Tātau o te Wairoa on 10 July 2024. A total of 10 written submissions were received.
49. There was broad support for the key policy proposals to:
 - a) enable recovery works undertaken by rural landowners and occupiers on their land that are required because of Cyclone Gabrielle without the need for resource consents
 - b) include permitted activity standards to manage adverse environmental effects

- c) require landowners and occupiers carrying out the works to give at least 20 working days' notice⁴ to the Hawke's Bay Regional Council before works commence.
50. Other points raised in the feedback included the need for sufficient time to undertake the works. There was consensus from stakeholders that timeframes cannot be unlimited and need to be timebound. However, several parties sought an extension of the proposed revocation date of 31 December 2025 to enable recovery works to occur over both the 2024/25 and the 2025/26 summer periods.
51. The rationale for this change is to ensure rural landowners will have sufficient time to complete the rural recovery works. Much of the work required (e.g. construction and earthworks) is seasonal in nature and cannot feasibly be undertaken all year round due to weather conditions. In addition, there are environmental requirements which predicate against works occurring during the autumn/winter seasons. In the Hawke's Bay region there is a fish spawning season which runs 1 May to 30 September, with rules in the Hawke's Bay Regional Resource Management Plan preventing works from being undertaken during this time in the wetted bed of any waterbody without a resource consent.
52. Officials support the continued imposition of this control to ensure effects on the environment are appropriately managed. An extension to the revocation date for the OIC would give landowners an increased window in which to undertake the works and ensure that works can occur outside of the fish spawning season. On this basis, officials recommend the revocation date for the OIC is extended from 31 December 2025 to 30 April 2026.
53. Following engagement with the PSGEs in Hawke's Bay and feedback from other Crown agencies officials propose to add an accidental discovery protocol in the environmental standards in Schedule 1 of the proposed OIC. We consider that the accidental discovery protocol standard is needed to cover scenarios where landowners or occupiers come across kōiwi (human remains) or archaeological items such as undocumented wāhi tapu or wāhi taonga sites. The accidental discovery protocol provides a link to the statutory requirements under the Heritage New Zealand Pouhere Taonga Act 2014 to stop works and contact Heritage NZ if these items are discovered.

⁴ The information that must be contained in a notice given to the Hawke's Bay Regional Council is:

- (a) the name of the applicant;
- (b) the address of the rural recovery works;
- (c) contact details for—
 - (i) the applicant; and (ii) any person authorised to carry out works on the rural land by the applicant;
- (d) identification of the territorial authority (within the meaning of the Local Government Act 2002) or territorial authorities within which the rural works are to be undertaken;
- (e) a plan showing the general location of the rural recovery works on the property;
- (f) photographs showing the location of the rural recovery works on the property;
- (g) a description of the damage caused by the severe weather event;
- (h) a description of the rural recovery works to be carried out;
- (i) identification of the intended timing and duration of the rural recovery works;
- (j) identification of any relevant overlays applicable to the rural recovery works area;
- (k) identification of any water bodies within the vicinity of the works;
- (l) a description of any methods proposed to ensure that the rural recovery works comply with the requirements of the Schedule (as applicable).

54. In addition to the above, several stakeholders requested the OIC is extended to cover the Gisborne/ Tairāwhiti district. We do not recommend this, as discussed above.
55. The Review Panel considered the draft OIC on 5 August to 7 August 2024. In summary, the Review Panel's recommendations are:
- a) Amend the definition of rural recovery works in clause 6 to better align with the purpose of the SWERLA by including the words 'reasonably necessary' before describing the rural recovery works that are permitted activities under the OIC. This will ensure the rural recovery works are linked to the purpose of the SWERLA and are for the purpose of repairing or remediating land back to its pre-severe weather event condition,
 - b) In clause 1(2) of the Schedule, remove the words 'beyond the boundaries of the land' when referring to rural recovery works that cause significant adverse effects. This will better enable the management of cumulative effects and to meet the requirements in the SWERLA to avoid, remedy or mitigate adverse effects on the environment,
 - c) Extend the notification period for PSGEs to respond to any notices from 5 working days to 7 working days. The PSGEs may need to contact and obtain feedback from several iwi/hapū groups before confirming their feedback with the local authority. This will not affect the overall processing time which remains at 20 working days where no further information is required,
 - d) Clarify the language used to define rural recovery works, ensure the consistent use of terms throughout the OIC, and resolve a small number of minor technical drafting issues.
56. Officials have reviewed Treaty Settlements for PSGEs in the region and found no settlement terms directly engaged by the draft OIC. However, potential impacts on settlement agreements were identified:
- a) Many of the Treaty Settlement Deeds in the affected areas have relationship commitments which include consultation expectations for changes to resource management policy impacting PSGEs. These expectations are being met via letters updating PSGEs on the process and online hui. In addition, the statutory engagement timeframes for this OIC proposal were extended from 3 working days to 9 working days to allow for further time for PSGEs and iwi and hapū to carry out their own engagement with their members in order to fulfil kaitiaki responsibilities.
 - b) All the Treaty Settlements provide Statutory Acknowledgements or statutory overlays which set out processes for PSGE involvement in resource consent applications. Changing the status of certain activities to permitted removes the need for resource consent applications and so bypasses these processes. This is mitigated by the notice requirements, the further information process and reversion to district plan permitted activity standards.
57. The permitted standards are a significant part of the OIC and will assist with managing significant adverse effects. The requirement to notify the HBRC at least 20 working days before works commence will allow the Hawke's Bay local authorities (and any PSGE where works may impact on wāhi tapu, wāhi taonga, or sites of significance to Māori) sufficient time to ascertain whether the works are within scope of the OIC and

that works will not have significant adverse effects on wāhi tapu, wāhi taonga, or sites of significance to iwi, hapū and Māori.

58. Officials have consulted with the following agencies on the draft Cabinet paper and draft Order: Department of Prime Minister and Cabinet (both the Policy Advisory Group and the Cyclone Recovery Unit), the Ministry for Primary Industries, Department of Conservation, the Ministry of Culture and Heritage, the Department of Internal Affairs, Land Information New Zealand, Te Puni Kōkiri, the office for Māori Crown Relations – Te Arawhiti, Ministry of Business, Innovation and Employment, and the Ministry for Regulation. The agencies supported the substance of the Order with feedback limited to recommendations for minor wording amendments.
59. Overall, the changes made to reflect consultation and review body recommendations will increase the environmental safeguards, improve feedback process for PSGEs and ensure the language used is consistent, whilst still retaining the intent for a pragmatic approach to expediting rural recovery.

Option Three – Amend SWELA timeframes for RMA by introducing similar provisions to those that were in s331A-331E

60. In the immediate aftermath of the NIWE, the SWELA was passed into law on 20 March 2023 to support the immediate recovery and rebuild. It is an omnibus Act that made changes to a number of existing laws including the RMA. Specifically, SWELA introduced a permitted activity regime for rural landowners / occupiers by inserting sections 331A-331E in the RMA.
61. The permitted activity regime was designed to help rural landowners and occupiers to undertake activities on their properties immediately following NIWE without the need to apply for resource consent, providing certainty and process efficiencies. These activities included the removal of silt, clearing slips and rebuilding of smaller structures like retaining walls, culverts and bridges. Tests and safeguards in the regime included containing significant adverse effects within the site boundaries, notifying the council of the activity (within 60 working days after works started), and a requirement to obtain permission from relevant iwi or hapū if located on or impacting culturally significant land. This provided the rural community the ability to continue with their recovery from NIWE whilst notifying relevant councils of the works for potential monitoring and enforcement purposes.
62. The relevant sections of SWELA were repealed on the close of 1 April 2024. Option three would see SWELA amended via new primary legislation to introduce similar provisions to those under s331A-331E with a repeal date of 31 December 2025⁵.
63. Unlike SWELA, proposed option two has a pre-works notification process. This notification will be forwarded to the relevant PSGE (by the council) where on or may impact on wāhi tapu, wāhi taonga, or areas of significance to Māori. There are steps to include any feedback received through the proposed further information process under the proposed OIC in option two. Furthermore, where works are proposed on an area identified in a district plan or proposed plan as comprising outstanding natural landscapes and features, significant natural area or a wāhi tapu, wāhi taonga, or area of significance to Māori, the works must comply with the existing district plan provisions

⁵ Refer: <https://legislation.govt.nz/act/public/2023/0004/latest/LMS822431.html>

for these overlays. These changes proposed under option two – moving notification to *before* commencement, the option for PSGE comments to council, and the reversion to district plan rules were on wāhi tapu, wāhi taonga, or areas of significance to Māori combine to integrate iwi involvement more thoroughly in advance of works commencing and throughout the process compared to the SWELA option three.

64. This option will support recovery, removing regulatory red tape and thus lowering costs for the rural community and the processing pressures for local authority staff. However, the timeframes to achieving this primary legislative change are too long for this policy response in that they will not be in force before 2025/26 which would result in similar if not worse delays to recovery than would be experienced under the status quo.
65. However, the purpose of the legislative intent is no longer applicable, due to the 'emergency' phase being over. The need for intervention has changed from emergency to recovery – because of this an OIC is more appropriate.

Option Four – Further amendments to RMA emergency provisions

66. As part of its work on replacement legislation to the RMA, MfE is exploring policy proposals for amendments to RMA emergency provisions (below) that could assist with rural recovery post severe weather events:
 - a) Replicate the NBEA's s796 power, to make Orders in Council, into the RMA, to help respond to and recover from emergency events. The NBEA was repealed in December 2023.
 - b) Add additional powers (beyond those in s796) to allow the extension of timeframes for lodgement of retrospective consent for emergency works under s330(2).
67. Under these proposals the use of the power would be contingent on the declaration of a state of national or local emergency under the Civil Defence Emergency Management Act 2002 (CDEMA) however orders may continue to be created and apply for up to three years after the declaration ceases.
68. Option four is an ongoing body of MfE work addressing amendments to RMA emergency provisions (primary legislation) to allow for specific powers in emergency and recovery situations. It will meet Treaty obligations, manage environmental risks and support recovery by removing regulatory red tape and freeing up council staff capacity. However, the timeframes to achieving this primary legislative change are inappropriate for this policy response as it will not be in force until 2025/26, and thus delays to recovery would be similar if not worse than that experienced under the status quo. For this reason, it is not an expedient or effective option.

Option Five – Global consents

69. Global consents in this context are resource consents which cover multiple activities in different locations. Typically issued to a single organisation with interests throughout a district, these consents apply to geographically dispersed but similar activities, allowing for uniform consent conditions. They are more typically used and effective where there are works for a single issue (such as water take) and where the consent holder represents all the landowners/occupiers and/or is responsible for carrying out the work on their behalf. For rural recovery works, there is a variety of works required, with activities involving multiple (100s-1000s) of properties and several local authorities. This option requires agreement from the landowners/occupiers involved for their property to be subject to one consent.

70. The process of developing and making a decision on a global consent are typically longer than average and require considerable effort to coordinate across the many stakeholders, including iwi, hapū, Māori, local community, technical experts and local authorities. The properties are likely to be subject to different district plan rules and objectives and zones, and with some properties potentially straddling planning overlays, zones, and districts. This option is extremely complex in practice to carry out.
71. This process will eventually enable recovery works, and will meet Treaty obligations and manage environmental risks. The timeframes are longer than the status quo, and the costs are the higher. Council staff from all districts will be held up in this process for its duration, which is likely to be 6-12months. This adds significant additional demands on council staff from the status quo. There is also a risk here of excluding persons who do not wish to approach recovery through a global consent, or who do not have the funds to contribute financially to the process.

Option Six – Schedule 1 RMA plan change

72. This option has not been pursued yet due to the scale of the damage, the assumption that the SWELA's one year time limit would be sufficient, and the necessary allocation of council resources, which could be used to draft and process a plan change, to emergency response. As discussed above, various unanticipated factors prevented many landowners and occupiers from using the permitted activity regime in the SWELA.
73. Under this option plan changes are required across multiple RMA plans, which may be at varying stages. The standard RMA Schedule 1 process of submissions and appeals provides opportunity for wider public participation and meets Treaty obligations, however a standard plan change process can be lengthy, with an average processing timeframe of two years to resolve hearings and appeals. There is then the second step of a plan change being implementation, which could involve some form of consent process depending on how it is approached.
74. This process is costly for local authorities, landowners/occupiers and the public to participate in. As with option five, this process may exclude some people who have insufficient funds to participate. It will add to the workload of council resources.
75. Option six cannot address all the necessary changes to RMA regulatory documents. An RMA plan change must comply with national environmental standards, and thus this cannot promulgate changes to the NESF, which will limit its effectiveness and providing regulatory relief for the rural community.
76. Plan changes for the purpose of emergency recovery may meet the criteria for Streamlined Plan change process (Schedule 1 Part 5), but still require multiple processes and take a longer time than other options, and has the same costs involved as for a usual Schedule 1 Plan Change.

How do the options compare to the status quo?

	Option One – Status Quo	Option Two – Rural recovery works OIC <i>Preferred option</i>	Option Three - Amend SWELA timeframes for RMA	Option Four - Further amendments to RMA emergency provisions	Option Five - Global consents	Option Six - Schedule 1 RMA plan change
Reduces delay	0	++	-	-	--	--
Cost	0	++	++	0	-	--
Effective-ness	0	++	-	-	-	-
Capacity constraints	0	+	+	+	--	--
Treaty	0	0	0	0	0	0
Manage Risks	0	0	0	0	-	-
Overall assessment	0	+	-	-	--	--

Key for qualitative judgements:

- ++ much better than doing nothing/the status quo
- + better than doing nothing/the status quo
- 0 about the same as doing nothing/the status quo
- worse than doing nothing/the status quo
- much worse than doing nothing/the status quo

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

77. Option two - Rural recovery works OIC, is the preferred option which will meet the policy objectives and deliver the highest net benefits. This option is the Ministry's preferred option. It presents notable advantages over the status quo and other proposed options. Specifically, the Rural Recovery Works OIC excels in expediency and cost-effectiveness, receiving the highest ratings in these categories. By swiftly enacting measures to support rural recovery, this option minimises delays in the restoration process while mitigating financial burdens for affected landowners and occupiers. Moreover, it achieves a positive overall assessment, indicating its superiority in delivering net benefits compared to the alternatives.
78. In contrast, other options, such as amending legislation or implementing global consents, demonstrate shortcomings in reducing delays, cost, and overall effectiveness, rendering them less favourable choices. The standard RMA resource consent process and other options under it (five and six) are process heavy and are not set up for addressing the unprecedented scale of damage and recovery as a result of the NIWE. In addition, the rural recovery works are unable to fit the eligibility criteria for entry into the RMA's fast-track consenting process.
79. We note the existing RMA regime, while suitable for managing activities in a normally functioning environment, does not readily address major civil emergencies. The RMA contains a set of standard provisions to enable emergency works or to take preventative or remedial measures when immediate action is required. These provisions are largely appropriate for responding to smaller events and emergencies. However, they are not sufficient for larger emergency events (such as the Christchurch and Kaikoura Earthquakes and the 2023 North Island severe weather events).
80. The existing RMA emergency provisions also do not cover the recovery period that occurs after an emergency, which can last for several years. These limitations have resulted in the need for bespoke legislation, and subsequent orders in council such as under the SWERLA to be developed to assist in response and recovery for each of the events mentioned above.
81. Therefore, the Rural Recovery Works OIC is the most viable solution, offering tangible improvements and demonstrating a commitment to addressing the challenges posed by the recovery process following the natural disaster.

What are the marginal costs and benefits of the option?

82. In this analysis we have considered the cost of the preferred option (the OIC) as compared with taking no action (using the standard RMA consenting pathway). The alternative options received net disadvantages in the Multi Criteria Assessment above, due to the effectiveness of their respective abilities to provide regulatory relief in an appropriate timeframe to assist with rural recovery in the Hawke's Bay, and therefore the RMA status quo would be the preferred option in absence of an OIC.
83. An explanation of low, medium and high impact is given below:
 - a) Low impact: The difference between the impact from the OIC pathway and the RMA pathway are expected to be nil or negligible
 - b) Medium impact: There is an expected difference between the impact from the OIC pathway and the RMA pathway, but this difference is expected to be not substantial

- c) High Impact: The difference between the impact from the OIC pathway and the RMA pathway are expected to be substantial (higher or lower).

84. In the table, impacts are described as one-off, or ongoing. One-off impacts will normally not last beyond a specific stage in the recovery works. Ongoing impacts are longer, may extend over several years, and may generate a variety of other impacts that are not anticipated here.

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Rural community /Residents	<p>The proposed OIC may create an equity issue between the rural landowners/occupiers who utilised SWELA and had a larger scope of activities, and those who will use the OIC after enactment.</p> <p>However, if no action is taken, then rural landowners/occupiers may face additional costs and risk if they undertake work without the OIC in place as resource consents will be required.</p>	Low (on-going until revocation) potential equity costs and low potential costs of enforcements and compliance fees if activities undertaken without consent (without the proposed OIC).	Medium
Rural community /Residents	There is potential that users will misinterpret the OIC and carry out activities anyway, without providing proper notification to council.	High (one-off) This could result in activities that could be harmful to the environment.	Medium
Local government	The proposed OIC will reduce but not eliminate the workload for council staff.	Medium (on-going until revocation) Council staff still required to process the OIC notifications.	High
Iwi/Hapū/Māori	<p>The proposal removes the right to object or lodge RMA appeals on consents, as the consents are to become permitted activities (where they meet the permitted standards).</p> <p>However, where the activities may impact on or are within areas of cultural significance, the relevant PSGE will be given notice in advance of works commencing by the council through the requirements of the notification clauses,</p>	No impact	

Affected groups	Comment	Impact	Evidence Certainty
	<p>thereby allowing for PSGEs to identify potential risks to a wāhi tapu, wāhi taonga, or areas of significance to Māori through this further information process.</p> <p>This ensures that there are no unintended impacts on culturally significant land whilst still allowing rural recovery works to proceed.</p> <p>Nb. Iwi/hapū are also rural landowners/occupiers. Refer also to the rural community and residents rows above.</p>		
Residents who are not able to object or appeal the consents	<p>The proposed OIC could result in people losing their benefits that could arise from objecting or appealing RMA consents, such as financial gain or avoidance of loss.</p> <p>As the ability to object or appeal the consents may have the benefit of ensuring that consents and consent conditions are subject to a more complete and wider analysis, removing that ability may have longer-term negative impacts.</p>	<p>High (potentially on-going) impact from removal of objection or appeals under standard RMA consents.</p> <p>Medium long-term impact from removal of increased scrutiny under standard RMA consents.</p>	<p>High/Medium <i>High evidence certainty for no costs of objection through the permitted works status under the OIC.</i></p> <p><i>Medium evidence certainty for longer-term impacts of removal of that ability.</i></p>
Non-monetised costs		<i>High</i>	
Additional benefits of the preferred option compared to taking no action			
Rural community /Residents	<p>If the OIC enables the recovery works to be completed earlier than would be possible if consents were obtained under the standard RMA pathway, farmers and rural communities will benefit from earlier recovery. For example - opening roads, restoring land to farming, better access, fewer animal welfare concerns, and higher farmgate prices.</p>	<p>High (on-going)</p> <p>High economic and social benefits from earlier recovery.</p>	<p>High</p> <p><i>(indicated throughout the recovery plan)</i></p>

Affected groups	Comment	Impact	Evidence Certainty
	The costs of consents for works are expected to be lower than if the standard RMA consenting pathway were used.	High (one-off) High benefit from lower costs of recovery.	High
Local government	The local government staff is anticipated to be under less pressure under the OIC than if the status quo standard RMA process applied.	High (on-going throughout recovery) High benefit from less pressure on council staff.	High
Iwi/Māori	The proposed OIC will apply to Māori owned rural zoned land, meaning that iwi/Māori are able to benefit from the OIC and undertake recovery works on land as permitted activities (where standards are met).	High (on-going until revocation) High economic and social benefits from earlier recovery.	High
Non-monetised benefits		<i>High</i>	

Total costs and benefits

85. There are assumptions made in the assessment above: the data shows that there has been large scale damage across the region. The survey response was from 200 of the 1500 farms over 20ha in the region. There are timeframe limitations for this policy issue which have constrained our ability to get additional data. We are basing this assessment off the combined evidence of widespread damage and those who responded to the survey, in which 94% said they still had recovery works to complete, with our knowledge of what types of activities would be necessary and which of those require consent. Then we have extrapolated that to cover the region as a whole. We assume that under the status quo there could be between 100s and 1000+ consents required to get the rural community back to pre-NIWE conditions.
86. In the summary table above, it is apparent that the benefits of the OIC would outweigh the costs. This is because:
- a) The OIC will allow the recovery works to begin earlier than if the standard RMA consenting pathway were used. This earlier commencement means that the benefits of the recovery will be felt earlier by the rural community across the region, lowering the significant social and economic costs currently being experienced by the rural community in the Hawke's Bay.
 - b) The benefits of an earlier recovery outweigh the main cost of using the OIC - the lack of ability to object or appeal, and the risk of temporary adverse environmental effects from non-compliance.

Section 3: Delivering an option

How will the new arrangements be implemented?

87. The OIC is still in draft form and is yet to go through the second cabinet scrutiny process. It is anticipated it will be enacted in mid to late September.
88. It is proposed that the OIC will be implemented through use of a robust communications and engagement strategy to inform the rural community in the Hawke's Bay of its enactment, and how it works. The community is already engaged through the preparation for the Hawke's Bay Flood Works OIC and the consultation held for this OIC in early July. They are thus already aware of what OICs are and for this OIC are aware of its proposed scope, and that it is being progressed with the intent to enact in spring.

How the OIC works

89. Users are to indicate an intent to use the OIC to the relevant local authority, filling out a form which requires they provide various information in order to submit it (address, location, scope of works and scale, etc.). This is then automatically submitted to the regional council who then check the proposal to ensure it is consistent with the permitted standards. Where council assess the information provided and are not certain that the activity would fit within the scope of the OIC, there is an option for council to request further information from the applicant, who then has 15 working days to provide this information. If, upon receiving and assessing the information, the council determines the activity out of scope of the OIC, the council will notify the applicant thusly within 15 working days.
90. Where identified that the site or works is within or adjacent to a site of cultural significance, the regional council will forward the information to the relevant iwi group. Where a site is identified within an outstanding natural feature or landscape, significant natural area, or a wāhi tapu, wāhi taonga, or area of significance to Māori, then the works must comply with the district plan permitted activity standards.
91. There is a further information request process in which a council can request further information from the applicant. Through this process it is intended that PSGEs would be able to alert council where a proposal is at risk of impacting on a wāhi tapu, wāhi taonga, or areas of significance to Māori through this further information process.
92. The rural recovery works must not commence in reliance on the OIC if the council has notified the applicant that it is not satisfied that the requirements in Schedule 1 will be met. Works undertaken outside of scope of the OIC, without resource consent, could be subject to enforcement action under the RMA.

OIC expiration

93. It is proposed that the OIC's modification to the RMA should last until 30 April 2026, extending from the originally proposed 31 December 2025. Consultation feedback requested two full summers for works, allowing most rural landowners / occupiers affected by the NIWE to complete the recovery works to restore their land to a pre-cyclone condition, while not indefinitely suspending the NESF and regional and district plan rules and standards.

Implementation risk and mitigation

94. Reviews of existing OICs created under SWERLA shows there is a risk that the notification requirement may be ignored and works carried out nonetheless. It is believed that a clear and comprehensive communications and engagement strategy, which specifies clearly the outcomes of non-compliance, will mitigate this risk.
95. There was low uptake of the regime under SWELA. There is a risk that the rural community were unaware of SWELA's opportunities and are unaware of this OIC. The community, however, is quite engaged at the moment having been engaged with recently on the development of the Hawke's Bay Flood Works OIC, and then again with this OIC in early July. In order to ensure dissemination of information on the opportunity presented by the OIC to reinstate land impacted by NIWE, there will be communications strategies and engagement plans coordinated between MfE and the HBRRA. This will ensure the community's ability to take up the opportunity under the OIC when they have the capacity (time, funds, access to contractors) within the parameters of the OIC's permitted activity standards.
96. The specifics of the communications strategy and engagement plan will be developed after the final OIC wording is finalised. At this stage the first draft OIC will be going to cabinet later this month, and may develop after direction from departmental and ministerial feedback.
97. The existing monitoring, enforcement and compliance powers and functions for regional and district councils under the RMA are not proposed to be altered. The current mechanisms for ensuring compliance under the RMA remain to support councils to manage the implementation risk identified.

How will the new arrangements be monitored, evaluated, and reviewed?

Monitoring and evaluation

98. Monitoring of the activities will occur when required by the relevant council compliance staff. The OIC requires users to notify the council with their intent and scope of works, which allows councils to check in advance of works occurring that the activities are in scope of the permitted works and in accordance with the permitted standards. This also gives the council the opportunity to go out on site to monitor the works as they occur. The existing RMA compliance, monitoring and enforcement powers and functions are not minimised by this OIC and are available for council staff to utilise. The process of compliance monitoring involves carrying out inspections and using compliance approaches to promote behaviour change and incorporate best practice⁶.

Review of the Order in Council

99. It is proposed that the OIC requires a review one year after enactment. This review will be undertaken by MfE as part of MfE's regular reviews (which started in early 2024) of OICs that are made under the SWERLA, and for which the Minister for the Environment is the responsible Minister.

⁶ [Regulation & Compliance | Hawke's Bay Regional Council \(hbrc.govt.nz\)](#)

100. The regular reviews are required under Section 12 of the SWERLA, which obliges the relevant Minister to decide whether to continue to be satisfied in relation to the following matters (SWERLA section 8(1)(a)):

- a) The order is necessary or desirable for one or more purposes of SWERLA
- b) the extent of the order is not broader (including geographically broader in application) than is reasonably necessary to address the matters that gave rise to the order.
- c) the order does not breach section 11⁷ of the Act
- d) the order does not limit or is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990.

101. The main steps of a review by the responsible agency are:

- a) Approximately two months before a review begins, MfE informs stakeholders and Treaty partners about the information it is seeking, the relevant dates for the period to which the information refers, and opportunities for engagement.
- b) MfE engages with internal and external stakeholders, and Treaty partners, to receive feedback on the use of the OICs and the impacts they are having.
- c) MfE analyses the feedback and data received from stakeholders and Treaty partners. The draft options and recommendations for the Minister are reviewed by the Legal team and a Treaty impact analysis is completed before they are finalised.
- d) MfE advises the Minister on whether the OIC remains necessary or desirable, and whether changes are needed to ensure it remains fit for purpose. If the Minister agrees to changes, we will work with relevant parties on the amendments.
- e) Key information relating to reviews is published on the MfE website. MfE liaises with other government agencies, as appropriate, on the outcomes of reviews.

⁷ Section 11 restricts the OIC from granting or modifying a requirement to release someone from custody or to have their detention reviewed, or from granting or modifying an exemption or restriction imposed by (for example) the New Zealand Bill of Rights Act 1990.

Appendix A: Table showing types of activities identified by rural community with BAU regulatory framework that it would fall under

Nb. Abbreviations used are:

CHBDC	Central Hawke's Bay District Council
DP	District Plan
HBRC	Hawke's Bay Regional Council
HDC	Hastings District Council
NCC	Napier City Council
OIC	Order in Council
RP	Regional Plan
RRA	Hawke's Bay Regional Recovery Agency
WDC	Wairoa District Council

Other regulations referred to:

NESF National Environmental Standard Freshwater

Stock exclusion OIC Resource Management (Stock Exclusion) Regulations 2020

Time extensions OIC Severe Weather Recovery (Resource Management – Time Extensions) Order 2023

Waste Management and Waste Minimisation OICs Severe Weather Emergency Recovery (Waste Management) Order 2023 / Severe Weather emergency Recovery (Waste Minimisation) Order 2023

Work requirement identified by rural community in RRA survey	National rules District Plan Rules and standards Nb. Rules are summarised once, then cross-referenced.				MfE comments / analysis
Track damage (92% respondents affected)	<p>Earthworks DP <i>Earthworks for forestry activities are permitted in Hastings District Council (HDC) (27.1.5(c)). In HDC earthworks of 2000m³ per hectare of site in the Rural Zone (100m³ for Rural Residential, Tuki Tuki and Plains Production zones (27.1.6A)) per 12 month period are Permitted Activities. Earthworks that remove less than 25m³ per site (plains production zone) or 100m³ (all other rural) per site per 12 month period are Permitted Activities (EM3), which elevate to Discretionary Activities in the PPZ (EM10 and EM11) and to RDIS in all other zones (EM6).</i></p> <p><i>Under the Wairoa District Plan (WDC) the definition (and associated exclusions) of earthworks, earthwork activities in the rural and settlement zones to maintain farm</i></p>	<p>Culvert replacement (RP) (NESF) <i>Excavations in beds of waterways, removal of structures in beds of waterways, maintenance of structures in beds of waterways) (RP rules 56, 57, 64, 72, elevates to DIS under 59 and 69).</i></p> <p><i>The placement, alteration, extension or reconstruction of a culvert in the bed of any river or connected area is a permitted activity under the NESF regs 62 and 63 (standards reg 70) where information on location and design is provided to council within 20 days of works commencing. Elevates to discretionary under reg 71.</i></p>	<p>Diversion of water (RP chapter 6) (NESF) <i>Diversion within the bed of waterbody, or divert no more than 10% of flow (among other controls)(rule 56), elevates to Discretionary (rule 59).</i></p> <p><i>Reg 38(3) taking use damming diversion or discharge of water within or within 100m from a wetland PER for restoration/maintenance, scientific purposes (not farming). All other damming/diversions of water within 100m of wetland are Non-Complying activities under Reg 54.</i></p>	<p>Realigning streams (RP) <i>Diversion within the bed of waterbody, or divert no more than 10% of flow (among other controls)(rule 56), elevates to Discretionary (rule 59).</i></p>	<p>Consents are likely required.</p> <p>Due to the scale of the earthworks anticipated across the region, recovery works for track damage will require discretionary resource consents in almost all the Districts in the Hawke's Bay.</p> <p>HDC - While landowners and occupiers in the Rural Zone may be able to carry out the necessary remedial earthworks for their recovery, if they want to remove that excess soil/silt off site they will require a discretionary activity Resource Consent. It is also understood that the 100m³ of permitted earthworks extent in the other rural zones will not be sufficient to carry out the necessary remedial works and Discretionary Activity consents will be required in these zones.</p> <p>WDC – while the works further than 20m from waterways are permitted, it is understood that there will be many earthworks activities, in</p>

Work requirement identified by rural community in RRA survey	National rules District Plan Rules and standards Nb. Rules are summarised once, then cross-referenced.			MfE comments / analysis
	<p><i>tracks, tracks or roads, irrigation or land drainage or dam building are permitted activities, where they are further than 20m from the bank of a waterway. The remaining earthworks activities (clearing silt and erosion closer than 20m from a waterway) would require a Discretionary activity resource consent where in excess of 250m³ or 400m² (rural) (16.8.18, elevation under 16.7.2) and 300m³ and 150m² (settlement zone) (17.8.17, elevation 17.7.2) in area per site per 12 month period. Any land disturbance in any area identified as of significance to Māori is DIS (22.1.7).</i></p> <p><i>In Napier City Council (NCC) earthworks under 100m³ per hectare of site within a 12 month period is a permitted activity in most rural zones (52A.6, elevates to RDIS 52A.9). However, the removal of more than 25m³ offsite per 12 months period in Main Rural Zone is a Discretionary activity (52A.10.1) with 100m³ offsite for other rural zones (52A.10.2).</i></p> <p>Earthworks that may affect rivers and wetlands (RP Chapter 6) (NESF)</p> <p><i>Under the RP, excavation within the bed of a waterway may not occur for more than 5 days and only 5m² per day, where it elevates to DIS. Discharges to land within 20m of a waterbody is a Discretionary activity under Chapter 6 Rule 52. Excavations in river beds is a discretionary activity under Rule 69 Chapter 6.</i></p> <p><i>Under the NESF, activities Reg 50(2) allows for earthworks within 10m of wetland where complies with standards AND is for arable or horticultural land use. All other earthworks within 10m of wetland are Non-Complying activities under Reg 54.</i></p>			<p>particular removal of silt washed over sites from waterways, that will be within 20m of waterways.</p> <p>In CHBDC's district the Ancillary Rural Earthworks definition⁸ and associated permitted activity status (where compliant with standard environmental controls such as silt and sediment management, reinstatement of site etc.) means that for the Rural Zones in the Central Hawke's Bay District Plan (proposed, note still subject to appeals where activities are within landscape areas), the majority of the earthworks required to be undertaken for track damage and irrigation and stock water damage can be done so through a Permitted Activity status (EW-R2).</p> <p>For within NCC, as much of the earthworks would be removal of silt offsite, and as much of the area is Main Rural Zone, this means that most of the remedial works in rural Napier require a Discretionary Activity Resource Consent.</p> <p>Culvert replacements will require consents under the RP for excavation in beds of waterways, removal of structures in beds of waterways and / or maintenance of structures in beds of waterways, as well as a consent under the NESF reg 71.</p> <p>For realigning streams to their original channel/course where they have moved across a site and potentially across a farm track, this would require diversion of water consents under the RP as DIS activities, as well as DIS consent for works within beds of waterways under the RP.</p> <p>There are permitted regulations under the NESF for removing material (trees, debris, sediment) from wetlands and proximity to wetland, earthworks, and damming or diversions of water in proximity to wetlands (Reg 51), but only if the material was deposited as a result of a natural hazard AND it is causing or likely to cause an immediate hazard to people or property. As discussed throughout the vires and need v want templates, the immediate hazard to life and property after NIWE has passed and the region is transitioning into the medium to long term stage of recovery, after immediate danger has passed.</p>

⁸ Ancillary Rural Earthworks means earthworks associated with normal agricultural and horticultural practices, such as:

- a. maintenance of drains, troughs and installation of their associated pipe networks, drilling bores and offal pits, and burying of dead stock and plant waste (including material infected by unwanted organisms as declared by the Ministry of Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993); and
- b. Maintenance of existing walking tracks, farm and forestry tracks, driveways, roads and accessways.

Work requirement identified by rural community in RRA survey	National rules District Plan Rules and standards Nb. Rules are summarised once, then cross-referenced.				MfE comments / analysis
					This regulation could not therefore be utilised to address this policy issue.
Erosion (88% respondents affected)	Earthworks DP (as per track damage). <i>CHBDC allows 20000m3 per ha of site per 12 months in General Rural Zone (GRUZ) (EW-S2), elevates to RDIS (EW-R2.2) and 1000m3 per ha of site per 12 months in the Rural Production Zone (RPROZ) and 500m3 per site per 12 months in the Rural Lifestyle Zone (RLZ). Other usual standards apply.</i> Earthworks that may affect rivers and wetlands (RP) (NESF)	Realigning streams (RP) <i>Diversion within the bed of waterbody, or divert no more than 10% of flow (among other controls)(rule 56), elevates to Discretionary (rule 59).</i>	Culvert replacement (excavations in beds of waterways, removal of structures in beds of waterways, maintenance of structures in beds of waterways) (RP)		Consents are likely required. As per track damage above, noting that activities away from tracks or irrigation / stock water damages will require consent for earthworks under CHBDC as it will not fall under the Ancillary Earthworks exemption. However, 2000m3 per ha per site could be sufficient to allow for erosion and sediment recovery earthworks.
Sediment (64% of respondents affected)	Earthworks DP (as per track damage and for CHBDC per erosion) Excavations in beds of waterways (RP) Disturbance in proximity to wetlands (NESF)	Diversion of water (RP) <i>Diversion within the bed of waterbody, or divert no more than 10% of flow (among other controls)(rule 56), elevates to Discretionary (rule 59).</i>	Culvert replacement (excavations in beds of waterways, removal of structures in beds of waterways, maintenance of structures in beds of waterways) (RP)	Realigning streams (RP)	Consents are likely required. As per track damage and erosion above.
Water supply/irrigation system damage (66% respondents affected)	Earthworks DP (as per track damage) Excavations in beds of waterways (RP)	Diversion of water (RP)	Realigning streams		Consents may be required. Earthworks for water supply or irrigation system repairs are likely to be small scale and not require resource consent under District Plans. These may require discretionary activity consents under the regional plan for diversions of water or excavations in beds of waterways as well as removal or maintenance of structures in beds of waterways depending on the set up.
Stock water or access damage (65% respondents affected)	Earthworks DP (as per track damage) Excavations in beds of waterways (RP)	Diversion of water (RP)	Culvert replacement (excavations in beds of waterways, removal of structures in beds of waterways, maintenance of structures in beds of waterways) (RP)	Realigning streams (RP)	Consents may be required. Similar to water supply and irrigation system damage. These may require discretionary activity consent under the regional plan for diversions of water or excavations in beds of waterways as well as removal or maintenance of structures in beds of waterways depending on the set up.
Dam damage/loss	Earthworks DP (rules as summarised in track damage). <i>Note that the WDC plan excludes dam building for farm and forestry activities from earthworks.</i> Excavations in beds of waterways (RP)	Diversion of water (RP)		Consents are likely to be required. Depending on the scale of the damage to dams, there could be significant earthworks required which will require earthworks consents in the local territorial authority. Summaries on this as per track damage. This will require discretionary activity consents under the regional plan and district plans, for rural landowners across the region.	

Work requirement identified by rural community in RRA survey	National rules District Plan Rules and standards Nb. Rules are summarised once, then cross-referenced.				MfE comments / analysis
Issues with access around property (60% of respondents affected)	Earthworks DP Excavations in beds of waterways (RP)	Diversion of water (RP)	Culvert replacement (excavations in beds of waterways, removal of structures in beds of waterways, maintenance of structures in beds of waterways) (RP)	Realigning streams (RP)	<p>Consents are likely to be required.</p> <p>It is understood that many landowners /occupiers are still dealing with issues with access within their properties, which is directly impeding the ability to productively farm.</p> <p>This recovery activity will likely require earthworks consents (district plan and where in proximity to waterways, regional plan), potential for realigning streams which moved in the severe weather event back to their original course, which will require diversion and realigning stream, works in beds of waterways consents.</p> <p>This activity will also likely involve some culvert replacements, which will require consents for earthworks in proximity to streams, diversion of water, as well as excavation in beds of waterways, removal and maintenance of structures in beds of waterways consent.</p> <p>These will result in discretionary activity consents under the regional and district plans, for rural landowners across the region.</p>
Sheds/barns/yards damage (33% of respondents affected)	Earthworks DP Excavations in beds of waterways (RP)	Realigning streams (RP)	Diversion of water (RP)		<p>Consents are likely to be required.</p> <p>It is understood that some streams moved their courses during the severe weather events, and landowners are seeking in these situations to move the stream back to its original course. This could be a situation for yard damage repairs. This would require discretionary activity resource consents for excavation in beds of waterways and diversion of water from HBRC.</p> <p>Nb. Sheds as accessory buildings may not require consent under many district plans, but building consent will be required for some of these structures.</p>
Wood waste/debris damage (29% of respondents affected)	Discharge to air/discharge to land (RP) Excavations in beds of waterways (RP)			<p>Consents are likely to be required (unless works are undertaken subject to the Waste Management and Waste Minimisation OICs).</p> <p>Depending on location, these types of activities will not require resource consent to remove from site and dispose at an approved facility due to the Waste Management and Waste Minimisation OICs. There may be cost barrier and capacity barrier to transport the material to one of these facilities.</p> <p>The burning of this material would require a consent under the Regional Plan for discharges to air as the Open Burning Order has been revoked, with potential for a permit to discharge to land if any of the waste has heavy metals etc in it</p>	

Work requirement identified by rural community in RRA survey	National rules District Plan Rules and standards Nb. Rules are summarised once, then cross-referenced.			MfE comments / analysis
				<p>(potential to cause site contamination and a risk to health).</p> <p>Where located in proximity to or within the bed of a stream or river this will likely require consent as a disturbance to bed of waterway to remove.</p> <p>The consents required will be discretionary activity resource consents from the HBRC.</p>
Issues with access to/from property (25% of respondents affected)	Earthworks that may affect rivers and wetlands (RP)(NES)	Diversion of water (RP)	Culvert replacement (excavations in beds of waterways, removal of structures in beds of waterways, maintenance of structures in beds of waterways)(RP)	<p>Consents are likely to be required.</p> <p>Most of the issues with access to the property will be managed via council roads at council cost. There may be some culvert repairs on private land required, at the boundary of the public road.</p> <p>These will require discretionary activity regional consents from HBRC.</p>
Fencing damage (98% respondents affected)	<p>n/a</p> <p>Stock Exclusion OIC and Tukituki rules: Tukituki River Catchment Plan Change 6 to HB regional plan. Rule TTle, f and g.</p>			<p>Most fencing activities will be permitted activities. Nb. Note there is a potential issue with the stock exclusion rules in the Tukituki catchment that may trigger the need for consents.</p> <p>The scale of the loss of fencing is putting strain on the ability to farm productively as some paddocks have become impractical to farm (too large due to loss of fencing) or impossible to use due to access damage.</p> <p>This puts priority on farmers time to address the fencing damage in order to work more efficiently on the land, thus differing larger scale recovery projects due to lack of capacity to address BAU and fencing repairs and other recovery activities.</p> <p>Within the Tukituki catchment there are stock exclusion rules which have been in place since 2020. The Time extensions OIC applies to the stock exclusion OIC regulations (extension for compliance to 1 July 2025) and does not modify regional rules. The regional rules for stock exclusion in the Tukituki catchment were amended by a plan change. Thus landowner/occupiers in the Tukituki catchment (with properties over 4 hectares in area and for stock other than sheep) who have lost fencing are now faced with the need to get resource consent to allow the stock to go into the waterways until such time as they have the capacity to repair the fencing damage.</p>
Planting losses (64% respondents affected)	n/a			<p>Most replanting activities will be permitted activities if non-forestry.</p> <p>The lost planting will put these communities at increased risk in future events until replacement riparian planting can be put in place and matures. As with many recovery activities, it is the capacity to undertake the work that landowners / occupiers</p>

Work requirement identified by rural community in RRA survey	National rules District Plan Rules and standards Nb. Rules are summarised once, then cross-referenced.	MfE comments / analysis
		are struggling with, and this is adding to the speed of recovery overall.

Appendix 3 – Overview of feedback received from public engagement

Online Hui – MfE hosted Iwi Māori – 4 July 2024

#	Consulted Party	Feedback received	Potential treatment of feedback
1.	s 9(2)(a) (Maungaharuru-Tangitū Trust –)	<p>Comments:</p> <p>The process appears clear and the proposed OIC does not circumvent district and regional plans.</p> <p>Not comfortable with the notification aspect of the proposed OIC. Would prefer a double check type role, as wāhi tapu have only recently been brought into district and regional plans.</p>	<p>Response:</p> <p>The proposed OIC will follow the standard Resource Management Act 1991 (RMA) practice. The proposed OIC will have clear parameters with step out points if the area has section 6 RMA values. If the permitted activity standards in the OIC are not met, the landowner or occupier's intended works will not be covered by the proposed OIC.</p> <p>Under the proposed OIC it is intended the notices of rural recovery works will be circulated to PSGEs. As part of the drafting of the proposed OIC officials also propose a further information process to address circumstances where in response to feedback received from the PSGEs, additional information is required from the applicant.</p> <p>Policy recommendation:</p> <p>No change.</p>
2.	s 9(2)(a) (Ngāti Pāhauwera Development Trust –)	<p>Questions:</p> <p>Queries the implications for farmers who may have already carried out some of these works and/or may not be following the process especially if the works are larger than what was there before.</p> <p>Sees no problems with the proposed OIC and supports the proposed OIC process as described.</p>	<p>Response:</p> <p>Officials acknowledge Ngāti Pāhauwera's support for the proposed OIC.</p> <p>The prior regime for undertaking emergency works under the Severe Emergency Legislation Act 2023 (SWELA) lapsed on 1 April 2024. Officials remain of the view that it is not appropriate to extend the emergency works provisions for a further 2 or 3 years following Cyclone Gabrielle.</p> <p>Officials also do not support making the proposed OIC retrospective to 1 April 2024 as this is inconsistent with the Legislation Design and Advisory Committee Legislation Guidelines (2021 edition).</p> <p>Policy recommendation:</p>

Appendix 3 – Overview of feedback received from public engagement

#	Consulted Party	Feedback received	Potential treatment of feedback
			No change.
3.	s 9(2)(a) [redacted] (Heretaunga Tamatea Settlement Trust – [redacted] [redacted])	<p>Comments:</p> <p>Supports the proposed OIC and the process. Supports the views expressed by s 9(2)(a) [redacted] (see above row), and notes that the relationship with council is critical. Recommends that the proposed OIC enhances the importance.</p>	<p>Response:</p> <p>Officials acknowledge Heretaunga Tamatea’s support for the proposed OIC.</p> <p>Policy recommendation:</p> <p>No change.</p>

Appendix 3 – Overview of feedback received from public engagement

Online Hui – MfE hosted Crown Agencies – 5 July 2024

#	Consulted Party	Feedback received	Potential treatment of feedback
4.	s 9(2)(a) [redacted] (Te Puni Kōkiri – [redacted])	<p>Questions:</p> <p>The proposed OIC is to reduce impacts, how will cost-recovery work for this? How will the cost-recovery be perceived by the councils and PSGEs?</p> <p>Is the Regulatory Impact Statement publicly available?</p> <p>Comments:</p> <p>Considers that the proposed OIC has a comprehensive proposal.</p>	<p>Response:</p> <p>The notice is not an application process and therefore the time Hawke’s Bay Regional Council (HBRC) staff spend on checking the notice is not charged.</p> <p>The Regulatory Impact Statement will be part of the documents that are proactively released after the proposed OIC is enacted.</p> <p>Policy recommendation:</p> <p>No changes.</p>
5.	s 9(2)(a) - Chamberlin (Te Puni Kōkiri – [redacted])	<p>Questions:</p> <p>What happens if a landowner or occupier digs up an old forgotten urupā – in recognising the site as culturally significant, is the onus on them to contact iwi? Will the provision be worded in the proposed OIC to cover these types of scenarios?</p> <p>Comments:</p> <p>Supports the features regarding the protections around preserving culturally significant land.</p> <p>The recorded wāhi tapu sites only account for 1% of what is actually there. Anyone familiar with the Māori Land Court records understand that there are urupā all over the land that haven’t been translated to sites recorded as urupā in district plans. They note that the proposed OIC needs to consider the scenario if a landowner or</p>	<p>Response:</p> <p>Officials recommend that an accidental discovery protocol standard is included in the permitted activity standards in Schedule 1 of the proposed OIC. Officials consider that the accidental discovery protocol standard will cover scenarios where landowners or occupiers come across undocumented wāhi tapu or wāhi taonga sites.</p> <p>The inclusion of an accidental discovery protocol in the proposed OIC will alert landowners or occupiers to their existing responsibilities under the Heritage New Zealand Pouhere Taonga Act 2014 when carrying out rural recovery works. Accidental discovery protocols are frequently included in resource consents and assist the landowner or person carrying out the works by setting out who needs to be contacted and the process steps, if koiwi (human remains) or other archaeological items are discovered.</p>

Appendix 3 – Overview of feedback received from public engagement

#	Consulted Party	Feedback received	Potential treatment of feedback
		occupier comes across these sites that they need to stop and gain permission.	Policy recommendation: Officials recommend including an accidental discovery protocol as a permitted activity standard.

Appendix 3 – Overview of feedback received from public engagement

Online Hui – Public – 9 July 2024

#	Consulted Party	Feedback received	Potential treatment of feedback
6.	s 9(2)(a) (Te Tumu Paeroa –)	<p>Questions:</p> <p>Why can't the proposed permitted activities undertaken during 1 April 2024 and September 2024 (when it is estimated for the proposed OIC to be enacted) be considered as part of the proposed OIC if the works are necessary for the farm to function?</p> <p>Will the timeframe of the proposed OIC be reconsidered if it needs to be extended past 31 December 2025? Especially if it has been difficult for landowners and/or occupiers to accomplish the work in the timeframe.</p>	<p>Response:</p> <p>Refer to row 2 for reasons why the proposed OIC should not be retrospective.</p> <p>Officials acknowledge the proposed OIC needs to provide sufficient time for rural landowners/occupiers to carry out the rural recovery works. Officials support extending the lapse date from 31 December 2025 to 30 April 2026. This will enable recovery works to be carried out over two summer periods and will help address potential environmental effects including those generated by carrying out earthworks in winter or undertaking works in waterways within the fish spawning season (1 May to 30 September).</p> <p>Policy recommendation:</p> <p>Officials recommend extending the lapse date of the proposed OIC from 31 December 2025 to 30 April 2026.</p>
7.	s 9(2)(a) (Horticulture New Zealand –)	<p>Questions:</p> <p>Why does the proposed OIC not apply to Tairāwhiti?</p> <p>Has there been consultation with growers on the definition of rural recovery works? Notes that only 3% of the survey respondents were in horticulture despite it being a major sector in the Hawke's Bay region.</p>	<p>Response:</p> <p>Developing an OIC requires a strong evidential basis to meet the tests outlined in Severe Weather Emergency Recovery Legislation Act 2023 (SWERLA). The survey undertaken by HBRC provided the evidential base for the Hawke's Bay region but did not include Tairāwhiti. To incorporate Tairāwhiti into this proposed OIC we would need to place the current proposal on hold while we undertook further engagement with the Gisborne District Council and</p>

Appendix 3 – Overview of feedback received from public engagement

#	Consulted Party	Feedback received	Potential treatment of feedback
			<p>established an evidential base equivalent to the one provided by the HBRC.</p> <p>The recommendation to progress this proposed OIC for Hawke’s Bay now does not prevent further OICs being developed separately for other regions and matters.</p> <p>HBRC have advised officials that growers with land over 20 hectares had the opportunity to participate in the survey undertaken. Officials recommend that the proposed OIC will use the same definition of ‘rural’ that is used in the Hawke’s Bay district and regional plans. This definition includes horticulture.</p> <p>Policy recommendation:</p> <p>No change.</p>
8.	s 9(2)(a) (Federated Farmers –)	<p>Comments:</p> <p>The financial environment on the farm is very poor – so there may not be any work that will get done during the upcoming summer. The work needs to mainly be done during the summer as it is the driest time.</p> <p>A proposed OIC is needed in Gisborne East Coast as they have had a wetter summer and even less opportunity to get work done than in Hawke’s Bay.</p> <p>Considers that sending in the notice 20 working days before the works start can be an issue with timing for contractors and could end up different in practice.</p> <p>Recommends that the definition of damage includes works that have been fixed and have then been damaged during later weather events.</p>	<p>Response:</p> <p>Refer to row 2 for reasons why the proposed OIC should not be retrospective.</p> <p>Refer to row 7 for reasons why the proposed OIC is recommended to be progressed for Hawke’s Bay only.</p> <p>Officials acknowledge the high demand on contractor availability in the Hawke’s Bay region. However, officials consider that it is necessary for the landowner/occupier to send the notice to HBRC at least 20 working days before the works start to ensure that the local authorities, and in some cases PSGEs, have time to review the notice and for the HBRC to request further information if required.</p> <p>The definition of rural recovery works in the proposed OIC includes works on rural land for the purpose of rebuilding</p>

Appendix 3 – Overview of feedback received from public engagement

#	Consulted Party	Feedback received	Potential treatment of feedback
			<p>after a severe weather event as defined in the SWERLA. For damage caused by subsequent weather events, landowners are recommended to contact the HBRC to ascertain whether the works can proceed without a resource consent under the regional resource management plan and national environmental standards.</p> <p>Policy recommendation: No change.</p>
9.	s 9(2)(a) (Strategy –)	<p>Questions:</p> <p>From a practical point-of-view, what is the proposed monitoring regime to ensure that:</p> <ul style="list-style-type: none"> • work relates to adverse weather events of early 2023; and • there will be no adverse effects beyond the property boundaries? <p>There is a timeframe for the ‘applicant’ to apply 20 working days ahead of the activity, but are there timeframes for the response for further information required by PSGE’s or territorial authorities?</p>	<p>Response:</p> <p>Officials are working closely with HBRC and the Hawke’s Bay territorial authorities to include a schedule of environmental standards that the permitted activity standards must comply with, including to ensure there will be no significant adverse environmental effects beyond the property boundaries.</p> <p>Officials consider that the notice is sent to HBRC at least 20 working days before the landowner/occupier starts the recovery works. Refer to row 8 for our reasoning on this.</p> <p>Policy recommendation: No change.</p>
10.	s 9(2)(a) (RMF –)	<p>Questions:</p> <p>Guidance around what evidence might be required if the timeframes were to be extended?</p> <ul style="list-style-type: none"> • at what point through next year is the best opportunity to provide evidence we need an extension to June 2026? • or do we apply for a June 2026 application now? 	<p>Response:</p> <p>During the public hui, officials encouraged users of the proposed OIC to send in written feedback and evidence as to why an extension of the end is needed. Officials support extending the lapse date from 31 December 2025 to</p>

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#	Consulted Party	Feedback received	Potential treatment of feedback
		<p>Comments:</p> <p>Summer doesn't stop in December – it ends in March/April. Agrees with the comment from Jim, that if Hawke's Bay experiences another La Niña summer, it could be a difficult earthworks season.</p>	<p>30 April 2026. This will enable recovery works to be carried out over two summers (also refer row 6 above).</p> <p>Policy recommendation:</p> <p>Officials recommend extending the lapse date of the OIC from 31 December 2025 to 30 April 2026.</p>
11.	<p>s 9(2)(a) [redacted] (Hawke's Bay Regional Council – [redacted])</p>	<p>Questions:</p> <p>Does river protection work, which is excluded, cover, and therefore exclude, bunding around a property or buildings?</p>	<p>Response:</p> <p>Officials have been working closely with the Hawke's Bay local authorities to develop the proposed OIC. The question was addressed in the work undertaken with the local authorities.</p> <p>Policy recommendation:</p> <p>No change.</p>

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Online Hui – Tātau Tātau o te Wairoa – 10 July 2024

#	Consulted Party	Feedback received	Potential treatment of feedback
12.	s 9(2)(a) () ()	<p>Questions:</p> <p>Will the rural recovery works only be on private land or does the proposed OIC also include local roading and bridges? There are some properties in Wairoa that have a local road going through their farm, with no fence separating the two.</p> <p>If bridges, culverts and roads are under council jurisdiction – will retrospective consenting be done after the proposed OIC expires for ongoing maintenance?</p> <p>Significant concerns regarding any works around waterways. The proposed OIC needs to consider vulnerable times of year – periods of mahinga kai e.g. fish spawning. If the proposed OIC is time bound with an end date and there is a sensitive time of the year for species, would landowners and/or occupiers be required to put off works until outside of the period?</p> <p>When Hawke’s Bay Regional Council sends an email to inform the PSGEs, and the landowner and/or occupier doesn’t hear back within the 20 working days, can they start the works?</p> <p>How much time will our kāhui/our people have to review the notices?</p> <p>Comments:</p> <p>Agrees that the proposed OIC is to provide a process for landowners/occupiers to start the recovery works, but it is important to understand the notification period. Their representatives have other day jobs, and reviewing resource consent applications and notices is not their main job – so it is difficult for them to absorb and review information in a short period of time.</p>	<p>Response:</p> <p>The proposed OIC is linked to the zoning of the district plans e.g. rural zoned land. Therefore, the proposed OIC will primarily apply to private land, but it is not limited to it. The rural zones in some districts in Hawkes Bay include roads (including paper roads within property boundaries). There are existing provisions in the Hawke’s Bay Regional Resource Management Plan to maintain structures as a permitted activity, therefore no regulatory relief is required for the maintenance of those structures permitted under the existing provisions.</p> <p>Officials note that a permitted activity standard is recommended in Schedule 1 of the proposed OIC stating that no works must be done in waterways during fish spawning season.</p> <p>Officials acknowledge the additional time it will take for Tātau Tātau o te Wairoa’s kāhui/people to review the notices. If a Hawke’s Bay local authority has not requested further information from the applicant, then they may commence the rural recovery works. However, if a local authority is not satisfied that the requirements in the proposed OIC will be met it may notify the applicant within 10 working days of receiving the information that the rural recovery works must not commence in reliance on the OIC.</p>

Appendix 3 – Overview of feedback received from public engagement

#	Consulted Party	Feedback received	Potential treatment of feedback
			<p>The timeframes are necessarily short due to the nature of the works being required for rural recovery. The notices are not resource consent applications and the OIC is intended to include a concise list of information requirements that applicants will be required to provide with their notice. This should reduce the time PSGEs need to review notices under the OIC.</p> <p>Policy recommendation: No change.</p>

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Written feedback

#	Consulted Party	Feedback received	Potential treatment of feedback
13.	Te Puni Kōkiri Written feedback received 8 July 2024	<p>Comments:</p> <p>Te Puni Kōkiri will continue to monitor for:</p> <ul style="list-style-type: none"> • Any additional scope of the proposed OIC • Any reduction on the proposed iwi interests and the protections process. 	<p>Response:</p> <p>Noted.</p> <p>Policy recommendation:</p> <p>No change.</p>
14.	Pan Pac Forest Products Written feedback received 11 July 2024	<p>Comments:</p> <p>Pan Pac supports the proposed OIC. The proposed OIC would alleviate administrative burdens on resources and funding.</p> <p>Cyclone Gabrielle resulted in significant damage to the Pan Pac estate. Initial focus was repairing damaged roads to restore access, securing and protecting affected areas, reinstating culverts and bridge assets before the provisions in SWELA expired. Ongoing work is anticipated to continue for an additional 12 to 18 months.</p> <p>Pan Pac recommends that the proposed OIC should allow for retrospectively notifying activities undertaken between April 2024 and the enactment of the proposed OIC.</p>	<p>Response:</p> <p>Officials acknowledge Pan Pac’s support for the proposed OIC.</p> <p>The timeframe indicated for ongoing works falls within the proposed lapse date for the OIC of 30 April 2026. Refer to row 6 for reasons recommending the timeframe extension.</p> <p>Refer to row 2 for reasons why the proposed OIC should not be retrospective.</p> <p>Policy recommendation:</p> <p>No change.</p>
15.	Hawke’s Bay Forestry Group (HBFG) Written feedback received 11 July 2024	<p>Comments:</p> <p>HBFG supports the proposed OIC.</p> <p>Damage to HBFG members’ estates and infrastructure require ongoing assessment and reinstatement of affected infrastructure including roads, culverts, bridges and crossings. These works are expected to continue for another 12-18 months.</p>	<p>Response:</p> <p>Officials acknowledge HBFG’s support for the proposed OIC.</p> <p>The timeframe indicated for ongoing works falls within the proposed lapse date for the OIC of 30 April 2026. Refer to row 6 for reasons recommending the timeframe extension.</p>

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#	Consulted Party	Feedback received	Potential treatment of feedback
		<p>The extension of the rural recovery works will help alleviate the administrative burden on resources and funding associated with consents.</p> <p>Concerns with the September start date for the extension poses challenges with such a delay potentially requiring a pause in planned works or initiating consenting processes.</p> <p>HBFG recommends that that the proposed OIC should allow for retrospectively notifying activities undertaken between April 2024 and September (when the proposed OIC is enacted).</p>	<p>Refer to row 2 for reasons why the proposed OIC should not be retrospective.</p> <p>Policy recommendation:</p> <p>No change.</p>
16.	<p>Deer Industry New Zealand (DINZ)</p> <p>Written feedback received 11 July 2024</p>	<p>Comments:</p> <p>DINZ supports the proposed OIC.</p> <p>DINZ strongly encourages the review panel to implement temporary law changes and recommends that the proposed OIC will:</p> <ul style="list-style-type: none"> • Reduce the administration burden and costs associated with undertaking recovery works: <ul style="list-style-type: none"> ○ Majority of the recovery works aim to create resilience against future weather events and will have environmental, economic and social benefits. • Recognise animal welfare and human safety comes first in areas impacted by severe weather events: <ul style="list-style-type: none"> ○ DINZ considers that while environmental risks should be considered, animal welfare and human safety should come first – that permitted activity conditions must be met unless it would be unsafe to do so. • Avoid unnecessary delays and ambiguity in permitted activity requirements <ul style="list-style-type: none"> ○ approval from iwi or hapū should not be required unless the proposed work is on a culturally significant site defined under a district and/or regional plan and/or protected by 	<p>Response:</p> <p>Officials acknowledge DINZ’s support for the proposed OIC.</p> <p>The proposed OIC will include permitted activity standards that are intended to address many of the issues DINZ has identified. In addition, officials support the inclusion of a further permitted activity standard to address the accidental discovery of wāhi taonga or kōiwi when carrying out rural recovery works (also refer row 5).</p> <p>Policy recommendation:</p> <p>Officials recommend including an accidental discovery protocol as a permitted activity standard.</p>

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#	Consulted Party	Feedback received	Potential treatment of feedback
		<p>HNZ Pouhere Taonga Act 2014. A condition could be implemented to ensure works cease if an archaeological site is found.</p> <ul style="list-style-type: none"> ○ important that people undertaking recovery works and Council staff understand what the expectations are to avoid unnecessary delays. 	
17.	<p>Rural Advisory Group (RAG)</p> <p>Written feedback received 12 July 2024</p>	<p>Comments:</p> <p>RAG supports the proposed OIC. The proposed changes would allow recovery work to continue at pace and give landowners a sense that they are enabled to help themselves.</p> <p>RAG considers that the proposed OIC will be a welcome tool for the Hawke’s Bay rural communities to overcome the recovery issues they face.</p> <p>RAG highlights that there are many reasons why landowners have struggled to complete recovery works, and that the recent weather event in Wairoa and across the Hawke’s Bay region shows the fragility of much of the rural land and the importance of resilient repairs.</p>	<p>Response:</p> <p>Officials acknowledge the RAG’s support for the proposed OIC.</p> <p>Policy recommendation:</p> <p>No change.</p>
18.	<p>Te Tumu Paeroa – Office of the Māori Trustee</p> <p>Written feedback received 12 July 2024</p>	<p>Comments:</p> <p>Te Tumu Paeroa has the following concerns with the proposed OIC:</p> <p><i>Engagement with owners of Māori land</i></p> <ul style="list-style-type: none"> • The proposed OIC does not address the scenario where a notice is applied for by a land occupier who is not the landowner (e.g. a lessee). • Te Tumu Paeroa recommends that the proposed OIC reflects that if the notice applicant is not the landowner, that the landowner(s), or their legal representative, needs to be identified and notified of the application and their written consent obtained prior to works commencing. 	<p>Response:</p> <p>Refer to row 7 for reasons why the proposed OIC is recommended to be progressed for Hawke’s Bay only.</p> <p>Refer to row 6 for reasons recommending the timeframe extension.</p> <p>The proposed OIC includes a requirement that the applicant is authorised to carry out the works on the land that they own or occupy. Officials are reluctant to include a further requirement in the proposed OIC that in all cases the occupier must secure the landowners approval as tenure</p>

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#	Consulted Party	Feedback received	Potential treatment of feedback
		<p><i>Geographic coverage</i></p> <ul style="list-style-type: none"> recommends that the proposed OIC includes the Tairāwhiti Gisborne region. <p><i>Timeframe:</i></p> <ul style="list-style-type: none"> acknowledging that much of the recovery works is weather dependent, extending through to at least 31 March 2026 to allow for another spring-summer buffer for works to be completed. Te Tumu Paeroa considers that any notification by Council for authorising a commencement of works should provide for a default timeframe that aligns with the expiry date of the OIC. <p><i>Funding for proposed OIC recovery works</i></p> <ul style="list-style-type: none"> funding should be made available from central or regional government for rural recovery works on Māori freehold land blocks authorised under the scope of the proposed OIC. This is particularly relevant to sheep and beef farming operations whose economic returns have been severely diminished by adverse domestic and global markets. 	<p>arrangements will differ and some occupiers may be able to undertake rural recovery works as of right.</p> <p>As a separate matter to the proposed OIC, Te Tumu Paeroa may wish to contact its lessees in Hawke’s Bay ahead of the proposed OIC coming into force in September to remind them of any obligation to obtain landowner permissions before lodging a notice.</p> <p>Under the proposed OIC it is intended landowners or occupiers will be able to undertake works up to its expiry date. The new proposed revocation date should provide sufficient time for works to be completed by the end of the 2025/26 summer period. If a notice is received close to the revocation date, then we expect HBRC will advise the applicant of this impending lapse date within which works must be completed.</p> <p>The proposed OIC seeks to modify the RMA and RMA plans and national environmental standards to enable rural recovery works in Hawke’s Bay. Te Tumu Paeroa’s request for funding to be made available for rural recovery works on Māori freehold land blocks is not something that can be undertaken via modifications to the RMA and hence is not included in the proposed OIC.</p> <p>Policy recommendation:</p> <p>No change.</p>

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#	Consulted Party	Feedback received	Potential treatment of feedback
19.	Horticulture New Zealand (HortNZ) Written feedback received 12 July 2024	<p>Comments:</p> <p>HortNZ supports the proposed OIC.</p> <p>HortNZ requests that Tairāwhiti Gisborne is included in the proposed OIC, or that another OIC is progressed in parallel. HortNZ considers that their exclusion from the proposed OIC would compound the perception that the recovery of Tairāwhiti’s rural communities is not being prioritised.</p> <p>HortNZ seeks a definition of ‘rural recovery works’, and requests that the scope includes the works needed on horticultural properties. The HBRC survey only included 3% respondents in horticulture, despite the size of the sector in Hawke’s Bay.</p> <p>HortNZ further supports the proposed OIC if any required approvals under the Building Act 2004 are made more expedient.</p> <p>HortNZ seeks the opportunity to provide feedback on the proposed environmental standards. They are concerned that the potential for Council’s cost recovery for site monitoring will disincentivise land users from notifying Council of their activities and would impose a financial burden on the rural community.</p> <p>HortNZ recommends an extended timeframe for the proposed OIC to at least 30 April 2026 to allow for two full summer seasons to complete the works.</p>	<p>Response:</p> <p>Officials acknowledge HortNZ’s support for the proposed OIC.</p> <p>Refer to row 7 for reasons why the proposed OIC is recommended to be progressed for Hawke’s Bay only.</p> <p>Officials note that the proposed OIC will use the same definition of ‘rural’ that is used in the Hawke’s Bay district and regional plans. This definition includes horticulture.</p> <p>Cabinet has agreed to the amendments of the RMA and associated regulations and plans. The proposed OIC will not amend the Building Act 2004.</p> <p>Officials are not proposing that the local authorities should be able to cost recover for site monitoring.</p> <p>Refer to row 6 for reasons recommending the timeframe extension.</p> <p>Policy recommendation:</p> <p>Officials recommend extending the lapse date of the OIC from 31 December 2025 to 30 April 2026.</p>
20.	Federated Farmers Written feedback received 12 July 2024	<p>Comments:</p> <p>Federated Farmers supports the proposed OIC.</p> <p>They have heard from their members and others in the rural community that they have not been able to get all the work completed due to the scale of work, the conditions, and the poor farm income.</p> <p>Federated Farmers recommends that the current proposed end date of 31 December 2025 is extended to 31 June 2026. The summer period is the most</p>	<p>Response:</p> <p>Officials acknowledge Federated Farmer’s support for the proposed OIC.</p> <p>Refer to row 6 for reasons recommending the timeframe extension.</p> <p>Refer to row 7 for reasons why the proposed OIC is recommended to be progressed for Hawke’s Bay only.</p>

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#	Consulted Party	Feedback received	Potential treatment of feedback
		<p>effective time to do land-based recovery works, and that the extension will give landowners/occupiers two working summers.</p> <p>Federate Farmers also request softening the proposed requirement for farmers to provide written notification to HBRC at least 20 working days before work commences due to the high demand and uncertain timings of contractors. They recommend adding “if possible” or an equivalent increase of flexibility to the notification requirement.</p> <p>Federated Farmers requests that the proposed OIC is extended to include Gisborne noting this region has also experienced equal difficulties in recovery.</p>	<p>Refer to row 8 for reasons why officials recommend a 20 working days’ notice period.</p> <p>Policy recommendation:</p> <p>Officials recommend extending the lapse date of the proposed OIC from 31 December 2025 to 30 April 2026.</p>
21.	<p>Hawke’s Bay Silt Recovery Taskforce (The Taskforce)</p> <p>Written feedback received 12 July 2024</p>	<p>Comments:</p> <p>The Taskforce supports the intent of the proposed OIC.</p> <p>They consider it unfair that the proposed OIC will not be retrospective, as it unduly punishes landowners or occupiers who may have undertaken works during the 5-6 month period where the provisions in the Severe Weather Emergency Legislation Act lapsed, and the proposed OIC is enacted. They request that the proposed OIC is backdated to 1 April 2024.</p> <p>The Taskforce supports the proposed lapse date of 31 December 2025, as it is a sufficient for landowners to understand the requirements of the proposed OIC and complete recovery works.</p> <p>The Taskforce considers that the permitted standards of the proposed OIC should be clear, measurable and reasonable in the circumstances. They should be easy for a landowner to determine whether their proposal complies with the standards. Recommend that this is well communicated to landowners to ensure knowledge of the Orders existence and how it supports their recovery actions/plans.</p>	<p>Response:</p> <p>Officials acknowledge The Taskforce’s support for the proposed OIC.</p> <p>Refer to row 2 for reasons why the proposed OIC should not be retrospective.</p> <p>Refer to row 6 for reasons recommending the timeframe extension.</p> <p>The matters raised by the Taskforce regarding permitted activity standards and notice requirements are intended to be addressed in the proposed OIC.</p> <p>Policy recommendation:</p> <p>No change.</p>

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#	Consulted Party	Feedback received	Potential treatment of feedback
		<p>The Taskforce requires further clarity regarding the notification and further information processes, including:</p> <ul style="list-style-type: none"> • clarifying what circumstances notices must be given to territorial authorities and PSGEs; • specified timeframes within which HBRC must provide a copy of the notice to territorial authorities and PSGEs; • specified timeframes within which local authorities and PSGEs are able to request further information; and • clear guidance for instances where no responses from territorial authorities or PSGEs are not received within the specified timeframe. 	
22.	<p>Ernslaw One Limited</p> <p>Written feedback received on 12 July 2024.</p>	<p>Comments:</p> <p>Ernslaw supports the proposed OIC and methodology with the OIC timeframe extended to June 2026 to be able to complete the permitted activity works required. Ernslaw notes that the extension will allow more time for planning and matching resources to get the works completed during more optimal weather opportunities.</p> <p>Ernslaw strongly recommends that the Tairāwhiti region is included in the scope of the proposed OIC or start a separate OIC with urgency. Some of the work undertaken under SWELA 2023 has now effectively stopped due to now requiring resource consents. Ernslaw is concerned that this may have perverse effect on the environmental outcomes in the region.</p>	<p>Response:</p> <p>Refer to row 6 for reasons recommending the timeframe extension.</p> <p>Refer to row 7 for reasons why the proposed OIC is recommended to be progressed for Hawke’s Bay only.</p> <p>Policy recommendation:</p> <p>Officials recommend extending the lapse date of the OIC from 31 December 2025 to 30 April 2026.</p>